

[Sardar Mehtab]

BILL. The Army Act passed in 1950 by the Parliament gives ample powers to the Ministry and the Army Headquarters to deal with any such situation as the hon. Mover has in mind. Section 47 deals with ill-treatment of a subordinate. The punishment put down is a term of imprisonment which may extend to seven years. Again, section 50 deals with irregularity in connection with arrest or confinement. That also has got a heavy punishment. Section 61 deals with unlawful detention of pay which the hon. Mover referred to. That offence is also punishable with imprisonment extending to ten years. I think it is enough deterrent for the officers to act in a manner which is justifiable. So, if any officer defaults he can be dealt with under these sections. Apart from this, as Shri Tek Chand pointed out, this interferes with the powers of the Supreme Court and the High Court. On all these grounds, this Bill cannot be put on the statute.

The main point is that enough powers rest with the Central Ministry. I go further. I know a number of cases where ex-servicemen have appealed to the highest authority in this land, the President. He has personally sent for the cases and decided about their justifiable nature or otherwise. We are living in a democratic country. It is not an autocratic country about which the mover was talking most of the time. Petitions, either through the hon. Members of this House, or direct, come to the Ministry a number of times. They are thoroughly gone into and given the most careful consideration. I say that due justice is done to each and every petition that is coming up. In these circumstances, I do not feel like wasting any more time of the House and I simply say that this Bill should not find a place on the statute book.

Dr. N. B. Khare: I have given my arguments in my speech. These things are administered under domes-

tic rules which are never publicised anywhere or advertised. As I have said before, the Supreme Court has said that punishing people under laws not popularly advertised or properly passed is not only abhorrent but barbarous. It is the practice at present. Therefore, I do not withdraw my Bill. Government may defeat it.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide remedy and to regulate the ex-army personnel's litigation with respect to their pay, allowances, pension, gratuity and all other emoluments payable under army regulations and usage of the army and punishments inflicted on them without jurisdiction, or in excess of jurisdiction, or in excess of the quantum prescribed by the army laws, be taken into consideration."

The motion was negatived.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Amendment of section 435)

Mr. Deputy-Speaker: The House will now take up the motion for resumption of the adjourned debate on the motion moved by Shri Raghunath Singh on the 29th April, 1955, that the Bill further to amend the Code of Criminal Procedure, 1998, be taken into consideration.

Out of 1½ hours allotted to this Bill, one hour has already been availed of on the 29th April and 5th August 1955 and thirty minutes are now available.

श्री रघुनाथ सिंह (जिला बनारस मध्य) :
उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि येरे
द्वारा २६ अप्रैल १९५५ को पेश किये गए
निम्नलिखित प्रस्ताव पर स्वगित बाद-विवाद
को फिर से धारण किया जाये, यथातः :

"कि क्रिमिनल प्रोसीक्यूटोर कोड, १८९८,
में और अपने संशोधन करने वाले विन पर
विचार किया जाये।"

The Minister in the Ministry of Home Affairs (Shri Datar): Sir, 30 minutes are not necessary, because we are accepting the Bill.

Mr. Deputy-Speaker: That is the maximum prescribed and not the minimum.

Shri Datar: I have suggested certain formal amendments so as to bring it in line with the proper Bill.

Mr. Deputy-Speaker: The question is:

"That the adjourned debate on the following motion moved by Shri Raghunath Singh on the 29th April, 1955, be resumed:

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

The motion was adopted.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

Shri Datar: I suggest that we take clause 2. I have got a number of formal amendments.

Clause 2.—(Amendment of section 435 etc.)

Amendment made: Page 1, line 7—after "the Code of Criminal Procedure" insert:

"1898 (hereinafter referred to as the principal Act)."

—[Shri Datar.]

Mr. Deputy-Speaker: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

New Clause 3

Amendment made: Page 1—

after line 8, add:

"3. In sub-section (1) of Section 438 of the principal Act,—

(a) after the words 'a sentence' the words 'or an order' shall be inserted; and

(b) after the words 'such sentence' the words "or order" shall be inserted."

—[Shri Datar.]

Mr. Deputy-Speaker: The question is:

"That clause 3 be added to the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

Enacting Formula

Amendment made: Page 1, line 3—after "Parliament" insert:

"in the Seventh Year of the Republic of India".

—[Shri Datar.]

Mr. Deputy-Speaker: The question is:

"That the Enacting formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That the Preamble be added to the Bill."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That the title stand part of the Bill."

The motion was adopted.

The title was added to the Bill.

Shri Raghunath Singh: I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

INDIAN PENAL CODE
(AMENDMENT) BILL

(Amendment of Section 497)

Shri Dabhi (Kaira-North): Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code, 1860, be taken into consideration."

This is a very short Bill consisting of only two clauses, of which only one is an operative clause. The Bill seeks to amend section 497 of the Indian Penal Code which defines the offence of adultery and makes it punishable. Section 497 reads thus:

"Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor."

It will be seen from the wording of this section that any man who commits adultery with the wife of another person is punishable but the wife of that another person is not punishable as an abettor. My Bill wants to delete that proviso to this section, namely: "In such case the wife shall not be punishable as an abettor". In short this Bill seeks to do away the discrimination in favour of women with regard to punishment for adultery.

Sir, an identical Bill was introduced by me in this House in 1932. That Bill was debated for a few hours on the floor of this House and some Members of this House also took part in that debate. Ultimately I withdrew that Bill. I shall let the House know a little later why I withdrew that Bill.

Before that I will refer the House to the reasons which prompted the authors of the Indian Penal Code to exempt the wife from punishment under section 497 of the Code. This is what the authors of the Indian Penal Code say:

"Though we well know that the dearest interests of the human race are closely connected with the chastity of women and the sacredness of the nuptial contract, we cannot but feel that there are some peculiarities in the state of society in this country which may well lead to a human man to pause before he determines to punish the infidelity of wives. The condition of the women of this country is, unhappily, very different from that of the women of England and France. They are very often neglected for other wives while still young, they share the attentions of a husband with several rivals. To make laws for punishing the inconstancy of the wife, while the law admits the privilege of the husband to fill his Zenana with women, is a course which we are most reluctant to adopt."

You will see from this that the reason given by the authors of this Code for not punishing the wife as abettor was that at that time polygamy existed among all sections of the people, except the Christians and Parsis. My humble submission is that the circumstances which influenced the authors of the Code have ceased to exist and the time is ripe now for doing away with this proviso which makes a discrimination between men and women.

We know that in India polygamy does not exist among Christians and