

MR. DEPUTY SPEAKER : Mr. Banatwalla, it is not proper. Don't bring in all these things here.

SHRI G.M. BANATWALLA : Sir, every judicial restraint was thrown to the winds. Therefore it is necessary that while we extend the privileges, the necessary restrictions should also be maintained. Therefore, the present law, as it is found in various enactments and in various provisions is adequate to take care of the situation. There is absolutely no need to have such a Bill.

Therefore, I have made three submissions : Firstly, it is violative of the Constitution. Secondly, it is a departure from the spirit of the Constitution. And, thirdly there is need for balancing privileges with restraints.

With these words I oppose the Bill and I request the Government to withdraw it or this House should come to the rescue of seeing that the independence of the judiciary is not undermined.

SHRI H.R. BHARADWAJ : Sir, the very arguments of the hon. Member are self-contradictory and he does not perhaps appreciate the edifice of judicial system in this country. I will tell him for his knowledge that the system of administration in the Supreme Court is fully autonomous and the Government does not have any sort of interference in the matter of Supreme Court, in the matter of High Courts, and the judiciary down below to the rank of a Munsif/Magistrate is absolutely under the control of the Government in the matter of taking any action against them. Now, if you will care to read the definition of a Judge which has been given in this proposed Bill, it does embarrass certain people who are under the Executive because the definition of the Judge given here also has certain executive officers who have to give a definite opinion about particular issues involved and for those people this provision has been retained. Nobody is more anxious to protect judiciary than the Government and it is sometimes when we hear from Mr. Banatwalla criticism of the judiciary, it becomes difficult for us even to defend him in this matter.

In regard to the protection to the Judges, this Bill is a simple amendment to the earlier provisions of Judicial Protection Act, *viz.* that earlier they were only entitled in relation to the criminal protection, we are only extending the benefit even in civil matters. How do you expect a Judge to write the Confidential Report of one of his colleagues if you take him to the court and drag him into the litigation ? How do you expect another Judge to make recommendation in the matter of Judges if you expose him in the litigation and all that ? It is with a view to facilitate the administration of justice and justice alone that has prevailed upon the Government to bring this proposed amendment.

So far as other matters are concerned, I say the convention of the House is that when a Bill is introduced, it is never opposed, but I think he is more concerned in opposing the convention than in maintaining in. (*Interruptions*).

If he wants to discuss Shah Bano's case, that is, in another form, on a motion, it can be done. So, I would request him to withdraw his opposition and then allow me to introduce the Bill.

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill for securing additional protection for Judges and others acting judicially and for matters connected therewith."

The motion was adopted.

SHRI H.R. BHARADWAJ : Sir, I introduce the Bill.

ESTATE DUTY (AMENDMENT) BILL

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Sir, I beg to move for leave to introduce a Bill further to amend the Estate Duty Act, 1953.

MR. DEPUTY-SPEAKER : The question is :

“That leave be granted to introduce a Bill further to amend the Estate Duty Act, 1953.”

The motion was adopted.

SHRI JANARDHANA POOJARY : Sir, I introduce the Bill.

RAILWAY PROTECTION FORCE
(AMENDMENT) BILL*

[English]

THE MINISTER OF RAILWAYS (SHRI BANSI LAL) : Sir, I beg to move for leave to introduce a Bill to amend the Railway Protection Force Act, 1957.

MR. DEPUTY-SPEAKER : Motion moved :

“That leave be granted to introduce a Bill to amend the Railway Protection Force Act, 1957.”

PROF. MADHU DANDAVATE (Rajapur) : Sir, I rise to oppose the Bill at the introduction stage itself. I do not know whether the Minister has carefully gone through all the aspects of this Bill and its implications. I know the Minister very well. Generally he has not got the bureaucratic temperament, but sometimes the Minister gets trapped into the bureaucratic formalities. He refuses to keep pace with the changing concepts of life and various organisations. I think this Bill is one like that.

Sir, I do concede that as far as the Railway Protection Force is concerned, more powers are needed to be given to the Railway Protection Force. For instance, the RPF^a is engaged in defending the installations, protecting them. Sometimes

if they are required to fire and the culprits are trying to play mischief, they are not given those powers because as far as law and order position is concerned, it is in the hands of the Home Departments. Then they are also not having those powers which the armed forces have got and as a result of that, they are somewhere in between the Railway employees and other categories and as a result of that they suffer sometimes. But by retaining the identify of RPF as a railway organisation—I am very clear about it—the Railway Protection Force must retain its identity as the employees of the Railways, as an organisation of the Railways, and within that ambit of Railway organisation they should be given more powers, more law and order powers, so that they will be able to do their duties properly. Unfortunately, Sir, in the Bill that is sought to be brought in, fortunately in the Statement of Objects and Reasons itself they have made their intention very clear.

One of the features that they have mentioned is declaring the Railway Protection Force as an armed force of the Union and the consequential changes. Sir, what will be the consequential changes coming? Those of us who have been consistently opposing out of power and in power, the conversion of RPF into regular armed force of the Union Government, have been opposing it because they will lose their identity as railway employees. They will lose certain rights as an organisation. They will be over-powered by certain rules and regulations of the armed forces though they are not performing 100% as the armed forces. As a result of that, the latitude that is available to them will be lost.

Even as it is, because they happen to be a Railway Protection Force, in matters of bonus and other benefits, they are not treated on par with the railway employees. I am glad that the Railway Ministry discussed the problem with RPF and they have been able to find out some via-media by which some ex-gratia payment and other benefits will be made available to

*Published in Gazette of India Extraordinary, Part-II, Section 2 dated 22-8-85.