

MR. DEPUTY CHAIRMAN: Motion moved:

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

SHRI BHUPESH GUPTA: Sir, we should have a few minutes to say a few words at the third reading stage . . .

MR. DEPUTY CHAIRMAN: We have already exceeded the time-limit by half-an-hour.

SHRI BHUPESH GUPTA: It is for you to decide, but . . .

MR. DEPUTY CHAIRMAN: I am sorry. The question is:

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

The motion was adopted.

SHRI BHUPESH GUPTA: Sir, I should like to make a submission. I did not want to disturb you then. I think it is not a very right course that when we deal with such important measures the third reading of the Bill should be cut out altogether. I know your difficulties and I am conscious of them. But then the time should be tailored right from the beginning, and when the amendments are discussed. The third reading of the Bill should not be altogether cut out.

MR. DEPUTY CHAIRMAN: We have exceeded the time-limit by half-an-hour.

SHRI BHUPESH GUPTA: Sir, you gave some latitude when the amendments were being moved and although some speeches were made some were not made. And having extended the time, you could have given a little more latitude and . . .

MR. DEPUTY CHAIRMAN: That is all right. After all it was the third reading stage.

2 P.M.

# THE ASSAM RIFLES (AMENDMENT) BILL, 1958.

THE DEPUTY MINISTER OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): Mr. Deputy Chairman, I move:

"That the Bill further to amend the A sam Rifles Act, 1941, as passed by the Lok Sabha, be taken into consideration."

Sir, the purpose of this Bill is stated very clearly in the Statement of Objects and Reasons. This is a Bill dealing with the discipline of the forces posted in the NEFA area.

Sir, when the Bill was first passed in 1941, the area that was administered was a very limited one and the last outpost was never beyond fifty miles from the plains. Since then, the area of administration has extended and we find it necessary to extend the powers already exercised by the Commandant to the Assistant also. The area administered extends as far as the Tibetan border and because of the difficulties of communication, it has become difficult to get the culprit to the headquarters where the Commandant is and punishment awarded. Hence, it is necessary to make this very minor change in order to maintain the discipline. That is all, Sir.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill further to amend the Assam Rifles Act, 1941, as passed by the Lok Sabha, be taken into consideration."

Half-an-hour is the time allotted.

SHRI BHUPESH GUPTA (West Bengal): I know it, Sir. I am quite apprised of all these things. Half-an-hour is there and you will find that we finish the whole Bill in less than half-an-hour.

MR. DEPUTY CHAIRMAN: Half the time for you and half the time for the Minister.

SHRI BHUPESH GUPTA: I do not think you would require altogether even half-an-hour.

MR. DEPUTY CHAIRMAN: Very good.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Must all the time be monopolised by the two?

MR. DEPUTY CHAIRMAN: He is the Leader of the Opposition.

SHRI BHUPESH GUPTA: Anyway, I do not think it will be necessary.

First of all, I should like to know as to why the External Affairs Ministry should have taken up this subject.

SHRIMATI LAKSHMI MENON: Because the area is under the administration of the External Affairs Minister.

SHRI BHUPESH GUPTA: The hon. Minister is quite competent to speak on this subject but my point is as to why the External Affairs Ministry should be sponsoring a Bill of this kind. As far as I know, Home is in safe hands. There should be some rhyme or reason even in the matter of sponsoring of the Bills. This is a Bill that relates to domestic matters, Home Affairs. There is another difficulty. The Bill relates to certain legal matters, procedure of law and I am glad she is not concerned with it. Having got legal education, I am not very much concerned with it.

SHRIMATI LAKSHMI MENON: The hon. Minister should speak about the Bill and not about me and my relationship with the subject.

SHRI BHUPESH GUPTA: I am not blaming the hon. Minister. I am just saying that even with legal education . . .

MR. DEPUTY CHAIRMAN: She wants you to speak about the Bill, not about herself.

SHRIMATI LAKSHMI MENON: Not about me.

SHRI BHUPESH GUPTA: Well, Sir, personality and the Bill go together.

SHRIMATI LAKSHMI MENON: No, no.

SHRI BHUPESH GUPTA: Well, Sir, she has not explained the legal thing. How can she explain it?

SHRIMATI LAKSHMI MENON: There is no law involved. It is only a question of discipline. It deals only with the discipline and not with law at all. Even then, I can answer the points.

SHRI BHUPESH GUPTA: It is not a legal matter, Sir, but it is punishing a man without proper trial, without going through the normal processes of law. You are under this measure empowering somebody to inflict imprisonment up to 28 days. It is evident there and that is where the trouble comes. If the Law Minister were here, he would have answered the legal questions that are involved. I am not blaming the hon. Minister; she would do justice to this Bill. It has not been explained as to why these powers should be given. The Commandants have got the powers to deal with questions of discipline. It is not necessary to give them even such powers in order to deal with certain matters which should normally go to the courts of law. After all, in the army, we find the courts-martial functioning under certain laws and these bodies have been given certain

powers under the law but here you are giving these powers merely because there is difficulty in regard to communication. That is not a valid ground; it should be possible in such cases to deal with them in the normal courts of law and ways and means should be found for getting such matters before the courts of law. What is necessary is to improve communications or to set up, in some cases, little courts of law. Violations are not taking place so very frequently that the matter cannot be dealt with according to the normal process of law. Therefore, Sir, I do not like this kind of approach on the part of the Government. This is not in conformity with the general principles of the rule of law.

There is another point. This is what the Statement of Objects and Reasons says :

"The position has now undergone a radical change and the outposts and wing headquarters of the Assam Rifles have now moved into the interior. For some of the outposts, the normal line of communications is by air lift. Since the punishing power of an Assistant Commandant is limited, a breach of discipline in remote outposts is dealt with at present either by the award of a light punishment within the powers of Assistant Commandant or by subjecting the offender to a long march to the headquarters for trial by a Commandant."

Now, the Commandant has the power and under this Bill it is being extended to the Assistant Commandants. Here it is said that a long march is involved; if a long march is involved in this matter which would cause hardship to the accused person or the person subject to discipline, the thing is to make necessary arrangements so that the person could be taken to the headquarters and tried there. You have already given this power to the Commandant and the approach in this

matter should not be to extend this power to others and permit them to award prison sentences. That is not the right approach. I should like to say in this connection that this is unfortunately the approach of the Government in regard to these matters. The approach is not essentially political, the approach is not essentially one of dealing with the situation in the normal courts of law. You give more powers and be finished with it. I think that is not right.

It was expected of the hon. Minister, when she placed a Bill of this kind before the House, to tell us as to how many cases had occurred which could not be tackled due to lack of communications, what the other practical difficulties were which necessitated a proposal of this kind. Nothing of the kind is there. Am I to understand that the crimes have grown so much that until and unless we invest the Assistant Commandants with the powers, the heavens would come down? We have not been told of any such thing nor have we read in the newspapers of such a thing. I do not think that the people who will be affected by this measure are committing crimes right and left so that they have to be summarily and peremptorily dealt with by the Assistant Commandant in disregard of the existing law. I know that the hon. Minister will be in difficulties to answer these points but then it has become the habit to invest the military authorities with more and more of judicial powers.

It is the judicial power that you are investing these people with. You have already invested the Commandant with these powers and now you are extending them to the Assistant Commandants. I do not like our processes of law to be placed more and more in this manner, no matter what the excuse is, in the hands of the military. It is none of their function and whatever functions they have got, they have got under the ordinary law, under the military law. I do not know as to why it has become neces-

[Shri Bhupesh Gupta.]

sary to do this, either from the speech of the hon. Minister or from the Statement of Objects and Reasons, except some excuse about the difficulty of communications. I could have understood if she had come out with a concrete and clear picture of the situation. Nothing of the kind. I do not know what to say because she is an helpless as I am in this matter. I share her difficulties, but I register here only on this occasion my voice of protest to this mentality and habit of extending the judicial powers to quarters where they should not go, instead of facing the problems and difficulties that may arise in the administration of normal justice.

SHRIMATI LAKSHMI MENON: Sir, I very much appreciate the opposition leader's inability to contribute anything relevant to the debate. But he asked me why the External Affairs Ministry is taking into itself all these things, dealing with the Assam Rifles Act.

Prior to April 1st, 1937 the Assam Rifles force was a military force under the administrative control of the Assam Government. On April 1st, 1937 it was decided to treat it as a Federal force and bring it within the purview of the Federal Legislative List. The old Act was thus replaced by the current Act which came into being in March 1941. We are very happy to know that he believes in the due process of law, etc., even for the Army. But I am very sorry to say that I do not think that he had read even the Statement of Objects and Reasons before he started speaking. He seems to have heard something which was said in the other House and said things like "what is the nature of the incidence of crimes in the Assam Rifles for which we should have a Bill like this?", etc. But if he had read carefully the Statement of Objects and Reasons, he would find that this is a power conferred on the

Assistant Commandant which was exercised by the Commandant to deal with petty acts of indiscipline which normally might not have been tried in a criminal court. But this is not necessary or possible, because these are petty acts of indiscipline. There is no validity in any of the arguments advanced by him. I have also stated now it has become very necessary. This power is not conferred automatically on all the Assistant Commandants. In areas which are remote and inaccessible this power is extended to the Assistant Commandants. I do hope that the opposition leader who is very well informed on all subjects will also take some time to get himself properly informed about the recent changes in the NEFA area so that he may not have to strain at making speeches which are not really relevant to the subject.

Sir, I move.

MR. DEPUTY CHAIRMAN: The question is:

"That the bill further to amend the Assam Rifles Act, 1941, as passed by the Lok Sabha, be taken into consideration."

SHRI V. K. DHAGE (Bombay): I think there is not a quorum.

SHRI BHUPESH GUPTA: The hon. Minister of the Government does not even ensure a quorum which is a hard job.

SHRI P. S. RAJAGOPAL NAIDU (Madras): Quorum is not usually insisted on during the lunch hour.

MR. DEPUTY CHAIRMAN: When we pass a Bill, there should be a quorum even during the lunch hour

SHRI V. K. DHAGE: It may not be necessary if discussion is proceeding, but it is necessary when passing a Bill

MR. DEPUTY CHAIRMAN: Ring the quorum bell.

(After some pause)

There is quorum now. The hon Members must keep the quorum. Otherwise the procedure will not be proper. It has been announced that there will be no lunch hour. So there is no justification absolutely for not keeping the quorum. It has been announced and notice has been circulated.

The question is:

"That the Bill further to amend the Assam Rifles Act, 1941, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration.

Clause 2, was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRIMATI LAKSHMI MENON: Sir, I beg to move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI V. PRASAD RAO (Andhra Pradesh): Sir, I want to say a few words . . .

MR. DEPUTY CHAIRMAN: We have already exceeded the time limit, and you know that the time-table is very tight.

SHRI BHUPESH GUPTA: I am quite conscious of it, Sir. When I wanted a little time at the Third Reading stage previously, you were good enough not to give me the time. You said that we had exceeded the time limit set for that particular Bill. But we have not exceeded the time limit for this particular Bill under discussion.

MR. DEPUTY CHAIRMAN: It may not be for this Bill. But if you take the two Bills together, we have already exceeded.

SHRI BHUPESH GUPTA: You cannot normally exceed the time allotted. But am I to understand that in a particular Bill . . .

MR. DEPUTY CHAIRMAN: Let us not waste time. You go on, Mr. Prasad Rao

SHRI V. PRASAD RAO: Sir, I fail to understand actually the necessity for this Bill. There is already an Act called the Army Act where the procedures for disciplining any soldier have been very elaborately stated. When that is there in existence, I fail to understand why this particular measure giving some powers not only to the Commandant but also to the Assistant Commandant should be enacted. If at all, it should certainly come as an amendment to the Army Act and not as an amendment to the Assam Rifles Act. If it is already there, then, Sir, this measure will be redundant. I think the Law Ministry should have been consulted before bringing this measure. I hope and expect an adequate answer from the hon. Deputy Minister who has brought this measure.

[THE VICE-CHAIRMAN (SHRI P. N. SAPRU) in the Chair.]

SHRI BHUPESH GUPTA: Sir, I think the hon. Minister has completely misunderstood me, and as I apprehended, the External Affairs Ministry comes to enact this law in this manner misunderstanding the stand of our side. She said that this Bill does not affect all Assistant Commandants. Where is it stated like that? Assistant Commandants in that area are all affected by it. They are getting the power.

SHRIMATI LAKSHMI MENON: I said not all.

**SHRI BHUPESH GUPTA:** There should not be any misconception. She said that I had not read the Bill. I can tell her, Sir, through you for her information that I had read that Bill and I found that it was absolutely unwarranted when there was the other Act which could be amended.

Then, Sir, there was another point which she made and that is about light punishment. That is precisely my case. There is punishment of imprisonment which is not covered by the existing laws, military law and all that.

It is something entirely different. You are shifting the powers of the judiciary to an Assistant Commandant in respect of certain offences. Some offences may be breach of discipline. This is the point. This should not have been done when we have the question of discipline. Or otherwise, the matter could have been left to the military law to be dealt with under court martial or certain other arrangements, if necessary, by suitable amendments of those laws. Here, you have surely admitted that the matter would normally go to a court of law. Such cases normally go to a court of law or to the Commandant perhaps. But she is shifting it from the court of law to the jurisdiction of the Assistant Commandant. I object to that kind of thing. This is my point. Here, of course, I know that it is very difficult for us to make any contribution. Such contribution is neither appreciated nor understood. That difficulty I suffer. I have no doubt that she was quite right because I know her extreme difficulty in this matter. If the Law Minister was here, he would have explained that the matter is something extraordinary from the point of view of law. Then she could have said that because of certain exigencies in the situation we are taking what is called an extraordinary course. I could have understood that line of reasoning. But there has been nothing of that kind.

Now, my hon. friend here had stated that:—

"In the former case, a disproportionately light punishment is apt to create a sense of laxity in the ranks of riflemen and in the latter case, the effect of the punishment is lost due to delayed award of sentence."

Therefore, they are interested in not encouraging laxity or in allowing justice to be delayed. Therefore, a solution is sought by giving powers to the military officers—ordinary judicial powers. As High Court Judge, as eminent lawyer and jurist, would you like, Sir, this temperament habit, mentality, to be enforced, to develop in such a manner that these ordinary processes of law are made over to these military men as abundantly as is sought to be done in this Bill? It is for you to say and I do not know whether the External Affairs Ministry or the Minister-in-charge of this Bill here would have listened to your wise counsel if you had spoken from that side. You are now in a little disadvantageous position. I quite understand that. That may be good for her purpose. But we have lost because we have not heard an eminent jurists voice.

**SHRIMATI LAKSHMI MENON:** You are there.

**SHRI BHUPESH GUPTA:** I would request the hon. Minister sponsoring this measure to consider such things and conveyed to the Ministry that the country looks upon such measures not with favour, but with disfavour. They should not allow such things and should try to avoid these as far as possible, and unless the position becomes absolutely impossible of any control, such measures should not be taken recourse to. And the hon. lady Member has thought that she could bypass the real issues by saying something about what we have said. This is beside the point. I want her to consider this thing and carry it to the Government, send these things to those officers whether they are of the External Ministry or the Home Ministry, hold discussion over this matter and come to a decision.

While finishing, I hope she will not say that I have been irrelevant. I have been quite relevant. I may not have said things palatable to her taste. I am very sorry for it. I am absolutely on the point when I take exception to this diversion from the ordinary course of justice, for things being handed over to the military realm, by equipping the military authorities with powers that are normally reposed in the judiciary. This is my view of the measure. I can tell her that I do study the Bills. I do not have anybody else to brief me. I have my own brief. I do it myself. I can assure you that whenever I speak on any subject like this, I do study such matter before I come here. But then the study sometimes does not produce results in some quarters where ignorance becomes a practice.

**SHRIMATI LAKSHMI MENON:** Sir, it is quite obvious that study does not produce results nor listening to intelligence has produced results as far as the hon. the Leader of the Opposition is concerned. He wants to know why the Assam Rifles force is not governed by the Army Act. He forgets that it is a military police force and that the military police force is not governed by the Army Act and that is why we have got the Assam Rifles Act.

**SHRI BHUPESH GUPTA:** Why don't you change it?

**SHRIMATI LAKSHMI MENON:** When he says why don't you change it or something like that, this kind of argument I do not understand. But the fact is this. I am only answering the points raised by you, and your colleague mentioned that it should be brought under the Army Act. I am very sorry that the hon. Opposition Leader did not read section 8 of the Assam Rifles Act which is involved in this present Bill nor did he understand when I said that it is not criminal cases which are being taken under this law. These are petty offences against discipline. If he has read section 8 of the Assam Rifles Act 100 RSD—5.

of 1941, he would have noted that it is stated there:—

“\*\*\*any petty offence against discipline, which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for prosecution before a Criminal Court.\*\*\*”.

Those are the kinds of offences contemplated in this Bill.

Then he wanted to know why the means of communication have not been expanded, etc., etc. These things are also explained very clearly in the Statement of Objects and Reasons. In cases where a man who has committed the offence has to be brought to the headquarters where the Commandant is, the journey takes sometimes as many as eight, ten or fifteen days and then the witnesses cannot be procured because they may refuse to take that long march and go to the plains. Hence, in cases of areas where they are not accessible or where the difficulties of journey are so acute, in such places only will the Assistant Commandant be given powers which are hitherto exercised by the Commandant.

**SHRI BHUPESH GUPTA:** Is he guided by the Indian Evidence Act, the Criminal Procedure Code and all that?

**SHRIMATI LAKSHMI MENON:** He is guided by the Act itself—the Assam Rifles Act.

Sir, for these reasons, we had to bring in this amendment. As we have said, the powers will not automatically be extended to the Assistant Commandant all over the places. I have already pointed out how the area of administration has extended today. The N.E.F.A. area, our border outposts, extend as far as Tibet and hence, it has become necessary to bring in this amendment.

**THE VICE-CHAIRMAN (SHRI P. N. SAPRU):** The question is:

“That the Bill be passed”.

The motion was adopted.