

PUBLIC PREMISES (EVICTION
OF UNAUTHORISED OCCUPANTS)
AMENDMENT BILL*

The Minister of Works, Housing and Rehabilitation (Shri Mehr Chand Khanna): Sir, I beg to move for leave to introduce a Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958."

The motion was adopted.

Shri Mehr Chand Khanna: I introduce the Bill.

LIMITATION BILL—contd.

Mr. Deputy-Speaker: The House will now take up further consideration of the following motion moved by Shri Bibudhendra Misra on the 14th August, 1963, namely:—

"That the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith, as passed by Rajya Sabha, be taken into consideration."

Shri Yashpal Singh will continue his speech.

श्री यशपाल सिंह (कैराना) : उपाध्यक्ष महोदय यह जो बिल लाया गया है यह सिर्फ साहूकार के हाथ मजबूत करने के लिये लाया गया है। इस का हिन्दुस्तान के काश्तकार और मजदूर पर इतना बुरा असर पड़ेगा कि वह जिन्दा भी न रह सकेगा। ला कमीशन की रिपोर्ट में जो यह लिखा है कि :

"In England also the time fixed for enforcing a judgment is twelve years. Either the decreeholder succeeds in realising his decree within this period or he fails and there should be no provision enabling the execution of a decree after that period."

उस पर मुझे बड़ा ताज्जुब होता है। यहां इंग्लैंड की नकल की जाती है इस कानून के मामले में। इंग्लैंड की खशहाली में नकल नहीं की जाती, डिफेंस में इंग्लैंड की नकल नहीं की जाती, इंग्लैंड की जो तरक्कियात हैं उन की नकल नहीं की जाती, लेकिन हिन्दुस्तान के काश्तकार और मजदूर को पीसने के लिए इस मामले में इंग्लैंड की नकल की जाती है। आज तक काश्तकार को यह हक हासिल था कि वह एक डिग्री को २४ साल तक देर कर सकता था लेकिन इस बिल के मातहत काश्तकार को उसी पीरियड के अन्दर डिग्री का पैसा देना होगा चाहे ऐसा करने में उस का बैल बिक जाए, चाहे उस का कड़ी तख्ता उठ जाए। इस तरह से काश्तकार को तंग किया जायेगा कि शायद वह खेंती ही न कर सके। क्या इस वक्त इस का मौका था जब कि हिन्दुस्तान यह ख्वाब देख रहा था कि हिन्दुस्तान का कश्तकार डैटलैस हो जाए, हिन्दुस्तान का काश्तकार उच्छ्रण हो जाए और मजदूर उच्छ्रण हो जाय। क्या गवर्नमेंट के लिए यह शोभा देता है कि इस वक्त काश्तकार और मजदूर को और ज्यादा निचोड़ा जाए। मेरी आप के मारफत यह दरख्वास्त है कि इस बिल के अन्दर दो तरह के प्राविजन रखे जायें, दो अलग अलग कैटेगरीज रखी जायें, एक किसान के लिए, छोट दुकानदार के लिए छोट तज्जार के लिए और दूसरी बड़ बड़ लोगों के लिए। इन दो कैटेगरीज के लिए अलग अलग वक्त रखा जाये। महात्मा गांधी ने कई दफा कहा था कि मारकेट में गरीब आदमी के लिये सस्ते दामों की दुकानें होनी चाहियें, और अमीरों के लिए ऊंचे दामों की दुकानें होनी चाहियें। लेकिन उन के नक्श कदम पर चलने वाली सरकार आज काश्तकार और मजदूर को निचोड़ने के लिये

[श्री यशपाल सिंह]

इस तरह का बिल ला रही है। उन को तंग करने के लिए, उन को घर से बेदखल करने के लिए ऐसा बिल लाया गया है कि किसान की कड़ी तख्ता भी न बच सके और न उस के बैल और हल बच सकें और न वह खेती कर सके। इसलिये मेरी दरखास्त है कि अगर इंग्लैंड की नकल करनी है तो अच्छे कामों में कीजिये, बुरे कामोंकी नकल न कीजिये। क्या इस वक्त यह शोभा देता है कि किसान और मजदूर को तंग करने के लिए ऐसा बिल लाया जाए। मेरी दरखास्त है कि इस को वापस लिया जाए। या इस में एसा प्राविजन किया जाए कि जिस का काम ५००० रुपये सालाना तक का है उस को एक कैटगरी में रखा जाय और जो लाखों के पेमेंट करते हैं उन को दूसरी कैटगरी में रखा जाये।

इस के अलावा मेरा निवेदन है कि इस वक्त यह हो रहा है कि कुछ केसिज चौबीस चौबीस और छब्बीस छब्बीस साल से चल रहे हैं और हजारों रुपया दिया जा चुका है लेकिन अब भी सूद लिया जाता है। यह सब से ज्यादा बुरी बात है।

आजकल यह हो रहा है कि साहूकार खाली कागज पर रुकके के दस्तख्त करा लेता है और साल दो साल बाद उस में पांच सौ या हजार की रकम बढ़ा लेता है।

सब से बुरा असर पड़ता है कि इस चीज का बरडन आफ प्रूफ उसी को देना पड़ता है जो कि सताया जाता है, जो कि लूटा जाता है, जिस को कि खत्म किया जाता है।

13.07 hrs.

[DR. SAROJANI MAHISHI in the Chair]

मेरे ही खत का गलत इन्दराज होता है, मेरी ही फसल को जबरदस्त जमींदार ले लेता है। पटवारी मजे में है, जमींदार मजे में है, बार सबूत उस पर है जिस को पीसा गया है, जिस को सताया गया है, जिस को खत्म

किया गया है। बार सबत हमेशा बड़ी पार्टी पर होना चाहिये। बार सबूत साहूकार पर होना चाहिये। पर हो रहा है इस का उल्टा। जिस को खत्म किया जाता है उसी पर बरडन आफ प्रूफ होता है। यह रिच पार्टी पर होना चाहिये।

साथ साथ मेरी दरखास्त है कि अगर आज मजदूर और किसान की डेटलैस होने का मौका नहीं दिया जाएगा तो आगे कभी वक्त नहीं आएगा कि हिन्दुस्तान का किसान और मजदूर सुख की सांस ले सके। अगर आज उस को राहत न मिल सकी तो फिर ऐसा वक्त नहीं आवेगा।

मेरी दरखास्त है कि इस बिल में एसा प्रावीजन रखा जाये कि जो सताया जा रहा है, जिस को कुचला जा रहा है उस के ऊपर बार सबूत न डाला जाए, बल्कि बार सबूत उस पर डाला जाए जो उस को खत्म करना चाहता है।

हमारा जो गांव का छोटा बनिया है वह गांव की कोआपरेटिव का काम देता है, वह गांव वालों की शादी के मौके पर और लड़कों की तालीम के मामले में इमदाद करता है। वह हमारे परिवार का अंग बन चुका है और हमारी जिन्दगी जीता है। हमारे सुख में सुखी होता है और दुख में दुखी। उसको इस बिल में साहूकार के साथ रखा गया है। जरूरत इस बात की है कि साहूकारों को अलग रखा जाए और इस बिल में एसा प्रावीजन किया जाए कि जिससे किसान और मजदूर को डेटलेस होने में सहायता मिले। उनकी जिन्दगी सुखी हो। मेरा निवेदन है कि इस बिल को रिवाइज किया जाए। पहले इसको पब्लिक की राय जानने के लिए धुमाया जाए और उसके बाद इसको लाया जाए। हमने पढ़ा है कि :

"Law is nothing but the will of the people expressed in terms of law."

यह बिल जनता की राय जाने बिना लाया गया है।

मेरा मंत्री महोदय से निवेदन है कि या तो इस बिल को खत्म किया जाए, और अगर ऐसा न हो सके तो इसमें दो अलग अलग कैटेगरीज रखी जाएं, एक उन लोगों की जो कि पांच हजार तक का साल में आम करते हैं और एक उनकी जो कि लाखों का पेमेंट करते हैं। इसके अलावा वार सबूत मजलूम पर न डाला जाए इसको बड़ी पार्टी पर डाला जाए।

Shri Oza (Surendranagar): Mr. Chairman, I welcome the Bill so far as it goes. It almost coincides with the recommendations made by the Law Commission with a few exceptions. I have only one point to urge regarding article 113 of the Schedule. It is a residuary article. We all know that suits brought against the Government by its servants against whom action is taken are governed by this article. It is the experience of the Government that suits are brought by the Government servants long after decisions and steps are taken. It is also my experience that the evidence is no more available and after a long lapse of time the suits come up for hearing before the courts of law with the result that the Government is not in a position to prove all those things and the steps taken by the Government are almost infructuous resulting in those servants who do not deserve to be reinstated getting orders of reinstatement from the courts of law because proper evidence is not forthcoming at a very long distance of time. So, I request the Government that instead of giving three years to such servants if only one year is provided the ends of justice will be met.

Suppose, a suit is filed at the end of three years. For three years the suit goes on and after six or seven years matters come up in appeal. After seven or eight years the order is quashed and the Government ser-

vant in question shall have to be reinstated. He shall have to be paid all the salaries that have become due and the Government will not be in a position to achieve the object which it had in mind when the action was started. So, I request the hon. Minister to amend article 113 or to bring a specific provision for such suits for reinstatement of Government servants so that the ends of proper justice may be met.

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra): Mr. Chairman, it is a matter of happiness that the Bill in a large measure has received support from most of the hon. Members of this House. Many hon. Members have also made some suggestions regarding amendment of certain other statutes and I can only assure them that the Government will consider the suggestions on their merits and, if necessary, will come forward with the necessary amendments.

So far as the objections are concerned, mainly the objection has been against the present provision in article 136 of the Bill which replaces the old article 182. It is said that the provision as it exists now in the Act, that is article 182, is more wholesome from the point of view of the judgment debtor and that if the judgment debtors are not permitted to file suits on the basis of the amended decree or order probably they will be at a disadvantage. My only answer to it will be that the Law Commission has considered the matter at great length and has devoted a full paragraph which will be found on page 64 of the Law Commission's Report on the subject. I do not propose to read that out at length here. Article 182, as it stands to day, gives the period of limitation prescribed for it as three years and six years in case of registered certified copies. Now it will be seen that the present article 136 provides a period of limitation of twelve years. So, it will be easily seen that the eventuality of the judgment debtors—I

[Shri Bibudhendra Mishra]

will not say 'difficulties'—being put in any difficulty will not arise at all because that has been taken into consideration and in case of a period of three years a period of twelve years has been provided.

The second objection has been to the period of limitation prescribed for suits based on declarations. I will only say that in the existing Act there are six articles which deal with suits based on declaration which have been reduced to three now in the present Bill according to the recommendation of the Law Commission and also, as per their recommendations, a period of three years has been provided as the period of limitation. I think, a period of three years either from the date of knowledge of a certain fact or from the date when the cause of action accrues is a sufficient period and those who insist that the period should be raised either to six years in some cases or to twelve years in other cases, as we find in the existing Act, forget the very basic principle behind the law of limitation. It must not be forgotten that the law of limitation is a statute of repose, of peace and justice. Its purpose is to extinguish stale demer there is the tendency of disputes the longer the period you give, the more there is the tendency of disputes between parties remaining alive, even after the parties are dead. Therefore that is the main principle behind the law of limitation and the Law Commission has taken note of it.

In so far as the provisions of the Bill are concerned, these were the objections that had been taken by the various hon. speakers. As regards the suggestion made now about article 113, I can only respectfully say that for all these suits based on contract a period of limitation prescribed by the Law Commission has been three years and if the relationship between an employer and an employee is at all to be treated as a category being in the nature of a contract, it will be unfair to reduce the period.

I will make only one or two general observations. It was pointed out by Shri Trivedi yesterday that there has been practically no change in the present Bill that the provisions are exactly similar to those in the existing Act and the difference, if there be any, is the difference between Tweedledum and Tweedledee. Shri Trivedi is not here; he is an experienced lawyer and I will only remind him about the comments made by other hon. Members of the Opposition yesterday while commenting on the Bill that it is an essay on the subject. I would only like to tell him that if he reads it carefully, he will find that most of the unnecessary sections have been repealed, that the articles have been arranged according to their subject-matter—formerly, there was no rational basis of classification and arrangement—and that the period of limitation provided for has been the same for the same class of suits as far as possible whereas in the existing Act he will find that the period of limitation prescribed by different articles for suits based even on contract is different. Somewhere it is one year; somewhere it is two years and sometimes it is three years though the basis is the basis of contract. We do not find any rational justification for doing it.

Then, he had expressed his indignation that the provisions of this Bill will not be applicable to the State of Jammu and Kashmir. Whenever a Bill is brought forward in this House the same objection is raised and indignation is expressed. I can only tell the hon. Members of the House that we are anxious that all the Indian legislation should be extended to Jammu and Kashmir also. The Government is as anxious as they are to see that all the Indian laws that we pass here in Parliament are extended to the State of Jammu and Kashmir. There is no doubt about it. The anxiety is the same, rather more; but then we have to take the difficulties into consideration.

A question was posed by Shri Trivedi yesterday. He asked: "If you say that Jammu and Kashmir is a State within the meaning of the Indian Constitution, that it comes under article 1 of the Constitution, how is it that you do not extend the Indian law to the territory of Jammu and Kashmir? I will only humbly point out that it is the very Constitution that prohibits us from doing so. I will refer to article 370 of the same Constitution under which under certain circumstances only the law of the Indian Parliament can be extended to the State of Jammu and Kashmir.

With these words, I would commend this Bill for acceptance.

Mr. Chairman: The question is:

"That the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Chairman: The House shall now take up clause-by-clause consideration of the Bill.

The question is:

"That clauses 2 to 32 stand part of the Bill".

The motion was adopted.

Clauses 2 to 32 were added to the Bill.

Shri Bade (Khargone): I have to say something about article 136 of the Schedule.

Mr. Chairman: Yes.

Shri Bade: I have given amendment. I do not know why my amendment was not circulated. I gave it yesterday to the Notice Office. I had suggested one amendment yesterday. I have given my dissenting note. My amendment is: Were the decree has been amended, the date of amendment should be there. I have given this

amendment because after twelve years the decree will be a useless paper and the reason given here by the Law Commission is that in England the practice favours like this. My contention is that in mofussils the atmosphere is quite different than what it is in England because here the debtors are not dishonest. If every creditor wants to adjust to judgement debtors, he cannot do it owing to this article 136. Therefore, yesterday I said in my speech that there should be an amendment to article 136 to the effect that where the decree has been amended the date of amendment should be there so that if the judgement debtor cannot pay debts he can go to the creditor and ask him to give him some time and the creditor can do it. But the court will not accept the amendment and the period will not be extended. The hands of the courts are tied down. There will be great hardship to the judgment debtors. Judgment debtors are not dishonest. They are always honest. Due to poverty and other circumstances, they sometimes are not able to pay.

So, I request the hon. Minister that this simple and innocent amendment which is supported by all the Opposition Members, that where the decree has been amended, the date of amendment should be there, should be included in article 136 of the Schedule.

Shri Bibudhendra Mishra: Madam, I have already replied to this point while Mr. Bade was not here. I gave prescribed for 3 and 6 years. That prescribed for 3 and 6 years. That will be sufficient.

Mr. Chairman: The question is:

"That the Schedule stand part of the Bill".

The motion was adopted.

The Schedule was added to the Bill.

Mr. Chairman: The question is:

"That Clause 1 stand part of the Bill".

The motion was adopted.

Clause 1 was added to the Bill,
Enacting Formula

Amendment made

"Page 1, line 1,—

for "Thirteenth" substitute—
"Fourteenth".

[Shri Bibudhendra Mishra]

Mr. Chairman: The question is:

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

Shri Bade: You cannot take votes now. There is no quorum.

Mr. Chairman: This is lunch hour.

Shri Bade: The voting cannot take place.

Mr. Chairman: The quorum is questioned.

I think the hon. Member knows that at 2-30 p.m. the quorum cannot be challenged.

Shri Bade: There can be no voting.

Shri Sinhasan Singh: The practice is that during the lunch hour we do not question the quorum. But for voting you must have the quorum.

Mr. Chairman: No division can take place. If you challenge division, we shall postpone it. There is no division now.

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.

The Title was added to the Bill.

Shri Bibudhendra Mishra: I beg to move:

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

Mr. Chairman: The question is:

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

The motion was adopted.

13.25 hrs.

INDIAN EMIGRATION (AMENDMENT) BILL

The Minister of State in the Ministry of External Affairs (Shrimati Lakshmi Menon): Madam, I move*:

"That the Bill further to amend the Indian Emigration Act, 1922, as passed by Rajya Sabha, be taken into consideration."

The proposed amendments are needed to bring the law in line with recent developments in communication and also to prevent illicit emigration and prescribe more deterrent punishment for violation of the law. The parent Act of 1922 had the twin objective of controlling the emigration of skilled and unskilled workers beyond the limits of India and also protecting the interests of such categories of workers as may need the protection of the Government. Today we find that unskilled labour cannot go out of India. It is totally banned. For instance, emigration to Malaya, Singapore and Brunei was prohibited in 1938, to Ceylon in 1939 and to Burma in 1941 by series of notifications under sub-section 1 of section 30A of the Indian Emigration Act of 1922. With regard to skilled workers, emigration is now governed by the provisions of Chapter IV of the Act. The provisions

*Moved with the Recommendation of the President.