

14.42 hrs.

ADMINISTRATORS-GENERAL BILL

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra):
On behalf of Shri A. K. Sen, I beg to move:

"That the Bill to consolidate and amend the law relating to the office and duties of Administrator-General be referred to a Select Committee consisting of Shri Bhagwat Jha 'Azad', Shri S. M. Banerjee, Shri R. G. Dubey, Shri M. L. Dwivedi, Shri Kashi Ram Gupta, Shri Shiv Charan Gupta, Shri J. N. Hazarika, Sardar Iqbal Singh, Shri Hari Vishnu Kamath, Shri Cherian J. Kappen, Shri R. K. Khadilkar, Shri P. Kunhan, Shri Lahri Singh, Shri Lalit Sen, Shri Inder J. Malhotra, Shri T. Manaen, Shri Jaswantraj Mehta, Shri Bakar Ali Mirza, Shri Bibudhendra Misra, Shri Mohan Nayak, Shri Ghan-shyam Lal Oza, Shri R. S. Pandey, Shri Ram Singh, Shri Hari Charan Soy, Shri M. P. Swamy, Shri Krishna Deo Tripathi, Shri Tula Ram, Shri Ram Sewak Yadav, Shri Bhisma Prasad Yadava, and Shri Asoke K. Sen, with instructions to report by the last day of the first week of the next session."

The law on the Administrator-General relates back to the year 1869, and I may tell the House that this law came into force on a political reason altogether. It was for political reasons that it came into force. It was created to cater to the interests of the British mercantile interests that were working here in India.

As you will see, the main purpose of the Act was in case there was the death of any persons, their property would be protected; if an application is not made immediately for taking out a probate or letters of administration, then the Administrator-General on behalf of the deceased takes up the property for management. That was the idea under which this was done.

1376(A) LSD—6.

Subsequently, under the Act of 1913, provision was made that every State should have an Administrator-General. But then they had a limited capacity. They were only capable of dealing with property less than Rs. 2,000. So, that was the origin of the Act.

For the purposes of the Act, a distinction has been made. There are two classes of persons—exempted persons and non-exempted persons. I will read out the definition of exempted persons and it is only in the interests of the non-exempted persons that this law was enacted. Section 2, sub-section (2) of the Act says:

"'Exempted person' means an Indian Christian, a Hindu, a Muhammadan, Parsee or Buddhist or a person exempted under section 332 of the Indian Succession Act, 1865 from the operation of this Act."

So, the Indian Christians, Hindus, Muhammadans, Parsees and Buddhists were the persons who came under the definition of exempted persons under the Act.

Then I would refer to the important sections which are sections 9, 10 and 11. Section 9 deals with the protection of estates of non-exempted persons only. Under this section, if a non-exempted person dies leaving an estate, with assets exceeding Rs. 2,000 in value, and no one applies within one month of the death of such person, the Administrator-General of the State in which the estate is situated would take proceedings within a reasonable time to obtain from the high court letters of administration of the estate. Therefore, as I have already said, section 9, which permits the Administrator-General for taking out a letter of administration on behalf of the deceased in case an application for a probate or letter of administration is not made within one month's time, is applicable to non-exempted persons only, and non-exempted persons in that context were the Englishmen then.

[Shri Bibudhendra Mishra]

Then I will refer to sections 10 and 11. This Act applies to properties situated in the presidency towns alone: they are, Calcutta, Bombay and Madras. This applies not to non-exempted persons but also to other persons. I will just say where the snag is. Under section 10, the Administrator-General, on his own application or on the application of any person interested may be directed by the high court to apply for letters of administration if there is an apprehended danger of misappropriation, deterioration or waste of the assets. The Administrator-General may be directed to collect and hold the assets pending the determination of the right of succession or administration in relation such assets. The court may grant letters of administration unless the application is in respect of an exempted person and the court is satisfied that such a grant is necessary for the protection of his assets. That is the scheme of the Act.

These are the most important sections which govern under what circumstances the Administrator-General can take over the property of the deceased person or under what circumstances the high court can make or pass an order directing him to take the property and not allow it to be wasted or deteriorated. You will find that the preponderance was in favour of the Englishmen then in India.

The view of the Law Commission was that this office is a good one and that the principle should be extended to the entire country and that there should be no distinction between one class of persons and another; that the definition of the exempted persons should be omitted from the Act and all persons in India should be treated on the same basis. Secondly, they said that there should not be a provision that property situated in the presidency towns—Calcutta, Bombay and Madras—will have some preference over the property situated in another place. They wanted that all these provisions should go.

I will now briefly refer to the paragraph in the Law Commission's report on the point. It says:

"We are of the opinion that since the object of the Administrator-General's Act is essentially to protect the property of a deceased person from being misappropriated or wasted, the availability of the protection should not be made dependent on such consideration as whether the person is an exempted person or not or whether the property is situated in one place or the other. In the changed context of the present set-up of States and the constitutional provisions as to uniformity of laws and equality of treatment, such distinctions are not only out of tune with the present conditions, but also liable to be attacked as discriminatory."

"It is high time that we freed the law relating to Administrators-General from the anomalous distinctions between Presidency towns and Muffassil which owe their origin to historical reasons, as also from the discrimination in favour of the so-called "non-exempted" persons which has its origin in political consideration, and determined its content solely with reference to the need for protection and due administration of estates of deceased persons. We accordingly recommend that sections 9, 20 and 11 should be redrafted with a view to securing the advantages of these provisions to all cases in which the same are necessary."

The Law Commission have recommended that all these anomalies should be removed and they have said that the main purpose should be to look after the properties of deceased persons. They have said:

"The apprehension of danger of misappropriation, deterioration or

waste of the assets or the desirability of taking proceedings for protection of the estate should be the main consideration for the Administrator-General to intervene."

That is their main recommendation.

I have not referred to the minor amendments as to what the powers and qualifications of the Administrator-General and the Deputy Administrator-General should be. I will refer to another clause 21, in which it has been stated that the probate or letters of administration issued by the High Court of Jammu and Kashmir in favour of the Administrator-General of that State should be respected in the States of the Union. Similarly, on the basis of reciprocity, they have said that they will also insert a provision in their law to the effect that any probate or letters of administration issued by different High Courts in India will also be respected in their State. So, on this basis of reciprocity, a provision has to be included in the Act and that is provided in clause 21.

Under section 54 of the Act, the District Judge had a duty to report to the Administrator-General the death of a non-exempted person immediately after the death and take over that property for proper management till it was taken over by the Administrator-General or anybody else entitled under the law. Now the Law Commission has recommended that this is not necessary and hence section 54 is being omitted.

I have stated the essence of the recommendations and the main principle. Others are only corollaries of it. The Bill is also going to a Select Committee. Before I conclude, I would only refer briefly to another point raised at the time of introduction of the Bill. The short-heading is "Administrators-General Act", but in the body of the Bill the word "Administrator-General"—singular—has been used. Therefore, Shri Kamath who has

always an eye on grammar—he is not here—was very much annoyed and he thought it was a discrepancy. I would point out that the scheme is that every State should have one Administrator-General. That being the position, the word "Administrators-General" has been used in the short heading. Formerly, it was the Administrator-General's Act, but the Law Commission said that this is bad English and to bring it in conformity with the expression Official Trustees Act, the heading should be Administrators-General Act.

In the body of the Bill, the singular has been used because—I will refer to clause 5, which says:

"The Administrator-General shall be a corporation sole by the name of the Administrator-General of the State for which he is appointed, and, as such Administrator-General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name."

Since that is the provision in the Act, since the words "office of the Administrator-General" have been used in the body of the section, the singular has been used. In the short heading the plural has been used because the scheme is to have one Administrator-General for each State and there will be so many Administrators-General in the Union. This is all I have to say.

Mr. Deputy-Speaker: Does anybody want to speak? None.

The question is:

"That the Bill to consolidate and amend the law relating to the office and duties of Administrator-General be referred to a Select Committee consisting of—Shri Bhagwat Jha 'Azad', Shri S. M. Banerjee, Shri R. G. Dubey, Shri M. L. Dwivedi, Shri Kashim Ram Gupta, Shri Shiv Charan Gupta, Shri J. N. Hazarika, Sardar Iqbal Singh, Shri Hari Vishnu Kamath, Shri Cherian J. Kappen, Shri

[Mr. Deputy Speaker]

R. K. Khadiolkar, Shri P. Kunhan, Shri Lahri Singh, Shri Lalit Sen, Shri Inder J. Malhotra, Shri T. Manaen, Shri Jaswantraj Mehta, Shri Bakar Ali Mirza, Shri Bibudhendra Misra, Shri Mohan Nayak, Shri Ghanshyamlal Oza, Shri R. S. Pandey, Shri Ram Singh, Shri Hari Charan Soy, Shri M. P. Swamy, Shri Krishna Deo Tripathi, Shri Tula Ram, Shri Ram Sewak Yadav, Shri Bhisma Prasad Yadava and Shri Asoke K. Sen with instructions to report by the last day of the first week of the next session."

The motion was adopted.

Mr. Deputy-Speaker: The House will now take up the discussion on matter of urgent public importance. Shri Bishanchander Seth,

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DISCUSSION RE. BREAKDOWN OF POWER SUPPLY IN DELHI

श्री बिशनचंद्र सेठ (एटा) : आदरणीय उपाध्यक्ष महोदय, इलेक्ट्रिसिटी के सम्बन्ध में बहुत समय से हमारे सदन में अनेक प्रकार की बातें आती रही हैं और मुझे यह कहने में संकोच नहीं है कि सरकार के सामने समय समय पर अनेक प्रकार के मुद्दाव रखे गए और जो कष्ट जनता के थे वे भी सामने लाए गए। लेकिन दुर्भाग्य है कि हमारी केन्द्रीय सरकार, देश की राजधानी जैसे महत्वपूर्ण स्थान में भी आज बिजली और पानी जैसी जीवन की दैनिक आवश्यकताओं का उचित प्रबन्ध नहीं कर पा

मैं कभी कभी यह सोचने लगता हूँ कि सामान्य जीवन के दिनों में, जब कि हमारे देश के सामने कोई भी महत्वपूर्ण समस्या नहीं है, हमारा देश सामान्य स्थिति में चल रहा

है, पानी और बिजली जैसे महत्वपूर्ण विषय का हमारी सरकार प्रबन्ध करने में अपनी असमर्थता अनुभव कर रही है। ईश्वर न करे कि देश के सामने कोई महत्वपूर्ण क्लेश आ जाए, तब हमारी क्या स्थिति होगी यह बड़ा महत्वपूर्ण विषय है इसे सोच कर मंत्रिदिमाग में बड़ी उलझन और परेशानी पैदा होती है।

मैं आपसे बताना चाहता हूँ

14.59 hrs.

[MR. SPEAKER in the chair]

कि आज मे कुछ दिन पहले समाचारपत्रों में छपा था, उनी का रेफरेंस देना चाहता हूँ

अध्यक्ष महोदय : एक मिनट के लिए आप मुझे इजाजत दें सेठ साहब तो बेहतर होगा। इस बहस में बहुत से माननीय सदस्य हिस्सा लेना चाहते हैं। मैं समझता हूँ कि कोई टाइम लिमिट मुकर्रर कर दी जाए तो अच्छा होगा। आप को मूव करने के लिए १५ मिनट काफी होंगे ?

श्री बिशनचंद्र सेठ : मैं तो ऐसा मानता हूँ कि इस पर ज्यादा बोलने वाले लोग नहीं हैं।

अध्यक्ष महोदय : मुझे इत्तला मिली है कि काफी हैं। क्या मैं जान सकता हूँ कि कौन साहब इस में हिस्सा लेना चाहते हैं ?

(कुछ माननीय सदस्य अपनी जगहों पर खड़े हुए)

६ या दस हो गये और मुमकिन है शायद एक आध और कोई आ जाये इसलिए आप २० मिनट ले लीजिए और बाकी माननीय सदस्य १५ मिनट का समय लें।

श्री बिशनचंद्र सेठ : ठीक है जैसी आप की आज्ञा।