

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Eleventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 28th November, 1962."

The motion was adopted.

Mr. Deputy-Speaker: Now, Shri D. C. Sharma—he is absent.

Shri Barupal.

14.33 hrs.

COMPANIES (AMENDMENT) BILL*

(Amendment of sections 15, 30 etc.)
by Shri P. L. Barupal

श्री प० ला० बारूपाल (गंगानगर) :
अध्यक्ष महोदय मैं प्रस्ताव करता हूँ कि
कम्पनीज ऐक्ट सन् १९५६, में आगे संशोधन
करने वाले बिल को पेश करने की अनुमति
दाँ जाये ।

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Companies Act, 1956."

The motion was adopted.

श्री प० ला० बारूपाल : मैं बिल
प्रस्तुत करता हूँ ।

14.33½ hrs.

INCOME-TAX (AMENDMENT)
BILL*

(Amendment of section 2) by Shri C.
K. Bhattacharyya

Shri C. K. Bhattacharyya (Raiganj):
I beg to move for leave to introduce
a Bill further to amend the Income-
tax Act, 1961.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Income-tax Act, 1961."

The motion was adopted.

Shri C. K. Bhattacharyya: I introduce the Bill.

14.34 hrs.

CONSTITUTION (AMENDMENT)
BILL—contd.

(Amendment of Article 226) by Shri
D. C. Sharma

Mr. Deputy-Speaker: The House will now take up further consideration of the motion moved by Shri D. C. Sharma on the 31st August, 1962. Shri D. C. Sharma—he is not here. I will take it that this speech has been concluded.

Motion moved:

"That the Bill further to amend the Constitution of India be taken into consideration."

Anybody to speak? None. Shri Bibudhendra Misra.

An Hon. Member: I want to speak.

Mr. Deputy-Speaker: I am sorry nobody got up. The hon. Minister has already risen. (*Interruption*). Order, order. I cannot go on like this. Shri Bibudhendra Misra.

The Deputy Minister in the Ministry of Law (Shri Bibudhendra Misra): As I had informed the House earlier, already the Government have decided to amend this article, and the Constitution (Fifteenth Amendment) Bill bringing forward an amendment

to article 226 of the Constitution has already been introduced in the House, and the notice for consideration of it has already been given by me. I will only tell the House that the amendment that has been proposed by the Government goes much further and much longer than the Bill which has been given notice of by Shri D. C. Sharma. So far as article 226 is concerned, it has been a vexed question which has come up before the House from time to time. Two difficulties have been pointed out by the Lordships of the Supreme Court so far as this article is concerned.

Shri Ranga (Chittoor): Please speak a little slowly.

Shri Bibudhendra Misra: Am I fast?

Shri Ranga: You are too fast.

Shri Bibudhendra Misra: The first difficulty has been that the high court, in the exercise of its jurisdiction under article 226, cannot go beyond its territorial jurisdiction. Secondly, the person or authority against whom the writ is issued must be amenable to its jurisdiction: that person or authority must be a resident within the jurisdiction of the High Court. These are the two shortfalls or shortcomings of article 226 which have been pointed out by their Lordships of the Supreme Court. I need not refer to their judgment. The Bill, the notice of which has been given now by Shri D. C. Sharma, does not meet these shortcomings. It only says that if any order is passed inside the State,—inside the State within the jurisdiction of the high court,—the high Court should be competent to entertain the writ application against that order, but that only goes a short way. What happens is this. Supposing, an order is passed at Delhi, the seat of India's Capital, and the order is executed within the territorial jurisdiction of the high court, the high court certainly, if this principle is accepted, has no jurisdiction to entertain the application because the order is not

made inside the territorial jurisdiction of the high court but is made somewhere else, and is only executed within that State. Therefore, what we have inserted here is, the words "cause of action," which was also dealt with at length by their Lordships of the Supreme Court. These words, "cause of action" occurred in a similar Bill which was tabled before this House sometime back in a Bill to amend article 226 of the Constitution, by my hon. friend Shri C. R. Pattabhi Raman. Now, the amendment to article 226 which is proposed in the Constitution (Fifteenth Amendment) Bill uses these words "cause of action". Whosoever may be the authority, whosoever may be the authority issuing the order, if the cause of action arises inside the territorial jurisdiction of a high court, then, whether the person is amenable to the jurisdiction or not, the high court will be competent to issue any writ. Therefore, the power now given to the high court is much wider than what it was previously, than what it is and what is sought under this Bill which is under consideration. Now, it will not be necessary—even if the cause of action of the Central Government order arises within the jurisdiction of the high court—for the aggrieved person to come to the Punjab High Court for getting a writ order against the Central Government. It can be done within the territorial jurisdiction of that High Court where the cause of action arises. Therefore, the Government, in pursuance of its assurance given to this House, has already incorporated an amendment to article 226 of the Constitution, in the Constitution (Fifteenth Amendment) Bill. Hence I would say that this Bill is unnecessary and may be withdrawn with the leave of the House.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Constitution of India be taken into consideration."

[Mr. Deputy-Speaker]

Under rule 157, the motion shall be deemed to have been carried if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting. So there has to be a division. The bell may be rung.

Shri Ranga: There is nobody to say "Aye".

Mr. Deputy-Speaker: The motion is opposed by the Minister.

Shri S. M. Banerjee (Kanpur): When there is nobody to say "Aye", why should there be a division?

Shri Tyagi (Dehra Dun): On a point of order, Sir. The rules about two-thirds majority, etc. for a Constitution Amendment Bill are meant for passing it. For defeating it, it is not necessary. If it is to be defeated, we can defeat it without those rules.

Mr. Deputy-Speaker: Just now we do not know whether it will be passed or defeated. Let there be a division.

The Lok Sabha divided.

Shri Jena (Bhadrak): I have pressed the wrong button; I am for "Noes".

Division No. 9]

AYES

[14.44 hrs.

Berwa, Shri
Kesar Lal Shri

Reddy, Shri Naresimha
Shashank Manjari, Shrimati

Singh, Shri Y.D.

NOES

Alva, Shri A.S.
Bal Krishna, Singh Shri
Balakrishnan, Shri
Banerjee, Shri S.M.
Barupal, Shri P.L.
Basant Kunwari, Shrimati
Bassppa, Shri
Baswant, Shri
Beera, Shri
Bhagwati, Shri
Bhanja Deo, Shri L. N.
Bhatta charya, Shri C. K.
Brajeshwar Prasad, Shri
Brij Basi Lal, Shri
Brij Raj Singh, Shri
Chakraverti Shri P.R.
Chandrasekhar Shrimati
Chaturvedi Shri. S.N.
Chun: Lal, Shri
Colaco, Dr.
Das, Shri B.K.
Dasai, Shri Morarji
Drahmukh, Shri Shivajai Rao S.
Deshpande, Shri
Dube, Shri Mulchand,
Dubey, Shri R. G.
Gutondar, Dr.
Ganga Devi, Shrimati
Goni, Shri Abdul Ghani

Guha, Shri A. C.
Hajarnavis, Shri
Hem Rai, Shri
Jena, Shri
Kanungo, Shri
Karjee, Shri
Kinder Lal, Shri
Lakshminanthamma, Shrimati
Laskar, Shri N.R.
Laxmi Bai, Shrimati
Mahishi, Shrimati Sarojni
Mandal, Shri Yamuna Prasad
Maniyangadan, Shri
Marandi, Shri
Masuriyadin, Shri
Mate, Shri
Mehrotra, Shri Braj Bihari
Mehta, Shri Jashwant
Mishra, Shri Bibhuti
More, Shri K. L.
Naik, Shri Maheswar
Pandey, Shri Sarjoo
Parameswari, Shri
Patel, Shri N. N.
Patil Shri D. S.
Patnaik, Shri B. C.
Patabhi Raman, Shri C.R.
Pillai, Shri Nataraja
Prabhakar, Shri Naval

Raghunath Singh, Shri
Rai, Shrimati Sahodrabai
Ramdhani, Das, Shri
Rane, Shri
Ranga, Shri
Ranjit Singh, Shri
Rao, Shri Thirumala
Ray, Shrimati Renuka
Roy, Shri Bishwanath
Sadhu Ram, Shri
Saha, Dr. S. K.
Samnani, Shri
Sanji Rupji, Shri
Satyabhama Devi Shrimati
Sharma, Shri A. P.
Sheo Narain, Shri
Shree Narayan Das, Shri
Siddanajappa, Shri
Singh, Shri J. B.
Sinha, Shri B. P.
Soy, Shri H. C.
Sumat Prasad, Shri
Swamy, Shri Sivamurthi
Tyagi, Shri
Upadhaya, Shri Shiva Dutt
Utiya, Shri
Varma Shri Ravindra
Verma Shri B.

Mr. Deputy-Speaker: The result of the division is: Ayes 5, Noes 86. As the requisite majority is not there, the motion is lost.

Ayes 5; Noes 86.

The motion was negatived

Mr. Deputy-Speaker: Shri S. C. Samanta—he is absent. Shri Naval Prabhakar.

14.45 hrs.

DELHI RENT CONTROL (AMENDMENT) BILL

(Amendment of sections 14 and 20 and insertion of new section 48A) by Shri Naval Prabhakar

Shri S. M. Banerjee (Kanpur):
What is the time allotted for this Bill?

Mr. Deputy-Speaker: 2 hours.

श्री नवल प्रभाकर (दिल्ली-करोल बाग):
उपाध्यक्ष महोदय, मेरा दिल्ली किराया अधिनियम में संशोधन करने का यह जो विधेयक है यह एक साधारण किन्तु अत्यावश्यक बिल है जिसे मैं प्रस्तुत करता हूँ। वर्तमान अधिनियम में किरायेदारों को जो कठिनाइयाँ और परेशानियाँ हो रही हैं इस ऐक्ट को संशोधित करने से वे दूर हो जायेंगी और इसीलिए मैं यह संशोधन विधेयक लाया हूँ।

दिल्ली में आज जितने भी लोग रहते हैं उन में अधिकांश लोग किराये के मकानों में रहते हैं। किरायेदारों और मकान मालिकों में झगड़े प्रायः देखने में आते हैं। आज भी अदालतों में जाकर देखिये तो पाइयेगा कि और दूसरे झगड़े इतने अधिक नहीं हैं जितने कि मकान मालिकों और किरायेदारों के झगड़े हैं। हमारा जो पुलिस का विभाग है उस में भी रोज रोज इस तरह के झगड़े जाते रहते हैं। उन झगड़ों के कारण हमारे प्रशासन में भी काफ़ी अस्तव्यस्तता है।

वर्तमान ऐक्ट की १४ और २० नम्बर की धाराओं में एक बड़ी विचित्र परिस्थिति

उत्पन्न होती है। जिस समय दिल्ली किराया नियन्त्रण अधिनियम बना तो उस में यह कमी रह गयी, कमी नहीं, बल्कि यह कहना चाहिए कि उस में मकान मालिकों के लिए एक छूट दे दी गई और उस छूट का उन्होंने नाजायज़ फायदा उठाना आरम्भ कर दिया। छूट यह दी गई कि कोई भी मकान मालिक अपने मकान का दुबारा निर्माण कर सकता है, दुबारा बनायेगा तो उस में यह आवश्यक नहीं, ख़ाली उस में यह उल्लेख कर दिया गया कि वह उसे पुराने किरायेदार को देगा, लेकिन यह आवश्यक नहीं किया कि वह उस दुबारा बने मकान को फिर उसी को दे देगा। श्रीमान्, ऐसा देखा गया है कि बहुत सारे मकान मालिक अदालतों में जाते हैं और वहाँ पर जब कोई पेश नहीं बन पड़ता है तो उस अवस्था में वह एक फ़ैसला करने के लिए अदालत से आग्रह करते हैं, प्रार्थना करते हैं कि मैं इस मकान को जब दुबारा बनाऊंगा तो मैं उन्हीं को वापिस दे दूंगा। देखने में यह बात बहुत अच्छी लगती है और अच्छी बात है भी किन्तु कार्य रूप में प्रैक्टिस में यह बात होती नहीं है। बहुत सी बातों का मुझे निजी अनुभव है और मैं अपने उस अनुभव के आधार पर यह कह सकता हूँ कि न्यायालय में फ़ैसला हुआ और फ़ैसले में यह कहा गया कि आप जब मकान बनायें तो अपने किरायेदार को फिर से मकान दे दें। अनुमान कीजिये कि एक डाक्टर है और वह एक मकान में रहता है और प्रैक्टिस भी करता है तो उस के लिए यदि यह फ़ैसला कर दिया जाता है कि मकान बन जाने पर उस को दुबारा मकान दिया जायगा, अब मकान बनने से पहले वह जो किरायेदार रहता है मान लीजिये कि वह १० रुपया महीना बतौर किराया देता है लेकिन जैसे ही मकान दुबारा बन कर तैयार होता है तो मकान मालिक १० रुपये की जगह १०० रुपये मांगने लगता है। आप उस किरायेदार का ख़याल कीजिए, जो बड़ी कठिनाई से महीने में १० रुपया कमा पाता है और जो दस रुपया किराया देता है। यदि अदालत यह फ़ैसला दे दे कि यह मकान