

Shri Sivasan Singh: On page 2, in rule 41G, there is a clause like this:

"The elector on receiving the ballot paper shall forthwith proceed to one of the polling compartments and there make a mark on the ballot paper opposite the name of the candidate or each of the candidates for whom he intends to vote, in accordance with the instructions set out in the ballot paper and fold it so as to conceal his vote, and after showing to the presiding officer the distinguishing mark on the ballot paper insert the ballot paper so folded into the ballot box in the presence of the presiding officer."

This process will take a long time and instead of facilitating voters coming in, it will bar voters coming in. Every voter will take two to three minutes.

Mr. Speaker: The hon. Minister listed three or four grounds on which he brought these rules. One is that these votes will be pocketed or some other paper will be put in there. The vote will be passed on to his friend to ensure that the man voted for him. What happens in the case of postal ballot, where highly qualified men, write to their voters to send all those papers so that it will save some money and they may be sure of getting those votes. Then they collect all those papers and sometimes behind the back of the other person they use rubber and mark them differently.

All these things happen, and it is in order to deal with them that the hon. Minister has brought these rules. If it involves expenditure, that cannot be helped. Hon. Members have heard the reasons as much as I have done. They may vote one way or the other. The reasons have been given by the hon. Minister.

Now, we shall pass on to the other business.

INDIAN SUCCESSION (AMENDMENT) BILL

The Minister of Law (Shri A. K. Sen): I beg to move:

"That the Bill further to amend the Indian Succession Act, 1925, as passed by Rajya Sabha, be taken into consideration".

This is really a consequential amendment necessitated by the integration of the State of Jammu and Kashmir. Hon. Members will recollect that under section 382 of the Indian Succession Act, the provisions relating to succession certificates granted by the States of India apply to all part B States except Jammu and Kashmir. Since that time, the State of Jammu and Kashmir has been integrated with India. As a result, this amendment has become necessary so as to enable a succession certificate granted by the State to have operation in the rest of India like all other Part B States.

[*MR. DEPUTY-SPEAKER in the Chair*].

13.40 hrs.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Indian Succession Act, 1925, as passed by Rajya Sabha, be taken into consideration".

Shrimati Renu Chakravarty (Basirhat): This is a formal Bill, no doubt, and it only seeks, as the Minister has said, to apply the jurisdiction of the Indian Succession Act also to Jammu and Kashmir.

There is only one point I would like to make. We are amending once again the Indian Succession Act. I was looking through the amending Acts and Adaptation Orders; they seem to have been quite numerous—almost 14 Amending Acts and Adaptation Orders have been there. Now, this is one more amendment. I would have liked this amendment to come immediately after the passing of the Hindu Succession Bill. We should have brought this amending Bill also then for bringing the Indian Succession Act in line with the Hindu Succession Act.

I just want to point out one discrepancy which now continues between the Indian Succession Act and the Hindu Succession Act. According to the Indian Succession Act, if the wife has children, she can only

[Shrimati Renu Chakravartty]

inherit one-third of the property of the husband—if I am correct. In the case of the Hindu Succession Act, if the wife has a child, she gets one share and the child gets one share. That is, they get equal share. As a matter of fact, now under the Hindu Succession Act, the wife, getting an equal share, is in a better position. Originally, as regards people who were governed by the Indian succession law, some of us, women at least had the right to property. Now women, especially Hindu women, have been given the right to property and wives are in a more advantageous position than the wives who are governed by the Indian Succession Act.

Therefore, I do feel that this should have been one of the important amendments which should have been incorporated in the Act itself. We should not have tried to perpetuate this inequity which now prevails because the Indian Succession Act had not been so amended and because we have had such a series of amending Acts, it would have been the right thing to have seized this opportunity to do this.

Of course, there are other points which I will not bring up here because they will not be directly pertinent. But I would like to urge upon the hon. Minister that he should at the earliest opportunity bring forward another amending Bill—because he has not brought in this amendment in this amending Bill—incorporating this provision so as to bring up the Indian Succession Act at least on par with the Hindu Succession Act so far as the right to property given to the wife is concerned.

Mr. Deputy-Speaker: The wife should have the best of both worlds?

Shrimati Renu Chakravartty: No, it is the same as in the other Act.

Shri Easwara Iyer (Trivandrum): I find that the Indian Succession Act has been always going through a series of amendments and I am just wondering when the time will come to implement the directive principles

of State policy embodied in the Constitution for bringing about a uniform civil code, particularly succession.

Of course, this is a very formal amendment which has been proposed. But I want to bring it to the notice of the Minister at this juncture that the time is ripe for us to consider the desirability of having a uniform code of succession, instead of dabbling with the Hindu law of succession, the Mohammedan law of succession, the Marumakkattayam law of succession and various others. All these laws had prescribed diverse rules of succession. These rules of succession have confounded even the best legal brains.

So in this connection, I may venture to suggest to the Law Minister that expeditious steps may be taken for bringing about an amendment of the Indian Succession Act in such a manner as to bring every citizen of India within the ambit of that Act.

Shri A. K. Sen: From what I have heard from the two hon. Members opposite, I understand that they do not really oppose this Bill but they are suggesting further amendments to the Indian Succession Act in future so as to bring in provisions which, according to them, are more equitable than those which are there at the present moment.

It is not really necessary to deal with that question now, but since it has been raised, one or two words would be necessary. The Indian Succession Act deals with various provisions. Some provisions apply to all, whether they are Hindus, Muslims, Parsees or Christians.

Shri Easwara Iyer: That is testate succession.

Shri A. K. Sen: Yes, I did not want to use that expression, which is a technical expression, but I wanted to confine myself to terminologies which are more easily understood.

Certain other provisions apply only to non-Hindus, non-Muslims and non-Sikhs—in other words, persons belonging to communities which have

their own personal laws of succession. Intestate succession occurs when a person dies without leaving a will disposing of his property, in which case his properties are inherited according to the personal laws by which he was governed at the time of his death. If he was a Hindu, he was governed by the Hindu law, if a Muslim by the Muslim law; if he was a Christian, Parsi or Jew, by the Indian Succession Act, so far as intestate succession is concerned. Succession certificate applies to all communities. That means, the heirs of a person, whether he dies as a Hindu or Muslim or Christian, may apply to the court having jurisdiction to obtain a succession certificate, which is really a warrant authorising them to collect all the properties and outstandings due to the estate of the deceased. The purpose is to indemnify those who would be paying to the heirs of the deceased against any possible claims by any person who claims interest in the estate of the deceased. Succession certificates were granted, and are granted, by district courts and High Courts in various States. The State of Jammu and Kashmir was not brought within the purview of the Indian Succession Act for the purpose of giving efficacy to their succession certificates in the rest of India.

After the integration of Jammu and Kashmir it has become necessary to accord the same treatment to succession certificates granted by the courts of the State of Jammu and Kashmir as the courts in other States. That is why this amendment.

As to whether we should change the Hindu Law or the Muhammadan Law or the law of intestate succession by giving greater or less rights to women, to daughters or to wives or sons are matters which really do not arise for discussion here. They are questions on which this House has debated and accepted certain laws of succession so far as Hindus are concerned. It is difficult to have a Central Act for Muslim succession. They have their own personal law.

The hon. Member opposite is advocating the adoption of a uniform

Civil Code governing succession irrespective of all religion, caste or community. That is a step which might be aimed at. Frankly speaking, I do not think it is feasible at the moment to tell the Muslims that they must have some other law than their own law. It is a thing on which we shall not embark at the present moment.

Similarly, with regard to the Hindus to say that they should not be governed by their own law but by some other statute law regarding succession is an adventure which may be thought of later, especially, in the case of Hindus, when we have adopted a complete Code governing succession and other matters. Therefore, with these words, I trust the House will accept my motion.

Mr. Deputy-Speaker: I am putting the motion to the House. The question is:

"That the Bill further to amend the Indian Succession Act, 1925, as passed by Rajya Sabha, be taken into consideration".

The motion was adopted.

Mr. Deputy-Speaker: I am putting all the clauses together.

The question is:

"That clauses 1 and 2, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1, 2, the Enacting Formula and the Title were added to the Bill.

Shri A. K. Sen: Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

REPEALING AND AMENDING BILL

The Minister of Law (Shri A. K. Sen): Sir, I beg to move:

"That the Bill to repeal certain enactments and to amend certain other enactments, as passed by Rajya Sabha, be taken into consideration".