

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".

[Shri A. K. Sen]

This, again, is a very formal matter. These are periodical Bills which are brought before Parliament in every country regarding the fact that certain laws which have undergone transformation by a repeal wholly or partially or by way of amendment and these total or partial repeals or total or partial amendments are mentioned in the Bill itself in the Schedule.

In India as in other countries governed by written Constitutions, we have a further difficulty which has to be met by such periodical legislation. We had many laws which held the field before the Constitution was enacted and before the Constitution came into force. The Constitution, by article 13, declared all laws which are repugnant to the Constitution as bad. Now, from time to time various provisions of law are condemned by courts in different parts of the country as bad, as offending the Constitution.

For instance, we have in the Schedule, as hon. Members will find, an old Soldiers Act which had a provision imposing forced labour. Under the Constitution, by reason of article 23 such a provision has become repugnant to the Constitution. Therefore, in this Repealing and Amending Bill we have also included certain provisions which have, since last the Repealing and Amending Bill, come to our notice as being repugnant to the Constitution and, therefore, bad. They have become bad without a formal repeal or formal amendment because they as such offend the Constitution. Therefore, it is really a compulsory legislation giving the picture at a glance of those laws which have, by reason of repealing or amending enactments become partially or totally obsolete or partially or totally changed or which have become partially or wholly bad because they offend the Constitution.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to repeal certain enactments and to amend certain other enactments, as passed by

Rajya Sabha, be taken into consideration".

Shri Easwara Iyer (Trivandrum): Mr. Deputy-Speaker, Sir, of course the hon. Law Minister would say that it is routine legislation. But a perusal of the Schedules contained in this Bill will show that more than 100 enactments are repealed and more than 20 or 25 enactments are subjected to amendments.

The hon. Law Minister will agree with me that it will be very difficult for even the best of memories to keep track of the number of legislation that is sought to be repealed or amended. And, within the short time that is available for us, it is practically impossible to go through them. Some of them were enacted at a time when some of us had not seen the light of day. I find in Schedule 7, there is a Regulation of 1825, the Bengal Troops Transport Regulation of 1825; and there is another of 1806, the Bengal Troops Transport and Travelling Assistance Regulation of 1806 and so on and so forth.

In this case, I am only seeking a clarification as to why these defective legislation, if they are defective, were not discovered earlier even though 7 years have elapsed since the passing of the Constitution or 10 years since the day of our independence. Possibly, the red-tapism of the Law Ministry and their slowness may be responsible for discovery at this length of time.

But, I would suggest that instead of bringing in this periodical Amending and Repealing Bill, there must be a Law Revision as a whole to find out which are the laws which are obsolete, exploded or repugnant to the Constitution. We must have a Law Revision Committee just as we have got the Law Commission to go into the entire Central laws and tell what are the laws that rule us. The old maxim is well-known to us that 'Ignorance of Law is no excuse'.

Possibly, legislation of this nature would be useful for a lawyer or a member of the legal profession

because he can immediately get at it and find out which are the laws that are in force. But, when we are to discuss all these matters before this House, we have to find out whether this Repealing enactment does repeal any essential laws or whether repealing is necessary or expedient.

Some amendments are proposed. A verbal amendment proposed may involve very serious consequences and within the short time that is available, without any Statement of Objects and Reasons or an explanatory note it is difficult for any one of us to say as to whether this legislation is absolutely necessary.

The Law Minister has said that it is a routine matter and in a short speech introduced the Bill, I was waiting to see whether he was proposing any amendment and to hear the reasons for those amendments. But, he may also plead that it may not be possible for him to give the reasons for the amendments proposed. In such circumstances, it is better, instead of bringing this Repealing and Amending Enactment, as I said before, we should have a Law Revision Committee which will propose the amendments in the laws. While suggesting amendment or repeal it will give reasons for repealing or amending so that this House may be in a position to examine the necessity or expediency of the legislation that is proposed.

For instance, in this legislation it is said that a vital provision like section 27A of the Insurance Act is supposed to be repealed. It will not be possible for any one to find out what exactly the scope of the amendment or repeal is. My submission is that though the original amending Bill of 1957 might have been passed and some other repealing Acts might have been passed before, such practice should not be adopted. The Law Minister may say that in other systems of jurisprudence and other legislatures such enactments have been made. We need not imitate them; we will follow our own procedure whereby the House is put in full possession of the facts and figures.

I, therefore, commend that this procedure may be dropped and law revision be taken up periodically.

14 hrs.

Shrimati Renu Chakravartty (Basirhat): I would support what has been stated by my friend, Shri Easwaraiyer. I think we are forced to pass these repealing and amending Bills in a hurry and so we are not able to go into the voluminous books which would be necessary if we want to check up.

One thing occurred me. On page 15 of the Second Schedule, we find that the Jammu and Kashmir (Extension of Laws) Act, 1956 is being amended. It reads here:

'for the words "belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust", the words, "vested in the Delhi Improvement Trust or a local authority in that territory, whether such premises are in the possession of, or have been leased out by, the Trust or local authority, as the case may be" shall be substituted.'

This amendment is sought to be made. After a while we will have to come back again for another amendment. The Bill that was introduced yesterday says that they are going to do away with the Improvement Trust. I want the hon. Law Minister to realise that this matter should be gone through with care so that it is not necessary for him to come forward every now and then with long lists of repealing and amending Acts. We are also unable to go into the details of it. Therefore, this suggestion of having a law revision committee is good and I hope it could win the acceptance of the Government.

Shri A. K. Sen: Mr. Deputy-Speaker, the question of a statute-revision committee is quite different. The purpose of statutes like the present one is to give effect to facts which already exist, which have come about by reason of other enactments

[Shri A. K. Sen]

whereas the purpose of a statute revision committee is to recommend what further Acts should be passed in order to modernise or improve the existing statutes. That is different.

The Law Commission has been set up. The first part of its duty is to report on various statutes and statute revision. The present Act is really concerned with giving effect to facts which have already been brought about by other legislation.

Shrimati Renu Chakravartty made certain observations. In the Second Schedule attached to the Original Bill, on page 21, there is the reason. This will make it clear why it is quite different from a statute revision committee. The last paragraph there reads:

"Jammu and Kashmir (Extension of Laws) Act, 1956: The amendments have been rendered necessary by reason of two important changes made by the Government Premises (Eviction) Amendment Act, 1956, immediately before the passing of the Jammu and Kashmir (Extension of Laws) Act, 1956, viz., change of the short title from the Government Premises (Eviction) Act, 1950, into the Public Premises (Eviction) Act, 1950, and change of the expression "Government premises" into "public premises"."

If some legislation brings about a change, we are to introduce consequential changes in the law if that is affected by such legislation. The hon. Members have had an opportunity to debate the merits at the time that law was passed; this has no concern with the merits or demerits of those changes or laws. It is only put in a complete form as a result of the changes which have already been made.

Mr. Deputy-Speaker: Now, I shall put the motion to the vote of the House.

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

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments. I shall put the clauses and the schedules to the vote of the House. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4, the First Schedule, the Second Schedule,

Clause 1, 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: I shall put the motion to the vote of the House. The question is:

"That the Bill be passed."

The motion was adopted.

RESOLUTION RE: INTERNATIONAL CONVENTION FOR PROTECTION OF CULTURAL PROPERTY IN EVENT OF ARMED CONFLICT

The Minister of State in the Ministry of Education and Scientific Research (Dr. K. L. Shrimall): Sir, I beg to move the following Resolution:

"This House approves the Convention for the protection of cultural property in the event of armed conflict, as passed at the Hague on the 14th May, 1954, and signed by the representatives of the Government of India and of the Governments of certain other countries, and is of the opinion that the said convention should be ratified by the Government of India."