

JOINT SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1923

The Hindu Law Inheritance (Amendment) Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1923.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Cotton Transport Bill.	15.1.23.	} Reports of the Joint Committee:
2.	The Cantonment(House Accommodation)Amendment Bill.	15.1.23.	
3.	The Indian Boilers Bill.	15.1.23.	
4.	The Indian Vines Bill.	16.1.23.	
5.	The Workmen's Compensation Bill.	24.1.23.	
6.	The Indian Official Secrets Bill.	31.1.23.	
7.	The Married Women's Property Bill by Mr.B.S.Kamet.	2.2.23.	
8.	The Indian Penal Code(Amendment) Bill(White Slave Traffic)	8.2.23.	
xxxxThe Indian Cotton Cess Bill by Mr.Seshagiri Ayyar		14.3.23.	
9.	The Indian Cotton Cess Bill.	14.3.23.	-do-
10.	The Code of Civil Procedure(Amendment) Bill by Dr.Hari Singh Gour.	20.2.23.	
11.	The Hindu Law of Inheritance(Amendment) Bill by Mr.T.V.Seshagiri Ayyar.	14.3.23.	No Copy available
12.	The Exclusion from Inheritance Bill by Mr.T.V. Seshagiri Ayyar.	14.3.23.	
13.	The Code of Criminal Procedure(Amendment) Bill (Sec.4) By Mr.Abul Kasem.	14. 3.23.	
14.	The Civil Marriage (Amendment) Bill by Dr.Hari Singh Gour.	14. 3.23.	
15.	The Mussalman Wakf Registration Bill by Mr.Abul Kasem.	15.3.23.	
16.	The Abolition of Transportation Bill.	3. 7.23.	
17.	The Indian Stamp (Amendment) Bill.	10.7.23.	
18.	The Indian Naturalization Bill.	10.7.23.	
19.	The Land Acquisition (Amendment) Bill.	16.7.23.	
20.	The Cantonments Bill.	18.7.23.	
21.	The Code of Civil Procedure(Amendment) Bill by Lala Girdhari Lal Agarwal.	24.7.23.	
22.	The Legal Practitioners Bill by Mr.K.C.Meegh.	24.7.23.	
23.	The Illegitimate Sons' Rights Bill.by r.V.K. Peddi Garu.	27.7.23.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, members of the Select Committee, to which the Bill to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts was referred, have considered the Bill and the paper noted in the margin and have now the honour to submit this our Report, with the Bill as amended by us annexed hereto.

2. *Clause 1.*—We consider that the short title of the Bill is not very suitable in view of the fact that the object of the Bill is to remove certain disabilities which at present entail exclusion from inheritance. We have therefore altered it.

We think that no reason exists for postponing the date on which the Act would ordinarily come into force. We have accordingly omitted the commencement clause.

Further, we see no reason why the Presidency of Bengal should be excluded from the operation of the Act. We have accordingly re-drafted sub-clause (3) [now sub-clause (2)] of this clause with a view to extending the provisions of the Bill throughout British India.

3. *Clause 2.*—We have considered all the different cases of persons who are excluded under the Hindu Law by reason of disease, deformity or physical or mental defect and we have decided, unanimously as regards eunuchs and impotent persons, and by a majority in the other cases, that no person should be excluded from inheritance or co-parcenary unless he is a congenital lunatic or idiot. At the same time we are of opinion that the present rules of Hindu Law should continue to apply in the case of religious offices and the management of religious trusts. We have amended this clause accordingly and have also made it clear that the Bill is not intended to affect any vested rights.

We do not think it would be within the scope of our reference so to alter the Bill as to provide for the appointment of guardians for persons who will be entitled to succeed to property under the Bill. We do however desire to impress upon the Government the desirability of making legislative provision (in cases where such provision does not already exist) for the appointment of guardians of the property of such of those persons as are from the nature of their disability unable to manage their own property.

4. The Bill was published in the Gazette of India, dated the 17th September, 1921.

5. We think that the Bill has not been so altered as to require re-publication, except in one respect, that is to say, the alteration which would extend the operation of the Bill when it becomes law to the Presidency of Bengal. We accordingly recommend that the Bill be re-published unless, in order to obviate the delay which would ensue from re-publication, the Legislative Assembly decides to exclude Bengal from the operation of the Bill.

W. M. HAILEY.

H. S. GOUR.

ABUL KASEM.

T. V. SESHAGIRI AYYAR.

B. VENKATAPATI RAJU.

T. RANGACHARIAR.*

K. B. L. AGNIHOTRI.*

B. C. ALLEN.*

J. CHAUDHURI.*

GIRDHARILAL AGARWALA.*

CAMPBELL RHODES.

DELHI :

The 14th March, 1923. }

* Subject to a minute of dissent.

I have in the first place to place on record my protest against the way in which the Select Committee meetings on this important measure were convened, cancelled or held. The first meeting was convened for Wednesday the 21st February to be held after the Assembly rises for the day. The Assembly rose for the day rather late after dealing with two or three important legislative measures. On Thursday the 22nd February a notice was circulated at the Council Chamber that the meeting will be held after the Assembly rises on that day. The Assembly rose after 6 p.m. that day, the meeting could not be held and on Saturday the 24th February at about 12-30 p.m. a notice was again circulated that the meeting would be held at 2-30 p.m. that afternoon. I informed the mover of the Bill that I could not attend the meeting as I had previously arranged to attend the meeting of the Mercantile Marine Committee that afternoon. The mover of the Bill at about 2-15 p.m. took the permission of the House just as the Assembly was rising to get two names added to the Select Committee from the panel of Chairman, namely, those of Sir Campbell Rhodes and Maulvi Abul Kasem. The meeting was held that afternoon at about 3 p.m. Of the 14 members 9 were present at that meeting and the following two points were unanimously decided :—

That the Presidency of Bengal should not be excluded from the operation of the Bill.

Eunuchs and impotent persons should not be excluded from inheritance: And it was further resolved :

By a majority of 5 to 3, persons born blind should not be excluded.

By a majority of 6 to 2 that deaf or dumb or deaf and dumb should not be excluded.

By a majority of 4 to 3 blind and deaf or blind and dumb should not be excluded.

By a majority of 4 to 3 born idiots and lunatics should be excluded.

By a majority of 5 to 3 lunacy not congenital should not exclude, and

By a majority of 6 to 2 incurable diseases should not be a ground for exclusion and a motion that persons who are let in should take only a limited estate akin to that of a widow's estate was negatived by a majority of 4 to 3.

The following Hindu Members and the Hon'ble the Home Member were absent at that meeting :—Messrs. Subrahmanayam, Rangachariar, Harchandrai Vishindas and Sir Devaprasad Sarvadhikary. The title of the Bill was also altered at that meeting. A later meeting was held to pass the report. This was on Saturday the 2nd March from which the following members were absent :—Messrs. Chaudhuri, Subrahmanayam, Venkatapati Raju, Lala Girdharilal Agarwala, Harchandrai Vishindas, Sir Devaprasad Sarvadhikary, Sir Campbell Rhodes and Maulvi Abul Kasem. I was able to be present at that meeting. We had to take the decisions of the former meeting as binding and the only questions considered were whether the Bill should not be recirculated in view of the unanimous decision to include Bengal and the suggestions from me to include saving clauses to protect vested rights and religious offices and charitable trusts from the operation of the Bill which were accepted. It will be seen that in consequence of the hurried summoning of meetings members of the Select Committee were unable to be present and this measure has not received that full consideration which it ought to receive and also there has been a sharp difference of opinion on various points. At the first meeting four Hindu members were absent and at the second meeting five Hindu members were absent. From the way the various diseases or defects were dealt with it will be clear the Committee were not guided to their conclusions on any fixed principle. It was more or less a question of choice. Why persons who are blind and deaf and dumb should have the rights of inheritance while persons born idiots should be excluded it is difficult to see. Exclusion ought to be based upon some principle known to Hindu law or of some rule or reason or equity. I have not been able to see any ground on which this distinction is based. The difficulty of departing from known rules of Hindu law and introducing what is called our common-sense view of the matter is made manifest by the sharp differences of opinion. I can understand the rule of exclusion being confined to persons who on account of congenital defects are wholly incapable of offering funeral oblations to deceased ancestors or persons suffering whether from congenital disease or defect or otherwise are unable at the time the inheritance opens, to offer those oblations. Either of these rules would have been in consonance with the spirit of Hindu law. The proposed exclusion or inclusion is arbitrary and I would therefore recommit the Bill for further consideration by the Select Committee. So far as it goes in excluding persons born idiots and lunatics it is consonant with the ancient Hindu law and I therefore subscribe to the report. I wish to have an opportunity of further considering the other cases and I should like the Select Committee should take in the assistance of expert Sanskrit scholars or cultured Pandits who are well versed in Sastras before finally deciding the question. For these reasons I would have the Bill recommitted to the Select Committee. Speaking for myself I am not satisfied that I have been able to give that attention to this important question which it deserves. This is a matter for the Hindu

Members of the Assembly to decide. Persons who are now let in to inherit by the proposed measure would be unable to take care of the property and there is no law at present under which their property can be safeguarded by appointment of guardians except in the case of lunatics. At the first meeting the Committee made a recommendation that the Government should be asked to consider the desirability of bringing in legislation for the purpose. Definite lines of action might also be recommended or adopted in case the Select Committee were to reconsider the provisions. There are also other questions on which there is a conflict of decisions which have not been touched by the Bill—*vide* paragraph 602, Mayne's Hindu Law.

T. RANGACHARIAR.

The 8th March, 1923.

I sign this report subject to a minute of dissent. I do not wish to confer the right of inheritance on the deaf mute or on persons of unsound mind at the time when the succession opens.

B. C. ALLEN.

The 7th March, 1923.

I sign this report subject to my dissent that leprosy is to continue as a disability to disinheritance.

J. CHAUDHURI.

The 7th March, 1923.

I am of opinion that it is desirable in the interests of such persons (blind, deaf and dumb or suffering from leprosy) who were so far disqualified from inheritance or succession to property that they should have a limited right of alienation of their rights, interest or share in property which they would be entitled to inherit or succeed to, after this Bill is passed. Some provision more or less on the lines of the Central Provinces Land Alienation Act of 1916, which would necessitate the previous sanction of a Judge or Revenue Officer for authorising any alienations of immovable property in the hands of such persons should be added to this Bill. Such persons cannot ordinarily be expected to be capable of managing their property in a proper way, and cannot resist the unscrupulous persons who taking advantage of their bodily defects may practically rob them of their property and deprive them of their source of future maintenance. I think it necessary therefore that some protection be given to persons, whose disqualification to inheritance or succession is to be removed under this Bill. We would otherwise fail in the very object for which we are enacting this law. Under the present law such a disqualified person is at least sure of maintenance for his whole life which after the Bill is passed they would be deprived of when once they have got the property in their own right by inheritance, partition or succession and have wasted or parted with it. In such a case they would not in all likelihood get any maintenance from his coparceners or relatives and will have to face starvation and misery. I would therefore very much prefer to give them an additional protection like the one suggested above.

K. B. L. AGNIHOTRI.

The 9th March, 1923.

I sign this report subject to my note of dissent. While I agree that persons suffering from disqualifications require greater help and support, I would not give them free handling of property. Such persons are entitled to maintenance only. I am prepared to give them by way of maintenance the same rights as are at present enjoyed by Hindu ladies, i.e., life estate. I suggest that the following proviso be added to clause 2 of the Bill, viz. :—

“ Provided that no such person shall be entitled to transfer any such property except for legal necessity till the disqualification exists nor shall such person have any right to claim portion of joint family property till such period.

GIRDHARILAL AGARWALA.

The 12th March, 1923.

(Words printed in italics indicate the amendments suggested by the Committee.)

A
BILL

TO

Amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts.

WHEREAS it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts ; It is hereby enacted as follows :—

1. (1) This Act may be called the *Hindu Inheritance (Removal of Disabilities) Act, 192* .
Short title and extent.

(2) *It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.*

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a joint-family property. *person who is and has been from birth a lunatic or idiot*, shall be excluded from inheritance or from any right or share in joint-family property by reason only of any disease, deformity, or physical or mental defect.

3. *Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.*

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill to amend the Hindu Law relating
to exclusion from inheritance of certain
classes of heirs, and to remove certain
doubts, with the Bill as amended.