

SHRI ATAL BIHARI VAJPAYEE : Let the Committee find out.

MR SPEAKER : I have made my observations. I pass on to the next item. (Interruptions) I am sending for the comments of the papers. I will take it up again after I have received the comments from the papers.

श्री अटल बिहारी वाजपेयी : कमीशन का भी रिकार्ड मंगाया जाए। बकीलो ने कमीशन के सामने क्या कहा यह भी हमारे सामने आ जाना चाहिये।

अध्यक्ष महोदय : कमीशन का रिकार्ड तो तब देखें अगर मेरे मन में कोई शक हो कि नहीं कहा।

श्री अटल बिहारी वाजपेयी : पेपर से मागने का क्या मतलब है ?

SHRI JYOTIRMOY BOSU : What is this procedure, Sir ?

SHRI INDRAJIT GUPTA : This onerous task of sifting of the evidence and finding it out cannot be done by you or by this House.

MR SPEAKER : I am not going to sift the record. When the comments come, I will put them before the House and I will go by your decision (Interruptions)

SHRI S. M. BANERJEE : I rise on a point of order.

श्री अटल बिहारी वाजपेयी : आप अखबार की बात कह रहे हैं। अखबार वाले कहेंगे कि यू एन आई ने उनको मैसेज दिया और उसको उन्होंने छपा यू एन आई का कहना यह है कि यह बात बकीलो ने वहाँ कमीशन के सामने कही। सवाल यह है कि यह बात कही या नहीं कही। यह तो कमीशन के रिकार्ड को देखने से ही पता लग सकता है। मैं नहीं समझता हूँ कि समाचार पत्र इस में आपको क्या स्पष्टीकरण दे सकते हैं। आप मंत्री महोदय से कहें कि कमीशन के सामने जो भी

प्रोसीडिंज हुई, जो भी कार्यवाही हुई, उस की एक प्रति आप को दे दें, ताकि आप पता लगा लें कि क्या कहा गया है, क्या नहीं कहा गया है।

SHRI JYOTIRMOY BOSU : In case they do not maintain verbatim report of the proceedings, it is very dangerous for us (Interruptions) Why are you placing on our shoulders the responsibility of sitting in judgement, at your own command, over this (Interruptions)

SHRI INDRAJIT GUPTA : It will be unnecessarily time-consuming if you go through the papers because it is an Agency report, it is not a report from the correspondent of a particular paper. Only UNI has reported it, nobody else

MR SPEAKER : I am going to have it direct from the UNI

SHRI ATAL BIHARI VAJPAYEE . And also from the Commission

SHRI S M BANERJEE . The UNI report has been published in many newspapers, some of which might have been correct, some may not (Interruptions)

MR. SPEAKER : No, no. I am not going to allow anything more.

SHRI S M. BANERJEE Kindly hear us. After all, the proceedings of the House are governed under some Rules. Under what rule

MR. SPEAKER : No, please. Next item—Mr. Gokhale.

SHRI JYOTIRMOY BOSU . Again Mr. Gokhale;

13.22 hours

ADMINISTRATORS-GENERAL (AMENDMENT) BILL, 1972,

THE MINISTER OF LAW AND JUSTICE AND PETROLEUM & CHEMICALS (SHRI H. R. GOKHALE): Sir, I beg to move

“That the Bill further to amend the Administrators-General Act, 1963,

[Shri H. R. Gokhale]

as passed by Rajya Sabha, be taken into consideration.”

Sir, the Bill seeks to replace the Ordinance which was issued on the 25th February, 1972.

Under the existing law, there are three alternative modes by which the title of a person claiming a debt by succession to a deceased person can be established. One is obtaining a probate or letters of administration evidencing the grant to the claimant of administration to the estate of the deceased. The second mode is by obtaining a succession certificate under Part X of the Indian Succession Act and having the debt specified therein and the third one is by obtaining a certificate under the Administrators-General Act, 1963.

The third of these modes, namely, obtaining a certificate under the Administrators-General Act, 1963, is the most simple and expeditious and least expensive of the three modes.

Under Sec 29 of the Administrators-General Act, 1963, a certificate for the purpose of claiming title to the assets left by a deceased person can be obtained only in those cases where the value of such assets excluding any some of money deposited in a Government Savings Bank or in any provident fund to which the provisions of the Provident Funds Act, 1925 apply, did not at the date of death of such person exceed in the whole Rs. 5000. This amount was initially Rs. 1000. Later on, it was increased to Rs. 2000 in 1926 and later, it was raised to Rs. 5000 on the recommendation of the Law Commission.

The widows' Association of Chandigarh represented on behalf of widows in general and war widows in particular, that the aforementioned monetary limit of Rs. 5000 should be increased. The difficulties pointed out by the Widows' Association were found genuine requiring sympathetic consideration. This is all the more so in view of the duty the nation owes to war widows.

It was, therefore, considered that if the

provisions of Sec. 29 of the Administrators-General Act, 1963, are to serve the purpose for which they have been all along intended, it is only fair that the monetary limit of Rs. 5000 should be increased to Rs. 15,000, especially, when such an increase is not likely to result in any financial burden on the State Exchequer. Accordingly, Sec. 29 and other relevant provisions of the Act were amended by promulgating the Administrators General (Amendment) Ordinance, 1972, on February 25, 1972. The present Bill seeks to replace the Ordinance by an Act of Parliament. I commend the Bill for the consideration of the House;

MR. SPEAKER : Motion moved :

“That the Bill further to amend the Administrators-General Act, 1963, as passed by Rajya Sabha, be taken into consideration.”

We have got one hour for this. I have received certain names...

SHRI H. R. GOKHALE : This is a non-controversial bill.

SHRI SOMNATH CHATTERJEE (Burdwan) : We welcome this measure in the context of the present situation. The amount of Rs. 5,000 has proved to be inadequate, especially in the present context because after the last war many of the war widows find it difficult to obtain succession certificates etc. Not only is the procedure cumbersome, but it is more costly. Therefore we support this proposal for raising the limit from Rs. 5000 to Rs. 15,000. At the same time what we would suggest is that the procedure must also be simplified. Under Section 31 it is said that the Administrator-General has to be satisfied. Some procedure should be laid down to simplify all these matters, not to ask for too many details.

There are one or two aspects to which we must pay our attention. One is the case of stamp duties and court fees. Court fees have to be paid; stamp duties have to be paid. Of course, the Minister may say, it is for the State Government to fix the rate of stamp duty and court fee. Surely the Central Government can approach the State Governments to

reduce fees in respect of the war widows. The hon Minister mentioned about the representation from Widows' Association of Chandigarh, on behalf of the widows in general and war widows in particular. It is one of the very rare instances where an ordinance has been promulgated, on quite justifiable grounds.

Sir, the country is grateful to our jawans who have laid down their lives. We salute them for what they have done in service of the country. We feel that so far as war widows are concerned, suitable provisions should be made; apart from giving them some fringe benefits, they should get some immediate benefits on the death of the jawans. Government should take up the responsibility and care of looking after the family for 5 years or 10 years. There are various factors like maintenance of the family, provision for children's education etc. All these things will have to be looked into.

In the background of the situation in which this Bill has been brought forward, we welcome this measure, but we wish to submit that this has got to be tackled as a part of the much greater social obligation to these families and fringe benefits should not be treated as total benefits. With these words I support the Bill.

SHRI K. BALADHANDAYUTHAM (Coimbatore): Mr. Speaker, Sir, on behalf of the Communist Party of India. I welcome this amendment and I appreciate the responsiveness of the Government in this matter.

MR. SPEAKER: If the speeches are going to be so short, I think, we can pass the Bill before we adjourn for lunch—Shri E. R. Krishnan. How much time will he take?

SHRI E. R. KRISHNAN (Salem): 3 or 4 minutes.

MR. SPEAKER: You may speak after lunch. We adjourning for lunch to reassemble at 2.30 P. M.

13.29 hrs.

The Lok Sabha adjourned for Lunch till thirty minutes past Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at thirty-five minutes past Fourteen of the Clock

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

ADMINISTRATORS GENERAL
(AMENDMENT) BILL—*Contd.*

MR. DEPUTY SPEAKER: Shri E. R. Krishnan.

*SHRI E. R. KRISHNAN (Salem): Hon. Mr. Deputy Speaker. Sir, I thank you for giving me an opportunity to express my views on behalf of my party, the Dravida Munnetra Kazhagam, on the Administrators-General (Amendment) Bill, 1972.

Sir, it is universally acknowledged that law should be an instrument of assistance to the people in solving their problems and it should never be a hindrance to the day to day life of the people. The Central Government is a huge machinery and there is no doubt that the laws are formulated and enacted after a thorough examination and study of the hardships of the people and the remedial measures to be taken in finding an ever-lasting solution to them.

If a widow of the deceased wants to utilise the assets left by the deceased and in case the assets on the date of death does not exceed in the whole Rs 5000, then the Administrator-General is empowered to issue a certificate to the widow and after that only she can utilise the assets left by the deceased. This amending bill has been necessitated by the representation of the Widows Association of Chandigarh on behalf of the widows in general and war widows in particular that the monetary limit of Rs. 5000 should be increased. The Government propose in this Bill to enhance the monetary limit to Rs. 15,000. The Government have now realised that the nation owes a duty to war widows. I appreciate this lofty sentiment.

*The original speech was delivered in Tamil.

[Shri E.R. Krishnan]

I wish to say here that the principal Act, Administrators-General Act was brought into force in the year 1963. I do not know whether the provisions of this Act were given retrospective effect to war widows on account of Chinese Aggression in 1962. I would also like to know whether the 1965 Indo-Pak war widows in our country did not seek these concessions. It looks as though that even this time if the Widows Association of Chandigarh has not represented to the Government, the widows would be continuing with this disadvantage. I would say that it is wrong on the part of the Government not to have realised the difficulties *suo motu* and they should not have taken any action till the Widows Association represented to them. The Government have got not only the duty to enact legislation in order to find a solution to the problems of the solution but also they should see, while implementing the legislation, what more is needed in solving the problems of the people.

I felt ashamed when I read the following in the Statement of Objects and Reasons incorporated in this Bill.

The difficulties pointed out by the Widows Association were found genuine requiring sympathetic consideration. This is all the more so in view of the duty which the nation owes to war widows.

It is strange that the Government should have realised the duty of the nation to war widows after the Widows Association has represented to the Government about their problems. All these years the Government were unaware of the problems faced by widows. Suddenly they woke up and perhaps in their anxiety to make up for the lost time, the President acting on behalf of the Government promulgated the Ordinance on 25th February 1972, just 18 days before the Lok Sabha is to meet. Legislating through presidential ordinance is not a healthy democratic convention and in fact it is in a way treating the Parliament with contempt. The hon. Minister may plead that the Ordinance was promulgated just to extend immediate assistance to the war widows. If the Widows Association of

Chandigarh had not represented to the Government, even this Presidential Ordinance would not have been promulgated. It was left to the War Widows Association of Chandigarh to point out to the Government their duty to those who had sacrificed their life in protecting the country's territorial integrity.

In my State, Tamil Nadu, if the widows—I am referring to widows other than war widows—want to have the assets of the deceased, they have to approach a Court through an Advocate for getting the succession certificate. This causes not only inordinate delay but also leads to unnecessary expenditure. The unfortunate and miserable widows, who have lost their breadwinners, are made to run between the Court and the Advocate's house any number of times if the succession certificate is to be obtained.

I would appeal to the hon. Minister that a suitable legislation is to be formulated with a view to helping the widows throughout the country. I am sure that what is obtaining in Tamil Nadu will be getting repeated in other States also. I do not know whether it will be at all possible to have any provision in this Bill itself for helping these unfortunate widows. But, I would request the hon. Minister to give his thought to this problem and formulate legislative proposals for helping the widows throughout the country.

Though the presidential ordinance is against democratic traditions, I welcome this Bill because the war widows are going to be given the much needed relief and help through this Bill. I support this Bill on behalf of Dravida Munnetra Kazhagam.

डा० लक्ष्मी नारायण पांडेय (मंडसौर) :
उपाध्यक्ष महोदय, जिस भावना से मंत्री महोदय ने यह विधेयक यहां पर प्रस्तुत किया है मैं उसका स्वागत करता हूँ। इसके पीछे जो सद्भाव निहित है वह स्वागत योग्य है। विधेयक चाहे फिर कोई हो किन्तु जिनके पतियों ने युद्ध के दौरान वीरगति प्राप्त की है वे हों प्रति किसी न किसी रूप में सहानुभूति और विशेष व्यवहार होना।

आवश्यक है। इसी उद्देश्य से यहाँ पर बिल प्रस्तुत किया गया है और जिसके जरिए चाहा गया है कि पाच हजार तक की धनराशि है उसको बढ़ाकर 15 हजार कर दिया जाय। इस अवसर का लाभ लेते हुए मैं सरकार का ध्यान इस बात की ओर आकर्षित करना चाहता हूँ कि जैसा कि राज्य सभा में हमारे मन्त्री महोदय श्री नीतिराज मिह चौधरी ने कहा है कि कुछ स्टेट्स ऐसी हैं जो इस प्रकार के अधिनियम का उपयोग नहीं करती हैं या वहाँ के लोगो को उसकी जानकारी नहीं है तो मैं नहीं जानता कि किन किन राज्यों में ऐसा नहीं हो रहा है परन्तु जिन राज्यों में मैं आता हूँ अर्थात् मध्य प्रदेश, मेरी जानकारी ऐसी है कि वहाँ पर इसका कोई उपयोग नहीं हो रहा है। मेरा निवेदन है कि यदि किसी प्रकार की सहूलियत या सुविधा किसी कारण से आप देना चाहते हैं तो उसका उपयोग समान रूप से सारे देश में होना चाहिए क्योंकि तभी उसकी उपयोगिता सिद्ध होती है अन्यथा किसी कारण से कहीं पर जो विधवा, निर्वाश्रित है उनको वह सुविधा नहीं मिल पाती है तो फिर यह वास्तव में सुविधा नहीं रहती है।

एक विषय की ओर मैं मन्त्री महोदय का ध्यान और आकर्षित करना चाहता हूँ कि सामान्य प्रक्रिया के अनुसार उत्तराधिकार प्रमाणपत्र के लिए एक पेटिशन दर्ज करनी पड़ती है वह शपथ पत्र के साथ होती है स्टेट्स में स्टेट्स ड्यूटी के अनुसार स्टेट्स लगाने की प्रक्रिया भी अपनाई जायेगी परन्तु यदि उसको इन विधवाओं के मामले में निकाल दिया जाये और स्टेट्स से कहा जाए कि स्टेट्स ड्यूटी समाप्त कर दे, वह निःशुल्क रहे तथा सामान्य प्रक्रिया शपथ पत्र आदि की वही रहे तो मैं समझता हूँ यह प्रस्तुत विधेयक अधिक उपयोगी हो सकता है अन्यथा कुछ क्षेत्रों में ही इसका लाभ उठाया जा सकता है।

मैं मन्त्री महोदय से एक बात और बानना चाहता हूँ। यह ठीक है कि चण्डीगढ़

में विधवाओं के समूह ने या किसी संघ ने उनसे आग्रह किया कि पाच हजार की राशि बहुत कम होती है इसको 15 हजार तक बढ़ाना चाहिए लेकिन क्या सरकार का यह दायित्व नहीं था कि इन सांगी परिस्थितियों में यह स्वयं निर्णय लेती? ला कमिशन की रिपोर्ट के बाद, जिसमें उन्होंने कहा कि इसको बढ़ा दिया जाये तो बढ़ा दी, उसके बाद फिर से उन्होंने आग्रह किया तो फिर बढ़ा दिया लेकिन मैं जानना चाहता हूँ कि 25 फरवरी को इस प्रकार का अध्यादेश लाया गया तबसे लेकर आज तक कितने लोगो ने इसका लाभ उठाया? अन्यथा जैसा मैंने प्रारम्भ कहा कि यह स्वागत योग्य कदम है परन्तु या तो सरकार स्वयं पहले कदम उठाती अथवा 13 तारीख से पार्लियामेंट का सत्र चालू होने वाला था और सरकार दस-पाच दिन ठहर सकती थी। सरकार को अध्यादेश निकालने का अधिकार है परन्तु उमको इस प्रकार से दुरुपयोग करने की बात समझ में नहीं आती है। ऐसी स्थिति में मन्त्री महोदय यह बताने की कृपा करेंगे कि इसके कारण कितने लोगो को लाभ पहुँचा है, कितने केसेज किन किन क्षेत्रों में निपटाए गए हैं 25 फरवरी और 13 मार्च के मध्य।

अन्त में मैं दो बावों की ओर ध्यान दिलाते हुए कि सारे देश में समान रूप से इसका उपयोग किया जाए तथा स्टेट्स ड्यूटी के सम्बन्ध में रियायत दी जाए, उसको माफ किया तो ज्यादा अच्छा होगा, मैं इस विधेयक का समर्थन करता हूँ।

SHRI H R GOKHALE : Sir, I am obliged to the hon. Members who participated in the debate all of whom supported the Bill. It has been said that this measure was undertaken because of representation made by the Widow's Association in Chandigarh. It is true that the immediate cause of moving this was the representation of the widows, but I do not think that otherwise also the Government would not have considered this. In any case, as soon as this was brought to the notice of the

[Shri H.R. Gokhale]

Government, the Government moved quickly and brought this measure in the form of an ordinance.

Another argument made was that this law should be applicable uniformly to all the States.

It is applicable to all the States. If in any State advantage of this law is not taken, it is unfortunate, but the law is applicable to all the States, and not only widows, but all those who are claimants of assets which are below Rs. 15,000 will be entitled to take advantage of this, whether they are widows or not. The reference to widows was only for this reason that the benefit which would immediately accrue would be to the widows, particularly the war widows, who are in need of recovering these assets as early as possible. Otherwise, for a small amount less than Rs. 15,000 they would have to follow the procedure by going to ordinary courts, obtaining a succession certificate and so on and so forth. So, it was thought that at least in these cases an expeditious and less expensive remedy should be provided, and I appreciate the support which the hon. Members have given to this Bill.

It has been said that in Madhya Pradesh the law is not enforced. I am not quite sure whether the Government of Madhya Pradesh has appointed an Administrator-General or not, but since it is stated that it is not in force there, we will find out and bring it to the notice of all the States the necessity of giving effect to this Act, so that all concerned in all the States will be able to take advantage of this.

It is said that the provisions as to stamp duty, court fee etc. should be exempted. As far as I know, in this procedure the liability in respect of stamp duty or court fees is very negligible. It is not like on ordinary suit in which advalorem stamp duty has to be paid. The procedure is very simple. As the hon. Member himself said, by way of an affidavit an application can be started before the Administrator-General. In any case, stamp duty and court fees are State subject, but I am quite sure that the State Governments

will keep this in mind and wherever the court fees or the stamp duty is more, they will bring them in line with the main objectives now sought to be met. It is true that we could have waited till the 13th because the Ordinance was brought only a few days before that, but the demand, particularly of the war widows, was so pressing and some of them had no means to depend upon. Money which was lying in the names of the deceased in various banks by way of deposits etc., had to be claimed, and the banks would not pay them unless a certificate was produced. Therefore, we thought a measure like this would be supported by all, as indeed it has been supported, and it was necessary to do it as early as possible, without waiting for Parliament to assemble. This is a measure on which Government did not expect any controversy, audit has been proved by the debate today. So, I hope that Members will appreciate that urgent action in the matter was necessary.

I once again thank all the hon. Members for supporting the Bill.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill further to amend the Administrators-General Act, 1963, as passed by Rajya Sabha, be taken into consideration.”

The motion was adopted.

MR. DEPUTY-SPEAKER : The question is:

“That Clauses 2, 3 and 1, the Enacting Formula and the Title stand part of the Bill.”

The motion was adopted.

Clauses 2, 3 and 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. R. GOKHALE : I move:

“That the Bill be passed.”

MR. DEPUTY-SPEAKER : Motion moved:

“That the Bill be passed.”

डा० लक्ष्मी नारायण पांडेय : उपाध्यक्ष महोदय, मुझे एक क्लेरिफिकेशन चाहिए। मैं फिर से ध्यान आकर्षित करना चाहता हूँ कि चौधरी साहब ने जो कहा है :

"The second is that in some States the people are not aware of the provisions of this Act."

हमने उन्हें कहा है।

"If some States have failed in that, I am sorry. I shall take up the matter with the States and request them to take action."

तो सभी स्टेट्स में ममान रूप से कदम उठाये जाये इसके लिए क्या आप कोई निश्चित निर्देश भेजेंगे ?

SHRI H. R. GOKHALE : I appreciate this. We will do all that is possible to see that it is implemented.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

14.50 hrs.

PUBLIC WAKFS (EXTENSION OF LIMITATION) DELHI AMENDMENT) BILL

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN) : Sir, I beg to move :

"That the Bill further to amend the Public Wakfs (Extension of Limitation) Act, 1959, as passed by Rajya Sabha, be taken into consideration".

The partition of the country had created a peculiar problem for the wakf properties. To save the title of the true owners from being extinguished if the properties were in adverse possession for twelve years or more, the Public Wakfs (Extension of Limitation) Act, 1959, was enacted to extend upto the

15th August, 1967, the period of limitation in respect of suits for the recovery of possession of any immovable property forming part of a Public Wakf in any case where the disposition had taken place or possession had discontinued at any time between the 15th August, 1947, the date of partition and the 7th May, 1954, the date from which power to declare any property as evacuee property under the Administration of Evacuee Property Act, 1950, ceased. This was done to enable the Wakf Boards constituted under the Wakf Act, 1954 and other interested persons to institute suits for recovery of such wakf properties. These were pressing demands from the State Governments as well as from the State Wakf Boards for further extension in the limitation period. A very important feature was the fact that a survey of wakfs properties envisaged by the Wakf Act, 1954 which would furnish relevant details of the trespassed properties to the Board and others had not been completed. The period of limitation was, therefore, further extended twice by the Central Government by the amending Acts of 1967 and 1969. This last extended period expired on 31.12.1970.

Upto the expiry of the period of limitation i.e. 31st December, 1970, about 2000 recovery suits had been filed by various wakf Boards and others in the country. Also, the survey of wakfs was also completed or nearing completion in most of the States. It was, therefore, felt that further extension by the Central enactment was not necessary. The wakf Boards were advised that in case any of the Boards still felt the necessity of further extension, it may approach the concerned State Government with relevant facts and figures for extending the limitation period by way of issue of a local amendment to the Public Wakfs (Extension of Limitation) Act, 1959. Accordingly, on requests of the State Wakf Boards, the Governments of Kerala and Haryana have passed local enactments extending the period of limitation by two years and one year respectively, i. e. upto 31st December, 1972 and 31st December 1971.

The Delhi Wakf Board approached the Delhi Administration for a further extension in the period of limitation on the grounds that there were more than 200 pro-