

[Shri Bibudhendra Mishra]

competent authority to grant a letter of administration. You will find that no other change has been suggested by the Select Committee. With these words, I move that this Bill, as reported by the Select Committee, be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to consolidate and amend the law relating to the office and duties of Administrators-General, as reported by the Select Committee, be taken into consideration."

Nobody is rising. I shall put the motion to the vote.

The question is:

"That the Bill to consolidate and amend the law relating to the office and duties of Administrator-General, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clauses 2 to 64 stand part of the Bill."

The motion was adopted.

Clauses 2 to 64 were added to the Bill.

Clause 1 was added to the Bill.

Mr. Deputy-Speaker: There is an amendment to the Enacting Formula by the hon. Minister.

Shri Bibudhendra Mishra: I beg to move:

Page 1, line 1, for "Thirteenth" substitute "Fourteenth".

Mr. Deputy-Speaker: The question is:

Page 1, line 1, for "Thirteenth" substitute "Fourteenth".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill

Shri Bibudhendra Mishra: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed".

The motion was adopted.

16.20 hrs.

SPECIFIC RELIEF BILL

Shri Bibudhendra Mishra: On behalf of Shri A. K. Sen, I beg to move:

"That the Bill to define and amend the law relating to certain kinds of specific relief, as reported by the Joint Committee, be taken into consideration".

When the motion for reference of this Bill to the Committee was made, I had dealt with the recommendations of the Law Commission which went into the question. It will be remembered that I said that all the recommendations of the Law Commission on the Specific Relief Bill were accepted by the Government except one, that is, a suggestion to amend section 42 of the Specific Relief Act. Section 42 of the Specific Relief Act deals with declaratory suits only and the Law Commission, first of all, recommended that the proviso should be deleted. The provision to section 42 reads as follows:

"That no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so."

In point of fact, it would mean that if this recommendation is accepted, the plaintiff would be entitled, even if he can claim further relief, not to claim the further relief and can only claim a mere declaration. This would mean that if he has any further relief he has to file a fresh suit for it and then there will be a multiplicity of proceedings. This again will be contrary to the provisions of rule 3, Order II of the Civil Procedure Code which says that a suit will fail where the plaintiff, when he is able to seek further relief, does not do so. Therefore, in view of this, the recommendation of the Law Commission was not accepted by the Government.

Further, so far as section 42 is concerned, the Law Commission recommended that in the place of any right to property, all rights should be included. That means a declaratory suit can be obtained for any right and not only to right to property. This also was not accepted on the ground that any person can go to a court of law under article 226, if any of his rights is infringed and therefore it is not desirable that the same should be incorporated in section 42 of the Specific Relief Act.

Moreover, it has to be remembered also that section 42 deals with declaratory suits only and it does not prevent the defeated party from going to a court of law for filing a suit even if the other party gets a declaration. That was the only recommendation which was not accepted by the Government in the original Bill when it was presented before the House. The Joint Committee has agreed with that view, and therefore, the recommendation of the Law Commission as regards the amendment of section 42 of the Specific Relief Act has not been accepted.

So far as section 9 of the Specific Relief Act is concerned, that is, a suit by a person dispossessed of immovable property, a suit for possession, it was suggested by the Law Commission that this section should be

omitted, on the ground that first of all it only puts the person in possession. Any person who is dispossessed can only sue for possession. Therefore, the defeated party has a right to go to a court of law on the basis of title, even if he does not get relief under section 9. Then they held that the result would be that if the dispute is not set at rest and if the defeated person goes to a court of law on the basis of title, even if he loses here, it will result in a multiplicity of proceedings. They also said that even while deciding the question of possession, the court has to go into the question of title. For all these reasons the Law Commission recommended—the majority opinion of the Law Commission—that this section should be omitted.

But, Sir, this was very keenly debated and thought over by members of the Joint Committee and the Joint Committee felt, firstly, that there was no material before the Law Commission to come to the conclusion that in operation section 9 results in a multiplicity of proceedings. Then, the Joint Committee also felt that it is a summary remedy that is available to the party. If a party is dispossessed he gets a summary remedy by going to a court of law and getting possession. Therefore, if the other party wants to contest on the basis of title, the onus will be on him and he should be the plaintiff. Why should a person who was actually in possession of property be deprived of that right? In view of that the Joint Committee recommended that section 9 should be restored. Therefore, you will find that section 9 has been restored. But the language in the Bill itself is somewhat different than the language given in section 9 of the Act. The reason is that article 3 of schedule I of the Limitation Act applies to section 9 of the Specific Relief Act. It will be seen, when the Limitation Bill comes into this House, that article 3 of Schedule I of the Limitation Act has been omitted therefrom and it

[Shri Bibudhendra Mishra]

has been put in the body of section 9 of the Specific Relief Act. That is why there is a change in the language.

So, Sir, these are, in short, the two sections, sections 9 and 42, about which the recommendations of the Law Commission have not been accepted; otherwise, the entire recommendations of the Law Commission have been accepted in this Bill.

With these words, Sir, I move that the Bill be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to define and amend the law relating to certain kinds of specific relief, as reported by the Joint Committee, be taken into consideration."

Shri Himatsingka (Godda): Sir, I felt that the language in clause 21 was not very happy.

The Minister of Law (Shri A. K. Sen): Meaningless. There have been some correction slips issued. The hon. Member might not have seen them.

Mr. Deputy-Speaker: The corrections have been made.

Shri Himatsingka: Not in all the copies.

Mr. Deputy-Speaker: The words: "but that it is not sufficient to satisfy the" have been substituted by the words "but that there is a contract between".

Shri Himatsingka: I felt that the language in sub-clause 3 of clause 21 was very unhappy. There it is said:

"If, in any such suit, the court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case...."

Shri A. K. Sen: That is the original language of the Act.

Shri Himatsingka: I think we always find that there is not adequate justice or some such thing to satisfy the justice of the case.

Definitely, Sir, this Bill is an important one. Large number of powers have been given for specific relief and we welcome this Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill to define and amend the law relating to certain kinds of specific relief, as reported by the Joint Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We shall now take up the Bill clause by clause. The question is:

"That clauses 2 to 44 stand part of the Bill."

The motion was adopted.

Clauses 2 to 44 were added to the Bill.

Mr. Deputy-Speaker: There is a Government amendment to clause 1.

Shri Bibudhendra Mishra: I beg to move:

Page 1, line 5,—

for "1962" substitute "1963".

Mr. Deputy-Speaker: The question is:

Page 1, line 5,—

for "1962" substitute "1953".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Shri Bibudhendra Mishra: I beg to move:

Page 1, line 1,—

for "Thirteenth" substitute "Fourteenth".

Mr. Deputy-Speaker: The question is:

Page 1, line 1,—

for "Thirteenth" substitute "Fourteenth".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill".

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That the Title stand part of the Bill".

The motion was adopted.

The Title was added to the Bill.

Shri Bibudhendra Mishra: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

16.32 hrs.

TEXTILES COMMITTEE BILL

Mr. Deputy-Speaker: The House will now take up the Textiles Committee Bill to be moved by Shri Manubhai Shah.

The Minister of Law (Shri A. K. Sen): We have sent for him. We did not expect that the other two Bills will collapse in such a short time. In the mean time, with your permission, I will move it.

Mr. Deputy-Speaker: Yes, he might move it.

Shri Vasudevan Nair (Ambalapuzha): Why not take it up tomorrow?

Shri A. K. Sen: It is non-controversial. We can take it up and finish it today itself.

I beg to move:

"That the Bill to provide for the establishment of a Committee for ensuring the quality of textiles and textile machinery and for matters connected therewith be taken into consideration."

The Cotton Textiles Fund Ordinance, 1944 provides for the establishment of a cotton textiles fund and the constitution of a Committee to administer the Fund. This Fund was originally created from the proceeds of the levy of a duty of customs at 3 per cent on the ex-mill prices of cloth and yarn exported, and later on, the Central Government used to make contributions to the Fund. The Cotton Textiles Fund Committee has been doing useful work and the inspection scheme of the Committee has found increasing popularity and authenticity in trade circles, both in India and abroad.

In recent years, however, conditions in the textiles industry have