

THE VICE-CHAIRMAN (SHRI V. B. RAJU): 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 R. K. KHADILKAR Sir, I move:

“That the Bill, as amended, be passed.”

The question was put and the motion was adopted.

THE HIRE-PURCHASE BILL, 1968

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI NITI RAJ SINGH CHAUDHURY): Sir, I beg to move:

“That the Bill to define and regulate the rights and duties of parties to hire-purchase agreements and for matters connected therewith or incidental thereto, as reported by the Joint Committee of the Houses, be taken into consideration.”

A hire-purchase agreement is a hybrid transaction which starting as a contract of hire may culminate in an out and out sale. It is an agreement for hire with an option to the hirer to purchase the goods. It is a convenient and useful legal device to persons who desire to acquire goods on long terms and obtain possession of them.

In India the need for a separate law on the subject was not felt until quite recent times as hire-purchase transactions were not resorted to on a large scale except in the field of automobiles. As in England and other foreign countries, with the growth of hire-purchase business, the absence of a specific law on the subject has sometimes given rise to certain abuses and evils, especially in relation to the hirer who is usually the weaker party to the transaction.

[THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY) in the Chair]

With a view to avoiding such abuses and evils, the Law Commission has, in its Twentieth Report on the Law of Hire-Purchase, made detailed recommendations for the enactment of a law with respect to hire-purchase.

The Hire-Purchase Bill, 1968, which was introduced in the Rajya Sabha on the 22nd July, 1968, sought to implement the recommendations contained in the Twentieth Report of the Law Commission subject to certain modifications suggested by the study Team on Road Transport Financing and some of the administrative Ministries.

I shall briefly explain the salient features of the Bill as introduced.

The scope of the Bill is quite limited. It does not purport to codify the law relating to hire-purchase agreements. It only seeks to define and regulate the rights of the owners and the hirers and of persons claiming under them in certain circumstances. It leaves all other matters relating to hire-purchase agreements to be governed by the law in force relating to contracts. Many of the provisions incorporated in the Bill are more or less declaratory of the existing position though there are a few provisions which are intended to give special protection to the hirer. The provisions included in the Bill deal *inter alia* with the form and content of hire-purchase agreements, the conditions and warranties to be implied therein by operation of law, the mutual rights and obligations of the parties to such agreements and the procedure for the enforcement of these rights in certain cases. As explained in the statement of objects and reasons appended to the Bill, the Bill seeks to give special protection to the hirer, who is the weaker party to the transaction, wherever such protection is legitimately needed.

The Joint Committee felt that the interests of the hirers especially should be considered by them and for that purpose appointed two different Sub-Committees for visiting Calcutta and Madras respectively. I do not wish to deal at length with the amendments made by the Joint Committee. I have no hesitation in stating that the various amendments which the Committee has made are well considered though I have some reservations regarding the amendment made by the Committee to clause 6 (2) (a) of the Bill and I will try to place my viewpoint with regard to this at the time of clause

[Shri Niti Raj Singh Chaudhury]

by clause consideration. At this stage, I would, however, like to draw attention of the House to new clause 7 which was added by the Committee. The Committee has come to the conclusion that such a provision is necessary having regard to the fact that in several cases owners charge exorbitant amount by way of hire-purchase charges.

In order to protect the interest of hirers, the Committee has included new clause 7 in the Bill for limiting hire-purchase charges to an amount which would bear a reasonable relation to the cash price of goods, the number of instalments of hire and the business expenses of the owner, etc. The clause strikes a reasonable balance between interests of hirers and owners and provided for sufficient flexibility for limiting hire-purchase charges in respect of different classes of goods.

I commend the Bill, as amended by the Joint Committee, for the consideration of and passing by the House.

The question was proposed.

SHRI G. A. APPAN (Tamil Nadu): Mr. Vice-Chairman . . .

SHRI V. B. RAJU (Andhra Pradesh): You say Madam . . .

SHRI G. A. APPAN: Mr. also we can say.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Chair has no sex; you continue.

SHRI G. A. APPAN: Regarding the Hire-Purchase Bill which is now before the House, I have been seeing some of the firms which deal in hire-purchase. I have also seen people taking advantage of hire-purchase. The Government always brings an enactment seeking to do something good to both the contracting parties. But what actually happens is that both the parties want to exploit each other, human nature being what it is. Hire-purchase is so predominantly popular in other advanced countries where the techniques of marketing are advanced, very very efficient and scientific, and the consumers get the maximum benefit. No doubt, the firms dealing in hire purchase do some honest business and they get their

due return for the money that they invest. In other advanced countries hire-purchase enactments are very very modern, scientific and technical whereas in India we are just entering into the history of hire-purchase enactment.

In certain cases the hire-purchase dealers and firms charge a very heavy rate of interest on the articles supplied. For instance, on a particular article of daily utility like a radio, cycle or heater, the firms charge an interest of not less than 12 to 15 per cent, and only people who cannot afford to pay ready cash go in for the hire-purchase firms to meet their requirements. What most hire-purchase firms do is to take a Shylock's share of their business activity. They want to take the greatest advantage of the incapability of the persons who would like to benefit by the hire-purchase scheme, and they want to use it even as a measure of activity greater than that of usury. No doubt, in hire-purchase we have to give a certain margin for the insecurity of the amount to be recovered.

Among those people who would like to go in for the benefit of hire-purchase, there are a number of unscrupulous people who want to sell away some of the things that they buy from the dealers on hire-purchase and go away. In such cases where people defraud the firms in a dishonest manner, a very heavy penalty must be imposed. Of course, in cases where somebody is not able to pay the instalments due to some circumstances beyond his control, we can treat him leniently. But that is not the case.

I have seen a number of people who resort to hire-purchase transaction, who buy articles just for resale at very cheap rates. What they do is, they not only lose the money value of the articles purchased but they also run into irretrievable debts which is not conducive to the enactment before the House. I feel that there should be a council in every block or taluk or District, or State level to look into the vagaries of the consumers who would like to benefit by the hire-purchase programme and the exploitation to which a number of these hire-purchasers would be subjected to. Unless the enactment is very strict in the real sense to avoid such maladies which may inflict a very great danger to the firms, this may not be beneficial to the consumers and to the firms. In other countries the hire-purchase transaction is conducted in large consumer items.

When the transactions are undertaken in consumer items, that also creates added productivity-cum-Incometax, Sales Tax, etc. They also give greater employment potential and when this is enhanced, we also go to produce more for export and earn foreign exchange. Under these circumstances, I support the Bill and I only seek the indulgence of the Minister to see that the hire-purchase firms do not charge higher rate of interest than normal rates that is certainly a certain percentage more than the average normal rate and the consumers also do not exploit the firms for their own disadvantage and to the detriment of the nation.

श्री जगदम्बी प्रसाद यादव (बिहार)

माननीय उपसभाध्यक्ष महोदया, यह विधेयक संयुक्त प्रवर समिति को सुपुर्द किया गया था कि इस आशा से कि इसका विस्तृत विवेचन करके जाच-पड़ताल होगी और एक कांफ्रिहेन्सिव बिल बन कर आएगा, लेकिन जब मैं समिति के प्रतिवेदन और बिल को देखता हू तो मुझे लगता है कि इसमें— The rights and responsibility of the respective parties to an agreement should be clearly protected ऐसा होना चाहिए था, लेकिन हुआ नहीं। उसी तरह से लेजिसलेशन को जितना कांफ्रिहेन्सिव बनाना चाहिए और इस आसान तरीके से इसका उपयोग किया जाना चाहिए, जिससे कि इसमें लिटिगेशन नहीं बढ़ता, वह भी इसमें लगता नहीं कि इसमें सम्भव होगा। उसी तरह से आज जो युग चल रहा है, उसमें हायर परचेज का युग आ गया है और उसमें हायर परचेज के सिस्टम से चीजों की खरीद और बिक्री होना सम्भव है, परन्तु जो उसको प्रोत्साहन मिलना चाहिए, वह प्रोत्साहन इससे शायद मिलेगा नहीं। एक उदाहरण मैं देना चाहता हू कि जो रुपया बैंक में जिस दर में, इन्टरेस्ट में, मिलता है, अगर दूसरे सोर्स से भी उसी रेट में वह रुपया मिले तो बैंक को छोड़ कर कोई आदमी दूसरे सोर्स में नहीं जाएगा। एक और विचारणीय बात है कि आजकल देश में करोड़ों रुपये का ट्रान्जेक्शन ब्लैक-मनी के रूप में होता है और वह ब्लैक-मनी किस तरह से व्हाइट मनी के रूप में हो, इसका हमने निवारण करना है। लेकिन

जो आर्टिफिशियल फिक्स्ड किया गया है वह इस रास्ते में बाधक के रूप में उपस्थित है। सदन की इच्छा थी कि इस प्रकार का बिल आता जिससे हायर परचेज को इन्क्रेजमेंट मिलता और ब्लैक मनी समाप्त होता, लोगों की परचेजिंग कैपेसिटी बढ़ती, लेकिन इस बारे में कुछ भी नहीं हुआ। जो कीमतों का हिसाब है वह भी कम होते हुए नहीं दिखता है। जो सूद लगा कर इन्सटालमेंट में चीज ली जाती है, उसमें कुछ सुविधा दी गई है कि कितने समय तक पेमेंट करके वह चीज प्राप्त कर सकते हैं, लेकिन सूद का जो मल्टीप्लीकेशन उसको भी अच्छी तरह से ठीक नहीं किया गया है। यह बिल कई बार समिति में जाने के बाद, कई बार समिति को एक्सटेन्शन देने के बाद भी जिस समस्या का निदान इसमें होना चाहिए था, उस समस्या का निदान नहीं हुआ।

मैं सोचता था कि इस जमाने में जब कि हायर परचेजिंग को इन्क्रेजमेंट किया जाना चाहिये, उस सम्बन्ध में इसमें कुछ सुधार लाया जाना चाहिये था और उसका हम समर्थन करते। लेकिन अन्ततोगत्वा जो कुछ इसमें सुधार किया गया है, वह सुधार इतना सतोषजनक नहीं है कि हम उसका समर्थन करें। मंत्री जी ने इस बारे में रिपोर्ट देखी होगी और यह कहा जा सकता है कि जो हायर परचेज करने वाले हैं, उनको इसमें पूरा रिप्रेजेंटेशन नहीं किया गया और जो भी आये वे वैंस्टेड इन्ट्रेस्ट के हितों को सेफगार्ड करने के वास्ते वितर्नस देने के लिए आये। वे भी वितर्नस साउण्ड ग्राउण्ड पर नहीं आये थे। इसलिए देखना यह चाहिये था कि सचमुच में हायर परचेज करने वालों का रिप्रेजेंटेशन हुआ या नहीं अगर नहीं हुआ तो किस प्रकार से होना चाहिये और जब तक मूल बात को ठीक-ठीक तरह से जाच करके इसमें अमेन्डमेंट नहीं करेंगे, तब तक इस प्रकार का इन्क्रेजमेंट देना चाहिये ताकि लिटिगेशन रोके जा सके। इस तरह की चीज से इस समस्या का समाधान नहीं होगा और मैं माननीय मंत्री जी से चाहूंगा कि वे इन तत्वों पर प्रकाश डालें और साथ ही साथ यह भी देखें

[श्री जगदम्बी प्रसाद यादव]

कि इस तरह की रिपोर्ट से भला होने वाला है। अगर उनको इस तरह का विश्वास है कि जो बिल है वह काम्प्रीहेन्सिव नहीं है तो वे फिर दूसरा बिल सुधार कर के लायें।

SHRI NITI RAJ SINGH CHAUDHURY: Mr. Appan has raised two points. The first point is about charges. He said the charges are exorbitant. The Joint Committee considered this question very carefully and that is why they have included new clause 7 about limitation on hire purchase charges. I think this is what Mr. Yadav also wanted to say and I would request him to consider the provisions of clause 7 which meet all the points raised by him. Hire purchase is a contract and it may not be proper to provide for any punishment for exorbitant charges. If the charges exceed the charges permitted under clause 7 the hirer can treat the agreement as void or have the charges reduced. That is provided in clause 7, sub-clause (4). Mr. Yadav's point is also covered by the point raised by Mr. Appan. Therefore, I need say nothing. Thanks.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is:

"That the Bill to define and regulate the rights and duties of parties to hire-purchase agreements and for matters connected therewith or incidental thereto, as reported by the Joint Committee of the Houses, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): We shall now take up the clause-by-clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

Clause 6—Warranties and conditions to be implied in hire-purchase agreements

SHRI NITI RAJ SINGH CHAUDHURY: Madam, I move:

3. "That at page 5, lines 44-45, for the words "when the agreement is entered into

and at all times during the continuance of the agreement" the words "when the property is to pass" be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clauses 7 to 9 were added to the Bill.

Clause 10—Right of hirer to terminate agreement at any time

SHRI NITI RAJ SINGH CHAUDHURY: Madam, I move:

4. "That at page 9, line 21, for the words "amount named" the words "sum named" be substituted."

The question was proposed.

श्री जगदम्बी प्रसाद यादव : अमेंडमेंट का तो पता ही नहीं लगता।

श्री नीतिराज सिंह चौधरी : अमेंडमेंट बताए देता हूं। सब जगह 'सम नेम्ड' है। एक जगह एक क्लॉज में 'एमाउन्ट नेम्ड' लिख गया है। यह उस गलती को दुरुस्त करने के लिए है।

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is:

4. "That at page 9, line 21, for the words "amount named" the words "sum named" be substituted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clauses 11 to 29 were added to the Bill.

Clause 30—Power to exempt from provisions of sections 9 and 12 in certain cases

SHRI NITI RAJ SINGH CHAUDHURY:
Madam, I move:

5. "That at page 16, lines 21-22, for the words and figures "section 9 and section 12" the words and figures "clause (b) of sub-section (2) of section 6, section 9, section 10, section 12 and section 17" be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): The question is:

"That clause 30, as amended, stand part of the Bill."

The motion was adopted.

Clause 30, as amended, was added to the Bill.

Clause 31 was added to the Bill.

Clause 1

Short title, extent and commencement

SHRI NITI RAJ SINGH CHAUDHURY:
Madam, I move:

2. "That at page 3, line 5, for the figures "1970" the figures "1972" be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): 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.

Enacting Formula

SHRI NITI RAJ SINGH CHAUDHURY:
Madam, I move:

1. "That at page 3, line 1, for the word "Twenty-first" the word "Twenty-third" be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): 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 NITI RAJ SINGH CHAUDHURY:
Madam, I move:

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

The question was proposed.

SHRI N. K. SHEJWALKAR (Madhya Pradesh): Sir I must be excused for not moving proper amendments in time. But I want to bring to the "kind notice of the Minister certain things which in the present Bill seem to bemissing. Clause 12 reads:

"The hirer may assign his right, title and interest under the hire-purchase agreement with the consent of the owner, or, if his consent is unreasonably withheld, without his consent."

May I submit with due respect that this is something very rare and not an improper piece of legislation? So far as the first part is concerned, it is quite right that the hirer may assign his right, title and interest with the consent of the owner. That seems to be quite reasonable. But the later part—I do not know whether it will lead to anything proper or not. "without his consent"—what does it mean

[Shri N K Shejwalkar]

actually? If the idea is to protect the hirer's interest as well as the owner's, that sort of clause will be unnecessarily introducing a stranger into the contract "without the consent of the owner"—I do not think this is a very reasonable clause, and I wish the hon Minister gives serious thought again to this point.

About the rights of hirer in case of seizure of goods by the owner, I want to bring to the notice of the Minister that this clause needs reconsideration because the question of price is material. What should be the price—that has been left vague. The price on the date of the sale or on the date of the seizure and how it should be determined—all these questions do arise. And we are left in the lurch, rather. Similarly, about clause 20, if it is provided that it is not necessary to return the goods or that the goods cannot be taken into the custody of the owner, this will be unnecessarily forcing the party to go to the court. What is the reason behind this, I do not understand. The whole idea is that there should be good promotion in the relations between the hire-purchaser and the owner and it is necessary to put in black and white all this law. But at the same time the relationship should be so reasonable and just that in future such sort of an agreement helps the consumer as well as the owner. But if such conditions are going to put hindrance, I do not think that this Act will serve the purpose. It would protect neither the hirer nor the owner.

These were the few things which I could point out in a short time. I beg your pardon I could not move amendments. But if the hon'ble Minister thinks fit he can reconsider the matter and incorporate it in the Bill.

SHRI NITI RAJ SINGH CHAUDHURY

Madam Vice-Chairman, about clause 12 may I draw the attention of the hon'ble Member Shri Shejwalkar, to sub-clause (iv). It provides for decision of such matters by the court of law. The only provision to which he is objecting is if it is unreasonable then only the matter will come before the court of law. Suppose the person enters into a contract and he subsequently unreasonably tries to get off, then certainly, the matter will have to go to the court of law and be decided.

SHRI N K SHEJWALKAR: The position of the law is that according to you the property in the matter does not pass for title

to the hirer unless total amounts are paid up to the owner. So the property still lies with the owner and through his consent you create circumstances wherein the hirer can assign his right. How do you patch up all these matters?

SHRI NITI RAJ SINGH CHAUDHURY:

It is for this reason that provision is made in all these clauses that all these matters will have to be decided by the court.

SHRI N. K. SHEJWALKAR: It is very difficult

SHRI NITI RAJ SINGH CHAUDHURY:

Provision is made in sections 12(b) and 17 and 20 for protection of the hirer because the hirer is admittedly the weaker party. Therefore, this provision is made in the original Bill and the Joint Committee has allowed this provision to remain as it was there.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY). The question is:

"That the Bill, as amended, be passed"

The motion was adopted.

THE NEWSPAPERS (PRICE CONTROL) BILL, 1971

THE MINISTER OF STATE IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRIMATI NANDINI SATPATHY): Madam, I beg to move:

"That the Bill to provide for the control, in the interests of the general public, of the prices of newspapers with a view to ensuring that newspapers continue to function, in the prevailing conditions, as effective mass communication media and for securing their availability at fair prices, as passed by the Lok Sabha, be taken into consideration"

I would like to speak something, Madam, before hon'ble Members speak

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): I thought today nobody was interested in speeches.