MR. CHAIRMAN: I am quite sure the moment anything interesting develops the Government will inform you. But you should allow the negotiators freedom to carry on their negotiations.

SHRI BHUPESH GUPTA: We are slightly upset because it is being even suggested that they are discussing a plebiscite which has been closed a long time ago. There cannot be any discussion of a thing which impinges on the status of Kashmir as a part of India. Do I have that assurance from Government?

MR. CHAIRMAN: You have said what you have said. There is no statement, and I cannot call for a statement at this moment.

MOTION FOR ELECTION TO THE NATIONAL FOOD AND AGRICULTURE ORGANISATION LIAISON COMMITTEE AND PROGRAMME THEREOF.

THE MINISTER OF STATE IN THE MINISTRY OF FOOD AND AGRICULTURE (SHRI RAM SUBHAG SINGH): Sir, I beg to move the following Motion:—

"That in pursuance of Resolution No. F. 16-72/47-Policy, dated the 8th November, 1948 of the Ministry of Agriculture (now Food and Agriculture) as subsequently amended, this House do proceed to elect in such manner as the Chairman may direct, one member from among the Members of the House to be a member of the National Food and Agriculture Organisation Liaison Committee."

The question was put and the motion was adopted.

MR. CHAIRMAN: The following will be the programme of election to the National Food and Agriculture Organisation Liaison Committee:—

Number of Members to be elected.	One
2. Last date and time for receiving nominations.	23rd January, 1963. (Upto 3.00 P.M.)
3. date and time for withdrawal of candidature	24th January, 1963. (Upto 3.00 P.M.)
4. Date and time of election.	25th January, 1963. (Between 3.00 and 4.00 P.M.)
5. Place of election.	Room No. 63, First Floor, Parliament House New Delhi.
6. Method of election.	Proportional representation by means of the single transferable vote.

THE DELHI RENT CONTROL (AMENDMENT) BILL, 1963

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRIMATI MARAGATHAM CHANDRASEKHAR): Sir, I move for leave to introduce a Bill to amend the Delhi Rent Control Act, 1958.

The question was put and the motion was adopted.

SHRIMATI MARAGATHAM CHANDRASEKHAR: Sir, I introduce the Bill.

THE LIMITATION BILL, 1962

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI BIBUDHENDRA MISRA): Sir, I move: . . . . . .

"That the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes, connected therewith, as reported by the Joint Committee of the Houses, be taken into consideration."

The provisions of this Bill were discussed for a whole day on the 6th of August, 1962 on a motion for reference of the Bill to a Joint Select Committee and on that day also I spoke at length on the different provisions of the Bill. I do not want to waste the time of the House by repeating what I said on the earlier occasion.

[THE DEPUTY CHAIRMAN in the Chair]

I would only remind the House in this connection of the main recommendations of the Law Commission with regard to the articles of the Limitation Act. So far as the articles were concerned, their recommendations were three-fold. Firstly, they recommended that there should be a classification of the articles according to the subject-matter which principle was accepted and incorporated in the Bill. Their second recommendation was that the period of limitation should be the same as far as possible with regard to the suits of the same nature. That principle was also accepted and incorporated in the Bill. Their third recommendation was that time should run from the date of the actual cause of action and not from the date shown in the Act as it stands today. This recommendation was not accepted in the Bill for the simple reason that to say that in a particular suit the starting point of limitation should be the cause of action would be to create difficulties because cause of action is a legal term; 'cause of action' means proving a bundle of facts, and it might prove ultimately difficult for a litigant exactly to know from what date the cause of action accrues in a suit. And therefore it was thought that the present arrangement to indicate in every type of suit the particular date from which the time would be computed would be all right.

Madam, we are very grateful to the Joint Select Committee that it considered in detail not only the provisions of the Act but also the provisions in the articles and you will find that after a very great deal of careful thought and deliberation, they have made certain changes in the recommendations themselves. First of all, I would refer to the changes that have been suggested by the Joint Select Committee. The first change is with regard to clause 4. Clause 4 prescribes that when the date of limitation for a suit expires on a holiday, the suit can be filed on the next day. The word used there in clause 4 is 'closed'. Doubts have been expressed whether, if there is a part holiday in a court, that part holiday would come within the purview of clause 4 of the Bill. Therefore, to remove all doubts, a short explanation is provided which reads—

> "A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day."

Then the next important recommendation is with regard to clause 6. That gives the right to a minor to sue; if a person is a minor, the right will accrue after he attains majority. Doubts have been expressed whether this benefit can be given to a child in the womb. So far as some High Courts are concerned, the Lahore High Court—it is an old case and that has been followed—has taken a technical view and it has said that a minor here in clause 6 does not include a child in the womb, whereas the High Court of Madras has held that a minor would include a child in the womb, because not only for the purposes of the Hindu Law but for the purposes of the Workmen's Compensation Act and many other laws, a child in the womb gets benefit and there is no reason why this benefit should not be extended so far as the provision in clause 6 is concerned. Therefore an explanation has been inserted here saying—

> "For the purposes of this section, 'minor' includes a child in the womb."

[Shri Bibudhendra Misra.]

Then I would refer to clause 13 which contains the provision for those cases where leave to sue or appeal as a pauper is applied for. That is entirely a new provision altogether that has been inserted in the Bill.

Then I would come to clause 29. It provides the savings part of the Bill. It originally provided that a suit could be filed two years after the coming into force of the Act and an application could be filed within thirty days after the coming into force of the new Act. It was felt by the Joint Select Committee that since the *entire Limitation Act was undergoing* a radical change, it would not be fair to put a period of two years for a suit and a period of thirty days in the case of an application. Therefore they thought that the time should be extended, that it should be at least five years in the case of a suit and it should be at least ninety days in the case of an application. That is the main recommendation with regard to the clauses.

Then coming to the articles, you will find that they have suggested a change in article 44 that when a suit for an insurance claim is filed, the time will run not only from the date of the death of the deceased but from the date of the denial of the insurance claim, because it has been found in many cases that the period of one year from the date of death has not been sufficient, because a long time elapses in correspondence. Therefore, the date of denial of the claim has been raised to three years.

Then, so far as article 82 is concerned—suit by executors, administrators or representatives under the Indian Fatal Accidents Act, 1855—the Joint Select Committee has suggested that the period of limitation should be two years and not one year.

So far as article 115 is concerned, a substantial change has been made.

Madam, I would refer to article 115(a):

"From a sentence of death passed by a court of session or by a High Court in the exercise of its original criminal jurisdiction."

Here the period of limitation under the present Act is only seven days. The Law Commission recommended that the period of seven days was very short and that it must be raised to thirty days, and that has been accepted by the Joint Select Committee.

So far as the other recommendations of the Law Commission regarding this article are concerned, they wanted to reduce the time in each case but the Joint Select Committee felt that the time should not be reduced and that the present provisions which we find in the existing Act should be there. Therefore the Joint Select Committee have not accepted the other recommendations of the Law Commission so far as article 115 is concerned.

Then, Madam, so far as articles 132 and 133 are concerned, in the case of a certificate of fitness to appeal to the Supreme Court, and in the matter of special leave to appeal in a case involving death sentence, the period is increased from thirty days to sixty days, and in cases of revision also the time for application to a High Court for the exercise of its powers of revision is raised to ninety days from thirty days.

So these are the main recommendations of the Joint Select Committee. As I have already said, Madam, the Joint Select Committee sat for quite a number of days and discussed some important amendments in greater detail in two or three sittings and they have suggested certain changes in the articles because of the difficulties that some of them experienced as lawyers in courts of law and also as practical men in society. With these words, Madam, I move that the Bill as reported by the Joint Committee be considered.

The question was proposed.

SHRI SANTOSH KUMAR BASU (West Bengal): Madam Deputy Chairman, I extend my full support to the provisions of the Bill as has been reported on by the Joint Select Committee. The hon. the Deputy Minister has presented a very lucid summary of the recommendations of the Select Committee, and I do not think I can add very much to it. The main features of the changes, which have been suggested by the Select Committee, have been stated in a nutshell, if I may say so, by the hon. the Deputy Minister. The one outstanding change which has been introduced in this Bill, not in the Select Committee stage but before, when the Bill was introduced in this House, is that the articles in the Schedules have been arranged on the basis of the subjects to which they relate, and not on the basis of the periods of limitation and my submission is that this is a much more rational or logical system to adopt, namely, to take up a particular subject and group all the possible kinds of suits under the general heading of that subject and lay down the periods of limitation in respect of each cause of action which comes under each of these articles. Instead of this, in the original Act of 1908 the suits were grouped under the particular periods of limitation which related to them. Under that system it was extremely difficult for anyone not initiated in the intricacies of the law of limitation so far as the articles are concerned, to find out a particular kind of suit to which a particular period of limitation would apply. He had got to hunt up the entire list of three-year period suits and find out which article applied to a particular suit which had to be filed by a lawyer. Now you go straight to the subject itself and find out what is the period of limitation fixed for the suit. That by itself is a very reasonable and logical improvement of the system, which has been introduced by the new Bill.

Now, so far as the clauses are concerned, my friend the Deputy Minister has also indicated the changes which have been brought about. Having had the opportunity of sitting in the Select Committee I do feel that these changes are very necessary and experience has shown that such changes are important and essential in amending the law of limitation. In the original Bill, as has been pointed out, the periods of appeal had been drastically reduced on the suggestion of the Law Commission, but the Committee felt that the existing periods of limitation, as applicable to appeals, should not be reduced, as otherwise it would create confusion and would also result in an abridgement of the rights of aggrieved persons to prefer appeals against judgments to which they took exception. From that point of view again the Select Committee has done something which, in my submission, is absolutely right.

Then there are other changes which have been introduced in the clauses themselves, and I think those are also in the right direction. After a full and fair discussion, extending over a number of days under the able chairmanship, if I may say so, of you Madam, the Select Committee arrived at certain decisions which have been embodied in their report.

And so far as the law of limitation is concerned, when we look back to the history of this subject, we find that there was chaos and confusion in this country on the question of limitation for more than half a century, for about a century. Before 1859 there were two systems of limitation prevalent in this country, one applicable to courts established by Royal Charter in the Presidency towns of India, namely Calcutta, Bombay and Madras. They administered the English law of limitation—nothing to do with the laws prevalent in this country. For the rest of the country, in all other courts, the law embodied in the Regulations was

[Shri Santosh Kumar Basu.]

the law of limitation in vogue. Now, that system was done away with shortly after 1859, and I think that a uniform law came into operation in 1862, and right from that point of time several amendments were introduced in the law of limitation until in 1908 a new law came into being incorporating all the amendments suggested up to that time—the Indian Limitation Act, 1908. Then came the Civil Justice Committee in 1924 and they pointed out in their report several anomalies which required correction Also Sir Tej Bahadur Sapru pointed out certain defects All these were taken into account from time to time and several amendments were passed as years went by. Later on, this is the first time when, as a result of the recommendation of the Law Commission, a thorough overhaul of the entire law of limitation has been attempted and a new law embodied in a Bill, this new Bill is before the House with the provisions altered in some respects by the Joint Select Committee. I would, therefore, recommend to this hon. House with great humility that this Bill as reported on by the Joint Select Commitee be adopted. Thank you.

श्री कृष्ण चन्द्र (उत्तर प्रदेश) : माननीय उपसभापति महोदया, यह लिमिटेशन बिल जौइन्ट सेलेक्ट कमेटी से जिस शक्ल में पास हो कर आया है, मैं इसका स्वागत करता हूं । जौइन्ट सेलेक्ट कमेटी ने बडी सफल मेहनत के बाद इस बिल में काफी उन्नति की है और इस बिल को बहुत सुधारा है । वैसे तो जब यह बिल इस सदन के सामने प्रस्तुत किया था, उस बिल में ही पहले कानून की अपेक्षा काफी सुधार करें दिये गये थे, लेकिन अब जौइन्ट सेलेक्ट कमेटी ने, जैसा कि माननीय उपमंत्री जी ने बताया, और कुछ ऐसे सुधार कर दिये हैं कि जिन सुधारों का फायदा आम लोगों को मिल सकेगा । मैं कुछ धाराओं के सम्बन्ध में अपने विचार प्रकट करूंगा । धारा चार का इस बिल में जिक्र किया गया है और इसमें जो सुधार किया गया है वह बहुत अच्छा है । अभी तक यह कानून था कि अगर किसी की मियाद किसी ऐसे दिन पर खत्म होती है, जो अदालत की छुट्टी का दिन हो तो दूसरे दिन तक वह मियाद चलेगी । अब सेलेक्ट कमेटी ने यह कर दिया है कि कोई अदालत अगर पूरे दिन बन्द न हो या थोडे समय के लिये बन्द रहे तो भी यह मान लिया जायेगा कि वह पूरे दिन के लिये बन्द थी और उसका फायदा अगले दिन तक मिल सकेगा । अभी तक ऐसा होता था कि कभी-कभी अदालत थोड़ी देर के लिये खुलती थी या बन्द रहती थी तो मुवक्किल बेचारे को अपील दायर करने का मौका नहीं मिलता था और उसकी मियाद जाती रहती थी । लेकिन अब नये कानून से उसे यह फायदा मिल जायेगा कि अगर उस दिन अदालत बंद हो, चाहे थोडी देर के लिये भी बंद हो, तो वह दूसरे दिन भी अपील दायर कर सकता है ।

अब क्लाज तीन के बारे में मुझे यह अर्ज करना है कि सेलेक्ट कमेटी से इस बारे में जो चीज पास हो कर आई है, वह यह है कि अगर मियाद का सवाल अदालत में न भी उठाया जाये दूसरी तरफ से, तो भी अदालत उस मियाद के सवाल को जो कि खत्म हो गई है, बगैर उसके इन्तजार किये खारिज कर देगी । मुझे इस बारे में कुछ संदेह है और मै माननीय मंत्री जी से इसके बारे में स्पष्टीकरण चाहूगा । मान लीजिये एक मुकद्दमा दायर होता है और वह मियाद के बाहर दायर हुआ है । मुद्दालय ने मियाद का सवाल नही उठाया, अदालत के सामने किसी तरह भी मियाद का सवाल नोटिस में नही आया और जब अदालत के सामने मियाद का सवाल किसी के नोटिस में नहीं आया तो उस मुकदमे मे डिग्री हो गई ।

अगर बाद में वह सवाल मियाद का आवेगा कि इस मुकदमे में डिग्री नहीं होनी चाहिये थी, तो मैं यह जानना चाहूंगा कि वह डिग्री वायड मानी जायेगी या नही मानी जायेगी ।

अब मैं आपका ध्यान क्लाज ६ की तरफ दिलाना चाहूंगा और इसमें लिखा है कि अगर कोई पागल है और उसके पागलपन के जमाने में उसकी मियाद खतम होती है तो उसको इस बात का मौका मिलेगा कि जब तक उसका पागलपन दूर नहीं हो जाता तब तक उसकी मियाद खत्म नहीं होगी; यानी पागलपन खत्म होने के बाद उसकी मियाद चलना शुरू होगी । लेकिन क्लाज ६ में यह लिखा है कि अगर मुद्दत मियाद का समय चलना शुरू हो गया है और उसके बाद वह पागल होता है तब उसको फायदा नही मिलेगा । मैं आपके सामने एक मिसाल रखना चाहता हूं । मान लीजिये एक आदमी का कोई दावा है और उसको दो या ढाई साल हो चुके हैं और उसने यह दावा नहीं किया क्योंकि वह जानता है कि तीन साल की मियाद है और बाद में कर दूगा, इसी बीच वह पागल हो जाता है, तो मौजूदा जो प्राविजन्स हैं, उसके मुताबिक तो चूंकि समय मियाद का चलना शुरू हो गया है तो वह समय चलता रहेगा और अगर पागलपन के जमाने में उसकी मियाद खत्म हो जाती है तो उसको दावा करने का मौका नही रहेगा । इस सम्बन्ध में मैं माननीय मंत्री जी से यह जानना चाहूंगा कि जिस तरह की पोजीशन मैंने अभी बतलाई है तो क्या उस बेचारे को उसके पागलपन के खत्म होने के बाद यह फायदा नही मिलेगा ? क्या उसके पागलपन में दावा करने की मियाद जाती रहेगी और वह बेचारा इस फायदे से वंचित रह जायेगा ?

आर्टिकिल ४४ में मैंने कुछ संशोधन दिये हैं । आर्टिकल ४४ "ए" के बारे में जैसा कि माननीय मंत्री जी ने बतलाया कि अगर किसी का इंश्योरेंस का क्लेम है, तो अभी तक यह कानून था कि मृत्यु के बाद से उसकी मियाद का समय लगाया जाता था यानी मृत्यु के बाद से तीन साल तक वह अपने क्लेम का दावा कर सकता था । दूसरी तरफ आर्टिकिल ४४ "बी" में भी इंश्योरेंस के बारे में यह कहा गया है कि अगर किसी की क्षति हुई है तो वह क्षति के दिन से तीन साल तक अपना क्लेम कर सकता है । मान लीजिये किसी ने किसी सामान का इंश्योरेंस कराया है और अगर किसी वजह से आग लग जाती है तो क्लेम का समय उस वक्त से लगेगा जबसे क्षति हुई है । उस तारीख से तीन साल के अन्दर अन्दर वह अपना क्लेम अदालत में दायर कर सकता है । जैसा कि आपने मृत्यु के सम्बन्ध में यह मुनासिब समझा कि कारेस्पांडेंस करने में काफी देर लग सकती है और इसी बीच तीन साल का समय खत्म हो जाता है । लेकिन आपने यह असूल मान लिया है कि जब वह कंपनी क्लेम के बारे में इन्कार कर देती है तो तब से तीस साल का समय लगेगा । लेकिन जहां तक आग लगने की क्षति का सवाल है उसके बारे में आपने इस तरह की कोई सहूलियत नही दी है, केवल क्षति से तीन साल के अन्दर क्लेम दायर करने का समय दिया है । मेरा कहना इस सम्बन्ध में यह है कि बहुत दफा पत्र व्यवहार करने में काफी समय लग जाता है । बहुत सी कम्पनियां ऐसी होती हैं जिनके बारे में किसी को कोई संदेह करने की गुंजायश नही होती है, लेकिन फिर भी पत्र व्यवहार करने में तीन साल की अवधि गुजर सकती है । मान लीजिये तीन साल तक पत्र-व्यवहार करते रहने पर समय खत्म हो जाता है तो वह बेचारा दावा करने से वंचित हो जायेगा । मृत्यु का जैसे इंश्योरेंस है, वैसे ही क्षति का इंश्योरेंस है । मृत्यु के इंश्योरेंस के मामले में यह मुनासिब समझा गया कि कारेस्पांडेंस के दर्मियान

[श्री कृष्ण चन्द्र]

अगर कम्पनी इनकार करती है पूरे क्लेम से या आधे क्लेम से, तो उसकी इनकारी की तारीख से तीन साल तक वह अपना दावा कर सकेगा । मेरा यह संशोधन है या सुझाव है और मैं आशा करता हूं कि माननीय उपमंत्री जी इस पर विचार करेंगे कि जब दूसरी तरफ यह मुनासिब समझा गया तो क्षति के मामले में भी यही होना चाहिये । उसको पत्र व्यवहार में काफी देर लग सकती है और पत्र व्यवहार के दर्मियान में अगर कम्पनी इनकार कर देती है पूरे क्लेम को या आधे क्लेम को मानने से, तो उसको मौका मिलना चाहिये दावा करने के लिये तीन साल का या कम से कम एक साल का या छ महीने का । इनकार करने के बाद अगर उसकी मियाद गुजर गई तो उसका क्लेम वैसे ही जाता रहेगा और कम्पनी उसका फायदा उठायेगी ।

अब आर्टिकिल ११२, जो गवर्नमेंट की तरफ से दावा करने के सम्बन्ध में है, उसकी तरफ मैं आ रहा हूं । इसमें गवर्नमेंट को तीस साल का मौका दिया गया है । मैं समझता हूं कि यह नामुनासिब है कि गवर्नमेंट को तीस साल का मौका दिया जाये एक मामूली दावे के लिये । गवर्नमेंट आजकल बिजनेस भी करती है । बिजनेस में भी बहुत से लोगों पर गवर्नमेंट का पावना बाकी रहता है । अगर गवर्नमेंट का कोई क्लेम किसी चल सम्पत्ति के लिये है तो वह तीस साल तक दावा कर सकती है जब कि शायद वह आदमी भी मर गया हो और उसकी औलाद भी मर गई हो । गवर्नमेंट को हर क्लेम के लिये यह तीस साल का समय देना निहायत नामुनासिब है और जिस आदमी के खिलाफ क्लेम है, उसके साथ बहुत बड़ी ज्यादती है । आखिर गवर्नमेंट को क्यों इतना मौका मिले जबकि गवर्नमेंट के पास बहुत बड़े अहलकार हैं, इतना उसके पास स्टाफ रहता है और कानूनी सलाहकार रहते हैं । जब एक मामूली आदमी को तीन साल का मौका मिलता है और अचल प्राप्टी के लिये छ साल का या बारह साल का मौका मिलता है, तो गवर्नमेंट को इतना मौका क्यों मिलना चाहिये तीस साल का । इस सम्बन्ध में मैं एक बात और अर्ज करना चाहूंगा । ईजमेंट का एक सवाल है । ईजमेंट के सवाल के लिये जहां कि किसी आदमी का मकान है, उस मकान से उसका आने जाने का रास्ता है और बीस साल से वह उस रास्ते को इस्तेमाल कर रहा है । अब अगर वह रास्ता किसी दूसरे की जमीन पर पड़ता है और बीस साल उनको उसे इस्तेमाल करते हुए हो गये हैं, तो उसका क्लेम उस रास्ते की जमीन पर ऐबसोल्यूट हो जायेगा । लेकिन गवर्नमेंट के लिये आपने तीस साल का मौका दिया है । जब यहां पर आम आदमियों को बीस साल का मौका दिया गया है, तो गवर्नमेंट को जो तीस साल यानी ड्योढ़ा मौका दिया गया है वह एक तरह से मुनासिब है । दूसरी ओर एकदम से आपने तीस साल का मौका दे दिया है । जहां किसी मामूली आदमी को किसी क्लेम में दो साल का मौका है, किसी में एक ही साल का मौका है और ज्यादातर तीन साल का मौका है और अचल प्राप्टी के लिये छ साल का या बारह साल का मौका है, वहां एकदम गवर्नमेंट के लिये पांच छ गुना यानी पूरे तीस साल रख दिया । मैं समझता हूं कि यह जो गवर्नमेंट के वास्ते समय दिया गया है, यह बिलकुल नामुनासिब है और अनुचित है और इसमें कोई न्याय की बात नहीं है । गवर्नमेंट को भी अपने मामलों में बेखबर नहीं रहना चाहिये । जैसे आम आदमियों के लिये है कि उनको जाग्रत रहना चाहिये, वैसे ही गवर्नमेंट को भी जाग्रत रहना चाहिये और समय के अन्दर उसको भी अपने क्लेम अदालत में ले आने चाहियें ।

मियाद का सवाल जो रखा गया है, उसका असूल यह है कि थोड़े दिनों के बाद आदमी भूल जाता है कि क्या बात थी और उसके सामने कोई ऐसा सबूत ही नहीं रहता है जिसको वह पेश करे । चल सम्पत्ति के बारे में जो तीन साल की मियाद रखी गई है वह इसी खयाल से रखी गई है कि तीन साल गुजर जाने के बाद उसको बहुतसी बातें याद नहीं रहेंगी और उस बेचारे को कोई सबूत पेश करना मुश्किल हो जायेगा । इसी असूल के आधार पर मियाद का सवाल रखा गया है और वही उसूल गवर्नमेंट के लिये भी लागू होना चाहिये । तीस साल का बहुत बड़ा अर्सा है । अगर किसी ने अपनी इंडस्ट्री चलाने के लिये गवर्नमेंट से कर्ज़ा लिया है, किसी ने गवर्नमेंट से कोई सामान लिया है या रेलवे के क्लेम हैं, तो गवर्नमेंट तीस साल बाद किसी पर नालिश कर सकती है । यह एक तरह से हकतल्फी है दूसरे आदमी की । यह उसके साथ न्याय नहीं है और यह अनुचित बात है । जो असूल न्याय का रखा गया है, उसके यह बिलकुल प्रतिकूल है । हमें गवर्नमेंट को भी इतना मौका नहीं देना चाहिये । अगर किसी मामूली आदमी को तीन साल का मौका मिलता है तो गवर्नमेंट को छः साल का मौका दे दिया जाय । जहां और आदमियों को छः साल का मौका मिलता है, वहां गवर्नमेंट को आप बारह साल दे दीजिये । लेकिन इतना बड़ा अर्सा गवर्नमेंट को देना मुनासिब नहीं है ।

आखिर में आर्टिकिल ४४ के सम्बन्ध में मैं एक बात और जानना चाहूंगा । यह तो आपने रख दिया कि जब कोई कम्पनी आखिर में जा करके क्लेम को इनकार कर दे, तो उस इनकारी की तारीख से उसकी मियाद का समय रन करना शुरू करेगा । यह ठीक है । लेकिन मान लीजिए, कम्पनी कारेस्पांडेंस करती जाती है और कारेस्पांडेंस करने में तीन साल गुजर गये और तीन साल के बाद उन्होंने कोई जवाब ही नहीं दिया, न उन्होंने क्लेम को मंजूर किया और न इनकार किया तब भी क्या उसको दावा दायर करने का मौका रहेगा ? उसके बाद भी उसको दावा दायर करने का मौका रहना चाहिये। जब कम्पनी जवाब देना बन्द कर दे, उसकी आखिरी चिट्ठी के बाद उसको मौका रहना चाहिये । अगर आप इस बात का लिहाज़ करते हैं कि कम्पनी का कारेस्पांडेंस में जो समय जाये, उसका फायदा मियाद के मामले में उसको मिल जाना चाहिये, तो कुदरती तौर पर यह भी होना चाहिये कि अगर कम्पनी कारेस्पांडेंस करने के दर्मियान में चुप लगा जाती है, आखिर में यह देख करके कि मियाद बीत गई अब चुप लगा लो, न क्लेम को मंजूर करो और न इनकार करो, क्योंकि इनकारी से मियाद लग जायेगी, तो उस सूरत में क्या होगा । मेरे ख्याल में यह एक कमी इस कानून के अन्दर है । मैं उम्मीद करता हूं कि माननीय उपमन्त्री जी इस कमी को जरूर दूर करने की कोशिश करेंगे ।

बाकी जो इस बिल में बहुत से सुधार किये गये हैं, उनका संक्षेप में जिक्र माननीय उपमन्त्री जी ने भी किया है और दूसरे माननीय सदस्य ने भी किया, जिन्होंने अभी इस पर भाषण किया । जितने इसमें संशोधन किये गये हैं, वे बहुत अच्छे हैं और बेहतर हैं । जैसा कि मैं पहले निवेदन कर चुका हूं, पहले कानून की अपेक्षा यह बहुत सुधरा हुआ कानून है । लोगों को जो दिक्कतें थीं, कहीं कहीं जो बड़ा गोलमाल था, कहीं कुछ होता था, कहीं कुछ होता था, वह इससे सब मिट जायेगा । इस लिये मैं इस बिल का स्वागत करता हूं और समर्थन करता हूं ।

THE DEPUTY CHAIRMAN: Shri Sapru, you may speak in the afternoon.

The House stands adjourned till 2-30.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half-past two of the clock, THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Vice-Chairman, the Bill before us is intended to implement the Third Report of the Law Commission on the Indian Limitation Act, with certain modifications. It rearranges the articles contained in the First Schedule in accordance with their subject-matter involved and it rationalises or it seeks to rationalise the period of limitation as far as possible.

I was a member of the Select Committee on this Bill, but for reasons of health I could not attend any meeting of the Select Committee except the last one where I appended my signature to it. I appended my signature to it without having gone through the Bill carefully at that time. I could not attend to the Bill because I was seriously ill during the period that the Select Committee was doing its work.

I have gone through the Report of the Select Committee in a cursory manner. I cannot say that I have devoted much time and thought to the Report; but I have gone through the Report in a cursory manner and I will just point out to you one or two features where I would have liked the Select Committee to have taken a slightly different view. I hope that I shall not be doing something which a member of the Select Committee may not do, if I indicate my dissent from some of the recommendations of the Select Committee of which I was a member and which I could not serve.

PROF. M. B. LAL (Uttar Pradesh): Sir, it is a constitutional question. The hon. Member was not only a member of the Select Committee but he has appended his signature to the Report without appending any Minute of Dissent or any note, and he is now expressing his difference of opinion.

SHRI P. N. SAPRU: I am not . . .

PROF. M. B. LAL: Is it constitutional?

SHRI NAFISUL HASAN (Uttar Pradesh): He has not expressed any view yet.

SHRI P. N. SAPRU: I have not expressed any opinion. My hon. friend is too hasty.

SHRI NAFISUL HASAN: He only says that the Select Committee might have taken a different attitude.

SHRI P. N. SAPRU: I will just invite your attention to clause 6 of the Bill. Regarding this clause, the Select Committee says:

> "It should be made clear that this clause applies also to a child in the womb, the age of majority being determinable in all cases as provided in the Indian Majority Act, 1875."

Speaking with all respect to my colleagues—I must include myself also in the word "colleagues" because I am a party to the Report—I find it rather hard to understand this clause. How are we going to compute the age of the person concerned? What do we know of the period of gestation? How do we know when a particular person came to the womb of his mother? I understand the straight line, that the age of majority should be computed from the date on which the person is actually born. I know that I was born on a certain date and that should be the date from which my majority should be computed. That is how from a commonsense point of view I would look at this clause. I am posing a question.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Could you not persuade your colleagues?

SHRI P. N. SAPRU: I have already submitted that on account of serious illness I could not attend the meetings of the Select Committee and therefore I could not make my position clear in regard to this clause at the time it was being discussed by the Select Committee. I am not criticising the Select Committee. I am just posing a question which some of my hon. friends who served on the Select Committee and who took a more continuous interest in it than I was able to, might be able to answer for us. I find it a little hard to understand how the age of majority of a person can be computed from the date that he came into the womb of his mother and not from the date on which he was actually born. That is my first criticism.

SHRI SANTOSH KUMAR BASU: May I point out to my hon. friend that if he would kindly look at page 34 of the Report he would find the reason for this change. It has been given there. There it is stated:

> "The Committee thought that provision should be made in the clause protecting the rights of a child in the womb in respect of limitation. The draftsman was directed to submit a draft to that effect for the consideration of the Committee".

My hon. friend says that he knows when he was born and that he cannot know when he was in the womb. Well, I am doubtful whether he knew when he was born, he must have heard it from others that he was born on such and such a day. The same argument would apply to the period of gestation also.

SHRI AKBAR ALI KHAN: It is difficult; except the mother nobody would know.

SHRI P. N. SAPRU: A child may be born six or seven months after he came into the womb and he may live to a good old age. I think this will raise a difficult question if you compute the period from the time when the person gets into the womb and not from the time when the person is actually born.

Next I would like to invite attention to clause 13. Now, the Committee has put it:

> "In any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded . . .'"

From the period of limitation.

I think this is a very good provision. I have always felt a little unhappy about these pauper appeals. Some of these pauper suits are presented in good faith and the period during which they are being prosecuted should be excluded from computation. In fact, the whole law relating to paupers requires to be revised. I think it should be made easier for a person to sue as a pauper than is the case at present.

I am also in wholehearted agreement with article 82 which extends the period of limitation from one year to two years under the Indian Fatal Accidents Act, 1855. This should help our employees and our factory workers. I am also in favour of the new article 115 which increases the period of limitation for appeals on orders of acquittal from thirty days to sixty days. So far as orders against acquittal are concerned, I would not treat them on the same footing as orders convicting a person to death. I do not think that orders of acquittal should be lightly interfered with and the period for appeal from an order of acquittal might well have been allowed to remain as it was, namely, thirty days.

I wholeheartedly agree with article 130 which extends the time for applications for leave to appeal to the High Court as a pauper from

[Shri P. N. Sapru.]

thirty to sixty days and I am also inclined to the view that article 131 is well conceived. It is preferable to the original article 130. It extends the period to ninety days instead of thirty days in cases of revision.

I would now like to refer to article 112 of the Schedule which gives the Government a period of thirty years to institute a suit on behalf of the Central Government or any State Government. It also gives a period of thirty years, under article 111, to a local authority for the possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued possession. It is difficult to justify this long period for the purpose of limitation on grounds of equity and justice. Surely, Government should be able to make up its mind within a reasonable period as to whether it has a proper case against a person and if it has a proper case against a person, then it should be instituted within a reasonable time. Government has more resources at its disposal than the average citizen. It has a huge law department to advise it. It wishes to take upon itself work of an additional character because it thinks, all knowing as it is, it will be able to do that work also more properly than the legal officers of Government at present. Why is it not possible for this vast machinery of Government to move more quickly? Why is it not possible for Government to be content with a shorter period than thirty years? I do not say that Government is not entitled to some consideration but some consideration does not mean that it should have thirty years. I can understand a period of twelve years or so but I cannot understand this period of thirty years. Why is the benefit of this period being extended to municipal corporations? Is it that you want to lower the efficiency of your municipal corporations? The efficiency of our municipal bodies is not very high and if they know that they have got thirty years within which to bring a suit, they will become less vigilant than they should be in regard to their rights. I think the law should aid vigilant persons and this principle, that the laws should aid vigilant persons, which is the basis of the law of limitation, should apply to Government as also to municipal bodies. I cannot say that I am opposed to this because I am a party to the Report of the Committee but I am extremely doubtful as to the wisdom of our recommendation so far as articles 111 and 112 are concerned. I do hope that the matter will be reconsidered by our able Deputy Law Minister and that he will be able to accept any amendments that may be brought forward in regard to these two articles.

Then there comes article 44 which says that in the case of an insurer where a claim is denied wholly or in part, the period of limitation should be computed from the date of such denial. There are provisions in the Bill for life insurance but what about marine insurance and other types of insurance on which you, Mr. Vice-Chairman, are an authority? Why have these other types of insurance been excluded from the purview of this measure? "On a policy of insurance when the sum insured is payable . . . "—this is how the article reads. This shows that the article only applies to life insurance. It has no application to marine insurance or house insurance or other types of insurance. Why is there this omission so far as other types of insurance are concerned?

I would now refer to articles 131 and 132 which extend the period of thirty days prescribed for certificates of fitness to appeal to the Supreme Court or for special leave in cases involving death sentence to sixty days. Now, I am not exactly opposed to the extension of the period though I think there is hardly a case for extension of these periods. The longer you extend the periods for appeal, the

greater is the litigation that you promote. I should have thought that thirty days was enough for a person to make up his mind as to whether he wants to prefer an appeal to the Supreme Court or not but in any case, since the Committee has taken the view that the period should be sixty days, I am not disposed to quarrel with that view. Well, having said all this, let me go on to say that the Law Commission which recommended recasting of this measure and the Legislative Department which has brought forward this measure have done a good piece of work and I congratulate them on bringing the law of limitation up to date. We live in a changing society, we live in a dynamic society and it is right, it is proper, that our laws should change with the changing times. With these words, I give my general support to this measure.

شری عبدالغنی (پنجاب) :

جناب وائس چیرمین صاحب - اس بل میں بہت سی باریکیاں ہیں کیونکہ شری سپرو صاحب اور دیوان چمن لال جی اس کی سب کمیٹی کے ممبر تھے اور یہ انہیں کا کام تھا کہ اس بل میں جو خامیاں ہیں انہیں دور کرتے - جہاں تک اس بل کا تعلق ہے زیادہ تر اس کا تعلق ایڈوکیٹ اور بیریسٹر صاحبان سے زیادہ ہے لیکن چونکہ اس کا تعلق کروڑوں بھارت واسیوں سے ہے اور اس کا تعلق بھارت کی سرکار سے ہے اس لئے اس ناتے اس درشٹی کون سے جو میں دیکھ پایا ہوں اس کے مطابق میں عرض کرنا چاہتا ہوں - اس نازک وقت میں آپ کے دوارا اپنی سرکار سے کہنا چاہتا ہوں -

دورنگی چھوڑ کر یک رنگ ہو جا
سراسر موم ہو یا سنگ ہو جا

اس وقت کشمیر کا مسئلہ ہماری توجہ کا مرکز بنا ہوا ہے دنیا کی توجہ کا مرکز بنا ہوا ہے - پچھلی مرتبہ جب ویرھاوسنگ بل پر بحث ہو رہی تھی تب میں نے اس وقت عرض کیا تھا کہ ایک طرف تو سرکار اپنی نقطہ نگاہ سے یہ کہتی ہے کہ کشمیر بھارت کا انگ ہے، کشمیر کے رہنے والے بھارت کے نواسی ہیں، بھارت کے وسنیک ہیں، بھارت اور کشمیر کے لوگوں میں کوئی فرق نہیں ہے پھر میری سمجھ میں نہیں آتا کہ جب یہ بل ہماری نگاہ میں کافی امپرومنٹ ہے تو ان کے لئے بھی کیوں نہ لاگو کریں جو حقدار ہیں اپنا حق چاہتے ہیں - میں سمجھتا ہوں کہ اس مفید بل کو جس میں سپرو صاحب کی سفارشات ہیں ان میں سے کچھ کو قبول کر لیا جائے تو یقیناً ہر حقدار کو چاہے وہ قرض دینے والا ہو یا قرض خواہ ہو چاہے کسی چیز کے ذریعہ کمپینسیشن پانے والا یا دینے والا ہو میں سمجھتا ہوں کہ یہ اس میں امپرومنٹ ہے تو اس کا فائدہ جموں کشمیر کے باشندوں کو کیوں نہ پہنچے - جب میں دیکھتا ہوں کہ ہم نہ تو مغربی طاقتوں کے ساتھ بویکمنٹ ہونا چاہتے ہیں اور نہ کمیونسٹ بلاک کے ساتھ

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): A point of order has been raised and I see no relevancy of what you have spoken about the various blocs, to the Limitation Bill.

شری عبدالغنی : میں نے مثال کے طور پر عرض کیا تھا اور اس وقت میں یہ نہیں سمجھتا تھا کہ جموں کشمیر کے لوگوں کو فارن کنٹریز کے ساتھ بریکٹ کر کے دکھا دیا جائے گا گو وہ فارن کنٹری کے رہنے والے ہوں - اس لئے میں سمجھ میں نہیں آتا کہ ہم یہاں جموں کشمیر کے لوگوں کو فارن کنٹری کے ساتھ کیوں نتھی کر رہے ہیں - یہ کہاں کا انصاف ہے اور کہاں کی خوبی ہے - آپ وہاں کے لوگوں کو کیوں مشکل میں ڈالنا چاہتے ہیں - میں آپ کے دوارا سپرو صاحب کی خدمت میں یہ عرض کرنا چاہتا ہوں کہ ریلیونسی اس میں اتنی ہی تھی جتنی میں نے کہی اس سے زیادہ اس میں ریلیونسی نہیں تھی اس کا انڈائریکٹ اثر پڑتا ہے اگر سپرو صاحب میری جگہ آ جائیں تو ان کو بھی احساس ہوگا کیونکہ اس وقت یہ مسئلہ بہت ہی اہم ہو گیا ہے - میں نہیں چاہتا کہ گورنمنٹ کسی طرح سے ڈائریکٹ یا انڈائریکٹ میں یہ ظاہر کرے کہ جموں کشمیر کا خطہ جو ہے اس کے قانون میں کچھ اور ہے اس کے لمیٹیشن میں کچھ اور ہے - ہماری

[شری عبدالغنی]

اور اس لئے نہیں ہونا چاہتے ہیں کیونکہ ساری دنیا کا بھلا ہو اس خیال سے ہم چلتے ہیں اور ہمارا جو ودھان ہے وہ سارے سنسار کی بھلائی کو ایک مانتا ہے ایک برادری کی طرح مانتا ہے - اس لئے دو برادریوں میں اس سے شامل نہیں ہونا چاہتے ہیں خواہ وہ کتنی ہی اچھی برادری کیوں نہ ہو - اگر اس نقطہ نگاہ سے شری بھوپیش گپتا سے پوچھا جائے تو وہ کہیں گے کہ کمیونسٹ بلاک بہت اچھا ہے اس کے ساتھ مل جانا چاہیئے اور اگر دیابھائی پٹیل صاحب سے پوچھا جائے تو وہ کہینگے کہ مغربی بلاک بہت اچھا ہے اس کے ساتھ مل جانا چاہیئے -

SHRI P. N. SAPRU: On a point of order, how is this discussion on the Communist bloc or on the non-aligned bloc relevant for the purpose of discussing the Limitation Bill? What relevance has it to the Limitation Bill, remote or direct?

شری عبدالغنی : میں اپنے ایک بزرگ پر جن پر فخر کرتا ہوں مجھ سے ریلیونسی پوچھتے ہیں کہ جو کچھ میں کہہ رہا ہوں اس کا اس لمیٹیشن بل کے ساتھ کیا سمبندھ ہے - میں یاد دلاؤں کہ پہلے جنگ عظیم جو ہوئی تھی ایک چھوٹی سی بات پر ہو گئی تھی اس کا تاریخی اثر نہیں ہے یقیناً میں جو کچھ کہہ رہا ہوں لیکن انڈائریکٹ اثر ہے -

لئے میں عرض کرنا چاہتا ہوں کہ سرکار کو کسی طرح بھی یہ حق نہیں ہے کہ وہ انڈائریکٹ وے میں اسی طرح کی بات کرے جو ہمارے دیش کے ہت کے خلاف ہو ہمارے بھارتیوں کے ہت کے خلاف ہوا - ہم اور کشمیر کے رہنے والے دو طرح کے وسنیک ہیں میں یہ بات ماننے کے لئے تیار نہیں ہوں - میری یہی مودبانہ گزارش ہے اور پہلی عرض ہے -

دوسری عرض یہ ہے کہ اس مسئلہ میں تھوڑا سا الجھاو اور بھی ہے جیسا کہ میں نے کہا کہ پانچ کروڑ مسلمان بھارتی ہیں لیکن ان کی پوزیشن بھی اس وقت خطرہ میں ہے کیونکہ پردھان منتری بھی کچھ کہہ جاتے ہیں کہ اگر یوں فیصلہ ہوا تو اس کا پانچ کروڑ مسلمانوں پر اثر پڑے گا اور ان کی سیکنڈری حیثیت ہو جائے گی جو میں نہیں مانتا لیکن وہ کہتے ہیں اور ان کا اثر ہے اس لئے میں دوسری بات کہنا چاہتا ہوں کہ یہاں ہندوستان میں مسلم لیگ کی زیادتی کی وجہ سے جو پاکستان بنا اور ہمارے کروڑوں کے قریب غریب بھائی ہندو سکھ اجڑ کر آئے اور وہ آ کر یہاں بسے گورنمنٹ اپنے لئے تیس سال کہتی ہے اور دوسرے عوام کے لئے بیس سال کہتی ہے - اس کے بعد لمیٹیشن میں کچھ ہو اور اس کا ہم پر کیا اثر پڑیگا اور ہمارا ان پر کیا اثر پڑیگا یہ ہم سب لوگوں کے لئے سوچنے کی بات ہے جیسے فارن کنٹری کے ساتھ ساوک کرنے کا سوال ہے ویسا ہی ان کے ساتھ سلوک کرنا میرے نزدیک میں بہت اثر پڑتا ہے - میں خاص طور پر سپرو صاحب سے اس لئے بھی عرض کرنا چاہتا ہوں کہ میں جہاں اپنے آپ کو بھارتی سمجھتا ہوں بھارتی ہوں مجھے فخر ہے وہاں پر بدقسمتی یا خوش قسمتی سے میں مسلمان کے گھر میں پیدا ہوا ہوں اس مسئلہ کا اثر پانچ کروڑ مسلمانوں پر پڑتا ہے جو ہم یہاں بستے ہیں - اگر آپ کسی بھی ڈھنگ سے غلطی کرتے ہیں یا ڈائریکٹ یا انڈائریکٹ وے میں یہ لاتے ہیں کہ کشمیر اور جموں کے بسنے والے کچھ اور حقوق رکھتے ہیں اور ہندوستان کے بسنے والے کچھ اور لمیٹیشن کے مستحق ہیں تو میں سمجھتا ہوں کہ انڈائریکٹ وے میں آپ لوگوں کو خطرہ میں ڈالتے ہیں اور پاکستان کو یا دوسرے لوگوں کو آپ کیوں موقعہ دیتے ہیں کہ وہ ذرا بھی اس بات کا سہارا لے سکیں تنکے کا جیسے ڈوبنے والے کو تنکے کا سہارا ہوتا ہے - آپ خود اس طرح کی غلطی کرتے ہیں جو کہ آپ کو نہیں کرنی چاہیئے اس

حق ہو جائے گا کیونکہ شرنارتھی اور غیر شرنارتھی کو ہم الگ تو کر نہیں سکتے لیکن میری عرض یہ ہے کہ ان کی آباد کاری میں اگرچہ ہم نے بڑی زور سے حصہ لیا اور اچھی خاصی ہمت کی لیکن پھر بھی کافی ترٹیاں رہ گئیں، خامیاں رہ گئیں - کیونکہ خدا خدا ہے اور ہم انسان تھے - جو ہمارے بس میں تھا وہ ہم نے کیا - اس لئے میری یہ عرض ہے کہ اس کا ان پر بھی اثر پڑ رہا ہے اور اس میں تھوڑا سا سرکار کو سوچنا ہوگا کہ کس طرح شرنارتھیوں کے مفاد کو سامنے رکھا جائے اور کس طرح ان کو بچایا جائے -

میں نے کہا تھا کہ میرا اس کی باریکیوں سے واسطہ نہیں ہے - میں بالکل ان پڑھ سا آدمی ہوں اور میں پالیٹیکس میں ضرور آگیا ہوں - اس لئے جہاں تک میرا تعلق ہے میں سادھارن ممبر کے ناطے بات کرنے کی کوشش کر رہا ہوں -

تیسری بات جو میں کہنا چاہتا ہوں وہ اس میں کلاز ۲۲ کے بارے میں ہے - اس میں دیا ہے —

" . . . cause of action unless some specific injury actually results therefrom."

میں خوش ہوں کہ جہاں انشورنس کو سامنے رکھا گیا جہاں اور بڑی بڑی باتوں کو سامنے رکھا گیا وہاں مزدوروں اور کام کرنے والوں کے بارے میں بھی سرکار سوچتی ہے کیونکہ سرکار تو سبھی

[شری عبدالغنی]

کلیم نہیں ہوگا - میں یہ عرض کرنا چاہتا ہوں کہ شرنارتھی بچاروں کی پوزیشن مقامی بھائیوں سے مختلف ہے وہ اجڑ کر آئے تھے ان کو کچھ پتہ نہیں تھا کہ یہاں کیا ہوتا ہے تو اس لئے میں بیس سال کی لمٹ کو مانتا ہوں مگر آئندہ کے لئے کیا لمٹ ہے پھر ۱۰۰=۲۰×۷ زور والوں کا ہوتا ہے بقیہ ۱۰۰=۲۰—۵ کا ہوتا ہے - اسی طرح سے سرکار اپنے لئے تیس سال رکھے اور عوام کے لئے بھی بیس سال رکھے تو مجھے کوئی زیادہ 3 P.M. دکھ نہیں سرکار کا ادھیکار کچھ زیادہ ہی ہونا چاہیئے کیونکہ وہ سب کے لئے ہے - وہ اپنی ذات کے لئے نہیں ہے وہ تو بیالیس کروڑ بھگوان خدا کے لئے کلیم کریںگی - اگرچہ یہ لیم اکسکیوز ہے کہ اس کے لئے تیس سال کی معیاد ہو جس کے رسورسز بہت زیادہ ہیں - پھر بھی اگر وہ چاہے تو مجھے اس میں کوئی دکھ نہیں ہے لیکن میری عرض یہ ہے کہ جو لوگ اجڑ کر آئے تھے ان کے لئے یہ کہئے کہ پہلے جو ہوچکا وہ ہو چکا ان پر کوئی کلیم نہ کیجئے - یہ میں اس لئے کہتا ہوں کہ وہ بڑی بڑی طرح سے آئے اور آ کر کے یکایک آباد ہوئے جس میں ان سے کئی ترٹیاں ہوئی ہوں گی - آج ان کے خلاف سرکار کو

فیصلہ قانون دانوں ہی کو کرنا ہے - مجھے نہیں کرنا ہے لیکن اتنا میں ضرور چاہتا ہوں کہ اگر کسی شریف آدمی پر کوئی مالک یا آفیسر غلط الزام لگائے اور اس سے اس کو دکھ پہنچے تو بھی انجری ہے آپ مانیں یا نہ مانیں -

بہرحال ایک عرض اور کیا چاہتا ہوں اور وہ یہ ہے کہ یہ جو آپ دیوانہ کو پاگل کو فائدہ پہنچانے جا رہے ہیں اسے یقیناً پہنچانا چاہیئے کیونکہ اگر کوئی پاگل ہوجاتا ہے تو اس کے مفاد محفوظ رہنے چاہیئں - لیکن مان لیجئے کہ اس کا پاگل پن دور نہیں ہوتا ہے اور اس کا پاگل پن ہوا بھی اس لئے ہے کہ اس کو کوئی ہرٹ ہوا ہے اس کا کوئی حق چھینا گیا ہے اور وہ حق جو اس کا چھینا گیا ہے اس نے اس کو پاگل کر دیا ہے تو جب تک اس کو وہ حق نہیں ملے گا اس کا پاگل پن دور نہیں ہوگا اس لئے میری مودبانہ درخواست ہے کہ ایسے پاگل کا جو مفاد ہے اس کی نمائیندگی سرکار کرے بجائے اس کے کہ جب وہ درست ہو تب جاکر اس کو یہ حق ہو کہ اس کی معیاد تب سے چلے - میرا خیال یہ ہے کہ اس لمٹیشن میں سرکار اس کی نمایندگی کرے اور اس کا حق اس کو دلائے تاکہ وہ حق جو اس کو ملے اس سے اس کا پاگل پن دور ہو -

میں مد کرتا ہوں کہ سرکار میری ان چند گذارشات پر ضرور دھیان دے کی ہے لیکن ہم جو لا یہاں پر پاس کرتے ہیں اس کا اثر ہوتا ہے اور لوگ اس سے فائدہ اٹھاتے ہیں - ایک ایسی بھی انجری ہے جو ہارٹ کو افیکٹ کرتی ہے - یہاں دیوان چمن لال جی نے بڑی زور کی تقریر کی ملک کے مفاد میں، ملک کے ہت میں لیکن ان کے دل پر اثر ہوگیا غصہ سے یا جوش سے - اسی طرح سے اگر کبھی کوئی مالک غصہ سے کوئی بات کسی مزدور سے کہتا ہے تو اس کا اس پر اثر پڑتا ہے - ہارٹ انجری کا ظاہرہ کوئی پتہ نہیں چلتا ہے لیکن وہ انجری ایسی ہوتی ہے جس سے بڑا نقصان ہوتا ہے میں یہ اس لئے کہتا ہوں کہ ابھی مجھے لدھیانہ جانے کا اتفاق ہوا اور گو کہ میں اس خیال کو مانتا نہیں تھا لیکن جو میرے سامنے آیا وہ یہ ہے کہ کسی بھی شریف آدمی کو یا آنسٹ آدمی کو میں یہ کہوں کہ وہ آنسٹی نہیں کرتا تو اس کے لئے سب سے بڑا ہرٹ ہے جو میں اس کو پہنچا سکتا ہوں - ایک ہمارا ڈاکٹروں کا خاندان ہے اور اس میں بہت سے شریف لوگ ہیں ان میں سے ایک صاحب ڈاکٹر ہری سنگھ کو ایک جگہ پیش ہونا پڑا ان سے انکم ٹیکس آفیسر نے کہا کہ تمہارے خلاف بھی شکایت ہے - یہ جھوٹا الزام سننا تھا کہ ان کا ہارٹ فیل ہو گیا - میں یہ کیوں عرض کر رہا ہوں - یہ میں اس لئے عرض کرتا ہوں کہ انجری تو کئی طرح کی ہو سکتی ہے - یہ ٹھیک ہے کہ اسکا

(شری عبدالغنی)

کی اور وہ اس لئے دھیان دیگی کہ جو پہلی بات میں نے کہی اس کا تعلق ساری دنیا سے ھے - دوسری بات جو میں نے کہی شہنارتھیوں والی اس کا تعلق کم از کم ایک کروڑ بندگان خدا سے ھے- ان کے مفاد کو کسی طرح بچاؤ - تیسری بات جو کہی وہ یہ ھے کہ جو پاکل ھے اور جو کچھ نہ کر سکے اس کے انٹرسٹ کو سرکار واچ کرے - تھینک یو -

†[श्री अब्दुल गनी : (पंजाब) : जनाब वाइस चेयरमैन साहब इस बिल में बहुत सी बारीकियां हैं क्योंकि श्री सप्रू साहब और दीवान चमनलाल जी इसकी सब-कमेटी के मेम्बर थे और यह उन्ही का काम था कि इस बिल में जो खामियां हैं उन्हें दूर करते । जहां तक इस बिल का ताल्लुक है ज्यादातर उसका ताल्लुक ऐडवोकेट और बैरिस्टर साहेबान से ज्यादा है । लेकिन चूंकि उसका ताल्लुक करोड़ों भारत वासियों से है और उसका ताल्लुक भारत की सरकार से है इसलिये इस नाते इस दृष्टिकोण से जो मैं देख पाया हूं उसके मताबिक मैं अर्ज करना चाहता हूं । इस नाजुक वक्त में आपके द्वारा अपनी सरकार से कहना चाहता हूं—

दोरंगी छोड़ कर यकरंग हो जा
सरासर मोम हो या संग होजा

इस वक्त काश्मीर का मसला हमारी तवज्जो का मरकज बना हुआ है । दुनिया की तवज्जो का मरकज बना हुआ है । पिछली मरतबा जो वर्किंग-हाउसिंग बिल पर बहस हो रही थी तब मैंने उस वक्त अर्ज किया था कि एक तरफ तो सरकार अपनी नुक्ता निगाह से यह कहती है कि काश्मीर भारत का अंग है काश्मीर के रहने वाले भारत के निवासी हैं भारत के वासनीक है भारत और काश्मीर के लोगों में कोई फर्क नही है फिर मेरी समझ में नही आता कि जब यह बिल हमारी निगाह में काफी इम्प्रूवमेंट है तो उनके लिये भी क्यों न लागू करें जो हकदार हैं अपना हक चाहते है । मैं समझता हूं कि इस मुफीद बिल की जिसमें सप्रू साहब की सिफारिशात हैं उनमें से कुछ को कुबूल कर लिया जाये तो शकीमें हर हकदार को चाहे वह कर्ज देने वाला हो या कर्जख्वाह हो चाहे किसी चीज के जरिये कमीसेशन पाने वाला या देने वाला हो मैं समझता हूं कि यह इस बिल में इम्प्रूवमेंट है तो उसका फायदा जम्मू काश्मीर के बाशिन्दों को क्यों न पहुंचे । अब मैं देखता हूं कि हम न तो मगरबी ताकतों के साथ ब्रेकेट होना चाहते है और न कम्यूनिस्ट ब्लाक के साथ और इसलिये नहीं होना चाहते हैं क्योंकि सारी दुनिया का भला हो । इस ख्याल से हम चलते हैं और हमारा जो विधान है वह सारे संसार की भलाई का एक मानता है एक बिरादरी की तरह मानता है इसलिये दो बिरादरियों में इस समय शामिल नही होना चाहते हैं खवाह वो कितनी ही अच्छी बिरादरी क्यों न हो । अगर इस नुक्ते-निगाह से श्री भूपेश गप्ता से पूछा जाये तो वह कहेंगे कि कम्यूनिस्ट ब्लाक बहुत अच्छा है उसके साथ मिल जाना चाहिये और अगर डाह्याभाई पटेल साहब से पूछा जायेगा तो वह कहगे कि मगरबी ब्लाक बहुत अच्छा है उसके साथ मिल जाना चाहिये ।

SHRI P. N. SAPRU: On a point of order, how is this discussion on the Communist bloc or on the non-aligned bloc relevant for the purpose of discussing the Limitation Bill? What relevance has it to the Limitation Bill, remote or direct?

श्री अब्दुल गनी : मैं अपने एक बजुर्ग पर जिन पर फख्र करता हूं मुझ से रेलेवन्सी पूछते हैं कि जो कुछ मैं कह रहा हूं उसका

‡[ ] Hindi translation.

इस लिमिटेशन बिल के साथ क्या सम्बन्ध है। मैं याद दिलाऊं कि पहले जंगे अजीम जो हुई थी एक छोटी सी बात पर हो गई थी। उसका तारीखी असर नहीं है यकीनन मैं जो कुछ कह रहा हूं लेकिन इनडायरेक्ट असर है।

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): A point of order has been raised and I see no relevancy of what you have spoken about the various blocs, to the Limitation Bill.

श्री अब्दुल गनी: मैंने मिसाल के तौर पर अर्ज किया था और उस वक्त मैं यह नहीं समझता था कि जम्मू कश्मीर के लोगों को फोरेन कन्ट्रीज के साथ ब्रैकेट करके दिखा दिया जायेगा। गो वह फोरेन कन्ट्री के रहने वाले हों इसलिये मेरी समझ में नहीं आता कि हम यहां जम्मू कश्मीर के लोगों को फोरेन कन्ट्रीज के साथ क्यों नत्थी कर रहे हैं। यह कहां का इन्साफ है और कहां का खून है। आप वहां के लोगों को क्यों मुश्किल में डालना चाहते है। मैं आपके द्वारा सभू साहब की खिदमत मे यह अर्ज करना चाहता हूं कि रेलेवन्सी इसमें इतनी हो थी जितनी मैंने कही। इससे ज्यादा इसमें रेलेवन्सी नहीं थी इस का इनडायरेक्ट असर पड़ता है। अगर सभू साहब मेरी जगह आ जायें तो उनको भी एहसास होगा क्योंकि इस वक्त यह मसला बहुत ही अहम हो गया है। मैं नहीं चाहता कि गवर्नमेंट किसी तरह से डायरेक्ट या इनडायरेक्ट में यह जाहिर करे कि जम्मू कश्मीर का खित्ता जो है उसके कानून में कुछ और है और उसके लिमिटेशन में कुछ और है। हमारी लिमिटेशन मे कुछ हो और उसका हम पर क्या असर पड़ेगा और हमारा उन पर क्या असर पड़ेगा यह हम सब लोगों के लिये सोचने की बात है जैसे फोरेन कन्ट्रीज के साथ सलूक करने का सवाल है वैसा ही उनके साथ सलूक करना मेरे नजदीक में बहुत असर पड़ता है। मै खास तौर पर सभू साहब से इसलिये भी अर्ज करना चाहता हूं कि मैं जहां अपने आप को भारतीय समझता हूं भारतीय हूं मुझे फखर है वहां बदकिसमती या खुशकिसमती से मैं मुसलमान के घर में पैदा हुआ हूं। इस मसले का असर पांच करोड़ मुसलमानों पर पड़ता है जो हम यहां बसते हैं। अगर आप किसी भी ढंग से गलत करते हैं डायरेक्ट या इनडायरेक्ट वे में यह लाते है कि कश्मीर और जम्मू के बसने वाले कुछ और हुकूक रखते हैं और हिन्दुस्तान में बसने वाले कुछ और लिमिटेशन के मुस्तहिक हैं तो मैं समझता हूं कि इनडायरेक्ट वे में आप लोगों को खतरे में डालते हैं और पाकिस्तान को या दूसरे लोगों को आप क्यों मौका देते हैं कि वह जरा भी इस बात का सहारा ले सकें तिनके का जैसे डुबने वाले को तिनके का सहारा होता है। आप खुद इस तरह की गलती करते हैं जो कि आपको नहीं करनी चाहिये इसलिये मैं अर्ज करना चाहता हूं कि सरकार को किसी तरह भी यह हक नहीं है कि वह इनडायरेक्ट वे में इस तरह की बात करे जो हमारे देश के हित के खिलाफ हो हमारे भारतीयों के हित के खिलाफ हो। हम और कश्मीर के रहने वाले दो तरह के वसनीक हैं मैं यह बात मानने के लिये तैयार नहीं हूं मेरा यही मौदबाना गुजारिश है और पहली अर्ज है।

दूसरी अर्ज यह है कि इस मसले में थोड़ा सा उलझाव और भी है जैसा कि मैंने कहा कि पांच करोड़ मुसलमान भारतीय है लेकिन उनकी पोजीशन भी इस वक्त खतरे में हैं क्योंकि प्रधान मंत्री भी कुछ कह जाते है कि अगर यू फैसला हुआ तो उसका पांच करोड़ मुसलमानो पर असर पड़ेगा और उनकी सैकेन्डरी हैसियत हो जायगी जो मै नहीं मानता लेकिन वह कहते है और उनका असर है इसलिये मैं दूसरी बात कहना चाहता हूं कि यहां हिन्दुस्तान मे मुस्लिम लीग की ज्यादती की वजह से जो पाकिस्तान बना और हमारे करोड़ के करीब गरीब भाई हिन्दू

[श्री अब्दुल गनी]

सिख उजड कर आये और वह आकर यहा बस गवर्नमेंट अपने लिये तीस साल कहती है और दूसरे अवाम के लिये बीस साल कहती है। इसके बाद क्लेम नही होगा। मैं यह अर्ज करना चाहता हू कि शरणार्थी बेचारो का पोजीशन मुकामी भाईयो से मुख्तलिफ है वह उजड कर आये थे, उनको कुछ पता नही था कि यहा क्या होता है तो इसलिये मै बीस साल की लिमिट को मानता हू मगर आइन्दा के लिये क्या लिमिट है फिर १००=२०-७ जोर वालो का होता है। बकैया १००=२०-५ का होता है। इस तरह से सरकार अपने लिये ३० साल रक्खे और अवाम के लिये भी २० साल रखे तो मुझे कोई ज्यादा दु ख नही।

सरकार का अधिकार कुछ ज्यादा हो होना चाहिये क्योकि वह सब के लिये है। वह अपनी जात के लिये नही है वह तो ४२ करोड़ बन्दगानेखुदा के लिये क्लेम करेगी। अगरचे ये लेम एक्सक्यूज है कि उसके लिये ३० साल की मयाद हो जिसके रिसोरर्सज बहुत ज्यादा है। फिर भी अगर वह चाहे तो मुझे उसमे कोई दु ख नही है लेकिन मेरी अर्ज यह है कि जो लोग उजड कर आये थे उनके लिये यह कहिये कि पहले जो हो चुका वह हो चुका उन पर कोई क्लेम न कीजिये। ये मैं इसलिये कहता हू कि वह बडी बुरी तरह से आये और आकर के यकायक आबाद हुए जिसमे उनमे कई त्रुटिया हुई होगी। आज उनके खिलाफ सरकार को हक हो जायेगा क्योकि शरणार्थी और गैर-शरणार्थी को हम अलग तो कर नही सकते लेकिन मेरी अर्ज यह है कि उनकी आबादकारी मे अगरचे हमने बडी जोर से हिस्सा लिया और अच्छी खासी हिम्मत की लेकिन फिर भी काफी त्रुटिया रह गईं या खामिया रह गईं। क्योकि खुदा खुदा है और हम इन्सान थे। जो हमारे बस मे था वह हमने किया। इसलिये मेरी यह अर्ज है कि उनका उन पर भी असर पड रहा है और इसमे थोडा सा सरकार को सोचना होगा कि किस तरह शरणार्थियो के मुफाद को सामने रखा जाये और किस तरह उनको बचाया जाये।

मैंने कहा था कि मेरा उसकी बारीकियो से वास्ता नही है। मैं बिल्कुल अनपढ़ सा आदमी हू और मै पोलिटिक्स मे जरूर आ गया हू। इसलिये जहा तक मेरा ताल्लुक है मैं साधारण मेम्बर के नाते बात करने की कोशिश कर रहा हू।

तीसरी बात जो मैं कहना चाहता हूं इसमे क्लाज २२ के बारे मे है उसमे दिया है —

". . . cause of action unless some specific injury actually results therefrom."

मैं खुश हू कि जहा इन्श्योरेन्स को सामने रखा गया जहा और बडी बडी बातो को सामने रखा गया वहा मजदूरो और काम करने वालो के बारे मे भी सरकार सोचती है क्योकि सरकार तो सभी की है लेकिन हम जो ला यहा पर पास करते है उसका असर होता है और लोग उससे फायदा उठाते है। एक ऐसी भी इनजरी है जो हार्ट को इफेक्ट करती है। यहा दीवान चमनलाल जी ने बडे जोर की तकरीर की मुल्क के मफाद मे मुल्क के हित मे लकिन उनके दिल पर असर हो गया गुस्से से या जोश से। इसी तरह से अगर कभी कोई मालिक गुस्से से कोई बात किसी मजदूर से कहता है तो उसका असर उसपर पडता है। हार्ट इनजरी का जाहिरा कोई पता नही चलता है लेकिन वह इनजरी ऐसी होती है जिससे बडा नुकसान होता है। मै यह इसलिये कहता हू कि अभी मुझे लुधियाना जाने का इत्तिफाक हुआ और गो कि मैं इस खयाल को मानता नही था लेकिन जो मेरे सामने आया वह यह है कि किसी भी शरीफ आदमी को या आनेस्ट आदमी को

मैं यह कहूं कि वह आनेस्टी नहीं करता तो उसके लिए यह सब से बड़ा हर्ट है जो मैं उसको पहुंचा सकता हूं । एक हमारा डाक्टरों का खानदान है और उसमें बहुत से शरीफ लोग हैं उनमें से एक साहब डाक्टर हरी सिंह को एक जगह पेश होना पड़ा उनसे इनकम टक्स आफिस ने कहा कि तुम्हारे खिलाफ भी शिकायत है। यह झूठा इल्जाम सुनना था कि उनका हार्ट फेल हो गया । मैं यह क्यों अर्ज कर रहा हूं । यह मैं इसलिये अर्ज करता हूं कि इनजरी तो कई तरह की हो सकती है । यह ठीक है कि उसका फैसला कानूनदानों ही को करना है मुझे नहीं करना है लेकिन इतना मैं जरूर चाहता हूं कि अगर किसी शरीफ आदमी पर कोई मालिक या आफिसर गल्त इल्जाम लगाये और उससे उसको दुख पहुंचे तो वह इनजरी है आप माने या न माने ।

बहरहाल एक अर्ज और किया चाहता हूं और वह यह है कि जो आप दीवाने को, पागल को, फायदा पहुंचाने जा रहे हैं उसे यकीनन पहुंचाना चाहिये क्योंकि अगर को पागल हो जाता है तो उसके मुफ़ाद महफूज रहने चाहियें । लेकिन मान लीजिये कि उसका पागलपन दूर नहीं होता है और उसका पागलपन हुआ भी इसलिये कि उसको कोई हर्ट हुआ है उसका कोई हक छीना गया है और वह हक जो उसका छीना गया है उसी ने उसको पागल कर दिया है तो जब तक उसको वह हक नहीं मिलेगा उसका पागलपन दूर नहीं होगा इसलिये मेरी मौदबाना दरख्वास्त है कि ऐसे पागल का जो मुफ़ाद है उसकी नुमाइन्दगी सरकार करे बजाय इसके कि जब वह दुरुस्त हो तब जाकर उसको यह हक हो कि उसकी मयाद तब से चले । मेरा खयाल यह है कि इस लिमिटेशन में सरकार उसकी नुमायन्दगी करे और उसका हक उसको दिलाये ताकि वह हक जो उसको मिले उससे उसका पागलपन दूर हो ।

मैं उम्मीद करता हूं कि सरकार मेरी इन चन्द गुजारिशात पर जरूर ध्यान देगी और वह इसलिये ध्यान देगी कि जो पहली बात मैंने कही उसका ताल्लुक सारी दुनिया से है । दूसरी बात जो मैंने कही शरणार्थियों वाली उसका ताल्लुक कम से कम एक करोड़ बन्दगाने-खुदा से है उनके मुफ़ाद को किसी तरह बचाओ । तीसरी बात जो कही वह यह है कि जो पागल है और जो कुछ न कर सके उसके इन्टरेस्ट को सरकार वाच करे । थैन्क्यू ।]

SHRI G. S. PATHAK (Uttar Pradesh): Mr. Vice-Chairman, there are two clauses to which I have serious objections. One is clause 11, sub-clause (2). I will read it:

> "No rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless—
>
> (a) the rule has extinguished the contract."

The objection that I am raising is that under the general principles of the law of limitation, no rule of limitation extinguishes any right. The rule of limitation extinguishes remedies and not rights, unless the law of limitation makes an express provision to the effect that if the remedy is lost, the right shall also be lost. In the absence of such a provision, no right is lost. Only the remedy is lost. The right remains and the right can be recognised. The right can be the subject of a renewal and the right can be the subject of another transaction. Now, in this Bill itself if you look at clause 27, which corresponds to section 28 of the present Limitation Act, a specific provision has been made that if the period prescribed for a suit for possession expires, then the right itself shall be extinguished. That specific provision has been made in recog-

[Shri G. S. Pathak.]

nition of the rule that the remedy alone is barred. The right is not barred. If you want to extinguish the right, you have got to make an express provision. There is no provision in this Act and so far as I am aware—I speak subject to correction—there is no provision in the Jammu and Kashmir Act, which lays down that when the time fixed for filing a suit on the basis of a contract expires, the contract itself shall be extinguished. There is no such provision in this Bill. If that is so, then this language, namely the rule has extinguished the contract, is wholly wrong.

[THE DEPUTY CHAIRMAN in the Chair.]

This language is not warranted by this Statute, nor is it justified by the general principles of law which are applicable to Limitation Acts. That is one objection.

The other objection relates to the Explanation appended to clause 6. I am reading the clause and the Explanation.

> "(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule."
>
> "*Explanation.*—For the purposes of this section, 'minor' includes a child in the womb."

Now, a child in the womb has certain rights by a fiction of law which he can avail of after he is born. That is the fiction created by the Hindu Law and other laws also for the purpose of conferring certain rights on individuals which can be enforceable only after the child comes into existence, after the child is born, not before that.

AN HON. MEMBER: Suppose it is still-born.

SHRI G. S. PATHAK: Well, it may be still-born, it may be a daughter, the right may belong only to a son, and so on and so forth. Therefore, whether the right accrues or not would depend upon the birth. By fiction it may relate back to the time of conception only for certain purposes, not for all purposes. There is a difference between a right to sue and a right upon the basis of which a suit is instituted. These rights which accrue since the time of conception are rights upon which a right to sue may be based. The Limitation Act is concerned only with rights of suit. Rights of suit must belong to persons in existence. It may be that if some right has accrued before a person is born, he may avail of that right, but he cannot file a suit until he comes into existence. The Limitation Act is concerned only with rights of suit. The Limitation Act recognises that a right of suit exists. Now, this explanation is or purports to be a special definition of the word "minor". Whenever a special definition is given and if it is intended that something which is not covered by the natural meaning of the particular word should be covered, then it is said that that word will include such and such a thing, and that therefore shows that this explanation gives a special definition of the word "minor" by saying that for the purposes of this section "minor" includes a child in the womb. Ordinarily the definition of "minor" is to be governed by the Majority Act. That defines what a "minor" is, and that determines when a minor becomes a major. But for the purposes of this clause "minor" would include a child in the womb also. Now, let us substitute for the word "minor" the expression "a child in the womb". It will be to this effect. Where a person entitled to institute a suit is a child in the womb, then he may institute the suit

after the disability has ceased, etc. This presupposes that a child in the womb could file a suit. A child in the womb can never file a suit. A minor can file a suit through his guardian. Idiots and insane persons could file a suit through next friend, like a minor. But as the language suggests or as the language stands, a child in the womb would be a person entitled to institute a suit, and therefore the period of disability would be excluded. Now, this would be the consequence of this explanation remaining intact or this explanation being allowed to stand. I understand from my friends of the Select Committee that the intention was to tag on the period of minority to the period during which the minor remained in the womb. If that was the intention, then the language does not express that intention, and as the clause stands, it is bound to create difficulties of interpretation and the intention underlying this explanation may not be carried out at all. In this connection, we must remember that to equate a minor with a child in the womb would not be logical because a minor is entitled to possess and enjoy all the rights which any other person can enjoy, which an adult can enjoy and which an adult can possess, while a child in the womb is entitled only to some rights, not all. If you therefore tag on the two periods, if that is the intention of the framers of this clause, then it must be confined by suitable language only to the enforcement of such rights as may belong to a person from the time of the conception. It cannot apply to all. The generality of the language would not indicate that while every minor has got all the rights, the child in the womb has not got all the rights. Therefore, if the intention is to resolve any conflict of authority, then that intention should be expressed through proper language. As the language stands, the whole position seems to be very difficult of interpretation and it runs contrary to the very object of clause 6, the object being that a person is entitled to institute a suit and that person is under a disability.

SHRI NAFISUL HASAN: Which means that there will be no bar to the institution of a suit by a child in the womb through the next friend.

SHRI G. S. PATHAK: No bar as the language stands.

Now, under the law a child in the womb cannot file a suit even through next friend; a minor can, an idiot can and an insane can, and the underlying basis of the whole section is that the period of disability has to be excluded in cases where a person is entitled to file a suit or institute a suit. That is the object underlying it. Now that object is not achieved by the manner in which this Explanation is provided.

PROF. M. B. LAL: Does it not mean that in cases in which a child in the womb has a right, he can sue according to this rule?

SHRI G. S. PATHAK: Well, the Limitation Act is not concerned with conferring rights to sue. Limitation Acts presuppose that there is a right to sue and a period is being prescribed for the enforcement of that right. Now, if you want to confer any right under the Limitation Act, that is outside the province of the Limitation Act. A Limitation Act has to presume, has to presuppose, that there is a right which exists and this is a remedial law, it is not a substantive law. The law of limitation is the law of procedure. A procedure is prescribed, *viz.*, that within such and such a time you can file a suit. That is the procedure. Therefore if the intention was to confer any substantive right, such an intention would be completely outside the scope of the Limitation Act.

SHRI ROHIT M. DAVE (Gujarat): Would it not mean that there may be only the right to sue for the rights which accrue? Ultimately, it will come up to that that it is a right to sue for the rights which accrue. As they do not accrue, there is no right to sue at all.

SHRI G. S. PATHAK: That should therefore have been expressed in suitable language by the addition of a suitable clause. You can substitute for the word 'minor' the words 'a child in the womb', and if you do that, then what is the result? The result becomes a mess.

PROF. M. B. LAL: If only it is re-worded . .

SHRI G. S. PATHAK: It should be re-worded if the intention is to tack on the period during which the child is in the womb to the period of minority, for the purpose of certain suits which would be suits for the enforcement of rights which accrue to a child in the womb. There are so many limitations Now, the generality of expression used in the Explanation does not carry out that object and if that is the object, then this language is not in consonance with the substantive law applicable to children in the womb. Therefore, I oppose both this Explanation and the language of clause 11, as I have already explained.

SHRI SANTOSH KUMAR BASU: Madam Deputy Chairman, may I put a few questions to my friend because if he brings to bear upon this question the weight of his own authority, it does require some clarification on the part at least of those who have been parties, unfortunately, to this drafting in the Select Committee? In my submission, on a reconsideration of the matter my friend may be persuaded to take the view that the Select Committee has taken with regard to the soundness of the drafting which has been placed before this House. Now, what does this Explanation say? It says—

> "For the purposes of this section, 'minor' includes a child in the womb."

Kindly remember, it is only for the purpose of this section that a minor is said to include a child in the womb. What is the purpose of this section? If you go through clause 6(1), you will find the purpose set out there in clear language.

> "Where a person entitled to institute a suit or make an application for the execution of a decree . . ."

He must be a person who is entitled to bring a suit independently. A child in the womb must have rights to bring a suit at the appropriate time. If she is a daughter and is not entitled to bring a suit of a particular nature after being born, then this clause will not go to her assistance at all. Then, it says—

> "Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned . . ."

Kindly remember these words also. This clause is effective only with regard to those cases and for that purpose only, namely, at the time from which the prescribed period is to be reckoned. This clause applies only to the time from which the period of limitation is to be reckoned. If the starting point of limitation is at the time when the child is in the womb that is the limited purpose for which this clause has been enacted. If the period of limitation starts during the time when the child is in the womb, then what happens? A minor can institute a suit, but not a child when it is in the womb.

> " . . .within the same period after the disability has cease . . ."

It envisages a starting point of limitation during the period of gestation and it envisages the institution of the suit after the expiry of the disability. It applies to minors Just in the same way, it can apply to a child in the womb also because that child may have rights, after being born, to institute a suit of a particular nature and the period of limitation may start during the time he is in the womb, and this clause entitles him to bring the suit after the disability has ceased. All these things are applicable to minors, all these are applicab'e to children in the womb. There is no

incongruity, no inconsistency. He may be invested with rights but it is not to bring a suit at the time he is in the womb. This clause does not mention that at all. It mentions not a right to bring a suit at any time, but a right to bring a suit only after the disability has ceased. It is something different from other cases of institution of suits by others. It provides for a special purpose, namely, this period of limitation starts during the period of gestation and for the institution of the suit after the disability ceases. And that special purpose can be applicable, as envisaged in this clause, to a minor as well as to a child in the womb. There is no inconsistency at all having regard to the very special nature of the rights conferred by this clause with regard to the rights to bring a suit. I submit, if you think that this sub-clause provides a right to bring a suit during the time when he is in the womb, it is a misconception altogether. It does not do anything of the kind at all It is not necessary that the child should be able to bring a suit while in the womb. He must be a person entitled to institute a suit at the time when a suit is due to be instituted and that is, during the whole period of his minority and for the period allowed after the disability ceases. That is all. Therefore, there is no incongruity. It only relates to those cases where the period of limitation starts while the child is in the womb. There is no incongruity there. The cause of action is such and the provisions of the Limitation Act are such that the period of limitation arises during the period when he is in the womb. Then the right is conferred to bring a suit after the disability ceases, as I have already said, and that also can apply not only to a minor but also to a person in the womb. Therefore, when it says that for the purpose of this section a minor includes a child in the womb, there is no contradiction, having regard to the special purpose of the section. Now, one word with regard to Jammu and Kashmir.

THE DEPUTY CHAIRMAN: You have already spoken.

SHRI SANTOSH KUMAR BASU: I am asking Mr. Pathak to reconsider his position in the light of the observations which I am making, and I am not making a speech at all since you think I have already done so.

Now, with regard to clause 11, Mr. Pathak .

SHRI G. S. PATHAK: May I give the clarification which you wanted from me?

SHRI SANTOSH KUMAR BASU: Not now, I shall take it. Let me give my clarification now as a commentary upon what you have said.

THE DEPUTY CHAIRMAN: Please do so briefly. Otherwise Mr. Pathak will clarify what you say, and it will go on.

SHRI SANTOSH KUMAR BASU: I suppose I have been able to clarify the matter for the benefit of my colleagues here to a certain extent

Now, as regards clause 11, my friend has drawn attention to its sub-clause (2) which says:

> "No rule of limitation in force in the State of Jammu and Kashmir or in a foreign country shall be a defence to a suit instituted in the said territories on a contract entered into in that State or in a foreign country unless the rule has extinguished the contract;" * * *

Now, my friend says there is no rule in the Jammu and Kashmir limitation law which extinguishes a contract. May be, but there may come some day when some kind of rule may arise or be enacted there which may extinguish a contract but that will be applicable here as a plea of limitation, not otherwise. Therefore, I do submit that there is nothing wrong,

[Shri Santosh Kumar Basu.]

nothing incongruous in either of these two sub-clauses. We need not be afraid that this clause will land us in difficulty, or any litigant in difficulty later on.

SHRI K. V. RAGHUNATHA REDDY (Andhra Pradesh): Madam Deputy Chairman, for a moment I did not think that there was any necessity for me to speak, but since the discussion has arisen as to the interpretation of the word "minor" occurring in the clause under discussion and in the Explanation of "minor" appearing at the end of the clause—the addition of the Explanation is the result of an amendment moved by me in the course of the deliberations on the Bill in the Joint Committee of both Houses—I thought it was my duty to speak about this. This question had been discussed at length under the guidance of the acting Chairman and under the guidance of the Deputy Minister for Law, in the Joint Committee, and also under the guidance of other persons who are very well versed in the subject. The intention with which this amendment was sought to be moved in the Select Committee was to obviate the difficulty caused by the conflict of judicial decisions between the High Court of Madras and the High Court of Lahore in construing the word "minor" for the purpose of application of the doctrine of limitation, which undoubtedly is a procedural right and not a substantive right. It is presumed—as Mr. Pathak was pleased to observe—that a substantive right is presupposed to exist before the law of limitation can be made applicable for the determination whether a person can make use of his substantive right in a proper way. In other words, it may be an adjectival or a procedural law, but not a substantive law. Now the intention with which this amendment was sought to be moved was this. If once a person, a minor, has got certain rights in relation to which he has to file a suit, or in order to exercise his rights he has to follow a certain procedure, and that procedure is prescribed by the law of limitation, or any other law, then, if a minor has got those advantages—I may put it so to use a very common or a popular language—if a minor is given certain advantages by the fact of himself being a minor, then the question was, if the child was in the womb, and if a right, if a particular procedural right is likely to expire before the person comes out of the womb and gets the right which he would get as a minor, for the mere fact that a person is in the womb, is he to be denied the rights, the procedural rights, to use the language of Mr. *Pathak? Should he be denied those* procedural rights which he would get otherwise if he was born already? The Madras High Court had taken the view, probably based on principles of equity and good conscience, that in all cases where the benefits should accrue to a minor even in relation to the procedure, the same must be applied even to a child in the womb. They had been generous enough to construe the word "minor" as one including a child in the womb. But unfortunately certain High Courts have taken a contrary view. If the matter had been left at that stage, the matter would have to be ultimately settled by an argument before the Supreme Court, and when once the Supreme Court gives a decision, it would be a law binding on all High Courts under the Constitution. The Select Committee thought over the matter whether it was desirable to leave the matter, to make the law, a lawyers' paradise so that the lawyers may have time and opportunity to agitate about the matter, argue before the Supreme Court and get a decision, or whether it was the duty of the Parliament to resolve this conflict by a suitable amendment, and then added the Explanation. Now when we read this clause and the Explanation together, there is the Explanation which says:

> "For the purposes of this section, 'minor' includes a child in the womb"

Whatever the purposes might be, that is a different matter; whether it is going to be a substantive right or a procedural right, we are not concerned with. Whatever the purposes, the particular clause contemplates, for the purposes of the application of the provisions of the law of limitation to a minor, that in all cases regarding those purposes, if the minor happens to be a child in the womb, then too all the benefits should accrue to that child, irrespective of the fact whether it is a minor born or a minor in the womb. That is the interpretation sought to be given so that the benefits accruing to a particular child in the womb may be similar to the benefits that may accrue to a minor. This is the intention with which the amendment was sought to be moved, and this is the purpose for which the Select Committee accepted the amendment.

Then the next clause to which Mr. Pathak referred was the one relating to the extinction of rights of contract, in relation to Jammu and Kashmir, by a rule or regulation in operation there . . .

SHRI SANTOSH KUMAR BASU: Or in a foreign country.

SHRI K. V. RAGHUNATHA REDDY: Yes, or in a foreign country. If I may, with great respect, say, Mr. Pathak himself was one of the members of the Law Commission, and one of the paragraphs in that Law Commission's Report, the very language there had been copied in this clause, and I do not see any conflict here unless Mr. Pathak feels that the language used by the Law Commission consisting of members of eminence meant to convey something else, or that the language used by the members of the Law Commission was not sufficiently happy or exact in terms of legal interpretation. That of course is a different matter. I think the language used in these clauses is quite happy and I have no doubt that any court would give the real and the legal interpretation giving expression to the intent imported in these various clauses.

Thank you.

SHRI BIBUDHENDRA MISRA: Madam Deputy Chairman, I have heard with rapt attention the speeches and the suggestions made, and I am really happy that the Bill, in a large measure, has got the support of hon. Members of this House. Within my limited range I will of course try to answer the main points that have been raised, but I must confess that when eminent jurists and esteemed persons like Shri Pathak and Shri Sapru pose questions, it certainly creates a doubt and hesitancy in my mind. Both of them have referred to the provisions of clause 6, and the Explanation that has been added to it and have raised problems from different angles. Mr. Sapru posed the problem and asked, "How do you know by the definition of a child in the womb as to when exactly the gestation takes place"? I would have been happy, Madam, if with his experience, which is certainly more than mine, he would have tried to answer the question instead of posing it. I want to make it clear that all that clause 6 says is that, for the purposes of limitation, limitation is not computed from the date of gestation but is computed from the date of birth, and the period of gestation is only added to it. As I have already pointed out, Madam, so far as this clause 6 is concerned, it was the subject-matter of a great controversy and the subject matter of judicial interpretation, and different views were held by different High Courts. One High Court took the view that a person means a person born and cannot include a child in the womb. Whereas there are other High Courts like the High Court of Madras and Allahabad which took the view that if the intention of the section is to protect the interest of a minor, then it would be inequitable and unjust if the same protection is not given to a child which is already in the womb

[Shri Bibudhendra Misra.]

and, therefore, a child in the womb is also a minor for purposes of the law. Of course, there are so many presumptions. I would only remind Shri Sapru of the presumptions of section 112 of the Evidence Act, the presumption of legitimacy and all that. So that is a question of proof as to when gestation took place. But what is important in this connection is to know that the computation is not to be made from the time of gestation but from the time of the birth.

Now, Madam, it is an equitable principle also. If it is intended under clause 6 that whenever a cause of action accrues in favour of a minor and the minor gets the rights to sue, I fail to understand why the child in the womb should not get the same right. For example, in the case of an alienation made by a Hindu father, well, if a child is there, say, already one day old, he can bring a suit three years after he attains majority. If the father dies after having made alienation and the child is born the next day, he has not got the same right because he was in the womb. The principle is certainly inequitable and, therefore, it was suggested to bring the different judicial conflicts at rest and to make the law clear—it was thought over quit a number of times by the Select Committee in two or three sittings, so far as I remember—it was suggested that the definition should include a child in the womb. Mr. Pathak says that it will create some difficulties and the language is not happy. I should have been happy if he had suggested a better language. But he has not done that. He has only commented that this language is not happy.

Madam, it has been well explained for purposes of this section only that a minor includes a child in the womb. It does not equate a child in the womb with the minor. It enlarges the definition of a minor so as to bring within its fold a child in the womb also, and that is only for purposes of clause 6 of the Bill, namely, wherever a cause of action accrues in favour of a minor he shall have the right to sue until three years after he attains majority. That is the main point, Madam, that has been argued.

Madam, a reference has been made by Shri Pathak to clause 11. He says that if the rule has extinguished the contract, the rule is of a substantial character and has no place in the Law of Limitation. I would only point it out to him that even in the procedural law sometimes there are rules which are rules substantial in character; it is not unknown to the procedural law. The more experienced lawyer-Members here will bear me out that the procedural law also has to sometimes provide for rules of substantial character and this clause 11 in substance has been taken out bodily from the existing Act itself. The Law Commission recommended that they did not see any reason as to why clause 11 should be changed. They wanted its retention. They have suggested the same language also and we have bodily taken it from here excepting that we have changed some words here and there.

Then, Madam, of course an amendment has been tabled. I will refer to it afterwards. Shri Sapru has raised a question that if in cases of life insurance policies the date of the denial of the claim has to be taken as the date for purposes of computing the period of limitation, why should the same principle not also be followed in general insurance policies also, I mean other policies as well? I would only say here, Madam, that it was by an oversight of the Members that it was not so included and I will be ready to accept the amendment when it is moved in due course. With these words, Madam, I move.

SHRI SANTOSH KUMAR BASU: Are you accepting the amendment regarding general insurance?

SHRI BIBUDHENDRA MISRA: Of course, but that will have to be moved.

SHRI AKBAR ALI KHAN: Why should the municipalities get thirty years?

SHRI BIBUDHENDRA MISRA: That is a point. Of course, so much has been said here about article 112. It will be remembered that the period of limitation for the Government so long even under the existing Act is 60 years. But the Law Commission recommended that the period should be drastically reduced to half, that is, thirty years. The Government has no hesitation in accepting that; we have accepted the recommendation of the Law Commission. They have themselves recommended it. I will read the relevant paragraph, paragraph 162 on page 61 of the Report where they say:—

> "Article 149 relates to suits by or on behalf of the Government. The period is sixty years from the time when the period of limitation would begin to run in a like suit by a private person. We recommended that that period may be reduced to thirty years as under the English law. This will bring the period in accord with that prescribed for local authorities under article 146-A".

SHRI AKBAR ALI KHAN: Perfectly right. But why should the municipalities get thirty years?

SHRI BIBUDHENDRA MISRA: They have got it as recommended by the Law Commission. I mean, that was also discussed here and we have accepted the same principle. So far as the Government is concerned, it has been reduced from 60 years to 30 years.

THE DEPUTY CHAIRMAN: The question is:

> "That the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith, as reported by the Joint Committee of the Houses, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 32 were added to the Bill.

The Schedule

SHRI KRISHNA CHANDRA: Madam, I move:

2. "That at page 17, in column 2, against entry 44(a), for the words 'three years' the words 'six years' be substituted."

3. "That at page 17, in column 3, against entry 44(a), after the words 'deceased or', the words 'where the claim is accepted for payment, the date of such acceptance, and' be inserted."

4 "That at page 17, in column 2, against entry 44(b), for the words 'three years' the words 'six years' be substituted."

5. "That at page 17, in column 3, against entry 44(b), after the word 'loss' the words 'or where the claim on the policy is accepted, the date of such acceptance, and where the claim is denied, either partly or wholly, the date of such denial' be inserted."

6. "That at page 17, in column 3, against entry 44(b), after the word 'loss' the words 'or where the claim on the policy is denied, either partly or wholly, the date of such denial' be inserted."

7. "That at page 25, in column 2, against entry 112, for the words 'Thirty years' the words 'Six years for suits relating to money or moveable property, twelve years for suits relating to immovable property and thirty years for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession' be substituted."

The questions were proposed.

श्री कृष्ण चन्द्र : माननीय उपसभापति महोदया, मैं एक अमेंडमेंट यह मूव कर रहा हूं:

"That at page 17, in column 2, against entry 44(a), for the words 'three years' the words 'six years' be substituted."

यह मैं इस वास्ते कर रहा हूं कि इंश्योरेंस कम्पनीज से कारेस्पांडेंस में काफी देर लग जाती है और काफी देर लगने की वजह से तीन वर्ष का पीरियड कम होता है । जैसा कि मैंने अर्ज किया था अपने भाषण में कि कारेस्पांडेंस के दर्मियान में अगर कम्पनी आखिर में जाकर क्लेम को डिनाई करती है या आधा डिनाई करती है और आधा मन्जूर करती है, तब तो इस बिल में मियाद बढ़ा दी गई है और डिनायल से वह मियाद गिनी जायेगी और उसका एडवांटेज उसको मिल जायेगा । लेकिन मैंने साथ में यह भी कहा था कि मान लीजिये कारेस्पांडेंस में तीन वर्ष बीत गये और कम्पनी क्लेम को न डिनाई करती है और न मंजूर करती है बल्कि चुप्पी लगा जाती है, तो क्या होगा ? इसी वास्ते मैंने यह अमेंडमेंट रखा है कि तीन वर्ष के बजाय अगर छः वर्ष रख दिये जायें तो ज्यादा बेहतर होगा। ज्वाइंट सिलेक्ट कमेटी ने इस असूल को मान लिया है और जो डिनायल का इसमें संशोधन किया गया है वह इस बात को मानते हुए किया गया है कि कम्पनी के साथ कारेस्पांडेंस में देर लगना स्वाभाविक है । इस वास्ते मेरा पहला निवेदन यही है कि ४४ (ए) और ४४(बी) में ३ ईयर्स के बजाय ६ ईयर्स रख दिया जाय ।

मेरा एक दूसरा अमेंडमेंट है जिसको माननीय उपमंत्री जी ने मान भी लिया है । एक तरह से वह अमेंडमेंट मेरा यह है :

"That at page 17, in column 3 against entry 44(b), after the word 'lose' the words 'or where the claim on the policy is denied, either partly or wholly, the date of such denial' be inserted."

यह तो क्लाज ४४ए के बिल्कुल ऐट पार है । जब वहां मान लिया है कि डिनायल के बाद से लिमिटेशन की मियाद चलेगी तो यहां भी डिनायल के बाद से लिमिटेशन की मियाद मान लेना चाहिये । उपमंत्री जी ने कहा भी है कि वह मानने को तैयार हैं तो मुझे आशा है कि वह मेरा यह अमेंडमेंट मान लेंगे ।

अब गवर्नमेंट के क्लेम के बारे में भी अमेंडमेंट रखा है । यह बात सही है कि ला कमिशन ने ६० वर्ष के बजाय ३० वर्ष कर दिया है और आपने भी उसी को कर दिया है लेकिन अगर कोई बात वाकई में गलत है, अनुचित है, अन्यायपूर्ण है तो फिर उसको हटाना चाहिये । यह कोई बात नहीं है कि ला कमिशन ने जो किया है और वही सलेक्ट कमेटी ने भी किया है । आन दि ग्राउंड आफ इक्विटी देखा जाय, उचित तौर पर देखा जाय और विचार किया जाय और जो बात सही, सच्ची और ठीक मालूम होती है उसको किया जाय । माननीय मंत्री जी ने भी इस बारे में कुछ नहीं कहा कि क्यों ३० वर्ष रखा गया है, किन कारणों से ३० वर्ष का समय गवर्नमेंट को दिया गया है । लिमिटेशन की मियाद इस वास्ते रखते हैं कि एक ऐसा समय निश्चित कर दिया जाय कि जिसके अन्दर जो कोई क्लेम हो वह अदालत में आसानी से ले जाया जा सके और उस बारे में जो गवाह वगैरह हैं वे सब जिन्दा हों और सबूत तथा उसका प्रतिवाद दोनों सामने आ सके। ३० वर्ष का समय ऐसा है मामली सूटों के लिये, जिसमें कि ये सब बातें खत्म हो जाती हैं। तो मेरा अमेंडमेंट यही है कि ३० वर्ष की जगह ६ वर्ष रख दिया जाय, या मामूली सूट हों उनके लिये, चल सम्पत्ति या

रुपये की वसूली के लिये गवर्नमेंट के लिये छः वर्ष रखा जाय और जो क्लेम मूवेबिल प्रापर्टी के लिये नहीं बल्कि इममूवेबिल प्रापर्टी के लिये हों, स्ट्रीट के बारे में हो, उनके लिये अधिक रखा जाय। इममूवेबिल प्रापर्टी के सूट के लिये १२ साल रख दिया जाय और बाकी जो मामले हों जैसे कि स्ट्रीट के बारे में सूट हो या रोड के बारे में हो या और किसी इनक्रोचमेंट के बारे में हो, जिसका पजेशन चला गया हो और उसके लिये क्लेम का सूट करना हो तो उनके लिये भले ही ३० साल रख सकते हैं क्योंकि वे ऐसी चीजें हैं जिनका जल्दी से नोटिस में आना कठिन है। लेकिन और जो गवर्नमेंट के क्लेम्स हैं उनके लिये इतना अधिक समय रखना ठीक नहीं है। गवर्नमेंट के इतने रिसोर्सेज हैं, इतने बड़े बड़े आफिसेज हैं कि यह बात ठीक नहीं लगती है कि कोई चीज ३० वर्ष तक उसकी नोटिस में नहीं आये और गवर्नमेंट अपना माइंड मेक अप नहीं कर सके कि हमको इसके लिये सूट फ इल करना चाहिये या नहीं करना चाहिये। यह चीज बड़ी मद्दी प्रतीत होती है। कोई भी आदमी जिसको जरा भी सेंस है, जो समझदार है और समझ सकता है वह यही कहेगा कि मालम नहीं किस बिना पर यह समय दिया गया है। कोई भी इसको मानने को तैयार नहीं होगा। माननीय उपमंत्री जी ने दलील यह दी है कि ला कमिशन ने ६० वर्ष से ३० वर्ष कर दिया है तो हमने भी इस को कम कर दिया है। यह कोई दलील नहीं है। वह इसको जस्टीफाई नहीं कर सके हैं कि किस बिना पर सब सूटों के लिये गवर्नमेंट को ३० वर्ष का समय दिया गया है। मैंने इस बारे में अमेंडमेंट दिया है उसे उन्हें मान लेना चाहिये। इन शब्दों के साथ मैं अपने अमेंडमेंट्स को इस सदन के सामने प्रस्तुत करता हूं।

SHRI BIBUDHENDRA MISRA: So far as amendment No. 2 is concerned, I am opposed to it because we have already provided in 44(a).....

SHRI AKBAR ALI KHAN: What period has he suggested?

AN HON. MEMBER: Six years.

SHRI BIBUDHENDRA MISRA: He has suggested different periods for different suits. You will find that so far as 44(a) is concerned—I am referring to amendment No. 2—the period is not only 3 years but the existing provision is that the period of 3 years is to be reckoned from the date of the death of the deceased and the Select Committee considered the matter and they have added also another proviso and they have said: 'or where the claim on the policy is denied, either partly or wholly, the date of such denial'. Therefore, it is actually not 3 years from the date of the death of the deceased. If it is a case of denial, then of course, after the claim is denied, 3 years is given. The Law Commission has also recommended that in all cases of contracts the period of limitation should be 3 years. So I am opposed to it.

Regarding amendment No. 3, the words here are 'where the claim is accepted for payment, the date of such acceptance'. I am opposed to it. It is not necessary because in all cases of acceptance or acknowledgement of liability, it would be covered by clause 18 of the Bill because it would be an acknowledgement of the liability and an acknowledgement of the liability would automatically extend the period of limitation by virtue of clause 18 of the Bill

Regarding amendment No. 4 to increase the period from 3 to 6 years, it [illegible]d for the same reason. Amendment No. 5 is also opposed for the same reason. I accept amendment No. 6 to 44(b). This will be added to 44(b). So far as amendm[illegible] is concerned, I have alre[illegible]ven my reason. There are

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two types of suits in which the period was 60 years. One was a suit for fore-closure and one was a suit by the Government and both have been reduced to 30 years on the recommendations of the Law Commission. There was a sound reason for it. When the law was framed, it was discussed there. My friend is a lawyer. There was a reason for having a larger period for both these, for suits for fore-closure and for suits by Government. It has been reduced to 30 years on the recommendation of the Law Commission. Therefore, I am opposed to the amendment.

SHRI KRISHNA CHANDRA: I beg leave to withdraw my amendments Nos. 2 to 5 and 7.

*Amendment Nos. 2 to 5 and 7 were, by leave withdrawn.

THE DEPUTY CHAIRMAN: The questions is:

6. "That at page 17, in column 3 against entry 44(b), after the word 'loss' the words 'or where the claim on the policy is denied, either partly or wholly, the date of such denial' be inserted."

The motion was adopted.

THE DEPUTY CHAIRMAN: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1—Short title, extent and commencement

SHRI BIBUDHENDRA MISRA: I move:

"That at page 1, line 5, for the figure '1962' the figure '1963' be substituted."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: 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.

The Enacting Formula and the Title were added to the Bill.

SHRI BIBUDHENDRA MISRA: I move:

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

The question was put and the motion was adopted.

THE SPECIAL MARRIAGE (AMENDMENT) BILL 1962

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI BIBUDHENDRA MISRA): Madam, I move:

"That the Bill to amend the Special Marriage Act, 1954, be taken into consideration.

This Bill seeks to amend Section 4 of the Special Marriage Act. One of the conditions of a valid marriage under section 4 of the Special Marriage Act is that the parties are not within the degree of prohibited relationship. You will find that a similar clause also exists in section 5 of the Hindu Marriage Act, the difference between the two being that whereas in the Hindu Marriage Act, marriage can take place between per-

*For texts of amendments, *vide* cols. 4172-73 *supra*.