

taken against those found to blame by the Commission of Inquiry.

An *ad hoc* Claims Commissioner is being appointed to deal with claims for compensation.

SHRI A. B. VAJPAYEE: It has been reported that looting took place on a very large scale after the collision and a man wearing blue uniform figured in that looting prominently. May I know if the Minister would like to throw some light on these allegations?

SHRI SHAH NAWAZ KHAN: It is true that one daily paper of Patna published such a news. The news was found to be absolutely false and the I. G. of Police, Bihar, has contradicted this statement.

SHRI FARIDUL HAQ ANSARI (Uttar Pradesh): May I know whether any preliminary enquiry has been held by the Railways on the spot about this accident?

SHRI SHAH NAWAZ KHAN: The Additional Commissioner of Railway Safety visited the site the following day and held an enquiry but as another commission has been appointed to look into it, the Commission will also give their verdict.

SHRI P. RAMAMURTI (Madras): After this accident, another major accident has taken place in the Southern Railway just during the last week, to the Calcutta Mail. These accidents are increasing. There is no use issuing statements. My suggestion is to fix up some time for discussing this whole question of railway accidents some time during the course of this Session. It is very important. People cannot be satisfied by saying that committees are being appointed. Something is seriously wrong and we have something to say on this matter. So will the Railway Minister agree to having a debate on the whole question of accidents?

SHRI SHAH NAWAZ KHAN: The matter is entirely in your hands. Whatever you will order will be done.

THE DEPUTY CHAIRMAN: That is a matter of procedure. You must ask for time and it will be examined.

SHRI A. D. MANI (Madhya Pradesh): I wanted to support my hon. friend Mr. Ramamurti's suggestion. Perhaps if we have a discussion, some of the Members may be able to offer suggestions which may be looked into immediately by the railway authorities. For example, on the question of workers' negligence which has been habitually ascribed to pointsmen, we can make suggestions. I would request the Railway Minister to consider the points made and some time may be allotted for this matter.

THE DEPUTY CHAIRMAN: The Railway Minister would welcome the suggestions. The suggestions may go even without the discussion coming up. Anyway the point of discussion is a procedural matter and that will be examined.

THE LIMITATION BILL, 1962

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI BIBUDHENDRA MISRA): Madam, on behalf of Shri A. K. Sen, I beg to move:

"That the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith be referred to a Joint Committee of the Houses consisting of 30 Members, 10 Members from this House, namely,—

1. Shrimati Violet Alva
2. Shri P. N. Sapru
3. Pandit S. S. N. Tankha
4. Shri K. K. Shah
5. Shri B. K. P. Sinha
6. Shri Santosh Kumar Basu
7. Diwan Chaman Lall
8. Shri K. V. Raghunatha Reddy
9. Shri M. Ruthnaswamy
10. Shri Dibakar Patnaik.

[Shri Bibudhendra Misra.]
and 20 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the first day of the next session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

Madam, in view of the fact that this is a motion for reference of the Bill to a Joint Select Committee, I will not dilate much further on it. I will only point out certain principles that have been incorporated in the present Bill. This seeks to incorporate the recommendations of the Law Commission made in their Third Report. So far as the amendments suggested to the Sections are concerned, most of the recommendations of the Law Commission have been accepted and the recommendations are either of a minor nature or the amendments are of an explanatory nature. I will only mention a few of them that are important. Some difficulties were experienced in deciding the date from which the limitation runs in the case of a counter claim or a set off. That difficulty has been set at rest and Clause 3(2) (b) has been inserted which provides the date in each case of counter claim and set off.

Then comes amendment to Section 5. So far as the 1908 Act was concerned, the provision was:

"Any appeal or application for a review of judgment or any leave to appeal or any other application to which this Section may be made applicable by or under any enactment . . ."

Now, to what enactments this section 5 will be applied was left open. It was to be considered either by the States or by the courts. Therefore, it was thought that except applications for execution that is under Order 21, C.P.C. it would apply to all applications. If however any special law or local law excludes the operation of Section 5 of the Act, that would be a different matter. If it is not so excluded, then automatically, except to an application made under Order 21 of the Civil Procedure Code, it would be applicable to all applications.

Coming to section 12, there was some difficulty or difference of opinion among the courts in India as to the expression 'time requisite' and then the Law Commission recommended that if the courts take unduly long time or if there is any delay by the officers of the court in drawing up a decree before an application is made, then that time shall not be computed. Of course, the provision is, if after the application is made, the time taken by the officers of the court in drawing up the decree is computed. But then questions arose whether before an application is made, the time taken by the court has to be computed or not. Therefore, to set at rest the doubts, it has been provided that the time taken by the court before an application is made in preparing the decree shall not be computed for the purpose of limitation.

Coming to the provision in clause 14, it is well known, Madam, that in some cases, notice under section 18 has to be given to the Government. That is the provision in the Civil Procedure Code and two months' notice period is always excluded for the purposes of limitation. It will be seen that sections 86 and 87 of the Civil Procedure Code provides that

the sanction of the Central Government, rather the Union Government, is necessary in order to file a suit against envoys, foreigners, foreign rulers, ambassadors, etc. Therefore, the Law Commission thought it necessary that if somebody has to apply for the permission of the Central Government, then the time between the date of making of the application to the Central Government and the date on which the permission of the Central Government is received, should also be computed and that provision has been incorporated.

Section 18 of the Indian Limitation Act 1908 which is in force now provides that in cases of fraud, the period of limitation shall be computed from the time the fraud becomes known to the person seriously injured and the Law Commission recommended that this principle should be extended to cover cases of mistake also. So this provision includes not only cases of fraud but also cases of mistake.

Next, I come to the existing section 22 of the Indian Limitation Act. This deals with the effect of substituting or adding new plaintiff or defendant. The provision at present is that if anybody is added as a party after the institution of the suit, then the suit shall be deemed to have been instituted when the person is made a party. The Law Commission thought that this was too strict a term and that it should be liberalised. It happens sometimes—and it is our common experience—that in courts in India, out of inadvertence, a person is not made a party when the suit is filed and there is the application for substituting somebody as a party that is bringing in another after the suit is filed. Therefore, it is felt that this should not be construed strictly. So we have sought to amend this provision also.

Next, Madam, section 29 provides that in the case of special law or local law, only some of the provisions of the Limitation Act will apply and not all the provisions. The Law Com-

mission thought it was necessary to make it uniform and say that whatever the local or special law, unless the local or special law itself excludes the operation of the Limitation Act, all the provisions of the Indian Limitation Act should apply to all the local and special laws also. One of the suggestions made by the Election Commission is to repeal sections 26 and 27 of the Limitation Act altogether, that is, the right of easement by prescription. They are of the view that the Indian Easement Act also contains similar sections, i.e. sections 15 and 16. But at present the Indian Easement Act does not extend to the whole territory of India. It is only of partial application. If the provisions of the Indian Easement Act is extended to the whole of India, then it will not be necessary to have sections 26 and 27 of the Limitation Act and these may be repealed. But this has not been accepted so far as this Bill is concerned, on the apprehension that the Easement Act probably concerns right over land. And easement is nowhere defined and under the Constitution the right over land is a subject-matter of the States. It is all right if the States themselves extended the operation of the Indian Easement Act to their territories. In that case, of course, the question of repealing sections 26 and 27 of the Indian Limitation Act will not arise as it will be made inapplicable. But so long as the States do not do it and since it does not come in the Union List nor in the Concurrent List, probably Parliament is not competent to do it. Therefore, it is thought wiser to retain sections 26 and 27.

These are some of the recommendations of the Law Commission so far as these sections are concerned. I think that the most important recommendation of the Law Commission, some of which have been accepted in this Bill are those relating to Articles in the Indian Limitation Act. Before I proceed to deal with them, I think I cannot do better than to read out two paragraphs from the Law Commission's

[Shri Bibudhendra Misra.]

Report i.e., paragraphs 63 and 64 where it is stated:

"The existence of so many articles in the Limitation Act has undoubtedly made the subject very complex and has also been responsible for conflict of judicial decisions. All this can be avoided, firstly, by classifying the articles on a rational basis and secondly, by prescribing a uniform period of limitation for suits or proceedings of the same nature. It is, of course, not quite easy to classify the articles of the Act in water-tight compartments but a broad categorisation should be attempted if simplification is to be achieved. In the present Act, the Articles are grouped according to the periods prescribed. This is neither rational nor convenient. A proper approach would be to adopt the subject-matter as the basis of classification. A perusal of the articles relating to suits reveals that most of them fall under distinct subjects. If the articles are grouped subjectwise and a uniform period is fixed for suits of the same nature we would have achieved a considerable measure of simplicity. Similarly, as regards articles relating to appeals and applications, it would conduce to simplicity if uniform periods are prescribed as far as possible.

64. Taking as an illustration the articles relating to suits on contract and tort, it will be found that they account for as many as 81 of the 149 articles relating to suits. If, therefore, adopting the English model a single provision is made for all such suits with a period of three years from the date of the accrual of the cause of action, we would be able to eliminate as many as 80 articles. The most important point to consider in this connection is whether the existing entries in column 3 of the first schedule to the Limitation Act i.e., the dates of the starting point for limitation admit

of such treatment. In this connection, it is necessary to bear in mind that the limitation Act is not a statute which creates a cause of action or confers a right of suit; these are matters which are governed solely by the substantive law. It is not, therefore, permissible in a statute of limitation to provide a starting point for limitation which does not correspond with the date of the accrual of the cause of action under the substantive law. We, therefore, propose that all articles in which the date in column three coincides with the accrual of the cause of action should be grouped together and the date of the accrual of the cause of action be specified as the starting point of limitation. Where, however, the two dates do not coincide, existing article should be retained with such changes as may be necessary."

So far as the articles are concerned, it will be seen that there are three important recommendations made by the Law Commission. The first is that the articles should be classified according to their subject-matter. Secondly, they recommend that a uniform period of limitation should be provided for, as far as possible. The third is that the starting point of the limitation should be from the date of the accrual of the cause of action. Here I may point out that so far as the first two recommendations are concerned, i.e., classification of the articles according to the subject-matter and the prescribing a uniform period of limitation as far as possible, these have been accepted and those principles have been incorporated in this Bill. As for the recommendation that the starting point of limitation should not be from the date as it is today, but the particular date on which the cause of action accrues, there has been some doubt expressed about that. Madam, in a country like India, it is always better, we thought, to start from a particular date. Everybody who goes to a court of law must know the date from which the limitation starts. If

instead of having the date as it stands today, you make it as the date from which the cause of action accrues, it will give rise to considerable difficulty. That will again be a subject-matter of dispute. It will be open to judicial interpretations, if the date is questioned. Therefore, it was thought wiser that the present arrangement should be retained, especially because the present arrangement has been the subject-matter of judicial decisions for a long time and so the law has been made clear on the subject. Instead of putting in a legal word in its place and creating further difficulties this has been retained.

THE DEPUTY CHAIRMAN: You may continue at 2 30 P.M.

The House stands adjourned till 2 30 P.M.

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 BIBUDHENDRA MISRA: Sir, I was telling that out of the three main recommendations of the Law Commission so far as the articles in the Limitation Act is concerned, two main recommendations that relate to the classification of the articles according to the subject matter and prescription of a uniform period of limitation so far as is possible have been accepted and I will narrate briefly the pattern that the Bill takes following the acceptance of these principles. Now broadly it has been divided into ten classifications viz., suits relating to accounts suits relating to contracts, suits relating to declarations, suits relating to decrees and instruments, suits relating to immovable property, suits relating to movable property, suits relating to tort, suits relating to

trusts and trust property, suits relating to miscellaneous matters and suits relating to cases where no period is prescribed. This is the broad classification which emerges out as a result of the acceptance of the principles enunciated by the Law Commission and so far as laying down a uniform period for some suits it concerned, it is natural that in some cases where they are regrouped and classified under sub-heads,—it is natural that in some cases—the period of limitation should be extended and in some cases it has to be decreased also. There were many articles, as the Law Commission felt, for which there was no justification for a difference in the periods as all of them were based on the same principle. I will narrate only some instances so far as suits relating to contracts are concerned. Take, for example, article 7 which relates to recovery of wages of household servants, article 101 which relates to recovery of Seamen's wages and article 102 wages not otherwise expressly provided. All these articles are based on the same principle and have a contractual origin. Under the present act a period of one year has been provided for article 7, and three years for both articles 101 and 102. The Law Commission is of the view that there is no justification for this distinction between the same class of cases having a contractual origin and hence they recommended that all these three articles must be grouped together and the period of limitation should be three years instead of one and three years respectively. Similarly, in respect of articles 30 and 31 against the carrier for compensation for loss of goods and for non-delivery of goods, the period of limitation at present is one year. It is a matter of common knowledge that a party has to enter into long correspondence with the carrier concerned before a suit is filed and sometimes it so happens that by the time the correspondence is over the suit gets time barred. The Law Commission is of the view that in all such cases, it must be three years instead of one year and so it has also been raised to three

[Shri Bibudhendra Misra.]
years. So far as suits for immovable property is concerned, as is well known to the lawyers of the country, there has been a great divergence of opinion in the different courts of India relating to the interpretation of article 142 and article 144. There are some courts which have held that article 142 relates to suits on the basis of possession only but there are also other courts which have held that it also includes suits by owners of property. It was held in one case that it may be harsh that a person who proves title to a property should lose it to a trespasser unless he has been able to show that he has been in possession within twelve years of the suit but that is what the Limitation Act says and the courts must administer the law. Therefore, the Law Commission had suggested that in order to avoid injustice to the true owner of the property and to simplify the law, the distinction between articles 142 and 144 must be clearly pointed out and that article 142 should be restricted to suits based on possessory title only and the owner of the property should not lose the property unless the defendant in possession is able to prove adverse possession. So, article 142 under the present Bill has been classified as article 64 and all the articles on title, that is, articles 136, 137, 138 and 147 which are suits on possession based on title have been classified under one head which is article 65.

The Law Commission has recommended that the period of limitation for all cases of contract and tort should be the same that is, three years. So far as cases under contract is concerned, this principle has been accepted but so far as cases under tort are concerned this principle has not been accepted for no sound reason has been found to increase the period of limitation from one year to three years. So, mostly, so far as cases of suits under tort are concerned, the existing provisions have been incorporated in the Bill also. Generally, it is one year except, of course, in cases where it is three years under the present measure

which has been retained, those relating to compensation for diverting water course or way or trespass in respect of immovable property or infringement of copy right. At present the period of limitation is three years in respect of these cases and those provisions have been retained and one of the main recommendations of the Law Commission that in all cases of torts the period must be raised from one year to three years has not been accepted.

I will only point out some of the important amendments which have been brought in as a result of the acceptance of the recommendations of the Law Commission. In the case of present article 2 which is, suits against Government for compensation for doing or omitting to do an act in pursuance of any enactment in force for the time being in India, the period under the present statute is ninety days and in the amendment now the period has been raised to one year. As I have already said, articles 142 and 144 have been amended so that article 142 is restricted to suits based on possession and article 144 to suits based on title. The period of limitation for a suit for redemption of mortgage has been reduced from sixty to thirty years. The period of limitation in respect of a suit by or on behalf of Government has been reduced from sixty to thirty years. Articles 182 and 183 have been omitted so that the maximum period of limitation for execution of a decree or order of any court, including any superior court, is twelve years as in section 48 of the Civil Procedure Code. The period of limitation for filing an appeal against a sentence of death is increased from seven to thirty days. The period of limitation for an appeal to a High Court under the provisions of the Code of Criminal Procedure 1898, is being reduced from sixty to thirty days. The period of limitation for appeals to a High Court under the Criminal Procedure Code is being reduced from ninety to thirty days. These are some of the important changes that have been brought about now as a result of the acceptance of

the recommendations of the Law Commission.

There are four articles so far as suits against Government are concerned and I will state briefly how they stand under the present Bill. Articles 15 and 16 relate to suits against Government to set aside any attachment, lease or transfer of immovable property by the revenue authorities for arrears of Government revenue. The period of limitation at present prescribed is one year. The Law Commission recommended that these two articles should be omitted, the items brought under the residuary article and that the period of limitation must be raised from one year to three years. Therefore, both these articles have been omitted and they have been brought under the residuary article and the period of limitation has been raised from one year to three years. So far as article 2 is concerned, I have already stated that the period has been increased from 90 days to one year. Of course article 2 has been dropped now and it has been incorporated in article 72 of the Bill. Then as I have also already stated in case of suits against Government for which it is 60 years now the period has been reduced to 30 years. These are the four articles, 14, 16, 2 and 149 which affect the Government and I have already stated the position as it now stands after the acceptance of the principles laid down by the Law Commission with minor variations. These are very briefly the principles that have been laid down by the Law Commission and the principles that have been accepted in this Bill. Of course, as is natural, as I have already said, following the acceptance of this principle, in some cases the period of limitation has to be enlarged and in some cases the period of limitation has to be cut down. And therefore there is also the residuary provision. It is well known that if any period is enlarged in case of limitation the principles governing section 6 of the General Clauses Act would apply and even if the period is extended, that

will not revive any barred claim. That will not extend the claim already barred but in cases where it has been restricted, where it has been cut down, it is only proper that no party should be aggrieved and that no injustice should be done to anybody. Therefore the residuary provisions will be made and they will be allowed either to file it within the period of limitation or to file it within a period fixed by law after the passing of this Bill into an Act. It is only natural and that has been incorporated in clause 29. Sir, I have broadly stated the recommendations of the Law Commission, the portions that have been accepted and the reasons for not accepting some of the portions and since this is going to a Joint Select Committee I need not dilate on all the particulars. The Bill will be considered by the Committee in a much better way—I have no doubt about it—and it will again come back to this House.

Sir, with these words I commend the motion for the acceptance of the House.

The question was proposed.

श्री निमलकुमार मन्न लालजी चौरडिया (मध्य प्रदेश) : माननीय उपसभाध्यक्ष महोदय, जो विधेयक प्रस्तुत किया गया है वह वास्तव में बहुत आवश्यक है। जब तक किसी बात पर किसी तरह का प्रतिबन्ध नहीं लगाया जाय तब तक उस की कोई सीमा रहती नहीं और विशेष तरह के विवाद हमेशा के लिये उत्पन्न होते रह सकते हैं, ऐसी संभावना रहती है। मनुष्य मर सकता है किन्तु वह झगड़ा जीवित रहे, अगर उस के लिये विवाद का कोई विधान न बनाया जाय। इसी आधार पर प्राचीन काल में भी इसके सम्बन्ध में स्मृति में नियम थे कि एक निश्चित अवधि के पश्चात् किसी मामले में किसी भी तरह का प्रश्न उठाया नहीं जा सकता था। इसलिये यह स्वाभाविक बात थी कि हमारे यहां अबोध के सम्बन्ध में कोई विधान जो पहले से चला आ रहा था उस

[श्री विमल कुमार मन्नालालजी चौरड़िया]

में आवश्यक संशोधन किये जायें और एक ही तरह का नया विधेयक प्रस्तुत किया जाय। यदि अवधि सम्बन्धी विधान न हो तो उसके अभाव में जो एक विश्वास हम जनता में पैदा करना चाहते हैं वह उठ जायेगा। अवधि के सम्बन्ध में इस तरह का कानून होने की वजह से लोगों में विश्वास पैदा होने के साथ साथ उन के जो झगड़े रहते हैं उनकी एक सीमा निर्धारित कर देने से, एक निश्चित अवधि कर देने से, वे झगड़े मिटाय जा सकते हैं और फिर हमेशा के लिये उनका निश्चिन्तता मिल सकती है। इसके साथ ही न्याय की दृष्टि से, यह भी अत्यन्त आवश्यक हो जाता है कि एक निश्चित अवधि के अन्दर ही साक्ष्य देने का अवसर मिल सकता है, क्योंकि उस अवधि के बाद ठीक तरह से साक्ष्य नहीं मिलती और कई तरह की गड़बड़ी हो सकती है। इस आधार पर भी इस तरह के विधेयक का प्रस्तुत किया जाना अत्यन्त आवश्यक था। इसके बारे में जो पुराना विधान था उसमें संशोधन करने के बारे में काफी समय से चर्चा चल रही थी। सन् १९२५ में भी इसके बारे में एक प्रश्न उठाया गया था कि इसमें किस किस का क्या क्या संशोधन देना है। उस समय भी इसके बारे में काफी संशोधन आये। और इस बारे में विधान आयोग जो नियुक्त किया गया उसने भी अपना जो प्रतिवेदन दिया उससे ऐसा लगता है कि हमारे उस विधान को ठीक तरह से बनाने के लिये शीघ्र ही या विधेयक प्रस्तुत किया जाना चाहिये था। १९५६ में ही उन्होंने विधेयक के बारे में प्रतिवेदन दे दिया था किन्तु दुख है कि हमारा शासन इस मामले में जरा सुस्त रहा और इतनी देर बाद इस तरह का विधेयक प्रस्तुत किया जा रहा है।

विधेयक के सम्बन्ध में मेरा निवेदन है कि न यह अपेक्षा करता था कि जैसा कि संविधान भी इच्छा है कि हमें धीरे धीरे अपनी भारतीय मेषाओं में ही सारी कार्यवाही करें, वैसे ही कम भारतीय भाषा में इस विधेयक की रचना

करते। जब हम सारे विधान को एक रूप देना चाहते हैं और नये रूप में प्रस्तुत करना चाहते हैं तो यह अत्यन्त आवश्यक है कि हम इस दिशा में भी कुछ सोचें और भारतीय भाषा में इसका उत्था हर, अपने जा सारे परिवर्तन थे, संशोधन थे, उनको सम्मिलित करके भारतीय भाषा में उसको प्रस्तुत करते, तो ज्यादा अच्छा होता। इसलिये मैं शासन से अपेक्षा करूंगा कि वह इस दिशा में भी प्रयास करे कि अपनी भारतीय भाषा में और भी जो विधेयक प्रस्तुत किये जाने वाले हैं, उनको प्रस्तुत करे।

विधेयक को अलग-अलग धाराओं में जो जानकारी दी गई है उसके लिये मंत्री महोदय धन्यवाद के पात्र हैं। किन्तु एक बात मुझे यह निवेदन करनी है कि नये विधान में जो संशोधन निहित है वे अगर इटैलिक्स में कर दिये जाते तो इस बात को समझने में आसानो रहता कि पुराने विधेयक में क्या विशेष परिवर्तन किये गये जो संशोधन के रूप में नये विधान में शामिल हैं। इस तरह से "इटैलिक्स" में लिखने की एक साधारण प्रैक्टिस मानो जातो है। जहां कहीं जिस धारा में संशोधन हुआ है उसको इटैलिक्स में लिख देते तो हमें बड़ा सुविधा हातो क्योंकि हमें दोनों कानूनों को सामने रख कर क्या क्या परिवर्तन किया गया है उस को देखना पड़ा। इसलिये मैं शासन का ध्यान इस ओर आकर्षित करना चाहूंगा और भविष्य में भी ऐसा ही होता रहे तो ज्यादा अच्छा होगा। जिन शब्दों में परिवर्तन करना है, जिन वाक्यों में परिवर्तन करना है या जिन धाराओं में परिवर्तन करना है, उस परिवर्तन को इटैलिक्स में लिखा जाय तो ज्यादा अच्छा होगा।

विधेयक में यह पढ़ कर मुझे बड़ा दुःख होता है कि इसका प्रथम धारा में लिखा है :

except in the State of Jammu and Kashmir

संविधान की जो धारा ३७० है उसके अनुसार यह आवश्यक है इसमें दो मत नहीं। किन्तु

मे इस अवसर पर शासन स निवेदन कर देना चाहता हूँ कि जब काश्मीर का हमारे साथ एक्सेशन हुए इतनी लम्बी अवधि हो चुकी और उस पर हस्ताक्षर कर्मा के हो चुके और भी सारी बातें हो चुकी तो फिर क्यों थोड़ा सा कंप्लीकेशन रह जाने की वजह से हमको हमेशा अपने कानूनों में यह लिखना पड़े कि : except in the State of Jammu and Kashmir इसके बारे में अगर शासन शीघ्र प्रयत्न करे और आगे ऐसा लिखने की नीयत नहीं आये तो बड़ा अच्छा होगा । अभी तक के हिसाब से यह लगता है कि काश्मीर वाले ऐसा कहने के लिये तो तैयार है कि हम भारत के अविभाज्य अंग हैं और भारत सरकार भी काश्मीर पर करोड़ों रुपये खर्च कर रही है, फिर भी हमारे संविधान की स्थिति ऐसी है। इस ओर इशारा करने के लिये ही मैंने यहाँ इस विषय पर प्रकाश डाला ।

इस के साथ ही साथ मेरा यह निवेदन है कि विधि आयोग ने बिल आफ एक्सचेंज, बॉन्ड्स और प्रामिसरी नोट्स की परिभाषा के बारे में कहा है कि इनको 'कान्ट्रैक्ट्स' से सम्बन्ध एकही आर्टिकल के अन्दर समाविष्ट करना चाहिये और इस तरह से थोड़ा सा आसान बनाना चाहिये । विधि आयोग ने अपनी रिपोर्ट के पेज २१ में स्पष्ट रूप से बतलाया है और वह इस प्रकार से है :—

"The definitions of 'promissory notes' 'Bill of Exchange' and 'Bond' need not be retained as we propose to consolidate all articles relating to Contract in one article, as a result of which these words will not find a place in the revised Act. The definition of the word 'Easement' may also be dropped if sections 26 and 27 are deleted as proposed by us".

तो मेरा यह निवेदन है कि उन्होंने इन तीनों परिभाषाओं को एक कान्ट्रैक्ट शब्द की परिभाषा से सम्बन्ध किया जैसे कि उन्होंने आने माडल बिल में प्रस्तुत किया है । उसके

आधार पर हमारी जो परिभाषाएँ हैं उनकी आवश्यकता नहीं रहती है । अगर वे माडल बिल के आधार पर इन बातों को देखते तो आज इस तरह के संशोधन की जरूरत नहीं होती ।

इसी चैप्टर में कान्ट्रैक्ट की परिभाषा के बारे में भी बतलाया गया है ।

"'contract' shall have the same meaning as in the Indian Contract Act (IX of 1872) and includes an obligation imposed by law to restore or to make restitution of any benefit derived by a person, on the basis of unjust enrichment."

तो इस के अन्तर्गत प्रामिसरी नोट्स और सब का हिसाब किताब आ सकता है । ऐसी स्थिति में जैसा कि उन्होंने सुझाव दिया है उस के अनुसार परिवर्तन करते तो ज्यादा अच्छा होता ।

अब प्रिस्क्राइड पीरियड के बारे में मेरा यह निवेदन है कि विधेयक में जो नोट्स दिये हैं और हमारे माननीय मंत्री जी ने इसके बारे में जो स्पष्ट रूप से बतलाया है और इस परिभाषा को बनाये रखा गया है । इस रिपोर्ट के पेज ३० में इस बारे में यह दिया हुआ है :

"The new definition of 'prescribed period' will make it clear that the period of limitation specified in the Schedule will have to be computed in accordance with the provisions of the Act,"

इस विधेयक में जो भिन्न-भिन्न धाराएँ हैं, जैसे, ३, ६, ११ और १७ हैं । उसमें "प्रिस्क्राइड पीरियड" का वर्णन आता है । किन्तु "प्रिस्क्राइड पीरियड" की जो अलग से डेफिनिशन नहीं दी गई है उस में वह इस तरह से दिया गया है "पीरियड आफ लिमिटेशन" और आगे उसी में "प्रिस्क्राइड पीरियड" का स्पष्टीकरण किया गया है विधि आयोग ने उसे रिप ट दी है और उसमें "प्रिस्क्राइड पीरियड" के बारे में अच्छी तरह से स्पष्टीकरण किया गया है । और वे

[श्री विमलकुमार मन्नालालजी चौरडिया]
 'प्रिस्क्राइड पीरियड' के शब्द को ले कर चले हैं। ऐसी स्थिति में मेरी समझ में नहीं आता कि जब विधि आयोग ने एक डेफिनिशन रख दी थी तो उस को मानने में कौन सी कठिनाई आ रही है जिस की वजह से यह चीज नहीं रखी गई है। "प्रिस्क्राइड पीरियड" के शब्द को तोड़ कर के रखना मुझे प्रिय नहीं लगता है और इस बारे में मैं यह कहना चाहता हूँ कि अगर सिलेक्ट कमेटी इस बारे में विचार करेगी तो बहुत ज्यादा अच्छा रहेगा।

विधि आयोग ने अपनी रिपोर्ट के पेज ७३ में यह लिखा है :

" 'Prescribed period' means the period of limitation prescribed for any suit, appeal or application, as the case may be, and computed in accordance with the provisions of this Act."

यह परिभाषा ज्यादा अच्छी है बजाय "पीरियड आफ लिमिटेशन" के नाम रखने के। इस के अन्तर्गत "प्रिस्क्राइड पीरियड" का भी स्पष्टीकरण किया गया है। इस विधेयक की परिभाषा में "पीरियड आफ लिमिटेशन" का जो प्रारम्भिक शब्द रखा गया है वह नहीं रखा जाना चाहिये था। ऐसी स्थिति में मैं कमेटी के सदस्यों से प्रार्थना करूँगा कि वे इस बारे में विचार करें और जैसा कि विधि आयोग ने मुझाव दिया है और हमारे माननीय मंत्री जी ने जो नोट्स में दिया है, उस के आधार पर इस चीज को बिल में रखने की कोशिश की जायेगी।

अब मुझे बिल की धारा "३" के बारे में कुछ निवेदन करना है। बिल में जो धारा "३" रखी गई है वह पुराने कानून के अनुसार वैसी की वैसी ही है और उस में कोई संशोधन नहीं किया गया है। किन्तु मेरा निवेदन यह है कि पुराना कानून जो अंग्रेजों के जमाने से चला आ रहा है उस में इस तरह का प्राविजन है कि एक निश्चित अवधि के बाद कोई दावा प्रस्तुत करता है तो वह अपने आप न्यायालय

द्वारा निरस्त कर दिया जायेगा। लेकिन मेरा कहना यह है कि इस तरह का प्राविजन होने के बावजूद हमारे यहां कुछ लोग ऐसे ईमानदार हैं कि वह इस प्राविजन का आधार नहीं लेना चाहते हैं और वादे की अवधि के बाहर भी भुगतान करना चाहते हैं।

लेकिन कुछ लोग ऐसे भी होते हैं जो वादे की अवधि समाप्त होने के बाद भुगतान करना नहीं चाहते हैं उन को लाभ मिल सकता है। इस बिल में जो धारा इस सम्बन्ध में रखी जा रही है वह मुझे प्रिय मालूम नहीं होती है। हम अप्रत्यक्ष रूप से लोगों के मन में यह भावना पैदा करते हैं कि तुमको कानून द्वारा यह अधिकार प्राप्त हो गया है कि किसी का पैसा ले कर हजम कर लो चाहे वह आदमी कितना ही ईमानदार क्यों न हो और अपना भुगतान करना चाहता हो। आप इस कानून द्वारा आदमियों को अधिकार दे रहे हैं कि तुम उनको सत्य के कहे बगैर ही दूसरों का भुगतान मत करो। इसलिये मेरा निवेदन यह है कि हमारे लोगों में इस तरह की नैतिकता रहनी चाहिये कि अगर वादे की अवधि खत्म भी हो गई है और उस आदमी की इच्छा देने की है तो उस को कानून द्वारा नहीं रोका जाना चाहिये। इस बिल में यह दिया हुआ है :

"3(i). Subject to the provisions contained in sections 4 to 23 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence."

इससे यह मालूम पड़ता है कि अगर कोई आदमी अपना रुपया वसूल करना चाहता है और अवधि के बाहर हो गया है तो इस एक्ट के द्वारा उसका दावा निरस्त कर दिया जायेगा, प्रतिवादी को जवाब प्रस्तुत करने का मौका नहीं दिया जायेगा। मेरा यह निवेदन है कि इस प्रश्न के बारे में

सेलैक्ट कमेटी अच्छी तरह से विचार करेगी और इस में इस तरह की चीज लिखेगी कि जब तक वह स्पेसिफिकली अपने दावे में यह मेन्शन न करे कि यह मुकदमा अवधि के बाहर हो गया है तब तक वह उसको मौका न दे, यह ठीक नहीं लगता है। अगर हम ऐसा करते हैं तो मेरा ख्याल है कि अगर कोई वादा थोड़ा सा भी अवधि के बाहर हो जायेगा तो लोगों में हजम करने की वृत्ति पैदा होगी और इससे हमारा नतिक स्तर गिर जायेगा। इसलिये मेरी प्रार्थना है कि सेलैक्ट कमेटी के सदस्य इस बात की ओर अवश्य ध्यान देगे और जो बात विधि आयोग ने इस सम्बन्ध में दी है उसको अपनायेगे।

अब धारा ३(२) के पहले क्लॉज में जो यह दिया हुआ है :

3(2) (a) (i) "in an ordinary case, when the plaint is presented to the proper officer."

अब यह जो प्रापर आफिसर का जहां तक सवाल है, तो presented to the proper officer, presentation personally or duty authorised agent द्वारा हो सकता है या फिर पोस्ट द्वारा हो सकता है। कुछ न्यायालय तो पोस्ट द्वारा प्रस्तुत कम्प्लेंटों तथा अपीलों को एडमिट कर लेते हैं और कुछ नहीं करते हैं। हमको निश्चित करना है कि पोस्ट द्वारा कम्प्लेंटों को, अपीलों को और सूट्स को प्रापर्टी एडमिट माना जाना चाहिये या नहीं। मेरा मध्य प्रदेश का अपना तजुर्बा है कि एक हाईकोर्ट जज ने पोस्ट द्वारा भेजी गई कम्प्लेंट को एडमिट कर लिया। मेरा नम्र निवेदन यह है कि पोस्ट द्वारा दावा भेजने में किसी प्रकार की कठिनाई नहीं होती है और इससे व्यर्थ का जो खर्च आर्थ राइज्ड एजेंट द्वारा करने में होता है उससे

बचा जा सकता है। अगर हम इस तरह की व्यवस्था कर देते हैं कि पोस्ट द्वारा भी लोग अपना दावा या कम्प्लेंट भेज सकते हैं, रजिस्ट्री पोस्ट द्वारा भेज सकते हैं, तो ज्यादा लाभदायक होगा। अगर इस बारे में भी सेलैक्ट कमेटी विचार करेगी तो ज्यादा अच्छा होगा।

3 P.M.

इसके बाद विधेयक की धारा ६ में दो तीन जगह "टाइम स्पेसिफाइड" आया है। मैं कोई विशेष कानून का जानने वाला नहीं हूँ। किन्तु एक तुलनात्मक दृष्टि से देखा जाय तो "प्रिस्क्राइब्ड पीरियड" की अपेक्षा "टाइम स्पेसिफाइड" कुछ ठीक लगता नहीं। "टाइम स्पेसिफाइड" रहे तो मुझे कोई आपत्ति नहीं है, किन्तु अगर कमेटी में प्रिस्क्राइब्ड पीरियड पर विचार किया जाय तो उचित होगा।

इसके साथ-साथ धारा ११ में यह है :

"Suits instituted in the territories to which this Act extends . . ."

हम धारा १ में स्पष्ट कहते हैं कि यह कानून किस को लागू होगा।

धारा १ (२) इस तरह से है।

"It extends to the whole of India except the State of Jammu and Kashmir."

जब हम कहते हैं "होल आफ इण्डिया", तब हमारे यहां कोई पुर्तगाल की बस्ती रही नहीं जिसके आधार पर इण्डिया में पुर्तगाल वालों के लिये अलग कानून बनाना पड़ेगा और जब ऐसी स्थिति रही नहीं तब यहां पर हमको "in the territories to which this act extends." की अपेक्षा "इण्डिया" शब्द उपयोग में लाना चाहिये और उसमें कोई संशय का स्थान

[श्री विमलकुमार मन्नालालजी चौरडिया]
नहीं होना चाहिये। यदि सिविकम, भूदान वगैरह को हम अपनी टैरिटरीज मान करके और उनमें से कुछ इंडिया मान करके हम उनको टैरिटरीज कहना चाहते हैं तो यह बात दूसरी है। इसलिये मेरे नम्र मत में धारा १ (२) में "टैरिटरीज" की जगह सारा संशोधन करना पड़ेगा और उसके अनुसार इण्डिया शब्द उपयोग में लाना ज्यादा अच्छा होगा।

धारा ११ का भाग (३) तो मैं अनावश्यक समझता हूँ। यह कानून वहाँ पर लागू होने वाला नहीं है। पहली धारा में उसका उल्लेख किया जा चुका है। फिर भी उसके लिये एग्जम्प्लान चाहिये तो जैसा आप ठीक समझे वैसा करे, पर मेरे मत में उसकी कोई आवश्यकता नहीं है।

धारा १८ करीब करीब पुराने सैक्शन २० के अनुसार है। मगर आखिरी एक्सप्लेनेशन में जो "डैट" की परिभाषा दी गई है, उसमें पुरानी जो "डेट" की परिभाषा थी उसके विपरीत "डैट" की परिभाषा दी गई है जो इस प्रकार है :

"'debt' does not include money payable under a decree or order of a court."

पहले उसमें "नॉट" शब्द नहीं था। उसमें इंकलूड किया जाता था। मेरा यह नम्र निवेदन है कि जहाँ तक मुझे जानकारी है अभी तक हमारे यहाँ मध्य प्रदेश में मंगीलेडर्स ऐक्ट, डैट कंसिलिएशन ऐक्ट, एग्रीकल्चरल डैट रिलीफ ऐक्ट वगैरह जितने इस सम्बन्ध में कानून हैं, उन सब में "डैट" की वही परिभाषा दी गई है जो कि पुरानी अवधि के विधान में थी। ऐसा स्थिति में एक नई परिभाषा हमने जोड़ करके उसके सारे आशय को बदलने का प्रयत्न किया है। हमारा यह आर्जेंट जरूर है कि अगर कोई डिफ़ी होल्डर है और वह

अपनी डिफ़ी अपने पास रखता है तो उस के लिये १२ वर्ष की अधिक से अधिक अवधि है जिसके अन्दर उसको वसूल कर लेना चाहिये उसके बाद वह समाप्त हो जाती है। उसमें लाभ और हानि दोनों हैं। लाभ यह है कि १२ साल के बाद वह डेमाक्लीज सोर्ड के सरीखे उसके ऊपर हँग करेगी नहीं, मगर उसमें नुकसान यह है कि आज डिफ़ी होल्डर और जो जजमेंट डैटर है, उनके बीच में आपसी सम्बन्ध के कारण वह लम्बा करने का प्रोसीजर है कि किसी तरह से कजदार की इज्जत न बिगड़े और पैसा वसूल हो जाय। इसके आधार पर कम्प्रोमाइज करके, फिर से नई अवधि प्राप्त करने के लिये पुराने विधान का आर्टिकल १८० या १८२ है। उसमें "डैट" की परिभाषा के तहत जो रुपया मिल जाता था, वह रुपया हम देना नहीं चाहते। उस के जो रिपरकशंस होंगे, वे मेरे ख्याल से ठीक नहीं होंगे। इसलिए हम को इस बात पर पुनर्विचार करना चाहिये कि अभी तक भिन्न भिन्न ऐक्ट्स में जो हम "डैट" की परिभाषा देते आ रहे हैं उससे लोगों को कितना लाभ मिलता आ रहा है। अगर यह प्रतिबन्ध लगा दिया गया कि १२ साल के अन्दर अन्दर रुपया वसूल करना है तो परिणाम यह होगा कि डिफ़ी होल्डर, जजमेंट डैटर का भयंकर से भयंकर नुकसान करके और उसकी इज्जत बिगड़वा करके उससे रुपया वसूल करने का प्रयत्न करेगा। ऐसी अवस्था में इस पर विचार करने की अत्यन्त आवश्यकता है।

इसके साथ साथ धारा २३ में ग्रेगोरियन कैलेंडर का उल्लेख आया है। पिजडे के तोते को आत्माराम शब्द सिखा दिया जाय तो वह हमेशा आत्माराम आत्माराम कहता रहता है और अगर उसको बाहर निकाल दिया जाय तो वह फिर पिजडे में बैठना चाहता है। इसी प्रकार अंग्रेज चले गये, लेकिन अब भी हम पुरानी बातों को चला रहे हैं। तो मेरा नम्र निवेदन है कि हमारे यहाँ शासन ने शकान्द

मान लिया है और चाहे आप शकाब्द रखिये, चाहे विक्रम संवत् रखिये, इसमें हमें कोई आपत्ति नहीं है, लेकिन अंग्रेजों के चले जाने के बाद हमें उनको परंपराओं को तोड़ना चाहिये। आज अवस्था यह है कि न हम से अंग्रेजी छूट रही है और न ग्रेगोरियन कैलेंडर छूट रहा है। इसके बारे में विचार करके यदि हम शकाब्द का कैलेंडर रखें, जिस को शासन ने मान लिया है, तो उसमें कोई कठिनाई होने की बात नहीं लगती है।

DR. NIHAR RANJAN RAY (West Bengal). There is no English era as such.

श्री बिमलकुमार मन्नालालजी चौरङ्गिया :
यह ग्रेगोरियन कैलेंडर किस के द्वारा थोपा गया है ?

THE MINISTER OF LAW (SHRI A. K. SEN): That is Christian era.

श्री बिमलकुमार मन्नालालजी चौरङ्गिया :
मेरा मतलब यह है कि चाहे क्रिश्चियन एरा मान करके उसको चलाया जाय . . .

श्री ए० के० सेन : उन्होंने बताया है कि वह इंग्लिश एरा नहीं है।

श्री बिमलकुमार मन्नालालजी चौरङ्गिया :
मैं अपने आपको सुधार लेता हूँ अगर आप कुछ गलत समझते हैं और जो आपने सुझाव दिया उसके लिए धन्यवाद। किन्तु मेरा यह निवेदन है कि क्रिश्चियन कैलेंडर को हमारे यहाँ बहुत कम लोग मानते हैं। जानते तो सब हैं मगर मानते कम हैं। ऐसी स्थिति में मेरा यह नम्र निवेदन है कि इसके बारे में भी विचार करके हमारे शासन द्वारा जो शकाब्द कैलेंडर मान्य किया गया है, उसके अनुसार अगर इसमें परिवर्तन किया जायेगा तो ज्यादा उचित होगा।

इसके साथ साथ धारा २७ के द्वारा आप ईजमेंट्स ऐक्ट और सिविल प्रोसीजर कोड को अमेड कर रहे हैं। मेरा यह निवेदन है कि जैसे तो हमको अधिकार है कि इसके तहत हम जिस कानून को चाहें, उसको अमेड कर सकते हैं, पर यह कानून का ठाक व्यवस्था नहीं लगती। हमें चाहिये कि अगर हम इसके परिणामस्वरूप किसी कानून में परिवर्तन करना हों तो हम उसके लिए अलग से अमेडमेंट विधेयक लाकर के उस में संशोधन करें। यह नहीं होना चाहिये कि ईजमेंट्स ऐक्ट में संशोधन देखने के लिए लाइमिटेशन ऐक्ट को देखना पड़े या किसी दूसरे ऐक्ट को देखना पड़े। इसलिए मेरा यह नम्र निवेदन है कि अगर आप को यह संशोधन लाना है तो इसको इसमें न रख कर के, दोनों कानूनों में जो परिवर्तन आप करना चाहते हैं उनको अगर आप अलग से लाने की कृपा करें तो ज्यादा अच्छा होगा। हमारे विधि आयोग ने इसके बारे में सुझाव दिया है कि हमें ईजमेंट्स ऐक्ट को सारे भारतवर्ष के लिए लागू कर देना चाहिये। मगर जो इसमें लिखा है नोट्स में उसमें हमारे मंत्री महोदय द्वारा यह बताया गया है :

"The Indian Easements Act, 1882, which extends only to a few States, deals exhaustively with the law relating to easements and licences, their acquisition, transfer etc., and in pith and substance is a law relating to rights in or over land (an entry in the State List) and therefore it is not possible by a Parliamentary law to extend that Act to those parts of India to which it does not now extend."

इसके बारे में मेरा यह नम्र निवेदन है कि यदि हम सब पार्लियामेंट के सदस्य यह जानते हैं कि ईजमेंट्स ऐक्ट का भारतवर्ष के प्रत्येक हिस्से पर लागू करना अत्यन्त आवश्यक है तो इसमें कोई कठिनाई नहीं पड़ सकती कि हम अपने संविधान में परिवर्तन करके स्टेट लिस्ट से इसको यूनियन लिस्ट में कर दें। इसमें कोई

[श्री विमलकुमार मन्नालाजी चौरड़िया]

बड़ी दिक्कत नहीं होगी मगर हम एक कम्पैक्ट लॉ, सारे देश में एक सरीखा लॉ लागू कर सकेंगे। हम जो देश में आज भावात्मक एकीकरण का नारा लगाते हैं, उसको प्राप्त करने के लिए यदि हम कानूनों का सहारा लेना चाहते हैं, तो उसके लिए यह अत्यन्त आवश्यक है, जैसा कि विधि आयोग ने सुझाव दिया है कि ईजमेंट्स ऐक्ट को हमें सारे भारतवर्ष में लागू कर देना चाहिये चाहे उसके लिए हमें संविधान में परिवर्तन करना पड़े और उसके आधार पर इसमें परिवर्तन करने की आवश्यकता नहीं है।

इस प्रकार जो शासन ने दलील दी, उसके बारे में मैंने निवेदन किया। अब एक प्रश्न धारा २६ के बारे में आता है कि धारा २६ के द्वारा अचल गिरवी सम्पत्ति के सम्बन्ध में ६० साल के स्थान पर ३० साल कर दिया गया। विधि आयोग ने अपने सुझाव में १२ साल की अवधि देना सुझाया है। शासन की ३० वर्ष की मान्यता से मैं सहमत हूँ किन्तु जो प्राविजो दिया वह स्पष्ट नहीं हो सका है। मैं मंत्री महोदय से प्रार्थना करूँगा कि वे इसको स्पष्ट करें। मान लीजिये किसी आदमी ने पुराने कानून के तहत ५८ वर्ष किसी को मकान गिरवी रखा होगा और पुराने कानून के अनुसार वह केवल दो वर्ष के बाद उसको छुड़ा सकता है, परन्तु आपका नया कानून आने के पश्चात् उसको दो वर्ष की अपेक्षा १२ वर्ष मिल जाते हैं, दस वर्ष अधिक मिल जाते हैं इसमें जो प्राविजो दिया गया है पेज १३ पर उसके अनुसार। मैंने दो, तीन और विद्वान वकील भाइयों से भी इसके बारे में चर्चा की तो इसके बारे में मेरी जो शंका है उसका वे भी समाधान नहीं कर पाये। इसलिये मैं मंत्री महोदय से जानना चाहूँगा कि पेज १३ पर धारा २६ के अन्तर्गत जो उन्होंने प्राविजो दिया है, उसके तहत जो १२ साल या ३० साल whichever

is later रखा है उसका क्या मतलब है।

प्राविजो ऐसा है :

“Provided that a suit to redeem or recover possession of any immovable property which has been mortgaged may be instituted within a period of twelve years next after such commencement or within a period of thirty years from the date of accrual of the right to redeem or recover possession, whichever period expires later;”

तो यह “लेटर” शब्द आने की वजह से ६० साल में अर्थात् ५८ वर्ष के २ साल के बाद उसको जो छोड़ने को था वह नहीं होगा। हम चाहते हैं कि उसका समय ६० साल के बजाय ३० साल करे, मगर इस प्राविजो में कुछ शब्द ठीक न होने की वजह से उसको २ साल की जगह १२ साल का अधिकार मिल रहा है। यह मुझे ठीक नहीं लगता है और इसके बारे में भी अगर कमेटी विचार करे तो उचित होगा।

इसके साथ साथ, इसमें बहुत से अनुच्छेद में परिवर्तन किये हैं। बहुत में अच्छा भी किया है और कुछ में विधि आयोग की राय मानी है और कुछ में नहीं मानी है। सब तरह की बातें हैं। जो अच्छा है उसके बारे में तो मैं अपने शासन की प्रशंसा करता हूँ कि उन्होंने ठीक विचार कर के उसमें परिवर्तन किया। उदाहरण के लिये, “for wages in the case of any other person” के लिये पहले १ साल था और अब ३ साल दे दिया है। इन छोटे छोटे मामलों में गरीब लोगों को जो नौकरी करते थे सचमुच बड़ी तकलीफ मिलती थी। देने वाला, नौकर रखने वाला, बातों में ही एक साल टाल देता था, कल दे देगे, परसों द बंग, अगली एक तारीख को दे देगे। तो यह तीन वर्ष की अवधि दे कर के बहुत राहत दी है। ७ स लेकर ११ तक के जो नये अनुच्छेद दिये हैं वह सचमुच उन लोगों के लिये बहुत लाभदायक होगा और यह अच्छा है। इसी

तरह से अनुच्छेद ५७ है। अनुच्छेद ५७ में यह है —

“To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.”

यह पुराने आर्टिकल्स ६२ और ११८ से मिलता-जुलता है। इस में पहले जो ६ वर्ष की अवधि थी उसको तीन वर्ष की कर देना सचमुच लाभदायक रहेगा नहीं तो व्यर्थ में ही ६ साल तक डेमोकलीज की सोर्ड किसी के सिट एंड जस्टिस रहे यह ठीक नहीं लगता है और तीन साल की अवधि कर के आपने ठीक किया है। इसी तरह से आर्टिकल ६० में जो उसको क्वालिफाई कर दिया है, अवधि तो वही रखी है मगर जो स्पष्टीकरण कर दिया है वह अच्छा किया है। इस में यह है to set aside a transfer of property made by the guardian of award—और (ए), (बी), (i), (ii) वगैरह कर के जो इसका स्पष्टीकरण किया है यह सचमुच अच्छा किया है और इस में कोई और विशेष सशोधन की आवश्यकता रहती नहीं है। इसी तरह से अनुच्छेद ६१ और ६३ में जो ३० वर्ष की अवधि के बजाय १२ वर्ष किये हैं और ६० वर्ष की अवधि के बजाय ३० वर्ष किये हैं वह ठीक है। लॉ कमीशन ने केवल १२ वर्ष का सुझाव दिया है लेकिन एकदम से ६० साल के बजाय १२ वर्ष करना ठीक नहीं लगता है। इसको हम ग्रेजुअली चेज करे, फिर थोड़े वर्षों के बाद आवश्यकता हो तो इस ३० साल की जगह १२ साल कर सकते हैं लेकिन एकदम से ६० साल की जगह १२ साल करना ठीक नहीं है। इस बारे में कोई हार्ड एंड फास्ट लाइन बना कर नहीं चला जा सकता है और इसीलिये ६० साल के बजाय ३० साल और ३० साल की जगह १२ साल—एक बीच का मार्जिन रख कर के—जो किया है वह ठीक किया है।

अनुच्छेद ७२ में ६० दिन के बजाय १ वर्ष रख दिया है। यह तुलनात्मक दृष्टि से

ठीक किया है मगर इस सारे मामले में—७२ से ले कर ६१ तक जो भी अनुच्छेद “Suits Relating to Tort” के हैं इन के बारे में लॉ कमीशन ने ३ वर्ष की अवधि का सुझाव दिया है और हम ने यहाँ पर कहीं १ वर्ष रखा है, कहीं कहीं २ वर्ष रखा है और कहीं कहीं तीन साल भी रखा है तो मेरा यह निवेदन है कि इस सब के लिये—जैसा कि लॉ कमीशन का सुझाव है उसके अनुसार—तीन वर्ष कर देते तो कोई कठिनाई नहीं होती और उससे लोगों को सुविधा ही होती। जैसे कि “for compensation for false imprisonment” है। अब false imprisonment के बारे में दावा करने के लिये कई तरह का एक्जिस्ट क्लेवट करना पड़ता है और उस में काफी समय लग जाने की सम्भावना होती है। ऐसी स्थिति में अगर हम १ वर्ष के बजाय ३ वर्ष करें—१ वर्ष तो पहले भी था—तो अगर इसको ३ वर्ष करे तो ज्यादा अच्छा होगा। इसी तरह से और भी आर्टिकल्स हैं और उनके बारे में मेरा यह नम्र निवेदन है कि इस तरह से अगर सशोधन किये जायेंगे तो ज्यादा अच्छा होगा।

अन्त में, मेरा शासन से यह निवेदन है और सेलैक्ट कमेटी से यह निवेदन है कि इन सब बातों को शान्तिपूर्वक देख कर के जो सुझाव मैंने दिये हैं और जो प्रश्न शासन के समक्ष रखे हैं उन पर गम्भीरतापूर्वक विचार करके और आवश्यक सशोधन कर के ठीक स्वरूप का एक विधेयक प्रस्तुत करेंगे तो उचित होगा।

SHRI P. RAMAMURTI (Madras):
Mr Vice-Chairman, Sir, I do not want to go into all the technical questions that have been taken up by the previous speaker. I do not know how far many of them are correct but only I would very much wish that he had not dragged in this question of the Christian era. The majority of the

[Shri P. Ramamurti.]

population of this country is not Christian. I wish that communalism is not brought in even in a matter concerning the number of years. After all, it is a fact that a majority of the people of our country, rightly or wrongly, have now come to reckon with the present system of Christian era I know; as a matter of fact, in my own State, an overwhelming majority of the people, whether they live in villages or in towns, know only this. If you just go and talk to them about the various types of calendars, many of them do not know anything about them. A new generation has come up and in such a condition, for us to talk in terms of the Christian era or to bring in the idea of communalism when it is a question of reckoning with the year, I think, is very reprehensible and this is not a very happy thing. It is going to make matters still worse if you talk in terms of the Christian era and other things. Somebody here will say, "We will have the Vikrami era." The Government of India has got the Saka era. Then somebody from the South will say, "We will have our own Salivahana era." Are we going anywhere by this kind of talks? This is a simple Bill which is dealing with the question of limitation. Going out of context and bringing in this question because the year is also mentioned there is something which I consider absolutely reprehensible.

Now, I would like to deal with one or two other points. I am not going into the details of this measure but from a layman's point of view, two or three things struck me as very strange, and I hope the Select Committee will look into them. For example, in clause 6 on page 4 dealing with the question of limitation for filing suits or making applications, it is said—

"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 . . ."

I underline these words "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 . . ."

Quite right. I agree with the principle underlying it. But later on, when you come to clause 9, it is stated—

"Where ~~once~~ time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it."

I would like to point out the anomaly by taking a concrete illustration. For example, in the Schedule on page 23 there is Part VIII, that is, suits relating to trusts and trust property. I have taken an extreme example. The first thing there is "To recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration." Then, twelve years is the limitation. It begins when the transfer becomes known to the plaintiff. Suppose I am entitled to a trust property. Suppose, somebody has been appointed trustee. Now, if that somebody who has been appointed trustee contrary to the provisions of the trust deed, conveys or transfers a part of that immovable property to somebody else illegally—it is obviously an illegal transaction—and I come to know of it, say, about five years later, then from the time I come to know of that illegal transfer by the trustee, I am entitled to institute a suit for the recovery of that immovable property within a period of twelve years. That is the meaning of that. Now, if I happen to be an insane man at the time when I come to know of that, then I will be given twelve years after my insanity is removed. The twelve years time is there, that is, the twelve years time will then be reckoned after my disability is totally removed. Thus, again that limitation time is there; after

my disability is removed, then I have got twelve years time; this limitation period is reckoned from that time. But then, under clause 9 what happens? Under clause 9 what happens is, supposing I have got that twelve-year time and on the second day I become insane. Supposing, I come to know of it on 1st January, and on the 3rd January or 4th January I become insane, then what happens? In that case I have no option, and that is the meaning of this kind of thing. Therefore, I am taking an extreme example and pointing out to you how an anomalous position is created as a result of this clause. Therefore, I hope the Select Committee will look into it. I hope this is not the intention also. It is a question of common sense; I am looking at it purely from the common-sense point of view; I am not a lawyer; I have gone into the whole question only from the point of view of common sense, and therefore I feel that this limitation, that this clause which says:

"Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it."

is obviously an unreasonable clause; it is not a just clause; somewhere it has got to be properly amended so that justice is done to those people who might run into any of these disabilities some time after the day from which the period has got to be reckoned. Therefore, I hope the Select Committee will look into that.

There is another question also which I would like to point out. Take, for example, the matter of appeals—page 26; appeal from an order of acquittal. Obviously, these deal with criminal cases; the time is ninety days, that is, ninety days time is given to the Government. Obviously, it is the Government that will be appealing, the prosecution that will be appealing, against the acquittal by a court. So ninety days time is given to the Government to decide whether the acquittal, in its opinion, has been correct

or, in its opinion, even if correct, has been prudent or expedient, and if it feels that the acquittal is incorrect, or, even if correct, it is inexpedient, then the Government is given ninety days time in order to make up its mind for filing an appeal against the acquittal by the court. But then, when we come to 115 on the same page, it says:

"115. Under the same Code to any court from a sentence or order not being an order of acquittal or under the Code of Civil Procedure, 1908," . . .

It means that when the person who has been convicted has got to make an appeal or has got to file a revision petition to a higher court, in that case the time given to him is just thirty days. I do not think that there should be an invidious distinction made between the person who has been convicted and the Government in this matter. I do not find any reason at all why the Government should take ninety days time in order to make up its mind on this question. On the other hand, I would have expected that, once a person has been acquitted by a court, there should not be the least amount of suspense. If the Government has got to take ninety days, then during the entire period of ninety days this man will be going about not knowing whether the Government is going to appeal against his acquittal, and all that. Why keep the Sword of Damocles hanging over his head for such a long time? On the other hand, the Government, with all its machinery, with all its legal advisers, should not take that much time. After all, the prosecution has been dealing with that prosecution for such a long time; the prosecution knows about it, and if the prosecution feels, if the police feel that this is a matter which has got to be appealed against, then they can immediately rush to the authorities concerned, to the higher authorities concerned, and get their sanction for an appeal. Therefore, they can very quickly make up their mind to appeal against the acquittal. That is why I

[Shri P. Ramamurti.]

say that this ninety days must be reduced to thirty days, and in the case of a person who has been convicted, the time must be increased. After all it is not just a question of filing an appeal in their case since the majority of the people of our country happen to be unfortunately poor people. They cannot go to the lawyers; they cannot find the requisite money and all that. Even to find the requisite money takes some time. Therefore, in the case of persons, who have got to make an appeal against their conviction, a greater amount of time has got to be given so that justice is shown to them. Otherwise, on the basis of just want of time, on the basis of this limitation I do not want that injustice should be done to them. Therefore, in such cases there must be a greater opportunity for the person who has been convicted. This is what I would like to point out and I hope the Select Committee would also look into the human aspect of this. I am putting it not from a legalistic aspect. Whatever might have been the provision here before, hereafter at least we have got to look at the question from the human point of view, and from that humanistic point of view I feel that a greater amount of time must be given to the convicted persons, because the majority of those who happen to be convicted by the various courts happen to be poor persons, and they must be given sufficient time to prefer an appeal against their conviction.

Then, Sir, there is one other point which I would like the Select Committee also to look into. Now, quite apart from these courts there is also a number of administrative tribunals in our country, for example the labour tribunals; many of these things are there. Now in their case what happens? There are their judgments or whatever you may call them—the orders. It is not made incumbent on the parties to be present before the tribunals. It oftentimes happens that these orders are passed or pronounced in the absence of the parties concern-

ed. Therefore, there must be clear provision in this thing that in the case of these administrative tribunals the time should be reckoned not from the date of the pronouncements of those orders or judgments or decrees or by whatever name they are called, but from the time when the party concerned is made aware of it. It may be by means of the registered post; the order might be sent by registered post and all that, but it must be made absolutely clear that the time will be reckoned, in the case of these pronouncements by these administrative tribunals, only from the time when the party concerned is made aware of such orders.

These are the three points which, broadly speaking, when I had just looked into the provisions, struck me as rather queer, and therefore something has got to be done by way of justice to the vast number of people who are concerned in these appeals, both civil as well as criminal.

Thank you, Sir.

SHRI K. S. RAMASWAMY (Madras): Mr. Vice-Chairman, Sir, I welcome the Limitation Bill, 1962. The object of the Bill is to implement the suggestions in the Third Report of the Law Commission with regard to the Indian Limitation Act, 1908. This Bill is certainly an improvement on the existing Act. There is a better classification of clauses and the arrangement of articles is more rational and intelligible. It would be very easy for lawyers as well as laymen to follow this proposed Act in comparison to the present Act in force.

Sir, while I welcome this Bill, I want to point out one or two lacunae and to suggest some improvements which, I think, can be incorporated in the Bill, and it is for the Select Committee to do it. First of all, I think that this Bill can be extended to the State of Jammu and Kashmir. Maybe that with regard to other legislation that deal with customary laws etc. there should be exemptions in their case, but this is purely a procedural law, and there need be no difference between the different States

Union with regard to procedural matters. So it would be desirable if the President extends this Act to the State of Jammu and Kashmir also.

In view of the conflicting decisions given by the various High Courts, and with the experience gained with the passage of time, many new clauses and sub-clauses are introduced in this Bill. For instance, the explanation given in clause 2, in sub-clause (1)(ii), namely,

"any person whose estate is represented by the plaintiff as executor, administrator or other representative,"

is certainly an improvement and it will solve the many difficulties that will come up before the courts.

In the same way in sub-clauses 2(e)(i) and 2(e)(ii) also there are certain explanations given.

Then, Sir, in clause 6 an idiot is also included, along with "a minor or insane" to institute suits after the disability is removed; when the idiocy is incurable and the idiot cannot institute a suit at any time, after the death of the idiot, his successors can institute the suit. But here idiots are added in this clause which, I think, looks odd and should be removed. A separate sub-clause should be introduced with regard to idiots after the death of whom the limitation can be given to the successors or heirs. Also clause 8 says:

"Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application."

These three years can be incorporated in clause 6(1) as a proviso; otherwise it may give rise to much confusion. In the present Act of 1908 section 13 says that in the case of people who are outside the country when limitation starts, that period is not to be included. That section has been omitted here. It would be better if the period spent outside India is not included in the period of limitation. A new clause should be added to that effect.

Then there is Part IV which deals with "Acquisition of Ownership by Possession". I think clauses 24, 25 and 26 deal with substantial law which creates right in or over any land, and are contained in another Act. This Limitation Act deals with only procedural law. I do not know why a clause which deals with substantial law should be introduced in this Bill.

In this connection I should like to quote from the Constitution. Item 18 of the State List in the Seventh Schedule says:—

"Land, that is to say, rights in or over land, land tenures including the relation of land-lord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization."

But List III, which is Concurrent List, in item No. 13 says:—

"Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration."

Therefore, the Centre has got the right with regard to procedure but it has no right to create rights in or over any land. Therefore, it looks as if these clauses are going to create anomalies.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Vice-Chairman, Sir, it was felt for a long time that the Limitation Act of 1908, which had certain amendments, deserved reconsideration in all its aspects. With this object in view, not only regarding this Act but regarding all the Acts that are at present in force, after independence we appointed a Law Commission to revise all our laws. Sir, the Law Commission went into this matter in very great detail and referring to certain basic principles that have been adopted and certain amendments that have been suggested by the Commission of Revision appointed in the United Kingdom, they have gone through the whole enactment and suggested certain modifications not only in sections but also in articles. I am very glad that the Law Ministry has brought forward the Bill on the basis, as the Deputy Law Minister has pointed out, that they have not followed the recommendations of the Law Commission but, in general, they have adopted the recommendations of the Law Commission in most of its aspects.

Sir, as this matter is to be entrusted to the Joint Committee of both the Houses it will have the benefit of the deliberations of all those Members who are in the Select Committee and so, generally speaking, neither is this the occasion nor the practice to go into details but we can just suggest certain general matters so that the Select Committee may take them into consideration while deliberating in detail on the different provisions of this Bill.

Sir, in view of my experience as a lawyer I feel that the Law of Limitation is a procedural matter except in certain sections where it confers definite rights on account of possession or certain other matters. We have to see that the matters that are disputed or are under litigation are disposed of in as short a period as possible. The trend everywhere, I am not speaking of the Communist countries where

they have simplified the matter to a considerable extent but even in countries like the U.K. or the U.S.A. where they follow this system, is that the people should not be kept in suspense either before litigation or after litigation. So my humble suggestion to the Members of the Select Committee will be to see that the course of litigation is as much circumscribed, as much reduced as is possible in consonance with the basic principle of fairness, justice and equity. To substantiate what I am submitting I would give an example.

So far as matters relating to fiduciary relations, or trustees to whom the property has been entrusted, or in case of disability as minors or insane persons and similar cases are concerned of course, we will have to take all necessary precaution and, if necessary, we can extend the time so that these persons who are suffering under any disability should not in the long run suffer on account of the provisions of the Limitation Act. That is one of the fundamental things which I hope the Select Committee will bear in mind. Apart from these two considerations, the other consideration that I will place before the Select Committee is relating to property, whether it is on the basis of contract or otherwise. I am glad that they are trying to very much simplify things by including definite categories into a simple form. Similarly, by including petitions in applications they are trying to cover up a bigger scope and all these details I need not go into at this stage but I would request that they get the time reduced rather than extend it. For instance, in money matters, instead of 3 years, I would be happy if it is a case of one year. In matters of land, of course those days when there were big zamindars, big talukdars or jagirdars were different. Now, the whole trend has changed. If at all, a litigation is confined to commercial matters where everybody is alert. The circumstances do demand and if there is anything wrong, if somebody wants to claim something

from the other party, it is no use sleeping over it. So the period of limitation should be considered in all these matters from this angle that so far as possible, let the litigation be introduced or let the suit be filed as early as possible and accordingly the disposal could also be done. So I would request the Select Committee to take the changed circumstances of the country into consideration and come to the conclusion to simplify matters and let us reduce it so that the limitation as far as possible may be reduced. We know that protracted disputes go on as I have just pointed out which give rise to different interpretations as is evident from the Law Commission report and the different High Courts have taken different views on certain matters. That creates confusion, that creates difficulties. Unless either in the old decisions there is a clear decision of the Privy Council or at present there is a clear decision of the Supreme Court, difficulties arise. So in all these matters I would suggest that all those cases referred to in the Law Commission Report should be taken into consideration, as some are adopted in the present Bill, and one clear principle should be laid down so that the differences in the different decisions of the High Courts are set at rest and the people feel that the law regarding these conflicting matters has been cleared up and they know how to proceed, where to proceed and when to proceed.

I have no doubt that the members of the Select Committee will go into details of the Law Commission Report and I would suggest that the Report of the Revision Committee of the United Kingdom and the changed conditions of our country be taken into consideration and then come to conclusions.

With these observations, I commend the Bill to the Select Committee.

SHRI B. RAMAKRISHNA RAO (Andhra Pradesh): I rise to support the motion and the Bill which has

been introduced for reference to the Select Committee but I suffer from two disabilities. One is, that this is going to be my maiden speech in the House and secondly I also suffer from the disability of not having had a look into the Bill and being prepared for a speech. I just had an opportunity of briefly looking into the Bill and I also had the benefit of listening to the speeches that were made before me.

SHRI AKBAR ALI KHAN: You have spent 40 years in the profession.

SHRI B. RAMAKRISHNA RAO: I am afraid, in spite of the commendation of my friend, my knowledge of law has rusted through disuse for the last 12 years. Perhaps the period of limitation is over as far as my knowledge and practice of law goes. However, I take this opportunity of commending this Bill to the House and welcome that it has been introduced. As it has been shown in the Statement of Objects and Reasons of the Bill, the introduction of this Bill was long overdue. In fact it was introduced in the last Parliament but as it did not come up for consideration on account of the dissolution of the Parliament, it has had to be reintroduced in the Rajya Sabha in the beginning. However, I think there is no difference of opinion among the Members of this House in commending the Bill for consideration by the Select Committee. I also limit my observations to certain general remarks. I do not think that it is also necessary at this stage to consider the clauses of the Bill in any detail as one or two of my predecessors have done. Of course, they have done so to bring the points that they wanted to press to notice of Members of the Select Committee but I would like to say just one or two things about certain observations made by hon. Mr. Chordia. He first referred to the fact that this Bill, when it is enacted, is not going to apply to the State of Jammu and Kashmir. It is perfectly true. While most of us may share his sentiments, it cannot be denied that at this stage no attempt will be made to apply the Bill to the State

[Shri B. Ramakrishna Rao.]

of Jammu and Kashmir. According to our present Constitution, in order that a Bill of this sort may apply to the State of Jammu and Kashmir, the previous consent of the Legislature of the State of Jammu and Kashmir will have to be obtained even if we make such an attempt. I do not think he meant it seriously but probably he just gave out generally the desire of the people of India that the State of Jammu and Kashmir may be fully integrated with the rest of India as early as possible. That of course has just sentimental significance and I do not think it can be considered as an objection at all. He also raised another point regarding the Gregorian calendar to which several Members have already replied. I do not think such a question should be raised at the present moment. It raises really too many difficulties. This objection has, as its background, the feeling that the administration, as at present, is being conducted in English, our laws are in English and that the whole set-up should be changed. Probably my friend feels like that. I think his objection proceeds from that sentiment also, otherwise it has no practical significance. As another friend remarked here, it might raise very many other difficulties and complications which it is neither advisable to be allowed to be created nor raised. There are two objectives with which this Bill has been placed before the House. As has been pointed out, the Third Law Commission gave the fullest consideration not only to the judicial authorities which had raised certain doubts regarding the interpretation of the various articles of the Limitation Act, but they also considered the fact that the Limitation Act had been enacted in 1908 and after the lapse of half a century, any law, even the Law of Limitation, would need certain alterations and amendments in the light of past experience. The Law Commission has fully gone into the legal aspects of the matter and the recommendations of the Law Commission have been accepted by the Government

when introducing this Bill, except in one or two places. Therefore, I think any detailed discussion of the clauses of the Bill at this stage in this House is not necessary. A Select Committee has been recommended and that Committee will, no doubt, look into any drawbacks that may be found in the Bill and also consider the various points urged in this House.

Reference was made by one of the previous speakers to the Easement Act and it was pointed out that it would have been better if the amendment suggested in this Act with regard to the limitation on matters of easement had been made in the Easement Act itself. I do not think this point has escaped the attention of the framers of the Bill. As a matter of fact, from a perusal of the clauses of the Bill I have found that the amendment that has been suggested is only with regard to those matters which relate to the period of the fixation of limitation. No other amendment or no other suggestion has been accepted which either contravenes the provisions of the Easement Act or makes any fundamental alteration to the Easement Act. If there was any such intention, certainly an amendment of the Easement Act would have to be made. Otherwise the amendment is only limited to the period of the fixation of the limitation and matters incidental thereto. I think, therefore, that the amendment is proper, as it has been made here. There does not seem to be any conflict anywhere.

Reference was also made to the discrimination, if I may use the word, made in the fixation of the period of limitation in the case of appeals against conviction of an accused and between the period of limitation which is fixed for appeals against acquittal by the Government. Of course, this argument does appeal to our sentiments. But there is a fundamental difference between the appeal made by Government against acquittal and appeal made against

conviction by the accused. Of course, a government is, more or less, an impersonal body, a machine. It is not a person. The accused is a person who is tried and convicted as an accused and against him a judgment is pronounced in the open court. A government being an impersonal body, a judgment that is delivered by the court acquitting the party, has got to go to several authorities one after another and whether an appeal against the acquittal is necessary or not has to be considered by the highest authority which has the authority or which is entitled to order an appeal against an acquittal.

SHRI AKBAR ALI KHAN: But the Government also changes its method.

SHRI B. RAMAKRISHNA RAO: That is quite true. In spite of the fact that even the Government changes its methods, there is some difference between the Government and the accused who receives a judgment. Of course, it can be argued as Shri Ramamurthi has argued that the period of limitation for filing an appeal against conviction may also be enlarged in order to place both the Government and the accused on the same footing. That can be considered by the Select Committee. But any attempt to reduce the time fixed by the Government for appeal against conviction might result in difficulties. That is what I was going to say.

I do not think it is necessary for me to refer to any particular part or clause of the Bill that is before the House, at this stage. In fact, I am not prepared for that. The Select Committee which is to be appointed, will take care of the Bill and I have no doubt that the various suggestions made in this House will be fully considered by the Select Committee when the Bill passes through that Select Committee. The Government in the Law Ministry will also give the fullest consideration to the suggestions made. In some cases the period has been enlarged and in some cases the

period has been reduced and I have no doubt that there are good reasons for these amendments that have been suggested. So far as the point of time or the exemption for certain disabilities is concerned, there have been controversies in law courts before and certain points which had been dealt with by judicial authorities seem to have been clarified in this Bill. Therefore, I welcome this Bill and I wholeheartedly support it and I do hope that the House will unanimously commend it for the consideration of the Select Committee. Thank you.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Any other hon. Member who wishes to speak? (*Apart a pause*) The hon. Deputy Minister.

SHRI BIBUDHENDRA MISRA: Mr. Vice-Chairman, I have heard with great respect the speeches made by hon. Members here and I am certain that the valuable suggestions made by them will receive their due consideration by the Select Committee. I would only like to refer incidentally to some of the objections raised. One objection related to the applicability or extent of applicability of the provisions of the Indian Limitation Act, that it has not been extended to the State of Jammu and Kashmir. This point has been ably replied to by an eminent Member of this House—Shri Ramakrishna Rao. We have our own difficulties here, in view of article 370 of the Constitution of India. Objection has also been raised to the use of the words “the territory of India”. But that is precisely the wording that we have in other enactments also. That is the phrase used in the Constitution of India also, where it has been stated:

“The territory of India shall comprise—

- (a) the territories of the States;
- (b) the Union territories specified in the First Schedule; and

[Shri Bibudhendra Misra.]

(c) such other territories as may be acquired."

So there is some significance and these words have been used with some significance. They have a significance of their own. To say simply that it will be applicable to India, may be meaningless and at times it may also lead to difficulties.

It has been stated here by Shri Ramaswamy that even though extension of time has been given in the case of lunatics or insane persons, it may be difficult for them to institute a suit if the running of time is continuous in some cases. It must be remembered in this connection, that the principle of the law of limitation is that there must be a line struck somewhere. It has been argued that even if a person is sane today, he may become insane tomorrow and what is to be done in such a case? It would be difficult to meet such cases. After all, you have to strike a line. It may be that a person is sane today and it may be that he becomes insane tomorrow, and again becomes sane the day after but it cannot be helped. Even in the English law which we have followed, the provision in this respect is the same. The Law Commission has also considered this point and in the draft Bill they have suggested, the provision in this regard is the same.

One hon. Member suggested that there should be no distinction made between a person and the Government. But it is well known that the Government is not a person. A convicted person immediately makes up his mind. He knows where the shoe pinches. Government is not a person and it has to take the advice of the Legal department and so on. The Law Commission consisting of experienced judges and lawyers have also considered this point. If anyone looks into the draft Bill appended to the Law Commission's Report, he will see that they have also suggested the same period as has been accepted in this Bill. Mr. Ramaswamy

4 P.M.

has suggested that in the case of administrative tribunals, the period of limitation should run not from the date of the order but when it becomes known to the party. This is a matter which is left to the special law itself. Every special law is competent to frame its own procedure and it will be seen that in the Industrial Disputes Act similar provision has already been incorporated there. It is not from the date of the order that the time runs but from the date of the communication of the order.

Another esteemed Member, Mr. Akbar Ali Khan, has raised a point of principle. He has said that these matters must be settled without delay, that there must be peace, that there must be tranquillity. He has said that suits should not drag on for a number of years or a number of years should not be allowed to institute a suit because nobody knows how far it will extend. This is a sound principle and if you kindly look into the provisions, you will find this reflected in them. In many important cases, even in suits against Government in which formerly the period was sixty years, it has been reduced to thirty years in case of suits of foreclosure—it has been reduced from sixty to thirty years. In declaratory suits, in some cases it has been reduced from twelve to three years and in some others it has been reduced from six to three years. Thus, this principle was considered at the time of drafting this Bill and this principle has been incorporated in the provisions of the Bill.

I would not like to say anything further. I leave the other points for the consideration of the Joint Select Committee. It will come back to the House again.

With these words, Sir, I commend the motion for adoption.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): 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 be referred to a Joint Committee of the Houses consisting of 30 members; 10 from this House, namely,—

1. Shrimati Violet Alva,
2. Shri P. N. Saprú,
3. Pandit S. S. N. Tankha,
4. Shri K. K. Shah,
5. Shri B. K. P. Sinha,
6. Shri Santosh Kumar Basu,
7. Diwan Chaman Lall,
8. Shri K. V. Raghunatha Reddy,
9. Shri M. Ruthnaswamy and
10. Shri Dibakar Patnaik

and 20 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint-Committee;

that in other respects, the Rules of Procedure of this House relating

to Select Committee shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the first day of the next session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at three minutes past four of the clock till eleven of the clock on Tuesday, the 7th August 1962.