

- (2) Shri S.M. Banerjee
- (3) Shri R.D. Bhandare
- (4) Shri Chandrika Prasad
- (5) Shri Y.B. Chavan
- (6) Shri Tulsiram Dashrath Kamble
- (7) Shri S.M. Krishna
- (8) Shrimati Sangam Laxmi Bai
- (9) Shri Madhu Limaye
- (10) Dr. Mahadeva Prasad
- (11) Shri Mali Mariyappa
- (12) Shri Bakar Ali Mirza
- (13) Shri Piloo Mody
- (14) Shri Amrit Nahata
- (15) Shri K.S. Ramaswamy
- (16) Shri V. Sambasivam
- (17) Shri Dwaipayan Sen
- (18) Shri Shashi Bhushan
- (19) Shri Sheo Narain
- (20) Shri Vidya Charan Shukla
- (21) Shri R.K. Sinha
- (22) Shri Atal Bihari Vajpayee
- (23) Shri Tenneti Viswanatham
- (24) Shri Diwan Chand Sharma

with instructions to report by the second day of the next session."

The motion was adopted.

SHRI D. C. SHARMA : I hope I will be the Chairman.

17.56 hrs.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

(Omission of section 80) by Shri Nath Pai

MR. CHAIRMAN : The House will now take up the Code of Civil Procedure (Amendment) Bill. Shri Nath Pai.

THE MINISTER OF LAW (SHRI GOVINDA MENON) : Sir, before he moves the Bill, I want to make a submission.

The Code of Civil Procedure is being sought to be extensively amended. The Law Commission, in its 27th Report, has made a recommendation for the amendment of the Code of Civil Procedure. The Bill is ready and that Bill will be touching Section 80 also which is now sought to be deleted. In the circumstances, I would request the hon. Member either to withdraw the Bill or to postpone the considera-

tion of the Bill so that it can be taken up later. That is my submission.

SHRI NATH PAI (Rajapur) : In the first place; I am indeed very happy to see the hon. Minister of Law back in his seat and I wish him godspeed and full recovery to his health.

I am equally gratified to hear his announcement that as the main objective of my Bill is something which he has accepted in principle; if I understood him clearly, as per the recommendations of the Law Commission, the Civil Procedure Code of India needs to be amended very drastically in many vital parts. I will be ready to accept his proposal, not to withdraw it but to postpone its further consideration after just mentioning one or two things because this is a matter which, I think, not all Members are fully aware of or are scholars of the calibre of the standing of the Law Minister.

Before I sit down saying that its further discussion may be postponed; I may tell the House what it is exactly about. This Act may be called the Code of Civil (Amendment) Act, 1967. It shall come into force at once. Section 80 of the Code of Civil Procedure, 1908 shall be omitted.

I want to make only two comments before I wind up. A statutory provision for protection for the State or public officials as against the citizens is out of date. I think, this is a sentiment which will find ready acceptance by Professor Ranga and, if I may venture to hope, perhaps by Mr. Piloo Mody also. Countries which have been concerned with the maintenance of the rule of law have made progress in the direction of equating the citizen with the State, curbing bureaucratic excesses and enabling the citizens to obtain cheaply and expeditiously any relief against the State or public agencies or officers that they may be entitled to. Articles 32, 226 and 227 of the Constitution reflect a similar approach. Innumerable cases can be cited where grave prejudice is caused by section 80 of the Civil Procedure Code to plaintiffs by the rigidity of the section and other analogous statutes. This section works great hardship upon the citizen because it exposes him to the risk of being non-suited merely because of

a defect in the notice served prior to the suit. This section also makes it difficult for the citizens to obtain urgent, interim relief against a threatened Government action and this causes him great prejudice. The amendment seeks to remove these anomalies and establish equality before the law between the State and the citizens.

18 hrs.

This is the only point that I wanted to make that the present section 80 of the Civil Procedure Code is, without going into any kind of exaggeration, a provision which runs contrary to the spirit of the Constitution of India. I think, the Law Minister will find himself in agreement with me, if I quote, Mr. Chairman, article 14 of our Constitution :

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Articles 32, 226 and 227 breathe a similar spirit.

Mr. Chairman, the Code as it stands today, is totally inequitable. It has different kinds of standard, one to be applied to citizens and another to be applied to the State wherever the State is an erring party. What my Bill is trying to see is this. So far as rule of law is concerned, there may be special circumstances where extenuating considerations may have to be taken into consideration, but the present inequity and inequality in the eyes of law as adumbrated and enshrined in this section is invidious, contrary to the spirit of law, and, therefore, if I agree to the postponement of the consideration of my Bill, it is only with the hope that Government will surely come with an amendment which will be basically welcoming the spirit, though perhaps the wording of the amendment may be changed. I think he will be giving this assurance and it is only after hearing him, I will be too glad to postpone further consideration.

Sir, I beg to move :

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

SHRI GOVINDA MENON : As I said, there have been two Reports of the Law Commission, the 14th Report and the 27th Report. The 14th Report was a report of a general character regarding administration of justice. In both these Reports, the learned Members of the Law Commission have recommended to the Government the deletion of section 80 of the Code of Civil Procedure. The Ministry of Law have looked into the matter and the Ministry is in general agreement with the recommendations of the Law Commission. But, as you know, this is a matter in which the State Governments and the different Ministries in the Central Government have got a certain say because they have been enjoying certain privileges. The matter is being processed and I am sure that Government will come forward, probably in the next session of Parliament, with a comprehensive amendment of the Code of Civil Procedure, not only section 80, but the other sections also which breathe inequity, for example, section 87 (b) under which you cannot file a suit against princes, and all those things. But I cannot give a categorical assurance because this has to go to the Cabinet and processed further and all that. Anyhow, the hon. Member is not withdrawing his Bill. He is only asking for adjournment of the consideration. Nothing will be lost.

SHRI NATH PAI : In view of the very accommodating spirit and his statement to the effect that he finds himself in agreement—the agreement is not with me but with the recommendations of the Law Commission—and welcoming his statement that he is giving it an urgent consideration, that he agrees with the spirit of my Bill, I beg to move for the postponement of consideration of my Bill.

I beg to move under rule 109 :

"That further consideration of the Bill further to amend the Code of Civil Procedure, 1908 be adjourned."

MR. CHAIRMAN : The question is :

"That further consideration of the Bill further to amend the Code of Civil Procedure, 1908 be adjourned."

The motion was adopted