

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the title were added to the Bill.

**Shri K. C. Reddy:** I beg to move:

"That the Bill be passed."

**Mr. Deputy-Speaker:** The question is:

"That the Bill be passed."

*The motion was adopted.*

15-10 hrs.

### LIMITATION BILL

**The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra):** Sir, on behalf of Shri A. K. Sen I beg to move:—

"That this House concurs in the recommendations of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith, and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely Shri A. Shanker Alva, Shri Frank Anthony, Shri Ramchandra Vithal Bade, Shri Rajendranath Barua, Shri Panna Lal Barupal, Shri J. B. S. Bist, Shri P. C. Borooah, Shri Sachindra Chaudhuri, Shri Tridib Kumar Chaudhuri, Shri Homi F. Daji, Shrimati Subhadra Joshi, Shri M. K. Kuamaram, Shrimati Sangam Laxmi Bai, Shri Dwarkadas Mantri, Shri Gopal Dutt Mengi, Shri K. L. More, Shri P. Muthiah, Shri S. Osman Ali Khan, Shri Vishwa Nath Pandey, Shri Man Singh P. Patel, Shri Bhola Raut, Shri Asoke K. Sen, Shri Bishan Chandar Seth, Shrimati Ramdulari Sinha, Shri Pravinsinh Natavarsinh Solanki, Shri Amar Nath Vidyalandkar, Shri Virbhadra Singh, Shri N. M. Wadiwa, Shri T. Abdul Wahid, and the Mover."

So far as the Bill is concerned, it seeks mainly to implement the recommendations of the Law Commission made in its Third Report. So far as the sections are concerned, the suggestions made by the Law Commission for its amendment are of a very minor nature. They are either to make the language clear or more explicit or to make the intention clear where there has been a divergence of judicial opinion over the question of intention.

I will only refer to two important amendments that have been suggested by the Law Commission so far as the sections are concerned. One is amendment of section 29 of the Indian Limitation Act which has been accepted. Under the provisions of section 29 of the Indian Limitation Act, some sections of the Indian Limitation Act are applicable to special law and local law and not all the sections. So, the Law Commission has suggested that there is no reason why all the sections of the Indian Limitation Act should not be made applicable to any special or local law. It is open, of course, to the local or special law to exclude the operation of the provisions of the Indian Limitation Act. That has been accepted.

The second suggestion which has been to repeal sections 26 and 27 of the Indian Limitation Act, that is, acquirement of easement by prescription, has not been accepted. The Law Commission has recommended that these two sections should be repealed because the acquirement of easement by prescription is also covered by sections 15 and 16 of the Easement Act and the purpose will be served if the Indian Easement Act is made applicable to all the States of India. But the difficulty has been that easement is not specifically mentioned as one of the items in any of the Lists. Easement being a right over the land, probably it would come under the entry "Land". This is a State subject and hence, except the acquisition of easement by prescription which comes under the Concurrent List, the Par-

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liament is not competent to legislate on other types of easement. The Parliament cannot legislate and say that the Easement Act should be made applicable to all the States of India. It is open to the States to extend it to their own States wherever it is not applicable. Once the provisions of the Easement Act are made applicable to those States, of course sections 26 and 27 of the Indian Limitation Act will not apply. They will cease to have any effect once the provisions of the Indian Easement Act come into force. Therefore it has been left to the States to extend the operation of the provisions of the Easement Act to those States where it is not in operation and it was thought proper that sections 26 and 27 of the Indian Limitation Act should remain as they are.

The most important recommendations that have been made by the Law Commission are in regard to the articles of the Indian Limitation Act. Firstly, they have suggested that the articles should be arranged according to the subject-matter. Secondly, they have suggested that there should be uniformity for the same class of articles as far as possible. Thirdly, they have suggested that the starting point of limitation should be not from the time as it has been at present given in the Indian Limitation Act but from the date of the accrual of the cause of action.

So far as the first two suggestions are concerned, that means classification according to the subject-matter, that suggestion has been accepted and accordingly now the articles have been grouped under ten heads. They are 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 tort, suits relating to trusts and trust property, suits relating to miscellaneous matter and suits for which there is no prescribed period. So, as I said, the broad principle, that is classification of the articles according to the subject-matter, that has been sug-

gested by the Law Commission has been accepted and a uniform period for the same class of suits has been provided as far as possible. But so far as the third suggestion is concerned, namely, that the starting point of limitation should be from the date of accrual of the cause of action, that has not been accepted for the simple reason that it is thought that the present arrangement which gives the particular time from which the limitation should start in every case should continue because that has been the subject-matter of judicial interpretation and a person who goes to a court of law must know the exact date from which limitation runs against him. It is easy that way to find it out. Moreover, the law has been settled by a process of judicial interpretation. The moment it is changed and it is said that that time should run from the date of the accrual of the cause of action, it would land them in difficulty inasmuch as the cause of action, as is well-known, is a bundle of facts which has to be proved and nobody can be sure as to from which date the cause of action actually accrues in a particular case. That will be the subject of judicial interpretation and that might not only confer hardship on persons but that might also involve a multiplicity of proceedings. Therefore that suggestion has not been accepted.

Then, the Law Commission has suggested that in all cases of contracts and tort the period of limitation should be the same, that is, three years. So far as the cases of contracts are concerned, that is, suits relating to contracts the suggestion has been mostly accepted, but so far as the suits relating to tort are concerned, no satisfactory reason is found as to why the limitation of suits which at present is only one year should be extended to three years. Therefore excepting some cases in which there is already a provision that the limitation is two or three years, mostly the present provision that in cases of tort the limitation is one year has been retained.

Since it is going to a Joint Committee I am only placing before the House the broad recommendations made by the Law Commission and I would state briefly as to how the position stands in the present Bill. So far as suits against the Government are concerned, there are four articles in the Indian Limitation Act itself. Under article 2, that is, in suits by or against Government for compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in India, the limitation is ninety days and the Law Commission has suggested that it should come under the residuary article and the limitation should be raised from ninety days to three years. But since it is a suit founded on tort the limitation has been raised to one year and not to three years as has been suggested by the Law Commission. Of course, article 2 has been merged along with article 72 now and it has no separate existence.

So far as article 149 is concerned, that is, suit by or on behalf of the Government, the period of limitation has been reduced from sixty years to thirty years. So far as articles 15 and 16 are concerned, which relate to suits against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears, the period now is one year. These articles have been omitted and it now comes under the residuary article. The period of limitation, therefore, is now sought to be extended from one year to three years. These are broadly the four articles which concern litigations of the public and the Government. These are the changes which have been effected so far as the Government is concerned.

There has been a suggestion that article 142 should be amended because of conflict of judicial decisions. There are some High Courts which have held that article 142 is based on possessory title and there are others which say

that it also covers suits by owners of property. Now it has been made clear that article 142 will be solely based on suits for possession only and article 144 will be left for suits by owners of property.

It has been suggested that articles 182 and 183 should be omitted altogether. Under section 48 of the Civil Procedure Code, a decree of a civil court ceases to be enforceable after a period of 12 years whereas under article 182, if, after the expiry of every three years, an execution petition is filed, it is kept alive. Therefore, it has been suggested that the provisions of section 48 of the Civil Procedure Code should be taken into the Limitation Act and article 182 should be omitted altogether. So far as article 183 is concerned, it provides a separate period for the execution of decrees of courts established by Royal Charter or of the Supreme Court. The Law Commission has felt that there is no reason why the period of limitation should be different in the case of different courts and therefore they have suggested that it should be omitted. These are broadly the main recommendations of the Law Commission.

There are also some recommendations regarding applications to the High Courts. So far as appeals to the High Courts are concerned, under the provisions of the Criminal Procedure the time has now been reduced to 30 days in the place of 60 days. So far as appeals under the Civil Procedure are concerned, it has been reduced to 60 days from 90 days. These are the principal suggestions that have been made by the Law Commission.

Of course, the consequential provision has also found a place in the Limitation Bill itself. It is well known that, in view of section 6 of the General Clause Act, wherever the time is more than what was previously there and extension of time is granted, it does not revive those cases which have already become barred. Where the time is less now under the present arrangement, of course, it will cause hardships unless some saving provision

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is made. Therefore, clause 29 is there to meet such causes.

With these words, I commend the motion for reference to the Joint Committee.

**Mr. Deputy-Speaker:** The motion is before the House. Nobody to speak? The question is:

"That this House concurs in the recommenadtion of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith, and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely Shri A. Shanker Alva, Shri Frank Anthony, Shri Ramchandra Vithal Bade, Shri Rajendranath Barua, Shri Panna Lal Barupal, Shri J. B. S. Bist, Shri P. C. Borooah, Shri Sachindra Chaudhuri, Shri Tridib Kumar Chaudhuri, Shri Homi F. Daji, Shrimati Subhadra Joshi, Shri M. K. Kumaran, Shrimati Sangam Laxmi Bai, Shri Dwarkadas Mantri, Shri Gopal Dutt Mengi, Shri K. L. More, Shri P. Muthiah, Shri S. Osman Ali Khan, Shri Vishwa Nath Pandey, Shri Man Sinh, P. Patel, Shri Bholu Raut, Shri Asoka K. Sen, Shri Bishan Chandra Seth, Shrimati Ramdulari Sinha, Shri Pravinsinh Natavarsinh Solanki, Shri Amar Nath Vidyalankar, Shri Virbhadra Singh, Shri N. M. Wadiwa, Shri T. Abdul Wahid, and Shri Bibudhendra Mishra."

*The motion was adopted.*

**Mr. Deputy-Speaker:** We will now go to the discussion on a matter of urgent public importance.

15.24 hrs.

#### FLOOD SITUATION\*

**श्री बागड़ी (हिसार) :** उपाध्यक्ष महोदय, मुझे इस बात का खेद है कि बाढ़ों और सैलाबों के जो खौफनाक नतायज आज भारत के बहुत बड़े हिस्से में हुए हैं वह बहुत देर से चर्चा के लिये इस सदन में आये हैं। बहुत अच्छा होता अगर इस गम्भीर मसले पर लोक सभा पहले ही कुछ सोचती और चर्चा करती। इस के लिये सोचती कि अपने देश में जो वाढ़ से पीड़ित लोग हैं उन के लिये क्या उपाय किया जाय तो अच्छा होता। लेकिन खैर, आज तो सदन में यह चर्चा उठाने का मौका मिला है कि भारत के अन्दर आज असाम बिहार और उत्तर प्रदेश में बाढ़ से बहुत खतरनाक नतायज निकलते हैं। इस बाढ़ के पंजों में आज हजारों नहीं, लाखों नहीं, एक करोड़ के लगभग इत्सान, फंसे हैं। मौत और जिन्दगी के दोराहे पर खड़े हो कर अपने वक्त को गुज़ार रहे हैं। आज उसी बाढ़ पर चर्चा करने का मौका सदन में आया है।

मैं आप की मार्फत अपनी सरकार से और सदन के आनरेबल मेम्बरों से यह निवेदन करूंगा कि इस गम्भीर मसले को सिर्फ चर्चा तक ही न रख बल्कि इस के गर्भ से उन को कुछ तत्व भी निकालना चाहिये। आज जो भूखे लोग लोकसभा की तरफ, इस पवित्र सदन की तरफ आख लगा कर बैठे हैं कि हमारे नेता हमारे लिये कुछ करेंगे, उन के लिये हमें गम्भीरता से सोच कर कुछ करना चाहिये।

अब एक सवाल पैदा होता है कि आखिर यह बाढ़ या सैलाब किस तरीके से आया। आया यह बाढ़ एक ईश्वरीय देन है, खुदा का कहूर है, ईश्वर का कोप है, या इस के अन्दर किसी और का भो कोई दोष है। मैं इस चीज को वहां से शुरू करता हूं जब सन् १९४६ में

\*Discussion on matter of urgent Public Importance.