

LOK SABHA

**THE CODE OF CIVIL PROCEDURE
(AMENDMENT) BILL, 1955**

(Report of the Joint Committee)

PRESENTED ON THE 13TH DECEMBER, 1955.



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI
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THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1955

Composition of the Joint Committee

Lok Sabha

1. Shri Upendranath Barman—*Chairman*.

Members

2. Shri Debeswar Sarmah
3. Shri Chimanlal Chakubhai Shah
4. Shri U. R. Bogawat
5. Shri T. R. Neswi
6. Shri C. C. Gautam
7. Shri Hanamantrao Ganeshrao Vaishnav
8. Shri Radhelal Vyas
9. Chaudhri Hyder Husein
10. Dr. Kailas Nath Katju
11. Shri Shobha Ram
12. Shri Kailash Pati Sinha
13. Shri Tek Chand
14. Shri K. Periaswami Gounder
15. Shri Paidi Lakshmayya
16. Shri Digambar Singh
17. Shri George Thomas Kottukapally
18. Shri Lokenath Mishra
19. Shri Ganeshi Lal Chaudhary
20. Shri Ram Sahai Tiwari
21. Shri N. Rachiah
22. Dr. A. Krishnaswami
23. Shri Bhawani Singh
24. Shri Sadhan Chandra Gupta
25. Shri S. V. L. Narasimham
26. Shri K. M. Vallatharas
27. Shri K. S. Raghavachari
28. Shri Bijoy Chandra Das
29. Shri N. R. Muniswamy
30. Shri Hari Vinayak Pataskar

Rajya Sabha

31. Shri K. P. Madhavan Nair
32. Shri Ram Chandra Gupta
33. Shri Braja Kishore Prasad Sinha
34. Shri Bhalchandra Maheshwar Gupte
35. Shri Jagan Nath Kaushal
36. Shri P. S. Rajagopal Naidu
37. Shri Ratanlal Kishorilal Malviya
38. Shri Lavji Lakhamshi
39. Shri S. Channa Reddy
40. Shri Akhtar Husain
41. Shri Rajpat Singh Doogar
42. Shri Satyapriya Banerjee
43. Janab M. Muhammad Ismail Saheb
44. Shri Radhakrishna Biswasroy
45. Shri Narsingrao Balbhimrao Deshmukh

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*
Shri P. K. Patnaik, *Under Secretary.*

Report of the Joint Committee

L, the Chairman of the Joint Committee to which the *Bill further to amend the Code of Civil Procedure, 1908, was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 7th May, 1955. The motion for reference of the Bill to a Joint Committee of the Houses (*Vide* Appendix I) was moved by Shri Hari Vinayak Pataskar, on the 2nd August, 1955, discussed in the House on 3rd and 4th August, 1955, and adopted on the 4th August, 1955.

3. The Rajya Sabha discussed the motion on the 16th and 17th August, 1955, and concurred in the said motion on the 17th August, 1955 (*Vide* Appendix II).

4. The message from Rajya Sabha was read out to the Lok Sabha on the 18th August, 1955.

5. The Committee held eight sittings in all.

6. The first sitting of the Committee was held on the 16th September, 1955 to draw up a programme of work. The programme was however finalised at the second sitting held on the 28th September, 1955.

7. The Committee considered the Bill clause by clause at the sittings held from 14th to 17th October, 1955 and also on the 30th November, 1955.

8. The Report of the Joint Committee was to be presented by the 15th November, 1955. The Speaker granted extension of time upto the 15th December, 1955.

9. The Committee considered and adopted the Report on the 9th December, 1955.

10. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

11. *Clause 2.*—Section 34 of the Code empowers a Court to award further interest from the date of the decree upto the date of payment on the 'aggregate sum' which comprises principal sum with interest accrued thereon. The Committee are of the opinion that interest should not be awarded on interest but only on the principal

*Published in Part I, Section 2 of the *Gazette of India, Extraordinary*, dated the 7th May, 1955.

sum. Suitable amendment has accordingly been incorporated in this clause.

12. *Clause 4*.—The Committee have redrafted part (ii) of this clause in order to make the intention clear.

13. *Original clause 5*.—The clause sought to provide that *ex parte* decrees passed before the commencement of the Constitution by Courts in the former Indian States (regarded as foreign Courts) shall not be executed by Courts in India under section 39 of the *principal Act nor any ex parte* decrees passed before the commencement of the Constitution by Courts in India shall be executed in any of the former Indian States.

The Committee are of the view that High Courts of India are sharply divided in their decisions in this regard and a uniform procedure as envisaged in the clause will neither be practicable nor desirable and, therefore, this clause should be dropped.

The clause has been omitted accordingly and the subsequent clauses have been renumbered.

14. *Clause 5 (Original clause 6)*.—A new sub-section (3) and Explanations II and III were proposed to be inserted in section 47 of the principal Act seeking to provide expressly how far the principles of *res judicata* should be applied to execution cases. Such a provision was considered necessary in view of the difference of opinion among the various High Courts in India on the subject.

The Committee feel that since the Supreme Court have, in a recent case, reported in A.I.R. (1953) S.C. at page 65 applied the principles of *res judicata* to execution cases, the proposed sub-section (3) and the Explanations are unnecessary and they are likely to create complications. The Committee have, therefore, omitted the proposed sub-section (3) and the Explanations II and III. The clause has been re-drafted accordingly.

15. *Clause 9 (Original clause 10)*.—The Committee have made a slight drafting change to make the intention clear.

16. *Original clause 13*.—The clause sought to restrict the revisional jurisdiction of High Courts in respect of cases in which the aggrieved party had a remedy by way of appeal to any Court. The Committee think that High Courts seldom exercise their powers of revision in cases where the aggrieved party has an alternative remedy by way of appeal to any Court. But there should not be any statutory bar against the exercise of such jurisdiction in hard cases.

This clause has accordingly been dropped and subsequent clauses have been renumbered.

17. *Clause 12 (Original clause 14).*—The Committee feel that the Judges of the Supreme Court and the Judges of the High Courts also should be entitled to exemption from personal appearance in Courts. Suitable provisions have accordingly been inserted in this clause.

18. *Clause 14 (Original clause 16).*—The Committee feel that in a suit for foreclosure, sale or redemption, interest recoverable on the amount adjudged due to the mortgagee for costs, charges and expenses incurred in respect of mortgage security provided under rule 11(a)(iii) of Order XXXIV should not exceed six per cent. per annum.

The Committee also feel that interest on interest should not be allowed and, therefore, clause (b) of rule 11 has been redrafted. Necessary amendments have accordingly been made in sub-clause (7) of clause 14.

19. The Joint Committee recommend that the Bill as amended be passed.

UPENDRANATH BARMAN,
Chairman,
Joint Committee.

NEW DELHI;
The 12th December, 1955.

Minutes of Dissent

I

I do not agree with clause 14(6) which seeks to amend Order 25 rule 1.

A litigant must be free to come to court to seek justice without fear of being required to give security for costs before his case is decided. If he loses, he will be ordered to pay costs or if his suit is vexatious he can be ordered to pay damages. Generally, a cause should not be prejudged except in exceptional cases. There are also other provisions in the Code when security for costs can be asked for. In my opinion those provisions and Order 25 rule 1 are adequate and no further amendment is called for. No reasons are given for the wide powers proposed to be given to court nor is any case made out for the proposed amendment which is likely to cause hardship in some cases, particularly when the order is not subject to appeal.

C. C. SHAH

NEW DELHI;

The 9th December, 1955.

II

I do not think it proper to omit the original clause 5 of the Bill as has been done by the Joint Committee. This clause sought to provide that *ex parte* decrees passed before the commencement of the Constitution by courts in the former Indian States (regarded as foreign Courts) shall not be executed by courts in India under section 39 of the principal Act nor any *ex parte* decrees passed before the commencement of the Constitution by courts in India shall be executed in any of the former Indian States.

This was a very salutary provision which had made the position of the litigants throughout India clear. Such a provision was necessary to bring uniformity of law all over India as High Courts of India are sharply divided in their decisions in this regard and parties to the litigation stand in wilderness due to the divergence of opinion between different High Courts.

The Bombay High Court has taken the view that such a decree is executable in India provided the decree was passed by a court of competent jurisdiction. This view has been upheld by the High Courts in Hyderabad, Rajasthan, Saurashtra, Punjab and Madhya-Bharat.

It is well established principle of Private International Law that a decree passed *in absentia* by a foreign court to the jurisdiction of which the defendant has not submitted in any way is a nullity. This principle has been embodied in section 13(a) of the C.P.C. But the Bombay High Court has come to the conclusion that on account of the merger of the Indian States and passing of the Constitution, the residents of the Indian States are no longer foreigners in respect of courts in India and by these subsequent political events, the character of the defendant has undergone a change. The impediment which was there in the enforcement of the decree has disappeared by reason of the change of the status of the defendant and the decree which was unenforceable before has become enforceable in an Indian State. According to Bombay High Court this decision does not in any way violate the principle of Private International Law.

On the other hand, the High Courts of Mysore, Travancore-Cochin, Calcutta and Allahabad have reached a contrary conclusion in this matter. The latest decision appears to be that of the Allahabad High Court. According to these decisions any decree passed by a court in an Indian State before the commencement of the Constitution against a person resident in British India is a nullity. Subsequent events *viz.*, the merger of the Indian State into the Indian Union, the commencement of the Constitution or the extension of the C.P.C. to that State cannot have the effect of making an invalid decree a valid one. The validity or otherwise of a decree is to be judged with reference to the date on which it was passed and if it was a nullity on that date, it cannot be made valid and executable decree by reason of subsequent events.

It is provided by Article 261 (3) of the Constitution that final judgments or orders passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law; but the question is whether this provision can be given retrospective effect?

Clause 5 was originally included in the Bill to remove the ambiguity and the divergence of opinion among the High Courts and also to make the provisions of Article 261 (3) of the Constitution clear to certain extent. This clause had provided that the *ex parte* decrees passed before the Constitution were not executable and thus had clarified the position of the litigants who are now again left in darkness because of its omission. The clause if retained would have brought uniformity of law throughout the country and saved the litigants from the agonies and expenses of going to the Supreme Court.

In order to avoid further confusion and complications I am of opinion that the original clause 5 of the Bill be retained with a

further proviso that such an *ex-parte* decree holder should be allowed to file a fresh suit on the same cause of action, the period between 26th January 1950 and the commencement of the C.P.C. (Amendment) Act being excluded for the purpose of limitation. This would keep the remedy open to the *ex parte* decree holder instead of leaving him in lurch. The defendant then could defend the suit and thus proper justice could be imparted to both.

The scope of this Bill is very limited. As a matter of fact the Code of Civil Procedure requires to be amended further to a great extent. We are aware of delay caused in execution of a decree. It is very easy for any judgment debtor under the present C.P.C. to prefer appeal after appeal in execution proceedings and avoid execution for years together. Provisions of the C.P.C. in this respect deserve major amendments. However, the Law Commission recently appointed by the Government of India has commenced its work of reviewing and revising all the major Acts and work of further amending the C.P.C. is expected to be done by them.

H. G. VAISHNAV

NEW DELHI;

The 10th December, 1955.

III

It is not always a pleasure to append a note of dissent but we are not quite happy on the deletion of sub-section (3) of section 35 of the principal Act in so far as the Court is given an option to allow interest on costs in exceptional cases. So the provision of allowing interest on costs is purely a discretionary measure and not a mandatory provision; and hence the total ex-punction of such discretionary provision is not conducive to a healthy judicial administration.

The sub-section (3) of the section 35 of the principal Act is as follows:

“The court may give interest in costs at any rate not exceeding six per cent. per annum and such interest shall be added to the costs and shall be recoverable as such.”

The courts have all along been exercising this judicial discretion on legal principles and not by caprice nor by temper and so, such wide discretion should not be tampered with by legislative powers. There are cases where parties, after failure or repeated demands in getting their dues repaid, incur large expenditure by way of institution fees and other fees incidental thereto running into several thousands and to deny interest on such investments is

unfair when especially the party has successfully enforced a legal right and in no way misconducted himself or was oppressive in his behaviour. Everyone knows that the party gets only a fraction of the total expenditure as costs. The courts must be given discretion to take into consideration all matters which led up to that particular litigation. If this discretion is taken away, the defendant will have no incentive to pay his dues in time. The principle "cost shall follow event" has to be maintained with reference to *interests on cost* also with the discretionary powers of courts.

We therefore suggest a proviso to be added to the said sub-section (3) of Section 35 to the effect that if cost alone is paid in full within 3 months from the date of decree, there shall be no interest, failing which the court shall have discretion to award interest on costs not exceeding six per cent. per annum. This would give an incentive to the judgment debtor to pay the cost at least in time, not to speak of the aggregate sum adjudged in decree.

We also propose that there should be a saving clause to the effect that the pending cases before the courts on the commencement of the Act, shall be decided by courts in accordance with the provision of the sub-section (3) of Section 35 as if this Act had not been passed.

N. R. M. SWAMY

P. S. RAJAGOPAL NAIDU

NEW DELHI;

The 10th December, 1955.

IV

I consider that the deletion of the original clause 5 is improper. The clause should have been modified and improved and not deleted.

Decrees of the type contemplated by the clause could not be executed before our Constitution came into force, by courts situated outside the State in which the decrees were passed. They could be enforced only by a suit based on foreign judgment. After the advent of our Constitution while some High Courts have held that such decrees can be executed outside the then territorial limits of the State in which the court passing the decree was situated, others notably Allahabad and Calcutta have held that the advent of the Constitution made no difference, and such decrees were not executable beyond the then territorial limits of the State passing the

decree. It is precisely in such a situation that the Legislature should intervene.

Two courses are open to us. Either we lay down that such decrees cannot be executed but enforced, as in the period prior to the Constitution only by a regular suit on foreign judgment or that such decrees may be executed even by courts in India outside the then territorial limits of the State where the court passing the decree was situate. In the first case in computing the period of limitation prescribed for any such suit the period between the 26th day of January, 1950 and the date of commencement of the Code of Civil Procedure (Amendment) Act, 1955, should be excluded. In the second, the same defences which are available to a defendant on judgment debtor in a suit on foreign judgment should be made available. The rules of justice, equity and good conscience demand this.

BRAJA KISHORE PRASAD SINHA

NEW DELHI;

The 12th December, 1955.

V

Clauses 2 and 3.—

The idea behind the principle of no interest on interest accrued prior to the date of suit and during its pendency and even after the decree as well even on the costs decreed is not in consonance with the actual prevalent practice in the world of trade and commerce. The argument that there is no agreement for payment of interest or that litigation is not to be a business does not impress me. This idea appears to be conceived in a spirit of denying a just right to the creditor to benefit a debtor. It is very likely to bring about a serious shrinkage of credit facilities now largely supplied by private agencies in the absence of adequate Government or other institutional agencies particularly in rural areas. It is also opposed to the principle that money found due and not paid should carry interest by way of damages.

Further the costs decreed are often only a part of what is actually incurred by a party. Greater part of it is paid as court fees at the time of the institution of the suit. The other part consist of stamp and process fees and cash batta paid as well as other taxable sums. The decree that comes long after, only makes it payable. There is enormous time that further intervenes before its realisation, the law itself providing a period of twelve years for such

realisation. Again most of the plaintiffs are not professional money lenders. These creditors are themselves often compelled to borrow elsewhere on interest to meet the initial costs of filing the suit.

Under these circumstances I feel these provisions are not only unjust but will work serious hardship both on the creditors and debtors.

I would have the descretion vested in the Courts to grant interest in appropriate cases rather than deny it altogether.

K. S. RAGHAVACHARI

NEW DELHI;

The 12th December, 1955.

VI

Although we are in agreement with the principal object of the Bill, that of reducing delay and expenses in connection with civil litigation,—we consider that the Bill has not gone as far as it ought to have gone in this respect. Our civil procedure has come to us from our former British masters and embodies all that is good and, what is more important, much that was bad in ~~the~~ judicial system. Some of the unnecessary elaborate procedure which characterized the British judicial system was bodily introduced into ours without restricting it to appropriate cases. Most of the meaningless technicalities of the British rules of evidence were also incorporated by the British in our law of evidence together with many undoubtedly sound principles and these technicalities contribute to the delay and trouble and not infrequently to increase the expense of litigation. The same applies to the elaborate rules in High Courts for the preparation of paper books and translation of documents. Besides, the capacity of our erstwhile masters expressed itself in the provisions for exorbitant court fees in the Court Fees Act. These are only a few random instances of the many ways in which delay, harassment and inordinate expenditure occurs in civil litigation.

If these sources of delay, harassment and expense are to be eliminated, large number of Acts and rules will have to be radically recast. Not only the Code of Civil Procedure but also other laws like the Evidence Act, the rules of the different High Courts, the Court Fees Act and the Suits Valuation Act would have to be changed and changed radically.

No doubt, this kind of overhaul cannot be expected from a Bill of this nature. No doubt also, that a complete overhaul of the civil judicial system should await the results of the deliberations of the Law Commission whose findings would probably be very valuable. Yet in our view, the government should have come forward with

a Bill or Bills to amend some of the defects not only of the Code of Civil Procedure but also some of the defects of other laws—particularly the rules of procedure of the different High Courts regarding which there is no controversy and which undoubtedly cause trouble, expense and delay. For example, the requirement of printing or even typing paper books could have been confined to appropriate cases as an exception. Except in case where the documents are in a language unfamiliar in the locality, the requirement of translation of documents into English could have been done away with altogether without affecting the fundamentals of our civil judicial system in any way. Much unnecessary expenditure might have been saved by reduction of court fees.

Having indicated our general agreement with the purposes of the Bill, we feel constrained to record our dissent—and in one instance our strong dissent from one or two provisions of the Bill as well as from an aspect or two of the report of the Committee.

Original clause 5.—We dissent from the recommendation in the paragraph 13 of the report for dropping this clause from the Bill. In view of the decision of the Bombay and other High Courts that decrees passed by Indian courts before the commencement of the Constitution are now executable in the territory of an erstwhile Indian State, the court of which would be a foreign court at the date of passing of the decree, great hardship would be caused to judgment-debtors, resident in such a territory at the time of passing of such decree, who did not submit to the jurisdiction of the Indian court and did not defend their suits. It would be against all principles of natural justice that such decrees should now be executed against them without giving them a chance to re-open the matter. Clause 5 ought therefore, to have been allowed to remain and ought to have been suitably amended with a view to remove incidental difficulties connected with limitation and other matters

The Committee's argument for deletion of this clause appear to be self-contradictory. As they put it, "The committee are of the view that High Courts in India are sharply divided in their decisions in this regard and a uniform procedure as envisaged in the clause will neither be practicable nor desirable." One would have thought that the sharp split between the High Courts made it all the more desirable that the legislature should intervene and, if the procedure envisaged in the clause is not suitable, any other uniform procedure could have been introduced by way of amendment.

Clause 12 (Original clause 14).—We feel bound to express our strongest dissent from the principle involved in this clause. We are of the opinion that no person except a person entitled under International law to immunity from legal process should be able to claim that in view of the office he holds—and in view of that alone he is too

high to appear before a court of justice. We think that if any court of justice comes to the conclusion that the appearance of any person is necessary in order to enable justice to be done, then that person, however high a dignitary he may be, must comply without question with the requirement of such court, if not, confidence in administration of justice will be shaken, if such a dignitary is involved in the case either as a party or as a witness and in some cases it is not inconceivable that the course of justice itself would be perverted. Any exemption from personal attendance, therefore, ought to be claimable only on the ground of such pre-occupation with their duties in the case of the exempted functionaries as would make it undesirable to compel them to leave their duties for attending court. Such a claim should be allowable only as an exceptional case and the question of whether such claim should be allowed or not, should not be decided merely with reference to the office held by the claimant, although the office may in some cases conceivable be an important factor in deciding the justification of such a claim. As far as we know, no other democratic country gives similar exemption to any person and we think such exemption a disgrace on our law.

We, therefore, recommend an amendment of section 133 with a view to provide for exemption on the basis of the principles hereinbefore stated.

Clause 14 (Original clause 16).—We consider that sub-rule (2) of the proposed rule 20A which has been sought to be introduced by sub-clause (1) is, to say the least, a very undesirable provision and would lead to great injustice. It is a notorious fact that many postal employees can be easily induced to make such endorsements as an unscrupulous person may desire. To clothe such endorsements with the sanctity of *prima facie* proof would cause great hardship to defendants and would furnish one more weapon to unscrupulous plaintiffs or applicants in the suppression of legal processes.

We, therefore, recommend that sub-rule (2) of the proposed rule 20A be omitted.

SADHAN CHANDRA GUPTA
B. C. DAS

NEW DELHI;

The 12th December, 1955

THE CODE OF CIVIL PROCEDURE (AMENDMENT)
BILL, 1955

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or under-lined indicate the amendments suggested
by the Committee; asterisks indicate omissions)

▲

BILL

further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Sixth Year of the Republic
of India as follows:—

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1955. Short title
and com-
mencement.

5 (2) It shall come into force on such date as the Central Govern-
ment may, by notification in the Official Gazette, appoint.

V of 1908.

2. In section 34 of the Code of Civil Procedure, 1908 (hereinafter
referred to as the principal Act),— Amendment
of section
34.

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(a) in sub-section (1), for the words "with further interest
at such rate as the Court deems reasonable on the aggregate
sum so adjudged", the words "with further interest at such rate
not exceeding six per cent. per annum as the Court deems
reasonable on such principal sum" shall be substituted;

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(b) in sub-section (2), for the words "on such aggregate
sum as aforesaid", the words "on such principal sum" shall be
substituted,

Amendment of section 35. 3. Sub-section (3) of section 35 of the principal Act shall be omitted.

Amendment of section 35A. 4. In sub-section (1) of section 35A of the principal Act,—
 (i) for the words “not being an appeal” the words “including an execution proceeding but excluding an appeal” shall be substituted; and
 (ii) for the words “if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof”, the words “if it so thinks fit” shall be substituted.

* * * * *

Amendment of section 47. 5. In section 47 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation *.—For the purposes of this section, a plaintiff whose suit has been dismissed, a defendant against whom a suit has been dismissed and a purchaser at a sale in execution of the decree are parties to the suit.

* * * * *

Amendment of section 60. 6. In the proviso to sub-section (1) of section 60 of the principal Act,—

(a) in clause (i), after the words “one-half the remainder”, the words “in execution of any decree other than a decree for maintenance” shall be inserted;

(b) after clause (i), the following clause shall be inserted, namely:—

“(ia) one-third of the salary in execution of any decree for maintenance;”;

(c) in clause (j), after the words “to whom”, the words and figures “the Air Force Act, 1950 or” shall be inserted.

XLV of 1950.

Omission of sections 68 to 72. 7. Section 68, section 69, section 70, section 71 and section 72 of the principal Act shall be omitted.

Amendment of section 82. 8. In sub-section (1) of section 82 of the principal Act, after the words “within the time so specified”, the words “or within three months from the date of the decree, where no time is so specified” shall be inserted.

Amendment of section 92. 9. In sub-section (1) of section 92 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

“(cc) directing a trustee who has been removed or a person

who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;"

10. In section 102 of the principal Act, for the words "five hundred rupees", the words "one thousand rupees" shall be substituted. Amendment
of section
102.

11. In section 109 of the principal Act, in clause (c), for the words "decree or order", the words "judgment, decree or final order" shall be substituted. Amendment
of section
109.

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* * * * *

12. In section 133 of the principal Act,—

Amendment
of section
133.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

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"(1) The following persons shall be entitled to exemption from personal appearance in Court, namely:—

(i) the President of India;

(ii) the Vice-President of India;

(iii) the Speaker of the House of the People;

(iv) the Ministers of the Union;

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(v) the Judges of the Supreme Court;

(vi) the Governors, Rajpramukhs, Lieutenant Governors and Chief Commissioners of States;

(vii) the Speakers of the State Legislative Assemblies;

(viii) the Chairmen of the State Legislative Councils;

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(ix) the Ministers of States;

(x) the Judges of the High Courts; and

(xi) the persons to whom section 87B applies.";

(b) sub-section (2) shall be omitted;

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(c) in sub-section (3), the words "so exempted" shall be omitted.

13. In sub-section (1) of section 144 of the principal Act,—

Amendment
of section
144.

(i) after the words "as a decree", the words "or an order" shall be inserted; and

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(ii) after the words "such decree", the words "or order" shall be inserted.

Amendment of the First Schedule.

14. In the First Schedule to the principal Act,—

(1) in Order V, after rule 20, the following rule shall be inserted, namely:—

Service of Summons by post.

“20A. (1) Where, for any reason whatsoever, the summons is returned unserved, * * * the Court may, either in lieu of, or in addition to, the manner provided for service of summons in the foregoing rules, direct the summons to be served by registered post addressed to the defendant or his agent empowered to accept service at the place where the defendant or his agent ordinarily resides or carries on business or personally works for gain.

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(2) An acknowledgment purporting to be signed by the defendant or the agent or an endorsement by a postal employee that the defendant or the agent refused to take delivery may be deemed by the Court issuing the summons to be *prima facie* proof of service.”

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(2) in Order XII, after rule 3, the following rule shall be inserted, namely:—

Power of Court to record admission.

“3A. Notwithstanding that no notice to admit documents has been given under rule 2, the Court may, at any stage of the proceeding before it, of its own motion, call upon any party to admit any document and shall, in such a case, record whether the party admits or refuses or neglects to admit such document.”;

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(3) in Order XVI, after rule 1, the following rule shall be inserted, namely:—

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Production of witnesses without summons through Court.

“(1A) Where any party to the suit has, at any time on or before the day fixed for the hearing of evidence, filed in the Court a list of persons either for giving evidence or for producing documents, the party may, without applying for summons under rule 1, bring any such person, whose name appears in the list, to give evidence or to produce documents.”;

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(4) in Order XX, for rule 1, the following rule shall be substituted, namely:—

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Judgment when pronounced.

“1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or, as soon thereafter as may be practicable, on some future day; and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders.”;

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(5) in Order XXI,—

(a) rule 70 shall be omitted;

(b) in rule 71, the words “or to the Collector or subordinate of the Collector, as the case may be” shall be omitted;

(6) in Order XXV, for rule 1, the following rule shall be substituted, namely:—

“1. (1) At any stage of a suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff, for reasons to be recorded, to give within the time fixed by it security for the payment of all costs incurred and likely to be incurred by any defendant: When security for costs may be required from plaintiff.”

Provided that such an order shall be made in all cases in which it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of India and that such plaintiff does not possess or that no one of such plaintiffs possesses any sufficient immovable property within India other than the property in suit.

(2) Whoever leaves India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of India within the meaning of the proviso to sub-rule (1).”;

(7) in Order XXXIV, in rule 11,—

(a) in sub-clause (a),—

(i) sub-clause (ii) shall be omitted;

(ii) in sub-clause (iii), for the words “at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum”, the words “at such rate not exceeding six per cent. per annum as the Court deems reasonable” shall be substituted;

(b) for clause (b), the following clause shall be substituted, namely:—

“(b) subsequent interest up to the date of realisation or actual payment on the aggregate of the principal sums specified in clause (a) as calculated in accordance with that clause at such rate as the Court deems reasonable”.

(8) in Order XXXVII, in rule 1, after clause (a), the following clause shall be inserted, namely:—

“(b) any District Court or other Court specially empowered in this behalf by the State Government;”;

(9) in Order XLIV, rule 1 shall be re-numbered as sub-rule (1) thereof, and—

(a) in sub-rule (1) as so re-numbered, the proviso shall be omitted;

(b) after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:—

“(2) The Appellate Court, after fixing a day for hearing the applicant or his pleader and hearing him accordingly if he appears on that day, and upon a perusal of the application and of the judgment and decree appealed from, shall reject the application, unless it sees reason to think that the decree is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.”;

(10) in Order XLVII,—

(a) rule 2 shall be omitted;

(b) in rule 7, in sub-rule (1), clause (a) shall be omitted.

Procedure on application for admission of appeal.

Omission of Third Schedule.

Savings in respect of execution of certain decrees by collectors.

15. The Third Schedule to the principal Act shall be omitted.

16. Where, before the commencement of this Act, the execution of a decree has been transferred to the Collector under section 68 of the principal Act and is pending before the Collector on such commencement, then, notwithstanding the omission of sections 68 to 72 inclusive and the Third Schedule to the principal Act, the decree shall be executed by the Collector in accordance with the provisions of the said sections and the said Schedule, as if this Act had not been passed.

APPENDIX I

(Vide para. 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

“That the Bill further to amend the Code of Civil Procedure, 1898, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—

1. Shri Upendranath Barman
2. Shri Debeswar Sarmah
3. Shri Chimanlal Chakubhai Shah
4. Shri U. R. Bogawat
5. Shri T. R. Neswi
6. Shri C. D. Gautam
7. Shri Hanamantrao Ganeshrao Vaishnav
8. Shri Radhelal Vyas
9. Chaudhri Hyder Husein
10. Dr. Kailas Nath Katju
11. Shri Shobha Ram
12. Shri Kailash Pati Sinha
13. Shri Tek Chand
14. Shri K. Periaswami Gounder
15. Shri Paidi Lakshmayya
16. Shri Digambar Singh
17. Shri George Thomas Kottukapally
18. Shri Lokenath Mishra
19. Shri Ganeshi Lal Chaudhary
20. Shri Ram Sahai Tiwari
21. Shri N. Rachiah
22. Dr. A. Krishnaswami
23. Shri Bhawani Singh
24. Shri Sadhan Chandra Gupta
25. Shri S. V. L. Narasimham
26. Shri K. M. Vallatharas
27. Shri K. S. Raghavachari
28. Shri Bijoy Chandra Das
29. Shri N. R. Muniswamy

30. Shri Hari Vinayak Pataskar
and 15 members from the Rajya Sabha;

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

that the Committee shall make a report to this House by the 15th November, 1955;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

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

APPENDIX II

(Vide para. 3 of the Report)

Motion in the Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Code of Civil Procedure, 1908, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri K. P. Madhavan Nair
2. Shri Ram Chandra Gupta
3. Shri Braja Kishore Prasad Sinha
4. Shri Bhalchandra Maheshwar Gupte
5. Shri Jagan Nath Kaushal
6. Shri P. S. Rajagopal Naidu
7. Shri Ratanlal Kishorilal Malviya
8. Shri Lavji Lakhamshi
9. Shri S. Channa Reddy
10. Shri Akhtar Husain
11. Shri Rajpat Singh Doogar
12. Shri Satyapriya Banerjee
13. Janab M. Muhammad Ismail Saheb
14. Shri Radhakrishna Biswasroy
15. Shri Narsingrao Balbhimrao Deshmukh.”

APPENDIX III

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1955

I

First Sitting

The Committee met from 9-30 A.M. to 10-10 A.M. on Friday, the 16th September, 1955.

PRESENT

MEMBERS

Lok Sabha

1. Shri Hari Vinayak Pataskar—(*In the Chair*)
2. Shri U. R. Bogawat
3. Chaudhri Hyder Husein
4. Dr. Kailas Nath Katju
5. Shri Kailash Pati Sinha
6. Shri K. Periaswami Gounder
7. Shri Paidi Lakshmayya
8. Shri Digambar Singh
9. Shri Ram Sahai Tiwari
10. Shri S. V. L. Narasimham
11. Shri K. S. Raghavachari
12. Shri Bijoy Chandra Das
13. Shri N. R. M. Swamy

Rajya Sabha

14. Shri K. P. Madhavan Nair
15. Shri Ram Chandra Gupta
16. Shri Braja Kishore Prasad Sinha
17. Shri Bhalchandra Maheshwar Gupte
18. Shri Jagan Nath Kaushal
19. Shri Ratanlal Kishorilal Malviya
20. Shri Lavji Lakhamshi
21. Shri S. Channa Reddy

- 22. Shri Akhtar Husain
- 23. Shri Satyapriya Banerjee
- 24. Janab M. Muhammad Ismail Saheb
- 25. Shri Radhakrishna Biswasroy
- 26. Shri Narsingrao Balbhimrao Deshmukh

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary & S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. In the absence of Shri Upendranath Barman, Chairman of the Committee, Shri H. V. Pataskar was elected to act as Chairman for the sitting.

3. The Committee desired that the following papers in respect of the Bill might be circulated to the Members of the Committee, if not already done:—

(i) Note on reform of Judicial Administration in India by Dr. K. N. Katju.

(ii) Opinions of the Chief Justices of High Courts, State Governments etc. on the said Note.

4. The Committee then held a preliminary discussion on the programme to be adopted by them.

5. The Committee were considering suggestions to have the sittings either from 10th to 14th October or from 31st October to 4th November, when Dr. K. N. Katju stated that it would be more advisable for the Committee to wait until the Law Commission, already appointed by the Government of India, considered the provisions contained in this Bill and communicated its views on the same.

He added that the views of the Commission would be of great use to the Joint Committee and if the Commission were requested to take up this matter now, an interim Report might be expected within six weeks. In that case, he said, it would be worthwhile approaching the Speaker for some extension of time for presentation of the Report of the Joint Committee.

Fear was expressed by certain Members as to whether it would at all be feasible for the Law Commission to give such a report within the time suggested.

Shri Pataskar said he would ascertain the position and inform the Committee at their next sitting.

6. The Committee thereupon decided to finalise the programme at the next sitting only.

7. The Committee then adjourned to meet again on Wednesday, the 28th September, 1955, soon after the Houses rose.

II

Second Sitting

The Committee met from 6 P.M. to 6-30 P.M. on Wednesday, the 28th September, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri U. R. Bogawat
3. Shri C. D. Gautam
4. Shri Hanamantrao Ganeshrao Vaishnav
5. Shri Radhelal Vyas
6. Dr. Kailas Nath Katju
7. Shri Shobha Ram
8. Shri Kailash Pati Sinha
9. Shri K. Periaswami Gounder
10. Shri Ganeshi Lal Chaudhary
11. Shri Ram Sahai Tiwari
12. Shri N. Rachiah.
13. Shri Bhawani Singh
14. Shri K. M. Vallatharas
15. Shri K. S. Raghavachari
16. Shri N. R. Muniswamy
17. Shri Hari Vinayak Pataskar.

Rajya Sabha

18. Shri Braja Kishore Prasad Sinha
19. Shri Bhalchandra Maheshwar Gupte
20. Shri Jagan Nath Kaushal
21. Shri Lavji Lakhamshi
22. Shri Rajpat Singh Doogar
23. Shri Satyapriya Banerjee
24. Shri Narsingrao Balbhimrao Deshmukh

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. Shri H. V. Pataskar, Minister of Legal Affairs, informed the Committee that owing to various difficulties it would not be possible for the Law Commission to consider and give a report on the provisions contained in the present Bill at an early date.

3. The Committee thereupon decided to hold their next sitting on the 14th October, 1955, and to sit from day to day till the 17th October, 1955.

4. The Committee then adjourned to meet again at 11 A.M. on Friday, the 14th October, 1955.

III

Third Sitting

The Committee met from 11 A.M. to 1 P.M. on Friday, the 14th October, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

2. Shri U. R. Bogaawat
3. Shri Hanamantrao Ganeshrao Vaishnav
4. Shri Radhelal Vyas
5. Dr. Kailas Nath Katju
6. Shri Shobha Ram
7. Shri Tek Chand
8. Shri K. Periaswami Gounder
9. Shri Paidi Lakshmayya
10. Shri Digambar Singh
11. Shri Lokenath Mishra
12. Shri Ram Sahai Tiwari
13. Shri N. Rachiah
14. Dr. A. Krishnaswami
15. Shri Bhawani Singh
16. Shri S. V. L. Narasimham
17. Shri K. M. Vallatharas
18. Shri K. S. Raghavachari
19. Shri Bijoy Chandra Das
20. Shri N. R. Muniswamy
21. Shri Hari Vinayak Pataskar.

Rajya Sabha

22. Shri K. P. Madhavan Nair
23. Shri Braja Kishore Prasad Sinha
24. Shri P. S. Rajagopal Naidu

25. Shri Ratanlal Kishorilal Malviya
26. Shri Lavji Lakhamshi
27. Shri Rajpat Singh Doogar
28. Shri Satyapriya Banerjee
29. Janab M. Muhammad Ismail Saheb
30. Shri Radhakrishna Biswasroy.

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*
Shri P. K. Patnaik, *Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clause 2.*—This clause was held over.

4. *Clause 3.*—This clause was adopted without any amendment.

5. *Clause 4.*—The following revised item (ii) was accepted in substitution of the existing one:—

‘(ii) for the words “if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof”, the words “if it so thinks fit” shall be substituted.’

The clause as amended was adopted.

6. The Committee then adjourned to meet again at 10 A.M. on Saturday, the 15th October, 1955.

IV

Fourth Sitting

The Committee met from 10 A.M. to 1 P.M. and from 3-30 P.M. to 5-35 P.M. on Saturday, the 15th October, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri U. R. Bogawat
3. Shri C. D. Gautam
4. Shri Hanamantrao Ganeshrao Vaishnav
5. Shri Radhelal Vyas
6. Chaudhri Hyder Husein
7. Dr. Kailas Nath Katju
8. Shri Shobha Ram
9. Shri Tek Chand
10. Shri K. Periaswami Gounder
11. Shri Paidi Lakshmayya
12. Shri Digambar Singh
13. Shri Lokenath Mishra
14. Shri Ganeshi Lal Chaudhary
15. Shri Ram Sahai Tiwari
16. Shri N. Rachiah
17. Dr. A. Krishnaswami
18. Shri Bhawani Singh
19. Shri S. V. L. Narasimham
20. Shri K. M. Vallatharas
21. Shri K. S. Raghavachari
22. Shri Bijoy Chandra Das
23. Shri N. R. Muniswamy
24. Shri Hari Vinayak Pataskar.

Rajya Sabha

25. Shri K. P. Madhavan Nair
26. Shri Braja Kishore Prasad Sinha
27. Shri P. S. Rajagopal Naidu
28. Shri Ratanlal Kishorilal Malviya
29. Shri Lavji Lakhamshi
30. Shri S. Channa Reddy
31. Shri Satyapriya Banerjee
32. Janab M. Muhammad Ismail Saheb
33. Shri Radhakrishna Biswasroy.

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S.A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*
Shri P. K. Patnaik, *Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 2.*—This clause, consideration of which was held over on the 14th October, 1955, was taken up. After some discussion the following revised clause 2 was adopted in substitution of the existing clause:—

“2. In sub-section (1) of section 34 of the Code of Civil Procedure, 1908 (hereinafter referred to as the principal Act), for the words ‘further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged’, the words ‘further interest at such rate not exceeding six per cent per annum as the Court deems reasonable on the principal sum so adjudged’ shall be substituted.”

4. *Clause 5.*—After some discussion on this clause it was held over.

5. The Committee rose at 1 P.M. and reassembled at 3-30 P.M.

6. *Clause 6.*—The Committee felt that question whether the principles of constructive *res judicata*, should be applied to execution cases, should be further examined.

Subject to this the clause was adopted without any amendment.

7. *Clauses 7 to 9.*—These clauses were adopted without any amendment.

8. *Clause 10.*—This clause was adopted without any amendment.

The Draftsman was, however, directed to examine substitution of more appropriate words for the words “a new trustee” occurring in the proposed clause (cc) to the principal Act.

9. *Clauses 11 and 12.*—These clauses were adopted without any amendment.

10. *Clause 13.*—Discussion on this clause was not concluded.

11. The Committee then adjourned to meet again at 10 A.M. on Sunday, the 16th October, 1955.

V

Fifth Sitting

The Committee met from 10 A.M. to 1 P.M. on Sunday, the 16th October, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri U. R. Bogawat
3. Shri C. D. Gautam
4. Shri Hanamantrao Ganeshrao Vaishnav
5. Chaudhri Hyder Husein
6. Dr. Kailas Nath Katju
7. Shri Kailas Pati Sinha
8. Shri K. Periaswami Gounder
9. Shri Paidi Lakshmayya
10. Shri Lokenath Mishra
11. Shri Ganeshi Lal Chaudhary
12. Shri Ram Sahai Tiwari
13. Shri N. Rachiah
14. Dr. A. Krishnaswami
15. Shri Sadhan Chandra Gupta
16. Shri S. V. L. Narasimham
17. Shri K. M. Vallatharas
18. Shri K. S. Raghavachari
19. Shri Bijoy Chandra Das
20. Shri N. R. Muniswamy
21. Shri Hari Vinayak Pataskar.

Rajya Sabha

22. Shri K. P. Madhavan Nair
23. Shri Braja Kishore Prasad Sinha

24. Shri Jagan Nath Kaushal
25. Shri Ratanlal Kishorilal Malviya
26. Shri Lavji Lakhamshi
27. Shri S. Channa Reddy
28. Shri Rajpat Singh Doogar
29. Shri Satyapriya Banerjee
30. Janab M. Muhammad Ismail Saheb
31. Shri Radhakrishna Biswasroy
32. Shri Narsingrao Balbhimrao Deshmukh.

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S.A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 13.*—This clause was omitted.

4. *Clause 14.*—The Committee felt that the following categories of persons should also be entitled to exemption from personal appearance in Court, namely:—

(i) The Judges of the Supreme Court.

(ii) The Judges of the High Courts.

Subject to this amendment, this clause was adopted.

5. *Clause 15.*—This clause was adopted without any amendment.

6. *Clause 16.*—(i) Part (1) of this clause was adopted subject to deletion of the words “in the first instance” occurring in the proposed rule 20A(1) of Order V of the principal Act.

(ii) Parts (2) to (6) of this clause were adopted without any amendment.

7. The Committee then adjourned to meet again on Monday, the 17th October, 1955, at 10 A.M.

VI

Sixth Sitting

The Committee met from 10 A.M. to 12-30 P.M. on Monday, the 17th October, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*,

MEMBERS

Lok Sabha

2. Shri Chimanlal Chakubhai Shah
3. Shri U. R. Bogawat
4. Shri C. D. Gautam
5. Shri Hanamantrao Ganeshrao Vaishnav
6. Shri Radhelal Vyas
7. Chaudhri Hyder Husein
8. Dr. Kailas Nath Katju
9. Shri Shobha Ram
10. Shri Kailash Pati Sinha
11. Shri Tek Chand
12. Shri K. Periaswami Gounder
13. Shri Paidi Lakshmayya
14. Shri Digambar Singh
15. Shri Lokenath Mishra
16. Shri Ganeshi Lal Chaudhary
17. Shri Ram Sahai Tiwari
18. Shri N. Rachiah
19. Dr. A. Krishnaswami
20. Shri Sadhan Chandra Gupta
21. Shri S. V. L. Narasimham
22. Shri K. M. Vallatharas
23. Shri Bijoy Chandra Das
24. Shri N. R. Muniswamy
25. Shri Hari Vinayak Pataskar.

Rajya Sabha

26. Shri K. P. Madhavan Nair
27. Shri Braja Kishore Prasad Sinha
28. Shri Jagan Nath Kaushal
29. Shri Ratanlal Kishorilal Malviya
30. Shri Lavji Lakhamshi
31. Shri S. Channa Reddy
32. Shri Akhtar Husain
33. Shri Rajpat Singh Doogar
34. Shri Satyapriya Banerjee
35. Janab M. Muhammad Ismail Saheb
36. Shri Radhakrishna Biswasroy
37. Shri Narsingrao Balbhimrao Deshmukh.

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 16(7).*—(1) The Committee decided that interest allowed under Order XXXIV, Rule 11(a) (iii) shall not exceed six per cent per annum.

(2) The Committee further decided that in sub-rule (b) (i), the words 'and of the interest thereon' shall be omitted. The Committee think that interest on interest should not be allowed.

The Draftsman was directed to effect necessary changes accordingly.

(3) Parts (8) to (10) of this clause were adopted without any amendment.

4. *Clauses 17 and 18.*—These clauses were adopted without any amendment.

5. *Clause 6.*—The Committee took up further consideration of the question whether the principle of constructive *res judicata*, should be applied to execution cases. This was partly discussed at their sitting held on the 15th October, 1955.

Discussion on the whole clause was then reopened and it was finally decided to omit this clause subject to the modification that for the existing explanation to sub-section (3) of section 47 of the principal Act, the following explanation should be substituted:—

“*Explanation.*—For the purposes of this section, a plaintiff whose suit has been dismissed, a defendant against whom a suit has been dismissed and a purchaser at a sale in execution of the decree are parties to the suit.”

The Draftsman was directed to effect necessary changes accordingly.

6. *Clause 5.*—This clause, consideration of which was held over on the 15th October, 1955, was then taken up.

The Committee felt that in view of the difference of opinion amongst the High Courts on this matter the Government should thoroughly examine the constitutional and legal aspects of the proposed amendment and should prepare a note thereon which should be circulated to the members of the Committee before their next sitting.

The clause was therefore held over.

7. The Committee authorised the Chairman to approach the Speaker for extension of time for the presentation of the Report, upto the 15th December, 1955.

8. The Committee then adjourned to sit again on Monday, the 28th November, 1955, at 10 A.M.

VII

Seventh Sitting

The Committee met from 10 A.M. to 10-30 A.M. on Wednesday the 30th November, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Chimanlal Chakubhai Shah
3. Shri Hanamantrao Ganeshrao Vaishnav
4. Dr. Kailas Nath Katju
5. Shri Kailash Pati Sinha
6. Shri K. Periaswami Gounder
7. Shri Lokenath Mishra
8. Shri Bhawani Singh
9. Shri K. M. Vallatharas
10. Shri K. S. Raghavachari
11. Shri N. R. Muniswamy
12. Shri Hari Vinayak Pataskar.

Rajya Sabha

13. Shri Bhalchandra Maheshwar Gupta
14. Shri P. S. Rajagopal Naidu
15. Shri Ratanlal Kishorilal Malviya
16. Shri Rajput Singh Doogar

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. *Clause 5.*—This clause which was held over was taken up for consideration.

After some discussion it was decided to omit this Clause.

3. The Committee then adjourned to meet again on the 8th December, 1955, after the rising of the Houses, for consideration of the Draft Report.

VIII

Eighth Sitting

The Committee met from 3 P.M. to 3-15 P.M. on Friday, the 9th December, 1955.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Hanamantrao Ganeshrao Vaishnav
3. Shri Radhelal Vyas
4. Chaudhri Hyder Husein
5. Shri Kailash Pati Sinha
6. Shri Lokenath Mishra
7. Shri N. Rachiah
8. Shri Sadhan Chandra Gupta
9. Shri K. S. Raghavachari
10. Shri Bijoy Chandra Das
11. Shri N. R. Muniswamy.

Rajya Sabha

12. Shri Braja Kishore Prasad Sinha
13. Shri Ratanlal Kishorilal Malviya
14. Shri Akhtar Husain
15. Shri Rajpat Singh Doogar
16. Shri Narsingrao Balbhimrao Deshmukh

DRAFTSMAN

Shri R. S. Sarkar, *Joint Secretary and S. A. Draftsman,*
Ministry of Law.

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee adopted the Bill as amended as well as the draft Report.

3. The Committee authorised the Chairman to present the Report on their behalf.

4. The Committee authorised Shri Rajpat Singh Doogar to lay the Report of the Committee on the Table of the Rajya Sabha.

5. The Committee decided that minutes of dissent if any should be sent to Lok Sabha Secretariat, so as to reach them by 12 Noon on Monday, the 12th December, 1955.

6. The Committee announced that the Report would be presented to the House after the Question Hour on Tuesday, the 13th December, 1955.

7. The Committee then adjourned at 3-15 P.M.
