

last 30 years. The houses and wells have been constructed on that land. When Govt.'s attention was drawn way back in 1992, the Govt. decided that the land in possession prior to 1980-85 will be surveyed and the Adivasis and farmers will be given the ownership right of such land. The Govt. conducted a survey. A committee was constituted for the allotment and some initiatives were taken to benefit the farmers but Govt. are not paying attention to the aforesaid work of allotment due to change of regime. I urge upon the Central Govt. to give ownership right to the farmers and Adivasi who have been in possession of forest land and revenue land for the last 15-20 years on humanitarian grounds.

14.00 hrs.

(iv) Need to Expedite Construction of a Youth Hostel at Sogul in District Belgaum, Karnataka

[English]

SHRI SHIVANAND H. KOUJALGI (Belgaum) : The Government of India has called for the tenders for the construction of a Youth Hostel at Sogul, Belgaum District, in Karnataka State.

Though the tenders have been called for long back, the tenders have not yet been accepted and the work has not yet started. Hence, I request the Union Government to complete the formalities for accepting the tender immediately so that work could be started at the earliest.

(v) Need to Set up a Wolframite Based Industry in the District of Bankura West Bengal

SHRI SUNIL KHAN (Durgapur) : The Geological Survey of India, in the year 1979 estimated a reserve of 2.44.755 tonnes of ore of WO₃ content varying between 8.05 per cent to 0.63 per cent up to a depth of 30 metres comprising Wolframite bearing quartz veins in Thanpahar, Cheradungri, Purappani and Dhajuri sectors of the Chendapathar area of P.S. Ranibandh, in the district of Bankura in West Bengal.

The Geological investigation and the analytical data of the systematic analysis outcrop samples (both channel and grab samples) and drilled rocks have indicated a significant presence of Tungsten both in the quartz vein and in the associated host rock. It is also interesting to note that besides Tungsten, notable concentration of Copper, Lead, Zinc, Bismuth, Silver etc. is found in the Chendapathar area.

Bankura District is a backward district in West Bengal and Wolframite is a precious mineral which is used in aeroplanes, canons, reflex, filament of bulbs

etc. I urge upon the Union Government to set up a Wolframite based industry in the district of Bankura in West Bengal and restore the honour of common minimum programme of the United Front Government.

(vi) Need for Construction of a Bridge Along the Existing Footpath Near the Palliady Railway Station on the Thiruvnanthapuram-Kanyakumari Railway Line

SHRI N. DENNIS (Nagercoil) : Providing a bridge along the existing footpath near the Palliady Railway Station on the Kanyakumari-Trivandrum Railway line or to man the existing level crossing therein is the long standing demand, need and necessity of the place. The people of Palliady and neighbourhood on one side and the people of Muruthoorkurichy and neighbourhood on the other are facing a lot of difficulties and inconvenience as vehicles cannot pass through from one side to the other side through this point. The level crossing is not manned. The footpath is very narrow and vehicles cannot pass through it. The people have represented for long to man the level crossing, but it did not materialise. So, the only alternative is to provide a bridge along the existing footpath.

I urge upon the Government to provide a bridge along the existing footpath near the Palliady Railway Station on the Thiruvnanthapuram-Kanyakumari Railway line at the earliest.

(vii) Need to Repair the Road from Gulavathi to Ghaziabad

[Translation]

DR. RAMESH CHAND TOMAR (Hapur) : In my constituency the road from Massori bridge to Gulavathi is in a dilapidated condition. This road was constructed in 1974. Since then no repair work has been undertaken and whole stretch of 20 km is in broken state. There are 50 villages on both sides of this road and lakhs of people are living there. The condition of this road is so dilapidated that buses cannot ply on this road. People are facing lot of inconvenience.

I, therefore, request that this road should be reconstructed and widened.

14.05 hrs.

INDIAN CONTRACT (AMENDMENT) BILL

[English]

MR. CHAIRMAN (SHRI BASU DEB ACHARIA) : Now we shall take up the next item. Shri Ramakant D. Khalap to move the motion further to amend the Indian Contract Act, 1872 as passed by Rajya Sabha.

THE MINISTER OF STATE OF THE DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE (SHRI RAMAKANT D. KHALAP) : I beg to move :

"That the Bill further to amend the Indian Contract Act, 1872 as passed by Rajya Sabha, be taken into consideration."

The Law Commission in its 97th report recommended that Section 28 of the Indian Contract Act, 1872 be amended. This suggestion was made because Section 28 as it is on the statute book now has created some sort of uncertainty about a party's rights to enforce their rights under any agreement.

Presently, Section 28 allows parties to an agreement to substitute their own period of limitation in place of the period laid down in the general law of limitation. But they are free to provide that if a party does not sue within a specified period, within the rights accruing under the contract, it shall be forfeited or extinguished or that party shall be discharged from all liability under the contract. This distinction is very fine and a number of litigating contracting parties have found it difficult in practice to ascertain this very fine difference between what is meant by extinguishing of a right and what is meant by extinction of remedy. This anomaly is sought to be cleared by virtue of this Section 28.

This has already been passed by this House and this amendment is overdue because this suggestion came in 1984. The Bill was introduced in 1982 and we are in 1996. This amendment has not been passed so far by this House. Since this is meant for dispelling the difficulties of a large many people, I commend this to the House to kindly consider this Bill.

MR. CHAIRMAN : Motion moved :

"That the Bill further to amend the Indian Contract Act, 1872 as passed by Rajya Sabha, be taken into consideration."

It has been decided and Hon. Speaker has also observed that both these Bills should be passed without any discussion. But as a special case, I will allow Justice Guman Mal Lodha to speak.

14.08 hrs.

JUSTICE GUMAN MAL LODHA (Pali) : I am supporting the Bill. It is true that an anomaly is there and that anomaly must be rightly removed. But what I want to submit is that there must be a comprehensive consideration for improving, uplifting and making the Indian Contract Act upto date as it has now become obsolete and requires lot of amendments.

I would only say this much as an example that there are now in the share market several contractors and thousands of small investors are being defrauded

on the ground that they have signed with their free consent. But there are frauds which are being practised at the level of various companies on account of which thousands of investors who have their money in Provident Fund after working for their whole life and who have invested there find no protection for their money and they are defrauded on the ground that they have entered into an agreement with their eyes open.

This is only one example. Since you are saying that this Bill should be passed immediately, I am not going into the details. But there are several such cases after independence in this country where the poor and the down-trodden persons who are not intelligent enough are being defrauded in the name of free consent under the Contract Act and, therefore, I submit that the hon. Law Minister should come out with a series of amendments, give a serious thought and decide which of the amendments are required in the Indian Contract Act because this Act was enacted at the time of Macaulay who did it at a time when this country was a slave and this is a relic of slavery. But nonetheless the amendment with which the Law Minister has come is required and I am supporting it with the request that the investors' money in various transactions at various levels of joint stock companies, chit fund companies, finance companies and other such institutions should not be defrauded. Their money must be saved and such amendments must be made in future.

SHRI BALAI CHANDRA RAY (Burdwan) : Sir, I support this Bill. But in supporting this Bill, I must point out the anomalies that have again been introduced. Originally, what Section 28 provided was that any contract where the remedy is made unenforceable, is void. It was also provided that a remedy in which a new limitation is introduced, the contract is void. Now what is sought to be introduced is to extinguish the right. Instead of remedy, if you extinguish the right that is void and if you limit the right, that is also void. The difficulty that we are facing in understanding this sub-clause (b) of Clause 28 is the wording of the section. The wording is archaic and should have been made clearer. But more important is the parties to the contract, the weaker parties that are quite often forced into such contracts. But what happens when the weaker States are forced into such contracts? There is no provision for any multinational companies coming into a contract and agreeing to a firm which shall not only be India, not only be the other parties contracting this country but may be the third country where the remedy shall lie. That is not void. The court has already held earlier that such a contract is not void. But it does not appear that the Law Ministry's attention has been drawn to it. The result is that the judicial system in all the countries is not the same and the judicial system in all the countries is not independent of the States other than the organ.

If a third party or a multinational has a right to enter into a contract, the remedy will be in a State where separate system of delivery of justice will be there, then the contracting party the State of India shall be in difficulty. No attention has been given to that.

I would make one final request to the Law Minister to the Act of 1872 which is 125 year old. No comprehensive attention has been given to this Act so that the Act may be revamped and a new Act may be enforced. This should be looked into. Either the Law Commission be requested or some other Commission be requested to go into the problem.

China has introduced one very important law, a joint venture law. Now that we are opening up, we are supposed to be liberalising our economy and introducing and inviting the countries into the joint venture. There should be such-of contract laws to regulate those contracts. China has set an example of it as a complete force. We invite the attention of the Law Minister to this to look into the problem and make a joint venture law.

With these words, I support the Bill.

SHRI RAMAKANT D. KHALAP : Hon. Members are not wrong when they say that this Act was enacted in 1872. We have now come with an amendment to one Section, namely Section 28 of this Act. Billions of cusecs of water have perhaps flowed down the rivers of our country. Times have also changed and changing times do require new types of legislation. We are aware of the situation. The Law Commission is engaged in studying different Acts and I am proposing different solutions. Today I have laid on the Table of the House the 15th Report of the Law Commission on the Criminal Procedure Code. This particular suggestion of having a second look and a detailed look at the 1872 Act is a very welcome suggestion. We will consider this and we will come up before this House with laws which will be able to stand the test of time.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Indian Contract Act, 1872, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : The House shall now take up clause-by-clause consideration.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN : The question is :

"That clause 1, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

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

SHRI RAMAKANT D. KHALAP : I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is:

"That the Bill be passed."

The motion was adopted.

[English]

MR. CHAIRMAN : Now, we will take up Item No. 31 - Apprentices (Amendment) Bill, 1996. Shri M. Arunachalam.

SHRI RAJIV PRATAR RUDY (Chhapra) : Sir, the Speaker has mentioned that I would initiate my discussion.

MR. CHAIRMAN : There is another Bill also. When this Bill is passed, then you can initiate your discussion.

14.17 hrs.

(Mr. Deputy-Speaker in the Chair)

APPRENTICES (AMENDMENT) BILL

[English]

THE MINISTER OF LABOUR (SHRI M. ARUNACHALAM) : Sir, I beg to move :

"That the Bill further to amend the Apprentices Act, 1961, as passed by Rajya Sabha be taken into consideration."

Sir, as the hon. House is aware, the Apprentices Act was enacted in 1961 with the objective of regulating programmes of Apprenticeship in industry for imparting practical training. The Act was amended twice. It was first amended in 1973 to bring within the purview the training of graduate engineers, diploma holders in engineering/technology as graduate/technician apprentices. It was further amended in 1986 to ring within its purview the training of technician (vocational) apprentices from the products of the 10+2 vocational stream of education. In reply to the Question raised in the Rajya Sabha, an assurance was given by the then Union Labour Minister in the 139th Session of Rajya Sabha on 20th August 1986 for taking up a proposal for