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PARLIAMENT OF INDIA
RAJYA SABHA

**THE CODE OF CIVIL PROCEDURE
(AMENDMENT) BILL, 1968**

REPORT OF THE JOINT COMMITTEE

(PRESENTED ON THE 5TH AUGUST, 1970)



**RAJYA SABHA SECRETARIAT
NEW DELHI
AUGUST, 1970**

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COMPOSITION OF THE JOINT COMMITTEE ON THE CODE OF
CIVIL (PROCEDURE) AMENDMENT BILL, 1968

Rajya Sabha

1. Shri Syed Ahmed—*Chairman**
2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Dalpat Singh†
7. Shri V. T. Nagpure
8. Shri Joachim Alva
9. Shri T. K. Patel
10. Shri P. C. Mitra
11. Shri T. V. Anandan‡
12. Shri Baharul Islam‡
13. Shri Pirthvi Nath‡
14. Shri Narinder Singh Brar†
15. Raja Shankar Pratap Singh‡

Lok Sabha

16. Shri D. Balarama Raju
17. Shri Rajendranath Barua
18. Shri R. D. Bhandare
19. Shri Krishna Kumar Chatterji
20. Shri N. T. Das
21. Shri Shivajirao S. Deshmukh
22. Shri Shri Chand Goyal
23. Shri Ram Krishan Gupta
24. Shri Heerji Bhai
25. Shri J. M. Imam
26. Shri Kameshwar Singh
27. Shri Mushir Ahamad Khan

*Appointed Chairman on the 11th May, 1970 *vice* Pandit Sham Sunder Narain Tankha, retired on 2.4. 1970 from the membership of the Rajya Sabha.

†Appointed on the 25th March 1970 *vice* Shri Rizaq Ram resigned from the membership of the Rajya Sabha.

Appointed on 27th April, 1970 *vice* Pandit Sham Sunder Narain Tankha, Shri Jagat Narain, Shri Purnand Chetia, Shrimati Seeta Yudhvir and Shrimati Annapurna Devi Thimmareddy retired from the membership of the Rajya Sabha on the 2nd April, 1970.

28. Shri Thandavan Kiruttinan
29. Shri K. Lakkappa
30. Shri Brij Bhushan Lal
31. Shrimati Sangam Laxmi Bai
32. Shri Mehendra Majhi
33. Shri B. P. Mandal
34. Shri M. Meghachandra
35. Shri Viswanatha Menon
36. Shri Bhaljibhai Ravjibhai Parmar
37. Shri S. B. Patil
38. Shri Jharkhande Rai
39. Chaudhuri Randhir Singh
40. Shrimati Savitri Shyam
41. Shri P. N. Solanki
42. Shri K. Subravelu
43. Pandit D. N. Tiwary
44. Shri Tenneti Viswanatham
45. Shri P. Govinda Menon*

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
Shrimati V. S. Rama Devi, Dy. Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
Shri S. P. Ganguly, Deputy Secretary.
Shri M. K. Jain, Under Secretary.

REPORT OF THE JOINT COMMITTEE

1. 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 this their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 18th November, 1968. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Shri Mohammad Yunus Saleem, the then Dy. Minister in the Ministry of Law and in the Department of Social Welfare, on the 15th May, 1969 and was adopted by the House on the same day (Appendix I).

3. The Lok Sabha discussed and concurred in the motion on the 16th May, 1969 (Appendix II).

4. The message from the Lok Sabha was reported to the Rajya Sabha on the 16th May, 1969.

5. The Committee held 34 sittings in all. Of these 4 sittings were held at Calcutta from 15 to 19th January, 1970; 3 sittings at Bombay from 3rd to 5th February, 1970; and 3 sittings at Madras from 12th to 14th February, 1970 with the permission of the Chairman, Rajya Sabha.

6. At their first sitting held on the 17th May, 1969, the Committee decided that a Press Communique be issued inviting memoranda on the Bill from various associations, organisations and individuals interested in the subject matter of the Bill and advising them to send their memoranda so as to reach the Rajya Sabha Secretariat by the 30th June, 1969. The Committee further decided to call witnesses for giving oral evidence on the Bill and authorised the Chairman to decide, after examining all the memoranda, as to who might be invited for the purpose. The Chairman also agreed to consider such names, as might be suggested by the members, for giving oral evidence before the Committee.

7. Forty-three memoranda and other communications on the Bill were received by the Committee (Appendix III).

8. The Committee heard evidence tendered by twenty-nine witnesses (Appendix IV).

9. The Committee decided that the evidence tendered before them be laid on the Table of the House.

10. The Report of the Committee was to be presented to the House by the 30th August, 1969. The Committee were, however, granted extensions of time; first upto the last day of the Seventieth Session; then upto

*Published in Part II Section 2 of the Gazette of India Extraordinary dated the 18th November, 1968.

the last day of the Seventy-First Session; and then again upto the last day of the Seventy-third Session of the Rajya Sabha.

11. The Committee considered and adopted the Draft Report on the 25th July, 1970.

12. During the course of the evidence tendered before the Committee, various defects and lacunae in the Civil Procedure Code, 1908, were brought to the notice of the Committee. The Committee could not make any recommendations in respect thereof as these were outside the purview of the present Bill.

It is true that considerable time has elapsed since the enactment of the Civil Procedure Code, 1908 and the social structure as it existed then has undergone considerable change. The consensus in the Committee was that the present Bill touches only the fringe of the problems it professes to solve and has left out many matters which need attention. The Committee therefore recommend that the *raison d'être* of the different provisions of the Code of Civil Procedure as a whole should be examined afresh by the Government with a view to bringing forward a comprehensive legislation for amending it.

13. The principal changes suggested by the Committee in the Bill and the reasons therefor are set out in the succeeding paragraphs:

CLAUSE 7

The Committee are of the view that filing of an affidavit or affirmation in connection with an application for transfer of a particular suit, appeal or other proceeding under the proposed section 25 of the Code of Civil Procedure should be made obligatory in all cases and that no relaxation need be made when application in this regard is made by the Attorney-General of India or the Advocate-General of a State.

Sub-section (2) of the proposed section 25 has accordingly been amended.

CLAUSE 17

The Committee are of the opinion that the period of three months specified in sub-section (1) of the proposed section 82 of the Code of Civil Procedure, after which the execution of the decree shall be ordered is quite adequate and there is no justification for vesting discretionary power in the Court to extend the period further.

The proposed sub-section (3) has accordingly been deleted.

CLAUSE 23

(i) The Committee after carefully considering the views placed before them have come to the conclusion that the proviso to sub-section (1) of the proposed section 115 of the Code would have the effect of curtailing the revisionary jurisdiction of the High Court which having regard to the restricted scope of the said section, was not justifiable.

Proviso to sub-section (1) has accordingly been deleted.

(ii) The Committee also feel that the provisions contained in sub-sections (2) and (3) of the proposed section 115 are not necessary as these amount to unjustifiable interference with the exercise of the judicial discretion of the High Court and might in certain instances result in denial of justice.

Sub-sections (2) and (3) have accordingly been deleted.

CLAUSE 43

The Committee are of the opinion that the expenditure incurred not only on typing but also on writing and printing of the pleadings filed by any party, should be taken into account by the Court in awarding costs.

Necessary amendment has been made for the purpose.

The other changes made in the Bill are of a consequential or drafting nature. For convenience and also for reference purposes, an Annexure detailing the clauses in the Bill as introduced in the Rajya Sabha which have now been amended by the Joint Committee has been added.

14. The Committee recommend that the Bill as amended be passed.

SYED AHMED

Chairman of the Joint Committee.

NEW DELHI;
July 25, 1970.

MINUTES OF DISSENT

I

संयुक्त प्रवर समिति के प्रयत्न के फलस्वरूप खंड न० 23 में अब सिर्फ दो उपखंड और एक व्याख्या रह गये हैं। मैं चाहता हूँ कि दो उपखंडों को खतम कर दिया जाये और सी०पी०सी० की 115 धारा को पुराने रूप में रखा जाये और उस धारा के अंत में जो नयी व्याख्या संशोधन के रूप में आयी है, वह व्याख्या जोड़ दी जाये। ऐसा करने से बिना आकार बढ़ाये पूरे अर्थ का समावेश भी हो जायगा और अर्थ में स्पष्टता भी आयेगी।

भूपेन्द्र नारायण मंडल

नई दिल्ली;

अगस्त, 1970

II

The Amending Bill to the Code of Civil Procedure seeks to amend the Code after a period of 60 years. The object of the Act was to make justice cheaper and speedier and also to delete or suitably amend other provisions of the Bill of 1908 which have become either out-moded or unfit to serve the present needs of the Society. However, the amending measure touches only the fringe of the problem and does not go far enough to make justice really speedier and cheaper. It is the bounden duty of a State to provide cheap and speedy justice to every citizen but it is a matter of common experience that many a citizen cannot approach the law courts on account of their meagre and limited resources even though they might have become victims of serious injustice at the hands of an individual, the society or the Government. The bill makes absolutely no provision for providing legal aid to the poor at the expense of the State. It is very much desirable that something must be done in that direction either by amending the Code of Civil Procedure or by inserting provision like the provision of the filing of suits and appeals in *forma pauperis*. The rates of court fees have been increasing from time to time and are fairly high at the moment. Something needs to be done to reduce the rates of court fees especially on smaller amounts. A provision in the Code of Criminal Procedure enabling women to file maintenance application against the erring husbands on a small court fee of Rs. 1.25 is a very salutary provision and is responsible for securing cheaper justice to thousands of women in our country. Similar provisions need to be incorporated in the Code of Civil Procedure.

It is a matter of common experience that justice delayed is in fact justice denied. The procedure in the present Code is responsible for delays in the disposal of civil suits and appeals. It is a matter of common knowledge that many a litigant has to engage lawyers several times during the pendency of an appeal in the High Court either on the ground

that a senior lawyer to whom the case had been entrusted is raised to the Bench or dies or shifts his place of business. The disposal of the case is also delayed, occasionally, because of the death of one of the parties impleaded in a suit or an appeal because of the long period for which the case remains pending in the appellate court. The abatement proceeding resulting from the death of a party, notice of which is not given to the court, in the limited period provided in the Code also results in great hardships to the litigant community. Time has come when something must be done either to extend the period of abatement or for bringing the facts of death to the notice of the court or by deleting the provisions of abatement altogether. The question of avoiding delays is also intimately connected with the question of the strength of the judges in the High Court where arrears of cases to be decided have mounted to thousands with each High Court. Immediate steps are needed to raise the strength of the judiciary in each High Court and to fix a target that no case will take more than three years in a High Court or the Supreme Court.

The present measure has not achieved the twin objective of expedition and reduction of costs. Radical changes are needed to solve the twin objective. So far as the question of cutting down delays is concerned, the following measures are urgently needed:—

(i) The rival contentions between the parties must be clearly understood by the trial court in order to secure speedy disposal of the case. Pre-trial conference may also be provided for.

(ii) Personal appearance of the party must be dispensed with, excepting where it is directed by the trial court. The service of the Counsel ought to be sufficient for hearing appeals.

(iii) Furnishing of certified copies of judgements and decrees should not be a condition for preferring appeals.

(iv) Section 20 should be suitably amended to enable filing of suits in any court where any of the parties resides.

(v) No second appeal should be permitted in execution cases.

(vi) In order 21, amendment is required to provide that payment ought to be made only in court.

(vii) In order 23, rule 3, compromise should be permitted only in court and a suitable amendment is needed. The proceedings under order 21, rule 58 should be treated as a suit.

The old and outmoded concept of a pauper has to be drastically changed. The word pauper should be jettisoned and should be replaced by a person needing assistance. The provision of help not only in the matter of court fees, but in the matter of lawyer's fees and other expenses also should be provided for a person who has no capacity to pay. The assistance should depend on the merit of the cause and the need of the person. It has to be realised that provision for legal aid for a citizen is a pre-requisite in many countries. The scope of section 50 should therefore be enlarged considerably.

Other Changes Needed

1. The deletion of Section 80 from the Code is a welcome step. The applicability of Section 80 of the C.P.C. should also be removed from other statutes.

2. There are a number of outmoded provisions in this Code of Civil Procedure which do not fit in with the present structure of the society. Section 87B which deals with the special privileges of the Princes, has absolutely no place in the present context of the society and the sooner it is deleted, the better. At present different rules have been framed by various High Courts under Section 122 of the Act. It is desirable that a uniformity must be achieved in those rules.

3. Under Section 34 of the original Act, the rate of payment of interest to be raised is from 6 per cent to 12 per cent on unsecured amounts. So far as secured amounts are concerned, the rate of interest can be fixed in accordance with the amounts of instalments.

4. On the original side of the High Court, it is desirable that amendments be made in order 3, rule 4 of C.P.C. so as to provide for the filing of the power of Attorney along with the appearance, in order to avoid delay.

5. In the case of a corporation or a company, or a tribunal, for the purposes of Section 79, it is desirable that they should be described in their official capacity. Otherwise the change of a person, if he is described by name, creates complication and delay. The same can be followed in the matter of filing writ petition.

6. At present there is no provision in the C.P.C., wherein Interim orders can be passed in partnership cases, administration suits and in partition suit. Something has to be done about it.

7. In maintenance suits, widows would be entitled to interim orders of maintenance. The Madras High Court refused to pass interim order on the ground that there is no such provision in the maintenance suits, The provision is only under the Hindu Marriage Act. Such a provision can be made in Order 38, 39 and 40.

8. Provision should also be made in order 30, making it obligatory for the plaintiff to disclose the name of partners, assets of the partnership and the place of its headquarters.

SHRI CHAND GOYAL,
BRIJ BHUSHAN LAL
RATTAN LAL JAIN

NEW DELHI;

Bill No. XXXIVB of 1968

THE CODE OF CIVIL PROCEDURE (AMENDMENT)

BILL, 1968

(AS REPORTED BY THE JOINT COMMITTEE)

(Words underlined indicate the amendments suggested by the Committee, asterisks indicate omissions.)

A

BILL

further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1970.

Short
title
and
com-
mence-
ment.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

5 of 1908. 2. In the Code of Civil Procedure, 1908 (hereinafter referred to as the principal Act), in section 1, in sub-section (3),—

Amend-
ment of
section 1.

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

“(b) save as hereinafter provided, the Scheduled Areas comprising the East Godavari, West Godavari and Visakhapatnam Agencies in the State of Andhra Pradesh;”;

(ii) for the proviso, the following provisos shall be substituted, namely:—

“Provided that sections 36 to 43 and Order XXXIV in the First Schedule shall extend also to the East Godavari, West Godavari and Visakhapatnam Agencies in the State of Andhra Pradesh:

Provided further that in relation to the Union territory of Laccadive, Minicoy and Amindivi Islands, the application of the Code shall be without prejudice to the application of the Regulations, for the time being in force in such territory, relating to the application of this Code.”

Amendment of section 2.

3. In section 2 of the principal Act, in clause (17), in sub-clause (b), for the words “the Indian Civil Service”, the words “an All-India Service” shall be substituted.

Amendment of section 8.

4. In section 8 of the principal Act, for the figures and words “77 and 155 to 158”, the figures and word “77, 157 and 158” shall be substituted.

Insertion of new section 21 A.

5. In the principal Act, after section 21, the following section shall be inserted, namely:—

Bar of suit to set aside decree on objection as to place of suing.

‘21A. No party to a suit shall be allowed to question the validity of a decree passed in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, on any ground based on an objection as to the place of suing.

Explanation.—The expression “former suit” shall denote a suit which has been decided prior to the suit in question, whether or not it was instituted prior thereto.’

Amendment of section 24.

6. In section 24 of the principal Act, in sub-section (2), for the words “thereafter tries such suit”, the words “is thereafter to try or dispose of such suit or proceeding” shall be substituted.

Substitution of new section for section 25.

7. For section 25 of the principal Act, the following section shall be substituted, namely:—

Power of Supreme Court to transfer suits, etc.

“25. (1) On the application of a party, and after notice to the parties, and after hearing such of them as desire to be heard, the Supreme Court may, at any stage, if satisfied that an order under this section is expedient for the ends of justice, direct that any particular suit, appeal or other proceeding be transferred from a High Court or other Civil Court in one State to a High Court or other Civil Court in any other State.

(2) Every application under this section shall be made by motion which shall ***** be supported by affidavit or affirmation.

(3) The Court to which such suit, appeal or other proceeding is transferred shall, subject to any special directions in the order of transfer, either re-try it or proceed from the stage at which it was transferred.

5 (4) In dismissing any application under this section, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two thousand rupees as it may consider appropriate in the circumstances of the case.

10 (5) The law applicable to any suit, appeal or other proceeding transferred under this section shall be the law which the Court in which the suit, appeal or other proceeding was originally instituted ought to have applied to such suit, appeal or proceeding."

8. In section 35A of the principal Act,—

Amendment of section 35A.

(a) in sub-section (1), for the words "excluding an appeal", the words "excluding an appeal or a revision" shall be substituted;

15 (b) in sub-section (2), for the words "one thousand rupees", the words "two thousand rupees" shall be substituted.

9. For section 36 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 36.

20 "36. The provisions of this Code relating to the execution of decrees (including provisions relating to payment under a decree) shall, so far as they are applicable, be deemed to apply to the execution of orders (including payment under an order)."

Application to orders

10. In section 37 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

Amendment of section 37.

25 "*Explanation.*—The Court of first instance does not cease to have jurisdiction to execute a decree on the ground merely that after the institution of the suit wherein the decree was passed or after the passing of the decree, any area has been transferred from the jurisdiction of that Court to the jurisdiction of any other Court; but, in every such case, such other Court shall also have jurisdiction to execute the decree, if at the time of making the application for execution of the decree it would have jurisdiction to try the said suit."

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11. In section 39 of the principal Act,—

Amendment of section 39.

35 (a) in sub-section (1), after the words "to another Court", the words "of competent jurisdiction" shall be inserted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

40 "(3) For the purposes of this section, a Court shall be deemed to be a Court of competent jurisdiction if at the time of making the application for the transfer of decree to it, such Court would have jurisdiction to try the suit in which such decree was passed."

Amend-
ment of
section 42.

12. Section 42 of the principal Act shall be re-numbered, as sub-section (1) of that section, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Without prejudice to the generality of the provisions of sub-section (1), the powers of the Court under that sub-section shall include the following powers of the Court which passed the decree, namely:—

(a) power to send the decree for execution to another Court under section 39;

(b) power to execute the decree against legal representative of the deceased judgment-debtor under section 50;

(c) power to order attachment of a decree.

(3) A Court passing an order in exercise of the powers specified in sub-section (2) shall send a copy thereof to the Court which passed the decree.

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(4) Nothing in this section shall be deemed to confer on the Court to which a decree is sent for execution any of the following powers, namely:—

(a) power to order execution at the instance of the transferee of a decree;

20

(b) in the case of a decree passed against a firm, power to grant the leave to execute such decree against any person other than such a person as is referred to in clause (b) or clause (c) of sub-rule (1) of rule 50 of Order XXI.”.

Amend-
ment of
section 47.

13. In section 47 of the principal Act,—

25

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The provisions of section 11 shall, so far as may be, apply in relation to proceedings under this section as they apply to suits.”;

30

(b) for the *Explanation*, the following *Explanations* shall be substituted, namely:—

“*Explanation 1.*—For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed are parties to the suit.

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Explanation 2.—(a) For the purposes of this section, a purchaser of any property at a sale in execution of a decree shall be deemed to be a party to the suit in which the decree is passed; and

(b) all questions relating to the delivery of possession of such property to such purchaser or his representative shall be deemed to be questions relating to the execution, discharge or satisfaction of the decree within the meaning of this section.”.

40

14. In section 58 of the principal Act, in sub-section (1), in clause (a), for the words "fifty rupees", the words "two hundred rupees" shall be substituted.

Amendment of section 58.

15. In section 60 of the principal Act, in sub-section (1),—

Amendment of section 60.

(a) in the proviso,—

(i) in clause (g), after the words "pensioners of the Government", the words "or of a local authority or of any other employer" shall be inserted;

10 (ii) in clause (i), for the proviso, the following proviso shall be substituted, namely:—

"Provided that where the entire portion of such salary or any part of such portion which is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree.";

15

20

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

45 of 1950.
46 of 1950.
62 of 1957.

"(j) the pay and allowances of persons to whom the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957, applies;"

25

(b) for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

"*Explanation 1*.—The particulars mentioned in clauses (g), (h), (i), (ia), (j), (l) and (o) are exempt from attachment or sale whether before or after they are payable, and in the case of salary, the attachable portion thereof is liable to attachment, whether before or after it is actually payable.";

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(c) in *Explanation 2*, for the words, brackets and letters "clauses (h) and (i)", the words, brackets and letters "clauses (i) and (ia)" shall be substituted.

16. Section 80 of the principal Act, shall be omitted.

Omission of section 80.

35 17. For section 82 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 82.

40

"82. (1) Where, in a suit by or against the Government or by or against a public officer in respect of any act purporting to be done by him in his official capacity, a decree is passed against the Union of India or a State or, as the case may be, the public officer, execution shall not be issued on the decree unless it remains unsatisfied for a period of three months computed from the date of the decree.

Execution of decree against Government or public officer.

(2) The provisions of sub-section (1) shall apply in relation to an order or award as they apply in relation to a decree, if the order or award—

(a) is passed or made against the Union of India or a State or a public officer in respect of any such act as aforesaid, whether by a Court or by any other authority; and

(b) is capable of being executed under the provisions of this Code or of any other law for the time being in force as if it were a decree.”.

* * * * *

Amend-
ment of
section 95.

18. In section 95 of the principal Act, in sub-section (1), for the words “expense or injury caused to him”, the words and brackets “expense or injury (including injury to reputation) caused to him” shall be substituted.

Amend-
ment of
section 97.

19. In section 97 of the principal Act, the words “passed after the commencement of this Code” shall be omitted.

Amend-
ment of
section 98.

20. In section 98 of the principal Act, in sub-section (2), in the proviso,—

(a) for the words “composed of two Judges belonging to a Court consisting of more than two Judges”, the words “composed of two or other even number of Judges belonging to a Court consisting of more Judges than those constituting the Bench” shall be substituted;

(b) for the words “differ in opinion on a point of law, they may state the point of law”, the words “differ in opinion on a point, they may state the point” shall be substituted.

Amend-
ment of
section 102.

21. In section 102 of the principal Act, for the words “one thousand rupees”, the words “three thousand rupees” shall be substituted.

Amend-
ment of
section 105.

22. In section 105 of the principal Act, in sub-section (2), the words “made after the commencement of this Code” shall be omitted.

Substitu-
tion of
new
section
for
section
115.

23. For section 115 of the principal Act, the following section shall be substituted, namely:—

Revision.

‘115. (1) The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

7

Explanation.—In this sub-section, the expression “any case which has been decided includes any order made in the course of a suit or other proceeding, including an order deciding an issue.

* * * * *

5 (2) The High Court shall not, under sub-section (1), vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.’

24. In section 135A of the principal Act, in sub-section (1), for the word “fourteen”, the word “forty” shall be substituted.

Amend-
ment of
section
135A.

10 25. In section 144 of the principal Act, for sub-section (1), the following sub-section and *Explanation* shall be substituted, namely:—

Amend-
ment of
section
144.

15 (1) Where and in so far as a decree or an order is varied or reversed in any appeal, revision or other proceeding or is set aside or modified in any suit instituted for the purpose, the Court which passed the decree or order shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or order or such part thereof as has been varied, reversed, set aside or modified; and, 20 for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits which are properly consequential on such variation, reversal, setting aside or modification of the decree or order.

25 *Explanation.*—For the purposes of this section, the expression “Court which passed the decree or order” shall be deemed to include,—

30 (a) where the decree or order has been varied or reversed in exercise of appellate or revisional jurisdiction, the Court of first instance;

(b) where the decree or order has been set aside by a separate suit, the Court of first instance which passed such decree or order; and

35 (c) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree or order was passed was instituted at the time of making the application for restitution under this section, would have jurisdiction to try such suit.’

Amend-
ment of
section
145.

26. In section 145 of the principal Act,—

(a) for the words “has become liable as surety”, the words “has furnished security” shall be substituted;

(b) for the portion beginning with the words “the decree or order may be executed against him” and ending with the words and figures “within the meaning of section 47:”, the following shall be substituted, namely:—

“the decree or order may be executed in the manner herein provided for the execution of decrees, namely:—

(i) if he has rendered himself personally liable, against him to that extent; and

(ii) if he has furnished any property as security, by sale of such property to the extent of the security;

(iii) if the case falls both under clauses (i) and (ii), then to the extent specified in those clauses,

and such person shall, for the purposes of appeal, be deemed to be a party within the meaning of section 47:”.

Amend-
ment of
Order
I of First
Schedule.

27. In the First Schedule to the principal Act (hereinafter referred to as the First Schedule), in Order I,—

(a) for rule 1, the following rule shall be substituted namely:—

Who may
be joined
as plain-
tiffs.

“1. All persons may be joined in one suit as plaintiffs where—

(a) any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist in such persons, whether jointly, severally or in the alternative; and

(b) if such persons brought separate suits, any common question of law or fact would arise.”;

(b) for rule 3, the following rule shall be substituted, namely:—

Who may
be joined
as defen-
dants.

“3. All persons may be joined in one suit as defendants where—

(a) any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist against such persons, whether jointly, severally or in the alternative; and

(b) if separate suits were brought against such persons, any common question of law or fact would arise.”;

(c) after rule 3, the following rule shall be inserted, namely:—

5 "3A. Where it appears to the Court that any joinder of defendants may embarrass or delay the trial of the suit, the Court may order separate trials or make such other order as may be expedient.';

Power to order separate trials where joinder of defendants may embarrass or delay trial.

(d) for rule 8, the following rule shall be substituted, namely:—

10 "8. (1) Where there are numerous persons having the same interest in one suit,—

One person may sue or defend on behalf of all in same interest.

15 (a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend any such suit, on behalf of or for the benefit of all persons so interested;

15 (b) the Court may direct that one or more of such persons may sue or be sued, or may defend any such suit, on behalf of or for the benefit of all persons so interested.

20 (2) The Court shall, in every case where a permission or direction is given under sub-rule (1), at the plaintiff's expense, give notice of the institution of the suit to all persons so interested, either by personal service or, where by reason of the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

25 (3) Any person on whose behalf or for whose benefit a suit is instituted or defended under sub-rule (1) may apply to the Court to be made a party to such suit.

30 (4) No such suit shall be withdrawn and no part of the claim in any such suit abandoned under sub-rule (1) or sub-rule (2) of rule 1 of Order XXIII, and no agreement, compromise or satisfaction shall be recorded in any such suit under rule 3 of that Order, unless the Court has given, at the plaintiff's expense, notice to all persons so interested in the manner specified in sub-rule (2).

35 (5) Where any person suing or defending in any such suit does not proceed with due diligence in the suit or defence, the Court may substitute in his place any other person having the same interest in the suit.

40 (6) A decree passed in a suit under this rule shall be binding on all persons on whose behalf or for whose benefit the suit is instituted, or defended, as the case may be; but such decree shall not be executed by or against any person who is not a party on record to the suit except with the leave of the Court.

(7) Notice of an application for the grant of leave under sub-rule (6) shall be served on the person against whom a decree is sought to be executed in the manner provided in this Code for the service of a summons.

(8) Any person, who is served with the notice referred to in sub-rule (7), may dispute liability to have the decree executed against him on the ground that by reason of facts and matters particular to his case, he is entitled to be exempted from such liability.”;

(e) in rule 10,— 10

(i) for sub-rule (2), the following sub-rule shall be substituted, namely:—

Court may, strike out or add parties.

“(2) The Court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just,— 15

(a) order that the name of any person who has been improperly or unnecessarily joined, whether as plaintiff or defendant, or who has, for any reason, ceased to be a proper or necessary party, be struck out;

(b) order that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”; 20 25

(ii) in sub-rule (5), for the words and figures “the Indian? Limitation Act, 1877, section 22,” the words and figures “section 21 of the Limitation Act, 1963,” shall be substituted; 15 of 1877. 36 of 1963.

(f) in rule 11, for the words “the suit”, the words “a suit” shall be substituted. 30

Amendment of Order II.

28. In the First Schedule, in Order II, for rule 6, the following rule shall be substituted, namely:—

Power of Court to order separate trials.

“6. Where it appears to the Court that the joinder of causes of action in one suit may embarrass or delay the trial or is otherwise inconvenient, the Court may order separate trials or make such other order as may be expedient.”. 35

Amendment of Order III.

29. In the First Schedule, in Order III,—

(a) in rule 4, for sub-rule (3), the following sub-rule shall be substituted, namely:—

“(3) For the purposes of sub-rule (2),— 40

(a) an application for review of judgment,

(b) an application under section 144 or section 152 of this Code,

(c) any appeal or application for revision from any decree or order in the suit and any application relating to such appeal or revision, and 45

(d) any application or act for the purpose of obtaining copies of documents or return of documents produced or filed in the suit or of obtaining refund of moneys paid into the Court in connection with the suit,

5 shall be deemed to be proceedings in the suit.”;

(b) in rule 5, for the words “Any process served on the pleader of any party”, the words “Any process served on the pleader who has been duly appointed to act in Court for any party” shall be substituted;

10 (c) in rule 6, after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) The Court may, at any stage of a suit, order any party to the suit not having—

15 (a) a recognised agent residing within the jurisdiction of the Court, or

(b) a pleader who has been duly appointed to act in Court on his behalf,

to appoint within a specified time an agent within the jurisdiction of the Court to accept service of process on his behalf.”.

20 30. In the First Schedule, in Order V,—

Amend-
ment of
Order V.

(a) in rule 1, in sub-rule (1), after the proviso, the following further proviso shall be inserted, namely:—

25 “Provided further that in appropriate cases the Court may direct the defendant to file the written statement, if any, on the date of his appearance and cause an entry to be made to that effect in the summons.”;

30 (b) in rule 15, for the words “the defendant cannot be found and” the words “the defendant is absent from his residence at the time when service is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time and he” shall be substituted;

35 (c) in rule 17, for the words “or where the serving officer, after using all due and reasonable diligence, cannot find the defendant”, the words “or where the defendant is absent from his residence at the time when service is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time” shall be substituted;

(d) after rule 19, the following rule shall be inserted, namely:—

Simultaneous issue of summons for service by post in addition to personal service.

“19A. (1) The Court shall, in addition to and simultaneously with the issue of summons for service in the manner provided in rules 9 to 18 also direct the summons to be served by registered post addressed to the defendant or his agent empowered to accept the service at the place where the defendant or his agent ordinarily resides or carries on business or personally works for gain: 5

Provided that nothing in this sub-rule shall require the Court to issue a summons for service by registered post, where, in the circumstances of the case, the Court considers it unnecessary. 10

(2) When an acknowledgement purporting to be signed by the defendant or the agent or an endorsement purporting to be made by a postal employee that the defendant or the agent refused to take delivery has been received, the Court issuing the summons may declare that there has been valid service.”; 15

(e) in rule 20, after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(1A) Where the Court acting under sub-rule (1), orders service by advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have resided, carried on business or personally worked for gain.”; 20

(f) rule 20A shall be omitted; 25

(g) for rule 26, the following rules shall be substituted, namely:—

Service in foreign territory through Political Agents or Court.

“26. Where—

(a) in the exercise of any foreign jurisdiction vested in the Central Government, a Political Agent has been appointed, or a Court has been established or continued, with power to serve a summons issued by a Court under this Code in any foreign territory in which the defendant resides, or 30

(b) the Central Government has, by notification in the Official Gazette, declared, in respect of any Court situate in any such territory and not established or continued in the exercise of any such jurisdiction as aforesaid, that service by such Court of any summons issued by a Court under this Code shall be deemed to be valid service, 35

the summons may be sent to such Political Agent or Court, by post, or otherwise, or if so directed by the Central Government, through the Ministry of that Government dealing with foreign affairs or in such other manner as may be specified by the Central Government, for the purpose of being served upon the defendant; and, if the Political Agent or Court returns the summons with an endorsement signed by such Political Agent or by the Judge or other officer of the Court that the summons has been served on the defendant in the manner hereinbefore directed, such endorsement shall be deemed to be evidence of service. 40 45 50

26A. Where the Central Government has, by notification in the Official Gazette, declared in respect of any foreign territory that summonses to be served on defendants residing in that foreign territory may be sent to an officer of the Government of the foreign territory specified by the Central Government, the summonses may be sent to such officer, through the Ministry of the Government of India dealing with foreign affairs or in such other manner as may be specified by the Central Government; and if such officer returns any such summons with an endorsement signed by him that the summons has been served on the defendant, such endorsement shall be deemed to be evidence of service.”

Summonses to be sent to officers of foreign countries.

31. In the First Schedule, in Order VI,—

Amendment of Order VI.

(a) for rule 2, the following rule shall be substituted, namely:—

“2. (1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

Pleading to state material facts and not evidence.

(2) Every pleading shall, when necessary, be divided into paragraphs numbered consecutively each allegation being, so far as is convenient, contained in a separate paragraph.

(3) Dates, sums and numbers shall be expressed in a pleading in figures.”;

(b) after rule 14, the following rule shall be inserted, namely:—

‘14A. (1) Every pleading when filed by a party shall be accompanied by a statement in the prescribed form, signed as provided in rule 14, regarding the party’s address for service.

Address for service of notice.

(2) Such address may, from time to time, be changed by lodging in Court a form duly filled up and stating the new address of the party and accompanied by a verified petition.

(3) The address furnished in the statement made under sub-rule (1), shall be called the “registered address” of the party, and shall, until duly changed as aforesaid, be deemed to be the address of the party for the purpose of service of all processes in the suit or in any appeal from any decree or order therein made and for the purpose of execution, and shall hold good, subject as aforesaid, for a period of two years after the final determination of the cause or matter.

(4) Service of any process may be effected upon a party at his registered address in all respects as though such party resided thereat.

(5) Where the registered address of a party is discovered by the Court to be false, fictitious or illusory, the Court may, either on its own motion, or on the application of any party, order—

(a) in the case where such registered address was furnished by a plaintiff, stay of the suit, or

(c) after rule 6, the following rules shall be inserted, namely:—

Counter-claim by defendant.

“6A. (1) A defendant in a suit, in addition to his right of pleading a set-off under rule 6, may set up, by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence and before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not: 5

Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the Court. 10

(2) Such counter-claim shall have the same effect as a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim. 15

(3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Court.

(4) The counter-claim shall be treated as a plaint and governed by the rules applicable to plaints. 20

Counter-claim to be stated.

6B. Where any defendant seeks to rely upon any ground as supporting a right of counter-claim, he shall, in his written statement, state specifically that he does so by way of counter-claim.

Exclusion of counter-claim.

6C. Where a defendant sets up a counter-claim and the plaintiff contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent suit, the plaintiff may, at any time before issues are settled in relation to the counter-claim, apply to the Court for an order that such counter-claim may be excluded, and the Court may, on the hearing of such application, make such order as it may deem fit. 25 30

Discontinuance of suit.

6D. If in any case in which the defendant sets up a counter-claim, the suit of the plaintiff is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

Default by defendant to counter-claim.

6E. If the defendant to the counter-claim makes default in putting in a reply to the counter-claim, the Court may pronounce judgment against him or make such order in relation to the counter-claim as it thinks fit. 35

Relief to defendant in counter-claim.

6F. Where in any suit a set-off or counter-claim is established as a defence against the plaintiff's claim, and any balance is found due to the plaintiff or the defendant, as the case may be, the Court may give judgment to the party entitled to such balance. 40

Rules relating to written statement to apply.

6G. The rules relating to a written statement by a defendant shall apply to a written statement in answer to a counter-claim.”; 45

(d) in rule 7, after the word “set-off”, the words “or counter-claim” shall be inserted;

(e) in rule 8, after the word "set-off", the words "or counter-claim" shall be inserted;

(f) in rule 9, after the word "set-off", the words "or counter-claim" shall be inserted;

5 (g) in rule 10, for the words "is so required fails to present the same within the time fixed by the Court", the words and figures "is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be," shall be substituted.

10 34. In the First Schedule, in Order IX,—

Amend-
ment of
Order
IX.

(a) in rule 2—

15 (i) after the words and brackets "or postal charges (if any) chargeable for such service," the words and figures "or to present copies of the plaint or concise statements, as required by rule 9 of Order VII," shall be inserted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

20 "Provided that no such order shall be made if, notwithstanding such failure, the defendant attends in person (or by agent when he is allowed to appear by agent) on the day fixed for him to appear and answer.";

25 (b) in rule 4, for the words and brackets "his not paying the court-fee and postal charges (if any) required within the time fixed before the issue of the summons", the words and figure "such failure as is referred to in rule 2" shall be substituted;

(c) in rule 5, for the words "three months", the words "two months" shall be substituted;

(d) in rule 13, after the proviso, the following further proviso shall be inserted, namely:—

30 "Provided further that no Court shall set aside a decree passed *ex parte* merely on the ground that there has been an irregularity in the service of summons, if it is satisfied that the defendant had notice of the date of hearing and had sufficient time to appear and answer the plaintiff's claim."

35 35. In the First Schedule, in Order X, for rule 2, the following rule shall be substituted, namely:—

Amend-
ment of
Order X.

"2. (1) At the first hearing of the suit, the Court—

40 (a) shall, with a view to elucidating matters in controversy in the suit, examine orally such of the parties to the suit appearing in person or present in Court, as it deems fit; and

Oral
exami-
nation of
Party, or
companion
of party.

(b) may orally examine any person able to answer any material question relating to the suit by whom any party appearing in person or present in Court or his pleader is accompanied.

(2) At any subsequent hearing, the Court may orally examine any party appearing in person or present in Court, or any person able to answer any material question relating to the suit by whom such party or his pleader is accompanied.

(3) The Court may, if it thinks fit, put in the course of an examination under this rule questions suggested by either party." 5

Amend-
ment of
Order
XI.

36. In the First Schedule, in Order XI,—

(a) in rule 6, for the words "or on any other ground", the words "or on the ground of privilege or any other ground" shall be substituted; 10

(b) in rule 15, after words "in whose pleadings or affidavits reference is made to any document," the words "or who has entered any document in any list added or annexed to his pleadings," shall be inserted;

(c) in rule 19, in sub-rule (2), the words "unless the document 15 relates to matters of State" shall be inserted at the end.

Amend-
ment of
Order
XIII.

37. In the First Schedule, in Order XIII,—

(a) rule 2 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:— 20

"(2) Nothing in sub-rule (1) shall apply to documents,—

(a) produced for cross-examination of the witnesses of the other party, or

(b) furnished to a witness merely to refresh his memory."; 25

(b) in rule 9, in sub-rule (1), for the first proviso, the following proviso shall be substituted, namely:—

"Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor— 30

(a) delivers to the proper officer for being substituted for the original—

(i) in the case of a party to the suit, a certified copy, and

(ii) in the case of any other person, an ordinary 35 copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and

(b) undertakes to produce the original if required to do so:" 40

Amend-
ment of
Order
XIV.

38. In the First Schedule, in Order XIV, in rule 1, in sub-rule (5), for the words "after such examination of the parties as may appear necessary", the words and figures "after examination under rule 2 of Order X and after hearing the parties or their pleaders" shall be substituted. 45

39. In the First Schedule, in Order XVI,—

Amend-
ment of
Order
XVI.

(a) for rule 1, the following rule shall be substituted, namely:—

5 “1. (1) On or before such date as the Court may appoint and not later than ten days after the date on which the issues are settled, the parties shall present in Court a list of witnesses whom they propose to call either to give evidence or to produce documents.

List of
witness-
ses and
sum-
mons to
witness-
ses.

10 (2) A party desirous of calling, whether by summoning through Court or otherwise, any witness other than those whose names appear in the said list, may be permitted to do so by the Court, if he shows good cause for the omission of the said witness from the list.

(3) Where the Court grants any such permission, it shall record its reasons for so doing.

15 (4) On application to the Court or to such officer as it appoints in this behalf, and subject to the provisions of sub-rule (2), parties may obtain summonses to persons whose attendance is required either to give evidence or to produce documents.”;

(b) for rule 1A, the following rule shall be substituted, namely:—

20 “1A. Subject to the provisions of sub-rule (2) of rule 1, any party to the suit may, without applying for summons under rule 1, bring any witness to give evidence or to produce documents.”;

Produc-
tion of
witnesses
without
summons
through
Court.

(c) in rule 2, after sub-rule (3), the following sub-rule shall be inserted, namely:—

25 “(4) Where the summons is served on the witness by the party directly, the expenses mentioned in sub-rule (1) shall be paid to the witness by the party or his agent.”;

(d) after rule 7, the following rule shall be inserted, namely:—

30 “7A. (1) The Court may, on the application of any party for the issue of a summons for the attendance of any person, permit such party to effect service of such summons by such party, and shall, in such a case, deliver the summons to such party for service.

Summons
given to
party
for
service.

35 (2) The service of such summons shall be effected by or on behalf of such party by delivering or tendering to the witness personally a copy thereof signed by the Judge or such officer as he appoints in this behalf and sealed with the seal of the Court.

(3) The provisions of rules 16 and 18 of Order V shall apply to a summons personally served under this rule, as if the person effecting service were a serving-officer.

40 (4) If such summons, when tendered, is refused or if the person served refuses to sign an acknowledgment of service or for any reason such summons cannot be served personally, the Court shall, on the application of the party, re-issue such summons to be served by the Court in the same manner as a summons
45 to a defendant.

(5) Where a summons is served by a party under this rule, the party shall not be required to pay the fees otherwise chargeable for the service of summons.”;

(e) in rule 8, for the words “under this Order”, the words, figure and letter “under this order, not being a summons delivered to a party for service under rule 7A,” shall be substituted;

(f) in rule 10,—

(i) for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document fails to attend or to produce the document in compliance with such summons, the Court shall, if the certificate of the serving-officer has not been verified by affidavit, or if service of the summons has been effected by a party or his agent, and may, if the certificate of the serving-officer has been verified, examine the serving-officer or the party or his agent who has effected service, as the case may be, on oath, or cause him to be so examined by any Court touching the service or non-service of the summons.”;

(ii) after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(4) Notwithstanding any thing contained in rule 1 of Order XLVIII, no court-fee shall be charged for the issue of any process under this rule unless the Court otherwise directs.”;

(g) rule 12 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:—

“(2) Notwithstanding that the Court has not issued a proclamation under sub-rule (2) of rule 10 nor issued a warrant nor ordered attachment under sub-rule (3) of that rule, the Court may impose fine under sub-rule (1) of this rule after giving notice to such person to show cause why the fine should not be imposed.”

Amend-
ment of
Order
XVII.

40. In the First Schedule, in Order XVII,—

(a) in rule 2, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—Where the evidence or a substantial portion of the evidence of any party has already been recorded and such party fails to appear on any day to which the hearing of the suit is adjourned, the Court may, in its discretion, proceed with the case as if such party were present.”;

(b) in rule 3, for the words "the Court may, notwithstanding such default, proceed to decide the suit forthwith", the following shall be substituted, namely:—

"the Court may, notwithstanding such default,—

5 (a) if the parties are present, proceed to decide the suit forthwith;

(b) if the parties are or any of them is absent, proceed under rule 2."

41. In the First Schedule, in Order XVIII, in rule 2, after sub-rule (3), Amend-
10 the following sub-rule shall be inserted, namely:— Order XVIII.

"(4) Notwithstanding anything contained in this rule, the Court may, for reasons to be recorded, direct or permit any party to examine any witness at any stage."

42. In the First Schedule, in Order XX,—

15 (a) rule 1 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:— Amend-
ment of Order XX.

20 "(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out, and it shall not be necessary for the Court to read out the whole judgment; but a copy of the whole judgment shall be made available for the perusal of the parties or their pleaders immediately after the judgment is pronounced."

25 (b) after rule 12, the following rule shall be inserted, namely:—

30 "12A. Where a decree for specific performance of a contract for the sale or lease of immovable property orders that the purchase-money or other sum be paid by the purchaser or lessee, it shall specify the period within which the payment shall be made."; Decree for specific performance of contract for the sale or lease of immovable property.

(c) in rule 19, in sub-rules (1) and (2), after the word "set-off", wherever it occurs, the words "or counter-claim" shall be inserted.

43. In the First Schedule, after Order XX, the following Order shall be inserted, namely:— Insertion of new Order XXA.

35 "ORDER XXA

Costs

1. (1) Without prejudice to the generality of the provisions of this Code relating to costs, the Court may award costs in respect of— Provi-
sions re-
lating to
certain
items.

40 (a) expenditure incurred for the giving of any notice required to be given by law before the institution of the suit;

(b) expenditure incurred on any notice which, though not required to be given by law, has been given by any party to the suit to any other party before the institution of the suit;

(c) expenditure incurred on the typing, writing and printing of pleadings filed by any party; 5

(d) charges paid by a party for inspection of the records of the Court for the purposes of the suit;

(e) expenditure incurred by a party for producing witnesses, even though not summoned through Court; and

(f) in the cases of appeals, charges incurred by a party for 10 obtaining any copies of judgments and decrees which are required to be filed along with the memorandum of appeal.

(2) The award of costs under this rule shall be in accordance with such rules as the High Court may make in that behalf.

Pleader's
fees.

2. In calculating costs, no amount shall be included as pleader's 15 fees unless a receipt signed by the pleader, or a certificate in writing signed by him and stating the amount received, has been filed in Court."

Amend-
ment of
Order
XXI.

44. In the First Schedule, in Order XXI,—

(a) for rule 1, the following rule shall be substituted, namely:— 20

Modes of
paying
money
under
decree.

"1. (1) All money payable under a decree shall be paid as follows, namely:—

(a) by deposit into or by postal money order sent to the Court whose duty it is to execute the decree, or through a bank to that Court; 25

(b) out of Court to the decree-holder through a bank or by postal money order or by any other mode wherein payment is evidenced in writing; or

(c) otherwise, as the Court which made the decree, directs. 30

(2) Where any payment is made under clause (a) or clause (c) of sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or by registered post direct.

(3) Where money is paid by postal money order under clause 35 (a) or clause (b) of sub-rule (1), the money order shall accurately state the following particulars, namely:—

(i) the number of the original suit;

(ii) the names of the parties or where there are more plaintiffs than two or more defendants than two, the names of the first two plaintiffs or, as the case may be, the first two 40 defendants;

(iii) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;

(iv) the number of the execution case of the Court, where such case is pending; and

(v) the name and address of the payer.

5 (4) On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice under sub-rule (2).”;

(b) in rule 2,—

10 (i) in sub-rule (1), for the words “or the decree is otherwise adjusted”, the words “or a decree of any kind is otherwise adjusted” shall be substituted;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(2A) No payment or adjustment shall be recorded at the instance of the judgment-debtor unless—

15 (a) the payment is made in the manner provided in rule 1; or

(b) the adjustment is proved by documentary evidence; or

20 (c) the payment or adjustment is admitted by or on behalf of the decree-holder in his reply to the notice or before the Court.”;

(c) after rule 11, the following rule shall be inserted, namely:—

25 “11A. Where an application is made for the arrest and detention in prison of the judgment-debtor, it shall state, or be accompanied by an affidavit stating, the grounds on which arrest is applied for.”;

Applica-
tion
for
arrest to
state
grounds.

(d) in rule 17,—

30 (i) in sub-rule (1), for the words “the Court may reject the application, or may allow”, the words “the Court shall allow” shall be substituted;

(ii) after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(1A) If the defect is not so remedied, the Court shall reject the application:

35 Provided that where in the opinion of the Court there is some inaccuracy as to the amount referred to in clauses (g) and (h) of sub-rule (2) of rule 11, the Court shall, instead of rejecting the application, provisionally decide (without prejudice to the right of the parties to have the amount
40 finally decided in the course of the proceedings) the accurate amount and make an order for the execution of the decree for the amount so provisionally decided.”;

(e) in rule 22, in sub-rule (1),—

(i) for the words “one year”, wherever they occur, the words “two years” shall be substituted;

(ii) in clause (b), the word “or” shall be inserted at the end;

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

“(c) against the assignee or receiver in insolvency, where the party to the decree has been adjudged to be an insolvent.”;

(f) in rule 29, after the words “a decree of such Court”, the words “or of a decree which is being executed by such Court” shall be inserted;

(g) in rule 31, in sub-rules (2) and (3), for the words “six months”, the words “three months” shall be substituted;

(h) in rule 32, in sub-rules (3) and (4), for the words “one year”, the words “six months” shall be substituted;

(i) rule 41 shall be re-numbered as sub-rule (1) of that rule, and—

(a) in sub-rule (1) as so re-numbered, in clause (b), for the words “in the case of a corporation”, the words “where the judgment-debtor is a corporation” shall be substituted;

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

“(2) Where a decree for the payment of money has remained unsatisfied for a period of thirty days, the Court may, on the application of the decree-holder and without prejudice to its power under sub-rule (1), by order require the judgment-debtor or where the judgment-debtor is a corporation any officer thereof, to make an affidavit stating particulars of the assets of the judgment-debtor.”;

(j) after rule 43, the following rule shall be inserted, namely:—

“43A. (1) Where the property attached consists of livestock, agricultural implements or other articles which cannot conveniently be removed and the attaching officer does not act under the proviso to rule 43, he may, at the instance of the judgment-debtor or of the decree-holder or of any other person claiming to be interested in such property, leave it in the village or place where it has been attached, in the custody of any respectable person (hereinafter referred to as the custodian).

(2) If the custodian fails, after due notice, to produce such property at the place named by the Court before the officer deputed for the purpose or to restore it to the person in whose favour restoration is ordered by the Court, or if the property, though so produced or restored, is not in the same condition as it was when it was entrusted to him,—

(a) the custodian shall be liable to pay compensation to the decree-holder, judgment-debtor or any other person who

Custody
of mov-
able
property.

is found to be entitled to restoration thereof, for any loss or damage caused by his fault; and

(b) such liability may be enforced—

§ (i) at the instance of the decree-holder, as if the custodian were a surety under section 145;

(ii) at the instance of the judgment-debtor or such other person, on an application in execution; and

(c) any order determining such liability shall be appealable as a decree.”;

10 (k) after rule 46, the following rules shall be inserted, namely:—

“46A. (1) The Court may in the case of a debt (other than a debt secured by a mortgage or a charge) which has been attached under rule 46, upon the application of the attaching-creditor, issue notice to the garnishee liable to pay such debt, calling upon him either to pay into Court the debt due from him to the judgment-debtor or so much thereof as may be sufficient to satisfy the decree and costs of execution, or to appear and show cause why he should not do so. Notice to garnishee.

15

(2) An application under sub-rule (1) shall be made on affidavit verifying the facts alleged and stating that in the belief of the deponent the garnishee is indebted to the judgment-debtor.

20

(3) Where the garnishee pays in the Court the amount due from him to the judgment-debtor or so much thereof as is sufficient to satisfy the decree and the costs of the execution, the Court may direct that the amount may be paid to the decree-holder towards satisfaction of the decree and costs of the execution.

25

46B. Where the garnishee does not forthwith pay into Court the amount due from him to the judgment-debtor or so much thereof as is sufficient to satisfy the decree and the costs of execution, and does not appear and show cause in answer to the notice, the Court may order the garnishee to comply with the terms of such notice, and on such order execution may issue as though such order were a decree against him. Order against garnishee.

30

46C. Where the garnishee disputes liability, the Court may order that any issue or question necessary for the determination of liability shall be tried as if it were an issue in a suit, and upon the determination of such issue shall make such order or orders as it may deem fit: Trial of disputed questions.

35

40 Provided that, if the debt in respect of which the application under rule 46A is made is in respect of a sum of money beyond the pecuniary jurisdiction of the Court, the Court shall send the execution case to the Court of the District Judge to which the said Court is subordinate, and thereupon the Court of the District Judge or any other competent Court to which it may be transferred by the District Judge shall deal with it in the same manner as if the case had been originally instituted in that Court.

45

Procedure where debt belongs to third person.

46D. Where it is suggested or appears to be probable that the debt belongs to some third person, or that any third person has a lien or charge on, or other interest in, such debt, the Court may order such third person to appear and state the nature and particulars of his claim, if any, to such debt and prove the same. 5

Order as regards third person.

46E. After hearing such third person and any person or persons who may subsequently be ordered to appear, or where such third or other person or persons do not appear when so ordered, the Court may make such order as is hereinbefore provided, or such other order or orders upon such terms, if any, with respect 10 to the lien, charge or interest, as the case may be, of such third or other person or persons as it may deem fit and proper.

Payment by garnishee to be valid discharge.

46F. Payment made by the garnishee on notice under rule 46A or under any such order as aforesaid shall be a valid discharge to him as against the judgment-debtor and any other 15 person ordered to appear as aforesaid for the amount paid or levied, although the decree in execution of which the application under rule 46A was made, or the order passed in the proceedings on such application, may be set aside or reversed.

Costs.

46G. The costs of any application made under rule 46A and 20 of any proceeding arising therefrom or incidental thereto shall be in the discretion of the Court.

Appeals.

46H. An order made under rule 46B, rule 46C or rule 46E shall be appealable as a decree.

Application to negotiable instruments.

46I. The provisions of rules 46A to 46H shall, so far as may 25 be, apply in relation to negotiable instruments attached under rule 51 as they apply in relation to debts.”;

(l) in rule 48,—

(i) in sub-rule (1), after the words “local authority”, the words and figures “or of a servant of a corporation engaged in 30 any trade or industry which is established by a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956” shall be inserted;

1 of 1956.

(ii) for sub-rule (3), the following sub-rule shall be substituted, namely:—

35

“(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the appropriate Government or the railway company or local authority or corporation or Government company, as the case may 40 be, while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits, if he is in receipt of any salary or allowances payable out of the Consolidated Fund of India or the Consolidated Fund of the State or the funds of a railway 45 company or local authority or corporation or Government company in India; and the appropriate Government or the

railway company or local authority or corporation or Government company, as the case may be, shall be liable for any sum paid in contravention of this rule.”;

(iii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.—In this rule, “appropriate Government” means—

(i) as respects any person in the service of the Central Government, or any servant of a railway administration or of a cantonment authority or of the port authority of a major port, or any servant of a corporation engaged in any trade or industry which is established by a Central Act, or any servant of a Government company in which any part of the share capital is held by the Central Government or by more than one State Governments or partly by the Central Government and partly by one or more State Governments, the Central Government;

(ii) as respects any other servant of the Government, or a servant of any other local authority, or any servant of a corporation engaged in any trade or industry which is established by a Provincial or State Act, or a servant of any other Government company, the State Government.”;

(m) after rule 48, the following rule shall be inserted, namely:—

“48A. (1) Where the property to be attached is the salary or allowances of a servant other than a servant to whom rule 48 applies, the Court, where the disbursing officer of the employee is within the local limits of the Court’s jurisdiction, may order that the amount shall, subject to the provisions of section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and upon notice of the order to such disbursing officer, such disbursing officer shall remit to the Court the amount due under the order, or the monthly instalments, as the case may be.

Attachment of salary or allowances of private employees.

(2) Where the attachable proportion of such salary or allowances is already being withheld or remitted to the Court in pursuance of a previous and unsatisfied order of attachment, the disbursing officer shall forthwith return the subsequent order to the Court issuing it with a full statement of all the particulars of the existing attachment.

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the employer while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits, if

he is in receipt of salary or allowances payable out of the funds of an employer in any part of India; and the employer shall be liable for any sum paid in contravention of this rule.”;

(n) in rule 50,—

(i) in the proviso to sub-rule (1), for the words and figures 5 9 of 1872. “section 247 of the Indian Contract Act, 1872”, the words and 9 of 1932. figures “section 30 of the Indian Partnership Act, 1932” shall be substituted;

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:— 10

“(5) Nothing in this rule applies to a decree passed against a Hindu undivided family by virtue of the provisions of rule 10 of Order XXX.”;

(o) in rule 53,—

(i) in sub-rule (1), for paragraph (ii) of clause (b), the 15 following paragraph shall be substituted, namely:—

“(ii) (a) the holder of the decree sought to be executed,
or

(b) his judgment-debtor with the previous consent in writing of such decree-holder, or with the permission of the 20 attaching Court,

applies to the Court receiving such notice to execute the attached decree.”;

(ii) in sub-rule (6), after the words “in contravention of such order”, the words “with knowledge thereof or” shall be inserted; 25

(p) in rule 54,—

(i) after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(1A) The order shall also require the judgment-debtor 30 to attend Court on a specified date to take notice of the date to be fixed for settling the terms of the proclamation of sale.”;

(ii) in sub-rule (2), after the words “in the office of the Collector of the district in which the land is situate”, the following shall be inserted, namely:— 35

“and, where the property is land situate in a village, also in the office of the Gram Panchayat, if any, having jurisdiction over that village.”;

(q) for the sub-heading "*Investigation of claims and objections*" and rules 58 to 63, the following shall be substituted, namely:—

Adjudication of claims and objections

Adjudication of claims to, or objections to attachment of, attached property.

5 58. (1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to adjudicate upon the claim or objection in accordance with the provisions herein contained:

Provided that no such claim or objection shall be entertained—

10 (a) where, before the claim is preferred or objection is made, the property attached has already been sold; or

(b) where the Court considers that the claim or objection was designedly or unnecessarily delayed.

15 (2) All questions (including questions relating to right, title or interest in the property attached) arising between the parties to a proceeding under this rule or their representatives and relevant to the adjudication of the claim or objection shall be determined by the Court dealing with the claim or objection and not by a separate suit.

20 (3) Upon the determination of the questions referred to in sub-rule (2), the Court shall in accordance with such determination—

(a) allow the claim or objection and release the property from attachment either wholly or to such extent as it thinks fit; or

25 (b) disallow the claim or objection; or

(c) continue the attachment subject to any mortgage, charge or other interest in favour of any person; or

30 (d) pass such order as in the circumstances of the case it deems fit.

(4) Where any claim or objection has been adjudicated upon under this rule, the order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.

35 (5) Where a claim or an objection is preferred and the Court, under the proviso to sub-rule (1), refuses to entertain it, the party against whom such order is made may institute a suit to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, an order so refusing to entertain the claim or objection shall be conclusive.

40 59. Where before the claim was preferred or the objection was made, the property attached had already been advertised for sale, the Court may—

Stay of sale.

45 (a) if the property is movable, make an order postponing the sale pending the adjudication of the claim or objection, or

(b) if the property is immovable, make an order that pending the adjudication of the claim or objection the property shall not be sold or that pending such adjudication the property may be sold but the sale shall not be confirmed,

and any such order may be made subject to such terms and conditions as to security or otherwise as the Court thinks fit.”; 5

(r) in rule 66, in sub-rule (2), the following provisos shall be inserted at the end, namely:—

“Provided that where notice of the date for settling the terms of the proclamation has been given to the judgment debtor 10 by means of an order under rule 54, it shall not be necessary to give notice under this rule to the judgment-debtor unless the Court otherwise directs:

Provided further that it shall not be necessary for the Court to give its own estimate of the value of the property, but the 15 proclamation shall include the estimate, if any, given by either or both of the parties.”;

(s) in rule 68,—

(i) for the words “thirty days”, the words “fifteen days” shall be substituted; 20

(ii) for the words “fifteen days”, the words “seven days” shall be substituted;

(t) in rule 69, in sub-rule (2), for the word “seven”, the word “thirty” shall be substituted;

(u) in rule 89, in sub-rule (1), for the words “any person, either 25 owning such property or holding an interest therein by virtue of a title acquired before such sale,”, the words “any person claiming any interest in the property sold at the time of the sale or at the time of making the application, or acting for or in the interest of such person,” shall be substituted; 30

(v) for rule 90, the following rule shall be substituted, namely:—

“90. (1) Where any immovable property has been sold in execution of a decree, the decree-holder, or the purchaser, or any other person entitled to share in a rateable distribution of assets, or whose interests are affected by the sale, may apply to 35 the Court to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it.

(2) No sale shall be set aside on the ground of irregularity or fraud unless upon the facts proved, the Court is satisfied that the applicant has sustained substantial injury by reason of such 40 irregularity or fraud.

(3) No application to set aside a sale under this rule shall be entertained upon any ground which the applicant could have taken on or before the date on which the proclamation of sale was drawn up.”; 45

(w) in rule 92,—

(i) in sub-rule (1), for the words “the Court shall”, the words and figures “the Court shall, subject to the provisions of rule 59,” shall be substituted;

Applica-
tion to
set aside
sale on
ground
of irregu-
larity
or fraud.

(ii) in sub-rule (2), for the words "the Court shall make an order setting aside the sale", the following shall be substituted, namely:—

5 "or in cases where the amount deposited under rule 89 is found to be deficient owing to any clerical or arithmetical mistake on the part of the depositor and such deficiency has been made good within such time as may be fixed by the Court, the Court shall make an order setting aside the sale";

10 (x) in rule 97, for sub-rule (2), the following sub-rule shall be substituted, namely:—

"(2) Where any application is made under sub-rule (1), the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.";

15 (y) for rules 98 to 103, the following rules shall be substituted, namely:—

"98. (1) Upon the determination of the questions referred to in rule 101, the Court shall, in accordance with such determination and subject to the provisions of sub-rule (2),— Orders after adjudication.

20 (a) allow the application and direct that the applicant be put into possession of the property; or

(b) dismiss the application; or

(c) pass such order as in the circumstances of the case it deems fit.

25 (2) Where upon such determination the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation or on his behalf, it shall direct that the applicant be put into possession of the property and where the applicant is still resisted or obstructed in obtaining possession, the Court may also, at the instance of the applicant order the judgment-debtor, or any person acting at his instigation or on his behalf, to be detained in the civil prison for a term which may extend to thirty days.

30

35 99. (1) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession. Dispossession by decree-holder or purchaser.

40 (2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

Order to be passed upon application complaining of dispossession.

100. Upon the determination of the questions referred to in rule 101, the Court shall, in accordance with such determination,—

(a) allow the application and direct that the applicant be put back into possession of the property; or

(b) dismiss the application; or 5

(c) pass such order as in the circumstances of the case it deems fit.

Questions to be determined.

101. All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under rule 97 or rule 99 or their 10 representatives and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit.

Rules not applicable to transferee lite pendente.

102. Nothing in rules 98 and 100 shall apply to resistance or obstruction in execution of a decree for the possession of im- 15 movable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.

Orders to be treated as decrees.

103. Where any application has been adjudicated upon under rule 98 or rule 100, the order made thereon shall have the same 20 force and be subject to the same conditions as to appeal or otherwise as if it were a decree.”;

(z) after rule 103, the following rules shall be inserted, namely:—

Hearing of application.

“104. (1) The Court, before which an application under any of the foregoing rules of this Order is pending, may fix a day for 25 the hearing of the application.

(2) Where on the day fixed or on any other day to which the hearing may be adjourned the applicant does not appear when the case is called on for hearing, the Court may make an order that the application be dismissed. 30

(3) Where the applicant appears and the opposite party to whom the notice has been issued by the Court does not appear, the Court may hear the application *ex parte* and pass such order as it thinks fit.

Explanation.—An application referred to in sub-rule (1) in- 35 cludes a claim or objection made under rule 58.

Setting aside orders passed *ex parte*, etc.

105. (1) The applicant against whom an order is made under sub-rule (2) of rule 104 or the opposite party against whom an order is passed *ex parte* under sub-rule (3) of that rule or under sub-rule (1) of rule 23, may apply to the Court to set aside the 40 order, and if he satisfies the Court that there was sufficient cause for his non-appearance when the application was called on for hearing, the Court shall set aside the order on such terms as to costs or otherwise as it thinks fit, and shall appoint a day for the further hearing of the application. 45

(2) No order shall be made on an application under sub-rule (1) unless notice of the application has been served on the other party.

(3) An application under sub-rule (1) shall be made within thirty days of the date of the order, or where in the case of an *ex parte* order the notice was not duly served, the date when the applicant had knowledge of the order.”.

5 45. In the First Schedule, in Order XXII, in rule 5, the following proviso shall be inserted at the end, namely:— Amendment of Order XXII.

10 “Provided that, where such question arises before an Appellate Court, that Court may, before determining the question, direct any subordinate Court to try the question and to return the records together with the evidence, if any, recorded at such trial, its finding and reasons therefor, and the Appellate Court may take the same into consideration in determining the question.”.

46. In the First Schedule, in Order XXIII,— Amendment of Order XXIII.

(a) in rule 1,—

15 (i) in sub-rule (1), the following proviso shall be inserted at the end, namely:—

20 “Provided that where the plaintiff is a minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, the suit shall not be withdrawn nor shall any part of the claim be abandoned without the leave of the Court.”;

(ii) after sub-rule (1), the following sub-rule shall be inserted, namely:—

25 (1A) An application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or such other person is represented by a pleader, by a certificate of the pleader to the effect that the withdrawal proposed is, in his opinion, for the benefit of the minor or such other person.”;

30 (b) in rule 3,—

(i) after the words “lawful agreement or compromise”, the words “in writing and signed by the parties” shall be inserted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

35 9 of 1872 “*Explanation.*—An agreement or compromise which is void or voidable under the Indian Contract Act, 1872, shall not be deemed to be lawful within the meaning of this rule.”.

47. In the First Schedule, in Order XXVI,— Amendment of Order XXVI.

40 (a) in rule 7, for the words “subject to the provisions of the next following rule”, the words and figure “subject to the provisions of rule 8” shall be substituted;

(b) after rule 16, the following rule shall be inserted, namely:—

45 “16A. (1) Where any question put to a witness is objected to by a party or his pleader in proceedings before a Commissioner appointed under this Order, the Commissioner shall take down the question, the answer, the objection and the name of the party or, as the case may be, the pleader so objecting. Questions objected to before the Commissioner.

(2) No answer taken down under sub-rule (1) shall be read as evidence in the suit except by the order of the Court.”;

(c) after rule 18, the following rule shall be inserted, namely:—

Applica-
tion of
Order to
execution
proceed-
ings.

“18A. The provisions of this Order shall apply, so far as may be, to proceedings in execution of a decree or order.”;

(d) in rule 22, after the figures “16”, the words, brackets, figures and letter “sub-rule (1) of rule 16A” shall be inserted.

Amend-
ment of
Order
XXX.

48. In the First Schedule, in Order XXX,—

(a) for rule 8, the following rule shall be substituted, namely:— 10

Appear-
ance
under
protest.

“8. (1) Any person served with summons as a partner under rule 3 may enter an appearance under protest, denying that he was a partner at any material time.

(2) On such appearance being made either the plaintiff or the person entering the appearance may, at any time before 15 the date fixed for hearing and final disposal of the suit, apply to the Court for determining whether that person was a partner of the firm and liable as such.

(3) If on such application the Court holds that he was a partner at the material time, that shall not preclude that per- 20 son from filing a defence denying the liability of the firm in respect of the claim against the defendant.

(4) If the Court however holds that such person was not a partner of the firm and was not liable as such, that shall not preclude the plaintiff from otherwise serving a summons on the 25 firm and proceeding with the suit; but in that event the plaintiff shall be precluded from alleging the liability of that person as a partner of the firm in execution of any decree that may be passed against the firm.”;

(b) for rule 10, the following rule shall be substituted, name- 30 ly:—

Suit
against
person
carrying
on busi-
ness in
name
other
than his
own.

“10. Any person carrying on business in a name or style other than his own name, or a Hindu undivided family carrying on business under any name, may be sued in such name or style as if it were a firm name, and, in so far as the nature of such 35 case permits, all rules under this Order shall apply.”.

Amend-
ment of
Order
XXXII.

49. In the First Schedule, in Order XXXII,—

(a) in rule 1, the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*—In this Order, the expression “minor” means 40

9 of 1875.

a person who has not attained his majority within the meaning of sections 3 and 4 of the Indian Majority Act, 1875, where the suit relates to any of the matters mentioned in clauses (a) and (b) of section 2 of that Act or to any other matter.;

5 (b) after rule 2, the following rule shall be inserted, namely:—

“2A. (1) Where a suit has been instituted on behalf of the minor by his next friend, the Court may, at any stage of the suit either of its own motion or on the application of any defendant, and for reasons to be recorded, order the next friend to give security for the payment of all costs incurred or likely to be incurred by the defendant.

Secu-
rity to
be fur-
nished
by next
friend
when so
ordered.

10 (2) Where such a suit is instituted in *forma pauperis*, the security shall include the court-fees payable to the Government.

15 (3) The provisions of rule 2 of Order XXV shall, so far as may be, apply to a suit where the Court makes an order under this rule directing security to be furnished.”;

(c) in rule 3—

20 (i) in sub-rule (4), the words “to the minor and” shall be omitted;

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:—

“(4A) The Court may, in any case, if it thinks fit, issue notice under sub-rule (4) to the minor also.”;

25 (d) in rule 4—

(i) in sub-rule (3), after the word “consent”, the words “in writing” shall be inserted;

30 (ii) in sub-rule (4), after the words “any fund in Court in which the minor is interested”, the words “or out of the property of the minor” shall be inserted;

(e) in rule 6, in sub-rule (2), the following proviso shall be inserted at the end, namely:—

35 “Provided that the Court may, for reasons to be recorded, dispense with such security while granting leave to the next friend or guardian for the suit to receive money or other movable property under a decree or order, where such next friend or guardian—

(a) is the manager of a Hindu undivided family and the decree or order relates to the property or business of the family; or

(b) is the parent of the minor.”;

40 (f) in rule 7, after sub-rule (1), the following sub-rule shall be inserted, namely:—

45 “(1A) An application for leave under sub-rule (1) shall be accompanied by an affidavit of the next friend or the guardian for the suit, as the case may be, and also, if the minor is represented by a pleader, by the certificate of the pleader, to

the effect that the agreement or compromise proposed is, in his opinion, for the benefit of the minor.”;

(g) for rule 16, the following rule shall be substituted, namely:—

“16. (1) Nothing in this Order shall apply to the Ruler of 5 a foreign State suing or being sued in the name of his State, or being sued by the direction of the Central Government in the name of an agent or in any other name.

(2) Nothing in this Order shall be construed as affecting or in any way derogating from the provisions of any local law 10 for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind.”.

Savings
regard-
ing
Rulers.

Amend-
ment of
Order
XXXIII.

50. In the First Schedule, in Order XXXIII,—

(a) in rule 1, for the *Explanation*, the following *Explanations* shall be substituted, namely:—

15

Explanation 1.—A person is a “pauper”—

(a) when he is not possessed of sufficient means (other than his necessary wearing-apparel and the subject-matter of the suit) to enable him to pay the fee prescribed by law for the plaint in such suit, or

20

(b) where no such fee is prescribed, when he is not entitled to property worth one thousand rupees other than his necessary wearing-apparel and the subject-matter of the suit.

Explanation 2.—Any property which is acquired by a person 25 after the presentation of his application for permission to sue as a pauper and before the decision of the application, shall be taken into account in considering the question whether he is a pauper.’;

(b) in rule 11, in clause (a), after the words “such service”, 30 the words “or to present copies of the plaint or concise statement” shall be inserted;

(c) rule 15 shall be re-numbered as sub-rule (1) of that rule, and—

(i) in sub-rule (1) as so re-numbered, the word “first” 35 shall be omitted;

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

“(2) Where the applicant has not, before the institu- 40 tion of the suit, paid the costs referred to in sub-rule (1), the Court may, at its discretion, allow him such time as it thinks fit to pay such costs.”;

(d) after rule 15, the following rule shall be inserted, namely:—

“15A. Nothing in rule 5, 7 or 15 shall prevent a Court, while 45 rejecting an application under rule 5 or refusing an application under rule 7, from granting time to the applicant to pay the requisite court-fee within such time as may be fixed by the Court or extended by it from time to time; and upon such pay- 50 ment and on payment of the costs referred to in sub-rule (1)

Grant of
time
for
Payment
of Court
Fee.

of rule 15 within that time, the suit shall be deemed to have been instituted on the date on which the application was presented.”;

(e) after rule 16, the following rule shall be inserted, namely:—

5 “17. Any defendant who desires to plead a set-off or counter-claim may be allowed to set up such claim as a pauper, and the rules in this Order shall, so far as may be, apply to him as if he were a plaintiff and his written statement were a plaint.”.

Defence
by pauper.

51. In the First Schedule, in Order XXXIV,—

10 (a) in rule 3, in sub-rule (2), after the words “on application made by the plaintiff in this behalf”, the words “and after notice all parties” shall be inserted;

Amend-
ment of
Order
XXXIV.

15 (b) in rule 5, in sub-rule (3), after the words “on application made by the plaintiff in this behalf”, the words “and after notice to all parties” shall be inserted;

(c) in rule 8, in sub-rule (3), after the words “on application made by the defendant in this behalf”, the words “and after notice to all parties” shall be inserted;

20 (d) rule 15 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:—

25 “(2) Where a decree orders payment of money and charges it on immovable property on default of payment, the amount may be realised by sale of that property in execution of that decree.”.

52. In the First Schedule, in Order XXXVIII,—

Amend-
ment of
Order
XXXVIII.

(a) for rule 8, the following rule shall be substituted, name-ly:—

30 “8. Where any claim is preferred to property attached before judgment, such claim shall be adjudicated upon in the manner hereinbefore provided for the adjudication of claims to property attached in execution of a decree for the payment of money.”;

Adjudica-
tion of
claim to
property
attached
before
judg-
ment.

35 (b) after rule 11, the following rule shall be inserted, name-ly:—

“11A. The provisions of this Code applicable to an attach-ment made in execution of a decree shall, as far as may be, apply to an attachment made before judgment which continues after judgment by virtue of the provisions of rule 11.”.

Provi-
sions
appli-
cable to
attach-
ment.

40 53. In the First Schedule, in Order XXXIX,—

(a) in rule 2, sub-rules (3) and (4) shall be omitted;

Amend-
ment of
Order
XXXIX.

(b) after rule 2, the following rule shall be inserted, namely:—

Consequences of disobedience or breach of injunction.

“2A. (1) In case of disobedience to any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order 5 made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding six months, 10 unless in the meantime the Court directs his release.

(2) No attachment under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.”;

(c) in rule 8,—

(i) in sub-rule (1), the words “after notice to the defendant” shall be omitted; 20

(ii) in sub-rule (2), the words “after notice to the plaintiff” shall be omitted;

(iii) after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) Before making an order under rule 6 or rule 7 on 25 an application made for the purpose, the Court shall, except where it appears that the object of making such order would be defeated by the delay, direct notice thereof to be given to the opposite party.”.

Amendment of Order XLI.

54. In the First Schedule, in Order XLI,— 30

(a) in rule 1,—

(i) in sub-rule (1), the following proviso shall be inserted at the end, namely:—

“Provided that where two or more cases have been tried together and a common judgment has been delivered there- 35 for and two or more appeals are filed against any decree covered by that judgment, whether by the same appellant or by different appellants, the Appellate Court may dispense with the filing of more than one copy of the judgment.”;

(ii) after sub-rule (2), the following sub-rule shall be inserted, namely:— 40

Deposit of amount or furnishing of security in certain cases.

“(3) Where the appeal is against an order made in execution of a decree for payment of money, the appellant shall, within such time, as the Appellate Court may allow, deposit the amount disputed in the appeal or furnish such security 45 as the Court thinks fit in respect thereof.”;

(b) in rule 3, after sub-rule (1), the following sub-rule shall be inserted, namely:—

5 “(1A) Where the appellant fails to make the deposit or furnish security as specified in sub-rule (3) of rule 1, the Court shall reject the memorandum.”;

(c) after rule 3, the following rule shall be inserted, namely:—

10 “3A. (1). When an appeal is presented after the period of limitation prescribed therefor, it shall be accompanied by an application supported by affidavit setting forth the facts on which the appellant relies to satisfy the Court that he had sufficient cause for not preferring the appeal within such period.

Applica-
tion
for
condo-
nation
of delay.

15 (2). If the Court sees no reason to reject the application without the issue of a notice to the respondent, notice thereof shall be issued to the respondent and the matter shall be finally decided by the Court before it proceeds to deal with the appeal under rule 11 or rule 13, as the case may be.”;

(d) in rule 5,—

20 (i) in sub-rule (1), the words “but the Appellate Court may for sufficient cause order stay of execution of such decree” shall be omitted;

(ii) after sub-rule (1), the following sub-rule shall be inserted, namely:—

25 “(1A) Notwithstanding anything contained in sub-rule (1), the Appellate Court may, for sufficient cause, order,—

(a) in the case of any decree other than a preliminary decree, stay of execution thereof;

(b) in the case of a preliminary decree, stay of proceedings for passing a final decree or stay of the making of the final decree.”;

30 (iii) in sub-rule (3),—

(a) the words “of execution”, wherever they occur, shall be omitted;

35 (b) for the words, brackets and figure “under sub-rule (1)”, the words, brackets, figure and letter “under sub-rule (1A)” shall be substituted;

(iv) in sub-rule (4), the words “of execution” shall be omitted;

(e) in rule 11, after sub-rule (3), the following sub-rule shall be inserted, namely:—

40 “(4) Where an Appellate Court subordinate to the High Court dismisses an appeal under sub-rule (1), it shall deliver a judgment, recording in brief, its grounds for doing so and a decree shall be drawn up in accordance with the judgment.”;

(f) after rule 23, the following rule shall be inserted, namely:—

Remand
in
other
cases.

“23A. Where the Court from whose decree an appeal is preferred, has disposed of the case otherwise than on a preliminary point and the decree is reversed in appeal and a re-trial is considered necessary, the Appellate Court shall have the same powers as it has under rule 23.”; 5

(g) in rule 25, after the words “and the reasons therefor”, the words “within such time as may be fixed by the Appellate Court or extended by it from time to time” shall be inserted;

(h) after rule 26, the following rule shall be inserted, namely:— 10

Order
of re-
mand to
mention
date of
next
hearing.

“26A. Where the Appellate Court remands a case under rule 23 or rule 23A, or frames issues and refers them for trial under rule 25, it shall fix a date for the appearance of the parties before the Court from whose decree the appeal was preferred for the purpose of receiving the directions of that Court as to further proceedings in the suit.”; 15

(i) in rule 27, in sub-rule (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) the party seeking to produce additional evidence satisfies the Appellate Court that such evidence, notwithstanding the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree appealed against was passed, or”; 20

(j) rule 30 shall be re-numbered as sub-rule (1) of that rule, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:— 25

“(2) Where a written judgment is to be pronounced, it shall be sufficient if the points for determination, the decision thereon and the final order passed in the appeal are read out and it shall not be necessary for the Court to read out the whole judgment, but a copy of the whole judgment shall be made available for the perusal of the parties or their pleaders immediately after the judgment is pronounced.”. 30

Amend-
ment of
Order
XLIII.

55. In the First Schedule, in Order XLIII, in rule 1,—

(i) after clause (j), the following clause shall be inserted, namely:— 35

“(jj) an order rejecting an application made under sub-rule (1) of rule 105 of Order XXI, provided an order on the original application, that is to say, the application referred to in sub-rule (1) of rule 104 of that Order is appealable;”; 40

(ii) in clause (r), after the word and figure “rule 2”, the word, figure and letter “, rule 2A” shall be inserted;

(iii) in clause (u), after the figures “23”, the words, figures and letter “or rule 23A” shall be inserted.

56. In the First Schedule, in Order XLIV

Amend-
ment of
Order
XLIV.

(a) after rule 1, the following rule shall be inserted, namely:—

5 "1A. Where an application is rejected under rule 1, the Court may, while rejecting the application, allow the applicant to pay the requisite court-fee, within such time as may be fixed by the Court or extended by it from time to time; and upon such payment, the memorandum of appeal in respect of which such fee is payable shall have the same force and effect as if such fee had been paid in the first instance.";

Grant of
time for
payment
of court
fees.

10 (b) in rule 2, in the proviso, after the words "sue or appeal", the words "or to defend the suit or appeal" shall be inserted.

57. In the First Schedule, in Order XLVII, in rule 7, for sub-rule (1), the following sub-rule shall be substituted, namely:—

Amend-
ment of
Order
XLVII.

15 "(1) An order of the Court rejecting the application shall not be appealable; but an order granting an application may be objected to at once by an appeal from the order granting the application or in any appeal from the final decree or order passed or made in the suit."

58. In the First Schedule, in Appendix E,—

Amend-
ment of
Appen-
dix E.

20 (a) after Form No. 16, the following Form shall be inserted, namely:—

"No. 16A

AFFIDAVIT OF ASSETS TO BE MADE BY A JUDGMENT-DEBTOR

[O. XXI, r. 41(2)]

25 In the Court of

A. B.....

Decree-holder

Vs.

C. D.....

Judgment-debtor.

I of

oath

30 state on _____ as follows:—

solemn affirmation

1. My full name is _____
(Block capitals)

2. I live at

35 *3. I am married

single
widower
(widow)
divorced

40 4. The following persons are dependent upon me.

5. My employment, trade or profession is that of.....
carried on by me at _____

*Words not required to be deleted.

I am a director of the following companies:—

6. My present annual|monthly|weekly income, after paying income-tax, is as follows:—

(a) From my employment, trade or profession Rs.

(b) From other sources Rs.

*7 (a) I own the house in which I live; its value is Rs. I pay as outgoings by way of rates, mortgage, interest, etc., the annual sum of Rs. 10

(b) I pay as rent the annual sum of Rs.

8. I possess the following:—

(a) Banking accounts.	} (give particulars)	15
(b) Stocks and shares.		
(c) Life and endowment policies.		
(d) House property.		
(e) Other property.		20
(f) Other securities.		

9. The following debts are owing to me:—
(give particulars).

(a) From _____ of _____ Rs. 25

(b) From _____ of _____ Rs. (etc.)

Sworn, etc.”;

(b) in Form No. 24, after the first paragraph, the following paragraph shall be inserted, namely:— 30

“It is also ordered that you should attend Court on the day of _____ 19 , to take notice of the date fixed for settling the terms of the proclamation of sale.”;

(c) in Form No. 29, in the Schedule of Property, after the existing columns, the following columns shall be added, namely:— 35

“The value of the property as stated by the decree-holder.	The value of the property as stated by the judgment-debtor.”
--	--

*Words not required to be deleted.

59. In the Schedule, in Appendix H,—

Amend-
ment of
Appen-
dix H.

(a) after Form No. 2, the following Form shall be inserted,
namely:—

"No. 2A

5 LIST OF WITNESSES PROPOSED TO BE CALLED BY PLAINTIFF|DEFENDENT
(O. 16, r. 1)

Name of the party which proposes to call the witness	Name and address of their	Remarks";
---	------------------------------	-----------

10 (b) for Form No. 11, the following Forms shall be substituted,
namely:—

"No. 11

NOTICE TO CERTIFICATED, NATURAL OR *de facto* GUARDIAN
(O. 32, r. 3)

(Title)

15 (Certificated|Natural|*de facto* guardian)

To

20 WHEREAS an application has been presented on the part of
the plaintiff* on behalf of the minor defendant* in the above
suit for the appointment of a guardian for the suit for the minor
defendant , you (insert the name of the guardian appointed
or declared by Court, or natural guardian, or the person in whose
care the minor is) are hereby required to take notice that unless
25 you appear before this Court on or before the day appointed for
the hearing of the case and stated in the appended summons,
and express your consent to act as guardian for the suit for the
minor, the Court will proceed to appoint some other person to act
as a guardian for the minor, for the purposes of the said suit.

GIVEN under my hand and the seal of the Court, this
day of 19 .

30 Judge.

No. 11A

NOTICE TO MINOR DEFENDANT
(O. 32, r. 3)

(Title)

35 To

Minor Defendant.

WHEREAS an application has been presented on the part of
the plaintiff in the above suit for the appointment of † as

*Strike off what is inapplicable.

†Here insert the name of the guardian.

guardian for the suit for you, the minor defendant, you are hereby required to take notice to appear in this Court in person on the day of 19 , at O'clock in the forenoon to show cause against the application, failing which the said application will be heard and determined *ex parte*. 5

GIVEN under my hand and the seal of the Court, this
day of 19

Judge."

Repeal
and
savings.

60. (1) Any amendment made or any provision inserted, in the principal Act by a State Legislature or a High Court before the commencement 10 of this Act shall, except in so far as such amendment or provision is consistent with the provisions of the principal Act as amended by this Act, stand repealed.

(2) Notwithstanding that the provisions of this Act have come into 15 force or the repeal under sub-section (1) has taken effect, and without prejudice to the generality of the provisions of section 6 of the General Clauses Act, 1897,— 10 of 1

(i) the provisions of sections 21A of the principal Act as inserted by section 5 of this Act, shall not apply to or affect any suit to set 20 aside a decree or objection as to the place of suing pending immediately before the commencement of the said section 5 and such suit shall be tried as if section 5 has not come into force;

(ii) the provisions of section 25 of the principal Act as substituted by section 7 of this Act, shall not apply to or affect any suit, 25 appeal or other proceeding wherein any report has been made under the provisions of section 25 before the commencement of the said section 7 and such suit, appeal or other proceeding shall be dealt with as if the said section 7 has not come into force;

(iii) the provisions of section 35A of the principal Act, as amend- 30 ed by section 8 of this Act, shall not apply to or affect any proceedings for revision pending immediately before the commencement of the said section 8 and such proceedings shall be dealt with and disposed of as if section 8 has not come into force;

(iv) the omission of section 80 of the principal Act by section 16 35 of this Act shall not apply to or affect any suit instituted before the commencement of the said section 16 and such suit shall be dealt with as if the said section 80 had not been omitted;

(v) the provisions of section 82 of the principal Act as substituted by section 17 of this Act shall not apply to or affect any decree 40 passed against the Union of India or a State or, as the case may be, a public officer, immediately before the commencement of the said section 17 or the execution of any such decree and such decree or execution shall be dealt with as if section 17 has not come into force;

(vi) the provisions of section 115 of the principal Act as substituted by section 23 of this Act shall not apply to or affect any pro- 45 ceedings for revision in respect of any interlocutory order pending immediately before the commencement of the said section 23 and every such proceeding shall be disposed of as if the said section 23 has not come into force;

5 (vii) the provisions of rules 31, 32, 58 to 63 and 98 to 103 of Order XXI of the First Schedule as amended or, as the case may be, substituted by this Act, shall not apply to or affect any attachment subsisting immediately before the commencement of section 44 of this Act, or to any suit instituted before such commencement under rule 63 aforesaid to establish right to attached property or under rule 103 aforesaid to establish possession and every such attachment or suit shall be continued as if the said section 44 has not come into force.

ANNEXURE

(Vide para. 13 of the Report)

EXTRACTS FROM THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1968, AS INTRODUCED IN THE RAJYA SABHA

7. *Substitution of new section for section 25.*—For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. *Power of Supreme Court to transfer suits, etc.*—(1) On the application of a party, and after notice to the parties, and after hearing such of them as desire to be heard the Supreme Court may at any stage, if satisfied that an order under this section is expedient for the ends of justice, direct that any particular suit, appeal or other proceeding be transferred from a High Court or other Civil Court in one State to a High Court or other Civil Court in any other State.

(2) Every application under this section shall be made by motion which shall, except when the application is made by the Attorney-General of India or the Advocate-General of a State, be supported by affidavit or affirmation.

(3) The Court to which such suit, appeal or other proceeding is transferred shall, subject to any special directions in the order of transfer, either re-try it or proceed from the stage at which it was transferred.

(4) In dismissing any application under this section, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two thousand rupees as it may consider appropriate in the circumstances of the case.

(5) The law applicable to any suit, appeal or other proceeding transferred under this section shall be the law which the Court in which the suit, appeal or other proceeding was originally instituted ought to have applied to such suit, appeal or proceeding.”.

17. *Substitution of new section for section 82.*—For section 82 of the principal Act, the following section shall be substituted, namely:—

“82. *Execution of decree against Government or public officer.*—(1) Where, in a suit by or against the Government or by or against a public officer in respect of any act purporting to be done by him in his official capacity, a decree is passed against the Union of India or a State or, as the case may be, the public officer, execution shall not be issued on the decree unless it remains unsatisfied for a period of three months computed from the date of the decree.

(2) The provisions of sub-section (1) shall apply in relation to an order or award as they apply in relation to a decree, if the order or award—

(a) is passed or made against the Union of India or a State or a public officer in respect of any such act as aforesaid, whether by a Court or by any other authority; and

(b) is capable of being executed under the provisions of this Code or of any other law for the time being in force as if it were a decree.

(3) The Court may, in its discretion, from time to time, enlarge the period specified in sub-section (1), even though the period so specified may have expired.”.

23. *Substitution of new section for section 115.*—For section 115 of the principal Act, the following section shall be substituted, namely:—

‘115. Revision.—(1) The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this sub-section, vary or reverse any order made in the course of a suit or other proceeding, including an order deciding an issue, except where—

(a) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding, or

(b) the order, if allowed to stand, would cause irreparable injury to the party against whom it was made.

Explanation.—In this sub-section, the expression “any case which has been decided” includes any order made in the course of a suit or other proceeding, including an order deciding an issue.

(2) The provisions contained in rule 5 or Order XLI, relating to the stay of execution of a decree shall, so far as may be, apply in relation to the stay of execution of a decree or operation of an order, as the case may be, made in a case in which proceedings are taken under this section.

(3) The High Court shall not, for the purpose of exercising the powers conferred under this section, call for the records of the subordinate court in original except in a case where an order of stay has been made under sub-section (2).

(4) The High Court shall not, under sub-section (1), vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.’.

43. *Insertion of new order XXA.*—In the First Schedule, after Order ~~XX~~, the following Order shall be inserted, namely:—

“ORDER XXA

Costs

1. *Provisions relating to certain items.*—(1) Without prejudice to the generality of the provisions of this Code relating to costs, the Court may award costs in respect of—

(a) expenditure incurred for the giving of any notice required to be given by law before the institution of the suit;

(b) expenditure incurred on any notice which, though not required to be given by law, has been given by any party to the suit to any other party before the institution of the suit;

(c) expenditure incurred on the typing of pleadings filed by any party;

(d) charges paid by a party for inspection of the records of the Court for the purposes of the suit;

(e) expenditure incurred by a party for producing witnesses, even though not summoned through Court; and

(f) in the cases of appeals, charges incurred by a party for obtaining any copies of judgments and decrees which are required to be filed along with the memorandum of appeal.

(2) The award of costs under this rule shall be in accordance with such rules as the High Court may make in that behalf.

2. *Pleader's fees.*—In calculating costs, no amount shall be included as pleader's fees unless a receipt signed by the pleader, or a certificate in writing signed by him and stating the amount received, has been filed in Court.”.

APPENDIX I

(Vide para. 2 of the Report)

MOTION IN THE RAJYA SABHA FOR REFERENCE OF THE BILL, TO A JOINT COMMITTEE

"That the Bill further to amend the Code of Civil Procedure, 1908, be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:—

1. Shri Balachandra Menon
2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri Rizaq Ram
9. Shri V. T. Nagpure
10. Shrimati Seeta Yudhvir
11. Shri Joachim Alva
12. Shrimati Annapurna Devi Thimmareddy
13. Shri T. K. Patel
14. Shri P. C. Mitra
15. Pandit Sham Sunder Narain Tankha;

and 30 members from the Lok Sabha;

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

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

that the Committee shall make a report to this House by the 30th day of August, 1969;

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

APPENDIX II

(Vide para 3 of the Report)

MOTION IN THE LOK SABHA

“That this House do concur in the recommendation of Rajya Sabha that the House do join in the joint Committee of the Houses on the Bill further to amend the Code of Civil Procedure, 1908, made in the motion adopted by Rajya Sabha at its sitting held on the 15th May, 1969 and communicated to this House on the 15th May, 1969 and do resolve that the following thirty members of Lok Sabha be nominated to serve on the said Joint Committee; namely:—

- (1) Shri D. Balarama Raju
- (2) Shri Rajendranath Barua
- (3) Shri R. D. Bhandare
- (4) Shri Krishna Kumar Chatterji
- (5) Shri N. T. Das
- (6) Shri Shivajirao S. Deshmukh
- (7) Shri Shri Chand Goyal
- (8) Shri Ram Krishan Gupta
- (9) Shri Heerji Bhai
- (10) Shri J. M. Imam
- (11) Shri Kameshwar Singh
- (12) Shri Mushir Ahmad Khan
- (13) Shri Thandavan Kiruttinan
- (14) Shri K. Lakkappa
- (15) Shri Brij Bhushan Lal
- (16) Shrimati Sangam Laxmi Bai
- (17) Shri Mahendra Majhi
- (18) Shri B. P. Mandal
- (19) Shri M. Meghachandra
- (20) Shri Viswanatha Menon
- (21) Shri Bhaljibhai Ravjibhai Parmar
- (22) Shri S. B. Patil
- (23) Shri Jharkhande Rai
- (24) Chaudhuri Randhir Singh
- (25) Shrimati Savitri Shyam

- (26) Shri P. N. Solanki
- (27) Shri K. Subaravelu
- (28) Pandit D. N. Tiwary
- (29) Shri Tenneti Viswanatham
- (30) Shri P. Govinda Menon.”

APPENDIX III

(Vide para 7 of the Report)

LIST OF INDIVIDUALS|ASSOCIATIONS ETC. FROM WHOM MEMO- RANDA, SUGGESTIONS, ETC., WERE RECEIVED BY THE JOINT COMMITTEE

1. Shri H. L. Tejwani, New Delhi.
2. Shri Hira Lal, Retired Chief Goods Clerk, Rampura Phul, Bhatinda.
3. Shri V. B. Nadkarni, Judicial Commissioner, Court Goa, Daman and Diu.
4. Trichure Bar Association, Trichure.
5. Shri A. P. Singhal, Advocate, Meerut City.
6. Shri R. S. Sidhu, Meerut Cantt.
7. Shri Kanwar Bans Singh, New Delhi.
8. Shri R. Thaigarajan Advocate Supreme Court, Bangalore-3.
9. Shri M. S. Phirangi, Karnatak University, Dharwar.
10. Tripura Bar Association, Agartala (Tripura).
11. Indian Law Institute, Bhangwandas Road, New Delhi.
12. Shri C. B. Agarwala Ex-Judge, Allahabad High Court, Allahabad.
13. Shri B. S. Wankhede, District & Sessions Judge, Chandrapur, (Maharashtra).
14. Bar Association, Jorhat.
15. Alipur Bar Association, 18-Judges Court Road, Calcutta.
16. Chief Justice and Justice Jagat Narain of the Rajasthan High Court Jodhpur.
17. Mc Cojande Dairiandain, Advocate-Counsel, Pondicherry.
18. Chief Justice and other two judges of the High Court of Madhya Pradesh, Jabalpur.
19. Avadh Bar Association, Lucknow.
20. Shri A. P. Yajnik, Addl. Registrar High Court (Appellate Side) Bombay-32.
21. Bar Association, Thanjavur, Tamil Nadu.
22. Shillong Bar Association, Shillong.
23. Puri District Bar Association, Puri, Orissa.
24. Bar Council of Orissa, High Court Building, Cuttack-2.
25. Dr. L. M. Singhvi, Executive Chairman, Institute of Constitutional and Parliamentary Studies, New Delhi.
26. Hon'ble Judges of the High Court of Judicature at Patna.
27. Madras High Court, Madras.
28. Bar Council of India, AB|21, Mathura Road, New Delhi.
29. Bar Council of West Bengal, Calcutta.

30. Bar Association Kottoyam, Kottoyam.
31. Hon'ble Judges of High Court of Judicature at Allahabad.
32. District Magistrate, Chanda.
33. Bar Council of Kerala, Ernakulam.
34. Shri Bipin Chandra Misra, Vice-President of the Delhi High Court Bar Association, Delhi-6.
35. High Court of Mysore, Bangalore-1.
36. Shri N. S. Das Bahl, Advocate, Supreme Court of India.
37. Mrs. Sujata Manohar, Bombay.
38. Shri Chandra Prakash Agarwal, Kaimganj (U.P.).
39. Andhra Pradesh High Court, Advocates' Association, Hyderabad.
40. Shri M. C. Setalvad, M. P.
41. Bombay High Court, Bombay.
42. Justice Parkash Narain of the Delhi High Court.
43. Justice S. Rangarajan of the Delhi High Court.

APPENDIX IV]

(Vide para 8 of the Report)

LIST OF WITNESSES WHO TENDERED EVIDENCE BEFORE THE JOINT COMMITTEE

Sl. No.	Name of organisation/ individual	Name of representatives	Date of hearing
1	High Court Bar Association, Delhi.	(i) Sh. Radhey Lal Aggarwal (ii) Shri B.C. Misra	16-9-1969
2	Shri A.N. Gupta, Munsif Havli Meerut.		17-9-1969
3	Shri S. C. Mittal, Munsif Magistrate, Parbatsar (Rajasthan).		18-9-1969
4	Shri Anand Prakash Singhal, Advocate, Meerut.		18-9-1969
5	Shri H. L. Tejwani, Retd. Chief Supplies, Inspector, New Delhi.		19-9-1969
6	Shri R. Thiagarajan, Advocate Supreme Court, Malleswaram, Bangalore.		23-10-1969
7	High Court Bar Association, Delhi.	Shri B.C. Misra	23-10-1969
8	Prof. M. S. Phirangi, Karnatak University, Dharwar.		24-10-1969
9	Shri C. B. Agarwala, Ex-Judge, Allahabad High Court.		24-10-1969
10	Shri M.C. Setalvad, M.P.		25-10-1969
11	Dr. L. M. Singhvi, Executive Chairman, Institute of Constitutional and Parliamentary Studies, New Delhi.		25-10-1969
12	Incorporated Law Society, Calcutta.	(i) Shri R.C. Kar (ii) Shri P. K. Sen	15-1-1970
13	Bar Association High Court Calcutta.	(i) Sh. Nirmal Chandra Chakrabarty	16-1-1970
14	Bar Council of Orissa, Cuttack.	(i) Shri Rajendra Chandra Mohanty	17-1-1970
15	District Bar Association, Alipore, Calcutta.	(i) Sh. D.N. Mookerjee	19-1-1970
16	Shri S. K. Acharya, Advocate General, West Bengal.		19-1-1970

Sl. No.	Name of organisation/ individual	Name of representatives	Date of hearing
17	Shri Hargovind Dayal Srivastava Chairman, Bar Council of India and Senior Vice-Presi- dent of Oudh Bar Association, Lucknow.		27-1-1970 and 28-1-1970
18	Shri Syed Ali Zaheer.		28-1-1970
19	Shri N. S. Das Bahl, Advocate, Supreme Court, New Delhi.		28-1-1970
20	Indian Law Institute, New Delhi.	(i) Dr. D.C. Pande	29-1-1970
21	Shri B. S. Wankhede, District and Sessions Judge, Chandra- pur.		3-2-1970
22	Bar Association of Bombay High Court (Original side).	(i) Shri P.K. Thakor (ii) Shrimati Sujata Manohar (iii) Shri Ashok N. Vyas (iv) Shri Hemendrashah	4-2-1970
23	Advocates Association Western India, High Court, Bombay	(i) Sh. M.A. Rane (ii) Sh. M.V. Paranjape (iii) Sh. Sharad Manohar (iv) Sh. S.C. Pratap (v) Sh. C.R. Dalvi (vi) Sh. D.M. Rane (vii) Sh. K.J. Abhankar	4-2-1970 and 5-2-1970
24	Bar Council of Maharashtra	Sh. D.R. Dhanuka	5-2-1970
25	Shri B.R. Satarkar, Collector, Chandrapur.		5-2-1970
26	Shri Cojande Dairianadin, Advocate-Counsel, Pondicherry.		12-2-1970
27	Shri Jaganou Diagou, Advocate- Counsel, Pondicherry.		12-2-1970
28	Visakhapatnam Bar Association, Visakhapatnam.	Sh. S. Ramchandra Rao, Advocate.	14-2-1970
29	Shri R. Ramasubramaniam, Secretary to the Government of Tamil Nadu, Law Depart- ment, Madras.		14-2-1970

APPENDIX V

MINUTES OF THE MEETING OF THE JOINT COMMITTEE ON THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1968.

I

FIRST MEETING

The Committee met at 4.00 P.M. on Saturday, the 17th May, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri Rizaq Ram
9. Shri V. T. Nagpure
10. Shrimati Seeta Yudhvir
11. Shri Joachim Alva
12. Shrimati Annapurna Devi Thimmareddy
13. Shri T. K. Patel

Lok Sabha

14. Shri R. D. Bhandare
15. Shri N. T. Das
16. Shri Ram Krishan Gupta
17. Shri Heerji Bhai
18. Shri J. M. Imam
19. Shri Kameshwar Singh
20. Shri Thandavan Kiruttanan

21. Shri K. Lakkappa
22. Shri Brij Bhushan Lal
23. Shrimati Sangam Laxmi Bai
24. Shri B. P. Mandal
25. Shri M. Meghachandra
26. Shri Bhaljibhai Ravjibhai Parmar
27. Chaudhuri Randhir Singh
28. Pandit D. N. Tiwary
29. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

Shri Kewal Krishan, Under Secretary

Shri Kishan Singh, Under Secretary.

2. The Chairman welcomed the Members of the Committee.
3. The Committee decided that a Press Communique be issued inviting comments on the subject matter of the Bill from individuals, associations and organisations interested in the subject matter thereof and advising them to send memoranda on the Bill to the Rajya Sabha Secretariat by the 30th June, 1969.
4. The Committee directed that the Press Communique to be issued should also contain a request that such individuals and organisations as are interested in giving oral evidence before the Committee may communicate their intention to do so by the aforesaid date.
5. The Committee desired that copies of the Bill and the Press Communique be forwarded to the Registrars of the Supreme Court and High Courts and also to the various Bar Councils and Bar Associations, both at the State and District level, requesting them to communicate their views on the subject matter of the Bill by the same date.
6. The Chairman also requested that members desirous of suggesting names of persons or associations whom they would like to be considered for being invited to give oral evidence before the Committee, may do so by the same date.
7. The Committee desired that copies of the following literature be circulated to the Members:—
 - (1) Twenty-seventh Report of the Law Commission of India (to be supplied by the Ministry of Law).
 - (2) The Code of Civil Procedure 1908, as amended upto date (to be supplied by the Ministry of Law).
8. The Committee decided to meet at 3.00 P.M. on Friday the 4th July, 1969, to chalk out their future programme.
9. The Committee then adjourned at 4.55 P.M. to meet again at 3.00 P.M. on Friday, the 4th July, 1969.

SECOND MEETING

The Committee met at 3.00 p.m. on Friday, the 4th July, 196

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri Rizaq Ram
9. Shri V. T. Nagpure
10. Shrimati Seeta Yudhvir
11. Shrimati Annapurna Devi Thimmareddy
12. Shri T. K. Patel
13. Shri P. C. Mitra

Lok Sabha

14. Shri D. Balarama Raju
15. Shri R. D. Bhandare
16. Shri Krishna Kumar Chatterji
17. Shri N. T. Das
18. Shri Ram Krishan Gupta
19. Shri Heerji Bhai
20. Shri J. M. Imam
21. Shri Kameshwar Singh
22. Shri Mushir Ahamad Khan
23. Shri Thandavan Kiruttinan
24. Shri Mahendra Majhi
25. Shri Viswanatha Menon
26. Shri Bhaljibhai Ravjibhai Parmar
27. Shri S. B. Patil
28. Shri Jharkhande Rai
29. Chaudhuri Randhir Singh
30. Shrimati Savitri Shyam
31. Shri P. N. Solanki
32. Pandit D. N. Tiwary
33. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary

Shri S. P. Ganguly, Deputy Secretary

Shri Kishan Singh, Under Secretary

2. At the outset, the Chairman apprised the Committee of the latest position in regard to the various communications received in the Secretariat in response to the Press Communique issued pursuant to the decision of the Committee taken at their first meeting held on the 17th May, 1969.

The Committee noted that many of the High Courts, Bar Councils, Bar Associations and others from all over the country who were requested to offer their comments on the subject matter of the Bill, had expressed their inability to do so by the appointed date, i.e., the 30th June, 1969, and that some of them had also requested for extension of time for the purpose.

In view of the above the Committee decided to extend the time upto the 15th August, 1969, for the receipt of memoranda, comments, etc. on the Bill and desired that the Registrars of the Supreme Court and High Courts, various Bar Councils and Bar Associations, both at the State and District level, who had not yet offered any comment on the Bill and also those others who had made requests for extension of time for the purpose, be informed accordingly.

3. The Chairman requested that members desirous of suggesting names of witnesses whom they would like to be invited to give oral evidence before the Committee might send the names and addresses of those persons to the Secretariat by the 15th August, 1969.

4. Some members of the Committee raised the question of the desirability of holding their meetings at stations where the High Courts are situated so that witnesses coming from those stations and the areas adjoining to them could, without much difficulty, appear before the Committee for giving oral evidence. After some discussion, the Committee decided to consider this aspect again at their next sitting by when the particulars about the member of persons to be called for giving evidence from each station or area would be available.

5. The Committee decided to ask for extension of time upto the last day of the next winter (November—December 1969) session of the Rajya Sabha for the presentation of their Report and accordingly authorised the Chairman to move the necessary motion in the House during the forthcoming session of Parliament commencing on the 21st July, 1969.

6. The Committee decided to meet again at 3.30 P.M. on Saturday, the 30th August, 1969, to chalk out their future programme of sittings.

The Committee then adjourned at 3.45 P.M.

III

THIRD MEETING

The Committee met at 3.30 P.M. on Friday, the 29th August, 1969, in Room No. 62, Parliament House, New Delhi.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Purnanand Chetia
7. Shri Rizaq Ram
8. Shri V. T. Nagpure
9. Shri Joachim Alva
10. Shrimati Annapurna Devi Thimmareddy
11. Shri T. K. Patel
12. Shri P. C. Mitra

Lok Sabha

13. Shri Rajendranath Barua
14. Shri R. D. Bhandare
15. Shri Krishna Kumar Chatterji
16. Shri N. T. Das
17. Shri Shri Chand Goyal
18. Shri Ram Krishan Gupta
19. Shri Heerji Bhai
20. Shri J. M. Imam
21. Shri Kameshwar Singh
22. Shri Thandavan Kiruttinan
23. Shri K. Lakkappa
24. Shrimati Sangam Laxmi Bai
25. Shri Mahendra Majhi
26. Shri B. P. Mandal
27. Shri M. Meghachandra
28. Shri Vishwanatha Menon
29. Shri Bhaljibhai Ravjibhai Parmar
30. Shri S. B. Patil
31. Shri Jharkhande Rai
32. Shrimati Savitri Shyam
33. Shri P. N. Solanki
34. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, *Additional Legislative Counsel*

SECRETARIAT

Shri S. P. Ganguly, *Deputy Secretary.*Shri Kishan Singh, *Under Secretary.*

2. The Chairman informed the Committee that he had selected the following eight persons/associations for being invited to tender oral evidence before the Committee during their next series of sittings to be held at New Delhi:—

1. Shri C. B. Agarwala, Ex-Judge, Allahabad High Court.
2. Dr. S. N. Jain, Director, Indian Law Institute.
3. Representative of the High Court Bar Association, Delhi.
4. Representative of the Collectorate Bar Association, Bulandshar (U.P.).
5. Shri A. N. Gupta, Munsif, Haveli, Meerut.
6. Shri Ved Bhushan Goel, Advocate, Ambala.
7. Shri Anand Prakash Singhal, Advocate, Meerut.
8. Shri H. L. Tejwani, Retired Chief Supply Inspector, New Delhi.

The Chairman also informed the Committee that he had tentatively fixed 16th, 17th and 18th September, 1969 for the next series of sittings of the Committee and that he has had enquiries made from 6 more witnesses as to whether it would be convenient for them to appear before the Committee for tendering oral evidence on any of those dates. The Committee approved the witnesses selected as also the dates fixed for the next series of meetings of the Committee and further decided that they would meet on the 19th September, 1969 also, if necessary.

3. The Committee thereafter considered their future programme of sittings and also whether they should hold some sittings outside Delhi to hear oral evidence on the Bill. After some discussion it was decided to reconsider the matter during their next series of sittings.

4. The Committee then adjourned at 4.05 P.M. to meet again at 3.00 P.M. on Tuesday, the 16th September, 1969.

IV

FOURTH MEETING

The Committee met at 3.00 P.M. on Tuesday, the 16th September, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman.*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani

4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Purnanand Chetia
9. Shri Rizaq Ram
10. Shri V. T. Nagpure
11. Shrimati Seeta Yudhvir
12. Shri Joachim Alva
13. Shri P. C. Mitra

Lok Sabha

14. Shri D. Balarama Raju
15. Shri Rajendranath Barua
16. Shri Krishna Kumar Chatterji
17. Shri N. T. Das
18. Shri Shri Chand Goyal
19. Shri Ram Krishan Gupta
20. Shri Heerji Bhai
21. Shri J. M. Imam
22. Shri Kameshwar Singh
23. Shri Mushir Ahamad Khan
24. Shri Thandavan Kiruttinan
25. Shri K. Lakkappa
26. Shri Brij Bhushan Lal
27. Shrimati Sangam Laxmi Bai
28. Shri Mahendra Majhi
29. Shri B. P. Mandal
30. Shri Viswanatha Menon
31. Shri Bhaljibhai Ravjibhai Parmar
32. Shri S. B. Patil
33. Shri Jharkhande Rai
34. Shrimati Savitri Shyam
35. Shri P. N. Solanki
36. Pandit D. N. Tiwary
37. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel
Shrimati V. S. Rama Devi, Deputy Legislative Counsel

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
Shri Kishan Singh, Under Secretary.

WITNESSES

Representatives of the High Court Bar Association, Delhi:

(i) Shri Radhey Lal Aggarwal, President.

(ii) Shri B. C. Misra, Vice-President.

2. The Committee heard the oral evidence tendered by the representatives of the High Court Bar Association, Delhi.

A verbatim record of the evidence was kept.

3. The Committee then adjourned at 5.15 P.M. to meet again at 11.15 A.M. on Wednesday, the 17th September, 1969.

V

FIFTH MEETING

The Committee met at 11.15 A.M. on Wednesday, the 17th September, 1969.

F

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Purnanand Chetia
9. Shri Rizaq Ram
10. Shri V. T. Nagpure
11. Shri Joachim Alva
12. Shri T. K. Patel
13. Shri P. C. Mitra

Lok Sabha

14. Shri D. Balarama Raju
15. Shri Rajendranath Barua
16. Shri N. T. Das
17. Shri Shri Chand Goyal
18. Shri Ram Krishan Gupta
19. Shri Heerji Bhai
20. Shri J. M. Imam

21. Shri Kameshwar Singh
22. Shri Mushir Ahamad Khan
23. Shri Thandavan Kiruttinan
24. Shri K. Lakkappa
25. Shri Brij Bhushan Lal
26. Shrimati Sangam Laxmi Bai
27. Shri Mahendra Majhi
28. Shri B. P. Mandal
29. Shri Viswanatha Menon
30. Shri Bhaljibhai Ravjibhai Parmar
31. Shri S. B. Patil
32. Shri Jharkhande Rai
33. Chaudhuri Randhir Singh
34. Shrimati Savitri Shyam
35. Shri P. N. Solanki
36. Pandit D. N. Tiwary
37. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, *Addl. Legislative Counsel.*
Shrimati V. S. Rama Devi, Dy. Legislative Counsel

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary
Shri Kishan Singh, Under Secretary

WITNESSES

Shri A. N. Gupta, Munsif Havali, Meerut.

2. The Committee heard the oral evidence tendered by Shri A. N. Gupta, Munsif Havali, Meerut.

A verbatim record of the evidence was kept.

3. Shri H. L. Tejwani agreed to the suggestion made by the Chairman to appear before the Committee at 3.30 P.M. on Friday, the 19th September, 1969.

4. The Committee then adjourned at 1.20 P.M. to meet again at 10.00 A.M. on Thursday, the 18th September, 1969.

SIXTH MEETING

The Committee met at 10.00 A.M. on Thursday, the 18th September, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman.*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Purnanand Chetia
9. Shri Rizaq Ram
10. Shri V. T. Nagpure
11. Shrimati Seeta Yudhvir
12. Shri Joachim Alva
13. Shri P. C. Mitra

Lok Sabha

14. Shri D. Balarama Raju
15. Shri Rajendranath Barua
16. Shri R. D. Bhandare
17. Shri Krishna Kumar Chatterji
18. Shri N. T. Das
19. Shri Shivajirao S. Deshmukh
20. Shri Ram Krishan Gupta
21. Shri Heerji Bhai
22. Shri J. M. Imam
23. Shri Kameshwar Singh
24. Shri Mushir Ahamad Khan
25. Shri Thandavan Kiruttinan
26. Shri K. Lakkappa
27. Shrimati Sangam Laxmi Bai
28. Shri Mahendra Majhi
29. Shri B. P. Mandal
30. Shri Viswanatha Menon
31. Shri Bhalijibhai Ravjibhai Parmar
32. Shri S. B. Patil
33. Shri Jharkhande Rai

34. Chaudhuri Randhir Singh
35. Shrimati Savitri Shyam
36. Shri P. N. Solanki
37. Pandit D. N. Tiwary
38. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel.
Shrimati V. S. Rama Devi, Dy. Legislative Counsel

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary
Shri S. P. Ganguly, Deputy Secretary
Shri Kishan Singh, Under Secretary

WITNESSES

- (i) Shri S. C. Mittal, Munsif Magistrate, Parbatsar (Rajasthan).
- (ii) Shri Anand Prakash Singhal, Advocate, Meerut.

2. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Shri S. C. Mittal
- (ii) Shri Anand Prakash Singhal

A verbatim record of the evidence was kept.

3. The Committee, thereafter, discussed their future programme of sittings. Some members desired that the Committee should also sit outside Delhi to hear oral evidence. After some discussion the Committee authorised the Chairman to ascertain the reaction of the Chairman, Rajya Sabha, in the matter.

The Committee then approved the proposal of the Chairman to hold the next series of the sittings of the Committee for recording further evidence from the 7th to the 10th October, 1969, in Delhi.

4. The Committee then adjourned at 12.00 Noon to meet again at 3.30 P.M. on Friday, the 19th September, 1969.

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VII

SEVENTH MEETING

The Committee met at 3.30 P.M. on Friday, the 19th September, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Purnanand Chetia
9. Shri Rizaq Ram
10. Shri V. T. Nagpure
11. Shri Joachim Alva
12. Shri P. C. Mitra

Lok Sabha

13. Shri Rajendranath Barua
14. Shri Shri R. D. Bhandare
15. Shri Krishna Kumar Chatterji
16. Shri N. T. Das
17. Shri Shivajirao S. Deshmukh
18. Shri Ram Krishan Gupta
19. Shri J. M. Imam
20. Shri Mushir Ahamad Khan
21. Shri Thandavan Kiruttinan
22. Shri K. Lakkappa
23. Shrimati Sangam Laxmi Bai
24. Shri Mahendra Majhi
25. Shri B. P. Mandal
26. Shri Bhaljibhai Ravjibhai Parmar
27. Shri S. B. Patil
28. Shri Jharkhande Rai
29. Chaudhuri Randhir Singh
30. Shrimati Savitri Shyam
31. Shri P. N. Solanki
32. Pandit D. N. Tiwary
33. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel.

Shrimati V. S. Rama Devi, Dy. Legislative Counsel

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary

Shri S. P. Ganguly, Deputy Secretary

Shri Kishan Singh, Under Secretary

WITNESS

Shri H. L. Tejwani, Retd. Chief Supplies Inspector, New Delhi.

2. The Committee heard the oral evidence tendered by Shri H. L. Tejwani.

A verbatim record of the evidence was kept.

3. At the suggestion of the Chairman, the Committee reconsidered their future programme of sittings. After some discussion, the Committee decided to hold the next series of sittings at New Delhi for recording further evidence from the 23rd to 25th October, 1969 *instead* of from 7th to 10th October, 1969, as decided earlier.

4. The Committee then adjourned at 4.45 P.M. to meet again at 10.30 A.M. on Thursday, the 23rd October, 1969.

VIII

EIGHTH MEETING

The Committee met from 10.30 A.M. to 12.45 P.M. and again from 3.10 P.M. to 4.40 P.M. on Thursday, the 23rd October, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Purnanand Chetia
9. Shri Rizaq Ram
10. Shri V. T. Nagpure
11. Shrimati Seeta Yudhvir

12. Shri Joachim Alva
13. Shrimati Annapurna Devi Thimmareddy
14. Shri T. K. Patel
15. Shri P. C. Mitra

Lok Sabha

16. Shri D. Balarama Raju
17. Shri Rajendranath Barua
18. Shri R. D. Bhandare
19. Shri Krishna Kumar Chatterji
20. Shri Ram Krishan Gupta
21. Shri Heerji Bhai
22. Shri J. M. Imam
23. Shri Kameshwar Singh
24. Shri Mushir Ahamad Khan
25. Shri Thandavan Kiruttinan
26. Shri K. Lakkappa
27. Shri Brij Bhushan Lal
28. Shrimati Sangam Laxmi Bai
29. Shri Mahendra Majhi
30. Shri B. P. Mandal
31. Shri Viswanatha Menon
32. Shri Bhaljibhai Ravjibhai Parmar
33. Shri S. B. Patil
34. Chaudhuri Randhir Singh
35. Shrimati Savitri Shyam
36. Shri P. N. Solanki
37. Pandit D. N. Tiwary
38. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

Shri Kishan Singh, Under Secretary

WITNESSES

- (1) Shri R. Thiagarajan, Advocate, Supreme Court, Malleswaram, Bangalore.
- (2) Representative of the High Court Bar Association, Delhi—
Shri B. C. Misra, Vice-President

2. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Shri R. Thiagarajan
- (ii) Representative of the High Court Bar Association, Delhi.

A verbatim record of the evidence was kept.

3. The Committee again considered the question of holding some sittings outside Delhi for recording oral evidence on the Bill and it was their unanimous desire that the entire Committee should visit some seats of High Courts and, if possible, also a few district headquarters for the purpose. The Chairman was authorised to obtain permission of the Chairman, Rajya Sabha for the visits.

4. The Committee then adjourned at 4.00 P.M. to meet again at 10.30 A.M. on Friday, the 24th October, 1969.

IX

NINTH MEETING

The Committee met from 10.40 A.M. to 12.30 P.M. and again from 3.20 P.M. to 5.10 P.M. on Friday, the 24th October, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Jagat Narain
7. Shri Syed Ahmed
8. Shri Rizaq Ram
9. Shri V. T. Nagpure
10. Shrimati Seeta Yudhvir
11. Shri Joachim Alva
12. Shrimati Annapurna Devi Thimmareddy
13. Shri P. C. Mitra

Lok Sabha

14. Shri D. Balarama Raju
15. Shri Rajendranath Barua
16. Shri Krishna Kumar Chatterji
17. Shri Shri Chand Goyal

18. Shri Ram Krishan Gupta
19. Shri Heerji Bhai
20. Shri J. M. Imam
21. Shri Kameshwar Singh
22. Shri Thandavan Kiruttinan
23. Shri Brij Bhushan Lal
24. Shrimati Sangam Laxmi Bai
25. Shri Mahendra Majhi
26. Shri B. P. Mandal
27. Shri Viswanatha Menon
28. Shri Bhaljibhai Ravjibhai Parmar
29. Shri Jharkhande Rai
30. Shrimati Savitri Shyam
31. Shri P. N. Solanki
32. Pandit D. N. Tiwary
33. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

Shri Kishan Singh, Under Secretary

WITNESSES

(1) Prof. M. S. Phirangi, College of Law, Karnatak University, Dharwar.

(2) Shri C. B. Agarwala, Ex-Judge, Allahabad High Court.

2. The representative of the Andhra Pradesh High Court Advocates' Association who was to appear before the Committee at 10.30 A.M. for giving oral evidence did not come.

3. The Committee heard the oral evidence tendered by the following witnesses:—

(i) Prof. M. S. Phirangi

(ii) Shri C. B. Agarwala

A verbatim record of the evidence was kept.

4. The Committee then adjourned at 5.10 P.M. to meet again at 10.30 A.M. on Saturday, the 25th October, 1969.

TENTH MEETING

The Committee met from 10.40 A.M. to 12.15 P.M. and again from 3.10 P.M. to 5.35 P.M. on Saturday, the 25th October, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Syed Ahmed
7. Shri Rizaq Ram
8. Shri V. T. Nagpure
9. Shrimati Seeta Yudhvir
10. Shri Joachim Alva
11. Shrimati Annapurna Devi Thimmareddy
12. Shri P. C. Mitra

Lok Sabha

13. Shri D. Balarama Raju
14. Shri Rajendranath Barua
15. Shri Krishna Kumar Chatterji
16. Shri Shivajirao S. Deshmukh
17. Shri Shri Chand Goyal
18. Shri Ram Krishan Gupta
19. Shri Heerji Bhai
20. Shri J. M. Imam
21. Shri Kameshwar Singh
22. Shri Mushir Ahamad Khan
23. Shri Thandavan Kiruttinan
24. Shri K. Lakkappa
25. Shri Brij Bhushan Lal
26. Shrimati Sangam Laxmi Bai
27. Shri Mahendra Majhi
28. Shri B. P. Mandal
29. Shri Viswanatha Menon
30. Shri Bhaljibhai Ravjibhai Parmar
31. Shri S. B. Patil
32. Shri Jharkhande Rai
33. Chaudhuri Randhir Singh

34. Shrimati Savitri Shyam
35. Pandit D. N. Tiwary
36. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel

SECRETARIAT

Shri Krishan Singh, Under Secretary

WITNESSES

- (1) Shri M. C. Setalvad, M.P.
- (2) Dr. L. M. Singhvi, Executive Chairman, Institute of Constitutional and Parliamentary Studies, New Delhi.

2. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Shri M. C. Setalvad, M.P.
- (ii) Dr. L. M. Singhvi.

A verbatim record of the evidence was kept.

3. The Committee authorised the Chairman to fix time and date for the next meeting of the Committee during the ensuing session of the Rajya Sabha to chalk out their future programme.

4. The Committee then adjourned at 5.35 P.M.

XI

ELEVENTH MEETING

The Committee met at 3.10 P.M. on Wednesday, the 3rd December, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Shri Syed Ahmed
3. Shri Rizaq Ram
4. Shrimati Seeta Yudhvir
5. Shrimati Annapurna Devi Thimmareddy
6. Shri T. K. Patel
7. Shri P. C. Mitra

Lok Sabha

8. Shri Rajendranath Barua
9. Shri B. D. Bhandare
10. Shri Shri Chand Goyal
11. Shri Ram Krishan Gupta
12. Shri Heerji Bhai
13. Shri Kameshwar Singh
14. Shri Mushir Ahamad Khan
15. Shri K. Lakkappa
16. Shrimati Sangam Laxmi Bai
17. Shri Mahendra Majhi
18. Shri Viswanatha Menon
19. Shri Bhaljibhai Ravjibhai Parmar
20. Shri S. B. Patil
21. Shri Jharkhande Rai
22. Shrimati Savitri Shyam
23. Pandit D. N. Tiwary

MINISTRY OF LAW

Shrimati V. S. Rama Devi, *Deputy Legislative Counsel*

SECRETARIAT

Shri S P. Ganguly, *Deputy Secretary*
 Shri Krishan Singh, *Under Secretary*

2. The Chairman informed the Committee that the Chairman, Rajya Sabha, with whom he informally discussed the question of holding some sittings outside Delhi for recording oral evidence on the Bill, had suggested that the Committee in order to avoid going to many places for recording evidence might obtain the evidence tendered before the Law Commission on the subject and circulate the relevant portions thereof for the information of the members so that they would have the benefit of a large mass of evidence on the subject and thus avoid going out to more than three places, namely Calcutta, Bombay and Madras, as suggested by him earlier, namely by splitting the Committee into three batches for visiting each place. The Chairman also informed the Committee that the Law Commission have been approached for making available the evidence tendered before them on the subject and it was expected that the evidence would be made available to the Committee.

3. The Committee then discussed the matter thoroughly and were of the unanimous opinion that they would not be able to do justice to the Bill unless the entire Committee visit these three places for recording evidence. The Committee were also of the opinion that in case permission to visit at least 2 out of the 3 places mentioned above was not accorded, they would be prepared not to go out any where and meet in Delhi only. The Chairman, Joint Committee, was requested to approach the Chairman, Rajya Sabha, again in the matter and apprise him of the feelings and views of the Committee in this regard.

4. The Committee decided to ask for extension of time up to the last day of the Seventy-First Session of the Rajya Sabha for the presentation of their Report and authorised the Chairman to move the necessary motion in the House during the current session.

5. The Committee also authorised the Chairman to fix the venue and date of the next meeting of the Committee.

6. The Committee then adjourned at 4.00 P.M.

XII

TWELFTH MEETING

The Committee met at 3.40 P.M. on Wednesday, the 24th December, 1969.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Jagat Narain
5. Shri Purnanand Chetia
6. Shrimati Annapurna Devi Thimmareddy
7. Shri T. K. Patel
8. Shri P. C. Mitra

Lok Sabha

9. Shri Heerji Bhai
10. Shri Thandavan Kiruttinan
11. Shri Brij Bhushan Lal
12. Shrimati Sangam Laxmi Bai
13. Shri Mahendra Majhi
14. Shri M. Meghachandra
15. Shri Bhaljibhai Ravjibhai Parmar
16. Shri S. B. Patil
17. Shri Jharkhande Rai
18. Shrimati Savitri Shyam
19. Pandit D. N. Tiwary

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel
Shrimati V. S. Rama Devi, Dy. Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary
Shri Kishan Singh, Under Secretary

2. The Chairman informed the Committee that the Chairman, Rajya Sabha, has been pleased to accord permission to the entire Committee to visit Calcutta, Bombay and Madras for recording oral evidence on the subject matter of the Bill. The Chairman further informed the Committee that he has fixed the following tentative programme for the purpose:—

Dates	Venue	
5th to 8th January, 1970...	Madras	
15th to 19th January, 1970...	Calcutta	For recording oral evidence.
27th to 29th January, 1970...	New Delhi	
2nd to 5th February, 1970...	Bombay	
10th to 12th February, 1970...	New Delhi	For clause-by-clause consideration.

The Chairman also clarified that the dates fixed above are purely tentative and depend on the confirmation with regard to the availability of accommodation from the State authorities concerned. He also informed the Committee that dates on which the meetings will be actually held in each station will be intimated to the members as and when they are finalised in consultation with the State authorities concerned.

Thereafter the Committee agreed to the above programme.

3. The Committee then adjourned at 4.00 P.M.

XIII

THIRTEENTH MEETING

The Committee met in the Council Chamber, West Bengal Legislative Assembly Building, Calcutta from 3.15 P.M. to 4.55 P.M. on Thursday, the 15th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri T. K. Patel
9. Shri P. C. Mitra

Lok Sabha

10. Shri D. Balarama Raju
11. Shri Ram Krishan Gupta
12. Shri Heerji Bhai
13. Shri Kameshwar Singh
14. Shri Mahendra Majhi
15. Shri B. P. Mandal
16. Shri Viswanatha Menon
17. Shri Bhaljibhai Ravjibhai Parmar
18. Shri Jharkhande Rai
19. Shrimati Savitri Shyam
20. Shri P. N. Solanki
21. Shri K. Subravelu
22. Pandit D. N. Tiwary

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

WITNESSES

Representatives of the Incorporated Law Society, Calcutta:

- (i) Shri R. C. Kar
- (ii) Shri P. K. Sen

2. The Chairman welcomed the Members of the Committee and informed them about the programme of sittings to be held in Calcutta on the 15th, 16th, 17th and 19th January, 1970. The Chairman further informed that the Committee will be holding their meetings in Delhi, Bombay and Madras on the dates given below for the purpose of recording oral evidence on the Bill:—

Delhi: from 27th to 29th January, 1970.

Bombay: from 2nd to 4th February, 1970 (subject to the availability of accommodation in the MLA's Hostel, Bombay, for which the Maharashtra Government have already been approached.)

Madras: from 11th to 14th February, 1970.

3. The Committee heard the oral evidence tendered by the representatives of the Incorporated Law Society, Calcutta.

A. Verbatim record of the evidence was kept.

4. The Committee then adjourned at 4.55 P.M. to meet again at 4.00 P.M. on Friday, the 16th January, 1970.

FOURTEENTH MEETING

The Committee met in the Council Chamber, West Bengal Legislative Assembly Building, Calcutta from 4.10 P.M. to 5.55 P.M. on Friday, the 16th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri T. K. Patel
9. Shri P. C. Mitra

Lok Sabha

10. Shri Ram Krishan Gupta
11. Shri Heerji Bhai
12. Shri Mahendra Majhi
13. Shri Viswanatha Menon
14. Shri Bhaljibhai Ravjibhai Parmar
15. Shri Jharkhande Rai
16. Shrimati Savitri Shyam
17. Shri P. N. Solanki
18. Shri K. Subravelu

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

WITNESSES

Shri Nirmal Chander Chakraberty, President of the Bar Association, High Court, Calcutta.

2. The Committee heard the oral evidence tendered by the representative of the Bar Association, High Court, Calcutta.

A verbatim record of the evidence was kept.

3. The Committee then adjourned at 5.55 P.M. to meet again at 11.00 A.M. on Saturday, the 17th January, 1970.

FIFTEENTH MEETING

The Committee met in the Council Chamber, West Bengal Legislative Assembly Building, Calcutta from 11.10 A.M. to 12.55 P.M. on Saturday, the 17th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri B. N. Mandal
4. Shri Syed Ahmed
5. Shri Purnanand Chetia
6. Shri T. K. Patel
7. Shri P. C. Mitra

Lok Sabha

8. Shri Heerji Bhai
9. Shri Kameshwar Singh
10. Shri Brij Bhushan Lal
11. Shri Mahendra Majhi
12. Shri Viswanatha Menon
13. Shri Bhalijibhai Ravjibhai Parmar
14. Shri S. B. Patil
15. Shri Jharkhande Rai
16. Shri P. N. Solanki
17. Shri K. Subravelu

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

Shri Rajendra Chandra Mohanty, Member Secretary of the Bar Council of Orissa, Cuttack.

2. The Committee heard the oral evidence tendered by the representative of the Bar Council of Orissa, Cuttack.

A verbatim record of the evidence was kept.

3. The Committee then adjourned at 12.55 P.M. to meet again at 2.00 P.M. on Monday, the 19th January, 1970.

XVI

SIXTEENTH MEETING

The Committee met in the Council Chamber, West Bengal Legislative Assembly Building, Calcutta from 2.10 P.M. to 5.20 P.M. on Monday, the 19th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri T. K. Patel
9. Shri P. C. Mitra

Lok Sabha

10. Shri Shri Chand Goyal
11. Shri Ram Krishan Gupta
12. Shri Hcerji Bhai
13. Shri K. Lakkappa
14. Shri Mahendra Majhi
15. Shri B. P. Mandal
16. Shri Viswanatha Menon
17. Shri Bhaljibhai Ravjibhai Parmar
18. Shri S. B. Patil
19. Shri Jharkhande Rai
20. Shri P. N. Solanki
21. Shri K. Subravelu
22. Shri Brij Bhushan Lal

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

WITNESSES

1. Shri D. N. Mookerjee, President, District Bar Association (Alipore, Calcutta.
2. Shri S. K. Acharya, Advocate General, West Bengal.

2. The Committee heard the oral evidence tendered by the following witnesses:—

1. Representative of the District Bar Association, Alipore.

2. Shri S. K. Acharya.

A verbatim record of the evidence was kept.

3. The witness invited to tender oral evidence before the Committee at 2.00 P.M., namely Shri N. Datta Majumdar, representative of the Bar Council of West Bengal did not appear before the Committee.

4. The Chairman informed the Committee that confirmation about the availability of accommodation for the stay of Members in the MLA's Hostel, Bombay has not yet been received from the Government of Maharashtra. He further stated that, in the circumstances, the position regarding holding of meetings of the Committee in Bombay from 2nd to 4th February 1970 will be intimated to the Members when the Committee meet next in Delhi. The Chairman also informed the Committee that after the Delhi sittings from 27th to 29th January, 1970, and if necessary on 30th January, the Committee will meet in Madras from 11th to 14th February, 1970 for recording further oral evidence on the Bill.

5. The Chairman expressed grateful thanks of the Committee to the Speaker, West Bengal Legislative Assembly and the Legislative Assembly Secretariat for the excellent arrangements made for holding the meetings of the Committee in the Council Chamber.

The Committee then adjourned at 5.20 P.M. to meet again at 10.30 A.M. on Tuesday, the 27th January, 1970 in room No. 63, Parliament House, New Delhi.

XVII

SEVENTEENTH MEETING

The Committee met from 10.30 A.M. to 10.45 A.M. and again from 11.40 A.M. to 1.30 P.M. on Tuesday, the 27th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri Rizaq Ram
9. Shri V. T. Nagpure
10. Shrimati Seeta Yudhvir
11. Shri T. K. Patel
12. Shri P. C. Mitra

Lok Sabha

13. Shri D. Balarama Raju
14. Shri Shri Chand Goyal
15. Shri Ram Krishan Gupta
16. Shri Heerji Bhai
17. Shri J. M. Imam
18. Shri Kameshwar Singh
19. Shri Mushir Ahamad Khan
20. Shri Thandavan Kiruttinan
21. Shri K. Lakkappa
22. Shri Brij Bhushan Lal
23. Shrimati Sangam Laxmi Bai
24. Shri Mahendra Majhi
25. Shri B. P. Mandal
26. Shri M. Meghachandra
27. Shri Bhaljibhai Ravjibhai Parmar
28. Shri S. B. Patil
29. Shri Jharkhande Rai
30. Chaudhuri Randhir Singh
31. Shrimati Savitri Shyam
32. Shri K. Subravelu
33. Pandit D. N. Tiwary
34. Shri Tenneti Viswanatham.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary
Shri Kishan Singh, Under Secretary.

WITNESS

Shri Hargovind Dayal Srivastava, Chairman, Bar Council of India and Senior Vice-President of Oudh Bar Association, Lucknow.

2. The Chairman informed the Committee that next series of sittings of the Joint Committee in Bombay will be held from 3rd to 5th February, 1970 instead of from 2nd to 4th February, 1970 as intimated earlier. He also informed the Committee that the meetings in Madras will be held from 11th to 14th February, 1970 as scheduled.

3. The witness invited to tender oral evidence before the Committee at 10.30 A.M., namely Shri Arun Parkash Chatterjee, M.P., did not appear before the Committee.

4. The Committee heard the oral evidence tendered by Shri Hargovind Dayal Srivastava.

A verbatim record of the evidence was kept.

5. The evidence of Shri Srivastava was not concluded when the Committee adjourned for the day.

On the suggestion of the Chairman, Shri Srivastava agreed to appear before the Committee again at 2.00 P.M. on Wednesday, the 28th February, 1970 to give further evidence on the Bill.

6. The Committee adjourned at 1.30 P.M. to meet again at 2.00 P.M. on Wednesday, the 28th February, 1970.

XVIII

EIGHTEENTH MEETING

The Committee met at 2.10 P.M. on Wednesday, the 28th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Syed Ahmed
6. Shri Purnanand Chetia
7. Shri V. T. Nagpure
8. Shri T. K. Patel
9. Shri P. C. Mitra

Lok Sabha

10. Shri D. Balarama Raju
11. Shri R. D. Bhandare
12. Shri Shri Chand Goyal
13. Shri Ram Krishan Gupta
14. Shri Heerji Bhai
15. Shri J. M. Imam
16. Shri Thandavan Kiruttinan
17. Shrimati Sangam Laxmi Bai
18. Shri Mahendra Majhi
19. Shri B. P. Mandal
20. Shri M. Meghachandra
21. Shri S. B. Patil
22. Shri Jharkhande Rai
23. Chaudhuri Randhir Singh
24. Shri P. N. Solanki
25. Shri K. Subravelu
26. Pandit D. N. Tiwary.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESSES

1. Shri Hargovind Dayal Srivastava, Chairman, Bar Council of India and Senior Vice-President of Oudh Bar Association, Lucknow.

2. Shri Syed Ali Zaheer

3. Shri N. S. Das Bahl, Advocate, Supreme Court, New Delhi.

2. The Committee heard the oral evidence tendered by the following witnesses:—

(1) Shri Hargovind Dayal Srivastava

(2) Shri Syed Ali Zaheer

(3) Shri N. S. Das Bahl.

A verbatim record of the evidence was kept.

The Committee adjourned at 5.30 p.m. to meet again at 2.00 p.m. on Thursday, the 29th January, 1970.

XIX

NINETEENTH MEETING

The Committee met at 2.20 p.m. on Thursday, the 29th January, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani

3. Shri B. N. Mandal

4. Shri Syed Ahmed

5. Shri Purnanand Chetia

6. Shri V. T. Nagpure

7. Shri T. K. Patel

8. Shri P. C. Mitra

Lok Sabha

9. Shri D. Balarama Raju

10. Shri Shri Chand Goyal

11. Shri Ram Krishan Gupta
12. Shri Heerji Dhai
13. Shri J. M. Imara
14. Shri Thandavan Kire Khan
15. Shrimati Sangam Laxmi Bai
16. Shri Mahendra Mejid
17. Shri E. P. Mandal
18. Shri M. Meghachandra
19. Shri Bhaljibhai Ravjibhai Parmar
20. Chaudhuri Randhir Singh
21. Shrimati Savitri Snyam
22. Shri P. N. Solanki
23. Pandit D. N. Tiwari
24. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Council.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.

Shri S. P. Ganguly, Deputy Secretary.

Shri Kishan Singh, Under Secretary.

WITNESS

Dr. D. C. Pande, representative of the Indian Law Institute,
New Delhi.

2. The Committee heard the oral evidence tendered by Dr. D. C. Pande.

A verbatim record of the evidence was kept.

3. The Chairman informed the Committee that next series of sittings of the Joint Committee in Madras will be held from the 12th to 14th instead of from 11th to 14th February, as intimated earlier.

4. The Committee adjourned at 3.45 P.M. to meet again at 10.30 A.M. on Tuesday, the 3rd February, 1970 in Congress Party Hall, 2nd Floor, Council Hall Building, Bombay.

XX

TWENTIETH MEETING

The Committee met in the Congress Party Hall, Council Hall Building, Bombay, from 10.45 A.M. to 11.15 A.M. and again from 3.00 P.M. to 5.00 P.M. on Tuesday, the 3rd February, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shrimati Seeta Yudhvir
9. Shri T. K. Patel
10. Shri P. C. Mitra

Lok Sabha

11. Shri R. D. Bhandare
12. Shri Shri Chand Goyal
13. Shri Ram Krishan Gupta
14. Shri Heerji Bhai
15. Shri J. M. Imam
16. Shri Thandavan Kiruttinan
17. Shri Mahendra Majhi
18. Shri B. P. Mandal
19. Shri Bhaljibhai Ravjibhai Parmar
20. Shri S. B. Patil
21. Shri Jharkhande Rai
22. Chaudhuri Randhir Singh
23. Shrimati Savitri Shyam
24. Shri P. N. Solanki
25. Pandit D. N. Tiwary

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESS

Shri B. S. Wankhede, District and Sessions Judge, Chandrapur.

2. The Committee heard the evidence tendered by Shri B. S. Wankhede.

A verbatim record of the evidence was kept.

[The other witnesses namely, (i) Principal, Government Law College, Bombay, (ii) Professor teaching C.P.C. at the Institute and (iii) Representative of the Solicitors Bar Association, High Court, Bombay, who had

been invited for to-day to tender evidence did not turn up.]

3. The Committee then adjourned at 4.55 P.M. to meet again at 3.00 P.M. on Wednesday, the 4th February, 1970.

XXI

TWENTY-FIRST MEETING

The Committee met in the Congress Party Hall, Council Hall Building, Bombay at 3.00 P.M. on Wednesday, the 4th February, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri B. N. Mandal
4. Shri Purnanand Chetia
5. Shri V. T. Nagpure
6. Shri T. K. Patel
7. Shri P. C. Mitra

Lok Sabha

8. Shri D. Balarama Raju
9. Shri R. D. Bhandare
10. Shri Shri Chand Goyal
11. Shri Heerji Bhai
12. Shri J. M. Imam
13. Shri Thandavan Kiruttinan
14. Shri Mahendra Majhi
15. Shri B. P. Mandal
16. Shri Bhaljibhai Ravjibhai Parmar
17. Shri Jharkhande Rai
18. Chaudhuri Randhir Singh
19. Shrimati Savitri Shyam
20. Shri P. N. Solanki
21. Shri K. Subravelu

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESSES

(1) Representatives of the Bar Association of Bombay High Court (original side):

- (i) Shri P. K. Thakor
- (ii) Shrimati Sujata Manohar
- (iii) Shri Ashok N. Vyas
- (iv) Shri Hemendra Shah

(2) Representatives of the Advocates Association of Western India, High Court, Bombay:

- (i) Shri M. A. Rane
- (ii) Shri M. V. Paranjape
- (iii) Shri Sharad Manohar
- (iv) Shri S. C. Pratap
- (v) Shri K. J. Abhyankar
- (vi) Shri C. R. Dalvi

2. The witness invited to tender oral evidence before the Committee at 3.00 P.M. namely, representative of the Kutch Bar Association did not come.

3. The Committee heard the oral evidence tendered by the following witnesses:—

- (1) Representatives of the Bar Association of the Bombay High Court (original side).
- (2) Representatives of the Advocates Association of Western India, High Court, Bombay.

[Evidence not concluded. To be continued at 2.30 P.M. on 5th February, 1970.]

4. The Committee adjourned at 7.00 P.M. to meet again at 11.00 A.M. on Thursday, the 5th February, 1970.

XXII

TWENTY-SECOND MEETING

The Committee met in the Congress Party Hall, Council Hall Building, Bombay from 11.10 A.M. to 1.30 P.M. and again from 2.50 P.M. to 4-10 P.M. on Thursday, the 5th February, 1970.

Present

- 1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

- 2. Dr. B. N. Antani
- 3. Shri Rattan Lal Jain

4. Shri B. N. Mandal
5. Shri Purnanand Chetia
6. Shri V. T. Nagpure
7. Shri P. C. Mitra

Lok Sabha

8. Shri D. Balarama Raju
9. Shri R. D. Bhandare
10. Shri Ram Krishan Gupta
11. Shri Heerji Bhai
12. Shri J. M. Imam
13. Shri Thandavan Kiruttinan
14. Shri Mahendra Majhi
15. Shri B. P. Mandal
16. Shri Bhaljibhai Ravjibhai Parmar
17. Shri Jharkhande Rai
18. Chaudhuri Randhir Singh
19. Shrimati Savitri Shyam
20. Shri P. N. Solanki
21. Shri K. Subravelu

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESSES

- (1) Shri D. R. Dhanuka, representative of the Bar Council of Maharashtra.
- (2) Shri B. R. Satarkar, Collector, Chandrapur.
- (3) Representatives of the Advocates Association of Western India, High Court, Bombay:
 - (i) Shri M. A. Rane
 - (ii) Shri Sharad Manohar
 - (iii) Shri C. R. Dalvi
 - (iv) Shri D. M. Rane

2. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Representative of the Bar Council of Maharashtra.
- (ii) Collector of Chandrapur.
- (iii) Representatives of the Advocates Association of Western India, High Court, Bombay.

[They also appeared on 4th February, 1970.]

A verbatim record of the evidence was kept.

3. The Chairman informed the Committee that the next series of sittings of the Committee will be held in Madras as scheduled from 12th to 14th February, 1970, for recording further oral evidence on the Bill.

4. The Chairman expressed grateful thanks of the Committee to the Speaker, Maharashtra Legislative Assembly and the Officers of the Legislative Assembly Secretariat for the excellent arrangements made for holding the meetings of the Committee in the Council Hall Building.

5. The Committee then adjourned at 4.10 P.M. to meet again at 11.00 A.M. on Thursday, the 12th February, 1970, in the Central Hall, Old Legislators' Hostel, Mount Road, Madras.

XXIII

TWENTY-THIRD MEETING

The Committee met in the Central Hall, Old Legislators' Hostel, Madras at 11.00 A.M. on Thursday, the 12th February, 1970.

Present

1. Pandit Sham Sunder Narain Thanka—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Jagat Narain
4. Shri Syed Ahmed
5. Shri Purnanand Chetia
6. Shri V. T. Nagpure
7. Shrimati Annapurna Devi Thimmareddy
8. Shri P. C. Mitra

Lok Sabha

9. Shri D. Balarama Raju
10. Shri Rajendranath Barua
11. Shri Shri Chand Goyal
12. Shri Ram Krishan Gupta
13. Shri Heerji Bhai
14. Shri J. M. Imam
15. Shri Thandavan Kiruttinan
16. Shrimati Sangam Laxmi Bai
17. Shri Mahendra Majhi
18. Shri Bhaljibhai Ravjibhai Parmar
19. Shri S. B. Patil

20. Chaudhuri Randhir Singh
21. Shrimati Savitri Shyam
22. Shri K. Subravelu
23. Pandit D. N. Tiwary

MINISTRY OF LAW

Shri P. L. Gupta, Addl. Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESSES

- (1) Shri Cojande Dairianadin, Advocate-Council, Pondicherry.
 - (2) Shri Jaganou Diagou, Advocate-Council, Pondicherry.
2. The Chairman welcomed the members of the Committee in Madras.
 3. The Chairman informed the Committee that Shri Rizaq Ram, M.P., having resigned his seat in the Rajya Sabha with effect from the 3rd February, 1970, ceased to be a member of the Joint Committee.
 4. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Shri Cojande Dairianadin
- (ii) Shri Jaganou Diagou

A verbatim record of the evidence was kept.

[The other witnesses who had been invited for today to tender oral evidence, had either declined or did not come.]

5. The Committee then adjourned at 12.20 P.M. to meet again at 11.00 A.M. on Friday, the 13th February, 1970.

XXIV

TWENTY-FOURTH MEETING

The Committee met in the Central Hall, Old Legislators' Hostel, Madras from 11.05 A.M. to 12.10 P.M. and again from 3.00 P.M. to 3.15 P.M. on Friday, the 13th February, 1970.

Present

1. Pandit Sham Sunder Narain Thanka—*Chairman.*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Syed Ahmed
6. Shri Purnanand Chetia
7. Shrimati Annapurna Devi Thimmareddy.

Lok Sabha

8. Shri D. Balarama Raju
9. Shri Shri Chand Goyal
10. Shri J. M. Imam
11. Shri Kameshwar Singh
12. Shri Thandavan Kiruttinan
13. Shrimati Sangam Laxmi Bai
14. Shri Mahendra Majhi
15. Shri B. P. Mandal
16. Shri Jharkhande Rai
17. Pandit D. N. Tiwary

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

2. The following organisations who had been invited to tender oral evidence before the Committee to-day did not come:—

- (i) Representatives of the Andhra Pradesh High Court Advocates' Association, Hyderabad.
- (ii) Representatives of the Bar Council of Kerala, Trivandrum.
- (iii) Representatives of the Tanjore Bar Association, Tamil Nadu.

3. The Committee adjourned at 3.15 P.M. to meet again at 11.00 A.M. on Saturday, the 14th February, 1970.

XXV

TWENTY-FIFTH MEETING

The Committee met in the Central Hall, Old Legislators' Hostel, Madras at 11.00 A.M. on Saturday, the 14th February, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri B. N. Mandal
5. Shri Jagat Narain
6. Shri Syed Ahmed
7. Shri Purnanand Chetia
8. Shri V. T. Nagpure
9. Shrimati Annapurna Devi Thimmareddy
10. Shri P. C. Mitra

Lok Sabha

11. Shri D. Balarama Raju
12. Shri Rajendranath Barua
13. Shri Shri Chand Goyal
14. Shri Heerji Bhai
15. Shri J. M. Imam
16. Shri Kameshwar Singh
17. Shri Thandavan Kiruttinan
18. Shrimati Sangam Laxmi Bai
19. Shri B. P. Mandal
20. Shri Bhaljibhai Ravjibhai Parmar
21. Shri S. B. Patil
22. Shri Jharkhande Rai
23. Chaudhuri Randhir Singh
24. Shri K. Subravelu
25. Pandit D. N. Tiwary

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

SECRETARIAT

Shri Kishan Singh, Under Secretary.

WITNESSES

- (1) Shri S. Ramchandra Rao, Advocate, representative of the Visakhapatnam Bar Association, Visakhapatnam.
- (2) Shri R. Ramasubramaniam, Secretary to the Government of Tamil Nadu, Law Department, Madras.

2. The Committee heard the oral evidence tendered by the following witnesses:—

- (i) Representative of the Visakhapatnam Bar Association.
- (ii) Secretary to the Government of Tamil Nadu, Law Department.

A verbatim record of the evidence was kept.

3. The Chairman announced the following tentative programme for future sittings of the Committee to be held in New Delhi:—

27th February, 1970	3.30 P. M.	} Clause-by-clause consideration of the Bill
6th March, 1970	10.30 A.M.	
7th March, 1970	10.30 A.M.	
13th March, 1970	3.30 P. M.	
20th March, 1970	3.30 P. M.	
21th March, 1970	10.30 A. M.	

27th March, 1970

Adoption of the
draft Report .

4. The Chairman also announced that members desirous of giving amendments to the Bill may send their amendments to the Rajya Sabha Secretariat by 5.00 P.M. the 24th February, 1970.

5. The Chairman expressed grateful thanks of the Committee to the Speaker, Tamil Nadu Legislative Assembly and the Officers of the Legislative Assembly Secretariat for the excellent arrangements made for holding the meetings of the Committee in the Central Hall, Old Legislators' Hostel, Madras.

6. The Committee then adjourned at 1.50 P.M. to meet again at 3.30 P.M. on Friday, the 27th February, 1970, in New Delhi.

XXVI

TWENTY-SIXTH MEETING

The Committee met at 3.45 P.M. on Friday, the 27th February, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*.

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri B. N. Mandal
5. Shri Syed Ahmed
6. Shri Purnanand Chetia
7. Shrimati Seeta Yudhvir
8. Shri T. K. Patel

Lok Sabha

9. Shri J. M. Imam
10. Shri Kameshwar Singh
11. Shri Thandavan Kiruttinan
12. Shri Brij Bhushan Lal
13. Shri M. Meghachandra
14. Shri Viswanatha Memon
15. Shri Bhaljibhai Ravjibhai Parmar

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.

Shri S. P. Ganguly, Deputy Secretary.

Shri Kishan Singh, Under Secretary

2. Some members desired that they should be given some more time to table their amendments. The Committee accordingly decided to extend the time for giving notices of amendments to the Bill upto the 6th March, 1970.

3. The Committee also decided to hold the next meeting of the Committee at 3.00 P.M. on Tuesday, the 10th March, 1970, for clause-by-clause consideration of the Bill.

The Committee then adjourned at 4.05 P.M. to meet again at 3.00 P.M. on Tuesday, the 10th March, 1970.

XXVII

TWENTY-SEVENTH MEETING

The Committee met at 3.10 P.M. on Tuesday, the 10th March, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri B. N. Mandal
4. Shri Jagat Narain
5. Shri Syed Ahmed
6. Shri V. T. Nagpure
7. Shrimati Annapurna Devi Thimmareddy
8. Shri P. C. Mitra

Lok Sabha

9. Shri R. D. Bhandare
10. Shri Shri Chand Goyal
11. Shri Brij Bhushan Lal
12. Shrimati Sangam Laxmi Bai

13. Shri M. Meghachandra
14. Chaudhuri Randhir Singh
15. Shrimati Savitri Shyam
16. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
Shrimati V. S. Rama Devi, Deputy Legislative Counsel.
Shri P. J. Menon, Asst. Draftsman.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
Shri S. P. Ganguly, Deputy Secretary.
Shri Kishan Singh, Under Secretary.

2. After some discussion the Committee decided to hold their next sitting for clause-by-clause consideration of the Bill at 3.30 P.M. on Friday, the 13th March, 1970 and if necessary also on Saturday, the 14th March, 1970.

3. The Committee then adjourned at 3.30 P.M. on Friday, the 13th March, 1970.

XXVIII

TWENTY-EIGHTH MEETING

The Committee met at 3.20 P.M. on Friday, the 20th March, 1970.

Present

1. Pandit Sham Sunder Narain Tankha—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Syed Ahmed
5. Shri Joachim Alva
6. Shrimati Annapurna Devi Thimmareddy

Lok Sabha

7. Shri D. Balarama Raju
8. Shi R. D. Bhandare
9. Shri Shri Chand Goyal
10. Shri Mushir Ahamad Khan
11. Shrimati Sangam Laxmi Bai
12. Shri Mahendra Majhi

13. Shri Bhagibhai Ravjibhai Parmar
14. Shrimati Savitri Shyam
15. Shri Tenneti Viswanatham

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
Shri S. P. Ganguly, Deputy Secretary.

2. After some discussion the Committee decided to ask for further extension of time upto the last day of the Seventy-third Session of the Rajya Sabha for the presentation of their Report and authorised the Chairman or in his absence Shri Syed Ahmed to move the necessary motion in the House.

3. The Committee placed on record their sense of appreciation of the keen interest shown by the Chairman in examining the various provisions of the Bill and their implications, and the able manner in which he conducted the proceedings of the Committee held so far. Much though they desired to complete the work under the Chairmanship of Pandit S. S. N. Tankha, (whose term of membership of the Rajya Sabha would expire next month), the Committee regretted that they could not do so due to the fact that during the Session, members were very busy with the day-to-day work of the Houses and as such could not find time to complete the work. The members of the Committee, however, expressed a desire that they would be grateful, if the Chairman could send a note to the Rajya Sabha Secretariat indicating the manner in which he would like the Bill to be amended, for circulation to the members.

4. The Chairman thanked the members for their appreciation of the work done by him and also expressed his grateful thanks for the help and co-operation he received from them in carrying out the work of the Joint Committee.

The Committee then adjourned at 3.45 P.M.

XXIX

TWENTY-NINTH MEETING

The Committee met at 3.10 P.M. on Tuesday, the 19th May, 1970.

Present

1. Shri Syed Ahmed—*Chairman*.

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri Rattan Lal Jain
4. Shri T. K. Patel
5. Shri T. V. Anandan
6. Shri Baharul Islam
7. Raja Shankar Pratap Singh

Lok Sabha

8. Shi Rajendranath Barua
9. Shri R. D. Bhandare
10. Shri Krishna Kumar Chatterji
11. Shi N. T. Das
12. Shri Shivajirao S. Deshmukh
13. Shri Shri Chand Goyal
14. Shri Heerji Bhai
15. Shri Kameshwar Singh
16. Shri Thandavan Kiruttinan
17. Shri Brij Bhushan Lal
18. Shrimati Sangam Laxmi Bai
19. Shri Mahendra Majhi
20. Shri M. Meghachandra
21. Shri Viswanatha Menon
22. Shri Bhaljibhai Ravjibhai Parmar
23. Shri S. B. Patil
24. Shrimati Savitri Shyam
25. Shri K. Subravelu
26. Pandit D. N. Tiwary
27. Shri Tenneti Viswanatham

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
 Shrimati V. S. Rama Devi, Deputy Legislative Counsel.
 Shri P. J. Menon, Asst. Draftsman.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
 Shri S. P. Ganguly, Deputy Secretary.
 Shri Kishan Singh, Under Secretary.

2. At the outset the Chairman welcomed the six new Members of the Committee and the Members felicitated the new Chairman of the Committee.

3. Some Members raised the question of recording further evidence on the Bill. After some discussion, the Committee came to the conclusion that at this stage when they had already decided to consider the Bill clause-by-clause it would not be advisable to record further evidence and that they should proceed with the clause-by-clause consideration of the Bill.

4. The Committee were unanimous in their view that it would be conducive to the efficient discharge of their strenuous duties of considering and finalising the Bill clause-by-clause if they could meet for a week or so at a place where the climate was salubrious, as Delhi would be very hot during June and July. As most of the members favoured Ootacamund in Tamil Nadu as the venue for the next series of sittings, the Chairman of the Committee was authorised to approach the Chairman, Rajya Sabha for obtaining necessary permission for holding the meetings of the Committee at Ootacamund during the last week of June, 1970.

5. The Chairman informed the members that they could send further amendments to the Bill, if any, within a fortnight.

6. The Committee authorised the Chairman to fix the date for their next meeting during the last week of June, 1970.

7. The Committee then adjourned at 3.40 P.M.

XXX

THIRTIETH MEETING

The Committee met at 9.30 A.M. on Tuesday, the 23rd June, 1970.

Present

1. Shri Syed Ahmed—Chairman

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon

3. Dr. B. N. Antani

4. Shri Rattan Lal Jain

5. Shri B. N. Mandal

6. Shri Dalpat Singh

7. Shri T. V. Anandan

8. Shri Baharul Islam

9. Shri Pirthwi Nath

Lok Sabha

10. Shri Rajendranath Barua

11. Shri R. D. Bhandare

12. Shri Krishna Kumar Chatterji

13. Shri N. T. Das

14. Shri Shri Chand Goyal

15. Shri J. M. Imam
16. Shri Mushir Ahamad Khan
17. Shri K. Lakkappa
18. Shrimati Sangam Laxmi Bai
19. Shri Mahendra Majhi
20. Shri B. P. Mandal
21. Shri Viswanatha Menon
22. Shri Bhaljibhai Ravjibhai Parmar
23. Shri S. E. Patil
24. Shri Jharkhande Rai
25. Shrimati Savitri Shyam
26. Shri P. N. Solanki
27. Pandit D. N. Tiwary

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary

Shri M. K. Jain, Under Secretary.

2. The Chairman made a reference to the passing away of Shri P. Govinda Menon, Minister of Law and Social Welfare, and a Member of the Committee. Thereafter, the Committee observed one minute's silence all members standing, as a mark of respect to the memory of the deceased.

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

CLAUSES 2—4

The clauses were adopted without any change.

CLAUSE 5

The clause was adopted without any change.

CLAUSE 6

The clause was adopted without any change.

CLAUSE 7

The clause was adopted subject to the deletion of the words "except when the application is made by the Attorney-General of India or the Advocate General of a State" occurring in lines 14—16, at page 3.

CLAUSES 8—11

The clauses were adopted without any change.

CLAUSE 12

The clause was adopted without any change.

CLAUSE 13

The clause was adopted without any change.

CLAUSE 14

The clause was adopted without any change.

CLAUSE 15

The clause was adopted without any change.

CLAUSE 16

The clause was adopted without any change.

CLAUSE 17

The clause was adopted subject to the deletion of lines 23—25, at page 7.

4. The Committee then adjourned at 12-25 P.M. to meet again at 10.00 A.M. on Wednesday, the 24th June, 1970.

XXXI

THIRTY-FIRST MEETING

The Committee met at 10.00 A.M. on Wednesday, the 24th June, 1970

Present

1. Shri Syed Ahmed—*Chairman*

MEMBERS

Rajya Sabha

2. Shri Balachandra Menon
3. Dr. B. N. Antani
4. Shri Rattan Lal Jain
5. Shri B. N. Mandal
6. Shri Dalpat Singh
7. Shri V. T. Nagpure
8. Shri T. K. Patel
9. Shri P. C. Mitra
10. Shri T. V. Anandan
11. Shri Baharul Islam
12. Shri Pirthwi Nath

Lok Sabha

13. Shri Rajendranath Barua
14. Shri R. D. Bhandare
15. Shri Krishna Kumar Chatterji
16. Shri N. T. Das
17. Shri Shri Chand Goyal
18. Shri J. M. Imam
19. Shri Mushir Ahamad Khan
20. Shri K. Lakkappa
21. Shrimati Sangam Laxmi Bai
22. Shri Mahendra Majhi
23. Shri B. P. Mandal
24. Shri Viswanatha Menon
25. Shri Bhaljibhai Ravjibhai Parmar
26. Shri Jharkhande Rai
27. Shrimati Savitri Shyam
28. Shri K. Subravelu
29. Pandit D. N. Tiwary
30. Chaudhuri Randhir Singh

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary.
Shri S. P. Ganguly, Deputy Secretary.
Shri M. K. Jain, Under Secretary.

2. Shri P. C. Mitra raised the question as to whether the Committee was competent to proceed further with the consideration of the Bill when Shri P. Govinda Menon, Minister of Law and Social Welfare, who was the mover of the Bill, had died. After hearing the views of some of the members on the point, the Chairman held that the Committee was competent to proceed with the Bill and the unfortunate death of Shri Menon would not have any effect on its deliberations.

3. The Committee then resumed clause-by-clause consideration of the Bill.

CLAUSES 18—21

The clauses were adopted without any change.

CLAUSE 22

The clause was adopted without any change.

CLAUSE 23

The Committee considered the clause in detail and directed the Legislative Counsel to submit a revised draft thereof in the light of the amendments moved by members to the clause and the different views expressed thereon.

The Committee then adjourned at 12.30 P.M. to meet again at 10.0. on Thursday, the 25th June, 1970.

XXXII

THIRTY-SECOND MEETING

The Committee met at 10.00 A.M. on Thursday, the 25th June, 1970.

Present

1. Shri Syed Ahmed—Chairman

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri B. N. Mandal
4. Shri Dalpat Singh
5. Shri V. T. Nagpure
6. Shri T. K. Patel
7. Shri P. C. Mitra
8. Shri T. V. Anandan
9. Shri Baharul Islam
10. Shri Pirthwi Nath

Lok Sabha

11. Shri Rajendranath Barua
12. Shri R. D. Bhandare
13. Shri Krishna Kumar Chatterji
14. Shri N. T. Das
15. Shri Shri Chand Goyal
16. Shri J. M. Imam
17. Shri Mushir Ahamad Khan
18. Shri K. Lakkappa
19. Shrimati Sangam Laxmi Bai
20. Shri Mahendra Majhi
21. Shri Viswanatha Menon
22. Shri Bhaljibhai Ravjibhai Parmar
23. Chaudhuri Randhir Singh
24. Shrimati Savitri Shyam

25. Shri P. N. Solanki
26. Shri K. Subravelu
27. Pandit D. N. Tiwary

Shri Mohammed Yunus Saleem, Deputy Minister in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.
Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, *Joint Secretary.*
Shri S. P. Ganguly, *Deputy Secretary.*
Shri M. K. Jain, *Under Secretary.*

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

CLAUSE 23—*contd.*

The Committee re-considered the clause and the following amendment was accepted:—

Page 8, delete lines 26—34.

Further consideration of the clause was held over.

CLAUSES 24-25

The clauses were adopted without any change.

CLAUSE 26

The clause was adopted without any change.

CLAUSE 27

The clause was adopted without any change.

CLAUSES 28-29

The clauses were adopted without any change.

CLAUSE 30

The clause was adopted without any change.

CLAUSES 31-32

The clauses were adopted without any change.

CLAUSE 33

The clause was adopted without any change.

CLAUSES 34—41

The clauses were adopted without any change.

CLAUSE 42

The clause was adopted without any change.

CLAUSE 43

The clause was adopted subject to the insertion of the words "writing and printing" after the word "typing" in line 30, at page 28.

CLAUSE 44

The clause was adopted without any change.

The Committee then adjourned at 11.50 A.M. to meet again at 10.00 A.M. on Friday, the 26th June, 1970.

XXXIII

THIRTY-THIRD MEETING

The Committee met at 10.10 A.M. on Friday, the 26th June, 1970.

Present

1. Shri Syed Ahmed—*Chairman*

MEMBERS

Rajya Sabha

2. Dr. B. N. Antani
3. Shri B. N. Mandal
4. Shri Dalpat Singh
5. Shri V. T. Nagpure
6. Shri P. C. Mitra
7. Shri T. V. Anandan

Lok Sabha

8. Shri Rajendranath Barua
9. Shri R. D. Bhandare
10. Shri Krishna Kumar Chatterji
11. Shri N. T. Das
12. Shri Shri Chand Goyal
13. Shri J. M. Imam
14. Shri K. Lakkappa
15. Shri Mahendra Majhi
16. Shri Viswanatha Menon
17. Shri Bhaljibhai Ravjibhai Parmar
18. Chaudhuri Randhir Singh
19. Shrimati Savitri Shyam

Shri Mohammed Yunus Saleem, Deputy Minister in the Minister of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, Additional Legislative Counsel.

Shrimati V. S. Rama Devi, Deputy Legislative Counsel.

SECRETARIAT

Shri S. S. Bhalerao, *Joint Secretary.*

Shri S. P. Ganguly, *Deputy Secretary.*

Shri M. K. Jain, *Under Secretary.*

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

The Committee first took up consideration of clause 23 of the Bill which had been held over.

CLAUSE 23—*contd.*

The following further amendment was accepted:—

Page 9, delete lines 5—13.

The clause, as amended, was adopted.

CLAUSES 45—60

The clauses were adopted without any change.

CLAUSE I, ENACTING FORMULA AND THE TITLE

The clause, the Enacting Formula and the Title were adopted subject to the following amendments:—

(i) Page 1, line 4, for the figures "1968" substitute "1970".

(ii) Page 1, line 1, for the word "Nineteenth" substitute "Twenty-first".

3. The Committee authorised the Legislative Counsel to carry out changes of a minor and consequential nature, if necessary, in the Bill.

4. The Committee decided to meet at 10.30 A.M. on Saturday, the 25th July, 1970 to consider the draft Report and the Bill as amended.

5. The Committee then adjourned at 10.35 A.M. to meet again at 10.30 A.M. on Saturday, the 25th July, 1970.

XXXIV

THIRTY-FOURTH MEETING

The Committee met at 12.05 P.M. on Saturday, the 25th July, 1970.

Present

1. Shri Syed Ahmed—Chairman

MEMBERS

RAJYA SABHA

2. Shri Balachandra Menon

3. Dr. B. N. Antani

4. Shri Rattan Lal Jain

5. Shri B. N. Mandal

6. Shri Dalpat Singh

7. Shri V. T. Nagpure
8. Shri T. K. Patel
9. Shri P. C. Mitra
10. Shri T. V. Anandan
11. Shri Baharul Islam
12. Shri Pirthwi Nath
13. Shri Narinder Singh Brar

Lok Sabha

14. Shri D. Balarama Raju
15. Shri R. D. Bhandare
16. Shri Krishna Kumar Chatterji
17. Shri N. T. Das
18. Shri Shri Chand Goyal
19. Shri Heerji Bhai
20. Shri J. M. Imam
21. Shri Mushir Ahmad Khan
22. Shri K. Lakkappa
23. Shrimati Sangam Laxmi Bai
24. Shri B. P. Mandal
25. Shri Viswanatha Menon
26. Shri Bhaljibhai Ravjibhai Parmar
27. Shri Jharkhande Rai
28. Shrimati Savitri Shyam
29. Shri P. N. Solanki
30. Pandit D. N. Tiwary
31. Shri Tenneti Viswanatham

Shri Jagannath Rao, Minister of State in the Ministry of Law and in the Department of Social Welfare attended the meeting by special invitation.

MINISTRY OF LAW

Shri P. L. Gupta, *Additional Legislative Counsel.*
Shrimati V. S. Rama Devi, *Deputy Legislative Counsel.*

SECRETARIAT

Shri S. S. Bhalerao, *Joint Secretary.*
Shri S. P. Ganguly, *Deputy Secretary.*
Shri M. K. Jain, *Under Secretary.*

2. The Committee took up consideration of the draft Report and the Bill, as amended, and adopted the same. The Committee decided to recommend to the Government to examine afresh the Code of Civil Proce-

ture 1908 with a view to bringing forward a comprehensive legislation for amending it. The Chairman was authorised to insert a suitable para in the Report to that effect.

3. The Committee decided that whole of the evidence tendered before the Joint Committee may be laid on the Table of both the Houses.

4. The Committee decided that the Minutes of Dissent, if any, may be sent so as to reach the Rajya Sabha Secretariat by Monday, the 3rd August, 1970.

5. The Committee authorised the Chairman or, in his absence, Dr. B. N. Antani to present the Report on their behalf and to lay the Evidence on the Table of the Rajya Sabha after the presentation of the Report.

6. The Chairman announced that the Report would be presented to the Rajya Sabha on Wednesday, the 5th August, 1970 and that the Evidence would also be laid on the Table of the House the same day.

7. The Committee authorised Pandit D. N. Tiwary or, in his absence, Shri Shri Chand Goyal, to lay the Report of the Committee and the Evidence on the Table of the Lok Sabha on the 5th August, 1970.

8. The Committee then adjourned at 12.20 p.m.