

Eighth Series, No. 20

Monday, August 14, 1989
Sravana 23, 1911 (Saka)

LOK SABHA DEBATES

**Fourteenth Session
(Eighth Lok Sabha)**



सत्यमेव जयते

LOK SABHA SECRETARIAT

New Delhi

Price- Rs 6.00

CONTENTS

(Eighth Series, Vol. LII, Fourteenth Session, 1989/1911 (Saka)
No. 20, Monday, August 14, 1989/Sravana 23, 1911 (Saka)

COLUMNS

Papers Laid on the Table	8-10
Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Bill— <i>Introduced</i>	10
Salary, Allowances and Pension of Members of Parliament (Amendment) Bill — <i>Introduced</i>	10
National Waterway (Quilon-Kottapuram Stretch of West Coast Canal and Champakara and Udyogmandal Canals) Bill— <i>Introduced</i>	11-12
Matters Under Rule 377	12-16
(i) Demand for connecting Sriperumbudur with railway lines in the Eighth Plan	12-13
Shrimati M. Chandrasekhar	
(ii) Demand for declaring Sorsan in Kota district of Rajasthan, a game sanctuary	13-14
Shri Jujhar Singh	
(iii) Demand for constructing overbridges over National Highway No. 34 near railway level crossings at Dalkola railway station and Kishanganj	14
Dr. Golam Yazdani	
(iv) Demand for acceptance of recommendations of Mandal Commission on backward classes and inclusion of certain castes/tribes in the list of Scheduled Castes and Scheduled Tribes	15-16
Prof. Narain Chand Parashar	
High Court and Supreme Court Judges (Conditions of Service) Amendment Bill	16-55
Motion to consider	

Shri Y.S. Mahajan	16-19
Shri Virdhi Chander Jain	19-22
Shri Haroobhai Mehta	22-25
Dr. G.S. Rajhans	25-28
Shri K.D. Sultanpuri	28-30
Shri Yogeshwar Prasad Yogesh	31-33
Shri Ram Bhagat Paswan	33-35
Shri Syed Shahabuddin	35-39
Shri Somnath Rath	39-42
Shri B. Shankaranand	43-53
Clauses 2 to 7 and 1	54-55
Motion to Pass	55
Shri B. Shankaranand	
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill	55-114
Motion to consider	
Dr. Rajendra Kumari Bajpai	56-64
Shri Ram Ratan Ram	65-72
Shri Ganga Ram	72-80
Shri Harish Rawat	81-83
Shri Bapulal Malviya	83-87
Shri Syed Shahabuddin	87-92
Shri Harihar Soren	93-96
Shri Digvijaya Singh	96-102

	COLUMNS
Shri P.M. Sayeed	102-104
Shrimati Basavarajeswari	104-109
Shri Manikrao Hodlya Gavit	109-113
Shri Janak Raj Gupta	113-114
Discussion under Rule 193	114-155
<p>Fourth, Fifth and Sixth interim reports and final report of Kudal Commission of Inquiry set up to enquire into the affairs of Gandhi Peace Foundation and connected organisations</p>	
Shri T. Basheer	114-128
Shri Banwari Lal Purohit	128-134
Shri Syed Shahabuddin	134-144
Shri Brajamohan Mohanty	144-152
Shri Aziz Qureshi	152-155
Employees' State Insurance (Amendment) Bill As passed by Rajya Sabha	156-176
<p>Motion to consider</p>	
Shri Bindeshwari Dubey	156-160
Shri Somnath Rath	160-161
Shri Chintamani Jena	161-162
Shri Aziz Qureshi	162-163
Shri S. Krishna Kumar	163-169
Clauses 2 to 47 and 1	174-175
<p>Motion to Pass</p>	
Shri Bindeshwari Dubey	169-173

LOK SABHA DEBATES

LOK SABHA

Monday, August 14, 1989/Sravana 23,
1911 (Saka)

The Lok Sabha met at five minutes past
Eleven of the Clock

[MR. SPEAKER *in the Chair*]

[English]

DR. G.S. RAJHANS (Jhanjharpur): A large number of people are being massacred in Assam. This is a very serious matter and the Home Minister should come out with a statement.

MR. SPEAKER: This is Question Hour.

DR. G.S. RAJHANS: There is no Question Hour today.

MR. SPEAKER: I will convey your feelings. You can give me a motion for the suspension of Question Hour if you want, or after Question Hour we can take it up.

SEVERAL HON. MEMBER: There is no Question Hour today.

MR. SPEAKER: No Question Hour?

[Translation]

We have been used to the Question hour.

[English]

MR. SPEAKER: One by one.

SHRI SYED SHAHABUDDIN (Kishanganj): There is also a disturbing report about the alleged massacre of Tamil civilians in early August by IPKF in Jaffna. There are many press reports about that. We have had no occasion to discuss the Sri Lanka situation.

SHRI P. KOLANDAIVELU (Gobichettipalayam): We are going to discuss the matter this week.

MR. SPEAKER: Yes. We are going to discuss.

SHRI SYED SHAHABUDDIN: I would like that to be discussed. This is a grave matter affecting the good name of India and India's Armed Forces, and I think that this matter should be clarified by the Government.

SHRI G.M. BANATWALLA (Ponnani): Mr. Speaker, Sir, I have given an Adjournment Motion about deportations from Kerala in an unjustified manner resulting in even loss of lives on borders.

MR. SPEAKER: The problem is that I have to find out what you mean by deportation.

SHRI G.M. BANATWALLA: People have been whisked away by the police and taken to the borders and pushed across the borders. They have been fired upon by the border force.

MR. SPEAKER: Which border?

SHRI G.M. BANATWALLA: Indo-Pakistan border.

MR. SPEAKER: I have to find out.

SHRIG.M. BANATWALLA: People from Kerala have been whisked away in an unjustified manner. People have lost their lives on the border of India and Pakistan.

MR. SPEAKER: I have to find out.

SHRI G.M. BANATWALLA: Since long my notices under Rule 377 have been pending.

MR. SPEAKER: It came to my notice only this morning and immediately I took action.

SHRIG.M. BANATWALLA: I have given an Adjournment Motion also. You allow my Adjournment Motion.

MR. SPEAKER: I will have to find out. Mr. Banatwalla, I have already written.

SHRI G.M. BANATWALLA: There are hardly two working days left now. My notice under Rule 377 was pending for long. Today I was constrained to give an Adjournment Motion.

MR. SPEAKER: You only speak yourself; you do not listen. Notices under 377 are balloted. It is not done in any other manner.

SHRI G.M. BANATWALLA: Then you allow my Adjournment Motion.

MR. SPEAKER: That is what I said. It came to my notice this morning and I have already asked for information. I have already written.

SHRI G.M. BANATWALLA: Do not strangle my voice like that, Sir.

MR. SPEAKER: You are strangulating the rules. I cannot go beyond the rules.

Now, that is enough. You allow others to speak.

*(Interruptions)**

MR. SPEAKER: Not allowed.

SHRI G.M. BANATWALLA: I am sorry, I will be constrained to walk out of the House.

MR. SPEAKER: As you like.

*(Interruptions)**

MR. SPEAKER: Nobody is allowed to make a statement like that and what I have tried to do is according to rules. I always do it and I have asked for the information.

*(Interruptions)**

It is all right. I cannot strangle the rules. For me all are equal.

*(Interruptions)**

MR. SPEAKER: Not allowed. Without rhyme or reason if you walk out I cannot stop you.

[At this stage, Shri G.M. Banatwalla left the House]

SHRI BIPIN PAL DAS (Tezpur): A grave situation has arisen in one part of my constituency i.e. Gohpur area. Everybody knows about it because all the newspapers have carried the news on the front page for the last three, four days. About 200 people have died by now. The Government of Assam stated in the beginning that only five had died. But 99 dead bodies have been discovered by the Arunachal Police...

MR. SPEAKER: You give some notice so that I can just put it to the Government to make some statement.

SHRI BIPIN PAL DAS: I shall make only a few points. I shall take only five minutes...

MR. SPEAKER: There are a few things. Subjects like communal trouble, atrocities on women and Harijans and all these things, we discuss here in Parliament. But certain

things are State subjects. When you say that this is something which concerns the Centre also, then you tell about it.

SHRI SYED SHAHABUDDIN: It is an inter-State subject. These are atrocities on an unparalleled scale.

MR. SPEAKER: That is the trouble. It is not very clear. I want to be sure that we are not transgressing the rules.

SHRI BIPIN PAL DAS: For three reasons it is no longer a State subject. Firstly, it is tending to take a communal turn. Secondly, a large number of tribals have been massacred. Thirdly, it is going to affect the inter-State relations between the two States. Because of these three main reasons it is no longer a State subject. It is a subject for the Central Government to take note of. A large number of deaths have taken place—about 200 according to my report. A large number of houses have been burnt. Thousands of people have fled their homes.

SHRI SYED SHAHABUDDIN: 10,000 people have fled their homes... (Interruptions)

SHRI BIPIN PAL DAS: The administration for the first four days was non-existent. The top officials ran away from the scene. Local police took sides.

MR. SPEAKER: Let the Government make a statement on it.

SHRI BIPIN PAL DAS: I am making the point. The saddest part of it, the most serious part of it is that the local Minister belongs to a tribal community. There are two important tribes in that area—Bodo and Mishing. The Local Minister belongs to the Mishing community. He has organised the Mishing and other non-Bodos against the Bodos.

MR. SPEAKER: Let the Government come out with some statement and then you discuss it. You have brought it to the notice of the Government. The Government has

also sent a high powered delegation to probe into the matter.

SHRI SYED SHAHABUDDIN: They should be directed to make a statement today.

SHRI BIPIN PAL DAS: Let the Government make a statement and on that we will have a discussion in the House.

DR. G.S. RAJHANS (Jhanjharpur): ...*... is trying to create confusion among the Armed Forces. It is a very serious matter. We must condemn it.

MR. SPEAKER: Chief Minister's name will not go on record.

[Translation]

SHRI HARISH RAWAT (Almora): Mr. Speaker, the speeches delivered by any Chief Minister or by the Prime Minister on the 26th January and 15th August are very important but if a Chief Minister wants to misuse it and wants to exploit and instigate the armed forces, it is prejudicial to the security of the country.

[English]

MR. SPEAKER: I do not know the facts. Do not talk without facts.

[Translation]

DR. G.S. RAJHANS: It is true. It is a serious matter.

[English]

SHRI BIPIN PAL DAS: I would like to know from Mr. Bhagat or Mr. Chidambaram whether the Government is coming forth with a statement on this Gohpur issue.

THE MINISTER OF STATE IN THE
MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS AND MIN-
ISTER OF STATE IN THE MINISTRY OF

HOME AFFAIRS (SHRI P. CHIDAMBARAM): I understand that during the course of the day, after getting your permission, the Home Minister will make a statement.

[Translation]

SHRI PRATAP BHANU SHARMA (Vidisha): Mr. Speaker, Sir, last Friday, when we had raised a point that there is a controversy on the interview given by the member of a Janata Dal on a Channel of Third World Broadcasting Corporation in America and a prediction had been made by a Pakistani astrologer regarding the assassination of our Prime Minister, you had given the assurance that appropriate security arrangements would be made and hon. Prime Minister would be directed to make a statement in this regard. Secondly, you had also stated that notice could be given under a rule. I would like to bring it to your kind notice that I have already given a notice under rule 193. Now, what is your direction in this regard. Will you allow a discussion on it or direct the Home Minister to make a statement on it or to get it investigated?

MR. SPEAKER: I have taken immediate action on your notice.

[English]

I have written for information to the Minister in-charge and then I will decide upon it.

[Translation]

SHRI VIRDHI CHANDRA JAIN (Barmer): Mr. Speaker, Sir, yesterday, I visited my constituency i.e. Barmer and Jaisalmer. The Chief Minister of Rajasthan, Shri Shiv Charan Mathur was also with me. A serious situation has developed in the western desert area of Rajasthan because of the acute shortage of drinking water. This situation has arisen because of the failure of monsoon and crops are also getting destroyed which is a matter of great concern. Our Chief Minister has sent a representation to the Minister of Agriculture in this regard, intimating him that unless and until Central

Government provides sufficient assistance, Rajasthan Government alone cannot cope up with the situation. Therefore, we made a request for the central assistance.

MR. SPEAKER: It is correct, there is a great problem of drinking water. The water level of wells is also going down in absence of rains. I have also returned from these areas only yesterday.

SHRI HARISH RAWAT: It is already being discussed in the House.

MR. SPEAKER: I have listened to you.

[English]

SHRI UTTAM RATHOD (Hingoli): Sir, I have given a notice for Half-an-Hour discussion regarding the release of cotton export quota by CCI in favour of private traders. So far it has not been taken up.

MR. SPEAKER: We shall see.

11.17 hrs.

PAPERS LAID ON THE TABLE

[English]

Notification under All India Services Act and Border Security Force (Seniority, Promotions and Superannuation of Offices) Amendment Rules, 1989

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): I beg to lay on the Table—

(1) A copy each of the following Notification (Hindi and English versions) under subsection (2) of section 3 of the All India Services Act, 1951:—

(i) The Indian Administrative Service (Probation) Amendment

Rules, 1989 published in Notification No. 638 (E) in Gazette of India dated the 23rd June, 1989.

- (ii) The Indian Police Service (Probation) Amendment Rules, 1989 published in Notification No. G.S.R. 639 (E) in Gazette of India dated the 23rd June, 1989.
- (iii) The All India Services (Study Leave) Amendment Regulations, 1989 published in Notification No. G.S.R. 658 (E) in Gazette of India dated the 30th June, 1989.
- (iv) The Indian Administrative Service (Appointment by Promotion) Third Amendment Regulations, 1989 published in Notification No. G.S.R. 729 (E) in Gazette of India dated the 1st August, 1989. [Placed in Library. See No. LT—8265/89]
- (2) A copy of the Border Security Force (Seniority, Promotion and Superannuation of Officers) Amendment Rules, 1989 (Hindi and English versions) published in Notification No. G.S.R. 416 (E) in Gazette of India dated the 17th June, 1989, under sub-section (3) of section 141 of the Border Security Act, 1968. [Placed in Library. See No. LT—8266/89]

Annual Report and Review on National Federation of Industrial Cooperatives Ltd., New Delhi and a statement re. delay in laying these papers

THE MINISTER OF STATE IN THE DEPARTMENT OF INDUSTRIAL DEVELOPMENT IN THE MINISTRY OF INDUSTRY (SHRI M. ARUNACHALAM): I beg to lay on the Table—

- (1) (i) A copy of the Annual Report (Hindi and English versions) of

the National Federation of Industrial Cooperatives Limited, New Delhi, for the year 1986-87 together with Accounts.

- (ii) A copy of the Review (Hindi and English versions) by the Government on the working of the National Federation of Industrial Cooperatives Limited, New Delhi, for the year 1986-87.
- (2) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above. [Placed in Library. See No. LT—8267/89]

11.18 hrs.

WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS (AMENDMENT) BILL*

[English]

THE MINISTER OF LABOUR (SHRI BINDESHWARI DUBEY): Sir, I beg to move for leave to introduce a Bill further to amend the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

MR. SPEAKER: The question is:

“That leave be granted to introduce a Bill further to amend the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.”

The motion was adopted

SHRI BINDESHWARI DUBEY: Sir, I introduce the Bill.

11.18 1/2 hrs.

**SALARY, ALLOWANCES AND PENSION
OF MEMBERS OF PARLIAMENT
(AMENDMENT) BILL***

[English]

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI H.K.L. BHAGAT): Sir, I beg to move for leave to introduce a Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954."

The motion was adopted

SHRI H.K.L. BHAGAT: Sir, I introduce the Bill.

11.19 hrs.

NATIONAL WATERWAY (QUILON-KOTTAPURAM STRETCH OF WEST COAST CANAL AND CHAMPAKARA AND UDYOGMANDAL CANALS) BILL*

[English]

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI RAJESH PILOT): Sir, I beg to move for leave to introduce a Bill to provide for the declaration of the Quilon-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals to be a national waterway and also to provide for the regulation and development of the said stretch and the Canals for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the declaration of the Quilon-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals to be a national waterway and also to provide for the regulation and development of the said stretch and the Canals for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto."

The motion was adopted

SHRI RAJESH PILOT: Sir, I introduce the Bill.

11.20 hrs.

MATTERS UNDER RULE 377

[English]

- (1) Demand for connecting Sriperumbudur with railway lines in the Eighth Plan

SHRIMATI M. CHANDRASEKHAR (Sriperumbudur): Sir, Sriperumbudur is the pilgrim Centre, being the birth-place of Saint Ramanuja who was a staunch preacher of Vaishnavism. There is a famous temple of Saint Ramanuja, built some hundreds of years back. Many people from various parts visit the town to have 'darshan' of Saint Ramanuja deity.

Sir, at present the town is connected with Chingleput District only by one road. No other mode of transportation is available. It is felt that this famous pilgrim town should have Railway line with the neighbouring talukas as also the whole of Tamil Nadu. Sriperumbudur can be connected with Tiruvallur and then from Sriperumbudur the railway line can be extended to Kancheepuram-Vandavasi-Tindivanam.

This railway line connecting these places will be economically viable. As these talukas are backward, introduction of railway system there will go a long way in removing their backwardness.

I understand that there is a proposal for extending the railway facility from Villivalkam to Anna Nagar in Madras and then to Tambaram. This railway link facility can also be extended to Sriperumbudur via Poonamallee. From Avadi also, the railway line can be extended to Sriperumbudur via Poonamallee. I request the Railway Minister to kindly look into this and include construction of this new railway line connecting Sriperumbudur in the 8th Plan.

(II) **Demand for declaring Sorsan in Kota district of Rajasthan a game sanctuary**

SHRI JUJHAR SINGH (Jhalawar): Forest and wild life have suffered a set back since independence. Lakhs of hectares of rich forest areas and thousands of animals of different species have been destroyed in the last four decades to the extent that some of the animal and bird species have been left only in small pockets.

Great Indian Bustard is an Indian bird whose population has been reduced to less than 500 birds and it has been declared an endangered species by Government of India. One of the most important habitats of Great Indian Bustard at present is around village Sorsan in District Kota of Rajasthan. It has been admitted by the wild-life lovers and environmentalists that now Great Indian Bustard could be spotted only at Sorsan.

It is unfortunate that inspite of the keen interest of the local population to protect the bird and other endangered species of wild life like the Black Buck and the Chinkaras, the Government of Rajasthan is shying away to declare Sorsan as a Game Sanctuary.

With the decision of Government of Rajasthan to establish a Fertiliser Factory close to Sorsan, it is feared that mining activities will start in the Sorsan plateau disturbing and even destroying the endangered species of Great Indian Bustard.

In view of the urgency, I will request Hon'ble Minister of Environment and Forests, Government of India to take early steps to declare Sorsan as a Game Sanctuary.

(III) **Demand for Constructing overbridges over National Highway No. 34 near railway level crossings at Dalkola railway station and Kishanganj**

DR. GOLAM YAZDANI (Raiganj): I like to draw attention of the Hon. Minister for Railway to the following:—

Dalkola in the district of West Dinajpur in West Bengal is a Railway Station on N.F. Railway. The level crossing near the station is closed many times at day and night as a result of which traffic jam occurs on National Highway No. 34 on both sides of the crossing. National Highway No. 34 is the only road from Calcutta to Siliguri and hence frequent traffic jams due to this level crossing are very much undesirable. To solve the problem, a proposal of an overbridge near the level crossing has already been sanctioned and lands for the bye-pass also acquired and even compensation money has been paid to the cultivators, but still the work for constructing the overbridge has not been started.

National Highway No. 34 also passes across the Railway level crossing at Kishanganj and similar traffic jams occur. So an overbridge should be soon constructed near this crossing too.

New Jalpaiguri Station is far away from Siliguri Town. The road to the Station from Siliguri has to cross a Railway level crossing where traffic jam occurs and hence, some-way has to be found out to solve this problem.

*Amdt. Bill***(iv) Demand for acceptance of recommendation of Mandal Commission on Backward Classes and Inclusion of certain castes/tribes in the list of Scheduled Castes and Scheduled Tribes**

PROF. NARAIN CHAND PARASHAR (Hamirpur): The Union Government has done a lot for the amelioration of Weaker Sections of the society notably Scheduled Castes/Tribes and Minorities and has launched many programmes for the benefit of those living below the poverty line. However, there are some areas where the Government has still to take a major initiative. The report of the Mandal Commission on Backward Classes, is still pending with the Government for acceptance and implementation of the major recommendations. Though the Commission had submitted its report in early 80s, yet the Government is still to take a decision in this regard. The High Power Panel on Scheduled Castes, Scheduled Tribes, Minorities and other weaker sections headed by Dr. Gopal Singh set up by Government of India in 1980 had also made important recommendations.

In view of the deep resentment and frustration among the other Backward Classes, which constitute a substantial section of population in the country, I request the Union Government to accept the Report and implement at least its major recommendations.

The Government should also take an early decision for the inclusion of certain Castes and Tribes like the Gujjars, Lobanas, Jheevars, Tarkhans and Gaddis of Himachal Pradesh and Tamangs of West Bengal and Sikkim in the List of Scheduled Tribes/Castes for which these sections have been pressing for a long time.

An early decision by the Union Government on the Mandal Commission Report for other Backward Classes and the inclusion of left out Tribes/Castes in the List of Sched-

uled Tribes and Castes, will generate new hope and confidence among these weaker sections of society.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETROCHEMICALS IN THE MINISTRY OF INDUSTRY (SHRI P. NAMGYAL): Sir, we would like to postpone Item No. 7 and take up Item No. 8 in place of Item No. 7 in view of our having to finish many items of important Government business.

MR. SPEAKER: If the House so desires, it is okay.

SEVERAL HON. MEMBERS: Yes.

MR. SPEAKER: So, we skip Item No. 7 and go to Item No. 8.

11.27 hrs.

HIGH COURT AND SUPREME COURT
JUDGES (CONDITIONS OF SERVICE)
AMENDMENT BILL—*CONTD.*

[*English*]

MR. SPEAKER: The House will now take up further consideration of the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill moved by Shri B. Shankaranand, on the 28th July, 1989.

Shri Aziz Qureshi — not present.

Shri Y.S. Mahajan.

SHRI Y.S. MAHAJAN (Jalgaon): Mr. Speaker, Sir, I rise to support the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill. In financial terms, the Bill is not important. Its' object is to rationalise some fringe benefits such as to

raise the caroling of carry forward leave, to raise the leave allowance of Judges and to fix the minimum family pension at Rs. 375/- per month to the families of High Court Judges who have not held a pensionable post prior to their appointment as such and who retire within less than seven years of service.

The Judiciary is the third pillar of the realm and the importance of its function cannot be exaggerated. Thousands of learned persons with a judicious bent of mind have contributed to the building up of the system of legal dispensation in the country and many of our Judges have distinguished themselves as Jurists in the world. The system has grown up gradually over the last 150 years. But never was it in such a dangerous position as it is today. It is likely to collapse soon unless steps are taken immediately to strengthen and revitalise it. The dispensation of justice has become almost impossible because delay is endemic in our system. Justice delayed is justice denied is a truism which is neglected by us completely. The number of cases pending in the High Courts and Supreme Courts is enormous. In the Supreme Court alone, 2,04,000 cases are pending and the number of such cases pending in the High Courts is more than 1.6 million apart from the 10 million cases pending in the lower Courts. This was the situation as on 31st March, 1989. In the Supreme Court and High Courts, cases remain pending for 15 to 20 years. This means that if the case is filed in one generation, the verdict is given in the next generation. The reason for this serious situation is the inadequacy in the number of Judges. The previous Law Commission had recommended an increase in the number of Judges in the Supreme Court and High Courts. But steps have not yet been taken to fill the vacancies. Therefore, steps should be taken immediately to increase the strength of Judges. There is no dearth of talented and able advocates in our country. If necessary, their salary and emoluments should be raised sufficiently to attract able and efficient people from the profession. The Government should also deal with inefficiency at the low levels

which is mainly due to the fact that law degrees like other degrees can be obtained easily by dubious means. The Minister should consider or explore the possibility of holding a Central examination for those who are aspirants for jobs in the judicial services. Legal procedures should also be streamlined to provide justice expeditiously. I do not wish to underestimate the significance of procedure. Every student of law or practitioner will admit the truth of Henry Mane's statement that justice is secreted in the interstices of procedure. Sir, in our country, there is no denying the fact that procedural law is abused to defeat the ends of justice through interminable arguments, frequent adjournments and excessive liberal attitude towards grant to leave to appeal. Government is the trustee of the national interest and Government is the biggest litigant in the High Courts and the Supreme Court. Therefore, apart from the interest of the people, the Government itself is interested in seeing that justice is dispensed expeditiously.

In this matter, I would like to recommend strengthening Lok Adalat system. I myself attended many Lok Adalat sittings in my districts. Many contentious cases can be decided immediately, when both the parties are present and those cases are examined by the people who are not judges, who are not professional lawyers.

Then, I would like to bring to your notice the question of appointing women as judges. We have been giving certain percentage of reservations for women in the lower levels, in the Taluk Panchayat, district panchayat. But the number of women judges in the High Courts and the Supreme Court is very low. I hope, the hon. Minister will consider the possibility of raising the number of women judges in all the courts.

And then, there is one thing; it is a small yet very important. When judges are transferred at the district level, they go about looking for houses. Considering the housing situation, it is very difficult to get proper quarters. Therefore, I recommend that housing for judges should be improved so that

[Sh. V.S. Mahajan]

transfer does not cause any inconvenience or have any adverse effects on the judges.

With these few recommendations and suggestions, I recommend the acceptance of the Bill.

[*Translation*]

SHRI VIRDHI CHANDER JAIN (Barmer): Mr. Speaker, Sir, I rise to support the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1989. The benefit of family pension and other allied benefits should be extended to them. Beside, this, I fully agree with the provision of raising the ceiling of carry forward leave of the judges. I have found that the justice is becoming costlier specially now-a-days. The people who want to file writ-petition for the protection of their rights cannot do so without paying at least Rs. 5000 to the advocate. Therefore, if injustice has been done to some particular class, and if they belong to class II and if they want to file a writ-petition for the protection of their rights, they will have to face the problem of payment of fees to the advocate to have justice from the court. Even in High courts and the supreme court, cases are not listed for hearing and cases are kept pending for 10 to 15 years. When the cases do not come up for hearing for such a long period, you can easily imagine how the people can get early justice. Even if a case has been settled at the lower courts and if an appeal is filed in the higher court, its takes years to decide. The system of judiciary which we have adopted here has been inherited from the Britishers. Once we had introduced the system of 'Nyaya Panchayats' in the rural areas of Rajasthan and that system had proved very beneficial for the people. Only minor cases were settled by these Panchayats and 'Nyaya Panchayats' were authorised to give their judgements only in civil suits. That system proved beneficial for the people. If that very system is introduced here, it may help the people to a great extent to decide their minor disputes. What I want is that service we have decided

to go in for the Panchayati Raj System and we are going to amend the constitution to achieve that end, alongwith one more constitutional amendment in respect of the municipal bodies, we should take a decision about the establishment of Nyaya Panchayats at the national level, so that all the cases of minor disputes may be got settled at the village level itself by the Nyaya Panchayats. It will be a great relief for the villagers.

Similarly, there is the point of Lok Adalats. In our Rajasthan, judges of the High court had taken special interest in Lok Adalats and these Adalats had given very good decisions and the number of cases decided by them had increased considerably but now I find that in fact, these Lok Adalats are not functioning properly. Though we have enacted a law to make Lok Adalats an effective instrument, these Lok Adalats have not been functioning properly. We should also think about the enactment of a law so that the Lok Adalats may function effectively and take decisions. But as at present, our advocates are trying to make the experiment of Lok Adalats a failure because if the cases are settled by the Lok Adalats, advocates will be deprived of their fees which will be prejudicial to their professional interests. That is why these people do not want Lok Adalats to be a success. In this connection, we need to keep a watch on them and take all possible remedial measures to check the move of the advocates and pleaders. If somebody tries to make these Lok Adalats a failure, action should be taken against such person.

At present, High courts and Supreme Court are short of judges. Number of pending cases in the Supreme Court is about 2 lakhs. However, there is a greater number of pending cases in the High courts. I have been the Member of Lok Sabha for the last ten years. I find that number of pending cases has never declined, instead it has increased. I have never heard from any Law Minister that number of pending cases had ever declined. Hence, effective steps should be taken in this connection also. Till now, we have not taken any effective steps in this

regard so as to reduce the number of pending cases.

We have also enacted a law for the provision of free legal aid to the poor. The Central Government extended its assistance to the State Government for that purpose but it did not reach the poor. Even today, the services of an advocate at the Government expense, are not made available to the poor, though there are advocates on the panel of the Government. In fact, on the Government panel, there are such lawyers, who are of a very low calibre and have not been a successful legal practitioner. Hence, they can neither protect the interests of the poor nor that of the Government. In such situation other lawyers have to be engaged to protect their rights. What I mean to say is that the appointment of Lawyers, Public Prosecutors, additional public prosecutors for the Government panel should be made essentially on merit basis which was not hitherto being done. Present incumbents are not capable of defending the interests of the accused. In fact, as per the present trend, appointments to the post of public prosecutor are being made on political considerations and consequently fail to protect the interest of the Government. As a result thereof Government loses the cases. Therefore, capable persons with at least ten year experience as legal practitioner should be appointed as public prosecutors, additional prosecutors, Government panel of lawyers and revenue lawyers so that they could plead the cases properly.

We should strive for cheap justice, proper provision for giving justice to the people in the rural areas and final settlement of the pending cases at the earliest.

At present a lot of difficulties come up in the way of appointing the judges to the Supreme court and High courts and they are more in respect of the appointment of the Chief Justice. The system of transfer of the chief justices has been a great success. In fact, chief justices in Rajasthan High Court were not able to handle the administrative side of the High Court as desired by them and

it was causing a serious set back to the entire judiciary. As per the existing system, chief justice is appointed from some other state and it has a good effect and it has also enhanced the prestige of the judiciary. Now there is no scope of any partiality. Thus, the Government has taken a very commendable step in this regard. What ever efforts may be made by some particular individual to change the present system, the Government should not change it. They should continue the present system with no change in it under any circumstances.

With these words, I support the Bill.

[English]

SHRI HAROOBHAI MEHTA (Ahmedabad): Sir, the Bill brought by the Law Minister shows with what esteem and respect the Government and the Parliament treats the judges. I am, however, not quite sure whether so much expenditure need to lavishly made on the conditions of service of the Supreme Court judges and High Court judges. We should recall Mahatma Gandhi's words, how the highly placed officers, judges and ministers should be paid and should not be paid. In my respectful submission, the payment of salary and allowances at a rate equal to number of times of the average per-capita income will not be quite justified especially when the approach of the judiciary is not quite kind to the Bills passed by Parliament, legislations passed by Parliament and their implementation.

Sometimes we have seen the instances when in order to redeem the promise given to the electorate, Assembly or Parliament passes a Bill and enacts it. And if somebody for his own individual interest challenges it, courts very liberally give stay and the Act remains unimplemented for five or seven or more years. So, it is temporarily voidened on account of stay granted by court. So the Parliament's determination to fulfil the sovereign will of the people reflected by it remains under abeyance for several years.

Similarly, on many points, progressive

[Sh. Haroobhai Mehta]

legislations are stayed even development projects come to be stayed, many important development works suffer delay on account of court's stays. We feel sometimes that interest of the people and the spirit of the Constitution is often over-looked by many of the judges.

What is worse is, even revenue collection by the Central Government suffers on account of stay granted. More than Rs. 2,000 crores of Central Excise dues are bogged down on account of court's stay orders. Even when Parliament has enacted a Bill to exclude the jurisdiction of High Court and the Supreme Courts jurisdiction under Article 32 and set up a tribunal for excise and customs, courts often go into it and grant stay. The result is, vested interests get benefited on account of court's processes. On the other hand, as my hon. good friend Shri Jain pointed out, a number of litigations are pending in the courts. So much so, even if no new petition is filed in the Supreme Court of high courts, it would take more than five decades to dispose of the present pending cases on the assumption that no fresh of application is filed in the Supreme Court and the high courts. Sir, Justice delayed is justice denied. People are fast losing faith in such institutions. Something has to be done. Even respected and eminent judges like the retired Judge Mr. D.A. Desai is on record to have stated that judicial system is collapsing in our country. I would earnestly urge the Law Minister, the Parliament and the Government to go into the question of pending cases and see how justice can be administered without any avoidable delay. One of the reasons why delays are continuing is misuse of public interest litigation. In order to save somebody's personal interest, public interest litigations are initiated and they take time of the court. And what is shocking is that people say that those who can afford can get easy access to Supreme Court and get the matter heard.

Look at what happened in the Reliance case. Somebody is arrested in Bombay for

criminal conspiracy read with IPC 302. One investigating agency of the Maharashtra Government decided to hand it over to the CBI. And immediately a third party goes to the Supreme Court and promptly gets the stay. The result is that, because of unprecedented stay given by the Supreme Court, neither the CBI nor the Bombay State Police agency could investigate and such a crime remains uninvestigated on account of the Supreme Court's stay. Common people think that weal their the person in India, easier for him to approach the court and get stay orders. This does not really increase the faith of the people in the judicial institutions.

Similarly Parliament amendments. Despite Parliament's unequivocal and categorical amendment made in Article 368, the Supreme Court went into the content of the Constitution amendment, in the case of Keshwanand Bharthi. This is the only democratic country, perhaps, if I am not mistaken, where amendments made in the Constitution by the amending body, that is, the Parliament, under Article 368 is subject to scrutiny or examination by the courts on the contents and not on mere procedure. I can understand an amendment being thrown out on the ground that the 2/3 majority or the requisite majority was not there or certain procedures were not gone through. But on the content, saying that the basic structure is violated, if they say something, it is not understandable. And what is the basic structure? It is what the Supreme Court says like the Chancellor's foot!

I think it is time for the Parliament to assert itself against the High Court or the Supreme Court's intervention in the matter of Parliament's power of amending the Constitution. The power of the Parliament to amend the Constitution is not negotiable. With all respect to such institutions as the Supreme Court, the High Court or the C & AG, we must point out that the Parliament has the final disciplinary jurisdiction over the Supreme Court, the High Court and the C & AG. Therefore there is nothing wrong if the Parliament goes into the matter as to how these institutions discharge their duties.

Sometimes even scant respect is shown to the Parliament as such by some judges. One of the Supreme Court judges—for the sake of respect I shall not name him—said in October 1988—it is reported in the Patriot of the 25th October, 1988—that the Parliament has made a mockery of its own statutory provisions by not imposing restriction on the money that may be spent by political parties during elections. Out of respect to the judiciary and in keeping with the tradition of deference to the judiciary. I did not pursue the matter under the of law parliamentary privileges. But I don't think Parliament can take these things lying down if a judge says that the Parliament has made a mockery of its statutory powers. I wish to emphasize that there should be a comity of jurisdiction. Just as the Parliament shows respect to the judiciary and other constitutional institutions, so also Parliament deserves to be treated with respect and with consideration by the judiciary. I only appeal through you at this juncture that the judiciary should cultivate a culture where in the Parliament is respected as the highest institution representing the sovereign will of the people.

Of course, the Law Minister has considered it fit to bring this Bill before the House for consideration. I shall not object to it. These are the observations which I wanted to make at this juncture.

With these words, I conclude my submission.

[Translation]

DR. G.S. RAJHANS (Jhanjharpur): Mr. Speaker, Sir, I would like to make two-three submissions only. I think the main provisions of the Bill relate to raising of the ceiling of carry forward earned leave and liberalisation of benefit of family pension in respect of judges. I am of the opinion that the judges of High Courts and Supreme Court should be given adequate salaries and allowances so that they may perform their duties without any fear or favour. The fourth pay commis-

sion has sufficiently increased the pay and allowances of the bureaucrats and the salary and allowances of the judges of High Courts and Supreme Court has also been increased by the Act of the Parliament. However today the salary and allowances of the executives particularly those of senior Executives in the Private Sector are so high that the judges of the High Courts and Supreme Court stand nowhere in comparison with them. Judges should be given a handsome salary so that an eminent advocate who does not want to become a judge may have some attraction or incentive to become a judge. Several posts of judges in High Courts are lying vacant which could not be filled up despite the repeated assurances given by the Government because prominent advocates who earn a lot in their profession, do not want to be appointed as judges. Same is the case with the executives of the Private sector who do not want to give up their handsome salary and allowances to join the public sector. This factor has to be looked into. A renowned advocate does not want to become judge as a result of which many posts of judges remain vacant in High Courts. Due to these vacant posts, a large number of cases remain pending and people are unable to understand as to how this backlog would be cleared. Therefore, I would like to request the Government to make the salary and perks of judges so attractive that eminent lawyers may also be attracted to this side. Besides this, I would also like to say that similarly, an upward revision should also be made in the salary and perks of judges working at the lower level. One more important point I would like make is that nowadays District judges and judges of similar rank feel obsessed for one reason or the other. I have observed that even a hardened criminal is released on bail particularly in Bihar. In this regard I have talked to several judges also and they are of the opinion that generally people are afraid of appearing as witness in the court and secondly—Judges have not been provided adequate security by the Government. There is no guarantee that if a dreaded Criminal escapes from the jail, he will not kill or kidnap the judge of his family members.

[Dr. G.S. Rajhans]

11.57 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Hence it is a very serious matter to which Government should pay attention. The judges at the lower level are panicky of criminals and out of that fear, they release them on bail. What I mean to say is that judges should get adequate security cover so that they may take their decisions impartially and fearlessly. A provision should also be made in the conditions of service in respect of High Court and Supreme Court judges that they will be provided adequate security not only while in service but also after their retirement so that they can perform their duty without any fear or favour.

I would also like to support the point raised by my friend Shri Mahajan that at present there are a few lady judges in the High Courts and Supreme Court and their number should be increased. I have discussed the point at various levels as to how cheap and quick justice can be provided to the people but I could not come to any conclusion. Though Lok Adalats have been set up in different parts of the country but they are also functioning on the same lines. Hence the Government should find out a way to provide cheap and quick justice to the people. Now-a-days a common man hesitates to go to court because of his conviction that only that only a rich person who can engage an eminent lawyer to plead his case, can get justice from the court. Ours is a Welfare State. Hence it is our duty to stop injustice to the poor and provide them cheap justice. I want that we should utilize the services of retired judges also for this purpose.

12.00 hrs.

One more submission I would like to make is that like freedom fighters, family members of the judges of High Courts and Supreme Court should also get same amount of family pension as they were getting after

the retirement because the services of the judges are also essential and of great utility for the society.

As has been said just now by Shri Jain that Government is going to bring about a drastic change in the set up of Panchayats and Nagarpalikas, there is a slight difference in the designation of Sarpanch in Bihar and in rest of the country. In Bihar, the sarpanch is considered to be a man who looks after the judicial side of it whereas in other parts of the country Sarpanch is the head of the Panchayat. The Panchayat should be encouraged to settle the maximum number of local disputes at its own level. When a case is decided at the Panchayat level, no one gives false evidence because he knows it that he has to live in the very society. In this way the poor will get justice at the Panchayat level and they will not have to go to any court.

Mr. Deputy Speaker, Sir, in the end I would like to say that the Government should pay special attention to ensure a dignified life for the judges of the Supreme Court, High Courts and the lower courts.

SHRI K.D. SULTANPURI (Simla): Mr. Deputy Speaker, Sir, I rise to support the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill moved by Shri Shankaranand in the House on 28th July. I feel that the measures taken by the Government to uphold the dignity of Judges are highly commendable and I would like to congratulate the Government for this. A large number of cases are pending in the High Courts, the Supreme Court and the lower courts in the country. The pace of disposal is very slow. People who are fighting against injustice have become so hard up that they are finding it difficult to pay the fees of their advocates and purchase court fee stamps. Nobody can wait long for justice. Here, I would like to point out that though the Government has enacted liberal laws with a view to do justice to the poor people, yet the procedure adopted by the Government to provide legal aid to the poor is a very lengthy one. It is in no way helpful to them. There are a large number of people who cannot pay full

fees and they live at the mercy of God. They have no money and they cannot go to courts to get justice. The Government has taken a number of good measures such as appointing Judges from amongst the Scheduled Castes and Scheduled Tribes in Assam, Andhra Pradesh and Tamil Nadu. While I congratulate the Government for this, I would also like to request them to provide adequate reservation of seats for the people belonging to Scheduled Castes and Scheduled Tribes who are eligible for the post of Judges in the High Courts and the Supreme Court as it is done in respect of Parliament and State Legislatures etc.

I would like to request the hon. Minister of Law to recruit one such eligible person in each High Court and Supreme Court also from amongst the Scheduled Castes and Scheduled Tribes.

Mr. Deputy Speaker, Sir, through you, I would like to convey thanks to the hon. Minister for the measures taken by the Government for the women. Our hon. friend Shri Mahajan also made a mention of this thing in his speech. I would like to make a fervent appeal here that women should also be given optimum representation in the appointment of Judges to the High Courts and the Supreme Court. There are also eligible person in the backward communities and minorities who are amply qualified to become Judges. I feel that they should be appointed as Judges. I know the manner in which interviews are being held by the Public Service Commissions. People possessing higher qualifications are not selected. They do not get employment. Then what these people living in the villages could do who received their education in village schools and do not get the opportunity of education in a Central School. They are not able to receive good education. But the method of doing justice in rural areas is a very good one. I shall request the Government to take note of this plus point and provide employment to all the educated youth in the back-

ward areas according to their merit and qualifications. While we are discussing the provision of various facilities for Judges of the higher courts, I must take this opportunity to make a submission about the ex-servicemen who served the armed forces and sacrificed a lot in service of the nation. In a way they are the people who do justice to the nation and save the nation. I, therefore, request the Government to increase further the existing rate of their pension while increasing the amount of pension for the Judges, because these people lay down the best part of their lives for the defence of their country and dedicate themselves to the service of the nation living away from their families. Their pension should also be brought at par with others. Sir, I know that this subject matter does not come under your jurisdiction but I would like to call upon the hon. Minister of Finance to take immediate steps in this regard. The ex-servicemen should be given maximum facilities. I am grateful to you for providing me an opportunity to speak. The hon. Member who are eminent advocates will plead the case of advocates here, but I shall deal with problems of the villages only. I would like to ask you to give adequate representation to Scheduled Castes, Scheduled Tribes, women, physically handicapped persons and the people belonging to minorities in the appointment of Judges. It is a good thing that the Judges are being granted pensionary benefits and various other facilities. At the same time, there should be time bound programme for expeditions disposal of cases. In case there are 15 cases with a Judge, he goes on giving dates after dates and the cases linger on for 2 to 4 years. Even murder cases take 10 long years to reach the stage of judgement. I know that Shrimati Indira Gandhi was assassinated and a judgement in her case took almost 4 years. I, therefore, want that the judicial process should be expedited. It should be cheaper and not costly. It should not help the advocates grab money from people. The Government should lay down some norms in this regard so that a poor man could get justice. With these words I support this Bill.

SHRI YOGESHWAR PRASAD YOGESH (Chatra): Mr. Deputy Speaker, Sir, I would like to congratulate the hon. Minister of Law Mr. Shankaranand for instilling a new enthusiasm in the members of Judiciary who were having a sense of frustration. Now they will be able to contribute something in nation building. Since long it was being felt that the salaries of the judges do not commensurate with their living standard and requirements. The social life of the High Court and Supreme Court Judges is very limited. They have a very limited circle to move in. They cannot mix up with people freely. They cannot involve people in their work. The Government realised their problems and felt the need of effecting basic changes in their living conditions and took necessary steps in this regard. The Bill moved in the House regarding the allowances after the enhancement of salaries of judges with effect from 1-11-86 is also an appropriate and justified step taken by the hon. Minister. This Bill seeks to raise the rate of allowances from Rs. 328 to Rs. 375 per month with effect from 1-11-86 which will enable them receive a handsome amount. It is a commendable step. With this I would like to draw your attention to the appointment of Judges in the High Courts and Supreme Court. I request you to taken into account the requirements of this trade and the Judicial commissions. I feel that the percentage of advocates appointed on these posts should be reduced. Because, the advocates are unbridled because of the very nature of their profession and they cannot work in the disciplined way like Judges. The Government should discourage the appointment of advocates against these posts and particularly those advocates whose only aim is to earn more and more money and who do not give due regard to the Judiciary and where character does not fit into the mould of Judiciary. Such persons should not be taken for these posts. Hence, I would like to cite the example of advocates like Shri Jethamalani who took up the cases of criminals, dreaded criminals, traitors and terrorists. He is earning huge sums of money from these cases. I have given just one example only, but it is not the case with any particular individual. The only aim of these dubious characters is to hoard

money. They have no respect for the country, justice and moral values. Hence it is very essential to think deeply before appointing such people against these posts.

Most of the public prosecutors appointed from amongst the advocates are generally appointed as Judges. That too when some higher authority recommends the appointment of some person(s), merit of the particular individual is not taken into account. People without merit are being taken against these posts. When judges or Deputy Commissioners require any specific suggestion from these advocates, it is not being made available to them. It is duty of the advocates to give advice to the Judges and Deputy Commissioner(s) but such persons as they are not of that calibre cannot give them right advice. Hence it is not being made available to them. In certain cases people with lower qualifications are being appointed and by that norms prescribed for the appointment of Judges are not being adherent. Besides, such people are not able to discharge the duties of a public prosecutor properly.

An hon. Member stated one thing towards which would also like to draw the attention of the hon. Minister that inter-state transfer of judges would be good for administration of justice. I have seen judges also falling prey to the regional biase adversely affects the proper administration of justice.

The other important point made by our colleague is with regard to appointment of people belonging to Harijans and Adivasis as judges in the High Courts and the Supreme Court. I fully support the point made by him because definitely they will prove to be a good judge as their outlook is not feudal. As these people hail from poor stratum of society, they are not jealous of anybody. It is natural that a person of feudal background will have some sort of a feeling of discrimination but a person coming from the lowest stratum of the society is free from such prejudices. Therefore these people could be proved to be a good judge. Women should also be appointed as judges. There is no harm in it. Though the people belonging to

Harijan, Adivasi and other backward classes are educationally backward, but in practice they are very capable and they are men of character. They should be given preference in matter of appointment of judges because they are practically very capable persons and are free from any kind of prejudices.

With these words, I conclude.

**SHRI RAM BHAGAT PASWAN (Rosa-
era):** Mr. Deputy Speaker, Sir, I support the High Court and Supreme Court Judges (conditions of service) Amendment Bill moved by Shri B. Shankaranand.

After independence, a lot of reforms have been made in each and every Department but judiciary is the only sector, where no radical changes have been made so far. Today people have a feeling of resentment towards judiciary because there is no time-limit to dispose of a case, as a result of which people do not get proper justice. Sometimes innocent persons are awarded punishment whereas actual culprits escape punishment. Many hardened criminals never come in the grip of law. Due to these reasons people are losing faith in judiciary. I have great regard for judges. Through this amending Bill their conditions of service are being improved and they will get their pension and other allowances on enhanced rates. These facilities should be provided to them so that they could lead a respectable life. So far as the question of justice is concerned, people do not get proper justice. We have seen many such cases in which atrocities were committed on Harijans and they were deprived of their land but even then no punishment was given to the accused. Same is the with cases burning of women for dowry. Hardly any culprit is punished. Steps should be taken to remove the shortcomings in our judicial system. Besides, our judicial system is not in the favour of poor people. Shri Shankaranand is a staunch supporter of the poor people. We hope that necessary reforms should be made in our judicial system to enable the poor section of our society to go to the Supreme Court or the High Courts to seek justice. Poor Harijans, Adivasis and

farmers should be provided cheaper and quick justice. The people belonging to poor section of the society do not have money to go to the courts. That is why they have to bear with atrocities and injustice perpetrated in them. I would like to urge upon the Minister of Law and Justice, who is a great supporter of poor people, to introduce reforms in our judicial systems a poorest man could easily go to the court to seek justice. If it is not possible, the powers vested in the High Courts and the Supreme Court should be delegated to the Gram panchayats so that the poor people may get justice there. Our Government has been trying its best for development of the country and bringing socialism here. It has been seen that stay orders are obtained from the Supreme Court or the High Courts against the acquisition of land for digging a canal or constructing a school building or a Harijan colony or distributing it among the poor people. Once High Court or the Supreme Court grants stay order in the matter, the landlord takes possession of the land forcibly. Such irrational judgements are being delivered today. If someone wants to do anything for the welfare of the society, he should not be prevented from doing so through the courts of law.

There is no representation of Harijans in the courts today. Most of the judges belong to the families of big landlords. That is why they deliver judgements against poor people. It should be ensured that the judiciary does not come in the way of welfare measures being taken under 20-Point Programme and other programmes. I would also like to submit that the Supreme Court should not deliver a judgement which adversely affect the poor people who have taken loans. No writ petition should be allowed by the Court in this regard.

Steps should be taken to fill up the posts of judges reserved for Scheduled Castes and Scheduled Tribes. These people are also very capable. While delivering judgement, they will keep in mind interests of Harijans and Tribals. We hope that reservation policy will be fully implemented in judi-

[Sh. Ram Bhagat Paswan]

ary also. Women should also be given reservation. Judges should be transferred from one state to other atleast after a period of three years in order to make the judgements free from the evil influence of communalism and caste bias and local prejudices.

The Bill, which has been moved for improvement in the service conditions of judges is a welcome step. These facilities should be given to them and along with this, reforms should also be introduced in the judicial system.

[English]

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Deputy Speaker, Sir, the Bill before us is a technical Bill and I see no reason to oppose it but it gives me an opportunity to draw the attention of the Government and of the Hon. Minister to certain aspects of judicial administration that have been exercising the mind of the people.

Sir, the first question is with regard to the mounting arrears in the High Courts and even in the Supreme Court. I am sure, the Hon. Minister is fully aware of the situation because he has been answering questions on the subject practically in every Session of the House. I do hope that under the new dispensation that has been announced by the hon. Chief Justice, these arrears will go down but I do request the hon. Minister to take us into confidence that the Government is looking at this problem in all seriousness and is trying to devise means in consultation with the judiciary to bring the level of the arrears down.

The second question that arises is the question of vacancies. Mr. Deputy Speaker, Sir, as we know the possible date of superannuation, the vacancies can be anticipated. The gap between a vacancy arising and being filled sometimes runs into years not months and at any given time, I have a feeling that roughly of the order of about 15 per cent of the posts of High Court judges are

vacant. That, Sir, is a very high percentage and it also affects the question of arrears. It affects the performance of the courts. Therefore, Sir, the Law Commission had gone into the matter and had suggested that instead of the present procedure that we are following, there should be a national body, something like a Supreme Judiciary Council, which should deal with appointments. They should be vested with this authority and the role of the Government there—naturally the Government shall play a part in it, Government shall be represented in that Council or Committee—shall be basically to collect the necessary information about the persons who are to be considered and of course about notifying their appointments.

Sir, I feel the present this procedure of appointments is very very time consuming and needs to be streamlined. Sir, there is also the question of the appointment of Chief Justice and the judges of the Supreme Court when the vacancies fall. I don't see any reason why within this present scheme of things, half the judges of any High Court should not be from outside the State and as far as possible Chief Justice may be from outside. Why cannot this be so that we comply an all India Seniority List of High Court judges and the moment a vacancy arises, the man highest on that list should automatically be appointed as the Chief Justice? It should be done without any question. It should be automatic. Similarly, if a vacancy arises in Supreme Court, immediately the senior most person on the common list of seniority should be considered, of course, in my view keeping aside those who have just a few months to go. That applies to all the promotions in Government, in the judiciary and in the executive that for the highest post if among the candidates those who have got just a few months or a very small period to go, they should normally be passed over because they are not in a position to make any impression on the institution or leave a mark on the institution or give it a new character or orientation. But, with this reservation, the senior most persons should be considered one by one and I think with this procedure the vacancies at least at

the level of Chief Justice and the judge of the Supreme Court can be filled in without any delay whatsoever.

I would like to refer to the question of multiple appeal which is also the reason for the mounting arrears. I looked into the question of the number of cases before the Supreme Court which relate to tenant landlord relationship particularly on the question of house tenancy.

I was shocked to find that a very high percentage of the cases running into tens of thousands of cases before Supreme Court originate largely from an area very close to Delhi, within a small radius of Delhi, clogging the entire proceedings of the Supreme Court. The Law Commission had suggested that in these matters there should be not more than two levels of appeals and such cases need not necessarily come before the Supreme Court. I think some legislation is required to that effect.

I also come to the question of specialisation. This question has exercised the mind of the legal experts in our country for a long time. Life is becoming very complex. We are having piles of laws in our Statute Book and every day we are adding to them. I think we should plead guilty. We are responsible for this. It is impossible for any single individual to be an expert on all branches of law. It is just not done. In most advanced countries, today there is a system of specialisation even at the highest level. You have got a constitutional bench, you have got a civil bench and you have a criminal bench. Some such practice might be considered by the hon. Chief Justice in trying to work out the arrangement within the Supreme Court or within every High Court.

This brings me to the question of reorganisation of the High Court system. There are States and States. There are States which have got a population of nearly one

hundred million, that is about ten crores and there are States which have got a very small population running into just a few lakhs. I think there should be some common national yardstick in order to make justice accessible to every citizen, bring it within a reasonable distance of his door step. For this purpose, we should have a system of having a High Court Bench for every one crore or two crores of population. So, let us have a national yardstick and let us fix the number of High Courts and Benches accordingly. For this purpose, some small States and Union Territories can be clubbed together, as well as some States can be divided into various regions. Now all the High Court benches within a certain State can obviously be under purview of one High Court. In other cases, the High Court may be located in one of these States or Union Territories with a Bench each in every one of those States or Union Territories which are under its jurisdiction. I think a rational approach is required and not an *an hoc* approach. Otherwise it leads to agitations like the agitation we are facing in the Western Uttar Pradesh for the last four or five years. It gets a political colour. I do not understand why this subject should have a political colour at all. If there is a uniformly applicable national yardstick which should satisfy every one, I think no one would grumble. No State, no region or no people can grumble that they are not having their due share or equal access to the higher levels of judiciary.

Finally, I would like to speak one word about the question of reservations. I think it is a fact that many sections of our society are not represented in the higher levels of judiciary even at the district judge level. I find that they are monopolised by the caste groups which have naturally advanced in the field of education and which have better tradition of legal education. I will not plead for a system of reservation. But surely, without even trying a system of reservation in the matter of selection, due attention can be paid to this

[Sh. Syed Shahabuddin]

question to see that all sections of the national community have due representation both at the level of district judges as well as at the level of High Court judges. When we have got sufficient number of people coming from the weaker sections at the district judge level, they will automatically find a seat at higher levels. Here I must caution the hon. Minister through you Mr. Deputy Speaker that it is becoming increasingly difficult to find credible judges from the Bar. I am afraid the level of legal education in the country is fast going down. I think this needs to be stressed. This needs to receive the highest attention of the Government because if the level of legal education goes down, you shall not have judgments which will be legally coherent. You will not have judgments which will settle an issue. These judgments may unsettle an issue and create more problems than they decide, because of poor language, poor expression or poor legal insight. I would suggest that the hon. Minister should apply his mind on how to raise the standard of legal education so that in turn, the standard of judiciary can be raised to appropriate levels.

Finally Sir, I come to the question of judicial reform. This is a perennial problem. It is like a mighty ocean. I do not know whether to touch it or not. But I am sure that the hon. Member who preceded me is absolutely right in saying that no real judicial reform has taken place in our country. The essence of the reform, in my view, is decentralisation to make the justice cheaper and nearer to the people.

With this view, the various reports of the Law Commission and various suggestions made by various learned bodies should be duly considered by the Government and a break-through should be attempted.

SHRI SOMNATH RATH (Aska): Sir, I rise to support the Bill. The judges of the High

Courts and Supreme Court have been well-remunerated by this Bill. The services of the judges are required for Commissions and for extra-judicial functions. Because of this, the strength of the courts remained below the sanctioned number. The number of pending cases have increased because of the simple reason that more cases are filed than the cases are actually disposed of. So, this aspect may be kindly looked into. What we want is not the quantity of the judges but the quality, judges. The judgements are very lengthy. The time taken by the judges are long.

Because of the recent legislation of the Government, the service conditions of the judges have greatly improved. The amendments of the rules, as stated in this Bill, have liberalised their additional benefit. The dissatisfaction of men of talents and integrity to seek judicial posts have also been reduced.

In this House when this matter was raised more than once, the previous Law Minister had stated that efforts were underway to have Circuit Benches (without administrative set ups where they would hear cases) of High Courts to bring the process of justice closer to where large sections of people were in other parts of States.

I want to know from the Hon. Minister this point. When the policy of the Government is to take justice to the door-step of the people and also to have more Circuit Courts for different High Courts, what steps have been taken so far in different States as to have more Circuit Courts?

In Orissa, there is a great demand for having a permanent bench of Circuit Court at Berhampore in Ganjam District. This demand is very genuine. It has been stated in this House that for having Circuit Courts, the High Courts in consultation with the Government can have Circuit Courts. Regarding the setting up of permanent benches, the Government of the State in consultation with the

High Court should write to the Central Government and the Central Government will do it. As such, when there are a large number of pending cases—pending the setting up of permanent benches of the High Courts in different places—why not the Government contact the Orissa Government as well as the Orissa High Court to have a Circuit Bench of the High Court at Berhampore? This is my appeal to the Law Minister. The buildings for the court and talented advocates are there, together with infrastructures. The agitation is going on since one year.

I had put a question asking whether it had come to the notice of the Government that an agitation was going on, demanding a permanent Branch of High Court at Berhampore. The hon. Minister had replied to me, that no such agitation had come to the notice of the Government. In fact, the agitation is going on since one year; and the demand of all those lawyers from the southern parts of Orissa is to have a permanent Bench of the High Court at Berhampore. Pending establishment of a permanent Bench, I would suggest keeping in view a policy of the Government why not the Government talk to the High Court as well as the Orissa Government and see that a Circuit Court of the Orissa High Court functions there immediately.

Another point I would like to bring to the notice of the hon. Minister is that the increase of cases starts at the grassroots level, namely, munsiff courts and other courts. That is why the pendency increases. For example, in the Statute, in some areas the civil court's jurisdiction is completely barred, and the jurisdiction of the revenue court is there. For instance, regarding the encroachment and settlement of Government the Statute prohibits the jurisdiction of the civil courts altogether. And this jurisdiction is given to the revenue court, i.e. Tehsildar,

Sub-Collector, the Revenue Commissioner etc. But whenever a person encroaches upon Government land and revenue Court gives notices he goes to the civil court, and gets a stay order, for which the civil court has no jurisdiction. And the stay order continues for years together. Therefore, development work suffers, and the number of cases increases in civil court having no jurisdiction. Such suits should not be entertained by civil courts, under these circumstances, I would suggest that the Law Minister, as I said, can talk to his counterpart in different States on this issue: when the Statute specifically prohibits the jurisdiction of the civil courts, that should be adhered to; and let not the civil courts interfere in the jurisdiction of the revenue courts and give stay orders. Thereby, the number of cases can be reduced. These are the facts which require the attention of the State Government at the grassroots level, besides the writ petitions and other matters, for which the High Court has the original jurisdiction.

So, while supporting the Bill, I would suggest that these basic factors viz. administration of the law at the grassroots level, at the district level and the State level should be thought of, and specific steps should be taken so that the pendency of cases does not start from the munsiff court and come to the High Court and the Supreme Court. We are not considering how the cases increase at the lower courts level.

SHRI HAROOBHAI MEHTA: I want to go on record—appreciating the steps taken by the Law Minister and taking care to ensure that a Scheduled Caste Judge is appointed in Gujarat High Court.

MR. DEPUTY-SPEAKER: You have already spoken. Now the Minister.

(Interruption)

THE MINISTER OF LAW AND JUSTICE (SHRIB. SHANKARANAND): Sir, The present Bill for consideration before the House is an indication of the Government's mind concerning the Judiciary, and on improving the service conditions of the Judges.

As has been stated in the Statement of Objects and Reasons of the Bill, this Bill is of a consequential nature, on account of the recommendations of the Fourth Pay Commission. Certain amendments were needed in view of the recommendations of the 4th Pay Commission, and these amendments have been suggested here.

I must thank all the Members for their unanimous support for the provisions of the Bill. The Members have spoken on various aspects of the Judiciary, besides the service conditions of the Judges,....right from the legal education to the recruitment of judges at the Districts and other places, I mention here what they were getting and what they will get. Various aspects like reservation for SC&ST, minorities, weaker-sections and backward classes, etc. have been touched by the hon. Members. Before replying to them, I thought it is proper to inform the House what the Judges are getting. A Judge of the High Court was getting Rs. 3500/- plus full allowances. Now he is getting Rs. 8000/- plus DA and other allowances. A Chief Justice of the High Court was getting Rs. 4000/- plus other allowances. Now he is getting Rs. 9000/- plus other allowances. A Chief Justice of India was getting Rs. 5000/- plus other allowances. Now he is getting about Rs. 10,000/- plus DA and other allowances at Central rates.

On account of the provisions in the Bill amending various Sections of the 1954 Act regarding High Court Judges and 1953 Act regarding Supreme Court Judges, the allowances which they used to get for first 45 days leave on full allowances—usual salary and allowances drawn prior to proceeding on

leave—after 45 days of leave on full allowances, they used to get a fixed amount of Rs. 2220/- per month. Now they will be getting Rs. 4800/-. Under leave on half allowances, they used to get a fixed rate of Rs. 1110/- per month; now they will be getting 30 per cent of the salary that is about Rs. 2400/-. With regard to Chief Justices of the High Court, they will be getting usual salary and thereafter they will be getting 55 per cent of the salary. About Chief Justices, for the first 45 days of leave on full allowances, they will be getting usual salary and thereafter 55 per cent of the salary that is about Rs. 5000/-. Under leave on half salary allowances, they will be getting Rs. 2500/-.

This is a very technical Bill and the Members have no hesitation in supporting it. But they have made certain observations about the functioning of the judiciary. So, first I deal with the mounting arrears about which Members have shown their concern. Steps have been taken in this regard. The question of arrears was discussed in the Conference of the Chief Justices, Chief Ministers and Law Ministers in the year 1985 and certain resolutions, recommendations passed by this Conference; they have been commended to the High Courts and the State Governments for implementation. In this regard, the Code of Civil Procedure was also amended; the Code of Criminal Procedure was also amended in order to avoid certain obstacles and difficulties which were coming in the way of reducing arrears.

Hon. Members have raised points about the recommendations of the 77th Law Commission's Report. The Law Commission deals with delays and arrears in Trial Courts. In the 79th Report, the Law Commission deals with delays and arrears in the High Courts and other Appellate Courts suggesting various procedural reforms. They have been sent to the various High Courts and State Governments for implementation. I should say that the Committee of Chief

Justices of the High Courts, constituted by the Government in the year 1984 to study the problem of arrears in the High Courts, has suggested certain recommendations. The Committee went into the matter in detail and suggested numerous recommendations. Some of the reforms require amendment of legislation and High Court rules and orders whereas some others require issue of administrative instructions on the part of the various High Courts. The suggestions of the Committee, as accepted by the Government, have been sent to the State Governments and the Union Territory administrations; and the High Courts are requested to take necessary action in the matter.

I should mention that the High Courts are taking steps to expedite disposal of cases in their way, as cases involving common questions are being grouped together, matters are listed for hearing by giving short returnable dates, printing of records is dispensed with in many cases and priority is given to cases requiring quick disposal.

I must say that—though now I am not practising—I have been a lawyer. I had the experience of practising both in the District Courts, High Courts and the Supreme Court and I am quite aware of the basic reasons how the cases are adjourned, how the number of cases increases on the file of the various High Courts and the inherent delay on account of legal procedures and the manipulated delays on account of various reasons.

Very recently, we have appointed a Committee, consisting of three Chief Justices of the Kerala, Karnataka and the Calcutta High Courts. The Committee has been constituted and we have requested them to go into the aspects of these arrears takings in view all the various recommendations given by the previous committees and also by the Law Commission and we are awaiting their suggestions.

A question was raised about the appointment of Judges and the delay in the appointment of Judges. It has been the impression of the common people in the country that the appointments are made by the Government. Of course, they are made by the Government. But the procedure for appointment of High Court and Supreme Court Judges is governed by certain provisions of the Constitution. Article 124 deals with the appointment of Supreme Court Judges and Article 217 with that of High Court Judges. There, we are required to consult the Governors of the States concerned, the Chief Justices of the State High Courts and the Chief Justice of India and then forward them according to the procedure for appointment, to the President of India. In this, unfortunately, delays take place because the moment a recommendation comes from a Governor or a Chief Justice of a State High Court, during the process of these names either the Governors change or the Chief Justice goes by retirement or on account of other things and we have to again go back to them to take their views and invariably the names are different. Again, the process continues. Without consulting the Chief Justice and the Governor we cannot process the appointment. So, the delay is not deliberately done, it is inherent in the very procedure laid down by the Constitution.

Hon. Member, Shri Shahabuddin suggested that knowing the retirement date or the superannuation date of a certain Judge, precaution should be taken to complete the process of consultation in time so that the appointments are made in time. I do agree with him, but there are certain difficulties and it is not the intention of the Government to deliberately delay the matter of appointment.... (Interruptions).

SHRI SYED SHAHABUDDIN: Mr. Minister, what I am suggesting is really a Constitution amendment in accordance with

[Sh. Syed Shahabuddin]

the recommendation made by the Law Commission.

SHRI B. SHANKARANAND: The recommendation made by the Law Commission with regard to the setting up of an independent body for the recruitment of Judges has not been accepted by the Government.

SHRI AZIZ QURESHI (Satna): Does consultation mean concurrence?

SHRI B. SHANKARANAND: No, no. Consultation does not mean concurrence. Consultation and concurrence are two different terms.

I am grateful to the hon. Members for their suggestion regarding the appointment of Judges belonging to the weaker sections of the society, minorities, backward classes and women. We have been writing to the concerned States and also the Chief Justices of the various High Courts. We have been requesting them on and on for taking into consideration the desirability of considering the appointment of the judges belonging to the Scheduled Castes, Scheduled Tribes, backward classes, weaker sections and women.

AN HON. MEMBER: What about suitability?

SHRI B. SHANKARANAND: Of course, without damaging the suitability aspect. I do not think any Chief Justice or a Governor will recommend otherwise.

Sir, we have made it clear and I must take the House into confidence that we have written to the States and to the High Courts that while locating or identifying or picking up for appointment a person belonging to the Scheduled Castes, Scheduled Tribes or a

woman, the volume of practice need not necessarily be a criteria, except their competence and integrity. I am happy to say that the Government have been able to appoint so far about nine Scheduled Caste judges and two Scheduled Tribe judges in various High Courts. We have also made efforts to locate and appoint judges belonging to the minorities and backward classes, both in the Supreme Court and in the High Court.

SHRI GANGA RAM (Firozabad): Why don't you change the procedure for selection of Scheduled Castes and Scheduled Tribe judges in the High Courts and the Supreme Court?

SHRI B. SHANKARANAND: As I said earlier, the procedure for selection or appointment of judges of the Supreme Court and the High Courts is governed by the Constitution in articles 124 and 217.

SHRI GANGA RAM: I wanted to say that you obtain the recommendation of the Chief Justice of the High Court or the Chief Minister. Why does the Government of India not directly call for the applications, scrutinise them, get the enquiries made and appoint the judges according to the population in the various States?

SHRI B. SHANKARANAND: I am sorry I have not been able to make myself clear to the hon. Member. The procedure for selection of the Supreme Court judges and the High Court judges is laid down in the Constitution itself and we have to follow that procedure. But efforts are being made to find out people belonging to Scheduled Castes, Scheduled Tribes, minorities, backward classes and women. Efforts are on.

Members talked about mounting arrears I did reply about these things. The Government has provided the legal aid system. And by now holding of Lok Adalats in various States, we have been able to clear a large

number of cases in the courts. Many Members have suggested about the recruitment of district judges. The appointment of district judges and sessions judges or the public prosecutor for that matter, is the concern of the State Government. Many Members have expressed their fear with regard to the appointment of public prosecutors on political considerations. No such information has been received from any court or from any Government. I agree that it should not be purely on political considerations. Advocates who are competent to deal with Government cases, both civil and criminal and other matters, should be kept on the panel. But I fully agree with the Members on this point.

Regarding the fees of the lawyers, it is a common knowledge that a poor man cannot go upto the Supreme Court for redressal of his grievance. He cannot avail of the services of an eminent lawyer, who is, leave alone serving the poor man on a nominal fee, unwilling to spare his time to leave his briefs which are heavily paid. In this case, I should say, we have established the legal aid system in the Supreme Court and we are rendering services to the poor people in the High Courts and Supreme Court.

There have been questions and even the Law Commission has suggested, about fixing up the level of ceiling both on the floor and ceiling level for the lawyers. I do not think it is practicable as life has become complex, the legal system has also become very complicated and the legal practice has become so monopolistic in nature that perhaps only an awakened society can deal with this.

Finally, I want to deal with certain things, which, of course, are extraneous to the present Bill before the House. Regarding the power and competence of Parliament, the question is whether under article 368 the Parliament has the power to amend the Constitution or whether article 368 only lays down procedural aspect of it. The other day,

I had said that article 368 gives competence to Parliament to amending the Constitution. Though the Supreme Court has held that Parliament cannot change the basic structure of the Constitution. Parliament is the supreme body of the people of this country; the will of the people is expressed in this House and not in courts. This House has the constituent powers. Under article 368 when any amendment to the Constitution is considered, the House assumes the constituent power of Parliament. Of course, the courts have said that certain things can be amended and certain things cannot be amended. The matter deserves a detailed discussion by the House. I should say that this matter should be fully discussed and a separate time should be given for the discussion in this House on these matters.

13.00 hrs.

Sir, while moving the Constitution Bill, Dr. Ambedkar, gave I should say, a golden message to the people of this country and Parliament. When he was addressing the Constituent Assembly he said that when the country achieved political freedom at that time people did not know the political content of the freedom of the country. There are economic and social inequalities. He said that these were the constitutional contradictions. Since then we have been able to do away or narrow the gap of these contradictions to a great extent. But still there is a long way to go. For many people in this country, it is a freedom movement under the Constitution and for a majority of them, it is a power struggle, For the weaker sections, for the minorities and for the backward classes it is still a freedom movement and we have to achieve that freedom under the Constitution. We cannot bind down the future of this country by certain rigid rules in the Constitution and we have no authority to rule the future generation of this country because the Constitution has said something today. Every generation has its right to amend the Consti-

[Sh. B. Shankaranand]

tution looking to the needs of the country, looking to the needs of the society in view of the political and economic atmosphere in this country. No court can bind down the people. The people have the supreme authority to rule themselves under the laws which they make in the name of the Constitution which is the supreme law of the land.

Sir, I request that a separate time is fixed for this purpose and the Parliament should go in detail about the authority and power of parliament to amend the Constitution. Having said this, I don't want to take the time of the House. I once again thank the hon. Members for their unanimous support to this Bill.

SHRI SOMNATH RATH (Aska): Sir, since the policy of the Government, as it has been stated in this House, is to have more Circuit Benches of High Courts in different places in the States, will the hon. Minister talk to the Orissa Government and High Court to have a Circuit Bench in Berhampur for which agitation is going on pending establishment of permanent Benches.

SHRI B. SHANKARANAND: For establishment of permanent Benches, I would say that Jaswant Singh Commission was appointed. They went into great details for establishing permanent Benches and Circuit Benches Under the guidelines, it is open for the States to come with definite proposals before the Central Government as to whether they have decided to establish certain courts, certain Benches or certain Circuit Benches at certain place giving infrastructural facilities, and the Government of India will certainly consider that.

[Translation]

SHRI AZIZ QURESHI (Satna): Mr.

Deputy Speaker, Sir, at an earlier occasion, I congratulated the Minister of Law for increasing the pension of Judges. But I would like to ask him whether a pension of Rs. 371 could be considered sufficient for subsistence of a family in the present trend of rising prices? I would like to submit that family pension of a judge should be fixed taking into account the number of dependents alongwith the current price index so that in case of death of the judge, at least his family could lead a respectable life. The second point that I would like to make is about the appointment of judges in the Supreme Court and the High Courts I regret to say that people have been losing faith in High Court's judges. Therefore, I would like to submit that before their appointment as judges in the High Courts, their past records and antecedents with regard to income tax paid by them, number of cases disposed of by them and their public image and integrity should be taken into account. Only then the purpose of keeping the condition of ten years experience for appointment as a High Court Judge will be served.

The Constitution has been Amended to increase the retirement age of judges to 65 years. In this regard, I would like to submit that in U.S.A., earlier there was no fixed age of retirement of judges but later on, it was fixed at 70. Similarly, there was no fixed age of retirement for judges in U.K. Is any proposal to amend the constitution to increase the age of retirement of judges under consideration of the Government of India?

Similarly, a demand is being made to set up a High Court Bench in Bhopal. I strongly appeal to the Government to give a serious thought to set up a High Court Bench in Bhopal.

*(Interruptions)**

[English]

MR. DEPUTY-SPEAKER: Nothing goes on record.

(Interruptions)*

SHRIB. SHANKARANAND: Sir, I would like to state that at present, the Government is not considering about the increase of the retirement age of the Judges. The hon. Member said about the appointment of certain Judges. I should say that this Bill is there to strengthen the judicial system and to make the Judiciary independent. The accountability of the Judiciary is left to themselves. We are accountable to the people of this country. If we fail to do certain things which we promised to the people, the people will just throw out the Government. But for the judiciary, the accountability is left to themselves. So, it is for them to raise the confidence and trust in them by the people. If the trust and confidence of the people in the Judiciary is reduced, to that extent, the accountability of the Judiciary comes down. If the Judiciary fails in this country, that will be the end of democracy.

(Interruptions)*

MR. DEPUTY-SPEAKER: Nothing goes on record.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETRO-CHEMICALS IN THE MINISTRY OF INDUSTRY (SHRI P. NAMGYAL): Sir, we would like to sit through the Lunch hour because many hon. Members want to speak on the next Bill.

MR. DEPUTY-SPEAKER: I want to ascertain the sense of the House whether

you want to skip the Lunch hour and continue the discussion.

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY-SPEAKER: So, we continue our discussion.

The question is:

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

The motion was adopted

The House will now take up Clause-by-Clause consideration of the Bill

The question is:

"The Clauses 2 to 6 stand part of the Bill."

The motion was adopted

Clauses 2 to 6 were added to the Bill

CLAUSE 7 (Amendment of Section 16A)

Amendment made

"Page 2, lines 38 and 39,—

for "calculated at the rate of half of the family pension so admissible to him"

substitute

"twenty-five per cent of the pension admissible" (1)

(Shri B. Shankaranand)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 7, as amended, stand part of the Bill."

The motion was adopted

Clause 7, as amended, was added to the Bill

MR. DEPUTY SPEAKER: The question is:

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

The motion was adopted

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

SHRI B. SHANKARANAND: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted

13.10 hrs.

SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) BILL

[English]

MR. DEPUTY-SPEAKER: We go to the next item.

Dr. Rajendra Kumari Bajpai.

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJENDRA KUMARI BAJPAI): I beg to move*:

"That the Bill to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto, be taken into consideration."

Mr. Deputy-Speaker, Sir, this House is aware of the deep concern our Government has for the welfare of the Scheduled Castes and Scheduled Tribes. A separate Welfare Ministry was created in 1985, specially for the welfare of weaker section of the society. Many new initiatives have been taken, particularly in the last few years to improve the lots of Scheduled Castes and Scheduled Tribes, in trying to discharge a mandate of the Constitution. Poverty alleviation programmes which provide a special attention to the Scheduled Castes and Scheduled Tribes have been expanded and intensified.

13.11 hrs.

[SHRI SOMNATH RATH *in the Chair*]

First the IRDP and other programmes were improved considerably and now these have been replaced by a bigger scheme of the Jawahar Rozgar Yojana. It is because we think that if we have to improve the economic conditions of the weaker sections of the society, specially Scheduled Castes and Scheduled Tribes and those who are below the poverty line, they should be given employment. For that, Jawahar Rozgar Yojana has come in a big way.

Drinking wells and irrigation wells have been provided for this group. The need of housing has been met by the Indira Awas Yojana. The programme for liberation of scavengers has been given a greater impetus. I want to tell the House that though in the Constitution, we have abolished untouchability, it is also true that unless and until we remove this sort of work, i.e. scavenging, there will not be much impact. So, the liberation of scavenging programme is very important for removing untouchability from our society. The education of Scheduled Castes and Scheduled Tribes which is of crucial importance to their growth and development has received much greater attention. Education is very important to fight not only poverty but it gives them strength to fight social injustice as well. We want Scheduled Castes and Scheduled Tribes people to stand against social injustice and for that awareness should be created through education. So, education programme is very important and under the new education policy and under the 20-point programme, we have laid emphasis to this aspect. The number of students studying beyond the Matriculation stage has gone up to 13 lakhs. This is an open-ended scheme where we are providing scholarships to our Scheduled Caste and Scheduled Tribe boys so that they can go for higher studies. Coaching centre are provided to them so that they can take the advantage or avail the opportunity of competing with other sections of the society.

A special drive is currently on for filling up the backlog which had arisen as a result of non-fulfilment of reserved seats for SC/ST. Efforts are also being made to free them from bonded labour and to find land for cultivation.

As well all know, about 45% of the Scheduled Caste population are landless labourers and they are mostly living below poverty line. So, they have to be given these facilities and we have to give them opportu-

nity and some of them are bonded labour too. We will free them through this Bonded Labour Act and they will be rehabilitated by giving them land and money as well.

We are witnessing today the signs of fruits of development reaching the Scheduled Castes and Scheduled Tribes. But it is not all. With greater spread of education and with the socio-economic condition improving, the relations in society sometimes come under tension as a result of this change. As the situation is changing and the change is coming into the society, we see that in the countryside, in rural India specially, there is some kind of tension also and that is because of atrocities on Scheduled Castes and Scheduled Tribes in some part of the country or the other. Higher caste groups sometimes do not like change in the socio-economic structure and tensions develop. These are the causes of atrocities and the Bill is intended to prevent these atrocities and so I am dealing with that. The demand for justice, for equality, for a human living standard, for knowledge, for education and freedom leads in some cases to a realisation by groups who are not enlightened enough to recognise the healthy signs of growth.

People are still not going to tolerate the growth of the development of Scheduled Castes or of those people who were till now working under them. They can come up and demand their rights. Sometimes tension erupts in the locality. In such situations, atrocities or a variety of offences are committed on members of Scheduled Castes and Scheduled Tribes. These are the causes.

I have had occasion to tell this House regarding the recent trend in the increase of such offence against members of the Scheduled Castes and Scheduled Tribes. The other day while we were discussing this matter in the House, a question was put and I have answered such questions many times in the last four years about atrocities on Scheduled

[Dr. Rajendra Kumari Bajpai]

Castes and Scheduled Tribes. Last week I was saying that I will be coming with some Bill on atrocities. Sometimes there was heated discussion on this point. This question is constantly raised in this House that there is increase of such offences against members of Scheduled Castes and Scheduled Tribes. Sometimes hon. Members are also agitated on this. During 1988, there were a little over 15,000 offences against Scheduled Castes and 3,300 cases in respect of Scheduled Tribes. Of these, heinous offences such as murder, arson, rape and grievous hurt accounted for about 3300 cases in respect of Scheduled Castes and 783 in respect of Scheduled Tribes. There are other minor offences also. This shows the tendency, trend and thinking of the upper caste people. They do not want that Scheduled Caste and Scheduled Tribe people should be respected in the society like others. The nature of these offences in many States indicated that these were not isolated instances but represented a trend in the country. In cities and towns and areas where the society was generally aware of the need to bring about such changes, the upward socio-economic mobility of the Scheduled Castes and Scheduled Tribes was accepted and tensions did not arise. But in certain rural areas things are very bad. In rural areas, traditions seem to be difficult to dislodge. It is difficult to dislodge the prejudices and traditions there. Hence, the Government thought that certain special measures would be necessary at this point of time. So, we are bringing in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Bill. In this Bill, we have also defined as to what are the atrocities and we will specifically deal with those things.

Sir, the causes of such incidences were related generally to land or to continued exploitation or enforcement of traditional demeaning practices. It is regrettable that

such instances have been reported such as in Kerala where a member of Scheduled Caste was forced to eat human excreta. There are reports of a bridal party being chased and houses of this community razed to the ground merely because the bridegroom had the temerity to ride on a horse through the village streets. That bridegroom was riding on a horse. He was going through the village streets. So, the upper-caste people felt as to how he could ride on a horse and so the houses of those poor Scheduled Caste people were razed to the ground. The efforts of the Government to provide land have been frustrated in many cases. This is another example of atrocities on such people. In some States where the land is allotted to Scheduled Caste people, forcible dispossession or illegal occupation of such land is reported to Government. This is because of the fact that the upper-caste people are strong people. They think that these poor Scheduled Caste people should have no right on such lands. They forcibly occupy the land. So, land is also a cause of such atrocities. In Madhya Pradesh, recently the Government launched a special programme to see that possession or effectively restoring land to members of Scheduled Caste and Scheduled Tribes who had been given pattas for the land, is implemented. Such programmes are taking place as a special drive. That is our policy. That is the guideline from the Central Government. So, they are trying to implement the programmes. But still there are cases where things are not properly implemented or if pattas are given to Scheduled Caste or Scheduled Tribe people, the upper-caste people in the village or those who are in possession of such a land still try to hold the possession of their land or they grab the land meant for weaker sections. They will not part with that land. So, the Scheduled Caste is not able to occupy that though he has got pattas. It is the one point of under cause or the pattern of atrocity that is committed on women folk. In some

unfortunate incidents the women folk of Scheduled Castes and Scheduled Tribes are sought to be dishonoured and assaulted with the object of teaching a lesson to that community. This is a very ugly sort of thing and a very cruel mode of thing which is resorted to by certain people. And this is the worst type of atrocities committed on Scheduled Caste people in dishonouring women folk. In tribal areas sexual exploitation is known to occur and the willingness of the innocent tribal women is secured by exercise of authority or influence. The community is sometimes sought to be pressurised by denying them access to public places for easing themselves or for cremation or a water source etc. Such type of things are still going on in some parts of India. Now in the 20th century, this is very shameful for the society. We have to not only create awareness but we have also to stop it with strong hand. We are going to take this strong measure.

Instances have occurred of fouling of water source or dumping carcass in the vicinity of their houses. It is to humiliate and tease the Scheduled Caste people. All these when taken together form a pattern which calls for more stringent legislative measures.

The Bill which is before this House seeks to classify most of such instances as Atrocities on Scheduled Castes and Scheduled Tribes. We have defined these atrocities and included all these atrocities in this Bill. Although many of these offences could probably be covered under the normal law of the land, we are witnessing today a difference in degree which calls for a differentiation in kind in respect of these offences. It was necessary to bring this Bill. The Bill hence proposes to specify higher punishments as also laying down some minimum punishment for such offences. We have elaborately mentioned the various kinds of atrocities which we have included in this Bill.

I will only mention two or three points though there are so many other points which are the salient features of the new legislation. For the first time, we have defined this term in this Bill, that is, what will constitute atrocity. It says:

"Forcing a member of Scheduled Caste or Scheduled Tribe to drink or eat any inedible or obnoxious substance as the human excreta or acting with an intention to cause injury, insulting or annoying by dumping excreta, carcasses and other similar items in their locality, taking off their clothes forcibly, particularly of the women folk, forcibly dispossessing them of their land and keeping them as bonded labour and forcing them to do beggar, interfering in the rights guaranteed to them for representation in public bodies, through elections, utilising legal process for causing harassment and injury by instituting false, malicious or vexatious suits or legal proceedings against them and subjecting their women folk to assault and sexual exploitation by persons in a position to dominate their will".

Property is often the basis of atrocities on Scheduled Castes and Scheduled Tribes. Hence, wrongful dispossession of the property is made an atrocity under the Bill. The Bill also provides that upon conviction, in addition to a sentence to be passed, the movable and immovable property belonging to the convicted persons and used in the offences would be liable for forfeiture. This is very important and that is why it is made very stringent.

The Bill includes offences relating to property of persons and carrying punishments of ten years and above under the Indian Penal Code and committed by non-Scheduled Castes and non-Scheduled Tribes on the ground that the victims happen

[Dr. Rajendra Kumari Bajpai]

to be members of Scheduled Castes or Scheduled Tribes, as atrocities.

The Scheduled Tribes living in Scheduled Areas or Tribal Areas are harmed in many ways by vested elements. Article 19(1) provides for the protection of the interests of the Scheduled Tribes. The Bill, therefore, provides for externment of a person who is likely to commit an atrocity as defined in the Act against a member of a Scheduled Tribe in a Scheduled or Tribal Area, from that area for a period extending to two years.

The Bill provides for minimum punishment of six months imprisonment and fine for the offences.

Some of the other features of the Bill are appointment of Special Courts and Special public prosecutors, conferment of powers exercisable by a police officer or any officer of the State Government and protective and preventive measures that are to be taken by the law and order machinery to check the atrocities. The Bill further contemplates arrangements for effective implementation of the Act, and among other things, provides for economic and social rehabilitation of the victims of atrocities. These are the salient features of the Bill.

We say that prevention is better than cure and the Bill also looks after the preventive measures. If an area is declared prone to atrocities it will become the bonded duty of the law and order machinery to take all possible measures for instilling a sense of safety and security. Schemes would be formulated under the general guidance of the Government of India to provide for such measures as also for providing prompt and adequate relief and rehabilitation in the unfortunate event of atrocities taking place. We have kept all these provisions not only on the

preventive side, but at the same time to see the rehabilitation part also.

The Bill places a special responsibility on the public servants who are not members of Scheduled Caste or Scheduled Tribe to take action to protect the interests of scheduled castes and scheduled tribes against atrocities being committed or taking of punitive and rehabilitative measures.

The Bill overall aims at ensuring that when the fruits of development and spread of education is now reaching the scheduled castes and scheduled tribes the benefits therefrom are not taken away or denied by vested interests. I am sure these measures will be welcomed by all and enlightened sections of society and that we shall in our country succeed in removing the stain of such inhuman treatment towards a section of our people by vested interests. The dream of Mahatma Gandhi for the uplift of these groups is being brought to reality by our Government and I seek your cooperation in passing this Bill and taking the message to that far corners of our country. I hope that, after giving your comments, this Bill will help in creating a proper atmosphere in the whole of the country and this Bill is going to have effect all over.

With these few words, Sir, I beg to move the motion for consideration.

MR. CHAIRMAN: Motion moved:

"That the Bill to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribe to provide for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental there to, be taken into consideration."

SHRI RAM RATAN RAM (Hajipur): Mr. Chairman, Sir, first of all, I would like to congratulate the Prime Minister and also the Welfare Minister, Dr. Rajendra Kumari Bajpai, for going ahead with this very progressive Bill, after the lapse of forty years of our independence.

Just now, our respected Welfare Minister has mentioned about the dream of Mahatma Gandhi. No doubt, the dream of Mahatma Gandhi is going to be fulfilled after the lapse of forty years of independence.

So far as the question of atrocities, tortures, land grabbing, rape and whatsoever is incorporated in this Bill, is concerned, it has been going on for centuries after centuries; it is not that it is just coming up today. It has been there for the last so many centuries.

I would like to congratulate the Prime Minister and also the Welfare Minister—who has got the motherly affection for the members of the Scheduled Castes and the Scheduled Tribes—for bringing forward this unique Bill. With this unique Bill, no doubt, the members of the Scheduled Castes and the Scheduled Tribes will have some relief. I would like to thank Dr. Rajendra Kumari Bajpai for this. Before I go ahead—as the hon. Minister has said just now—I would like to read the Statement of Objects and Reasons, which says:

“Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various

historical, social and economic reasons.

Because of the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc, they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the government allotted land by the Scheduled Castes and the Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests”.

So, all these details are here. No doubt, this Bill is very unique. There is nothing left out in this Bill. Even a slightest point is not left out, so far as the question of prevention of the atrocities and the crime is concerned.

But what is it that was not there in the Indian Penal Code by which action could not be taken but the main thing is on the civil side—the executive and the police are not really very sincere to implement these measures and go ahead with the very object and vision of the Government. That is the whole question. We have already enacted so many Acts but the whole question is till today the judiciary is silent on this matter. It takes years and years for a case to get settled. Do you think these poor people can afford to pursue the cases for years and years? They cannot afford to do so with the result the offenders get scot free and thereby our people are put to a lot of harassment. No

[Sh. Ram Ratan Ram]

doubt, this Act will give some benefit and relief to our Members but I want to touch the basic point. Whenever a crime, atrocity, torture, etc. is committed against the members of the scheduled castes and scheduled tribes first of all they have to go to the police station to lodge an FIR. Here in this Act nothing has been mentioned about the police officers. Crimes, atrocities, tortures, etc. are there but when they go to the police station the police officers there refuse to record the FIR. What is the way out for this? What action do we propose to take against those police officers who are still silent on the matter? In that respect I would have been grateful to the hon. Minister if some way had been found out to curb such police officers as well. Now no case can stand unless an FIR is there and the police report is there. Our people go to the police station. The police officers there refuse to register the FIR. On the other hand our people are put to difficulty by being accused that they are making a false statement. So our people are afraid of going to the police station. They rather prefer to tolerate the inhuman treatment.

MR. CHAIRMAN: May I draw the hon. Member's attention to Clause 4 of the Bill?

SHRI RAM RATAN RAM: Mr. Chairman, my point is will my people go to the police to lodge the FIR and also will the police officers there be sincere enough to take note of that? There are provisions even in the IPC. My point is what action you propose to take against such police officers who refuse to record the FIR and on the other hand put our people to harassment and torture. They go to the police station. They are asked to sit there for one one or two days. No action is taken. So, what action has been proposed to be taken against such police officers? There should be a remedy to tackle such a situation. A special court will not doubt be there. Our prosecutor will be there.

A separate advocate will also be there. Everything has been provided in this Bill. But there is no mention about action against such police officers. That is what I wanted to bring to the notice of the hon. Minister.

Everything is mentioned in detail in this Bill. But so far as the question of externment is concerned, the option has been given to the offender. On page 6, it has been said:

"Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order."

My point is that option has been given to the man who is going to commit a crime or who has already committed a crime. Will the man, who has been asked by the court to remove himself, carry out the order or not? That question has to be considered. Why should an option be left to the criminal? Suppose such person does go from the area as defined, what is the guarantee that he will not come again and commit the offence? Such lacunae are there.

I am very thankful to the hon. Minister for having brought forward such a progressive Bill after 40 years of our independence for the welfare and protection of people belonging to the Scheduled Castes and Scheduled Tribes. Our people are getting education. It is a marvellous and unique Bill. We are happy and satisfied. But still there

are some lacunae. Some options have been given which should not be there.

So far as the question of casting of vote is concerned, what is the remedy? Booth-capturing is still there. Our people are not allowed to cast their votes in favour of the candidates whom they like. Separate booths are there. Booths are also set up in the localities of the Scheduled Castes and Scheduled Tribes. Since I come from the tribal area. I know that the tribal population is concentrated much more than the Scheduled Castes. The Scheduled Castes are not that much concentrated as the tribals. And that is why, Government was kind enough to create booths for the Scheduled Castes in every locality so that people can exercise their franchise. In spite of the fact that there are booths in every locality and village, there are goondas persons who bribe and do not allow people to cast their votes. There is no doubt that remedy is there in this Bill. But I would like to point out to the Minister that remedy is also possible by appointing a police officer when the question of adult franchise comes. I would like to say that some police arrangement must be made. But at the same time, I have got an apprehension about the police officers. The police officers are there to create offences themselves. They train the criminals. They ask the criminals to commit crimes. So, more Scheduled Caste and Scheduled Tribe officers should be appointed and posted at the police stations and unless our people are posted at the police station itself and made the officer-in-charge, I do not think that the objective of the Government will be fulfilled by the Act since the power is in their hands. At the very initial stage, people will have to go the police station to report the crime. Unless this is done, nobody can go to the court, whether it is a special court or whatever court it may be. The question of going to court comes later on. First of all, one has to go the police station to report. Somehow our people have gone to the police station to have FIRs

lodged after the offences like murder, rape, etc. were committed, as mentioned in this Act. But whole question is about the witnesses. The court will have to proceed according to the witnesses. The court cannot hang anybody simply on my saying, as a member of a Scheduled Caste or a Scheduled Tribe, that my daughter has been raped or my son has been murdered by this man or that man. The Court of Law cannot convict a person like that. So, witness is necessary. Wherefrom will the witness come? That is my point. Some torture is going on by some persons who still cannot be influenced. They still terrorise the people by saying that if they go to the court as witnesses, none will be allowed to remain in the village, all of them will be burnt or murdered. No doubt, there is action taken. Even if there is any apprehension, our people will go to the court or the police station and report by saying that an apprehension is there. And action will be definitely taken by this Act. But a sort of fear is there in the minds of people. People are afraid. When my whole village gets burnt and when we will not survive, what will the court do? This sort of feeling is there among the people. We have to look into this aspect also. The Government cannot go into all these details. They cannot post a Magistrate for every door or every village. We have to find some ways so that the minds of our people are free from such weaknesses and fear. All those people who come and frighten and threaten people will have to be set right. This aspect will have to be looked into. We cannot depend on the Government all the time that they would do everything for us. We have to do something ourselves also. Of course, the Bill as brought forward by the hon. Minister is very unique and marvellous and I would like to express my thanks for the same.

I would like to make one more point regarding the grabbing of land. The Government was very kind to allot land to our landless people. Most of our people are landless, and bonded labourers in the vil-

[Sh. Ram Ratan Ram]

lages. Though the land had been allotted to these poor people, in many cases it has been grabbed from them and it is a very big problem to restore the possession to them. Though the Bill deals and takes care of the various problems relating to the bonded and landless labourers and grabbing of land by unauthorised people, yet it would require a lot of effort to put these provisions into practice. By this Central Act, we are going to give protection to these poor people throughout the country, but at the same time, in many matters we have to depend on the State administration. This legislation will be applicable throughout the country, and the State Government should be very sincere and honest in implementing it and particularly, they must take care of the scheduled castes and scheduled tribes so far as the land problem is concerned. We have given land to the landless people and most of these people have been dispossessed from the land, and the possession has not been restored to them. They have to go to the court of law. How many of our people have got enough money to go to the court of law? Of course, the provision is there that you will finance our people for this. In fact, these innocent people are afraid of going to the court. Thought, this problem has been definitely dealt with very nicely and adequately in this Bill, it is very difficult to restore the possession of the land, allotted to these people, once they are dispossessed of it. The law is there, the magistracy is there, the officers are there, yet we are not getting the required protection. I do not think the special courts will ever go the spot to restore possession of the land to these people.

In this context, I would like to suggest that the cases relating to the land problem as also atrocities on these people should not take more than thirty days; these should be disposed of within that period. Only then, we

can have faith and confidence that something is going to be done for us.

With these words, I conclude and would like to convey my heartiest thanks to the Prime Minister as also the Welfare Minister for bringing forwards this Bill, which would definitely provide relief to the poor people.

[Translation]

SHRI GANGA RAM (Firozabad): Mr. Chairman, Sir, the Scheduled Castes and Scheduled Tribes (Prevention of atrocities) Bill, 1989 moved by the hon. Minister of Social Welfare is the culmination of deep studies made on the problem process of which was started 4 to 5 years ago. During this period, the hon. Minister had several rounds of discussion with the hon. Members of Parliament and organised seminars and conventions of the representatives of the Scheduled Castes and the Scheduled Tribes to interact with them about the difficulties being faced by them. This is not only an exhaustive Bill but an improved one also as it contains all the good provisions of the earlier laws and the subject. Therefore, she deserves all praise for introducing this Bill.

After 40 years of independence, a concrete step has been taken to prevent the atrocities on the people belonging to Scheduled Castes and Scheduled Tribes who constitute 25 crore of the total population of the country. It was Mahatma Gandhi who in 1932 had staked his life to make these castes as an integral part of the Indian society and he also did a lot for their betterment. Words fall short to describe the efforts of Pt. Jawaharlal Nehru and Dr. Baba Saheb Ambedkar in ameliorating the lot of these poor sections of our society and infusing the feeling of self-respect among them. I would like to quote what Pt. Jawaharlal Nehru said about Dr. Ambedkar.

[English]

"I imagine that the way he will be remembered most will be as a symbol of revolt against all the oppressive forces and features of Hindu society. He rebelled against something against which all should and ought to rebel and we have in face rebelled in various degrees."

[Translation]

After going through this Bill, it appears that the hon. Minister and for that matter the Government of India brought this Bill with a view to giving a warning to the oppressors, tyrants, and who exploit the poor in order to remove social inequality.

The hon. Minister has explained in detail the objects of moving this Bill in the House. The Acts and laws made till date on the subject, mainly the Removal of Untouchability Act, 1955 and the Protection of Civil Rights Act, 1987 could not be proved effective. All of us agree that the implementation of these Acts have been very poor.

A number of schemes have been launched for upliftment and development of the people belonging to Scheduled Castes and Scheduled Tribes and weaker section of society which constitute 25 per cent of the total population of the country. The credit for the schemes such as 20 point programme, IRDP, NREP, Jawahar Rozgar Yojana, Special Component Plan and the Scheduled Castes and the Scheduled Tribes Financial Corporation goes to none other than the Congress Party. During the stewardship of the hon. Minister, Central Government has set up a separate Financial Development Corporation for these sections, whose jurisdiction runs throughout the country. Indira Awas Yojana and many other schemes were also launched, but unfortunately they could not be effectively implemented by the pres-

ent machinery of the Government. This reminds me of a few lines of a couplet of a poet:-

'Kitne Badal Baras Rahe Hain, Phir
Bhai
Paudhe Taras Rahe Hain,

Yahi Chaman Ko Acharaj Bhari, Pani
Kahan Chala Jata Hai?"

It is a pity that despite several measures taken by the Government, all these facilities have not reached the rural areas at the grass root level. We must find out the reasons for this. Besides enacting this legislation we must also consider the effective implementation of measures taken for their upliftment because atrocities are closely inter-related to their upliftment.

I do remember that during the Janata Party rule, when I was in Lucknow, a decision was taken to withdraw reservation facility for SC/ST. However the Government of the Janata Party was dismissed that very evening thereby saving the helpless poor. On coming to power, the Congress Party not only continued the policy of reservation, but also implemented it effectively. Recently, the young hon. Prime Minister has tried his best to clear the backlog of reserved vacancies very earnestly. For this the hon. Prime Minister and the hon. Minister of Social Welfare both deserve to be congratulated. This created great fervour and enthusiasm among the poor all over the country, especially the constitutional amendment Bills of the Panchayati Raj and the Nagarpalika have infused great confidence in the people. Under Panchayati Raj system, reservation for them has been given upto the grass root level only.

Many people do not understand the meaning of reservation. I would like to explain its meaning before the House. We keep

[Sh. Ganga Ram]

on demanding reservation in appointment and promotion in services and in allotment of gas agencies, etc. Explaining the meaning of reservation, Dr. Ambedkar had stated that the reservation had been made for social upliftment of the people who had been subjected to social discrimination for thousand of years and in order to achieve the goal, some sort of discrimination against some people would have to be done. That discrimination can be termed as reservation for which down from Mahatma Gandhi to all the leaders of the present generation are trying to achieve in right earnest.

The opposition has done nothing in this direction except making hue and cry. The House is the witness to their behaviour and sincerity shown during the last four years when they raised the issue of Bofors only and nothing else. Opposition never discussed the issues pertaining to the poor and on the other hand wasted time of the House. They do not know against whom they are levelling charges. They are levelling charges against the person who is trying to anchor the ship of the country from the turbulent sea. To them I can say, "Tum Sahil wale kya jano, yeh tufan kaun uthata hai, yeh kishti kaun dubota hai." It is the opposition which is raising storms to drown the ship which is being anchored by our leader. Therefore, under the present conditions, neither we nor the people have any expectations from the opposition parties. The poor people are looking towards the Congress Party headed by the Hon. young Prime Minister only and the hon. Minister of Social Welfare, who have political will and the determination to act upon. The present Bill to stop atrocities is bold and praise-worthy, though many programmes are already in progress.

A little while ago, Shri Ram Ratan Ram, who is a veteran Member of the House pointed out some short comings in the Bill. But be-

fore I go into them, I would like to refer to the last report of the Scheduled Castes and Scheduled Tribes Commission regarding atrocities. Commission has stated, which I quote.

[English]

"A review of the available atrocity data for the years 1982 to 1984 presents a somewhat disturbing trend. The overall number of cases of atrocity against the Scheduled Castes that had declined from 15051 in 1981 to 14,847 in 1983, recorded an increase to 16,586 in 1984. In 1987, the highest number of atrocity cases was reported from Madhya Pradesh (6128) followed by Uttar Pradesh (4200), Bihar (1845) and Rajasthan (1648). These States together with Tamil Nadu (489), Gujarat (690) and Maharashtra (579) among themselves accounted for about 95 per cent of the cases of atrocities reported during the year under review."

[Translation]

This has been stated by the Commission. The report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1986 is also available now. At present Shri B.G. Sharma is the Commissioner. He has made an indepth studies of the problem throughout the country and his report is before us. As regards atrocities, total number of serious crimes committed in 1986 has been given in the report. Earlier, only serious crimes were treated as atrocities. Under the G.O. of the Ministry of Home Affairs, serious crime includes murder under section 302 of IPC, greivously hurt under sections 324 and 376 IPC, rape under section 376 IPC, arson under section 436 IPC and some other serious crimes but in the present Bill, the hon. Minister has made the definition of the serious crimes more exhaustive. The Commissioner for the Scheduled Castes and the

Scheduled Tribes in his report has stated that in 1986 alone, as many as 15416 serious crimes, earlier used to be known as atrocities, were committed. Out of them, as many as 3945 crimes were committed against the people belonging to the Scheduled Tribes. In our country, there are 1085 Scheduled Castes and 639 Scheduled Tribes. As regards their population in the country, population of Scheduled Castes and Scheduled Tribes are about 15 crore and 10 crore respectively. Atrocities have also been committed in the same proportion against them. The causes of atrocities as pointed out by the Commissioner and the hon. Minister are cent per cent correct. In the object and reason of the Bill, it has been correctly stated that the atrocities are committed on them because feudal elements in the society do not tolerate that the poor people should live with honour and peace in the society. The poor, the Scheduled Castes and the Scheduled Tribes wish to lead a peaceful and happy life in this independent India, without being forced to bear insults. In the objects of the Bill, it has been accepted that they are subjected to atrocities. This Bill has been brought forward with a view to stop atrocities on them so that they may lead a respectable life. This is the need of the hour. Even on moral ground, nobody has got any right to insult one. It can be observed from the statement of objects and reasons attached to the Bill that maximum atrocities are committed in Madhya Pradesh followed by U.P., Bihar and Rajasthan. After a deep study of the matter as to why Madhya Pradesh is on the top of the list, I came to conclusion that feudalism was the sole reason for it. This area has been under the control of feudal lords, zamindars and Nawabs for a pretty long time. There were several small princely States who used to force the people to work. Their outlook was so feudal that in order to satisfy their false ego, these people did not allow common men to sit even on the cots before them. Mostly incidents of atrocities have occurred mainly in North India e.g.

Jahangirabad, Deoli, Sadupur etc. I would like to tell about Deoli incident which occurred in 1982 in which as many as 23 persons were massacred. Two main accused named Santosha and Radhe were not allowed to be arrested on behest of the then Chief Minister of Uttar Pradesh who is the leader of opposition today and is leading them. He helped those accused and made them surrendered in the courts only. This ghastly crime was committed in 1980-81 and the case is still pending in the court. The case is being get delayed by big zamindars and feudal lords who have been helping them. Not only this, Santosha filed even nomination for the post of Pardhan from the jail itself. They are providing protection to those criminals. People of Janata Dal are providing protection to persons having criminal's record. I think that if such people come in power what benefit they will provide to Scheduled Castes and Scheduled Tribes. The future of the Harijans will become bleak if they come in power.

Hon. Minister has rightly said that bonded labour is one of causes of atrocities on them. An act to abolish bonded labour system was passed in 1976 on the initiative of our leader late Shrimati Indira Gandhi but bonded labour still exists in our country in one form or the other. In a conference, a high police official had expressed his views that political awareness among weaker sections, Scheduled Castes and Scheduled Tribes, for which credit goes to our Party, was one of the reasons for atrocities on them. The Congress Party has infused a sense of self-respect among them. Now when their self-respect is hurt, conflicts arise and atrocities are committed. Their women are raped and entire village is burnt. I have seen in Uttar Pradesh that atrocities are committed merely for such reasons. Bihar Government faced a lot of difficulties in implementing provisions of Minimum Wages Act. People who commit atrocities do not give minimum wages to these poor people. The Commissioner for

[Sh. Ganga Ram]

Scheduled Castes and Scheduled Tribes has mentioned in his report that farm labourers are given 5 kilograms of flour and some quantity of rice as daily wages or Rs. 8.50 in cash and it is also not known if it is actually paid or not, whereas an amount not less than Rs. 18.50 a day has been prescribed as the Minimum Wage under the Minimum Wages Act. Demand of minimum wages is one of the major causes of atrocities and harassment to Harijans.

Many aspects of the problem have been covered in this Bill. However, I would like to draw the attention of Hon. Minister towards some of points about which he has just made a mention. It is good that a provision has been made to set up special courts which was a long standing demand. In this regard, I would like to submit that cases of atrocities should be disposed of in summary trials, particularly in view of the fact that a number of years are wasted in investigation of the case and justice is not provided to them, as has been said by Shri Ram Ratan Ram. More the delay, more the injustice is done to them. While drawing attention towards section 4 of the Bill, the hon. Minister has stated that if public servant is found involved in it, he will also be punished. I would like to say in this connection that police officers also commit atrocities on Scheduled Castes and Scheduled Tribes. The Hon. Minister should think as to how he will tackle this problem of involvement of police officials in commissioning atrocities on these classes.

14.18 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Their F.I.Rs will be written by the police officers. What provision has been made for this? The Government should make special arrangements for the areas from where a large number of cases of atrocities are re-

ported. It is true that different State Governments have appointed special I.Gs and D.I.Gs for this purpose. But it would have been better if a provision is made specifically in this Bill itself. Of course, a provision has been made in section 4 with regard to atrocities to be committed by the public servants, still there is a need to look into this matter.

I would like to say one thing about the onus of proving the crime. You should think about it. Under section 5 of Prevention of Corruption Act and section 161 of I.P.C., onus of proving innocence lies on the accused. Similarly, onus of proving innocence should be laid on the accused under this Bill. In that case, he will have to prove that he has not committed atrocities or he has not abused or insulted the complainant, then it will be a great thing. People will get justice. I welcome and support this Bill provisions of which are well considered.

I would like to conclude my speech with recital of a few lines of a poem of Shri Rangji:-

"Ab N Sahan Hogi Bebasī ki Yatna,
Ant swayam kar raha srijan ki sadhana,
Aadmi ka kal aaj aadmi bana,
Ek-dusare se aaj ho rahi ghrina
Aadmi ko aadmi ka pyar chahiye
Aaj desh ko naye vichar chahiye"

and

"Vartman ki ore dekhta
aaj Bhavishya Mahan,
Kya Jane kis khyan ho jaye
Navyug ka Nirman"

By moving this Bill, Government has done a very good work. I hope that 25 per cent people of this country will get relief from this Bill, their problems will be solved and their difficulties and troubles will be reduced.

With these words, I support the Bill.

SHRI HARISH RAWAT (Almora): Hon. Deputy Speaker, Sir, I would like to thank the Minister for Welfare for moving this Bill. This Bill is a warning to the people who kept on committing atrocities on the people belonging to Scheduled Caste and Scheduled Tribes by taking undue advantage of some lacunae in the law. I feel that the Hon. Minister has consolidated the various offences so as to include them in this Bill. This Bill has been drafted after indepth studies and careful consideration. I would like to extend my thanks to all those people who have assisted in drafting this Bill and consolidating the list of atrocities, etc.

Mr. Deputy Speaker, Sir, laws were already there for giving protection to the people belonging to Scheduled Castes and Scheduled Tribes but the people who were entrusted responsibility to implement the law, belonged to the class who were averse to it. That is why the law was not implemented properly. This is the reason why we have been raising this issue from time to time in this House.

I am in complete agreement with Shri Ganga Ram that with the awareness among Harijans, atrocities on Harijans have also increased. I would even like to add that whenever a Government comes into power which thinks about the welfare of the Harijans and wants to give protection to them either at the Centre or in the States, incidents of atrocities increase as Harijans and Tribals resist atrocities in the hope that the present Government is benefactor and protector of their rights.

A debate was held in 1982 in this House on atrocities on Harijans. At that time Members belonging to Janata Party expressed view that incidents of atrocities on Harijans had gone down during the period from 1977 to 1980 when they were in power at the Centre, whereas the fact was otherwise. Atrocities were committed in greater degree

but they were not reported because the victims did not want to go to police stations to lodge reports. If at all some of them went to police stations to lodge reports, their reports were not lodged by the police. When Congress Government was formed in 1980, a new awareness was created among Harijans and Tribals who began to feel secure. They again began to resist atrocities perpetrated on them in the villages.

I feel that the drawbacks and loopholes in IPC and criminal Procedure code will be plugged to a great extent after enactment of this Bill. Now accused will not take undue advantage of the loopholes to escape punishment for the crime. These drawbacks have been removed.

Hon. Deputy Speaker, Sir, it has all along been the policy of our Government and the Congress Party that the weaker section should be protected. Even during the days of freedom struggle, Congress Party was the champion of the cause of weaker sections. Removal of untouchability was a part of our national struggle. When Gandhiji talked about freedom from the British rule, he also talked about removal of untouchability and religious discrimination. The Congress Party has inherited these ideals as its legacy. Voice has always been raised against those who commit atrocities. It is the reason why our Government always thinks in this direction. So far as necessity of enactment of laws are concerned, necessary laws have been enacted to check atrocities on Harijans and weaker sections, even then atrocities on them have not stopped because of economic base of the people belonging to weaker sections, Harijans and Tribals is very weak. No atrocity is committed on the person who is economically sound. He can go to the court and seek protection. He can even resist but the Harijans and Tribals who are landless and unable to go to the court for remedy are subjected to atrocities. Even police does not head to their complaints. He

[Sh. Harish Rawat]

has no time to register their complaints.

Government has taken several steps in this direction. Very recently, Jawahar Rozgar Yojana has been introduced and representation of Harijans and weaker sections has been provided in panchayats. This been done because the Government wants to make these sections economically self-reliant and to provide representation to them at the grass-root level. In this way, they will be able to express their views and raise their voice freely without any fear. Unless the weaker sections will be given ownership right of land, they will not be able to resist the atrocities being committed on them. Therefore, I would like to request the Government through you that there is need to allot land to every Harijan under Land Reforms Act so that he is able to build his house on the land of his own and cultivate it for agricultural purposes. This is the primary duty of the Government. Those who do not own agricultural land should be provided other means of livelihood. The Government and the whole society should think in this direction so that the Harijans and the Tribals can become self-reliant. I think this will enable us to control the atrocities to a large extent and to solve the problem. With these words, I support this Bill and thank the hon. Minister of State of the Ministry of Welfare, the Hon. Prime Minister and the Government in this regard.

SHRI BAPULAL MALVIYA (Shajapur):
Mr. Deputy Speaker, Sir, I support the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill. Today, the hon. Prime Minister has assured that all the reserved vacancies shall be filled up within a maximum period of three months and ceaseless efforts are being made to fulfil this pledge. This is a very significant step. It is for the first time since independence that the Hon. Prime Minister has taken the initiative of clearing

the backlog of reserved vacancies. The Hon. Prime Minister has made a major contribution to the upliftment of the Scheduled Castes and Scheduled Tribes through the Jawahar Rozgar Yojna. The Bill under consideration will also go a long way in solving the problems of the Scheduled Castes and Scheduled Tribes as is evident from its provisions.

Two of the provisions of this Bill are very appropriate. I would like to submit the social problems of the Scheduled Castes and Scheduled Tribes in the rural areas and expect that the Hon. Prime Minister will provide assistance in solving them. Apart from these problems, the primary problem is that of land. The 20 Point Programme Coordination Committee was constituted during the tenure of Shrimati Indira Gandhi. Lease Deeds of land were given through these committees but they were not given actual possession of their land. What is the reason behind it. In this connection, the work of the Madhya Pradesh Government is laudable. The former Chief Minister of the State, Shri Arjun Singh and the Present Chief Minister Shri Motilal Vora have done praiseworthy work. A committee by the name of 'Adhikar Abhiyan Samittee' has been constituted there and I am also a member of this committee. This committee has been doing commendable work. Those persons who were given lease deeds for land 15 to 20 years ago have been given actual possession of their land. The Collectors and Tehsildars in the State have been told that if the lease deed holders are not given possession of land, action will be taken against them. They were also told that if the Department of Revenue is incapable of carrying out this task, the assistance of Police should be taken. The results have been very encouraging. 75 per cent of the lease deed holders have got possession of their land and only 25 per cent have still to get it. I think they will also get their possession shortly. Similar committees should be constituted all over the country. If a piece of land belonging to a Harijan happens to be

located in between two plots of land belonging to an affluent person, his piece of land is forcibly occupied and he is evicted with the result that he is compelled to sell it off. As per my experience, if a Harijan has a piece of land in the village and it is also fertile, the caste Hindus would entrap him by turning him into an alcohol addict and would provide money for purchasing the same and in this way, they would eventually rob his piece of land. As in the case of Adivasis, there should be restrictions on the sale of land belonging to the Harijans as well. There should be a law to the effect that the land cannot be occupied forcibly. The land belonging to the Harijans are not registered with the result that they are often evicted by those to whom they owe money. The hon. Minister has stated that 3000 cases of atrocities have come to their notice. Besides these cases, there are several cases which are not reported because the poor Harijans are prevented by the village musclemen from filing their complaints to the police in this regard. In this way many atrocities are committed on them, but the rich and influential people in the village do not allow them to report the matter to the Police and even harm them physically. Some Harijans came to me with their complaints and they informed me that they had to take a separate and a longer route because they feared that the musclemen in their villages would prevent them from going to lodge the complaint. FIRs in this regard should be filed in the local police stations but they are unable to do so and they have to approach the S.P. for this purpose. These days the political leaders and even the Police officers have little say with the result that cases are not registered. Only these influential people hold sway and everybody is at their mercy. This is a very big problem. Presently, police stations have been set up exclusively for the Harijans. But in these police stations also, the situation is same. The policemen who register their complaints demand bribes and in this way atrocities are committed on the Harijans. It has also been observed that the

Prevention of Untouchability Act has also not proved effective. It is necessary to make this law effective. During the Janata wave in 1977, a Harijan Congress worker was much harassed by the BJP workers. He was made to wear the clothes of a woman and made to dance on the streets. Such atrocities should be checked by framing necessary legislation. So far as I think, social programmes are based on social perspective.....

SHRI VIRDHI CHANDER JAIN (Barmer): Provisions have been made in this Bill.

SHRI BAPULAL MALVIYA: I am putting forward one suggestion. You will observe that Harijans are discriminated against on social occasions and at public places. They are not allowed to sit at the same place with the Caste Hindus. If the Caste Hindus sit on the mats, the Harijans are told to sit somewhere else. If the Harijans sit on the mats, the caste Hindus sit on raised platform. This kind of discrimination which is practised everywhere should be removed. Atrocities are committed on women but they are prevented from reporting them. Much discrimination is practised in the rural areas. The Harijan children are not allowed to sit along with the children of other castes. In the tea-clubs of the teachers, the Harijan teachers are not included. The messengers also do not fetch tea for them nor do they wash their clothes. Consequently, the Harijan members of the staff refuse to become members of the staff tea-club. These are minor problems which should be removed. I think, the Government should look into this aspect of practising discrimination even in places which are open to all. There are private temples in rural areas and the Harijans are not allowed to worship in these temples. The newly-wed Harijan couples cannot enter into any temple and offer their prayers to the deity. Therefore, I would like to suggest that measures should be taken to build separate temples for Harijans in the

[Sh. Bapulal Malviya]

Harijan colonies in order to avoid any confrontation. With these words, I thank the hon. Minister for moving such a magnificent Bill and I would like to offer my support to it.

[English]

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Deputy Speaker, Sir, man's inhumanity to man has no limits. Indeed no species of life on this earth is as cruel to itself as the homo-sapiens. This morning we woke up to the horrifying news of Gohpur, which is the latest case of atrocities. But my mind goes back to a few years ago when I visited a Harijan village in Andhra Pradesh, where everybody had been terrorised out of the village, except a lone woman, an old woman who had lost her mind and was loitering through the streets with a blank face and there was a dog following her. I could see the charred remains of rice in the granaries of various houses which had been turned into carbon. Madam, these atrocities are not only directed against a community, they are directed against the nation, they are directed against humanity, and it is with this sense and purpose that we have got to fight them out...*(Interruptions)*.

SHRI BIPIN PAL DAS (Tezpur): When did that incident take place in Andhra Pradesh?

SHRI SYED SHAHABUDDIN: Around 1981 or 1982. I had a meeting of the National Executive of the Janata Party there at that time and then I visited that place.

SHRI BIPIN PAL DAS: What is the name of that village?

SHRI SYED SHAHABUDDIN: I have forgotten the name. I will give it to the Madam Minister some time.

Sir, man does not live by bread alone. He essentially needs dignity, he essentially needs a social existence, social recognition, social respect as a human being. Therefore, I congratulate the hon. Minister for bringing this Bill before us. It has been overdue. We have long contented ourselves with an illusion that by passing the Protection of Civil Rights Act, we have done all that was needed, that by putting in beautiful phrases in the Constitution we have done all that was needed. I am happy that the Government has realised that atrocities need to be dealt with a firm hand, with all the power that is at the command of a civilised State, with all the feelings and emotions that we can bring to bear on this despicable situation as human beings and as citizens of a country which swears by Mahatma Gandhi.

These atrocities cut across the political complexion of the State Governments and, therefore, one should not look at it as a party question. It is a shame for the country. It is a national problem and we have got to look at it and deal with it as a national problem.

The other day a case was referred to here in the House, of a Harijan being forced to eat human waste. I came across the other day a case in which a citizen of free India...*(Interruptions)*

AN HON. MEMBER: It was a place in Karnataka where Janata regime was there.

SHRI SYED SHAHABUDDIN: I also came across a similar case of a Harijan only recently, who had been forced to drink urine in Uttar Pradesh in the very constituency of the Prime Minister and I have brought that case to the notice of the Prime Minister. Not that I am holding the Prime Minister responsible for that case of atrocity. Far from it. But what I am trying to say is that this is a social and a national malaise which cuts across political barriers and, therefore, we have got to unite here in this House to fight against this evil.

Here is a list of atrocities committed in 1987 and 1988. The figures are here. I do not know how far the figures represent the truth because many of these figures are only partial truth. It is only where a person finally gets across the many administrative, social and legal barriers to record his anguish and his pain and his shame that they appear here in the reply. But even as it is, they are rather revealing. I have got the figures for Bihar, Gujarat, Kerala, Madhya Pradesh, Rajasthan and Uttar Pradesh. I have chosen all those which have recorded more than 500 cases in a given year. There, six States alone account for 85% of the cases of atrocities recorded. I think some special effort has to be made by the Central Government and I would request the hon. Minister to draw the attention of the Chief Ministers of these States to make a special study as to why is it that these State are responsible for so many atrocities. Therefore some very special methods are necessary to fight this evil in those States.

Mr. Deputy-Speaker, Sir, I would like to place a few suggestions before the hon. Minister. It is absolutely necessary that the weaker sections like the 'Harijans' and the 'Adivasis' have due representation not only in the Police Force, but in the Intelligence machinery and in the Magistracy because the Police does not act by itself. It is all these three agencies which together by their sins of omission and commission make such atrocities possible. Therefore, I would plead with the hon. Minister to ensure that there is due representation in all these three branches and that not a single seat which is in the reserved/quota remains unfilled. What is more important is to have a composite pattern of deployment in the particular districts which are atrocities prone. For example, in every 'thana', in such areas, in every scheme of deployment of the magistrates in these areas, in these districts, you must ensure due representation of the weaker sections. I would suggest to the hon. Minister for her

consideration that in every district let there be one thana specially for recording the cases of atrocities and it should be manned from top to bottom by the weaker sections only. Just have one thana, call it by whatever name you like because the poor illiterate Harijans and Adivasis and weaker sections are not permitted access to the normal thana. They are shoved away. They are treated as sub-humans and they are not permitted to record their anguish. Whereas in such a separate thana their pain and sufferings shall be shared by the people in power and they shall be humanely impelled to record these cases of atrocities and it is these Thanas which should then be responsible for investigating these cases of atrocities. The thana alone will not do. The political parties casting aside all the differences, and other social organisations, all those who speak in the name Gandhiji and Nehru must organise themselves into Committees for the protection of civil rights at district level, at the town level so that any Harijan, any Adivasi, any member of the weaker section who feels aggrieved can go to them and seek their learned assistance and seek their expert help. Let these voluntary institutions be given full support by the Government.

Sir, I would like to suggest one thing which is not there in the Bill. Any person who is convicted of an act of atrocity as has been defined in this Act, should be disenfranchised from voting, from standing as a candidate in any elections in this country. He has no right to commit an atrocity and then come up and demand a share in running the society. Total disenfranchisement of any person who has been convicted of any offence under this Act including public service should be applied. I would like to draw the attention of the hon. Minister to historic judgement recently by the Madras High Court, by the Justice Khadar. Of course it was given in a different context. But the basic situation remains the same. His argument was that the State's primary duty is to protect the life

[Sh. Syed Shahabuddin]

and property of the citizen and if for some reason the Police system of the State fails, the State is morally bound to compensate the citizen for the loss that he has suffered. Here in this Bill you talk about some compensation, some relief and rehabilitation as a gesture of generosity. No. It should be taken as a matter of right, as a matter of State obligation for the failure of its machinery for the failure to perform the duty that it is supposed to exist for. Therefore, there must be full compensation for all losses suffered, and for loss of lives and injury you must have a prescribed scale as there is in the case of Industrial Accident Act. Depending upon the age of the person, the earning period ahead of him, his earning capacity, you work out a definite reasonable sum that he would have earned had he lived. Similarly in the case of loss of property, there should be a compensation on the basis of full substitution, not that you give a Harijan a paltry sum of Rs. 100/- to buy a few bamboos to re-erect his shelter. Whatever he has lost due to the negligence of the State, due to the failure of the machinery, must be fully compensated on the basis of substitution. Substitution cost should be the criterion for all losses of property. Of course, punitive fine is mentioned there. But I would like to emphasize that the entire society is responsible for these atrocities, those who commit them and also those who remain silent spectators. Therefore, take the mohalla as a unit, take the panchayat as a unit or take the revenue village as a unit and let everybody contribute towards the punitive fine so that out of the punitive fine, you can pay the compensation that I have just demanded.

Sir, as far as the public servants are concerned, there is a lovely clause which I welcome fully. They are subject to prosecution, but they must be punished even administratively because sometimes it may not be

possible to bring home the charge, to prove it in a Court of Law. Therefore, there must be administrative punishment for anybody who is negligent, who is found not to have acted in time, who is found to have looked the other way while the atrocities have been committed and atleast there should be a black mark in his record. He should at least be subjected to suspension.

Sir, I fully support the view of Mr. Ganga Ram that there should be a summary trial. Merely a Special Court would not do. A Special Court must have a summary procedure and a time-bound activity in order that these atrocities can be controlled.

I am fully conscious of the fact that violence and atrocities will continue to mount in our society because we are passing through a state of transition. People are standing up and demanding their rights. People are asking for the minimum that are due to them under the law of the land. They do not want anything more and yet for that cry, they are punished. Even today, I have seen a report from Bihar where some Harijans merely for the sin of asking for minimum wages were fired upon one person was killed and 30 others injured. Therefore, you have to steel your nerves, if the State, is to exist as a civilised State, you have got to gird up your loins, you have to stand up to this challenge and you have got to take a full measure of the situation of whatever power has been vested in you by the people of India and bring it to bear upon those mischievous elements who are bringing disgrace to the country until Gandhi's dream is realised, until justice dawns in our society, until we learn to treat each other as human beings and not as 'them' not as another group, but as human beings and as common citizens of a free India.

[Translation]

*SHRI HARIHAR SOREN (Keonjhar): Mr. Deputy Speaker Sir, I rise to support the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill, Sir, 40 years have passed since we achieved independence. The Govt. of India have taken a number of steps for the welfare of Scheduled Castes and Scheduled Tribes. But, it is a matter of great regret that these people are still neglected. They are still suppressed and oppressed by the upper caste people. So, this Bill will go a long way in protecting the Scheduled Caste and Scheduled Tribe from the atrocities. So, I welcome this Bill. The Honourable Minister, Smt. Bajpayeeji is looking after this Ministry. She has studied the problems of the Scheduled Castes and Scheduled Tribes. Therefore, she has brought this Bill before the House. There are some good provisions in this Bill. But, mere passing of the Bill and making Act will not be able to stop atrocities on Scheduled Castes and Scheduled Tribes. We have to find out the root cause for the atrocities which are being perpetuated on them. If we make a proper analysis of it we will see that social, economical and educational backwardness are the main reasons as to why atrocities are being perpetuated on them. The entire Scheduled Caste and Scheduled Tribe population in the country is not educated. Due to their illiteracy, they are not able to know many things which are going on in the country. Since the economic condition of these people is not sound, they are not able to get respectable status in the society. Of course, our Govt. have launched several schemes for the upliftment of the Scheduled Castes and Scheduled Tribes. The Govt. want to enhance their status in the society by conferring many economic benefits on them through various schemes. But the duty of the Govt. will not be over by launching those schemes and by allocating funds under those

schemes. The Govt. is to see as to whether the schemes launched for the welfare of Scheduled Castes and Scheduled Tribes are effectively implemented or not, the Govt. is to see as to whether funds earmarked under those schemes are properly utilised or not. So far as my information is concerned, the officials who are put incharge of implementing various schemes for the socio-economic development of Scheduled Castes and Scheduled Tribes are not doing their duties honestly and sincerely. They are not able to provide benefits to all the beneficiaries.

Similarly the officials who are supposed to maintain law and order and to protect the lives and property of the Scheduled Castes and Scheduled Tribes are not able to give them due protection at the appropriate time. They are not able to check atrocities perpetrated on them (Scheduled Castes & Scheduled Tribes).

15.00 hrs.

If we will not be able to give due protection to the SCs & STs, the situation will further aggravate in future and it will be beyond control. Sir, I would like to say a word about the Reservation policy of the Govt. I thank the Govt. for making reservation of posts for SCs & STs. In the past the posts reserved for SCs and STs were not being filled by SCs and STs. on the plea of the non-availability of suitable candidates from among them. I am grateful to the Govt. that special drives have been launched to clear the backlog of employment of SC & ST candidates. This will protect the interest of the candidates. In this context I would like to say one thing. Sir, at some places we find that the SC & ST candidates are able to secure the marks supposed to be secured by general candidate. That means they are qualified to get the posts reserved for general candi-

*Translation of the speech originally delivered in Oriya.

[Sh. Harihar Soren]

dates. But it is seen that whatever best may be their performance they are appointed only against the posts reserved for them. If we take this attitude then the upliftment of SCs and STs will not become possible.

15.01 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Sir, you know the present situation in the county. At one place it is uttarkhand, at another place it is jharkhand, at some other place it is Bahujan Samaj Vadi and at some other place it is Bodo in the name of the movements are rising their ugly head. I do not support these movements. But we cannot reject the issue simply by saying that the movements are unlawful. What are the root causes of their movements? Is it a fact that the people involved in those movements are being neglected since long, is it a fact that they are being suppressed by the upper caste people., if so, how will the Govt. protect them? How will the Govt. take action against the people who are exploiting them? All these factors should be studied very carefully. If we will be able to stop atrocities, if we will improve their economic conditions and if we will give them proper status in the society, they will never be involved in any kind of movement. Atleast I know that the tribals are simple and innocent and they are peace-loving people. So, we must provide them protection and we must give them social justice. The Honourable Minister an experienced Minister. I request her to study the burning problems of SCs and STs. Then she should take immediate steps to tackle those problems. Otherwise you cannot cow down them. Because 40 years after independence now a kind of awareness is being created among them. They know that due justice has not been given to them in all these years. Therefore please find out someways to remove their problems and restore peace in

the society. Sir, our Govt. have drawn up various schemes for the upliftment of SCs and STs. Most of those schemes are being implemented in the country. But it is regrettable that the State Govts. are not very sincere in the effective implementation of those schemes. Therefore I would like to urge upon the cenral Govt. to send necessary instructions to the State Governments to implement those schemes with right earnestness and sincerity. Because it involves the upliftment of SCs and STs.

Sir, my second request is with regard to the better administration in the tribal areas. Some provisions have been made in this regard in the 5th and 6th Schedules of our Constitution. These provisions have been made to tackle the problems of tribals. Separate administrative systems have been provided in some tribal populated areas under the provisions made by the 6th Scheduled of the Constitution. It is seen that the people are living peacefully in those areas. They are not being exploited by the upper caste people. The development process is taking place in full swing in those areas. The people living in those areas are very much satisfied with the existing administration. But the situation in other tribal areas which are under 5th schedule is different. The people have many grievances. In order to help them getting the full benefit of the various schemes which are being implemented by the Govt. and in order to give them due justice it is very necessary to bring all the tribal areas under the 6th Schedule and necessary administrative system should be introduced in those areas. With these suggestions I thank you very much and conclude my speech.

[*English*]

SHRI DIGVIJAY SINGH (Rajgarh): Sir, I rise to support the Bill and congratulate our Prime Minister Shri Rajivji and our Welfare Minister Shrimati Bajpaiji for bringing this Bill which, I hope, shall go a long way to curb the

atrocities on Scheduled Castes and Scheduled Tribes.

Sir, it is unfortunate that in spite of giving Scheduled Castes and Scheduled Tribes the constitutional protection and protecting them under the Civil Rights Act 1955 and various provisions of Cr.P.C. and I.P.C., we have been unable to curb the atrocities on SC and ST. We must realise that it is the structure which is coming in the way. We find that the system is not responding to the needs of today and it is not solving the problem at the ground level and, that is why, whenever we find a situation like this, we again come back to bring in some kind of different law to make the penal provisions more stringent. What is needed is a political will at the State and district level so that the enforcing authority and the political masters take stringent action against those persons who are committing these atrocities on Scheduled Castes and Scheduled Tribes.

I welcome the penal provisions made against those officers who are negligent in their duty regarding the provisions made in this Bill. But I do not understand why the officers belonging to Scheduled Castes and Scheduled Tribes have been exempted from these penal provisions. I feel that officers and the public servants belonging to this section of Scheduled Castes and the Scheduled Tribes have a greater responsibility to see that these penal provisions of this Bill and the provisions of this Bill are faithfully implemented because ultimately it is their kith and kin who are to be helped. I request the hon. Minister to consider and delete this provision.

I do not understand why, although after making the penal provisions, we are not monitoring the percentage of conviction in such cases. Simply booking them under the law and bringing them before the court is not the answer. We have to ensure, through a close monitoring of such cases, that convic-

tion is to a higher level and then only, we shall be able to curb this. We have cut across by setting up special courts in this Bill. But that is not all. After all, he still has a right to appeal to the high court and the Supreme Court. This itself will take years before the accused can be punished. The judicial structure today in this country. I am sorry to state—is heavily loaded against the poor. Although we have provided for payment of travelling allowances and miscellaneous expenses for witnesses and the victims, still it is the duration of the actual crime committed and the punishment given which is detrimental to such happenings occurring again and again. This is why, I feel that it is time when the Government itself thought about the restructuring of the whole judicial process whereby the right to appeal is restricted.

It is a very welcome sign that the provisions have been made to rehabilitate the victims of such atrocities to an extent possible. What is needed is that, as rightly pointed out by Shahabuddinji, we have to fix the quantum of the rehabilitation and the compensation paid. Otherwise, it may differ from State to State and according to the whims and fancies of different persons.

As I pointed out earlier, untouchability is an offence under the present law. But is it being enforced? Have we eradicated untouchability from our country? I am sorry to state that we have not. Still in the villages we have separate wells for Harijans, separate temples for Harijans. Why have we not been able to take action against those persons who are practising untouchability in the rural areas? I am sorry to say, a person of the stature of Sankaracharya of Puri openly advocated untouchability through the Press and he did not contradict that report. We have not taken action against him. We want more Jayendra Saraswathis in this country—the Sankaracharya of Kanchi—who are working for the uplift of the Harijans and working against untouchability.

[Sh. Digvijay Singh]

It is the responsibility of the caste Hindus to see that atrocities are not committed against SC and ST people. We have to change our frame of mind and accept them as brothers. Then only will we be able to make progress on this issue.

I feel that some of the provisions made are a little harsh. Simply throwing of waste in front of the house of a Harijan has been made a cognizable offence. Those people who know the village closely would realise that this would be a daily occurrence. How many cases will you register? This would give way for the police officers at Thane level to harass people. So we have to reconsider this. Throwing of agriculture waste is not such an offence as could be made cognizable; this could be deleted from the Act.

I strongly support the stringent penal provisions made regarding the usurping and the wrongful occupation of the land allotted to the SC and ST. There is ample scope for this provision because we find that the land allotted in the rural areas has been by and large taken away by the powerful people. It is there even in Madhya Pradesh. I should be ashamed of myself to come from a State where the highest atrocities take place in this country. We have taken a very positive step in the State of Madhya Pradesh whereby through a special programme of Adhikar Abhiyan, we have taken up restoration of land to the title holders. You would be happy to know that 62000 people who were not in possession of their land and were only holding Pattas has been given land under this programme.

The problem is more socio-economic than prohibitive or regulatory. We realise that 66% of the rural landless in this country are from SC. What is needed is mass oriented agrarian reform, faithfully implemented and monitored by specially constituted land

tribunals and manned by people belonging to the SC and ST or by persons who have a definitely known leanings for the SC and ST. Then only will we be able to implement faithfully these land reforms.

Today although we have fixed the minimum wages, they are not being given. Although we have fixed minimum wages. I know from any experience, they are not being given. Until and unless such things are monitored closely by some special committees or by the land tribunals, we will not be able to justify our intentions.

Land absorbing and land augmenting technical innovations have to be made. You would agree with me that most of the disputes which arise in the rural areas are through non-payment of wages or poor payment of wages. The Government has to step in where we provide adequate work for at least about hundred days in a year. We are very happy, the Hon. Prime Minister Shri Rajiv Gandhi has come out with special programmes under the Jawahar Rozgar Yojana. The other point is political decentralisation. Until we politically decentralise power and give power directly to the elected representatives of the people, we will not be able to enforce these laws and all these programmes.

Another thing is the grass-root mobilisation of the Scheduled Castes and the Scheduled Tribes and bringing about an awareness amongst them that they enjoy fundamental rights under the Constitution, and that they enjoy civil rights under the Civil Rights Act. Until and unless they know the provisions of the Act, we will not be able to bring them up to the mainstream.

Administrative restructuring and planning from below is another feature which is important. Shri Rajivji has rightly taken the initiative to decentralise the power to panchayati raj and also provide work for the

landless. Now that we have taken the initiative, the ball is in the court of the State leaders – the politicians in the State capitals – to implement these laws and regulations.

I would like to say a word about the tribals. We have a large tribal population and especially in my State of Madhya Pradesh, they are about 22.5%. The Jharkhand movement has been going on for a very long time. We have to give a serious thought to it. I congratulate the hon. Home Minister for starting a dialogue with the Jharkhand leaders. What are they asking for? They want to be the masters of their own destiny. What are they asking for? They are only asking for self-rule. If we can give it to the Gorkhas of the Darjeeling, why cannot we give it to the tribals of the Central India? It is a serious thing which we have to consider with an open mind. Let us not reject it outright. After all, you cannot deliver the goods at the lowest level until and unless you have the people's involvement in the system, people's involvement in the delivery of the schemes, policies and the programmes. Therefore, I faithfully urge upon the Minister to convey my feelings to the hon. Prime Minister and to the Home Minister to consider this very seriously.

PROF. N.G. RANGA (Guntur): Your Chief Minister also. That is the real trouble.

SHRI DIGVIJAYA SINGH: Certainly, Sir. I have said it earlier. The ball is in the court of the Chief Ministers because ultimately they are the people who are to implement the laws at the grass-root level.

In the end, I once again congratulate the hon. Prime Minister. He has shown by his actions – whether by filling the vacancies in the Scheduled Castes and the Scheduled Tribes quota or by giving reservations in the Panchayati Raj System and now with the present Bill the he has brought forward – that he is cast in the same mould of the Congress

giant like Pandit Jawaharlal Nehru, Mahatma Gandhi who have brought in a revolution in this country. Here, of course, what remains will be eradicated by this Bill.

SHRI P.M. SAYEED (Lakshadweep): Mr. Chairman, Sir, I congratulate the hon. Minister for having brought this Bill before this House. It is a well thought out Bill. It deals with almost every aspect regarding the atrocities committed against the Harijans and Advasis in our country.

As you know, we have passed many laws in this very House eradication of untouchability, Civil Rights and many other laws. But, why is it that the atrocities are on the increase? My humble view is that, of late, on account of the increase in the percentage of literacy and also of the improvement in the economic field, the Harijans and Advasis are trying to assert their rights. Naturally, they will assert their rights. Some old feudal, affluent, powerful, high-caste sections of our society will naturally resist with more vigour to see that the rights these communities want to assert get defeated. When these atrocities are going on in this country what are we do to do? The point I want to make is that this Bill after having been passed should not meet the same fate as the earlier Acts like Eradication of Untouchability and Civil Rights had met with.

There are many salient features in the present Bill which is proposed to be passed. For example, for the first time we are fixing the responsibility on the officers who are going to implement this piece of legislation at the grass root level. Supposing this piece of legislation also meets the same fate as the earlier ones then what do we propose to do. My suggestion for that would be that at least, in the first instance, you will be in a position to know such atrocity prone areas in the country where atrocities are committed on the scheduled castes and scheduled tribes. Now such areas will get identified. Secondly,

[Sh. P.M. Sayeed]

the officers who have got sympathy towards these communities must also be identified and some awards should be given to them whenever they implement the provisions of this Bill in letter and spirit.

Mr. Chairman, Sir, I would also like to congratulate the hon. Prime Minister for this. He has toured the length and breadth of this country and seen the plight of the Harijans and the Adivasis. Even the hon. Minister herself has arranged so many seminars, conventions, meetings of the scheduled castes and scheduled tribes MPs and MLAs and other experts. After having studied the problem in depth she has brought this measure. We only hope that this will meet the requirements of the country. It is really very sorry that even after forty years of Independence the scheduled castes and scheduled tribes population of our country – which is about 25 per cent – are not able to assert their rights and we are not in a position to give them their due share. The intention of the Government is very well spelt out in this measure. I would have been happy if the Opposition had been here and participated in the debate and given their suggestions. Instead of that they have chosen to remain outside and accuse the Government of bringing in all these measures with an eye on the coming general elections. The other day when the Panchayati Raj Bill was being discussed many hon. Members had touched this point. For four long years that aspect had been deliberated upon and fifteen thousand experts had cooperated and discussions were held at length. After that, it was brought before the House. The Harijans and Adivasis are now going to be given reservation in each village panchayat according to their population. Why should we not ask the State Governments to make such laws to see that these measures are implemented through them? There will be an inbuilt mechanism through which they themselves can spot out

where exactly the troubles are taking place.

I feel that it is a good measure and has to be endorsed by one and all in this House. I think, if it is implemented with the same intention with which this has been brought before the House, the age-old atrocities and other inhuman things which are being inflicted by various high-castes, powerful and affluent sections of the rural society, will definitely be checked. Therefore, I wholeheartedly support this measure and congratulate the Prime Minister once again. Thank you very much.

SHRIMATIBASAVARAJESWARI (Belary): Mr. Chairman, Sir, I am happy to thank the hon. Minister for having brought forward this historic and revolutionary Bill. We have already passed the historic Panchayati Raj and Nagarpalika Bills.

Most of us refuse to become the Minister of Social Welfare – myself and Dr. Rajendra Kumari Bajpai being exceptions. When ministerships are offered, most of them would like to become Industry Minister, Finance Minister or Minister for some other department. But nobody is willing to become Minister for Social Welfare unless he or she is very much sympathetic and can involve in the welfare of the poorer sections of the society. In that way, I congratulate Madam Bajpai for having taken charge as Minister for Welfare and having brought this historic Bill. I too was Minister for Social Welfare in Karnataka State. I know something about the atrocities on and welfare of the people belonging to the Scheduled Castes and Scheduled Tribes.

PROF. N.G. RANGA: So, we congratulate you both.

SHRIMATI BASAVARAJESWARI: We have already taken several measures to uplift the socially and economically backward people. But still we could not overcome

this problem. We have taken up a lot of anti-poverty programmes like IRDP, NREP, RLEGP. But what benefits have reached them? I am very sorry to say that the benefits have not reached them fully. There are various reasons which I am going to explain shortly.

As stated by the hon. Minister, we have given scholarships for their education. We have distributed the surplus land for their socio-economic gains. We ask them to cultivate the wasteland wherever it is available. We have asked them to cultivate forest land wherever it exists. We have worked out so many schemes for the welfare and economic upliftment of these sections. But what is going on? The real fact is that the schemes through which we are doing our best to help them, are not reaching them. The reason behind this. Unless and until we bring total prohibition in this country, I don't think we would be in a position to bring them on par with others. Whatever amount we give and whatever wages they earn and whatever economic benefits we give for them are being misused by this section of the society. The first and foremost thing which we have to think is of total prohibition in this country. We may lose some revenue by this. But we should not mind. We are the followers of Gandhiji and so, we should be proud to say that we are going in for total prohibition in this country. If we want the poor ladies to be protected from all these evils, this is the only measure. By this measure, we can make them economically and morally well-off.

The next point is about education. We are trying our best to give education to everybody. We have been implementing the ICDC project for the welfare of children and also nutrition programme. I would like to know as to many centres have been started in the colonies. So many 'anganwadis' have been started under the ICDC project but I find that very few of them have been started in Harijan colonies. When we start more and

more 'anganwadis', we should try to see that children who are brought in one environment are shifted to another environment. Only then, the whole scheme will be successful. We have to change their environment first. How best to change their environment will depend on starting more and more 'anganwadis' in the colonies instead of doing the same in the towns where there are more facilities to enjoy. We should try to see that more 'anganwadis' and health centres are started in the tribal areas and Harijan localities and so also the schools. We have started more schools under the new education policy. We are going to strengthen secondary education under this new education policy. There are a number of single-room schools in the colonies. There are hundreds of children studying in such schools. We should try to strengthen education in these colonies themselves by providing more and more schools and more and more teachers. We should make it compulsory for children to attend their schools. I would like to know from the hon. Minister as to how many drop-outs are there. You try to make a survey of the whole subject and try to find the number of drop-outs. Children attend schools at the most upto fourth or fifth standard or SSLC. After that, very few go to college due to poverty. And for the same, parents are not in a position to send their children to college. We have to provide them with some alternatives so that they need not depend upon the wages of their children. They take their children to the fields just to supplement their income. How can we create a feeling among people that they can live without the wages of their children?

These things should be taken care of. Moreover, they have their own differences, such as, they belong to this group or that group. I do not understand as to why there are disparities. Whenever I visit them, I have been telling them not to try to establish such kinds of disparities and we all belong to the same nation and they all belong to the same

[Smt. Basavarajeswar]

weaker sections of the society. And if they fight among themselves, what will be the outcome? We must remember Madam Gandhi on the Floor of this House. She had brought the political awareness among the minorities, backward classes and Harijans. She had taught us about our rights. But till now, we are not utilising those rights properly. Minister stated, while defining atrocity, that when we ask for our rights, atrocities are committed on us. What has happened in Karnataka? We are pained to see that such things still continue in this country. In Karnataka there was a reformer in the 12th century, Lord Basava. Prof. Ranga knows that. He wanted to eradicate social evils in our society. He made revolutionary reformation in Karnataka. He was a great reformer. He made one Harijan girl marry a Brahmin boy. But he was so much harassed and tortured that he had to leave the kingdom and he committed suicide. He did his best in those days in the 12th century. And today, in the 20th century, we are shameful to see that such things are being practised. As Shri Shahabuddin said, this is not to be viewed politically. It is a national issue. Everybody should take it that we are all one in these matters. We should try to love each other.

As survey was undertaken and it revealed that persons who belonged to the same community, scheduled castes or scheduled tribes, once they achieved something, they were not very much in favour of developing their own brothers and sisters. Why is it so? Why do they forget their own brothers and sisters? The survey also revealed that they were ashamed to go to their own colonies. Why should it be so? In fact, they should be involved more in these kinds of things. We must put an end to this sort of attitude.

Then, under the Land Reforms Act, surplus land has been given to these poor

people. Wherever we have given land, there should be some checks and balances to find out whether the land given to these people is being cultivated by them. Legally, their name may be there in the record, but who is the person actually cultivating it? The fact is that it is being cultivated by somebody else. Who takes the amount of fertilizers given to them? The moment they get the fertilizer, they sell it. What about the implements and seeds being given to them? That is not going into their hands. What is the reason for that? You should find out and set these things right. You should not think only one line, you should think the other way also.

What about the facilities being extended to them under the various schemes like IRDP? We give them buffaloes, cows, bulls and so many other things. If you go and see next day, you will not find them there. That is why we are not achieving the development that was anticipated by us. The real benefits are not reaching the beneficiaries. You should try to find out the reason. You must have a check on the persons who are not utilizing the aid being given to them. Unless we do this, I do not think, the benefits will reach the proper persons. We should be very careful in these things.

Dr. Ambedkar, during the days when the Constitution was being drafted was awake at 2.00 O'clock in the night one day. I read that in one of the books. When one of his friends asked him why he was awake at that time, he said: "How can I sleep unless my poor people can sleep during the night?". There is still a lot to be done. Poverty is still there; so many social evils are still prevalent in our society. Even today the devdasi system is very much prevalent. Girls are being offered in the name of God freely. Such social evils need to be eradicated. Devdasi system, nude processions etc. in the name of God are very much prevalent in States like Maharashtra and Karnataka. Unless we put an end to these systems, I do not know how we can call ourselves as civilized persons. We are

ashamed to see that our sisters are being offered in the name of God freely, which ultimately leads to prostitution. These things should be immediately curbed. Some of the States, I think, enacted laws to rehabilitate these unfortunate devdasis and their children, but that has not proved effective. Those devdasis and children are very much there. Some serious thought has to be given, so that these ladies and children are rehabilitated and kept in proper and good environment, so that the children can be given proper education. Unless these evils are checked, I don't think by bringing this legislation we are going to improve the entire social and economic structure of this community. The word 'atrocities' has been defined very nicely but the only thing is that it has to be implemented also by way of morally as well as legally enforcing the law. At the same time people should be given proper education and teachings. All the 'swamijis', 'gurus', Lords and 'dharam gurus' should come forward to teach the people that we are all one. Unless our leaders come forward and give a call to the nation, we don't think that we can enact it firmly and the condition of these people will improve. With these words, I thank you very much.

[Translation]

SHRI MANIKRAO HODLYA GAVIT (Nandurbar): Mr. Chairman, Sir, I am grateful to you for providing me an opportunity to express my views on Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill. The hon. Minister has taken a good step by moving this Bill. I would like to thank her for this step. In view of the provisions made in this Bill and the views expressed by the hon. Members of the Parliament, I can say that if the provisions of this Bill are implemented properly by the Centre and the State Governments, the Scheduled Castes and the Scheduled Tribes will get justice.

Mr. Chairman, Sir, as you also belong to Maharashtra, you are well aware of the atrocities being committed on the people belonging to Scheduled Castes and Scheduled

Tribes in almost all States of the country. It is known to all the hon. Members of the House including myself being a Scheduled Tribes, besides other people, police personnel also commit atrocities on them. Despite enactment of laws, atrocities are still being committed by the public as well as the police. Whenever a victim of atrocities goes to police station to lodge a complaint he is confined in police lock up where he is threatened to the extent that he loses his confidence in lodging a complaint. Such types of atrocities are not reported. In the tribal society in my district, exorcism is practised. The exorcist is called 'Bhagat' in local dialect. These Bhagats often have long hairs on their heads and treat the people of their diseases. A complaint was lodged against a Bhagat of my area that he had stolen a thing from the field. Despite the fact that Bhagat owns 27-28 acres of land, the police dragged him by the hair, and lodged him in the police lock-up. He was not only beaten but he was also made baldpated by the police. When he made a complaint, it was not lodged. When I came to know about it and enquired from the Superintendent of Police, he did not deny the fact that the complaint had not been registered. Whenever a poor man or a tribal goes to the police to lodge a complaint, his complaint is registered but later on it is said that no atrocities has been committed. It is said that when the Department of Welfare was a part of the Ministry of Home Affairs, it had more say in the States. But now it has been made an independent department. So I would request the hon. Minister to do the needful so that the Department could exercise more authority over the States.

The Minimum Wages Act has been made for the poor and the Scheduled Castes and Scheduled Tribes. But it has not been implemented properly in many states. Attention should be paid to this also.

Recently, our Hon. Prime Minister Shri Rajiv Gandhi has made an extensive tours of the areas inhabited by the people belonging to Scheduled Tribes. He visited the huts of these poor people. He saw there the magni-

[Sh. Manikrao Hodlya Gavit]

tude of poverty and felt their needs. For this reason, this Bill has been brought here.

The Hon. Prime Minister has instructed that the backlog of reserved vacancies for the persons belonging to Scheduled Castes and Scheduled Tribes under the Government of India and the State Governments should be cleared. Their quota of reservation as provided in the constitution should be fulfilled. Recently, I have received a complaint that the Postal Department in Maharashtra has advertised some posts under special drive in a newspaper named 'Lok Satta'. Applications were to be sent within seven days. I would like to submit to the hon. Minister that how a candidate can send his application within seven days. No candidate belonging to these categories would apply to the post. As a result thereof, backlog will not be cleared and the officer concerned will write to his superior that "candidate not available. When a super class I office in Maharashtra Circle have this type of attitude towards us, what can we expect from the lower level officers? Our Hon. Prime Minister wants that the backlog should be cleared. But how it can be cleared when they are given 7 days time to send applications. Attention should be paid in this regard. The time schedule as directed by the Hon. Prime Minister for clearance of the backlog should be extended further. The last date by which backlog is to be cleared is 31st October, 1989. It should be extended further.

I have heard that special courts have been set up for trial of cases of atrocities committed on the people belonging to Scheduled Castes and Scheduled Tribes. When their complaints are not registered in the police stations, who will heed to their complaints in the court?

A big irrigation project by the name of Sardar Sarovar Project is being set up on Narmada river at a place where borders of Madhya Pradesh, Maharashtra and Gujarat meet. Land of 33 villages of Maharashtra and some tribal villages of Gujarat is being

acquired for this project. Nothing has been done so far for their rehabilitation. Neither any alternative land nor adequate compensation for their land is being given to them. They are given land by the Government, on town planning rate, whereas the land of poor is acquired at throw away prices at Rs. 4 to 5 thousand an acre only. The Government is in favour of doing something in this regard. Unless Government take same steps justice cannot be done to the people belonging to the Scheduled Castes and Scheduled Tribes.

District Rural Development Agencies have been formed to implement all these programmes. This Agency is also responsible for implementing the schemes under the Jawahar Rozgar Yojana. The funds provided to the Gram Panchayats under Jawahar Rozgar Yojana will be spent through this Agency. I would like to submit that officers of clean record only should be posted in these agencies, other-wise all the money will be pocketed by them and the Tribals and the poor will get nothing. That is why I am giving stress time and again on the fact that the Government should take steps to provide justice to the poor with much alacrity.

I would also like to submit that a large number of persons belonging to communities other than the SC/ST have availed of facilities by producing bogus caste certificate. On the basis of bogus certificates, they got admission in various educational institutions such as I.T.'s, medical colleges and engineering colleges, etc. These bogus tribals living in cities are enjoying facilities meant for the tribals living in hill areas. They obtain caste certificates on the basis of affidavit. Thus the genuine tribals are deprived of their facilities. I urge upon the Government to weed out bogus tribals. In 1977, the Government of India removed the area restriction. Due to this decision, a number of non-eligible persons could get caste certificates showing themselves as tribals. Those certificates are still valid.

Recently a Central Minister paid a visit to a Department of Central Government. He said there that the caste certificates should

be issued on permanent basis. I told him that I am a tribal myself and I never heard such thing. Such authority helps the bogus people.

The people belonging to Kasti Community are taking advantages by declaring themselves as the people belonging to Halba and Halbi tribals. This should be checked. If they are really backward, they should make demand for separate provision. In no case, they should be allowed to share the cake meant for Tribals. People belonging to 'Machimar Koli' are taking undue advantage on the names of 'Suryawanshi Koli', 'Tokarekoli', 'Mahadev koli', 'Dhor koli' and 'Tokare koli' in Maharashtra. This should be checked. If they are backward, they should be provided separate reservation. Only the persons belonging to genuine tribals should be appointed on the posts and given admission in the educational institutions reserved for them.

In the end, I would like to submit that if the hon. Minister is really sincere to check the atrocities on Harijans and Tribals, then he should give a serious thought to my suggestions.

SHRI JANAK RAJ GUPTA (Jammu): Mr. Chairman, Sir, the disease got aggravated with every dose of medicine. It is not for the first time that we are confronted with the fact that a lot of atrocities are committed on the Harijans. There is hardly a State where this malady is not present. Of course, some where it is in lesser degree and some where it is in acute form. A number of laws have been enacted from time to time by the Government to check atrocities on the Scheduled Castes and Scheduled Tribes. There is no doubt that it has been checked to some extent. The Bill moved by Shrimati Bajpai is the need of the hour. It was a long felt demand of the people. Provisions of this Bill needs to be implemented strictly.

Before I could say something about the provisions of the Bill, I would like to draw the attention of the hon. Minister towards section 3 of the Bill. In this connection I would like to suggest an amendment. In section 3

(A), for "whoever, not being a member of a Scheduled Caste or a Scheduled Tribes,". The word "whoever" is sufficient and words "not being a member of a Scheduled Caste and Scheduled Tribe" should be deleted. Only then the purpose of this Bill will be served. Suppose, an officer belonging to Scheduled Caste or Scheduled Tribe commits atrocities on Scheduled Castes and Scheduled Tribes and tries to deprive them of their rights he will not be punished under the provision of this Bill as many of our learned Members have stated that as soon as economic conditions of a person belonging to the Scheduled Caste and Scheduled Tribe improves, he does not want to live in the colony or locality in which he used to live earlier with his other bretheren.

16.00 hrs.

[English]

MR. CHAIRMAN: It is already 4 P.M. The House shall take up discussion under Rule 193. So, you can continue next time. You please resume your seat.

16.01 hrs.

DISCUSSION UNDER RULE 193

Fourth, Fifth and Sixth Interim reports and final report of Kudal Commission of Inquiry set up to enquire into the affairs of Gandhi Peace Foundation and connected organisations

[English]

MR. CHAIRMAN: The House now shall take up discussion under Rule 193. Shri T. Basheer.

SHRIT. BASHEER (Chirayinkil): I thank you for giving me this opportunity to raise this important discussion in this House on the findings and the recommendations of Kudal Commission. Many times this subject has been raised in this House in various forms.

[Sh. T. Basheer]

Many hon. Members have expressed their views about this discussion. But today we have got this opportunity to have a comprehensive discussion on this subject.

I remember that on 8th May, 1985, there was a Calling Attention being discussed in this House and it was brought by a very prominent parliamentarian, Shri Indrajit Gupta. Various reports on Kudal Commission of Inquiry appeared in the Press which are of serious nature. So, we asked for a discussion on this subject. In the last session, we also requested the hon. Minister to lay the reports on the Table of this House. So, we are grateful to the hon. Minister for laying those Reports on the Table of the House last week. He had laid on the Table of the House the Final Report of Kudal Commission of Inquiry and the Action Taken Report by the Government.

16.03 hrs.

[PROF. NARAIN CHAND PARASHAR—*in the Chair*]

The hon. Speaker was kind enough to allow a discussion on them in this House. When we are discussing this important subject, the seats of the Opposition Members are vacant except Shri Syed Shahabuddin. The Opposition Parties are not represented by their Members in this House at present. I think it would have been better if they were here. But it is quite unfortunate that they are not here. Prof. Madhu Dandavate, who is very alert in raising these kind of discussions is not here.

In this Report there is a reference to Prof. Madhu Dandavate also. So, I think it would have been better if he were present here. Their absence here and their resignation from this House show their attitude towards this House. It is not for the first time that they have taken such an attitude. I would like to cite some examples.

When we discussed the Bofors issue

here these Opposition leaders went to the Swedish Embassy to give a representation there. So, their faith was not in this House, but their faith was in the Swedish Embassy!

You may remember that the Opposition Members made a hue and cry about the Thakkar Commissions Report. But when we were discussing the Thakkar Commission's Report they were not here. They boycotted.

Again, during this year's Budget Session when we were discussing the General Budget—very important so far as this Parliament and this country are concerned they were not here. They boycotted this House.

And again about the C&AG's Report, it was Mr. Madhu Dandavate and Mr. Jaipal Reddy who gave the notice for discussion. The Government were prepared and the Hon. Speaker allowed the discussion and it figures in the Order Paper. Then they ran away. This shows the faith they have in this democratic system. They have no real faith in democracy; they have no real faith in this august House, in this important institution. They have no faith in this temple of democracy. Two things are clear: that they have no faith in democracy, and they are not interested to know the truth. They are not in search of truth. They are not interested in knowing the truth. What they are doing are political gimmicks, political stunts. These resignations by the Opposition leaders are also nothing but naked political stunts.

I do not want to go further on those points. I am coming to the Kudal Commission Report.

Sir, the Lok Sabha passed a Resolution on 28th August 1981 recommending that the acts and activities of Gandhi Peace Foundation, Gandhi Smarak Nidhi, All India Seva Seva Sangh, Association of Voluntary Agencies for Rural Development (AVARD) and other organisation connected with them be inquired into by a Commission of Inquiry. Accordingly, the Commission was set up on 17th February 1982. The period of the Commission, which was originally six months,

was extended from time to time till 31st January 1987. It took almost five years. You know that the Commission submitted six Interim Reports and a Final Report. Now these Reports along with the Action Taken Report by the Government are before us in this House. Some of the facts brought out by the Kudal Commission are very much disturbing. Everybody should agree that it is of a very very serious nature. Sir, I would like to say that Justice Kudal has done a great service by opening our eyes to the vast dimensions of corruption, financial irregularities, politicalisation of institutions by the so-called Gandhian institutions and other voluntary organisations. It is highly deplorable that the institutions established in the name of the Father of the Nation Mahatma, indulged in such kind of activities. Sir, this is a very serious matter. I think the Government will treat it with due seriousness. And I am sure people will judge these things with seriousness.

Sir, these voluntary organisations have been indicated mainly on two counts, gross financial irregularities and attempts of political subversion in collusion with foreign funding agencies.

Sir, I had gone through the Action Taken Report presented by the hon. Home Minister in this House. Of course, many charges have been stopped on the ground of insufficient evidence. I think from the Government side the hon. Home Minister will tell more details, will throw more light, as to why they have not been pursued and as to why these cases were stopped. But it is true that clear evidence is required to secure a conviction. When I went through the Report, I was shocked. You may be remembering, Sir, about the total revolution which was launched during the years 1975-76. You may be remembering about that total revolution, New Nirman movement, etc. These were propagated by a Gandhian organisation in the country in the first half of seventies. The attempt was to subvert the existing political system in this country under these attractive titles as total revolution, Nav Nirman move-

ment, etc. etc. I would like to quote some parts from the Report. It is mentioned on page 110 of the final Report and I quote:

"Under the cover of the Sarvodaya workers meeting at Bangalore from July 6-12, 1973, the GPF—Gandhi Peace Foundation—along with some of the organisations took part in the discussions on political and economic situation in the country and the role of the Sarvodaya movement, 'expressing concern over the rapid erosion of democratic values and the increasing trends towards centralisation of political and economic power' and the 'creeping trend towards authoritarianism within an outward facade of democracy and devious manner of restriction on academic freedom and the freedom of the press; as well as the incidious growth of a climate of fear in which dissent is becoming increasingly unsafe."

These are not the aims and objects of this Gandhian organisation. They are not expected to do this job. This was the way they had indulged in political propaganda. Again I would like to quote from page 111 of the Final Report:

"On 28.11.1974, the first meeting of the National Coordination Committee of the Non-Communist political parties was held in the premises of the GPF with Shri Jayaprakash Narayan in the Chair. This meeting was convened by Shri K.S. Radhakrishna, where a decision was taken to organise a million strong 'March to the Parliament' in Delhi on 6th March, 1975 and for that purpose, a Sub-Committee of the said Coordination Committee consisting of leaders of the Jan Sangh, Congress (O), B.L.D., Socialist Party and Akali Dal was constituted. The cell for 'March to the Parliament' was a political move sponsored by the non-Communist political parties and had nothing to do with the professed aims and objects of the G.P.F."

[Sh. T. Basheer]

So, this gives a clear picture of how they have indulged in such activities. Sir, you may recollect that there was an organisation called Citizens for Democracy constituted at that time. Here I quote from the final Report of the Commission:

"The said Citizens for Democracy was/ has been operating from the premises of the GPF with Shri K.S. Radhakrishna as its Secretary. The members who participated in the said meeting included, among other, S/Shri S.N. Mishra, George Fernandes, Prof. Madhu Dandavate, L.K. Advani, Nanaji Deshmukh, Rabi Roy, Biju Patnaik and S.M. Joshi."

Again, I would like to quote from the Report—

"That the GPF actively campaigned for the candidates of a political party, namely, the Janata Party during the General Elections of 1977."

Sir, is this the job of the G.P.F.? Further, I would like to quote from the Report:

"That a meeting was held on 22-3-1977 at Jhanda Chowk, Roshanpura, Bhopal, where Shri Ram Chandra Bhargava alongwith 10/12 workers of the GPF Centre pulled down the Congress flag and hoisted the Janata Party flag at the same place. The Congress flag hoisted at the residence of Dr. L.K. Mishra was also pulled down by the GPF workers."

SHRI SYED SHAHABUDDIN: That is not the criminal offence.

SHRI T. BASHEER: But it is not the job of the G.P.F. They have removed one party's flag and in its place they have put up another flag. Sir, I have to quote some other serious things from the Report. I quote from page 114 of the Report.

"2 (xvi) That after the declaration of Emergency, the GPF actively cooperated in planned subversive activities to overthrow the Government by force and after the tragic assassination of Sheikh Mujibur Rehman, President of Bangladesh the country was flooded with circulars that the dictator of Bangladesh is finished and the dictator of our country, Mrs. Indira Gandhi will meet the same fate."

Now look at the conspiracy made by them. Sir, please let me quote again from the Report:

"2 (xvii) That the GPF misused its resources in circulating literature clandestinely against Mrs. Indira Gandhi and her party branding her as a dictator, a fascist, an autocrat, etc. and accused her of attempting to perpetuate her dynastic rule in the country."

This was the joke of Gandhi Peace Foundation in those days. From these parts which I have quoted here, we could understand how Gandhi Peace Foundation violated its aims and objects, how Gandhi Peace Foundation indulged in political propaganda, how GPF misused its name by lending its support to activities joining the Opposition parties.

Sir, the Government under Shrimati Indira Gandhi had repeatedly warned the nation about the intervention of foreign forces in the internal affairs of the country and the attempts of de-stabilisation of the country with the help of internal forces. Who are those internal forces? Justice Kudal has identified some of those forces. These organisations became tools in the hands of Opposition parties at that time. These institutions were in receipt of vast amount of money from foreign funding organisations, like Ford Foundation, EZE West Germany and so on. The operation of Ford Foundation and the scheme of its assistance are matters of grave controversies. These foreign institutions are not mere funding institutions.

They have deep political interest in various countries of the world which is known to the enlightened political opinions in this country. Our Gandhian institutions were getting big amounts from these organisations. From the evidences collected by Justice Kudal, it is proved that these funds were used to create dissatisfaction among the people and thereby bring about revolt against the legally established Government. The talks at that time about partyless democracy, total revolution, call to the Army to revolt etc. were part of that campaign. Justice Kudal tells us that the literature published at that time by the Gandhian organisations was in support of this Opposition political campaign.

Sir, although the Government have dropped many of these cases, as it is clear from the action taken report submitted by the Minister, I would like to tell it is a caution for the Government. Justice Kudal's elaborate evidences and findings cautioned the Government that Government could not ignore the fact that such attempts of de-stabilisation in the country are still going on at different levels. I should like to say that we should be firm in our approach toward those forces, because they have all become together now.

Sir, another serious thing in the Kudal Commission Report is about the Kerala Gandhi Smarganidhi. This organisation received huge amount, about Rs. 59 lakhs from a foreign donor in U.S.A. This organisation portrayed a very distorted picture of the State for the purpose of obtaining fund. They wrote to be organisation that there were atrocities in the State. At that time, the Government in Kerala was of CPI (M), Mr. Nayanar was the Chief Minister. So, these organisations claimed that they were going to fight that CPI (M) Government! I would like to say that it is not the job of Kerala Gandhi Smaraka Nidhi, Smarganidhi alone. There are political parties that would fight. We cannot agree that this is the job of Gandhi Smaraka Nidhi.

Another important point is, some of the voluntary organisations had indulged in anti-national activities, which is a great concern

for the country. These organisations were being used by foreign agencies. The Kudal Commission report says that large portion of foreign funds went in undesirable hands and was used for various disruptive activities. Their aim was to create chaos and destabilisation in the country.

I would like to quote a few lines from the final report, at page 225:

"The Commission observed that most of the voluntary organisations operating in the border, coastal and tribal areas of the country were getting large funds from a number of foreign agencies, i.e. EZE West Germany, in particular. Receipt of such large funds from foreign sources had generally little or no co-relation with the developmental and constructive activities of such voluntary organisation. A large chunk of such foreign funds thus went in undesirable hands and got used for various disruptive activities meant to create chaos and destabilisation in the country."

I quote from the report further:

"The Commission observed that some of the voluntary agencies indulged in collection of sensitive data and supplying the same to various foreign agencies analysis and use."

I would further quote after a few lines:

"Another voluntary organisation got involved in collection of geo-physical and geo-hydrological data of different parts of this country and passed on the same to a foreign agency."

It is great concern for this country. Why did these foreign agencies want such data from our country? For what purpose? What is their use? Why have they asked these voluntary organisations to collect these important data and to pass on to those foreign countries? Why had these voluntary organisations in our country indulged in anti-national activities?

[Sh. T. Basheer]

Now, the second count on which these voluntary institutions have been indicated by the Commission is the gross financial irregularity. These organisations diverted and misappropriated massive aid funds. Pages after pages have been written by Justice Kudal. I have no time to go into all these things. Who are the beneficiaries? Who misappropriated these funds? Our people must know. The country must know. Some of them are our big Opposition leaders. Shall I tell their names? They are Mr. Madhu Dandavate, Mrs. Pramila Dandavate, Mr. George Fernandes, Mr. Rabi Ray, Mr. Purushottam Kaushik, Mr. Dhanik Lal Mandal etc. Mr. Madhu Dandavate was here when we raised this question and he did not deny it. I remember, he said, "I have received it with the permission of the RBI." Mr. Madhu Dandavate was the Trustee of Mathru-Mandir in Ratnagiri District. His organisation received financial assistance through AVARD. It is mentioned at page 116 to 119 of the Second Report. Mr. George Fernandes got Rs. 24.37 lakhs from Khadi and Village Industries Commission for distribution among the poor artisans in his parliamentary constituency, Muzaffarpur, Bihar. He was then the Minister of Industries, in the Janata Government. This amount was sanctioned by flouting all the rules and procedures. This is value-based politics! It was only to subserve the political interest of Mr. George Fernandes. But the most interesting thing is, this money which was meant to be distributed among the poor artisans of Muzaffarpur was not distributed. Mr. Fernandes is the leading light in the camp of the Opposition Parties, who talk about the value-based politics. Another person is, Mr. Dhanik Lal Mandal.

SHRI SYED SHAHABUDDIN (Kishanganj): Was the money misappropriated by Mr. Fernandes?

SHRI T. BASHEER: Yes.

SHRI SYED SHAHABUDDIN: All the Rs. 25 lakhs?

SHRI T. BASHEER: I can quote. Please bear with me for a moment.

P. 210:—

"It has come to the notice of the Commission that in the year 1979, Shri George Fernandes, the then Union Minister of Industries, desired that loans to the artisans in Muzaffarpur District (Bihar) be distributed on 6th June, 1979 by the Khadi Village and Industries Commission (KVIC) through the Association of Voluntary Agencies for Rural Development (AVARD) and that in order to expedite the procedure for the release of funds for this purpose by the KVIC to the AVARD, Shri L.C. Jain, then Chairman of All India Handicrafts Board (AIHB) and a prominent figure in the AVARD and Shri A.C. Sen, General Secretary of the AVARD approached the KVIC and its Chairman Shri Som Dutt Vedalankar during May, 1979 in this connection."

I quote:—

"That the Constitution of the AVARD would be amended so as to bring the activities of the khadi and village industries within its purview and jurisdiction."

SHRI SYED SHAHABUDDIN: Then you must prosecute him. why have you not prosecuted him?

SHRI T. BASHEER: Your point is valid.

MR. CHAIRMAN: Please conclude now.

SHRI T. BASHEER: This is relevant thing, please.

I quote:

"That the Constitution of the AVARD would be amended so as to bring the activities of the khadi and village industries within its purview and jurisdiction."

It is amended.

DR. G.S. RAJHANS (Jhanjharpur):
What did Mr. Dhanik Lai Mandal do?

SHRI T. BASHEER: He was also Minister of Home Affairs in the Janata Government and he was Chairman, Madhubani Zilla Samagra Sansthan. His organisation raised Rs. 7.74 lakhs. The report says that he misappropriated Rs. 1,50,000/-.

Again another man Mr. Purushottam Kaushik was also Minister of Information in the Janata Government. He was President, Madhya Pradesh Famine and Drought Relief Committee and Chairman, Jan Kalyan Samiti. The report says:

"Shri Purushottam Kaushik misused vehicles which were meant for relief work during his election. He used the vehicles for electioneering purpose."

Shri Rabi Ray was the Chairman of the Orissa Gram Vikas Foundation. As Minister, he wrote a letter to AIHB and got grant which were misappropriated. I am not going further because of lack of time.

Now, I would like to say a few words about the funding agencies from which foreign funds came. One is the Asia Foundation. You know this is a conduit of CIA. Government of India asked Asia Foundation to close down their office in India in 1968. Thereafter, Eze West Germany was funding these organisations.

Another funding agency is the Ford Foundation. This is also a CIA agency. Under cover of "Research and Development" in December, 1978, the Janata Government accorded approval for a grant of US \$ 2,50,000/- as aid from the Ford Foundation to the AVARD for "strengthening of voluntary efforts for rural development" for a period of three years ending on September, 30, 1981. I have a long list of these Funding Agencies. I am not going into all these things.

MR. CHAIRMAN: Please conclude.

SHRI T. BASHEER: Sir, please give me five more minutes.

MR. CHAIRMAN: You please take two minutes. You have already taken 40 minutes. Others also want to speak.

SHRI T. BASHEER: These are the Opposition parties which are talking about value-based politics. This is very important and people must know about it. Sir, I am really amused to hearing what value are they talking about? Is fraudulent misuse of public money an important feature of this value-based politics? Is colluding with the foreign agencies a part of the value-based politics? The country has seen many things about this value-based politics. The country has seen the real author of the value-based politics going out of office as a result of tapping of telephones ...*... He is a glamour hero who talks about the value-based politics. There are serious charges of corruption against him regarding land deal of NRI Housing Societies. I am not going into that. You know very well. Recently, there was the liquor scandal.

Another partner of this value-based politics has been clearly indicted by the High Court in seven cases...*... He is the brain behind the Opposition parties.

SHRI SYED SHAHABUDDIN: Was he also indicted by the Commission? (*Interruptions*)

SHRI T. BASHEER: I am telling about the value-based politicians, their character, their true colour.

MR. CHAIRMAN: Please conclude.

SHRI T. BASHEER: I will conclude. He was indicted by the High Court in seven cases. He was indicted for nepotism, corruption etc. But still he continues in power like a limpet. He is the Brahma Rishi for our Opposition parties here. In the case of Lok Dal

[Sh. T. Basheer]

people, I can understand this. But the CPM people must know what is the background of this man.

MR. CHAIRMAN: You must conclude in a minute.

SHRI T. BASHEER: I will conclude. They have a political philosophy. But the party like CPM depend on this persons. *(Interruptions)*

MR. CHAIRMAN: Don't interrupt.

(Interruptions)

SHRI SYED SHAHABUDDIN: Don't denigrate them. All along, they have been fighting against it...

(Interruptions)

SHRI T. BASHEER: There are serious criminal charges against another Leader of Opposition who rules Haryana. Reports are coming in. Now I come to my State, Kerala. I will tell you about it. I can tell you that there are serious corruption charges against a number of Kerala Ministers. One CPM Minister*..... received crores of rupees in liquor deal and Abkari deal. The charge was made with necessary evidence and documents. It was raised in the House there by the Opposition Leader Shri Karunakaran with proper evidence. The Electricity Minister in Kerala Government is facing serious charges of corruption regarding construction of the Lower-Periyar Hydro-Electric Project. There are serious corruption charges against the Education Minister. These are the value-based politicians! The Opposition is talking about high morals and principles. The Chief Minister has refused to order an inquiry into these charges. So much for their value-based politics!

These are the Opposition parties and leaders who make a lot of noise here and

outside the House. One thing is clear. All these talks about value-based politics by the Opposition is a smoke-screen to hide their mistakes. Now I conclude. I conclude by saying that there are valuable suggestions in the Report. One important suggestion is that the present statutes are not sufficient. They are inadequate. So, I suggest to the Government to bring an amendment to the present statutes.

Another thing is, we know how they are running the Gandhian organisations. So, I suggest that Government should take over these Gandhian organisations.

With these words, I conclude.

[*Translation*]

SHRI BANWARI LAL PUROHIT (Nagpur): Mr. Chairman, Sir, the question before us is as to what led to the setting up of Kudal Commission. For years, huge funds have been flowing into the country from abroad in the name of tribals, poor, minorities and backward classes. These funds were received by thousands of bogus organisations, which were set up in due course and were headed by the people bearing high moral character. It was due to these big names that such organisations received wide publicity. Those crores of rupees which were brought into the country in the name of poor were spent on devisive forces, spies and those who instigated casteism in the country. They went to the extent of printing maps of strategic installations of the country including highways and telephone exchanges. These circumstances led to the setting up of Kudal Commission.

It was the duty of the Commission to expose these Gandhian organisations which were engaged in bogus activities. Now, the people have become aware of the disruptive and anti-national activities these organisations have been engaged in. But I do not thing that the Kudal Commission has done anything big during its tenure of 5 years. It

has been able to touch only a tip of the iceberg; i.e. corruption. The Commission was able to investigate only 180 cases and 300 cases remained incomplete. The fact that Kudal Commission stopped functioning midway has left a question mark before us. Names of those people involved in those 300 cases should have been exposed. These misdeeds make patriotic Indians hang their heads in shame. Today those people are not here, otherwise they would have closed their ears with cotton. Now those people themselves raise the slogans of patriotism in foreign countries. My colleague has just now given a glimpse of the misdeeds which took place there. Here is another glimpse of their functioning:

It has been mentioned that:

[English]

foreign donar agency E.Z.E. donated Rs. 40 lakhs for the rehabilitation of surrendered dacoit.

[Translation]

A sum of Rs. 40 lakh was donated for reforming the Dacoits of Chambal, etc. But there is no account of those 40 lakh rupees. Not a single penny was spent on the dacoits. This is the finding of the Commission. One of them Mahabir Bhai, a noted Gandhian himself said that not a single penny was spent. It means that they have become bigger dacoits than those dacoits who surrendered arms. Real dacoits will do penance for their crimes, but the amount of Rs. 40 lakhs, which was brought from the foreign countries for rehabilitation of these dacoits, was totally bungled. This is a case of dacoity having been committed on dacoits. I do not think our history has any other example of this kind. This a example should be written in golden letters in the history that such people are also present in India who can loot the dacoits and call themselves as honest people. These are the findings of the Commission. The whole funding was done through C.I.A. Everyone knows about the doings of the C.I.A. Their objective is to choose a country

which is peaceful and on way to development and force it to toe their line and accept their subjugation. In the event of the latter not obliging, conspiracies are hatched to destroy them. To achieve their objective, they bought the people with money. For years, these funds were provided to the Association of voluntary Agencies for Rural Development, known as AVARD. Later on a number of other agencies got them associated with it. For about 10-15 years, these funds were provided by the C.I.A. Later funds were provided through many other foreign organisations like the Oxform of London, C.D. Dania Church Dania Community Australia, Germany, West Germany. These organisations were used as tool by the C.I.A. in its efforts to destabilise our country. I don't lime to repeat the names mentioned by my friend, but for the sake of record, I would like to mention the names of those organisation, which received money. The following organisations have received foreign funds during the Janata Government's rule i.e. during 1977 to 1979:—

Vanwasi Sewa Vendra	42	lakh
Nehru Sewa Sangh	18	"
Citizen Voluntary Centre	76	"
Mahatma Gandhi Sewa Ashram	33	"
Tagore Society for Rural Development	89	"
Shayama Prasad Institute of Culture	16	"
T.A. Gramdan Sangh, Assam	31	"
Nirfad, Mathura, U.P.	200	"
Mandra, Umayan	38	"

All their activities are guided from their head-quarters. Rajendra Memorial Trust 5 lakh and AVARD, New Delhi 306 lakh.

[Sh. Banwari Lal Purohit]

So much of funds have been received. A single organisation received Rs. 68,40,942 in 1979. In 1980, the amount slumped to Rs. 5,38,545. In 1981 the amount further slumped because Janata Government was dethroned. Later on, they received Rs. 12,44,000. It is regretful that on the excuse of rehabilitation of the poor such letters were written to the foreign agencies asking them for money. I would like to read out the confidential letters. These are the findings of the Assistant Secretary, who was doing the enquiry. The following letter was written by a member of Kerala Gandhi Smarak Nidhi to the foreign companies:

17.00 hrs.

[English]

"Just now we are facing a very complicated and taxing situation."

[Translation]

They are writing to the foreigners and telling them that they are sincere.

[English]

"Political violence is mounting. Trade unions affiliated to ruling party are aggressive and are exploitative. They just harass people and get what they want. Opposition Parties are finding it difficult to function. Their policy is gradually being made ineffective. Temples and Churches are being looted. Unless this trend is arrested, we will have to face unpleasant situation."

[Translation]

What they mean to say is that foreigners should intervene here. Thus, a lot of money was sent to them just after the letter was received. These are the findings of Kudal Commission. Today those dishonest people level charges against us. The people living in glass-houses should not throw stones at

others. I would like to know from the Government what steps it is going to take now when the Report has been received. Will the cases be filed against them? It is necessary to file cases, otherwise the public will lose faith in the Government. The Kudal Commission has submitted such clear-cut findings and has exposed the corruption with evidence. What are you waiting for? An AIR should be lodged and action should be taken. All the facts should be placed before the public. The names of the leaders against whom there are clear-cut charges of corruption should be prominently published in all the national and regional newspapers. This should be done even if it costs some money to the Government. But it is essential to expose them before the masses. This is my demand. Thereafter publicity should be done to the effect that there is nothing in the Bofors and the CA&G Reports. A demonstration of Bofors Gun has proved that it is the best gun. We lost the elections in Haryana, because Shri Devi Lal misled the people there. He told those poor villagers that the range of the gun is only 5 kms. He has betrayed the country by misleading the innocent people. During the demonstration, it became evident that the range of the gun was 30 to 30.5 kms. Shri Jagjit Singh Aurora of the opposition himself said on the T.V. that:

[English]

"As far as the quality of the gun is concerned, we have no doubt in our minds".

[Translation]

This has been said by him. You cannot change it.... (*Interruptions*) When they indulge in such type of publicity, why should we wait, when we have all the evidence. Action should be taken by lodging an FIR immediately. Let the law take its own course. Shortcoming in the law, if any, should be removed.

Mr. Chairman, Sir, it has been clearly written in the letter, which I read out just now.

[English]

"Consequent upon this letter, world neighbour, USA, enhanced the amount of grant to Kerala GSN in the year 1981-82 and the Kerala GSN received a sum of Rs. 4.27 lakhs extra from the world neighbour".

[Translation]

They get money from America. They are facing difficulties here. Their difficulties cannot be removed with the assistance from this country. The Indian people cannot remove their difficulties. On the basis of foreign money thus received, they will work on their orders, do spying, try to destabilise the country by engineering riots. They ask for money from them for organising big rallies. After that, they ask us questions. Is this not treason? It is nothing less than that. Cases of treason should be filed against them. Kudal Commission has clearly said that they are traitors. So there is nothing to be afraid of them. I would like to know from the hon. Minister why there is so much delay in launching prosecution even after the findings have been submitted. I would like to know what steps he is going to take in future?

[Translation]

We have the right to know it because they have indulged in such anti-national activities, they have committed a treachery against the nation. No person, howsoever high position he may be holding, can be forgiven. Whatever propaganda they may make in this regard, the Government cannot be relieved of its responsibility. They should immediately take action in this regard. My submission is that though final decision is to be taken by court, yet the Government on their part should not show any Blackness in taking action.

On going through the full text of the report, it appears that about 250 pages have been left incomplete. Kudal Commission left the report incomplete because many things and evidences remained concealed from the

Commission. A special agency should be constituted to hold enquiry into those things. Kudal Commission had neither enough time nor adequate machinery to investigate. The Commission detected the facts on the basis of the evidence presented before it. I would urge the Government to get the matter investigated by some experienced and high level officers of the intelligence who may not be successable to pressure from outside. The hon. Minister may kindly clarify in his reply as to whether investigation to this effect would be conducted or not.

Mr. Chairman, Sir, I have brought a few major points to the notice of the House. If I start going into the details, the time would be over. I would like the Government to bring the truth before the people. This has been happening for the last 25 years. Foreign money has been flowing in to the country. What is the motive behind it? That money is misused in the country. Disruptive forces are taking advantage of the money. It is said that the money is meant for the welfare of the poor people. But has anything has been done for them? George Fernandes asserted that he did not swindle money. About Rs. 18 lakhs out of the total amount of Rs. 28 lakh kept on lying with him for about 6 months. He did not return that money. The interest alone comes to Rs. 16 lakh in 6 years. This is nothing but corruption. Through enquiry should be held to sift the truth from the falsehood. I suggest that there is no need to adopt a soft attitude to those who have been guilty of treason. And the evidence of treason is there. Because it is not a question of an individual it is a question of the country. My suggestion is that same penalties should be imposed on these offenders as are applicable to criminal offenders.

[English]

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Chairman, Sir, the Lok Sabha resolution of 28th August, 1981 asking for an inquiry in the activities of some organisations was preceded by a volley of question since 1975. On 17th February, 1982 the Kudal Commission was appointed by the

[Sh. Syed Shahabuddin]

Government. The last the final report of the Commission—which was appointed initially for six months—was submitted on 30th January, 1987, the period of inquiry lasted for nearly five years.

Sir, the report lay with the Government for consideration for nearly two and a half years and finally it was submitted to the House on 6th August, 1989 and the hon. Minister made a statement to the Lok Sabha, I believe; on 7th of this month. The first question that I would like to place before the House is related to the timing of the tabling of these reports. Why should the Government take nearly two and a half years ... and that too come so close to a general election. Of course, the purpose is very clear from the presentations made to us by the spokesmen of the treasury benches. The hon. colleagues, who have preceded me, have made it a political issue.

Now, at a cost of nearly Rs. 2 crore, what have we finally got? There are 118 cases out of which 56 have been dropped by the Government on the advice of the Ministry of Law and Justice and the CBI. 56 are still on the books. But of them, 42 do not pertain to the sphere of the activity of the Central Government. And they have been referred to State Governments or other agencies or autonomous organisations for necessary action. When they were so referred, we don't know. What have they done about it, we don't know. What they propose to do about it, we don't know. Sixteen are still under investigation by the CBI—2 1/2 years after Mr. Kudal wrote his report. I don't know at what pace the CBI works. But sometimes we know at what pace the CBI works. We know about its performance in the Bofors case.

I made a categorisation this morning of these sixteen cases. One case refers to Gandhi Peace Foundation. One case refers to Sarva Seva Sangh. One case refers to the Gandhi National Museum. One case refers to the Gandhi Smarak Nidhi of Kerala. There are seven cases against AVARD and five

cases refer to other association which are associated with AVARD. This is the sum-total of what we have got.

I am not concerned with the *obiter dicta* of Justice Kudal or the generalisations or with his sermonisations or moral postures or his innuendoes or his half-truths and untruths which are in the recommendations of the report because recommendations have nothing to do, in many instances, with what is contained in the report. They are general sermons against the 'so-called Gandhians', on how Gandhian institutions should function as if Justice Kudal today is the sole legatee of the Gandhian heritage and he is the sole judge of how Gandhian activities should be carried out in this country.

Well, I do not want to disturb Mr. Kudal from his day-dreams or from his place in paradise. That is up to him but surely such recommendation won't constitute any legal or any criminal case that that is being made out here against anyone. What was the procedure? It was a roving inquiry. It was a fishing expeditions which lasted for about five long years. No charges were specifically referred to the Commission. Not even the hon. Members, who had raised those volley of questions in the House during 1975 to 1977, took it upon themselves to place their charges before the Commission. The Government which is supposed to lead evidence under the Commissions of Inquiry Act, under which the Kudal Commission was appointed, did not lead any evidence. The procedure was that Justice Kudal constituted himself into the complainant, the investigator and finally the judge—all rolled into one. This fact alone should be adequate to tell us about the credibility of this report.

Justice Kudal and the Government say that these organisations did not cooperate with the Commission. Now, what are the facts, Sir? Mr. Chairman, 24 months elapsed after the establishment of the Commission and not a notice was sent to any of the organisations that are supposed to be called upon, that are supposed to be under investigation. Is that the rule of law? Is that how the

legal system should function? They were never called. The office-bearers were never called. They were never called until they themselves came to the then Law Minister, Mr. Kaushal, and subsequently to the then Home Minister, Mr. Sethi, telling him:

"28 months have elapsed. Every day, something is appearing in the Press. We are being given a bad name. A regular mudslinging campaign is going on. Please ask the Commission to call us to testify before them. We are prepared to cooperate wholeheartedly."

Subsequently—I do not know whether Mr. Chidambaram is aware of it or not—a letter was written to the then Home Minister on 6th June, 1984 but they never got any reply although orally both the hon. Ministers assured these gentlemen, who are honourable citizens of our country until they are proved to be dishonest, that they shall be given an opportunity. So, no rules of procedure were ever framed. The principles of natural justice were given a complete go-by until they had no alternative but to go to the High Court and ask for a stay order. They did not go to the High Court until three years later. That is a fact to be kept in view. They did not ask for a stay order, immediately. They waited for three years. Then they went to the High Court and the hon. High Court granted the stay order. The mere fact that such a stay order was granted is a testimony, is a reflection upon the principles, upon the procedure followed by the Kudal Commission which violated every law in the book, every known principle of natural justice. Why have so many cases been dropped, as I have mentioned earlier, by the Government, in its wisdom, after making further enquiries, after due consideration? Is it not a reflection in itself, on the quality of the judicial mind that has been brought to bear on these questions, on these matters? Can you imagine a Commission of Inquiry in half of whose cases the Government decides that there is no case, that nothing can be done, that no law has been violated and that no one is accountable? What are those organisations?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Why don't you complete and tell us to what happened in High Court?

SHRI SYED SHAHABUDDIN: If I do, I will take a long time. What are these organisations? These are AVARD, Gandhi National Museum, Gandhi Peace Foundation and the Sarva Seva Sangh. All are registered societies under the law of land. They have no organic relationship among themselves. They are all independent autonomous bodies. AVARD is an umbrella organisation which has got 900 autonomous independent organisations in various parts of the country which follow a certain planned development activity and they receive assistance through AVARD. I ask a simple question. How can AVARD be held guilty for an act of misappropriation of another autonomous body or organisation? Supposing I am a member of a club. Can the club be held guilty for an action done by me? Is that the rule of law? The Gandhi Memorial Trust was formed after the assassination of Mahatma Gandhi, for the utilisation of the memorial fund that was collected throughout the country. Anybody who was anybody in this country including the great freedom fighters, the great pioneers of our freedom movement like Sardar Patel, Mavalankar, the first Speaker, Acharya Kripalani, R.R. Diwakar were associated with the Trust and they, in their wisdom, decided that in order to carry on its activities, there should be two independent organisations. They nurtured or shall we say gave birth to the Gandhi Peace Foundation and the Gandhi National Museum? They are again autonomous registered bodies with no organic linkage among themselves. Sarva Seva Sangh was a body formed voluntarily by the coming together of various organisations started by Mahatma Gandhi, in 1948 itself. That was a parallel development to the formation of the Memorial Trust. Eminent people have been associated with the Trust, like Diwakar and Mavalankar. Is it your case that the Governing body is to be considered

[Sh. Syed Shahabuddin]

responsible for the loss or the replacement of a particular relic of Mahatma Gandhi? Can a governing body of any institution be held guilty? The store-keeper may be guilty; the chowkidar may be guilty; the manager may be guilty or the officer in whose custody the particular relic was may be guilty. How can a member of the governing body be held guilty? If that is not mud-slinging, if that is not character, assassination, I do not know what the terms means.

Let us take the case of the George Fernandes. I would like to read out to you the final conclusion which does not lay any blame on Mr. George Fernandes at all. This is the final paragraph on page 217 of the Fourth Interim Report:

"The conclusion, therefore, which the Commission has reached, in the facts and circumstances of the case is that the AVARD procured the aforesaid loan and grant from the KVIC for distribution amongst the artisans of the parliamentary constituency of... the then Union Minister of Industries."

His only linkage is that the money was to utilized in his constituency. He did not receive the money; he did not disburse the money; he did not use the money. My friend, Shri Purohit is completely wrong. Here, I have a letter from AVARD which says:

"The factual position, however, is that KVIC provided AVARD a total sum of Rs. 24.37 lakhs for assisting rural artisans. Out of this, AVARD had already returned Rs. 19.835 lakhs to KVIC in 1980 itself."

At that time, in 1980, the Kudal Commission had not been established. This is a fact to be remembered. What has happened subsequently? The money could not be utilised because it was supposed to be a capital grant and the weavers were not generally prepared to accept the capital grant; they wanted working capital. The money, there-

fore, could not be disbursed. About five lakhs that were disbursed were recovered from them by the AVARD over a period of time and only Rs. 2 lakh remained to be recovered from the artisans which would in due course be collected by the AVARD. Where is the misappropriation by George Fernandes? Where is the misutilization by the AVARD itself?

Much has been made out of another case of map. Sedition, treason, anti-national activities, collusion with the imperialist power, destabilization of the country—all these phrases have been used. Every abusive word in the political vocabulary has been used. Every arrow has been shot. But what are the facts of the case? Here is George Verghese, once very close to the late Prime Minister. His sin? He left her side. A national workshop was organized in Delhi on December 15 to December 17, 1979 on the integrated development of the Ganga-Brahmaputra basin in collaboration with the Indian Institute of Technology, Delhi and the ICSSR, Indian Council of Social Science Research. Who came to it? No foreigner, not a single foreigner, attended this workshop. Who attended this workshop? A dozen Secretaries to the Government of India, a dozen senior Officers of the Government of India, people like the Surveyor General of India, people like the Hydro-grapher General of India, Chairman of the Water and Power Commission, Secretary, Ministry of External Affairs etc. Are all of these people on the pay roll of Foreign Governments? What about this wretched map? Incidentally, this case has been dropped. The Government are not following up this case. I would like to inform Shri Purohit. This case of sedition, treason and anti-national activity is not being followed up by the Government; it has been dropped. When was it dropped? Very interesting. It was dropped on 21.4.1987 when a Joint Secretary of the Government of India, Ministry of Defence, made a statement to the Metropolitan Magistrate who was seized of the case, and said:

"The report has been examined. There are no objections of the Government to

report about closure submitted by the CBI and the closure report may be accepted. The CBI reported, investigation revealed that the maps with the topographical details pertaining to restricted area of Nagaland and Kerala were based on publications already available in the market."

And evidence collected by the CBI revealed that the publication of such maps had not jeopardised the security of the country. CBI also stated that the investigation further revealed that the maps published by AVARD were not in respect of prohibited or protected area of the restricted zone.

And what is the magistrate's final finding? "No, offence under the Official Secrets Act, 1923 or Criminal Law (Amendment) Act, 1961 was made out. The Closure Report is accordingly accepted and the case is ordered to be closed." And the Government have accepted that finding. Government have not gone on appeal against this order of the Metropolitan Magistrate. These are the cases that are being thrown across to the people that are being publicised by the mass media.

There is the famous case of Gandhiji's relic. Again it has been dropped because obviously no case can be made out against the governing body or against the director of the museum. It is absurd, assuming that somebody did replace one relic of Mahatma Gandhi, assuming that it was stolen, well I don't know much about the facts. All I am saying is that Government have accepted that finding and have decided to drop the case and yet this is being repeated again and again.

Sir, I don't have the time to go into all the cases. The Statesman wrote an editorial 'Tit for Ta'. The Kudal Commission is a response to the Shah Commission. That is the genesis of the entire sordid business.

SHRI P. CHIDAMBARAM: Will you characterise the Shah Commission in the same words?

SHRI SYED SHAHABUDDIN: We are not discussing the Shah Commission today, Mr. Chidambaram. It is a fact that there was a division in the Gandhian movement. In March, 1975 some people took the side of Vinobhaji and some took the side of Jayaprakashji. Both of them are venerable. I am not going to say that any of them acted against the national interest or against his conscience and in our democracy there is freedom for everybody to act according to his conscience so long as he does not participate in any anti-national or subversive activity. Does any hon. Member really wish to say today in 1989 that Jayaprakash Narayan led a subversive movement to destabilise the country; that he was not a patriot? Shall I remind that on his death the Government of Shrimati Indira Gandhi established a National Memorial Trust in his memory? Sir, it is absurd to have these political nuances float around and one cannot accept Kudal's distorted views.

[SHRI SOMNATH RATH *in the Chair*]

17.20 hrs.

I would like to point out one interesting fact. In 1975-77 prior to the establishment of the Kudal Commission these very organisations were thoroughly investigated by the Intelligence Bureau and they reported to the Home Ministry and the Home Ministry reported to Mrs. Gandhi, the then Prime Minister on 12th January, 1976 that their thorough investigation has not revealed anything murky or criminal. When the file went to Mrs. Gandhi. She, however, noted on 20th July, 1976—time does not permit me—but that quotation is available in the report of the Shah Commission.....**

MR. CHAIRMAN: It won't go on record.

SHRI SYED SHAHABUDDIN: Sir, here in this editorial by the 'Times of India' which entitled 'Digging With Kudal' something very apt has been mentioned. What does it say? It says and I quote:

"What also casts a deep shadow on

[Sh. Syed Shahabuddin]

the dirt-digging activities of Mr. Kudal is that his whole exercise has been carried out in the spirit of a vendetta. When Gandhians had supported the Congress, as they had done when both commonly confronted agrarian radicalism, Gandhian institutions were found to be all right. However, when apparently a large number of Gandhians turned against the Congress, a judicial exercise against them was initiated through the Kudal Commission".

I would like to summarise. I would like to find out from the Government. When you make a statement and when one sentence follows another, one assumes a linkage. I would like the hon. Minister to go through his statement of 7.8.1989 and I refer to page 2, where he talks about a certain sum of money and then he names certain individuals. First he mentions that the accountable cases are for so much and then he names certain individuals. Can he on the floor of this House link that money to any of those individuals whose names he has mentioned? Does it not create a false impression that those people are responsible for misappropriating that particular amount? Is that fair Mr. Chidambaram?

I would like to know, Mr. Chairman, why is the Government of India giving expensive publicity only to the cases and not to the Action Taken Report? They are not saying that such and such charges have been dropped. They are only saying that such and such charges have been made by Kudal Commission. Is that fair? There are cases which are not established at all. But still they are being publicised.

Sir, in this Commission of Inquiry, they talk about foreign contribution. One word about foreign contribution. Here I have got a document published by the Government of India in 1972. In 1972, Jaya Prakashji was not on the scene. Shah Commission was not on the scene. This report is called *13 Years of Freedom From Hunger Campaign—India*

1960-1972. I would like to point out to page 12 of the report in which there is a mention about new projects and fresh assistance in 1972. And what is the number one executing agency named by the Government of India? Well, it is said that AVARD, New Delhi is given Rs. 120 lakhs, Rs. 120 lakhs out of Rs. 200 lakhs. Where does this money come from? From the very same German source Government of India between 1960 and 1972 deliberately used AVARD for all the development activities for channeling all the foreign contributions that were received for agricultural development. Today, we are being told that AVARD is bad. If AVARD has a bad character now, it had a bad character then.

I would like to close by saying that this Commission of Inquiry is a Commission of Inquisition because the party, the prosecutor and the judge have all become one. Gandhiji, had he been alive—I am speaking of Mahatma Gandhi—would not have approved of such an inquisition. I am happy, Sir, that the Mccarthy Era is yet to dawn in this country. Mr Spade has dug up a log of dirt and thrown up a lot of mud. But I plead with the Government, let the hatchet be buried. Shall it be a hundred years war? Shall it be a thousand years war? Shall it be a war in which political norms and moral values shall play no role at all? And you shall go on slinging mud and go on assassinating character?

I do not hold a brief for anybody. If there is any criminal charge against anybody, let him be prosecuted. I demand let him be prosecuted. I challenge the Government to prosecute him. Thank you Mr. Chairman.

[MR. DEPUTY SPEAKER in the Chair]

17.33 hrs.

SHRI BRAJAMOHAN MOHANTY (Puri): Mr. Deputy Speaker, Sir, presently I have been listening to Shahabuddinji. I am simply surprised that he has completely misunderstood the impact of the Commission's Report. This report is not the judgement of a court. He knows the distinction between the findings of a court and the

report of a commission of inquiry. One should know that the Commission of Inquiry has established a *prima facie* case. He is speaking about the money and the time spent. My submission would be that he should not forget that the investigation is still going on about the assassination of Mr. John Kennedy because truth is more valuable than money and time. You know that the Soviet people are still investigating about what happened in 1939 about the pact of West Germany and Soviet Union under Stalin's leadership. Truth is more important and history is more important and money and time are not that important. In order to achieve the truth, the historical truth, we should not bother about spending of money and time.

I would place a point before you regarding the situation prevalent during those days. I would place the observations or the evidence of the Chief Minister of Kerala Shri E.K. Nayanar before you.

Shri Narayanar said that "certain Christian Missionaries sold Christ, Kerala G.S.N. sold to meet their ends." On behalf of Gandhi Smarak Nidhi Shri Pillai wrote a letter about the political situation in Kerala. It has been stated therein that the situation is so worse, you give us money, otherwise, the life and security of the people will be impossible. Shri Nayanar, who was the Chief Minister of the Kerala State – even now he is the Chief Minister – during the relevant time, i.e. in 1988, has submitted that "what was stated in the letter of Shri Pillai was utter falsehood, contrary to facts existing in Kerala. It was just selling out the nation for a few lakhs of rupees, it was prostituting the mother country. It was not simply anti-communism but it was clear anti-national activity to get finance from foreign countries." Shri Nayanar has said that "certain Christian Missionaries sold Christ, Kerala G.S.N. sold Gandhi to meet their ends. Shri Nayanar has also stated that the Kerala G.S.N. has amassed millions by carrying out these nefarious activities for

long, say from 1962". Does it not deserve to be investigated and historical truth be established?

Now, I come to Mr. Kurup. He was the Member of Parliament from Kerala State and who has been closely associated with the political life of Kerala. He said that "the purpose of writing this letter was to sell the interest of the country to outside elements and to malign the democratically elected Government. This is more serious if we take into consideration the fact that in U.S.A. ever so many organisations are working to create confusion and anarchy in India. Another purpose of writing this letter was to procure funds by giving distorted picture of the State of Kerala." Does it not deserve to be investigated? Is it not desirable that historical truth should be established here? Whatever may be the expenditure, whatever time it may take, it should be investigated.

Now, I will come to Shri Unnikrishnan. He is also with them. It is not a Congress baby. It is the baby of the patriotic elements of this country. They demanded that there should be an investigation regarding the anti-national activity. It is not a baby of a particular party. He has mentioned that "for the last several decades a number of outside elements have been taking an excessive interest in the domestic political developments in the State of Kerala. A large number of organisations associated with the Catholic Church and various other Christian Charity organisations in Western Europe and the United States have also been taking keen interest in the political developments and fluctuating fortunes of the communist movement in Kerala. It is quite well known that quite a few over the years have been making a living through this game and attracting considerable support from foreign agencies based on highly motivated coloured and exaggerated version of political events in the State. According to Shri Unnikrishnan, the letter of Kerala G.S.N. also belongs to that

[Sh. Brajamohan Mohanty]

category. This letter, according to him, was a highly motivated exercise obviously out of some deep rooted prejudice or one being used for some positive material gain."

Now, I invite Mr. Shahabuddin's attention to the observations of Shri Unnikrishnan. What does that mean? Is it not necessary that these matters should be investigated? One Press had written that it is like the Shah Commission. It is not like the Shah Commission. The Shah Commission has not made any charge against Mrs. Gandhi that she was anti-national. I know what were the charges. And nowhere, not even her worst enemies had alleged that Indira Gandhi was anti-national. Nobody said that. So, this is quite different. This is a question of national security, national sovereignty; and it is a question of some people knowingly and some unknowingly playing into the hands, or to the tune, of foreign countries; and that is the tragedy of the situation.

I do not say against whom the allegation is there. No doubt, it has not been established that somebody took the money, somebody has written, as a Minister, for the grant to certain organizations. Is it not their moral responsibility to see how the money has been spent? Is it not their moral responsibility to give information to the Kudal Commission saying: 'This is our role in the whole affair'? They do not give it; and now they say that nothing has been done.

Now I come to another point, viz. how this sensitive information has been passed on. You know that the Chilka Lake is in Orissa; it is in my constituency. There is also some Defence establishment in Chilka. All the information about Chilka Lake has gone to the foreign agencies. Why? Do you know what has happened? They say that the lake is—

"... a sensitive area used for Defence purposes, and passed on the information to the agencies showing all the mouths of the lake—the poisonous nature of weeds, the depth of the water near the mouths of the lake, and various other details."

Why should this information go to foreign countries? That is why I say that some people knowingly and consciously were doing it; some people were involved, without knowing the significance of passing on this information.

He spoke about George Fernandes. I do not want to say anything. Who does not know the role of George Fernandes—in this country? Does he not know that he was negotiating with the West German Socialists for funds, and to become the Prime Minister? It is not my version; it is the version of the Janata Party during those days. Some friends of the Janata Party were alleging it. He had a link with some people—I do not want to name them—in West Germany, and had financial links; and he dreamt that he would be the Prime Minister of India. Has he gone through the 'Morarji Papers' which Gandhiji's grandson has written? It is not that somebody else has written "Morarji Papers". 'Morarji Papers' has been written by Gandhiji's grandson. You will find that in 'Morarji Papers' it has been written that it has been alleged by Janata Party members that George Fernandes was collecting Rs. 1 lakh per month from the National Textiles Corporation; and that Morarjibhai directed George Fernandes saying: 'These are the allegations. Get yourself cleared.' Has he got himself cleared?

V.P. Singh and the Janata Dal say that they will fight the elections on the issue viz. that there should be no corruption in high places. Is this a low place? I do not understand. I was closely watching the position since the publication of that book, 'Morarji Papers'. 'Morarji Papers' has been written

by Gandhiji's grandson, and Morarji is unhappy that he was misusing his privilege. However, nowhere I have seen any of the Janata Dal leaders issuing a counter-statement that nothing of that sort had happened. Nowhere was there any contradiction. They are going to fight the elections on the basis that there should be no corruption in high places.

Now I come to the workshop on Barak Valley. Who attended it? I say that information is available that Nepal attended it; Bhutan's representative attended it, and many other foreigners attended it. It is a very sensitive area. I had worked in Barak Valley. I know how much of a sensitive area it is. On that side there is Bangladesh, and on this side we have India; and there is only a river in between. So, that is the area about which information was being collected, to be passed on to foreign agencies. Why did they need it? Can't people understand; were they fools? Some people knowingly were doing it, and some people were unknowingly doing it.

So far as these agencies are concerned, I am told that in the report it is revealed that they had written to the World Bank not to advance any loan for the implementation of the Sarovar dam in Gujarat.

Why? The State Government will not give proper compensation to the displaced persons. Is this the way they are doing things? How are you involved in it? The World Bank will advance loan to India for that particular Project. That is not their concern. So, I would demand that these matters should be fully investigated. There should be no compromise on this issue. The truth should be revealed and an appropriate action should be taken against the guilty persons. I don't even say with regard to some cases where people are guilty. If the Government feels that it is not necessary, then they should leave it. Fifty-eight cases have been dropped. What does it establish? Does it not establish

that the Government is not partisan? Had the Government been partisan, no case would have been dropped? All the cases would have been prosecuted to the end and they would have been harassed. But the Government saw that there was no evidence or the evidence was not convincing or could not be established in a court of law. The Government is quite fair. So, in that background, they dropped 58 cases. I would submit that in all those cases where corruption is involved, where anti-national activities are involved, they should be properly investigated and appropriate action should be taken on the basis of the evidence. The truth must be established. There should be no compromise on this issue. We also do not want that anybody should be harassed unnecessarily.

Now, I am coming to the Orissa case. It is a very interesting case. It is regarding Orissa Gram Vikas Foundation. The Chairman was Shri Rabi Ray. He was Minister here. He had written about the flood affected people, the artisans; he wanted Rs. 25,000 to be given to him for them. The scheme that was formulated by Shri George Fernandes, was not applicable to Orissa; it was applicable to Bihar, UP, Rajasthan, Haryana, Punjab, West Bengal and Delhi. To Orissa, it was extended without any order. So, it was the first irregularity that was committed. Secondly, he applied for Rs. 25,000 for giving relief to the flood affected people, but he got Rs. 50,000. You know how things were moving during those days. What was the difficulty? The difficulty was how the money was spent. It was not that the Commission found irregularities; it was the AG of Orissa who found irregularities. There was no evidence of how the money was spent.

Paragraph 6 of the letter reads as follows:

"That the Foundation in its accounts reflected the utilisation of the entire grant of Rs. 50,000/- towards the pur-

[Sh. Brajamohan Mohanty]

chase of tools and equipments only, contrary to the understanding given by Shri Rabi Ray in his letter dated 28th September 1978...."

What was the purpose for which the money was given? It was not utilised for the purpose for which it was given. It further reads as follows:

"The the Accountant General, Orissa, who audited the accounts of the Foundation in May-June 1980 pointed out (a) that the voucher numbers for purchase of tools/equipment for Rs. 27,270.60 were altered several times; (b) the payment of Rs. 14,000/- to Shri Raghunath Patro towards the cost of 40 handlooms was on the basis of a kutchra bill and the kutchra receipts on plain paper and that there was nothing on record to show that the said Shri Raghunath Patro was a regular/recognised supplier; (c) No vouchers in support of transport charges of Rs. 635/- were produced; (d) None of the vouchers contained any indication that the supplies were received in good condition and the same were taken on stock account; (e) None of the vouchers had been authenticated either by its Managing Trustees Shri A.C. Sen or any other trustee."

So, in that background, these are the irregularities. Who will tolerate them? Why will the nation tolerate them? Why should the public money be misused, misappropriated, misutilised and mis-spent? This must be properly investigated. I do not say who is responsible. The persons responsible for all these things must be prosecuted. The leaders who had initiated this scheme and the leaders who had obtained fund in writing, they had the moral responsibility to see that the funds were properly spent. I would urge

upon the hon. Home Minister to see that this matter be placed before the public; let the people of India must know about this fact. Let a very stringent action be taken against the guilty people.

[*Translation*]

SHRI AZIZ QURESHI (Satna): Mr. Deputy Speaker, Sir, I would like to begin my speech by quoting the speech of Shrimati Indira Gandhi from the Daily Telegraph dated Oct. 31, 1984 published from Calcutta. Shrimati Gandhi had said.

[*English*]

"The inquiry by Kudal Commission was meant to bring to light irregularities committed in the name of helping poor families."

[*Translation*]

Fairly good discussion has already taken place on this issue in the House and I do not want to waste the time of the House merely by repeating all those things. But I would like to express my views on six major issues. Just now, Shri Shahabuddin has pleaded the case of the persons whose names have been mentioned in the report submitted by the Kudal Commission and against whom charges have been levelled. When I heard his speech I was reminded of a famous Urdu couplet. Urdu poet has said:-

"Hum aah bhi karte hein, to ho jate hein badnam
Woh katal bhi karte hein, to charcha nahin hota"

When Pandit Nehru led the Kisan Agitation and was arrested for the first time and presented before an English Magistrate, he said,

[*English*]

"Today you might have forced me to stay in

the dock, but the whole of the English Empire stands before the bar of humanity”.

[Translation]

Today the benches on the other side are vacant and the members of the opposition have quit their seats. They resigned from the House on Bofors issue and the CAG report. They resigned in name of value based politics and thus betrayed the people who had elected them. Through you, I would like to ask the hon. Member Shri Shahabuddin who referred to mud stinging and dust throwing in politics that it would have been better had he asked the same question to but hon. friends who are no more members of this House after they resigned from the Membership as they did nothing except playing dirty politics during the last five years. They are the people who created such a polluted atmosphere, lowered the level of politics, levelled false charges and often repeated them thinking that the people would believe them. Perhaps, history and future generations never forgive them. These very persons levelled charges against the Government with the motive of maligning the image of the leaders and the Prime Minister of the country Shri Rajiv Gandhi before the public. But now the same persons who talked of value-based politics in the past have been held guilty by the Kudal Commission. I think that they themselves have been exposed before the public and their own conscience has been throwing multi-faceted spotlight on them that

[English]

Year	Name of Project	Amount
1979	Rural Development (EZE, Bonn gave a grant of Rs. 44,55,589.95)	Rs. 68,40,943.72
1980	Rural Development (EZE, Bonn gave a grant of Rs. 9,35,448.50)	Rs. 53,08,542.02
1981	Rural Development (EZE, Bonn gave a grant of Rs. 7,73,846.55)	Rs. 12,49,273.45

with the result that they would never be able to face the people in future.

Mr. Deputy-Speaker, Sir, the question is not one of going into the technicalities raised by Shri Shahabuddin and holding discussion on them. The question is to find out whether crores of rupees have been brought into the country through foreign agencies. I would like to quote excerpts from Kudal Commission's Report:-

[English]

For smaller projects of voluntary agencies, funds were mobilised by AVARD from the Swiss Development Cooperation, amounting to Rs. 18,26,044 but what surprises everyone, as pointed out in the Kudal Commission, that there was no mobilisation of funds from local sources. Later on, the percentage of foreign funds increased from 52.9 per cent in 1966 to 88 per cent during the Janata regime.”

[Translation]

I would like to ask Shri Shahabuddin and his friends what clarification they would like to give in this regard. Similarly, what Shri Shahabuddin would like to say about AVARD the organisation which holds an international affiliation and which is a Member of the Governing Body of the International Council of Voluntary Agencies since 1981. I would like to quote the statistics given by Kudal Commission.

[Sh. Aziz Qureshi]

18.00 hrs.

[Translation]

Three years ago I had asked a few question through an unstarred question in this House. The questions were: How much funds have been given by EZE to remove poverty and to save the people from starvation; and whether this foreign agency has prepared the map of restricted areas and published them? The reply from the Government was in the affirmative. The details were also given.

[English]

MR. DEPUTY SPEAKER: You can continue next time.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETRO-CHEMICALS IN THE MINISTRY OF INDUSTRY (SHRI P. NAMGYAL): Mr. Deputy-Speaker, Sir, I propose that the sitting of the House be extended by one hour.

THE MINISTER OF LABOUR (SHRI BINDESHWARI DUBEY): In that case, I can move the Employees' State Insurance (Amendment) Bill for consideration.

SHRI SOMNATH RATH (Aska): We can also pass it.

MR. DEPUTY-SPEAKER: Is it the sense of the House that we sit late by one hour?

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY-SPEAKER: The sitting of the House is extended upto 1900 hours.

We shall take up next item—No. 10.
Shri Bindeshwari Dubey.

EMPLOYEES' STATE INSURANCE (AMENDMENT) BILL

[English]

THE MINISTER OF LABOUR (SHRI BINDESHWARI DUBEY): I beg to move:

"That the Bill further to amend the Employees' State Insurance Act, 1948, as passed by Rajya Sabha, be taken into consideration."

As the hon. Members will be aware, the Employees' State Insurance Act, 1948 provides, inter-alia, for grant of cash benefits to the employees in the event of sickness, maternity and employment injury. In addition, medical care is provided to the insured person and his/her family in kind. The Act which is applicable, in the first instance, to non-seasonal factories employing 20 or more persons and using power in the manufacturing process, is now being gradually extended area-wise to certain new classes of establishments, in a phased manner. As on 31.12.1988, the Act covered about 61.68 lakh workers in 580 industrial centres in the country. The total number of beneficiaries including the family members for medical care was about 2.73 crores.

The working of the Employees' State Insurance Scheme has been reviewed from time to time. A sub-committee of the ESI Corporation had made an in-depth study of the various provisions of the Act and made certain recommendations in 1978. Another Committee was set up by the Ministry of Labour subsequently to review the working of the Scheme. This Committee had submitted its report to the Government in 1982. The two Committees together had made a number of recommendations involving amendment of the Act. These recommendations called for a comprehensive amendment Bill

As, however, drafting of a comprehensive amendment Bill was likely to take time, we had brought forward an amending Bill in 1984 for carrying out certain amendments such as raising the wage limit for coverage of employees from Rs. 1000/- to Rs. 1600/- per month, for which there was a pressing demand. The Act was accordingly amended in 1984. The other amendments suggested were not of a very pressing nature, and, therefore, all the pending recommendations were further reviewed and incorporated into a comprehensive amendment Bill which has now been introduced.

There are two amendments which are of particular interest to the workers. The first of these amendments relates to inclusion of children of insured persons upto the age of 21 years and infirm children without any age restriction in the definition of "family", so as to make them eligible for medical benefit under the Act.

At present, medical benefit is available only to minor children i.e. children upto the age of 18 years. The second amendment seeks to provide for continuance of medical benefit to the insured persons, who have to leave insurable employment due to employment injury, and retired insured persons and their spouses, subject to payment of contribution. At present, medical benefit is available to insured persons only so long as they are in insurable employment.

Under the existing provisions of the Act, the Act is made applicable in the first instance, to factories. The provisions of the Act are being extended area-wise, in a phased manner. Normally the provisions of the Act are implemented in areas with concentration of about 1000 employees for whom viable medical arrangements can be made. At present, some difficulty is being experienced in implementing the provisions of the Act in new areas, as the Act has to be made applicable in the first instance only to facto-

ries. The areas with concentration of factories have since been generally covered. It is, therefore, now necessary to cover other coverable establishments, along with factories. It is accordingly now proposed to make the Act applicable to other coverable establishments along with factories.

At present, the Corporation has to make recruitment to all posts corresponding to group 'A' and 'B' posts under the Central Government through the UPSC. The experience over the years has shown that recruitment to posts through the UPSC generally takes considerable time. Delay in filling up of the posts of medical officers in ESI dispensaries/hospitals is bound to adversely affect the service provided to the beneficiaries. It is, therefore, now proposed to withdraw the 'medical posts' in the Corporation from the purview of the UPSC and to empower the Corporation to make direct recruitment to these posts through its own Selection Board, so as to ensure timely filling up of the posts.

An important aspect of the administration of the ESI Scheme relates to the autonomy of the ESI Corporation which is self-financing. The members of the ESI Corporation, particularly the representatives of the employers and employees have been pleading for greater autonomy and freedom of action for the Corporation. Considering the number of persons who contribute to the scheme and the vast amount of funds handled, a certain measure of Government control seems to be unavoidable. However, any rigid control of the organisation, with a view to safeguarding the funds and the interest of the workers, is bound to curb initiative and effect service. The Government has, therefore, after considering all aspects of the matter, decided to confer enhanced powers to the Corporation in the matter of creation of posts, appointment of officers and application of the Government rules relating to pay, allowances and other conditions of service to their officers and staff. It is also proposed

[Sh. Bindeshwari Dubey]

to increase the number of representatives of employers and employees on the Corporation from five each to ten each, so as to give them greater representation.

Another major area of concern has been the mounting arrears of ESI dues. Contributions have to be collected from a large number of employers, some of whom default in payment of contribution. The Government has been rather concerned about the default in payment of contribution, which though small in relation to the total quantum of funds handled, is large enough in absolute terms to cause anxiety. The defaults may sometimes occur for economic reasons, but all defaults cannot be ascribed to this. In some cases, in particular, wilful default cannot be ruled out. Besides, whatever be the cause, the default in payment of contribution by an employer effects the financial position of the Corporation and consequently grant of benefit to the insured persons. As on 31.3.1989, the total amount of arrears of ESI dues (including interest) amounted to about Rs. 116.37 crores. The ESI authorities have been taking all possible legal and penal action for realisation of arrears but arrears have been gradually mounting. In order to ensure early recovery of the outstanding dues, it is now proposed to set up an independent recovery machinery of the ESI Corporation on the lines of the recovery machinery of the Income Tax Department. It is also proposed to plug the loopholes in the existing provisions of the Act and to make the various penal provisions in the Act more stringent.

There are certain provisions, such as, those relating to wage limit for coverage under the Act, wage limit for exemption of employees from payment of employees contribution, which require suitable enhancement. Similarly, the rates of various benefits may also have to be periodically enhanced to compensate for rise in the cost of living. At

present, all these provisions are governed by specific provisions of the Act. Any changes in these provisions require amendment of the Act, which usually takes time. It is, therefore, now proposed to provide for prescribing all these matters in the rules so that necessary changes may be effected as and when necessary. The copies of notifications carrying out amendments in the rules would, however, be laid before Parliament as already provided in the Act.

These are some of the more important amendments proposed. I hope that the Members will welcome the proposed amendments.

The Bill has been brought to improve the functioning of the Corporation to take care that more adequate facilities, like medical care, health and other facilities as provided in the original Act, are made available. I think the Members of the House have appreciated this Amending Bill and therefore they have not suggested any amendment. With these words, I commend the Bill for the consideration and passing by this august House. I hope the hon. Members will pass this Bill even without discussion as it is primarily aimed at enhancing the welfare measures of the E.S.I. Working class working in small factories and other shops.

SHRI SOMNATH RATH (Aska): Mr. Deputy-Speaker, Sir, this is a Bill for the welfare of the workers. It is a progressive Bill. There is no doubt about it. It provides medical facilities for the family members of the workers and also the scope for insurance of the workers extended. While welcoming the measures taken by the Government for the benefit of workers, I would like to suggest one thing to the hon. Minister. Sir, the employers never contribute their share in right time and they are in arrears of contribution of the workers' provident fund. What they do is that in the Board, there are members who are actually not in existence. This Bill ex-

tends not only to factories but also to certain establishments. It is a very good measure. But the Members of the Board and of the Managing Committee are in many places fictitious and they have no property of their own and they do not contribute their share. Further, when the Government take efforts to realise the arrears from them, they go to the High Court and get a stay order and the stay orders continue for an indefinite time. On account of this, the workers are not able to benefit. So, I would request the hon. Minister to see that necessary legislations or amendments to existing law may be made to take away the jurisdiction of the High Court to grant stay orders. Let there be Tribunal. It should be decided by the Tribunal and no High Court should entertain these cases. There are many instances. In West Bengal, for factories, many cases are pending and crores and crores of rupees are not being realised from the employers. This is the main point to which attention should be given by the Government and necessary steps should be taken to see that employees don't cheat the workers and victimise the workers.

SHRI CHINTAMANI JENA (Balasore): Mr. Deputy-Speaker, Sir, I wholeheartedly support the Amendment to the Act brought by the hon. Minister. I would only request the hon. Minister that this facility may be extended to the workers who are working in the rural areas, and are handling the agricultural implements like tractors, water pump sets, etc. because in the rural areas there is no facility either medical or any other facility which is applicable for the welfare of the labour in the factories and industrial sectors. Those facilities are not available to the labourers or the workers who are working in the rural areas. So, my humble submission to the hon. Minister is that this facility may also be extended to the labour working with machines and also implements in rural areas because they are not organised and nobody cares for them. I would like to submit one more point. What we have noticed is that

E.S.I. Dispensaries and hospitals are limited in number. These institutions cannot provide medical facilities to all the workers. So, there should be one dispensary and hospital for a certain number of workers working in industries or factories. My suggestion would be that for 5,000 workers, one ESI dispensary should be established either by the Government of India or by the State Government and for 25,000 workers there should be one hospital. Besides, I fully appreciate the concept of the hon. Minister about child labour. We have discussed it several times here but unfortunately, nobody is looking after them. Even today, I can name many of the States, but I should not name them. Many small boys below 13 years are working in Beedi factories and in several industries. Nobody is looking after them and no facility is provided by the employers to these child workers. So, I would request that the Amendment should be such that stringent punishment should be given for violation of any welfare measures for the child workers sanctioned in this Act. With these words, I whole-heartedly support this Bill.

[*Translation*]

SHRI AZIZ QURESHI (Satna): Mr. Deputy Speaker, Sir, I support the Bill and congratulate the hon. Minister for introducing the Bill in the House. I won't take much time. I would like to draw his attention of the hon. Minister to the fact that there are a number of areas in the country where the laws meant for the protection of labourers have remained confined only to books and they are not implemented effectively. In my own constituency Satna, there is a factory named Satna Cemented Lime Factory, where thousands of labourers work. But the management neither got any dispensary or hospital constructed with their own expenses nor did they give permission to open these facilities by the Government on the land they acquired on lease basis. On the contrary, they closed the hospital which had already

[Sh. Aziz Qureshi]

been functioning there. They are capitalists and that is why the voice of labourers is not heard. I represent that area in the House and I have been constantly trying for the last three years to provide facilities to them, but I did not succeed in my efforts. Neither there is any electricity nor drinking water. Health services and educational institutions are missing. They have not allowed any welfare work to be done on their land which they took on lease basis. The hon. Minister may note down that in Satna there is Satna Cement Lime Factory. The law should have a provision for stringent action to be taken against the owners of the factories who do not provide the basic facilities to the Labourers. Otherwise the laws will be of no use and they would remain confined only to statistic book.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF INFORMATION AND BROADCASTING (SHRI S. KRISHNA KUMAR): Sir, I would like to make this brief intervention to congratulate the hon. Labour Minister Shri Bhindeshwari Dubey as well as our Prime Minister for bringing forward this legislation which increases the benefits to different categories of workers all over the country, which proposes to rationalise the working of the Employees' State Insurance Scheme and give further devolution of powers and flexibility of working to the ESI Corporation. The hon. Labour Minister has, in his introductory statement, given a comprehensive picture of the benefits which are proposed to be given to the working class through this Bill. Sir, we in Kerala are particularly happy that the Government of India, particularly the hon. Labour Minister has taken the initiative to bring forward this amendment. This amendment will, *inter alia* give substantial benefits to one of the most important segments of the traditional work-

ing class in Kerala, namely the cashew workers of the State.

The Employees State Insurance Act, 1948 has been amended several times. The working of the scheme has often been reviewed. Several committees have gone into the working of the scheme, started in 1948, various times. The last amendment was made in 1984 which gave certain additional benefits to the workers. For instance, the wage limit for coverage of employees was raised through that amendment from Rs. 1,000 to Rs. 1600 per month. But unfortunately, as far as the cashew workers of Kerala are concerned, a particular measure which sought to rationalise the working of the scheme had affected the cashew workers adversely. I am referring to the particular amendment made in 1984 which changed the definition of wage period for making workers eligible for benefit under the scheme from 13 week in a half year to 91 days in a half year. That amendment was brought by the Central Government with altogether good and *bona fide* intention. The purpose was to streamline the working of the scheme and to ensure that the eligibility criterion is not misused by any particular section of the employees. But technically up to that amendment, even though the cashew worker theoretically worked only one day a week, if he was able to put in 13 stamp cards under the ESI Act, within a half year, to the Corporation, that is, theoretically even if he worked for only 13 days in a half year, he would have been eligible for benefits under the ESI Scheme, though, of course, the quantum of benefits would only be proportionate to the number of days' contributions he had made to the Corporation. Because of the amendment of 1984 changing the 13 week wage period to 91 days, which was brought forward by the Central Government, based on the reports of the committee which went into the working of the ESI Scheme, a large section of the cashew workers who could not satisfy the criteria benefits of were denied of

the ESI Scheme from 1984 onwards. This is because the conditions in the cashew industry are such that it was rarely possible to give continued work of 91 days in a half year.

My constituency of Quilon in Kerala has more than 1 1/2 lakh cashew workers' families. Not only are they a very sizeable segment of the population of the area but they represent the most organised working class. Stalwarts of my own Party and of public life in India like late Shri C.M. Stephen were renowned trade unionists in the cashew field and it were they who organised the cashew workers behind the nationalist movement. The majority of the cashew workers are women and they include a large number of Harijans. Because of the nature of processing in the cashew industry which requires a specific talent which only women in certain areas such as Quilon, have able to develop over the years, cashew processing industry has tended to concentrate in that area. Many of the Opposition parties and Opposition trade unions have been making political capital out of the changed definition of the work period which denied some sections of the workers the benefit which were enjoying ever since the inception of the Act in 1938.

All the members of Parliament from Kerala including myself have been entreating the Central Government to make a special exemption for cashew workers but obviously it was not possible to make an amendment in the ESI Act for cashew workers alone in a large country like India. There are many other areas of activity of organised working class such as sugar, jute mills where also the work is of a seasonal nature even though the workers work in registered factories and they are eligible for the benefits under the ESI Act. Ultimately due to the sagacity of the Labour Minister and the kindness of our hon. Prime Minister, this problem is sought to be solved by not making a specific exemption in the case of cashew workers as such, but by Government through

this particular amendment, taking the power under its wings to regulate the wage period, the eligibility criterion and other parameters in the working of the ESI Scheme so that Government, in its wisdom and in its enlightened opinion, can regulate the working of the ESI Scheme in particular areas of our country, for particular sections of the working class, taking into consideration the practical and realistic situation which exists in those segments of the working class.

Sections 19, 20, 21 etc. of the new Amendments and sub-sections thereof enable the Central Government to fix eligibility criteria for sickness benefit, conditions under which such benefit can be given, rate and period thereof, the qualification of the insured women to claimed maternity benefit, the rates and periods of disablement, rates and periods of the other benefits under the Act as may be specifically prescribed by Government. In the previous amendment and in the existing Act, these eligibility criteria were fixed in absolute terms. For instance, 91 days in a half year was fixed as the wage period making workers eligible for sickness benefits. It was not possible to fix different criteria for specific industry for specific reasons without amending the Act. It would have been too onerous and too difficult and virtually impossible to amend the Act for each category of industry even though each category of industry and working class had a genuine case. By making this new amendment, the ESI Act will become flexible and the Government will be in a position to give relaxed conditions for availing of the benefits not only by cashew workers but by workers similarly situated in any other part of the country who have a genuine grievance with respect to any of the benefits under the Act.

Through the enacting provisions of the New Amendments, benefits such as Medical benefit, Sickness benefit, Extended Sickness benefit, Accident benefit, Permanent

[Sh. S. Krishna Kumar]

Disablement benefit, Maternity benefit, Funeral benefit, Dependent benefit and Rehabilitation benefit to which workers are eligible under the Act will be available to the cashew workers even though they are not able to fulfil 91 day in a half year criterion which was necessary under the previous Act. As soon as this Bill is passed, hon. Labour Minister has assured the Members of Parliament from Kerala and publicmen from Kerala that a separate administrative schemes will be promulgated making use of the provisions of this Act separately stipulating the eligibility criteria, taking into condition the practical reality of the number of days cashew workers are able to work in Kerala and elsewhere.

When the Congress Government was in power in Kerala, we were able to give to the cashew workers a minimum of 120 days work in a year because we are able to procure the lion's portion of the raw cashew which was produced in the whole of the country and make it available to our factories. We are also able to import substantial quantity of raw nut from abroad. But because of the unprincipled and negative policies being followed by the present Marxist Government in Kerala, last year, they were able to give work only for about fifty to sixty days. This year they may be able to give a little more. So, irrespective of the number of days, on the average, they can get only hundred days work because the total raw but production in the country is only one and a half lakh tonnes whereas it requires five lakh tonnes of raw material or raw cashew to give, say three hundred days work a year to the cashew workers of the State.

Therefore, I am sure, the hon. Labour Minister will fix the criteria on in such a way that not only will the cashew workers be able to get the benefit under this scheme but the limit should be fixed in such a manner that

these two lakh poor women, who depend on the cashew industry and who have been the beneficiaries of the ESI Act since 1938 onwards, ever since the ESI Act came into being, will get benefit which are not less than what they were enjoying all these years under the Act, under the previous legislation.

Hon. Prime Minister and the Labour Minister are taking the leadership in ensuring that working class of the country get a fair deal and all new labour legislation confer enhanced benefits and never curtail the existing benefit. The convention has also been, that whatever benefits, rightly or wrongly by sections of the working class have been enjoying for decades, by tradition, we do not take away from the existing benefits.

I am sure the hon. Minister will keep these things in mind. He has been extremely kind already in bringing the New amendment. When the administrative scheme is formulated, it may be got through the ESI Corporation and promulgated before *Onam*, our national festival in Kerala in September which is emotionally important to the cashew workers and the people of the State. I have no doubt in my mind that the Government of Shri Rajiv Gandhi will give this benefit as my leader in Kerala Shri K. Karunakaran and Kerala's PCC (I) President, Shri A.K. Antony have already requested anticipating Government's goodwill. as an *Onam* gift to the cashew workers of Kerala, that the new cashew workers ESI scheme will be announced before *Onam* season starts in the middle of September.

I would also like to congratulate the Labour Minister because very major fresh benefit is also sought to be given by this amendment, that is now the children of the workers including cashew workers will be given the medical benefit to which they were not eligible before. The children of insured persons upto the age of 21 years and infirm

children without any age restriction have been included in the definition of the family of the worker, so that now they will also, as per this amendment, become eligible for medical benefits under the Act. This also is a very far-reaching benefits as far as the working class is concerned.

I do not want to take much of your time. I would like to congratulate the Labour Minister and the Ministry—not only Shri Dubey, but also his able junior colleague Shri Malaviya—for helping Kerala and the cashew workers, though this amendment is not for cashew workers alone, it is for all workers; yet the cashew workers probably stand to benefit most of all from this amendment.

The Opposition Parties in Kerala were mocking at us all these years. They said, our assurance that this ESI Act will be amended to give benefits to the cashew workers of Kerala will never be implemented. They were mocking at us saying that this is just an empty promise and such an amendment can never be made in an All India Act to benefit the cashew workers. The Marxist Government in Kerala has not taken any step in the last two years to persuade the Central Government to bring this amendment. It is the Congress MPs of the State who have been pursuing this amendment with single minded devotion and now made this enlightened legislation possible. I had promised the cashew workers that, before August 15 this legislation will be passed in the Rajya Sabha and the Lok Sabha. We are most grateful to the Hon. Prime Minister and the Hon. Labour Minister because this evening, the 14th of August, this Bill is being passed by this august House.

[*Translation*]

THE MINISTER OF LABOUR (SHRI BINDESHWARI DUBEY): Mr. Deputy-Speaker Sir, I thank all those hon. Members

who have not only supported this Bill but also appreciated its objective.

Shri Somnath Rath said in his speech that the arrears of the employers' contribution towards E.S.I. were increasing. He also asked the Government to take strict measures for the recovery of these arrears. There is a provision for this purpose in this Amending Bill and the Government will set up an independent machinery which will improve the recovery process. Apart from this, we are asking the State Governments to depute some judicial officers for our help to expedite the recovery cases which are pending. We shall also try to set up special courts if the need arises. Till now the E.S.I. has recovered about Rs. 3,350 crores. I agree that the entire amount should be recovered and arrears should be fully cleared. But there are some representatives of the employers who do not have any assets and, as such, they do not have any accountability or responsibility. This problem has to be solved. When the Corporation is reconstituted, we shall see to it that only those representatives find a place in it who plead the case of employees with full responsibility. This Bill provides for an increase in the number of representatives of the employers and employees in the Corporation. We shall prefer such representatives who can help us recover the arrears due from the employers and are aware of their responsibilities.

Expressing his support for the Bill, hon. Shri Jena said that there are a number of areas where the Corporation does not have any hospitals or dispensaries. For this purpose, there is a norm that dispensaries would be provided at places where there are at least 1000 insured workers of the Corporation. At these dispensaries, medicines, ambulance, doctors and pharmacists are available. At places where there are 12,000 insured workmen of the Corporation, an hospital is provided. There are 104 E.S.I. hospitals in the country. These are large

[Sh. Bindeshwari Dubey]

hospitals and there are large hospitals and there are many dispensaries also. In the Corporation meetings, representatives of the employers and employees frequently complain that the medical facilities are not satisfactory. One of the main reasons for this is that vacancies of doctors were not filled up on time. When this Act was first passed we expected it to have a wide coverage that would benefit many people. It is believed that of all security schemes in the world, this social security scheme is the biggest. In course of time, it was felt that this Corporation is not really enjoying autonomy although it is an autonomous Corporation. So greater autonomy will be provided to this body so as to improve its functioning. One of the objectives of this Bill is to empower the Government to have an overall control over the Corporation but at the same time, it has to ensure that there is no impediments in its functioning and its objective of providing better medical facilities to insured workmen is fulfilled.

If hon. Shri Jena pinpoints a particular area which fulfill the prescribed norms, the Government would definitely help in setting up of dispensaries or hospitals over there. As a Chairman of the Corporation, I shall see that necessary approval is given in the meeting.

My other colleague hon. Shri Aziz Qureshi referred to the situation prevailing in Satna. I was pained to hear that there are many places which have industrial establishments but are not covered by the E.S.I. We shall take all the details from him and I assure him that if E.S.I. coverage has not been possible due to interference from any employer, appropriate action will be taken to

extend E.S.I. benefits to workers over there.

Hon. Shri Krishna Kumar expressed his support for the Bill and also thanked the hon. Prime Minister and myself for the same. Apart from what I discussed in my speech, he also read out a few clauses. All these points highlighted the increased benefits envisaged for insured persons their dependents and the disabled through improved medical facilities. He mentioned the case of cashew workers in particular. In fact, since the time I assumed charge as Minister of Labour, he has been regularly taking up the case of cashew workers with me. He discussed this matter with the hon. Prime Minister also and said that cashew workers were entitled to E.S.I. benefits. Through an amendment in 1984, some changes in the eligibility conditions deprived the workers of the benefits. Since then I have been thinking of a way to restore E.S.I. facilities to cashew workers of which they had been deprived through an amendment in 1984. This Bill will also empower the Corporation to read just the eligibility criteria so as to cover all workers. The eligibility criteria may be prescribed according to the prevailing situation. In this manner adequate medical facilities can be provided to workers and their dependents. As soon as this Bill is passed, it will become an Act and we shall immediately formulate a scheme, deliberations for which have already started. This Bill is related to essential welfare measures, and when the House passes this Bill it will become an Act. The draft for the scheme is under preparation. He said that if the scheme was launched on the auspicious occasion of Onam, the cashew workers and other workmen who had been deprived of benefits would be very happy. Hon. Shri Rajiv Gandhi's Government is committed to providing a respectable status in society to citizens of this country who sweat and toil to earn their daily bread. Any

worker can be included in this scheme and brought under the purview of social security measures. Our happiness lies in their being happy. We shall do our best to finalize the scheme before the festival of Onam so that we can share their happiness.

Hon. Shri Jena spoke about the problems being faced by the bidi workers. There is a separate scheme for bidi workers—Bidi workers Cess Act and Bidi Workers Fund Act through which separate medical and other facilities are being provided to them. It does not have any relation to the E.S.I. scheme. The hon. Member is requested to go through that Act. It provides for a wide range of medical and other facilities. If there are still places where bidi workers are not getting the facilities. We shall try to make these benefits available to them. Let me give an assurance that we are alive to any shortcomings in the implementation of labour laws, but as hon. Members are well aware the responsibility for their implementation lies with the State Governments. They have not taken up the task of implementation as seriously as they should have. This has resulted in shortcoming in implementation. To overcome this shortcoming, we are amending many of the labour laws to plug any legal loopholes that may exist. At the same time, employers who violate these laws would be given severe punishment. For this purpose the penal provisions are being made more stringent.

I hope the amendments in various laws will ensure their better implementation and thus provide better facilities to workmens.

With these words I express my gratitude to the hon. Members who have supported this Bill. With your permission, I propose that this Bill be passed.

[English]

MR. DEPUTY SPEKAER: The question is:

"That the Bill further to amend the Employees' State Insurance Act 1948, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

MR. DEPUTY SPEAKER: The House will now take up Clause-by-Clause consideration of the Bill.

The question is:

"That Clauses 2 to 47 stand part of the Bill."

The motion was adopted

Clauses 2 to 47 were added to the Bill

MR. DEPUTY SPEAKER: The question is:

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

The motion was adopted

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

SHRI BINDESHWARI DUBEY: I beg to move:

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted

18.58 hrs.

MR. DUPUTY SPEAKER: Now the House stands adjourned to meet at 11.00 hours on Wednesday, the 16th August, 1989.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, August 16, 1989/Sravana 25, 1911 (Saka)

© 1989 BY LOK SABHA SECRETARIAT

**Published under Rules 379 and 382 of the Rules of Procedure and
Conduct of Business in Lok Sabha (Sixth Edition) and printed by
S. Narayan & Sons, Delhi-6**
