THIRTY-FIRST REPORT

ESTIMATES COMMITTEE
(1985-86)

(EIGHTH LOK SABHA)

MINISTRY OF LAW AND JUSTICE
(DEPARTMENT OF JUSTICE)

PENDENCY OF CASES IN SUPREME COURT AND HIGH COURTS

Presented to Lok Sabha on 17-4-1986

LOK SABHA SECRETARIAT
NEW DELHI

April, 1986/Chaitra, 1908 (Saka)
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PTER. I

CORRIGENDA TO 31ST REPORT OF ESTIMATES COMMITTEE (1985-86) ON THE MINISTRY OF LAW & JUSTICE - PENDENCY OF CASES IN SUPREME COURT AND HIGH COURTS.

Page	Para	Line	For	Read
8	2.8	Against Madras	1,49,460	1,49,469
38	5.3(c)(c)	In column for total	50073	58073
39	-	Against Bombay in the column of cases instituted in 1981	23194	23191
39		Against the total of cases instituted in 1981	565702	565699
39		In the column of cases disposed in 1984	6590	5934
39		-do-	5934	6590
39		-do-	554310	55431
39		In column of pendency in 1982	82331	83331
39		Against the total of cases disposed in 1984	498825	498836
43		1st	Lad	Law
66		Second from last	Financial	Final

CONTENTS

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(1985-86)

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2. Shri Ram Kishore, *Chief Financial Committee Officer*
3. Shri T. S. Ahluwalia, *Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of Estimates Committee having been authorised by the Committee to submit the Report on their behalf present this Thirty-first Report on the Ministry of Law and Justice—(Department of Justice) —Pendency of Cases in Supreme Court and High Courts.

2. The Committee took evidence of the representatives of the Ministry of Law and Justice (Department of Justice) on 4th and 5th February, 1986. The Committee wish to express their thanks to the Officers of the Ministry for placing before them the material and information they desired in connection with the examination of the subject and for giving evidence before the Committee.

3. The Committee also wish to thank the Chairman—Bar Council of Rajasthan and Shri V. R. Krishna Iyer, Former Judge of Supreme Court for giving evidence and making valuable suggestions before the Committee.

4. The Committee also wish to express their thanks to all other institutions, associations, bodies and individuals who furnished memoranda on the subject to the Committee.

5. The Report was considered and adopted by the Committee on 15th April, 1986.

6. For facility of reference the recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix to the Report.

CHINTAMANI PANIGRAHI
Chairman
Estimates Committee.

NEW DELHI;
April 16, 1986
Chaitra 26, 1908 (*Saka*)

CHAPTER I

MAGNITUDE OF THE PROBLEM

A. *Introduction*

1.1 The standard of development in a modern organised society can be gauged by the speed with which it is able to dispense justice to its members. Due and timely dispensation of justice is one of the most essential functions and obligations of the State. The State cannot evade or shirk its responsibilities in this behalf on sheer grounds of economy. It is in the interest, both of the State and the citizen that disputes which are taken to Law Courts are adjudicated and decided within the shortest possible time. It is well known saying that justice delayed is justice denied. Delay in the disposal of cases, particularly in the Superior Courts, causes untold hardship to the parties to the dispute. It is not unusual to hear that litigation started by the ancestors has been continued by the succeeding generations without the cases having been decided for decades.

1.2 At the same time it is necessary that to speed up the decisions of cases, the requisite basic norms for ensuring justice are not dispensed with. While maintaining fairness, impartiality and fearlessness the Superior Courts have also to ensure an element of certainity and uniformity in the interpretation of laws for the guidance of subordinate courts and the litigants. These aspects of the judicial process do make for delay in disposal of cases. However, a sound balance between the considerations of speed and demands of justice has to be kept. This casts onerous responsibility on the persons and the institutions entrusted with the task to secure elimination of delays and speedy clearance of arrears in courts.

1.3 The very fact that the problem of arrears in Courts has been examined by various Commissions, Committees and discussed at Conference of Bar Associations and other forums over the decades and yet it continues bears ample testimony to the magnitude and complexity of the problem and that it is not easy of solution. Increase in population; greater awareness among the people of their rights; enactment of too many and complicated laws and rapid industrialisation are some of the causes for increase in the number of cases being instituted in the Supreme Court and the High Courts year after year. Obviously, disposal of cases has not been keeping pace with the institution, resulting in accumulation of arrears in Courts. The Law Commission of India, in its 14th Report summarised

the reasons for the accumulation of work in the High Courts as follows:—

"(1) The arrears can be partly attributed to the increase in both the normal work of the High Court and also the expansion of its special jurisdiction under various Acts.

(2) The coming into force of the Constitution has also greatly added to the work of the High Courts.

(3) The strength of the High Courts was not increased in time to prevent the arrears from accumulating.

(4) There has been large increase of arrears in the High Courts and disposals have fallen short of what they should be in a properly regulated court.

(5) Many unsatisfactory appointments have been made to the High Courts on political, regional and communal or other grounds with the result that the fittest men have not been appointed. This has resulted in a diminution in the outturn of work of the judges.

(6) These unsatisfactory appointments have been made notwithstanding the fact that in the vast majority of cases appointments have been concurred in by the Chief Justice of the High Court and by the Chief Justice of India."

1.4 The problem of arrears in Superior Courts has been there for long, but by passage of time the enormity of the problem got accentuated as could be assessed by the following observation made in their informal Report made by a Committee of Three Chief Justices of High Courts which was set up to examine the problem of arrears in High Courts and suggest remedial measures :—

"Over the years there has been consistent increase in the institution of cases in the High Courts. On the other hand, disposal has not kept pace, leading to accumulation of arrears. If in the past the vacancies in the High Court Bench had been filled promptly, after raising the strength realistically the arrears may not have accumulated to such a large extent. Today the position is that if the entire existing strength of the High Court is exclusively applied to disposing of the cases in arreas, it is likely to take 10 or more years to clear them up."

B. *Earlier Reports on Arrears of Cases*

1.5 In the recent past the following Committees/Commissions have examined and reported on delays and arrears in High Courts :—

(i) Informal Committee (Shah Committee) Report 1972.

(ii) Law Commission—79th Report.

(iii) Informal Committee of Chief Justices constituted in February, 1984.

1.6 In reply to the question whether any of the recommendations of the above Committee/Commission were accepted and if so whether Ministry of Law and Justice was regularly monitoring the implementation of these recommendations and what was the latest position of each of the recommendations, the Ministry in a written note furnished to the Committee has stated :—

"*Shah Committee Report* recommended the following :—

(i) Streamlining of procedure in the Courts having bearing on the Criminal Procedure Code and Civil Procedure Code.

(ii) Measures to increase efficiency and working in the High Courts not related to any Acts, but with the rules of State Governments/High Courts and administrative orders, etc.

(iii) Streamlining of certain specific Acts/Laws and working thereof like Income-Tax Act, Patents and Designs Act, Succession Act, Divorce Act, Lunacy Act, etc. and working of various Tribunals like Income-Tax Tribunal and Labour Tribunal.

(iv) Improvement in the service conditions of Judges.

The recommendations of the Committee concerning amendments in Civil Procedure Code and Criminal Procedure Code were brought to the notice of the Law Commission which in turn submitted its report taking into consideration these recommendations. Based on this, a new Code of Criminal Procedure was enacted in 1973 and the Civil Procedure Code was extensively amended in 1976.

The measures to increase efficiency and working in the High Courts not related to any Acts pertained mainly to areas in which not only the State Governments, but the High Courts and Chief Justice of India were concerned. Accordingly, the views of the Committee were brought to the notice of Chief Justice of India, the High Courts and the State Governments with a request to consider these recommendations.

The matter relating to streamlining of certain specific laws and Acts was the concern of the other Ministries and Departments. Accordingly, the same was brought to their notice for appropriate action.

The question of improving the conditions of service of judges was the subject of this department (Department of Justice). The matter was considered and improvement in service conditions were made from time to time.

79th Report of Law Commission.—The report was sent in 1979 to State Governments/High Courts as the recommendations required action

by them mainly by way of appropriate supervisory control and other administrative measures by issue of orders/amendments of rules, etc. An Inter-Departmental Committee of 3 Officers representing the Legislative Department, the Department of Legal Affairs and the Department of Justice was also constituted by the then Law Minister in 1979 to examine these recommendations and formulate concrete proposals for Governments' approval. These recommendations were again sent to the State Government/High Courts in June 1982 and followed up in the Conference of Law Ministers in June 1982. The Law Ministers were impressed upon the need for their effective implementation and were specifically requested to consult the Chief Justice of their High Courts frequently in this regard. The matter was again discussed in the Joint Conference of Chief Justices, Chief Ministers and Law Ministers of States held on 31st August—1st September, 1985. Several High Courts/State Governments have conveyed that they agreed with the recommendations and are being given effect to and that the recommendations contained in the 79th Report are being followed up."

1.7 In reply to the question as to in what way the implementation of certain recommendations contained in these reports contributed in bringing down the pendency of cases in Courts, Ministry of Law and Justice in a note furnished to the Committee has stated :

> "It is not possible to quantify the impact of the reports on the pendency in each Court since the pendency is due to several complex factors."

1.8 When asked to spell out the outcome of the Inter-Departmental Committee of three officers representing the Legislative Department, the Department of Legal Affairs and the Department of Justice constituted by the then Law Minister in 1979 to examine the recommendations of Shah Committee Report and 79th Report of Law Commission, Additional Secretary Ministry of Law and Justice during his evidence stated, that "these proposals were sent to the State Governments."

1.9 The Law Commission, in its 79th Report, May 1979, had observed :

> "any report that deals with the question of delay in the disposal of judicial cases and the heavy backlog of arrears can bear fruit only if prompt action is taken on the report and there is speedy implementation of such of the recommendations contained therein as are found to be acceptable. A report dealing with the question of delay must be distinguished from a report dealing with the review of a particular enactment or code. A report of the former kind has an urgency of its own, and it is but imperative that there should be no undue delay in taking action on report which itself deals with the question of eliminating delay."

1.10 The Committee note that several Committees and Commissions have been set up in the past to examine the problem of mounting arrears of cases in the Supreme Court and High Courts. The Committee further note that the Report of one such Committee viz. Inter Departmental Committee which was constituted in 1979 to examine the recommendation made in the 79th Report of the Law Commission, received in 1980, was sent for taking appropriate action in two batches to State Governments/ High Courts, one in May 1981 and the second in April, 1982. This leads the Committee to the inescapable conclusion that Ministry have not taken any serious view of the reports of such Committees and Commissions inspite of the observation of the Law Commission that a report dealing with arrears and delay could bear fruit only if prompt action was taken thereon and that such report had to be distinguished from other reports dealing with review of a particular enactment. It was also the responsibility of the Department of Justice to have continued to impress upon other Ministries/ Departments of the Government of India to streamline the Acts/Laws administered by them in accordance with the recommendations of the Law Commission, 1979, on delay and arrears in High Courts so as to provide speedy justice to the people affected thereby.

1.11 The reply of the Ministry that it was not possible to quantify the impact of the action taken on the reports of these Committees/Commissions over the pendency of cases in High Courts/Supreme Court on the plea that pendency was due to "several complex factors", gives the inevitable impression that the Ministry has not been serious in making any objective assessment of the impact of implementing recommendations of various Committees/Commissions on the pendency of cases in Superior Appellate Courts. The Committee cannot but deprecate this lassitude on the part of the Ministry. The Committee are firmly of the view that the Department of Justice must play a positive role and deal with this serious and cancerous problem of mounting arrears in Superior Appellate Courts effectively if Government are serious that people should not lose faith in the administration of justice in the country. The Committee recommend that a proper monitoring cell with adequate manpower headed by a senior officer be set up in the Ministry forthwith to pursue with the State Govts./ High Courts the progress of implementation of the recommendations contained in the reports on arrears in Superior Appellate Courts, analyse the feedback, identify the problems and bottlenecks and take effective steps promptly to correct the procedural deficiencies, if any, in the system of monitoring the information regarding implementation of recommendations as well as any other bottlenecks.

1.12 Since the Law Commission has been asked to go into this matter again, the Committee hope that action taken on the recommendations made by various Committees/Commissions in the past and the results of implementation thereof would be of great help to the Commission in recommending solutions to tackle the problem effectively.

CHAPTER II

ORGANISATIONAL SET-UP

A. *High Court and their Benches*

2.1 For 22 States and 9 Union Territories in the country there are at present 18 High Courts. The jurisdiction of the following High Courts extends to more than one State/Union territory :

Sl. No.	High Court	State/Union Territory
1.	Bombay . .	Maharashtra and Goa, Daman and Diu, Dadra and Nagar Haveli.
2.	Calcutta	West Bengal and Andaman and Nicobar Islands.
3.	Guwahati .	Assam, Meghalaya, Nagaland, Manipur, Tripura, Mizoram and Arunachal Pradesh.
4.	Madras	Tamil Nadu & Pondicherry.
5.	Punjab and Haryana .	Punjab, Haryana and Chandigarh.
6.	Kerala	Kerala and Lakshadweep Islands.

2.2 Besides, there are permanent Benches of certain High Courts at places away from their principal seat indicated as below :

Name of the State/ Union Territory	Name of the Bench and the High Court	Date from which the Bench began functioning
Uttar Pradesh .	Lucknow (Allahabad)	The Bench started functioning consequent on the promulgation of the United Provinces High Court (Amalgamation) Order dated 19th July, 1948.
Madhya Pradesh	Gwalior & Indore (M.P.)	1-11-1956.
Maharashtra	Nagpur and Aurangabad (Bombay)	1-5-1960 to 27-8-1984
Bihar . .	Ranchi (Patna)	19-4-1976
Rajasthan .	Jaipur (Rajasthan)	31-1-1977
Goa, Daman and Diu	Panaji (Bombay)	30-10-1982.

2.3 Except for the Bench at Ranchi, Aurangabad and Panaji all these Benches are an old legacy. The Benches at Lucknow, Gwalior, Indore, Jaipur and Nagpur exist at these places, benches of the High Courts had been sitting even before the reorganisation of the States. The Jaipur Bench was abolished in 1958 and revived in January 1977.

2.4 Apart from these permanent Benches, Circuit Courts of certain High Courts also exist at certain places. Details there-of are as follows :

High Court	Places of Circuit Court
Calcutta	Port Blair
Guwahati	Agartala, Imphal, Kohima and Shillong.

2.5 In reply to a question whether the Ministry, looking at the mounting arrears of cases in all High Courts, had ever considered the desirability of increasing the number of High Courts, if necessary, by amending the Constitution, Ministry of Law in a written note furnished to the Committee stated "the Constitution has provided a High Court to each State and also a common High Court for two or more States/Union Territories and as such amendment to the Constitution is not necessary".

2.6 In this regard, the representative of the Ministry of Law and Justice, during his evidence before the Committee stated "The Constitution has laid down provision for one High Court in one State. There is no thinking till today to have more than one High Court in any State. There will be two different benches but there cannot be more than one High Court in a State". The witness further stated "..We are at the moment considering the possibility of having a High Court in the North Eastern Region. For that we have been trying to collect the figure..... Some of the figures show that there is no justification of having any High Court because the number of cases is very small. It may therefore be just adequate to have a Circuit Bench or a permanent Bench of the High Court.... Therefore the Government has not yet made up its mind whether there should be a High Court in each State or there should be a High Court for a few States. For other Union Territory regarding Goa our figures show that the existence of the Bench of the High Court has worked satisfactorily. There are not many problems in Goa and Andaman and Nicobar Islands."

2.7 It was pointed out by the Committee that even if figures did not justify there could be the justifications for working on the principle of one High Court in one State because of geographical reasons. Also a High pendency of cases in the neighbouring courts. It was better to consider to have one High Court in each State and each Union territory rather than having a High Court for two or more States and Union territories and further benches of the same High Court within those States and Union Territories. In reply the Additional Secretary of the Ministry stated, "we are looking into those aspects. This is seriously engaging our attention particularly in the North Eastern region."

B. *Setting up of Additional Bench/Circuit Court*

2.8 The statement furnished by the Ministry of Law & Justice shows the number of pending cases in some of the High Courts as follows :

Name of High Court	Pendency as on 31-12-84	Pendency as on 30-6-85
Allahabad	2,28,952	2,42,379
Andhra Pradesh	81,256	88,349
Bombay	1,07,587	1,06,657
Calcutta	1,36,641	1,42,757
Delhi	68,157	74,226
Kerala	1,00,373	1,14,122
Karnataka	96,764	91,510
Madras	1,23,987	1,49,460

2.9 As to the role of Ministry of Law and Justice in the matter of setting up of new Benches of High Courts or Circuit Courts, the Ministry in a note furnished to the Committee have stated : "On the question of setting up of new Benches of High Courts or Circuit Courts, the Ministry having Benches the Government had set up a Commission headed by Justice Jaswant Singh, retired Judge of Supreme Court. His report has been received and is under examination." The Committee were also informed that the report of the said Commission was received towards the end of April, 1985 and was being examined. When asked as to how long will it take to examine the report, the Additional Secretary stated. "I cannot say, it is before the Cabinet."

2.10 Regarding setting up of a permanent Bench of Calcutta High Court in Andaman and Nicobar Islands, the Ministry of Law in a statement furnished to the Committee have stated as follows :—

> "As per the observations made by the then AS (JUS) after a visit to A&N in January, 1984, the institution of cases both before the Circuit Bench and before the mainseat at Calcutta pertaining to A&N Islands was very meagre, being between 20-30 per year apart from the writ petitions. The institution of writ petitions also was between 20—30 per year.
>
> The A & N Islands Administration agreed that there was no need for a permanent Bench of the Calcutta High Court at Port Blair.
>
> A representation was received in April, 1981 suggesting the establishment of a permanent Bench of the High Court at Port Blair. It was mentioned that the A & N Administration was facing difficulties in carrying out their normal functions on account of the writ petitions on service matters pending in the High Court; it was stated that even for petty matters the

aggrieved persons were filing writ petitions in Calcutta and obtaining interim orders. It was further pointed out that the writ petitions filed in Calcutta were not transferred to the Circuit Bench of the Calcutta High Court sitting at Port Blair.

At the instance of the Government, the Calutta High Court agreed that its Circuit Bench would sit in Port Blair for a longer duration and more frequently with a view to solving the difficulties of the people of the Islands. The High Court also amended its Rules in 1982 to permit transfer of the writ petitions pending in Calcutta to the Circuit Bench at Port Blair and also to provide for prior notice being served before issue of interim orders. Having regard to the workload, a permanent Bench of High Court at Port Blair is not considered justified."

2.11 The Constitution of India provides that there shall be a High Court for each State and that Parliament may by law establish a common High Court for two or more States or for two or more States and a Union Territory. In pursuance of this provision there are at present 18 High Courts for 22 States and 9 Union Territories. Out of them only 5 High Courts, namely, the High Courts of Allahabad, Madhya Pradesh, Patna, Rajasthan and Bombay have 8 permanent Benches at other places in the respective States. Bombay and Madhya Pradesh High Courts have two permanent Benches each while Allahabad, Patna and Rajasthan have one Bench each. From the available statistics the Committee find that in almost all the High Courts there is heavy accumulation of pending cases that have piled up over the years. At least, in 5 High Courts the magnitude of pendency has crossed over the figure of one lakh which is not only alarming but distressing. The position in Allahabad High Court particularly is a record of its own as more than 2,42,000 cases were pending there as on 30-6-1985. The Committee are distressed to note that very little has been done by the Government to tackle this problem which by now has assumed serious proportions. What is worse is that each year there is increase in the pendency. Except for Karnataka where the pendency decreased from 96,764 as on 31-12-1984 to 91,510 as on 30-6-1985, and Bombay where the pendency went down by about 1,000 in the same period, the pendency has increased by more than 13,000 in Allahabad, nearly 7,000 in Andhra Pradesh, 5000 in Calcutta, 6,000 in Delhi, 14,000 in Kerala and a little less than 26,000 in Madras High Courts. No doubt the Government has been appointing Committees and Commissions periodically to go into this matter which have been making various recommendations. The fact that there has been no improvement in the situation makes the Committee to believe that either there has been tardy implementation of the recommendations of these Committees/Commission or the root of the disease has not yet been diagnosed. The Committee are firmly of the view that if the present trend of accumulation of arrears is not arrested, the situation will completely go out of control and shake the very roots

of rule of law in the country whose survival depends upon the speedy administration of justice. Therefore, to meet the situation as it stands at present some drastic steps are necessary. The Committee feel that as a first step it is necessary to ensure that disposal of cases in each High Court keeps pace with the number of cases instituted each year. The second step needed is to clear the arrears. In the opinion of the Committee there is need for having more High Courts and if that is done, there would at least be no addition to the pendency of cases.

2.12 The Committee understand that Justice Jaswant Singh Commission which went into the question of "setting up of Benches of High Courts and on the general question of having Benches" has submitted its report in April, 1985 and its report is still under consideration of the Cabinet. The Committee feel that a very early decision should be taken on the recommendations contained in the report of Justice Jaswant Singh Commission and concrete action taken to set up more Benches at the earliest.

2.13 The Committee also feel that in case delay in setting up benches is unavoidable due to procedural or financial considerations, arrangements for Circuit Benches of High Courts at suitable places be made at least to tackle the institution of current cases and thereby arrest cases falling in arrears.

C. Shortage of staff in High Courts

2.14 From the preliminary material furnished to the Committee it transpired that request by certain High Courts for increase in staff commensurate with increase in work load had often not been fully met by State Governments.

2.15 In reply to a question whether it was feasible to empower the Chief Justice of High Courts to create the required number of posts having regard to the exigencies of workload, in the manner the Chief Justice of India has been empowered under article 146 of the Constitution, the Ministry, in a note furnished to the Committee, have stated :

> "We have commended to the State Governments that the Chief Justices of the High Courts should be conferred the same financial powers as are being enjoyed by the Chief Justice of India *vide* the Department of Justice letter No. 24/85/85-JUS dated 15-11-1985."

2.16 During the evidence it was pointed out by the Committee that so far the Judiciary in the Union Territories, was concerned, they were the direct responsibility of the Central Government and in that case the approval regarding the creation of posts had to be given by the Ministry. On a specific question put by the Committee that in how many cases the proposal of Union territory of Andaman and Nicobar for creation of posts had been turned down or no action had been taken thereon by the Ministry,

the representative of Ministry of Law and Justice replied : "....As far as the Union territories are concerned we are concerned with certain broad issues. Right now there is an order of the Central Government banning creation of any posts. They will also apply to Union territories." He further stated in this regard that the ban was not total on every thing and wherever it was felt that ban had to be relaxed, Cabinet's approval was sought. In the case of Andaman the proposal had been rejected by the Cabinet.

2.17 On being asked whether without affecting any change in the Constitution, was it not possible to empower the Chief Justices of the respective High Courts to recruit their own staff the witness stated, "the relevant rules including the one in M. P. (Madhya Pradesh) empower the Chief Justice to make appointment on his own." It was also stated that about other States wherein it was not applicable, the issue had not been posed before the Ministry.

2.18 To enable Higher Appellate Courts to clear cases expeditiously and within the minimum time it is necessary that there should be no constraint in the matter of adequate staff in the High Court/Supreme Court. While the Chief Justice of the Supreme Court has been empowered to increase the staff, the High Courts have not been vested with the power to increase their staff strength and they have to look up to the State Governments in the matter. The Committee have noted that in certain cases the State Governments have not been able to increase the strength of the staff to be commensurate with the increase in the cases instituted in the High Court. In the case of the Union Territory of Andaman & Nicobar Islands, the Central Government have themselves turned down the request for additional staff on the ground that there is a ban on creation of new posts. The Committee desire that the Ministry of Law and Justice should undertake a survey to find out what is the shortage of staff in various High Courts and what are the financial implications thereof. The Committee would also like the Ministry of Law and Justice to consider the feasibility and advisability of making a special grant to such States as have not been able to meet the demands made by their High Courts for augmentation of their staff strengths. The Committee also desire that the ban on recruitment of staff should not apply to the supporting staff needed for the higher judiciary and Central Government should make a relaxation in this regard.

CHAPTER III

STRENGTH OF JUDGES AND VACANCIES

A. *Supreme Court*

3.1 According to the information furnished to the Committee the position regarding the sanctioned and actual strength of Judges of the Supreme Court of India (excluding Chief Justice of India) during the last five years was as follows :

As on	Actual strength	Sanctioned strength	Vacancies	Date of occurrence
1-1-1981	13	17	4	1-8-80 12-9-80 15-10-80 15-11-80
1-1-1982	14	17	3	15-11-80 16-1-81 1-1-82
1-1-1983	13	17	4	15-11-80 16-1-81 1-1-82 7-3-82
1-1-1984	16	17	1	13-1-1983
1-1-1985	17	17	NIL	

3.2 The Committee were informed during evidence that as on 4-2-1986 there were three vacancies in the Supreme Court.

3.3 As to the necessity of increasing the number of Supreme Court Judges in view of the growing pendency of cases, the representative of the Ministry of Law and Justice during evidence stated :

> "Regarding the increase in the strength of the Supreme Court, we have received a proposal from the Chief Justice for the increase in the strength from 17 to 25 excluding the Chief Justice. A Bill to this effect has already been brought into Parliament. It has already been passed by Lok Sabha and now it is pending in Rajya Sabha. As regards the other arrangements, the Chief Justice himself has suggested that appointment of *ad hoc* judges or other arrangements could be considered after the sanctioned strength is increased and vacancies are filled."

3.4 On a suggestion that the proposed increase in strength of judges from 17 to 25 appeared to be some sort of an *ad hoc* arrangement and seeing the pendency of cases in the Supreme Court which was 1,66,319 as on 31-12-1985 this increase might not solve the problem, the witness replied :

> "When the Chief Justice proposed 26 he gave us cogent reasons which explained the background of this increase. He had in his mind creation of certain Benches. His idea was that there should be a permanent constitution bench of five judges, a bench consisting of three judges for labour and service cases, a bench of three judges for tax, excise and custom cases, two benches of three judges each for civil cases and election appeals, a bench of three judges for criminal cases and two benches of three judges each for admission purposes. This will make up 26."
>
> He added that pendency of cases had also been taken into account by the Chief Justice of India. Certain matters such as Labour matters, excise matters, customs matters and so on, being of the specialised nature required creation of specialised Benches."

3.5 Explaining the proposed increase in the strength of Supreme Court Judges, the Ministry have, in a note furnished to the Committee stated as below :

"The former Chief Justice of India proposed that the strength of Judges of the Supreme Court may be increased from 17 to 25. He suggested the following pattern of sittings of the Supreme Court for expeditious disposal of cases :

	No. of Judges
1. One Constitution Bench	5
2. A Bench for Labour and Service cases	3
3. A Bench for Tax, Excise and Customs cases	3
4. Two Benches of 3 Judges each for Civil cases and Election appeals	6
5. A Bench for Criminal Cases	3
6. Two Benches of three Judges each for admissions	6
Total :	26

The former Chief Justice of India stated that this would ensure that the current rate of disposal matches the current rate of fresh institution of cases. There are no fixed criteria for determining the Judge strength of the Supreme Court. However, having regard to the annual institution of fresh cases and the annual disposals, the proposal for raising the judge-strength of the Supreme Court by 8 Judges was considered reasonable. The present Chief Justice of India also agreed with the views of his predecessor that the strength of the Supreme Court should be increased to 26 Judges (inclusive of the C.J.I.)."

B. *High Courts*

3.7 According to the information furnished to the Committee following was the position in regard to the sanctioned/actual strength and vacancies of judges in various High Courts as on 1-1-1985 :—

Sl. No.	High Court	Sanctioned strength	Actual strength	Vacancies
1.	Allahabad	60	52	8
2.	Andhra Pradesh	26	20	6
3.	Bombay	43	37	6
4.	Calcutta	39	36	3
5.	Delhi	27	26	1
6.	Gauhati	9	7	2
7.	Gujarat	21	18	3
8.	Himachal Pradesh	6	6	—
9.	Jammu & Kashmir	7	5	2
10.	Karnataka	24	24	—
11.	Kerala	18	14	4
12.	Madhya Pradesh	29	27	2
13.	Madras	25	20	5
14.	Orissa	11	10	1
15.	Patna	35	33	2
16.	Punjab & Haryana	23	17	6
17.	Rajasthan	18	15	3
18.	Sikkim	3	3	—
		424	370	54

3.8 The Committee were informed that as on 1-1-1986 there were sixty vacancies of Judges in the High Courts. It was observed from the data furnished to the Committee that these vacancies had not been filled up on an average for 1-2 years, and in respect of some High Courts e.g. Bombay and Madras the vacancies have not been filled even for four years. On being asked as to the action taken in regard to the filling up of vacancies, the representative of the Ministry stated, "we are continually writing to the State Governments to write to us or send us the proposals so that these vacancies could be filled up quickly." In reply to a question that if a provision was made in the Constitution by amending it that if within a specified period the proposals are not filled the President shall fill those vacancies.

the witness stated, "there is a provision in the Constitution which has worked well and we find no other better alternative at the present moment. The only thing which we are suggesting is that this should be fully and duly implemented. This is a kind of urgency which we are bringing about. This was one of the points before the Conference of the Chief Justices and Chief Ministers that the proposal must come well before the vacancies arise. This has been approved by the Conference."

3.9 The statement below gives the details of vacancies of Judges to be filled in various High Courts as on 15th July, 1985 :

Sl. No.	High Court	Vacancies	Date from which vacancies have arisen
(1)	(2)	(3)	(4)
1.	Allahabad	13	15-10-1984
			15-10-1984
			15-10-1984
			15-10-1984
			15-10-1984
			06-11-1984
			15-11-1984
			16-01-1985
			07-02-1985
			29-06-1985
			01-07-1985
			01-07-1985
			07-07-1985
2.	Andhra Pradesh	7	26-11-1982
			29-11-1982
			01-07-1983
			08-04-1984
			05-07-1984
			10-10-1984
			08-04-1985
3.	Bombay	7	28-11-1983
			29-11-1983
			20-01-1984
			24-05-1984
			08-07-1984
			03-10-1984
			18-03-1985
4.	Calcutta	4	06-09-1984
			01-10-1984
			01-11-1984
			01-07-1985
5.	Delhi	1	12-03-1985
6.	Gauhati	4	12-01-1984
			21-11-1984
			15-11-1984
			14-05-1985

(1)	(2)	(3)	(4)
7.	Gujarat	3	07-06-1984 26-06-1984 and 02-04-1985
8.	Jammu & Kashmir .	1	10-09-1984
9.	Karnataka . . .	1	January 1985
10.	Kerala . . .	2	28-04-1984 13-06-1984
11.	Madhya Pradesh . . .	2	02-11-1982 15-06-1985
12.	Madras .	7	29-12-1981 09-02-1982 12-09-1983 15-09-1983 22-10-1983 25-01-1984 and 01-06-1985
13.	Orissa	1	16-07-1984
14.	Patna .	3	09-09-1984 28-11-1984 12-01-1985
15.	Punjab & Haryana	7	01-03-1983 29-11-1983 16-01-1984 26-03-1984 14-05-1984 01-08-1984 24-05-1985
16.	Sikkim . .	1	04-01-1985
		64	

(In the High Courts of Himachal Pradesh and Rajasthan, there is no vacancy).

3.10 The Law Commission of India, in its 79th report on "Delay and Arrears in High Courts", while referring to the disparity between the sanctioned strength and the number of judges in position, has observed :—

> "Leaving aside the judges who were entrusted with work outside their normal duties, the fact remains that the number of judges in position in both the years was less than the sanctioned strength. This disparity between the sanctioned strength and the number of judges in position was apparently due to the fact that vacancies in the posts were not filled in as soon as they occurred. It is our considered opinion that delay in filling in the vacancies is one of

the major contributing factors responsible for the piling accumulation of arrears. In our opinion, when a vacancy is expected to arise out of the retirement of a judge, steps for filling in the vacancy should be initiated six months in advance. The date on which such a vacancy will normally arise is always known to the Chief Justice of the High Court and also to others concerned. It should be ensured that necessary formalities for the appointment of a judge to fill the vacancy are completed by the date on which the vacancy occurs."

3.11 The Committee note that the strength of the Judges of the Supreme Court, is at present 17 (excluding the Chief Justice of India). This number is now sought to be increased by 8 Judges by the Supreme Court (Number of Judges) Amendment Bill, 1985. This Bill was introduced in Lok Sabha on 19-8-1985 on the recommendations of the Chief Justice of India. It was passed by the Lok Sabha on 22-8-1985 and is now pending in Rajya Sabha. The Committee also note that there is no fixed criteria for determining the Judges strength of the Supreme Court. As stated by the Chief Justice of India, the proposed increase of 8 Judges would ensure that the current rate of disposal matches the current rate of fresh institution of cases. The Committee are not aware whether in fixing the strength of the Judges, notice has also been taken of the fact that frequently Supreme Court Judges are required to preside over one or the other Committee/ Commission appointed by the Government and during that period their normal work is disrupted. The Committee, joining with the Chief Justice of India, hope that the desired results would follow after the augmentation of strength of Judges in Supreme Court. The Committee also feel that the Department of Law and Justice should have impressed upon the Department of Parliamentary Affairs to arrange priority of legislative business in such a way that the Supreme Court (Number of Judges) Amendment Bill was enacted into law soon after it was passed by Lok Sabha.

3.12 The Committee also take note that the Law Commission had recommended that the permanent strength of each High Court should be fixed and reviewed keeping in view the average institution during the preceding three years. The Committee, however, recommend that the permanent strength of Judges of the Supreme Court/High Courts should in the normal course be re-fixed after a five-yearly review of average number of cases instituted and disposed of. Action should also be taken simultaneously to review the strength of supporting staff and providing other facilities to the Judges.

3.13 The Committee note that for years together the Supreme Court did not have the full complement of Judges as per sanctioned strength and the position improved only in 1985 when it had the full strength of 17

Judges. However, as on 1-2-1986 out of the sanctioned strength of 17 Judges, only 14 were in position. Since the filling up of vacancies in the Supreme Court is done by the Central Government in consultation with Chief Justice of India, the Committee feel that appointment of judges to fill the vacancies in the Supreme Court had not been receiving the urgent consideration it deserved and Government cannot escape the responsibility for a situation where a large number of cases have piled up in the Supreme Court during these years, the vacancies of judges being a contributory factor for that. In fact now a Bill is pending before Rajya Sabha for increasing the strength of Supreme Court Judges to 25 excluding the Chief Justice to cope up with the increased work. The Law Commission in its 79th Report had suggested certain measures to fill up the vacancies in High Courts immediately they arose. On the same lines proposals for filling up vacancies which were to arise on retirement of judges of Supreme Court could have been initiated six months in advance of the occurrence of the vacancy and appointment of new incumbent effected from the day following the occurrence of vacancy.

3.14 As regards vacancies in High Courts, the Committee note that although the sanctioned strength of the High Courts during the year 1985 was 424. the number of Judges in position was only 370. As on 1-1-1986 there were sixty vacancies of Judges in High Courts. This disparity between the sanctioned strength and the number of Judges in position is apparently due to the fact that vacancies have not been filled up as soon as they occurred. What is more distressing is that on an average it takes about one to two years in filling the vacancies and in some cases even as long as 4 years. The Law Commission has already opined that delay in filling the vacancies is one of the major contributing factors responsible for the piling accumulation of arrears and therefore the Commission had recommended that when a vacancy was expected to arise due to the retirement of Judges, steps for filling up the vacancy should be initiated six months in advance. The date on which such vacancy will arise in the normal course is always known to the Chief Justice of the respective High Court/Supreme Court and also to others concerned. The Commission had recommended that it should be ensured that the necessary formalities for the appointment of the Judges to fill up the vacancy were completed by the date on which vacancy occurs. The Committee regret to note that in spite of this specific recommendation of the Law Commission made as early as 1979 the position has been allowed to worsen further in as much as the vacancies in Supreme Court/High Courts have not been filled up for as long as two to four years. The facts reveal that the recommendation has remained almost a dead letter. No wonder then if inaction or delayed action on the part of the concerned authorities responsible for processing and appointment of Judges has contributed to the enormous increase in the accumulation of arrears.

3.15 This aspect of the matter, if allowed to continue, could be interpreted as deliberate denial of speedy and less costly justice to the litigants. Therefore, in Committee's opinion, ways and means have to be found out to replace the present procedure for appointment of Judges if it results in inordinate delay in their selection and appointment.

3.16 The Committee hope that in view of the proposed increase in the strength of the Judges of the Supreme Court, Bill for which as passed by Lok Sabha is already with Rajya Sabha, Government have already drawn out a plan to fill up the newly created vacancies without any loss of time.

CHAPTER IV

SELECTION AND APPOINTMENT OF JUDGES

A. *Selection of Judges*

4.1 The Ministry of Law and Justice, in a note furnished to the Committee, have described the procedure for filling up the vacancies of judges in the Supreme Court and High Courts as indicated below :

"Vacancies of Judges in the Supreme Court

1. Appointment of Judges in the Supreme Court are made in accordance with the provisions of Article 124(2) of the Constitution.

2. Vacancies that are to arise by way of retirement are brought to the notice of the Minister of Law & Justice much in advance of their actual occurrence. The Minister of Law & Justice also discusses the matter with the Chief Justice of India. The formal proposal for filling up a vacancy is initiated by the Chief Justice of India. The Minister of Law and Justice may convey his own suggestions to the Chief Justice of India orally or by personal correspondence.

3. The Minister of Law & Justice makes recommendation regarding appointment of a judge in the Supreme Court to the Prime Minister and the President for approval.

4. After the appointment has been approved by the President, the Chief Justice of India is informed and a Medical Certificate of Fitness is obtained from the person selected. Thereafter the Warrant of Appointment is got signed by the President, and the appointment is notified in the Gazette.

Vacancies of Judges in High Courts

5. Appointments of Judges of High Courts are made in accordance with the provisions of Article 217 of the Constitution.

6. The vacancies of permanent Judges likely to arise by way of retirement are known to the Chief Justice in advance. The vacancies which are likely to arise on the expiry of the period of appointment of Additional Judges are also known in advance. The Chief Justice of the High Court initiates a proposal for appointment of a permanent Judge or Additional Judge and sends his recommendation in writing to the Chief Minister concerned; a copy of his letter

is sent by him to the Union Minister of Law & Justice also. The Chief Minister, in consultation with the Governor, sends his proposal to the Minister of Law & Justice along with copies of correspondence exchanged by him with the Governor and the Chief Justice. The Department of Justice regularly sends reminders to the Chief Minister and the Chief Justice whenever proposals have not been received from them. Such reminders are sent through d.o. letters and wireless messages as from the Minister of Law & Justice.

7. On receipt of a proposal from the Chief Minister, all the papers are referred by the Minister of Law and Justice to the Chief Justice of India for obtaining his advice.

8. After the advice of the Chief Justice of India has been received, the Minister of Law & Justice makes his recommendation to the Prime Minister. After the Prime Minister has approved, the file is submitted to the President for approval.

9. After the proposal has been approved, the Chief Minister and the Chief Justice of High Court are informed by wireless message and they are requested to obtain from the person selected, his certificate regarding his date of birth and a Medical Certificate of Fitness (in the case of appointment of a permanent Judge). On receipt of these documents, the Warrant of Appointment is got signed by the President and the requisite Notification for the person's appointment is issued."

4.2 To a question whether the present system of selection and criteria being observed for the selection of judges of High Courts and Supreme Court; threw up adequate talent for manning those high offices, the Ministry, in a written reply stated :—

"The appointment to Supreme Court/High Courts is done in accordance with the procedures laid down in article 124(2), article 217 (1) and article 224 of the Constitution and the criteria laid down in these articles is being observed.

It is the view of the Government that the present Constitutional scheme as to the method of appointment of judges is basically sound; it has on the whole worked satisfactorily and does not call for any radical change."

4.3 Expressing his views regarding the suggestion for appointing a Commission for the selection of names for inclusion in the panel out of which appointments of Judges of the High Courts and Supreme Court could be made, the representative of the Ministry of Law and Justice in his evidence before the Committee stated :—

"As far as Supreme Court is concerned, here again the Chief Justice of India has before him not only the judges of the Supreme Court;

the Constitution provides that even a distinguished jurist can also be a judge of the Supreme Court. Now in these matters where the procedure lays down that it is the Chief Justice of India who will propose the names, the preparation of panel by the Ministry hardly serves any purpose because it is for him to draft the list with his experience, his knowledge and his idea of the people appearing before the Court, because the various judges' appeals come up to him. He has to assess the work of the judges. This is a matter which is left totally to the discretion of the Chief Justice."

4.4 During the evidence before the Committee the representatives of the Ministry, explaining the procedure for filling of the vacancy of a Judge stated that "there is a certain procedure for filling up of vacancy. We have given the note. The Chief Justice of India initiates the proposal. The action gets started before a vacancy arises or after the vacancy arise. Then the entire process gets into motion. Sometimes there may be disagreement on name or there may be a need for having some time to make up his mind. Whatever reasons are there it may take some time."

4.5 Explaining the system and method of appointment of judges, the representative of the Ministry during his evidence stated :—

"As far as the system of method of appointment is concerned, various ideas have been thrown across from time to time. One such idea earlier was to have a panel of names, then a college of names and then there was an idea of Chief Justice of the High Courts suggesting the names or the authority to appoint judges should go only to the Chief Justice of India and so on and so forth. This matter has been gone into in great depth by the Law Commission. They had the opportunity to interrogate and interview a wide range of persons both in the judiciary, the bar, the executive and the people from the collegiate and other sources. It may sound that I am repeating the same thing; but ultimately it is the question of matching the various constitutional provisions for appointment to a very dignified post which holds sanctity in the constitution and even in the common life of an individual. If you leave it as an isolated system in which you say that only the Chief Justice of India will appoint without consulting others, there are bound to be inherent weaknesses in such a system. Then you search for a system in which there is a wide ranging consultation, coordination in which many aspects are taken into account. Unless you have something better which is absolutely fool proof, which absolutely ensures cent per cent impartiality in selection, which is free from subjectivity, we cannot think of an alternative to the prevailing system. The system prevailing today may have a certain amount of delay, certain contradictions, but when you come down to it, you will find that it is

the system that has worked, which has nevertheless drawn up names which are acceptable and which are considered appropriate. Because in this system the selection is examined by a wider number of people and has a greater objectivity in its selection. Therefore, I feel that it is adequate because it has met the challenge of time. The question is only of time as to how quickly we follow the system to save delay. On the mode of selection I think what is laid down in the Constitution is certainly quite adequate and fool proof."

4.6 Asked to give his views on the present method of selection and appointment of Judges, a former Judge of the Supreme Court of India in his evidence before the Committee deposed :—

"At the present Chief Justice of the State is one man who triggers off the operation and is the sole Judge to decide as to the appropriateness of a particular person (for being appointed a Judge). There should be an inter-state Council or a Judicial Selection body comprising of Governors, Chief Ministers, Chief Justice and the retired judges. They should consider the names out of which selection should be made. Criteria of selection should not be income, community etc., sex may be a criteria. We must have more women judges."

4.7 The position regarding the vacancies of Judges in the Supreme Court and the proposals received for filling them has been indicated in a note furnished to the Committee in March, 1986 as follows :—

S. No.	No. of vacancies and date of occurrence	CJI's proposal and date of receipt	No. of appointed and date of notification
1	2	3	4
1.	2 15-11-1980 16-1-1981	One name 7-3-1981	
2.	2 15-11-1980 16-1-1981 Two more to arise on 1-1-82 & 7-3-82	Four names 25-6-81 (including one name proposed earlier)	None approved
3.	5 15-11-80 16-1-81 1-1-82 7-3-82 13-1-83	Five names 17-1-83 One name withdrawn on 1-2-83	4 names approved notified on 9-3-83

1	2	3	4
4.	1 ———— 13-1-83	One name 26-4-84	Name approved Notified on 21-6-84
5.	1 ———— One vacancy to arise on 9-5-85	One name 21-3-85	Views of new C.J.I. sought on 16-7-85 regarding this name as also another name for the vacancy to arise on 12-7-85

6. The new CJI sent his viesw on 26-7-85 regarding these two names.

7. The Law Minister requested the CJI in his letter dated 11-9-1985 to send proposals for filling in 5 vacancies namely those which had arisen on 9-5-85, 12-7-85, 17-8-85 and 20-8-85 as also the vacancy due to arise on 1-10-1985.

8.	4 ———— 9-5-85 12-7-85 17-8-85 20-8-85	Two names 26-9-85	Names approved and notified on 25-10-85 and 28-10-85.
9.	3 ———— 17-8-85 20-8-85 1-10-85	Two names 10-12-85 One name withdrawn on 20-12-85 CJI stated that more names will be sent later.	The matter is to be discussed by the Law Minister with the CJI.

Note 1 : During 1986, 4 vacancies will arise in the Supreme Court by way of retirement on 9-3-86, 7-4-86, 15-6-86 and 21-12-86. The proposals for filling up these vacancies are awaited from the CJI.

Note 2 : The appointment of the new CJI was notified in advance on 23-5-85, to be effective from 12-7-85.

4.8 About the inordinate delay in filling up of vacancies in Madras High Court, the Ministry of Law and Justice in a note furnished to the Committee in March, 1966, have explained the positon as below :—

> "From our 1982 file, it is learnt that the Chief Minister, Tamil Nadu was requested on 9-6-1982 to send proposals for filling up of a total of 4 vacancies of permanent Judges and one vacancy of Additional Judge. One of these permanent vacancies had arisen on 29-12-1981. A copy of this letter was sent to the Chief Justice of Madras High Court also. (The old file of 1981 could not be obtained readily).
>
> 2. Four existing posts of Additional Judges in the Madras High Court were converted into those of permanent Judges with effect from the dates they were filled in vide sanction dated 22-7-1982.

3. The Chief Justice in his letter dated 4-7-1982 addressed to the Chief Minister recommended the appointment of 3 Additional Judges then in position as permanent Judges against 3 vacancies of permanent Judges. He also recommended two names for fresh appointment against the 4th vacancy of permanent Judge and the one vacancy of Additional Judge.

The Chief Minister sent his views along with the views of the Governor in his letter dated 22-10-1982 addressed to the Union Minister of Law and Justice in which he proposed the appointment of 3 Additional Judges as permanent Judges and the fresh appointment of 2 permanent Judges.

4. From the proposals received, the appointment of 3 existing Additional Judges as permanent Judges was notified on 15-12-1982. The appointment of 4th person as permanent Judge was notified on 5-3-1983 and the appointment of 5th person was also notified on 24-7-1983.

Four of these appointments were shown against the posts of Additional Judges which had been converted into those of permament Judges from the dates they were filled in. Thus, the earlier 3 vacancies of permanent Judges, including the one which had arisen on 29-12-1981, remained unfilled.

5. The Chief Justice, Madras High Court recommended 3 names in December, 1982 (against 3 vacancies then existing), one name in January, 1983 to be selected out of three (for one vacancy which was to arise on 9-2-1983), and one name in October, 1983 (against one vacancy which arose on 15-9-83), and one name in December, 1983 (against a vacancy which was to arise on 25-1-1984 on his retirement).

6. The Chief Minister gave his views and those of Governor in April, 1983 on one person out of 3 recommended in December, 1982. His appointment was notified in June, 1984.

7. The Chief Minister then gave his views and those of the Governor on 1-9-1983 in respect of the proposal made by the Chief Justice in January, 1983. The proposal was not accepted and the decision was intimated in November, 1983.

8. The Acting Chief Justice, Madras, recommended 3 names of Judicial Officers in March, 1984.

9. The Chief Minister gave his views and those of the Governor in May-June, 1984 in respect of recommendations made by Acting Chief Justice in March, 1984 regarding the Judicial Officers. He

was requested several times to give his views and those of the Governor on the proposals made by the Chief Justice in 1982-83, so that decision could be taken on all names simultaneously. Reminders were sent on 16-1-1984, 18-2-1984, 6-3-1984, 2-4-1984, 17-5-1984, 3-9-1984, 24-11-1984, 12-2-1985 and 13-2-1985. The Chief Minister did not do so. He kept on insisting that persons recommended by the Chief Justice in March, 1984 and by him and the Governor in May-June, 1984 may be appointed. It was ultimately decided to refer those names to Chief Justice of India for advice in February, 1985.

10. The Chief Justice of India desired that the views of new Chief Justice of the High Court be obtained. Views of new Chief Justice, Madras, were received in June-July, 1985. These names were then referred to the new Chief Justice of India who gave his advice in September, 1985. The appointments of 3 Judicial Officers were notified in November, 1985.

11. Thus, the vacancy which arose on 29-12-1981 was filled on 12-11-1985.

12. Now there are four vacancies in the High Court existing from 22-10-1983, 25-1-1984, 21-3-1985, and 1-6-1985. D.O. letters from the Union Law Minister and wireless messages have been sent to the Chief Minister, Tamil Nadu on 18-4-1985, 16-5-1985, 6-6-1985, 11-7-1985, 10-10-1985 and 14-11-1985, requesting him to send his views and those of the Governor regarding the persons recommended by the Chief Justice. Last reminder has gone on 17-1-1986.

13. The Governor of Tamil Nadu has also been addressed on 17-1-1986 to use his good office with the Chief Minister so that he may send his views regarding these persons urgently.

14. The Governor has in his reply dated 12-2-86 stated that he is trying to evolve a consensus on the names for appointment as Judges of the Madras High Court. The Chief Minister, Tamil Nadu has since sent his views and those of the Governor on 17-2-1986 and has proposed one name for appointment to the High Court which is being processed."

4.9 The Constitution of India lays down that every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years : Provided that in the case of appointment of a Judge other than the Chief Justice the Chief Justice of India should always be consulted.

Similarly in regard to judges of High Courts, the Constitution provides that every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State and in case of appointment of the judge other than the Chief Justice, the Chief Justice of the High Court.

4.10 The Committee were informed that in the past several methods of selection of Judges were considered but the present Constitutional scheme and the method of appointment of Judges has been found to be basically sound.

4.11 The Committee however note that the actual appointment of Judges of Supreme Court/High Courts has been taking unduly long time. For example in the Supreme Court where agencies involved for consultation are comparatively less, the names for vacancies occurring on 15-11-80 and 16-1-1981, were approved and notified only on 9-3-1983 i.e. after a period of more than two years. In case of High Courts the position is even worse, e.g. in Madras High Court the vacancy which occurred on 29-12-1981 was filled only on 12-11-1985 i.e. after a period of almost four years. The position in other High Courts is no better.

4.12 The Committee recommend that the matter be considered at the appropriate highest level (viz., Chief Justice of India, Chief Justices of High Courts, Chief Ministers and Law Ministers) in order to simplify the procedural formalities. The procedure be so streamlined that the selection and the appointment of the Supreme Court/High Courts Judges is synchronized with the actual occurrance of the vacancies.

B. *Appointment of Retired Judges*

4.13 Article 128 of the Constitution regarding attendance of retired Judges at sittings of the Supreme Court provides :

> " ..... the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of the Judge of the Supreme Court or of the Federal Court (or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court) to sit and act as a Judge of the Supreme Court....."

4.14 When asked specifically why the provisions of article 128 of the Constitution had not been used to reduce pendency in the Supreme Court, the representative of the Ministry during evidence, stated :

> "..... we have considered this aspect of article 128, but here the proposal if any has to come from the Chief Justice of India. Only then article 128 gets invoked. And if he is of the view that this can be done only after the vacancies are filled, the position remains as it is."

4.15 In response to a question, the Ministry of Law and Justice have furnished a List of Judges of the Supreme Court of India who were appointed as *ad hoc* after their retirement under Article 128 of the constitution as indicated below :

Sl. No.	Name of Hon'ble Judge	From	To
1.	Hon'ble Mr. Justice N. Chandrashekera Aiyar .	5-9-1955 1-12-1955	31-10-1955 29-2-1956
2.	Hon'ble Mr. Justice Vivian Bose . .	9-9-1957	30-9-1958
3.	Hon'ble Mr. Justice T. L. Venkatarama Ayyar	1-3-1961 20-12-1961	31-5-1961 31-5-1962
4.	Hon'ble Mr. Justice Raghubar Dayal .	4-4-1966 8-8-1966	7-5-1966 10-10-1966
5.	Hon'ble Mr. Justice V. Bhargava . .	3-2-1971	7-5-1972
6.	Hon'ble Mr. Justice G. K. Mittar .	24-9-1971	6-5-1972
7.	Hon'ble Mr. Justice C.A. Vaidialingam . .	23-10-1972	31-5-1973
8.	Hon'ble Mr. Justice I. D. Dua	4-10-1972	May, 1973

4.16 The Committee have been informed that the Chief Justice of India has suggested that the appointment of ad hoc Judges in the Supreme Court could be considered later after the new vacancies have been filled up. The Committee note that provisions of Article 128 of the Constitution regarding appointment of retired Judges in the Supreme Court were invoked during the period between 1955 to 1973 only, when 8 judges were appointed as ad hoc judges under this Article after their retirement. The Committee are surprised to find that although the number of cases pending in the Supreme Court has gone up from 36,293 in December, 1980 to 1,66,319 in December, 1985 i.e., by more than 458 per cent, yet Government have not been able to impress upon the Supreme Court the necessity to appoint retired judges after 1973 to clear the arrears. The Committee are of the view that had the provisions of Article 128 been invoked after 1973, apart from taking other action the state of arrears would not have been as dismal as it is today. The Committee recommend that after appointment of additional judges with the increase in the strength of the Supreme Court, the position regarding pendency of the cases should be reviewed and if the position shows a little improvement provisions of Article 128 of the Constitution for utilising the experience and expertise of the retired judges for clearing the existing arrears be invoked rather liberally till the disposal of cases becomes equal to the institution and the pendency is completely eliminated. In the light of guidelines laid down by the Law Commission, in case any difficulty is experienced in the selection and appintment of retired judges, the names of judges who have retired recently and had the reputation for efficiency and quick disposal may be considered and appointments made at the earliest.

C. *Appointment of* ad hoc *Judges*

4.17 Article 224A incorporated in the Constitution in 1962, to provide for appointment of retired judges at sittings of High Courts, lays down :—

> "..... the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Court or of any other High Court to sit and act as a Judge of the High Court for that State....."

4.18 The Law Commission of India in its 79th Report had recommended :—

> "We would like to stress that in taking recourse to article 224A, only those retired judges may be appointerd under that article as are known for efficiency and quickness in disposal. It is also, in our view, necesary to ensure that only these persons may be appointed under that article who retired within a period of three years of their appointment. This would prevent persons who have got out of touch with the court work being appointed.
>
> The choice in making an appointment under article 224A to a particular High Court should not be confined to the persons who have retired as judges from that very court. For this purpose, the Chief Justice can look also to persons from that very court. For this purpose, the Chief Justice can look also to persons who have retired as judges from other High Courts. Such a course is permissible under article 224A. Initially, the appointment should normally be for a period of one year, to be extended by further periods of one year each, upto total three years. In making the recommendation for extension, the performance of the retired judge appointed under article 224A during the preceding year can be taken into account."

4.19 From the data furnished in respect of pendency of cases in High Courts it is observed that there had been phenomenal increase in the cases pending in High Courts year after year on account of institution of fresh cases being far larger than those disposed of. One of the steps taken by Government was that it had addressed the Chief Ministers of States and Chief Justices of High Courts in which there was heavy pendency of civil cases over 5 years old to consider appointment of High Court Judges under article 224A of the Constitution.

4.20 On the question as to when the communication was sent to the Chief Ministers of States and Chief Justices of High Courts and whether there had been any follow-up action since then, the Ministry in a note furnished to the Committee have stated "The communication was sent to the

Chief Justices/Chief Ministers of certain States in 1980. Proposals for appointment of *ad hoc* Judges have been received from certain High Courts and these have been considered from time to time."

4.21 It was further stated that in the following High Courts the number of Judge appointed under article 224A has been as under :

Sl. No.	Name of the High Court	No. of adhoc judges
1.	Allahabad High Court	2
2.	Madras High Court . .	2
3.	Patna High Court . . .	5
4.	Andhra Pradesh High Court	1

4.22 Asked whether any specific monitoring as to the reduction of arrears had been done after the appointment of the *ad hoc* judges, the representative of the Ministry stated "we have not done any specific monitoring as such. We have not called for any information regarding the number of cases they disposed of....Frankly, Sir, we have not been monitoring this aspect so far."

4.23 Subsequently the Ministry furnished the following information in respect of retired judges appointed on *ad hoc* basis in different High Courts :—

High Court	Date, on which proposal received from Chief Minister	Number proposed	Number agreed to and when notified		Number of cases to be disposed of by the Adhoc Judge	Remarks
1	2	3	4		5	6
1981						
Allahabad .	File under submission to the Counsel in Lucknow.	2	2	27-6-81	21845 over 5 year old	
1982						
Madras .	—	1	1	22-4-82	1476 over 5 year old	
Patna .	14-4-82	1	1	14-7-82	5951 over 5 year old	
1983						
Madras .	23-4-83	1	1	30-7-83	1156 over 5 year old	
Patna .	3-5-83	2	2	28-9-83	5913 over 5 year old	
Patna .	14-6-83	2	1	28-9-83	2368 over 5 year old	
Andhra Pradesh .	25-6-83	2	1	20-12-83	2909 over 5 year old and 9533 Land Acquisition cases.	

1	2	3	4	5	6
Kerala	30-9-82	3	3	17-8-83	CJ did not consider it necessary to request them to sit and act as judges as substantial portion of the cases for the disposal for which the appointment had been suggested had been disposed of.
1984					
Patna .	2-7-84	1	1	5-9-84	1377 over 5 year old
Allahabad .	24-9-84	1	Not approved		—
Allahabad .	16-11-84	1	Not approved		—
Patna .	19-9-84	2	Not approved		—
Patna .	19-11-84	1	Not approved		—
1985					
Delhi .	6-9-85	1	Not approved		—
Delhi .	19-12-85	1	Not approved		—
Calcutta	File under submission	1	Not approved		—

4.24 The Committee note that one of the steps recommended by the Law Commission in its 79th Report for clearing arrears in High Courts was appointment of retired judges under article 224 A of the Constitution from amongst those who had a reputation of efficiency and quick disposal and who had retired within a period of three years. The Department of Law and Justice had accordingly written in 1980 to the Chief Ministers of States and Chief Justices of High Courts in which there was heavy pendency of civil cases for over five years to consider appointment of High Court Judges under Article 224 A of the Constitution. The Committee are distressed to note that the proposals received in pursuance of this communication in the later half of 1984 for appointment of retired judges in the High Courts of Allahabad and Patna and for Delhi and Calcutta High Courts in 1985 have not yet been agreed to by the Union Government despite the accumulation of huge arrears in these Courts. The Committee are also surprised that although ad hoc judges have been assigned to dispose of specific number of cases during their fixed tenure yet the Ministry of Law and Justice have not been monitoring the impact of appointment of ad hoc judges in different High Courts on the actual clearance of arrears. Such an assessment is very necessary if previous experience about appointment of ad hoc Judges in High Courts under article 224 A of the Constitution is to be any guide in future. The Committee recommend that the provisions of Article 224 A of the Constitution be invoked more frequently for utilising the services of retired judges as recommended by the Law Commission for clearing the arrears. The Committee also emphasise that the Monitoring Cell in the Ministry of Law and Justice should be adequately strengthened to enable it to be in touch with the High Courts where judges have been appointed under article 224A and get regularly statistics as to the number of cases actually disposed of by the ad hoc judges. The information so collected should be periodically reviewed and a real assessment

made of the efficacy of the procedure for appointment of retired judges under article 224 A.

D. *Appointment of Permanent/Additional Judges*

4.25 Article 224 of the Constitution lays down :

"If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify."

4.26 Explaining the working norms for the appointment of Additional Judges, the Ministry of Law and Justice, in a note have stated that the strength of Judges in a High Court was determined with reference to the institution and pendency of main cases and a working norm of average annual disposal per judge. The working norm adopted was a disposal of 650 main cases per judge per year, or the average actual disposal of main cases per year per judge over the preceding three years, whichever was higher. The strength of permanent judges was calculated taking into account this norm of disposal and the average number of main cases instituted over the preceding three years. The posts of Additional Judges were sanctioned for clearing arrears using the same working norm of disposal. Main cases pending over 2 years were treated as "Arrears" for the purpose.

4.27 During the evidence the Committee were informed that apart from 60 posts of Judges lying vacant in various High Courts 33 posts of Additional Judges had been approved, santioned and communicated to the States and those posts would be filled up as and when proposals from States were received and that State Governments were being constantly reminded to give their recommendations.

4.28 On the question as to how the process of consultation which caused undue delay in filling up the vacancies could be made easy, representative of Ministry of Law and Justice stated, ... One suggestion is that you fix the time-limit on the proposals to come from the States; and if the proposal from the State does not come within that particular time-limit, then the President is free to appoint somebody. These suggestions *prima-facie* look attractive or even acceptable, but the point is that we are speaking of a judiciary which has to be strong, effective and totally independent. The moment Executive or any other authority tries to impose itself, then the whole subject becomes a matter of criticism. There is a question of checks and balances and it has to be maintained. It is true that delay is taking place. There are alternatives open but when you consider the major question of the independence of the judiciary and the

safeguards, you want to keep, then ultimately you come to this type of suggestion."

4.29 Citing various difficulties encountered in filling up of vacancies in time the witness added" .... The delay occurred in the names being suggested or recommended by the people in the States whether it is the Chief Justice or the Chief Minister or the Governor of the States. Sometimes the names are not acceptable here. This is a matter on which there can be a dialogue. It is a question where sometimes the entire proposals are held up at the level of the States. In that case the only alternative open is to keep writing to the Chief Minister concerned and ask him to expedite the matter."

4.30 On the views expressed by the Committee that number of judges to be recommended at the level of the States should not only come in time but should also be in a large number, the witness agreed that it was a good suggestion. He added : "You say that for one vacancy 2 or 3 names can be sent. Always that is not the experience. Very often it so happens that the names come in driblets. There is no element of choice in that. One should go for consideration of the names sent to him. That is the ideal situation which you mentioned. If vacancy arises, they should come with names well in time. They should come with a panel of names. But this has not always been possible. What you say is all right but this is some-how not happening. That is what I would like to say."

4.31 The Ministry have furnished the following information regarding number of Additional Judges appointed in High Court since 1956.

Sl. No.	High Court	Appointed from		Total
		1956 to August [illegible]	September 1981 to December 1985	
1.	Allahabad	102	14	116
2.	Andhra Pradesh	34	5	39
3.	Bombay	91	10	101
4.	Calcutta	80	1	81
5.	Gauhati	1	2	3
6.	Delhi	31	7	38
7.	Gujarat	35	8	43
8.	Himachal Pradesh	3	1	4
9.	Jammu & Kashmir	7	3	10
10.	Karnataka	33		33
11.	Kerala	30	7	37
12.	Madhya Pradesh	29	7	36
13.	Orissa	8		8
14.	Madras	26		26
15.	Patna	49	2	51
16.	Punjab & Haryana	45	3	48
17.	Rajasthan	27	1	28
18.	Sikkim	—	—	—
	Total	631	71	702

4.32 The Ministry have also furnished the following information as to the increase in posts of Judges agreed in principle during the recent years :

Sl. No.	High Court	Date on which			No. of posts agreed to			Remarks
		Proposal called for	Proposal sent by Chief Minister	Letter of approval issued	Pmt.	Addl.	Total	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Allahabad	—	5-5-84	26-5-84	—	2	2	
		21-6-85	—	—	—	—	—	
2.	Andhra Pradesh	21-6-85	10-10-85	12-12-85	6	4	10	
3.	Bombay	—	10-5-82	25-10-82	—	4	4	
		21-6-85	12-9-85	16-10-85	2	11	13	
4.	Calcutta	11-10-84	26-11-84	15-1-85	6	5	11	
		21-6-85	—	—	—	—	—	
5.	Delhi	—	16-8-83	7-7-84	—	2	2	
		12-8-85	15-11-85 (CJ)					Further information called for on 26-12-85
6.	Gauhati	7-10-82	24-12-82	3-1-83	2	—	2	
7.	Gujarat	—	20-10-82	11-2-83	—	1	1	
		21-6-85	—	File not available readely	5	3	8	
8.	Himachal Pradesh	—	6-8-83	12-9-83	—	1	1	
9.	Jamm & Kashmir	10-10-84	23-12-85	22-1-86	1	3	4	

10. Karnataka	—	—	File not available readely	4	2	6	CM has stated in his reply dated 2-7-85 that he has no objection for an increase in sanctioned strength of Judges. He did not, however, and specific proposal. The matter is under consideration.
	21-6-85						
11. Kerala	21-6-85	24-9-85	30-12-85	3	—	3	
12. Madhya Pradesh	21-6-85	5-9-85	14-1-86	—	2	2	
13. Orissa	—	10-1-84	4-6-84	—	1	1	
	21-6-85	—	—	—	—	—	
14. Patna	10-10-84	6-4-85	27-5-85	4	—	4	
	21-6-85	—	—	—	—	—	
15. Punjab & Haryana	10-10-84	25-2-85	22-4-85	—	3	3	
16. Rajasthan	9-5-85	27-6-85	5-8-85	—	3	3	
	21-6-85	7-10-85	6-1-86	—	3	3	
Total				33	50	83	

4.33 The Committee note that there were 60 vacancies (as on 3-2-1986) of Judges in various High Courts lying unfilled. In addition Government had sanctioned 83 additional posts on different dates from October, 1982 to January, 1986 but these posts were also lying vacant. The Committee were informed that a working norm of 650 main cases per judge per year or average actual disposal during the preceeding three years, whichever was higher was the basis adopted for determining strength of ad hoc judges. The Committee note that apart from the sanctioned strength of Judges which some High Courts have lesser number than the required, a major factor contributing to accumulation of arrears was unduly long delays in filling up the vacancies of Judges. The Committee further note that the most important reasons for long delays in filling the vacancies of Judges Permanent or Additional, in High Courts was due to delay taking place in the process of consultation and time taken by concerned authorities in sending the proposals to the Ministry of Law and Justice and also in their actual acceptance for appointment. The Committee cannot but deprecate the lackadaisical attitude and scant respect being shown to the whole process of administration of Justice by the concerned authorities. Had the 143 vacancies been filled in time, then according to the norms laid down, it would have resulted in reduction of pending cases by about 92,950 per year. The Committee recommend that Ministry of Law and Justice should hold discussions with all concerned at the highest level and lay down strict time schedules for various stages right from intimation about the vacancy and inviting names for filling it up (which should be at least six months in advance of occurrence of the vacancy), sending of proposal by the State Government (which should be at least three months in advance of the occurrence of vacancy) consideration of the proposal and notifying the appointment (which should be latest by the end of the first week after occurrence of the vacancy) so that the vacancies in High Courts are filled up within one week of occurrence of the vacancies. The Committee are of the firm view that unless the present process of consultation which looks so simple by plain reading of articles 127 and 217 of the Constitution, but which has been made very complex and time consuming for finalising the names of Judges for appointment is reorientated with rigid periods laid down for completion of various stages things are not likely to improve. In case of failure of the State Governments to send the proposals within the fixed time schedule, the President should have the power to make the appointment on the advice of the Central Government. The Committee recommend that the Ministry of Law and Justice should arrange the matter being seriously discussed at the highest level of the Union Government in association with other agencies involved so that the seriousness of this matter which it deserves, is brought home to all concerned for evolving a process of consultation that eliminates the present delays effectively.

CHAPTER V

ARREARS OF CASES IN SUPREME COURT & HIGH COURTS

5.1 The position in regard to the institution, disposal and pendency of cases in Supreme Courts as on 31st December each year was as follows :

Year	Instituted	Disposed of	Pendency
1980	26365	16953	36293
1981	31040	18690	48643
1982	43510	29112	63041
1983	55902	45824	73206
1984	49074	35547	86733

5.2 In reply to the question whether the Ministry of Law and Justice had ever given thought to the problem of mounting arrears year after year and what special measures had been thought of either to arrest the tendency for larger institution or creation of conditions so that larger number of cases could be disposed of than hither to, the Ministry in a written reply have stated that "the position is reviewed constantly. The steps taken in this regard have already been indicated. As per information furnished by the Registry of the Supreme Court the position on 31-12-1985 is as under :—

Institution	Disposal	Pendency
51,592	51,078	87,247 (Regular and Admission Matters)

In addition, 79,072 Miscellaneous Petitions are pending as on this date.

The former Chief Justice of India had also proposed increase in the present strength to tackle the problem effectively. A Bill proposing increase in the strength of the Supreme Court from 17 to 25 (excluding the Chief Justice) passed by the Lok Sabha is pending for consideration in Rajya Sabha."

5.3 The statement below gives the detail of cases of various types instituted, disposed of and pending in Supreme Court during the year 1985 :—

Particulars	Pending as on 1-1-85	Institution during the year 1985	Disposed of during the year 1985	Pending as on 31-12-85
A. Regular Hearing Matters				
1. Ordinary Civil Appeals .	28197	5724	7304	26617
2. Constitutional Civil appeals	749	27	105	671
3. Ordinary Criminal Appeals	3650	896	523	4023
4. Constitutional Criminal appeals	—	—	—	—
5. Art. 32 Petitions for final hearing				
(a) Civil . .	14120	8696	7134	15682
(b) Criminal . . .	152	6	8	150
TOTAL	46868	15349	15074	47143
B. Admission Matters				
6. Special Leave Petitions				
(a) Civil . . .	18337	17579	10569	25347
(b) Criminal	2069	3907	2416	3560
7. Art. 32 Petitions for Preliminary hearing :				
(a) Civil . .	17238	13064	20755	9547
(b) Criminal . . .	2221	1693	2264	1650
TOTAL	39865	36243	36004	40104
GRAND TOTAL . .	86733	51592	51078	87247
C. Miscellaneous Petitions				
(a) Civil Misc. Petitions .	59987	50817	35717	75087
(b) Criminal Misc. Petitions	2171	7256	5442	3985
TOTAL .	62158	50073	41159	79072

The statement showing the details of cases instituted, disposed of and pending during the year 1980—1984

Court	Cases Instituted				
	1980	1981	1982	1983	1984
Allahabad . .	78408	108590	86407	85136	85627
A. P. . . .	55593	59405	63497	41845	79484
Bombay . . .	26610	23194	25024	28609	34716
Calcutta . . .	36433	41708	38834	41086	43871
Delhi . . .	27408	29451	32719	32674	34665
Gauhati . .	2989	4411	5260	6729	—
Gujarat . . .	18716	20830	24302	24884	24737
H.P. . . .	4140	6357	8891	6203	5940
J & K. . . .	6221	7973	9455	10751	10107
Karnataka . .	37341	50666	61858	41114	36764
Kerala . . .	37631	45114	53245	57802	57494
M.P. . . .	16590	18637	19343	21635	23304
Madras . . .	51024	64845	66319	74892	76351
Orissa . . .	6102	7498	6559	7411	12640
Patna . . .	23778	26545	26452	32163	41109
Punjab & Haryana .	37996	37690	42415	42269	43955
Rajasthan . .	12615	12632	12795	14827	14825
Sikkim . . .	191	146	172	106	195
	479686	555702	583547	570136	625084

Cases Disposed					Pendency				
1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
69269	62955	87757	61206	54191	129301	174936	173586	197516	228952
43082	38966	60717	41462	67943	37565	58075	60001	16128	81256
20418	19387	20435	24817	25682	66906	73362	82331	93410	107587
29338	35804	28348	25457	24051	79178	89730	101192	116821	136641
26842	17335	29113	21493	23397	30987	43103	46709	57889	68157
1739	2227	3655	5500	—	8385	10569	12174	13403	—
15114	15735	21115	20480	19947	19473	24568	27755	32159	36949
4274	5019	7183	6191	6590	5995	7333	9041	9053	9059
4148	3945	4755	6015	5934	8826	12854	17554	22290	25807
26038	22993	30064	45937	56564	66920	94593	121387	116564	96764
39179	40882	37668	35003	29894	30164	34396	49973	72773	100373
18410	18317	18137	19983	18151	25876	26196	27402	29054	34210
50251	50225	50176	56776	554310	54127	68747	84850	103066	123987
4558	5176	5168	4410	6017	10877	13199	14590	17591	24214
20806	18756	22348	26928	48979	37454	45243	49347	54602	57048
38198	38456	41546	42994	43532	33915	33149	34018	33285	33708
9849	9645	9025	10645	12293	22530	25517	29287	33469	36001
83	121	63	106	230	37	62	71	71	36
419596	405934	477373	455403	498825	668516	895829	906168	1019143	1200749

5.5 The statement below gives the details of number of cases pending in various High Courts as on 30-6-1985 :—

Name of the High Court	Number of cases pending over				Total number of cases pending		
	5 years		10 years				
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Total
1	2	3	4	5	6	7	8
Allahabad	49156	9020	7316	86	190852	51527	242379
Andhra Pradesh	4462	—	2	—	85819	2530	88,349
Bombay	24508	478	3040	6	99945	6712	106657
Calcutta	49561	1871	13560	125	129845	12912	142757
Delhi	11331	823	3515	—	70248	3978	74226
Gauhati £	2496	292	177	—	11737	2642	14379
Gujarat	4641	27	46	—	34695	5164	39859
Himachal Pradesh	2525	37	325	—	9263	505	9768
Jammu & Kashmir	3554	432	268	2	24845	2670	27515
Karnataka	9986	—	58	—	89591	1919	91510
Kerala	2810	—	2	—	106990	7132	114122
Madhya Pradesh	5920	312	1359	15	39192	13271	52463
Madras	12204	349	14	—	138134	11335	149469
Orissa	4465	67	233	—	23650	3273	26923
Patna	8010	2431	1604	2	38999	17391	56390
Punjab and Haryana	7396	5	87	2	34891	2909	37800
Rajasthan	8023	3320	950	50	37526	11576	49102
Sikkim	—	—	—	—	50	1	51
TOTAL :	213028	19464	32556	288	1166272	157447	1323719

£ Pending as on 31-12-1984.

5.6 The following statement gives the number of regular hearing matters pending in Supreme Court as on 1-1-1986, Age-wise :

Description of Cases (Year)	Non-constitutional Matters					Criminal Appeals
	Tax	Labour	Election	Others	Total (Col. 2+3+4+5)	
1	2	3	4	5	6	7
1969	—	—	—	4	4	—
1970	—	—	—	40	40	—
1971	—	2	—	155	157	—
1972	4	—	—	495	499	—
1973	34	6	—	524	564	2
1974	184	4	—	446	634	25
1975	328	7	—	435	766	27
1976	302	11	—	396	709	45
1977	553	36	—	1069	1658	66
1978	291	42	1	612	946	261
1979	538	74	—	1228	1840	442
1980	597	53	—	1365	2015	522
1981	277	48	—	1813	2138	591
1982	466	68	3	2258	2795	377
1983	1109	94	8	2193	3404	512
1984	1381	123	35	2226	3765	433
1985	429	385	14	3855	4683	720
TOTAL :	6493	953	61	19110	26617	4023

Year	CONSTITUTIONAL MATTERS				WRIT PETITIONS	
	Tax	Service	Others	Total (Col. 2+3+4)	Civil	Criminal
1	2	3	4	5	6	7
1968	—	—	4	4	—	—
1969	—	—	4	4	—	—
1970	2	—	1	3	1	—
1971	1	1	1	3	4	—
1972	1	—	11	12	62	—
1973	10	—	41	51	84	—
1974	16	13	18	47	21	
1975	2	3	16	21	16	—
1976	2	—	13	15	111	—
1977	1	3	28	32	137	—
1978	1	3	83	87	683	—
1979	24	5	22	51	111	11
1980	21	—	78	99	632	5
1981	3	4	24	31	889	52
1982	23	1	33	57	3401	46
1983	5	—	42	47	2069	24
1984	1	—	93	94	2512	6
1985	—	—	13	13	4969	6
TOTAL	113	33	525	671	15682	150

5.7 On being asked whether besides increasing the strength of Judges, had there been any proposal with the Ministry to simplify laws and procedures which would further reduce the pendency, the representative of Ministry of Law and Justice stated :—

> "We have, of course, been considering the question of increasing the strength of judges, but that would be attacking the problem in a small way. It is a multi-dimensional problem. It is not possible to isolate to find out what particular aspects contributes to what extent. On the basis of the Law Commission reports, the Shah Committee and other reports, there are many factors which go to contribute to this position. One of the measure suggested is new codification of the Cr.P.C., certain amendments in the CPC and certain amendments in other specialised Acts. Then, the recommendation is that there should be tribunals for particular types of cases, shortening of court procedures etc. The Chief Justice of India had laid down an embargo on the time to be taken on oral arguments, written arguments etc. All these are continuing measures based on experience, practice and other considerations which have been implemented from time to time.

As far as matters of law are concerned, we in the Ministry have brought about legislations for improvements in the Cr.P.C., CPC etc. We have also suggested creation of special magistrates' courts, Lok Adalat, family courts etc. Some States have already established such courts. These will certainly help in reducing the workload on the courts.

As far as the functional aspects are concerned, how the Supreme Court or the High Courts should be managed or run, that is not strictly within our province. It is for them to consider. Some of the courts have set up internal working committees and they have suggested certain measures for improvement. Totality of these measures will bring about some improvement.

Then, the Government have decided to set up a Judicial Reforms Commission very soon. This Commission will go into the entire aspects and suggest legislative measures for improvement in the working of the courts. This problem has been a legacy from the past. Even matters concerning reduction of cases will have to be followed in a sequence of time. I do not think any court will accept the proposition today that 77,000 cases will be disposed of in two years. We have to work out some mathematical norms. Then, there are some problems with regard to appointment of judges.

These constraints and restraints put together do not make a total picture where one can speak in terms of time frame."

5.8 The Committee are perturbed to note that number of cases pending in Supreme Court has risen from 36,293 as on 31 December, 1980 to 1,66,319 as on 31 December, 1985 i.e. by 458 per cent. The number of cases pending in all High Courts which was 6,68,516 at the end of 1980 has risen to the astronomical figure of 13,23,719 as on 30 June, 1985 i.e. by 198 per cent. The Committee further note that the number of cases pending in the Supreme Court for over a period of 15 years was more than hundred. The Committee also note that in the High Courts out of a total of 13,23,719 cases pending as on 30-6-1985, 2,32,492 cases were pending for more than 5 years and 32,844 were pending for more than ten years.

5.9 The Committee are pained to note that the problem of pendency of cases has acquired diabolical proportions in the Supreme Court as well as in the High Courts despite various steps claimed to have been taken by the Government to reduce the arrears in superior Courts. The Committee were informed that Government proposed to set up a Judicial Reforms Commission which would go into various facts of the problems of arrears in courts. The Committee, however, learn that Government have since

referred the matter of Judicial reforms to the Lad Commission which would inter alia go into the matter of elimination of delay, speedy clearance of arrears and reduction in cost so as to secure quick and economic disposal of cases without affecting the cardinal principle of Justice. The Committee hope that the Law Commission will be able to give its report as early as possible. The Committee will await with interest the report of the Law Commission and action taken by Government on its recommendations for removal of pendency in Supreme Court and High Courts.

CHAPTER VI

CONDITIONS OF SERVICE OF JUDGES

6.1 In a memorandum submitted by a non-official organisation to the Committee it has been stated :—

> "Service conditions of Judges should be revised at all levels so as to make judgeship fairly attractive. If a sitting Judge had to face financial strain, his quality of work was bound to be affected in spite of his sincerity and devotion to the cause. If possible, salaries should be made tax free. When the Constitution of India came into force, the High Court Judges were already getting salary to the extent of Rs. 4,000/- p.m. These salaries were reduced to Rs. 3,500/- p.m. as set out in the Constitution. It is common knowledge that cost of living has gone up by several times since 1950. The Organisation was aware of the fact that in addition to Rs. 3,500/- Judges of the High Court of Bombay got fixed dearness allowance to the extent of Rs. 1500/- residential accommodation and conveyance allowance to the extent of Rs. 400/- with all that the pay packet in hand would be about Rs. 3,000/- after deduction of taxes etc. It was high time that the salaries are at least doubled or made tax free."

6.2 The Law Commission in its 79th Report made the following observations for improving the service conditions of Judges :

> "Also, with a view to attracting persons of the right calibre to the Bench, something may have to be done to improve the service conditions. This might also take into account the benefits, including pension, to which they would be entitled after retirement. While it is true that the pay scales of the judges cannot be wholly divorced from the general pattern of pay structure of the country at the higher levels, it has also to be borne in mind that bright and capable members of the Bar by sticking to the profession can earn much more. In the eyes of some there may be a halo around the office of judgeship. The halo has, however, been getting dimmer and dimmer with the efflux of time, the rising spiral of prices and the disparity between the professional income and the salary of judges. We must take note of the fact that some measures have recently been adopted to improve the service conditions of the High Court Judges by providing them rentfree house and giving them a conveyance allowance. However, having regard to the existing tax laws, the steps taken in this respect may perhaps not provide adequate relief."

6.3 In reply to a question whether there were any rules, guidelines regarding attendance, hours of work, leave and other facilities and perquisites of Judges of High Courts/Supreme Court and whether those were uniformally applicable to all the High Courts, the Ministry have stated :

> "Supreme Court/High Courts have been empowered to frame rules with regard to their functioning under Article 145/225 of the Constitution. Accordingly, separate set of rules have been framed by them. In so far as leave, other facilities and perquisites of judges of Supreme Court/High Courts are concerned they are regulated under the provisions of :—
>
> (i) Supreme Court Judges (Conditions of Service) Act, 1954;
>
> (ii) High Court Judges (Conditions of Service) Act, 1954;
> and the rules framed there under as amended from time to time."

6.4 When asked during evidence whether there was uniformity in the rules regarding conditions of services of Judges, the representative replied "our information is that they have separate rules." On being asked further whether Ministry considered that there should be uniformity of rules in different High Courts, the representative of the Ministry replied in the negative. On the question whether the Chief Justice of India or Chief Justice of High Court had any role to play in ensuring compliance of service rules the representative stated, "they have a role to play since the rules have been framed by them in consultation with the Governor." To the question whether the Ministry had any say in those orders he replied that, "the Ministry of Law has nothing to do with the service rules because it is an affair between them and the State Government. The State Government may have certain say in respect of service matters and appointment. But I do not know about the position exactly."

6.5 **There is no denying the fact that the conditions of service of the Judges of the Supreme Court/High Courts are not attractive enough to attract talented persons with long experience in legal field to accept judgeship. In this regard the Committee note the statement made and published in a number of newspapers by the Chairman of the recently appointed Law Commission that the list of people saying "no" to offers of High Court Judgeship was far more than those saying "yes". The Committee are of the considered view that the salaries and conditions of service of the higher Judiciary should be commensurate with the dignity of the august offices occupied by them. The Committee recommend that the salaries and conditions of service of the judges of the Supreme Court and High Courts should be reviewed keeping all aspects in view so that these do not act as a deterrent to attract the best available talent in the country. The Committee also recommend that to relieve the judges of the avoidable work-load the services of the Research Assistants/Officers having specialised knowledge**

of law may be made available to them to assist the judges in the discharge of their onerous duties. The Committee need hardly stress that there should be uniformity in the rules governing the conditions of service etc. of the judges in various High Courts and in order to achieve this the Ministry of Law and Justice should frame model rules and impress the need for uniformity of such rules in the Joint Conference of Chief Justices, Chief Ministers and Law Ministers of States.

CHAPTER VII

OTHER SUGGESTIONS

A. *Specialised Tribunals*

7.1 A non-official witness who appeared before the Committee expressed the view that setting up of Specialised Tribunals like Administrative Tribunals would help in speedier disposal of cases and that Tax Tribunals, Industrial Tribunals, Matrimonial Tribunals etc. should be set up. These tribunals, he felt, should have people who had expertise in that particular field. As the High Courts were a sort of generalists and not specialists, it was necessary to have special tribunals for special type of cases.

7.2 When asked whether Ministry agreed with this view the Ministry, in a note, have stated, "the Constitution in articles 323-A and 323-B has provided for setting up of such specialised tribunals." During evidence the representative of the Ministry stated, "there is already a Constitutional provision and we would certainly encourage the concerned Ministries to set up such types of tribunals if they want."

7.3 The witness further added that the Administrative Tribunals would perform the functions which were being performed by the High Courts, from the decision of which only one appeal would lie to the Supreme Court.

7.4 On being asked that in the event of a decision being taken for having specialised tribunals what would be the criteria for appointment to these tribunals, the witness stated :—

> "As far as Administrative Tribunals are concerned, the Supreme Court has insisted that there should be a retired judge of the High Court or Supreme Court as the Chairman of the Tribunal plus one administrative member and also some other members."

7.5 During the course of discussion in Lok Sabha on the Administrative Tribunal (Amendment) Bill, as passed by Rajya Sabha (seeking to replace the said Ordinance), the Minister of State in the Ministry of Personnel, Public Grievances and Pension—clarified that as most service cases were about dismissal, retrenchment, removal, seniority, promotion and supersession it was not felt necessary to take away the jurisdiction of the Supreme Court under article 32 of Constitution. However, after these tribunals had worked for 5 to 10 years the Act could be amended to take away the power of the Supreme Court under article 32. As regards the jurisdiction of these

tribunals *vis-a-vis* the jurisdiction of the High Court, the tribunals have all the powers of the High Court under article 226 of the Constitution. About the question whether the High Court would still continue to exercise superintendence over the tribunals, he clarified that the result of the amendment was to make the orders of the tribunal final, and to make it beyond interference by any court.

7.6 In the written reply furnished to the Committee, the Ministry has stated the following position in regard to the setting up of Tribunals under Article 323 A of the Constitution :—

"Setting up of Tribunals Under Article 323 *A of the Constitution* :

1. Article 323A(1) of the Constitution states that Parliament may, by law, provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect of recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation under or controlled by the Government. By virtue of these provisions the Parliament enacted the Administrative Tribunals Act, 1985 in January, 1985. The Act provides for the establishment of a Central Administrative Tribunal and State Administrative Tribunals for each State or for Joint Administrative Tribunals for two or more States. The provisions of the Act in so far as they relate to the Central Administrative Tribunal came into effect from 1-7-1985. The Central Administrative Tribunal was established under section 4(1) of the Act with effect from 1-11-1985 with the Principal Bench and Additional Bench I and Additional Bench II at Delhi and Additional Benches at Allahabad, Calcutta, Madras and New Bombay. Three more Benches of the Tribunal at Bangalore, Chandigarh and Guwahati are to be established before 31-3-1986 and further 7 Benches at Ahmedabad, Cuttack, Ernakulam, Hyderabad, Jabalpur, Jodhpur and Patna before 30-6-1986.

2. The provisions of the Administrative Tribunals Act have been extended to the States of Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra and Orissa with effect from 1-1-1986. The Administrative Tribunals in these States have not been established so far.

3. Section 5 of the Administrative Tribunals Act as amended by the Administrative Tribunals (Ordinance) 1986 promulgated on 22-1-1986 provides that each Bench shall consist of two Members out of which one shall be judicial Member and one an Administrative Member.

4. Chairman of the Central Administrative Tribunal is stationed at Delhi. Each other Bench has a Vice-Chairman and one or more Members. The registry in each Bench is headed by a Registrar who has a number of Deputy Registrars and other supporting staff.

5. The Central Administrative Tribunal has jurisdiction, powers and authority in relation to recruitment and matters concerning recruitment to any All India Service or to any civil Service of the Union or a civil post under the Union or to a post connected with defence or in the Defence Services, being, in either case, a post filled by a civilian and of service matters concerning a Member of any All India Service or a person appointed to any civil service of the Union or any post under the Union or a civilian appointed to any Defence Service or a post connected with defence. The Administrative Tribunals Act is applicable to the local or other authorities or to corporations or societies under or controlled by Government. However, the jurisdiction of the Central Administrative Tribunal could be extended to such local bodies, corporations and societies etc. after a notification to that effect is issued by the Central Government. No such notification has so far been issued. It is proposed to bring the local bodies, corporations etc. within the purview of the Central Administrative Tribunal shortly. The disputes and complaints in respect of employees working in such bodies are at present being dealt with through the normal forums available to them."

7.7 The Committee note that specialised tribunals such as Administrative tribunals, Tax tribunals and Industrial tribunals would certainly help in substantially relieving the burden of High Courts and result in expeditious disposal of cases. The Committee accordingly recommend that similar specialised tribunals in the fields not already covered be set up.

R. *Training and modernisation of equipment*

7.8 On being asked by the Committee whether the Ministry had ever commended to the Supreme Court and the High Courts the need for modernising office management and use of modern office equipment including data processors/Computers, the Ministry in a note furnished to the Committee have stated :

"The Joint Conference of Chief Justices, Chief Ministers and Law Ministers of States held on 31st August—1st September, 1985 had resolved for providing telex facilities, modern electronic or electrical appliances such as photocopying machines. It also recommended that where the strength of judges in a High Court is more than 20 sufficient word processors shall be supplied to the High Court and where the strength is less than 20, two word processors shall be

supplied. This resolution has been forwarded to State Governments and High Courts for taking necessary action."

7.9 As regard the feasibility of the Central Government initiating scheme for capital grants to the High Courts for acquiring modern office equipment and training of staff, it was stated :

"There is no such scheme. It is felt that necessary funds in this regard could be provided by the State Governments."

7.10 During the evidence before the Committee the representative of Ministry of Law and Justice added :

"As a matter of fact, this was one of the resolutions—No. 13—of our meeting and this has been communicated to all the Chief Ministers and we have got a response from most of them for accepting that fact like telex communications and for other things, we are examining them. As regards the Supreme Court, I may inform you that the Chief Justice is himself very keen about this thing and he had set up a task force and they are coming up with certain proposals for computerisation in the Supreme Court. As soon as we get those proposals, we shall examine them and take up necessary follow-up action. But we have agreed in certain matters like Word Processors, Electronic Typewriters. All these things have been decided."

7.11 Describing the benefits to be derived from Computerisation, he further stated :—

"One of the aspects behind the computerisation was that the decisions given were fed on the computer. The existing cases are grouped and bunched together according to the subjects or categories or State or Age and fed on the minimum relief tests. These are going to be three or four main objectives of the computerisation techniques."

7.12 Benefits of installation of Computers, Data Processors and other modern electronic equipments for disposal of cases in Courts cannot be over emphasised. However, installation of the modern equipments would require more funds by State Governments and the Committee are not sure whether all the States would be in a position to meet this burden from their own resources. The Committee, therefore, recommend that the Ministry of Law and Justice should consider the feasibility of giving capital grants in deserving cases to States for installation of modern office equipments including data processors/computers in the High Courts. Committee desire that a beginning be made in this regard by providing financial assistance by the Central Government for installation of Computers etc. in High Courts having very high pendency of cases and computers may be similarly installed in other High Courts within a limited time frame.

C. *Reduction in number of Appeals*

7.13 In a published article on Judicial Reforms, by a former Judge of the Supreme Court it has been stated, that "too many appeals are injurious to justice and shake the credibility in system." He suggested that only one appeal on a question of fact and one appeal on a question of law should be allowed.

7.14 On the question if such a system was feasible and whether it would really make any dent in the problem of pendency of cases and lead to speedier justice to the litigants, the Ministry of Law and Justice have in a note stated :—

> "The Government has decided to set up a judicial commission and that commission it is felt would examine all procedural aspects including the reduction in the number of appeals etc."

7.15 The Committee are of the view that too many appeals are being filed in High Courts and Supreme Court which increase the burden of the Courts manifold. The Committee, therefore, desire that a serious thought be given for reduction in number of appeals. The Committee learn that this procedural reform which was proposed to be referred to a judicial Reforms Commission has since been assigned to the Law Commission. The Committee are sure that the matter will be gone into in depth and expeditiously by the Law Commission. The Committee hope that the Government would take prompt and positive action on the recommendations of the Commission as soon as the same are received and apprise the Committee of the action taken in due course.

D. *Original Jurisdiction of High Courts*

7.16 In regard to original jurisdiction of High Courts, the Committee of three Chief Justices of High Courts set up to examine the problem of arrears in High Courts has stated in a report informally given to the Ministry of law and Justice that, "the High Courts of Calcutta, Madras and Bombay as well as High Courts of Delhi, Himachal Pradesh, Jammu & Kashmir have ordinary original civil Jurisdiction. Suits above the stated value are tried by the High Court and there is an appeal of facts of law to the Division Bench of the same High Court. The ordinary original civil jurisdiction is an accident of history. If the view point that the High Court in view of its difficulties, should be confined to deciding question of law is accepted, the ordinary original civil jurisdiction of the High Court should be abolished."

7 17 In a note furnished to the Committee, the Ministry of Law and Justice have stated in this regard :—

> "The Law Commission in its 79th Report on delay and arrears in High Courts and other appellate courts had suggested no change

with regard to original civil jurisdiction in the High Courts of Calcutta, Bombay, Madras, Delhi, Himachal Pradesh and Jammu & Kashmir by weighing in favour of the view that the administration of justice at this higher level is of a better quality and that it also inspires more confidence in the litigent public. But an inter-departmental Committee of the Officers of the Legislative Department, the Department of Legal Affairs and the Department of Justice of the Ministry of Law and Justice has suggested its abolition. The Committee is of the view that conferring of unlimited pecuniary jurisdiction on the District and Subordinate Judges stood the test of time in other High Courts and seem to have worked well. The Committee also opined that this would decrease the work load on the High Courts and would enable them to reduce the arrears. The recommendations of Law Commission and the view of the Committee have been communicated to State Governments, High Courts for their consideration.

7.18 When asked to give his views on the aforesaid suggestion, the representative of the Ministry of Law and Justice stated :—

"The Law Commission was not in favour of this suggestion. The inter-departmental Committee took a view that this would help to reduce the burden on the High Courts. This is again a matter which can create a lot of controversy either way because the general feeling is that there is special expertise in the High Court to deal with this type of cases and the District Court may not be really competent to deal with such complex matters, say, customs or tax or many other money suits. We have made our suggestions, but some of the High Courts have not responded. There is also some resistance from the local Bar."

7.19 It was further stated by the representative of the Ministry that the view of inter-departmental Committee was communicated to State Governments in 1982, but no High Court had come up with a proposal and that the matter was being pursued with State Governments.

7.20 On being asked how Ministry was monitoring the follow up action, the representative of the Ministry stated :—

"We must remind them. We will let you know about it. We are periodically reminding them both at the level of the Minister and the Secretary. This is a matter which the High Courts will themselves have to consider because it involves an amendment of the Act; it also involves an amendment of the jurisdiction of the High Courts. Unless there is a complete consent of the High Courts, the State Governments cannot do anything."

7.21 He further added that the entire matter was discussed in the Conference of Chief Justices of High Courts, Law Ministers and Chief Ministers of the States on the 31st August, 1985; but no feed-back had been received on this matter.

7.22 **The ordinary original civil jurisdiction of some of the High Courts is an accident of history. It takes away considerable time of the superior appellate courts in processing the cases originally filed before them. The Committee note that the 79th Report of the Law Commission and the report of inter Departmental Committee of the officers of the Legislative Department, the Department of Legal Affairs and the Department of Justice of the Ministry of Law and Justice expressed divergent views on the original jurisdiction of the High Courts. The mere fact that the Ministry of Law and Justice had communicated these views to the State Governments for their consideration does not solve the problem by itself. The work-load of the High Courts with original jurisdiction requires to be reduced in order to enable them to attend to the arrears of cases. The Committee feel that this matter may again be referred to the present Law Commission for an indepth study and recommendation so that a final view is taken on this question once and for all.**

E. *Training for Registry Staff*

7.23 An article by a retired Judge of the Supreme Court in 'Judicial Reforms' stated that "colleges for the higher judiciary are functionally necessary" and that "National Colleges for Judges as in the US. serve a purpose."

7.24 On the question whether the setting up of a training college for Judges would improve the functioning of High Courts and Supreme Court and what were the views of the Ministry regarding the need for training of the staff of the Registries of the High Courts and Supreme Court, the Ministry in a note furnished to the Committee have stated, "the Joint Conference of Chief Justices, Chief Ministers and Law Ministers of States held on 31st August—1st September, 1985 unanimously resolved for setting up an institute or academy for the training of Judicial officers to be set up by Central Government with the Chief Justice of India as the Chairman. The functioning of the Institute or academy would be under the supervision of a governing body to be constituted in consultation with the Chief Justice of India." It was further stated that "all training, it is felt, would lead to efficient and effective functioning. It is for the respective Chief Justice for arranging the necessary training."

7.25 When asked that reference in USA experiment was to the National College for Judges and not Julicial Officers, the representatives of the Ministry stated during evidence :—

> "The question is who is going to teach them and so on. It is better to have seminars, discussions; that could be a different scheme altogether. We have no details about it."

7.26 **The Committee agree with the view of the representative of the Ministry that the Supreme Court and High Courts Judges who are legal lumaniries should have frequent seminars and conferences to exchange views on common problems and legal points of mutual interests. The Committee however feel that since the type of work in the registries of different High Courts is of similar nature, the Ministry of Law and Justice should have training programmes for officers and staff of the registries of Supreme Court and High Courts arranged for the more efficient functioning of the registries.**

F. *Court Holidays*

7.27 To a question whether any study had been made about the number of court holidays in Superior Courts in other major countries of the world and whether it would be helpful to make such a study and review the number of court holidays during a year in our High Courts/Supreme Court in the light of findings of the Study, the Ministry replied that no such study had been made and since economic, social and political conditions varied from country to country such a study might not be quite helpful.

7.28 In reply to another question whether number of holidays to be observed by High Courts/Supreme Court could be statutorily fixed, the Ministry stated :—

> "The sittings and vacation of Supreme Court are fixed under Order II of the Supreme Court Rules 1966. The information with regard to High Courts is not readily available. The High Courts have been observing vacation in such a way that the number of working days may not fall below 210."

7.29 **During evidence, the representative of the Ministry of Law and Justice, informed the Committee that a detailed study had been made in 1959 and at that time instructions were issued by the Ministry that the number of working days in the High Courts should not be less than 210 and these instructions were followed by all the High Courts. To a suggestion that keeping in view the enormous increase in pendency of cases the orders of 1959 needed review, the witness replied that 210 working days was quite adequate as judges heard arguments on a particular day but they required time to study various materials, as such, even Saturdays or Sundays were also not really holidays for them. The Ministry was of the view that increasing the number of working days for Courts would not help.**

7.30 **The Committee are surprised to note that review of the number of Court holidays/working days being observed in superior Courts had not been considered necessary for the last almost 27 years. They were informed that it was only in 1959 that some study was last conducted and instructions issued that the number of working days of High Courts may**

not fall below 210. The Committee need hardly stress that the position of pendency has since acquired gigantic proportions and multi-pronged attack is required to be made to liquidate the arrears. The Committee feel that in the present day context an immediate review of the number of working days of the Supreme Court and High Courts may be undertaken in consultation with all concerned and to bring about uniformity in this regard in various High Courts, the number of working days may be incorporated in the statute.

NEW DELHI;
April 16, 1986
Chaitra 26, 1908 (*Saka*)

CHINTA MANI PANIGRAHI,
Chairman,
Estimates Committee.

APPENDIX

Statement of Recommendations/Observations

S. No.	Para No.	Recommendation/observation
1	2	3
1	1.10	The Committee note that several Committees and Commissions have been set up in the past to examine the problem of mounting arrears of cases in the Supreme Court and High Courts. The Committee further note that the Report of one such Committee *viz.* Inter-Departmental Committee which was constituted in 1979 to examine the recommendation made in the 79th Report of the Law Commission, received in 1980, was sent for taking appropriate action in two batches to State Governments/High Courts, one in May 1981 and the second in April, 1982. This leads the Committee to the inescapable conclusion that Ministry have not taken any serious view of the reports of such Committee and Commissions in spite of the observation of the Law Commission that a report dealing with arrears and delay could bear fruit only if prompt action was taken thereon and that such report had to be distinguished from other reports dealing with review of a particular enactment. It was also the responsibility of the Department of Justice to have continued to impress upon other Ministries/Departments of the Government of India to streamline the Acts/Laws administered by them in accordance with the recommendations of the Law Commission, 1979, on delay and arrears in High Courts so as to provide speedy justice to the people affected thereby.
2	1.11	The reply of the Ministry that it was not possible to quantify the impact of the action taken on the reports of these Committees/Commissions over the pendency of cases in High Courts/Supreme Court on the plea that pendency was due to "several complex factors", gives the inevitable impression that the Ministry has not been serious in making any objective assessment of the impact of implementing recommendations of various Committees/Commissions on the pendency of cases in Superior Appellate Courts. The Committee cannot but deprecate this lassitude on the part of the Ministry. The Committee are firmly of the view that the Department of Justice must play a positive role and deal with this serious and cancerous problem of mounting arrears in Superior Appellate Courts effectively if Government are serious that people should not lose faith in the administration of justice in the country. The Committee recommend that a proper monitoring cell with adequate manpower headed by a senior officer be set up in the

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		Ministry forthwith to pursue with the State Govts./High Courts the progress of implementation of the recommendations contained in the reports on arrears in Superior Appellate Courts, analyse the feedback, identify the problems and bottlenecks and take effective steps promptly to correct the procedural deficiencies, if any, in the system of monitoring the information regarding implementation of recommendations as well as any other bottlenecks.
3.	1.12	Since the Law Commission has been asked to go into this matter again, the Committee hope that action taken on the recommendations made by various Committees/Commissions in the past and the results of implementation thereof would be of great help to the Commission in recommending solutions to tackle the problem effectively.
4.	2.11	The Constitution of India provides that there shall be a High Court for each State and that Parliament may by law establish a common High Court for two or more States or for two or more States and a Union Territory. In pursuance of this provision there are at present 18 High Courts for 22 States and 9 Union Territories. Out of them only 5 High Courts, namely, the High Courts of Allahabad, Madhya Pradesh, Patna, Rajasthan and Bombay have 8 permanent Benches at other places in the respective States. Bombay and Madhya Pradesh High Courts have two permanent Benches each while Allahabad, Patna and Rajasthan have one Bench each. From the available statistics the Committee find that in almost all the High Courts there is heavy accumulation of pending cases that have piled up over the years. At least, in 5 High Courts the magnitude of pendency has crossed over the figure of one lakh which is not only alarming but distressing. The position in Allahabad High Court particularly is a record of its own as more than 2,42,000 cases were pending there as on 30-6-1985. The Committee are distressed to note that very little has been done by the Government to tackle this problem which by now has assumed serious proportions. What is worse is that each year there is increase in the pendency. Except for Karnataka where the pendency decreased from 96,764 as on 31-12-1984 to 91,510 as on 30-6-1985, and Bombay where the pendency went down by about 1,000 in the same period, the pendency has increased by more than 13,000 in Allahabad, nearly 7,000 in Andhra Pradesh, 5000 in Calcutta, 6,000 in Delhi, 14,000 in Kerala and a little less than 26,000 in Madras High Courts. No doubt the Government has been appointing Committees and Commissions periodically to go into this matter which have been making various recommendations. The fact that there has been no improvement in the situation makes the Committee to believe that either there has been tardy implementation of

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		the recommendations of these Committees/Commission or the root of the disease has not yet been diagnosed. The Committee are firmly of the view that if the present trend of accumulation of arrears is not arrested, the situation will completely go out of control and shake the very roots of rule of law in the country whose survival depends upon the speedy administration of justice. Therefore, to meet the situation as it stands at present some drastic steps are necessary. The Committee feel that as a first step it is necessary to ensure that disposal of cases in each High Court keeps pace with the number of cases instituted each year. The second step needed is to clear the arrears. In the opinion of the Committee there is need for having more high Courts and if that is done, there would at least be no addition to the pendency of cases.
5.	2.12	The Committee understand that Justice Jaswant Singh Commission which went into the question of "setting up of Benches of High Courts and on the general question of having Benches" has submitted its report in April, 1985 and its report is still under consideration of the Cabinet. The Committee feel that a very early decision should be taken on the recommendations contained in the report of Justice Jaswant Singh Commission and concrete action taken to set up more Benches at the earliest.
6.	2.13	The Committee also feel that in case delay in setting up benches is unavoidable due to procedural or financial considerations, arrangements for Circuit Benches of High Courts at suitable place be made at least to tackle the institution of current cases and thereby arrest cases falling in arrears.
7.	2.18	To enable Higher Appellate Courts to clear cases expeditiously and within the minimum time, it is necessary that there should be no constraint in the matter of adequate staff in the High Court/Supreme Court. While the Chief Justice of the Supreme Court has been empowered to increase the staff, the High Courts have not been vested with the power to increase their staff strength and they have to look up to the State Governments in the matter. The Committee have noted that in certain cases the State Governments have not been able to increase the strength of the staff to be commensurate with the increase in the cases instituted in the High Court. In the case of the Union Territory of Andaman & Nicobar Islands, the Central Government have themselves turned down the request for additional staff on the ground that there is a ban on creation of new posts. The Committee desire that the Ministry of Law and Justice should undertake a survey to find out what is the shortage of staff in various High Courts and what are the financial implications thereof. The Committee would also like the Ministry of Law and Justice to consider the feasibility and advisability of making a special grant to such States as have not been able to meet

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		the demands made by their High Courts for augmentation of their staff strengths. The Committee also desire that the ban on recruitment of staff should not apply to the supporting staff needed for the higher judiciary and Central Government should make a relaxation in this regard.
8.	3.11	The Committee note that the strength of the Judges of the Supreme Court, is at present 17 (excluding the Chief Justice of India). This number is now sought to be increased by 8 Judges by the Supreme Court (Number of Judges) Amendment Bill, 1985. This Bill was introduced in Lok Sabha on 19-8-1985 on the recommendations of the Chief Justice of India. It was passed by the Lok Sabha on 22-8-1985 and is now pending in Rajya Sabha. The Committee also note that there is no fixed criteria for determining the Judges strength of the Supreme Court. As stated by the Chief Justice of India, the proposed increase of 8 Judges would ensure that the current rate of disposal matches the current rate of fresh institution of cases. The Committee are not aware whether in fixing the strength of the Judges, notice has also been taken of the fact that frequently Supreme Court Judges are required to preside over one or the other Committee/ Commission appointed by the Government and during that period their normal work is disrupted. The Committee, joining with the Chief Justice of India, hope that the desired results would follow after the augmentation of strength of Judges in Supreme Court. The Committee also feel that the Department of Law and Justice should have impressed upon the Department of Parliamentary Affairs to arrange priority of legislative business in such a way that the Supreme Court (Number of Judges) Amendment Bill was enacted into law soon after it was passed by Lok Sabha.
9.	3.12	The Committee also take note that the Law Commission had recommended that the permanent strength of each High Court should be fixed and reviewed keeping in view the average institution during the preceding three years. The Committee, however, recommend that the permanent strength of Judges of the Supreme Court/High Courts should in the normal course be re-fixed after a five-yearly review of average number of cases instituted and disposed of. Action should also be taken simultaneously to review the strength of supporting staff and providing other facilities to the Judges.
10.	3.13	The Committee note that for years together the Supreme Court did not have the full complement of Judges as per sanctioned strength and the position improved only in 1985 when it had the full strength of 17 Judges. However, as on 1-2-1986 out of the sanctioned strength of 17 Judges, only 14 were in position. Since the filling up of vacancies in the Supreme Court is done by the Central Government in consultation with Chief Justice of India, the Committee feel that

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		appointment of Judges to fill the vacancies in the Supreme Court had not been receiving the urgent consideration it deserved and Government cannot escape the responsibility for a situation where a large number of cases have piled up in the Supreme Court during these years, the vacancies of judges being a contributory factor for that. In fact now a Bill is pending before Rajya Sabha for increasing the strength of Supreme Court Judges to 25 excluding the Chief Justice to cope up with the increased work. The Law Commission in its 79th Report had suggested certain measures to fill up the vacancies in High Courts immediately they arose. On the same lines proposals for filling up vacancies which were to arise on retirement of judges of Supreme Court could have been initiated six months in advance of the occurrence of the vacancy and appointment of new incumbent effected from the day following the occurrence of vacancy.
11.	3.14	As regards vacancies in High Courts, the Committee note that although the sanctioned strength of the High Courts during the year 1985 was 424, the number of Judges in position was only 370. As on 1-1-1986 there were sixty vacancies of Judges in High Courts. This disparity between the sanctioned strength and the number of Judges in position is apparently due to the fact that vacancies have not been filled up as soon as they occurred. What is more distressing is that on an average it takes about one to two years in filling the vacancies and in some cases even as long as 4 years. The Law Commission has already opined that delay in filling the vacancies is one of the major contributing factor responsible for the piling accumulation of arrears and therefore the Commission had recommended that when a vacancy was expected to arise due to the retirement of Judges, steps for filling up the vacancy should be initiated six months in advance. The date on which such vacancy will arise in the normal course is always known to the Chief Justice of the respective High Court/Supreme Court and also to others concerned. The Commission had recommended that it should be ensured that the necessary formalities for the appointment of the Judges to fill up the vacancy were completed by the date on which vancancy occurs. The Committee regret to note that in spite of this specific recommendation of the Law Commission made as early as 1979 the position has been allowed to worsen further inasmuch as the vacancies in Supreme Court/High Courts have not been filled up for as long as two to four years. The facts reveal that the recommendation has remained almost a dead letter. No wonder then if inaction or delayed action on the part of the concerned authorities responsible for processing and appointment of Judges has contributed to the enormous increase in the accumulation of arrears.

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12.	3.15	This aspect of the matter, if allowed to continue, could be interpreted as deliberate denial of speedy and less costly justice to the litigants. Therefore, in Committee's opinion, ways and means have to be found out to replace the present procedure for appointment of Judges if it results in inordinate delay in their selection and appointment.
13.	3.16	The Committee hope that in view of the proposed increase in the strength of the Judges of the Supreme Court, Bill for which as passed by Lok Sabha is already with Rajya Sabha, Government have already drawn out a plan to fill up the newly created vacancies without any loss of time.
14.	4.9	The Constitution of India lays down that every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years: Provided that in the case of appointment of a Judge other than the Chief Justice the Chief Justice of India should always be consulted. Similarly in regard to judges of High Courts, the Constitution provides that every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State and in case of appointment of the judge other than the Chief Justice, the Chief Justice of the High Court.
15.	4.10	The Committee were informed that in the past several methods of selection of Judges were considered but the present Constitutional scheme and the method of appointment of Judges has been found to be basically sound.
16.	4.11	The Committee however note that the actual appointment of judges of Supreme Court/High Courts has been taking unduly long time. For example in the Supreme Court where agencies involved for consultation are comparatively less, the names for vacancies occurring on 15-11-80 and 16-1-1981, were approved and notified only on 9-3-1983 i.e. after a period of more than two years. In case of High Courts the position is even worse, e.g. in Madras High Court the vacancy which occurred on 29-12-1981 was filled only on 12-11-1985 i.e. after a period of almost four years. The position in other High Courts is no better.
17.	4.12	The Committee recommend that the matter be considered at the appropriate highest level (viz., Chief Justice of India, Chief Justices of High Courts, Chief Ministers and Law Ministers) in order to simplify the procedural formalities. The procedure be so streamlined that the selection and the appointment of the Supreme Court/High Court Judges is synchronized with the actual occurrence of the vacancies.

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18.	4·16	The Committee have been informed that the Chief Justice of India has suggested that the appointment of *ad hoc* Judges in the Supreme Court could be considered later after the new vacancies have been filled up. The Committee note that provisions of Article 128 of the Constitution regarding appointment of retired Judges in the Supreme Court were invoked during the period between 1955 to 1973 only, when 8 judges were appointed as *ad hoc* judes under this Article after their retirement. The Committee are surprised to find that although the number of cases pending in the Supreme Court has gone up from 36,293 in December, 1980 to 1,66,319 in December, 1985 i.e. by more than 458 per cent, yet Government have not been able to impress upon the Supreme Court the necessity to appoint retired judges after 1973 to clear the arrears. The Committee are of the view that had the provisions of Article 128 been invoked after 1973, apart from taking other action the state of arrear's would not have been as dismal as it is today. The Committee recommend that after appointment of additional judges with the increase in the strength of the Supreme Court, the position regarding pendency of the cases should be reviewed and if the position shows a little improvement provisions of Article 128 of the Constitution for utilising the experience and expertise of the retired Judges for clearing the existing arrears be invoked rather liberally till the disposal of cases becomes equal to the institution and the pendency is completely eliminated. In the light of guidelines laid down by the Law Commission, in case any difficulty is experienced in the selection and appointment of retired judges, the names of judges who have retired recently and had the reputation for efficiency and quick disposal may be considered and appointments made at the earliest.
19.	4·24	The Committee note that one of the steps recommended by the Law Commission in its 79th Report for clearing arrears in High Courts was appointment of retired judges under article 224A of the Constitution from amongst those who had a reputation of efficiency and quick disposal and who had retired within a period of three years. The Department of Law and Justice had accordingly written in 1980 to the Chief Ministers of States and Chief Justices of High Courts in which there was heavy pendency of civil cases over five years to consider appointment of High Court Judges under Article 224A of the Constitution. The Committee are distressed to note that the proposals received in pursuance of this communication in the later half of 1984 for appointment of retired judges in the High Courts of Allahabad and Patna and for Delhi and Calcutta High Courts in 1985 have not yet been agreed to by the Union Government despite the accumulation of huge arrears in these Courts. The Committee are also surprised that although *ad hoc* judges have been assigned to dispose of specific number of cases during

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		their fixed tenure yet the Ministry of Law and Justice have not been monitoring the impact of appointment of *ad hoc* judges in different High Courts on the actual clearance of arrears. Such an assessment is very necessary if previous experience about appointment of *ad hoc* Judges in High Courts under article 224A of the Constitution is to be any guide in future. The Committee recommend that the provisions of Article 224A of the Constitution be invoked more frequently for utilising the services of retired judges as recommended by the Law Commission for clearing the arrears. The Committee also emphasise that the Monitoring Cell in the Ministry of Law and Justice should be adequately strengthened to enable it to be in touch with the High Courts where judges have been appointed under article 224A and get regularly statistics as to the number of cases actually disposed of by the *ad hoc* judges. The information so collected should be periodically reviewed and a real assessment made of the efficacy of the procedure for appointment of retired judges under article 224 A.
20	4.33	The Committee note that there were 60 vacancies (as on 3-2-1986) of Judges in various High Courts lying unfilled. In addition Government had sanctioned 83 additional posts on different dates from October, 1982 to January, 1986 but these posts were also lying vacant. The Committee were informed that a working norm of 650 main cases per Judge per year or average actual disposal during the preceding three years whichever was higher was the basis adopted for determining strength of *ad hoc* judges. The Committee note that apart from the sanctioned strength of Judges which some High Courts have lesser number than the required, a major factor contributing to accumulation of arrears was unduly long delays in filling up the vacancies of Judges. The Committee further note that the most important reasons for long delays in filling the vacancies of Judges, Permanent or Additional, in High Courts was due to delay taking place in the process of consultation and time taken by concerned authorities in sending the proposals to the Ministry of Law and Justice and also in their actual acceptance for appointment. The Committee cannot but deprecate the lackadaisical attitude and scant respect being shown to the whole process of administration of Justice by the concerned authorities. Had the 143 vacancies been filled in time, then according to the norms laid down, it would have resulted in reduction of pending cases by about 92,950 per year. The Committee recommend that Ministry of Law and Justice should hold discussions with all concerned at the highest level and lay down strict time schedules for various stages right from intimation about the vacancy and inviting names for filling it up (which should be at least six months in advance of occurrence of the vacancy), sending of proposal by the State Government (which should be at least three months in advance

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		of the occurrence of vacancy) consideration of the proposal and notifying the appointment (which should be latest by the end of the first week after occurrence of the vacancy) so that the vacancies in High Courts are filled up within one week of occurrence of the vacancies. The Committee are of the firm view that unless the present process of consultation which looks so simple by plain reading of articles 127 and 217 of the Constitution, but which has been made very complex and time consuming for finalising the names of Judges for appointment is reorientated with rigid periods laid down for completion of various stages things are not likely to improve. In case of failure of the State Governments to send the proposals within the fixed time schedule, the President should have the power to make the appointment on the advice of the Central Government. The Committee recommend that the Ministry of Law and Justice should arrange the matter being seriously discussed at the highest level of the Union Government in association with other agencies involved so that the seriousness of this matter which it deserves, is brought home to all concerned for evolving a process of consultation that eliminates the present delays effectively.
21.	5.8	The Committee are perturbed to note that number of cases pending in Supreme Court has risen from 36,293 as on 31 December, 1980 to 1,66,319 as on 31 December, 1985 i.e. by 458 per cent. The number of cases pending in all High Courts which was 6,68,516 at the end of 1980 has risen to the astronomical figure of 13,23,719 as on 30 June, 1985 i.e. by 198 per cent. The Committee further note that the number of cases pending in the Supreme Court for over a period of 15 years was more than hundred. The Committee also note that in the High Courts out of a total of 13,23,719 cases pending as on 30-6-1985, 2,32,492 cases were pending for more than 5 years and 32,844 were pending for more than ten years.
22.	5.9	The Committee are pained to note that the problem of pendency of cases has acquired diabolical proportions in the Supreme Court as well as in the High Courts despite various steps claimed to have been taken by the Government to reduce the arrears in superior Courts. The Committee were informed that Government proposed to set up a Judicial Reforms Commission which would go into various facts of the problems of arrears in courts. The Committee, however, learn that Government have since referred the matter of Judicial reforms to the Law Commission which would *inter alia* go into the matter of elimination of delay, speedy clearance of arrears and reduction in cost so as to secure quick and economic disposal of cases without affecting the cardinal principle of Justice. The Committee hope that the Law Commission will be able to give its report as early as possible. The Committee will await with interest the report of

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		the Law Commissions and action taken by Government on its recommendations for removal of Pendency in Supreme Court and High Courts.
23.	6.5	There is no denying the fact that the conditions of service of the Judges of the Supreme Court/High Courts are not attractive enough to attract talented persons with long experience in legal field to accept judgeship. In this regard the Committee note the statement made and published in a number of newspapers by the Chairman of the recently appointed Law Commission that the list of people saying "no" to offers of High Court Judgeship was far more than those saying "yes". The Committee are of the considered view that the salaries and conditions of service of the higher Judiciary should be commensurate with the dignity of the august offices occupied by them. The Committee recommend that the salaries and conditions of service of the judges of the Supreme Court and High Courts should be reviewed keeping all aspects in view so that these do not act as deterrent to attract the best available talent in the counry. The Committee also recommend that to relieve the judges of the avoidable work-load the services of the Research Assistants/Officers having specialised knowledge of law may be made available to them to assist the judges in the discharge of their onerous duties. The Committee need hardly stress that there should be uniformity in the rules governing the conditions of service etc. of the judges in various High Courts and in order to achieve this the Ministry of Law and Justice should frame model rules and impress the need for uniformity of such rules in the Joint Conference of Chief Justices, Chief Ministers and Law Ministers of States.
24.	7.7	The Committee note that specialised tribunals such as Administrative tribunals, Tax tribunals, and Industrial tribunals would certainly help in substantially relieving the burden of High Courts and results in expeditious disposal of cases. The Committee accordingly recommend that similar specialised tribunals in the fields not already covered be set up.
25,	7.12	Benefits of installation of Computers, Data Processors and other modern electronic equipments for disposal of cases in Courts cannot be over emphasised. However, installation of the modern equipments would require more funds by State Governments and the Committee are not sure whether all the States would be in a position to meet this burden from their own resources. The Committee, therefore, recommend that the Ministry of Law and Justice should consider the feasibility of giving capital grants in deserving cases to States for installation of modern office equipment including data processors/computers in the High Courts. Committee desire

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		that a beginning be made in this regard by providing financial assistance by the Central Government for installation of Computers etc. in High Courts having very high pendency of cases and computers may be similarly installed in other High Courts within a limited time frame.
26.	7.15	The Committee are of the view that too many appeals are being filed in High Courts and Supreme Court which increase the burden of the Courts manifold. The Committee, therefore, desire that a serious thought be given for reduction in number of appeals. The Committee learn that this procedural reform which was proposed to be referred to a judicial Reforms Commission has since been assigned to the Law Commission. The Committee are sure that the matter will be gone into in depth and expeditiously by the Law Commission. The Committee hope that the Government would take prompt and positive action on the recommendations of the Commission as soon as the same are received and apprise the Committee of the action taken in due course.
27.	7.22	The ordinary original civil jurisdiction of some of the High Courts is an accident of history. It takes away considerable time of the superior appellate courts in processing the cases originally filed before them. The Committee note that the 79th Report of the Law Commission and the report of inter-Departmental Committee of the officers of the Legislative Department, the Department of Legal Affairs and the Department of Justice of the Ministry of Law and Justice expressed divergent views on the original jurisdiction of the High Courts. The mere fact that the Ministry of Law and Justice had communicated these views to the State Governments for their consideration does not solve the problem by itself. The work-load of the High Courts with original jurisdiction requires to be reduced in order to enable them to attend to the arrears of cases. The committee feel that this matter may again be referred to the present Law Commission for an indepth study and recommendation so that a financial view is taken on this question once and for all.
28.	7.26	The Committee agree with the view of the representative of the Ministry that the Supreme Court and High Courts Judges who are legal lumanries should have frequent seminars and conferences to exchange views on common problems and legal points of mutual interests. The Committee however feel that since the type of work in the registeries of different High Courts is of similar nature, the Ministry of Law and Justice should have training programmes for officers and staff of the registeries of Supreme Court and High Courts arranged for the more efficient functioning of the registeries.

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29.	7.30	The Committee are surprised to note that review of the number of Court holidays/working days being observed in superior Courts had not been considered necessary for the last almost 27 years. They were informed that it was only in 1959 that some study was last conducted and instructions issued that the number of working days of High Courts may not fall below 210. The Committee need hardly stress that the position of pendency has since acquired gigantic proportions and multi-pronged attack is required to be made to liquidate the arrears. The Committee feel that in the present day context an immediate review of the number of working days of the Supreme Court and High Courts may be undertaken in consultation with all concerned and to bring about uniformity in this regard in various High Courts, the number of working days may be incorporated in the statute.

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