

Subsequently, the Chief Engineer, Irrigation, prepared detailed plan and estimates at an estimated cost of Rs. 451.80 lakhs. Then the Director, Pre-investment Survey of Fishing Harbour, Bangalore has updated the estimate at Rs. 425 lakhs.

After that the Government of India have not taken any step to expedite the implementation of the project. If a Fishing Harbour is established at Astorang it will go a long way in boosting the fishing development in Orissa. As a large number of the people in Orissa earn their livelihood from fishing, step should immediately be taken for the development of fishing in that State.

In view of this, I demand that a Fishing Harbour be constructed at Astorang in Orissa without any further delay.

#### BUSINESS OF THE HOUSE

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI GULAM NABI AZAD) : Mr. Deputy Speaker, Sir, I propose that we can skip the lunch-break today, to complete the pending business of the House.

MR. DEPUTY SPEAKER : I think all of you agree to this and now we will take up the next item of the business. Mr. Ashok Sen Minister of Law and Justice, is now to reply to the Discussion under Rule 193.

#### DISCUSSION ON THE URGENT NEED FOR JUDICIAL REFORMS IN THE COUNTRY—(Contd.)

[English]

THE MINISTER OF LAW AND JUSTICE (SHRI ASHOK SEN) : Mr. Deputy Speaker, Sir, I am so glad that this discussion has disclosed how unanimous different sections of the House are so far as the problem of judiciary is concerned. It is like the Election Commission or the Army, one matter on which all parties converge and their views cut across party line and I may refer to what Mr. Churchill said in 1954 when he moved for increasing the salary of judges from old time £ 3500—it was the salary for hundred years before the war—to £ 8000. It was in 1954, a reasonable sum.

Today, of course, as you know, it has gone up to £ 50,000 and for the Court of Justice, £ 60,000. in England. Then, he said this if I may quote what he said in 1954 on the 23rd March in the House of Commons.

It is something worth reading because whenever our judges and our judicial administration become the subject of controversy, either here or outside, I feel very alarmed and there is no reason why the judges of our judicial administration should ever be brought under politics or in to controversy. This is what Churchill said on 23rd March, 1954 while as the Prime Minister of United Kingdom, he moved for increasing the salary of judges. All of you have said that the conveyance allowance of Rs. 500 should be increased to something more; all of you have said that Rs. 3500 in 1950 was something, but today it is nothing. This is what Churchill had said :

“There is nothing like them at all in our Island.”

He was very proud of the Island, *i.e.* United Kingdom. He said :

“They are appointed for life. They cannot be dismissed by the executive Government. They cannot be dismissed by the Crown either by the Prerogative or on the advice of Ministers. They have to interpret the law according to their learning and conscience. They are distinguishable from the great officers of State and other servants of the Executive, high or low, and from the leaders of commerce and industry. They are also clearly distinguishable from the holders of less exalted judicial office. Nothing but an address from both Houses of Parliament, assented to by the Crown, can remove them.”

Then, he said further :

“The principle of the complete independence of the judiciary from the executive is the foundation of many things in our island life.”

I am glad that Prof. Madhu Dandavate is here. Our Prime Minister, while laying the foundation stone of the new Bar Council building at Delhi said in unequivocal terms that we wanted a fearless and independent judiciary, because that is the greatest safeguard for our democratic institutions. Nothing better can be said except to quote our Prime Minister.

[Shri Ashok Sen]

This is what Churchill said further :

"It has been widely imitated in varying degrees throughout the free world."

Whether we have imitated or not, but today it is recognised by highly placed judges even in England that we have in our courts advanced much further than the British administrative law, particularly there is the great judgement of the Supreme Court in Maneka Gandhi passport case, where their lordship struck down the order, the Janta Government's order, when her passport was sought to be withheld. The court said in unequivocal terms that arbitrary powers, and unguided discretion are the anti-thesis of rule of law. You do not concede any man the right to govern according to his whims; our Constitution envisages a Government by law and not by men.

SHRI C.P.N. SINGH : Man makes laws. I hope, you, would not quote Winston Churchill on what he said about India.

12.59 hrs.

[MR. SPEAKER *in the Chair*]

SHRI A. K. SEN : Let me quote his good speeches. He said further :

"It is perhaps one of the deepest gulfs between us and all forms of totalitarian rule."

All around us democracies are crumbling one after the other and in the desert of totalitarian military Governments, this is the only oasis where the freedom and free life still survives and we are a beacon to the rest of the world, the entire free world. The non-aligned world looks upon us as a great beacon of all human life and human dignity and so, we are not imitators of anyone any more.

He said further :

"The only subordination which a judge knows, in his judicial capacity is that which he owes to the existing body of legal doctrine enunciated in years past by his brethren on the bench, past and present, and upon the laws passed by Parliament which have received the Royal assent. The judge has not only to do justice between man and man. He also—

and this is one of his most important functions considered in comprehensible in some large parts of the world—has to do justice between the citizens and the State."

That is a great work in a democracy which our courts have to perform. The British judiciary and I shall say the Indian judiciary, with its traditions and record, is one of the greatest living assets of our race and its people and the independence of the judiciary is a part of our message in the ever-growing world which is rising so swiftly around us. I cannot do better than quote this and say that our judiciary has set standards for the ever-growing world all around us. I can quote one instance and it is a matter of pride for us. When Dharma Teja was sought to be extradited from England under a requisition from the Government of India under the Fugitive Offenders' Act or the Extradition Act, as it is now called, the matter was argued in the Court of Appeal. Government of India was briefing the Attorney General at that time, Sir Elwin Jones, who later became Lord Elwin Jones, the Lord Chancellor. He appeared for Government of India and I have got it from himself. When the leading counsel for Dharma Teja said very emphatically as to how His Lordship expected his client to get justice in a country where the Prime Minister herself is against him, Lord Parker, the Chief Justice who was presiding over the court said very firmly and very clearly and it is something which is worth remembering. He said, "Mr. So and So, if there is any country where your client can expect to get justice and justice of quality, we have no doubt that it will be in India."

Therefore, our judicial standards and our judges by and large, excepting possibly a few cases, have reached a standard which now are considered to be a model for all countries where a free judiciary is allowed to function and our judgements are quoted in extence, and I will tell you one thing that Lord Scarman told me two years ago. He was then inquiring into a case. Lord Scarman is the Chairman of the Law Commission in England and he is a great judge. He was then inquiring into the Brixton riots. There were racial riots between the Black US Indians and the whites and the police dealt with the rioters rather firmly and there were damages and various other things. The Government sought that the causes for the riots, the genesis for

racial hatred and various other things have to be inquired into. He told me very frankly that in inquiring into this matter, he borrowed copiously from our great Inquiry Commissions' reports headed by great judges and he found that whenever and wherever he wanted guidance on some point, he got in from the Indian precedents.

(Interruptions)

Whether it is Janata Party or our Party, we are all wedded to the same principles. There have been lapses in the past. I knew because I was arguing in the Special Courts case and I remember the hon. members thought that Mrs. Gandhi and various others can be dealt with by the Special Courts. There, I can again tell you, the Supreme Court laid down various guidelines and that showed that even in times of Emergency or thereafter when the Janata Government came, laws spoke the same language. The great Cicero said in the Roman Senate once and it is quoted repeatedly.

"Amidst the clash of arms, laws are not silent. They speak the same language in war, as in peace."

If law is law and if it is based on morality and justice, it is expected to speak the same language whether the Janata Party is in power or whether we are in power and it will be our duty to see that our judicial and legal foundations remain unsullied.

PROF. K. K. TEWARY (Buxar) : They spoke the language in spite of them, not because of them.

PROF. MADHU] DANDAVATE (Rajapur) : Don't be distracted.

SHRI A. K. SEN : I know Prof. Dandavate did not see eye to eye with all the aberrations at that time; and many of his good friends never liked the persecution. I said this on the floor of this House—Prof. Dandavate will remember—when we passed the resolution revoking that privilege order against Mrs. Gandhi where they directed Mrs. Gandhi to be sent to prison for seven days. I said it, and I said so even at that time because I was not a Member of Parliament when that thing happened. I am glad that I was not, because like many of us who were defeated, that was the first, and the last time I hope, that I was defeated.

I said, when we came back in 1980, and we debated until, I think, 1 O'clock at night, that whenever a Government takes to persecution, it digs its own grave; and the day you sent Mrs. Gandhi to jail, the grave of the Janata Party started being dug.

SHRI S. JAIPAL REDDY (Mahabubnagar) : The same thing happened to you because of Emergency.

PROF. MADHU DANDAVATE : I think both of us went to the grave for the same reasons. Your Prime Minister is on record—he said : "In 1977, we did not understand the pulse of the people. Therefore, we went out. In 1980, the Janata Party did not understand the pulse of the people. Therefore, they went out of power." The rightly said that. I agree with him.

SHRI C. P. N. SINGH : The Law Minister Said that you went to the grave because you imprisoned Mrs. Gandhi; he did not say what you are quoting.

SHRI S. JAIPAL REDDY : During Emergency, you imprisoned two lakhs of people.

SHRI A. K. SEN : Persecution is a legacy of the Star Chamber. Persecution is a legacy of the arbitrary Government. Whenever persecution was taken as the instrument of the Government, the persecutor has perished. I will tell you; when Robespierre, the great French leader of the Revolution was being sentenced to the guillotine by a mad assembly—as you will remember, there if you are a leader to-day, tomorrow you will be guillotined—Robespierre was one of the finest men that France had produced at that time. Robespierre was sentenced to be guillotined; and as he was mounting the guillotine, he spoke these words which are quoted by Ruskin in "French Revolution". He said this, because Marat had become the leader for the time being; as you know, the Jacobins and Pseudo-Jacobins and others came. He said these words : "*Mon Ami Robespierre*" (My dear Robespierre) *Souvre bien toi*" (you will follow me very soon). Very soon he did follow him. He was guillotined.

So, this is the fate of the tyranny, because tyranny never rules, never survives. The voice of the Buddha, of the Mahatma and of the greater leaders of spiritual

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thought all over the world will be perennial, but the voice of the tyrant is only for the moment; and like Hitlers, grave, they are assigned to that ignominy which tyranny has always led to.

PROF. MADHU DANDAVATE : Now let us come to the Subject.

SHRI A. K. SEN : Now let us come to the subject. I was on the subject. Prof. Dandavate; because you said that we believe in arbitrariness, getting our Judges appointed according to our whims and all the rest of it, I was trying to refute it, and I was trying to stress the very great philosophy on which our rule of law has been based by the framers of our Constitution.

We had the great leader at that time; Pandit Jawaharlal Nehru. He believed in the rule of law. And I remember that every time he came to this House—I have said that so many times, and I shall remember it till the end of my life—first of all, he would bow to the Speaker, next to the Opposition and next to the House. Here was a man who, if he had wanted to take dictatorial powers in his hands he could have done so with ease because the people would have willingly given him everything that he wanted. But he disdained all that, and he ruled with passion and dedication for the rule of law. Which had set the foundation of our democracy on golden threads which will never be destroyed. Therefore let us remember the great traditions which have been left for us as rich legacy never to be trifled with. I say this because Prof. Dandavate very vehemently attacked the government as if we have forgotten all these values and we are treating the judiciary with contempt, we are treating them as *Chaprasis* paying them very trifling salary and things like that, and so on. We have not done so and the judges will bear testimony for that; and the relation with judiciary has never been better than what it is today under the Prime Minister, Mr. Rajiv Gandhi. When he gave me the assignment, his one command was that this matter of judicial reforms has been trifled with for a long time and it is time that it is finished quickly; and if all of you give power to do so, I have no doubt that within five years at our command, we shall see the end of this accumulation, the

backlog and the various other things which have been built up over the years, and it needs a radical treatment and it will be possibly available, not in the very distant future.

About the various things you have raised, salary, emoluments, leave, their dignity, their prestige and everything, the Government has called for a conference of Chief Ministers, the Law Ministers which was going to be held on the 30th May. But, unfortunately, the Prime Minister will not be available. So, it will be held after he returns and he will inaugurate the Conference. This will show the earnestness of the Government in dealing with this problem.

Regarding the problem of justice, this is almost a mandate of the Constitution. Let us read Article 39A. This was passed in Congress time, not that you opposed; everybody supported it. It reads as follows :

“The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”

A great mandate which has to be fulfilled. I think in the President's Speech, this year, there is a clear reference to this that we intend to see that this becomes a reality and within our life time. I have no doubt that it will become a reality.

Let us take the history of other countries, England, for instance, where most of these courts have been established on the basis of its tradition also America, Australia, Canada or other countries and so on. There was time when justice was sold in England to the highest bidder as to a certain extent it is sold today by a court fees, and it is jokingly said that our justice is *ad velorem* justice; you get justice as you pay court fee. But in England it was a reality. Lord Denning quoted instance after instance in the 18th century when a litigant in the Chancery Court could not get any order unless he greased the palm of the judge and he gave an instance of a man; it is a historical fact,

When the Solicitor said that he had to pay 3000 pounds to the judge to get his decree, the poor man mortgaged his property—3000 pounds in those days was big money—and the case dragged on for nearly ten years. At the end of it, after paying interest and everything, the man lost everything. But the day the judgment was delivered, he found to his dismay that the judgment had gone against him. He rushed to the Solicitor's office and asked, "What is this? You said, I will get my decree with £3,000!" He said, "No, Sir. The other side has paid more!" This is recorded history in England.

PROF. MADHU DANDAVATE : In those days Parliamentary constituencies were also sold.

SHRI A. K. SEN : Rattenboroughs.

What is more important is the office of judgeship was sold! The Master of the Rolls was the President of the Court of Appeal. He is still, now. More judges have been produced on that Bench. The highest bidder used to get that post. The Lord Chancellor used to sit with his velvet bag open to find out the man who paid the most. Someone produced, 1,000 silver shillings and it is said that—it is also a historic fact—he said, "But gold is more glittering." And so, he took the hint, went back and got 1,000 guineas and got the post of the Master of the Rolls. That is how these are done.

But over the years what a magnificent judicial system was built! Great judges and great parliamentarians were produced, so that even in times of war the Judges were doing their duty upholding individual liberty and the great example is the case of Lord Atkins, in the case of, *Eshugfai Elego Versus Governor of Nigeria* where that man from Nigeria was imprisoned without the authority of law, knocked from door to door. He got no justice in Nigerian courts and then he came to the Privy Council and then Lord Atkins in the case reported in 1936 Appeal Cases page 48, he uttered these words which have been repeated in the Supreme Court many times. He said :

"According to the British jurisprudence no man's liberty or property can be touched except by the authority of law and if it is so touched, it is for those who touch it, to prove that it is by the authority of law. And if he does not

prove that authority the Judge will prevent him from being deprived of the liberty."

This is the system on which we are based. Now, Judges have been incorruptible throughout. Despite that, over the years due to inflation and other reasons, salaries which were fixed with the hope that they would be guaranteeing the judges' independence turned out to be rather a milestone in their neck and they found that Rs. 3,500 today is only worth Rs. 400 in 1950. And you have voiced all these grievances, all over the country including this House, and this is very much in the mind of the Government and this matter will be seriously looked into.

But we have to take note of two things. The structure of the judiciary and the administration of the judiciary—the two things are different. The structure of the judiciary depends upon the quantity and quality of the judges. I say, quality. Why? Because over the years litigation has gone up. It was 3,000 in 1950 when the Supreme Court started. It is 85,000 today. It was 55,000 two years ago. But it goes up in a geometrical ratio. Then you cannot keep up with the same Judges, the disposal that you want and it is true not merely of Supreme Court, but every Court, every High Court. That is why quantity is a very relevant factor.

Then comes the question of quality. I say quality for two things, because without a good judge you cannot think of speedy disposal. We know of one Judge disposing of the work of five mediocre judges. If you have good quality judges they will do the work of 20 Judges each. That we have seen in our experience. Therefore, the structure of the judiciary is basically sound so far as the Constitution is concerned. It has provided for the Supreme Court, the High Court and the subordinate judiciary and it cannot be improved upon. What we have to do is to fill up the flesh and blood in their structure. We must put quality. We must put enough quantity so that the work proceeds apace. And the work is increasing in every court. Thousands of new laws are being passed resulting in thousands of new rights being affected and prosecution and various other things being followed. Therefore, it will be our endeavour to find out ways and means not merely to improve

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the quantity but quality also so that the best talents from the bar and the academic life are drawn to the judiciary.

Quantity I say because we have already accepted the position that we should have a number of judges in the High Courts and the Supreme Court. As you know already, most of the High Courts have got the increased strength. We are concentrating on increasing the strength in the Supreme Court from the present 18 to about 30 so that there will be no backlog. Today the Supreme Court has become a miscellaneous Court; only applications are heard and no appeals are being heard. When I came, I remember, only appeals were heard and two days in a week miscellaneous matters were heard and that too for one or two hours. Some is the case in the High Courts also. Therefore, we must put in the maximum. And the optimum that we have set for ourselves is this that there should be no criminal case pending for more than one year in any court and no civil case pending for more than two years. We must fix the number of judges accordingly. I think, we are trying to do so. The only difficulty is that we do not have enough courts anywhere. Take the case of subordinate courts. For example, in Bihar there were only 300 courts in the British days. Now, we have got 1400 Magistrates and Judges functioning in Bihar. How can they be accommodated in 300 courts? So, they are sitting out in the open. They have no toilet facility and no place of convenience. And various other difficulties are being experienced. Therefore, all these things have to be attended to together. We are quite conscious of it. Though we are going to set up a Judicial Reforms Commission, we shall not wait for its report but shall try to do things quickly and speedily and effectively. Therefore, I entirely agree with the hon. Members including Prof. Dandavate that our subordinate judiciary has to be treated with the same brush. We have far too long, ignored the subordinate judiciary. A District Magistrate in the British days used to get Rs. 2500 before the War. It is worth Rs. 25,000 in terms of the present-day value of the rupee. The District Judge had a car and lived like a prince. Today, when I go to the District Court I find that the District Judge as five stitches on his coat—five switches I have counted myself.

PROF. MADHU DANDAVATE : Five Stars !

AN HON. MEMBER : Stings.

SHRI A. K. SEN : Do you know how much it costs to have a black jacket and a coat which a judge has to wear? At least Rs. 1000 today. So, do not call him stingy. A District Judge was telling me here in Delhi that the Magistrates and Judges had to go to Shahadra in buses which were growded during the office rush hours; that sometimes, the Chaprasi got in earlier and he was left behind and he had to brush his shoulders along with the litigants who were appearing before his court the same day possibly. These are certain anomalies which have to be noted, appreciated and treated properly. I have no doubt that the Government is very agile about that problem. And the subordinate judiciary has to be brought up to the level of dignity, prestige and efficiency which possibly was the standard in the olden days, unfortunately in the British days. I remember the great judge who tried Mahatma Gandhi. His judgement is memorable. The judgement of the great English judge, Shri Aurobindo, who tried this case, is a memorable piece of English prose. When Gandhi ji came into the court, he rose on his feet... (*Interruption*).

PROF. MADHU DANDAVATE : It was described as a battle of justice.

SHRI A. K. SEN : And mind you, the law respects even the so-called traitors or persons accused of sedition. This is the touch of justice. Therefore, the subordinate judiciary is the core of our judicial system. Excepting four High Courts no other High Court has got its original side. All the original sides are in the subordinate courts. Unless the standard, their dignity, their prestige, their conditions improve, we cannot get the best and we must get the best. Best goes to the commercial world. Today I was told by a judge of Bombay—I was very surprised, I did not know that a driver in one of the great multinational firms, was getting about Rs. 3,000 a month, with all the dearness allowance and bonus and everything, and a sweeper was getting about Rs. 2,000... (*Interruptions*).

AN HON. MEMBER : Mahendra and Mahendra, Hindustan Lever, so many are paying.

SHRI A. K. SEN : Some particular company, I forgot the name now. I was

amazed to hear this and I was very sorry for my ignorance. This poor magistrate told me that he comes sometimes from Mahim, sometimes from Dadar, sometimes from far more distant places and he said, "Look at me, I am sweating all the time in the heat of Bombay. The court where I sit is not air-conditioned. Sometimes the electricity is gone, so we are fuming and fretting." What justice can you expect from such a judge? These are great problems and have to be looked into.

There are only a few matters on which I would like to inform the House. I am glad that this discussion has taken place because we had no debate this time on the Demands of Justice Ministry. The hon. Members are possibly not aware of various things that have from done. I think my pad which was here yesterday, has been dislocated. Anyway, I remember it. Somebody said that these wretched lawyers are polluting the temple of justice. Without lawyers, and without judges and without litigants, no temple of justice can properly function. Lawyers were considered to be villains even in England. You read Swift's book. Swift says, I think I can quote ... (*Interruptions*).

PROF. MADHU DANDAVATE : That is common book of quotations.

SHRI A. K. SEN : No, no, it is not a common book. This quotation you will not get anywhere, Professor Dandavate, except from me.

Swift says, here are these lawyers. Into their den if you get in when you are bothered by storm, you may go there tempted by their sweetness, but when you come out after years of toil, all your will go, like a ship which travels into a harbour, beaten by a storm. And Dicken says in his *Bleak House*, "In a Chancellery court—this is Jarndyce v/s Jarndyce—all the gentlemen with wigs and spectacles, pour over their briefs. Twenty years the case has gone on, people have come, people have gone, and at the end of it; no justice has come. So, be ware. Never enter this court of Chancellery." But it is quite different today. With legal aid for the poor and a very well-run legal aid system, the courts are much dearer today to the common man than they ever were. Our legal aid system is of a more advanced type. By this we are not only helping the litigants in court, but we are also trying to prevent litigation by the legal aid

camp and by legal education. In Kerala and in Madras and in various other States they have succeeded tremendously. When I was in Madras, Mr. Raghavchari, who is head of the Legal Aid there said there were 3,000 cases in the last legal aid camp. This is the feature of the Indian legal aid which is quite different from the English system.

MR. SPEAKER : Mr. Minister, we have a saying that if a man has some incurable disease and his income was not much when that man goes to a civil court or to anything like that, his house becomes just as if it has been burgled by some people. Isn't it? Once I said it in some speech and a writ was filed against me for contempt.

SHRI A. K. SEN : Well, the last thing is about the so-called commitment of the Judges. The only commitment of the Judges is the commitment to the Constitution, the Directive Principles, the principles laid down in the Constitution for bringing about an egalitarian society, giving justice to the commonest of the common and making justice expeditious. The oath of the Judge is his commitment that he will act according to the Constitution and the law without fear and without favour. That is his commitment. A judge must be committed, but Prof. Madhu Dandavate says the commitment means aberration of commitment. It means not commitment, but loyalty to individuals.

PROF. MADHU DANDAVATE : The past aberrations you have corrected. I am happy with your comment.

SHRI A. K. SEN : I hope you mean the Janata aberrations.

PROF. MADHU DANDAVATE : No. No.

(*Interruptions*)

SHRI A. K. SEN : To me a committed judge is a good judge, but a disloyal judge or a Judge loyal to an individual is not worth his salt.

PROF. MADHU DANDAVATE : Well said.

SHRI A. K. SEN : They must dispense justice without fear and without favour. Well, Lord Coke was Chief Justice of England. James I asked him not to proceed with a case which was before him. He said in memorable words :

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"I have taken my oath to do justice. I am sorry that I cannot carry out the command of Your Majesty, because that will be against my Oath."

James I asked his other Judges whether they agreed with him or not.

PROF. MADHU DANDAVATE : You said His Majesty.

SHRI A. K. SEN : Yes, because at that time it was not Her Majesty. It was James I.

There were twelve Judges with him. So, His Majesty asked the Judges later if they agreed with Lord Coke. These servile Judges said they did not. So, they did not hear the case which the King asked them not to hear. Those servile Judges have been forgotten in history. They have gone into oblivion, but Lord Coke's example will remain a shining example. That is the standard and that is the principle. That is the norm to which we should all aspire.

So far as the Congress Party is concerned, this Government is concerned, the Judiciary will always remain unsullied by individual judges. It will only be affected with the touch of the Constitution. The Judges are expected to deal with justice with the healing touch and not with the touch of the bones and marrow and the dry letters of law. They have to carry out the Constitution mandates with the touch of the Buddha, with the touch of the Mahatma with the touch of Christ, which alone would give justice in a country like ours. All the Judges must aspire to come forward with a healing wand and not with a made of technical Judge who forgets justice in the debris of the dry letters of law, which must be overcome.

With these words I thank all the hon. Members for the excellent advice that they have given to the Government. I am glad that there is so much of unanimity. The Prime Minister is here and I wish to communicate the wishes of all the Members that at least some of the conditions of the Judges have to be improved. I may tell you that already apart from this conveyance allowance we have increased the travelling allowance for the Judges—now free travels—and also increased their water and electricity allowance. These are trifling matters. Let us see this matter in a big way, as they have done in England and other countries, so that the Judges will come back to their old position

and they will occupy the position of prestige and authority which we all want them to do. And let them not beg for water and electricity and so on, let us give them something generously which this country will never grudge, as Winston Churchill said, "This price England will never deny the Judges. for it is our greatest institution." With these words, Sir...

PROF. MADHU DANDAVATE : Above all, give them freedom.

SHRI A. K. SEN : They have freedom. Only in your time they had no freedom.

*(Interruptions)*

About transfers, each transfer has been with the consent of the Chief Justice in all cases. There is not a single case where it has been against the advice of the Chief Justice.

SHRI E. AYYAPU REDDY : There has been no answer to the observations of the Supreme Court Judge recently made. You have carefully avoided it.

SHRI A. K. SEN : I tell you why. Because, after the adoption of our Constitution, the rules forbid any discussion or criticism on the conduct of the Judges. That is why they are free to say whatever they like and we have bound ourselves with the rules of restraint and we do not want to get into a controversy with their observations.

PROF. MADHU DANDAVATE : Let us not go into the details because you have dealt with it on the philosophical plane.

SHRI A. K. SEN : I have the highest respect for Justice Tulzapurkar, but one may differ about the vehemence of the expressions which have come from the learned Judge. It might have been possibly more tempered and one may have a different opinion about that and I certainly dispute that a Judge can be a sycophant. We do not want sycophant judges and by these observations the public may be led to believe that they are lying in some nook and corner. And I do not think it has done justice to our Judges. There is no sycophant Judge, we do not want sycophant Judges. Thank you very much.

PROF. MADHU DANDAVATE : This is the best commitment.

MR. SPEAKER : Right.