

HIGH COURT JUDGES (CONDITIONS
OF SERVICE) AMENDMENT BILL—
Contd

[MR. DEPUTY SPEAKER *in the Chair*]

[*Translation*]

SHRI SATYENDRA NARAYAN SINHA: Mr. Deputy Speaker, Sir, I welcome this Bill. It is a very simple measure that the judges not availing facility of Government accommodation be paid Rs. 2,500 P.M. as house rent allowance. All of us feel that Judges of Supreme Court and High Court be paid handsome salary and allowances to keep them free from financial worries. Nowadays prominent lawyers are not accepting the post of judge as private practice is too lucrative. Earlier by convention no lawyers used to turn down the offer of becoming a judge but this is not so now. Now, there are many instances of lawyers refusing to become judges because they earn more as lawyer. Therefore, keeping in view the present situation in the country, they should be sanctioned maximum of pay and allowances, so that competent and qualified advocates may be attracted towards the posts of Judges in High Courts, and Supreme Court. I am of the view that we should ensure maximum of independence to judiciary lest they should fall prey to any soil of temptation, because our rule of law depends on the judiciary. There should not be any violation of the fundamental rights of a common man. If these rights are violated or are denied to him, he would go to the judiciary, High Court or Supreme Court and he would get redressed there. Therefore, we should have full faith in the judiciary. We should not indulge in any such work, which may shake faith of the people in this institution.

After speaking so much, it does not seem to be proper to say anything more, but I would like to say a few words about the

appointment of Judges. I am of the view that a person should be appointed as judge only after keeping in view his or her qualifications, social background and his or her independence of views. I am also of the opinion that judges from only one class or category should not be appointed in a High Court. This thing should also be kept in view. Keeping in view the socio-economic situation of our society, we should see to it that judges from all the categories are appointed in High Court so that maximum number of people have faith in this institution. We should also see to it that the merit is not ignored under any circumstances. While giving evidence before the Estimates Committee, former judge of the Supreme Court had said that

[*English*]

criteria for selection should not be income, community etc.

[*Translation*]

Fourth Law Commission has said that the reason for so much arrear of pending cases is that many rich persons have been appointed as judges who are not competent. Fourteenth Law Commission has said:

[*English*]

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 the diminishing outturn of work of the Judges.

[*Translation*]

This has also happened. The first and foremost thing which we should keep in view is that a person whom you want to appoint as judge, should be competent, qualified, honest and should have the capability to deliver his or her judgement impartially and in their

appointments, people of all the categories should be represented. Only such persons should be appointed as judges who do not have anything else in his mind and who are free from fear or favour. Their socio-economic background must also be kept in view. This is the most important aspect which must be taken into account. I would like to request the hon. Minister that all these things must be kept in view and there should not be any reservation in the appointment of judges as we talk about reservation in other services. If such a thing is done, it would do greatest harm to the judiciary. You should keep all these things in your mind and give thought to this question in such a manner that it is not turned into a controversy and it does not become a public debate. I am saying this, because I had read the statement of a Minister in Tamilnadu, published in the press recently which referred to the views about the recommendation of the Chief Justice and it was clearly said and perhaps the Chief Minister had written about the Madras High Court that the recommendation of the Chief Justice is not in line with the soil psychology of Tamilnadu, and it should not be considered. He had recommended some other name and thus a controversy was raised. The hon. Minister might be aware that a number of vacancies had been caused in Madras High Court in 1981 and appointments were made thereto in 1985 and in this way a controversy was raised. There is a provision in the constitution regarding the appointment of judges. Keeping in view that provision, it could be said that it could be done very easily and there is no scope for any dispute in it. If the Chief Minister has any objection to the recommendation of the Chief Justice and they can not resolve it among themselves, in that case each one of them may send a separate list to the Law Minister who may have competition with the Chief Justice of India, but it should not be converted into a public controversy. If the issue of appointment of judges becomes a public controversy, then the people's faith in

judiciary, in High Courts and in this institution would be shaken. As a result of this controversy which published in the press, the Bar Association has been divided into two groups. There can not be more unfortunate situation than this and it should be considered as to how it could be checked.

14.15 hrs.

[SHRI ZAINUL BASHER *in the Chair*]

Though you, Sir, I would like to submit to the hon. Minister that he should impress upon all the State governments the need of sending their views secretly to the Central Government and a controversy should not be raised in the press. No controversy should be raised in this regard and no statement should be published in the press. If such a controversy is published in the press, there could not be greater harm than this.

I would also like to submit that such controversy should not go for quite a long time. This thing should not happen specially in such a matter when difficulty may arise. I would like to say about Madras that a delay of four years took place there. If there is some difficulty with the state government, they should be called to discuss the matter and appointment should be made at the earliest after having consultation with them. There had been delay in the appointments there and as a result, there has been accumulation of cases. The Estimates Committee has also submitted. Its report recently. A special emphasis has been laid in it that there should not be any delay in the appointments of judges. It is known beforehand that a vacancy is going to be occurred. Action should be taken in this regard beforehand so that judges are appointed in time. As soon as a vacancy occur. He should resume the change. There should not be any delay in this regard. The delay comes harm. Especially the litigant public. The common man and a person whose case has been listed for

[Sh. Satyendra Narayan Sinha]
hearing in High Court in put to harm and he has to suffer.

While placing all these things before you, I welcome this Bill and I request that efforts should be made to avoid any controversy in this regard. Secondly, merit capability and integrity should also be kept in view. All classes of people should get representation in the people of judge in High Court and Supreme Court, but this should not be the only criteria. If there is any difference of opinion between the state government and the Chief Justice, much a controversy should not be published in the paper and people should not come to know about it. This would shake on faith in the judiciary and it would greatly harm our democratic system.

With these words, I welcome this, Bill.

[*English*]

SHRI K. RAMACHANDRA REDDY (Hindupur): Mr. Chairman, Sir, this is a very simple amendment to the Act. Previously those judges who were not making use of the Government accommodation, were given the facility of taking twelve and a half per cent of the salary as allowance. Now this is being raised to Rs. 2,500/- per month. This is the main amendment in the Bill. Now, even though I do not quarrel with this Bill, I would like to understand the rationale behind it. Previously twelve and a half per cent of the salary was about Rs. 500 to Rs. 600 per month. Now that is being sought to be raised to Rs. 2,500/-. I would like to know from the Minister as to how this figure of Rs. 2,500/- has been fixed. What is the rationale behind it? How have they fixed. What is the rationale fixing this figure, by providing this amount for the judges, will they be able to extract better work from the judges? Or will they be able to persuade them, coerce them or influence them for a speedy disposal? How did they

arrive at this figure? There must be some rationale. I think it is better that the House is told how this figure of Rs. 2,500/- has been arrived at.

Secondly, as far as the salaries are concerned, will it act as a Bible on the State Governments? Will the State Governments be forced to bear this additional burden? Has the consent of the State Governments been obtained?

As far as these judges are concerned, they are expected to clear off the pending cases. Just about two weeks back it has been brought out in Parliament that thousands of cases are pending in almost all the High Courts. Probably the total may come to two to three lakhs. That means, five to six lakhs of litigants are waiting for the judgments before the High Courts. In so many High Courts the Judges are not able to clear the backlog of cases because so many posts are vacant. The second reason is that some of the judges are not up to the mark and that is why, they are not able to clear up the backlog. Now, we have to see at this juncture that the cases of about sixty seven lakhs of litigant public, after paying heavy court fees and incurring a lot of expenditure for coming to the court, paying to the lawyers and all those things, are pending for years together. Is it good for the judicial system? Will not the confidence of the claimants at large be shattered? Will they have the same confidence in the court? It is a credence that justice delayed is justice denied. What is the re-action of the Government? By coming forward with a small amendment of raising the House Rent Allowance to Rs. 2,500/- to those Judges who do not occupy Government houses, do you think you will be able to solve this issue? Has the Government considered why so many cases are pending and why so many people are suffering? Has the Government gone deep into the matter? Is it not necessary for the Government to go deep into the matter and see why so many

cases are kept pending? Something must be done to see that these cases are disposed of early.

As far as the judiciary is concerned, it has been a criticism of one and all that men of merit, and mettle are not coming forward to occupy the posts. A deep study has to be made as to why people with good character, capability and dedication are not coming forward. By merely increasing the HRA to Rs. 2,500/-, I don't think you will be able to attract these people. A deep study has to be made as to why good advocates who are earning well are not coming forward to become the judges of the High Court or the Supreme Court. Probably, only second class type of people alone are coming forward. Has the Government considered as to why the people who are top in the profession and making very good money are not coming forward? We must devise ways and means to attract the best people in the Bar to come and occupy the bench. Unless this is done, I will call this as a 'gimmick', such gimmick will not work and will not give any solace to the litigant public. In a number of High Courts, the posts of Judges are vacant for years together. In the last session, the Government passed a Bill whereby the strength of the Supreme Court Judge has increased. But the Government has not done anything to appoint the judges. Even though the Act is amended, still there are a number of vacancies in the Supreme Court. By merely passing this Bill, what will you stand to gain without appointing sufficient number of judges. In the same way, in High Courts also a number of vacancies are there. Some critics and say that there are some differences between the Chief Minister and the Chief Justice with regard to the caste and other things and that is why, the posts have been kept pending for so many years. Why don't you come forward and say that we are going to fill up all the vacancies in some time, say two or three months. Unless you are able to appoint a number of

judges to go into the cases and clear the backlog, I don't think the judicial system will improve. By merely increasing the HRA to Rs. 2,500/- to the Judges, do you think you can tackle the Judges or ensue a sort of dedication to go into the old cases and dispose of them? If you think so, you are wrong.

When I go through the Memorandum and the Statement of Objects and Reasons, I notice that the House Rent Allowance is being increased. As far as this thing is concerned, the Government professes socialism. The main purpose of socialism is that the gulf between the rich and the poor has to be bridged and the gap has to be narrowed.

Is this the correct time to bring this amendment, especially when the country is facing the worst drought? I feel that this Government has no proper sense of timing also. Thousands of people are suffering for want of food and drinking water. They are not able to get Rs. 10/- a day. They want to work even for Rs. 5/- a day for 7 to 8 hours. Why not give them work? Why not give them drinking water? Why not give them health and sanitary facilities? When the country is facing such a serious drought condition and you are trying to curtail expenditure in so many ways, I do not see the advisability of bringing this Bill at this juncture. You are not able to implement the Minimum Wages Act and give Rs. 10/- or Rs. 15/- to those persons who are working day and night. You are not in a position to give remunerative prices to those farmers who are growing food to feed our stomach. But you are giving Rs. 2500/- to those people who do not have accommodation. This shows that the priorities of the Government are wrong. In socialism the gap between the income of the rich and the poor is bridged. But that process of socialism is not being done here. Actually the opposite is done here. You are trying to give so much of money to people who have very good circumstances, but you are forgetting the

[Sh. K. Ramachandra Reddy]
poor.

With these words, I request the Law Minister to consider whether it is advisable at this juncture to place additional burden on the exchequer when the country is facing drought conditions. Moreover, by giving some money to these people, I do not think, you will be able to improve the performance of the judges, to make them agree to clear the backlog. Unless something is done in this regard, the very judicial system may collapse.

With these words, I request the Law Minister to consider whether it is advisable at this juncture to place additional burden on the exchequer when the country is facing drought conditions. Moreover, by giving some money to these people, I do not think, you will be able to improve the performance of the judges, to make them agree to clear the backlog. Unless something is done in this regard, the very judicial system may collapse.

With these words, I support the Bill.

SHRI A. CHARLES (Trivandrum): I stand to support the amendment which has been brought forward with the limited purpose of enhancing the house rent allowance to the judges from 12 1/2 per cent to a fixed amount of Rs. 2500/- per mensem.

The problem of housing was discussed today during the Question Hour, which is a very major problem all over the country. We know that a house suitable to the status of a High Court Judge will not be available even at Rs. 5000/-. My hon. friend, who just spoke, asked about the rationale being fixing this amount. It is surprising that the amount of Rs. 2500/- appears to him to be a very high amount. Under the prevailing circumstances, I feel that not only the house rent allowance but the whole conditions of serv-

ice of the judges will have to be re-considered. I remember, recently some improvements were made. My point is that every effort should be made to attract the best and talented persons to the judiciary. We are, in fact, proud of the performance of our judiciary for the last few decades. Every citizen of this country feels proud of our judiciary because its judgements are not only not inferior in quality to other developed countries of the world but in various aspects its judgements are acclaimed all over the world. It is a matter of joy that in forty years our judiciary has stood the test of time. It is only a pity that we do not do all that is required to attract talented people. It is a fact that many of the brilliant advocates or advocates of reputation refuse to accept the offer of appointment as judge, because it is a common knowledge that the income of a good advocate is far more than that of a judge. But, considering the status and all those things, some of the good advocates do express their willingness to take up the appointment. But by and large, every effort should be made to see that the conditions of service of judges should be improved. I wholeheartedly support this measure to give Rs. 2,500 as allowance to the judges in lieu of their not taking the official residential accommodation.

In this connection, I want to point out two or three matters of vital importance. The previous speakers have also mentioned about the filling up of the vacancies of judges. If my knowledge is correct, more than sixty vacancies of Judges are there all over the country and it will be unfair if these vacancies are left unfilled. Every speaker will say that justice delayed is justice denied. That everybody knows. But what are we doing to see that justice is given without undue delay? We have to look into this very seriously.

As regards the statistics, I am not very sure but if my information is correct, more than 23 lakhs of cases are pending all over

the country in all the High Courts, which have crossed five years, and there are about a lakh of cases which have crossed the ten-year limit. It is painful that a petitioner has to wait for years together to get justice. So, I plead that every action should be taken to see that the delay is avoided as far as possible.

I would also suggest the possibility of constituting a Special Bench to dispose of cases that are over five years old. As a matter of policy, the Government will have to tell the judiciary that under circumstances shall a case cross the period of five years, and wherever the cases are pending for more than five years, Special Benches shall be constituted to dispose of those cases so that, at least in a phased manner, we shall be able to dispose of the pending cases over five years old, in the next three or four years. I think this is a very important aspect to be considered. So, I would request the hon. Minister to look into this aspect.

Another important aspect to which I would like to draw the attention of the hon. Minister is that in some States the High Courts are not located in the State capitals. So, the question of creation of additional Benches in some of the States is pending. Even during the Eighth Lok Sabha there was a discussion on this. I had put a Starred Question because in Kerala it has become a great problem. From 1958 onwards, the State is pressing for a Bench of the High Court at Trivandrum, that is, the capital of Kerala. At the time of reorganisation of States, because of the peculiar circumstances then prevailing, the Government were forced to locate the High Court at Cochin, which is about 150 kilometers away from Trivandrum, though the capital is Trivandrum. In 1971, the Kerala Legislature unanimously passed a resolution, irrespective of the party politics, that a Bench of the High Court should be given to the capital city. Let of inconvenience is there because there

is no Bench of the High Court in the capital. The Government is often put to an embarrassing situation, because of the distance, when important matters have to be communicated to the Advocate General. The demand for a Bench of the High Court is there for several years. In the session before the last, the then Law Minister, while replying to a Starred Question, had said on the floor of the House that if the Government of Kerala wants such a Bench to be there, he would look into it. I pointed out that in 1971 such a resolution was passed, and the Law Minister had agreed that he would make enquiries. Six months back I again wrote to the Minister asking whether such an enquiry had been made, but no reply has been received. This is very unfortunate. I would request the Law Minister to personally look into this aspect and kindly let us know whether we stand a chance of getting a Bench at Trivandrum in the near future. This is a request beyond party politics and beyond any other feeling because this is a need of that State. I know there are other such proposals from some other States, which are under the active consideration of the Government. So, I request that this proposal also may be considered.

Another fact is that while answering in the last Session regarding opening of an Administrative Tribunal, I put a pointed question whether an Administrative Tribunal will be set up by the Government in Trivandrum, the Minister replied that an Administrative Tribunal is being set up in Cochin. Sir, we have no objection to an administrative tribunal being set up in Cochin, but at the same time, I pleaded with the Minister that another Tribunal should be set up in Trivandrum because a majority of the Government Servants are residing in Trivandrum which is the Capital of the State and most of the Government offices are also in Trivandrum. But then it was said that the Administrative Tribunal can be located only where there is a Bench of the High Court. So, for getting

[Sh. A. Charles]

Administrative Tribunal also in Trivandrum, a Bench of the High Court is essential. I would therefore earnestly appeal to the hon. Law Minister kindly to consider this point sympathetically and take a favourable decision as early as possible.

Sir, recently, there were some news that the Advocates of the High Court were on strike. I am not going into the detail. But if my information is correct, because of the Supreme Court judgement, certain petitions may not come within the purview of Article 32 of the constitution because certain financial limit has been laid down. I feel that every citizen should have a right to get relief under Article 32 of the Constitution. They have been enjoying this relief for the last two decades or so. I do not know whether such policy matters are within the jurisdiction of the judiciary alone or whether the Government can have a say on that. I request that Government should look into this aspect. I am rather embarrassed about the whole position. I would be happy if the judiciary would reconsider and do justice in giving this relief to every citizen of the country. In this connection, I remember the dictum of the famous jurist, Mr. Salmond. According to him, justice is like bread in a besieged city. But to me it appears that if justice is like bread in a besieged city, it cannot be real justice. It is something like the division of poverty. Real justice shall be like a perennial stream so that whosoever's having his cup shall have to his full. Every citizen of the country should have the right under Article 32 of the Constitution to approach to the High Court, the highest forum of the country. Sir, with these words I support the Bill. I am also thankful to you, Mr. Chairman, for giving me this opportunity to speak on this Bill.

DR. SUDHIR ROY (Burdwan): Mr. Chairman, Sir, I support the Bill. Sir, we marxists do not believe in the so-called concepts of independent judiciary. We think

that the judiciary like the executive or the legislature is also an organ of the Government. But anyway it is said that in a democratic country, the judiciary should be independent and one of the ingredients of this independence is that the judges should enjoy handsome salary and allowances, free residential accommodation, etc. because if judges are not given handsome salaries and allowances, then how can the judiciary attract the best legal brains of the country. Therefore, in order to attract the best legal brains of the country, the judges should have been provided with more decent salary and other perks. Unfortunately, if we think of the soaring price, if we think in terms of unbridled inflation, then I am constrained to say that the judges do not get that much salary. In order to uphold the independence of the judiciary, something should be done.

In our country often judges are given re-employment. We find that most of the retiring judges are appointed as Tribunal Judges or in some other capacity. This re-employment definitely goes against the independence of the judiciary. I read an article in the Illustrated Weekly of India some 10 or 12 years ago that a retired justice of the Supreme Court was appointed Vice-Chancellor of a prestigious University drawing only Rs. 1 as his monthly salary. But the article clearly elaborated that his perks amounted to more than Rs. 4000/- because of car facilities etc., this re-appointment of Judges in any capacity, should be discouraged because in India we have been told that nearly 80 per cent of the cases are Government cases and therefore, these Judges expect that they would be re-employed after retirement. Then this compromises the independence of the judiciary. Rather we may follow the U.S. practice. In U.S.A. once a Supreme Court Judge serves for 10 years, he is entitled to his full salary as pension. He may opt for retirement after 10 years of service and he gets full salary as pension. This has been done so that the judiciary may re-

main independent.

I also support the hon. Member Mr. Charles when he said that there should be additional Benches of High Courts in every State because the former Chief Justice of the Supreme Court, Mr. P.N. Bhagwati, has rightly pointed out that judiciary is about to collapse because so many cases are pending. Therefore, if there are additional Benches, then these cases may be disposed of earlier.

Almost all the speakers said that justice delayed is justice denied and if the cases are left out after a long period of time we think that the poor man has little to expect from the judiciary because it is the rich people who generally win because they can hire or I should say they can appoint better lawyers with high fees. In this connection I should also like to say that Judges should not be transferred because often this transfer is looked upon as a weapon in the hands of the Union Government. Therefore, this transfer is looked upon as some sort of a punishment and you know the adverse publicity given in the press. Therefore, I would like to request the hon. Minister to consider this case that Judges should not be transferred because it does not strengthen the federal set up of the country. Rather it has only strengthened the hands of the Union Government. It is said that the Union Government often transfers Judges who are not ready to dance to their tunes. At least the press reports have come out in that regard.

Finally, I would like to request the hon. Minister to see that this concept of Lok Adalats becomes popular so that the lok adalats become real instruments of justice. I think that these lok adalats remain mainly on paper because as I have already said, justice is beyond the reach of the poor and most of our people who live in rural areas, most of our people who live below the poverty line, dare not approach the judiciary for justice.

Therefore, justice should be cheap and it must not be beyond the reach of the common people.

Expressing thus my sentiments, I conclude my speech.

[*Translation*]

SHRI RAMSWAROOP RAM (Gaya):
Mr, Chairman, Sir, I support the Bill which has been brought forward to raise the House Rent Allowance to Rs. 2,500/- for those judges who do not use Government residence. However, through you, Sir, I would like to submit some points.

As has been said in the Financial Memorandum that through this Amendment Bill, there would be an additional expenditure of Rs. 43,200/- per annum. This amount is not too much and this facility should be provided to them. We support the proposal to provide the judges any amount of facilities, but the people of the country also expect the judiciary to provide them justice in time. The justice in this country is very expensive. The common man takes the judgement of the lower court as final. The final phase of justice is not the Supreme Court in his case. The main reason for this is that he does not have enough money. He does not have enough resources and a poor man cannot afford to appeal to the High Court against the judgement if the lower court and to the Supreme Court against the judgement of the High Court. The poor man accepts the judgement of the Munsif Court whether it is in his favour or against him and he thinks that Munsif Court in his High Court and Supreme Court.

It was the thinking of our Government that we should take the judiciary of India to the villages through Lok Adalats and ensure implicit judgement while sitting with the natives and appreciating their sentiments. But we think otherwise and I do not know as to

[Sh. Ramswaroop Ram
which power is working behind this that we
are not to put into practice what we profess.

So far as 14th Law Commission is concerned, as our hon. Member, Shri Satyendra Narain Sinha was saying that 14th Law Commission has given its finding that there were some lacunae in the appointments of the judges in the past. When there were some lacunae in the appointments of judges, we do not want to comment as to how fair justice the people might have got. We leave this point to the wisdom of the House and the hon. Minister.

Some affluent people have got the monopoly over the judiciary today. The people of one particular class i.e. the people belonging to the affluent class used to be appointed judges in the past. The people of the same class are appointed judges in the High Court. I would like to submit to the hon. Minister that 50 posts of judges are lying vacant in various High Courts. You have appointed judges as well, but only one Judge in the Supreme Court belongs to the Scheduled Castes and Scheduled Tribes and there are seven High Court judges. In this connection, I would like to draw your attention to Patna High Court. Not even a single judge belonging to schedule caste or schedule tribe has been appointed there during the last 40 years. On the one hand, the Government speaks of setting up an egalitarian society whereas on the other hand it is not able to give it a practical shape. I had requested you earlier also that justice should be made some what cheaper so that it is available to people within their reach. But Government has not been able to do so.

Just now Shri Satyendra Narayan Sinha said that we should not start a discussion on reservation. He also pointed out that instead we should give priority keeping in view the social and economic background of the people. Both the statements are para-

doxical. In the context of social and economic background 90 per cent Harijans are poor. Dr. Ambedkar also belonged to this community.

SHRI SATYENDRA NARAYAN SINHA: Mr. Chairman, Sir, whatever the hon. Member has said,

[English]

I think he has misunderstood me. I never said this. I said that we should take into consideration the socio-economic background of the people also and representation should be given to all classes of people provided they satisfy the norm of being able to maintain integrity and independence. This is what I have said.

[Translation]

SHRI RAMSWAROOP RAM: I wanted to say that reservation in judiciary should not be made for the scheduled castes and scheduled tribes on the plea that they are below poverty line. I do not agree with this view. Dr. Ambedkar who has framed the Constitution was an intelligent and a scholar. He is not the only example. There have been men of exceptional qualities in every field of life among the schedule castes also and they have made notable progress. In this perspective, I would like to request the hon. Minister, through you, that the reservation policy should be implemented in every department as provided in the Constitution. If the policy is violated in respect of judiciary it will be a matter of grave concern. Consequently, resentment will surge among the Harijans, Adivasis and other weaker sections of society and they will think that they have been debarred from entering the field of judiciary. I mean to say that such a decision will be most unfortunate.

The impression that has been created in the minds of the practising lawyers be-

longing to scheduled castes and scheduled tribes needs to be allayed. There is not even a single judge in the Patna High Court who belongs to schedule caste or schedule tribe. This needs your urgent attention. Presently, the Chief Minister and the Chief Justice of the High Court jointly select the judges. I do not want that the selection should be made at the Chief Minister level because somehow or the other politics creeps in this selection procedure. Therefore, I feel that whether it is Bihar, U.P., Andhra Pradesh or any other State, the Chief Minister should not be involved in this selection procedure. It is a wrong practice. If you want to keep judiciary independent, it is not appropriate to ask for the opinion of the Chief Minister in this matter. Don't you think that during the last 40 years we would have had some High court Judges belonging to schedule caste and schedule tribes in Bihar, had the Chief Minister been fair to all? This is a big question mark. I would like to submit that in view of increasing number of cases in the courts, there is need to activate the Lok Adalats for speedy disposal of pending cases and if need be as retired justice P.N. Bhagwati has also pointed out "Separate Benches should be made for speedy disposal of cases."

Before concluding, I would once again humbly request the hon. Minister to implement the reservation policy in letter and spirit and induct men of integrity in the High Courts and the Supreme Court after careful scrutiny.

With these words, I welcome the Bill.

[English]

SHRIK.R. NATARAJAN (Dindigul): Mr. Chairman, Sir, on behalf of the AIADMK Party, I welcome the High Court Judges (Conditions of Service) Amendment Bill, 1987 enhancing the residential allowance to Rs. 2500 p.m. for these Judges who do not occupy the official or Government resi-

dence. However, I would like to make some suggestions. As far as the question of appointment of judges is concerned, we only see Judges from the forward community. In Tamilnadu, some Judges have been appointed from the Backward Classes, Scheduled Caste and the Scheduled Tribes also. They have made good Judges. Nobody can point out an accusing finger against them. Our hon. Law Minister took some steps for appointment of Mr. Justice Varadarajan as Judge of the Supreme Court from the Scheduled Caste. He belongs to Scheduled Caste. He proved as a good Judge. Nobody pointed out an accusing finger against him. So, opportunity should be given to those persons—I mean to advocates—who come from the Backward Classes, Scheduled Caste and the Scheduled Tribes also. They will definitely make good Judges.

There is a tendency that only forward community people can adorn the Bench of the High Court and the Supreme Court. That should not be case of this Government. It is a democratic set up. Representation should be given to every section of the society. It is only then that section will have the satisfaction that its nominee is there. Otherwise, that community would not have faith in the democracy, faith in the Judiciary? It should be so. So, the hon. Law Minister should take interest in appointing Judges from the Backward Classes, Scheduled Caste and the Scheduled Tribes to the High Court Bench as well as the Supreme Court Bench. If there is no judge available from the Scheduled Caste, Scheduled Tribe and the Backward Classes in any of the High Courts, the hon. Minister should draw a candidate from among the advocates and he should be appointed as a Judge of the Supreme Court directly. There is a provision for it.

Some hon. Member referred to some controversy in Tamilnadu. That controversy should not have been there at all. But, unfortunately, the Chief Justice who has been

[Sh. K.R. Natrajan]

drawn from the other High Court, is not able to assess the ability or suitability of any of the advocates or District Judges for the appointment of the Judge of the High Court. He has to necessarily depend upon somebody else. Who is that somebody-else? If that somebody else is an angel, it is well and good, but if he is a devil, what will happen? So, the Government should be careful in considering the appointment of judges.

15.00 hrs.

There are a number of Advocates from backward classes, Scheduled Castes and Scheduled Tribes practising in High Courts as well as in the Supreme Court. Their names can be thought of. Unfortunately they are not getting rich clients and, therefore, their income is not very much. It is not their fault. Some Advocates who come from advocate families get good and rich clients and their income rises. Unfortunately, Advocates belonging to backward classes do not get rich clients; they get clients only from backward classes, Scheduled Castes and Scheduled Tribes, and poor and downtrodden people; and they are doing yeomen service to them by charging low fees and, in some cases, they do not charge fees at all. Their names should be considered for appointment in High Courts as well as the Supreme Court. There are a number of such Advocates who have got good qualifications, integrity and honesty. They should be considered for appointment in High Courts and Supreme Court.

So far as establishment of a Bench of the High Court in Madurai is concerned, that was recommended by the High Court as well as by the Tamil Nadu Government. The previous Law Minister accepted it in principle. There should be no difficulty in establishing a Bench of the High Court in Madurai. I request the hon. Minister to consider it favourably and start a Bench of the High

Court in Madurai.

One more request. These are days of decentralisation. There must be as many Benches as possible of the Supreme Court in various places like Madras, Bombay, Calcutta and other places. It is not necessary that you should have the Supreme Court only in Delhi. That can be decentralised. Particularly, the Madras High Court is a chartered High Court and sufficient library facilities are there. The former Madras Presidency consisted of large territories which are now forming part of States like Karnataka, Kerala and Andhra Pradesh. Madras is a central place, and a Bench of the Supreme Court may be established there.

So far as salaries of District Judges, Sub-Judges, District Munsifs and First Class and Second Class Magistrates are concerned, their salaries are very low. Their salaries should be fixed by the Central Government in keeping with their dignity and the responsibility they have to discharge, and the Bill should be passed by this hon. House. Directions should be given to the States to pay the salaries fixed by the Parliament.

With these words, I conclude.

[*Translation*]

DR. G.S. RAJHANS: Mr. Chairman, Sir, I do not think that anything more can be said on this Bill than what has already been said here. Besides, there is nothing special to mention about this Bill as it contains a provision regarding payment of House Rent Allowance to those judges who are not provided with Government accommodation. However this provides an opportunity to us to think about the High Court Judges in an impartial way. They cannot be considered as sacred card. We are accountable to people and so is bureaucracy. But to whom is the High Court accountable? I can say on the

basis of my personal experience. I was publisher of a leading newspaper in the country. An article appeared in that newspaper wherein it was stated that the High Court Judges indulge in nepotism. Immediately we received summons from the court and I attended the same. I do not want to name the Court. We were asked to apologize or face imprisonment. We told the Court that the question of apology does not arise even if we are sent to jail. The case was in the court for pretty long time. The court started harassing us by calling us and then shifting the date of hearing to some other date. This went on week after week for full three years. We took a vow not to apologize and we stuck to it. We told the Court that whatever has been published is a fact. An English proverb aptly sums up what the Judges do.

[English]

You pat my shoulder, I will pat your shoulder;

[Translation]

You allow my son to practise in your court, and I shall allow your son in my court and both will be happy..... (Interruptions).....

[English]

There are number of cases. I am not naming any particular judge. Why he is so sore about this.

SHRI SOMNATH CHATTERJEE (Bolpur): There are always exceptions like that.

DR. G.S. RAJHANS: No, there are quite a few judges like that. That is why, I am saying that.

SHRI SOMNATH CHATTERJEE: Nobody knows better than he.

(Interruptions)

[Translation]

DR. G.S. RAJHANS: I mean to say that the judges too should be made accountable to someone. This House is supreme. I do not say that all the judges indulge in favouritism and nepotism there are many such judges who are not above board. They do not respect public sentiments. They do not even know what should be done for the economic development of the country or how the interests of weaker sections could be safeguarded. We have to draw a line somewhere in this regard. Court has become a dreaded name for the people. A rich man exploits a poor man by telling him to transfer his land in the former's name otherwise he will drag him to the court. Dragging somebody to the court means that he will be ruined. There is a saying in Bengal, if somebody hurl abuses, he says "May a doctor visit you and may you fall in the clutches of a lawyer." It means..... (Interruptions)that justice has become so prohibitive that a poor man or a middle class man afford to go the court. He is ruined. We are speaking here in this House because the Constitution has guaranteed that we cannot be jailed for what we speak in the House. That is why I am conveying the sentiments of the people here. A notorious criminal commits a crime in the presence of many people but the High Court grants him anticipatory bail and nobody can harm him. Why is it so? Why the position of judiciary is like this in our country? Somebody commits a murder and gets anticipatory bail. Somebody else indulges in hoarding and accumulates lakhs of rupees but gets anticipatory bail. Every body knows how this anticipatory bail is managed. Even bureaucrats involved in embezzlement of lakhs of rupees escape from the dragnet of CBI at the time of raid and manage to get anticipatory bail. What can be done in this regard. The Government will have to draw a line somewhere. After all a judge is not God,

[Dr. G.S. Rajhans]

that whatever he does will always be right. When a politician becomes a Minister, he is asked to make public declaration of his assets and liabilities. Why can't this be applied in the case of judge also? When a person becomes a judge he should be asked to make public declaration of his assets and liabilities. This should be published in the press. The same should be done, when he retires, so that people may know in case he has acquired assets disproportionate to his known sources of income. Ours is a welfare State and therefore he should work for the welfare of the people. The prime duty of the office which has been entrusted to him is to dispense justice impartially. There should be no discrimination. A High Court Judge should be man of high probity and integrity. If need be such a law should be enacted so that men of high integrity alone could be entrusted this work. Those whose integrity is suspected, should be immediately removed. Instead of impeaching them in Parliament every time. We should also try to find out some other way. I also want to say that a High Court Judge should not be posted in his home State. It has been found that he is influenced by caste and other considerations invariably. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: It happens in Bihar.

DR. G.S. RAJHANS: I know what happens in Bengal. You let me speak. I was submitting that he should not be posted in his home State because he can never be objective there. He is influenced by so many considerations. Besides, I feel ashamed to tell you what people do to become a high court judge.

[*Translation*]

My submission is only, that a person of high integrity should be appointed as a High Court judge. I have no hesitation in saying

that why should a lawyer alone be made a judge of the High Court? A public man who fulfills the qualifications laid in the constitution for a high court should also be considered for this office.

SHRI P. SHIV SHANKAR: They do not agree to hold that office.

DR. G.S. RAJHANS: You make them agree. Only such a person who can understand the feelings of the people, their miserable condition after the drought and flood, how they are exploited and suppressed by the B.D.O., C.O. and the bureaucrats against whom the poor dare not raise their voice, along should be appointed as a judge. He should be bold enough to put the corrupt bureaucrats behind the bars if there is any complaint against them. Everyone is aware of the collusion that exists between the lawyers and the judges. A teacher from the legal profession may thus be offered this office and not necessarily a lawyer alone be considered for the office of a judge. I would say that it is time to think over the whole affair dispassionately. I am not casting any aspersion blaming anyone, but it would not be right if you maintain the same approach.

SHRI SOMNATH CHATTERJEE: This happens in Bihar.

DR. G.S. RAJHANS: Judges in Bihar were and still are Bengalis. It is the Bengalis who are responsible for bringing casteism in Bihar. This should not be said in the House.

[*English*]

SHRI SOMNATH CHATTERJEE: For the first time in India such an allegation is made.

DR. G.S. RAJHANS: I withdraw it sir. I did not mean it. It was just a passing remark.

SHRI P. SHIV SHANKAR: He was a

little infuriated.

SHRI ABDUL GHAFUOR (Siwan):
Bengal is the only State where there is no
casterism existing.

(Interruptions)

[Translation]

DR. G.S. RAJHANS: My submission is
that the entire judiciary should be reviewed.
The hon. Minister must be aware that re-
cently a conference was held in Srinagar in
which the judiciary was discussed threat-
bare and it was said there that there is no
need of bringing any change in the judiciary
since it has come to a very low level. Two of
the judges broke down and said that they
had never even thought that such would be
the condition of the judiciary.

Sir, I submit that it is time now to re-
orient the judiciary by obtaining the States
views and by considering the concept of
Welfare State, so that our High-Court judges
may understand the feelings and expecta-
tions of the people. They should do justice in
the real sense without keeping any consid-
eration in mind. Judges should be appointed
from not only amongst the lawyers but others
as well.

[English]

Mr. Chairman, as I said earlier those
words should not form part of the record. I
withdraw them.

[Translation]

SHRI MOHD. MAHFOOZ ALI KHAN
(Etah): Mr. Chairman, Sir, I am thankful to
you that on my requesting you that I have to
go out of station, you have given me the
opportunity to speak.

The subject of discussion today is-High

Court Judges (Conditions of Services)
Amendment Bill. I would like to mention a
few things in this context. An old saying goes
that it takes almost two generations to get a
case decided. I am myself a living example
of this. My deceased father filed a case in
1946, but he expired in 1963 and in 1974
after 28 years, it was myself who got the case
decided from the Supreme Court. The same
situation persists even today when the ap-
peals of 1975-76 are still being heard in the
Allahabad court and the 1977-78 appeals
have been listed. Even then the posts of
judges are lying vacant, no appointment is
being made on them.

I support my colleague Mr. Rajhans to
place such feelings and views fore the
House. I agree with him that the appointment
of the judges should be done after due
consideration.

So far as the 'munsif' level is concerned,
I would request the hon. Minister of Law to
find through some agent or commission as to
how are the cases finalised at 'munsif' level.
If corruption creeps into our judiciary, then I
feel only God can save the country. I can
illustrate it by the example of agents who
roam about the courts and try to keep in
touch with the movement of the case, and
bluffed the people that they can get their
cases decided immediately.

I want to submit that the Government
select the judges of High Court and Supreme
Court from amongst the lawyers and bar
association. I assure you that there are many
efficient lawyers in the High Court and the
Supreme Court but they do not wield any
influence or have political background which
may help them in getting appointment there.
There are various experienced lawyers
there who feel that they earn more through
their fees than what they may expect from
the Government.

Shri Rajhans rightly said so. I may give

[Sh. Mohd. Mahfooz Ali Khan]
an example here—May God save everyone from disease and from litigation. Hon. Minister of Law, this is very true and appropriate. It is like a termite.

At the time of appointment, selection of judges is not made on merit. Otherwise, can't we appoint exceptionally qualified persons as Supreme Court judges and a few benches of High Courts. I beg your pardon, but even here the political influence works. The Chief Minister sends the names and they are sent on the basis of party politics. My submission is that people from high judicial services should be taken and representation be given to the people from all sections of society. The complaints of persons belonging to scheduled caste and minority community, that they are not being given representation in High Court or Supreme Court, should not recur. Vacancies should be filled in immediately in order to dispose of the pending cases. The murder accused gets old and yet bail is not granted to him and even the date of the hearing of his appeal is not finalised. There are various problems faced by such people, whose bails are delayed as they are advised by their lawyer that their case may be considered only when some other judge may join as he may, perhaps, take a lenient view. Such practices should be done away with and cases be decided immediately. Every section of the society should be given representation and the cream-brain should be posted in the Supreme Court and High Courts and the persons from judicial service should be posted.

Beside another thing should be kept in view that the High Court lawyer who is promoted as judge should not be posted in the same High Court but sent somewhere else. Supposing Shri Mahfooz Ali Khan is a lawyer some where and if he is appointed judge in the same court, then influence may work. Therefore the judges should be sent to some

other place. Similarly, my personal opinion is that the Chief Justice too should be of some other State.

Allowances should be more, when you want to appoint the most intelligent and the justice loving people. This is a very important position, judges announce Capital punishment and they, therefore, lead a different type of life. The amount of Rs. 2500 is not adequate, it should be more. Their salaries should also be enhanced.

As regards Lok Adalats, my view is that they have not been of much benefit to the people. At someplaces, certain minor cases have been disposed off but the serious cases of murder dacoity and property are not taken up under this system and hence, Lok Adalats are of little use.

This is the position in my State, it may be different in other States. Similarly an Advocate dealing with the Criminal cases should be appointed a judge, while constituting benches to take up the criminal cases. The position today is that an advocate dealing in civil cases is appointed a judge to dispose off either the criminal cases or the income tax and sales tax cases for which he has got no expertise. The procedure needs a change. The judges should be referred to only those cases in which they are supposed to have acquired expertise otherwise they will take difficulty in awarding the judgement. The Chief Justice should keep this thing in mind that the Judges are referred to only those cases in which they are supposed to be experts.

A judge from U.P. should be posted to Bihar and from Bihar to Bengal. He should not be posted at his native place. The salary of the judges should be raised, they should be given more facilities so that they can lead a life according to their status. The retirement age of the judges should be raised and they should be given the maximum facilities.

I support the bill and would like the Government to consider the points I have mentioned.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Chairman, Sir, I rise to support this Bill, i.e., the High Court Judges (Conditions and Service) Amendment Bill, 1987. This is a very simple and innocuous Bill having only one provision to replace the words "an amount equal to twelve and a half per cent of his salary" by the words "two thousand five hundred rupees". But Sir, it gives an opportunity to the House to have a general discussion on the working of the judiciary in the country. If you remember, last year we have amended the Constitution to revise the salary of our judges both of the Supreme Court and the High Courts and subsequently we have enhanced the salary along with some other benefits. In most of the cases, 100 per cent benefits have been given to them, i.e., a house free of rent, staff car, electricity and water charges which came upto Rs. 1000 per month, a new group of insurance scheme for themselves and their families, leave travel facility for themselves and their families, carrying forward of their leave, etc. A package of benefits was given to them last year by amending the Constitution and also by adopting some other Bill. After a year or so, there is another Bill today in the House. They are entitled to rent-free accommodation; they should be allotted one if they do not have one. They do not occupy the house allotted to them because they have their own house and they do not like to move to the Government bungalow. At the rate of 12 1/2 per cent, it should come to Rs. 1000. At present he is entitled to Rs. 1000. By way of house rent allowance it will be Rs. 2500. Any way Sir, this can be given to them because in any case they are staying in a very big house. If he moves to the Government bungalow or if he does not move to the bungalow and lets out the house also, it will take more

than Rs. 2500. I do not grudge that we are amending this Bill. But at the same time as has been observed by many hon. Members an overall dis-contentment is growing in the country about the working of the judiciary. I do not blame the judges or the lawyers as a class. It is a question of individuals. The situation at the lower level of judiciary is not good. Judiciary does not only mean the Supreme Court or High Court it also means the lower courts and the Magistrate's court working in different parts of the country

Judiciary is an important organ of the democracy. It is one of the four pillars of democracy. It is a common knowledge that peoples' faith in democracy has eroded. I am talking of peoples' faith in judiciary in toto. I am not talking of High Courts or Supreme Court but judiciary as an institution. Peoples' faith as whole is being eroded and it is a danger for democracy.

Now the question is how to correct the situation. It is common knowledge what is happening in lower courts. Corruption is rampant in these courts. In some courts it will not be exaggeration to say that justice is being sold. But how to correct this situation? If you talk to the subordinate magistrates they sometimes confess that element of corruption is there. After all judiciary is also a creature of the society. How do you expect the judiciary to work in complete isolation? Now, Sir, it is a question worth considering. At the same time particularly in the lower courts there is no proper accommodation for the judges to function. Some magistrates are holding courts in verandahs. They are functioning in very dirty conditions. Schools and colleges are called temples of learning. Likewise law courts are called temples of justice out seeing to the conditions of the lower courts one does not find any semblance of a temple of justice. There is no trace of that.

I do not grudge that High Court and

[Sh. Sriballav Panigrahi]

Supreme Court judges should be given good service conditions so that they are in a position to discharge their responsibility and dispense justice in a very dispassionate manner but at the same time we have to restore confidence of the people in judiciary and also the facilities and benefits that we are giving to them should have some parity in the system of judiciary down-wards and other fields of the society. Most of the litigants do not have access to the Supreme Court or High Court. These courts are beyond their reach and they come up to the first appellate court but we find miserable conditions in respect of accommodation, etc. are prevailing in the lower Judiciary. About this court building and other things, we just cannot accuse the judges. The salaries of some of the judges and Magistrates in different courts are somewhat lower than the salaries of the Class-III Bank employees. The salary of the lift man in LIC is about Rs. 2500, which in many states the subordinate judges are not getting.

MR. CHAIRMAN: It is less in the case of MPs.

SHRI SRIBALLAV PANIGRAHI: Sir, about M.Ps, the less we say, the better it is. The salary and the benefit that we are getting is something very irrelevant and, as I said, less we talk about it, better it is. So, this is the situation. The situation has got to be improved right from the lowest judgement to the topmost.

Now, I would like to tell about the pendency of cases in the court. There is the erosion of the peoples' faith in the judiciary and this is a very dangerous thing. Some Members have rightly pointed out that it takes a decade sometimes even more than a decade to dispose of some cases. For how long they are going to test the patience of a litigants? One cannot wait for so long to get the justice and as everybody knows, it is a

popular saying, the "Justice delayed is justice denied." Going by that saying, the justice is denied in about 75% of the cases. Sir, today about one crore cases are pending in different subordinate courts throughout the country. According to the statistics available in the Library, the pendency of the cases in different subordinate courts in West Bengal is about 10 lakhs, some 20 lakhs in U.P. and about 47,333 in Delhi itself. About a crore of cases are pending in different subordinate courts of the country. As you know, the disposal of justice should not only be speedy but it should be cheap also. As far as possible, the dispensation of justice should be made available at the doorsteps.

Public litigation is a very welcome feature. I pay my tributes to Bhagvatiji. It was a revolutionary approach. As the hon. members have criticised, I agree that there might be lapses here and there but by and large the Lok Adalats are serving a very commendable purpose. These institutions like the Lok Adalats and Peoples' Adalat, should be strengthened so that they can serve to a larger extent. They can go to villages and persuade the parties for a compromise. At the same time we should encourage more and more mobile courts and circuit courts not only at subordinate level but even the High Court level. We should give a fresh look at it.

The Supreme Court can go to the four metros cities as Circuit benches and so also the High Courts can go to all the RDC headquarters who have the jurisdiction over 3 to 4 districts.

About corruption also, so many allegations are being made. One has to face proceedings for contempt of court. We should have a fresh look at this 'contempt of court' provision and there should be a review on this matter. I have the experience of editing a newspaper for about two years and I know that even newspapers have to suffer some times on account of 'contempt of court'

charge. When the conduct of certain judges becomes intolerable, we have to criticise them. But we are threatened with dire consequences and we have to face contempt proceedings. It is also a fact that some of the High Court judges and judges of Supreme Court have reviewed certain cases in their wisdom and they found that the charges were well-founded and the persons against whom such charges were levelled had to retire prematurely. That is why I request that so far as this contempt of court and allegation against judge are concerned there should be a review and the judges should be made accountable. The only constitutional provision to take action against a High Court or a Supreme Court judge is to raise the issue in Parliament for impeachment. There should be some provision to make the judges more accountable.

Here I would like to mention another important point. The question whether a son or a close relative of a High Court judge should be allowed to practise in the same High Court where the father/close relative is the judge. This is very important because justice should not only be done but it should also appear to be done. There can always be scope for making allegations. I feel that as far as possible we should not give any scope for allegations to be made against our judiciary. The reputation of the judiciary is being eroded and we should see to it that the judiciary enjoys a clean reputation. We should make all the necessary provision to ensure these things.

I support this Bill. But at the same time, I say that all the privileges, position, facilities, etc. enjoyed by the judges of the High Courts and the Supreme Court should have some parity with the facilities of the judges down below, that is in the subordinate services.

[*Translation*]

SHRI VIJOY KUMAR YADAV (Nalanda): Mr. Chairman, Sir, while speaking on

the bill, I would like to invite the attention of the hon. Minister to certain points. The question of justice is associated with the problems faced by both the Bench and the Bar. Hon. Members, who have participated in this debate have generally agreed about the facilities to be provided to the Bench. I also agree to it. The question regarding the poor earning of the new advocates is pending with the Central Government, Department of Law, for solution since long. It is true that there are certain prominent advocates whose practice and income is very good whether they are practicing in a Lower Court, District Court, High Court or Supreme Court. But, the advocates in large number have got poor income, their condition is so miserable that they cannot do justice with their profession.

The question regarding facilities to the Advocates was raised with the present Minister, Shri P. Shiv Shankar with his predecessor and Shri Bhardwaj, Minister of State in the Ministry of law and justice who assured and said that the Government was considering to bring forward a bill regarding welfare of the Advocates and the bill will be brought soon. But, nothing is being done in this regard nor any indication has been given. In certain States, there has been an agitation by the advocates in support of their demands, they have resorted to strikes, they have boycotted the courts, but generally it has been said that the matter will be decided by the State. My submission is that the matter regarding raising the standards and efficiency of the Advocates should be taken at the Central Government level at an early date.

The Government is committed to provide legal aid to the weaker section, economically backward, Harijans and those living below the poverty line. It is very difficult for these people to get justice under the present system and there is a widespread discontentment in the country in this regard.

[Sh. Vijoy Kumar Yadav]

Justice is very costly and these people have no money to get it. Therefore, there is a widespread discontentment in the country. In case Government want to create confidence in judicial system, they will have to make proper arrangements for the legal aid to the poor. Untill such arrangement are made, poor people will be deprived of justice and there can be no confidence in judicial system.

You have referred to Lok Adalats, but this is no solution, unless the Government provides legal aid to the poor. There is a law on paper which provides that the court will arrange advocates for those who are poor and cannot employ advocate to plead their cases. This is one thing about justice, but what type of justice you talk of? These people cannot employ advocates as other respondents employ for their case and the result is that they lose their cases. They know that they cannot get justice under this present system.

Today, everybody is well aware as to what is happening in judiciary. It is not true that the Government is not aware of this all. What happens? What is the criteria of employing an advocate in the court? When one reaches the court, he tries to find out an advocate who is having good relations with Judicial Magistrate. I, myself, had been practicing in the court till 1980. After 1980, I had left this profession. Those who know the position, they appoint advocates on the basis of their relations with Judicial Magistrates. The common men going to the court are not aware of all this, they have no contacts and therefore, with the type of advocate, they employ, they fail to get justice and lose their cases.

This is what is happening in my State in Bihar, be it a lower court, district court or high court. It is true that not all the judges, but a large number of them are incurring a bad

name to the judicial system. Justice has become a commodity of sale and purchase. Some thing is needed to be done in this regard.

Many of my friends are of the view that the things will improve if the salaries are enhanced, but I don't think this will deliver the goods. It is generally seen that higher the salaries, higher are the malpractices. The people serving with honesty are not rewarded for that. There is no encouragement for them. You should evolve some ways to encourage the people serving with honesty.

With these words, supporting the bill, I conclude.

SHRI RAM BHAGAT PASWAN (Rosaera): Mr. Chairman, Sir, I support 'The High Court Judges (Conditions of Service) Amendment Bill.

Sir, the facilities and increase in allowances, envisaged to be provided to judges in the bill, are justified and the judges must get them.

I would like to request the hon. Minister to take steps to see that the justice is available to common man and it is cheaper also. As per provisions in the constitution, the Government is making all out efforts to see that the conditions of the weaker sections of the society are improved and the poor people are brought to the status equal to other sections of society. But it has been observed that there has been no significant change in judicial procedure. The courts are hampering the steps taken by the Government in this regard. The Government passed Zamindari Abolition Bill. Our late Prime Minister Smt. Indira Gandhi presented Privy Purses Abolition Bill and Banks Nationalisation Bill, but here too, judiciary tried to put an obstruction. If such is the system prevailing in judiciary then we cannot bring socialism in our society and the

Government's Plan cannot prove beneficial for the people.

The allotments of Land to the poor people under the Land Ceiling Laws, have been cancelled by the Court. As such, you have seen that all the moves of the Government have been obstructed. I suggest radical reforms in the judiciary to be brought at the earliest so that justice, and comparatively cheaper justice, is available to the people. For the present state judges are not to be blamed.

It is unfortunate that, till date, facility of justice is not available to common man. If someone is to be put to trouble then he is involved into complex system of litigation which is beyond his reach. Farmers and labourers cannot approach the High Courts and the Supreme Court. all the Smugglers, Profiteers, Hoarders and Blackmarketeers are getting protection from the judiciary. You are requested to bring a change into judicial system according to the needs and requirements of the common man.

It has been observed that innocent people are forcibly involved into criminal cases. In case, they fail to attend the courts on the date fixed for hearing, strict actions are taken against them while no action is taken against a judge for absenting himself from the court on such dates. A case may be pending decision for 15, 20 or 25 years in courts. One hon. Member, has just now, pointed out that about one crore cases are pending in courts. You very well know that justice delayed is justice denied. Therefore, justice should be made available at the door steps of litigants rather than people devoting all their energy, money and time in going to the courts. What is the use of judiciary if even after spending all the money, time and energy one fails to get justice. Therefore, radical reforms are needed in judicial system. Judges must be provided all the facilities but, the drawbacks, severe drawbacks in judicial

system, which are against democratic norms and socialism, need to be removed. These reforms should be undertaken in consonance with the progressive ideology to enable the people to get justice.

Regarding the appointment of the judges, as certain Hon. Members have said, I also hold the opinion that the the need of the hour is that all sections are represented in the appointment of judges. Scheduled Castes, Scheduled Tribes, Backward Communities and Minorities should all get represented. We all see that there have emerged several drawbacks is our judicial system. Justice has become costly and favouritism is being practised. For removing these shortcomings every section should get representation.....{Interruptions}..... I have just started. There are a number of advocates belonging to Scheduled Castes and Scheduled Tribes in High Courts and the Supreme Court. The hon. Minister may satisfy himself from the record. Constitution has provided 15% reservation of jobs in administrative services for Scheduled Castes and Scheduled Tribes. Due to this provision 15 to 20 per cent administrative services vacancies have gone to SC and ST categories, but in the appointment of judges such reservations should also be there. Economic background should not be taken into consideration, because these people have not the ability but still they are not being appointed judges. It is wrong to say that only the rich people with sound economic background can do justice not the poor, as affluence has got nothing to do with the capability and the rich have the record of explaining the poor. It is absolutely baseless to say that in the appointment of judges economic background is important because the people held in corruption charges in Administrative services or for smuggling charges belong to affluent sections of society, they do not belong to Scheduled Castes and Scheduled Tribes.

[Sh. Ram Bhagat Paswan]

According to the reservation provisions in the constitution, people belonging to Scheduled Castes, Scheduled Tribes, Backward Communities and Minorities need to be appointed. Legal Aid Boards set up in the Districts and States provide money and the services of lawyers to the needy people but poor cannot approach them, and, even if they approach, justice is a distant cry for them. I asked a District Judge about the money available with legal aid boards, he said that only refund can be made as no separate fund is available with them for that purpose. I have written to the State Government but no reply has so far been received. Therefore, you are requested to widen the jurisdiction of legal aid boards so that people living below the poverty line are provided with adequate money for seeking justice.

You see that there are High Courts and the Supreme Court, but these are not for the poor people; It has rightly been said that:

"Bada Hua to Kya Hua Jaise Tar Khajoor,
Panche Ko Chaya Nahin, Fal Lage Ati Door."

They cannot get justice therefrom. Therefore, make them people oriented and set up mobile courts so that people living in villages may support these courts and judgements delivered on the spot by the judges. The cases should be decided under a time bound programme. For this, place and the facilities are required which should be made available to them as are available to the officers at their places. Judiciary needs radical reforms because justice today has become very costly. It is very very costly, specially for the poor people. Equality before the law has been enshrined in the constitution, therefore, for impartial justice radical changes in the judiciary need to be made so that, instead of people going to the courts, justice may be available to the liti-

gants at their door-step.

With words needs I support the present Bill.

[English]

SHRI SHANTARAM NAIK (Panaji): Mr. Chairman, I stand here to support the High Court Judges (Conditions of Service) Amendment Bill, 1987. In fact, the Bill seeks to carry a very small amendment and to which I suppose none of the Members are basically opposed.

16.00 hrs

[SHRI N. VENKATA RATNAM *in the Chair*]

But with the introduction of this amending Bill to which none of us are opposed, we the Members of this House get an opportunity to highlight some of the problems faced by the judiciary and of the public at large. And it is in this context that I would like to submit a few points for the consideration of the Government.

Mr. Chairman, Sir, land reforms have attained prime importance in the rural life as also in the life of our agricultural society. Several land reforms cases and cases of land disbursement which have arisen on account of land reforms are pending in various High Courts and also in the Supreme Court. The other day, I had asked a question in this House which was titled as an unstarred question, in which I had sought to know the number of cases pending in the Supreme Court and which cases have arisen out of land reforms. The reply sent by the Supreme Court Registry to the Government was that they do not maintain any such register, with respect to the cases arising out of land reforms. As a result of it, we today, do not know the number of cases pending in the Supreme Court which are of such prime

importance and which concern the agricultural society, the poor people of the land. Because, if we had known this fact, the Government as also perhaps the judges could have taken some steps or rather we the members of the public would have urged upon the Government and the judiciary to expedite such matters. But I know for certain that there are several matters which have arisen from various States, concerning land disputes pending in the courts, merely because there are not many judges to constitute the constitutional bench which requires that the cases had to be dealt with by them. It is in this respect that I would urge upon the Government, the Union of India which is one of the major litigants before the Supreme Court, to move the Supreme Court in this connection and stress upon them the importance of the land reforms cases.

Recently our Law Minister has been pleased to criticise some of our High Courts and I fully share what he has said. Some times it appears that our courts of law, with due respect to all those who administer justice, they did not concern very much with the nature of the cases which are filed before the court. Just now I was making a point that several cases are pending in the courts, which have arisen out of land reforms. Yet, for purposes of the judiciary they are all cases, just like any other cases. If our judicial machinery had to be told about the importance and that these are the cases which deal with the common man, the agriculturists and that we should give them priority as far as hearing is concerned, then, so many cases concerning land reforms would have been disposed of by now. This unconcern of our judiciary with respect to such cases is really painful.

The second aspect I would like to say is about public interest litigation. It is no doubt that this branch of law has highly developed, developed in a sense so many matters of public interest litigations are entertained by

our courts. But, when it is developed it is not necessary for the Supreme Court or the High Court or for that matter, the Government, to frame any rule or to enact a legislation on the matter of public interest litigation? Otherwise, a day will come when some judges in certain High Courts may treat a particular type of matter as public interest litigation and other High Court judges may not treat it so, and there will not be uniformity of system as far as the public interest litigations are concerned. Therefore, it is required that either the Supreme Court frames under their powers on to regulate public interest litigations or we, the Central Government enacts a legislation for the purpose, so that the discussion which is not healthy, is avoided.

Thirdly, as far as Lok Adalats are concerned, which have now been made as a part of Legal Service Authority Act it is no doubt required and it has been timely enacted by the Government. Some have pointed out certain aspects. For instance, if before a Court of Law, two parties would like to compromise, then the matter has to be referred to the Lok Adalat, and the parties are not free to file 'terms of compromise'. This in fact goes against what we desire. Therefore, after studying this aspect, I think, some amendment can be moved.

THE MINISTER OF PLANNING, MINISTER OF PROGRAMME IMPLEMENTATION AND MINISTER OF LAW AND JUSTICE (SHRI P. SHIV SHANKAR): If the matter goes before the Lok Adalat for the purpose of compromise and there it is compromised then the whole court fee is refunded. That is the advantage.

SHRI SHANTARAM NAIK: That is what is submitted by some other Members also. Our apprehension was not removed then, because he has said, 'as per the provision as it stands today, it is mandatory for the Presiding Officers to send'.

SHRI P. SHIV SHANKAR: It is 'may'.

SHRI SHANTARAM NAIK: If it is not mandatory, then there is no problem. The Presiding Officers must have powers to compromise the matter.

As far as the judgements of judiciary are concerned, of course every person of this country has to obey the judgement. The moment the judgement is read, it becomes the law of this country when it is Supreme Court or High Court judgement. But, we have a sort of phobia, I think we should remove it. You may agree with me, that judgements of courts are not sacrosanct, in a sense; without imputing the motives in to the judges, we can very well in our own simple way, agree or disagree and criticise the judgement with due respect to the judiciary and the judge. Somehow this proposition is not liked by the people. The Lok Sabha or the hon. Speaker is scared of a judgement. I would say, people are scared, the press is scared the press sometimes would not like to touch the judgement. The House would not like to touch the judgement. This sort of feeling that the judgements are not something to be touched is there. In what manner it has to be removed? We have to educate ourselves and tell the people. But, when we criticise, we should balance ourselves and see that the motives of the judges should not be questioned. If institutions criticise judgements on a given point, if individuals do so, then I think, the judges will also be more careful while delivering the judgements and we will have better justice in times to come.

Another aspect I would like to stress lastly, is that much of our administration is not only vested in our Civil Courts or Magistrate Courts but it is vested in our Revenue Courts. We have given powers to the Revenue Courts, by which an agricultural tenant or any other house tenant or any person affected in a rural area, can approach the Revenue Court, say Court of Tahsildar or

whatever you may call it. In such matters if the presiding officers of those revenue courts are not well-versed with the statutes which they are administering, then the poor litigants suffer, because a person may approach the tehsildar and he may have all the rights within the law to occupy the land or the house but for want of guidance he may lose his case. In such circumstances, if the tehsildar or the presiding officer of that revenue court is somehow acquainted with the statutes no doubt he cannot side with the party - he can guide the party to bring witnesses and help him to record the statement of witnesses in this manner. In such cases, even without any pleader's help, if the presiding officers are well acquainted with the statutes, much of this can be achieved.

Although we do agree with this Bill and we fully support this Bill, it is time that we look to the facilities, pay-scales, perks, or whatever it is, right from the judges of the Magisterial Court upto the higher court. No doubt, there is no problem about these things for Supreme Court and High Court Judges. In the last two sessions we have passed sufficient legislations. But judges below the High Court, from district to lower courts, their service conditions are deplorable. Therefore, the Government, if necessary, should appoint a small committee and whatever be the recommendations of that committee, that should be accepted by the Government.

With these words, I support the Bill.

SHRI PIYUS TIRAKY (Alipurduars): The Bill has come to improve the house rent allowance of the High Court judges. It is the right time that the judges must be honoured and respected for the job that they are doing.

There are many grievances about the procedure of the judgement. It is not the fault of the judge to delay the judgement, but the procedure is such that he cannot deliver the judgement early. In our judicial system, we

have to go to pleader first and the pleader tells the person to say that he has not committed any crime. Then the case starts.

Many things have been suggested by other hon. Members in order to reduce pendency in courts. I also suggest that something revolutionary should be done in this regard, because a large number of cases are pending. The Court should not allow any pleader from either side and the judge must himself hear both the parties directly and then give his judgement. In this way, all the pending cases would be cleared because by this process the judge will know what the matter is. All the pleaders, whether in the Supreme Court or other courts, must be appointed by the Government. They should not be allowed to do business there. Our judicial system has become a business. Those who can pay, they have their say. There should not be any business on this line. It is my request that there should be some change made in this process. I also request you to think over the matter whether all the pleaders should be appointed by the Government. Two or three persons should sit in the court. Within two or three days that case may be disposed of. If you don't do this, you will merely go on speaking. Now forty years of our Independence have already passed but still as many people are getting harassed. The best way to harass the people is to put them in the court.... (*Interruptions*).... I have also been undergoing this harassment. Since 1971, there is a case in the court. Still two cases of mine are pending in the court. I have been arrested also once.... (*Interruptions*).

SHRI SOMNATH CHATTERJEE: Your case is not coming, that is why you are not in jail.

SHRI PIYUS TIRAKY: If I was allowed to speak to the Judge even for one minute, that case would have been disposed of, but there is no such rule or procedure that we

can speak to him. So, we are not getting any justice at all. Only those who are paying money, only those who can do business type of things, are getting justice. This is the only thing I wanted to say.

I do not want to repeat the things. Other Members have also put forth their grievances and everything. The Chairman also has told us not to repeat the points. So, I do not like to repeat what others have said. But I agree to what the other Members have said—their experience and all that. I agree to everything and this is my new point.

SHRI BHADRESWAR TANTI (Kaliabor): Mr. Chairman, Sir, I welcome this Bill. Last year also a similar Bill was passed in this House. This matter also could have been taken up along with that, instead of taking it up again this year. My anxiety is that the people have lost confidence in the judiciary. It appears to the people of the country that judiciary is subordinate to the executive. We know that judiciary is the strongest of the three pillars of the State. During the last forty years of Independence, this august House has passed a good number of laws like this one, and these laws are nothing but a bundle of rules which have not been implemented. On the other day I said that the Constitution of India is the Bible of the people. Parts III and IV of the Constitution are lenient towards the working class. Under Part III and Part IV, we have passed so many laws, labour laws in this House- the Minimum wages Act, the Payment of Wages Act, the Payment of Bonus Act, the Workmen's Compensation Act, the Factories Act, the Plantations Labour Act, the Maternity Benefit Act, the Equal Remunerations Act and so on- but those laws are not used for the workers, the poor workers, these who are working in different factories or industries- public sector or private sector. These laws have not been implemented but the Government is committed to implement them because they have been made for the benefit of the people of the

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country. But it is our worst experience that these laws are nothing but a scrap of paper. 'Living Wage' is guaranteed under article 43 of the Constitution. How many laws have you brought under this particular article? Even if you have brought the laws, could you implement these laws? What does the Equal Remunerations Act say? It says that there should not be any difference in the wages of men and women workers. They should be paid equal wages. But in the private sector, women are not paid their wages equal to the men.

Sir, they have passed a law that children should be given wages for engaging them in the factories and industries. Prior to that they were freely engaged by the industries and they were not paid the wages. There was nobody to look into their problem. Sir, justice has become more costly now-a-days and it is only the affluent class who can afford it. Recently, I read in the newspapers that the Supreme Court had its sitting in the midnight to grant bail to one of the big industrialists, in the capital of the country. If it has been the case of a poor worker asking for justice under the Constitution, I doubt whether the Supreme Court would have had its sitting for considering his bail application. This is the modus operandi of the judiciary.

According to article 21 of the Constitution, no person shall be deprived of his live or personal liberty. This is the procedure established by law. Article 22 of the Constitution deals with protection against arrest and detention in certain cases. If a rich man is arrested, he is released immediately on bail. But if a poor man is arrested, it will not be done and he will be rotting in jail for months together. The court should help these poor people in such cases and these should be brought to the notice of the court. But how many people are getting justice? Justice Bhagwati has now retired and that chapter: 'Public interest litigation' has been

also closed.

Sir, it is an accepted principle of the Government that justice should be at the door-step of the litigants. May I ask the hon. Law Minister what prevented him to set up a Bench of the Guwahati High Court at Dibrugarh and a Supreme Court bench in Guwahati. The poor men in these places cannot go to Guwahati. What prevented them to set up a Bench in Dibrugarh? Simply by using super appropriate preposition in the public media like integrity, unity, social security, etc. will not do. Why not a High Court Bench is set up in Dibrugarh for the people living in that part of Assam? Sir, why not they set up labour Administrative Tribunal for the workers working in the private sector? You have set up Administrative Tribunal for the Central Government employees, State Government employees and public sector employees. But why not set up a Labour Administrative Tribunal for the poor workers who are working in private sectors till today? Where is your commitment? Sir, my humble submission is that only those judges should be transferred who know the local acts and rules of the state in particular. Suppose a judge is transferred from Maharashtra or from Tamil Nadu to Assam, he will not be able to understand the local acts and rules even if he gets guidance. Sir, unfortunately I am a lawyer and I have come across judges who do not understand many laws.

SHRI SOMNATH CHATTERJEE :
Many judges say that lawyers also do not know laws. Some of the lawyers are outlawed.

SHRI BHADRESWAR TANTI: Sir, I may give you an instance in this connection. Some time back in our place one tea garden worker was alleged to have broken the weigh-bridge because he was angry that the weigh-bridge was defective and that is why out of frustration he had broken the weigh-bridge.

Then he was dismissed by the management and he went to the labour court. Because many labour courts are also the courts of the management, virtually and ultimately they have given a verdict against the workman. The workman came to me, I fought the case for seven years in the Guwahati High Court and unfortunately the Chief Justice in that particular High Court—I came to know subsequently was an expert in civil law and not in labour matters. So I lost the case in the High Court. Then I had to file an appeal under Public Interest Litigation on behalf of the workman in the Supreme Court to help the poor workman and the Supreme Court decided in his favour. These are the instances, Sir. (*Interruptions*). Of late, he has been given justice after so much of struggle. It is just like when an operation was successful, but the patient dies. (*Interruptions*).

While appointing the High Court Judges and the Supreme Court Judges, the Government should not have any political considerations. Whoever it may be—I do not have any reservation in that, that he is to be from the Scheduled Castes or Scheduled Tribes, but the man who has extraordinary experience, knowledge, qualification should be appointed without any other consideration. Then one can get justice. Otherwise people will not get justice and the commitment of the Government will also be in jeopardy. The man who is well-known in the field of judiciary, in the field of law, is learned and fulfil all the requirements for appointment of a High Court Judge should be appointed as such. I am citing one example. Recently in the Guwahati High Court a Judge was appointed. Twenty-five years back he was discharging the judicial duties as a Munsiff for two or three years. Afterwards he was discharging his duties in Arunachal Pradesh Government Secretariat Department. He has no experience in the judicial work in the court for all these years. Ultimately he was appointed Judge of the High Court. Now, I ask; Will that man be able to discharge his

duties as a Judge? Will he understand any writ petition, what is Article 226, what is criminal law, what are the Fundamental Rights and what are the Articles of the Constitution? Even the basic concept of the Constitution he will not be able to understand. Then we cannot get justice from that man. I have nothing personal against that man, but I have my humble suggestion to the Government that they must not consider the appointment of judges on the basis of their political consideration. Then the whole purpose will be defeated. There should not be any political appointments. (*Interruptions*).

Sir, we all know that in each High Court there are a lot of cases, thousands of cases pending and if you do not want to frustrate that dictum 'Justice delayed is justice denied', why not appoint more judges in all High Courts and the Supreme Court so that there will be an early disposal of all pending cases? Otherwise it will not serve the purpose. The case dragging for years together will not serve the purpose and that is why people lose confidence in the Judiciary. So, I humbly suggest to the Government that they should also consider this aspect of the matter.

So far as transfer is concerned, only those persons who know the language of the other State should be transferred. For example, a person from West Bengal may be transferred to Assam because the language is similar and he will understand it.

SHRI SOMNATH CHATTERJEE: You will drive him out as a foreigner.

SHRI BHADRESWAR TANTI: No, we will see that he is accommodated provided that he is not a foreigner. Only in such cases, transfer should be made. Similarly, transfer should not be made at the time of retirement, when he has got only two years to go for retirement. If he goes over there on transfer, he will take one year to acquaint himself with

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the environment. He will take another year to acquaint himself with the local Acts and rules and procedures of that state and by the time, he is settled, he is retired. So, the ultimate purpose will be frustrated. Only those persons who are acquainted with Acts and rules and language of the State should be transferred to such State.

My hon. Friend, Shri Satyanarayan Sinha has submitted and made a reference to the fourth report of the Law Commission which has stated that the quality of judges has gone down. That is the point made by the Law Commission. It is not a mere paper but it is a report of the Law Commission. Therefore, the Government should consider this report very seriously and should not throw it in the dust bin.

My humble submission is, Government while bringing laws must also implement those laws in true sense. Otherwise, they will not serve the purpose.

[*Translation*]

SHRI GIRDHARI LAL VYAS (Bhilwara): Mr. Chairman, Sir, I rise to support the High Court Judges (Conditions of Service) Amendment Bill, 1987. The Bill which you have brought forward deals with the payment of House Rent Allowance to the High Court Judges. Earlier also you had brought a bill regarding the service conditions of the Judges and now another bill has been introduced. You should at least think what you are doing for the common man. Laws have been enacted for the upliftment of the poor but how far are these laws being implemented and what these judges are doing in this regard? It needs to be given a serious thought. Such judges should be appointed who could strengthen our socialistic pattern of society. Some Hon. Members have said that they should be allotted work according to their qualification. My submission is that

we should have committed judges who have faith in declared policies of the Government based on secularism, democracy and socialism. There are certain judges who had been members of communal parties, but in spite of that they were made judges. How will such judges implement your policies. Therefore, there is a need to some serious thinking on this issue. If laws are to be implemented, the judiciary must have committed judges and, therefore, only those who are committed, should be appointed judges. Only then we shall be able to dispense justice to the poor and uplift them.

My second submission is that there are a large number of cases in Supreme Court, High Courts and other courts pending disposal. The proverb 'Justice delayed is justice denied' fits well in this situation. If cases are pending for ten to twenty years and justice is denied for all these years, then what is the use of such litigation. There is an urgent need to fill up the vacant posts of judges in High courts and Supreme Court without any delay so that the pending cases in these courts are disposed of and the people get justice. Keeping in view the large number of pending cases, such a step is urgently needed.

I want to submit that there is a long standing demand before the Government for setting up of additional Benches of High Courts in big States, such as, Uttar Pradesh, Rajasthan, Madhya Pradesh, etc. I would request that additional Benches of High Courts in these States should be set up soon so that the cases which are pending for years could be disposed of speedily. This is essential if you want to extend inexpensive justice and other facilities to the people. Just now, an hon. Member put forth a suggestion that a Bench each of the High Court should be set up at every divisional headquarter in each State so that inexpensive and speedy justice could be given to the people and the pending cases disposed of quickly. I fully

agree with suggestion. About Rajasthan, I want to submit that a demand for setting up a Bench of the High Court at Udaipur is under consideration for quite a long time, but no decision in this regard has so far been taken. This Bench should be set up urgently. If the demand for setting up a bench at every divisional headquarters, Rajasthan would need five additional Benches. As of now, the High Court is at Jaipur and its Bench is at Jodhpur. In addition to these two, there is a need to set up three more Benches. This must be done if we want to dispense inexpensive and speedy justice to the people.

Another submission that I want to make is that judges should not be allowed to start legal practice after retirement because if they are allowed to do so, the people have to face hindrance, in getting justice. If a person is given allurements that he would be offered some position after retirement, he becomes committed to the Government. Similarly, when retired judges start legal practice, the sitting judges who were once their colleagues start favouring them, as a result of which it becomes difficult to dispense an impartial justice. Therefore, such legal practice must be stopped immediately. To compensate them for this, their pension and other facilities should be increased so that they need not find it necessary to practise and all their needs could be met through the pension.

Another point which I want to raise is that High Court and Supreme Court judges are considered like a widow in our society because they do not want to mix up with the people. In my view, it seriously affects the dispensation of justice. We should do away with such a system. Every judge should live like a social person and should attend all functions. He should study the difficulties being faced by the people by attending functions at other places and should find out solutions to the problems of the poor through his judgements so that the people could get

impartial and proper justice. It is absolutely essential to evolve such a system. Secondly, the judges, whether they are Supreme Court judges or High Court judges, should be made accountable for their work. If they are not able to dispose of the specified number of cases during a month or a year they are expected to, then they should be made accountable for this. They should state reasons why the specified number of cases could not be disposed of. This will enable the people to get speedy justice and their difficulties will be removed. There is an urgent need to pay attention in this direction also.

Social cases help in bringing a change in the society. If some judge wrongly decides such a case, there should be a Bench in the Supreme Court to hear such appeals so that proper justice could be dispensed. If a High Court Judge or Supreme Court in Labour cases or other social cases, pronounces wrong judgement by interpreting the law of the land in his own way, he should be made accountable for this.

A short while ago, while speaking on another bill I mentioned about I.A.S. and other officers. At that time, I had said and I repeat it that as you ask us to declare our assets, the judges too should be asked to declare their assets at the time of their appointments. An assessment of their assets should be made by the time they retire. If you make this declaration mandatory, the Government can have information about the money amassed through foul means any time it needs. By doing so, you can find out by how much the assets are disproportionate to the known source of one's income. Action can be taken against a judge who owns assets disproportionate to his known source of income.

There is nothing bad in selection of judges from amongst the lawyers. What is required to be seen here is which of the

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lawyers is impartial and which is not. Whether they are appointed from the Bar Association or from outside, thorough inquiry about them must be made. Just now Shri Piyus Tiraky was saying that there are many lawyers who have collusion with both the parties. It is essential to have definite information about such persons who collude with both the parties and thereby throttle justice. They should not be appointed as judges.

Similarly, there are many advocates who do not plead the case once they receive the fee from their client. Therefore, the advocates who do not perform their duty fully should not be made judges because when they do not perform their duty towards his client as a lawyer, what service will they do to the people as a judge. How will such a person dispense justice to the people? You should pay attention to it also.

Just now, an hon. Member has said that Lok Adalats have served no purpose. I am not prepared to agree to it. A lot of work has been done by Lok Adalats. It is another thing that the cases disposed of in the Lok Adalats were small ones, but they too could have taken two-three years to be settled in the normal routine. Such cases were settled in a day and the compensation was also paid the same day. It has been good for those who have received compensation, otherwise they would have waited for another three-four years. Therefore, we cannot say that Lok Adalats have served no purpose. But one thing I must ask. What is the legal sanctity of the decisions of Lok Adalats? As of now, I am not able to understand as to what is their legal sanctity. I would request that a definite provision should be made whereby the verdicts of Lok Adalats could be given the same legal sanctity as that of verdicts of other courts. Only then, the benefits of Lok Adalats will reach the people.

Thorough inquiries should be made about the son-in-laws or other relatives of the judges of High Courts and Supreme Court. It should be ensured that such relatives do not do legal practice in the courts of these judges. The relatives of the judges should be banned from practising in the courts of their relative judges. If this is not done, the people will engage them as their lawyers by offering large amounts as fee and manage to get the verdict in their favour and, thus, the people will not get justice.

If measures are taken to check all these things, then it will prove very much unofficial. Besides this, the Government may provide maximum facilities to the judges like higher salaries, higher pensions, car, telephone, bungalow etc. but due attention should be paid to see that they do not indulge in malpractices. If a judge does so, he decidedly throttles justice. You may give them the maximum facilities and remuneration you want to but honestly must be their last word—their 'Param Dharma' and if they work on this basis this will enable judiciary to regain its respect and credibility which today is considered to be fading away.

[English]

SHRI N.V.N. SOMU (Madras North):
Mr. Chairman, Sir, I am thankful to you for having given me this opportunity to express my views on behalf of my DMK Party.

I welcome the enhancement of the House Rent Allowance of the judges to Rs. 2,500/-. Judges are the custodians of the Constitution and the law. Therefore, the Government should not hesitate to improve their service conditions.

Eminent advocates are not willing to occupy the posts of judges because the remuneration is not very attractive for them. The efficiency of the legal luminaries should

be made useful of for the country. Therefore, the remuneration of judges should be made more attractive.

There are vacancies in the posts of judges in the Supreme Court and High Courts, Ten judges are yet to be appointed in the Supreme Court, with the result that 1,59,822 cases are pending in the Supreme Court. Because of these vacancies in the Supreme Court, cases to be heard by the Constitution Benches have been pending for years together. A Constitution Bench should consist of a minimum of five judges. There are 16 judges in the Supreme Court out of which two judges are heading a Commission. So, it is very difficult for the Supreme Court to form a Constitution Bench. The same is the condition with respect to tax and labour benches also. Therefore, I request the hon. Minister to consider this and fill up the vacancies in the Supreme Court so that the pending Constitutional cases could be disposed of as quickly as possible and justice rendered to the public.

Similarly in High Courts also, 392 posts of judges are vacant, with the result that nearly 15 lakh cases are pending in various High Courts in the country. We are celebrating the 40th anniversary of our independence, but this Government - I say this with regret - is not able to give justice at the proper time. In the Madras High Court also - I am ashamed that I am not able to call it as the Tamil Nadu High Court; still I have to call it as the Madras High Court because of the adamancy of some people - there are seven vacancies yet to be filled. The Madras advocates went on strike several times demanding filling up of the vacancies not only in the High Court but also in the lower courts. Recently the Chief Justice of the Madras High Court openly discussed the appointment of High Court judges. The Law Minister of Tamil Nadu has come down with a long statement contradicting the statement of the Chief Justice. Because of the inordinate

delay in filling up vacancies in the posts of High Court judges, such things happen. I request the hon. Minister and the Central Government to fill up the vacancies immediately, more particularly in Tamil Nadu.

The eminent jurist, Shri Palkhiwala, is reported to have said that justice is blind. But in India it is also lame and hobbles on crutches because of the vacancies existing in the courts - I want to make this point here. Sir, the Law Commission of India has observed that because of the delay in filling up of the vacancies, cases are piling and arrears are accumulating. At least the Minister will be in a position to appreciate, though not our point of view, but at least, Law Commission's view. I request him to fill it up as urgently as possible.

My friend, Shri Natarajan who belongs to AIDMK, the ruling party in Tamil Nadu said, "The Chief Justice of Tamil Nadu does not know anything about Tamil Nadu and the Chief Justice has to depend on somebody for the judicial administration of our State." Sir, I once again reiterate my view that Chief Justice of the High Court should be appointed from the same province.

India is a sub-continent but we are united under one Constitution. Even our late lamented Prime Minister Jawaharlal Nehru had clearly stated several times that ours is a unity in diversity. Each and every region has its own language, culture and heritage. Therefore the Chief Justice should be from his own province. Then only he will be in a position to administer the justice in order to safeguard the system, language and heritage of his own province.

Sir, I once again emphasise and reiterate the point that Chief Justice should be from his own province. I once again request the Law Minister to name our Madras High Court as Tamil Nadu High Court. Our State is called Tamil Nadu State; our late lamented

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Chief Minister Arignar Anna has named it as Tamil Nadu State; even the Congress Committee is called Tamil Nadu Congress Committee but the High Court is called Madras High Court. It is more ridiculous. I request the Law Minister and the Government to name the Madras High court as Tamil Nadu High Court. Thank You.

SHRI SOMNATH CHATTERJEE (Bolpur): Sir, there is no question of our not supporting this Bill. We are supporting this Bill. Only thing I wish is that Central Government should make provision for the State Government to bear this additional expenditure because the Central Government only has to pay for the Delhi High Court Judges and some amount on account of Punjab and Haryana High Court Judges. This is the difficulty in this country, this is the imbalance in this country. The Central Government has the resources and the obligations fall on the State Government, on the State Exchequer on the basis of central laws. Therefore, my request would be that additional financial provisions should be made for the State Government so that this can be passed on to the judges who deserve it. I am not denying that.

SHRI E. AYYAPU REDDY (Kurnool): But the salaries of the judges must be same.

SHRI SOMNATH CHATTERJEE: Salary is charged on the Consolidated Funds. And that has to be paid out of the fund of State Government. But I am talking about additional resources.

You will have noticed that every Hon. Member in this House irrespective of the side from which he is speaking, has spoken about the present situation in the country where there appears to be a widespread feeling of discontent. And there is. It is said that there is no confidence, people have lost confidence in judiciary. It is said that nobody

gets justice. Justice is for the rich only. Sir, many of these expressions which have come from the Hon. Members are based upon good reason. But what is the remedy? Who is thinking of remedy? I do not know what the Shiv Shankar. Bhardwaj combination can do.

Now, somebody is saying that judges must have commitment. Some say, "they must be honest judges, judges of integrity." Some say, "lawyers should be good; lawyers are bad. All lawyers are bad." Sir, I have spent 33 years in this profession. It is very easy to blacken a particular system and it is very easy to give suggestions in the nature of utopia; but how to get at it is very difficult. I have no doubt that everyone is concerned that the judicial system should serve the people, the people in our country who need most, viz., the poor people, workers teachers, and so on and so forth, who not only in some cases have to take recourse to the courts; but are dragged to the courts.

This morning, I had to appear before the Supreme Court in a State Government matter and I was hearing one learned lawyer saying that 'My client, a dismissed employee, is waiting for 18 years for his matter to be decided'. The Supreme Court, in view of the facts of the case said, 'there is no way out but to ask you to implead yourself in a proceeding which is pending in a High Court for 18 years, probably for 20 years. He says 'what is the good of my going there, it will take another 13 years minimum'. This is a perfectly legitimate complaint; but where is the approach, the attitude, in solving it?

The other day I appeared before the Supreme Court on behalf of an unemployed youth. His name was in the Employment Exchange. Indian Oil Corporation asked for certain names for appointment as what they called, Technical Assistance Gr. IV. His name was sent from the Employment Exchange. He was empanelled; he was in the

panel of nine persons selected. His name was 9th in the panel. Eight persons out of that panel were appointed; he was not appointed. He went to Court. First he lost. Then he won in the Division Bench. The Division Bench directed that against the next vacancy of this particular post, he should be given the appointment. What would you expect? Who was the party against whom this order was given?—the Indian Oil Corporation, a mighty giant of this Government.

An SLP-Special Leave Petition-was filed in the Supreme Court, a stay order was obtained ex-parte. I requested the Hon. Minister-I went to him, I wrote him-that just to avoid one person getting a job, who has been empanelled on merit-he passed the test-how much money you are spending. There were three lawyers in the Calcutta High Court, including the former Advocate General. Here I found big lawyers, senior lawyers appearing for the Indian Oil Corporation.

Fortunately, after three years the Supreme Court rejected the SLP-we had to appear. I am not trying to get any encomium for anything; but could this litigant come here and contest his case? How does he contest this case before the Supreme Court? A notice was sent to him that 'an SLP has been filed in the Supreme Court against you to nullify the decision of the Division Bench of the Calcutta High Court'.

This is the inherent weakness of the system. The Indian Oil Corporation, for the purpose of keeping one unemployed youth out of job, will come upto the Supreme Court. This young man, who is a resident of a village near Haldia in the extreme south of West Bengal, will have to come here and defend. He cannot even afford a II Class train fare. Where will he stay in Delhi; how will he engage a lawyer in Delhi?

These are the deficiencies in the system. I know that there are no short cut, and ad-hoc decisions will not help in the matter.

There is a loss of confidence in the judiciary, there is a loss of confidence all around, there is a loss of confidence even in the Government, there is a loss of confidence in the politicians, there is a loss of confidence in the judges-in so far as the judges are concerned-there is a loss of confidence against lawyers and in every section of the people.

I hope they have not yet lost confidence in Parliament. Social reflections are there in the judiciary but even then some steps can be taken. Why these vacancies are there? The hon. Law Minister is looking for progressive judges but the trouble is your inclination is towards those whom you know well. In your Congress party you cannot have progressive people. That will be anti-thesis in term. Why should these vacancies remain? I have been in the Consultative Committee for so many years but there are always routine explanations like 'looking into it'.

17.00 hrs.

Now in the system that has been developed you have to consult the State Government but you do not listen to them unless you like their recommendations. I do not know why should the State government be consulted? Let two Chief Justices decide-Chief Justice of India and Chief Justice of the State. Why should even Central Government come in except as an appointing authority. The President will issue the appointment letter but Mr. Bhardwaj will intervene or Mr. Shiv Shankar will interfere. They have got their pets.

THE MINISTER OF STATE IN THE
MINISTRY OF LAW AND JUSTICE (SHRI
H.R. BHARDWAJ): No. No.

SHRI SOMNATH CHATTERJEE: Do not take it personally. I have taken Mr. Shiv Shankar's name also but he is not standing up.

Therefore, the system has been developed by this Government over the years which has inbuilt system of delay. That has created problems. Of course, I do not believe as an axiom that greater number of judges means greater disposal. In Calcutta High Court we have seen greater number of judges leading to greater number of arrears because people flock there. Nowadays only popular litigations are 226 writ petitions. We have seen writ petitions used in landlord-tenant disputes or probably in matrimonial disputes why police is not helping. Therefore, that is not an absolute solution but even then the usual quota of judges should be available.

I do not know how the system can be rectified. You nationalise the legal profession. I will be too happy. Let every lawyer be given some sustenance and they will be obliged to appear in courts assigned to them. I shall accept it but you are not able to do that. You cannot possibly do that. Then there is inherent defect in this legal aid system. How many people you can render assistance. One hon. Member correctly said in legal aid cases because you put a lawyer of a 4-5 years standing against a big giant that hardly makes an impact in the court. Therefore, my suggestion to this Government is that whatever the existing facilities are should be utilised properly. Let there be usual quota of judges and you have to have proper implementation of the legal aid system. The question is commitment to the people about whom you talk.

I would like to know from the Hon'ble Minister: have you ever considered how many cases of industrial disputes the Central Government or Government undertakings are fighting? How many cases, fighting

for years? You will be surprised to know that. Government organisations fighting for years against their workers! Workers have to go to court against their employers. There, Lok Adalat system is not brought into force. There is no attempt made to bring the parties together and have a compromise. Of course, commitment to sense of justice has to be there.

Now our adage is: Justice according to law, We have cumbersome procedures. We have all sorts of laws. Personally, earlier I had doubts but now I am in strong support of the administrative tribunals. But what is happening in administrative tribunals? There, arrears have started mounting in two years' time. How many cases are there? All cases from High Courts have gone to the tribunal. How many tribunals you have set up, how many cases have gone there and how many judges you are giving there? Learned Chairman of the Calcutta Administrative Tribunal retired the other day. At least for one month, there was no appointment. If I am wrong, please correct me. I am away from Calcutta for a few days. But I hope there is an appointment now. If there is no appointment, it goes on accumulating cases. But why can't you appoint when there are vacancies due to come. Therefore, whatever this imperfect system is there you must work better without avoidable pitfalls.

Are you really concerned about the ordinary people? Still people have faith in the Supreme Court looking as a court of last resort. If we are happy about the public interest litigation system. I am happy and proud that some judges of the Supreme Court have decided matter on the basis of social justice than merely following the technical rules of procedure. They are good developments. But how many can take advantage of this development? You always say: Well, judges are not agreeable. If you make a law, the Judges will be agreeable. You have to make justice available to the

parties as near as possible. Therefore, I have always advocated for circuit benches. It will not dilute the importance or integrity of the Supreme Court. There should be circuit benches of the High Court. You can't avoid them. I need not talk about subordinate judiciary here. That is a State subject. I mean, States have to look after that. But what this government can do? Kindly see how even rivalries come up Whenever there is a talk of circuit bench in U.P. Fight immediately starts whenever you select this or that place. Therefore, some uniform formula has to be found out in a big country like this where poverty is rampant, where people have to take recourse to the judicial system. If you want a functioning judicial system, it must be working and functioning for the ordinary common people. Rich people don't mind if it was in Srinagar. They would have liked it more. They would have gone to Srinagar, have a nice time also, appear in the case. And some lawyers would have liked better probably. They don't mind. They don't need any help. They can look after themselves. They are also polluting the system by paying fancy fees to lawyers. Therefore, the lawyers who will get fancy fees from a handful of these people, they will naturally welcome such clients. After all, I have chosen this profession rightly or wrongly, I don't know. But, at the moment, I have no alternative occupation. If I have to survive, I have to survive in this legal profession. I can't make money otherwise. I have not done the liaison work, etc.

I have to make a livelihood. I try to do it honestly and I hope to do it honestly, fleece the rich and help the ordinary people. I am not ashamed of having rich clients, otherwise I cannot drive even my Maruti car and of course Mercedes. There are some crooks among lawyers. There are crooks in every sector of the society. For the purpose of helping these ordinary people, we have to have more committed lawyers than committed judges. I am trying to get the help of this

august forum in appealing to the profession that you are earning a bad name because you are not ready to make even a little sacrifice. Lawyers fund today are branded as crooks, thieves and thugs but lawyers are also rendering some service to the vulnerable section of the society. They have to protect themselves from the assaults and attacks of the rich people. As I said, the young unemployed youth could not have protected himself against the Indian Oil Corporation without the help of the lawyers. Therefore, there has to be serious thinking on that and whatever Government can do, it should do. There has to be a commitment so far as the Government is concerned to each justice in a just manner to the ordinary people. What are the special provisions made for the common people?

Many hon. Members have spoken almost professionally on this without being professional lawyers. Our good friend who was a publisher of a newspaper- I hope there was no allegation of inadequate payment wages. I hope all the journalists and non-journalists..(Interruptions) ..

DR. G.S.RAJHANS: We wrote an article against judges. We were hauled and harassed. That is in record.

SHRI SOMNATH CHATTERJEE: All the hon. Members have spoken showing great concern for these people I am saying not to go by word-catching slogans or ear-catching slogans. I do not know whether I sympathise with the hon. Minister having come from commerce to law. Having come to law let him try to do something for the common people. I know that he has concern for the poor. I know his difficulties also. Sitting there he is only to pay lip-service to the poor but exactly do the contrary of it. Otherwise, it will cost him his job. Therefore, I am submitting that these judges should be paid proper respect. I am not going into it. I can give the list of judges to Mr. Bhardwaj

[Sh. Somnath Chatterjee]

because he seems to have specialised in Calcutta judges. Active Congress people are made judges. They were poster wallahs the other day. I cannot name them. He knows them. I do not know about other High Courts. Their status in the party was pasting posters two years before in the parliamentary election. Now they are judges. This is the way the whole system is polluted. Therefore, try to do something instead of talking and instead of talking about everything, I will ask him one thing. I have raised his question so many times.

Sir, if ordinary people have to come and appear in the Supreme Court, where do they stay? Will the Minister (Shri Bhardwaj) allow to put some tents in his huge lawn to let these common people stay there?

SHRI P. SHIV SHANKAR: I always accommodate my clients in my bedroom and I always practice the same.

SHRI SOMNATH CHATTERJEE: I am sad, Sir, that having given up the practice, his clients have lost the benefit of his hospitality. Form all over India the people are coming to the Supreme Court. So, I would like to know where do they stay?

SHRI P. SHIV SHANKAR: Ask Mr. Palkiwala.

SHRI SOMNATH CHATTERJEE: I am not concerned with the Palkiwalas, I am not even concerned with Somnath Chatterjee. I am only concerned with those people who have to come here and defend themselves and try to seek justice from the Supreme Court of India. In how many cases can this legal aid system provide assistance? How many poor people can go to them? This is a very pertinent question. This is happening. Therefore, we have to give our full attention to solve this problem. Rich people can look after themselves. They can engage Shri

Shiv Shankar. They can engage Shri Palkiwala as their lawyers and so on and so forth. They do not need any protection from the State. They do not need any help from the State, they as a matter of fact are holding the State to ransom. But what about the people who cannot afford all these things? I would like to know from the Hon. Minister rather I want to be elucidate on this. They can go and give the message, that as now Shri Shiv Shankar is there and Shri Bhardwaj is there, there will not be any problem in getting the justice. Therefore, Sir, I would say that we are taking advantage of this legislation which is an important but a short issue. This opportunity has been taken by the hon. member to really give vent to our feelings of unhappiness and distress. And being willy nilly in this profession, which is being abused some time rightly and some time wrongly, I think we should all endeavour to correct our mistakes and change the system as much as possible with the orientation in favour of the ordinary people. That cannot be done only by words, action has to be taken. Showing mere grave concern would not do. We want concrete action. You give a call to the profession and let us see what is the reaction. That commitment from the profession is not forthcoming. I am requesting you to give the leadership. It will be welcomed. But let us not say and work in the periphery and give a certain sermons. That will not help. Therefore, I request the Hon. Law Minister to look into this matter and try to give his views.

THE MINISTER OF PLANNING, MINISTER OF PROGRAMME IMPLEMENTATION AND MINISTER OF LAW AND JUSTICE (SHRI P. SHIV SHANKAR): Mr. Chairman, Sir, I would not like to go into the various details that have been adverted to. This is a very simple Bill, as has been observed by many members. This Bill is the result of the decisions that were taken in the joint conference of the Chief Justices, Chief Ministers and the Law Ministers of the State held on 31st August and 1st September,

1985. I am aware, Sir, that there is a very short time left for me. Every hon. Member who have been pleased to speak on this Bill, has supported the Bill. That has to a great extent unburdened my task.

Various observations have been made by hon. members, some of which have far reaching effects. I would not like to go into them because these are observations on matters not directly arising out of the contents of this Bill. I would touch upon one or two aspects only, which are of great importance and which have been mentioned by a large number of hon. Members. One is about the matter of representation of the diverse segment of our society in this country in the High Courts and Supreme Courts. Well, opinions for and against have been expressed and I would not like to go into them. But ours being a multiple society, we have to necessarily give representation to all segments. Long back, in August 1980, when I was the Law Minister, I had addressed a letter to the Chief Ministers and Chief Justices to look for members of the Scheduled Castes, Scheduled Tribes, backward classes, woman and economically weaker sections of the society because people from these segments cannot normally become affluent lawyers and represent the Bar so that they could be thought of for the Bench. This did become a contentious issue. And notwithstanding the fact that we have been making efforts, I must frankly admit that we have not been successful. I take the opportunity of utilising this forum to make a request-an appeal-to all the constitutional authorities concerned to look for the representation of these segments so that the concept of social justice enshrined in our Constitution becomes a reality. I would not like to say anything beyond this. Some friends have used very harsh language, but I would not like to answer them. Let us not use this forum to say anything and everything. This forum must be utilised for the purpose of restrained expression.

Hon. members have also been pleased to advert to the vacancies that are to be filled up. I have my own anxieties. There are diverse constitutional authorities who have their own part to play while making recommendations for the appointment of judges. Normally, it has been the endeavour of the Government of India to bring in a reconciliation between different authorities and this involves quite a bit of time. I have found that some name comes up and some constitutional authority does not agree, while yet another constitutional authority substitutes that name by another name and on a lot of occasions, quite a lot of problems, problems of diverse nature, arise. I do not want to go into them at this stage. But the endeavour of the Government of India is to see that the name that crops up must get the consent or the assent or the consensus of all the constitutional authorities so that finally when the appointment takes place, there will be no problem.

SHRI E. AYYAPU REDDY: There is only one constitutional authority and that is the President of India or the Government of India. The others are merely consultative agencies.

SHRI P. SHIV SHANKAR: The hon. member is very much correct. If you give me the authority to override every other authority, then I have no objection and in that case I can appoint the judges within one month.

SHRI SOMNATH CHATTERJEE: Also, the point is whether it should be left to the Chief Justice....

SHRI P. SHIV SNANKAR: Let us not argue the matter for the sake of argument. We have got to face the situation within the existing parameters.

SHRI SOMNATH CHATTERJEE: As it is, we have to face the problem.

SHRI P. SHIV SHANKAR: It is bound to be even in the case of your own State. Even in your own State's case—Well, I need not go into it where Chief Justice has recommended it, but the Chief Minister has not agreed to. These things happen. I do not want to go into them because that will be too much of an argument. But then the point is that we are a very complicated and complex society. We try to take everyone along as far as possible. It does happen sometimes that when the rate of the opinion is in favour of facts. All right, we go ahead; even if a particular authority does not agree. Sometimes it had happened. But then the point I would like to tell you is that the non-filling of the vacancies *per se* increases the backlog of the cases is not the very right argument, in my submission. Because there are diverse reasons as to why the backlogs of cases have been increasing. I agree with the hon. Member, Mr. Somnath Chatterjee, when he said that in various cases backlogs have increased with the number having increased.

Sir, the time is short and I thought that I should finish up this Bill today. I do not like to go to further aspects which have been said, this being a measure which goes to better the conditions of the judges. Recently, very rightly some of the Members have said that even with reference to the salaries and allowances, we have increased it from Rs. 3500 to Rs. 8,000. It is a very big jump along with the other perquisites that have been increased. Because, it was felt by the Chief Ministers, the Chief Justices and the Law Ministers that this should be done, and that is why we thought that it is a beneficial legislation and in the larger interests of the society, we have come up with this legislation. With this, I thank the hon. Members for having participated.

SHRISOMNATH CHATTERJEE: What about the usual formula? Tell us that you will consider the suggestions.

SHRIP. SHIV SHANKAR: Suggestions which are not likely to concern, I would not like to see, not even to say.

SHRI A. CHARLES: One point about the High Court Benches.

SHRIP. SHIV SHANKAR. That was the matter which recently, I had also written to the each and every Chief Ministers. The Supreme Court, the hon. Member there sitting can very well say that the difficulty is it is governed by Article 130 of the Constitution. So therefore, the Chief Justice has to make up his mind. Regarding High Court benches, I have recently written letters to all the Chief Ministers. I have some problems with some Chief Justices where they had not agreed. But then as I said, we have to evolve a little agreement between them. Maybe that sometimes we may have to discuss! My colleague rightly said he is going about discussing with the Chief Ministers and Chief Justices. It takes time because sometimes, their own differences also coming in the way of the good decisions. It happens. I would not like to make a comment on that. But we will make our effort. There is a point I what you say. The basic point is that the justice should be meted out at the door-step of the common man. That is the concept on which I my self started this...for having the High Court benches at different places or at least circuit benches. That had been going on. But it does not get a fruition. It has its own problems. But I thank all the hon. Members who have participated. Every one of them have supported the Bill.

Thank you very much.

MR. DEPUTY SPEAKER: The question is:

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

The motion was adopted

MR. DEPUTY SPEAKER: The House will now take up clause by clause consideration of the Bill. The question is:

"That clause 2 stand part of the Bill"

The motion was adopted. Clause 2 was added to the Bill. Clause 1, the Enacting Formula and the title were added to the Bill.

SHRI P. SHIV SHANKAR: I beg to move:

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

17.30 hrs.

HALF-AN-HOUR DISCUSSION

Rate of inflation by 1988

[English]

MR. DEPUTY SPEAKER: It is now almost 5.30 p.m. We now take up Half-an-hour Discussion. Dr. G.S. Rajhans.

[Translation]

DR. G.S. RAJHANS (Jhanjharpur): Mr. Deputy Speaker, Sir, when on the 20th November this subject was being discussed in this House several members from both the sides stood up and said in one voice that the prices of goods have increased a lot. From the government side it was contended that the price increase really is not as much as it

is being claimed. What I mean is that even though the increase in prices is not in double digits but 8 to 9 per cent increase is not in any way less. The truth is that after II World War, except in one or two years, the prices have never increased so much. If you want to see the impact of this inflation, you should visit the remote villages of Bihar, Uttar Pradesh and Bengal and ask the villagers how are they effected by inflation, whether they do get the goods and if so, at what price? Before I proceed further, I would like to ask the hon. Minister to send his economic advisers to agricultural ares. All the economic advisers are urban based and thus ignorant of the truth. They ar just lost in figures that price hike is that much. They say that there is no increase in wholesale prices. But what will we do with the wholesale prices, we are concerned with retail prices. We should go to the market and see how much have the prices increased there. If arresting of price hike goes beyond our control consequences will be disastrous. The history of inflation has been disastrous for a particular country. In your reply the other day you had assured to bring liquidity in control. My submission is that the principle of economics viz. monetary or fiscal policy, liquidity control, credit control are applied only in an economy where there is a fair game and supply meets the demand position. If supply is not adequate to meet the demand, prices will increase and if supply is more than the demand, prices will decrease. It has rightly been said that H₂O forms water. H stands for hydrogen and O for oxygen, both blended together form water. But the same formula fails on the peak of Everest, where this type of blending forms snow. Thus, if the circumstances are not favourable, the laws of economy are of no use. How will you control the liquidity then? You may achieve credit control by not granting loans to the foodgrains trader so that he may not buy foodgrains in good quantity. You may deny loans to oil-seeds. But how are you going to control the accumulation of black money? Transactions in the wholesale