

construction work has not yet been completed. The Members of Parliament have raised this issue on several occasions during the session. Even then adequate funds are not available for this work. The development of these regions has been blocked for want of communication and transportation facilities.

It is, therefore, requested that the Central Government should take steps to construct the Bagaha-Chhitauni Railway bridge in the public interest.

[English]

MR DEPUTY SPEAKER: The House stands adjourned for lunch to reassemble at 14.30 hours.

13.26 hrs.

The Lok Sabha then adjourned for Lunch till thirty minutes past Fourteen of the Clock

The Lok Sabha Reassembled after Lunch at thirty-five minutes Past Fourteen of the Clock

[MR DEPUTY SPEAKER *in the Chair*]

ADVOCATES (AMENDMENT) BILL

[English]

MR DEPUTY SPEAKER: The House now shall take up further consideration of the following motion moved by Shri H R Bhardwaj on the 26th November, 1992, namely:

That the Bill further to amend the Advocates Act 1961 be taken into consideration."

Shri Vijay Kumar Yadav to continue his speech. He is not there.

Shri Syed Shahabuddin

SHRI SYED SHAHABUDIN

(Kishanganj) Mr Deputy-Speaker, the Bill, as it is before us, is uncontroversial and broadly I not only support it but also welcome it. But as I pointed out earlier, I wish the drafting was little nor precise and accurate. It has already been pointed out by senior colleagues and I would like to draw the attention of the hon. Law Minister to the fact that the standard of drafting in the law Ministry is going down precariously. Instead of curbing litigation, perhaps it is giving rise to litigation in many cases because of the loose drafting. There is a loose drafting in this Bill as well.

I would like to take this opportunity to point out the need for some revamping of the entire legal profession. I think the way the legal profession has been conceived, promoted and established in our country is based on an adversarial role of the advocates. On the one hand we say, a lawyer is an officer of the court, and on the other, we always taken only the British Model before us and have not given a thought to more accurately defining the role of the lawyer in the court, outside the court and *inter se* in the profession. For example, the cost and credibility of the litigation has gone up primarily because of the well known fact that our senior and established lawyers are charging higher fees under the table much higher than what is prescribed. Now that leads to the cost of justice going up and that also leads to the denial of justice in many cases. There is a whiff of corruption in this august profession. I think the country will do well to take note of that and take remedial measures in time. There are for example of negative practice in various High Courts. I am sure, the hon. Minister understands what is meant by negative practice, it means that a certain lawyer is paid fees so that the case does not go before a particular Bench or a particular Judge and that is how the money is earned. I think these are things which the legal profession should itself take note and try to cure.

Like other professions, the legal profession must have an apprenticeship system. I think there used to be some system like an Articled Clerk. But today,

from the word 'go' on the first day, when you get a degree, you can go to the bar Council and get yourself registered as a lawyer without any apprenticeship whatsoever. I think some system of apprenticeship must be brought in. In the medical profession there is something called internship, residency, and I don't think why we cannot have some sort of two-year or three-year programmes of Artcledship. Even among the Chartered Accountancy, there is Artcledship. I think that ought to be reintroduced.

I would like to point out to the hon. Minister I am happy- that some power has how been vested in the Bar Council to examine the working of the law Facilities invarious universities because from general education now the flood has taken over legal education just as ordinary Degree Colleges are being opened right and left without any planning whatsoever; exactly, in the same way, Law Colleges are being opened throughout the length and breath of the country without any planning whatsoever. It would amaze the hon. Minister if I let him know that I have a sign board of a Law College in a part of the country just over a couple of huts so and so college. Now, this is happening; this has to be restricted. I think in order to maintain the respectability of the profession and its public status, there has to be some planning of the legal education. How many lawyers does this country finally need? And there has to be some element of control over the admission and over the quality of education being provided in these private Degree Colleges.

There was some talk here about the age limit for entering the profession. Now, Shri Lodha, my hon. colleague made the point that the retired officers enter the profession, if there is no retirement age for the lawyers to retire from the profession, why should there be any limit on the date of entry into the profession? If a lawyer can go on functioning until he passes away, until he reaches the age of 80 to 85 then surely a person at the age of 60 has every right to enter the legal

profession if he has the requisite qualification. The two things do not match. There has to be some sort of an age limit, if possible with some retirement benefits for the legal profession. That must be introduced as by the profession itself.

Finally, I would like to make a point that I am a lawyer by profession. I must confess to this that the legal profession is also responsible for the build up of arrears in the courts.

I think, the reasons is, not only not enough judges. I think one reasons for the large scale litigations and continued litigation is the fact that there is an overflow of the number of lawyers who are prepared to ask for adjournment and get another fee and yet another fee. That way the case goes on. I think suitable reform in this connection is also necessary. The pile-up of the cases will not go down merely increasing the number of judges and the number of Benches. I think some inner discipline in the profession is called for.

With these suggestions, which I have taken the opportunity to present to the hon. Law Minister, I thank you for giving me a chance I support this Bill.

MR. DEPUTY SPEAKER: The time allotted for the subject was only one hour. Now it has taken one hour and thirty five minutes. Therefore, the time at our disposal is very short. So the subsequent speakers may please be brief.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD): I think, we can ask the Minister to reply.

[*Translation*]

SHRI KAMLA MISHRA MADHUKAR (Motihari): Mr. Deputy Speaker, Sir, the hon. Minister has not been clear on some points in the very objectives of the Bill that has been introduced by him. I would like to relate a brief story about the lawyers. I have a personal experience in this regard. A certain person was arrested in court of Uttar Pradesh

[Sh. Kamla Mishra Madhukar]

person was arrested in court of Uttar Pradesh under the Arms Act and was put under custody. On investigating on it was discovered that a particular lawyer had much access to the judge who was hearing the case. The said Judge took bribe thought the lawyer and ultimately released the person under custody on bail, I am relating the fact that I saw with my own eyes. This incident occurred in Meerut. such things are taking place these days.

Junior lawyers are now leading a very miserable life, clients do not pay fees to them. After day's hard labour they return home in the evening empty handed. What is being done for their welfare by the Government. Is the Government thinking of providing them some minimum facilities? They are facing numerous hardships. Does the Government propose to provide them some allowances? There is also a proposal to introduce a welfare programme for them, but how can it be implemented. How is it possible to implement the scheme without funds? The Government should, therefore constitute a fund so that the Junior lawyers who are poor and miserable may be in a position to meet the minimum needs of their life. These days Government service is not available nor are there employment opportunities in private companies. Since they do not get any employment after completion of B.A. and M.A. they are forced to call to the bar. The helpless poor fall prey of their grip. Now it is the responsibility of the Government to look into it.

The Government should implement the decision of the Supreme Court regarding reservation. It is good that the entrance fees in respect of the lawyers belonging to Scheduled Castes have been reduced. We also do support it, but Government should also ensure that the benefit of special reservation are availed of by people belonging to Scheduled Castes. I would also like to know whether the Government proposes to increase the facilities for the people belonging to reserved categories so that there could be

further reduction in their admission and enrollment fees. The provisions of reservation should be put to practice. If necessary, the Government should constitute separate fund for this purpose.

There are many instance where the financially well off lawyers have links with particular Magistrates. They take bribe. I do not intend to cast any aspersion on the Ministry of Law. I am simply relating the facts what I saw with my own eyes. This corrupts the Judiciary and increase the hardship of general public and the poor. This is also ultimately responsible for the increase in the number of litigations. Syed Shahbuddin has rightly said that it is due to lawyers that the dates of cases are extended. This weight heavily upon the poor. The Government talks of making the lawyers' profession a judicious one and also aims at arousing a consciousness among the people to be law abiding. But it should consider the points as to how it is possible? When the judiciary is in the worst State and where bribing has become the order of the day, how is it possible to think of welfare of the public.

I am not aware whether there have been any consultations on this point with the Democratic Lawyers Association or the Bar Associations. Actually, the Government should have introduced a comprehensive Bill so that all the main points would have been incorporated in it. Provision should be made so that the junior lawyers may also avail themselves of all facilities. The Government should put a check on corruption in the judiciary as also on the bribe in which lawyers are involved. Similarly, the Government should have made a provision in this Bill. Its benefits should be enjoyed by the Junior lawyers belonging to the reserved category. No doubt, the objective of this Bill is good but it will not be achieved in the manner the Government is trying. The Government will have to bring a fresh Bill or it will have to resort to amendment in the Bill., The Government should have brought forward a comprehensive Bill once and for all. We would not have been hesitant in supporting the Bill had the Government taken all these points into consideration.

SHRI PAWAN KUMAR BANSAL
(Chandigarh): Mr. Deputy -Speaker, Sir, one very outstanding feature of this amending Bill is that it seeks to impart real meaning to the democratic working of the State Bar Councils.

It is a human tendency that any one to us who comes to occupy a particular office may at times not like to vacate the same. That has been the observation of all of us as far as the working of the State Bar Council is concerned. Now the amendment which the hon. Minister has brought is that election should ordinarily be held within a period of five years. The Bar Council of India may extend that period for six months, if still the State Bar Council fails to hold elections within that period the Bar Council of India would suspend, would put an end to the life of the State Bar Council and a special Committee would come into existence, which would be charged with the responsibility of holding the elections. I think, this is a very statutory provisions which deserves outright approval because this would make it mandatory for the sitting members of the State Bar Council to ensure that elections are held in time.

I would like to bring to the notice of the hon. Minister that I am sure he is aware of it otherwise and as I learn this Bill was drafted earlier-it may not be encompassing within its scope many other things which we have experienced with the passage of time. I think, there is a need to lay down as to what procedure really has to be followed as far as elections to the Bar Councils are concerned. In the past we saw is that the systems of collecting the ballot papers personally or getting them posted leads to many malpractices. It should be made mandatory. Maybe it means little more expense. You are enhancing the amount of Membership fee and. I suppose, the State Bar Council should be able to bear that. They can seek assistance from the Universities; from the electoral staff of the State Concerned. But it should be ensured that the elections are held strictly by secret ballots conducted, may be at the

District headquarters or even at the Tehsil headquarters, where the practising advocates should be able to participate in the elections. And only then, we would have democracy in the spirit of the word.

When I talk of the Bar Councils, there is one point which I would like to mention. I have some sort of a reservation about it. The provision seems to be good as such. That is, it has to be the objective of the Bar Councils to ensure the growth of the Bar Associations for taking up certain programmes relating to the welfare of the advocates. On the face of it, it is a very good provision because the Bar Council and the Bar Associations should be charged with that responsibility. It should primarily be the responsibility of these organisations to ensure that new entrants to the profession come to the profession with honour and stay in the profession with honour. But, I suppose, again this could lead to the development of some sort of a tendency on the part of the State Bar Council to interfere with the working of the Bar Association at the High Court, the Bar Association at the District level and the Bar Association at the Mofussil Courts. What would happen is that whereas under the present practice, these Bar Associations are completely independent entitled now there could be some sort of inroads into their functioning. This we have to scrupulously check. And I think, this can be done by making some amendment may be not in the Act but this could possible be done by making some amendments in the rules which can be framed with to time.

Sir, one very important function which the State Bar Council and the Bar Council of India are charged with is dealing with the cases relating to the disciplinary proceedings. And for that also, I feel that it is time for us to give a fresh look to the rules relating to those matters and some more elaborate guidelines have to be provided so that people who are guilty of violating the legal professional ethics do not go scot free. But at the same time this should not become a tool in the hands of some wily clients also to harass the lawyers, may be after the result of a particular case. And because of the bell Sir, I would not like to dwell on this., I would conclude this part

[Sh. Pawan Kumar Bansal]
here.

Very briefly I would like to refer to one or two things. I know the hon. Minister took a step long back to work out a scheme like Benevolent Fund for the advocates and may be resource constraints have somehow put it in the cold storage for the time being. But, I think, there are certain other very small measures not necessarily to be taken up by the Ministry of Law but nevertheless which would be the function of the Government. In this connection, I would like to mention that today the Government is encouraging people who take to self employment oriented jobs and today the emphasis is not on Government jobs but on creating opportunities for people to have some sort of an income. And it is in that category, that the lawyers would fall. To begin with, when a person enters the profession, some sort of loan without any collateral security should be given to him for building up a library and for buying a vehicle. I would like to say one very important thing and it is not merely concerned with this Ministry but it is nevertheless very important that the category of lawyers should be included in the special category for the grant of telephones. There are many professions which come in this category. And there is no reason to deny this one simple facility to the lawyer because each lawyer requires a telephone. It is not something like a luxury to him. It is a necessity for him to do his job more efficiently because clients have to contact by him. There is no denying the fact that a lawyer is not just a professional; a lawyer is an important part of our society he is an important part of our judicial system. He is as much an Officer of the Court as a Judicial Officer himself. Therefore, we have got to ensure that these basic things are given to him and it would help the lawyer to discharge his duties well. And I suppose it becomes the responsibility of the State to cater to these.

To conclude I would very briefly refer to one remark which Mr. Lodha made the other day while initiating the debate. When he talked about certain things relating to appointment of Government lawyers, we

cannot lose sight of the fact that the relationship between the lawyers and the clients is that of mutual faith and is a personal relationship. We may ask Government for certain benefits but I think we transgress that limit when we ask the Government to ensure that it follows a particular policy or a particular guideline to distribute work. I suppose that it is just the responsibility of any Government, any Department anywhere to engage any lawyer they feel like. When you talk of the legal aid, yes and when you want to involve lawyers in Lok Adalat, yes. That is where the Bar Associations and the Bar Council should come forth. But when you want to enforce upon the Government as to how they should pick up their lawyers, I think we transgress our jurisdiction and we should keep away from that.

Finally I would only lay emphasis on one thing. There was a thought about the duration of the law course. A serious thought was being given to it that it should be a five year course but since something went away somewhere. And I suppose there are one or two places which have five year course and the others have three year course. I think different branches of law are becoming very complicated. For instance, even a service matter, service jurisprudence is becoming so complicated now. And there are many other branches, Mercantile Law and other branches are coming up. It is imperative that we introduce a five year course and that would also save the student of one year because after 10+2+3+ he does the graduation and thereafter spending another three years for law means that he spends one year extra. If a student after taking plus two examinations if he were to go in for a five year course, that would be ideal because he would start learning some lessons in law right at that stage. This is not a very simple question. It would need a lot of consultations. But I think, some sort of consultations, discussions on this should start.

I am sorry, I am using the words 'to conclude' again and again. I would now really conclude by saying one more thing. When we say that Bar Council should have a right to visit the Universities, they should also have a right to send representatives to

the senates of the Universities. This should also be explored because their presence on the senates of the Universities would provide them right opportunity to participate in the discussion, as far as the matter concerning law and the study of law are concerned.

15.00 hrs.

[Translation]

SHRI RAJENDRA KUMAR SHARMA (Rampur): Mr. Deputy Speaker, Sir, thank you. Sir, before expressing my views on Advocates Amendment Bill, I think it necessary to express my views on judiciary. Sir, hon Minister has been a reputed advocate himself and the State of judiciary prevailing in the country today is not hidden from any body and if corrective measures were not taken in time, people would lose confidence in judiciary.

Tens of thousands of cases are lying pending in the High Court of Uttar Pradesh today and they are not decided for year together. As the saying goes, "Justice delayed is justice denied" so, the more the justice is delayed the more it will not be dispensed. In fact, no one is getting fair justice under the present judiciary system. Justice is done in favour of those who have money, which is most unfortunate. The poor for whom we raise here are suffering as they are not getting justice. None is there to hear this grievance.

There have talks of Adalats. I would like the hon. Minister to streamline the functioning of Lok Adalats and make an amendment in this Bill so that more and more people may benefit from it and may get cheap and free justice. Sir, the amendment made in the Bill all welcome and the fees of advocates, which has been raised from Rs. 2.50 to Rs. 700, is also welcome. But I would like to know from the hon. Minister whether the funds available with our Bar Councils may do any welfare of the advocates. We have a social welfare scheme for advocates but the fund is so meagre that no social welfare

scheme can be launched for our advocates. I would like to request the hon. Minister to make available grants from the State or Central Governments for these funds so that more money is available with them. Today advocates are in dire need of proper sitting arrangements and chambers. One can see the plight of clients in courts, there is no sitting arrangement for them while it is they who pay hefty fee to State Government. The Bar Council should be responsible for all these things and it should be our duty to strengthen the Bar Council to a great extent.

Sir, a provision has been made for conducting the meetings of the Bar Councils at other places instead of the places where High Courts are located. I would like to submit to the hon. Minister that it is necessary to conduct meetings at other places. Of course, if these meetings are conducted at the districts of that particular state, it is certainly a welcome step.

Sir, the members of our bar Councils would go to universities and carry out inspection of libraries which are not required there. I would like to say it very clearly that these libraries are required in district courts. Are rich libraries really available to our advocates there? This matter needs urgent attention.

Sir, at the same time, I would like to submit that a Bill in connection with the appointments had been introduced at the time of when Shri V.P. Singh was in power. All the politics being played in the appointments of Judges of High Courts and Supreme Courts has to be stopped. The main reasons for falling standard of judiciary is this that while making appointment we take decision keeping in view our political interests. The Bill should be re-introduced in this House in order to think over all these aspects.

Sir, I would like to submit that the Lokpal Bill should be passed as soon as possible and all the officers of the Chief Minister and the Prime Minister etc. should be brought under its purview so that the corruption in public life is checked and strict action taken.

[Sh. Rajendra Kumar Sharma]

Unless strict action is taken against checking corruption, it cannot be checked.

I would like to make more point. When one becomes advocate and gets oneself registered, one cannot practice in the courts the Excise Commissioner and in the Family Court. Therefore it is my submission that Section 30 should be applied and no advocate should be allowed to practise in all courts after registration. The hon. Minister should pay attention to it.

Sir, the most serious today is that the gap between advocates and judiciary continue to be widened. It should be the role of our State Bar Council that it may pay attention to it. Advocate go on strike for a couple of months and stage dharnas. With the result, poor clients have to suffer. They don't get justice and have to face difficulties. There is need to pay attention to it as well.

Similarly the senior Judges of High courts and Supreme Court, including the Chief Justice, should not practise after their retirement. They can give advice sitting in their private chamber, but it does not behove of them to present themselves physically in courts because in that case it becomes very difficult for the judges, who have been their subordinates, to deliver Judgement. It is contrary to the spirit of justice. Attention should be paid to this fact.

15.37 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

I would like to make one more point. Whenever any Government comes to power. new panels of advocates are prepared and empanelled advocates find themselves in trouble. In Supreme Court, High Court and district courts panels are prepared on political grounds. The advocates, who are on the existing panels, are removed. There should be some specific ground for this purpose. Bar Council should be taken in the Committee that prepare panel. Panels not be made on political considerations. The Government

should pay attention to it.

In the end, I would like to make one more important point. Today judiciary is under fire. Criminals are intimidating senior judges. Such atmosphere should not be allowed to emerge. The Government should give it some thinking. To keep cases pending for long periods of providing harmful. Government should take necessary corrective measures.

With these words, I expressing my gratitudes and hope the hon. Minister would pay attention to my suggestions. I support all the amendments that have been moved.

[*English*]

SHRI P.C. THOMAS (Muvattupuzha): Sir, should the wearing of black coats and black gowns by the lawyers continue? *shall we not change to Indian conditions? Should we follow the old British or the European method of continuing with that dress? I think the advocates are being misled because of this dress which they are wearing. Even in hot summer, they have to wear the black coat and tie. I think there must be a change.

This is a profession which is so noble but which is so misunderstand nowadays. It is because of various changes that have come in the society as well as amongst the lawyers and in their profession also.

I think this Act, which provides for giving more powers to the Bar Council in respect of giving training or putting up libraries as well as having some control over universities and for implementing the welfare schemes for the lawyers, is a welcome step. This is welcome step. But I would think that in the drafting, as has already been stated, some every serious changes must be thought of. Of course, I know that it is not the new Government which has actually drafted it. The drafting should change, not only in this law but in all our laws. Of course, we do make legislations. But these laws, when they are made, are so complicated that the normal citizen is not able to understand them.

I find one serious anomaly in this. It may

not be serious. But it may become very serious. I would like to draw the attention of the hon. Minister to this aspect. On page 2, line 30 where the formation of the special committee is stated, there is a mention that a senior-most among the ex-officio members shall be the Chairman. I think this has to be made clear as to whether it is the seniority in age, or seniority by profession or seniority in ex-officio position which is taken into account. Secondly I would also think that on page 3 there must be a mention of some limitation as to the extent to which Bar Council of India can prolong or can exceed the time of this committee for conducting elections.

With regard to the general aspects, I would submit a few points. One thing is about the India Judicial Service. This has been stated by the Supreme Court and the Supreme Court, in fact has given some directions also with regard to the formulation of judicial service by I.J.S. I think that must be taken into very serious consideration.

With regard to court I want to say something. Of course, this is not directly coming under this Act. But court fee is something where must be some reduction. I think this has to be discussed in detail because the litigants are finding it so difficult to go courts for getting justice.

About the fees of advocate many things have been stated and many hon. Members have stated that lawyers are charging enormous fee. But this is only true with regard to a few lawyers who come to the top and who are supposed to be cream. There are so many lawyers who do not get a proper fee. For example I can say that in the Fee Rules, for an injunction case which may prolong for days together for examination of witnesses and the conduction of the case as such the fee which is provided under the rules is Rs. 50 even now, which I think is too low. I think this has to be taken into consideration and some reforms have to be brought in with regard to this aspect of the

fees which can be charged by lawyers. Of course, a limit may be brought in with regard to some types of cases where the lawyers are supposed to charge very heavily.

I may submit one word with regard to the problems of the junior lawyers. Many have already stated that junior lawyers who come to the profession are finding it so difficult to exist. There may be some apprenticeship or some training etc. But those who come to the profession in the young age and those who are trying to strive in this profession are finding it very difficult because of the financial constraints. I think their problems must be very seriously dealt with and the Central Government must take a commission to study the problems of these youngsters who are coming large numbers to this profession.

There are often cases of misconduct and there are cases where the profession itself is let down by the competition which is coming and by the kind of doubting which has come into the profession and by the lowering of the profession by the enormous number of entrants who are coming. But, I think, the lawyers who are serious in this profession, who come to this profession to serve the society, to serve the litigations, must be cared for. Some steps must be taken to provide some financial assistance or some assistance for getting library books etc.

I would conclude by supporting my colleague Shri Bansal for one point which he said which is about the telephones. The hon. Ministry of Communications is here. I think the lawyers are a class who have been completely left out in this category. This is something which should be taken seriously. I think this has been brought to the House many a time. I may submit that no legislation is actually necessary and it is only an executive order which is needed. I hope the hon. Minister will look into this.

In conclusion I would only submit that the Bill which says about the welfare schemes of the lawyers is a very good measure.

I think that the first step in this regard was taken by the Kerala Government which has started welfare schemes for the lawyers.

With these words I conclude.

[Translation]

SHRI SANTOSH KUMAR GANGWAR (Bareilly): Mr. Chairman Sir, a very small Bill is being presented. It was brought in the previous Lok Sabha and it has been brought again since the previous Lok Sabha was dissolved. Much has been said about it. It would have been better if it was brought after a deep thinking. Since the formation of this Bill 13 amendments have been made in it. Even now the amendment in it is being done to a certain limit. This amendment will not help the advocates. But it is being said that it will mostly benefit the advocates. If you enquire about some new advocate in this regard you will come to know everything. Much damage has been done in the last 40 years. The education has degraded. The one who does not get admission anywhere seeks admission in L.L.B. No attention has been paid to it during the last so many years. Therefore, it should be pondered over and new criterion should be laid down for it. The problems and the complaints of the advocates have been repeated here. It is necessary that a uniform education policy should be there in the whole of the country. It should not be that somewhere it is of one year, somewhere it is of two years and somewhere it is three or five years. The admission procedure should be same everywhere, since there are many confusions about the admission. Some of the universities are bringing a change into it. The education should be completed in three years and there should be provision of practical learning for 6 months. Because today when an advocate starts practising, he is unaware of certain things. Today, 50 percent of the advocates in the Courts are such who can not earn even the minimum wages, they have to spend money from their own pocket to attend the court. They should be provided with the facility of Chambers and library.

Therefore, keeping all these things in mind a comprehensive Bill should have been brought.

You have raised fee and it is said that the meetings of the State Bar Council and Central Bar Council will be held at a place other than the centre, but it should be kept in mind that this provision should not be misused. The degradation during the last 40 years can be seen everywhere. Unless politics is set aside of it, there can be improvement in the judiciary system. The judges are appointed on political basis then how can we hope for the betterment. Today, the judicial process is so much complicated that if a person files a suit no decision is taken till his grand children are born. The work should be done in the direction of removing this flaw. Arrangements should be made to provide immediate and accessible justice to the people. Lok Adalats should be encouraged and the litigants should be given proper facilities since all these things are related to that.

I don't want to go into the details but I would like to say that I do not oppose the Bill brought by the hon. Minister but a Comprehensive Bill should have been brought in which all these things should have been included. Setting up of a commission for the selection of judges has been talked about since long but it has not been implemented as yet. At the time of the selection of the judges resentment can be seen among the people and they resign. The Chief Justice of the Punjab and Haryana, High Court has just resigned because his junior was promoted. Many matters related to the states lie pending with the Centre and these should also be decided at the earliest. The Bills which are sent to the Centre after recommendations should be decided at the earliest. The Government of Uttar Pradesh had taken an important decision but the same has not been decided even after the six months have passed. We have sent a Bill to the Centre for approval regarding prevention of cow slaughter in whole of the Uttar Pradesh, but the approval has not been granted even now. More over 6 Bills of the Government of Uttar Pradesh are lying pending with the

Central Government for approval. On one hand the legal process creates problem and on the other hand the weakness of the law gives a chance to the people to laugh at. The need of the hour is that the judiciary should be placed on the highest level. It should be considered above all the political differences and it is necessary that we should think over all of its aspects. An advocate holds an important place and he should be considered of that rank. He also works in the supreme court. The age limit for an advocate should be 60 or 65 years i.e. he would practise law till that age, but it is not so. A lawyer in my district is 70 years old and if he falls ill then it takes 6 months in taking the new date the court. So due attention should be paid towards it.

At last, my suggestion is that the advocates go on strike, which should be banned by the judiciary that the strike will not be allowed. Although I have many more things to say but several hon. Members have expressed their views in this regard. So, the hon. Minister while replying should accept those suggestions while making amendments in the Bill. I have no objection to this Bill but a system should be evolved through which instead of raising figures on the judiciary, the people should talk about respectfully. I express my gratitude to you for giving me an opportunity to speak.

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Chairman, Sir, my submission to the hon. Law Minister is that he himself had been a lawyer and the advocates are considered to be most civilised community of the society. When one does not get job anywhere, he goes for L.L.B. becomes an advocate and starts practising law, and the leaders also after retirement from politics start their shops. It appears to me that after the elections when some people will retire from the Lok Sabha, they will have to do the same business. Therefore my submission is that as you are the Minister you should do good to these people.

Mr. Chairman Sir, when a girl completes

her L.L.B. then the parents have to search an L.L.B. match for her and when they succeed in finding a suitable match the girl is married with him. Nothing should be done so that the lawyers may feel neglected. I hope that all these things will be kept in mind while making amendment in this Bill. It is a very good Bill and I welcome it.

Mr. Chairman Sir, you are well aware of the fact that the cases in the Court lie pending for long. The example of Ayodhya issue is before you, it has been pending for many years. If it had been decided earlier then the present situation would not have come up. The cases in the courts remain pending for 40 years and the generation passes away in the process. This process should be made easy so that the cases can be decided at the earliest. Election petition should be decided within six months but it takes six long years and by that time the other election comes. I understand that a person, who is defeated in the election has to face many problems and he has to pay the fees of the advocates. It should also be pondered over and how the cases can be settled at the earliest should also be thought over. Now comes the legal process. I mean to say that this process has been continuing since the days of the British rule and it is also existing in the country even after 44-45 years. This process is going on even after the Britishers have left the country. It does not seem that any improvement has been brought about in this procedure in India. In this regard, I would like to suggest that this procedure should be simplified so that people may get justice at low cost.

When our colleague Shri Guman Mal Lodha was a judge of the High Court, he was also a judge of the Supreme Court a gentleman wrote him a post card about his grievances. Shri Lodha Ji treated that post-card as a petition and passed his judgement on that. At times he also initiated necessary legal action on the basis of news items published in the newspapers. So what I intend to say is that the Government should implement the good things in the direction of simplifying the legal procedure.

[Sh. Girdhari Lal Bhargava]

One of my submission is that the Government should also provide grants to the Bar Councils. If the Government fixes the amount at Rs. 250 or Rs. 750, I think that will not be sufficient as one cannot buy even one book of law with that amount of money. It is, therefore, imperative that the Government of India should provide assistance to the Bar Councils by way of grants. My next submission is that a lot of time is taken in making the appointment of Judges. In the first place appointments are not made and whenever the appointments are made, there are made on political basis. This practise is not good. There should actually be a tribunal for making appointments to the post of judges. Many posts of judges are lying vacant in Rajasthan. When the posts are vacant and judges are not there in adequate number to administer justice, how will then the people get swift and inexpensive justice? There should be a time frame for filling up all the vacant posts, say for example, a vacant post should be filled up within one or two months from the date of its falling vacant. The Government can do it easily. If it takes two to four years in filling up the vacant posts, it is not good. I would, therefore, like to submit that there should be a tribunal for that purpose.

My next demand is that more and more Lok Adalats should be set up and free legal aid should be available in these courts. All including the Prime Minister and the Chief Minister should come under the purview of the Lok Pal Bill. My next submission is that as the Doctors and Engineers are provided loans similarly the lawyers should be provided loan for library by the Finance Department or by the Banks. If the lawyers do not have good library, the clients will not consider them as good lawyers. A lawyer, having a large collection of books in his library definitely impress his clients. The Government should provide loan facilities to the lawyers either through Finance Department or through Bank for the purpose of books and furniture.

There is one more issue concerning

telephone facility. Doctors and Engineers get telephone connection on priority basis. We M.Ps can recommend for 10 telephone connections. My lawyers taunts that what is the use of my becoming an M.P. when I cannot get him a telephone connection. The lawyer should also therefore, be given telephone facility on priority basis.

My next submission is that when a lawyer puts a board at his house, say like 'Girdhari Lal Bhargava - Advocate' he has then to pay the water and electricity charge on commercial rates. If an ordinary person pays one rupee, the lawyer will have to pay two and a half rupees. When I become a lawyer, I do not get any special supply of Ganga water, but simply because I have put up the board of advocate, I will have to pay at commercial rates. The Government should give some relaxation and should not charge at commercial rates. This is what I want to submit.

Lastly, I would like to remind that previously the examination of the Bar Council was conducted after the completion of two years course. After that the Junior lawyers had to work under some Senior lawyers for two years or six months and then they had to obtain the experience certificate. Now, what we see is that there are lawyers who are of course for all practical purposes, lawyers, but their knowledge is not more than that of Munshis. I would, therefore, like to submit that the present course should be of six months duration and at the end of the course a certificate of completion of the course should be issued.

There used to be the examination of Bar Council. The examination was both written and oral. If both types of the examination are revived, it would enable the new-lawyers to have the minimum knowledge as how to stand in the court and plead in the court. Now the lawyers do not have even this much knowledge. I would, therefore, like to submit that the old practice of conducting both types of examination of the Bar Council should be restored. An interview for all the lawyers should also be made compulsory.

Lastly, I would like to submit that the Government should also make provisions

to allow the lawyers to present before the family courts. The hon. Minister is himself a lawyer, so he must be knowing the present plight of the lawyers. He must be knowing that there are lawyers who do not have chambers of their own. As they do not have chambers, so they have to sit beneath neem tree and pipal tree while there are others who put their chair somewhere and sit on it. At times, the chairs in which they sit are broken. If such a neglecting attitude is adopted towards the lawyers even during his tenure as the Minister of law and justice, then it would be a matter of great regret. Time is everchanging. He is witnessing as to how the things are taking shape in the country. We have witnessed the ninth and the tenth Lok Sabha and we do not know how soon we will have to see the eleventh Lok Sabha. I would, therefore, like to submit that he should realise the importance of time. He is now the Minister of Law and Justice so he has got the opportunity to do something and it is quite uncertain whether he will have this opportunity in future or not, so he should act according to the constructive suggestions given by me to serve the interests of the lawyers. If he misses this opportunity, he will realise later on that what Mr. Bhargava had suggested at half past three on 30th November was right. He will have to repent then, I would, therefore, again submit that my suggestions should be accepted. With these words I would conclude and would thank Mr. Chairman, for providing me an opportunity to express my views.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Mr. Chairman, Sir, I am very grateful to the hon. Members who have contributed a lot of points in the consideration of this Bill. The measures suggested in this Bill are very few but hon. members who have spoken have contributed in a large number on very vital issues which will help in improving

our justice administration system and legal system.

There are no two opinions on the issue that justice administration system and the legal system reflect the ethos and the culture of the society to which they belong. If you have an efficient justice administration system and efficient legal system, this goes to show that it is a very cultured and civilised society. So, these two institutions, the judiciary and the legal profession, are considered the noble professions along with other noble professions and their role, before and after independence. It is recorded in folded letters in history. I concede that a lot is to be done to revamp the image of the bar. A lot has to be done to improve the image of the judiciary also. There are no opinions on this issue and as hon. Member Shri Syed Shahabuddin suggested it is not patch work that is needed today. It is total review of the system whether you take one plea or the other. We called it the Westminster system, we copied it and we are following it. That is why, a change is necessary. If you say that it is not in tune with the Indian genius, and that is why we have to review. There are various reasons for which we have to take a fresh look at the Indian Justice Administration system and legal system. But one must accept one fact that our legal profession and our justice system have been able to carry lot of burden today and, therefore, lot of work is to be done. So, in tune with what I say, I called immediately one meeting with the Law Ministers of all the States, about a month and half before. We cannot do this good work unless we talk to the States. It is because of the fact that all our Courts right up to the District Courts and then the High Court are located in various States and the administration of justice is vested in the High Court. The Subordinate Judiciary is also under the administrative control of the High Court. So, we thought it proper that before embarking upon any programme touching these two sensitive Institutions, we must talk together and we must have an Agenda before us, the Agenda relating to these two issues. So, I discussed thoroughly in the

[Sh. H.R. Bhardwa]

Bangalore and in Mysore these issues relating to the justice administration and the legal profession.

Sir, I concede further that we have been asking for one thing. There has been a debate in Parliament several times and outside the Parliament several times when it is said that India must have a system which is speedy, which is inexpensive, which is cost-effective and which is substantial justice. This system must be given immediate relief so that it can serve the common man and the most under-privileged man in the country. That is our firm commitment that we must bring ultimately a justice administration system to those four vital points. It must be speedy, it must be substantial, it must be inexpensive and effective. But have you ever seen a decision on such a vital issue without a dialogue, without a discussion between the litigants, between the consumer of justice as we call them, between the legal profession. I am pained to say today that there is no dialogue. Today, if we invite a section of the Bar to discuss a particular issue, there is no response. We want to discuss every issue with the members of the Bar, all the Members of the Bar who are Members of this House also. They will recognise one fact that judicial independence and the independence of the legal profession are paramount for the success of the rule of law and democracy ultimately. But unless you have a dialogue exchange of view interaction on all these issues, any decision, any quick decision this way or that way would ultimately lead to certain infraction of one point of view or the other. So, we have invited the Bar Councils on this particular Bill. There has been total unanimity among all the bar Councils of the State and the Bar Council of India. They are the representative bodies. So, we have immediately taken up this with this august House.

Sir, certain other matters have been raised by Shri Guman Mal Lodha. He has been a very active judge. I know him personally. He has contributed a lot in the Lok Adalat in the Public Interest Litigation and he has some very good ideas. I had

used his ideas when I was a Minister earlier. For five years we sorted out lakhs of cases through the mechanism of Lok Adalats. We used to meet. I am very happy to inform this august House that such Judges who are prepared to come out of their Ivory Towers and serve the people are welcome. That is the Indian genius—that if you see a poor man not able to reach the Court of Justice, the Judge must reach the poor. This system was evolved and it is being pursued. We have already introduced the National Legal Aid Services authority Bill which is pending, which will come very shortly for the consideration of this House. The Institution of Lok Adalat is being inbuilt there and a full Chapter has been given. In all the cases which will be decided by the Lok Adalat, the court fee paid by the party will be refunded. Legal Assistance, Legal aid would be provided. That system is also being experimented. It has almost succeeded. This is going to be adopted permanently in the Indian administration of justice.

There are a few gestions in regard to the welfare scheme of the lawyers. I also concede one fact. I am happy that the hon. Members have raised the issue that the weaker sections—whom we call the Socially and Educationally Backward section of Society—are coming to the Bar in large numbers now; the Scheduled Castes and the Scheduled Tribes are also coming in large numbers now. It is not a very unhealthy sign; it is a very healthy sign that they also come and become lawyers. So, we have to see that welfare schemes for these under-privileged sections of the society, who get an opportunity to be enrolled as lawyers are given and the welfare measures have to be provided.

I am informing the august House that a Bill has already been drafted. In some States, there are welfare measures. For instance, the State of Kerala and there is also one in Bihar. But we want to bring in uniformity in the welfare system. So, we had constituted a Committee under Justice Barul Islam. They gave a report and we have already drafted a Bill. But unfortunately, the elections were held which we lost and, therefore, I could implement that. I am committed to bring the welfare to the poor lawyers wherever I get an

opportunity. It is recognised that this measure has to be brought in. It is a commitment from our side. We are going to recognise the need for these welfare schemes and people who were not so rich enough to stand on their own legs at the inception stage at the Bar, they must be helped. So, young and under-privileged lawyers have to supported so that they can also contribute in the justice administration system.

I am also reminded of several other points which the hon. Members have suggested. Regarding the Court Fees measure, there is already a decision to rationalise the court fees and to some extent abolish it. Why should we not charge court fees from a rich client? These principles have been accepted and we are already working in that direction. All the law Ministers of the States, irrespective of the party governments have been given that agenda and I am happy that they will be meeting again after the Parliament session and we will take a quick decision.

With regard to the neglect of judicial infrastructure, this was also recognised and we have now made the buildings, court rooms, Bar room and Chambers as part of the plan expenditure. I did that worked as a Planning Minister. I am happy that we have requested the States and they are also coming forward with various proposals to re-equip their Bar rooms and Bar Associations rooms and court rooms. These programmes will continue.

The Bar Councils felt that the money for their office administration and running the Bar Council is not with them. They are finding a lot of difficulties due to paucity of funds. They are just increasing their enrollment fees.

With regard to section 30 a demand has been made. I am happy to inform the House that so far as the Ministry of Law is concerned, the Government has decided to enforce Section 30 of the Act. Justice Lodha was very particular about it. I am happy to inform

that we have also taken a decision to file a counter-affidavit in the Supreme Court with regard to the pending cases saying that the Government now proposes to amend this section and to enforce the provisions of Section 30 with two limitations, namely, the Family Courts and Labour Courts. These are two issues which come under the domain of other Ministries where I cannot interfere. But we have now decided to enforce Section 30 also.

One hon. Member asked: "Why the Bar Councils should meet outside their headquarters?" The idea that these headquarters are located mostly in the capitals. Supposing the Bar Councils wants to hold a meeting away from the headquarters, in another district of the State, there should be no objection. After all, they are autonomous bodies; they can meet in one district at one time and in another district at another time. That would give them a little freedom in their working. But, that would not entail more expenditure. Bar Council of India and Bar Councils of States, they are autonomous bodies and I think that they will take care of their functioning. We need not really suspect their motives in holding the meetings at other places than at their headquarters.

With the regard to Section 24 (A), as I said this is another disqualification which was added. If a dismissed person wants to be enrolled, for two years he will not be entitled to be enrolled. The disqualification goes along with other disqualifications.

You may kindly look at the three or four measures which we have given. One is to increase the fees. Then the second one is elections. The most important amendment in this Bill is that democratic process must be restored. Some of the Bar Councils, even if five years were elapsed, they were not holding the elections. So we have come with the measures where elections will definitely be held after five years. After the term expires the Bar Council of India would immediately steps into holding the elections.

I am very happy that hon. Members

have supported all these measures. I can give you an assurance regarding the appointment of judges. I can assure you that for is there are only two considerations. - one is the man must be of merit, man of integrity and he should be deserving to become a High Court judge. The consultation process is contained in the Constitution. We have to adhere to it unless another systems evolved or introduced. So the plea that there are political appointments is wholly intenable. All the judges who are appointed are appointed after thorough scrutiny by the Chief Justice of the High Courts and the Chief Justice of the Supreme Court. No appointment would be made unless there are recommendations from Chief Justice. We can expect that Chief Justice do consult the Chief Minister and the Governor because that is the constitutional mandate. These things do cause some delay in consultation process; but the institution of judge is very important and this consultation is mandatory under the Constitution. We have to do that. How speedily we can make appointment, it is our job. We are expediting even cases referred to us by various States. I am in touch with the respective constitutional authorities and I assure you that we will make the appointments very quickly.

With these observations, I commend this hon. House to pass this Bill.

MR. CHAIRMAN: There are three amendments moved to the Motion for Consideration of the Bill by Shri Mohan Singh, Shri Girdhari Lal Bhargava and Prof. Rasa Singh Rawat. Are they present their amendments.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: I have made my point. So I am not pressing my amendment.

[English]

Amendment No.2 was deemed to have been negatived.

PROF. RASA SINGH RAWAT (Aimer): I am pressing my amendment Sir.

MR. CHAIRMAN: I shall now put amendment No.1 moved by Shri Mohan Singh and amendment No.3 moved by Prof. Rasa Singh Rawat. to the Consideration Motion to the vote of the House.

Amendment No.1 and 3 were put and negatived.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Advocates Act 1961, be taken into consideration"

The motion was adopted.

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill. The question is:

"That clause 2 to 9 stand part of the Bill"

The motion was adopted.

Clauses 2 to 9 were added to the Bill.

MR. CHAIRMAN: The question is:

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

The motion was adopted.

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

SHRI H.R. BHARDWAJ: Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The Bill be passed.

"That the Bill be passed".

The motion was adopted.

*(Interruptions)**

MR. CHAIRMAN: Do not record anything more in this Bill.

15.49 hrs.

PASSPORTS (AMENDMENT) BILL

[English]

MR. CHAIRMAN: The House shall now take up the Bill further to amend the passports Act, 1967 for consideration. Hon. Minister Shri R.L. Bhatia.

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI R.L. BHATIA): The administration of the departure of persons from India through issue of passports has been governed by the Passport Act of 1967. The Act has provided a framework for what has become over a period of time, a growing phenomenon of persons traveling abroad for purposes of education, business, employment, pilgrimage and tourism. An increasing number of persons have thus been seeking to travel outside India. There has also been a phenomenal growth over just two years in the recent past in passport applications received in 1990, the Passport Officers throughout the country received over 15 lakh applications just for new passports whereas in 1991, this figure was 24 lakhs.

Based on the experience that we have gained in administering the Act, we found that there were certain aspects that required to be addressed through legislation to make the provisions of the Act current. It will be recognised that the very nature of our passport booklet has undergone major change. This has been the result of an ongoing review to bring it on par with international standards. The changes involve design, materials used and the introduction of several features which make the booklet more in keeping with those of the international community. Further development will over the next five years, lead to the introduction of machine Readable Passports and Visas, also in keeping with international decisions on the subject.

The Bill will enable the Government to take suitable steps to recover the cost of issuing a passport and to provide for more effective deterrence in case of misuse. The cost of issuing a passport has gone up considerably since 1978 when the fee was increased from Rs. 25 to Rs. 50. For the Government to be able to provide effective services in this area, it is essential that the product and the processes be consistently improved in keeping with our requirements and accepted standards in the international community. The issue of passports is clearly not a commercial operation, but at the same time, it is essential that the cost of the service be met by the fee that is charged for it.

Sir, we have also incorporated elements in the Bill to enhance the prescribed in the event of offenses committed under the Act. The penalties were prescribed several years ago and it is desirable that they be made more stringent in order to provide for effective deterrence of fraud or misuse.

In conclusion, I would like to state that the service provided by the Central Passport Organisation is one of the critical areas of activities of the Minister of External Affairs. We are deeply conscious of the need for smooth, effective and timely service to our fellow citizens. The Ministry is embarking on a major review of every aspect of passport activity in view of the tremendous growth that we foresee in this area in coming years. We are confident that this exercise will result in an improved system with enhanced efficiency to cater to the needs of the Indian Public.

Sir, I seek your leave now to request the House to take this Bill into consideration and to pass the Bill in its present form.

I beg to move:

"That the Bill further to amend the passports Act, 1967, be taken into consideration."

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the