

[Shri Somnath Chatterjee]

of the services. Even chairs in adequate numbers are not supplied to the staff. The problem has also been aggravated by the recent decision of the department to put a total ban on employment of overtime duty. The very nature of the job is such that even with 100 per cent staff strength, offices like the big Central telegraph offices cannot run efficiently without employment on overtime duty to transmit the five telegrams consequent on declaration of resumption of circuits/stations after removal of machines and channel faults. Problem of manning circuits and points has increased two fold necessitating the despatch of telegrams by hand or by post in thousands. The movement launched by the employees is not for the restoration of the system of overtime duty, but for providing facilities by the department to the employees so that they may render service to the people's satisfaction. Telegraph services is one of the essential public service and it should be the concern of all, primarily of the government to provide adequate facilities to the staff so that public interest may not suffer. Today the situation is such that thousands of telegram are being sent by post from one office to another or by hand from one station to another. The movement launched by the All India Telegraph Traffic Employees Union is not for the purpose of realising any economic demands, but to draw the attention of the authorities to the serious problem which are being faced by the employees in the discharge of their duties due to the callous and insensitive attitude on the part of the administration in providing the minimum facilities for the staff for proper discharge of their duties. Demonstration was held at many offices throughout the country on April 15, 1980 to invite the attention of the authorities but it has had no effect. The P & T Department, instead of

discharging its responsibilities, is seeking to rouse public opinion against the employees and alleging that the ban on overtime duty is the cause of deterioration in telegraph services thereby trying to absolve their responsibilities to the public. A peaceful movement has been held by the employees recently and I call upon the government to taken immediate steps to redress the grievances of the employees so that the efficiency of the telegraph service is improved and for that purpose to hold discussions with the employees represented by their union for achieving maximum cooperation between the department and the employees.

(vii) AGITATION BY I.I.T. EMPLOYEES  
OF KHARAGPUR.

SHRI NARAYAN CHOUBEY (Midnapore): A serious situation has developed in the IIT campus at Kharagpur due to agitation by the IIT employees for securing some of their long standing demands. Relay hunger strike was going on from 11-11-1980. Now since 24-11-1980 indefinite hunger strike by the employees has been started. The present Director is not at all serious regarding negotiating with the employees. The director has not only not conceded any new demands; he has even curtailed some of the old rights of the employees. The situation is very tense. The government must immediately intervene or else the situation will lead to further trouble in the IIT campus.

15.20 hrs

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

MR. CHAIRMAN: The House will now take up further consideration of the following motion moved

by Shri Shiv Shankar on the 20th November, 1980, namely:—

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

I now call upon Shri Mool Chand Daga.

श्री मूल चन्द्र डागा (पाली) : सभापति जी, आज हाई कोर्ट तथा सुप्रीम कोर्ट के जजेज की कण्डीशंज ऑफ सर्विस के बारे में जिस बिल पर चर्चा हो रही है, इन तीन बातों की तरफ ध्यान दिया गया है। मैंने इसमें एक बात देखी है—हमारे ला मिनिस्टर साहब भी जरा कैंलेण्डर को उठा कर देखें—मैंने पिछले तीन सालों का देखा है—साल के 365 दिनों में हमारे सुप्रीम कोर्ट के जजेज 181 दिन सिटिंग करते हैं और बाकी दिन छुट्टी पर रहते हैं। आज स्थिति यह है कि सुप्रीम कोर्ट में जजेज की संख्या 18 है; जिनमें 6 अनुपस्थित हैं, चार बाहर गये हुए हैं दो ने छुट्टी ले रखी है। सुप्रीम कोर्ट में कितने केसेज पेण्डिंग हैं—आप इस बात को अच्छी तरह से जानते हैं। आपने इस बिल में तीन बातों की मांग की है—पहली तो यह कि उनकी तनख्वाह बढ़ाई जाये, अगर बीमार हो जाएं तो उनकी छुट्टी 45 दिन के बजाय 120 दिन कर दी जाए और इस काल में 2200 रुपये की जगह 4000 रुपये माहवार उनको दिया जाये। एक दूसरी बात यह है कि इस में मैडिकल सर्टिफिकेट की बात क्यों रखी है? वह सुप्रीम कोर्ट का जज है, आपको उसकी बात को मानना चाहिये। हर आदमी को सुप्रीम कोर्ट का जज नहीं बनाया जा सकता, सबसे ज्यादा ईमानदार आदमी को इस पद पर रखा जाना है, इस लिये इस सर्टिफिकेट की बात इसमें नहीं रखी जानी चाहिए।

दूसरी मांग आप की यह है कि पेन्शन के मामले में जो व्यक्ति सिविल पोस्ट या मिलिटरी पोस्ट से आ कर जज बनता है उनकी सर्विस को भी पेन्शन के लिये काउन्ट किया जाये। यह ठीक है उस को यह सुविधा

जल्द दी जानी चाहिये।

तीसरी मांग यह है कि उनको जो मकान दिया जाता है उसको इनकमटैक्स में छूट में गिना जाय। यह सब तो ठीक है। लेकिन मैं यह कहना चाहता हूँ कि जजेज की एप्वान्टमेंट में जो हमारे एटार्नी जनरल और सालिसिटर्स हैं उनको भी कन्सीडर किया जाय, उनको भी यह मौका दिया जाय।

जहां 120 दिन की छुट्टी की बात आपने रखी है, मैं एक बात और कहना चाहता हूँ—हमारे जजेज आज कितने घण्टे काम करते हैं? कई बार यह होता है कि केसेज के केसेज पोस्टपोन कर देते हैं और इस तरह से काम पैण्डिंग पड़ता जाता है। मैं चाहता हूँ कि आप को इस पर गौर करना चाहिए। आप कई जगह ऐसा भाषण दे चुके हैं कि आप जूडिशियल सिस्टम में परिवर्तन लाना चाहते हैं, सस्ता न्याय दिलाना चाहते हैं जगह जगह आप ऐसी बातें कहते हैं, अच्छा होता कि आप उस तरह का बिल लाते। आप को हंसी आती है क्योंकि आप कुछ कर नहीं पाते। आज यह मांग है कि सस्ता और सुगम न्याय मिलना चाहिए और ला मिनिस्टर साहब इस बात पर गंभीरता से सोच रहे हैं, ऐसा वे कई बार कह चुके हैं वे कई बार कह चुके हैं कि हम लोगों को सस्ता और सुगम न्याय दिलाने की बात सोच रहे हैं। मैं तो यह चाहता था कि वे एक इस तरह का बिल लाते, जिसमें ये सब बात होती कि लोगों को सस्ता और सुगम न्याय कैसे मिले, किस प्रकार से जजेज का एप्वान्टमेंट होना चाहिये, किस प्रकार से उन की सीनियरिटी फिक्स होनी चाहिये। इसके बारे में बहुत सारी रिकमेंडेशन्स हैं, लेकिन आप ऐसा बिल नहीं लाए हैं बल्कि तीनछाँटी-छाँटी बातों को लेकर बिल ले आए हैं। जो बात मैं कह रहा हूँ मुझ दुःख है कि हमारी बात को सीरिय सली और गंभीरता से लेना वे पसन्द नहीं करते हैं। मैं समझता हूँ कि हमारा सौभाग्य नहीं है कि कोई इस तरह का बिल आए। हम अपने

[श्री मूल चन्द डागा]

कानूनों में परिवर्तन करना चाहते हैं और हम बार-बार कहते हैं कि हजारों मुकदमे आज हाई कोर्टों में पेण्डिंग हैं लेकिन फिर भी 65 जगह हाई कोर्ट में जजों की खाली हैं। हम तो यह चाहते थे कि जजेज का वहां पर एपाइन्टमेंट होता और मुकदमे तब होते लेकिन उन जजेज का एपाइन्टमेंट नहीं हो रहा है। इस बात को ध्यान में रखना चाहिये था। हाई कोर्ट के अन्दर जजेज के एपाइन्टमेंट के मामले में जजेज की क्वालिफिकेशन्स के मामले में और जजेज जो सुप्रीम कोर्ट में हैं उनको उसी कोर्ट में प्रैक्टिस न करने के मामले में एक काम्प्रीहैसिव बिल आना चाहिए था। मैं चाहता हूं कि सुप्रीम कोर्ट के जजेज को उसी कोर्ट में प्रैक्टिस करने की इजाजत नहीं देनी चाहिये और जब जज रिटायर हो जाय तो उनको जांच कमीशन में नहीं लगाना चाहिये। जब पालिटिकली उनका एप्रीसियेशन होता है, तो वह एपाइन्ट हो जाते हैं ऐसा नहीं होना चाहिए। मैं यह चाहता था कि इन सब बातों को ध्यान में रख कर एक कम्प्रीहैसिव बिल आता, तो अच्छा होता। आप तीन मुद्दों को लेकर ही इस बिल को लाए हैं।

मैं एक खास बात यह कहना चाहता हूँ कि जो सोलिसिटर और एडवोकेट जनरल होते हैं उनका जो आप रिटैनेर के रूप में रखते हैं, उनको भी जज बनने का मौका देना चाहिए, उनको भी इसका अवसर मिलना चाहिए।

इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

SHRI N. K. SHEJWALKAR (Gwalior): Sir, after a long waiting for six days, I have been able to get this opportunity for which I thank you. Along with me, our Law Minister also had to wait. At the outset, let me say, the present Bill has a very limited scope, but seeing how it has been dis-

cussed here, I feel I am required to say something about the other issues also. First I will say something about the Bill itself and then I will come to the issues which have been raised. From the statement of objects and reasons in the Bill as well as the statement made by the Law Minister, I could not really understand what is the purpose of this amending Bill. The words used are only "it is felt".

15.28 hrs.

[SHRI SOMNATH CHATTERJEE in the Chair]

In both cases the term used is "it is felt". It is not clear as to what is the reasoning for that feeling, I think the main idea is that the Judges should be able to live in such a way that they are not required to depend on others, they can live without fear or lure while they are in office as well as subsequent to their retirement. If this is the object which one should have in mind, I am afraid this Bill hardly gives any relief. It is only a trivial relief which has been given to the Judges.

Because of the postponement of the discussion, we had the advantage of knowing the minds of some of the Judges, which appeared in the *Hindustan Times* of 24th of November. Mr. Chief Justice Chandrachud says:

"It may not be feasible to raise judges' salaries. But the car allowance of Rs. 300 per month that Supreme Court and High Court judges get should be doubled..... The sumptuary allowance of Rs. 300 that Supreme Court judges and the Chief Justices of the High Courts get should be raised... from Rs. 300 to Rs. 500..... Judges' retirement benefits also need attention.. the present scale of pension: Rs. 22,000 per year for High Court judges and Rs. 29,000 for Chief Justices and Supreme Court Judges is inadequate."

Mr. Justice Grover says:

"We should not only think in terms of increasing the number of judges but also concern ourselves with their quality and calibre. This aspect has so far been ignored. I would say if you have 20 judges in a court, all badly paid, it would be better to reduce the number to 15...."

Mr. Justice Sawant of the Bombay High Court says:

"With spiralling inflation, the standard of living of the members of the judiciary has been falling. The best way to ensure that judges are provided with purchasing power that is fairly stable is to provide them with the necessary amenities. These could include a limited amount of electricity and gas.... A judge is expected to be wise, dignified and to have a cool outlook on various matters so that he commands respect. He should be free from worry about matters of daily living."

This is an incomplete Bill. Actually, an exhaustive Bill is needed. In this connection, I want to refer to a Constitution Amendment Bill, No. 142 of 1980, introduced by Shri Atal Behari Vajpayee, which says that the amount of pension should be equivalent to the salary; it also deals with the transfer of judges. I would say that this matter should be looked into from the angle that a judge should be able to function without any fear or attraction of future job subsequent to retirement. We are opposed to judges being given posts after retirement, be it as a Chairman of a Corporation or an Ambassador. We opposed it earlier, and we still hold the same view. If all these things are attended to, then some justice can be done to the Judges.

We must remember that it is not only the judges of the Supreme Court and High Court who are responsible for dispensing justice. The judi-

ciary as a whole has to be taken note of. As my hon. friend, Shri Parulekar, rightly asked: if you want to improve the conditions of service of the members of the judiciary, why do you pick up only a few judges of the Supreme Court and the High Courts? Why do you ignore the lower judiciary? The hon. Minister may say that this is not the concern of the Central Government, it is the responsibility of the State Governments. But if he wants, he can call a meeting of the representatives of the State Governments, get a policy decision approved by them and act accordingly.

Sir, I think this must be enough regarding the Bill. Now, whatever has been said here, about it of course, there is nothing to oppose. It is better to get something than nothing. But it is nothing practically. It is rather a trivial thing.

Coming to the other important matters, recently there has been a charge—our friends here on this side were very anxious that the judiciary is not functioning properly, there must be some drastic change, this static thing should be removed. I do agree with them that it is natural to feel like that and some changes is necessary. But what should the change be? Should we go from the frying pan to the fire? Have you thought about it? Have you anything in mind or do you want to just throw away the judges, transfer them from here to there or just want some committed judges or call them just a stumbling block? I think this will be too much.

Recently at Bangalore the Chief Justice had to clarify the position when it was alleged that the judiciary is a stumping block in the progress of the society. He said, and I quote from the *Indian Express* dated 18-11-80 as follows:

"How could the judiciary be accused of putting impediments, when the Government had the power to

[Shri N. K. Shejwalkar]

reverse any judgment of the court through an amendment to the Act concerned, he asked.

Mr. Chandrachud said that there was no confrontation between the Government and the judiciary and the latter was not in any way coming in the way of achieving social good. On the other hand, he pointed out that section 23(1) of the Constitution empowered the Government to take away the excess urban land even for purposes of giving it to industry and other private hands.

If the land is transferred from one private hand to the other and not given to the poor, how could there be equal distribution of wealth?", he queried."

After all, whose function it is? The Supreme Court has upheld that law.

AN HON. MEMBER: Read further.

SHRI N. K. SHEJWALKAR: You better read it further. I can read the whole thing provided the time is granted to me.

MR. CHAIRMAN: You read whatever is relevant.

SHRI N. K. SHEJWALKAR: Therefore, how is it that judiciary is coming in the way? Ultimately, the Chief Justice could not say.

In the Editorial of *Indian Express* dated 19th November, 1980, it is stated:

"The Chief Justice of India has given a telling reply to the unfair charges against the judiciary. In a speech at Bangalore, Mr. Y. V. Chandrachud said that the courts could only interpret the laws enacted by Parliament and did not come in the way of social progress. What he left unsaid is that when their interpretation does not suit the con-

venience of the party in power, they are accused of being stumbling blocks in the way of socialism."

So, this is the thing. Otherwise, may I just put a question? They have got unlimited powers to make laws for social benefit. But why are not they making laws in that way? They can make laws all right for personal purposes. Don't you remember, Mr. Chairman, the amendment to the Representation of the People Act? What is the purpose of that Act? It was solely to benefit one individual and that was given retrospective effect. There was another Act even for the amendment of the Constitution. It could not be passed here. But it was carried in the Rajya Sabha. It was Bill No. 41 of 75. What does it indicate? It indicates that if the ruling party wants to make any law for achieving its ends, there is no bar.

Something was said about a committee of judiciary. I do not know what is expected of a Judge, whether he should interpret the law as it is or read between the lines to suit the ruling party.

Though it is not strictly relevant, even Dr. Ambedkar had said that it was desirable that a candidate who wished to serve in a legislature should have something higher qualifications, instead of merely being a voter. I tried to convey this point, but my colleagues did not agree with it barring one. As Dr. Ambedkar pointed out, the functions that a legislator is required to discharge require a certain amount of knowledge and practical experience of public affairs. Dr. Rajendra Prasad also reiterated it, though he said that the time then was not ripe. I do not want to quote him because of lack of time. After all, when we make laws here, we cannot visualise all the difficulties which may come up in achieving the object. Therefore, I strongly stress that this should be considered whether we should fix any qualification for becoming a Member of Parliament.

Then I come to transfer of Judges. Unfortunately, the Judges themselves have said that transfer is not a punishment, but I do not know what their present opinion is. However, the Law Commission has said:

“To prevent abuse of the power of transfer, it is recommended that no judge should be transferred without his consent from one High Court to another unless a panel consisting of the Chief Justice of India and his four seniormost colleagues finds sufficient cause for such a course.... Normally, the Law Commission is averse to recommending a constitutional amendment, but such a panel is necessary....”

The judicial system, in my humble opinion, has two parts—the presiding officer and the rest of the system. We have to choose good, honest presiding officers who are without fear and who are not lured by anything. Further, justice delayed is justice denied. So, Government should increase the number of Judges. We are also not averse to changes in the procedure, but merely transferring a Judge from here to there or having committed Judges, will not solve the problem. We have to give serious thought to the procedure also and the appointment of good Judges, so that there may be expeditious disposal of cases. The question of providing legal aid to the poor should also be taken care of.

Lastly, one of my friends has prepared a note which I have circulated to some Members. Though I do not entirely agree with him, he has made a very good point. He said that in the Supreme Court. We say that everybody is equal before law. But when one goes to the Supreme Court, take for instance a big Company, they can engage a lawyer of any standing as they are in a position to pay fee to any extent. But what about the poor? Even if he goes as a Respondent to the Supreme Court, wherefrom he should pay? Is it equality before law? Can we consider it equality before law? If you mean to help the poor, we

should have some means to help the poor. You have made Committees. I do not know whether it helps. Serious thought should be given to all these things instead of making all sorts of allegations. After proper thought this Bill should be brought again after taking into consideration all these aspects.

Proper emoluments and facilities must be given to the judges as early as possible.

SHRI NAWAL KISHORE SHARMA (Dausa): I rise to support this Bill because of the fact that this Bill is long overdue. I am in agreement with those who have demanded that the service conditions of the judges should be reviewed. I would go to the extent of saying that the service conditions of the whole judicial system and the judiciary has to be reviewed. With the rise in the cost of living, it is but necessary that judges, if we want them really to work honestly, efficiently and above board, should be paid at least good amount of salary and they should be allowed certain facilities.

In this country we are finding that the best advocates are not interested to become judges. Why is it? It is more because of the fact that many of them had a very lucrative practice and though they are prepared to sacrifice that amount they really want that much of subsistence money which can enable them to survive. Therefore, the whole question of the salary system, the allowance system, has to be gone into if we really want good judges to come up.

With regard to many other things which have been said in connection with the judicial system, I think much has to be done. Lot of controversy has been raised about the transfer of judges. It was, probably, if I remember correctly, the Consultative Committee of Parliament of the Ministry of Law and Justice which took a unanimous decision that there should be transfer of judges.

(Interruptions)

[Shri Nawal Kishore Sharma]

I am referring to the Press Report and I have a right to refer to that.

I am submitting that this aspect of transfer of judges requires consideration. It is not such a thing that the judges should not be transferred at all. I do not mean to say that they should be immune from transfer. We all know about the agitation of the lawyers of the High Court of Allahabad against one Justice. Shall we ignore these matters? Therefore, on the question of transfer there cannot be any blanket ban. I know and many of us know that there is a lot of controversy going on in many High Courts. Local considerations and prejudices do weigh with the High Court Judges and the work of the Judiciary does suffer. It cannot be said that every thing is all right with the system. Therefore, I am in agreement with those who say that the Judges may be transferred. Of course, there cannot be two opinions that the transfer of Judges should not be made a political weapon but, when need arises, it cannot be said and it cannot be made a rule that Judges should not be transferred.

With regard to the appointment of Judges, I have a suggestion to make and that suggestion is that while we should certainly make appointment of Judges from Backward Classes, Scheduled Castes and Tribes and Minorities also, it should not be done at the cost of efficiency, at the cost of ability, at the cost of quality because, what is important in a High Court Judge is the quality of the Judge, the calibre of the Judge and the independence of the Judge, and that should not be lost sight of while making appointments.

I am happy to learn from the proceedings of the Rajya Sabha that the announcement made by the Minister that the existing vacancies of Judges are to be filled up within a week or ten days' time. I hope they will stick to this announcement and soon fill up the vacancies so that the mounting arrears of cases may be disposed of.

I have a suggestion with regard to the mounting arrears. Of course, the appointment of a number of Judges may solve the problem but what is important is some rethinking on the part of the Judiciary itself. There are certain cases which do not brook delay like cases of motor accident, cases of divorce, cases under the Guardians and Wards Act and certain cases with regard to service matters. It so happens that while these cases should be disposed of by the Judiciary at the earliest, they are sometimes disposed of after the retirement of a person or after the death of a person, etc. So, this sort of position has to be reviewed and I think it could be done with a mere acknowledgment of the urgency of such cases. So, the Judiciary should have a fixed priority with regard to the disposal of cases and I think that if this is done, most of the urgent cases of that nature, which require early disposal, would be disposed of and it would give greater relief to those who require it immediately.

With regard to the appointment of Judges I have another word to say again here. Of course, Judges cannot be committed to any particular ideology, but one thing has to be looked into, and that is the social outlook of a Judge—because this social outlook of the Judge is reflected in the Judgement. If a Judge has an outlook which is of benefit or which is in tune with the poorer sections of society, then his judgment would definitely be different from that of a Judge who has an outlook which is the outlook of a vested interest. The quality of the judgement differs in this case. Therefore the question of appointment of Judges has to be looked into from the point of view or the angle of the social outlook of the Judges.

I would here add one word with regard to disposal of the cases piling up. We have been talking of the procedural changes and we had made certain changes, but with little results. Therefore, my submission would be that the

Law Commission's recommendations with regard to making changes for the disposal of cases expeditiously should be translated into action and immediate action should be taken on the Law Commission's recommendations with regard to procedural delays.

I have a word about the impending Advocates (Amendment) Bill too, though that is not a subject before the House...

MR. CHAIRMAN: You may reserve your submissions for that occasion.

SHRI NAWAL KISHORE SHARMA: All right.

I have a word to say about the appointment of Attorney-General—because this is concerned with the whole judicial system. The post of Attorney-General of India...

MR. CHAIRMAN: Leave it to your competent Law Minister.

SHRI NAWAL KISHORE SHARMA: I know, he is a competent Law Minister. The competent Law Minister's attention has to be drawn to the fact that the Government has not been able to appoint an Attorney General; the matter is long overdue. I hope my friend Mr. Shiv Shankar will take care of it so that we can have an Attorney General who can handle the cases in the Supreme Court.

With these words, I thank the Law Minister for having brought forward this Bill, and I would expect something more to come so that the whole judicial system may be reformed as he is a man who has made his mark as a lawyer and as a judge; and now, as a Law Minister, I hope he will make a mark in that respect also.

PROF. P. J. KURIEN (Mavelikara): Sir, I rise to oppose this Bill, not on the ground that I disagree with the quantum of concessions given to the judges, but on the ground that these are only very meagre concessions and this Bill does not touch the real pro-

blem at all. Considering the position of judges in the society and the nature of their job, I feel that the Law Minister should have brought a comprehensive Bill to provide all the necessary facilities to the judges to enable them to have independent, smooth functioning as judges. But, instead of going deep into that problem, this Bill only touches or rather does not even touch the problem. I would say that this is not meeting adequately the requirements of the present-day judges in the society.

The Law Minister has, on many occasions, both in this House and outside, stated in categorical terms that it is not the policy of the Government to interfere with the judiciary, that the independence of the judiciary will be protected. Of course, it is the basic requisite of democracy that judiciary should have its independence, should be independent of the executive. But what is happening in our country? In our country, is the judiciary in practice, in its actual functioning, independent of the executive? I would like to say that the independence of the judiciary, the independent functioning of the judiciary, is obstructed to by the Government. I will explain how it is so. For explaining that point, I would draw attention to the answer given by the Law Minister in this House a few days back: the number of cases pending in the Supreme Court waiting for decision is 7,223 as on 31st December and the number of cases pending in the High Courts is 1,79,450; Of these, pending in the High Courts, 86,000 cases have been pending for more than five years and another 14,000 cases for more than a decade. This is the pic-16.00 hrs.

ture of the pending cases in the Supreme Court and the High Courts of our country. What is the reason for these pending cases? The reason is very simple. In our Supreme Court, out of the total sanctioned strength of eighteen judges six posts are lying vacant. In the different High Courts forty-four posts of judges are lying



[Prof. P. J. Kurien]

vacant. Sir, I would like to ask who is responsible for these vacancies. Whose fault is it? It is the fault of the government. Of course, the Law Minister has expressed his concern over the non-filling of these posts and thus indirectly admitted the government's inaction in this matter. But my point is that this inaction on the part of the government obstructs the effective functioning of the judiciary. It is not enough to say that judiciary is independent of the executive and the government is not interfering. Sir, it is up to the government to provide all the facilities to the judiciary so that judiciary functions effectively in the country. Not providing required amount of facilities to judiciary is equal to interfering in the judiciary, because what will happen if the government interferes in the judiciary? If the government interferes in the judiciary, the ends of justice will not be met. What will happen if the government does not provide adequate facilities to the judiciary? Then justice will get delayed and justice delayed is justice denied. So, in this country justice is denied to hundreds and thousands of people and in this way the government is obstructing the effective functioning of judiciary.

Sir, another aspect I want to bring to light is that in this country when the legal battle is between the poor and the rich, naturally the rich has all the facilities. If a poor man loses a case in a lower court then he cannot even dream of coming to the High Court or Supreme Court. The Law Minister is well aware of it. Sir, a person from South cannot dream of filing a case in the Supreme Court because of the distance and the high fees charged by the lawyers. So, my point is when the legal battle is between the rich and the poor there is no equality of opportunity before law. The Constitution itself has given certain concessions to the weaker sections; minority rights are protected; scheduled caste reservations are there. But equally more important is this.

In legal battle there is no protection to the poor. The result is, when there is a race between the rich and the poor, it is the poor people who lag behind. I use this opportunity to request the Government and the Law Minister to come forward with legislation providing for legal aid to the poor. We would definitely welcome that. When a rich man loses the case in the lower court he can come to the Supreme Court. But if a poor man in Karnataka or Tamil Nadu or Kerala or Andhra Pradesh loses in the lower court, it is not easy for him to come all the way to Delhi. This is my respectful submission. If the rich man loses in the legal battle, he can afford to meet all the expenses; he can meet the lawyer's fees etc., but the poor man cannot afford to do it. My point is that justice should reach these poor people also and for that we should have a permanent bench of the Supreme Court in the South also. It is my respectful submission that the Supreme Court need not be concentrated in Delhi alone. Some permanent bench can be constituted in the South; and you can have a permanent bench in Calcutta also. What harm is there, in having one in Calcutta?

Sir, there is one other thing which I wish to bring to your attention. I know that lawyers plead in English; why can't the lawyers plead cases in the local languages? I do not understand this. Let the judgment be in any language, I don't mind. My point is that you should not deny justice to these poor people, simply because they are living far away from Delhi. This is my point. Therefore, I suggest that there can be one bench of the Supreme Court at Calcutta, Bangalore or Madras so that equality of opportunity is given to all these people.

And regarding High Courts. I would like to say this. There are some States and Union Territories which are not having any High Court at all. Why should you deny it to them? Let there be High Courts in all Union territories and in all States. Why have

you got only one High Court at Allahabad? We can have bench at other distant places. That will be very effective in providing justice to the poor people, in my opinion.

Sir, there is an apprehension that Government may bypass Article 217 of the Constitution regarding appointment of judges, and Article 222 regarding transfer of judges. The papers have reported about this and this apprehension has been there continuously. But the hon. Law Minister has categorically stated that the Government do not intend to interfere with the judiciary. In this House he has said that. He said, Government is not for a committed judiciary and all that. My submission is, Article 217 of the Constitution should be adhered to in letter and in spirit. Article 222 should be adhered to also in letter and in spirit. I say all this because, by bypassing these Articles, you can easily get rid of the independence of the Judiciary over the Executive. I need not go into this point in detail because the hon. Law Minister is fully aware of the position. I want to say that in this country if democracy is to function smoothly, judiciary should be independent. The judiciary should be independent of the executive and if you really mean that these two provisions of the Constitution should be strictly adhered to, then I will ask the Government: "Will the Government come forward with an amendment to the Constitution?" When Government are in majority now, they can get it passed and if you bring forward such an amendment to the Constitution, it is most welcome. And if you don't issue a whip to vote in favour of this amendment, this will not be carried. Sir, in this country, people strongly believe in independence of judiciary which is very important. It is reported in the press that there is a move from the Government side to bring forward a Bill against this. I would request the Hon'ble Minister kindly to refrain from bringing forward such a bill. The Chief Justice of India has also

his reservations on this. That has been stated in the press. Sir, in view of the above, I oppose this Bill. As I have said earlier, I oppose this Bill not on the grounds that concession has been given, but on the grounds that the concessions are too meagre. I think the Hon. Law Minister will come forward with a new Bill giving higher quantum of concessions and facilities and higher salaries to the Judges of the High Courts and the Supreme Court.

श्री हरीश चन्द्र सिंह रावत (अलमोड़ा):  
मैं विधि मंत्री जी का बड़ा सम्मान करता हूँ इसलिए नहीं कि वह हमारे नेता हैं, हमारे मंत्री महोदय हैं बल्कि इसलिए कि वह एक साधारण स्थिति से उठ कर आगे बढ़े हुए व्यक्ति हैं और एक क्षमतावान मंत्री हैं लेकिन आज जो बिल यहां पर उन्होंने प्रस्तुत किया है उसके संदर्भ में मेरे मन में कुछ शंकाएँ हैं। आज हमारी ज्यूडिशरी के विषय में बहुत सी शंकाएँ साधारण लोगों के मन में हैं। बहुत सी नियुक्तियाँ आज हाई कोर्ट्स और सुप्रीम कोर्ट में होनी हैं। बहुत से मामले बरसों से अदालतों में लटके पड़े हैं। लोगों को न्याय नहीं मिल रहा है। बहुत से ऐसे मामले भी हैं जिन को हम जनहितकारी समझते हैं, सारे कार्यपालिका सारी लैजिस्लेचर ने एक मत से उनको पारित किया है लेकिन उनको भी हमारी न्यायपालिका ने टर्न डाउन कर दिया है और कर देती है। इस तरह की जो चीज इन से संबंध रखने वाले महत्वपूर्ण बिलों को लेकर उनको आना चाहिये था लेकिन उन्होंने एक साधारण सा बिल यहां पर प्रस्तुत किया है। आज हम अपनी हाई कोर्ट्स और सुप्रीम कोर्ट के जजों को और अधिक सुविधायें दे रहे हैं जिन के पास बहुत सारी सुविधायें हैं उनको और बढ़ा रहे हैं। ऐसी अवस्था में साधारण लोगों के मन में शंका होना स्वाभाविक है कि हम लोगों की सुविधायें बढ़ाते चले जा रहे हैं और

[श्री हरीश चन्द्र सिंह रावत]

दूसरी तरफ ऐसे लोग भी इस देश में हैं जिन के बारे में माननीय नियोजन मंत्री जी ने दूसरे सदन में स्वीकार किया है कि उनकी मासिक ग्रामदानी 65 रूपया है और उनकी संख्या 35-36 करोड़ के करीब है लेकिन उनके लिए कुछ नहीं हो रहा है। 65 प्रतिशत लोग हमारे देश के पावर्टी लाइन से, सामान्य जीवन जीने की लाइन से नीचे के स्तर पर जिन्दगी बसर कर रहे हैं और दूसरी तरफ हम कुछ लोगों की सुविधायें अगर बढ़ाते जाएं तो यह कुछ समझ में आने वाली बात नहीं है। सुविधायें बढ़ानी भी थीं तो केवल सुप्रीम कोर्ट और हाई कोर्ट के जजिज की क्यो लोअर कोर्टस के जजिज की सुविधाएं क्यो नही बढ़ाई गई हैं। सुप्रीम कोर्ट में कौन जाता है, वहां प्रैक्टिस करने के लिए कौन जाता है, पैरवी करने के लिए कौन जाता है? वहां न्याय पाने के लिए बड़ी बड़ी फर्म, बड़े बड़े पूंजीपति बड़े बड़े जमींदार जाते हैं और प्रैक्टिस करने के लिए आप भी अधिष्ठाता महोदय जाते हैं, जैठमलानी जी जाते हैं और मुझे शंका है इस बात की कि शायद ही आपने गभी किसी गरीब आदमी की वहां वकालत की हो...

MR. CHAIRMAN: Many poor people have to go to Supreme Court.

श्री हरीशचन्द्र सिंह रावत : बड़े बड़े पूंजीपतियों और बड़े बड़े सामन्तों की ही वहां वकालत होती है। गरीब को तो न्याय लोअर कोर्टस से ही मिलता है। लोअर कोर्टस की हालत आज बड़ी बदतर है। सुविधाएं बढ़ानी थी तो आपको लोअर कोर्टस के जजों की भी बढ़ानी चाहिए थीं, मुसिफ कोर्ट की, जिला जजों की भी बढ़ानी चाहियें थी। आज लोअर कोर्टस में करप्शन है। यदि ज्यूडिशरी में करप्शन होगा तो लोगों का विश्वास न्यायपालिका से उठ

जाएगा। डेमोक्रेसी से उठ जाएगा। और वह करप्शन तभी खत्म किया जा सकता है, जब आप लोअर कोर्टस के लोगों को ज्यादा सुविधाएं दें, तभी जो हैव-नाट्स हैं, उनको न्याय मिल सकेगा। इस समय आप हैब्स की पैरोकारी कर रहे हैं, आप को हैव-नाट्स की पैरोकारी करनी चाहिये थी। यही मुझे दुःख और रंज है।

सभापति जी, जब आप यहां मार्क्सवादी कम्युनिस्ट पार्टी के सम्मानित सदस्य के रूप में इस बिल के सदर्थ में अपने विचार व्यक्त कर रहे थे, उस समय मैं यहां पर नहीं था, लेकिन मुझे आप के विचार पढ़ने का मौका मिला। मुझे आश्चर्य हुआ कि यह आप के विचार है या श्री सतीश अग्रवाल या श्री परुलेकर जी के जो कि हमारे योग्य दोस्त हैं, उनके विचार हैं। कोई अन्तर आप के विचार में नहीं था। मैं आप को चेंज के लिए मानता था कि आप परिवर्तनवादी व्यक्ति हैं, लेकिन आप के विचार बिल्कुल स्टेटस-को वाले थे।

श्री पी० शिव शंकर : आप बोल लें जो चाहें, वह ऐसी जगह इस समय बैठे हैं जो प्रोटेस्ट भी नहीं कर सकते।

श्री हरीशचन्द्र सिंह रावत: आप बिल्कुल यथास्थितिवादी व्यक्ति की तरह बोल रहे थे। आपने यहां पर कहा कि कांग्रेस की सरकार ने अपने शासन काल में 42 अमैंडमेंट सन् 1977 तक किये, लेकिन मैं आप से पूछना चाहता हूं कि वह अमैंडमेंट किसके हित के लिए थे? क्या उसमें से अधिकांश संशोधन इस बात के लिए नहीं थे कि लोगों को अधिक बढ़िया न्याय मिले सके, लोगों को अधिक अच्छा सामाजिक न्याय मिल सके? और उन सारे संशोधनों

को, जिनको इस सदन ने, इस हिन्दुस्तान की जनता ने एकमत से पारित किया था, अपना समर्थन दिया, उनको न्याय-पालिका ने टर्न-डाऊन किया, जेठमलानी और दूसरे, तीसरे उन जैसे बड़े वकीलों की दलील पर। तो ऐसे जनहितकारी संशोधन हों, बिल हों और उनको न्यायपालिका टर्न-डाऊन कर दे और हम समझें कि कोई बाटलनेक हमारी न्यायपालिका की है और हम संशोधन लायें तो उसको भी समझें कि कोई गलत काम है तो निश्चित तौर पर मुझे आश्चर्य हुआ कि आप प्रगतिवादी हैं या कम्युनिस्ट पार्टी के सदस्य हैं या नहीं, या आप के दो चेहरें हैं—एक कम्युनिस्ट पार्टी के सदस्य के रूप में और दूसरा वकील के रूप में ? यहां आप वकील के रूप में पैरोकारी कर रहे थे या कम्युनिस्ट सदस्य के रूप में बोल रहे थे, यह वास्तव में आश्चर्य का विषय है।

MR. CHAIRMAN: I hope, the Minister will look into this matter, now I am here.

श्री हरीशचन्द्र सिंह रावत : आपने कहा कि कमिटेड जुडिशियरी नहीं होनी चाहिये। मैं भी इसके खिलाफ हूँ। कमिटेड किसके प्रति ? व्यक्ति के प्रति, पार्टी के प्रति या सिद्धांतों के प्रति ? हमारा सिद्धांत है समाजवाद को लाना। यदि समाजवाद के रास्ते में कोई चीज बाधक हो सकती है तो उसको जरूर दूर किया जाना चाहिये। अगर उसके लिए कमिटेड जुडिशियरी की जरूरत है तो उसको लाया जाना चाहिये।

आपने सिस्टम के विषय में आशंका प्रकट की, आखिर राष्ट्रपति प्रणाली हो या प्रजातांत्रिक प्रणाली हो। जहां तक हिन्दुस्तान की जनता का सवाल है, वह तो सीधी-साधी सी प्रणाली चाहती है, कि जनता को अधिक सस्ता न्याय

मिल सके, अच्छा समाजिक न्याय लोगों को मिल सके और गरीबों का हित हो सके। हमें ऐसी प्रणाली चाहिए, अगर वह राष्ट्रपति प्रणाली हो सकती है तो उस पर बहस करने में आप को परहेज क्यों है ? एक राष्ट्रीय बहस की बात प्रधान मंत्री ने की, आप उससे गुरेज क्यों करते हैं, उससे भागना क्यों चाहते हैं ? आप उस पर बहस कीजिये, जनता को अपने विचारों को अनुकूल समझाने की कोशिश कीजिये, हमें इसमें कोई सदेह नहीं है।

मान्यवर, आज एक बात जो आप की है, निश्चित तौर पर मुझे भी पसन्द आई। आपने कहा कि एडहोक एरेंजमेंट क्यों करते हैं, पीसमील संशोधनों को लेकर क्यों आते हैं ? मैं भी चाहता हूँ, और जब हम देख रहे हैं, और न्याय मंत्री भी स्वीकार करते हैं और सारा सदन स्वीकार करता है कि हमारी न्यायपालिका में बहुत सारे लूपहोल्स हैं, बहुत सी कमियां हैं तो क्यों नहीं एक कम्प्रीहेंसिव बिल लेकर हम यहां आते हैं ? आप ऐसे संशोधन क्यों नहीं सामने लाते जिससे न्यायपालिका की सारी खामियों दूर की जा सकें ? क्यों नहीं आप जुडिशियल रिफार्म कमीशन स्थापित करते जो कि आपकी मदद कर सके और सारी कमियों की ओर इंगित कर सके ? जिससे हमारी न्यायपालिका अधिक जनवादी बन सके ?

मुझे इस बात को कहने में कोई संकोच नहीं है कि आज हमारी न्यायपालिका हैब्स की न्यायपालिका है चाहे उसकी वकालत कम्युनिस्ट करते हों या कोई और करता है। हमारे ऊपर हैब्स की न्यायपालिका थोपी गई है, अगर हैब-नाट्स की न्यायपालिका बनाना चाहते हैं तो उसके लिये परिवर्तन करना होगा। अगर परिवर्तन नहीं करेंगे तो हमारे जितने भी साधन हैं, ताले में बन्द रहेंगे आप कहते हैं कि आज कार्यपालिका को

**श्री हरिश चन्द्र सिंह रावत**

बहुत सारी ताकतें दी जा रही हैं, और न्याय-पालिका को शक्तिशाली बनाना चाहिये ताकि कार्यपालिका पर नियंत्रण लागू हो सके, मैं कहता हूँ कि क्यों। आज कार्यपालिका और न्यायपालिका दोनों जनता की ताकत को जकड़ती जा रही हैं। इस लिए वक्त की आवश्यकता है कि हम लेजिस्लेचर को ज्यादा शक्तिशाली बनायें, क्योंकि लेजिस्लेचर जनता की इच्छा को अभिव्यक्ति दे सकता है। वक्त की पुकार है कि हम अपनी जनवादी संस्थाओं को ज्यादा शक्तिशाली बनायें।

इन शब्दों के साथ मैं उम्मीद रखता हूँ कि मैंने जो अपील और प्रार्थना की है, माननीय न्याय मंत्री जी उसको स्वीकार करेंगे और देश की जनता को सस्ता और सुलभ न्याय देने के लिए ठोस कदम उठायेंगे। मैं कुछ शंकाओं के साथ उनके द्वारा प्रस्तुत बिल का समर्थन करता हूँ।

**श्री ज.पाल सिंह कश्यप (आंवला):** सभापति महोदय, इस देश में न्याय व्यवस्था पर से लोगों का विश्वास हटता जा रहा है। न्याय-व्यवस्था प्रजातन्त्र का एक बहुत ही मजबूत स्तंभ है। यदि वह कमजोर हो जायेगा, तो इस देश का प्रजातंत्र खतरे में पड़ जायेगा। पिछले चार पांच साल से न्यायपालिका में एक ऐसा विष घोला गया है जिस का शिकार हाई कोर्ट का एक-एक जज हो गया है। उस का नतीजा केवल एडवोकेट्स को ही नहीं भुगतना पड़ रहा है, बल्कि लिटिगेंट्स वादकारियों, को भी भुगतना पड़ रहा है। यह देश के लिए बड़ी दुर्भाग्यपूर्ण स्थिति है।

मैं सरकार की शक्ति पर तो भरोसा नहीं करता हूँ, लेकिन मैं माननीय ला मिनिस्टर की शक्ति पर जरूर भरोसा कर के चल रहा हूँ कि जिस तरह कभी इस देश में शंकर ने विष पिया था, उसी तरह माननीय विधि मंत्री जी शिव के रूप में जुडिशरी में जो विष

व्याप्त हो गया है, उस को भी पी कर इस देश की जुडिशरी को पवित्रता देंगे, ताकि लोगों का विश्वास इस देश की जुडिशरी पर फिर से स्थापित हो सके।

जहां तक इस बिल के द्वारा जजों को कुछ सुविधायें देने का प्रश्न है, हमारे कुछ साथियों को शिकायत हो सकती है। लेकिन आज एक एडवोकेट और एक जज के बीच में जो फर्क हो गया है, उस को देखते हुए हमें जजों को ज्यादा सुविधायें देनी पड़ेंगी—वेतन की, निवास-स्थान की, और आज सब से ज्यादा जरूरत है उन को सुरक्षा देने की। जजों को पूरा प्रोटेक्शन मिलना चाहिए, जो किसी को फांसी देने का आदेश देते हैं, लाखों रुपये की प्राप्ति का फैसला करते हैं। आज तो जजों को धमकी दी जाती है, कि अगर तुमने फैसला हमारे हक में न किया, तो तुम्हारा यह हो जायेगा जब ला एंड आर्डर की हालत खराब होती जा रही है, तब जुडिशरी में बैठे हुए जजों की सुरक्षा की व्यवस्था होनी चाहिए। मंत्री के आगे पीछे पुलिस की गाड़ियां दौड़ती हैं। डी० एम०, एस० डी० एम० और तहसीलदार के साथ पुलिस होती है। ऐसी स्थिति में हाई कोर्ट और सुप्रीम कोर्ट के जजों के जानो-माल की सुरक्षा की व्यवस्था न हो, यह एक गलत नीति है। जजों की सुरक्षा की व्यवस्था होनी चाहिए।

एक माननीय सदस्य ने कहा है कि हाई कोर्ट में शिड्यूल्ड कास्ट शिड्यूल्ड ट्राइब्स, बैंकवर्ड क्लासिज और माइनारिटीज के लोगों को रखा तो जाये लेकिन ऐसा उन की योग्यता का ध्यान रख कर किया जाये। एक छिपे तरीके से उन्होंने यह कहने की कोशिश की है कि वे हरिजन, आदिवासी पिछड़ेवर्ग मुस्लिम और अकलियत के लोग इस काबिल नहीं हैं कि जज का काम कर सकें। लेकिन मैं चेलेंज दे कर कहता हूँ कि हिन्दुस्तान के किसी हाई कोर्ट में चले जाइये इस वर्ग के लोग वकालत और कानून के धंधे में किसी से पीछे

नहीं हैं। लेकिन जो कुर्सियाँ पर बैठे हैं, जो जजों की नियुक्ति की रिक्मेंडेशन करते हैं, उन में तो भाई-भतीजावाद चलता है।

MR. CHAIRMAN: Please do not refer to a relation of any particular judge.

श्री जयपाल सिंह कश्यप : सभापति महोदय, बैंकवर्ड क्लासेज, शेड्यूल्ड कास्ट, शेड्यूल्ड ट्राइब्स और माइनारिटी के लोगों को जज बनाया जाना चाहिए। सरकार को यह नीति बनानी चाहिए कि मौजूदा हालत में कोई भी जज जिस प्रदेश का रहने वाला है उम प्रदेश की हाई कोर्ट में जज नहीं बनाया जायेगा, उसे किसी दूसरी हाई कोर्ट में रखा जायेगा। जजों के ट्रांसफर की नीति भी शीघ्रान्गीघ्न अपनाई जानी चाहिए ताकि जो विरमारा जुडिशरी पर से उठ गया है, कही ऐसा न हो कि आगे और भी विश्वास हटना चला जाए या हाई कोर्ट राजनीति के अखाड़े बन जायें। मैं खुले शब्दों में कहना चाहता हूँ कि अगर महीने, दो महीने में सरकार ने इस पर ध्यान नहीं दिया तो इलाहाबाद हाई कोर्ट में आज भी मुक्केबाजी चलती है वह और भी चलने लगेगी। इसको रोका जाना चाहिए।

एक माननीय मित्र ने कहा कि जुडिशरी का डी-सेन्ट्रलाइजेशन होना चाहिए। मेरा निवेदन है कि उत्तर प्रदेश जैसे इतने बड़े राज्य में हाई कोर्ट की एक बैंच कम से कम बरेली जैसी जगह पर कायम होनी चाहिए। इस के अभाव में आज वहाँ लोगों को न्याय पाने में बड़ी परेशानी होती है। बरेली पहाड़ों और मैदान के चारों तरफ से बीच में पड़ता है, वहाँ पर बैंच खुलने से लोगों को न्याय पाने में बड़ी सुविधा रहेगी।

इस के अलावा कोर्ट फीस को इतना अधिक घटा दिया जाना चाहिए जिस से कि

गरीब आदमी भी मुकदमे चला सके। आज एक हजार रुपये के लिए 200 रुपये की कोर्ट फीस उत्तर प्रदेश में लोअर कोर्ट में लग जाती है। फिर डिस्ट्रिक्ट और सिविल जज की कोर्ट में फीस लगती है और उतनी ही हाई कोर्ट में भी लगती है। इस के अलावा वकीलों की फीस और दूसरे गवाहों वगैरह के खर्च अलग है। फिर सुप्रीम कोर्ट में जितना खर्चा लगता है उस का कहना ही क्या है। इस तरह में एक हजार की वैल्युएशन पर तीन हजार खर्चा करना पड़ जाता है। यह कैसा न्याय है? इस तरह से न्याय नहीं मिल सकता है।

अन्त में मैं इतना ही कहने हुए समाप्त करूँगा कि इस समय न्याय व्यवस्था में जो भी परेशानियाँ हैं उन को जल्दी से जल्दी हल किया जाए। साथ ही जल्दी से जल्दी जजों के ट्रांसफर की व्यवस्था की जाए। हमारी न्यायपालिका, न्याय व्यवस्था राजनीति से ऊपर होनी चाहिए। इस दिशा में सभी लोगों का प्रयास करना चाहिए। इस बिल के सम्बन्ध में इस बात की मांग करता हूँ कि इस के कार्य क्षेत्र को विस्तृत बनाया जाए ताकि न्याय व्यवस्था ठीक हो सके और लोगों को सुविधा मिल सके।

SHRI JAGANNATH RAO (Berhampur): Mr. Chairman, I feel honoured to speak when you are in the Chair. You have been my good friend.

MR. CHAIRMAN: Thank you.

SHRI JAGANNATH RAO: This is the least controversial Bill, but many controversies have been raised by hon. members which are very extraneous to the object of the Bill. This Bill refers only to three concessions which the judges of both the Supreme Court and the High Court would be entitled to. I fully support them.

Doubts have been raised about the appointment of Chief Justices of the

[Shri Jagannath Rao]

High Courts and the Judges of the High Courts. It is true that the long delay that has occurred has given rise to some suspicion and doubt in the minds of some. There are six acting Chief Justices of the High Courts. Only two days ago, the acting Chief Justice of the Andhra Pradesh High Court Chief Justice Aladi Kuppaswamy was made permanent. There are still five other High Courts where acting Chief Justices are functioning. Permanent Chief Justices should be appointed except in one or two cases where I understand that there may be a dispute; they should be left over.

The Constitution allows appointment of judges and transfer of judges; and this practice existed long before, even during the British regime; this practice has been there even during these 30 years of our government. It is not a new thing that judges are transferred from one High Court to another. Qualified persons from one state have been appointed High Court judge in another state. It is not a new thing that the government is contemplating. Long delay has taken place in this matter. I am glad the government is now considering the question of transfer of judges and the appointment of Chief Justice. To give the appearance of impartiality, a committee or panel should be appointed presided over by the administrative Judge of the Supreme Court with three or four members to go into the recommendations of the Chief Justice of India and the Chief Justice of the concerned High Court where vacancies for judges occur; this should be done as quickly as possible so that longstanding vacancies of 65 judges in various High Courts could be filled. The Law Minister stated in the other House that he was going to do this in a week or ten days. It is a good thing if it is done earlier.

Much has been said about committed judges, and it was alleged that this government wanted committed judges, judges committed to the rul-

ing party. It is absolutely untrue. The judges' commitment is to the Constitution. Every judge before entering office takes the oath that he will bear true faith and allegiance to the Constitution as by law established, uphold the sovereignty and integrity of India and will uphold the Constitution and the laws. That is the oath he takes; this allegiance to the Constitution must be there.

Justice Krishna Iyer after his retirement a few days ago in a press statement said that every judge tries to interpret the law from his own angle, substitutes his own philosophy for the philosophy of the Constitution. The socio-economic philosophy of the Constitution should be given effect to. The Problem facing Parliament today is that social legislation is being struck down; directive principles are not given primacy by the courts. When we introduced article 31C in the 25th amendment in 1973 it was upheld in the *Keshavanand Bharati* case except the proviso which was struck down; it has now been reversed by the Supreme Court in the *Minerva Mill* case. A situation has now arisen when we have to have a new constitutional amendment. That is the problem that is now facing us; the problem is not whether there should be presidential form of government or parliamentary democracy. For social legislations that we bring forward, we get some impediments from the courts. This has to be got over. Taking this into account, judges who are appointed should be committed to the Constitution and its philosophy. If such judges are appointed, there will be harmonious working of the judiciary and whatever legislation Parliament passes would go through. I am not thinking of judges who are committed to the ruling party; I never want such judges and it is not the intension of the government at all. Because of the delay they allege that they are picking and choosing judges committed to party. I do not want such people; they should be committed to the Constitution and the socio-economic philosophy of the Constitution and

such judges are available in plenty. Without going into other matters raised by other hon. friends which are extraneous to the Bill, I request the hon. Law Minister to expedite the appointment of the judges to the various High Courts and also see that the acting chief justices of the High courts as far as possible are confirmed.

I also want to suggest the constitution of an All India judicial service so that persons recruited to that service can be posted to various High Courts whenever vacancies occur: this also may be considered by the government. Because if we transfer one Judge to another High Court that will also lead to national integration. A Judge from the North may be posted to a High Court in the South say Madras, or Calcutta, it will also lead to national integration and people will understand the other parts of the country as well. I will also suggest, Sir, in this connection, that judicial members of the Income-Tax Appellate Tribunal, who are qualified to be considered for High Court Judges should also be considered while filling up these 65 vacancies. But then the question arises, who should sponsor their names? The Tribunals function within the jurisdiction of a particular High Court. The Chief Justice of the High Court has to make the recommendation. For that, Sir, I have a suggestion to make. The President of the Income-tax Appellate Tribunal, who resides in Bombay, can sponsor any name, who according to his judgment, would have qualified for being a High Court Judge and the names should be sent to the Chief Justice of the concerned High Court where the vacancy occurs and the Chief Justice can forward his recommendation to the Chief Justice of India. A Committee or panel can go into this question and the appointment cannot be assailed by any one if this is adopted.

**SHRI G. M. BANATWALLA (Ponnan):** Mr. Chairman, Sir, the judiciary occupies a very important place in the body politic of any democratic society,

and the performance of our judiciary under the Constitution should be a matter of pride for every citizen of this great country. However, it pains us when we find that it has become a fashion these days to denigrate the judiciary, and I speak with reference to both the ruling party as also many of those in the Opposition. When I refer to the Opposition, I remember the uncharitable remarks also, made by the then Janata Party Law Minister with respect to the position of the Judges which itself resulted in protests here in Delhi and there was a silent demonstration against those remarks that he chose to make in this direction. However, I am not going into details here. But then the ruling party also often comes out with such platitudes as judiciary being a stumbling block in the provision of social justice. This attitude of looking upon judiciary as an impediment in providing social justice must be given up. One of the hon. members was saying that there were several judgments which negated social justice. But it has now been amply brought out here as to how such a situation of negation of social justice comes about. Is it ever realised, that many a time it is the defective laws that render a Judge helpless in rendering social justice to the people who come before him? There are various factors and since some of the Members have gone into that I shall not repeat but these uncharitable remarks should now come to cease.

Sir, we are told that these Judges have refused to recognise the precedence of the Directive Principles over the Fundamental Rights. I was shocked to hear about this. Who has to decide the precedence of one over the other? Who decides it? The Constitution itself has decided it. And then it is clear cut; as the Constitution stands today it is a clear cut matter that the Fundamental Rights are not at all subordinate to the Directive Principles. Indeed, the Directive Principles have given the social guidelines but whenever a conflict comes up between



[Shri G. M. Banatwalla]

the Directive Principles and the Fundamental Rights, the position is clear, as laid down in the Constitution, as laid down by the founders of the Constitution in their wisdom, that it is the Fundamental Rights that have to prevail. Sir, I must make it very clear that we must have a proper approach to the Fundamental Rights as enshrined in the Constitution. They are not just Fundamental Rights, and not merely rights, privileges, and prerogatives of individuals. That is not the way in which they should be looked at. I submit that fundamental rights are a product of and reflect our social values. For example,—a hypothetical example—a person goes to the court of law and says, "I waive my defence. I want no procedures whatsoever. Please convict me and send me to jail. Sentence me to death". Article 21 lays down that that is not possible; he has to be dealt with according to the procedure established by law. That is a fundamental right. Therefore, fundamental rights are not the rights given to the individuals as a matter of their prerogative. They are also a product of our social philosophy and social values that we cherish. We have a multi-lingual, multi-religious society. In order to see that all sections of the society are moulded into a harmonious whole and nothing ever destroys that particular aspect of our life, various fundamental rights are laid down. For instance, articles 25 and 26 speak of freedom to profess and practise any religion. Therefore, it is not a proper thing to go on denigrating the judiciary day in and day out. Leaving a few instances here and there, taking the overall picture, the position and performance of our judiciary under the Constitution should be a matter of pride to one and all.

Coming to the present Bill which is with respect to just a few concessions that are being given, I submit they are very meagre. Indeed, Government must come forward with substantial

measures in this regard. As far as emoluments and conditions of service are concerned, let justice be given to the judges. Let judges not be considered as mere monks on benches. There is need for a re-look at their emoluments and various other concessions and benefits they enjoy. Conveyance allowance must be given a re-look. They should be given a substantial book allowance so that they can keep abreast of the demands of law and the changing trends that are taking place. We see the sad phenomenon of judges travelling in buses rubbing shoulders with litigants, the accused and the witnesses. I need not dwell at length upon these things, but I must say that there is need for justice to judges.

The Fourteenth Report of the Law Commission says:

"The fact that our judiciary has acquitted itself so well and has gained a reputation for honesty and integrity should not shut our eyes to the urgent need of improvement in their services and other conditions."

The Law Commission headed by a former Chief Justice of India, Mr. Justice Gajendragadkar observed that the Government must take necessary steps to improve the conditions of services of judges before the judicial processes fall into complete disrepute by inefficiency and unsatisfactory work.

We talk of the status of the judiciary and we say that we want them to be very high in our society. In this context, we have to consider another aspect. Look at the ranking of the Judges in the Warrant of Precedence. It is shocking to know that the Judges of the High Courts are bracketed with Secretaries to Government and the Judges of the Supreme Court are bracketed with Ministers of State. When we talk of the high position of the judiciary, it is necessary that proper amendments should be made in the ranking of the Judges also. I believe the Chief Justice. of

India had written to the Government that the Supreme Court Judges should be equated with Cabinet Ministers and the High Court Judges with Ministers of States. We want to know the reaction of the Government to this proposal.

There are a number of vacancies in the High Courts and the Supreme Court. It may be because the Government is thinking of changes in the modalities of appointment. But then, how long should we wait? There was the report of the Law Commission about the modalities of appointment nearly a year ago. So, let there now be some precise thinking and let certain steps be taken.

We were told that the backward classes are being taken into the judiciary. I must say that the claims of Muslims should also be considered while making appointment of Judges.

We have also to consider the introduction of procedural reforms and management techniques in our courts of law. Even today the courts work in the same fashion as they worked nearly 150 years ago. Calculators, micro-filming and even photostat machines are unknown in the courts of law. There is need for action in all these spheres. I hope Government will consider them.

While supporting the measure which has been brought forward by the Government, at the same time, I would say that it is not at all adequate to meet the situation. So, I would urge upon the Government to pay attention to this aspect also.

**MR. CHAIRMAN:** Shri Yadav. He should conclude his speech in five minutes.

**SHRI SATYASADHAN CHAKRABORTY** (Calcutta South): Sir, on a point of order. I think there is no quorum in the House.

**MR. CHAIRMAN:** Let the bell be rung... Yes, now there is quorum.

**श्री राम सिंह यादव (अलवर):** सभापति जी, माननीय विधि और न्याय-मंत्री जी ने जो विधेयक प्रस्तुत किया है, मैं उसका समर्थन करता हूँ। यह सत्य है कि हमारे विधि मंत्री जी से जिस तरह की अपेक्षा की जाती थी और जिस तरह के कानून की यह सदन अपेक्षा करता था, जिस स्वरूप में इस विधेयक की हम आशा करते थे, उस स्वरूप में यह विधेयक सदन के सामने नहीं आ सका है। आशा है समय आने पर हमारे विधि एवं न्याय मंत्री एक संपूर्ण विधेयक प्रस्तुत करेंगे।

मैं इस संबंध में निवेदन करना चाहूंगा कि हाई कोर्ट में आज चीफ जस्टिस की जगह बहुत दिनों से रिक्त है और वहां पर्मिनेंट जजेज की कोई व्यवस्था नहीं है। माननीय विधि मंत्री श्री घ्न ही इस संबंध में कोई कदम उठाये, जैसा उन्होंने आश्वासन दिया है।

इसके साथ ही कुछ मुद्दे हैं। संविधान के आमुख में, प्रीएम्बल में हमने यह वचनबद्ध किया है कि देश के नागरिकों को हम इस तरह का जस्टिस देंगे जो इकनामिक, सोशल और पोलिटिकल होगा। लेकिन इस दिशा में, हालांकि बहुत से न्यायमूर्तियों ने कहा है कि हम सोशल जस्टिस देने की कोशिश करेंगे, लेकिन सोशल जस्टिस ऐसी चीज है जो न्यायपालिका की ओर से नहीं, उसमें जब तक कार्यपालिका का सहयोग नहीं होगा, उसे हम एचीव नहीं कर सकते हैं। मैं समझता हूँ कि इसके लिये हमें मौजूदा कानून-व्यवस्था में आमूल-चूल परिवर्तन करने की आवश्यकता है।

सभापति जी, आप इस बात को जानते हैं कि इस देश में आज न्यायपालिका के संबंध में कई तरह की बातें पैदा हुई हैं और उनमें से प्रमुख बात यह है कि आज अभिभाषक संघ, लिटिगैट्स और जन-साधारण की ओर से मांग की जा रही है कि जो भी जजेज

[श्री राम सिंह यादव]

16.54 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

हैं, उनका एक राज्य से दूसरे राज्य में स्थानान्तरण किया जाये। जजेज के बारे में सुप्रीम कोर्ट की बार ने भी यह प्रस्ताव किया था कि जजेज का स्थानान्तरण किया जाये और इसके लिये प्रावधान किया जाये और उस पर अमल होना चाहिये। मैं समझता हूँ कि इस बारे में हमारे विधि मंत्री जी को किसी तरह की दिक्कत या रुकावट नहीं होनी चाहिये।

एक बहुत बड़ी दलील जजेज की तरफ से दी जाती है कि वह दूसरे प्रांत में जायें, तो वहां की भाषा नहीं समझते। मैं प्रश्न करता हूँ कि जब आई० ए० एस०, आई० पी० एस० और आडिट एंड एकाउन्टस सर्विस के लिये सलैक्शन करते हैं तो दक्षिण का आदमी उत्तर में किस तरह से जाता है और वह आई० ए० एस० उसी तरह से वहां कामयाब होता है जैसे उसी प्रांत का रहने वाला व्यक्ति हो। इसलिये यह दलील जो भाषा के आधार पर दी जाती है, यह मानने योग्य नहीं लगती है। यह जो प्रयोग पहले किया गया है, ब्रिटिश टाइम में जिस तरह से जजेज को दूसरे प्रांतों में नियुक्त किया जाता था, वह प्रयोग भी किसी तरह से कम नहीं है। मैं बताना चाहता हूँ कि सर शादी लाल जो हरियाणा में पैदा हुए थे, वह किस तरह से प्रीवी काउन्सिल में कामयाब हुए हैं, अच्छे जज साबित हुए हैं, उनके सामने लैंगेज का इम्पीडीमेंट था ?

मैं इस सदन में मांग करता हूँ कि यह उचित मांग है, देश के हर नागरिक की है, अभिभावक संघ की है और मैं भी 25 साल से बकालत करता हूँ, हाई कोर्ट में जिस तरह का बातावरण है, बार में है, बार के सदस्य जिस तरह से सोचते हैं, आप निश्चित रूप से ऐसी व्यवस्था कीजिये और कदम उठाइये। आप हाई कोर्ट के जजेज और चीफ जस्टिस का दूसरे प्रांतों में स्थानान्तरण करें।

एक आपको और कदम भी उठाना है, वह यह है कि जहां आप न्यायपालिका के अंदर नियुक्तियां करते हैं, उनमें आज भी आपके यहां अभिभावक संघ से कोई योग्य वकील आते हैं जज बनने के लिये जिनकी आप बैंच में अपेक्षा करते हैं। उसका कारण यह है कि जो सैलरी आप उनको देते हैं वह ल्यूक्रेटिव नहीं है उसमें कोई इस तरह का अट्रैक्शन नहीं है। इस विधेयक में जो जजेज के बारे में आपने आज व्यवस्था की है वह उनकी तदनुवाद से सम्बंध ही रखती है, केवल छुट्टी, पेंशन, मैडिकल लीव वगैरह की व्यवस्था की है। आप इस बात को गंभीरता से सोचिये।

मैं समझता हूँ कि आज सारे विश्व में हिन्दुस्तान के जजेज ही ऐसे हैं जिनको बहुत कम वेतन मिलता है। आपको इस बात का ध्यान रखना है कि आपके हाई कोर्ट के अच्छे वकील जज बनने के लिये तभी आ सकते हैं जब आप उनको अच्छी तनख्वाहें दें। उसके लिये मैं सजैस्ट करूंगा कि सरकार एक जुडिशल सर्विस पे कमीशन कायम करे, जो केवल जुडिशल सर्विस से ताल्लुक रखे और इन सारे हालात को देखते हुए जुडिशरी के सदस्यों की तनख्वाहें वगैरह मुकर्रर करे। इंडियन एडमिनिस्ट्रेटिव सर्विस की तरह देश में एक जुडिशल सर्विस भी कायम की जाये और उसकी तनख्वाहों में एकरूपता लाई जाये। एक जगह सेशन जज और डिस्ट्रिक्ट सेशन जज को 650 रुपये और 1200 रुपये मिलते हैं, जबकि दूसरी जगह 1800 रुपये मिलते हैं। इस डिसपैरिटी को कम करने से जुडिशरी का स्तर और भी ऊंचा हो जायेगा।

इसमें कोई शक नहीं है कि हिन्दुस्तान की जुडिशरी अपने आप में एक गरिमा और शालीनता लिये हुए हैं। पिछले 33 वर्ष का उसका इतिहास एक उदात्त और ऊंचा इतिहास है। इस गरिमा और शालीनता को बनाये रखने के लिए यह आवश्यक है कि हम उन

लोगों की तन्खाहों, कनवेयेंस एलाउंस, व्हीकल एलाउंस और दूसरे एलाउंसिज के बारे में गंभीरता से सोचें ।

मुझे खुशी है कि विधि मंत्री ने भूतपूर्व विधि मंत्री की लाइन को छोड़ कर एक नई व्यवस्था कायम करने का साहसिक कदम उठाया है । मुझे आशा है कि वह इस दिशा में और आगे बढ़ेंगे । एक दिन वह था, जब हिन्दुस्तान की जुडिशरी के सदस्यों ने — डिस्ट्रिक्ट जजों और दूसरे जजों ने— पहली बार पार्लियामेंट के सामने मार्च किया था । मैं समझता हूँ कि आज़ाद हिन्दुस्तान में यह एक पहली घटना थी । यदि जुडिशरी को कार्यपालिका के बारे में, दूसरी संस्थाओं के बारे में या इस देश के लोगों के बारे में इस तरह का शको-शुबहा पैदा हो जाये, तो जुडिशल आफिसर्स ठीक तरीके से काम नहीं कर सकते । सरकार को उन्हें एगोरेंस और मॉरिस की गारंटी देनी चाहिए । जब हम एक जज से यह उम्मीद करते हैं कि ही शुः लिख लाइरु ए हरमिट एंड बर्क लाइक एट्स, तो हमारा यह भी फ़र्ज है कि हम उसकी जीवन की साधारण आवश्यकताओं की पूर्ति करें ।

इन शब्दों के साथ, विधि मंत्री जी ने जो विधेयक प्रस्तुत किया है, मैं उसका समर्थन करता हूँ और आशा करता हूँ कि आगे चल कर वह सस्ते न्याय और समाजवादी न्याय-व्यवस्था के बारे में एक काम्प्रिहेंसिव बिल इस सदन में पेश करेंगे ।

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR): As far as the Bill is concerned, I thought that its various provisions were most innocuous. By and large the Bill has received the support of all the sections of the House. One or two friends, however, opposed it, but not on the ground that it is not a Bill to be appreciated. Only, while supporting it, they had certain reservations.

It is not possible to answer each

and every question that has been raised, because many a speaker thought it fit, while paying left-handed compliments to the Bill, to digress and raise issues which are highly extraneous. On my part I would like to make an attempt to answer a few important objections that have been raised, and to meet the attempt that has been made to put me in the dock. I shall explain the position so that the House and the nation knows the real facts.

Two hon. friends attacked me, and particularly the hon. Member from Jadavpur used all the invectives in his armoury and tried to make out a case, though he also knows that he has miserably failed, that the judiciary in this country in substance had been denigrated. He thought that the judiciary was sought to be weakened.

17.00 hrs.

The rule of law was thrown to the winds, judiciary was sought to be denigrated and at the height of all he had gone on record to say and to ask me whether I could show a single incident where judiciary erred in its performance. After hearing certain speeches when he was himself the Chairman I am sure he will revise his own opinion. I am particularly referring to those speeches which have not come from this side but from that side. I am not here to say anything against the judicial system in our country.

(Interruptions)

What has surprised me are the comments coming from a friend who ideologically has no faith in the present judicial system and shedding crocodile tear regarding certain aspects that are prevalent in the country.

SHRI SOMNATH CHATTERJEE (Jadavpur): It is not fair to say that He holds a particular brief in which he does not believe, probably. I said that in this imperfect system an attempt should not be made to denigrate the judiciary because some protection of the weaker sections is being

[Shri Somnath Chatterjee]

obtained from the judiciary. I said if the National Security Ordinance is struck down...

SHRI P. SHIV SHANKAR: I am aware of what you have spoken. The hon. Member is aware that I heard him absolutely patiently. I was very attentive and did not utter a word when he spoke.

MR. DEPUTY SPEAKER: Mr. Somnath, no two advocates agree. It is in the larger interest of the country that they should not agree.

SHRI P. SHIV SHANKAR: I may make the position clear. I may bring to the notice of the hon. Members and through this House to the nation that we are as much interested in the independence of judiciary as any other section of the society which claims to be so. But then I for one would have liked the debate to have gone on rising above the political considerations. Dragging the judicial system and those who man into the political arena for the purpose of the debate, in my submission, does not enhance the prestige of this House. Therefore, without seeking to answer certain of the aspects which even though I would not have very much liked, should have been discussed here or debated, I would try to first purge myself of certain allegations that have been made against our Government so that the record should be straight. What had been disturbing me in the recent times is and I have partly said this in the other House that particularly certain newspapers with their political alignments have been unfortunately giving out certain news which are far from true. I do not know the sources from which they got the news. But the tainted approach and the tilting which is there in the news gives an unfortunate impression and it would be my endeavour to steer clear of such an impression and put the record straight.

A lot has been said about vacancies in the High Court—that they are not filled up—and it has also been said by the Hon. Member from Ratnagiri that the recommendations that were received earlier have been sent back for the purpose of screening. I may bring this to the notice of the House because certain of the aspects are rather unfortunate and I would like to state certain facts without violating either the propriety of my oath or the propriety of judicial approach even in matters like this. It is possible that I may not be able to give very many details but, none-the-less, certain of the details are absolutely necessary and I would go on record.

For the information of Hon. Members, I may bring it to the notice of the House that when I took over as the Minister of Law, Justice and Company Affairs, it was only five files that were returned to us from the President. It was only five files. I say this because I hear from certain quarters that some 60 files pertaining to the appointment of Judges were returned and that the Government is doing nothing with reference to the appointments. Among these five files—I cannot give other details but I must give details to the extent possible and I must take the House into confidence—only one file pertained to appointment in the Supreme Court and the other four pertained to other matters. So, it is not as though a lot of files were returned and the Government, after we took over, again sent them back for the purpose of screening. It is neither here nor there. This is the submission I thought I should bring to the notice of the House.

Another aspect of it, which is also relevant, is that I do not know why some Opposition Parties, particularly, would like to create a confusion. I say this with a little bit of responsibility because I heard one of the responsible Members saying, when Justice Srivastav's matter was discussed in this House, 'It is difficult to dislodge you at the hustings, but it would be

our endeavour to create a conflict between you and the Judiciary'. Maybe, it is with this intention that, day in and day out, certain things are said against the Government *vis-a-vis* the Judiciary: I am not able to comprehend. But let me put the record straight that on 1-11-77—I am giving practically the same date when the Janata Party Government came to power, not that I am trying to say anything against the previous Government but I thought I should bring to the notice of the House facts which would bear out where we stand and whether this Government is really trying to run about with committed Judges as it has been sought to be alleged, and what is our commitment (I will come to it slightly later)—On 1-11-1977, practically nine months after the Government was taken over by the Janata Party, out of the sanctioned strength of judges of 366 on that day, the vacancy position was 88; and on 1-11-1980 the sanctioned strength of judges being 405, the vacancies today are 74, including, I agree, those five or six High Courts functioning. I will state about it a where the Acting Chief Justices are little later. I am not trying to compare these figures to denigrate the previous Government in any form. The process is such where the delay, in my submission, is absolutely inherent. Without going into the various High Courts, I refer to the expression of the hon. Member from Jadavpur who had gone on record to say that 'appointments are not effected as persons could not agree with the recommendations of the Chief Justices'. He is very well aware. In order to drive home the point, I would not like to give the instances. More than myself, he is very much aware as to the state of affairs of his own State where the vacancies are there for the last more than two and a half years. I leave it to him to judge whether we should be held in any way responsible for not accepting the recommendations of the Chief Justice of West Bengal. I leave it to him to judge because he knows the facts. I am only trying to say that the

vacancies exist for more than two and a half years—practically two and a half years. I am not even blaming the previous Government. I am only trying to explain my position and the position of our Government. The recommendations of the Chief Justice of the High Court are not accepted for certain considerations—this is what he thought to allege against us. I am only giving an explanation to that...

SHRI SOMNATH CHATTERJEE: I did not refer to the Calcutta High Court.

SHRI P. SHIV SHANKAR: You have not said about 'Calcutta'. You have said generally. I agree. I am not saying that you had referred to Calcutta. I am saying that you said that generally. In order to drive home my point, I am giving the example of your own High Court...

SHRI SOMNATH CHATTERJEE: I have been requesting you all the time. Please disclose that. I have been requesting you to find out some method to resolve the deadlock.

SHRI P. SHIV SHANKAR: The deadlock is there. He is aware. (*Interruptions*) Why I have tried to quote it is because you are very well aware of those facts. I will not go into the details of that...

SHRI SOMNATH CHATTERJEE: Nor can I.

SHRI P. SHIV SHANKAR: That is exactly so. Therefore, you will kindly appreciate this. Your allegation was wholly misplaced, and only to meet that point, I thought I should give you an example of a case which is very well known to you.

PROF. MADHU DANAVATE: Something which both of them do not want to disclose!

AN HON. MEMBER: We are entirely in the dark.

**SHRI P. SHIV SHANKAR:** You may pardon me if I am not able to give further details because that would be a case of impropriety on my part. I could only go to a certain extent in some matter; beyond that, it would be an impropriety on my part to reveal the facts.

Sir, therefore, it is not as though the recommendations have come and a deliberate attempt is sought to be made. I would also like to assure the hon'ble Members that the procedure that was followed by the previous government has been only scrupulously followed by this government wherever it is possible. In fact, I can go on record that every time I am pressing the State governments for the purposes of sending the recommendations—for diversified reasons difficulties are there—so many States are locked up in such conflicts where we are not able to get the clear recommendations.

Sir, I have in answer to Question No. 27 on 18th November, 1980 stated that by October 20, 1980 proposals in their complete form have been received only in respect of 12 of the vacancies in the High Courts. The State authorities are constantly reminded—we have gone on record—for the need to take advance action for filling the posts which are likely to fall vacant. That has also been stressed. I am sending wireless messages. As my hon'ble friend knows I had personally gone to West Bengal only for this purpose. So, these difficulties are there.

**AN HON'BLE MEMBER:** But this deadlock is only with regard to West Bengal. What about other States?

**SHRI P. SHIV SHANKAR:** I have already told you only 12 cases are such where complete proposals have come. Actually I am after it. In many cases many complications are there. But I can assure the House that at the earliest opportunity—because I am after it and my consultative committee was also very much anxious that the appointments should take place at the earliest—we will do our best to solve

this problem so far as the High Courts are concerned. This is all the assurance that I can give to this House.

Sir, a lot has been said about committed judges. In fact, I have not been able to understand the concept of committed judges as has been adumbrated from time to time by the Opposition, and the accusations that have been made. Sir, I believe—and I certainly believe—that the judges must be committed but the question is 'to whom'

**SOME HON. MEMBERS:** To what?

**SHRI P. SHIV SHANKAR:** I have repeatedly the position. Their commitment has to be necessarily to the Constitution and its goals for the simple reason that everyone of us as we take the oath also takes the oath to uphold the Constitution and the laws but the difficulty arises when the commitment is to the personal ideology of a judge. This really creates the complication. I wish that some researcher goes into the manner in which these appointments had been taking place, and particularly the manner in which the appointment took place from 1977 to 1979. It would be unfair for me to give the details but it pains me on some occasions when I come across certain cases....

**SHRI G. M. BANATWALLA:** Appoint a Committee to go into it and lay the Report on the Table of the House.

**SHRI P. SHIV SHANKAR:** I would not mind if it is the consensus of this House.

**SHRI G. M. BANATWALLA:** Be true to the nation.

**PROF. MADHU DANDAVATE:** We will support it wholeheartedly.

**SHRI P. SHIV SHANKAR:** I will certainly consider this aspect. In fact I am prepared to place myself for this purpose in the hands of the House. We have got to make a little careful

consideration My hon. friend referred to the content of Article 217 of the Constitution. Sir, the recommendations for the appointment of judges starts from the Chief Justice of the High Court. The Government of India has no hand in the matter. From the manner in which the recommendations come from the Chief Justice, and then, from the State authorities, very little is left often so far as the Central Government is concerned on the question of interference on their part. I thought I should make this position clear because often it is that we are trying to 'look' for committed judges. I am trying to explain this procedural aspect so that it may be known that the originating authority for the recommendations is the Chief Justice of that High Court. I would not like to go into the details as to the manner in which recommendations are made and what type of complaints often come to me, because that would be beside the point. But then, the idea of my stating this is only to show that the Central Government, because of the process and procedure that has been laid down has little say on the question of the recommendations of persons for appointment as High Court judges.

One aspect which has been adverted to is with reference to vacancies in the Supreme Court. Sir, hon. Members are aware that vacancies in the Supreme Court started arising from August, 1980. If I remember it correctly, the first judge who retired, retired on 31st of July, 1980. Within this span, from August to November, 4 have retired in the Supreme Court. I have gone on record some time back in the other House as saying that the Chief Justice of India himself has made the proposal some time in September, 1980. Naturally there is a procedure which has got to be followed, the procedure of consultations according to the Constitutional provision of Article 124. I may bring to the notice of the honourable House what I said in the other House that shortly perhaps—we will be making the announcement very shortly—we will be making announcement of certain other appointments to

the Supreme Court. Since already the process of approval is complete, I do not mind going on record that this Government of Mrs. Gandhi can legitimately take the credit of appointing the first Harijan to the highest seat in the judiciary and since the matter of announcement is . . . . .

SHRI SOMNATH CHATTERJEE:  
From Madras . . . . .?

SHRI P. SHIV SHANKAR: I do not know that. I cannot give that . . . .

SHRI JYOTIRMOY BOSU: Mr. Kuppuswami?

SHRI P. SHIV SHANKAR: Mr. Kuppuswami is not a Harijan.

SHRI JYOTIRMOY BOSU: I have got the information.

SHRI P. SHIV SHANKAR: He has got the information before I could get  
(Interruptions).

So, Sir, after all, in these appointments, this Government is certainly committed to one aspect which I must also make clear. Sir, if the concept of social justice in the Constitution has to be real—and it should not remain illusory—then it is absolutely necessary that judges should be appointed from different sections of the society inhabiting this country, particularly the weaker sections, the minorities, the backward classes, the Scheduled Castes and ladies, as one of the Hon. Members said. Now, the whole difficulty I do not know. In fact, the British Judicial System, which developed in our country, has developed in such a fashion where we have been treating the judiciary and the judicial system as though they are in the ivory towers. They live in the ivory towers and we follow the approach of "touch me not". In fact, I am one amongst those people who would like that the intelligentsia in this country must objectively evaluate the various appointments that take place in the High Courts based on the recommendations. In this context I would not mind meeting the point which has been raised



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by some of the Hon. Members Quite a large number of the Members have supported the transfers here. Some of our hon. Members have opposed it, particularly the great and the learned Member of the Bar, the hon. Member from Jadavpur. I do not know whether he has really said that with conviction. I refuse to believe that he has said all that with conviction. So far as the Government is concerned, Sir, I may go on record . . . .

SHRI JYOTIRMOY BOSU: How many times he goes on record?

(Interruptions).

SHRI BAPUSAHEB PARULEKAR: With reference to the appointment, if you permit me, I would like to ask one question. You know the date of retirement of the Supreme Court judges right on the day when they were appointed. Then what is the difficulty in appointing the judges? You have said only three months period. It is a long period. Why not arrange for appointment of judges?

SHRI JYOTIRMOY BOSU: There is a political difficulty!

SHRI P. SHIV SHANKAR: Political difficulties arise with you. I did not go into that question. So, Sir, as I said, it was only in September that the recommendations from the Chief Justice of India came and some of the vacancies had arisen on their retirement and some vacancies started arising after that. I have explained that position and I have also said that I have already addressed the letters to the various State authorities to take action in advance. But the difficulties are inherent in the system itself. We are working in a democratic country and the process is necessarily slow. I must frankly confess this. I cannot straightway propose a particular person and appoint him. You will be instigated by the hon. Member from Diamond Harbour to file a writ petition in the Supreme Court the next

day saying how he could be appointed

SHRI JYOTIRMOY BOSU: @@

MR. DEPUTY SPEAKER: The running commentary made by Shri Bosu while sitting in his seat would not go on record.

SHRI JYOTIRMOY BOSU: Why? This is an interruption.

MR. DEPUTY SPEAKER: You have to stand up; that is the procedure.

SHRI JYOTIRMOY BOSU: All right; I would stand and say how Mr. A. N. Roy was brought as Supreme Court Chief Justice superseding such a number of judges.

MR. DEPUTY SPEAKER: Now, it is correct. This is an interruption now, not a running commentary made while sitting. This will go on record.

SHRI JANARDHANA POOJARY: He must get the permission of the chair also

MR. DEPUTY SPEAKER: That is too much. He is my good friend.

SHRI P. SHIV SHANKAR: We know of the love and affection my friend has for the judicial system in this country.

AN. HON. MEMBER: Which friend?

SHRI P. SHIV SHANKAR: The gentleman who has been raising the objections. He has true love and affection for the system itself, but these crocodile tears are rather unfortunate. So far as I am concerned, I still feel that Justice Roy was one of the topmost judges in this country. I fully support the considerations that weighed for his appointment as Chief Justice. There is no difficulty about that so far as I am concerned. I would not like to go into details of it as it is not necessary at this stage.

We need not go into the matters which have nothing to do with the subject at the moment.

I was trying to say something on the question of transfers. The hon. Members are aware that so far the Government is concerned, time and again I have said that we have not taken any firm decision on the issue. I am aware that the Consultative Committee attached to the Ministry of Law, Justice and Company Affairs consisting of members from different parties, be it Janata Party, BJP, Lok Dal, Congress(I) or others, unanimously felt that Article 222 should not remain as a provision which had been inactive, it must be implemented in letter and spirit and invariably the Chief Justice should be from outside. I would request the hon. Members to consider this aspect rising above the party considerations. A large number of organisations, bar councils, bar organizations, individuals, including various former Chief Justices, various judges of the Supreme Court who have recently retired, even Shri Shanti Bhushan himself and Shri S. V. Gupta, the former Attorney General, who was occupying this position between 1977 and 1979—all of them felt that the Chief Justice should be from outside. I have made the position clear that the nation may debate this issue. I have said this in this House; I have said this elsewhere also. When a large number of people are saying that the Chief Justice should be from outside, we must go into it as to why they are saying. I may bring to the notice of the House that there are various complaints that the Chief Justices are favouring certain set of advocates either for recommending for the judgeship or for the occupation of different positions.

Complaints are about the constitution of the benches in the High Courts. Complaints are about the practice by relations and the weightage that they get in the different courts. Complaints are that various

judges, because of their having rooted themselves into the areas where they had been practising, had developed local prejudices and in-built prejudices.... (Interruptions)

I am aware. This type of allegations and this type of complaints had been pouring in not from today. This started sometime from 60s. If people like even my predecessor Mr. Shanti Bhushan had to decide "Look, Chief Justice must be from outside" it is not as though it is the fad of a single individual. I would like particularly the legal community itself to express itself, and I am prepared to say this that large number of organisations, the bar associations, and the bar councils are of the view, that the Chief Justice should be from outside.

So far as the Government of India is concerned we are, no doubt, delaying the taking of a decision on this issue, because we would like that people should express themselves. Now, I am aware of the fact that in some section of the press it is said and certain people are of the view Look, there should be cases of transfers, in sporadic cases for example, what was said was that supposing there is a complaint against a particular person, there should be a transfer. The position is, Sir, it creates lot of complications. Supposing you make allegations against a particular judge or the Chief Justice and you transfer him from that place on the ground that there are allegations or on the ground that people are bringing charges against him, that man will have to be transferred with a stigma. That means he is unfit there. If he is unfit there, how could he fit in another place? That is the first difficulty which I face. The second difficulty is why should a receiving State receive such a judge against whom allegations are there they will object: "If he is a bad coin there, he will also a bad coin here. Why are you bringing and putting that man on our head?" Thirdly, it could be said and very legitimately that

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"Look", I must say frankly that particularly it gives the handle to the political opponents to say—"Look, the executive is interfering in the transfers." It is precisely this reason why my predecessors and other legal luminaries had been thinking that there should be a uniform policy. Uniform policy of having a Chief Justice from outside in which case the man will not be guided by any other concept except the concept of merit. He would not be interested in framing the benches in such a fashion, or he would not be interested in recommending in a manner which subserves certain interests and so on and so forth.

This is one of the ways of looking at the problem and I thought that the nation could debate on the whole issue, and no doubt, we are delaying in taking the decision. We are also consulting the Chief Justice of India and the Supreme Court in the matter. It is not as though we are sleeping over on the issue, but Government, on their part, would very much like that there should be a proper debate and I would very much like that the Honourable Members may rise above the party considerations so far as the question of the transfer and the judicial system in the country is concerned. Because, as my friends have said from the other side and this side, if the judicial system in this country becomes weak, the democratic fabric in this country will break, and it is precisely for this reason that these debates have got to be taken with a pragmatic outlook, not from the point of view of the political philosophy of a particular party or anything of that type. I have deliberately dwelt on this issue because a lot was said about the transfer and various news that appear in the papers from time to time which were disturbing and the manner in which the news is tilted certainly creates a little bit of apprehension in the mind.

I had already referred to one aspect. It was said that in certain High Courts, the acting Chief Justices are functioning. I am aware of this fact. It will not be possible for me to say with respect to each and every High Court the position, but broadly and generally I have put them into three categories and I will explain those categories so that the position should become clear. In certain cases, there are no recommendations from the State authorities so far about the appointment itself which is *sine qua non* and which is constitutionally necessary. Secondly, there are certain cases which are held up because of the consultations with the Chief Justice of India on certain aspects. Thirdly, there are certain cases where the proposals are under process. I should say it is rather very much embarrassing for me to say that the proposal from Andhra Pradesh has been cleared very fast and one need not read any meaning in it, because as I mentioned, broadly these cases are falling under those categories, and action was taken based on it and, therefore, the explanation that I am trying to give is that it is not the Government that could be held responsible for the purpose of the delay. That is how I prefer to explain why the Supreme Court appointments have not taken place so far and why acting Chief Justices are functioning, why the appointment of the judges has been delayed. These are normal features.

SHRI G. M. BANATWALLA: Even in the case of Delhi High Court, the posts are vacant since long.

SHRI P. SHIV SHANKAR: It is true. I have given reasons. Only in 12 cases the complete proposals were there and we have already processed them. Not a single file is with us as on today, except perhaps I do not know whether any file came in the morning itself. But, on our part, we are trying to do our best.

SHRI BAPUSAHEB PARULEKAR: Mr. Deputy Speaker, Sir, may I have

your permission to ask a question? According to the well established convention and practices, so far the seniormost judge of the High Court is appointed the Chief Justice. Are you going to deviate from this practice; if not, why has this practice not been followed and why are these vacancies there?

**SHRI P. SHIV SHANKAR:** A very general question has been asked. One thing I may bring to your kind notice that the practice has not so far been deviated from; and what surprises me in this that the government in the saddle between 1977—1979 had also transferred quite a large number of judges and appointed Chief Justices from outside. Why is it that at that moment no-body raised this question also? Why is it that people did not raise any objection at that moment; and why is it that they are trying to raise it at this moment? I am only reeling that except the political consideration, there seems to be nothing. (*Interruptions*) I never said that. I may tell you that I never read in 1977 the manner in which the news is flashed today; the same thing I never read in 1977, notwithstanding the fact that vacancies were more; they were not filled up. Shall I tell you that till the last vacancies were not filled up?

**SHRI SOMNATH CHATTERJEE:** We raised it in the House.

**MR. DEPUTY SPEAKER:** You might have raised it, but Mr. Parulekar would not have raised it.

**SHRI P. SHIV SHANKAR:** I thought I should make the position clear about this aspect, because various members have referred to this aspect. A lot has been said about the legal aid and the government has been found fault with reference to its activities regarding the legal aid. Time and again I have given news to the House that a Committee has been appointed. It is not a com-

mittee for the purpose of giving a report.

**SHRI SOMNATH CHATTERJEE:** How many are in this committee?

**SHRI P. SHIV SHANKAR:** This is a different type of committee; my friend knows very well that his close friend is on that committee. This committee is for the purpose of monitoring and implementing the scheme, not for reporting. The entire amount that was allocated for this purpose has been made over to them and they have started functioning exceedingly well. It was only in September that we had taken this decision; we cannot go on having committee after committee for the purpose of report. I thought that instead of government itself taking it up—because government has got its own work and we would not be able to give full concentration to this job—it can be given to them, headed by a judge of the Supreme Court; the whole thing has been put under their charge. I have been meeting various Chief Ministers so that they could extend all support to this committee. I am aware that in many cases poor people are not able to meet the challenges which are hurled at them by the rich people. My friends from Jadhavpur is aware; I can say with confidence that not a single common man, a poor man has gone to the Supreme Court so far. Many of them did not know their rights at all. We are working in different directions.

**SHRI SOMNATH CHATTERJEE:** We have to take some of them; they have no place to stay; they cannot afford the fare to come to Delhi; they cannot engage a lawyer. For the last ten years we have been shouting.

**SHRI P. SHIV SHANKAR:** Your complaints are many. But you also try to appreciate my point of view. This committee is now in the process of establishing a nucleus in all the High Courts. This committee is already coordinating the work with the

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state committees which are already existing. It is also guiding those committees. Various people may approach the central committee through the state committees. I can give this assurance that if a particular case is brought to my notice, we will try to take action to help the parties because the committee is there.

**SHRI SOMNATH CHATTERJEE:** You give some publicity.

**SHRI P. SHIV SHANKAR:** We have been giving. What more publicity is required when I speak here. I want to go on record to say that one of the hon. Members here, the Chairman of the Janata Party, addressed me a letter with reference to a particular person in Madras saying that that person was suffering and he required legal aid. I immediately arranged it through that process, through the state. We are prepared to do it. But it takes time. The committee was set up in September and it is working; it has already come forth with a draft of the proforma of the rules with the request that each state must adopt it and state functionaries must start working. Some friends on my side and on that side had the apprehension that the poor people were not in a position to get legal aid. I thought I should allay those apprehensions. If there is any such case hon. Members may refer it to me and I shall in turn refer it to the committee for action.

A lot has been said about arrears in courts. In reply to question 35 dated 18 November 1980, I have stated that the government are deeply concerned at the arrears which have accumulated in the Supreme Court and the High Courts. Government have made various suggestions to the Supreme Court and the recommendations received on the suggestions along with the 79th report of the Law Commission are under examination by an interdepartmental committee of the officers; meanwhile various measures are being taken and others are under consideration for dealing with the

problem. Some of the important steps are appointment of *ad hoc* Judges, exclusively for dealing with arrear cases, abolition of letters-patent appeals from single Judges' judgments, establishment of administrative tribunals and appointment of a committee to go into judicial reforms.

Also, I would like to state that the steps that have been taken to reduce the pendency are, the Code of Civil Procedure was amended, way back in 1976 to abolish the provision of second appeal, to modify the provision of second appeal to the High Court, while Section 100 restricts....

**SHRI BAPUSAHEB PARULEKAR** (Ratnagiri): Is it appeals to the same Court or....

**SHRI P. SHIV SHANKAR:** No, not to the same Court. You are aware. There is a different Article in the Constitution. You are aware of the Constitutional provision.

The Code of Civil Procedure enacted in 1973 has been amended in 1978, on the basis of the recommendations of the Law Commission. The Judges' strength has been raised in various High Courts. The States and the Chief Justices have been requested to adhere to the specified time schedule for sending their proposals for filling up the vacancies of the Judges' posts. The sanctioned strength of the Judges has been increased. This statement I have already laid on the Table of the House. The Supreme Court Rules have been amended to vest more powers in the Registrar and Judges in Chamber so that the time of the Courts is not wasted in petty miscellaneous matters. Cases involving common questions of law have been grouped together by several High Courts. As recommended by the Seventh Finance Commission certain States and Union Territories are being provided with grants under Article 275 aggregating to Rs. 24 crores specifically for the establishment of 538 additional courts both civil and criminal in various High Courts. (*Interruptions*).

Apart from the above, certain High Courts have taken various steps like fixing matters for hearing by giving short returnable dates, dispensing with printing, expediting and giving priority to matters under certain Acts, grouping of matters arising from land acquisition cases etc.

Sir, these are the various steps that have been taken and they will continue to be taken for the purpose of clearing the arrears. Now, Sir, I am aware that quite a large number of my friends seem to be a little impatient. I thought I should meet the other points that have been raised, but it would be highly time-consuming. I would leave that aspect, I could.... (Interruptions)

I certainly thank the Hon. Members, particularly the Hon'ble from Jadavapur as also from Ratnagiri.

SHRI G. M. BANATWALLA: It is a partisan attitude.

SHRI P. SHIV SHANKAR: Sir, I said 'particularly'. 'Particularly' I said, Sir, 'Particularly'.

Various suggestions have been made. They will be certainly considered in right earnest and I thank the Hon. Members for taking so much active part in the consideration of the Bill.

SHRI N. K. SHEJWALKAR: You have not said anything about the income-tax.

SHRI P. SHIV SHANKAR: If I have to meet all the points that will take a lot of time.

MR. DEPUTY-SPEAKER: The question is:

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

*The motion was adopted.*

MR. DEPUTY-SPEAKER: We shall now take up clause-by-clause consideration.

The question is:

"That clauses 2 to 10 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 10 were 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: Motion moved:

"That the Bill be passed".

Shri Ramavtar Shastri.

श्री रामावतार शास्त्री (पटना) :  
उपाध्यक्ष जी, मैं वकील तो नहीं हूँ लेकिन मुवक्किल रहा हूँ। इसलिए मुवक्किलों के संबंध में भी आपको बतलाना चाहता हूँ। वैसे मैं इस विधेयक का विरोधी नहीं हूँ। हमारे दल के वक्ता ने इसका समर्थन किया है। फिर भी मैं एक बात की तरफ आपका ध्यान खींचना चाहता हूँ।

उपाध्यक्ष जी, तीन साल से दस साल तक जो मुकद्दमे इस समय सुप्रीम कोर्ट और हाई कोर्टों में लंबित हैं उनकी संख्या 2 लाख 80 हजार, 494 है। मैं यह जानना चाहूंगा कि इन मुकद्दमों पर विचार कर जल्दी से जल्दी इनका फैसला हो, इस के लिए सरकार ने कोई योजना बनाई है? जो मुकद्दमे दस-दस साल से पड़े हैं उनका फैसला कब तक हो जाएगा, इसके बारे में क्या सरकार ने सोचा है?

दूसरी बात, इन्होंने गरीबों का मसीहा बनने की कोशिश की है लेकिन गरीबों को कानूनी सहायता नहीं मिलती। यह मैं जानता हूँ। इस के लिए सरकार की ओर से कोई योजना बननी चाहिए। यह बात मैं उनको विशेष रूप से कह देना चाहता हूँ।

[श्री राम बतार शास्त्री]

तीसरी बात मैं यह कहना चाहता हूँ कि इन्होंने बहुत कहा है कि जुर्मानायरी कमिटिड होनी चाहिए। मैं भी इसका समर्थक हूँ। लेकिन यह डेमोक्रेसी के प्रति कमिटिड होनी चाहिए, सेक्युलरिज्म के प्रति कमिटिड होनी चाहिए, सोशलिज्म के प्रति कमिटिड होनी चाहिए क्योंकि ये तीनों बातें संविधान के प्रिसम्बल में लिखी है। आप चाहते हैं कि जजिज की कमिटमेंट इंदिरा जी के प्रति, कांग्रेस पार्टी के प्रति हो। बात आप बेशक दूसरी करें लेकिन प्रेक्टिस में यही हो रहा है।

MR. DEPUTY-SPEAKER: You have come to your original form. It will take more time. Please put questions.

श्री र मावतार शास्त्री : मैं एक उदाहरण दे रहा हूँ। बिहार का हाई कोर्ट पटना में है और आप जानते हैं पटना मेरी कांस्टीट्युएन्सी है। आपने जादवपुर, डायमण्ड हारवर का नाम लिया है। पटना भी एक जगह है। वहाँ मैंने देखा है और मुझे इसकी व्यक्तिगत जानकारी है कि जो एडवोकेट बहुत अच्छे अच्छे प्रगतिशील विचारों में विश्वास रखते हैं उनको जज नहीं बनाया जाता है। आप लोग ऐसे लोगों को जज बनाते हैं जो आपके पीछे चलने वाले हों। जनता पार्टी के समय में भी उनके पीछे चलने वाले जज बने हैं। मैं ऐसे उदाहरण दे सकता हूँ।

18.00 hrs.

उपाध्यक्ष महोदय, मैं आखिरी प्वाइंट बोल रहा हूँ। कमिटमेंट का मतलब यह होना चाहिए कि कुछ आइडियालाजी हो, देश को कैसे बदलना है यह समझ साफ़ रहे? समाज बदल रहा है लेकिन आपकी न्याय-व्यवस्था वही पुरानी है। समाज के बदलने के साथ-साथ सामाजिक परिवर्तन के साथ-साथ न्याय-व्यवस्था में भी परिवर्तन होना चाहिए, न्याय-व्यवस्था बदलनी चाहिए और आम जनता के हक में इसका इस्तेमाल होना चाहिए।

इसलिए मैं चाहता हूँ कि कोई इस तरह की कमेटी बनाई जाए जो ओवर आल ज्यूडिशियल सिस्टम पर विचार करे। उसमें आमूल-परिवर्तन की जरूरत है तभी हम यहां लोगों को ठीक से न्याय दे सकते हैं और न्याय की रक्षा कर सकते हैं।

SHRI P. SHIV SHANKAR: I have covered all these points. I do not want to take the time of the House by repeating them. I have nothing more to add.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed"

The motion was adopted.

18.03 hrs.

PAPERS LAID ON THE TABLE—  
Contd.

MR. DEPUTY-SPEAKER: Now Papers to be laid on the Table. Shri Barot.

DR. SUBRAMANIAM SWAMY (Bombay North East): Sir, I want to oppose it. Direction 116(3) says:

"Papers to be laid on the Table shall ordinarily be sent by Ministries two days in advance of the day on which the papers are proposed to be laid. In special circumstances, however, the Speaker may, on request, permit a Minister to lay a paper on the Table at shorter notice."

Under Direction 2, papers to be laid on the Table have a very high precedence.

When it came to laying papers on the Table, the Finance Ministry was all the time in default last session also and the Speaker at that time said that this practice of laying the papers