

16.20 hrs.

DEMANDS\* FOR GRANTS (GENERAL),  
1984-85 CONTD.

Ministry of Law, Justice and Company  
Affairs

MR. DEPUTY SPEAKER : The House will now take up discussion and voting on Demand Nos. 71 and 72 relating to the Ministry of Law, Justice and Company Affairs for which 4 hours have been allotted.

Hon. Members present in the House whose cut motions to the Demands for Grants have been circulated may, if they desire to move their cut motions, send slips to the Table within 15 minutes indicating the serial numbers of the cut motions they would like to move.

A list showing the serial numbers of cut motions treated as moved will be put up on the Notice Board shortly. In case any Member finds any discrepancy in the list he may kindly bring it to the notice of the Officer at the Table without delay.

Motion moved :

“That the respective sums not exceeding the amounts on Revenue Account and Capital Account shown in the fourth column of the Order Paper be granted to the President out of the Consolidated Fund of India to complete the sums necessary to defray the charges that will come in course of payment during the year ending 31st day of March, 1985, in respect of the heads of Demands entered in the second column thereof against Demands No. 71 and 72 relating to the “Ministry of Law, Justice and Company, Affairs.”

DEMANDS FOR GRANTS, 1984-85 IN RESPECT OF THE MINISTRY OF  
LAW, JUSTICE AND COMPANY AFFAIRS SUBMITTED  
TO THE VOTE OF LOK SABHA

| No. of Demand                                | Name of Demand                               | Amount of Demand for Grant on account voted by the House on 14th March, 1984 |             | Amount of Demand for Grant submitted to the vote of the House |             |
|--|--|--|-------------|---|-------------|
|  |  | Revenue Rs.  | Capital Rs. | Revenue Rs.   | Capital Rs. |
| 1  | 2  |  | 3           |   | 4           |
| MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS |  |  |             |   |             |
| 71.  | Ministry of Law, Justice and Company Affairs | 12,47,33,000   | 17,000      | 62,36,64,000  | 83,000      |
| 72.  | Administration of Justice                    | 20,91,000  | ...         | 79,56,000   | ...         |

\*Moved with the recommendation of the President,

MR. DEPUTY-SPEAKER : Now, Shri-Ramanna Rai.

(Interruptions)

MR. DEPUTY-SPEAKER : I cannot reply to any thing and everything. Please go to your seats.

(Interruptions)

MR. DEPUTY-SPEAKER : All of you please take your seats.

MR. RAMANNA RAI : Do not record the others.

(Interruptions)\*\*

SHRI M. RAMANNA RAO (Kasragod) Mr. Deputy-Speaker, we are now discussing the Demands for Grants under the control of the Ministry of Law, Justice and Company Affairs. This is the first time since 1975 that we are discussing the Demands of this Ministry in this House, though the other House discussed them in year 1982. I am glad that at least this year this House could find time to discuss them.

Now, even after independence, in India the law we are having is mainly the law, our erstwhile rulers, the British people brought to rule this country. The same law which were enforced by them continue even now. The main question for consideration should have been whether the laws introduced in this country to rule the people of India, by the Britshers are sufficient for the welfare of the people of this country now, that too after achieving independence, and after declaring that India is a welfare State.

If we closely observe the working of the lowest court and the working of the highest court in the country, that is, the Supreme Court, we find that justice is sold : it is not given to everybody. Because in the beginning itself the litigants, including the poor, are required to pay the court-fee. It may some times be a very small amount or a nominal amount but in a large number of cases it is a huge amount which the litigant public is expected to pay. So, it will not be surprising if somebody says that today in India justice, is purchased. If somebody wants justice, one has to pay money, as court fee and by that method only, by that procedure only, justice is given to the people of India now.

Now it is high time for the Government to consider whether the payment of court fee is absolutely necessary. Payment of court fee should be completely taken away. Without payment of court fee everybody should be eligible to approach the court and pray for justice. This is the first thing that the Minister has to consider and take necessary action.

Everybody in this country knows that justice is not easily available. One has to approach the court and complete all the procedures and wait for years together to get justice. Recently we have heard that a case relating to a Muslim grave was disposed of by the Supreme Court after 142 years. That shows how much time the court is taking to give the final judgement for the people in this country. So, something must be done to expedite disposal of cases in the courts-not only in the highest court but in the lower courts also.

In this country, of course, the law proclaims that all are equal before the law.

But what is the reality ? Only the rich people get whatever things they require. Even in the lower courts they get justice and the poor people though they are treated in the law books as equals, in fact, they only suffer. I ask the government to consider this aspect. Of course, the Government may say that they have started legal aid scheme and it is meant to give justice to the poor people. This scheme is meant only to help the poor people. This is one of the items included in the revised 20-Point Programme. But what is the effect ? The real thing is that in the name of legal aid some committees are formed in State headquarter, district headquarters and local level. But who are reaping the benefit of this legal aid ? It is the members of the ruling party, who are on this committee and that committee. They get the money and distribute it amongst of themselves. They appropriate the money to themselves in the name of aid to the poor people. I request the Minister to consider this aspect that the money given under legal aid is not appropriated by the ruling party members to themselves and not given to the poor people. This may be considered seriously.

Litigations in this country continue for years together and the latest example of disposing of the case is after 142 years. It is high time that the Government immediately goes into this question of delay.

In the lowest court, in the suburban courts, in the High Courts and in the Supreme Court also delay takes place. There are various reasons for the delay. In some cases the litigants also are not interested in the early disposal. In some cases the lawyers are not interested and in some cases nobody is interested. After filing some petition, after getting the injunction order or stay order, nobody is interested in the disposal of the suit or the petition because while filing the writ, they make some inter-locutory application, they pray for stay of certain things or pray for getting some injunction. Once the injunction is granted, the purpose is served and thereafter nobody looks after the case. In some High Courts and in other courts, sufficient number of Presiding Officers are not available though the filing of suits and writ petitions is increasing day by day. How then is it possible to get the cases disposed of and how is it possible to get justice ?

From the records it will be seen that in 1980 the number of pending cases before the Supreme Court was 26,881 and in 1982 it went up to 48,643. I do not know what is the number now. The Minister may be able to say what is the total number of pending cases at present and at what rate it is going up year by year. Similarly, the number of pending litigations in the High Courts is also going up. In the year 1980, the number of pending matters before the High Courts was 6,17,239 whereas in 1982 it went up to 7,72,192. I am sure even now the same number will be continuing or the number may be even more. So, the Government must consider doing something in this regard.

Of course, there is a limit for the number of judges in the Supreme Court. The number of judges in the Supreme Court should be 18. The Minister and the Government must consider seriously as to why this number should not be increased. The present number of 18 is not a sacred thing. So, my suggestion is that the number of judges in Supreme Court must be increased. That will help in bringing down the number of pending cases

that will help in the disposal of cases pending before the Supreme Court.

In the High Courts also the number of judges may be increased or the number of Benches may be increased. A bigger State like U.P. requires not only one High Court but one or two Benches also. So this suggestion of mine may be considered in respect of bigger States. I know that there are other States also demanding Benches. There are some States in the country asking for Supreme Court Benches also in their headquarters. So, that also may be considered. The main criterion should be how to bring down the number of pending cases and how to dispose of the cases pending before the High Courts and the Supreme Court as early as possible so as to give justice to the people.

There may be some suggestions to dispense with evidence, etc. I do not agree with that. The parties, the litigants must be given proper opportunity or the facility to place before the court all the evidence they possess.

I agree that the opportunity to give evidence should not be shut out. All the opportunity must be given to place the necessary records and evidence before the court. Only unnecessary procedural delays should be curtailed.

In this country on any particular day about one lakh under-trial prisoners are languishing in jails. They are simply taken on some suspicion or at the instigation of the prosecuting authority or Government on some charges. By the time the trial is completed in the lower or special court, they would have spent 4, 5 or 6 years in jail. After the trial about 50 to 55 per cent of such prisoners are acquitted. Some of them are convicted and sentenced to imprisonment of six months ; since they have already spent two or more years in jail, they are let off. In the case of those who are acquitted, who have suffered so much by remaining in jail, what is the remedy ? My suggestion is that if any under-trial prisoner, after remaining in jail for 3 or 4 years, is acquitted after the trial, he should be compensated. Otherwise, it will be a mockery of law and justice. The Minister may consider this suggestion.

Everyone is talking about the 20-point Programme. Under this, one important programme is the implementation of land reform. In States like Kerala and West Bengal we have some land reform implemented. But what steps have the Central Government taken to implement the land reforms or fulfil the slogan of land to the tiller? We know that this Government is not capable of implementing that kind of slogan in practice. That can be done only in a socialist State after a working class revolution. While this Government proclaims its objective to be a welfare State, what steps are they taking to implement at least the land ceiling law? What prevented them from bringing forward some uniform land ceiling law applicable throughout the country? The reason is that they do not want to bring such kind of law. At the same time, if you go through the resolutions passed by the Congress Party before independence, even as early as in 1930 in the Karachi Congress Conference they passed a resolution in favour of land reform to the effect that immediately after this country became independent, they said they would bring about the land reforms to help the tenants and the peasantry so that the landlord system will go from this country along with the British rulers. I ask what steps have you taken to bring such a law? How utterly you failed to bring in such a kind of law in this country? The Law Minister may consider this seriously.

In the consultative Committee and other meetings the Law Minister has been saying that they are going to bring about electoral reforms. Since 1982 onwards we are talking about the electoral reforms. With regard to this the Election Commission was expected to give a report. Ultimately everyone in India came to know that such a report is now before the Government and that later it was before the Cabinet Committee. After that it was said that the ruling party and the Opposition parties are discussing the matter. Now the election is nearing. At the most you must have your elections in this country by the end of December this year. But no electoral reform is found anywhere near. I don't know why the Government is dragging its feet in bringing in the electoral reforms. Sir, from all this only one reason can be deduced that the Government is not interested in the reforms. Everybody knows that the present electoral system is helpful to the ruling

party only. This electoral system is helpful to the corrupt people only. Everybody knows that the ruling at the Centre is benefitted by this. Otherwise there is no reason why they should drag their feet for such a long time over these reforms. For the last two or three years this report is with them and yet no step has been taken even when the elections are nearing. Therefore, I would urge upon the Hon. Minister to take some urgent steps so that the electoral reforms are effected at least before the coming elections.

You know that we are dealing with some important matters in this House. The Minister and everybody is concerned with them. What is that? The Andhra Pradesh Chief Minister has sent a request to the President of India to enlighten him whether he should obey the direction of the Andhra Legislative Council Chairman or the Order of the Supreme court, because it is a very important matter. Now the people of India and the Law Minister here and everybody in this country are in a confusion. They do not know who is right. Now, Shri N. T. Rama Rao, the Chief Minister of Andhra Pradesh referred these matters to the President of India. The President is expected to give some reply—you honour the Supreme Court's order or you honour the order of the Legislature. It is really a difficult thing because it is a fight between Article 144 and Article 194 of our Constitution. Article 144 says :

“All authorities, civil and judicial, in the territory of India, shall act in aid of the Supreme Court.”

Now all authorities, including civil and judicial are expected to honour and aid in support of the Supreme Court. Even the Police, even the Government, even the military and everybody has to honour and aid in support of the Supreme Court.

But the Chairman of the Andhra Legislative Council says, no. Nobody is bound to obey the order of the Supreme Court. You obey the order of the Andhra Pradesh Legislative Council. Now, I am wondering because fortunately here the dispute is between the Supreme Court and the Legislature. Supposing the dispute is between the Speaker of Andhra Pradesh Assembly and the Speaker of Karnataka Assembly, what will happen? Should the

people of Karnataka and of Andhra Pradesh take arms to decide this issue? Otherwise, Andhra people will say, that their honour is at stake and Karnataka people will say, that their honour is stake. Who is to settle? This is really a serious matter and not a matter for laughter. This is not the first time that this kind of issue came up in this country. In the Uttar Pradesh Assembly also, this kind of issue has arisen. So, it is the failure of the Government to deal with this matter seriously all these years.

Now, what are the functions of the Ministry of Law, Justice and Company Affairs. It has got 4 functions. One of the functions is to review the laws prevailing in this country and remove unnecessary laws, if any, in the statute book and bring in new laws in the statute book which are necessary. That is one of the functions. This is a serious matter which is going on between the Supreme Court and the Legislature. Now, I want to know how the Law Minister and the Government of India is going to deal with this matter. In the present case, the point is to arrest some editor. The Chief Minister of Andhra Pradesh requested the President saying that arresting the editor is violation of article 144 of the Constitution and not arresting him would be contrary to article 194. So, we should not allow this kind of thing to go on in this country for ever. My submission would be that the Government should deal with this matter very seriously and take necessary steps.

I was going through some papers today the report of the First Law Commission. It observes :

“In this country judges are not appointed only on the basis of merit and their credibility. Judges in this country are appointed considering various other aspects also mainly whether he is agreeable to the ruling Party or not.”

So, this has found a place in the First Law Commission's report itself. Now, even today the same thing is going on. When judges are appointed, when judges are transferred, the main thing is whether he is agreeable to the ruling Party or not, whether he should be promoted or not. This kind of thing is going on. The biggest and widest discussion in this country today is about the transfer of judges of the High Courts.

When it was discussed, an assurance

was given that the transfer will be effected only after considering all the aspects, that the Judges will not be transferred as a punishment, that the Judges will be transferred after obtaining their consent and that it will not be a dishonour to a particular Judge.

Now, after hearing the Law Minister and his arguments that there will be a proper machinery, etc. all of us in the Consultative Committee meeting agreed because he gave such an assurance. His predecessor and the present Law Minister have given an assurance. But the surprise of surprises was that the acting Chief Justice of Kerala was the first to be transferred. All the lawyers and all the people in this country know fully well that he was the Judge who tried the present Chief Minister of Kerala, at that time when he was the Home Minister, in the Rajan's case. In that case, the truth was brought out and the Judge without fear or favour gave his judgment. Everybody in this country knows fully well that because of him, because of that judgment, at the time when the judgment was pronounced, the present Chief Minister who was Minister, then also had to resign within a month. He is now the Chief Minister of Kerala. He did not forget it and he did not want the same Judge to continue as the Chief Justice of Kerala High Court. So, the Acting Chief Justice or the Judge who gave the judgment in the Rajan's case was transferred to another High Court, of course, as the Chief Justice.

The point is why he was not retained in Kerala itself after so much controversy created by others. If he had been retained in Kerala, we would have appreciated that the transfers of Judges are made without any prejudice and that the transfers are made on proper consideration and on proper grounds. Not only that. The other cases are also coming up. My question is why some machinery could not be created for the purpose of looking to the transfer and appointment of judges? Why could not proper machinery be created for this purpose? Why a committee with Chief Justice of the Supreme Court and one or two Chief Justices of the High Courts could not be constituted for the purpose of looking into the promotion and selection of judges? Why such a proposal has not been considered at all? Why only the President, meaning thereby the India Government

headed by the Prime Minister became sole appointing authority. 'On the Consultation' with Chief Justice the Government is not bound to accept his advice on appointment; promotion and transfers. The Government may accept or may not accept the advice of the Chief Justice of India. The point is, why the Government is not coming forward to constitute a proper machinery for the selection and appointment of High Court and Supreme Court Judges. If that is done, there would not be any complaint for the transfer of judges in this country because, if that is done, it would be the proper thing to do. It is a proper thing for the judge also to get transferred and to be away from his native State.

As I said, this Ministry of Law is the competent authority to bring new statutes, going through the High Court and Supreme Court judgments. It is the duty of the Law Ministry, if something is required, to consider bringing new Bills and getting them passed by the Parliament or Assemblies.

Recently there was a case disposed of by the Supreme Court. There was one Mary Roy's case. Her case was that their inheritance system is against Article 14, that is, a girl is given lesser share than the boy in the property of her father. When we proclaim everywhere that both men and women are equal, why this discrimination should be there in this country? Why the man is getting more share, larger share, and why the female is getting lesser share? So, to bring both the men and women equal before the law, some kind of should be considered and a common civil law throughout this country is the need and the Government must take necessary steps to bring a common civil law in this country.

Dowry prohibition Act is there. Still, the giving and taking of dowry is going on. The Government failed to bring proper amendment to this Dowry Prohibition Act of 1961. Some serious consideration should be given to this matter, because it is not a question of dowry giving and taking alone but because of giving and taking of dowry, bride burning and other atrocities against young women are going on in this country. Government must seriously consider bringing some amendments to the Dowry Prohibition Act.

Now about the rape cases also, the point is this. I am not going to say that while trying the rape cases evidence is to be ignored. I do not say that. But burden must shift. Because if some girl who comes before the Court and says 'I was raped', taking into consideration her past, burden must be cast on the accused.

MR. CHAIRMAN : What is your comment on the recent amendment of Criminal Law on this point? The Criminal Law is amendment now.

SHRI M. RAMANNA RAI : Why the report of the Joint Committee regarding this evidence also is not fully accepted? This point also should be considered. My point is that this burden—if suppose ten girls were raped—same kind of evidence should not be considered as sufficient proof for all the ten. Separate background of each and their past also must be taken as important factor while relying on their evidence.

MR. CHAIRMAN : If I am not wrong, the report has been totally accepted. The Committee's report has been totally accepted. I think the Minister of Law will say something. That report of the Committee has been totally accepted.

SHRI M. RAMANNA RAI : After this amendment also, the women's organisations in this country are not satisfied

SHRI BAPUSAHEB PARULEKAR (Ratnagiri) : We have to explain to them.

SHRI M. RAMANNA RAI : This amendment can be tried and any amendments if necessary should be considered later.

There are a number of divorce cases. The people in some communities re-marry and without any reason they are entitled to divorce. I am not going to say which community.

But there are some communities in the country, some religions in this country, which give freedom to men to divorce as and when they think that it is necessary and proper to divorce and get another wife. In such cases at least, the girl, the victim, should be given proper maintenance. Without considering which religion she belongs

to or which caste or community she belongs to, in such cases, the girls or women should be given proper maintenance. It is not possible under the present law to consider this aspect. If necessary, some amendment may be brought or some executive order may be issued.

Lastly, I am going to say this. People want some changes. If the Government is serious to bring about the changes for the betterment of the ordinary, common, working class people, no power on earth can prevent the Government from bringing laws which will be beneficial or helpful to the poor, working class. But in this country our experience is that Government is only shedding crocodile tears in the name of working class and toiling masses, but they are bringing laws and enactments to help Tatas and Birlas. That is the real thing that is going on in this country. Otherwise, what is the explanation for this? We are having the MRTP Act and yet, the rich is becoming richer. Tatas and Birlas were having only Rs. 18 to 20 crores as their capital when we achieved independence, but now every body knows, their capital has exceeded Rs. 1,500 crores each. How has this happened and how was this possible when this particular Act, the MRTP Act, is there? That is because the Congress-I or the ruling Party and the big business classes including Tatas and Birlas are working here together, their interests are common, their goal is common; that is why, this is happening. What ever may be the amount of crocodile tears that this Government may shed in the name of poor people or the working class people, they may bring 20 point programme or a modern 20—point programme or just before the election they may bring another 20—point programme, all these are not going to help the poor people of this country unless the Government is serious; unless the Government really wants to help the poor people of this country, nothing is going to change and the people of this country are going to suffer like this and their problems are not going to be solved. Therefore, my request to the Minister is this: at least now, he should consider seriously and do something for the poor people of this country, something for remodelling, reviving, the laws or statutes in this country having some edge for the poor people of this country.

With these words. I conclude.

SHRI BHOGENDRA JHA (Madhubani):  
I beg to move :

“That the demand under the head ‘Administration of Justice’ be reduced by Rs. 100.”

[Need for negotiating and conceding the legitimate demands of Advocates of Bihar and other States.] (9)

“That the demand under the head ‘Administration, of Justicen be reduced by Rs. 100.”

[Need to abolish court fees for the weaker sections and lower middle class.] (10)

“That the demand udder the head ‘Administration of Justice be reduced by Rs. 100.”

[Need for speedy disposal of cases in

High Courts and Supreme Court.] (11)

“That the demand under the head ‘Administration of Justice, be reduced by Rs. 100.”

[Need for ensuring inexpensive justice to the weaker sections.] (12)

“That the demand under head ‘Administration of Justice, be reduced by Rs. 100.”

[Need to have an All India Judicial Service.] (13)

“That the demand under the head ‘Administration of Justice’ be reduced by Rs. 100.”

[Need of fixing ceiling on lawyer to fees at all levels.] (14)

SHRI RAMAVATAR SHASTRI (Patna) :  
I beg to move :

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Failure to appoint persons belonging to Scheduled Castes, Scheduled Tribes and Backward communities as Judges according to the quota reserved for them.] (22)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re, 1.”

[Failure to check the undue delay in the disposal of cases.] (23)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to abandon the system of keeping the prisoners in jails for years without any trial.] (24)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to appoint additional Judges for disposal of pending cases.] (25)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to appoint such persons as Judges who have faith in social justice.] (26)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to provide legal aid to the poor.] (27)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Failure to check the increasing malpractices in the courts.] (28)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to prescribe minimum and maximum fees for advocates.] (29)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Failure to provide more assistance to the Institute of Chartered Accountants.] (30)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Failure to check the growth of monopolies in the country.] (31)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to strictly enforce the Companies Act, 1956 and M.R.T. P. Act, 1969.] (32)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to reform the electoral laws.] (33)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to give adequate financial assistance to Candidates for election to Lok Sabha and Legislative Assemblies.] (34)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to translate the laws in simple and understandable Hindi.] (35)

“That the demand under the head ‘Ministry of Law, Justice and Company Affairs’ be reduced to Re. 1.”

[Need to enact anti-defection Law.] (36)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to check irregularities being committed in the name of Wakfs.] (37)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to set up special courts to take stringent action against rapists.] (38)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to set up special courts to dispose of cases connected with communal riots.] (39)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to set up special courts to dispose of cases relating to atrocities perpetrated on persons belonging to Scheduled Castes and Scheduled Tribes.] (40)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to implement the recommendations of Law Commission.] (41)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to implement Official Languages Act, 1963 by the Ministry.] (42)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to check bogus voting in elections.] (43)



“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to grant the right to vote at the age of eighteen.] (44)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to set up separate polling booths for persons belonging to Scheduled Castes and Scheduled Tribes and Weaker sections.] (45)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to fix the limit of expenditure in elections.] (46)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to abolish Legislative Councils.] (47)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to check undue delay in filling up vacant posts of Judges of High Courts.] (48)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to provide more amenities to Advocates practising in courts.] (49)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Failure to accede to the demands of Advocates.] (50)

“That the Demand under the Head Ministry of Law, Justice and Company Affairs, be reduced by Rs. 100.”

[Need to make Election Commission a multi-member body.] (51)

“That the Demand under the Head Ministry of Law, Justice and Company Affairs, be reduced by Rs. 100.”

[Failure to adopt the system of proportional representation in election.] (52)

“That the Demand under the Head ‘Ministry of Law, Justice and Company Affairs’ be reduced by Rs. 100.”

[Need to set up a separate Commission on the line of the Election Commission for conducting elections to Panchayats, District Boards, Municipalities and Municipal Corporations.] (53)

श्री राजनाथ सोनकर शास्त्री (सैदपुर) : सभापति महोदय, मेरा व्यवस्था का प्रश्न है। इस समय इतनी इम्पोर्टन्ट मिनिस्ट्री पर डिसकशन हो रहा है। 1976 में इसपर डिसकशन हुआ था। उसके बाद इस हाउस में इसपर डिसकशन नहीं हुआ है। यह दुख की बात है कि इस सदन में कोरम नहीं है। सत्ता-पक्ष के पांच छः आदमी हैं, बल्कि विपक्ष के ही ज्यादा लोग हैं। माननीय पंडित कमलापति त्रिपाठी बैठे हुए हैं। मैं प्रस्ताव रखता हूँ कि हाउस को ऐडजर्न (adjourn) कर दिया जाय और इस पर कल बहस हो। आप देख लीजिए कि क्या कोरम हो सकता है। (व्यवधान) कोरम का सवाल न उठाया जाए और इनकी सरकार चलती रहे !

MR. CHAIRMIN : Of course, it is true that the attendance is poor.

It has been the convention of the House that in latter hours we do not raise this question of quorum.

SHRI AJOY BISWAS (Tripura West): If only those who want to speak remain as also the concerned Minister, then we can all go away.

श्री राजनाथ सोनकर शास्त्री : यह अच्छा नहीं लगता। मैं बहुत विनम्रता से कहूंगा कि हाउस को ऐडजर्न (adjourn) कर दिया जाय या ला मिनिस्टर बैठे हुए हैं, कोरम पूरा करें तो फिर हाउस चले।

What is the difficulty in asking for quorum ?

MR. CHAIRMAN : There is no difficulty. I am entirely in your hand.

SHRI R.P. DAS (Krishnagar) : There are only 6 Members from Congress (I)

MR. CHAIRMAN : Let the quorum bell be rung.

SHRI BAPUSAHEB PARULEKAR :  
He has not raised the point of quorum.

श्री राजनाथ सोनकर शास्त्री : मैं कह रहा हूँ कि कोरम पूरा नहीं है इसलिए हाउस को ऐडजर्न कर दिया जाय ।

सभापति महोदय : ऐसा तो नहीं होता है, हाउस ऐडजर्न नहीं होता ।

If you want to call for quorum, I have to ring the bell. I am in your hands.

राजनाथ सोनकर शास्त्री : यह लापरवाही बरती जाती है, मेरा यह प्वाइंट है कि कोरम के अभाव में हाउस को ऐडजर्न कर दिया जाय । कई बार इस हाउस में घटी बजायी जाती है, बार बार कहा जाता है कि कोरम पूरा किया जाय लेकिन कोरम पूरा नहीं होता । ..... (व्यवधान) ..... माननीय सदस्य अपनी ओर देखें । 345 उनकी संख्या है और हैं कितने ? कुल 6 हैं ।

MR. CHAIRMAN : We are jointly responsible. We cannot shift the responsibility on any one party.

राजनाथ सोनकर शास्त्री : सभापति महोदय, मैंने आप से अपनी बात कह दी कि कोरम पूरा नहीं है और हाउस की कार्यवाही ऐडजर्न कर दी जाय ।

SHRI R.P. Das : This is a very bad practice.

MR. CHAIRMAN : Let the quorum bell be rung quorum. Still there is no Let the quorum bell ring for the second time.

Now, there is quorum. Let us resume our discussion. Shri Ram Singh Yadav.

SHRI RAM SINGH YADAV (Alwar : Mr. Chairman, Sir, I rise to support the demands put forward by the hon. Minister relating to the Ministry of law, Justice and Company Affairs.

So far as the conception of Justice and faith in justice are concerned, we are reminded by the Sloka of Manu :

धर्मो रक्षति रक्षित :

At that time the religion and the law were identical and, therefore, that 'sloka' of Manu,

धर्मो रक्षति रक्षित :

That still has got relevance. Sir, the importance of law and justice is that justice is being bestowed and justice is being preserved meaning thereby that if justice is being preserved then social edifice is preserved and stabilised and the society gains strength and gets disciplined. If justice is being denied then justice is being eroded and destroyed and the whole edifice of the society is liable for destruction and erosion.

Therefore, Sir, the founding fathers at the time of framing the Constitution gave the topmost consideration to justice and administration of justice and they have mentioned in the Preamble of the Constitution:

“WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens :

JUSTICE, social, economic and political.”

Then the objective of justice is that we shall work hard. We shall cherish to achieve the goal of social justice. That is our objective. Now, we have to see whether the the Ministry of Law and Justice has taken positive steps in this direction and achieved the goal.

Sir, I must congratulate the hon. Minister in this regard that while assuming the charge of the Ministry he has taken some positive steps to streamline justice and create a faith in the judicial system of the country. Social justice as a matter of fact has got its paramount importance in the society and the social justice has got its different aspects. One of the aspect is that so far as today's justice is concerned it is expensive and it takes very long time and moreover the procedure is complicated. I congratulate the hon. Minister that the terms of reference to the present Law Commission include the very salient features which are being posed by the people who are involved in the administration of justice, that is, how justice can be made inexpensive ; how litigation can be shortened for its disposal and how the persons who are involved in the judicial system can be brought to that stan-

standard so that the confidence in the people may be created. I would also like to mention that even today the procedure of obtaining justice in the administration of justice is such that all the rich people have got access be far as judicial forum is concerned and this is the thing which is pinching in the society like India where a poor man cannot go to the courts because his pocket does not allow him. Therefore, this requires the earnest consideration at the instance of the hon. Minister because he has got the experience of all the wings. He has served as judge. He has interpreted the law. He has been the law maker and also the head of the executive as a Governor. So, a person like him can as a matter of fact take positive steps as to how justice can reach to the poor people and how justice can be obtained by the poor people.

Now, Sir, Article 226 of the Constitution is also being utilised by persons of vested interests. Mr. Chairman, Sir, you have got experience of the courts, high courts and supreme court. Even for a trifle matter, writ is sought under Article 226 of the Constitution of India. This is done even in transfer cases. Suppose an executive action has been taken to transfer one officer whose integrity has been challenged and is doubtful and he is being shifted from one place to another, he seeks redress under Article 226 and gets stay. Such cases are there. I request the Minister to see that so far as the provisions of Article 226 are concerned, so far as litigation is concerned, it should be made restrictive and it should not be exploited; it should not be abused by the people. Those people who have got money, who can engage good lawyers go on litigation and they can obtain stay orders.

17.26 hrs

[MR. DEPUTY-SPEAKER in the Chair]

Not only this Sir. Now the question is : How the justice can be administered, justice which is of public interest Justice of public interest are dowry death cases, welfare of juvenile offenders etc. There are scheduled castes and scheduled tribes people who have been allotted lands but they cannot get the possession of such lands because of the litigation procedure in the court cases in which they are instances where hon. Law Minister is required to take some positive steps so that these people can get their justice in a less expensive way and as quickly as possible, so that they are not ruined.

As a matter of fact, justice should be according to the wishes of the people. Our object is transformation of society and transformation of social order means that there should be social economic and political change. And that change can only take place when all the wings of the society (the Legislature, the judiciary and the executive) are armed to carry out this change and to do such things are necessary to reshape the society according to the wishes of the people and aspirations of the people. (An hon. Member : Committed judiciary ?) Not committed judiciary; but committed to the principles of the constitution of India. Are you not committed to the principles of the constitution ? Are you not committed to the Directive Principles of the State policy ? You are committed to Directive Principles of State policy. You have to enact the law ; you have to protect the right of people and you have to see that these directive principles of State Policy are implemented. It should be implemented for the benefit of those people for whom such directive principles have been formulated in the Constitution of India. Today, the States enact the laws but the laws cannot be implemented for the benefit of the people because of certain snags and certain hurdles in the way and these snags and hurdles have got to be removed. The procedure should be simplified. There are so many ceiling cases where there are stay orders from the high courts and other courts. People are being deprived of their right to acquire agricultural lands or residential plots. Although they are allotted such lands and plots, they cannot take possession of them and litigation goes on endlessly.

It is necessary that we should take steps so as to fulfil the aspirations of the poor people, and meet the demands of society. How the Law Minister can overcome such a situation is a question of paramount importance just now.

I also suggest here that there should be categorisation of cases so far as the writ petition are concerned because under Article 226, it covers very wide legal aspects. Every trivial matter can be brought under Article 226 of the Constitution and therefore it was rightly amended by the Congress regime in the year 1976 by the 42nd Amendment to the Constitution at that time.

Again when the Janata Party came to power, those amendments were taken out. Now, the Article 226 reads as follows :

“226. (1) Notwithstanding anything in article 32\*\*\* every High Court shall have power, throughout the territories in relation to which it exercises Jurisdiction, to issue to any person or authority including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus* prohibition, *quo warranto* and *certiorari*; or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.”

Now, Sir, it is so comprehensive and the scope is so unlimited that every matter is being brought within the jurisdiction of Article 226 and stay orders are obtained and the very purpose of the Directive Principles and their implementation is defeated. Therefore, it is for the consideration of the Law Minister in so far as this matter is concerned.

Now, I come to the point of social justice because in the society, everyone has got the birth right to get justice. The people have the right to social justice today. Public interest litigation and peoples' causes have to be manifested in the judicial forum. We need a campaign for peoples' causes to be resolved in the courts. In this connection, I would like to quote what our Prime Minister had said in the Third International Conference of Appellate Judges from 49 countries. All the Chief Justices from the Commonwealth countries attended this Conference in which our Prime Minister had said about the objective of the law. I quote—

“Laws are made for the people. People cannot be fitted into laws.”

So, Sir, this should be the objective. As a matter of fact, law should not be a snag in implementing our policies for the welfare of the common man. I congratulate the hon. Minister for legal aid to the poor and as a matter of fact the Committee under the Chairmanship of Hon'ble Chief Justice, Shri Baghavati has done a lot in this country. But some doubts were also expressed about the proper functioning of this Committee and this system in this country. One question was being raised from the side of the middle

class people. So far as the scheme of legal aid to the poor people is concerned, of course, the poor will get the benefit like the legal assistance, monetary benefit at the expense of the Government Exchequer. The rich people have got the capacity to engage best lawyers to fight their cases. But where would the middle-class people go? They cannot engage good lawyers because they have no money. They cannot have the privilege of the legal aid from the Government because they are not in the category of poor people. Therefore, I would suggest that this category of people, i.e., the middle class people should also be taken care of. A concern has been expressed about the plight of the people belonging to the middle-class. Here I would like to point out that the scheme is for the welfare of the people. At the same time, we have to modify it and we have to think of people belonging to middle-class also.

Now, the main idea or the function of this scheme of legal aid to poor is not only for providing them legal assistance but the thrust should be for creation of an atmosphere in the society so that the poor people may not be dragged into or involved in the litigation.

How can we mitigate those circumstances by creating an atmosphere in the country. This is, as a matter of fact, the primary concern of this system or movement. I can say that the legal aid to poor should assume the shape of a movement meaning thereby that it should be the concern of the people who are involved in the administration of justice either at the bar or at the bench, or the general people interested in the administration of justice.

The hon. Minister has taken special care to appoint judges in the vacancies in the various High Courts, but even today the pendency of the cases in the Supreme Court and the High Courts is very high and the cases are piling up every day. It is a matter of concern. Although the hon. Minister is very much concerned about it and is taking steps and also thinking of setting up the family courts to minimise the litigation in these matters, but even the concept or that planning of setting up the family courts has not materialised. I would say that the hon. Minister's intention to set up the family courts is very relevant and it is the need of the society, and if he takes concrete steps in

that direction, it will go a long way in helping the poor and middle class people of our country.

Today, as pointed out earlier, the position of pending cases is very alarming, and the cases are increasing day by day. As regards the Supreme Court, it has been mentioned in the Annual Report of the Ministry that as on 30th November, 1983, the regular hearing matters were 42,146, and admission matters were 33,061, total more than 75,000 cases. There are only 17 judges in the Supreme Court and 75,000 case are pending with them. One can presume easily how much time take for disposal. The position is much more alarming in the High Courts. As on 30th November, 1983, the pending cases in all the High Courts were 9,76,781. The position has been worsening year after year. In the year 1980, the number of pending cases in all the High Courts was 6,78,951; in 1981, the cases pending in all the High Courts were 8,64,408 and in 1982, the number went upto 9,76,781. Thus, every year, the cases have been increasing in lakhs. It cannot be expected that these cases will be disposed of in a routine way or an expected period. The hon. Minister must think in terms of some solution. There should be perhaps procedural changes. Now, in every cases there are two appeals provided in the civil as well as criminal cases. The hon. Minister has to think, how to avoid the longevity of litigation and how we can shorten the litigation so that the pendency of the cases may come down and may not pile up every year. In addition, I also congratulate the hon. Minister.

I also congratulate the Minister that he has implemented the scheme, and the recommendations of the Law Commission that the Chief Justice of the High Court of State should be from another State, and that one-third of the Judges of a High Court should from the other States. He has framed the guidelines in consultation with the Chief Justice of the Supreme Court; and he has acted upon those guidelines and he is giving the results also I may say that it has also created confidence among the general public in our judiciary, because this is the positive step which has been taken by the hon. Minister of Law, towards strengthening the judiciary.

SHRI ABDUL RASHID KABULI (Srinagar) : I stand on a point of order. There are not sufficient number of members in the House. There is no quorum. Quorum needs at least 55 members to be present. Therefore, I request that you adjourn the house.

SHRI RAJNATH SONKAR SHASTRI : I second it. अभी थोड़ी देर पहले मैंने व्यवस्था का सवाल उठाया था और यह कहा था कि कोरम पूरा नहीं है जबकि रूल्स के मुताबिक 55 सदस्य होने चाहिए। यहां पर लोग आए और फिर चले गए। उस समय भी 52 सदस्य यहां थे, लेकिन हमने मान लिया था कि कोरम है। मैं यह कहना चाहता हूं कि हाउस एडजर्न होना चाहिए।

Therefore, they are not taking the proceedings of the House seriously. Twice we have raised it.

SHRI ABDUL RASHID KABULI : No.

SHRI RAJNATH SONKAR SHASTRI : No, Sir.

The Minister of State in the Departments of Science and Technology, Atomic Energy, Space, Electronics and Ocean Development (Shri Shivraj V. Patil) : Sir, generally quorum is necessary for starting the business. Unless quorum is there we do not start the business. At the time of voting also, we take this quorum into account.

SHRI ABDUL RASHID KABULI : Under what rule ? You satisfy us.

SHRI SHIVRAJ V. PATIL : Generally the Members are sitting in the Central Hall. They are talking, or are doing some work. If we press the bell, from the Central Hall.

They can come. This practice is followed in this House as well as in all legislatures -viz., that by convention, we do not press for the quorum. (Interruption) When a member of the Opposition is going out.

SHRI ABDUL RASHID KABULI : I press for quorum.

SHRI SHIVRAJ V. PATIL : These are the conventions. Probably, the hon. Member is new to the house, and to the conventions. If he agrees, it is all right.

**SHRI ABDUL RASHID KABULI :** They are not taking the proceedings of the House seriously. The Minister need not advise me on this subject. I do not need his advice.

I press for it.

**MR. DEPUTY-SPEAKER :** You hear him. You need not agree.

**SHRI ABDUL RASHID KABULI :** What he says is nothing relevant. It is all irrelevant.

**श्री राजनाथ सोनकर शास्त्री :** हाऊस एडजार्न होना चाहिए और इसको भर्त्सना होनी चाहिए कि कोरम के अभाव में बार-बार यह प्रश्न उठाया जा रहा है ..... (व्यवधान)

**SHRI ABDUAL RASHID KABULI :** They should be admonished. They should take the Law Ministry's Demands seriously.

**SHRI SHIVRAJ V PATIL :** Our parliamentary procedure is this. Let me make my submission. Our parliamentary procedure provides that there may be committees. Those committees may be sitting in the rooms here. They may be deliberating on certain matters. I do not know whether they are sitting now. (Interruption) Generally it is the convention of the House that at the time of starting the business, it is seen whether quorum is there; and at the time of voting, it is seen. But when discussions take place, those Members who are not interested do not come.

**श्री राजनाथ सोनकर शास्त्री :** रूल्स की किताब मेरे पास है। इसमें लिखा हुआ है कि सभा की बैठक गठित करने के लिए अध्यक्ष अथवा अध्यक्ष के रूप में कार्य करने वाले व्यक्ति सहित गणपूर्ति संख्या 55 सदस्यों की है। इसमें दूसरी जगह लिखा है कि अध्यक्ष के प्रातः पीठासीन होने से पहले तथा बैठक के आरम्भ होने से पहले मार्शल यह सुनिश्चित करता है कि गणपूर्ति है और उसके द्वारा अध्यक्ष को सूचित किए जाने पर कि गणपूर्ति है, अध्यक्ष पीठासीन होते हैं।

मुझे नहीं पता कि मन्त्री जी के पास कौन सी रूल्स की किताब आ गई है। हाउस को एडजार्न कर देना चाहिए।

**MR. DEPUTY-SPEAKER :** He is only making some submissions about these precedents and all that.

**SHRI ABDUL RASHID KABULI :** You please amend the rules.

**SHRI BAPUSAHEB PARULEKAR :** Today is the day for not following rules and procedure.

**SHRI N. K. SHEJWALKAR (Gwalior) :** I was in the Chair when a question regarding quorum was raised. I am sorry to say that you have to realise what is the cause behind this. Every day I have been noting that the attendance in the House has been very thin, but we have never taken up this point; even in the last week, this point had never been taken up. But the conventions are not to be followed by this side only. The rules are also to be followed by the other side and also the Chair. I am sorry to say what happened at the time of passing the Demand for Grants of the Ministry of Home Affairs. You did not allow the members to speak to whom you promised that you would allow them to speak. This is the reaction of that. If you do not take all these things into account, these problems will always arise. I am not giving any sort of threat. I am only saying that the convention is like that. But, ultimately, it is not only one side which has to follow the convention. What about the other side. They were laughing all the time when that thing was happening. They should have that thing at that time. But, instead of condemning that action. I must say specifically or at least not agreeing with that at that time, they supported, that thing and laughed. After all, we do not have the majority and, therefore, we cannot do anything more.

**MR. DEPUTY-SPEAKER :** Now, you said something. Would you like to hear me because you have mentioned about it? The Business Advisory Committee and the Government decide about the time for each demand. The general impression is that these Demands are not discussed completely. The time allotted for the Ministry of Home Affairs was 12 hours. So, you should not have brought it here. That is a different thing. You have raised the question of quorum. Now, on this question of quorum, what do you want to speak? You are insisting on quorum. That is all right. Now, you have said about it. The other things you can say

afterwards that this has been raised because of this or that. Would it not amount to casting aspersion on the Chair? I am sorry to say that it would amount to casting aspersion on the chair, if you say so.

(Interruptions)

MR. DEPUTY-SPEAKER : I do not agree.

SHRI N. K. SHEJWALKAR : This is the cause of all these things. Nobody agrees here. It is not necessary that you should agree.

MR. DEPUTY-SPEAKER : What do you want to say on the question of quorum? Are you insisting on quorum? That is all right. I am not concerned about other things.

SHRI N. K. SHEJWALKAR : Now I am insisting on quorum.

MR. DEPUTY-SPEAKER : That is all right. If you want the quorum bell to be rung, I shall do so.

What is there ?

The Chair cannot be at the mercy of anybody and everybody. We are not at the mercy of every body and anybody. The members cannot dicate to the Chair also.

The Chair knows its work. Nobody need dictate to us. The Chair knows its responsibility and the Chair is responsible for the conduct of the business in the House. They know about it. We do not require the advice of anybody.

SHRI N. K. SHEJWALKAR : Who gave you the advice? We respect rulegs like anything.

MR. DEPUTY-SPEAKER : We do not require the advice of anybody. The Chair takes its own responsibility and conducts the business of the House; and the members, if they do not like, can oppose it also. We are not at the mercy of the members. The Chair runs the House of its own accord under the rules. I am implementing the rules.

(Interruptions)

MR. DEPUTY-SPEAKER : There is no quorum. Let the quorum bell be rung...

There is no quorum. The House stands adjourned to re-assemble tomorrow at 11 O' clock.

1756 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Friday, March 30, 1984|  
Chaitra 10, 1906 (Saka)*