

But only the Speaker cannot go out. You can go out any time you like.

SHRI S. M. BANERJEE : Does it mean the Speaker is not going to have his lunch today ?

MR. SPEAKER : I will find some time for it. I normally take my lunch at 2 or 2.30.

13.15 hrs.

#### MINISTRY OF LAW AND JUSTICE

MR. SPEAKER : The House will now take up discussion and voting on Demand Nos. 64 and 65 relating to the Ministry of Law and Justice for which 2 hours have been allotted.

Hon. Members present in the House who are desirous of moving their cut motions may send slips to the Table within 15 minutes indicating the serial numbers of the cut motions they would like to move.

#### DEMAND NO. 64—MINISTRY OF LAW AND JUSTICE

MR. SPEAKER : Motion moved :

"That a sum not exceeding Rs. 5,47,75,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1973, in respect of 'Ministry of Law and Justice'."

#### DEMAND NO. 65—ADMINISTRATION OF JUSTICE

MR. SPEAKER : Motion moved:

"That a sum not exceeding Rs. 2,37,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the

31st day of March, 1973, in respect of 'Administration of Justice'."

SHRI SOMNATH CHATTERJEE (Burdwan) : Mr. Speaker, Sir, last year when we discussed the Demands of other Ministries we complained about the lack of time allotted to discuss the activities of this Ministry. But this year also we notice that only two hours have been allotted to discuss the demands of this Ministry.

This Ministry has earned the unenviable record of giving wrong advice to the Ministries, of bad drafting and of making controversial appointment of judges. It has got the dubious distinction of following a *laissez faire* attitude towards law reforms. We all know that both the Civil Procedure Code and the Criminal Procedure Code of this country were framed either in the 19th century or early 20th century. It is generally understood and accepted in all quarters that it is necessary for the purpose of expeditious disposal of cases and litigation that the question of law reforms should be taken up at the earliest.

श्री सुकनचन्द कच्छबाय (मुरेना) : अध्यक्ष महोदय, मैं आपकी व्यवस्था चाहता हूँ। गणपूर्ति नहीं है।

SHRI SOMNATH CHATTERJEE : Therefore, so far as the Code of Civil Procedure and the Code of Criminal Procedure are concerned, it is essential that immediate steps should be taken for the purpose of bringing about reforms in them. I know that a Bill to amend the Criminal Procedure Code has been referred to the Select Committee. But, up till now, no Bill has been presented for reform in the Code of Civil Procedure.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : Sir, the quorum has been challenged.

MR. SPEAKER : The bell is ringing and, at the same time, I am allowing him to continue his speech.

SHRI JYOTIRMOY BOSU : That is very irregular.

बी कार० बी० बड़े ( सारगोन ) : लक्ष आकर में ऐसा नहीं होना चाहिये। अगर होता है तो कोरम पूरा होना चाहिये।

SHRI SOMNATH CHATTERJEE : The arrears of cases in the courts is increasing and it is essential for the proper functioning of the judicial system and giving timely relief to the litigants that proper steps should be taken at the earliest possible moment to bring about reform in the laws.

So far as legal aid to the poor is concerned, it is awaiting decision of the Government for a long time. We find from the Report of the Ministry for the year 1971-72 that due to inadequate resources no proposal is being mooted and the matter is sought to be worked out through the Bar Councils. But I do not know how, unless adequate resources are made available either to the Bar Council or to the Bar Associations through which agencies legal aid can be given to deserving litigants who cannot carry on with their litigation otherwise, this mere proposal will solve the problem. It is essential in this country, when large sections of the people are poor and cannot afford to pay even the court fees and lawyers' fees and charges, that the State must bear the burden of providing the finances and adequate resources to those deserving litigants who are forced to go to court for the purpose of obtaining redress and relief. Unless this important aspect is looked after and adequate provision is made, mere slogans, like Garibi Hatao, will be meaningless slogans for those teeming millions who are forced to go to courts for obtaining redress.

So far as arrears are concerned, it has achieved an alarming proportion but no study has really been made in depth as to the causes of the arrears in the cases which have accumulated in different High Courts and what is the remedy for that. I find from the report that a committee was set up and the committee has made some recommendations, but what are its recommendations and what Government is doing to implement those recommendations if they are really found to be effective and, if not, what steps is the Government itself going to take to do away with these arrears or to see that the arrears are lessened?

There are many factors for these accumulations and merely blaming the Judges would not do. Of course, the number of Judges is not adequate in all the courts, in the High Courts and in the subordinate courts also, but the procedure has to be altered; the number of Judges, if necessary, has to be increased; and other effective steps have to be taken. But we want to know how the Government is thinking and what lines the Government is proposing to take to remove the arrears or lessen the number of cases which are now pending in the different High Courts.

There are various other points which I wish to touch upon but for the shortness of time I cannot do that. However, I would like to draw the Minister's attention to one point, namely, the preparation of panel of Central Government lawyers. In different High Courts as well as the Supreme Court these panels have been prepared but we find from our experience that always the best people are not taken in the panel. Another thing we have found is that even if these panels are prepared, favouritism is shown and only one or two lawyers from the panel are provided with work; generally, the panel is only in the name and it is hardly given effect to. There is no proper distribution of work. Another very serious thing, which dissuades successful or efficient lawyers to agree to be on the panel, is

that the fees remain unpaid for a long time. This is the position in the Calcutta High Court. We know that work is not properly distributed, fees are not timely paid and the best people are not being taken.

So far as the appointment of Judges is concerned, I would like to make one or two submissions. It is undoubtedly the position that today the best legal talent is not available for accepting judgeship. It is a very unfortunate state of affairs. There are circumstances, including service conditions, which are dissuading the best legal talent from accepting judgeship, as a result whereof sometimes and more often than not mediocre persons or lawyers are being given judgeship. Therefore, I would request the Minister, who resigned from his judgeship on this very issue, to tell the House as to what steps the Government is going to take to attract the best possible persons for the purpose of appointment as Judges and how to improve the efficiency of the Judges in this respect.

The other aspect, which is very important and in respect of which a large body of public opinion has been formed, is the question whether judges after retirement should be given any assignment or office. I can tell you that there is a large section of people, specially among the lawyers, which feel that it is not proper for retired or ex-Judges to be given any assignment. You know, under the Constitution of India, the Comptroller and Auditor-General of India cannot be given any other assignment or office after he has retired. The rationale is very simple. There should not be any inducement to such officers to do something to obtain Government's favours. I had put a question in this respect and we were told that during the three years from August 1967 to 31st July, 1970, the services of 36 retired Judges of the Supreme Court or the High Courts were utilised by the Government on various assignments. Sir, we all know—after all they are human beings—that just before retirement, by pleasing the Government by pleasing the executive authorities,

they get another assignment which will keep them in office for another three or five years. It is more natural and human and we have found from experience that it is unfortunately happening. Therefore this is a system which must be immediately discontinued and we should not have any retired judge for the purpose of giving further assignment in this matter, because this system has been generally accepted to be not working properly.

There is one point to which I wish to draw the attention of the Hon'ble Minister, namely, so far as the publication of authorised law reports is concerned, we know that it is more often than not lagging behind other unauthorised reports and other law reports' publishing agencies which publish the law reports in time. But we always find that the authorised law reports come so late that it loses the topicality and it could only be used as subsequent reference. As current reference it has no utility whatsoever.

There are two other aspects. One is about the position of the Election Commission, which is under the administrative control of this Ministry. Sir, you know, that under the Constitution it contemplates setting up of an Election Commission consisting of more than one person. But, Sir, throughout, we have only one Election Commissioner—the Chief Election Commissioner and the other Election Commissioners have not been appointed. Sir, it is essential that this very important job of conducting the election in the country should not be left in the hands of only one person, however competent he may be. There must be a body of persons in view of the importance of the work and in view of the large quantum of work that has to be done. It is essential that the Election Commission should be expanded to include, apart from the Chief Election Commissioner, other Election Commissioners as well. It has been recently suggested by the Joint Committee on amendments to Election Law, this is the

[Shri Somnath Chatterjee]  
one aspect on which we want immediate implementation

13 28 hrs

[MR. DEPUTY SPEAKER *in the Chair*]

The whole machinery of the Election Commission that has been set up is suffering from defects or loopholes because the Election Commission itself has not got its own staff to implement its decisions. They have to depend on the State Governments and the Central Government for the purpose of implementation of their decisions for conducting the election properly. There should be necessary staff to see that no improper activity takes place and proper persons are being appointed. Against the State Governments we have complaints. The Election Commission is dependent on the State Governments and their staff for the purpose of conducting the elections. We have recently seen in West Bengal how in the name of election a farce had taken place. The Election Commission had no machinery of its own to supervise and conduct the election and they had to leave the entire matter to the State Government and the Central Government. Therefore, if we really believe in free and fair election and if we want to have the Election Commission to look after this, we must equip the Chief Election Commissioner's Office with necessary staff and wherewithals so that the elections may be conducted freely and fairly.

SHRI D K PANDA (Bhanjanagar) I beg to move

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100."

[Need to affect complete overhaul of the judicial system to ensure that speedy justice is guaranteed for the weaker sections with guaranteed

legal aid for workers, farmers and poor Harijans and Adivasis (11)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Need to enforce a complete ban on the retired judges practising in courts, specially in Supreme Court (12)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Need to take steps to prevent judges from being associated with any institution receiving American aid such as Indian Law Institute (13)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Need to appoint a Committee of Parliament to watch that nepotism and favouritism is eradicated from the system of appointments in Commissions of Enquiry and of Counsels for conducting State litigations (14)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs. 100."

[Need to constitute a Committee of independent persons to lay down standards for distribution of Government cases among the counsellors (15)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs. 100."

[Need to prevent Indian Law Institute from being used for making any kind of pro-Pakistan, anti-India, anti-Vietnam, anti-Bangla Desh propaganda (16)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs. 100."

[Need to ensure that High Court Judges from the same State are not posted in the respective High Courts (17)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100."

[Delay in disposal of Appeal and interlocutory proceedings and accord of recognition to the Diplomas issued by the Indian Law Institute, New Delhi (18)].

"That the Demand under the Head Ministry of Law and Justice be reduced to Re. 1."

[Failure to fill in the vacancies of Judges in Supreme Court and in High Courts in general and Allahabad High Court in particular (19)].

"That the Demand under the Head Ministry of Law and Justice be reduced to Re 1."

[Failure to render proper and timely advice to the Monopoly Commission in order to plug the loop-holes in Monopolies and Restrictive Trade Practices Act and restrict granting of licences to larger houses (20)].

"That the Demand under the Head Ministry of Law and Justice be reduced to Re. 1."

[Failure to give correct guidance and advice in the matter of nationalisation of sugar industries in U. P. (21)].

"That the Demand under the Head Ministry of Law and Justice be reduced to Re. 1."

[Failure to carry out the recommendations of the Seminar of Lawyers in making distribution of Government briefs evenly and fairly and in developing expertise on various sections of Law (22)]

"That the Demand under the Head Ministry of Law and Justice be reduced to Re. 1."

[Failure of the Bar Council to provide the necessary legal aid to the poor and weaker sections of the society (23)]

"That the Demand under the Head Ministry of Law and Justice be reduced to Re 1."

[Failure to ensure legal aid to the poor and weaker sections of society (24)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs. 100 "

[Need to take steps for the setting up of a Circuit Bench of the Supreme Court in Orissa (25)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Need to take third member of the Law Commission on the basis of verification of his correct social philosophy which shall be committed against growth of monopolies and tax evasion (26)]

SHRI R. V. BADE : I beg to move

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Need to appoint Judges who are not additional or ad-hoc Judges for deciding election petitions (27)].

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

"That the Demand under the Head Ministry of Law and Justice be reduced to Re. 1."

[Failure to make justice available free of cost to poor farmers, agricultural labourers and other poor people (29)].

"that the Demand under the Head Ministry of Law and Justice be reduced to Re 1."

[Non-appointment of judges on the basis of selection by advocates (30)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Favouritism shown to capitalist class in the matter of appointment of judges (31)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100 "

[Failure to provide proper legal guidance and advice for removal of social and economic exploitation (32)]

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs 100."

[Tendering of wrong legal advice in the interest of Tata against the abolition of Tata Zamindari by the Bihar Government (33)].

"That the Demand under the Head Ministry of Law and Justice be reduced by Rs. 100."

[Failure to provide necessary financial and legal assistance to Harijans, Adivasis and other economically backward people to enable them to get justice (34)].

MR. DEPUTY-SPEAKER : The cut motions are also before the House.

Mr. D. N. Tiwary. Do not take more than ten minutes because we have only two hours.

SHRI D. N. TIWARY (Gopalganj) :  
The worth and importance of a Ministry is assessed on the volume of the report it produces. The report that this Ministry has presented is the tiniest of the reports presented so far and one may get the idea that it is the most unimportant Ministry. The report that has been placed before this House does not give full details. It gives only outlines. We would be satisfied if we get more information—what action has been taken, what has been achieved and so on. There is certainly a mention about action taken, but what has been the results is not mentioned here. For paucity of time, I cannot quote from the report.

This Ministry deals with many subjects. Out of them, I will take only the condition of judiciary, election matter and treatment official language of the Government.

I would say out of my previous experience that the volume and number of pending cases in every court is increasing every year, an ordinary litigant has to spend his whole life to get justice. Some three to five years are taken in the lower court, some three to five years are taken in High Courts and two or three years are taken in Supreme Court. It takes about 14 to 15 years for a case to be decided and that is the life time of a man. Are you thinking about it—how to lessen the burden on the courts. What steps are you taking for speedy disposal of cases? We have no picture of that. There is a saying, justice delayed is justice denied. Even in criminal cases we find cases pending for four to five years. A man is arrested and sent to jail as under trial. He remains as under-trial for years. There should be some provision that, if the trial is not finished within three or four months, the man

may be released on bail Suppose a man is sentenced to two years' imprisonment and he had remained as undertrial for two years He has already served that sentence But that is not counted while awarding the sentence to him. I cannot do better than quote what has been said by the Vice-President of India. Only the day before yesterday he said this

"Delivering the second Moti Lal Nehru lecture, Mr Pathak said that in India 'the law's delays have developed into a cancer and the system itself may break down if urgent action is not taken to clear and prevent accumulation of cases' "

This the opinion of Vice President of India What is the Ministry's thinking about this? We would like to hear that

Then I come to the question of corruption in judiciary. Corruption has made its way in magistracy I think, the majority of magistrates are under the spell of corruption, It is making its way to munsifs and upto the judges also If it is allowed to go upto High Courts or Supreme Court, I do not know what will happen. So, the hon Minister must take steps to see that corruption is prevented and is not allowed to take roots in judiciary also.

Now I take the case of Election Commission under this Ministry I know, to conduct elections was not part of the job of this Ministry The Election Commission has to see that elections are conducted fairly and impartially and that there is no act which prevents the fairness or impartiality of elections If you see the trend of elections, in some of the States you will find that it is not merely a question of bogus voting but capturing of booths on a large scale being resorted to. Previously, before 1967, bogus voting was rampant but some person had to present himself whether he was a bogus man or the real man at the polling booth and then vote But, now-a days, things do not happen like

that. A few persons capture the booths and terrorise the polling staff there and stamp all the votes themselves How to prevent this is the concern of the Election Commission One step has been taken for signing the counterfoil

SHRI AJIT KUMAR SAHA (Vishnupur). Sir, there is no quorum in the House.

MR DEPUTY-SPEAKER The bell is being rung

Now, there is quorum the hon Member may continue

SHRI D N TIWARY What is disturbing is that previously the polling staff was resisting in the casting of bogus votes but these days in some places they even take bribes and assist in this nefarious act In any rural area there cannot be more than 45 or 50 per cent voting of the electorate if real voting takes place But I have seen Assembly candidates winning by 70,000 votes. The electorate in one constituency was only 99,000 or about a lakh and the winning candidate got as much as 74,000 votes Can it be real voting? If you compare the signature in the counterfoil with the signature of the real voters, the truth will be revealed If any inquiry is held in this matter, I think the whole matter will become public and you will know how the voting is being done at the time of election If any committee is set up for this, they will find out the thing

I also feel that the Election Commission being an independent authority should be the proper authority to choose the election officers from whatever staff they may come, from Central Government offices or State Government offices The State Government would not scrutinise which officer is honest, who should be sent as presiding officer or polling officer and all that So, Election Commission should be the authority for that Unless this is checked I think that democracy will become endangered, those who really deserve

[Shri D. N. Tiwary]

to be elected, having confidence of the people, will be left in the background and they will be defeated. We should have real representatives of people and not bogus representatives. Otherwise we will have no democracy. Now they are taking votes by means of *dandas*, hereafter they will be doing it by means of bullets. We should avoid that.

There is one thing more and I have done. This is about use of the official language in legal matters. Only a few Acts have been translated into Hindi. The speed is very tardy. There is great urgency now for translation of various Acts. People do not understand English and often they commit mistakes. If the laws are translated into Hindi they will understand better. So, there is great need to translate these things into Hindi I would request the Minister to see that this translation process is expedited and more Acts are translated into Hindi than at present.

**SHRI C. K. CHANDRAPAN** (Telli-cherry): While speaking on the Demands for Grants of the Ministry of Law and Justice, I would like to state that the judiciary in the country has failed miserably to come forward to serve the needs of a changing and dynamic society. It has been stated in the House during the Debate on the Constitutional Amendments how backward the concept of the judiciary had been. Because of this so many problems are being posed before the country. There are numerous cases pending before the courts. A few years before an investigation was made and from 2 lakhs of cases then, now the pending cases have now increased to 4 lakhs of cases. It means, the ordinary citizen who is going to the court does not get justice. Legitimate justice is being denied to him which he is entitled to get from the courts. We may make wonderful speeches about the way we are eager to give justice to the common man, but we fail so sadly in doing that.

Why does this happen? Here again, the Law Commission had come forward with certain suggestions and the committee which Government had appointed had also put forward certain suggestions. The cumbersome procedure of the Civil and Criminal Procedure Codes should be changed. The action taken so far by the Ministry in this regard has been slow and inadequate. That is the problem. How long is the Ministry going to change these two codes.

I know that the Law Commission has been appointed, and the terms of reference are very progressive. But how quickly the Law Commission will come forward with their recommendations and how quickly they will translate into practice is the most important question. The performance of this Ministry during the last so many years had been a failure.

Now, we are hearing of the Congress Party is speaking of its policy of Garibi Hatao and also of self-reliance. In this context, I would like to point out one thing. There are certain pieces of legislation sent by certain States to this Ministry seeking its advice and also the acceptance of the legislation by the President.

For example, I may refer to the Bill regarding the nationalisation of the foreign-owned plantations in Kerala. It is lying accumulating dust in this Ministry for the last one and a half years. I do not know what advice the Ministry has given about it, and what prevents the Ministry from giving advice to the President to accept it.

There is one thing now about which the people in Kerala are very much worried. Our Revenue Minister is here these days. A big controversy is going on in other States about what the ceiling should be and how and what land reforms measures should be effected. But Kerala is a State where land reform Acts have been adopted and are being implemented. Those Acts were challenged in the courts of law and the Supreme Court

had come out with a judgment striking down certain provisions of it. The Kerala Government had approached the Centre with a request that since those Bills were very progressive and they affected the ordinary life of several millions of ordinary people who were landless but who were given only ten cents of land and since the tenants who were hitherto used to giving enormous amounts of rent were now free from the clutches of rent-slavery, and since those clauses were being challenged three years before, the Constitution should be amended and these Bills should be given protection by including them in the Ninth Schedule. But nothing has been done about it. It is still in the stage of discussion, and this is the slow way and procedure of this Ministry.

Further, the higher-ups in the judiciary who are functioning as judges should be like Caesar's wife beyond doubt and suspicion. But can we say that our judges are like that? There have been complaints raised on the floor of the House that there are judges who are involved in certain company rackets with their shares and with their vested interests there. So, how can you expect that they will give the judgment in favour of the common man? It is not the case of one judge or a small set of people, but generally speaking, the judiciary is kept in a mediaeval style and concept and we still see it with that mediaeval Roman dress and all that. It is kept in an ivory tower, and it has never come down to the earth, and it never knows how the common man looks like. It looks with contempt towards the common man and keeps his case pending for years and years through a very cumbersome procedure. What I say is that it should be brought down to the earth. Changes should be brought about in the judicial system to do away with this cumbersome procedure of the civil and criminal code. Because of the failure of the Ministry to do so, I am sorry I cannot but oppose the Demands.

श्री मुलचन्द डागा (पंजी) उपाध्यक्ष महोदय, मैं एक बात कहना चाहता हूँ कि अभी 5 मई की रात को जब हमारे एक प्रतिभाशाली वैज्ञानिक को मृत्यु हुई तो मेरे दिमाग, मे ध्याया कि दुनिया में उसे इन्साफ नहीं मिला इसलिए उसने दुनिया से ही उठना चाहा। हमारे कानून में यह है कि अगर वह मरता नहीं, जिन्दा ही पकड़ लिया जाता तो उसे सजा मिलती। कहने का मतलब यह है कि दुनिया में जो गरीब है उसे तड़पने की तो इजाजत है लेकिन मरने की इजाजत नहीं है। एक गरीब जो अपने खून को पसीना बनाता है उसको अपनी मेहनत का पूरा फल पाने का अधिकार नहीं है, उसको सिर्फ तड़पने का अधिकार है।

यह जो आपकी सविधान की धारियाँ हैं-14, 22, 38, उनके अनुसार आपका ऐसा समाज-वादी समाज बनाने का लक्ष्य है जिसमें हर व्यक्ति को सामाजिक और आर्थिक न्याय मिले लेकिन अगर उसको यह न्याय नहीं मिलता है तो क्या होगा? आपने बड़ा क्रान्तिकारी सविधान बनाया है लेकिन साथ ही साथ अगर आपने कानून में क्रान्तिकारी परिवर्तन नहीं किए तो क्या होगा मैं कहना चाहता हूँ कि फिर बहुत जल्दी एक ऐसी क्रान्ति आयीगी जोकि आपके इस्टैब्लिशमेंट को खत्म कर देगी।

"Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with. But injustice makes us want to pull things down. When only the rich can enjoy the law as a doubtful luxury and the poor who need it most cannot have it because its expense puts it beyond their reach, the threat to the continued existence of free democracy is not imaginary but very real."

[श्री मूल चर्चा आना]

because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness"

मैं समझता हूँ आजकल न्याय बिकता नहीं, नीलाम होता है। मैंने एक बात कही कि न्याय नीलाम होता है तो उसके लिए आपने क्या किया? सा कमिशन की जो 14वीं रिपोर्ट थी उसमें आपने कहा था कि कोर्ट फीस को समाप्त कर देंगे। इस मामले में गरीबों के प्रति आपकी हमदर्दी होगी इसलिए आपने गरीब का नाम लिख दिया। लेकिन रिपोर्ट से मालूम होता है कि 1961 में आपने निर्णय लिया लेकिन आज तक उसका इम्प्लीमेंटेशन नहीं हुआ।

"The subject of legal aid to the poor has been entrusted to the Department of Legal Affairs"

सन् 57 में पहली मीटिंग हुई और 1961 में दूसरी मीटिंग हुई।

"A provision to that effect has been made in the appropriate Bill before the Joint Committee of Parliament".

1961 के बाद 1970 में मीटिंग हुई। तो गरीब को कोई इन्साफ मिल सकता। गरीब के लिए सा कमिशन ने कहा था कि कोर्टफिस हटा देनी चाहिए। आप कहेंगे कि गरीब भी सूट कर सकता है लेकिन उसको कोई साम नहीं मिलता है। आज गरीब को कोई इन्साफ नहीं मिलता है। जितने भी कानून हैं वह ऐसे बानों के लिए हैं। सारे कानून इसलिए बनाए गए हैं कि जो धनवान हैं, जो पड़े सिद्धे हैं वे गरीबों को एम्प्लायेंट करें। उनकी रक्षा के लिए यह कानून बनाए

गए ताकि गरीब उनके खिलाफ कोई आवाज ब उठा सके। आपने सविधान में कुछ परिवर्तन किया है लेकिन जब तक आप बदलते हुए जमाने के साथ-साथ कानून में भी परिवर्तन नहीं करते तब तक कोर्ट्स में जो आप इन्साफ देना चाहते हैं वह गरीब को नहीं मिल सकता। आज अदालतों में भी जो जज बैठे हुए हैं वे भी वही तब इमानदार नहीं रहे। और जा गरीब है उसको अच्छा वकील भी नहीं मिल सकता इसलिए वह न्याय भी नहीं पा सकता।

SHRI K. BASAPPA (Chitradurga)  
While I support the demands under consideration I would like to make a few observations. The administration of Wakfs Act has not been applicable in some States in India, particularly Bihar, Uttar Pradesh, West Bengal, Gujarat and Maharashtra. I request the Ministry to see that this Act is made applicable in these States also.

Survey of the Wakfs property in the State of Mysore, Madhya Pradesh, Orissa and Union Territory of Delhi has not been completed though this Act has been in force since 1954. I therefore, request the Hon. Minister to see that the survey is completed early. Probably, there is one difficulty, that is, the question of Limitation. The Motawalis have gone alienating the property from one hand to the other as they like and to recover that property in the hands of others, a period of 12 years has been applied now. Unless it is treated like a Government property—an adverse possession of 60 years—probably, the difficulty will not be solved. Therefore, it is for the Ministry to consider whether the period of limitation should be increased or not.

Coming to the retirement age of the District Judges, in some States it is only 55 years, in some States it is 58 years. I

request that it should be uniform throughout the country because age for retirement of Supreme Court Judge is 65, that of the High Court judge is 62 and that of the District judge is 58 and in some States it is 55 years. The retirement age of the District judges should be uniform all over India because the general standard of health has improved and the longevity is increased. They are recruited as Munsifs after a period of four or five years at the bar. That is to say, they will have hardly served for 20 or 25 years before they retire. In support of this contention the Law Commission of India in its Fourteenth Report Vol I, has said that the District Judge retirement age should be fixed at 58 years. I request the Ministry to see that in all the States, where it is not 58 years, it is made to 58 years of age for the retirement of the District Judges. Though the Official Languages Commission has been constituted in 1961, many of the Central Acts have not been translated in Regional languages. Hardly 25 in Urdu translations, 16 in Gujarati, 5 in Oriya, have been done. The Commission may see that it is done early.

In regard to the translation of the Constitution of India in Hindi and other regional languages, except Hindi, Malayalam, Panjabi, Gujarati, Oriya and Telgu, the rest of the regional language translations have not been done. I would request the Ministry to see that the translation is done early.

Coming to the last point, I would say, in the Law Commission there is a proposal to appoint a third member. There are at present two full-time Members. One of them is a sitting judge of the High Court, another is a Professor of Law. It is better to appoint a full-time Member—third one—who may be an eminent jurist in the country.

With this, I end my speech.

SHRI R P ULAGANAMBI (Vellore)  
I rise to say a few words on the Demands for Grants of the Law and Justice Ministry, on behalf of the DMK party. I know, the time is very limited. I shall try to be brief.

14 hrs.

I am glad to note that the Government realises the importance of implementing the directive principles of State policy. The framers of the Constitution incorporated the directive principles of State policy in the Constitution in order to see that our country becomes a welfare State. Of course, this principle cannot be imposed through the court of law without any legislation. So, the Law Commission proposes to proceed with the consideration of legislation in order to implement the directive principles of State policy. I welcome this suggestion. I also request the Minister to expedite this matter.

The Law Commission was set up in 1955, and they have submitted so far 47 reports, but nowhere has it been stated in the annual report or in any other books as to how many suggestions have been implemented by the Government of India. It is no use setting up a Commission without implementing the suggestions recommended by the Law Commission. So, I request the hon. Minister to state and explain how many suggestions made by the Law Commission have been implemented so far.

Next, there is the question of legal aid to the poor. We are talking for a long time that legal aid should be extended to the poor people. This decision was taken in the Law Ministers' Conference in 1957, and the Government made a provision in the Advocates Bill of 1970. This Bill was referred to a Joint Committee of Parliament, containing a provision for amendment. This decision was taken by the Government after 15 years after a decision was taken by the Law Ministers' Confere-

[Shri R. P. Ulganambi]

nce. This Committee should submit the report, and then the Government should take a decision on the report, and the Bar Council of India and the State Bar Councils will also take years. I do not know when these facilities will be extended to the poor people. Even when a provision is made in the Bill, the Government have taken 15 years. I do not know when these facilities will be extended to the poor people at this rate. What I want to say is that the Government should expedite this matter, and these facilities should be extended to the poor people at the earliest.

My friend Mr. Basappa referred to the translation of legislative enactments into the regional languages the Official Language Commission has already translated certain enactments into a few Indian languages but not in Tamil and some other regional languages. This is a clear discrimination shown to the non-Hindi speaking people. The Commission has taken keen interest in translating into Hindi and other languages, but not in the southern languages like Tamil and other languages. I request the Minister to pay attention to this and translate the Constitution of India and other law books into all the regional languages.

There is a long-standing demand from the people of the Southern States for the establishment of a Supreme Court Bench in the southern part of the country, so as to enable the people coming from that area to have their cases dealt with quickly. It is not proper and correct if one says that enough cases are not coming from the southern part of India. How can we expect poor people to come all the way, 2,000 miles and over, from the south, to the north, let alone the expenditure of money and a lot of time? If we have a Supreme Court Bench in the southern part of the country, say, Madras, the people of Tamil Nadu, Kerala, Mysore and Andhra Pradesh can be benefited and they can file their writ or appeal there itself. So, I request

the Government to establish a Bench of the Supreme Court in the southern part of the country, say, at Madras.

Another demand is that the people from Southern parts of Tamil Nadu, have been urging for a High Court Bench at Madurai. It is also for the same reasons as I mentioned earlier. So, I request the Government to give consideration to this aspect also.

Last but not the least, I urge for the unification of a uniform civil code for the whole country. You know that in times past, before the introduction of the Indian Penal Code, criminal cases were decided according to Manu Dharma and Punishment was given on the basis of the Varnashrama Dharma. These were replaced by the introduction of the Indian Penal Code. In the same way, why not a uniform civil code be introduced? Bigamy may be an offence under the Indian Penal Code, but Muslims are permitted to marry four wives. I am not demanding that Hindus should be allowed to marry four wives. There should be a uniform code: One wife for one husband Under Directive Principles of State Policy in our Constitution, Article 44 states:

"These State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

The Muslim women have passed a resolution condemning the atrocity of a man marrying four wives. Our Prime Minister being a woman knows the suffering of women. It is high time that personal law is dispensed with, be it Hindu Law or Muslim law. I am not concerned with religion. We should have a uniform civil code throughout the country.

THE MINISTER OF STATE IN THE  
MINISTRY OF LAW AND JUSTICE  
(SHRI NITIRAJ SINGH CHAUDHARY):  
Sir, I will take only a little time to reply to some of the points raised by hon. mem-

bers. Almost every one of them has referred to the accumulation of arrears and delay in disposal of cases. Mr. Som Nath Chatterjee and another hon. member referred to the delay in filling vacancies of High Court Judges. It has to be admitted that there is considerable delay in the disposal of cases in the High Courts. One of the reasons was the insufficient number of judges available for judicial work. In order to get over the difficulty, attempts are being made to increase the number of judges, to avoid delay in filling vacancies and to provide sufficient court accommodation for the extra judges.

It may be mentioned that the strength of judges in the High Courts in the last five years has been increased from 245 to 319. A committee headed by Mr. Justice J. C. Shah, former Chief Justice of India was appointed to look into the problem of arrears in the High Courts. Its recommendations are being examined. Steps will also be taken to augment the strength of the courts.

The question of reducing the quantum of work by limiting the jurisdiction of the High Courts by amending the laws relating to the Civil and Criminal Procedure Codes are also under consideration. A Bill to replace the existing Code of Criminal Procedure on the recommendations of the Law Commission is pending in Parliament. The Law Commission has also been requested to look into the question of amending the Civil Procedure Code with a view to minimising delays and reducing costs. We expect that the Law Commission will give its report soon.

About making justice speedy and cheap, Government accepts the principle that the State is under an obligation to make justice readily available to the public and that none is denied justice on the ground of poverty or ignorance. A litigant incurs expenses on account of court fees and counsel's fees. I admit that the provisions permitting a person to sue in

*forma pauperis* are not helpful to a person of moderate means who cannot be classified as a pauper. Since court fees are a State subject, the Central Government cannot do much in the matter except by means of a scheme of legal aid. Such a scheme can provide not only for assistance in the matter of payment or remission of court fees but also make available the assistance of a competent counsel at a nominal fee or a fee within the reach of the legally assisted person. In this regard, in the Advocates Bill, provision was proposed to be made. A joint Committee is considering the matter and recording evidence as to how best legal aid should be made available at a nominal cost to indigent litigants.

Shri D. N. Tiwary referred to the Official Languages Commission and said that the Central Laws are not available in sufficient numbers in Hindi and most of the Central Laws have not been translated. In so far as Central Acts are concerned, the Official Languages Commission is entrusted with the work of Hindi translation. It has so far translated 302 Central Acts, i. e. more than half the number of statutes. Of these, 192 translations have been published as authoritative translations under the authority of the President. 110 translations are in the press and it is expected to publish them shortly. Although section 5(2) of the Official Languages Act, 1963 has not been brought into force, Hindi translations accompany the English text of Bills introduced in Parliament. As regards State Acts, it is primarily the function of the State Governments to translate them into Hindi. There is one other difficulty. We found that for drafting there was no provision for training. Now Government has decided to start classes for training in Hindi drafting from 1st July, 1972.

One of my hon. friend referred to neglect of regional languages. I submit that it is not so. At least, so far as the translation of the Constitution is concerned, the matter was entrusted to the State

[Shri Nitirag Singh Chaudhry]

Governments. We gave them grants and the work is going on. As far as the translation of the Acts is concerned, we have received information from the State Governments that they are going ahead with this work and the publication of those translations will be taken up soon.

Coming to elections, Shri D. N. Tiwary who is not here, referred to the capture of booths, which is a peculiar feature in Bihar. So far no complaints of this nature from any other State have been received by the Election Commission. Wherever such reports were received and found to be true on verification, the elections were suspended and fresh elections were held. Therefore, to say that the elections are not fair is wrong. They are absolutely fair.

Shri Somnath Chatterjee also referred to the elections and said something in general terms. He did not make any specific point about the irregularities when he referred to the elections in Bengal. All that I can say is that wherever there are irregularities and illegalities, the law provides for the filing of election petition and, if they are proved, the election would be set aside. No action can be taken on vague allegations.

Then it was said that the Election Commission should not be of one member, it should be a multi-member Commission. The matter was before the Joint Committee of the two Houses of Parliament. That Committee considered that matter. The report of that Committee has been before this House and the Rajya Sabha. Government is considering that matter and a Bill on this subject will be before the House soon.

Shri Konda Basappa referred to the Wakfs Act and said that it is not in force in some States like Bihar, U. P. and Maharashtra and the survey of the wakfs property has not been completed in some

States. We assure him that we will write to the States to take necessary action to complete the survey as soon as possible. About the Limitation Act also he has drawn our attention. We shall make a reference to the State Governments that they should take suitable steps so that as soon as the survey is completed, the persons who have taken wakf property should not take recourse to limitation and escape.

He also referred to the age of retirement of the district judges. This is a matter for the States to decide. We cannot do anything in the matter.

About the Law Commission he has made a suggestion for which we are thankful to him. We will bear that in mind when the third member is appointed.

Indirectly, a reference was made to the need to modernise the law so as to make it serve the felt needs of the times. For this purpose, the terms of reference of the Law Commission, which was reconstituted with effect from the 1st September, 1971, had been altered. Its terms of reference had been widened by addition of four more clauses, which the hon. Members would find on page 16 of the Ministry's Report. In addition, proposals for legislation are scrutinised with a view to seeing that the laws serve the needs of the nation under existing conditions. The suggestions made by the hon. Members for amendment of the laws would receive due consideration.

Then, Shri Chadrappan, referred to the Bill to nationalise the foreign-owned plantations in Kerala and alleged that this Bill is pending with this Ministry for the last one and a half years. It is not correct. An Ordinance for the nationalisation of foreign owned plantations in Kerala was received in the Law Ministry for advice; the advice was given on that and the Ordinance is not pending in the Law Ministry.

**SHRI C. K. CHANDRAPPAN :** Perhaps, it is pending in the Home Ministry then.

**SHRI NITIRAJ SINGH CHAUDHARY :** He referred to the Law Ministry I am replying to that.

**SHRI C. K. CHANDRAPPAN :** It is pending with the Government.

**SHRI NITIRAJ SINGH CHAUDHARY :** I understand, it is pending with the Home Ministry

**THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN) :** It is still under consideration.

श्री श्रीकार लाल बेरवा (कोटा) उपाध्यक्ष महोदय, किसी भी देश के अन्दर जैसा सच्चा और सस्ता न्याय मिलना चाहिए, भारत जैसे उन्नत देश में इन दोनों में से एक भी प्रणाली लागू नहीं हुई। गरीब को तो इन्साफ मिलना ही मुश्किल हो गया है। चुनावों में जितनी धाँधलिया होती है अगर उनको देखा जाए तो हमारी चुनाव पद्धति बिल्कुल रहीं की टोकरी में डालने लायक है। पार्लियामेंट की कमेटी बंठी जिसने चुनाव कानून में संशोधन करने के लिए कहा, फिर एक विशेषज्ञ आयोग बनाने की बात रखी, लेकिन अभी तक इस बात की सुनवाई नहीं की गई।

चुनाव में जो दस्तावेज प्रणाली चलाई गई है उससे पढ़े लिखे कर्मचारी भी दूर भागते हैं। इसलिये प्रशासन के अन्दर यह दस्तावेज प्रणाली नहीं होनी चाहिए। लेकिन सरपंचों, पंचों और पंचायतों द्वारा जितने लक्ष्मीनधर हैं सबने जा जा कर किसानों से दस्तावेज करवा लिये हैं। उनसे कहा है कि अगर तुमने कांग्रेस को बोट नहीं दिया तो सुझारी जमीन हड़प ली जाएगी, सिंचाई का

पानी बन्द कर दिया जायेगा। बूँक इस चीज से बहुत नुकसान हो रहा है, इसलिये इस प्रणाली को बन्द कर देना चाहिए।

मैं सब लोग कहते हैं कि पोलिंग बूथ के ऊपर काउंटिंग होनी चाहिए। लेकिन प्राजकल घाठ-घाठ दिन तक काउंटिंग नहीं होती। इसलिये यह बात कही जा रही है कि पोलिंग बूथबाइज काउंटिंग हानी चाहिए। लेकिन पोलिंग बूथबाइज काउंटिंग नहीं होती। सब कुछ देखन सुनने के बाद लोगों का घूस-घास देकर, घाठ-घाठ दिन बोट रखकर उनकी काउंटिंग की जाती है और गड़बड़ियाँ की जाती हैं। यह कितनी बुरी बात है। सन् 1971 में वॉरिंग्स को 43 परसेंट बोट मिले थे, अब की 47 परसेंट बोट मिले हैं, लेकिन सीटें उनको 70 मिल गईं। आज हमारे यहाँ बहुमत प्रणाली चल रही है। इसका बन्द करके यहाँ पर सूची प्रणाली चलानी चाहिए। योरोपियन देशों में जहाँ भी लाकतत्र है, वहाँ पर सूची प्रणाली चलती है। इसलिये यहाँ पर भी बहुमत प्रणाली को बन्द करके सूची प्रणाली लागू की जानी चाहिए।

बैलट में जो निशान लगाने की प्रथा है, यह भी गलत है। यहाँ पर पंच सिस्टम लागू करना चाहिए। अगर निशान लगाने की प्रथा रखी जायेगी तो लोगों पर दबाव पड़ेगा और उनसे कहा जाएगा कि आप फला-फला को बोट दीजिए। इससे बड़ी गड़बड़ियाँ होंगी। इसलिये बहुमत वाली प्रणाली को समाप्त करके सूची प्रणाली को लागू करना चाहिए।

मैं चाहता हूँ कि न्याय कानून में संशोधन हो। गरीब को तो इन्साफ मिलना ही नहीं है। मैं देखता हूँ कि चुनावों के बाद

[श्री श्रीकार साह बेरवा]

पिटिशन कर दी जाती है, लेकिन उनका फैसला दूसरे इलेक्शन तक नहीं होता। जब आपने फैसला किया है कि छः महीने में मामले का निपटारा हो जाना चाहिए, तब आपको उस पर प्रमत्त करना चाहिए। लेकिन छः महीने के बजाय चार-चार साल लगे जाते हैं। यहाँ एक देखा गया है कि पांच साल बाद जब लोग अपने नामिनेशन फाइल करते हैं उस वक़्त तक एलेक्शन पिटिशन का फैसला नहीं हो पाता है। इसलिए एलेक्शन के कानून में बदलाव हो तभी काम चल सकता है।

जहाँ तक स्टाम्प ड्यूटी का सवाल है, आपने इसके बारे में सारे अधिकार राज्य सरकारों के दिये हुए हैं। आप कहते हैं कि राज्य सरकार ही इसका फैसला करेगी क्योंकि भ्रष्टाचार राज्य सरकारों के अधीन चलती है। आज लोग स्टैम्प ड्यूटी में हजारों रुपये ले लेते हैं लेकिन लोगों को इंसॉफ नहीं मिलता है। पहले तो गरीब लोगों को इंसॉफ मिलता ही नहीं। अगर वह मिलता भी है तो उसको सस्ता और सच्चा न्याय नहीं मिलता है। आपके न्याय केवल किसानों में ही बढ़ा रहता है। आपके मद्रास की यह क्लिग है, पंजाब की यह क्लिग है, इलाहाबाद की यह क्लिग है। क्लिग पर क्लिग बगरी जा रही है। मैं और उसके बछड़े को, गाय और उसके बछड़े को, बकरी मानकर उसको इंसॉफ नहीं मिलता है। इस तरह की हालत आज सेइयूल्ड कास्ट्स और सेइयूल्ड ट्राइब्स की है। उनको यहाँ पर पूरा इंसॉफ मिलना चाहिए। गवर्नमेंट की तरफ से उनको बकील मिलना चाहिए ताकि जज के सामने जाकर वह गरीब आदमी की पैरवी कर सके। आज सेइयूल्ड कास्ट्स और सेइयूल्ड ट्राइब्स

के लोगों के लिए इंसॉफ मिलने की बात तो कहना ही बेकार है। वह उनको मिल ही नहीं सकता। आज तो हालत यह है कि अगर कोई आदमी किसी आदमी का मर्डर कर दे और वह पैसे वाला है तो उसको एक दिन की भी सजा नहीं होगी, लेकिन अगर कोई गरीब आदमी थूल-थूल से किसी का मर्डर कर दे, या उससे हो जाये तो उसको जन्म भर के लिए जेल काटनी होगी। जजों के बीच जो बैठे रहते हैं वे दिन दहाड़े चोरियाँ करते हैं, रिश्तत लेते हैं लेकिन उनको जज नहीं पकड़ सकते। यह इंसॉफ नहीं है। गरीब को इंसॉफ दिलाने की उचित व्यवस्था होनी चाहिए और निःशुल्क उनको इंसॉफ मिलना चाहिये। सेइयूल्ड कास्ट और सेइयूल्ड ट्राइब्स के लिये प्रसन्न कोर्ट्स होने चाहिये हर राज्य में और उनको निःशुल्क इंसॉफ मिलना चाहिये, उनसे स्टैम्प फीस भी नहीं ली जानी चाहिये।

जहाँ तक चुनाव आयोग का सम्बन्ध है, उन पर तीन लोग नियुक्त होने चाहिए। साथ ही जैसा कि पार्लियामेन्टरी समिति ने रिपोर्ट में कहा है कानूनी विशेषज्ञों की एक समिति बनाई जानी चाहिये जो चुनाव कानून में संशोधन करने के सुझाव दे।

SHRI DHARAMRAO AFZALPURKAR (Gulbarga) : Mr. Deputy-Speaker, Sir, I rise to support the Demands for Grants of the Ministry of Law and Justice. I am very happy to note and to welcome that this Ministry has been re-designed giving Justice to the person well known for justice, ex-justice Shri H. R. Gokhale who is not only a prominent lawyer but is also an able administrator. And we expect justice from him.

Under this Ministry there are three Departments. One of them is the Department of Legal Affairs. Its function is that

legal advice will be given to the Ministry as well as to the various Departments of the Government. According to the Report of this Ministry, the Legal Department received near about 25,241 cases, but the Report is not clear whether these cases have been referred back giving advice to the concerned Departments or not. I think, these 25,241 cases are pending with the Legal Department.

Another point is about free legal aid to the poor people. In the Law Ministers' Conference which was held in 1957 it was decided to give free legal aid to poor people. From this Report it is quite clear that they have not even applied their minds to give free legal aid to poor people. The poor people are suffering like anything as far as the tenants are concerned, as far as labourers who are working in factories are concerned. The poor people should be given legal aid as soon as possible. According to this Department, the Department is giving grants in aid . . .

श्री हुकम चन्द्र कछवाय : उपाध्यक्ष महोदय, मैं दायकी व्यवस्था चाहता हूँ। कोरम नहीं है।

MR. DEPUTY-SPEAKER : The bell is being rung . . .

Now there is quorum The hon. Member may continue.

SHRI DHARAMRAO AFZALPURKAR : The grant in aid which this Department has given is Rs. 8 lakhs to the Indian Law Institute, Rs. 2 lakhs to the Institute of Constitutional and Parliamentary Studies and Rs. 25,000 to the International Law Association. This Department is unable to give legal aid to poor people while they are spending so much as aid to such institutions. I am unable to understand whether the Indian Law Institute has made any research regarding labour laws. Since 1957 this Department has been giving aid to these institutions.

The Government has got the money to give to these institutions, but why is the Government not applying its mind to give legal aid to the poor people, including the labourers?

Another thing I want to speak about relates to the disposal of cases. The number of pending cases before Supreme Court is 6,270. And before various High Courts 3,80,000 cases are pending....(Interruptions) So my submission is that unless and until the Government change the Civil Procedure and the Criminal Procedure, it is not possible. There are certain cases which are pending since 1932, more than 40 years. What about the litigation? What about the litigant? Unless and until the litigant gets speedy disposal because nowadays with the advancement of science and technology, the mind of the litigant also travels fast and the litigants want a quick decision and a speedy disposal. So, when this age is well-known as the scientific age and we are also in the age of sputnik which travels at a speed of 45,000 miles per hour, unless and until we change the procedure and unless and until we enact new laws, it is not possible and the poor people will not get justice. Now the poor people do not go to courts and they have no money to engage eminent and able lawyers to get justice.

So, my submission is that justice should not only be done but it should also appear to be done. This aspect should be considered and the law must change with changing society. Moreover, law is nothing but the will and aspiration of the people is that they want a speedy disposal and a quick decision Where is that?

My submission is that as far as the appointment of District judges is concerned they should not be appointed from the Bar because persons who are working in the Judiciary will not get promotion. There will be discontent among the persons working there.

[Shri Dharamrao Afzalpukar]

The other thing is that *Munsiff's selection* should not be given to the Public Service Commission but it should be given to the High Court

The third thing is that persons working in the Bar may be appointed to the High Courts as High Court Judges but not in the same High Court. He must be transferred to some other High Court.

Lastly, as the Law Commission has recommended, the Chief Justice should be from the another State and not from the same State.

Another suggestion is that the Supreme Court and High Court Judges after retirement should not be allowed to practice in any court.

More and more Harijans and scheduled Casts candidates should be appointed as Judges of the High Courts and also in the Supreme Court. We want to see a person belonging to the Harijan Community as Chief Justice of the Supreme Court as also in the High Courts

When we are working for the upliftment of the weaker sections and for social justice to the Harijans and the Scheduled Castes, we hope under the able leadership of our Prime Minister we will get a change to see a Harijan as the Chief justice of the Supreme Court.

MR. DEPUTY SPEAKER : Mr Nawal Kishore Sharma—only five minutes.

SHRI NAWAL KISHORE SHARMA (Dausa) : Than I have to make points only.

MR. DEPUTY SPEAKER : You will more effective that way.

श्री नवल किशोर शर्मा : उपाध्यक्ष महोदय, यह सुनी की बात है कि 1969 के बाद पहली बार—सा मिस्रिस्ट्री की

डिपार्टमेंट पर इस सदन में बर्षा करने का मौका मिल रहा है—

संसदीय कार्य तथा नौबहन और परिवहन मंत्री (श्री राज बहादुर) : प्राय और ला मिनिस्टर हमे और स्पीकर साहब को बन्प-बाद दे ।

श्री नवल किशोर शर्मा : मैं प्रायको और साथ ही साथ बिजिनेस एडवाइजरी कमेटी और स्पीकर साहब प्रादि सभी को बन्पबाद देता हूँ जिन्होंने इस पर बहस करने का मौका दिया है ।

भले ही इस डिपार्टमेंट को निवलंकट किया जाए लेकिन इंडोक्रेसी मे धगर सामाजिक परिवर्तन लाने हैं तो वे कानून और न्याय के जरिये से ही लाय जा सकते है । इसलिये कानून ऐसे बनें जो लोगों की समझ मे आने के साथ-साथ प्रमल मे भी आए । साथ ही साथ न्याय सस्ता और सुलभ हो, ये दोनों बातें बहुत जरूरी है ।

इसको कहने की— जरूरत नहीं है कि मुकदमे कितनी-कितनी देर तक प्रदासतों मे चलते रहते हैं । इलाहाबाद हाई कोर्ट मे 71,000 से ज्यादा मुकदमे पड़े हुए है, प्राप्र मे 15,000 से ज्यादा है, असम मे 5,000 से ज्यादा हैं, बम्बई मे 39,000 से ज्यादा हैं, कलकत्ता मे 77,000 है । इस तरह से 3 लाख 78 हजार मुकदमे हाई कोर्ट्स मे पेंडिंग हैं । जोअर कोर्ट्स की हानत तो इससे कहीं ज्यादा बढ़कर हैं । फिर हम कहते हैं कि हम न्याय देना चाहते हैं । मेरी समझ में नहीं आता कि वह कैसा न्याय हैं ।

प्राचीं माननीय श्री नीतिरत्न सिंह चौधरी ने फरमाया है कि हमने न्याय की प्रवर्धि-

डाइट करने के लिए कुछ जजिज की संख्या बढ़ाई है। उन्होंने बड़े गर्व के साथ कहा कि हमने हाई कोर्ट के जजिज की संख्या 245 से बढ़ाकर 319 कर दी गई है। उन्होंने बहुत बढ़िया काम किया है। लेकिन हमको इससे मतलब नहीं है। वह वह तो बतायें कि मुकदमे कितने बढ़ गये हैं। हम तो उनसे यह एपोरेंस चाहते हैं कि हाई कोर्ट में कोई रिट दो साल से ज्यादा पेंडिंग नहीं रहेगी और कोई मुकदमा तीन साल से ज्यादा पेंडिंग नहीं रहेगा। अगर वह यह एपोरेंस देने के लिये तैयार हैं, तो हम समझेंगे कि सरकार इस बारे में कुछ करने जा रही है।

सरकार ने जजिज की तनखाह बढ़ा दी है। बहुत प्रशंसा किया है। इसके लिये बहुत बहुत धन्यवाद।

बिचि और न्याय तथा पेंट्रोलियम और रसायन मंत्री (श्री एच० प्रार गोखले) : अभी नहीं बढ़ाई है।

श्री नवल किशोर शर्मा : लेकिन जुडिशरी के सिस्टम के इफेक्टिव होने के लिए जरूरी है कि वकीलों की हालत पर भी गौर किया जाए। मैं कहना चाहता हूँ कि यह एक बड़ा गम्भीर बिषय है और इसलिए इसको हंसकर टालने की कोशिश न की जाये। इस देश में जहाँ कुछ वकील ऐसे हैं, जिन्होंने सुप्रीम कोर्ट, हाई कोर्ट्स और लोकल जार्ज को मानोप्लाइज कर रखा है, वहाँ हजारों नहीं, लाखों वकीलों की इसमी बुर्खा है कि अदालत के अपरासी की जितना मिलता है, उतना भी कुछ वकीलों को नहीं मिलता है। यह बात मैं अपनी जानकारी के आधार पर कहता हूँ। भले ही श्री जगना इससे इन्कार करें। मैं

शोभर कोर्ट्स की हालत जानता हूँ। मैं खुद वकील रहा हूँ और हूँ।

मैं गम्भीरता के साथ कहना चाहता हूँ कि सरकार को इस बारे में कुछ ध्यान देना चाहिए कि इनकम का ईक्वीटेबल डिस्ट्रीब्यूशन हो। अभी जस्टिस हेगडे ने फरमाया था कि लाईयर्स की को-आपरेटिव सोसायटीज बनाई जानी चाहिये और को-आपरेटिव बेसिस पर उनकी इनकम का डिस्ट्रीब्यूशन होना चाहिए। यह हंसने की बात नहीं है। रूस में यही व्यवस्था है और इस व्यवस्था के जरिये से वहाँ पर एक बड़े वकील और छोटे वकील की ग्रामदनी में बहुत बड़ा अन्तर नहीं है। मैं निवेदन करना चाहता हूँ कि इससे वकील स्पेशलाइज्ड भी होंगे और उनकी टेलेन्ट्स स्पेशलाइज्ड डायरेक्शन में काम करने लगेंगी। सरकार एडवोकेट्स एक्ट का संशोधन कर रही है। इस मौके पर वह इस बारे में गम्भीरता से विचार करे।

सी० पी० सी० को सरकार कब एमेंड करेगी, यह पता नहीं है। लेकिन उसके एक संवधान 80 के कारण लोगों को बड़ी परेशानी होती है। दो महीने का नोटिस दिये बिना कोई दावा नहीं हो सकता है। किसी का मकान टूटता हो, किसी की जायदाद हड़प होती हो, चाहे किसनी ही ज्यादाती होती हो, लेकिन अगर दो महीने का नोटिस नहीं है, तो वह प्लेंट अनसुटिड है। हाई कोर्ट्स और सुप्रीम कोर्ट के फंसले है कि नोटिस इज ए क्वस्ट। इसलिए इस संवधान को जल्दी एमेंड किया जाए। इसके कारण बहुत से लोगों को अनावश्यक परेशानी का सामना करना पड़ता है।

अभी तमिलनाडू के मेरे मित्र ने कहा कि तामिलनाडू में सुप्रीम कोर्ट की एक बँच

[श्री नवल किशोर शर्मा]

होनी चाहिए। जयपुर में हाईकोर्ट की बेंच की स्थापना की मांग बहुत पुरानी है। असल में यह पुरानी बेंच थी, जो कि दुर्भाग्य से खत्म हो गई। हम चाहते हैं कि उसकी पुनर्स्थापना की जाये। श्री नीतिराज सिंह चौधरी ने एक प्रश्न के जवाब में फरमाया था कि बू कि दक्षिण में वाल्यूम थर्म बर्क इतना नहीं है, इसलिये वहां पर सुप्रीम कोर्ट की बेंच जस्टिफाई नहीं होती है। मैं उनकी बात मान लेता हूँ और निवेदन करना चाहता हूँ कि अगर जयपुर में वाल्यूम थर्म बर्क इतना ही, जो वहां पर बेंच के एस्टाब्लिशमेंट को जस्टिफाई करता हो, तो वह राजस्थान सरकार से कहे, जिसकी वकालत श्री डागा कर रहे थे, कि सस्ता न्याय दिलाने के लिए वहां पर बेंच की स्थापना की जाए।

SHRI T BALAKRISHNIAH (Tirupathi): While supporting the Demands, I would like to draw the attention of the hon. Minister to a very recent statement that he has made in this House in reply to a starred question, wherein he has said that the appointments of judges of the High Courts and district courts and also the Supreme Court are made purely on merit. If that be the case, I would like to know how many of them are Bentams, how many of them are Cokes and how many of them Sir Greys? If there are many of that type, then why should there be a large number of cases pending in the High Court!

I submit that while giving due consideration to merit, Harijans also should be given due place in the judiciary not only as High Court judges but also as judicial officers, public prosecutors, State public prosecutors and so on. In this connection, I would like to draw the attention of the hon.

Minister to article 335 of the Constitution. Unfortunately, the Supreme Court in their recent judgments have confused themselves by saying that it should be read along with articles 16 and so on. But I submit that article 335 is a separate article. I do not know why it is confused and given a wrong judgment. This article reads thus

“The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State”

Does this not include the services of the judiciary? Does it not include the services of judicial posts? I submit that it does include these posts

The law giver in the pre-Vedic days was a Harijan. I do not know whether the hon. Minister knows that it was Veerabahu who was the law giver and again Ihruvalluvar who wrote the *Thirukkural* was a Harijan and his merit was not recognised by the Tamil Sangham of the 16th century Pandyan Kingdom because he was a Harijan. Veda Vyasa who wrote Vedas and Mahabharata was himself a Harijan, because he was born to Parashar but eventually he attained *brahmaishitvam*. That being the case, there is no point in saying that they are considering merit alone. I say that let Government take people who have got merit from among the Harijans. I do not want the people who are inferior to be taken or those who are lacking in merit to be taken, or that those who are inefficient should be taken into judiciary as judges. Only if they take people from these communities also will the Government do justice to these communities. Otherwise, justice is really denied to the Harijan community. At least, let them make an experiment. Is there any test-

case in the country where a Harijan has been appointed as a High Court judge? Is there any test case where a Harijan has been appointed as public prosecutor of a State? Is there any test case where a Harijan has been appointed as a district judge? Why should these appointments be monopolised by a particular community? We know how these appointments are made now. After all, those who are appointed to these posts come up as follows. They are born in the State capitals, and they get themselves attached to senior and efficient advocates and they become district judges by political pulling and becoming the High Court judges, and slowly they ascend to the highest position. I know that many of the advocates join some senior advocates and they come from well-to-do families and they spend a lot of money for ten years, and they do not expect any income and they do not expect any work also. They simply attach themselves to senior advocates and engage touts and get work and increase their files. But how can a Harijan spend money and go in for touts and get files? What is the yard stick to measure the merit of an advocate? Is appointment of touts and attaching oneself to senior advocates the yard-stick of merit? That is not the criterion for merit? If a Harijan who is born in poverty comes up by self-effort and he has to compete with people of other communities who inherit the offices from their fathers and father-in-laws, then how is it possible?

Therefore, I request the hon. Minister to see that a Bill in conformity with art. 335 is brought to give reservations for Scheduled Castes and Scheduled Tribes, and other backward classes. This should not be clubbed with art. 15 (4) of the Constitution.

**SHRI D. K. PANDA (Bhanjanagar).**  
I am grateful to you for giving me some time.

At p. 6 of the Report, there is a reference to the advice the Ministry it has given to the UP authorities, regarding sugar industry nationalisation. What advice the Ministry has given is very well known. We know that the Attorney General gave the opinion that the State Government of UP is competent to nationalise the sugar industry. It is the Law Ministry Secretary who has been going about making a public propaganda that the State Government has no power to nationalise the sugar industry. At that time also, after the Attorney General's opinion the Cabinet has also accepted that. In spite of that, the sugar industry was not allowed to be nationalised by the UP Government.

Then again day by day this Ministry has been becoming an Law Ministry. In the distribution of cases among juniors and youngsters, there is nepotism and favouritism. This has been brought to notice several times but nothing has been done.

The NIDC is a public undertaking, One of its employees, a stenographer

**MR DEPUTY SPEAKER:** This is not a forum for bringing in individual cases.

**SHRI D. K. PANDA.** To conduct the case on behalf of the undertaking in a suit filed by the employee, the management under instructions of this Ministry engaged a lawyer on Rs 2000 plus Rs. 200 for electrical staff expenses. Rs. 300 out of pocket expenses. If the claim of the employee had been paid straightway, the expenditure would have been only Rs. 130. This looks ridiculous. These things should be stopped.

Then let there be a circuit Bench of the Supreme Court sitting in Orissa also.

**SHRI R. D. BHANDARE (Bombay Central):** I may be pardoned for having guilty of repeating some arguments adduced by my friend over here. We must

[Shri R. D. Bhandare]

appreciate his sentiment on the question of reservation. I know there are two Judges. I also know that some judicial magistrates are also there. I may mention that when he was a judge of the Bombay High Court, the Law Minister was considered to be an equity Judge because most of his decisions were based on high equity. Now that the Law Minister, I hope he will allow his sense of equity to reach members of the Schedule Castes and Scheduled Tribes. I know there are a number of young brilliant advocates in these communities. They should be taken in different panels in the High Courts.

Why should they not be taken in the Commission and why should they not be taken in the judicial service? I know Article 335 lays down that "consistently with the maintenance of efficiency of administration." I do not say that dullards and duffers should be taken. That is where brilliant persons may be taken in the judicial service. That is my point. I am supporting my friend who spoke with vehemence and sentiments and his mind should be read, and I hope the Honourable the Law Minister will issue necessary instructions to the different Departments concerned.

With these words I support the Demands.

**THE MINISTER OF LAW AND JUSTICE AND PETROLEUM AND CHEMICALS (SHRI H. R. GOKHALE):** I am grateful to the Hon. Members for having given their views on the Law and Justice Ministry which, as an Hon. Member has said, got the opportunity of discussion after many years.

Many important points and suggestions were made and I would assure the Hon. House that will keep the suggestions in mind and try to implement them wherever possible.

I very much appreciate the anxiety expressed by quite a number of speakers today on the need for having a comprehensive scheme for legal aid. Sir, there cannot be two opinions on this. I also agree that the question had been mooted for quite several years but in the concrete form the legal aid scheme has not yet come into being. While I am aware that the Advocate Amendment Act which is now pending before the Joint Committee of the two Houses does contain a few suggestions with regard to legal aid, I must be outright and frank to say that those suggestions which are contained in the Bill do not touch even a fringe of the problem, do not go to the extent, the magnitude of the problem would require them to go. All that I would assure the Hon. Members now is that a comprehensive legal aid scheme for rendering legal assistance to the poor is now under active formulation and I do hope that in a reasonable length of time, I will have the satisfaction of telling this House that we have a legal aid scheme now.

Sir, again it has been rightly said by many Members that there have been big arrears in the High Court and in the Supreme Court. It has also been rightly said that the procedure is procrastinating. The delays not only lead to the decision of cases being delayed, but also lead to increase in costs. It is true, as my Hon. Colleague has told the House, that the number of judges has been substantially increased in the last couple of years. I agree that that is not a final answer to the problem. It is true that the number of judges has to be increased, and it has been our policy that whenever a plausible case has been made by the State Government for increasing the strength of the judges, we have always readily agreed and given a greater number of judges. But, as I said, this is not the end of the matter. The delays in courts have to be stopped by seeing that the procedure, both civil and criminal, which is obtaining in this country

to-day and which has become outmoded is completely overhauled

While the Criminal Procedure Code has been referred to a Committee of Parliament, which contains important changes so as to cut down the delay in the disposal of criminal cases, the Civil Procedure Code has also been referred to a Joint Committee, and the Joint Committee at that time rightly commented that the suggestions which were then made were again enough to touch even the fringe of the problem. Instead of bringing that Bill in the form in which it was brought at that time, I have reopened the matter and at the moment of Law Commission is engaged in the task of suggesting radical and material changes in the Civil Procedure Code both from the point of view of minimising the delay and in cutting down the cost of litigation. Looking at the speed and the pace at which the recently constituted Law Commission has been doing the work, I am happy to tell the House that after September last year, when the Law Commission was reconstituted, the Law Commission had already dealt with several matters, and with great speed submitted their reports to the Government which are now under formulation.

You will remember the report which was submitted, which of course was *suo motu*, on the Constitution (Amendment) Bill, while article No. 133 was the subject-matter of the previous report by the Law Commission. We reconsidered the matter and thought that making the value of the property as the sole basis of the right of appeal was highly inequitable. Will the small litigant having small properties—to them the property is worth as much or perhaps more than the property of a rich litigant because the rich litigant can afford to buy other property also—will suffer. Therefore, the right of appeal should not be dependent on the value of the property but should be dependent on the substance of the matter involved in the litigation, on the legality as well as equity involved in the

litigation. Therefore, we decided that the matter should be re-examined, and I am happy to tell the House that the Law Commission in almost record speed submitted the report which we have accepted. A bill to amend article 133 of the Constitution is in the offing, and I hope to present it to Parliament, to introduce it in this House in the present session itself.

Similarly, the Law Commission has done remarkable work in the course of only two months. We have been finding—the comment was made with which I fully agree—that in the matters relating to offences which are anti-social or economic offences, the punishment is not at all in keeping with the magnitude of the danger or the damage which it creates in society. It is true that all crime is bad,—whatever be the nature—but, while in the ordinary crimes, individuals alone are affected, in crimes of this nature it is the society which is really the target of attack by these criminals. Therefore, we thought that a separate punishment should be meted out to those who commit offences which are of an anti-social nature or are economic offences. We referred this question to the Law Commission, and the Law Commission has already submitted an elaborate report for reconstructing the whole system for dealing with anti-social or economic offences, and we hope that we will be able to take steps to implement that report as early as possible.

References have been made to the Committee which was appointed by the Government to consider the question of getting rid of the tremendous arrear in the various courts. That was a Committee presided over by the former Chief Justice of India, Mr J C Shah. That Committee has recently submitted its report. The report was considered by the Conference of Chief Justices which was also recently held. The report deals with various aspects of the matter. Some recommendations pertain to the administrative changes which do not need any legislative

[Shri H. R. Gokhale]  
 amendments or legislative changes. Some of them pertain to matters which are entirely within the scope or the jurisdiction of the State Governments. Some of them undoubtedly deal with matters which require legislation. But in order that the whole report may not be held over until legislation is passed, we have already taken steps to see that at least the administrative matters which may contribute to minimising delays which the Committee have recommended are dealt with on a first priority basis.

I have also written to the Chief Justice of India to take up this matter with the Chief Justices and judges of various High Courts wherever action is to be taken by the Judges of the High Courts and wherever action is to be taken by the State Governments, to take it up with the State Governments. Even the proposals relating to legislation are under very active consideration and I am sure on a full examination of this report, we will be able to make some material change in the matter of arrears in High Courts.

A lot has been said with regard to appointments of judges. As hon. members know, we have constitutional provisions with regard to this matter. Appointments of Supreme Court Judges are made by the President under his warrant. But he is required to consult the Chief Justice of India; except when the Chief Justice himself has to be appointed. About appointments to High Courts, the President has to consult the Chief Justice of India, the Chief Justice of the High Court concerned and also such other judges whom he may deem necessary to consult. That is the procedure. The criteria in the matter of appointment of judges are be ability and merit of the person.

SHRI D. K. PANDA : You should appointment with socialistic ideas and orientation.

SHRI H. R. GOKHALE : We cannot impose ideas on judges. But I do desire as you do that we must have judges who will be alive to the changing conditions. There can be no difference of opinion on that.

SHRI VAYALAR RAVI (Chirayinkil) : Can you judge the merit of a judge merely by the number of cases he disposes of ?

SHRI H. R. GOKHALE : I am talking of merit before appointment; you are talking of merit after appointment.

SHRI S. M. BANERJEE : But you can appoint men with ideas.

SHRI H. R. GOKHALE : That is what I was coming to. The effort will be to see that people with a liberal mind, people with merit, people whose appointment is justified, should be selected. As I said, we have always to do it in consultation with the Chief Justice of India or the Chief Justice of the High Court concerned as the case may be, under the Constitution. This takes me to the other incidental question about the delay in appointment of judges. I know there is delay. In this process of consultation, we have not stuck to the old position that whenever a proposition comes from the High Court or Supreme Court, we accept it as a matter of rule. When we think a certain recommendation is not satisfactory, we send it back to the Chief Justice of India or to the Chief Justice of the High Court concerned and we make our own suggestions for the appointment of particular individuals whom we think to be good and capable persons to be taken on the High Court or Supreme Court. This changed outlook has come about in the manner of appointment of judges, namely, we do not just go by the recommendations made; in other words, we do not act as a rubber-stamp for the names given to us. Then it can be extremely quick. But in this process of consultation, we do not

abdicate our functions. We certainly exercise our right of putting back to the Chief Justice of India or the Chief Justice of the High Court concerned as the case may be, telling him why a particular individual according to us is not a proper person to be appointed in the High Court and suggesting our own names. This process, of course, does take a little longer time than what it used to take before, when, as a matter of course, all suggestions which were made were accepted.

15 hrs.

**SHRI SHANKAR TEWARI** (Etawah) .

The delay in the matter of appointment of judges has reached scandalous dimensions. I am particularly referring to the Allahabad High Court where it is pending for the last eight months. This consultation can be done even by telephone. Why should it take such a long time? Names of 8 vacancies have been sent 8 months ago. If there is some query over one or two names, why the appointments of the remaining judges has been withheld? Such a delay causes mounting up of arrears of cases.

**SHRI H. R. GOKHALE** : I appreciate the anxiety of the hon. Member. He is worried about the appointment in the Allahabad High Court. I am not in a position to disclose why these appointments are delayed. But I can assure him that they are delayed for justifiable reasons.

**SHRI G. VISWANATHAN** (Wandiwash) : If they are justifiable reasons, why not reveal them here ?

**SHRI H. R. GOKHALE** : I cannot discuss the names of persons or place the facts before the House. It is unjust to the individual concerned, it is unjust to everybody. But what I am trying to point out is that we are taking into account all the factors which the hon.

Members want us to take into account before we finally approve all suggestions which come from the various High Courts for appointment of judges.

That takes me to the point about the appointment of people belonging to backward classes and harijans to the High Courts and the Supreme Court. So far as the district judges are concerned, the appointment is made by the State Governments. So far as the High Courts and the Supreme Court are concerned, I know that the number of harijan judges is comparatively very small. But it is not true that there is not a single one; there are quite a few in the High Courts. In the matter of appointment of judges, I agree that the mere fact that a particular person belongs to a particular class cannot be the decisive factor. I will be the happiest man when I will be able to find quite a large number of people from that caste available for appointment to the High Courts and the Supreme Court and I will even allow a certain margin in consideration when we deal with individual cases. Therefore, it is not as if we do not share the anxiety of the hon. Members in this matter. We do, in fact, in the matter of appointment of panels, to which my hon. friend, Shri Bhandare referred, ever since I have been looking at the question of the constitution of panel of advocates in the various High Courts, perhaps the hon. Member does not know that recently in Bombay although the whole panel has not yet been reconstituted, I have given directions to include some harijan advocates in the panel. I have taken care, wherever it is possible to do so, to include some people belonging to the backward classes, provided they have got the right capacity and merit. Supposing here are two candidates, one belonging to the harijans and another a non-harijan, if both of them are equal in merit, I would lean strongly in favour of selecting the harijans; there is no doubt about it. But, certainly, in matters like this, particularly in the appointment of judges both to the High

[Shri H. R. Gokhale]

Court and the Supreme Court, we cannot sacrifice the basic consideration that these appointments have to be on merit, on the capacity of the person concerned, his ability to hold this high post.

I think most of the points have been dealt with by me and also by my colleague. Something was said about the elections.

SHRI S. M. BANERJEE : A report was submitted by the Members of Parliament to the Committee on Election Law, recommending that the age of voters should be reduced from 21 to 18. Have Government made up their mind on this question ?

SHRI H. R. GOKHALE : I was about to touch the problem of elections when the hon. Member intervened. This has two aspects. One is with regard to fairness or otherwise of the elections and the other is with regard to the election law which, incidentally, also deals with the question of the constitution of the Election Commission.

So far as the allegation with regard to elections, particularly the recent elections, being unfair is concerned, I must repudiate the suggestion outright. Most of these attacks are made by political parties which I have met with dismal failure in the last elections. The very parties when they succeed.....(Interruption)

PROF. MADHU DANDAVATE (Rajapur) : I have just now handed over the Prime Minister the full text of the speech of Shri Tiwary who happens to be a Congressman and who has said :—

“बिहार में ऐसा एक भी कैंडीडेट बिना बूथ कैंचर किए हुए चुनकर नहीं आया। कम से कम बिहार में डिमो-क्रैसी बरत रही है।”

SHRI H. R. GOKHALE : Whether the allegation is made by the hon. Member on my side or on the other side, I have heard the speech just now, Talking of Bihar, I am in a position to state before the House that while it is true that in Bihar and in one or two other States allegations with regard to the tampering of ballot boxes or even, in some cases, the removal of ballot boxes.... (Interruption)

SHRI D. N. TIWARY : Not ballot boxes but booths.

SHRI H. R. GOKHALE : I am dealing with ballot boxes now. wherever the matter was brought to the notice of the Election Commission that there was tampering of ballot boxes or that ballot boxes were, by violence, removed, the Election Commission very promptly acted and stopped the election at those particular booths. When the number of booths concerned were small, the votes in the other booths were counted first and if the margin of votes between the highest and the second candidates was lower than the total number of votes found in the ballot boxes which were supposed to be tampered with. there was no reason to stop the election, because in the other booths where the election was not alleged to be unfair the margin had already been more than the number of votes put in the boxes alleged to have been tampered with. In other cases where this could not be done, the Election Commission ordered a repoll and a repoll was held. But these instances were confined only to one or two States. By and large in a majority of the States and Union territories these complaints were neither made nor were any instances pointed out by officers who formed part of the election machinery saying that such instances had occurred.

Something has been said with regard to spurious votes. I do not want to waste the time of the House by taking all the figures which I have but take West Bengal as an illustration. In West Bengal on the

day of the election not a single instance of a vote like this was brought to the notice of the Election Commission. Some telegrams from political parties making vague election about unfair elections were received on that day and on later dates. But what is most interesting is that with regard to spurious votes the total number of instances, with regard to which allegations were received in an election which consisted of millions of voters, were four. If the allegation is that the election were tampered with or they were not fair and if they are supposed to have been made with a sense of responsibility, does that responsibility not require that these people, who make these allegations, also bring these facts to the notice of the Election Commission which is constituted specifically for the purpose of the conduct of elections? They have not been brought...

(*Interruption*). I have collected the latest material and I am able to say with confidence that whenever a complaint was made it was looked into and it was found that either it had no substance or the impact of the complaint was so ridiculously small that you cannot say that the elections were unfair.

AN HON. MEMBER: It is your personal opinion.

SHRI H. R. GOKHALE: I am sure, I am entitled to have my personal opinion also. I am proud of the fact that the entire world recognises that this country is the largest country where elections are fair and where by the democratic process people are elected to Parliament and to Legislative Assemblies. In Kashmir, where such a row was made, in Srinagar itself as many as seven candidates of the ruling party lost. Therefore, basically, the allegation about election is motivated by political considerations. When it is made by responsible people and individual instances are brought to the notice of the Election Commission or to the notice of the Government...

SHRI S. M. BANERJEE: You have not only captured the booths but also the people.

SHRI H. R. GOKHALE: I am glad at this very fair concession which the Hon. Member has made. That is my point, My party has captured the people, their minds and their votes. Do it and you are welcome. The whole thing is that you do not want to do that. That is the sum and substance of the matter relating to elections.

With regard to the age of voting, as the Hon. Member knows, the present age of voting-21-is on the constitutional provision. Now, the whole matter relating to the amendment of Election Law was before the Joint Committee and they have submitted a report. Now, we are entitled—we are bound as a matter of fact—to consult the Election Commission and we are consulting them. The question as to whether or not the voting age should be reduced is also part of the overall consideration of the amendment of Election Law—although it cannot be done by amendment of the Representation of the People Act; it might need a constitutional amendment. But the question is, as I can tell the House now, at present under the consideration of the Government.

MR. DEPUTY-SPEAKER: There are a number of cut motions moved by Hon'ble Members, Shri. D. K. Panda, Shri R. V. Bade and Shri Bhogendra Jha. I will put all of them together to the vote of the House.

*All the cut motions were put and negatived.*

MR. DEPUTY-SPEAKER: The question is .

“That the respective sums not exceeding the amounts shown in the fourth column of the order paper be granted to the President to complete the sums necessary to defray the charges that will come in course of payment during the year ending the 31st day of March, 1973.

[Mr. Deputy-Speaker]

in respect of the Heads of demands entered in the second column thereof against Demands Nos 64 and 65 relating to the Ministry of Law and Justice".

*The motion was adopted*

15 12 hrs.

DEPARTMENT OF COMPANY AFFAIRS

MR DEPUTY SPEAKER The House will now take up discussion and voting on Demand No 91 relating to the Department of Company Affairs for which two hours have been allotted Shri Jyotirmoy Basu has tabled a cut motion for the Demands on Grants If he is present in the House I would like to know whether he desires to move his cut motion. He is not here and so it is not moved

DEMAND No 91 DEPARTMENT OF  
COMPANY AFFAIRS

MR DEPUTY-SPEAKER Motion moved

"That a sum not exceeding Rs 1,02,99,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1973, in respect of Department of 'Company Affairs' "

SHRI G VISWANATHAN (Wandiwash): Mr. Deputy-Speaker, this Department of Company Affairs is supposed to be there to curb the monopolists in this country and also to act as a watch-dog in the affairs of the companies I want to deal mainly with the aspect of monopoly houses in this country and so far this Ministry has tried or achieved in curbing the monopolists in this country

15 14 hrs

[SHRI K N TIWARY in the Chair]

When the definition of monopoly houses was considered, the Monopolies Enquiry Commission put it at the total assets exceeding Rs 35 crores in 1964 and the same figure, I am told, is continuing still nowadays when taking into account whether it comes under large industrial houses or not This year, the Estimates Committee of which you are the Chairman, Sir considered this aspect and it has suggested that it should not be a static figure and again the Government has to keep the list under constant review and it should not be left to those houses to come and prove that they do not come under the monopoly houses

Let us see how these monopoly houses have fared in this so-called socialistic Government. The big 75 houses had total assets in 1963-64 of nearly 2,600 Crores and it increased to Rs 4,032 Crores in 1967-68 Let us come to 1969 In 1969 about 268 licences were issued to the same 75 big houses. Government might say that this was not the same Congress Party, it was controlled by old Congress and reactionaries Let us come to 1971 There was no hindrance, no hurdle, when the Party came under the effective control of Mrs Indira Gandhi. In 1971 out of the 159 licences issued in total, 114 had been given to the big monopoly houses, mainly Birlas, Thapars, Sri Ram, Sahu Jain, Tatas, etc I want to know from the Minister why should they have this double talk Why should you play this hoax on the people? You say that you want to curb monopolies And that is why you are having a Ministry, a Commission and many other things, and you do not have the same restrictions which were there before the division of the Congress Party. Mr. Nijalingappa is no more there; he is not a hurdle; Mr. Kamaraj is not there; Mr. Sanjoeva Reddy is not there; Mr. S K. Patil is not there Why do you then issue the same licences again to the people whom you call mono-