

DEMAND No. 103—STATIONERY AND PRINTING

"That a sum not exceeding Rs. 8,93,02,000 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, 1964, in respect of 'Stationery and Printing'."

DEMAND No. 104—EXPENDITURE ON DISPLACED PERSONS

"That a sum not exceeding Rs. 7,69,85,000 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, 1964, in respect of 'Expenditure on displaced persons'."

DEMAND No. 105—OTHER REVENUE EXPENDITURE OF THE MINISTRY OF WORKS, HOUSING AND REHABILITATION

"That a sum not exceeding Rs. 71,08,000 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, 1964, in respect of 'Other revenue expenditure of the Ministry of Works, Housing and Rehabilitation.'"

DEMAND No. 144—CAPITAL OUTLAY ON PUBLIC WORKS

"That a sum not exceeding Rs. 7,27,83,000 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, 1964, in respect of 'Capital Outlay on Public Works'."

DEMAND No. 145—DELHI CAPITAL OUTLAY

"That a sum not exceeding Rs. 7,22,33,000 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, 1964 in respect of 'Delhi Capital Outlay'."

DEMAND No. 146—OTHER CAPITAL OUTLAY OF THE MINISTRY OF WORKS, HOUSING AND REHABILITATION

"That a sum not exceeding Rs. 8,32,60,000 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, 1964, in respect of 'Other capital outlay of the Ministry of Works, Housing and Rehabilitation.'"

MINISTRY OF LAW

Mr. Deputy-Speaker: The House will now take up discussion and voting on Demand Nos. 75 to 77 relating to the Ministry of Law for which 3 hours have been allotted.

DEMAND No. 75—MINISTRY OF LAW

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 37,25,000 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, 1964, in respect of 'Ministry of Law'."

DEMAND No. 76—ELECTIONS

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 1,27,59,000 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, 1964, in respect of 'Election'."

DEMAND No. 77—OTHER REVENUE EXPENDITURE OF THE MINISTRY OF LAW

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 3,94,000 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, 1964 in respect of 'Other Revenue Expenditure of the Ministry of Law'."

These Demands are now before the House.

Does Shri Priya Gupta want to move his cut motion?

An Hon. Member: He is not present.

Mr. Deputy-Speaker: 3 hours is the time allotted for this.

Shri U. M. Trivedi (Mandsaur): Mr. Deputy Speaker, Sir, the Ministry of Law is at present administered by a very able lawyer, and so there cannot be much criticism about the question of efficiency in his department. One or two points which have struck me about the administration of this Ministry, I will place before the House.

Sir, it is this Ministry which is responsible for the printing and the publication of our Constitution, the various central Acts and the various statutory orders. Very recently, I had an occasion of going to the Kitab Mahal where all our publications are sold. I found that the sale of our Constitution published in the various languages is at a standstill. We had so many amendments. We are now running into the sixteenth amendment, and it will soon be put on the anvil. I find that—barring, of course, the Constitution in English and Hindi—the amendments are not to be found in our Constitution in the various languages. I fail to understand the reason behind it. In the case of the publication in Sanskrit, which is at a standstill, except for the first amendment no other there cannot be any reason for this

slackness in the publication of our Constitution which is the basis for all administration in our country.

The other question that comes to my mind is the functioning of the Bar Councils Act. We all hoped that a very homogeneous and uniform administration of the Bar of India would commence with the bringing into force of the new Bar Councils Act. Unfortunately, up to date the Indian Bar Councils have not started functioning. One after the other, patch-work amendments have been put forward, and the uniformity that was expected long ago is still lacking. We are far behind it. It is high time that we put these Bar Councils on a sound footing and have this profession of lawyers put at a place which it deserves in the administration of the country. Today, it is a profession which is being looked down upon by several persons, especially the executive officers who always run down this profession. It may be due to the fact that there are some black-sheep in this profession which also must be checked; but, at the same time, the non-functioning of the Bar Councils in a proper manner is responsible for the present position of the Bar in India. The net result has been that not only the members of the Bar have suffered, but on account of it the recruitment to the higher judiciary also has been hampered to a very great extent. I have always noted with regret that some of the people recruited to the higher judiciary have been recruited because of their political affiliations.

The third thing which strikes me in this administration is that we are having the Income-tax appellate tribunals controlled by our Law Ministry. These Income-tax appellate tribunals are concentrated in Delhi and Bombay. The report says:

"The Tribunal constituted under the Income-tax Act, 1961, has twelve Benches, three each at

[Shri U. M. Trivedi]

Bombay and Delhi, two at Calcutta and one each at Allahabad, Hyderabad, Madras and Patna."

I cannot see the reason why three Benches are stationed at Delhi. There may be some scope for saying that Bombay is a town with a population of about 41 lakhs and, therefore, three Benches are required to be stationed there. But the same cannot be said about Delhi. Why is it that all these Benches are posted here? Why should not one be stationed at Indore and another at Ahmedabad, so that the people may not have to run up long distances from where they are? Commercial towns like Indore and Ahmedabad must get the advantage of having the tribunal nearer at hand.

Then I come to the question of the Election Commission. This is also a body which is controlled by this Ministry. The Election Commission has a very important duty to perform. It, rather, possesses the plenary powers so far as the question of election in our country is concerned. But in the administration of the Representation of the People Act, where the constitution of the election tribunal is concerned, it has been noted that there is some sort of discrimination being practised about the challenge of election *vis-a-vis* the candidate whose election has been so challenged. If he happens to be just a man from the Opposition, even a junior-most District and Sessions Judge is appointed to conduct the case. He may be a man with very little experience of the election law and a good deal of bungling and heart-burning is caused, with the net result that before the election matter is decided one way or the other a lot of time is wasted and the man concerned does not get justice. But where the election of an important person of the ruling party is challenged, it is generally a retired Judge of the High Court who is appointed to deal with the case. Thus, a man in the Opposition gets himself differentiated only because he happens to be a man

in the opposition and he is not put on a par with all those who have been elected either to this House or to the Assembly. I will, therefore, suggest that a uniform method of appointing these Members to the Election Tribunal be adopted. It may be that if District Judges are to be appointed for the State Assemblies, then, retired High Court Judges must invariably be appointed where the election of a Member of Parliament or a Member of this House is challenged. There must be no distinction and if there is a differentiation between the two, a reasonable indication must be there why this differentiation takes place. I will, therefore, say that this aspect may be properly probed so that a good deal of criticism that is offered about the administration of the Election Tribunals and the function of the Election Tribunal be brought to an end.

The question, again is, that the Election Commission in allocating symbols to the various parties, even after having acted with the best of motives, has allotted such symbols which have been the cause of a good deal of bickering one way or the other. The symbol of lamp has been taken to be a religious symbol somewhere. The symbol of a bull is taken at another place to be a religious symbol. At another place, the symbol of a star is taken to be a religious symbol. At a fourth place, a banayan tree has been taken to be a religious symbol and so on and so forth, causing a good deal of annoyance to those candidates who, with all the merits that they possess, were successful at the election, facing their election being challenged and set at naught simply because of the allocation of symbols of a type which the Election Commission had chosen to allot. I will, therefore, say that our Minister who is a very able lawyer, will look into this aspect so that these small affairs may not lead to the setting aside of election of persons who have fought the election very fairly and squarely only on the ground of

these technical things which are merely the result of the provision of symbols for which they themselves have never been responsible. It is said by the Supreme Court and repeated often in various courts that the election of a successful candidate must not be lightly set aside. But, certainly this dictum is not followed with the net result that Tribunals and even High Courts have gone to the extent of treating these highly technical matters to be such as to enable them to lightly deal with elections and cause more heart-burning and trouble to those who have been elected than to those who have lost the election.

In other respects, of course, I will submit that it would be much better that the administration of this Ministry is extended to deal with the appointment of the High Court Judges also. It is high time that this aspect of the appointment of High Court Judges must not be left in the hands of the Home Ministry. It should not be dealt with as if it is an executive function to be performed. It must be dealt with as if it were a legal function to be discharged with a dispassionate view, in a dispassionate manner, in a learned manner, by a learned man who understands the implications of the law and also can appreciate for himself the abilities and the calibre of the persons to be appointed.

With these words, I conclude.

Shri Daji (Indore): Sir, speaking on the Demands of the Ministry of Law, the first point that I would like to make is that the Law Ministry, headed as it is, by an eminent lawyer, should be much more dynamic than it has been. I submit that it should be regarded as a prime duty of the Ministry to maintain, further and strengthen the rule of law, which is one of the bedrocks of the type of democracy we have built and we are trying to rear. In fact, I feel that our democracy stands on four legs; the Constitution, the Executive, the Legislature and the Judiciary. I am pained to say that not only much has not

been done to improve matters, but there is a slow, imperceptible and perceptible trend towards the weakening of the rule of law. This trend has not been arrested. Despite the reports of the Law Commission, this trend is visible in umpteen number of minor and major developments in the country. If the Law Ministry is the custodian of the rule of law as, I submit, it should be, then, energetic steps should have been taken in this direction. Slowly we are undermining the very respect for the judiciary and the Constitution itself. I make bold to say that it will be a very dark day and a sad day for India when the judiciary ceases to be respected as it has got to be respected. If the present trend continues, I am afraid, that day is not far off. I am speaking with great pain and with responsibility, because I also belong to that profession. I do not want to cast a general slur on the judiciary. I do not want a general reply from the Minister. I have the greatest respect for the judiciary. Apart from the respect, we must face the facts as they are.

Now this is happening in various cases. The other day, we read the judgment of the District and Sessions Judge of Calcutta. The judgement enshrines both the danger and the guarantee. I have the greatest respect for the judiciary. The District Judge was constrained to remark that a respectable citizen of Calcutta, a professor of Sanskrit, has been arrested, unduly denied bail, handcuffed, dragged in the streets of Calcutta and his challan has been postponed from day to day. In releasing the gentleman on bail, the Judge was constrained to remark that the police and the magistrates seemed to have behaved in a vindictive way. The processes of law are not for vindictive action, but for redress. Maybe, normally our judiciary functions in a good way. But, the test comes at a time of crisis. Some instances only we can point out. It is good that the District Judge passed this remark. If in the city of Calcutta this could be done.

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persons could be kept on without trial and challans could be postponed from week to week, it shows the trend. I think it is time we stop this trend with a heavy hand.

I would like to dwell on one more point. The Ministry seems to be functioning in a way which indicates, let the sleeping dogs lie. I do not understand why, such an eminent lawyer, the Minister should not show greater initiative and drive. It is an old adage that justice delayed is justice denied. But, delay has lost all meaning in Indian courts. Years and years, the litigation goes on; the same lumbering juggernaut of the British days continues.

Shri Tyagi (Dehradun): Worse than that.

Shri Daji: Worse than that. If justice delayed is justice denied, costly justice is no justice. Nothing has been done to reduce the cost of justice. Justice is almost prohibitive even to the common man—I am not talking of the poor man—even to the common man. Time and again the question has been mooted, let us revise our laws. Some of the eminent jurists and Bar associations have pleaded that there is no justification for charging *ad valorem* court fees on appeals. Why paralyse the litigant for the mistake of the judge? You say that it is refunded if he wins, but by the time he reaches the High Court or the Supreme Court he is nearly finished.

Shri Tyagi: Lawyer's fee must also be controlled.

Shri Daji: I agree. Both should be controlled.

Shri K. C. Sharma (Sardhana): It is controlled.

Shri Daji: It is said that it is a State subject and let the State Governments do it. I do not know why

this Ministry should shirk its responsibility as far as State subject is concerned. Unless something dynamic is done about this matter, I must say that we will come to a sorry pause.

One word about the Election Commission. I regret that this time the Election Commission has departed from the very healthy practice which it has followed previously, namely, the unanimity which it always aimed it. Consultation with the opposition parties was always done and their wishes were respected in the matter of election. But, this time in the case of bye-elections that have come up now, this has not been followed and this has been departed from. I think it is a dangerous portent. Though the Law Minister was good enough in the other House to say that he would release all those who were contesting elections, it is rather far-fetched to imagine that if only those persons who fight the elections were released the elections can be free and fair, if those hundreds of other workers can be arrested and kept inside jails the elections can be free and fair, if emergencies continue and the Defence of India Rules continue, if the sword of the Defence of India Act continues to hang above our heads, the elections can be free and fair. I think it is perverting the very meaning of the term "free and fair elections". In this respect, the Election Commission did not accept the views of the opposition parties this time, and this is a very dangerous portent. If this democracy is to work fairly, like Caesar's wife it should be above suspicion in this matter and the views of the opposition should prevail even more than the views of the ruling party, especially in a matter like election.

Then I come to another vital subject. One of the functions of the Law Ministry is the function of advising other Ministries and, certainly, ordinarily we cannot expect any Ministry of the Government of India to depart

from the advice tendered by the Law Ministry.

Shri K. C. Sharma: Not necessarily.

Shri Daji: I said "ordinarily". In reply to a question put by me to the hon. Finance Minister on the 14th of March, Unstarred Question No. 756, I was pained to get the following reply, and I am speaking about it in order to give an opportunity to my hon. friend, the Law Minister, to clear up the possible slur that the Finance Ministry seem to have cast on the Law Department. In other words, the ball has been thrown to your court, in your absence, I want to pin-point it before the House, before the Minister, and seek an explanation for it.

My question pertained to the Report of the Auditors into the working of two insurance companies, the New Asiatic Insurance Company and the Ruby Insurance Company and the action taken by Government thereon. The reply was:

"The Report was thereafter examined in the light of the explanation received from the Company in consultation with the Ministry of Law and it was decided to appoint two directors on the Board of Directors of the Company under the powers vested in the Government by section 48C of the Insurance Act."

The Minister of Law (Shri A. K. Sen): When was this reply given?

Shri Daji: Allow me here to pause and say that the Act empowers the Government to appoint two directors only if the affairs of the company are so mismanaged that public finance is in danger. So, this was done.

Shri A. K. Sen: Was it on the 14th March of this year?

Shri Daji: Yes, this year. It further says:

"The Report of the Government Directors on the alleged malpractices was received and

examined in consultation with the Ministry of Law. On the advice of the Ministry of Law it has been decided not to take any further action."

Why? Why was this advice given by the Law Ministry? If the Law Ministry, headed by an eminent lawyer like my hon. friend, the Law Minister, if it has examined the report, the most damaging report, by the auditor, why was this advice given? I would like the Minister to tell us this, to take us into confidence. If I may just speedily recall, the investigations began after a demand on the floor of the House by the late Shri Feroze Gandhi, the auditors were appointed after disclosures in the House, the examination of the auditor's report was again questioned on the floor of the House and it was stated "it is under consideration". Now the Finance Minister comes and tells us that it was on the advice of the Law Ministry that no further action was taken on the report. And I want to clinch the issue here. What is the report? It is not just a technical breach. The report says that books were not made available to them.

Shri Ansar Harvani (Bisauli): Is it a public document?

Shri Daji: It is not a public document, but I possess it. I will read it. Let the Minister contradict it.

Shri Ansar Harvani: Then it should be placed on the Table of the House.

Mr. Deputy-Speaker: Yes, if it is going to be read.

Shri Daji: Sir, I lay it on the Table of the House.*

Shri A. K. Sen: It would have been much better if the hon. Member had intimated to us that he is going to raise it, because it deals with a case dealt with by another Ministry. In any event, I have sent for the papers from the other Ministry because....

Shri Daji: I can give the copy.

Shri A. K. Sen: Apart from the report, I have to go through the file.

Shri Daji: I am attacking only the advice of the Law Ministry. Why was this advice given on the face of this report? The Report says:

"In concluding our report, we observe that there was a regular conspiracy amongst the staff and officers of the Head Office and Branches of the New Asiatic Insurance Co. Ltd. to falsify the books of accounts systematically and manipulating profits from year to year for the purpose of showing a rosy picture before the shareholders as well as the public— It would also appear from Exhibit No. 9 that Shri L. N. Birla HAD knowledge about the suppression of losses made in 1952. It will not be out of place to mention that the loans and investments were mostly under instructions, from Shri L. N. Birla.....the company has wilfully manipulated books of accounts from year to year for the purpose of suppressing losses up to 1956 which, so far as known to us, amount to Rs. 18,15,224 and the Balance Sheets for the years 1952 to 1956 do not represent the true and correct state of affairs of the company.....that the company has withdrawn large sums by manipulating the accounts which so far as known to us amount to Rs. 11,79,705-6-6.... that the books of accounts were falsified for the purpose of converting loans to investments in order to circumvent the provisions of Section 29 of the Insurance Act, 1938....that the commission accrued on business of allied concerns of "Birlas" has been diverted in different names and used otherwise (refer page 94 of the report)....that the company has wilfully diminished its Life funds.....It would appear from Exhibit No. 131 to 138 that the

commission of "Birla Bros" business was being booked in the name of different agencies and the sums utilised in payment of private commission."

This most damaging report further goes on to say:

"That the company has been very liberal in settlement claims especially with the allied concerns of 'Birlas' and has paid claims, which are not payable.... That in some cases, commission accrued to 'Birla Bros (Private) Ltd.' has been diverted to different names without sufficient reasons—that the company has violated the provisions of section 5(1)(a) and (c) of the Exchange Control Regulation Act of 1947.... that the company has wilfully submitted returns to the Controller of Insurance which are false in material particulars knowing them to be false."

Then there is a schedule appended to the Report, which shows the damaging misappropriations from year to year. It says:

"The following is a chart showing salaries paid by vouchers in the manner shown above and not appearing in salary register by Bombay branch:

	Rs.
1953	81,200
1954	46,025
1955	58,925
1956	1,37,395
1957	1,42,512
1958	1,18,876."

In all, the total comes to Rs. 5,84,833. In the face of this report of the auditors appointed by the Government under the Insurance Act, when the Government themselves considered this report and thought it fit to appoint two of their directors in the company, how is it that the Law Ministry advised that no further action should

be taken against the company? As I said when I initiated the debate, it is such actions which cast a doubt on the very foundation of rule of law. One of the cardinal principles of rule of law is that all men are equal before the law. Let it not be said in the country that a private company of Birlas, a powerful house, with the backing and influence of the State and the democratic machinery can pass muster after swindling lakhs and lakhs of rupees of public money from an insurance company, which is a fiduciary company—it is not an ordinary private company; it is an insurance company, which is a fiduciary company—a company where lakhs and lakhs of rupees are misappropriated, false accounts are shown from year to year knowing them to be false, if books and accounts are not shown to the auditors appointed by Government, if vouchers are not there to the tune of Rs. 5 lakhs, if commissions are paid to the alleged concerns of Birlas which ought not to have been paid, if damage claims are paid to the parent organisation which ought not to have been paid, if in spite of doing all this, such companies, just because they belong to the powerful house of Birlas, can escape with just two directors being appointed on the board by the Government, under the cover of the advice of the Law Ministry. I was prepared for this fight with the Finance Ministry but, in the face of this reply, in the face of this shield he has taken of the Law Ministry—he has thrown the ball into your court; now, it is for you to throw it back to the court of the Finance Minister or shoulder responsibility—it is for the Law Ministry to explain to the House how it is that a department charged with the maintenance of rule of law, a department charged with the responsibility of proper administration of laws and furthering the cause of justice has itself become an instrument of furthering the white-washing of an important fiduciary concern which collects lakhs and lakhs of rupees as premia from the common people and allow that premia to pass

on to the controlling interests of the Birlas. Such things are happening and such things subvert the rule of law, as I said. It is unfortunate.

Shri A. K. Sen: What is the name of the company?

Shri Daji: They are the New Asiatic and the Ruby General Insurance companies.

Let us come to the other reports. I am told—I am not sure—that the report lay with the Ministry of Law for months, not with the hon. Minister but with the Ministry. Now, in a democracy the hon. Minister is always responsible for what happens in his Ministry. Then, at a certain time a preposterous suggestion was mooted that another Supreme Court Judge should be appointed to go into the matter again. I would certainly express my happiness that that suggestion was not followed. No Supreme Court Judge will ever accept any inquiry commission if another Supreme Court Judge is to sit in judgment over him. But all this took months together and again the report has been put for consideration of two other eminent persons. I do not know when this sub-committee will report back. Perhaps we shall have to take to another strong interpellation in the House to get the report.

Shri A. K. Sen: I may tell the hon. Member that it is not a fact that this report was ever considered by us except for the purpose of advising Ministry whether there was any legal disability in placing it on the Table of the House. That is all.

Shri Daji: Did it take some months to decide that?

Shri A. K. Sen: Of course not. His facts unfortunately are not correct.

Shri Tyagi: Shall I take it that it was never referred to you for action against the company?

Shri A. K. Sen: It was referred to the Attorney-General.

Shri Daji: Therefore what I was saying is that it is these things that subvert the spirit of the rule of law. Therefore I submit that this Ministry should not only take energetic steps to maintain the normal processes of law but should with all imagination and initiative create, maintain and further an atmosphere where the citizens can feel and say that high or low, howsoever mighty a man may be, he is not immune from the ordinary processes of law. Unless the Government itself and this Department set a bold example in this matter we are coming to a sorry state of affairs.

Shri K. C. Sharma: Mr. Deputy-Speaker, Sir, I pay my compliments to the impartiality, independence and intelligence of the judges of India. I have had reports of the highest courts in the various countries and I do not find anything lacking either in the calibre or in the impartiality or independence of our judges. However, I will point out that the conception of law has not changed in our country as it has changed all over the world. Here, I may read out from a famous writer, Oswald Spengler, who says:

"It must be emphasised—then and with all vigour—classical law was a law of bodies, while ours is a law of functions. The Romans created a juristic statics, our task is juristic dynamics. For us persons are not bodies but units of force and will and therefore not bodies but aims, means and creations of these units. Classical relation between bodies was positional but relation between forces is called action. The future will be called upon to transpose our entire legal thought into alignment with our higher physics and mathematics."

Further, the great writer points out that the judges and the juries should have an immediate, extended and

practical experience in economic, political and social life, an exact knowledge of the various systems of laws and legal history and the development of the law and the knowledge of classical jurisprudence as well as its modern functional development.

In democracy the law and the lawyers are the dominant structural factors of society so far as the institutional structure of the society is concerned. A modern democratic society, much more a welfare state, has two strong pillars, namely, the lawyer and the judge and the scientist and the engineer. One section builds the material side and lays the bricks of the great edifice whereas the other makes the arrangement as to where the table is to be placed, where the books are to be kept and what pictures are to be put. So, a lawyer gives shape to a society while the engineer and the scientist provide the material.

I will draw attention to what Harold Laski has said—and I have said it so many times. I do not like the present arrangement in which the Home Ministry appoints or recommends the appointment of judges. The Ministry of Justice should be responsible for all processes of judicial administration and for justice being done between citizen and citizen and between the State and the citizen. He says:—

"The Ministry of Justice is an urgent requirement, with adequate facilities for clinical research into the law. It should not be staffed wholly for encouraging inquiry into legal administration and its improvement as the Ministry of Health exercises in its own field. To it should be transferred the responsibilities now exercised by the Lord Chancellor and the Home Office, including the latter's jurisdiction over prisons and police."

Another point raised is regarding the education of law. He says:—

"The universities should be encouraged, through opportunity

afforded by the powers of the University Grants Committee....

University Grants Commission, in our case

"to specialise in legal research, especially of a 'clinical' kind. For this purpose the development of a closer connection between law and the other social sciences in the universities is of the first importance. Steps should be taken, through appointment to the minor judicial posts of the country to bring the academic teachers of law into direct contact with its practical administration."

I may add that ours is a changing society, much more so so far as the Indian society is concerned. For centuries, perhaps for thousands of years, the underdog in India could not dream of equality. There was no law for him; there was no law against the Brahmins who could do a wrong to the Shudra and there was no law for a Shudra to have his rightful claim as a human being. After thousands of years the Indian Constitution gave equal right to all citizens. Equal right to the first-class citizenry has been provided.

I beg to submit with all the force at my command that it is a fortunate moment that a young lawyer, a brilliant lawyer, is in charge of the judicial affairs and he can exercise influence to claim what is embodied in the Ministry of Law and not to be a mere Law Minister as he is today. I do not accept that the Home Minister should recommend or that a Governor should recommend the appointment of judges to the Supreme Court. We have to accept the fact that the political party emerging out as it is—I belong to the ruling party—does not constitute a right sort of machinery to recommend judges. The judiciary should be above party politics. It should be above Government influence. Justice is divine not only in a matter between citizen and citizen or between State and citizen, but even to protect and to guarantee the secu-

rity of a country. When the brave soldiers died more than two thousand years ago, the Athenian soldier told the Spartan that passed by, "Tell Sparta we die under thy law". The Greek soldiers, the Roman aristocrats died and sacrificed their lives not for the lump of earth, but for their country's glory, for the sake of their law, for the system of their law, for the structure of their society.

15 hrs.

So, I would beg to submit that even now if the brave soldiers are to die on the mountains of Himalayas, they are not doing it for the lump of earth, for the holy waters of Ganges, but they die for a legal norm, for a legal order in which they themselves are below to nobody else, inferior to nobody else. They have a right of the first-class citizenry and they look with hope and faith to their prosperity, to the fulfilment of their destiny and to the development of a land with freedom and peace. This is the inspiring impulse that compels the man to offer his life. Things have changed now. I would again beg of the hon. Minister, whatever the limitation, to take things which the moment calls for and to take them seriously and see that the people are given justice. I have paid my highest tribute to the honourable judges and I found them much better, much superior to many of the great judges in other countries.

Sir, I would like to point out one sad case and ask the hon. Minister to see whether this should or should not be possible in time to come. Well, in a village, the peasant proprietors held the property. An usurer money-lender came in and he acquired certain property. Then, it so happened that there was a village quarrel. Usually, when the money economy comes in conflict with land owning classes, there is conflict. Nine murders were committed. I was one of the prosecuting lawyers and the case got prolonged for six months and a number of people were sentenced to death and some other was given a

[Shri K. C. Sharma]

life term imprisonment. Then, the case went to the High Court. One man was sentenced to death and then that man's sentence was remitted from death to life imprisonment and in three or four years the man came back. Now, what happened was that the gentleman who was responsible for this—every rogue who has influence is a gentleman—got the man off after three or four years and that gentleman was given a high diplomatic office. I would beg to submit to the hon. Minister that I am here on behalf of those very peasants and I was one of the men who, whatever the consequences may be, fought for the present change. The man who denies justice to the man, who produces goods on which the Government is based, is certainly a rogue. I would submit to the Law Minister that one of the sections of his Ministry should see, where the under-dog comes against, what is called, the privileged classes, what sort of justice he gets. This is the problem. All over the world, this is the problem. The people who rule have the rights and others who work have not many rights whatsoever. The Constitution gives the equal right to everybody. The judges also acknowledge it as a right. But there is something in the administration that the poor man cries hard but gets no justice. So, I would beg him to have a section in his Ministry which should see that the poor man gets justice. I again say, when a millionaire comes, there are questions of doubt, in whatever court it is. It is said, this is a doubtful piece of evidence and all that. But when the poor labourer comes or the poor peasant comes, there is no doubt in any evidence against him. There may be a doubt in evidence for him, but never against him. The poor man is sentenced. But the privileged classes are not sentenced. I again repeat, there is juristic dynamics, the functional and dynamic relation between man and man. With regard to this, I would ask how many cases have

been remitted by the President or where the pardon has been given? Has Nanavati's case been examined in this light? A man goes on the service of the nation and his wife is seduced. A wrong is not done to the individual only. A wrong is done to the nation. Yet that man has been sentenced. His sentence has not been remitted. What is the law? The law is the will of the people. Look to the cinema pictures. What do the people cry when Nanavati case is exhibited? They cry that the murder was right. They do not cry that Nanavati was rightly sentenced to transportation for life. If the people's voice has no value in your Ministry, then what voice will it have?

I would lastly submit that the conception of law has changed; the conception of justice has changed. Now you have to look to the creative power, to the function and dynamics of jurisprudence and not to the positional relations of State and citizen or between citizen and citizen.

With these words, I support the demands.

Shri N. R. Ghosh (Jalpaiguri): Mr. Deputy-Speaker, Sir, I have only a few words to say. I find that the report contains only seven pages. I am sure that this does not certainly reflect the importance of the Law Ministry or the activities of the Law Ministry. But I do feel that this Ministry does not fill the hands of the Law Minister. He ought to be given more work if the country wants to fully utilise his intellect, his energy and his erudition.

I would now refer to one small thing. I notice that there are two branch secretariats under this Ministry, one at Bombay and the other at Calcutta. In regard to the branch secretariat at Bombay, we find that:

"All litigation work in the High Court at Bombay on behalf of the

Central Government is the responsibility of this Branch which also exercises general supervision on litigation in subordinate courts."

But I find that the branch secretariat at Calcutta has got absolutely no power of supervision over how litigation is conducted in the subordinate courts; especially, this branch secretariat does not give legal advice to the railways and the income-tax departments. I am not speaking about the income-tax, but I have got some personal knowledge about the railway cases. In West Bengal, especially in the North Bengal area, railway cases are absolutely mismanaged. The Department does not appoint good lawyers, and the complaints are not properly drafted, and proper evidence is not given, and the cases are not even conducted ably. All these things come up in the appellate stage, and sometimes there is remand and sometimes there is no remand. But it is a scandal that so many cases of the railways have been lost. I do not know how much loss in money is incurred by the Central Government on account of the mismanagement of the cases of the railways. I do not know why when the branch secretariat of the Law Ministry can have general supervision of litigation in the subordinate courts in Bombay, this Ministry cannot give legal advice to the railways or have the power of supervision over how litigation is conducted in the subordinate courts in respect of the railway cases. The Law Minister should immediately look into this matter.

The second thing which intrigues me is the penultimate paragraph of the report, namely the enquiry committee on Muslim Law. Regarding the personal law of a particular community professing any religion, the scope of legislation is limited. It is subject to article 25 of our Constitution. According to that, the personal law can certainly be amended if it conflicts with morality and if it conflicts with the welfare of the State.

As a matter of fact, religion can be professed and propagated, provided you do not stand against the welfare and the progress of State and the moral code. If there is a conflict between the two, religion must surrender. Under this provision and in accordance with this limitation of law as laid down in the Constitution, already, we have made inroads into the Hindu law, and there have been drastic changes in the Hindu law, changes in the Hindu matrimonial law, the law of inheritance and many other things. I have no grievance against that. In amending the Hindu law, you roped in as in the law also the Buddhists, the Jains and the Sikhs etc. But there are a large number of Buddhists all over the world. Did you have any special enquiry committee in that regard for the Buddhists, just as you are doing now in order to examine the changes made in the countries which are predominantly Muslim? You have legislated in respect of the 'Buddhists' also in those amending laws. But did you set up any committee to examine what changes have been made in Ceylon or in Japan or in Burma—I am not speaking about the Chinese, because Confucious, Gautama Buddha and Lao Tse have been banished from China? You did not do any such thing then.

Even in respect of the Christians what did you do? There was an old Act of 1872 called the Indian Christian Marriage Act. You sent it to the Law Commission, and the Law Commission dealt with it elaborately and recommended drastic changes. The Law Minister fully knows that there was a dissentient note by Mr. Satyanarayana Rao, I believe, and, as a matter of fact, there was vital change made here about *lex loci celebrationis vis-a-vis lex domicilli*. As a matter of fact, that was a point which went to the very root of the matter, because according to domicile the validity of a marriage is normally considered irrespective of where the marriage is solemnised. Of course, a sovereign

[Shri N. R. Ghosh]

country has got powers to make any law, but then, they do consider the principles of private international law. Was any study made of the private international laws, when you made these drastic changes in the way the Law Commission has recommended these drastic changes? Did you set up any enquiry committee for that purpose?

I do not know what action is to be taken by this proposed committee. It smacks of a sort of complex, to which we are subject in dealing with a particular community of a particular religion. You do not feel the same complex when you deal with the Christians or the Hindus. For example, polygamy and polyandry are definitely against the morals of a society in any country. Under article 25 of the Constitution, you are perfectly entitled to legislate, and you can certainly stop polygamy and bigamy as you have done in the case of Hindus even in the case of the tribals, hill tribes, and even in case of some other people among whom even polyandry was alleged to be in vogue. There was no special committee formed then, and no necessity was felt. But in this particular case, what was the necessity for this special committee? I do not know what exactly the implications are. Will there be a world tour? Will the Committee go to Algeria, Morocco and Egypt and other countries which are Muslim countries, in order to know what changes have been made there? What is the necessity? There is only a limited scope for amendment and for legislation, namely that only if it is against the basic principles of law or morality or if it actually conflicts with other principles of law according to which certain things are offences, you can legislate. But what is the good of asking and consulting these Muslim countries to find out what changes they have made? I believe that their conditions may be quite different.

Shri Tyagi: The laws of these Muslim countries could be studied here.

Shri N. R. Ghosh: That is true. But there was no necessity felt for such a thing when we were dealing with the amendment of the Christian law, and the Law Commission did it and they studied the entire law of the whole world in regard to Christians. There was no necessity felt for any special committee? So, that is what intrigues us now. I find that this step is against the integration of our nation. If you want to do certain things if a particular community is involved, then that very moment you are underlining a particular religion and you are underlining a particular community. That is the sort of complex which has developed, and that must be put down.

I do not know whether the Law Minister has considered this question from that aspect. I am sure that if he closely considers this, if he reads between the lines, he will find the inherent mischief.

We are a sovereign country, and when we can legislate for Hindus, for Christians, and for everybody else who is an Indian, why should we go out of the way to Egypt, Morocco and other Muslim countries to study what they have done? Why do we care for them? I believe that it is a sort of an apology involved in it. The approach is apologetic, and it amounts to saying, 'Oh, we are going to make certain changes; you should not marry four wives! In Egypt, you see that it has been stopped'. Why should there be this kind of apologetic approach? That is something which goes definitely against the integration of the nation. We should forget that people are Hindus, Mohammedan or Christians. I would welcome that day when there will be one single law for all persons here. But till then, the personal law, subject to known principles, should be respected. Under the Constitution, you cannot touch the personal law easily or lightly. There

are certain limitations imposed, and we have to work within those limitations, and we have to read those articles and work according to them. We cannot do what is not allowed by the Constitution. I believe that this proposal to appoint a small committee to examine the changes made in the countries which are predominantly Muslim, is disgraceful. It does not befit a sovereign country like ours. It actually shows a complex, a definite complex, an apologetic approach, as I said. I believe this matter will be taken into consideration by the Law Minister. I am sure he will realise its mischief.

श्री यशपाल सिंह (कैराना) : उपाध्यक्ष महोदय, मैं ला मिनिसट्री के बारे में कुछ ज्यादा न कह कर सुझाव ही देना चाहूंगा।

सबसे पहला सुझाव मेरा यह है कि उत्तर प्रदेश में जो कोर्ट-फीस है, जिस के नीचे जनता दबी जा रही है, वह खत्म होनी चाहिये। एक आदमी मेरा सिर फोड़ता है, मेरा सिर टूट जाता है, खून बह रहा होता है और मैं फिरथाद लेकर जाता हूँ और तब मुझे यह कहा जाये कि कोई फीस लगाओ यह अमानवीय है। जिस के साथ जुल्म हुआ है, अत्याचार हुआ है, उसके साथ हमदर्दी होनी चाहिये, न कि उससे रुपया लिया जाये। हमारी जो सब से बड़ी व्यवस्था है, सब से बड़ा कांस्टीट्यूशन है मानव धर्म शास्त्र है, उसमें मनु भगवान ने लिखा है कि अगर किसी के यहाँ डकैती पड़ जाये तो उस डकैती में जितनी रकम उसकी गई है, उसका कम्पेंसेशन सरकार को देना चाहिये, स्टेट को देना चाहिये। जब लोग टैक्स देते हैं तो उसका मतलब ही यह है कि सरकार उनकी हिफाजत करेगी और उनकी हिफाजत करना गवर्नमेंट की रिसपांसिबिलिटी होगी। अगर वह ऐसा नहीं करती है तो वह गवर्नमेंट की खामी है। मेरे घर डकैती पड़े या मेरा सिर कोई फोड़ दे तो मुझे गवर्नमेंट को ज़माना देना पड़ता है। इस-

लिये मेरा सुझाव यह है कि कोर्ट फीस को एक कलम खत्म किया जाये।

हाई कोर्ट के जजिज में एक प्रवृत्ति पैदा आपकी तरफ से कर दी गई है। आपने यह कह दिया है कि फलां उम्र के बाद फिर उनको लगाया जायेगा। हमारे माननीय त्यागी जी ने पिछले सत्र में कहा था कि यह जो प्रवृत्ति पैदा कर दी गई है, यह बहुत खराब है, बहुत बुरी है। इससे आप बड़ी अपवित्रता पैदा करते हैं, बड़ी अनैतिकता पैदा करते हैं। वे कहने लग गये हैं कि उनके बर्थ का जो सर्टिफिकेट था, उसमें जो डेट दी हुई थी, वह गलत थी। इतनी उम्र प्राइमरी स्कूल में उनकी ज्यादा चढ़ गई थी और उसको कम किया जाये। हम आज से बीस बरस-पहले देखते थे कि जो जज थे वे हिन्दू विडो की तरह से रहते थे। वे सोसाइटी से इतना ज्यादा मोह नहीं करते थे जितने आज के जज करते हैं। आप चाहें तो मैं नाम बता सकता हूँ, लेकिन ऐसा करके मैं पार्लिमेंट की मर्यादा भंग नहीं करना चाहता। अलहदगी में अगर आप अपने कमरे में मुझ से पूछें तो मैं आपको नाम भी बता सकता हूँ। एक स्टेट के चीफ मिनिसटर हैं, उनके पास चीफ जस्टिस जाते हैं, बैठते हैं, और उनके प्राइवेट सैक्रेटरी की तरह से उनके साथ रहते हैं। इस तरह की बातें कांस्टीट्यूशन पर लांछन हैं। जज में इतनी हिम्मत होनी चाहिये कि बड़े से बड़े आदमी के खिलाफ भी फैसला दे सके। एक केस में हमारे प्राइम मिनिसटर साहब विटनेस की शकल में पेश हुये थे और हमारे श्री प्रकाश साहब जो एक्स-गवर्नर हैं, वह भी एक विटनेस की शकल में पेश हुये थे। इसके लिये मैं उनको मुबारिक-बाद देता हूँ। लेकिन फिर भी जज साहब ने फैसला खिलाफ दिया। जज साहब ने अपने फैसले में जो कुछ कहा मैं उसको कोट करना चाहता हूँ। चूँकि यह केस खत्म हो चुका है, इसलिये मैं नहीं भ्रमझता कि इसको मंशन करने में कोई आपत्ति की बात होनी चाहिये।

[श्री यशपाल सिंह]

मैं समझता हूँ कि हमारे जजों में इतना चरित्र-बल होना चाहिये, इतना नैतिक बल होना चाहिये कि बड़े से बड़े लोगों के खिलाफ भी वे फंसला दे सकें। सुब्बा राव साहब जोकि जज हैं, उनका यह फंसला है। उन्होंने इसमें लिखा है :—

“His Lordship said: Mr. Sri Prakasa, former Governor of Bombay, in his evidence said that from what he knew of Damodar Swarup for the last 32 years, he was a person of high integrity, noble character and of patriotic fervour. Mr. Jawaharlal Nehru said in his evidence that he knew Damodar Swarup for nearly 40 years and that he had known him in the political field as a very earnest and enthusiastic worker and that he had often been imprisoned with him and that he had always had respect for his sincerity. He added that the accused was a simple man who was not too clever and who had nothing to do with business and that he was deaf. The evidence of these witnesses establish that in their opinion, the accused was a man of integrity, sincerity and simplicity. The question is what is the evidentiary value of the good character of an accused in a criminal case”.

जज साहब ने साफ कहा है कि एक ऐसा शकस हो सकता है कि उस के अन्दर कमियाँ हों और वे पब्लिक में न आई हों। फंसला बहुत लम्बा चौड़ा है इस वास्ते मैं सारे फंसले को नहीं पढ़ना चाहता हूँ। इस केस में उन्होंने ने तीन साल की सजा ठोक दी। ऐसा कर के उन्होंने ने बहुत अच्छा किया। मैं समझता हूँ कि हमारी जो ज्यूडीशरी है वह कांस्टीट्यूशन की गार्डियन है। ज्यूडीशरी को अगर हम प्रभावित करने की कोशिश करेंगे एम० एल० एज० के जरिए या एम० पीज० के जरिए या बज्जिरों के जरिये तो हमारा

कांस्टीट्यूशन फेल हो जायगा। हम लोगों को इंसाफ नहीं दे सकेंगे। इस वास्ते जरूरत इस बात की है कि जजों की ज्यादा से ज्यादा ताज्जीम की जाए, उनकी तनख्वाह बढ़ाई जाए, उन को किसी प्रलोभन में न डाला जाए, उन के मारेल को खराब न किया जाए। इस तरह की बात अगर करने की कोशिश होती है तो यह बिल्कुल ठीक नहीं है।

आप जहां सुधार करते हैं, वहां आप कुछ खर्च भी कम कीजिये। मैंने आप की सारी रिपोर्ट देखी है। आप ने सिर्फ १६,००० रुपये की खर्च में कमी की है। सारे साल में इतना खर्चा ही कम किया गया है। इतनी बड़ी कमेटी बैठने के बाद इतनी सी खर्च में कमी हो यह कहां तक मुनासिब है। जो बेकार के महकमे हैं, वे खत्म किए जायें।

ग्राम पंचायतों के अन्दर पांच सी रुपये की जुरिसडिकशन आपने दी है। एक एक केस ग्राम पंचायतों में ऐसा पड़ा है जोकि दो दो साल से पेंडिंग है। जस्टिस डिलेड इज जस्टिस डिनाइड। अगर इंसाफ देने के मामले में देर की जायगी तो जस्टिस खत्म हो जायगा। इसलिये यह भी देखा जाना चाहिये कि सारे हिन्दुस्तान के अन्दर कितने ऐसे केसिस हैं जोकि बहुत लम्बे समय से पेंडिंग पड़े हुए हैं, दो दो और तीन तीन साल से पड़े हुए हैं और उन का फंसला होने को ही नहीं आता है। फंसला होने का कोई टाइम ही मुकर्रर नहीं है। इस तरफ भी आप का ध्यान जाना चाहिये। यह सब से ज्यादा जरूरी है कि जल्दी से जल्दी इसाफ लोगों को मिले।

अब मैं इलैक्शन पेटीशंज के बारे में कुछ कहना चाहता हूँ। मैं देखता हूँ कि पांच साल का टर्म खत्म हो जाता है, पांच साल के बाद नए इलैक्शन आ जाते हैं, लेकिन पुराने इलैक्शन पेटीशंज का फंसला ही नहीं होता है। इस के लिए भी आप को रूल्ज बनाने चाहिये कि एक साल के अन्दर अन्दर हर

इलैक्शन पेटिशन का फंसला हो जाए । एक साल से अधिक कोई भी इलैक्शन पेटिशन पेंडिंग में नहीं रहनी चाहिये ।

कांस्टीट्यूशन में कोई चेंज नहीं की जानी चाहिये । जब कोई बात कांस्टीट्यूशन की आप की पार्टी के खिलाफ पड़ती है, आप कांस्टीट्यूशन को बैठ करके चेंज कर देते हैं।

श्री त्यगी (देहरादून) : ऐसा नहीं है ।

श्री यशपाल सिंह : कांस्टीट्यूशन इस प्रकार की चीज नहीं कि जिस को अपनी मर्जी के मुताबिक जब चाहें, आप चेंज कर दें । एक बार नहीं दसियों बार इस को चज किया गया है । कई बार इस की दफात को बदला गया है । यह ठीक नहीं है । हमें अपने उन्तुलों को, अपने समाज को कांस्टीट्यूशन के मुताबिक बनाना चाहिये, उस के मुताबिक ढालना चाहिये । अगर कहीं हमारी मर्जी के खिलाफ कांस्टीट्यूशन जाती है, तो उस को भी हमें बर्दाश्त करना चाहिये । ऐसा कहीं नहीं होता है कि जूता मेरे पैर में न आए तो मैं जूते को ठीक न करूँ बल्कि पैर को कटवा दूँ । आप के हित में कोई चीज अगर नहीं है तो उस के मुताबिक आप अपनी कांस्टीट्यूशन को बदल लें, ऐसा नहीं होना चाहिए ।

मैं समझता हूँ कि यह भी बहुत जरूरी है कि जिन लोगों के हाथ में इंसाफ देने की ताकत हो, जो लोग इंसाफ देते हों, उनका एक्वाइटमेंट हो । गांव सभा के अन्दर, न्याय समिति के अन्दर, न्याय अदालत के अन्दर जो वोट से न्यायाधीश बनते हैं, वे फंसला ठीक नहीं वे सकते हैं, इंसाफ नहीं दे सकते हैं । जिन के वोट से वे न्यायाधीश बनेंगे उसके प्रति उन के दिलों में साफ कर्तार रहेगा । इसलिए कांस्टीट्यूशन में ऐसा चेंज होना चाहिये कि किसी हालत में भी जो न्यायाधीश हैं, उस का इलैक्शन न हो, बल्कि उस का एक्वाइटमेंट हो ।

सब से जरूरी बात यह है कि जो अखरा-जात हैं और जो बढ़ रहे हैं, उनको कम किया

जाए । वे इसलिए बढ़ रहे हैं कि जिस काम को करने के लिए आप दो शब्द लगाते हैं, उस को पहले एक शब्द किया करता था । काम बढ़ता जा रहा है, कमेंटीज बढ़ती जा रही हैं, चेयरमैन बढ़ते जा रहे हैं । यह बहुत जरूरी है कि इन पर रोक लगे ।

एक छोटी सी बात मैं और कहना चाहता हूँ । श्रीमती यह अनआथोराइज्ड कन्स्ट्रक्शन्स की बात हो रही थी और यह कहा जा रहा था कि मकान अनआथो-राइज्डली बना लिये जाते हैं । सरकार उन लोगों से हाउस टैक्स ले रही है, वह क्या अनआथोराइज्डली नहीं ले रही है, जो अफसर उन के लिए सिमेंट मंजूर करते हैं, वे अनआथोराइज्डली क्या नहीं करते हैं, जो लोहा मंजूर करते हैं, वे ऐसा ही क्या नहीं करते हैं, जो रजिस्ट्रेशन होता है, वह क्या अनआथोराइज्डली नहीं होता है । जिस घर के लिए आप ने बाकायदा कोर्ट फीस ली है, वह अनआथोराइज्ड नहीं रह जाता है । मकान बनने के बाद और तीन साल गुजर जाने के बाद आप कहते हैं कि वह अनआथोराइज्ड था, इस वास्ते उस को गिरा दिया जाए । इस प्रकार का जो एक्ट है, उस में सुधार होना चाहिए, जो कानून है, उस में सुधार होना चाहिये । कानून की दृष्टि में सब लोग बराबर होने चाहियें । कानून में यह कहना कि सब समान हैं, सब को इक्वल अपरचुनिटीज हैं तथा फेयर फील्ड एंड नो फेवर है । लेकिन मैं पूछना चाहता हूँ कि हमारे साथ जो सलूक किया जाता है, वह दुनिया की किसी कांस्टीट्यूशन में नहीं किया जाता है । हम जनता के रिप्रि-जेंटेटिव हैं । हमारी तकरीरों को सी० आई० डी० नोट करती है, यह हमारी कांस्टीट्यूशन के ऊपर एक धब्बा है । अगर हम खराब हैं, अगर हमारा कारेक्टर मशकूक है तो हमें यहां से हटाया जाए । अगर ऐसी बात नहीं है तो हमारी तकरीरों को सी० आई० डी० क्यों नोट करती है । जब यह किया

[श्री यशपाल सिंह]

भाता है तो यह हमारी कांस्टीट्यूशन के ऊपर बहुत बुरा कलंक है, धब्बा है।

श्री त्यागी : क्या आप की तकरीर सी० आई० डी० के लोग नोट कर रहे हैं ?

श्री यशपाल सिंह : मैं बाहर की बात कह रहा हूँ, यहाँ की नहीं।

यहाँ सब से ज्यादा जरूरी यह है कि हमारे यहाँ जो अनडिसाइडेड केसेज़ हैं उन को एकदम तय किया जाये। उन में देर न की जाये। नये केसेज़ एकदम न चलें जब तक कि पिछले केसेज़ का आप कोई फैसला न कर दें। अखबारों के साथ आजकल जो तरफदारी हो रही है, जो डिस्क्रिमिनेशन हो रहा है वह नहीं होना चाहिये। मैं एक ऐसे अखबार को जानता हूँ जिस पर मुकदमा चल रहा है। उस ने अकाली मूवमेंट को सपोर्ट किया था। जो अकाली राज्य, पंजाबी राज्य, सिख राज्य की बात कह रहा था वह तो नहीं रहा, जो पंजाबी राज्य के कैंदी थे, जिन्होंने खालसा राज्य का नारा लगाया था वह तो छोड़ दिए गए, लेकिन कुछ ऐसे गरीब अखबार हैं उन पर मुकदमा चल रहा है। अगर मैं ने कोई कुसूर किया है तो मैं तो छोड़ दिया जाऊँ, लेकिन जिस ने मेरी हिमायत की और कहा है कि मैं बेकसूर हूँ, उस पर मुकदमा चले, यह एक बड़ी अजीब बात है। इन चीजों का सुधार करना पड़ेगा तब कहीं जा कर इस देश का सुधार होगा। हमारे हाई कोर्ट्स हैं, हमारी जुडीशियरी है कि हमारे कांस्टीट्यूशन की गार्जियन है। अगर उन को आप खुली आजादी नहीं देंगे, और उन की इज्जत नहीं करेंगे, उन की तस्वाह नहीं बढ़ायेंगे, उन को पूरा सम्मान नहीं मिलेगा, उन के दरवाजे तक एम० पी० और एम० एल० ए० जाना नहीं छोड़ेंगे, तो यह इन्साफ बठ जायेगा, इन्साफ हमारे देश का चला जाता है।

इस के साथ यह भी जरूरी है कि कानून में कुछ नये सेक्शन बढ़ाये जायें। यह बात नहीं कि जो कुछ अंग्रेज के जमाने से चला आ रहा है वह बात सही है। नहीं, अंग्रेज ने जो गलतियाँ की थीं उसे सुधारा जाय। मैं लाजिमीतौर पर अर्ज करूँगा कि इस देश में ५० लाख मन गेहूँ चूहे खा जाते हैं, लेकिन जिन मकान मालिकों के गहूँ को चूहा खाता है उन के खिलाफ कोई सेक्शन नहीं है हमारे कानून में। मैं कहता हूँ कि इस तरह से नहीं होना चाहिये। अगर कोई यह कहे कि अपना गहूँ है, मैं ने अपना गहूँ खिला दिया, तो यह कोई दलील नहीं है। हमारा रुपया है हम ने जुआ खेले लिया। लेकिन आजकल जुआ खेलने वाला मुजरिम है, चाहे वह अपने रुपये से खेले या दूसरे के रुपये से खेले। जो देश की सम्पत्ति को सुरक्षित नहीं रख सकता उस के लिये कानून होना चाहिये।

दूसरी बात यह है कि जो डिसकर्टसी या बदएल्लाकी बरतता है, अशिष्टाचार बरतता है, इन्सान इन्सान से हंस कर नहीं मिलता, इन्सान से इन्सान बच कर निकलता है, उस के लिये ला होना चाहिये। जो मातमी सूरत से निकलता है, उस के लिये किसी और डिस्क्वालिफिकेशन की जरूरत नहीं है, जो उदास चेहरे से मिलता है, उस के लिये किसी और डिस्क्वालिफिकेशन की जरूरत नहीं है। गीता में यह बात लिखी हुई है।

“प्रसन्नचेतसो ह्याशु बुद्धिः पर्यवर्तयते”

जो हंसता नहीं है, जिस का चित्त प्रसन्न नहीं है, जिस का चेहरा प्रसन्न नहीं है उसे भगवान दर्शन नहीं दे सकते। लेकिन हमारे ला में कोई सेक्शन ऐसा नहीं है जो आदमी बदतहजीबी के साथ, अशिष्टाचार के साथ, मिलता है, बदएल्लाकी के साथ मिलता है, उस के खिलाफ कोई सेक्शन नहीं है। यह

बड़ी भारी कमी है हमारे ला की। उस में इस तरह का सेक्शन होना चाहिये और जो मिलते वक्त कंजूसी करता है, जो मातमी सूरत से मिलता है, उस के खिलाफ एक्शन लिया जाय। मैं दूसरे देशों की तारीफ नहीं करता हूँ, लेकिन जब वहाँ हम जाते हैं तो क्या पाते हैं? मैं दूसरे देशों की तारीफ नहीं, करता, मैं उन का कोई वकील नहीं हूँ। मैं तो सिर्फ अपने देश का भला चाहता हूँ। दूसरे देशों में हम ऊपर यह लिखा हुआ देखते हैं :

“यही है इबादत, यही दीनो ईमां,
कि काम आये दुनिया में इन्सां के इन्सां”

लेकिन यहाँ उलटा हिसाब है। दफतर जाते हैं तो लिखा मिलता है “नो एंडमिशन”। “नो एंडमिशन” का मतलब है नाएखलाकी, अनकल्चर्डनेस। हम लोगों में इतनी तहजीब होनी चाहिये कि हम बिना इत्तला के न जायें, लेकिन जो लोग अपने दरवाजों पर “नो एंडमिशन” लिखवाते हैं वे मानवता के दरवाजे बन्द करते हैं। यह कानून होना चाहिये कि बगैर किसी काम के कोई किसी के दरवाजे पर न जाये, लेकिन जो जाता है, वह जनता को तरफ से जाता है, उसे किसी स्वार्थ साधने की जरूरत नहीं है। मेरा अपना कोई हित नहीं है, लेकिन मैं यहाँ पर एक स्टूडेंट के तरीके से अटेंड करता हूँ। यहाँ से निकल कर अपनी कांस्टिट्यून्सो में चला जाता हूँ और सिपाही के तरह से काम करता हूँ। लेकिन अगर मुझ से मिलने के लिये एक हजार आदमी भी आ जायें तो मेरे पास इतना प्रेम है कि वह एक हजार आदमी नाराज हो कर नहीं जायेंगे। चूँकि प्रेम की गोदी इतनी विस्तृत है, मुहम्बत का आगोश इतना बसा है कि सारा संसार पैर फँला कर सो सकता है। लेकिन जो बदएखलाकी से मिलता है उन के लिये बाकायदा सेक्शन होना चाहिये।

मैं कहना चाहता हूँ कि कानून बदलेगा तो समाज बदलेगा, कानून नहीं बदलेगा

तो हमारा समाज नहीं बदलेगा। यह जो आर्म्स ऐक्ट है, यह अंग्रेजों का बनाया हुआ है, आर्म्स ऐक्ट अंग्रेजों ने इस लिये बनाया था कि हमारी गुलामी की जंजीरें मजबूत रहें, हम में नपसकता बढ़ती रहे, हम में बुजदिली बढ़ती रहे, हम में कायरता बढ़ती रहे, हम डिस्पेरिटीज क्रिएट करते रहें। लाइसेंस के नाम पर डिस्पेरिटी क्रिएट की जाती है और समाज में छोटे बड़े का लिहाज रक्खा जाता है। इस लिये आर्म्स ऐक्ट को एक दम खत्म कर के आप प्रत्येक भारतवासि को जो बालिग है, जो ईमानदार है, उसे हथियार रखने का अधिकार दें, और यह विधि मंत्री जी का काम है।

मैं यह भी अर्ज करना चाहता हूँ कि जो १२४ (ए) दफा है हमारा ताजीरात हिन्द की, जिस के हम लोग शिकार हुए हैं, जिस के मातहत हम सब लोग अंग्रेजों के जमाने में जेलखानों में रहे हैं, वह दफा हमारे कांस्टिट्यूशन के खिलाफ है। मैं सिक्योरिटी की बात नहीं कहता, इमर्जेन्स के वक्त में मैं कहता हूँ कि वह ठीक हो सकती है, जो देश के हित को सम्पादित नहीं करता है, जो रास्ते में रोड़े अटकता है उसे पकड़ कर जेल में बन्द कर दिया जाय, लेकिन जब इमर्जेन्स का टाइम नहीं होता है उस वक्त दफा १२४ (ए) को कायम रखना गलत होगा। दफा १२४ (ए) और हमारा कांस्टिट्यूशन दोनों साथ साथ नहीं रह सकते। कांस्टिट्यूशन बोलने की आजादी देता है, कांस्टिट्यूशन लिखने की आजादी देता है, खयालात की आजादी देता है, कांस्टिट्यूशन अपने मूवमेंट की भी आजादी देता है। लेकिन यहाँ उल्टा हिसाब है और वह उल्टा हिसाब यह है कि १२४(ए)के मातहत कह दिया कि इस ने सरकार के खिलाफ बगावत की है। मैं कहना चाहता हूँ कि सरकार और पब्लिक कोई दो नहीं हैं। इस लिये दफा १२४ (ए)

[श्री यशपाल सिंह]

बोसादा हो चुकी है, आउट आफ डेट हो चुकी है। इस का हड़तताम होना चाहिये, इस को खत्म करना चाहिये। तभी हमारा यह कांस्टिट्यूशन फल फूल सकेगा जब तमाम हिन्दुस्तानियों को बराबर का हक दिया जाय "फेअर फॉल्ड ेड नो फेवर" कह देना तो आसान है, ईक्वल अपाचुनिटी कह देना आसान है, लिहाजा इस के लिये हमें मेहनत करना पड़ेगा और कल्याण का रास्ता खोलना पड़ेगा। जब तक हम सब लोग मिल कर ईक्वल अपाचुनिटी के लिये कोशिश नहीं करेंगे और वह वायुमंडल तैयार नहीं करेंगे तब तक हम को कामयाब नहीं मिलेगा। मैं पूछता हूँ, जरा सा बात से, मैं जिस कांस्टिट्यूट्स से खड़ा हुआ हूँ वहाँ पर एक लड़के को १५ र० माहवार का मुलाजमत नहीं दे सकता हूँ, जब कि हमारे दूसरे साथी हैं जो कि खड़े हुए हैं, जो बाकायदा वजार हैं, बाकायदा मंत्री हैं, वह सब कुछ दिलवा सकते हैं। नौकरों को दिलवा सकते हैं, सामेंट भी दिलवा सकते हैं, एजेंसियाँ भी दिलवा सकते हैं, परमिट भी दिलवा सकते हैं। इस तरह से हम देखते हैं कि ईक्वल अपाचुनिटीज नहीं हैं। हमें इस के लिये कोशिश करना चाहिये। सारे देश के अन्दर लोगों को एक निगाह से देखा जाय, माइनारिटी और मेजोरिटी का सवाल हटाया जाये, छोटे बड़े का सवाल हटाया जाय, अछूतपन के खिलाफ कानून सख्त बनाया जाय, कहा जाय कि जो किसी को अनटचबल समझता है वह देशद्रोह है।

इन शब्दों के साथ मैं कहना चाहता हूँ कि मानव मानव के लिये समानता और भ्रातृ भाव लाने का हम सब को कोशिश करना चाहिये तभी विधि मंत्रों को श्रेय प्राप्त होगा।

Shri Tyagi: I want only half a minute. I do not want to make a

speech, but I want to stress only one point, namely that respect for the judiciary is fast disappearing in the country. That point my hon. friend also appreciates.

There was a suggestion made last time that an all-India service must be established for judicial officer. The difficulty is this, that the impact of the politicians is telling up the very conception of justice, because Chief Ministers, Ministers, M.Ps., and M.L.As., whoever occupies some position tries to influence, and ultimately the promotion and the very existence of those officers depends on the goodwill of the politicians alone in the various States. So, if these services are integrated, it will be an ideal integration of the whole country. Irrespective of any considerations of the States, all the judicial services should be integrated into one service.

Then again, the members of the panchayats in the villages are smaller politicians. They also depend on votes, they get elected, with the result that they cannot really dispense justice. They have to look to their voters. Most of the members of the various legislatures also have that weakness. It is the inherent weakness of politicians and democracy. I do not want that democracy should in any way be diluted, but as far as the judiciary is concerned, it should be kept out of the reach of democracy and politicians. I hope my hon. friend will give thought to it and take the earliest opportunity to integrate the judicial services on an all-India basis.

Shri Sham Lal Saraf (Jammu and Kashmir): It should be kept above administrative interference also.

Shri R. Barua (Jorhat): Mr. Deputy-Speaker, Sir, I am just wondering whether the Law Ministry exists in India as it should in a democracy. In a democracy, the rule of law is the main thing, and once this rule of law goes out, we shall be head-

ing towards a monolithic State which may be good for Russia or some other country, but certainly not for India. Unfortunately, in the recent past we have seen that there is a tendency creeping into the very judicial fibre, demoralising the whole system, and I am afraid that if it is not put a stop to in time, we will be heading towards a serious crisis. The speaker who preceded me rightly remarked that our judiciary is gradually losing the position and status which it used to have. The reasons are many. Firstly, in a democratic set up, particularly in a socialist State, we are giving more powers to the executive and in the very nature of things in the administrative field also delegated powers are being given to various departments and officers and these administrative laws are becoming more or less lawless laws. Unless we have an independent judiciary, it would be very difficult to check their misuses by those in authority because it is a human tendency. Once a man has got power, unless he knows that there is a check, naturally he will act despotically. It is only meet and proper therefore that everybody stresses the independence of the judiciary and the need to maintain the supremacy of the law. It was very clearly adumbrated in our Constitution this principle.

I find from the report that this Ministry is not giving us its due contribution as it should have. A perusal of the report will give us an impression that it is just functioning as a legal adviser doing mere drafting work etc. If that were the real functioning of the Ministry, I am afraid it is not a good and purposeful Ministry; the Attorney General with some paraphernalia would have performed those functions which are narrated here in the report. I feel that this report is prepared in a routine manner, not focusing the real purpose for which the Ministry is meant. It is a casual report. If it is not a casual report and if it is actually a report of the proper functioning of the Law Ministry as it is, I am afraid India is heading for some sort of a monolithic State and in that case the en-

tire democratic set-up will some day crash.

The separation of judiciary from the executive was mooted long before we attained our Independence. Even in the Constitution it was specifically stated that the judiciary must be separate from the executive in order to maintain the dignity of democracy to which we are all wedded. The tendency in the States and in the Centre is not to separate the executive from the judiciary. Attempts are made in some States but they are not complete. The States are not inclined to create a proper atmosphere to allow the judiciary to function in an independent way and in the Centre also no attempts seems to have been made to achieve this objective. Fifteen years have passed. Administrative machinery completely grips the judiciary; judiciary is more or less under the hands of the executive, as Shri Tyagi said. They are to depend on the executive for their promotions, transfers and even reappointments after their retirement. How can we expect judiciary to dispense justice or administer law in an equitable manner to the best interests of democracy. Beyond India, in the neighbouring State, democracy is fast crumbling. Therefore, it is all the more necessary that the Ministry of Law takes special care to see that fissures and cracks do not appear in the citadel of democracy. Unless we take measures in good time, things will happen in such a way that people will not be respecting the democratic set up. There is already a tendency in the minds of the people; they ask: what is the good of going to the law courts when they are expensive or when they could not get proper justice at proper time. We should take some bold steps to clear these misapprehensions.

We have in the recent past been legislating on matters affecting the people; we wanted to save people from the clutches of the landlords and greedy money lenders. The laws are there; very good laws so far as they go. When the question of vindicating their rights comes and when they have

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to go to the court of law, no machinery has been set up to assist them to get their rights vindicated according to the law. Legal aid to the poor must be a burning problem for all of us to consider and more so for the Law Ministry. I have gone through the reply given by our Law Minister on the last occasion when he said: yes; this was under the consideration of the Law Ministry; but for paucity of funds it could not be done. I am sure he will come up with the same statement. What is the good of these welfare laws if the vast majority of our people cannot normally afford the expenses of litigation, unless we come forward to give legal aid to them.

The question of court fees was raised by some hon. friends and it was said that it was a State matter and so the Law Ministry could not do anything. It may be a State matter. But why are we having the Ministry of Law here if it cannot persuade the States to do these things, as is done by the other Ministries? . . . (*Interruptions*) We are not prepared to hear that simply because it is a State subject nothing can be said. Every year, you will be surprised to find that the first to be hit at is the court fee; everytime they are being increased. Nothing is done to decrease it.

My friend Tyagi mentioned about the lawyer's fees. I can assure him that there are lawyers who can do their bit to help the poor as they were doing in the past. I am sure an eminent lawyer of Shri Sen's stature also did enough for the poor although his fees are very high.

Shri Tyagi: They charge Rs. 10,000 or Rs. 20,000 a day.

Shri R. Barua: There are cases in which he did things without taking any fees. If you just create the atmosphere, there will be such lawyers. . . . (*Interruptions.*) A machinery to give such aid should be evolved.

We are having in the Ministry here a man of the eminence of Shri Sen's stature. I was all along expecting that he will infuse a new spirit of dynamism in the Ministry which does only routine things year in and year out. I am happy to refer to one feature: the appointment of an enquiry committee to find out how they change the law in the Muslim countries. Shri Ghosh found fault with it. I do not find fault with it, because after all, we must take into account the laws that prevail in a particular country and at a particular time and impact of human behaviour and as human institutions. Therefore, I should say it is wise and proper that a committee is formed. It ought to have been formed much earlier. I do not know why some of the personal laws affecting the Muslim community should be so different; they are certainly not in line with modern tastes and modern needs. Therefore, these should not have been relegated to such a position during the past so many years, simply because there happened to be some sort of complex prevailing and therefore nothing should have been done. It is good that the Law Ministry is going to appoint such a committee. I feel that in no distant time, we shall find a due change in the personal laws of the Muslims and that we shall bring them in line with the rest of the people in India.

Lastly, this Ministry, I believe, will take into consideration the fact that our human conceptions of society and economic relations are fast changing due to the scientific achievements, technological researches and so on. In

order to have our laws framed so as to fit in with the new changes, the Law Minister should do something to educate the people so that the new impact of science, the new impact of philosophy and technological achievements are broadly known and appreciated by the people. In the modern age, these currents and cross-currents should not be left to the university students, university research students, only to note and appreciate. Therefore, this Ministry, as I have already stated, should cease to be a mere appendage to the Ministries of Government but should contribute something real to the society, and it should educate the people and the legislators and the masses at large to let them know how there has been this action and reaction of forces of history all over the world so that we could form a proper type of democratic laws in the country.

Shri Tyagi: How would you react to the suggestion that there should be a ceiling on lawyers' fees?

Shri R. Barua: I welcome that. But the difficulty is, you cannot put that. It will be a very difficult thing.

Shri Tyagi: There is a ceiling on land; there is a ceiling on income.

Shri R. Barua: It will be difficult to implement.

Mr. Deputy-Speaker: Order, order. Dr. L. M. Singhvi.

Dr. L. M. Singhvi: Mr. Deputy-Speaker, Sir, I would be forgiven if I say that I was rather amused at the predicament of the distinguished Law Minister, because he was being harangued by a number of hon. Members of this House on subjects which actually do not belong to his Ministry's scope of activities. That is also the reason why the report of the Ministry's activities is, I think, an achievement and an exercise in brevity. This is not the brevity of which wit is the soul. It is the helpless brevity of a Ministry which has very little to say and also which has very little to do.

I feel very sorry that the Ministry of Law has been invested with so few functions. I feel that the scope of activities of this Ministry is highly confined, highly restricted, rather tenuous and elusive. I feel that it is almost unfair to the distinguished Law Minister to be entrusted with so little work and also work which is generally of a routine character. We are all aware of his great abilities in his professional field and I would very much wish that the Law Ministry is invested with a larger jurisdiction, with a larger field of activities so that there can be read coordination within the framework of the Law Ministry. Before one could walk a few yards on what one would consider the *terra firma* of Law Ministry's proper province of activity, one would have to be told that one is actually talking of a subject-matter which is not within the scope of the Law Ministry's activities. This is not a situation which is very happy, because law is the very breath of our democratic life. It is the very breath of our daily doings of the State and if the Law Ministry's activities are confined in the manner in which they have been done hitherto, I think not only is legislation going to suffer but the implementation of legislation too is going to suffer. This—I think it would be admitted—has been actually the case. I feel that a real reappraisal of allocation of activities would be made by the Government with a view to give a larger scope of activities to the Law Ministry.

I should like to mention that perhaps it was in this context that at one time it was suggested that the offices of the Law Minister and the Attorney-General should be combined. I for one am not sorry that the move did not flourish and fructify; that the effort suffered a sort of miscarriage. I think I must mention in this respect a matter which was of great concern to most of us in the legal profession and to others concerned with public life. I refer specifically to the so-called clarification given by a spokesman of the Government. I think this clarification of the spokesman was distinctly

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disrespectful to the work of a very eminent lawyer who has functioned as Attorney-General of our country for a number of years with great distinction, and had brought to bear upon his office a great deal of scholarship and an unusual legal acumen. I would like to refer to some portions of this clarification of the spokesman which was certainly not in very good taste. I refer to the reports appearing in the newspapers on the 3rd of January, 1963. The spokesman says this.

"The spokesman emphasized that even though there had been a separate Attorney-General till now, most of the work relating to tendering legal advice had been done by the Law Ministry.

In 1960, he said the total number of cases on which advices were rendered by the Ministry to the various departments was 24,250 as against 34 by the Attorney-General.

In 1961, the Law Ministry gave advices in 20,007 cases referred to it by the Ministries and the Attorney-General 20. In 1962, the Law Ministry gave advices in 19,181 instances and Attorney-General 11."

Then the spokesman goes on to say:

"It has been felt by many, the spokesman added, the Attorney-General should not exercise the right of private practice and undertaking private work. In fact, the Attorney-General remains so busy with private work that he is not available always for Government work in the Supreme Court."

Further, the spokesman goes on to say:

"It does not appear satisfactory to many that the Attorney-General for India should be appearing for private litigants and arguing private cases even against State Governments and Government corporations and should be available to ren-

der his services and throw the weight of his office for every litigant, who chooses to engage him."

With great respect, I take serious exception to this clarification issued by one who was presumably the spokesman of the Law Ministry. In the first place, it was very unseemly that such a controversy should have been allowed to arise. In the second place, it was equally unseemly that the Law Ministry should have appeared—I use the word "appeared" advisedly—to take sides in the matter or to undertake sponsorship of the idea. I feel that this was entirely unfair and unjust to the work of a distinguished lawyer whom this country has learnt to respect for the great contribution he has made in shaping the healthy legal traditions in the country and who was rightly at the head and the helm of the Indian legal profession. I hope that the Minister would have at least a word of regret to offer in this House when he rises to reply to the debate.

I feel that there is very little research as an aid to legislation in this country. It is true we have a few very useful institutions under the Government sponsorship or assistance such as the Law Commission and the Indian Law Institute. Both these bodies have done exceedingly useful work and I hope that the field of their work would be expanded progressively so that our legislation becomes more intelligent and more systematised.

16 hrs.

I would also like to say that in the Ministry itself there should be a good deal more of research before bringing out legislation. This is a subject over which many distinguished jurists have had much to say. My friend, Shri Sharma, referred to the plea that Mr. Justice Wendell O. Holmes of the United States made for setting up a Ministry of Justice. I think to a certain extent that demand

is met by the creation of the Law Commission, but I would submit respectfully, only partially. I hope that the Law Ministry would undertake more and more research both in the fields of existing legislation and for legislation which is proposed to be brought before Parliament.

In this respect, I would like to make a plea for setting up a Department of Social Legislation in our country. We have a whole lot of enactments which relate to personal laws of the citizens of this country. We have revolutionised so to say the relationship between individuals and the society and have recast social institutions, which had been known to this country for centuries. That was done for the good of the country, so that we may really take strides forward in achieving and consolidating social progress. It almost appears that these social enactments and their implementation has by and large gone by default. I do not wish to say this as a broadside only against the Law Ministry; it is a criticism of the entire governmental structure and parliamentary structure itself that we have not, after giving birth to such vast and far-reaching legislation, taken care to take stock. As a matter of fact, in any other country, perhaps social legislation of such far-reaching significance would have been the subject matter of extensive research and intensive study by universities, academic institutions and governmental and semi-governmental institutions. Very little, I must submit with a sense of regret, has been done so far in this direction. I would like the Law Minister to consider the setting up of a department of social legislation or for social affairs, so that this need for implementing and effectuating existing legislation may be met and so that new legislation may be more intelligent and also in order that the legislation that is already existing may be improved.

I should like to say a word about article 44 of the Constitution, which enjoins upon the State that the State

shall endeavour to secure for the citizens a uniform civil code throughout the territory of India; I do not think we have before us all the materials, the pros and cons of this problem to give a verdict as to whether the time has come when such uniform civil code should be enacted so as to be applicable throughout the territory of India. But I do think that the time has come when we must consider the possibility of bringing about a uniform civil code in this country. It may be said that the time is not yet ripe. If that is so, we should know how it is that the time is not yet ripe. We should also know whether the time was ripe for bringing out a vast multitude of social legislative enactments in the past.

I pass on the another matter of considerable importance, namely popularisation of the Constitution of India. The Constitution of India is a symbol as well as a shield for our people; it is the fortress of our freedom. I say with a sense of regret that relatively little effort has been made so far to popularise the Constitution of India among the common men in the country. They should be told that there is this document which enshrines in it the fundamental organic law of this land as well as the aspirations of its people. They should be told what it is to have a written Constitution. I think this is a sacred duty of the Government, which it cannot in propriety default in discharging.

I should like to mention another matter which is of very great importance to our country in particular. It is the matter of having a sort of a parliamentary commission on the pattern of Ombudsman in Scandinavian countries. As I have had occasion to remark many times in this House, that is an institution which may be the real solution for the various problems which arise in respect of injustice being done in particular cases. This institution would be securing to the common citizen a forum where-

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in his grievances can be effectively ventilated. This would be securing for the Parliament an institution through which it can effectively function in individual cases. We know very well that the Question Hour is really no substitute for it; we know that writing of letters to the Ministers is no substitute. We really need an institution in this country for securing to the citizens in general, an institution where they can always represent their grievances and hope to get independent impartial justice in matters of administrative excesses. It cannot be said that the Constitution provides that machinery. I do not think that the Constitution provides an adequate enough machinery for the ventilation or for the solution of such problems.

I should like to quote what a distinguished jurist, Lord Denning, has to say on this subject:

"Just as the pick and shovel is no longer suitable for the winning of coal, so also the procedure of *mandamus* and *certiorari* is not suitable for the winning of freedom in the new age."

The Constitution guarantees valuable fundamental rights to the citizens of this country. But the courts of law which administer the Constitution and which make effective the provisions of the Constitution have to be hidebound by certain limitations of procedure and technicalities. An institution such as the Ombudsman could go a long way in solving various problems of the general public and of bringing the Government to account before the Parliament in a real and substantial way in specific and individual cases.

I would also like the Minister to consider giving a reorientation to and for recasting of the existing machinery on administrative law and administrative tribunals. This is also a subject on which a great deal has

been said. I know that the Minister is quite aware of the implications of the various aspects of this problem. I hope he would have something to say on the Government's policy in this matter.

I would like briefly to mention something about the rule of law, which is the subject-matter which fall more appropriately at the present time under the Ministry of Home Affairs, because it is the Home Ministry which is concerned with the observance of the rule of law. The rule of law in practical terms sometimes suffers greatly when the cost of litigation is very high or when the justice administered is greatly delayed or when sufficient legal assistance is not available to a poor litigant. I would like the Government to approach this matter again on an all-India level. Efforts are made sporadically here and there for securing free legal assistance to indigent litigants. But this is not enough. We want in this country equality of opportunity also in the matter of rendering free legal assistance and advice, and I hope in this respect the Government would adopt an all-India approach.

Sir, I would like to pay a tribute to the work of the Election Commission which is an institution *sui generis* in our country, and which it has contributed a great deal to the maintenance of democratic institutions in our country. I would like, in this respect, to suggest that we must have State units of the Election Commission so as to supervise and conduct elections within the boundaries of the State for panchayats and municipalities, because that is a field where there is, legitimately and rightly, a whole spate of allegations of corruption and malpractices. In that respect, I would like the Minister to initiate a move of consultation with the State Governments for the creation of such an independent machinery.

I would like, in this respect, that the Minister should also consider whether the Representation of the People Act does not also stand in need of certain revisions. It is overcast with certain technicalities. I do not criticise the enactment as a whole, but this enactment tends to be too technical sometimes. If I were to illustrate what I say, I would cite Section 81(3) of the Act which requires a litigant who is filing a petition to file copies which are duly attested by him and if a single copy in the copies submitted by him is not properly attested on each page, his petition would stand in the peril of being thrown out because of a technical mandatory provision of the law. Of course, there are a large number of those difficulties which arise in the administration of the Representation of the People Act, and I assume that the Minister is not be unaware of them.

Sir, I thank you very much for giving me this opportunity of offering a few remarks on the functioning of this Ministry on which the functioning of the Rule of Law devolves. As ancient Sanskrit adage goes:

“वर्षो रक्षति रक्षितम्”

Shri G. N. Dixit (Etawah): Sir, before I begin, I do want to express my regret on one point. Last time when I spoke on the Demands relating to the Education Ministry I assured my friends that next time I would speak in Hindi, but I have decided to speak today also in English because I want to speak and make a plea for Hindi to the Law Minister who will understand my speech in English better.

Sir, I entirely agree with some of my hon. friends who said that it is incorrect to say that the present Ministry is a Ministry of Law. Really speaking, it is a Ministry for litigation, advice and drafting, because most of the functions of the Ministry of Justice go to the Home Ministry and to the various States, to the Chief Justice of India and also to the

Chief Justices of the High Courts.

I shall be beginning with the last work which is assigned to this Ministry, and that is the work of the Official Language Commission. The other day, in reply to a question, the Law Minister informed this House that some of the Acts have been translated into Hindi—the Criminal Procedure Code, the Indian Penal Code, the Evidence Act etc. I made an enquiry and I learnt that the Acts have been translated, they have been cyclostyled for examination but they have not been printed yet. On a further enquiry made as to what time this work may take, the Law Minister was pleased to tell us in the House that he could not give a definite time as to when it will be possible to translate all these Acts and statutes into Hindi and other languages. But I learnt from the source of the Official Language Commission that at the present level it may take 30 years. with the present staff that is allotted to them they might take thirty years and, if they are given three times the staff, they might succeed in ten years. Now, thirteen years have gone by since the Constituent Assembly decided that Hindi shall be the official language, the national language, knowing that there can be no nation without a national language. So, the Constituent Assembly rightly decided unanimously that Hindi was the only language which could be the national language and the official language. Knowing this, the target date was fixed fifteen years hence under article 351 to develop this language in a manner that this language becomes the national language of the country. Now, one of the most important parts assigned to the Law Ministry is the working of the Official Language Commission, because there can be no language as a national language unless it is the court language, because it is the court from which the language spreads. Unless the statutes are translated into the national language and the courts start using the national language, there can be no

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language which can be called the national language. My humble submission is, as I said the other day on the demand for grants relating to the Ministry of Education, even today, under the Supreme Court Rules not a chit can be read by the Supreme Court Judges unless it is translated into English by the official translator. Now we have got hardly three years more to go by when the target date of 15 years as mentioned in article 351 would be over and after 13 years under the Supreme Court Rules not a chit will be allowed to be read unless it is translated into English. So, my submission is some vigorous step is called for from the Law Ministry at this stage, as it is a duty assigned to them by the nation. It is not merely a matter of translating one book or other into Hindi, it is the question of the language of the country. Therefore, unless the functions of the Official Languages Commission are discharged by the Law Ministry properly, that would be a charge against them. This work has to be done by them, this work which requires the whole life and energy of a man, a man of the calibre of the Law Minister, a man of the youth of the Law Minister. If the Law Minister interests himself in this work, if he takes it up in a missionary zeal, if he decides that within three years or four years he shall see that every statute in this country, every law, every law journal, the Supreme Court rules and High Court rules, they are going to be in Hindi, and Hindi is going to be the national language. Hindi is going to be the court language, it shall be done.

One of the functions of the Law Ministry is to give advice to the various Ministries. The officers of the Law Ministry are well-trained people, good drafters. Nowhere is a draft of the Central Government found faulty except one or two here and there on small matters. They

tender good advice and we cannot impute any motives to the law advisers for giving what they think as proper advice. They are qualified and well-trained people. So, I would appeal to the Law Minister that he should direct his attention to this question of the official language. He should bring pressure on the Cabinet to get sufficient staff for the Official Languages Commission and do his best to see that all the statutes and laws are translated into Hindi and also into other regional languages of various States, as it is the duty assigned to the Official Languages Commission. This is my first mission.

Secondly, I want to refer to litigation. The Supreme Court has, beyond doubt, set up some precedent. The hon. Member was reading the judgment of Justice Subba Rao. It is not only Justice Subba Rao but almost all the Judges of the Supreme Court deserve applause of the whole country, and they get that applause, for they have set up a precedent not only for this country but for the whole world. They are in no way inferior to the judiciary of any country, for they are above favour or prejudice. For them justice is paramount.

I would tell this House further that though we hear of corruption among the High Court staff, among the district court staff, we never hear of any sort of corruption among Supreme Court staff. It is an example which must be seen and examined as to why this cannot be introduced in the High Courts and why this cannot go to the district level. The reasons must be found out. What are the reasons which root out corruption from the Supreme Court staff? The same thing should be introduced in the High Courts also.

Shri Shivaji Rao S. Deshmukh (Parbhani): Do I understand that the insinuation is that in the High Courts the subordinate staff is corrupt?

Shri G. N. Dixit: I am not talking of the High Court Judges; I am talking of the staff. I am talking of tipping them for small work. I am talking of that. I do not know what you call it but in our side we call it 'haq'. I am talking of that 'haq' which is given for getting small benefits. You examine the position in your own High Courts and district courts. I know it is there in all those courts about whom I know except the Supreme Court which is entirely immune from this. I am talking about the other places from my personal knowledge.

If you can take this away from the Supreme Court, you can remove this evil elsewhere also. The hon. Law Minister has been a lawyer and the hon. Deputy Minister has been a lawyer; also, so many hon. Members in this House have been and are lawyers even now. They know from their personal knowledge how things happen in other places. This Supreme Court staff should be an example and this should be looked into and examined for rooting out this evil from other places also. This is my second submission.

My third submission is about the question which was raised by my hon. friend and which is the most important point on the point of litigation, that is, the appointment of the Attorney-General. I think, the hon. Law Minister was very right when he mooted this question, namely, that the most successful lawyer of the party in power should be the Attorney-General. This is what is happening in England and in every country which goes on the English system of jurisprudence or the English system of democracy. If it is happening elsewhere, the same system should be adopted in India also, that is, the most successful lawyer of the party in power should be the Attorney-General; he must go with the party and he must come with the party in power after the elections.

I do not agree with him on the question that the post of the Attorney-General and the post of the Law Minister should be combined. That is a question which has now been dropped and I need not make my submission on that. I also did not relish—none of the lawyers relished—the remarks in the Bulletin against the great lawyer, Shri Setalvad, who was the President of the Bar Association of India and of the Supreme Court Bar Association and who, acknowledgedly, was the leader of the Bar in this country—a man of sterling and the noblest character. Nobody liked those expressions. Anyway, that also is past history and I need not say anything on this also.

Dr. L. M. Singhvi: The report of the Ministry itself embraces past history.

Shri G. N. Dixit: I will say one thing more. My submission is that too many laws never do good to a country. Laws should be framed and passed to be respected. Two Constitution (Amendment) Bills come before us only for amending the age of the High Court Judges and for their transfers. It does not look nice that we give time for the same thing twice. Previously also the same question was agitated twice. The same article was passed once by the Constitution-makers and was amended later in 1954, coming up before us twice. This question, as was raised by some of my hon. friends of High Court and Supreme Court Judges, should be left at that. An attempt must be made that the High Court Judges remain independent, that their authority is unquestioned and that they do not come under the power of the civil servants. Civil servants to decide the question of age has been agitated by the Calcutta Bar Association and I entirely agree with them. When the question comes up here, this House will debate it, but my submission is that the Law Ministry must see, as

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is the sense of the House and so many hon. speakers have narrated that, because they are the lawyers and they have to safeguard and see that the judiciary is independent, that on account of that it is their job to fight this cause of the independence of the judiciary in the Cabinet and see that nothing should be done to impair that independence of the judiciary. Therefore no such laws or no amendment of the Constitution should be framed which brings down that independence of the judiciary.

Shri A. K. Sen: Mr. Deputy-Speaker, Sir, I am grateful to many of the constructive comments which have come from many quarters from both sides of the House. May I take the minor points first before I come to the major ones?

Mr. Trivedi referred to the election tribunals. I agree with him that election tribunals must do their work expeditiously and I remember, after I took charge of this Ministry in 1957, in consultation with the Chief Election Commissioner, we decided that every election petition must be disposed of within six months and we appointed as many election tribunals as were possible so that the work allotted to each tribunal was the minimum and the work could proceed expeditiously. I must say, the results are very encouraging. In 1957, almost a bulk of the election petitions—and they were in a large number—were disposed of with extraordinary speed. We were lucky in having some exceptional and brilliant judges who set excellent examples of merit, expedition and at the same time of confidence in those who were parties before these tribunals. The same experiment was repeated this time and I must say the results were equally encouraging. The complaints which have come—and one of them was from Mr. Trivedi himself—turned out to be really not due to these tribunals but due to higher courts which had given stay orders on

appeals from interlocutory orders filed by either one party or the other. Therefore, this criticism should really be addressed to the High Courts and in one case, I think, to the Supreme Court where these matters got clogged and would not proceed quickly. I remember, in one or two cases, I had taken up the matter myself and had written to the Chief Justices concerned requesting them—and that is all that you can do—to see that these election matters were not kept hanging for a long time, as indeed in respect of many labour appeals in the Supreme Court sometime back. I have no doubt that excepting a very few cases, election petitions have been disposed of with fair speed and with good results.

Then, he has referred to the location of the Income-tax Appellate tribunals. Well, these locations were decided by the Presidents of the tribunals in consultation with the members having regard to the number of cases pending and being filed every month in a particular area. Some of the places have very heavy filings as also heavy number of cases pending. For instance, Bombay has the heaviest—the number of pending cases is 7372. Next comes Calcutta and next comes Delhi. Then, comes Madras and then Allahabad and so on. In fact, I remember, in one case, that is, Patna, we had abolished the location of the Bench there altogether in 1957 because the number of cases pending came down to such a level that the tribunal had to sit idle for at least two to three months in a year. We shifted the venue from Patna to Calcutta. Later on, there were strong representations to me and I was shown certain figures showing that the number of cases filed before the tribunal in Patna had increased and we shifted the Bench again back to Patna. Though we have not shifted it again, yet the case is one which has been engaging our attention because it seems that the tribunal has not enough work for some part of the year. So, we cannot decide these matters on

territorial basis at all. We have to see that these Benches are located at places where the filings and the pendency would be the highest, and there is no fixity about them as with regard to the High Courts (because under the the Constitution every State must have a High Court), and we change them from time to time, but Bombay, Calcutta and Delhi must necessarily have more Benches than other places, because they have more cases, and the Delhi Bench looks after Punjab and a few of the surrounding areas and Rajasthan also. Therefore, I think that in these matters, instead of trying to define the location, it is best to leave it to the president who fixes the location of these Benches from time to time after taking into account all the facts and, I have no doubt, taking the opinion of the other members.

The next question that was raised was about the All India Bar. I am glad that the All India Bar has now got going. I originally thought that we should be able to inaugurate it before the elections of 1962. My efforts failed, and I must say that after the passing of the Act, we framed the by-laws and everything, and yet, some how or other, they got stuck in the respective States and in the respective Bar Councils, and I must say that our Bar Councils which are autonomous bodies have not shown themselves to be models of expedition either and they have competed with some of our governmental organisations in the matter of proceeding at what we may call fair speed and not break-neck speed.

Dr. L. M. Singhvi: Government set the pace.

Shri A. K. Sen: Therefore, I hope that these autonomous bodies would now proceed more expeditiously in the other matters which may be left outstanding. I have not really kept pace with the further progress of the Bar Council matters, ever since the Bar Council has been set up including an

All India Bar Council. But I have no doubt that we have now fairly established the respective units and it has now got going. I remember that I got many complaints from new entrants to the Bar, particularly in Delhi, and they were telling me that they were not getting the certificates of enrolment because they had not been printed. I thought that that was rather strange, because it would not take much time to get the certificates printed. Anyway, these are matters, I think, which confront us always in the beginning, and I have no doubt that they will be overcome in no time.

Then, Shri Daji referred to the lack of a dynamic movement in the Ministry itself. He said that we should maintain and strengthen the rule of law. I am a very firm believer not only in the maintenance but also in the furtherance of the rule of law, because having been trained in law and having lived in the precincts of law courts all my life, and having dealt with law here too, I am absolutely convinced that one of the greatest merits in our system of government is the free legal system, which it sustains and which in its turn is sustained by the legal system, as also the fearlessness and independence of our courts. Without going into controversial matters, my heart was gladdened the other day when I read in Calcutta, in spite of my bereavement, a report sent from Delhi about the remarks made by a Russian sailor who had possibly won the preliminary contest in a battle for extradition. I do not know what the merits of the case are, nor do I intend saying anything about it. It has been decided by a judge. But when a foreigner said such great things about our judiciary and our legal system, I shared with the entire legal world not only a sense of excitement but a sense of pride in the fact that we have kept alive a true and fearless and independent judiciary which seeks no favour, which shows no favour, and which shows no dislike, and which shows no prejudice against anyone and which treats everyone as a saint. I make

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that remark because that takes me to the next point about Shri Daji's criticism of some action taken by the Finance Ministry about not taking any further steps in regard to the two insurance companies to which he referred. I am afraid I was not very familiar with the facts, and I had sent for the files. I find that what was done was the only thing that could be done. There were certain auditors appointed with regard to two insurance companies on the complaint of some persons, one of whom at least appear to have been dismissed by the company because of certain misbehaviour which has been mentioned also in the auditors' report. The auditors' reports mentioned certain instances of wrong conduct in relation to the affairs of these two companies. When these reports were placed before the Controller of Insurance, he asked for an explanation with regard to these matters from these two insurance companies. At that stage, when the Controller of Insurance was sending out the show-cause notice, as they call it—I am not very fond of this expression 'show cause notice', it is really a legacy of our courts; in any case, whether you term it an explanation or not, it seems the Controller called it a show-cause notice—It was sent to the Law Ministry and settled by the then Law Secretary, Shri Bhandarkar, a very eminent man, for whom I have the greatest respect. He settled the show-cause notice; because the original show-cause notice appeared to be very voluminous, almost as voluminous as the auditors' report itself he summarised it, saying that details should not be given on the show-cause notice—I should have done the same—but should be supplied if the company asked for them. On the show-cause notice, the companies sent their replies and then the Secretary of the Finance Ministry, Shri A. K. Roy—he is now Comptroller and Auditor-General—wrote that in view of the auditors' reports dealing with a mass of details and accounts and the compa-

"Then, Mr. Ballia was degraded. His replies, it seemed the best thing would be, as a temporary arrangement, to appoint two directors, whom he mentioned, having experience in insurance matters. He mentioned the Central Government Solicitor in Calcutta in charge of insurance matters and a retired member of the Tariff Commission who appeared to be also a chartered accountant and who was on the board of management of LIC itself. The two were to become government directors, in the company and to report as to on whose shoulders the responsibility must be fastened, whether the company had located the responsibility, and if so, it has done correctly or not, and whether any further action was needed.

It seems that after these two directors were appointed, they went into the affairs. I find that the member of the board of the LIC and ex-Member of the Tariff Commission wrote a very voluminous report—I have got it here. It is impossible to cover all of it. He has dealt with all these matters. What he mentioned was, that the auditors appear to have made the report without even asking the company for its explanation which, according to this gentleman, was rather odd, because many of the facts turned out to have been not recorded by the auditors when they reported, as it transpired later on from many of the records. For instance, many instances are mentioned: some amounts were recorded as having been lost in the course of transmission through the post office and so on; it transpired that the postal authorities admitted it, and the amounts were later on refunded by the company, as soon as it was detected, to the assured himself. There are various details. It is impossible to go into all of them. But the conclusion of the government appointed directors is given.

He says:

"In respect of the above, the Board of Directors has already taken the following steps. Mr. N. L. Kestri

was retired for inefficiency. Mr. Padam Singh was dismissed."

—He is the gentleman on whose complaint it appears the original auditors were appointed—

"Then, Mr. Ballia was degraded and then retired. The auditors of the company have been changed."

—because it seems the auditors brought it to the notice of the company and the Board of Directors only for the first time some time in 1955, two or three years after some of these things had happened.

"Thus, the management has been completely changed by the Board of Directors. The Board of Directors is responsible for policy-making, and the Board depends on the Managing Director, the Chief Accountant, the other officers and the auditors, and they are all trusted officials, and such officials must be relied upon for the day to day conduct of the business. I, therefore, feel that the responsibility has been located and the persons concerned dealt with properly."

This was the report.

1641 hrs.

[MR. SPEAKER in the Chair]

Notwithstanding this, I find that the Finance Ministry sent the matter to us for opinion as to what further legal steps could be taken on the report of these Government directors, the show-cause notice and the replies and so on. It was sent by the Finance Ministry together with the report of the Government-appointed directors, and one of the Joint Secretaries of the Law Ministry sent it to the Solicitor-General immediately without any comment on it. He only said:

"Learned counsel may kindly see the note of the Department of Finance."

And then he ends up by saying:

"Learned counsel is requested to consider the matter as appearing from the papers mentioned above and advise as early as possible as to what further steps may be taken by Government in this matter."

The Solicitor-General's advice in the two matters are two separate opinions, and it deals with all the items one by one, and it shows how far further action than what had already been taken with regard to these officers was necessary. Ultimately he ends up like this. It is a big opinion, dealing with all the separate items. He says:

"In conclusion, I am of the opinion that the facts and circumstances do not establish a case against the company or its Directors. It now remains to consider the cases of persons mentioned in items (8) and (9) by the auditors themselves. Prof. Dasgupta has mentioned the steps that have been taken by the company. In my opinion, the company has taken appropriate steps. It will not be worthwhile to pursue the matter any further. The issue involved is not of much importance".

This is his opinion after it was sent by the Finance Ministry through us for opinion as to whether any further prosecution or action was necessary.

When this came, it was sent to the Finance Ministry, and the Finance Ministry acted on the advice of these Government directors and the Solicitor-General. I do not see how the hon. Member can find any fault in the procedure which has been adopted in this matter. After all, we cannot be expected to decide all these huge items of all these entries. Two expert directors have gone into it. They found action was taken against five of the responsible officers. The terms of appointment of the Government directors by the Finance Ministry I find are that they were not only to act

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as directors, but also to find out whether the company had located the proper responsibility and had taken proper action and then to report on that. We sent it to the Solicitor-General who reports that this has been properly done, that what action has been taken has been properly done. After that I do not see....

Shri Daji: In the provisions of the Companies Act, the Insurance Act and Foreign Exchange Regulations, criminal prosecution is provided for, Why was it not undertaken?

Shri A. K. Sen: That is exactly what I have tried to explain.

Shri Daji: No criminal prosecution was undertaken. Action against the management was not sufficient.

Shri A. K. Sen: The hon. Member does not expect me to prosecute! It was sent to the Solicitor-General, and he said nothing further could be done. He discussed all the evidence. I do not want to read, because it might be letting down some of the auditors' observations. It seems many of the observations were themselves later on negated by facts. Many of the facts seem to be wrongly recorded by the auditors. Things that you have read out, it seems from the opinion of the Solicitor-General and the other report, are unsubstantiated.... (*Interruptions.*)

Shri Daji: But the auditors were never asked how they came to their findings.

Shri A. K. Sen: They were.

Shri Daji: They were not.

Shri Vasudevan Nair: The *prima facie* case was established. What has the difficulty in having a judicial commission.

Shri A. K. Sen: I am not dealing with it. I have to act on the advice

of competent persons who are employed for it. We cannot take responsibility. I have not gone into this and I cannot say anything more than what I have been able to read during these 20 or 30 minutes. Whatever case comes, we do not examine it; we send it to the proper persons.

Shri Daji: Since you have read from the opinion of the Solicitor-General, the same may be placed on the Table of the House.

Shri A. K. Sen: We are not going to do it; it has already been decided.

Shri Daji: Then it should not have been used. If I am reading from certain records and if I am asked to lay it on the Table on the House, I will place it on the Table of the House. If he has read he should place it on the Table of the House.

Shri A. K. Sen: No, Sir; I am not going to do so. There is privilege even in courts of law... (*Interruptions.*)

Shri Daji: Sir, I claim a ruling. The report from which the hon. Law Minister has been reading should be placed on the Table of the House.

Mr. Speaker: What has been read out is known to the Members. Ordinarily, if something is read out from any document, the Members can demand that the rest of it also should be placed on the Table of the House and that should be placed. But the Minister has this privilege. He may claim that it is not in the public interest to place that document on the Table of the House. If he claims it that is a different thing. Otherwise, if something has been read out from a document, normally it ought to be placed here.

Shri Daji: What could be the public interest in the case of an opinion given by a law officer about the company of a private person, Birla's companies? The Solicitor General

gives an opinion. Where is the public interest involved in it? Except that it is the interest of Shri Birla himself, there is no public interest in it.

Mr. Speaker: That is my difficulty. As the provisions stand at present, it has been left to the Minister to decide.

Shri Daji: Let him say that Birla's interests are public interest.

Shri A. K. Sen: I find that these matters were referred to last year when your predecessor was in office. I find from the records that there was a demand of this kind and the Finance Minister then said that he was not going to place all that containing many secret things. Your predecessor agreed with him and he refused. How can I do so now? These are Finance Ministry's files. He suddenly raises some points without giving me notice and I reply to it. Now, he suddenly asks me to put it one the Table. I have not even had the chance of consulting him. I also know from records that when a similar suggestion was made, the Finance Minister said that he was not going to place it as there are so many secret things.

Shri Daji: What are the secret things?

Shri A. K. Sen: We are not going to disclose. The hon. Member cannot ask me.

Shri Daji: Unless our suspicions... *(Interruptions.)*

Shri A. K. Sen: The hon. Member may harbour the suspicion not withstanding my effort to dispel it.

Shri Daji: To dispel it I want you to place the document; otherwise the suspicion continues.

Shri A. K. Sen: I am replying to that much; I am not concerned with this matter at all. Hon. Member raised it in a very indirect manner

instead of raising it with the Finance Ministry... *(Interruptions.)*

Shri Shivaji Rao S. Deshmukh: Sir, the hon. Minister with all his kindness refers to a particular piece of document, voluntarily, without being pressed by anybody. The constructively at least, the Minister should be deemed to have waived that privilege for not laying the document on the Table of the House. When once that is done nothing remains in the hands of the Minister to refuse to place that document on the Table of the House because it belongs to somebody else's Ministry. He has voluntarily referred to the contents of the document.

Mr. Speaker: The practice followed up to this time is that if a Minister or a Member refers to some document and reads out certain portions, then a demand can be made that the whole of it must be placed on the Table of the House. That demand is justified, but the Ministers of the Government have that privilege: they can claim the privilege that it would not be in the public interest and they do not propose to place it there. They have that privilege. Therefore, I cannot deny them. The Government has to decide it. If one portion is read, then it is not compulsory for the Minister to see that the whole document or the report must be placed on the Table of the House. If the hon. Member can convince me by quoting any other rule, I shall consider.

Shri Shivaji Rao S. Deshmukh (Parbhani): Under the normal law of the land, this must be applied.

Mr. Speaker: We go by the rules. All the laws of the land do not apply.

Shri Shivaji Rao S. Deshmukh: I think that the doctrine of waiver applies here.

Shri Daji: First of all, the Finance Minister said in 1961 that he had not used that document. The question was simply posed, "that the report is

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there and will you place the report on the Table of the House?" He said he would not like to place it. It was in 1961. Then, on the 14th March, he gave a reply that he proceeded with it on the advice of the Law Ministry. Therefore, I raised the question and now, in reply to me, the Law Minister has read out, and having read out, he wants to take cover under the report of the Solicitor-General and say that the Solicitor-General's report actually contradicts the report of the auditor and he wants to take cover behind that. That is the first point.

Secondly, may I point out to you and to the House that upto this minute the Law Minister has not claimed privilege under the plea that it is not in the public interest. He cannot claim it. He knows that he cannot claim it. He has only said that the file belongs to the Finance Minister and therefore he is not placing it. That is no reason. (*Interruption*).

Mr. Speaker: Order, order. I will only read the rule that is there. Then the Members might understand.

Shri Gauri Shankar Kakkar (Fatehpur): The hon. Minister has not claimed that privileges in the beginning. He actually read out portions and based his argument on that. So, that claim of objection cannot be raised.

Mr. Speaker: That does not apply.

Shri A. K. Sen: May I submit that every time I get up, three hon. Members there get up and I was not given a chance to speak half the sentence even.

Mr. Speaker: I was about to read the rules. It does not mean that because he read out a certain portion, the whole privilege has to be waived and that the other portion must be laid on the Table of the House. I

might read rule 368. The hon. Members might also consult it. It says:

"If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table:

That is the first part of the rule. Then:

"Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest:"

Shri Daji: It is Birla's interests. Not public interest. They are not the same as public interest. These are two different things. Let us not rub one with the other—Birla's interest and public interest.

Shri Gauri Shankar Kakkar: The latter portion does not relate to the document. (*Interruption*).

Mr. Speaker: There are the papers. There is the correspondence that has passed on between the Government and the Attorney-General. My one difficulty is that I came in the middle and I do not know what had happened before I arrived here.

Shri A. K. Sen: You were not here then. The whole point was he said it in a most indirect manner. I could have refused to do so, but I did not want to give the impression that we are trying to hedge anyone. This matter was first raised by Shri Daji possibly in a very ingenious way, and I would have objected to it then and there. But I did not want to do so. He said that the advice given to the Law Minister was defective and I explained the facts saying that what has happened is that after the report of the director the matter came up to us for opinion as to what further legal action can be taken. It was

sent to the Solicitor-General whose opinion I said—at the end of it I quoted it—was that in the circumstances no further action can be taken or should be taken. Now, after having said so, he suddenly jumped up and asked that it must be laid on the Table of the House. One thing is to have a demonstrative rally outside the House.

Shri Daji: Sir, on a point of order. I object to that. This is most objectionable.

Mr. Speaker: Order, order. I am going to ask him that this should not be said in that manner. I myself was going to say that.

Shri A. K. Sen: I am entitled to make my own observations, but.

Mr. Speaker: This sort of reflection should not be made—that this is a demonstration or a rally.

Shri A. K. Sen: It has been said so many times. I told the facts that this file belonged to the Finance Minister and I had not even a chance to consult it because no notice was given to me prior to this thing. What I said was that I find from the record that the Finance Minister refused to lay it on the Table previously on the ground that the entire matter relates to many other things—the conduct of some of the auditors and various other things—which are not in public interest to be laid on the Table of the House, because it may again involve many other things. On the top of it, the protest comes that it is not the interest of the public, but the interest of the Birlas, as if we are trying to hide something. Nothing is to be hidden in this House or outside. I strongly protest against this insinuation. The insinuation first came from that side. I said, therefore, according to me those things were loudly proclaimed on the floor of the House just for the purpose of giving the impression outside that they are do-

ing their duty. I am entitled to say so.

Shri Daji: On a point of order.

Mr. Speaker: Maybe, but let him finish his sentence.

Shri A. K. Sen: The hon. Member shouted five times that we are trying to hide the Birlas, more or less challenging the bonafides. I find from the files that last time the Finance Minister refused to place it on the Table of the House. How can I, without consulting him, waive that privilege?

Shri Daji: My only objection was this. I do not want to go into details. I objected when he imputed personal motives of propaganda outside the House. This is something really very personal; it is hitting me below the belt. You were pleased to say that this should not be done, but he has again repeated it.

Mr. Speaker: Later on he did not repeat it; he said that the insinuation had come from this side first.

Shri Daji: What insinuation?

Mr. Speaker: That the Government was hiding something in the interest of Birlas and not in the public interest. That is what he is saying.

Shri Daji: I said, on the face of it the matter relates to two companies of Birlas. If you claim privilege on grounds of public interest, I said, at best it may be Birlas' interests; how is it public interest? I did not make any insinuation against the Minister. But the Minister is making the insinuation that I speak on the floor of the House not for the enlightenment of the House but for outside propaganda. What does it mean? If this sort of reply is to be given, no debate can take place.

Shri A. K. Sen: The language I used was, it may have a demonstrative value outside, but it makes no impression here.

Mr. Speaker: That also implies that what has been said here is in connection with that and with that objective. Now, he may proceed further.

Shri A. K. Sen: I said, in the absence of the Finance Minister, this allegation was made. It was my duty at least to say that there was nothing in that. The reason why the Solicitor-General's report was not placed on the Table of the House on the last occasion was, the Finance Minister thought that it involved so many other things relating to the internal working of the department that it was not in the interest of the public that all these matters should be placed on the Table. It is enough to say for the enlightenment of the House that even after the Director's report was sent to the Solicitor-General, his opinion was that no further action need be taken, and the five persons who were dealt with were properly dealt with and responsibility has been properly located. What is wrong in that? I was very pained when the hon. Member shouted five times that the Government was trying to hide something. I really felt pained at that, I am sorry if I have hurt him, because I never meant to say that he was carrying on propaganda here.

Shri Rajeshwar Patel (Hajipur): I rise on a point of privilege. The Minister said that he wants the House to accept the decisions of the Government on the basis of a report by the Solicitor-General.

Shri A. K. Sen: I did not say so.

Shri Rajeshwar Patel: That is what he is supposed to have said. The privilege involved is that the Minister says that basing his judgment on the findings by the Solicitor General, there is nothing in the matter. We are supposed to accept that. But there are members who have reasons to believe that probably everything is not well. Don't you think, Sir, that it is the privilege of the House to know what is contained in the report of the

Solicitor General and it should be made available to the Members?

Mr. Speaker: I do not think there is any question of privilege that arises here. Government takes up an attitude that it is to be guided by the expert opinion of some persons at least. There was a case. They consulted their experts in that branch of knowledge. The advice that was given to them—of course, they were not bound to disclose it—has been mentioned. They came to a certain conclusion. The Ministers are responsible to the House for whatever they do. If the House does not agree, there are other remedies that the hon. Members might take. But the plea of the hon. Minister is that they have consulted their legal advisers and arrive at a conclusion that there is nothing in this case that they can take up or they can succeed if it is pursued.

17 hrs.

Shri A. K. Sen: May I say, Sir that that was in answer to the hon. Member who openly said that he was demanding an explanation. He quoted an answer of the Finance Minister that the Finance Ministry had taken this action on the advice of the Law Ministry. He wanted to know whose advice it was. He said that he wanted an explanation from us as to under what circumstances that opinion was given. In answer to that, is it not my duty to disclose those facts? Because I disclosed those facts, I am asked to explain something else. There is no question of my asking anyone to accept what is inside that report or anything of that sort. All that I said was in answer to the open demand made for an explanation as to the circumstances under which that advice was given to the Finance Ministry. That was the position, if I remember correctly, because we are not concerned with the merits of the case. He was asking for an enlightenment as to whose opinion it was in the Law Ministry and under what circumstances it was given. I gave him those facts, that it was the opinion of the

Solicitor General, and I also mentioned the circumstances. In fact, I did not know anything till the file came. In future, Sir, if any particular advice is sought to be made the subject matter of a question, I shall be very happy to answer it.

Shri Ansar Harvani: Is he laying it on the Table?

Shri A. K. Sen: It is for the Finance Minister to decide, because it is really a document of the Finance Ministry. As I said, it was really in answer.....

Mr. Speaker: But, there is one difficulty, and the hon. Law Minister would kindly appreciate it. He says that the Finance Minister would decide whether it is to be placed on the Table of the House. But when he uses that file and quotes excerpts from it, then he becomes responsible. He should directly claim the privilege or lay it on the Table of the House, because at this moment at least he has utilised that file and he has read some portions out of it.

Shri A. K. Sen: Even after your ruling, Sir, Shri Ansar Harvani asked: "Is he laying it"?

Mr. Speaker: I have been requesting him to proceed further.

Shri A. K. Sen: I did not hear you, Sir, otherwise I would not have answered it.

The next point is, Shri Daji said that we are undermining the judiciary in some way. I hope nobody does it, because it will be the end of our democracy if the judiciary is undermined and it will serve nobody's purpose if the judiciary is weakened or undermined in any way whatsoever.

Then, he mentioned about a distinguished professor being handcuffed in Calcutta and being paraded. I am very sorry to hear it, because I do not think it is in consonance with the police rules to handcuff anyone and take him to the courts pending his

trial unless he either becomes rough or tries to escape.

Dr. L. M. Singhvi: I submit, Sir, that this is known to be done time and again by various authorities. It may be wrong, but it is done. We only regret that the Law Minister is not aware of it.

Shri A. K. Sen: I am not aware of it. If it is done.....

Dr. L. M. Singhvi: Only a week or two ago it was done in Rajasthan—the President of the DPCC was handcuffed.....

Shri A. K. Sen: The hon. Member's constituency is involved. The only remedy is to inform the superior authorities immediately.

Shri Daji: That can be done only afterwards. A Punjab M.L.A. was handcuffed and paraded. Even the Speaker there objected to it.

Mr. Speaker: There both the hands were handcuffed. The controversy is still going on.

Shri A. K. Sen: If anyone ignores the police and jail regulations and handcuffs a prisoner contrary to the rules, one has to investigate the charge. We do not know what the facts are in a particular case.

Shri Daji: Under the Police Regulations it is left to the person who takes him into custody to decide whether he can take him safely. If the policeman thinks that he cannot safely take him he can handcuff him.

Shri A. K. Sen: Unfortunately, we have to give latitude to the police officers. If a man becomes violent or tries to escape on the way what can the policeman do? Who else can decide it? He cannot report it to somebody else. But the discretion of the policeman in the matter can be inquired into by a superior officer. He will hear the person and decide whether the policeman was rough or not.

Shri K. C. Sharma: The nature of the offence has also something to do with this.

Shri A. K. Sen: As I said, in individual cases, the breaking of the police regulations are bound to occur, and the remedy for it is to inform the superior officers immediately so that proper action may be taken against those persons.

Next I come to delay in trials and the prohibitive costs. I have been one with many of the hon. Members of the Opposition and of this side in feeling that we have not really tackled yet successfully this problem of delay in our courts and the problem of prohibitive costs. The Finance Minister has just gone out. I was just going to make my point in his presence, because he has not fully agreed to legal aid for quite a long time. Now the emergency has come, it is very difficult to expect any financial assistance for legal aid to the poor. In the Western countries I have found, particularly in England, the system of legal aid has been worked out in such a scientific manner that the poor really feels no pinch, because the burden of his cost in law courts, including even divorce applications, would come within the ambit of legal aid. In fact, in England the fees are much more than here. Possibly, it will continue to increase in this country, as the prices increase and the cost of living goes up.

Shri Harish Chandra Mathur (Jalore): What is your estimate of requirements for this scheme?

Shri A. K. Sen: We have not been able to work it out. Unless we start, it is very difficult to say how many people are entitled to such aid. It has to work at least for some time.

Shri Harish Chandra Mathur: What was your demand on the Finance Ministry?

Shri A. K. Sen: The scheme was that in the States 50 per cent of the cost should be subsidised by the Centre and so on. We placed this scheme before the House, but the difficulty is that we have not been able to get going at all due to stringency in our financial resources, and now that the emergency has come, I do not expect things to improve at all. The only way to remedy the evil of prohibitive cost is, I am afraid, legal aid to the poor, because you cannot expect lawyers to work free, nor can we build up a good bar which is a free bar. That is impossible. Because, as I said once, the lawyers can hardly become a community of *sanyasis*. We have to face realities and make the system of legal aid scientific and applicable all over the country.

Mr. Speaker: Shri Sinha says that today the Law Minister appears like a *Sanyasi*.

Shri A. K. Sen: There are occasions when possibly all of us have to become *sanyasis* for a little while.

Mr. Speaker: We do not expect him to take it up that soon.

Shri A. K. Sen: Not he; then we shall be helpless if he leaves us.

Shri Ghosh referred to the appointment of a committee for reporting on Muslim law. He says that it was wrong to refer to the state of laws in other Muslim countries. I do not think there is anything repugnant to our sovereignty or anything which is below our dignity in trying to study the Muslim law as is now functioning in other countries like Egypt and other trans-Muslim countries. We know it for a fact that their population is entirely, or predominantly, Muslim. The old *Shariat* law has suffered many changes to suit modern conditions.

Here, in this country, we are usually very careful in dealing with the minorities, even to the point of being over-tolerant. I think, we should always err on the wrong side when dealing with minorities rather than try to be overzealous in speeding up with our ideals of reform touching the minority communities. It is, therefore, necessary to appoint a committee first of all composed mostly of experts to report on what changes are desirable in the Muslim law applicable to this country, particularly in the field of monogamy, divorce and so on, because they are really meant for the protection of our women. In many Muslim countries divorce has become difficult and monogamy has become the law. There is no reason why this should not be the law with regard to the Muslims in India also. In any event, before we take any decision, we should try to have the opinion of experts. We expect to appoint a majority of Muslims on that Committee, if not wholly.

Shri Yashpal Singh said about our judges' salary being increased and their remuneration and other amenities being made more attractive. I am sure, most of us will agree with him; but when it is a question of finding more money, it is always a difficult proposition, whether it is judges or others. But I am one of those who believe that if we are to have a good and independent judiciary, we must make the employment of judges an attractive proposition so that the best talent from the bar and from the service is attracted to the Bench and we keep them above the minimum wants of life. In expensive cities like Bombay and Calcutta I know that judges who have to pay for their own flats and who do not own houses themselves are in a terrible state. One Judge was telling me that out of Rs. 2,200 and odd that he got, he had to pay more than Rs. 1,000 for his flat in Calcutta.

Shri K. C. Sharma: They should be given free houses.

Shri A. K. Sen: He also told me that the Tribunal which has assessed the rent of the house requisitioned by the Government has increased the rent to above Rs. 1,200 to Rs. 1,300. The poor Judge told me that he would have to leave that house because out of Rs. 2,200 that he got to pay Rs. 1,300 for the flat would be impossible. So, we did recommend some time back and the Government took a decision that in such places the Government should make available houses to our judges at P.W.D. rates so that they do not pay more than what others pay in other areas under the P.W.D. regulations.

Let us hope that the judiciary will continue to attract the best talent from the Bar and that we shall not grudge some extra payments or other amenities and other things to our judges. After all, it is not an expensive thing for a country to spare and we should not be stingy in our dealings with our judges because they not only deal with the vital rights of the ordinary citizens but they have also to decide matters of very great consequence touching the States, the Government, the authorities and many of our most important pieces of social legislation.

The last point that I will take is that of Shri Tyagi, that is, the demand for integration of judicial service all over the country. All the States have voted against integration particularly the services themselves. In the last Law Ministers' Conference held in 1960 at Srinagar, all the State Ministers representing their respective States voted against integration of the judicial services. It was one of the recommendations of the Law Commission, that is, to set up an All-India Judicial Service, like the Indian Administrative Service. In view of the opposition of the State Governments and of the services themselves, it was hardly proper or possible for the Union Government to proceed with any idea of integration particularly when the administration of justice is

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a State subject under the Constitution.

Shri Sinhasan Singh (Gorakhpur): The services also opposed it?

Shri A. K. Sen: Yes, because they thought that in an all-India picture, some of the (Interruption).

Shri Harish Chandra Mathur: Services Conference or what?

Shri A. K. Sen: The services sent representations immediately after the Law Commission made the recommendation. When they knew that the Law Commission's recommendation for integration was under the active consideration of the Law Ministers' Conference they sent memoranda from almost every State, particularly from the smaller States. They thought in States like Assam and Orissa and other places, that people from Kerala and Madras and other places will swarm the judicial services. This is the position. It being a State subject, it is impossible to integrate. These are the points.

Shri Yashpal Singh: Something about court fees.

Shri A. K. Sen: This is again a State subject. The matter was raised in the Law Ministers' Conference held in 1960.

Dr. L. M. Singhvi: What about the institution of parliamentary Ombudsman?

Shri A. K. Sen: I am coming to that. All the State Governments voted against the abolition of court fees because that is such an important item of revenue for the States that they thought that it would be impossible for them to run the courts and the judicial administration without court fees. I am at one with the hon. Members here in thinking that charging of *ad valorem* fees for giving justice to citizens is atrocious. I am personally against court fees being charged from citizens who come for justice. Justice should be a matter of course. Rich are taxed in other way. But when you make justice saleable for a price, it takes away a

good deal of the beauty and dignity of justice as we conceive it to be.

Shri Harish Chandra Mathur: The Law Minister says it is atrocious and he feels strongly about it. Has he moved the Central Government about it? In many cases the Central Government pays sums to States.

Shri A. K. Sen: I am only giving my opinion.

Shri Harish Chandra Mathur: Then that is the Governments' opinion.

Shri A. K. Sen: The State Governments are against it and it is entirely within the province of legislation on court fees. I think that appeal should be addressed to the Finance Minister really. The Finance Minister himself feels that litigation should not be free. We have our own differences of opinion on that. There are many in Government and out of the Government who feel that litigation, if made free, would encourage more litigation. There is that point.

Shri Daji: As the Finance Minister believes in prohibition and sticks fast to it, you also stick fast.

Shri A. K. Sen: I am giving expression very openly because I personally feel that court fees should never be levied and justice should never be purchased.

About the question of parliamentary Ombudsman, this is a new institution of all the Parliamentary democracies. Sweden is the only country which has the system of Ombudsman. New Zealand appears to have borrowed that system very recently. How far it has functioned there, we do not know. In Sweden it seems to have functioned successfully. In point of time, Sweden had this institution first and in the English-speaking world, New Zealand is the only country which has adopted this. None of the other countries having an Anglo-Saxon system of law has adopted the system of Ombudsman. England has definitely set its face against any institution of Ombudsman. They feel that parliamentary control and the force of public opinion are strong enough to control all the excesses of public authority.

Shri Harish Chandra Mathur: I think, they are considering it now.

Shri A. K. Sen: Well, a volume of opinion seems to be against it from what I have appreciated in the course of my talks with leading personalities there. The United Nations Seminar on Human Rights in its coming session in Canberra would be debating this as a subject for this region. This has been discussed in some seminars here; also in the last Third All India Law Ministers' Conference. I do not think it has been considered at any government level up till now. There are difficulties in this country. We have a federal structure and then, as it is, we find that even amongst ourselves, we often suffer from the idia of seclusiveness and exclusiveness which make us rather afraid of anybody else's touch. How far the setting up of any impartial authority like the Ombudsman, unless it has an authority almost like that of the Prime Minister,.....

Dr. L. M. Singhvi: We could recommend it.

Shri A. K. Sen: In this country how far it will be able to succeed, it is very difficult to say. For, he must have a status which would be higher than that of ordinary secretaries to the Ministries.

Dr. L. M. Singhvi: I want to know whether Government are inclined, aware as they are of its implications to consider this matter?

Shri A. K. Sen: That is for the Prime Minister. I can only say what difficulties and what reflections I have in my own mind. About the Government's point of view in this matter. I think that the question should be addressed to the Prime Minister, himself because I cannot answer for this Government on an important matter of policy like this, particularly when Government has not considered this point up till now at the governmental level at all, and we have only heard discussions on this, and we have informally dis-

cussed it. Whether it will be ever discussed in the near future, particularly, during the emergency is a very difficult matter to say, because during the emergency, many extraordinary powers have to be employed, which cannot possibly coexist with the system of Ombudsman. So, there are various points of view to be considered, and all that can be said is that this matter should be kept under consideration. And Parliament may discuss it from time to time. Possibly, a resolution may be moved, a non-official resolution on which possibly it will be answered by the Prime Minister himself; and then, we might carry on thinking on this subject, seeing at the same time how it succeeds in a system of parliamentary democracy like that of England or New Zealand or ours where there is a very strong Parliament and a strong judiciary.....

Dr. L. M. Singhvi: I quoted Lord Denning.

Shri A. K. Sen: Lord Denning has not convinced his own countrymen; he himself told me.

Dr. L. M. Singhvi: That is not the only test by which we can go.

Shri A. K. Sen: As I said, these theoretical discussions really do not carry us very far, because we have to see each facet of governmental organisation and see how the Ombudsman will really make itself effective; it is no good setting up an office unless it has the necessary authority. We have to see whether a constitutional provision should be made or not.

In this country, my own view is that to make it effective, a constitutional provision should be made, as for the office of the Election Commissioner or the office of the Comptroller and Auditor-General. So, there are many things which have to be considered. All that I can say is that from the legal point of view, my view on the legal side of the matter is that we have to amend the Constitution to set up any such office and define its functions and

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possibly even the procedure which it has to follow. Unless the functions are defined it will be difficult for the officer to function. For instance, in the case of the Comptroller and Auditor-General, his functions are defined, so that he knows that with regard to those functions he has the constitutional backing. Otherwise, each time he tries to appropriate a function it may be questioned and it may be stated 'This is not within your purview'.

So, I think that if you really want to set up an effective organisation or authority like the Ombudsman with over-riding powers, and spreading over the entire field of governmental activity, you will have to give him some constitutional position. So, that is the only matter on which I can enlighten the House. With regard to the question of policy, as to whether we are going to adopt such a method or not, it is entirely for the Prime Minister to express the views of the Government on the subject. Government as a whole has not considered it yet.

Before, I take my seat, I want to thank once again the hon. Members for their most constructive suggestions. Shri Daji is not here....

Shri Vasudevan Nair: We are here.

Shri A. K. Sen: I would like to tell him also once again that I meant no personal reflection against him when I made that remark. Possibly, I had worked myself up a little with regard to some of his own remarks, but really no personal reflection was meant. I have no doubt that he was trying to do his best in regard to this matter.

An hon. Member: What about the Official Language (legislative) Commission?

Shri A. K. Sen: I did not specifically want to say anything about the Official Language (Legislative) Com-

mission, because I agree with the hon. Member that we should carry on with speed, but more than that, I cannot say anything. It is all right to say 'Appoint more officers', but we must take into account the fact that we are also at the same time trying to economise now, and there is an overall direction that no new officers should be appointed. I agree with him that if we have to achieve the object of quick translation within the next ten years we have to increase our staff, but then we have other necessities and we shall have to keep them in mind. I for one feel that this work should have been proceeded with expeditiously long ago, and in starting the work only in 1961, We had not proceeded so expeditiously. In fact, when I came and took up the responsibility of this Ministry, there was hardly any work done except that there were one or two translators in the Law Ministry itself. We set up a commission some time in 1961, and we have put a very excellent man as the chairman, who himself is a scholar on the subject.

I am satisfied myself with the work that has been done till now in the course of less than 1½ years. First of all, accommodation had to be secured. There are all sorts of difficulties. For months and months, they were spread out all over the place. Now we have some location. I hope that even with the existing staff, as we find our feet, the work will possibly show a letter volume and output. With regard to the employment of more staff, what can I say? It is really again for the Finance Ministry. All that I can say is that if in the future, a year or two hence, we find that we can increase the work much more effectively by employing a few more competent officers, we shall certainly try to do so.

With regard to the objective, we have no difference of opinion whatsoever, because I do not want to tinker with this problem. I have undertaken

this work which should be done with the utmost expedition and with the greatest amount of sincerity. We are not doing it just to please somebody here or there. We have to develop the Hindi literature of law, Hindi texts of law and Hindi legal translation as quickly as possible and as sincerely as we can.

Dr. L. M. Singhvi: Do Government propose to set up a department or some machinery to study and analyse social legislation in its working and in its implementation in the country. He might briefly say something about it.

Shri A. K. Sen: For that purpose, my view is that an extra governmental organisation is better suited. That is why have been assisting the Law Institute.

Dr. L. M. Singhvi: Not sociological law.

Shri A. K. Sen: It is one of their programmes to carry on research in that...

Dr. L. M. Singhvi: Not so far.

Shri A. K. Sen: ...and suggest legislation with regard to new topics of social laws to meet new needs. It is not easy for any government, far less ours, to enter into the field of research. In every country, government-sponsored, semi-governmental organisations or autonomous organisations carry on research. We have given substantial assistance to the Law Institute. We are trying to develop it as a good institution of legal research, to carry on fundamental researches in law. We are trying to develop in other areas; we have appealed to State Governments also. Unfortunately, the hon. Member forgets that the emphasis today is not on law at all but on more dams, more power, more steel, more factories and so on. We, lawyers, are not a very

popular community at the present moment.

Mr. 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 1964, in respect of the heads of demands entered in the second column thereof against Demands Nos. 75, 76 and 77 relating to the Ministry of Law".

The motion was adopted.

17:29 hours.

MINISTRY OF COMMUNITY DEVELOPMENT AND COOPERATION

Mr. Speaker: The House will now take up discussion and voting on Demand Nos. 6, 7 and 114 relating to the Ministry of Community Development and Co-operation for which 5 hours have been allotted.

DEMAND NO. 6—MINISTRY OF COMMUNITY DEVELOPMENT AND CO-OPERATION

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 26,88,000 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, 1964, in respect of Ministry of Community Development and Co-operation."

DEMAND NO. 7—COMMUNITY DEVELOPMENT PROJECTS, NATIONAL EXTENSION SERVICE AND CO-OPERATION

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 3,62,52,000 be granted to the President, to complete the sum neces-