

12.42 hrs.

PRODUCE CESS BILL*

The Minister of Food, Agriculture, Community Development and Co-operation (Shri C. Subramaniam): I beg to move for leave to introduce a Bill to provide for the imposition of cess on certain produce for the improvement and development of the methods of cultivation and marketing of such produce and for matters connected therewith.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the imposition of cess on certain produce for the improvement and development of the methods of cultivation and marketing of such produce and for matters, connected therewith".

The motion was adopted.

Shri C. Subramaniam: I introduce the Bill.

डा० राम मनोहर लोहिया : (फरेंबा-बाद) : अध्यक्ष महोदय, मेरा विशेषाधिकार का प्रश्न.....

अध्यक्ष महोदय : आर्डर, आर्डर ।

डा० राम मनोहर लोहिया : अध्यक्ष महोदय, विशेषाधिकार का प्रश्न मेरा...

अध्यक्ष महोदय : मैं इस तरीके से इजाजत नहीं देता । जब तक मैं कॅसेट न दूँ मैं इस तरीके से उठाने की इजाजत नहीं दे सकता हूँ ।

डा० राम मनोहर लोहिया : मुझे आप कुछ कहने का तो अधिकार दीजिये ?

Mr. Speaker: No. I have not given him my consent. He cannot raise it.

12.43 hrs.

DEMANDS FOR GRANTS—contd.
MINISTRY OF LAW—contd.

Mr. Speaker: The House will now proceed with the further discussion and voting on the Demands for Grants under the control of the Ministry of Law, Nos. 75 to 77, for which 3 hours have been allotted.

DEMAND NO. 75—MINISTRY OF LAW

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 59,55,000 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 1967 in respect of 'Ministry of Law'."

DEMAND NO. 76—ELECTIONS

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 2,82,53,000 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 1967 in respect of 'Election'."

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

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 39,46,000 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

*Published in Gazette of India Extraordinary, Part II, section 2, dated 1-4-66.

†Introduced with the recommendation of the President.

*Moved with the recommendation of the President.

[Mr. Speaker].

31st day of March 1967 in respect of 'Other Revenue Expenditure of the Ministry of Law'."

Hon. Members desirous of moving cut motions may send their slips to the Table within 15 minutes. Shri U. M. Trivedi to continue his speech.

श्री बागड़ी (हिसार) : मैं एक जानकारी चाहता हूँ ?

अध्यक्ष महोदय : मैंने आप को नहीं बताया है ।

श्री बागड़ी : विज्ञापिका के बारे में मैं तबाल उठाना चाहता हूँ . .

अध्यक्ष महोदय : मैं आप को इंजाउत नहीं देता ।

No Member shall speak unless I recognise him.

श्री बागड़ी : ऐसे तो मुश्किल ही होगा ।

अध्यक्ष महोदय : जी हाँ मैं भी समझता हूँ कि इस तरह से चलने देना मुश्किल होगा ।

Shri U. M. Trivedi (Mandsaur): Mr. Speaker, Sir, the other day when I was called, it was impossible for me to proceed with my speech.

It is unfortunate that the question of the Law Ministry has been relegated to the background. We have now to discuss the smallest of the reports emanating from the various Ministries. If we read this Report of the Law Ministry, in all there are four sections of this Ministry in the Department of Legal Affairs. They are the Litigation Section, the Central Agency Section, the Judicial Section and the Election Section. These are the important sections of this Ministry. But I find that the judicial section has got no judicial approach and has nothing to do with justice in India; Judges of High Court or of the Supreme Court or all those who have got anything to do with justice have nothing to do with the Law Ministry.

It is the Home Ministry which determines the fitness or otherwise of the Judges of the High Courts and the Law Minister, however learned he may be, has no voice in the appointment of the Judges of the High Courts, and it is the Home Minister, however much a layman he may be, who carries that responsibility and duty. It has resulted in this that public prosecutors and the so-called Deputy Government Advocates and Government Advocates are appointed to posts of Judges of the High Court. I think it is high time that we put a step to this. The colour of the ruling party is imparted to Judges and from Judges to expect any judgment of an impartial nature where the litigation is between the subject and the Government becomes a difficult problem. The present Law Minister is an eminent lawyer and has also been a Judge of the High Court. He should see to it that this pernicious system of appointing Government Advocates and Public Prosecutors to the posts of Judges of the High Court ceases.

The same thing is happening about the appointments to the presiding posts of industrial tribunals.

This morning you remember a question was put about the Railway Ministry agreeing to pass orders regarding technical objections in litigation between the Government and the States. Would it not be proper for the Law Ministry also to see to it that technical objections are not raised in defeating the claims, just claims, of subjects where liability in tort, apparent and patent on the face of it, is made out against the Government? It is unfortunate that we could get time to change the foot lb second system into the metric system, pass a special law for coinage, but had no time whatsoever to pass the Government Liability in Tort Bill. A very recent judgment of the Supreme Court has brought to the fore this question of liability in torts. All over India, the citizens are suffering, but the Govern-

ment has not paid any attention to this particular subject.

Similarly, there is no effort whatsoever to codify the civil law for all the citizens of this country. The Government was jealous, or I should call it liberal, reformist, where Hindus were concerned, but is entirely funk of legislation so far as Christians or Mohammedans are concerned. Why? What makes it afraid of making the law? Is a Mohammedan woman not to be respected? Does she not deserve the same sympathy which the Hindu woman did? Is it meet and proper in these days of the twentieth century that the Mohammedan should be allowed to have four wives? Is such a conception to continue in our country?

Shri D. C. Sharma (Gurdaspur): What is the harm?

Shri U. M. Trivedi: Very recently the Christian Marriage Bill was being discussed. It has not yet seen the light of day. Evidence was given to the effect that notwithstanding the fact that they were converted to Christianity, they want to adhere to the customs of the caste from which they had been converted. Such a state of affairs must be mended, and mended soon. I will draw your attention to this government litigation section. Where as in Bombay advice can be given by the branch to one and sundary of the central government so far as litigation is concerned, there is a limitation put upon the advice to be given by Calcutta. How long are we going to be steeped deep in this tradition of red tapism? This must end. Day in and day out complaints have been received and I see with my own eyes sometimes that in cases against the railways, if the case is put on the board whether it is likely to reach in ten days or 30 days, even if the lawyer has got full work otherwise he is paid at the rate of Rs. 50 per day for waiting charge. The second appeal may involve only Rs. 700; yet it will cost the government tremendously. Huge amounts are spent

for writ petitions arising out of service conditions; government does not come to terms; even if the officers know that they have committed a mistake they carry on that litigation. Is it not the duty of the law ministry to see that this sort of burden should not fall unnecessarily on the exchequer.

From the list of translations given at the end I find that the translation section and the official language (Legislative) commission had translated 9 Acts in Tamil and 8 Acts in Malayalam and 5 Acts in Telugu. How is it that they have translated only two Acts, Transfer of property Act and the Indian Contract, into Gujarati whereas all the Acts existed in Gujarati in the Baroda state. This could have easily been published. Yet, why has Gujarati been made to lag behind; it is one of the foremost languages of India with the greatest vocabulary available. I would say that when applying this criteria of translation, the richness of the language and the standards to which it has reached must always be taken into consideration. The fear complex of the southerners crying or the northerners crying should not come in the way and government should discharge its duty without fear or favour.

I would like to refer to the nature of amendments which are being sought to be made to the Representation of people Act. We have the case of Biren Mitra, of Shri Biju Patnaik and some others whom I do not want to name. They have escaped the consequences which ordinarily must follow on grounds of morality and propriety. Why? Because government thought it fit to do away with the provision contained in the first Representation of people Act that if a person was directly or indirectly concerned with any contract with the government, he was disqualified. This word "indirectly" having been removed, the Election Commission now finds it difficult to drive out a Minister or a Chief Minister who makes and declares from housetops that he has made Rs. 25 lakhs in one year or Rs. 16 lakhs in

[Shri U. M. Trivedi]

two years and goes on accumulating wealth. We ought to take a lesson from the United Kingdom also where this provision still remains, and if we want to raise our morals high and keep up our morals as high as the others have done, then the norms and standards require that we should go back to that condition which was there when we first passed the Representation of the People Act.

One word more. It is high time that we did this thing; the hon. Minister of Law must know it, and I am sure he knows it very well. There is no use leaving the decision on election matters in the hands of district judges and one-man tribunals. Many of us have suffered, and suffered tremendously, on account of this one-man tribunal, and all applications made for transfer of such petitions from their file to another, have also not succeeded, because the Election Commission is not a man of a judicial turn of mind. It is, therefore, necessary that the law must be so amended that such tribunals must be from amongst the judges of high courts or from such other persons who have retired from the post of a high court judge if they so agree, because I find that some of the retired judges are now no longer agreeable to become election tribunals; they even hate the very idea of becoming such. But, in any case, some method must be found out whereby persons of integrity, honesty, unchallengeable in that respect,—must be appointed for the determination of these questions.

As the Ministry has now taken up under it the working of the company law, it is very necessary that the Government should also consider this proposition which I reiterate again, that the appointment of the Judges of the high courts must be carried out by the Law Ministry and it may not be left in the hands of the Home Ministry. Very recently, there was an occasion when, on account of the bombing of Jodhpur, it was said that the judges of the Jodhpur High Court suggested that an alternative provision must be

made whereby in the case of any emergency arising they may utilise the place, where they can shift, without any further consideration. This is a question of organisation of a high court. The organisation of the high courts is a subject absolutely within the control of the Central Government. But I am told, and I believe that my information is true, that the Chief Minister of Rajasthan turned down the proposal without consulting the Central Government in this respect. What right has the Chief Minister of Rajasthan, regarding the organisation of a high court? But then, the Chief Ministers are now growing stronger, stronger and stronger, with the net result that the day is not far off when they can even shake off the yoke which appears to be laid upon them by the present Central Government.

Shri H. N. Mukerjee (Calcutta Central): Mr. Speaker, Sir, I am sure my hon. friend the Law Minister will not take it in bad part if I say that after going through the slim, little brochure that he has produced as the report of his Ministry, I recall Shakespeare who being classic cannot be unparliamentary, and who said that the law is an ass. There is between law and vested interests a kind of historic link which at one time made Jack Cade in the British rebellion of the 14th century say, "Let us go and kill all the lawyers," . . .

Mr. Speaker: Not your neighbour;

Shri H. N. Mukerjee: . . . which is perhaps out of place in a country like ours which is supposedly moving towards a socialist society,—

13 hrs.

Mr. Speaker: Shri Hiren Mukerjee did not listen to what I said. I said, "Not your neighbour". You can kill other lawyers.

Shri H. N. Mukerjee: We can laugh at ourselves. Perhaps, that is some assurance of self-confidence.

I remember how Mr. Justice Holmes of the United States of America had

once said that there is an inarticulate major premise behind all legal formulations of the present day which is that property and other allied rights are paramount.

Now, there is a link between law and vested interests and there is no link, as far as I can discover from a perusal of this kind of a report, between the law of our country and the needs of our society let alone the proclaimed objective of socialist pattern of life.

We have reference here to the work of the Law Commission and I have been constrained to find that from year's end to year's end the Law Commission goes on with its activity, preparing digests, examining codes of criminal procedure and so on and so forth, but there is not the remotest hint of a suggestion of a basic reform either in the sphere of substantive law or of procedure—nothing of that sort at all. Even when you come down to palliatives like the provision for legal aid to the poor or the elimination of law's delays, I do not find anything in the report of the Law Ministry to indicate that anything serious is sought to be done. It may be that between the Law Ministry and the Home Ministry certain jurisdictions overlap sometimes to the detriment of the rule of law in this country as my hon. friend, Shri Trivedi, has tried to point out, but we find that even these palliatives are not looked after properly.

I do not quite know what to make of the sudden transference of the Company Law Administration. I am a little uneasy because I fear that our friend, the Law Minister, has rather gentle hands and he may not be able to deal with the kind of people who operate in that sphere in the manner that they deserve without the kind of teeth which his Ministry needs in its apparatus, largely even without the know-how necessary to deal with seasoned operators on the stock exchange and similar areas of unsavoury

activity. I do not quite know how the Law Minister will carry on his activity.

I hear of sales being surreptitiously conducted often implying huge foreign exchange swindles of tea gardens in Assam—I do not see my hon. friend Shri Boroah, over there who knows a lot about it—and of companies as well known as Gillanders Arbuthnot, sometimes even to *benemdars* of big hours interests like the Birlas. This kind of a thing goes on. I will not make any reference to the case which is now before the Supreme Court about the Barium Chemicals concern, but there are notorious incidents like the BI Corporation, Dalmia-Jain Airways and so many other—I am sorry to have to say—rackets about which the Company Law Administration has to come down with a very heavy hand. I do hope that strength is given to the elbow of the Law Minister so that his section which deals with Company Law Administration can perform its job properly.

My hon. friend, Shri Trivedi, has referred to the Election Commission. I am sorry, here again, I am constrained to say that it is not a happy thing that, whatever political life we have got, the Election Commission appears sometimes to get entangled in the ruling party's interest and machinations. No by-elections have been held for quite a long time now and the result is most anomalous and undesirable because it has caused a particularly queer paradoxical situation when the Prime Minister of the country has no seat in this House nor will she have a seat in the House for the duration of this Parliament if the present posture of affairs continues. This is a very bad precedent being created, for a seat in the other House for the Prime Minister is by no means enough. Everybody knows how Lord Home in the United Kingdom had to give up his seat in the other House and his baronetcy or whatever it was before he could become the Prime Minister of his country. And we find

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here that on account of the Government's failure to hold by-elections, which should certainly have been held—there is nothing to prevent in the constituency which is now vacant on account of the death of the late Prime Minister, Lal Bahadur Shastri, in that kind of area there is nothing to prevent a by-election being held and for the Prime Minister to have contested it—but they take shelter behind all kinds of umbrellas and the result is that with the Election Commission's failure to hold by-elections, are not taking place.

Then again, I cannot understand how, if we are having a rule of law, which the Law Ministry has at least some share in trying to implement, there is no representation in the other House, the Rajya Sabha, for Kerala. This is a fraud on democracy and the principle of States' representation in the Union. India, that is Bharat, is a Union of States and in the two Houses the States are represented. The other House, the Rajya Sabha, is a Council of States, and a council of states without the representation of one of the constituent States of the Indian Union is a very lame duck and it cannot operate in the manner that it should as far as its position in the Constitution is concerned.

Again, we discover the Election Commission getting entangled in the politics of the ruling party when the Election Commission seems to have recommended—at least that is what we were told in this House—that in Orissa the elections which were due should be held over. I do not understand it. Five years ago or a little more there was an occasion when some of us had a feeling that on account of the poverty of the people of Orissa and perhaps other regions which prevailed at that time, which I need not recall the elections should have been postponed. But they were not postponed even though Pandit Jawaharlal Nehru himself was there on the scene in those days and the

elections were held because the times were propitious for Congress success in Orissa. Now, only day before yesterday, Shri Kishen Pattanayak referred to starvation deaths in Orissa which the Food Minister could not repudiate. The condition of things in Orissa is going from bad to worse and in the ranks of the ruling party there is seething corruption of a sort—I am not going into the details of that—which needed the corrective of popular elections, particularly at this point of time. But the Election Commission and the Law Ministry between them, goaded on perhaps by the Home Ministry with all its authoritarian tendencies, decided that there should be no elections in Orissa.

I find also that the Election Commission sometimes behaves as if it is not very willing that the ceiling regarding election expenses should be enforced properly. It is throwing out suggestions as if the ceiling is unreal and, therefore, should be given up; that is to say, whoever has the maximum amount of money in his pockets to throw about and try to win over by all kinds of corrupt practices should have the freedom of the election sphere. That is a kind of thing which goes against the grain of any decent democracy. But the Election Commission seems to suggest things which would help the ruling party because the ruling party has got all the money in the world at their command and it is they who really can play this ugly role of making money play a very important role during the elections.

I fear that all this is a cry in the wilderness because we live in a period of, what used to be called, lawless law. When Shri Setalvad, the leading jurist in our country today, used the expression "constitutional dictatorship", I thought, it was a very polite and characteristic euphemism which he employed in order not to have to use that bad, malodorous word "lawless law" which at one

time was current in the political vocabulary of our country. Now there is this lawless law in operation. The Government knows very well that recently all former Chief Justices, whoever is living among them, and leading citizens made an appeal to the Prime Minister asking for the restoration of fundamental rights and the revocation of the emergency. These people, including the Chief Justices of our country, said:—

"The Defence of India Act and Rules, some of the provisions, contravened the provision of articles 14, 21 and 22 of the Constitution. These provisions are unconstitutional and void. Notwithstanding this incontrovertible position, these void provisions have continued to be on the statute book of a free and democratic republic for over three years."

These are not my words, the words of somebody whom you can dismiss as a mere agitator, who has no place in this kind of a forum. But here are words used by Chief Justices of our country who weigh every single syllable of whatever they say. Later they go on to say that glaring abuses have come to light in the operation of these laws which are at bottom unconstitutional. They say:

"It would not in our view be an exaggeration to say if ours was a police state and we had never heard of democracy and the rule of law. Orders passed in such a case would not have been more arbitrary and oppressive than the orders with which we are dealing."

This is the language which they use, which the highest judiciary in our country is using now because this is a kind of condition to which this country has been reduced.

The Law Minister is a very polite and personable kind of individual, but he

gratuitously went to Allahabad some time ago and made a speech defending the continuation of the emergency and all that kind of thing. Maybe, he discovered that he had been shunted into this cabinet, and there is a kind of Cabinet responsibility, and therefore he should go about talking in that kind of way. But, as a former judge, as a person who has been inducted into this Ministry because he is supposed to have imbibed the principles of jurisprudence of the highest sort, he should have thought thrice before landing himself to participation in the game of the kind of politics which Mr. Nanda might very well be playing, but he has no business to have gone to Allahabad and to have talked against the tenor of whatever is being said by all the leading jurists of the country. Mr. Chatterjee is here. He is one of those who are signatories to this particular document. But this is a kind of thing which is taking place. The Law Minister should have some say in regard to the Home Minister, his colleague. The *Shankar's Weekly* wrote only the other day that in his long political life he has never made a joke except in the case of the notorious White Paper on the Left Communists, about which people are laughing, and still they cannot hold their sides because laughter seems to be convulsing them. This is the kind of thing which takes place in this country and the Law Ministry has abdicated its responsibility. It is a pity we have to remind a man like the Law Minister of the *Liversidge Case*. Lord Justice Atkin has said words which everybody who has anything to do with law remembers. He said: "Even in the clash of arms, the laws of England are not silent." This is what he said right in the thick of the Second World War. But our laws are in cold storage. The Law Minister is conducting—I do not know what kind of operation it is—doing something which means nothing at all. The Election Commission is acting arbitrarily in a manner which again is drawing the disapproval of these democratic elements in our

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country. Our laws are in cold storage and this Report is really worth very little, because, nothing is being done either to have a fundamental re-shaping of our laws, or even to see to it that elementary principles of decency which should animate our lives should be maintained. Let not our Law Minister merely tell me that he is passing on the buck to Mr. Nanda. And it is not his cup of tea; Mr. Nanda is having enough. You are a Cabinet functioning together and you should do something to alleviate the kind of agony which he goes through from day to day. Particularly, the Law Minister has special responsibility regarding this kind of constitutional dictatorship which stinks in the nostrils of all decent people; and I do hope that if he puts his weight—he has no axe to grind as far as professional politics is concerned—he will be able to do something in order to act in the spirit which animated Mr. Setalvad. In view of his great record as a jurist, he does not hesitate to say what has got to be said, if it is necessary to call a spade a spade or even bloody shovel; he does it because he thinks it is his duty to do so. And I hope that as far as the Law Ministry is concerned, the hon. Minister would try to do something to bring back some sanity, some sense, some decency in the working of our laws and other apparatus which are under his command.

13.13 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

But I know it is a complicated jungle where all kinds of things are done in the old bureaucratic way, but even so, it is his duty to do a kind of thing which Mr. Setalvad has indicated. That is what I want him to remind himself of.

Mr. Deputy-Speaker: Shri G. N. Dixit.

Shri G. N. Dixit (Etawah): Mr. Deputy-Speaker, Sir . . .

श्री हुक्म चन्द्र कडवाय (देवास) :
उपाध्यक्ष महोदय, मैं एक ब्यक्त्या चाहता हूँ। सदन में गणपूर्ति नहीं है।

Mr. Deputy-Speaker: The bell is being rung—Now, there is quorum. The hon. Member may continue his speech.

Shri G. N. Dixit: Mr. Deputy Speaker, Sir, I rise to support the demand and to oppose all the cut motions. The system of democracy envisages the rule of law; and in my opinion, this department, which deserves to be of sufficient importance, has not been given that importance so far, although the enactment of law and litigation and the Official Languages Commission have been the principal part or the principal task of this Ministry.

Before I come to the other two parts I will like to make one or two small submissions about the Official Languages Commission which, according to me, has not received that importance which it should have received.

Sir, as you are aware, no nation can be built without its language and our constitution-makers thought of a way. They enacted a particular Part, Part XVII, about the Official Language, and in Article 343, sub-rule (1) it is categorically stated that "the official language of the Union shall be Hindi in Devanagari script". It has also been provided therein that there shall be an Official Language Commission and their functions could be found in the subsequent article, Article 344, and onwards. Now it is in consonance with those provisions that we have an Official Language Commission at the moment functioning under this Ministry. My submission is this. On account of so many political considerations this subject has not received that consideration which it should have received.

Sir, I have gone through the speech of our late Prime Minister, Pandit Jawaharlal Nehru who was the principal architect of democracy in this country and I would like to refer to some parts of the speech which he made in the Constituent Assembly about this language question. Well, with your permission, Sir, I will read some parts of it, He said:

"The question before us is a very vital question and it is right that vital people should feel vitally about it."

Then he said:

"A very wise man, the Father of our Nation, thought of this question, as he thought of so many important questions affecting our national future. He paid a great deal of attention to it and throughout his career he went on repeating his advice in regard to it. Now, that showed that, as with other things, he always chose the fundamentals of our national existence. Almost everything he touched, you will remember, was a basic thing, was fundamental thing."

"He put this question on the same high level and looked upon it from the point of view of a step which might either help us to build a powerful and enlightened India or be a disintegrating or weakening factor."

That was the angle from which the Father of Nation looked at this question. Panditji further said:

"Now the first thing Gandhiji taught us was this: that while English is a great language—and I think it is perfectly right to say that English has done us a lot of good and we have learnt much from it and progressed much—nevertheless no nation can become great on the basis of a foreign language. Why? Because a foreign language can never be

the language of the people, for you will have two strata or more—those who live in thought and action of a foreign tongue and those who live in another world. So, he taught us that we must do our work more and more in our own language.

Partly he succeeded in that, only partly, possibly because of the inherent difficulties of the situation. For, it is a fact that in spite of all his teaching and in spite of the efforts of many of the honourable members present who are keen and anxious to push up our own languages, the fact is that we continue to do a great deal of our political and other work in the English language."

In the same speech, he further said:

"The Britishers have gone. Are we going to think of going back in mind, thought and action to that type of culture which once brought us to slavery? Of course, every hon. member will say 'No'. Yet, I say this line of thought is intimately related to what I say. It leads you to that. If you look backward, if you talk in the terms in which some hon. members have talked today and yesterday, I say it inevitably leads to that conclusion . . ."

Then Panditji went on to advocate that we must have our own language and that language has to be the Hindi language. It was as a result of this view of Panditji that these articles were enacted in the Constitution. When the Constitution was enacted, it was envisaged by the Constitution-makers that within a span of 15 years, the Official Language Commission will succeed in giving text-books in Hindi to all the courts in India. But I am sorry to say in no court we've got any books in Hindi which are being used. The result is, now it has become just a technical matter. The Official Languages Commission functions as a technical body, not a body

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whose primary responsibility is to see that at the earliest opportunity Hindi becomes the language of this country. Hindi can become the language of the country only when the district courts start functioning in Hindi, when they have got books written in Hindi in a manner that they can be used by lawyers, and not to be read by a student. Unless you create literature in Hindi which can be used in every district court, High Court and the Supreme Court, there is no hope of Hindi ever becoming the language of the country at any time, because it is the language of the court which is to be the language of the country. Unless you make Hindi the language of the court, you cannot make it the language of the country. I am advocating the cause of Hindi in English so that my friends who are not conversant with Hindi must be persuaded to agree to Hindi, because this is the only way to build up our languages.

Really it is a matter of shame for us that even today in the Supreme Court all the records are in English and not a chit of paper can be read there which is in Hindi, although it has been laid down by the Constitution-makers that grievances of any type can be presented to any authority or court or person in any language of this country. I beseech the hon. Law Minister about whom this House has got very great hopes, because this is something which touches every man's heart in this country; I have great hopes that what has not been done during these 15 years will be done by him and he will hear the voice of the country and, the voice of the Father of the Nation and execute what Panditji wanted, so that the day will come when Hindi shall be the language of the country.

Shri Muthyal Rao (Mahbubnagar): May I request the hon. member to speak in Hindi, because he is a protagonist of Hindi? The Law Minister knows Hindi well.

Shri G. N. Dixit: I am speaking purposefully in English for the benefit of those of my friends who are not conversant with Hindi, so that they may be converted to my point of view. ,

So far as law is concerned, enactment of law is a very difficult thing. It is said nobody in India knows what the law is, whether he is an officer or lawyer or a High Court Judge or Supreme Court Judge. Law has become so complex and complicated and voluminous that nobody knows what the law is. Those who have the onerous duty to execute the law do not know whether a crime has been committed or not. So, the law has to be simplified, so that everybody knows what are the offences and what are the rights and duties. As I said the other day, thrice amendments were made to the Constitution only relating to High Court Judges. But the important matters of the Constitution must be considered; the law must be considered as a whole if you want to revise it.

I want to draw the attention of the Minister that if there is a difference of view between the civil judge and the High Court in a matter, the valuation of which is more than Rs. 20,000, the judgments being at variance, the litigant has got the right as of law to go on appeal to the Supreme Court if there is a question of law involved. But if a man is sentenced to death and the judgment of the lower court is at variance with the judgment of the High Court, there is no right of appeal. When a man's life is involved, there is no right of appeal. I have just pointed out one matter. There are so many like that. The entire matter relating to the Constitution and law needs to be examined. I am sure the Law Minister, who has had the reputation of being a very hard-working lawyer at the top will put into this Ministry all his zeal which he has put into his profession all his life.

Shri Tyagi (Dehra Dun): Law Minister should be proud of his junior!

Shri G. N. Dixit: For that, I will suggest Mr. Tyagi will be very helpful, because what is required is zeal and we know what an amount of zeal Mr. Tyagi has got at this age! Therefore, the entire law and the Constitution needs to be reconsidered and it should be seen as to what is to be done.

With regard to litigation, after all things have to go on principles. Sometime back a circular was circulated amongst Members of Parliament about the principles on which an Attorney-General should be appointed. The citation was from the system obtaining in America and England that only a party man should be appointed. He should be a party man who must go with the government and must come in with the government. If the opposition comes into power, they must have their own men as Attorney-General. I do not know what has happened to those principles which were circulated. Later on the system was given up. The Law Ministry must apply its mind to this point and decide whether it is going to accept what is the practice in England, America and other democratic countries. Matters should not be carried on just because they are to be carried on. Matters must be decided on the basis of certain principles.

A new department has been added on to this Law Ministry, namely, the Company Law Department. I have said twice in this House and I repeat it. As a result of the findings of the Vivian Bose Commission, it was found that public money to the tune of more than Rs. 2 crores has gone into the pockets of the directors. The Home Ministry has prosecuted the offenders. In spite of the report of the Attorney-General of India that it was a weak case, the Home Ministry and its advisers thought it fit that they must be prosecuted. I do not see any reason why the Company Law Department should not act accordingly and file

civil proceedings for the refund of that money to the tune of Rs. 2 crores.

My submission is this and I appeal to the hon. Law Minister to examine this point. Mr. T. T. Krishnamachari who was then the Finance Minister was in charge of the Company Law Administration; he would have gone into the whole thing. I hope you will also look into the matter and see that the right thing is done. Why cannot the Company Law Administration do the same thing? I hope this matter will be examined. I congratulate the Government of India in having such eminent lawyers in the Law Ministry.

Mr. Pathak and Mr. C. R. Pattabi Raman are names which are known to every lawyer and I have great hopes in them that things will be done well indeed.

Shri N. C. Chatterjee (Bardwan): Mr. Deputy Speaker, Sir, twelve years back, I had the privilege to sponsor a suggestion in this House, in the First Lok Sabha, that a Law Commission should be instituted because it was perfectly true that our laws had not been touched or reshaped for fifty years or more. Therefore, Sir, I strongly advocated the appointment of a Law Commission. The then Law Minister, Mr. C. C. Biswas—you know, he was a good lawyer and a former judge of the Calcutta High Court—immediately responded to this and accepted my suggestion on behalf of Government. But, I am sorry to say that even today our hopes have not been fulfilled. The Law Commission has gone on, as my friend was saying, year in and year out, but nothing much has been done. I do not know why. I would request the Law Minister to give a shape to the Law Commission and to see that it functions effectively and properly. Even today, you know, Sir, the old Indian Contract Act is holding the field, because it was drafted by eminent lawyers on the basis of the English Law. But that English law has been completely altered. That is a part of the common law and therefore it could be altered

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by judicial interpretations. Why should we be lagging behind in India? We are still clinging to the old statute. I do not know why nothing has been done as yet. We have got a very good man as the Chairman of the Law Commission. Perhaps he is being saddled with too many duties. He was appointed the Chairman on the De-limitation Commission and now we have given him an important assignment as the head of the Commission to go into the question of oppression of minorities. Possibly that is holding up this work. Therefore, I am appealing to the Law Minister that he should see that the Law Commission functions effectively and properly and our statute book is radically altered and brought into consonance with the latest norms and latest developments in the legal field.

I would like to make another suggestion today. I did not agree at all with what was sought to be done when Mr. Setalvad was retiring, namely, the attempt to combine the two portfolios of Attorney-General and Law Minister. That was quite wrong.

I was one of those who were strongly opposed to it. I am glad that that system was not introduced. My learned friend said just now that that is happening in England. India is not England and we need not blindly follow whatever is being done in England. You know that Lord Reading was the Chief Justice, but before that he was the Attorney General. He had condemned this system. Even Sir John Simon, who was the Attorney General and who also held a portfolio like that of our Law Minister, had stated that this system did not work. I remember, Sir, I had the privilege of arguing an important case. There the Supreme Court accepted my submissions and struck it down.

The Minister of Law (Shri G. S. Pathak): I do not aspire to become Attorney General.

Shri N. C. Chatterjee: All that I was saying was that all we did was perfectly right and proper and the Attorney General could sit in judgment even over the decisions of the Cabinet and give his honest opinion. I can give one illustration. When the Bengal Immunity case was decided and the Supreme Court held that the Act challenged was illegal and *ultra vires*, another statute was sought to be introduced nullifying the judgment of the Supreme Court. I challenged that as illegal. Probably you may remember, Sir, that the then Prime Minister said that he would bring the Attorney General to give his considered opinion. Shri Setalvad came and gave his opinion in this House. We want, therefore, that the Attorney General should give his independent judgment even on the decisions of the Cabinet. That is the type of Attorney General we would like to have in India. Today I am pleading with my non-friend, Shri Pathak, that he should take steps to appoint immediately an all-India Commission for tackling one serious problem which is bringing the whole administration of law and justice into disrepute. There is a scandalous delay in Bengal both in regard to civil and in criminal litigations.

When I left the Calcutta High Court, the Chief Justice told me 'you are going away, Mr. Chatterjee, but, there are 11,000 cases pending on the original side in the high court.' Last January, I had the privilege to preside over the Regional Council Forum of the Bar Association of India which was held in Calcutta on the 29th of January and I put myself in touch with the leaders of the bar. These are the facts which I have collected which I have sent on to the Law Minister. And I think and I hope Mr. Pathak would give his serious thought to this.

Shri G. S. Pathak: I have not got them as yet.

Shri N. C. Chatterjee: Let me first give the facts, I have got the facts from the leaders of the bar of the Calcutta High Court both on the civil side . . .

Shri G. S. Pathak: Will you kindly send them to me because I have not got them as yet?

Shri N. C. Chatterjee: I shall forward them to you. I should give some examples which the House should know.

For an alleged offence committed in the year 1950, trial had not yet been brought to an end till this date i.e., till 28th or 29th January, 1966.'

A group of criminal appeals filed in the High Court of Calcutta in the year 1961 by a persons who was a highly placed government servants have not yet been heard until today and the appellant had to be put in custody for over one year before he could obtain even a bail order from the High Court. I am saying that Calcutta High Court is not peculiar; Calcutta High Court is typical and there are other High Courts where the same thing is happening. In Calcutta High Court so far as I know—I gather from the leaders of the profession and from the leaders of the criminal bar—in the some cases of persons who are in custody since 1962 have not yet been heard. It is a sad state of things both in civil as well as in criminal litigations. What is the good of saying that we have got a wonderful Constitution and we have wonderful administration of law and justice?

I am therefore pleading, let Mr. Pathak who is our Law Minister, on whom we have high hopes, see that there shall be an all-India Commission which will tackle this serious problem and put the house in order. I am quite sure that the entire profession will welcome it and we shall all do our best to give constructive suggestions to that Commission and do our best to eradicate this evil and purge it out of our legal system. Particularly, Sir, after the D.I.R. has

come into operation, practically bail is out of question and that means for days and months, the man is locked up in custody without any bail because there is some reference to D.I.R. This is a horrible thing.

Mr. Mukerjee was passionately pleading that the periphery of the Law Ministry should be extended; I am also pleading very seriously that the authority of the Law Ministry should be windened. I am pleading seriously and I have been all these years in this Parliament that it is totally unfair and we are still suffering from the hangover from the British imperialistic methods. Why don't you place the judiciary under the Law Minister? What is the good of having Mr. Pathak, a distinguish lawyer and an ex-judge of the Allahabad High Court and a man of erudition and calibre, if we do not trust him with the administration of justice? Why do you place it under the Home Ministry? You know that the historical reason was that Sir S. P. Sinha, who later became Lord Sinha, was appointed as a Law Minister and since 1907 an Indian was appointed as a Law Minister. The Britishers would not trust Indians with the responsibility of appointing High Court judges. Therefore, they kept that under Sir William Vicent or some other trusted ICS officers who were invariably Home Ministers. Why should you suffer from that complex in independent India? Why should Shri Nanda or any other Home Minister—I am not talking of any particular person—do that? It is entirely wrong for the Home Minister to do this. The other thing is, if it is placed under an eminent lawyer like Shri Pathak or a Law Minister of his calibre, then the situation would have been different. Not one single suggestion has been accepted, which has been given by the Law Commission with regard to improving the status and prospects of the judiciary in India. Why? The Home Ministry turned it down. Mr. Justice Gajendragadkar, the then Chief Justice of India, convened from time to time conferences of all Chief

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Justices in India. All of them met and made certain suggestions. It may be that certain suggestions are perfectly good. A man like Chief Justice Gajendragadkar and other Chief Justices, all responsible men, would not do anything which would be improper. But all their suggestions have been turned down by the Home Ministry. It is thoroughly disparaging, thoroughly wrong. It should be placed under the Law Minister. I am quite sure, if it had come to man like Shri Pathak he would have considered it favourably. There are some suggestions about travelling allowances, about improvement of conditions with regard to pension and so on. You know, Sir, the salary of judges was fixed years and years ago. That has been reduced to Rs. 3,500 now. How can you possibly maintain standards unless you improve the prospects of the judiciary? This is false economy. You know what has happened in England. They were getting 4,000 and it has been raised to 8,000. Some partes have been made free of income-tax also. In our country we do not do that. Therefore, you do not get the best men from the bar for the purpose of occupying responsible positions in the High Court. Are you going to make it a second-class court or a third-class court? You cannot maintain standards unless you improve the prospects of the judiciary. Therefore, the Law Commission made these recommendations. I think Shri Setalved was the Chairman when this was done. They put forward certain suggestions which were all turned down.

Shri G. S. Pathak: I was a member too.

Shri N. C. Chatterjee: You were a member too. Your suggestion was rejected. Now, I hope you will remember that. I am thankful to Shri Pathak, Sir, for reminding me that he was a member of the Law Commission. Therefore, his recommendations were also turned down. If I

remember correctly, it was a unanimous recommendation of the Law Commission. You cannot raise the judiciary and make it function properly unless you improve their economic side. It is not very much, but still this is only false economy if you do not do that. I am, therefore, pleading for a real extension of the periphery of the authority of the Law Ministry. I am asking for the widening of his horizon and his jurisdiction in India's interest, and am asking for the immediate appointment of a Commission.

Sir, I remember, the day I retired from the Bench of the Calcutta High Court, Dr. B.C. Roy, the then Chief Minister, wrote to me saying that he was appointing a commission for tackling laws delays in the Calcutta High Court. You will be surprised to know that there is a peculiar system prevailing there. Every commercial suit should be finished in six months, every liquidated claim in nine months or one year and any other suit would take three years, four years, five years and so on. It is an un-ending thing. Therefore, that thing happened and it went on. That Law Commission was presided over by Justice Harries. I was a member of that Commission. We made certain recommendations. The result was that the City Civil Court was instituted and there was definite improvement in that State and in the Calcutta High Court. I want Shri Pathak to tackle this problem of laws delays seriously on an all India level and apoint an all-India Commission for this purpose. It is something, some cog in the wheel of administration of justice both civil and criminal, particularly criminal. I want procedural laws to be completely overhauled, and it cannot be done, I regret to say, although I was a strong advocate of Law commission, if it is left only to the Law Commission. It must be tackled, efficiently and properly. I am quite sure if the Law Minister takes interest in it, it can be done.

Sir, some months back I went to the Commonwealth Law Conference held in Sydney in Australia I found one thing. We are very backward—and this is a disgrace for India—in the system of legal aid. What is the good of telling people that we have given ourselves a wonderful Constitution, a liberal Constitution, under which article 14 says that all citizens are equal? That equality is a mere platitude. You know the costs involved. We have got the heaviest, the most costly system of court fees in India. Nowhere in the world does this kind of court fees prevails. In the Calcutta High Court, on the original side, you can file a suit for damages for Rs. 10 lakhs by paying a court fee of Rs. 20. If you have to do that here you have to pay on an *ad valorem* basis. That is the case in any other court in India. Therefore, I am submitting, the thing should be looked into. Legal aid is absolutely essential for the poor, illiterate people. They cannot possibly pay the court fees and they cannot also meet the heavy cost on litigation. Therefore, something should be done. I know, if the Law Minister would kindly enquire, he will find that a Bill was drafted two years back for an all-India system of legal aid on the method, more or less on the model, of other countries. You know, Sir, England has gone very far, and that would have given us some solace and some justification. Otherwise, all equality doctrines will be mere parodies, mere platitudes.

Also, I am pleading for this. Let the Law Minister also look into this demand—not accentuated by any party motive—for the eradication of the present emergency, ending of the present emergency and the restoration of fundamental rights to the people. It is very vital. You find that there is a climate of violence through out the country and that has been accentuated by the frustration caused by this kind of continuance of emergency and deprivation of people's liberty without trial, even without formulation

of charges. I appealed to Shri Nanda saying, at least for Members of Parliament have some kind of a quasi-judicial tribunal consisting of a Supreme Court Judge and somebody else. He said he would consider that. He is still considering it. I hope the Law Minister will take that into account. It is really a matter for the Law Minister and not for the Home Minister of India. It is essential that these fundamental basic rights should not be reduced to a mockery. They should be made real effective rights and the citizens of India should not be deprived of them.

Mr. Deputy-Speaker: Hon. Members may now move the cut motions to the Demands for Grants relating to the Ministry of Law, subject to their being otherwise admissible.

Shri Warior (Trichur): I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to provide legal aid to the poor in all the States. (14)]

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to expedite the elections in Kerala. (15)]

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to expedite the translation of all the Central Acts in the regional languages (16)]

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to supply free voters lists to all the candidates contesting the elections. (17)]

[Shri Warrior]

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to enforce rule regarding maximum election expenditure (18)]

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100."

[Need to dispose of election cases within a period of one year from date of announcement of results. (19)]

Shri K. C. Sharma (Sardhana): Mr. Deputy-Speaker, Sir, in this year, 1966, if we consider the basic factors of life and the impact of law on life. We may say that never before has law played the part in shaping the life of the individuals, the societies, the nations and the world as it is playing today. Therefore, it being the basic foundation of civilised existence, it should be made rational, strong and helpful to all people, all individuals, all living beings.

Sir, I have been a mofussil lawyer. Here I want to relate, with pain and sorrow, a story where, not myself but an Englishman, a district judge wept, not bitterly. What happened was this. Nine persons, many of them young children, were murdered in cold blood in their houses on account of some communal trouble or something of that sort. Not a single man was hanged for that. What is the reason behind it. The story is this, that the rich man can buy the services of the best lawyers. The judges are recruited from the strata of the society who have not learnt to look upon the common man as somebody having the right to live well and respectably. It is not the story only here, in our country; it is also the story in England. Who is the Judge? The corporation lawyer. Who is the corporate lawyer? Who pleads for the vested interests. They have got a society where the feeling

for the common man is doomed for ever. The lawyer, be it of mofussil court, be it of High Court, be it of Supreme Court, the intelligene and the successful lawyer is the lawyer of the corporate body, of the vested interests. He is elevated to the High Court Bench or the Supreme Court Bench. What feeling has he got for the poor peasant? What feeling has he got for the worker? Therefore, the law as it stands, stands for the vested interests. That is the misfortune.

I beg to submit that these Calcutta riots, the Bengal riots or Punjab riots are not riots for partition of Punjab or for lack of food in West Bengal. They are the conflict between the blood—blood of the poor—and the gold—gold of the millions. The gold kills the blood. The vested interest stands against the life and liberty of the child. Because of this administration of justice, the poor child cries: I have no food or clothing. This is the conflict. How long can you solve this conflict by force? How long can you solve it by sending police?

The law provides that every individual should get equal right to justice. But that justice is to be dispensed with by a judge who has a vested interest. That is the tragedy of Indian courts. Compare it with the law in Russia. There the man is considered as a function, as something having life and right to live. Here we have got Macaulay's criminal law, where a man is considered as a machine. Once he fails, break it. We sentence a man for two years' imprisonment just for taking sugarcane from somebody's field or for having taken a few rupees from some body's pocket. What is the result? He becomes a criminal throughout his life. He cannot be employed anywhere. In Russia, on the other hand, the peoples' Judge will call a report from the locality where the man lives and will see

that this man is employed, he is educated, he is made fit to serve the people.

As Banes has observed:

"Law and lawyers are today the most important directive elements in our civilisation. Our technique of production, transportation and communication may be determined and controlled by science and machinery but our institutional life is dominated by law and lawyers . . . Ours is as much a lawyer made civilisation on its institutional side, as the civilisation of Assyria and Rome was a military one and that of Middle Age a religious one."

So, I beg to submit that the entire system of law requires a change. Where does the change lie? Old classical jurisprudence, from which we had derived our principles of law, was what was called juristic statics. Now, in modern age, we require juristic dynamism. That is to say, a man does not exist as a body alone. A man exists as a source of function, energy to develop something. Therefore, he is not to be looked upon as a mere body; he has also a function in life; he requires living conditions, better conditions in a society. Spengler has stated:

"It must be emphasized there with all rigour that 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 things are not bodies but aims, means and creations of these units. The classical relation between bodies was positional, but the relation between force is called action.

For a Roman the slave was a thing which produced new things. A writer like Cicero could never have conceived of "intellectual property, let alone property in a practical notion or in the potentialities of talent for us". On the

contrary, the organizer or inventor or promoter is a generating force which works upon other executive forces by giving direction, aim and means to their action. Both belong to economic life, not as possessor of things but as carriers of energies."

I beg to say that where change is required we should create law institutions, law academies to prepare lawyers and judges. For that legal training is necessary. Intimately connected with it is practical experience in the economic life of the person and exact knowledge of the legal history of the West and ancient India with constant comparison with German, English and Roman development and knowledge of the classical jurisprudence, not as a set of ideal principles of present-day validity but as a brilliant example of how a law can develop, strong and pure, out of the practical life of its time. Roman law has ceased to be our source of principles of eternal validity. But the relation between Roman existence and Roman law ideas gives it a renewed value for us. We can learn from it how we have to build up our law out of our experiences.

I have the support of Harold Laski in demanding that the Ministry of Law should be turned into the Ministry of Justice. He says:

"A Ministry of Justice is an urgent requirement with adequate facilities for clinical research into the law. It should not be staffed wholly by lawyers, and it should have the same facilities 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."

[Shri K. C. Sharma]

Here is another suggestion:

"It should be an obligation of the judiciary to report upon the experience they have of the law as it works, and to make proposals for its continuous amendment. Though there is institutional provision for this in our system, it has practically remained unoperative."

I will not take much of the time of the House. I again emphasize that here we stand in a paradoxical situation, where one of the greatest men of the century, about whom a Minister has said "like him one is born in five hundred years", Cane gave us this Constitution. He lived for the common man, he worked for the common man and he died for the common man; and, yet, in his own land the common man cannot claim equal justice before the law. He cannot have the services of lawyers. He is not able to produce even the evidence in his support. I have got practical experience of how the poor people fare and I feel sad for it. I think Shri Pathak will do his best. He is capable of doing it provided he puts in his best effort.

With these remarks, I support the Demands.

14 hrs.

श्री विश्वनाथ पाण्डेय (सलेमपुर) :
उपाध्यक्ष महोदय, मैं आप का बहुत आभारी हूँ कि आप ने मुझे विधि मंत्रालय की मांगों के बारे में बोलने का अवसर दिया।

माननीय मंत्री, श्री पाठक, एक बड़े पुरिस्ट, विद्वान और पंडित हैं। मैं उन को धन्यवाद और बधाई देता हूँ कि यह विधि मंत्रालय उन के हाथ में सुपुर्द किया गया है। कम्पनी ला एडमिनिस्ट्रेशन, कम्पनी प्रफेयर्स

को इस मंत्रालय के सुपुर्द कर के एक मुनासिब काम किया गया है। मैं सरकार से यह आग्रह करूँगा कि चूंकि जजों का सम्बन्ध कानून से रहता है, जो कि इस मंत्रालय के अन्तर्गत आता है, इसलिए जजों की नियुक्ति का विषय भी इस मंत्रालय के अधीन आ जाना चाहिए।

{ यद्यपि हमारा एक जनतांत्रिक और समाजवादी देश है, लेकिन इस देश में न्याय अभी तक सस्ता, सुगम और सरल नहीं हुआ है। मैं चाहता हूँ कि मंत्री महोदय के होते हुए देश में सस्ते, सुगम और सरल न्याय की व्यवस्था की जाये। जिस तरह रूस में पीपल्स कोर्ट्स, जनता की अदालतें हैं, उसी तरह की अदालतों की नियुक्ति यहां भी होनी चाहिए।

हमारे देश में अदालतें तीन तरह की हैं—माल विभाग, फौजदारी विभाग और दीवानी विभाग। हमारे यहां जाब्ता दीवानी और जाब्ता फौजदारी, ताजीराते हिन्द, बहुत पहले के बने हुए हैं और इस लिए उन में आमूल परिवर्तन करने की आवश्यकता है। जब तक उन में देश की वर्तमान परिस्थितियों के अनुसार क्रान्तिकारी परिवर्तन नहीं किया जायेगा, तब तक लोगों को मुनासिब न्याय नहीं मिल सकता है।

जाब्ता, फौजदारी की दफा 109 के अधीन बहुत से साधारण, गरीब और बेगुनाह लोगों को शुबहे में पकड़ लिया जाता है। मैं चाहता हूँ कि या तो जाब्ता फौजदारी में से यह दफा निकाल दी जाये, या इस में ऐसी तरमीम की जाये कि इस के अधीन बेगुनाह और निर्धन लोग न फंसाए जायें और उन पर मुकदमा न चलाया जाये।

आज हमारे देश में मुकदमेबाजी करना केवल बहुत ही धनवानों का काम है। यदि आज कोई व्यक्ति अपने मुकदमे में पाठक जी, चटर्जी साहब या दीक्षित साहब जैसे लोगों को रखना चाहे, तो मैं समझता हूँ कि

वह व्यक्ति निर्धन हो जायेगा। ऐसे लोगों की इतनी फीस है और वे लोग इतना पाने के योग्य हैं कि जो व्यक्ति उन को रखना चाहेगा, वह निर्धन हो जायेगा। आज निर्धन आदिमियों की यह हिम्मत नहीं है कि वे ऐसे लोगों को अपना वकील करे।

श्री दीक्षित ने हिन्दी के बारे में कहा है। मैं मंत्री महोदय से यह निवेदन करना चाहता हूँ कि जब तक यह बड़े बड़े वकीलों का तबका सुप्रीम कोर्ट में हिन्दी में बहस नहीं करेगा, तब तक सुप्रीम कोर्ट में यही हालत रहेगी कि निर्णय कभी भी हिन्दी में नहीं लिखे जायेंगे। इन लोगों में हिन्दी का इस्तेमाल करने की हिम्मत होनी चाहिए। यह कोई जवाब नहीं है कि कोई अंग्रेजी में इसलिए बोलता है कि अंग्रेजी समझने वाले उस की बात को समझ सकें। इस हाउस में ही अधिकतर सदस्य हिन्दी और अंग्रेजी दोनों के जानकार हैं। जब तक विशेषज्ञ लोग अदालतों में हिन्दी में अपने विचार प्रकट नहीं करेंगे, तब तक हिन्दी प्रचलित नहीं हो सकती है।

इस मंत्रालय का यह काम है कि वह कानून की बड़ी बड़ी किताबों का राजभाषा हिन्दी और प्रादेशिक भाषाओं में अनुवाद कराने की व्यवस्था करे। मुझे बड़े अफसोस के साथ कहना पड़ता है कि अभी भी जज महोदय अदालतों में अपने निर्णय अंग्रेजी में देते हैं। उन को चाहिए कि वे हिन्दी या प्रादेशिक भाषाओं का इस्तेमाल करें। जब तक कानून में इस तरह की व्यवस्था नहीं की जायेगी, तब तक हिन्दी का पनपना बड़ा मुश्किल है।

आज हमारे देश में इंजीनियरिंग और मेडिकल आदि के लिए अंग्रेज-इंडिया सर्विसिज बनी हुई है। मैं समझता हूँ कि न्याय के सम्बन्ध में एक अंग्रेज-इंडिया जूडिशियल सर्विस की भी बहुत आवश्यकता है।

इस अदन में कार्यपालिका और न्याय-पालिका के पृथक्करण की कई बार चर्चा हो

चुकी है। कुछ प्रान्तों में यह पृथक्करण हुआ है। मैं मंत्री महोदय का ध्यान उत्तर प्रदेश के सम्बन्ध में दिलाना चाहता हूँ। मैं समझता हूँ कि इस तरह के पृथक्करण से कोई लाभ नहीं है, जिस में न्यायपालिका का बहुत सा काम, उस के बहुत से अधिकारों का प्रयोग, कलेक्टर और कमिश्नर के माध्यम से और उनकी निगरानी में होता है। मैं ऐसा पृथक्करण चाहता हूँ कि जिस तरह मुनिसिफ और जिला जज हाई कोर्ट से सम्बन्धित होते हैं, उसी तरह माल अदालतों और क्रिमिनल कोर्ट्स के जूडिशियल आफिसर्स का सम्बन्ध भी अगर हाई कोर्ट के जजों से हो जाये, तो उत्तम न्याय मिल सकता है और मुकदमा भी सरल हो सकता है और उस का फ़ैसला भी अच्छे तरीके से हो सकता है। सिर्फ यह कह देने से काम नहीं चलने वाला है कि जूडिशरी और एक्सिक््यूटिव अलग हो गए हैं, बल्कि इस के सम्बन्ध में पुनर्विचार करना चाहिए।

हमारे संविधान ने लोगों को मौलिक अधिकार दिया हुआ है कि वे अदालतों में रिट दाखिल कर सकते हैं, जिस के अनुसार हाई कोर्ट्स में रिट दाखिल किये जाते हैं। हम देखते हैं कि और मुकदमों का फ़ैसला तो देर से होता ही है, लेकिन रिट्स के फ़ैसले में भी बहुत समय लग जाता है और लोगों को थोड़े समय में न्याय नहीं मिल पाता है। सरकार ने अदालतों की संख्या बढ़ाई है और जजों की संख्या भी बढ़ाती जा रही है, जिस की आवश्यकता भी है। लेकिन सरकार को इस बात की तरफ़ भी ध्यान देना चाहिए कि मुकदमों का फ़ैसला थोड़े समय में हो और लोगों को न्याय मिले।

हमारे देश में शरीबों की तादाद अधिक है। मैं आप्रह कर्ना कि इस अनकल्याणकारी राज्य में, प्रजातांत्रिक राज्य में, शरीबों को न्याय निःशुल्क मिलना चाहिए। उन को मदद देने के लिए सरकार की तरफ़ से एक संस्था होनी चाहिए। चूंकि उन लोगों के पास अपना वकील करने के लिए पैसा नहीं होता है, इसलिए

[श्री विश्वनाथ पाण्डेय]

ऐसी व्यवस्था होनी चाहिए कि वे लोग सीधे उस संस्था के पास जायें और उन्हें उस संस्था के माध्यम से अदालत में कानून के विद्वानों के द्वारा अपना पक्ष रखने का अवसर दिया जाये ।

उत्तर प्रदेश में एडवोकेट की सनद लेने के लिए पहले 250 रुपये की फीस निश्चित थी, लेकिन अब उस के लिए 750 रुपये देना पड़ रहा है । प्रश्न यह है कि जब और प्रान्तों में 250 रुपये में यह सनद मिल जाती है, तो फिर उत्तर प्रदेश में इसके लिए 750 रुपये क्यों देने पड़ें । मंत्री महोदय को इस तरफ भी ध्यान देना चाहिए ।

उत्तर प्रदेश की सरकार ने कोर्ट फीस बढ़ा दी है । मैं मंत्री महोदय से निवेदन करना चाहता हूँ कि उन को इस बारे में हस्तक्षेप करना चाहिए । मैं समझता हूँ कि इस के सम्बन्ध में हाई कोर्ट या सुप्रीम कोर्ट में कोई मुकदमा है, लेकिन उस मुकदमे से मुझे कोई मतलब नहीं है । मंत्री महोदय स्वयं विद्वान और पंडित हैं । यह आवश्यक है कि उत्तर प्रदेश में कोर्ट फीस को घटाया जाये ।

श्री दीक्षित ने संविधान के आर्टिकल 134 का खिन्न किया है । अगर किसी दीवानी के मुकदमे का मूल्यांकन, वैल्युएशन, बीस हजार रुपये का है, तो हाई कोर्ट के फ्रंसले के खिलाफ सीधे अपील की जा सकती है । लेकिन अगर हाई कोर्ट ने किसी केस में मृत्यु दंड दिया है, तो जब तक हाई कोर्ट आर्टिकल 134(1) (सी) के अन्तर्गत परमिशन नहीं देता है, तब तक उस के बारे में अपील दाखिल नहीं हो सकती है । मैं निवेदन करना चाहता हूँ कि एक तरफ तो यह आवाज उठ रही है कि मृत्यु-दंड की सजा ही न दी जाये और दूसरी तरफ अगर मृत्यु-दंड की सजा हो, तो संविधान के अनुसार हाई कोर्ट की परमिशन के बगैर अपील नहीं की जा सकती है । मैं निवेदन करना चाहता हूँ कि इस असमानता को हटाया जाये ।

आखिर एक आदमी का जीवन बीस हजार रुपये से अधिक है । इस लिए मंत्री महोदय इस बारे में विचार करें ।

देवरिया के डिस्ट्रिक्ट जज को अपील और दूसरे मामलों के सम्बन्ध में वे अधिकार नहीं मिले हुए हैं, जो कि गोरखपुर के जिला जज को मिले हुए हैं । मैं निवेदन करना चाहता हूँ कि पहले गोरखपुर और देवरिया एक जिला थे । उन दोनों का बंटवारा हुआ और दोनों अलग अलग हो गए । इसलिए यह आवश्यक है कि जितने अधिकार जिला जज, गोरखपुर, को प्राप्त हैं, जो कि अपील सुनने और दूसरे मामलों के सम्बन्ध में हैं, वही अधिकार देवरिया के जिला जज को भी प्राप्त होने चाहिए और उन्हें भी हर तरह की अपील सुनने का अधिकार प्राप्त होना चाहिए ।

उपाध्यक्ष महोदय : यह सब आपकी विधान सभा के अधिकार में है ।

श्री विश्वनाथ पाण्डेय : यू० पी० वालों के हाथ में नहीं है, यह डिस्ट्रिक्ट जजेज का मामला है ।

इस के साथ साथ मैं यह भी कहना चाहता हूँ कि मंहगाई अपनी चरम सीमा पर है । उसका असर हमारे जो हाई-कोर्ट के जजेज हैं, उन पर भी पड़ता है, डिस्ट्रिक्ट कोर्ट के जजेज पर भी पड़ता है । उसको देखते हुए उनकी भी सुख-सुविधा की तरफ ध्यान दें, जिससे कि न्याय की सहूलियत मिले ।

इन शब्दों के साथ मैं इस मंत्रालय का जो अनुदान सदन के सामने प्रस्तुत किया गया है, उसका समर्थन करता हूँ ।

Shri Krishnapal Singh (Jalesar): Mr. Deputy-Speaker, Sir, it is somewhat presumptuous on my part to speak on these demands. I am not a lawyer and I have never been much of a litigant. But what I want to do is to place before the Ministry the plight of the common man.

It is very difficult for Ministers or those who are enjoying a protected existence to realise the plight of the ordinary man these days. It will not be an exaggeration to say that an ordinary citizen of our country these days lives in a feeling of terror either on account of the criminals or on account of the tyrannies perpetrated by the officials. What I want to suggest is that the Law Ministry which is responsible for advising the Government on legal matters should think and consider some effective means of giving protection to the terror-stricken citizens.

The House has been agitated for the last two days over what has happened in Jagdalpur which reminds us of the Jallianwala Bagh tragedy in very unfortunate days. The fact that such a thing should have taken place under our own Government is extremely unfortunate. Members have suggested here that we should enlarge the commission of enquiry which has been appointed by the Madhya Pradesh Government. I feel that it will certainly improve matters but I am very much doubtful whether even a Supreme Court Judge will be successful in bringing all the people to book who were responsible for that unfortunate tragedy. The reason is this. As is known to hon. Members of this House, the entire town, must have been besieged by armed police. They had sufficient time to do away with most of the evidence.

Mr. Deputy-Speaker: The matter is *sub judice*.

Shri Krishnapal Singh: I will not say a word about it.

I am only attacking the system. The police and the executive are so powerful that the citizen has no chance of getting justice.

I may here give a minor instance. I will not go to these major incidents of which we have had so many in Bengal, in Kerala and in U.P. in the Banaras Hindu University and the Punjab

where complaints have been made about the excesses committed by the police. The other day, when the hon. Minister for Education felt surprised at Mr. Chatterjee's lack of confidence in the High Court Judge, I was reminded of the remark made by another High Court Judge, I mean Justice Mulla, about our police force. Now, I ask: Do the Government attach less importance to the remark of that Judge of the High Court? What have they done to improve the conditions? I venture to say that things have deteriorated and they are deteriorating everyday.

Last year, there was a poor rickshaw puller living in my neighbourhood. He quarreled with another family in the neighbourhood who were friends of some police constable. That family complained against this poor man and, the police registered a case of theft in his house. A *lota* and a torn *dhoti* or something else were discovered in the house of the rickshaw puller, and he was arrested. I sent one of my men to plead before the kotwal sahib to let him free and to take legal steps. That poor man was being beaten and maltreated. I may say, that is an everyday occurrence. The police officer, instead of explaining that it was not possible for him to do that, threatened to prosecute my man. Fortunately, he ran back to me. Somehow or other the poor-rickshaw puller was challaned. I am describing what the system is, A bail was arranged and the police started getting hold of the sureties and they actually persuaded the sureties to withdraw with the result that the poor man was again about to be locked up. With great difficulty, other sureties were found and later on he was acquitted. That is what happens. The poor rickshaw puller had to sell his belongings and it was with great difficulty that he was able to secure an acquittal.

Then, last week, when I went to my place, I was told about another incident. A *dhobi* came and he said:

[Shri Krishnapal Singh]

पुलिस ने मारा । I asked: क्यों मारा ? Then, he said that two constables were drinking at a liquor shop and he had a shop there. Somehow or other, it is just possible that he said something which annoyed them. Fortunately for him—it later on turned out to be a misfortune—one of the sepoys of the army who had just come to Mathura was standing there and he intervened and told the policemen not to beat this poor man without any reason. The policemen were intoxicated with liquor and power and so they turned towards the sepoy and beat him. He was all alone. He had returned from Pakistan and he was not in a mood to take all this lying down. So, he called his other companions and they thrashed the police constables and took them to the kotwali where the kotwal apologised to the army personnel and the matter was hushed up. The Dhobi is still afraid that the police will persecute him and they may do.

I ask: What is the poor man in the circumstances to do? What protection is being assured to him? These are matters of daily occurrence. Take, for example, the crimes. I said that the people are living in terror. In my own district Etah, a chshier who was carrying over a lakh of rupees belonging to Lover Brothers was killed and the money taken away and so far the culprit has not been traced. After a few days, 16 men were shot down by a gang of dacoits. Then, I read in the papers that two of the constables were shot down and their rifles taken away. These are the happenings which occur everyday. The common man is either living in terror of the criminals or of the local officials. How is the Government to protect him. When Justice Mulla passed that remark, we were hoping that the Government will enact certain measures which will give adequate protection to the ordinary man. Nothing has been done and I can assure the hon. Minister that things are getting from bad to worse. When the Defence estimates were under discussion,

I was tempted to suggest after having heard of this incident in which a dhobi was beaten, that it was time that we sought the intervention, just as we seek the protection of the Armed Forces in dealing with civil disturbances, of the Army in protecting the ordinary man. The civil authorities have completely failed to give him the much-needed protection. What can even the best of judges do? After all, they will have to decide cases on the evidence which is brought before them and it is not possible for an ordinary man, for a poor man, to get all the evidence and give it to the court and to incur all the expenditure on defending himself. The Government can afford to have very good lawyers. But how can a poor man, who wants to go to the court, engage a good lawyer? Even if he sells all his belongings, he will not be able to engage a good lawyer. This is the first point that I was going to make. Much has been said about the cost of litigation; that is an important point. I will not dilate upon it.

I will now come to the elections straightway. As we all know, elections are costly. A candidate who has not got much money or whose Party is not very rich cannot afford to fight elections properly. I suggest that something should be done to reduce the cost of elections. I understand that the Election Commission has also made certain recommendations on the subject.

Then I come to a very important matter, i.e., the sanctity of the ballot box. Under the conditions in which elections have been held during the last few years, I venture to say that the sanctity of the ballot box has not been preserved. It is a matter of shame that some of the candidates have to send some one to sleep in the offices where the ballot boxes are stored. There have been quite a number of allegations about the boxes being tampered with; I think in U.P. some one gave a demonstration that one of the ballot boxes was tampered with by removing the bottom without opening the lock and

breaking the seal. This is the type of elections that we are going to hold, and we swear by democracy. I say that it is the greatest hypocrisy which is being enacted these days.

Then a word about the ballot papers. Ballot papers are, it is alleged, tampered with. What is the way to prevent this? My suggestion is that, first of all, the ballot papers should be printed in the security press and not in the ordinary press. The second thing is that a proper account or a sort of return should be prepared by the Presiding Officer at every polling station and should be given to the polling agent of every candidate so that he is sure as to how many ballot papers were brought to the polling station, how many votes were cast for every candidate and what is the balance of unused ballot papers.

I thank you very much, Sir. I had to say a little more, but since the time is limited, I conclude here.

Shri Khadilkar (Khed.) [The Ministry of Law, if I may say so, represents His Majesty of Law in this House. Though it is supposed to discharge many functions like legal advice, legal drafting, law reforms and legal profession, unfortunately this Majesty has been crippled in practice. In the modern world, particularly in the modern States, the Ministry of Law is the Ministry of Justice and it is considered as the custodian of the common man's rights and privileges. Here judges are appointed by the Home Ministry and the tribunals are appointed by the administrative Ministries and the Law Ministry has no control over them.] So, in stature, at the present juncture the Law Ministry stands as a body doing a sort of an advisory function and has become more or less an advisory and a drafting body. Would it be proper at this juncture to keep this stature of the Law Ministry? Who occupies the position of the Law Minister? He is an eminent judge, a successful lawyer and all that. But at this juncture, in my opinion, when a

certain uneasiness is prevailing all round, it is not simply a successful lawyer or a former judge who will be capable of understanding the present dynamics—I call them as social dynamics—and giving a direction in legislation to this House and and in implementation to the judiciary. The so-called establishment stands today on the present legal system. On one side it supports the law which is essentially a conservative thing and on the other side the dynamics of social change is clearly visible. There is a big widening gulf. As a former Supreme Court Judge of the U.S.A. observed on the question of qualifications of a judge, the first qualification is his philosophy. I expect the same thing from the Law Minister. What is his philosophy and social outlook will determine the functions that he discharges and certain attempts that he makes to bridge this widening gulf; otherwise, I am afraid in this country we will be faced with a very grave situation. If I were to come to some concrete things, we had a Law Commission and our eminent jurist Mr. Setalvad was its Chairman. He made certain recommendations regarding the administration of justice. What has happened today? There is delay and there is also the costliness of justice. It has been made very prohibitive; it has become a luxury of the rich. We say that he is a successful lawyer, he will build a fortune for himself; but the common man finds it difficult to enter the portals of any court unless he has means and even if he has means, there is the question of delay. Delayed justice is denied justice and I would ask the Law Minister to take certain steps immediately to rectify the present situation. It has become almost a chronic thing. I do not want to quote. Mr. N. C. Chatterjee quoted some figures from Calcutta High Court. I know some figures from the Bombay High Court. He will have to look to this aspect of the problem.

Then I will come to the other important aspect, i.e., the administrative

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tribunals. In this country at various levels tribunals are appointed by the administrative Ministries—labour tribunal, revenue tribunal and what not. It is a jungle of tribunals and really this problem is before the Government for a very long time. The Proliferation of administrative adjudication, in my opinion, has completely undermined the faith of the common man in justice. The hon. Minister must bear this in mind. In other countries certain steps have been taken. Even a most conservative country like Britain has taken certain steps and I would like to read out a few things. Before the Frank Commission's report was out, on this a 26-man committee was there; I am quoting from the article of the *Hindustan Times*, very eminently written, advocating the constitution of the tribunals and the setting up of a committee to provide for procedures—because this suggestion has been made by the special consultative committee set up by the Home Ministry. A very graphic description has been given in that article wherein it has been pointed out that this committee of 26 eminent lawyers made a report in which it has been stated:

"There is a growing feeling that the citizen was no longer having the protection of an objective law from the capricious exercise of arbitrary power by an executive officer enjoying a very wide grant of discretionary powers."

Unless something is done to improve the situation, things would become very difficult. Another eminent lawyer has written a monumental book on this subject called *The New Despotism*. I am sure the hon. Law Minister knows it very well.

Shri G. S. Pathak: It is by Lord Hewart.

Shri Khadilkar: In his scathing criticism he has said 'We are today talking of lawlessness. But what about the administrative lawlessness?

He has used the phrase 'administrative lawlessness'. Therefore, I would like to know how the hon. Minister is going to meet the situation in the present circumstances. I am afraid the Government is evading the issue. Therefore, I would humbly plead with him that the time has come when some measures must be taken. It is no use pleading that the Morarji Desai Commission is going to examine the administrative system or the administrative mechanism. This is not the fault of the mechanism but it arises out of the functioning of the administrative mechanism. I wish that the hon. Minister would devise some system of administrative tribunals on the basis of the Oliver Frank Committee's report; this report has been accepted in that country and they have set the things right there; it was a most conservative country which had always resisted the constitution of administrative tribunals, but they have accepted it now. In the new set-up of administration, this has become a necessity. I would plead with the hon. Minister that some immediate steps should be taken to restore at least some faith in the mind of the common man in justice. At present, firstly, there is delay, secondly the cost is high, and thirdly, there are vagaries in the administrative courts, and the common man is absolutely at sea and he does not know where to go. This is the position in the country, and, therefore, I would plead with him that he should take some steps and justify that he has come here not because he is an eminent lawyer or because he has been a former judge—there has been so many eminent lawyers in this country—but because of his philosophy. I would judge him by the philosophy with which he is imbued and how he is translating it in his social outlook and in his policies. That is very important at this juncture, if he wants to save this country from the growing unrest which is likely to result in a type of a chaos, if I may forewarn the Government about it.

The department of legal advice is now a centralised Department. That being so, why should my hon. friend permit every administrative Ministry to set up a legal department of its own? I would also like to know whether in a foreign country like America where we have several deals, we have any legal department at all. I do not know whether there is any; to my knowledge, there is none. It is not time that the law authorities, or His Majesty of Law at least asserts in this field and centralises the thing so far as the litigation part and the drafting part are concerned whether in India or outside? I would say that it is too late already. Therefore, I would urge that he should take suitable steps and ask the administrative Ministries, if they want legal advice, to approach his Ministry; he can delegate some competent person from his Department for giving advice or for carrying on litigation. This is another reform which is called for.

Now, the company law administration has come under the jurisdiction of the Law Minister. Of course, he has taken charge of it only very recently and it is proper that it is under his jurisdiction. But I would like to know in how many cases instituted by the Company Law Administration, the Government have succeeded. Where some steps were taken, to my knowledge, in not a single case have they succeeded. Secondly that department has become the preserve of some people coming from the Income-tax Department, so far as I know. Why should some eminent lawyers not be planted there?

A sort of company law tribunal has been set up but its powers are so limited that you encourage litigation thereby. These rich people when they come before the tribunal have a first appeal to the High Court and then a second appeal to the Supreme Court. I do not know why two appeals should be kept. Why should there not be only one? After all, an ex-judge is usually appointed. That being so, why not have one direct appeal, if

at all an appeal is necessary or a review is necessary? I would concede that it is necessary, but let there be one direct appeal to the Supreme Court, and let the powers of the tribunal be widened at the first stage. This is one suggestion that I want to make.

One hon. Member here advocated an immediate change-over to Hindi in regard to law. I think he had not realised the implications of it. All said and done, the unity and integrity of our country has all the time depended on the one legal system which we have had; whatever other differences we may have had, the legal system has been one, and, therefore, today, there is a sense of unity in this country. At this juncture, if these kinds of suggestions are adopted, and steps are taken, under some pressures from patriots in the region, or because there is a language patriotism and there is also language intolerance in this country, then I am afraid, he will not be serving the cause of unity, but he will be presiding over an empire or kingdom which is supposed to disintegrate or liquidate itself, if I may use the phrase borrowed from Churchill. Does my hon. friend want to do that? If he does not, then I would plead with him for one thing. There is the Official Language (Legislative) Commission and they are translating laws and evolving legal terminology. If simultaneously, experts in the regional languages are also not associated and simultaneously the translations in the regional languages are not also undertaken, I am afraid there would be about twelve Penal Codes in this country, and nothing less than that number, because the terminology will not be the same in the different languages. Therefore, I would plead that simultaneously with the translation of the laws in Hindi, translations in the regional languages, also should be undertaken at a centralised level, because it is a highly technical job. The commission is there, and there are some good experts there who have

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done a job. But I would submit that it should not be a sort of *ad hoc* committee; it should not be considered as a place for some promotion where some ex-secretary could be planted after being given one year's extension. That sort of body will not discharge this function properly.

Another factor that I would like to mention in this regard is this. Law is being taught in the regional languages already, and Gujarat has made a beginning. No doubt, they can teach jurisprudence and they can teach equity and the first principles of law. But if on the question of teaching law, the language of law is not uniformly evolved, whether it be Hindi or any other regional language, then I am afraid that we shall be sowing the seeds of disintegration; unless proper remedial measures are taken and the teaching is started on proper lines—I do agree that it should be started, but it should be on proper lines—and according to some well-defined syllabus and some clear terminology ultimately determined by the Official Language (Legislative) Commission, things would become very difficult.

Shri Himatsingka (Gonda): One particular language will have to be adopted, whatever that language may be.

Shri Khadilkar: The Official Language (Legislative) Commission at the Centre has evolved some terminology. Some thought should be given to this matter that the people will have to be persuaded to accept this terminology as far as possible. Otherwise, the interpretation would lead the different High Courts and the Supreme Court in different directions.

As I said in the beginning, we are in a crisis, and I know that this crisis is something which the hon. Minister of Law alone cannot avoid; for, on the one side there is the dynamics of social change, and on the other, there is the legal system supporting the establishment; there is a wide gulf at

present between the two. Some new orientation has to be given to the whole Law Ministry; it should not be there merely to interpret the law in just a legalistic and wordy sense; but some new life has to be given to it so that there will be some sense of vibration of social change in this country.

श्री यशपाल सिंह (कैराना) : हमारे माननीय विधि मंत्री जी अपनी देशभक्ति से और अपने ऊंचे यश से यह जरूर माबित करेंगे कि उन्होंने गरीब पब्लिक के लिए कुछ किया है। मुझे उनसे बड़ी-बड़ी प्राणायें हैं। लेकिन कुछ बहुत जरूरी मशबरा मैं उनको देना चाहता हूँ। दो चार सुझाव ऐसे हैं जिन का यहाँ पर जिक्र नहीं किया गया है।

सबसे पहली बात तो यह है कि यह जो हमारे कानून है वह ग्रंथों के जमाने से चले आते हैं, जिनसे गरीब आदमी का कोई फायदा नहीं होता है। इस से सिर्फ बड़े बड़े आदमियों का फायदा होता है, ग्रामीर लोगों को फायदा पहुंचता है। किसी भी देश के अन्दर ऐसा नहीं होता कि कोई मेरा सर फोड़ दे और मैं अदालत में जाऊँ तो मुझसे कोर्ट फीस मांगी जाये। हमारे इलाहाबाद हाई कोर्ट की हालत यह है कि मैं लूटा पिटा, कटा जाता हूँ हाई कोर्ट में तो मुझसे कोर्ट फीस मांगी जाती है। ऐसा नहीं होना चाहिये कि जो आदमी लूटा पिटा हो, विक्रिमाइज्ड हो, मजलूम हो, उस से फिर कोर्ट फीस मांगी जाये। यह हमारे इन्साफ के खिलाफ जायेगा।

दूसरी बात यह कि मान लीजिये माननीय मुकर्जी बहुत बड़े आदमी हैं, मैं छोटा आदमी हूँ। मेरा चार बीघे का खेत खड़ा हुआ है। जब का षोड़ा उस को खा जाता है। मैं अदालत में जाता हूँ और माननीय मुकर्जी पर 200 रु० जुर्माना हो जाता है तो वह 200 रु० सरकार में चला जाता है। षोड़ा

उन का मोटा होता है, खेत मेरा खराब होता है, मगर उस जुर्माने से मेरा कोई फायदा नहीं होता है। यह चीजें हैं जिन को मैं समझता हूँ कि आप ठीक करेंगे। हमारे यहां याज्ञबल्क्य स्मृति में लिखा हुआ है कि किसी के घर में अगर डकैती पड़ जाये तो सरकार को चाहिये कि वह उस डकैती का कम्पेन्सेशन दे। जब मैं सरकार को टैक्स पे करता हूँ तब हमारे जान माल की हिफाजत की जिम्मेदार सरकार है। लेकिन यहां उल्टा हिसाब है। डकैती मेरे घर पर पड़ी और सबूत देने के श्रिये मुझ से कहा जाता है, बर्डन आफ प्रूफ मेरे ऊपर है। जब मैं बाहर सबूत ले कर जाता हूँ तब जिन के खिलाफ शहादत दी जाती है, जो कि डकैत हैं, पेशेवर हैं, वह मुझे फिर नुकसान पहुंचाते हैं, मेरे मवेशियों को, मेरे खेत को, मेरी जान माल को नुकसान पहुंचाते हैं। इसका इलाज होना चाहिये। जिस के घर में डकैती पड़ी है या तो उस को डकैत से ले कर माल वापस किया जाये, या सरकार खुद उसे पे करे क्योंकि जिस के यहां डकैती पड़ी है उसने टैक्स दिया हुआ है, वह टैक्स पेभर है। उस के जान माल की हिफाजत की जिम्मेदारी सरकार के ऊपर है।

तीसरी सबसे जरूरी बात यह है कि किसी हाई कोर्ट जज को अपाटर रिटायरमेंट रिअप्पाइंटमेंट नहीं मिलना चाहिये। चूंकि रिटायरमेंट के बाद सर्विसेज दी जाती हैं इसलिये करप्शन होता है। करप्शन इसलिये होता है कि चूंकि सर्विस देने वाली सरकार है इसलिये वह सरकार की तरफ ललचाई नजरों से देखते हैं और चूंकि सरकार सर्विस देती है इसलिये वह सरकार की मर्जी के खिलाफ निर्णय नहीं कर सकते। क्या यह हमारे लिये शर्म की बात नहीं है कि एक हाई कोर्ट के जज ने, जिसको हम माई लाई कहते हैं, जिसको हम जस्टिस का मालिक कहते हैं, गाजियन आफ दि कांस्टिट्यूशन कहते हैं, अपने हाई स्कूल सर्टिफिकेट को

जा कर फटवाया, उस में दो साल उद्य कम् कराई और फिर रिअप्पाइंटमेंट हासिल किया। जैसी ऊंची कीर्ति हमारे पाठक जी की है, जैसा उन का यश है उस के अनुसार मैं समझता हूँ कि वह इस में फंडामेंटल वेन्ज कर के दिखलायेंगे।

इस के साथ ही साथ जो एलेक्शन का खर्च आज 25,000 रु० है, उस को कम करना पड़ेगा। 25 हजार रु० का मतलब यह है कि हमारे यहां गरीब आदमी बेल्ट तक नहीं पहुंच सकेगा, गरीब आदमी पार्लियामेन्ट में नहीं आ सकेगा। 25 हजार रु० के स्टैंडर्ड को तोड़ कर 2 हजार रु० का स्टैंडर्ड किया जाये उस वक्त ग्राम पब्लिक के लोग चुन कर आ सकेंगे। यह 25 हजार रुपये का स्टैंडर्ड गलत है। आप देखिये कि हमारे यहां एक आदमी की ग्रामदनी क्या है। हमारे माननीय गृह मंत्री ने कहा था कि हमारे यहां 28 करोड़ आदमी ऐसे हैं जिन की रोजाना ग्रामदनी 7 ग्रामे रोज है। वह लोग 25 हजार रु० कैसे प्रोवाइड कर सकते हैं। इसलिये इस मामले में बुनियादी वेन्ज होना चाहिये। हमारा कानून यह होना चाहिये कि जिस आदमी की कारें दौड़ती हैं, जिस के पैम्पसेट्स बंटते हैं, जिस का प्रेस काम करता है, उस को खड़े होने का मौका न दिया जाये। उस के बजाय जनता तय करे कि कौन देशभक्त आदमी है और कौन गरीब आदमी है। एक तरफ आप कहते हैं कि सब को ईक्वल राइट्स हैं, एक तरफ आप कहते हैं कि फेब्र फील्ड ऐंड नो फेब्र, ईक्वल अपार्चुनिटीज हैं, लेकिन क्या यही ईक्वल अपार्चुनिटी है कि जिस कांस्टिट्यून्सी से मैं आया हूँ वहां मैं अपने बोटर्स को पांच कट्टे सीमेंट नहीं दिसवा सकता, मैं उन के लड़कों को मुलाजिमत नहीं दिसवा सकता लेकिन मेरे मुन्शालिक चूंकि वह रूनिंग पार्टी में हैं, वह अच्छी से अच्छी परमिट दिसवा सकते हैं, एजेन्सीज दिसवा सकते हैं, सर्विसेज दिसवा सकते हैं।

[श्री यशपाल सिंह]

किसी देश के अन्दर अपोजीशन के लोगों के लेक्चर को सी० आई० डी० नोट नहीं करती, लेकिन जब मैं लाखों वोट्स ले कर यहां आया हूं, हिन्दुस्तान की जनता का कांफिडेंस हासिल कर के आया हूं, यू० पी० के सब से बड़े कांग्रेसी को हरा कर आया हूं, जो कांग्रेसी 52 जिलों की कांग्रेस का चेयरमैन है, तब मेरे लेक्चर को सी० आई० डी० नोट करती है। मैं जेलखाने में पैदा हुआ, मेरी जिन्दगी कई सालों तक जेल में कटी, मैं फांसी की कोठरी में रहा, 15 अगस्त, 1947 को पार्टीशन से अलग हुआ क्योंकि बादशाह खान के साथ में धोखा किया गया तब मेरे लेक्चर को सी० आई० डी० नोट करती है, क्या यह मेरी देशभक्ति के ऊपर घासपेप नहीं है। मैं डरता नहीं हूं, मैं अंग्रेजों से नहीं डरा जिन के पास गोलियां थीं, जिस के पास संगीनें थीं, उस गवर्नमेंट को उखाड़ कर फेंक दिया, लेकिन यह इस गवर्नमेंट के ऊपर बड़ा भारी कलंक है कि नाक उस की कटती है और शर्म हमें आती है। जब आप अपने कांस्टिट्यूशन के लिये वफादार नहीं हैं तब किस के लिये वफादारी कर सकेंगे। आज मैं पाठक जी से पूछना चाहता हूं कि आप ने हिन्दी को राष्ट्रभाषा माना है लेकिन जब आप अपने कांस्टिट्यूशन के साथ इन्साफ नहीं कर सकते तब आम पब्लिक के साथ क्या इन्साफ करेंगे। मैं पूछना चाहता हूं कि कितने जज ऐसे हैं जिन्होंने हिन्दी में अपने फैसले लिखे हैं, कितने वकील ऐसे हैं जिन्होंने हिन्दी में अपने केस प्लीड किये हैं। मैं जानना चाहता हूं कि कितने फैसले सुप्रीम कोर्ट के हिन्दी में लिखे गये।

इसी तरह से आप अपने एलेक्शन के तरीके को देखिये। गरीब आदमी वहां तक नहीं पहुंच सकता है। जो आपके सरपंच होते हैं, जिनको आप न्यायाधीश कहते हैं, कहीं भी ऐसा है कि वह चुना जाये, लेकिन हमारे यहां वह एलेक्शन से आते

हैं। जो गांव की पंचायत का सरपंच है वह एलेक्शन से आता है। लाजिम है कि जिस का वोट ले कर वह आयेगा उस के साथ जरूर रियायत करेगा। इसलिये एक न्यायाधीश को एलेक्शन से नहीं आना चाहिये। न्यायाधीश को काबिलियत से आना चाहिये, कैरेक्टर से आना चाहिये और उस का अम्पाइंटमेंट होना चाहिये। आज हमारे यहां 20 हजार से ज्यादा सरपंच ऐसे बैठे हुए हैं जो न्याय के मालिक हैं, जो लोग बाई शोइंग हैंड्स यानी एलेक्शन से आये हैं उन सरपंचों को न्यायाधीश बनाया गया है। यह कानून खत्म होना चाहिये।

इस के साथ साथ मैं यह अर्ज करूंगा कि इस देश की जिम्मेदारी आप की है। आर्म्स ऐक्ट जो है वह अंग्रेज का बनाया हुआ है। अंग्रेज लोग उन को आर्म्स देते थे जो उन की खुशामद करते थे, अंग्रेजों के तलवे चाटते थे, अंग्रेजों की एम्पायर को कायम रखने के लिये कस्में लेते थे। आज गरीब आदमी को लाइसेंस नहीं दिया जाता है। जब कोई आदमी लाइसेंस हासिल करने के लिये जाता है तो उस से पूछा जाता है कि कितनी मालगुजारी देता है, कितना इनकम टैक्स देता है। एक तरफ आप कहते हैं कि यह सोशलिस्टिक स्टेट है, समाजवाद की रचना करने हम जा रहे हैं, दूसरी तरफ जो आदमी देश की रक्षा करना चाहता है, जिसकी छाती चौड़ी है, जिस का गर्दन लम्बा है, जिस के हाथों में इतनी शक्ति है कि वह शेर को खत्म कर सके उस से पूछते हैं वह कितना टैक्स देता है। आर्म्स ऐक्ट रिपील होना चाहिये और हर बालिग को अधिकार होना चाहिये कि वह हथियार डाल कर चल सके। मैं ने यू० पी० असेम्बली में अपने हथियार चीफ मिनिस्टर को सौंप दिया था इसलिये कि यह हथियार डिस्पैरिटी क्रिएट करते हैं। यह हथियार हर बालिग सम्बरित को, हर एक ईमान-

दार भ्रादमी को, हासिल होने चाहियें। हर स्वस्थ भ्रादमी को हथियार रखने का हक जब तक हासिल नहीं होगा तब तक मैं हथियार नहीं रखूंगा। मैं बतौर पार्लियामेंट के मेम्बर के हथियार रख सकता हूँ, लेकिन जो चीज गरीब भ्रादमी तक नहीं पहुंच सकती है, मैं उस को नहीं रखूंगा क्योंकि यह डिस्पैरिटी क्रिएट करती है। पाठक जी से मुझे उम्मीद है कि वह इस ऐक्ट में भ्रामूल चूल परिवर्तन करेंगे। यह जो कानून चल रहा है वह खराब हो चुका है, मैं समझता हूँ कि माननीय पाठक जी उस को सही कर के दिखलायेंगे।

आज भी हम देखते हैं कि हाई कोर्टों में 80 हजार केसेज पेन्डिंग पड़े हुए हैं। जहाँ पर 80 हजार केसेज पेन्डिंग पड़े हुए हैं वहाँ क्या आप समझते हैं कि लोगों को इन्साफ मिलेगा। जस्टिस डिलेड इज जस्टिस डिनाइड। आज जस्टिस डिनाई की जा रही है। अब नया एलेक्शन आ रहा है लेकिन चार, साढ़े चार साल से जो एलेक्शन पिटिशन पड़ी है उन का फैसला नहीं हुआ है। जिन की एलेक्शन पिटिशन का फैसला अभी तक नहीं हुआ है और यह कह दिया जाये कि उन को गलत तरीके से हटाया गया, उन के बारे में मैं कहना चाहता हूँ कि आइन्दा आने वाली पार्लियामेंट में उन को साढ़े चार साल तक एम० पी० रहने का हक मिलना चाहिये। जो कुछ हुआ साढ़े चार साल तक वह खामी सरकार की है लेकिन सफर कौन करता है। कैंडिडेट। यह नहीं होना चाहिये। अगर मैं श्री पाठक से इस बात की अपील नहीं कर सकता तो फिर और किस से कर सकूंगा।

हमारे यू० पी० के 52 जिलों के अन्धर हालत यह है कि डिस्ट्रिक्ट बोर्ड का चेयरमैन हेड मास्टर्स का मुभायना करता है। हेड मास्टर की काबिलियत क्या है। हेड मास्टर प्रधानाचार्य शास्त्री पास होता है, हेड मास्टर ने रेकार्ड बीट किया होता है, हेड मास्टर ने गोल्ड मेडल लिया होता है, लेकिन

उस हेड मास्टर के कैरेक्टर रोल को कौन लिखता है। दर्जा चार पास डिस्ट्रिक्ट बोर्ड का चेयरमैन। जिला परिषद् का अध्यक्ष जो कि दर्जा चार पास होता है, और कहीं कहीं तो वह बिल्कुल अनपढ़ होता है, वह लिखता है। वह 60 रु० महीने का मुंशी रख लेता है और उस से मुभायना करवाता है। जो कुछ वह लिख देता है उस पर वह दर्जा चार पास चेयरमैन दस्तखत कर देता है। हमारे यहाँ मानव धर्म शास्त्र में लिखा हुआ है कि :

“अपूज्या यत्र पूज्यन्ते पूज्यानां च व्यतिक्रमः।
वीणि तत्र प्रवर्तन्ते दुर्मिषं मरणं भयम् ॥”

जहाँ घोड़े पर गधा सवारी करता है, जहाँ अपूज्य का पूजन होता है, जहाँ पर एम० ए० एल० टी० का मुभायना करने के लिये अनपढ़ भ्रादमी बैठा हुआ है वहाँ तीन बुराईयाँ पैदा होती हैं। दुर्मिष आता है, मरण आता है और भय पैदा होता है। माननीय पाठक जी से मुझे उम्मीद है कि वह मेहरबानी कर के इस में परिवर्तन कर के दिखलायेंगे क्योंकि इस के ऊपर सारे देश का दारोमदार है। किसी एक पार्टी का नहीं, बल्कि सारे देश का दारोमदार है। अंग्रेजों के वक्त के कायदे इतने खराब हो चुके हैं कि उन कायदों में गरीब भ्रादमी फिट इन नहीं करता। मैं समझता हूँ कि इस हाउस को विश्वास दिलाने के लिये इस में माननीय पाठक जी भ्रामूल चूल परिवर्तन करेंगे और गरीब भ्रादमी को उस का हक दिलायेंगे ताकि गरीब भ्रादमी भी पार्लियामेंट का मेम्बर हो कर आ सके और असेम्बली का मेम्बर हो कर आ सके और जो हमारे न्यायाधीश वोट्स से चुने जाते हैं, उन को कैरेक्टर और काबिलियत के आधार पर तायनात किया जाये।

Shri Balakrishnan (Koilpatti): I thank you for giving me an opportunity to speak on the Demands of the Law Ministry. I am not a lawyer, and if at all I venture to speak on law, I speak from the common man's point of view.

[Shri Balakrishnan]

Moreover, the patients know well the effect of the medicines rather than the prescriber. The doctors are only prescribing the medicines and asking the patients about the effect of the medicines. So also, the common citizens know very well about the effect of the laws.

First of all, I beg to submit that the law of justice must be generous, cheaper and quicker; otherwise, it will be difficult for poor people to get justice. In a poor country like ours, the cost of justice is increasing day by day like the cost of foodgrains. So, thousands of families, even well-to-do families, in our country are ruined due to litigation. So, my submission is that the law of justice must be made cheaper and quicker.

Here, with your permission, I want to read from the report of the Law Commission of India:

"Justice should be cheap and expeditious. This is what the common man wants. Lord Evershed has observed—

'Expedition and cost to the community and the litigant alike are factors of ever present import' (in maintaining the respect of the citizen for the law).

"Two important problems which, therefore, arise for consideration are—(i) costs, and (ii) delay. Costs of litigation mainly consist of (1) court-fees, (2) lawyer's fees, and (3) expenses incurred in calling witnesses. The question of court-fees has been exhaustively dealt with by the Law Commission in the Fourteenth Report. The main recommendation in that Report are the following:—

(1) It is one of the primary duties of the State to provide the machinery for the administration of justice, and on principle it is not proper for the

State to charge fees from the suitors in courts.

(2) Even if court-fees are charged, the revenue derived from them should not exceed the cost of the administration of civil justice.

(3) The making of a profit by the State from the administration of justice is not justified.

(4) Steps should be taken to reduce court-fees so that the revenue from them is sufficient to cover the cost of the civil judicial establishment. Principles analogous to those applied in England should be applied to measure the cost of such establishment. The salaries of judicial officers should be a charge on the general taxpayer.

(5) There should be a broad measure of equality in the scales of court-fees all over the country. There should also be a fixed maximum to the fee chargeable.

(6) The rates of court-fees on petitions under articles 32 and 226 of the Constitution should be very low, if not nominal.

(7) The fees which are now levied at various stages, such as the stamp to be affixed on certified copies and exhibits and the like, should be abolished.

(8) When a case is disposed of *ex parte* or is compromised before the actual hearing, half the court-fee should be refunded to the plaintiff.

(9) The court-fee payable in an appeal should be half the amount levied in the trial court.

A brief reference is also made in the Fourteenth Report to lawyers' fee in the following terms:—

"The fees paid to a lawyer so long as they do not exceed the amounts prescribed by the rules framed by the several High Courts under the Legal Practitioners Act, 1879 are also recoverable from the opposite party, if a certificate is filed to the effect that the lawyer has actually received the fee claimed. No doubt the successful litigant does often pay higher fees to his lawyer that he gets from his opponent on taxation. These are however luxury expenses incurred by him for his convenience in respect of which he is not entitled to an indemnity. It may be that if the scales of lawyer's fees have for legitimate reasons risen in particular States, alterations may have to be made in the percentages prescribed by the High Courts under the rules."

I hope these recommendations will be implemented so as to make the law of justice cheaper, quicker and practical also.

You are making two sets of laws, substantive law and procedural law. Substantive law determines the rights and obligations of the citizens, but it is the procedural law which enforces the rights and obligations. So, the effect of such substantive law depends upon the effect of the procedural law. Unless the procedural law is quick and simple, the substantive law will be a failure and it will not serve the purpose. So, the procedural law must be simple and quick.

Then, regarding the law of social justice, I am sorry to say that no social law is being implemented in our country. I sympathise with the social laws because almost all the social laws become orphans. Nobody cares for them, neither the Government, nor the public.

Take for example the Prohibition Act, the Temple Entry Act, the Untouchability Offences Act. Can anybody say that untouchability does not

exist in the villages. On the other hand, there is untouchability in every village. Even then, the Act is not implemented in the villages.

So also is the case with prohibition. There is the Act in the statute-book, but the Act is not properly implemented. Production and also sale of illicit alcohol are going on everywhere, as the law is not properly applied and implemented. It is my request that the social laws should be properly implemented.

I am not a lawyer as I have already said, but I think there is room for providing compensation to victims in section 545 of the Cr. P.C. But, unfortunately, the victims of crimes, even when they become disabled due to serious injuries inflicted by the offenders, receive no compensation, although there is provision for it in the Cr. P.C. So, it is the duty of the Government to see that compensation is paid to the victims if they become disabled due to injuries inflicted by criminal offenders.

Compensation should be given not only to the victims of criminal offences, but compensation should also be given for damages to properties. In the food agitation in Bengal, the Punjabi Suba agitation in Punjab and the Hindi agitation in Madras, lots of properties were damaged and many people were even burnt to death. In such cases, either compensation should be paid by the Government, or a punitive fine should be levied and collected and given for the loss of property.

14.58 hrs.

[SHRI SHAM LAL SARAF in the Chair]

Then, compensation is in fact given in some cases, for example in motor accidents, but do you know how much compensation is given? Poor people are given poor compensation, and the rich people are given rich compensation. In this connection, let me read

[Shri Balakrishnan]

a few sentences from the *Indian Police Journal*, October, 1965:

"With a view to ascertain the practical working of Section 545 Cr. P. C., the Research Centre of the Maharashtra State C.I.D. was asked to undertake a sample survey in Poona City of the offences of violence reported during the year 1960-61 and to determine in how many cases the compensation had been ordered by the Courts."

I am reading only the relevant portion:

"(1) The total number of crimes of violence reported during the period of two years in Poona City was 510. Out of them, 127 cases were motor accidents, 227 were serious offences under I.P.C. such as murders, grievous hurts, robbery, rape etc., and the remaining 166 cases were offences of minor nature under the various sections of I.P.C.

"(2) The total number of convicted cases was 182 and out of them in 97 cases the Courts imposed only fine and imprisonment. The range of fine was between Rs. 5 to 750. The maximum fine of Rs. 750 had been imposed on the accused in a motor accident case.

"The pattern of imposition of fine showed that fines upto Rs. 25 were levied in 32 cases, from 26 to 50 in 27 cases, from Rs. 51 to 100 in 18 cases, from Rs. 101 to 200 in 10 cases, from 201 to 300 in 5 cases, from Rs. 301 to 400 in 2 cases, from 401 to 500 in 1 case and from Rs. 501 to 1000 in 2 cases.

The number of cases in which the criminal courts awarded compensation to the victims or to the aggrieved parties was 13. Of them three cases were of fatal motor accidents under section 304-A IPC, eight cases were of serious or minor accidents under section

279, 337, 338 IPC and only two cases were of grievous hurt under section 324 and 325 IPC.

Of the eight cases of motor accidents, compensation awarded to the victims was Rs. 10 in one case, Rs. 20 in two cases, Rs. 25 in one case....."

What I am saying is that the poor people are given very poor compensation in motor accidents. The trouble is that the criminal courts which try criminal offences could not award compensation. The party or the victim will have to go to a civil court to get compensation. I plead that the criminal courts themselves should be made to give compensation also and it should also be just and proper and sufficient compensation.

15 hrs.

Shri Himatsingka: Sir, I had no mind in the beginning to speak on the demands of this ministry but in view of the fact that the company law administration has been transferred to this ministry from the finance ministry and the fact that a number of powers have been vested in the company law board, I decided to speak. The tribunals that have been set up under the new amendments have been invested with many powers which were held by court previously and it is incumbent on this ministry to take proper steps so that the cases are disposed of quickly. I am glad that on account of the proper working of the different regional registrars, the working of companies has improved very much. Formerly, companies did not hold meetings for long periods. That is not so now. I may however point out that a large number of impediments have been introduced by the recent amendments; the powers of the directors about investment, lending of money, to other companies and so on have been taken away. They were useful and necessary for the purpose of proper utilisation of funds; when they are not required by one company, and they can be properly utilised by another company. In such

cases the company law authorities have power to allow relaxations to give them permission to do so. In such cases sections 370 and 372 should be definitely applied because they should not be allowed to stand in the way of proper functioning of the funds of the company. If there is no manner of doubt that there is no fraudulent or dishonest intention, permission sought for should be given easily. If section 370 has already been made applicable and if some applications come for allowing them some latitude as was being enjoyed so long, that should be allowed.

Another section that has come into force is the use of voting power by the public trustee in respect of shares held by various trusts. Unless the trustees are utilising those powers in an improper manner for their personal benefit, I feel that they should be allowed to continue to exercise those powers and the public trustee should not come in the way; he should not come into the picture. As a large number of powers have been transferred to the tribunal, proper steps should be taken so that cases are disposed of quickly. People from Calcutta, Bombay and Madras and other places have to come to Delhi. If it is possible to have meetings of the tribunal at the different regions to dispose of cases of those regions, that will help in minimising the expenses of the parties. I hope the hon. Minister will apply his mind to these points so that the company law department will function properly.

Shri G. S. Pathak: Mr. Chairman, permit me first to express my gratitude to the Members of this House who have participated in this debate.

Shri Hari Vishnu Kamath (Hoshangabad): Sir, permit me to raise a point of order. I am sure you will agree that when the hon. Minister of Law is making his maiden speech here, there must be quorum.

Mr. Chairman: The bell is being rung.

There is still no quorum. The bell is being rung again—Yes. Now there is quorum. The Hon. Law Minister.

Shri G. S. Pathak: Sir, I assure the House that every single point raised by the Hon. Members has been noted by me. I will pay due consideration, as I must, to every point. If I cannot deal with all the points, it does not mean that I shall not consider them. It is open to the hon. Members to discuss with me those points which I have not dealt with in my speech.

Now, Sir, something has been said by the hon. Members about the subjects which have been assigned to me as a Law Minister. On that I am not competent to speak. That is the President's discretion, that is the President's judgment. All that I can tell this House is that whatever subjects are assigned to me, or may be assigned to me, I shall deal with them to the best of my ability and I shall always inform this House about any matter on which this House may require any information.

Shri Hari Vishnu Kamath: Is it a matter of President's discretion or responsibility of the Ministry.

Shri G. S. Pathak: When I said the President's discretion, it is necessarily implied, and I am sure all the Members in this House know that the President acts on the advice of the Prime Minister.

Shri Hari Vishnu Kamath: You said, 'discretion'.

Shri G. S. Pathak: When I said 'discretion' I meant the discretion of the Prime Minister on whose advice the President acts; the discretion there means that he acts on the advice of the Prime Minister.

Shri Hari Vishnu Kamath: Council of Ministers.

Shri G. S. Pathak: I hope my honourable friend, Shri Kamath understands what I have conveyed, or what I have tried to convey.

Shri Hari Vishnu Kamath: More or less.

Mr. Chairman: There should not be a running commentary.

Shri G. S. Pathak: Now, Sir, Mr. Trivedy mentioned that some thing must be done about the liability of the State for torts. There is a Bill already introduced in this House regarding Government's liability in torts and that Bill is pending and this matter will come up before this House and then this subject will receive due consideration.

About securing uniform civil law for the country, we must remember that it is one of the Directive Principles in Part IV. It is the obligation of the State to secure a uniform Civil law. But we also remember that in the case of personal laws, sentiments come into play and we have to respect the sentiments of the citizens. Take, for example, the law of marriage among the Muslims. It is tied up with the religious sentiments, with religious customs and with religious history, and it is no use introducing laws which may not be acceptable to the people for whom the laws are made.

Shri Sonavane (Pandharpur): Was it not the same for Hindus also? Their customs and traditions were the same.

Shri G. S. Pathak: We hope....

Shri Hari Vishnu Kamath: Muslim countries—some of them—have done it. They have changed the law.

Shri G. S. Pathak: We hope that the time will come when the communities concerned will develop public opinion and create a public opinion for a particular legislation, for progressive legislation, and then the State will come in for introducing uniformity of civil law. We are trying to do it. We are making every endeavour to do it.

Shri Hari Vishnu Kamath: In your time.

Shri G. S. Pathak: In my time or somebody else's time—it does not matter. There cannot be any doubt that you cannot have civil laws which you have to enforce against the will of the people: so far as the civil laws are concerned, the people must give their consensus to the introduction of new laws. Where sentiments and feelings are concerned, we must take the people with us. We must have a consensus about the new laws which may have to be introduced. It may be that when....

Shri K. C. Sharma: Government must create an opinion. Government is not something which is a sleeping body.

Shri G. S. Pathak: Government needs the help of eminent people like my hon. friend Shri K. C. Sharma and one would be interested in knowing what contribution my hon. friend has made towards the development of public opinion in this respect. I don't want to say anything further in regard to this.

Shri K. C. Sharma: I have done my best.

Shri G. S. Pathak: Take the Dowry Act. Having enacted the Dowry Act, are we all satisfied that the Dowry Act is being followed?

An hon. Member: Not at all.

Shri G. S. Pathak: Are we all satisfied that the Dowry Act is being followed in the letter and the spirit by the citizens? That is an illustration of laws which might be made when the people are not prepared to accept the laws and to observe them. Therefore, I appeal to the people, I appeal to hon. Members of this House, hon. Members like Shri K. C. Sharma, to create an adequate public opinion in the country for the acceptance of uniform civil laws for all the communities. Government will make every endeavour in that direction, but that endeavour can succeed only when the people are willing to accept the laws. (Interruption).

Mr. Chairman: Order, order.

Shri G. S. Pathak: Hon. Members have spoken repeatedly about the high cost of litigation and about the delays in the administration of justice. This problem is a very old problem. It has engaged the attention of a number of Commissions and on one such Commission I had the honour to serve. We made a number of recommendations and we also enumerated the various methods which could be employed for the purpose of removing the delays. But you cannot find a solution to any problem if you lose contact with the realities of the situation. What are the realities of the situation? Delay is caused by so many factors which we sometimes ignore. It is after all the people who fight in courts. Our population is increasing at the rate of about one crore a year, if I am right.

An hon. Member: One crore and twenty lakhs.

Shri G. S. Pathak: Yes; one crore and 20 lakhs a year; I accept the correction. Our laws are becoming more and more complex; and they are multiplying, and we cannot expect that litigation would decrease in these circumstances. Our people are becoming more and more conscious of their rights. Therefore, we have got to take into account the fact—it may be a harsh fact—that there are certain causes which are responsible for the increase in litigation. Now, I agree that increase in the number of judges is not an adequate remedy. Whenever such question arises, it is always said, "Increase the number of judges." We have got to look into this matter more deeply and try to find out a solution.

Shri K. C. Sharma: More scientifically.

Shri G. S. Pathak: Yes; more scientifically; true. We have to try to find out a solution which may give justice to the common man, because we are all agreed that courts, the law

and even this Parliament are instruments for securing justice, social economic and political, to the common man. Therefore, we must probe into this matter more deeply. I assure this House that almost every day I am considering this problem and I am discussing this question with the leaders of the legal profession, with politicians and also with judges. Shri N. C. Chatterjee has suggested an all India Commission. There have been Commissions established a number of times. Certain suggestions have been made. Some of them have been implemented, but we are nowhere near the desired end. Therefore, this is a matter which requires careful consideration and wide discussion in the country; it requires the consensus of the people who will implement the recommendations. It requires careful consideration by lawyers and judges. If we all agree that the proper remedy is not an ordinary remedy but a radical remedy, that may have to be adopted. This is not the time for me to place before you the various remedies which are available, but I assure this House that this matter is receiving very anxious consideration at the hands of the Government, and I personally am discussing this matter with those who may give help to me, leaders of the Bar, judges, and public men in the country. Therefore, this evil—if I may be allowed to describe it like that—law's delays—is an evil which must be remedied, will have to be remedied at some time or the other, and I hope if hon. Members of this House and people in public life assist the Government with their views and suggestions on this matter—because all that we have been doing so far is to say that there are law's delays—their views and suggestions will be most welcome and we shall pay, that is, the Government shall pay due consideration to all the views and suggestions that might be made by the hon. Members of this House and by the public at large.

Shri Hari Vishnu Kamath: Are you preparing any questionnaire or something like that?

Shri G. S. Pathak: I think we can discuss it later—

Mr. Chairman: Issue a questionnaire.

Shri G. S. Pathak: Questionnaire is issued by Commissions, but we will consider this matter. I am discussing it with the leaders in the profession. I need not mention names, but I assure this House that this is a matter which is receiving due consideration at the hands of the Government.

Shri Hari Vishnu Kamath: When you referred to a probe into the matter, I thought you were thinking of an enquiry committee or an enquiry commission.

Shri G. S. Pathak: We have not yet decided whether we are going to have a committee or not. But there is already the Administrative Reforms Commission, of which my hon. friend is a member.

Shri Hari Vishnu Kamath: You were also a member of it. We have lost you unfortunately; unfortunately for us, but fortunately for you!

Shri G. S. Pathak: I was a member. My hon. friend is still a member and he can also make some contribution in that Commission.

Shri Hari Vishnu Kamath: Matters relating to the judiciary are outside the purview of that Commission.

Shri G. S. Pathak: The administrative side is probably part of it. Anyway, I would not trouble this House on this matter in detail at this stage.

Then, it was said that there should be some change in the election laws. I am alive to the hard fact, the fact that it is not liked by anybody: that there are still some election petitions pending when we are nearing the next general election.

An hon. Member: A sad commentary.

Shri G. S. Pathak: Government has taken a decision, and a Bill is under preparation in this connection and one of the important changes which the Government wishes to introduce is to eliminate the tribunals.

Mr. Chairman: He may stop now and continue the speech on Monday.

15.29 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTY-THIRD REPORT

Shri Hem Raj (Kangra): I beg to move:

"That this House agrees with the Eighty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 29th March, 1966."

Mr. Chairman: The question is:

"That this House agrees with the Eighty-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 29th March, 1966."

The motion was adopted.

15.29½ hrs.

NATIONAL RIFLE TRAINING SCHEME BILL*

by Shri S. C. Samanta

Shri S. C. Samanta (Tamluk): I beg to move for leave to introduce a Bill to provide for compulsory training in rifle-shooting to all able-bodied citizens between the ages of twenty- and thirty years.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill to provide for compulsory training in rifle-shooting to all able-bodied citizens between the ages of twenty and thirty years."

The motion was adopted.

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