

श्री यशपाल सिंह : तो फिर मुझको मौका दिया जाए। एक आदमी जो हर वक्त हाजिर रहता है, वह एक सेकेंड को गैर हाजिर हो गया तो उस को कुछ तो मौका दिया जाना चाहिए।

अध्यक्ष महोदय : अच्छी बात है, आप भी पूछ लीजिए।

श्री यशपाल सिंह : मैं मंत्री महोदय से यह जानना चाहता हूँ कि हमारी रुइकी यूनिवर्सिटी में अर्थ क्वेक के ऊपर जो रिसर्च हुआ है जिस में हिन्दुस्तान के सब से बड़े बड़े साइंटिस्ट्स इकट्ठे हुए थे, वह इस निष्कर्ष पर पहुंचे हैं कि जब भूकम्प आने वाला होगा तो उस के एक घंटा पहले मैग्नेट अपना कार्य करना छोड़ देगा, चुम्बक लाइने का आकर्षण करना छोड़ देगा, तो उनके रिसर्च का और इस साइंटिफिक इन्वेन्शन का सरकार ने फायदा उठाया है या आइन्दा कोई फायदा उठायेगी ?

श्री गुलजारी लाल नन्दा : इस को देखा जायगा फिर।

13.36 hrs.

ADVOCATES (AMENDMENT)
BILL—Contd.

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri C.R. Pattabhi Raman on the 5th August, 1966, namely:—

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

Shri D. C. Sharma may continue his speech.

An hon. Member: What is the time allotted?

Mr. Speaker: The time left is 50 minutes. Out of two hours, one hour and 10 minutes have been spent.

Shri D. C. Sharma (Gurdaspur): Mr. Speaker, Sir, I am in sympathy with the provisions of the Bill, and I am very happy that the system of rotation is being given up.

13.37 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

As I said last time, this system of rotation has not proved to be of much advantage so far as our elections to the Legislative Councils and to the Rajya Sabha are concerned. I think it may have worked well in business-houses and banks.

Shri U. M. Trivedi (Mandsaur): There is no quorum in the House.

Mr. Deputy-Speaker: The bell is being rung.

Now there is quorum. He may continue.

Shri D. C. Sharma: On the agenda of the meetings of certain commercial firms, I have read that Mr. So and So is going to retire, but he is eligible for re-election. That is, system of rotation works in principle, but not in substance, because those very persons who retire are re-elected because they hold the purse strings of those concerns. We have been saying that this is not a healthy and wholesome practice and it leads to certain malpractices. The hon. Minister has tried to see to it that this system of rotation is given up. I do not want to refer to the Legislative Councils or the Rajya Sabha, because all of us know what is happening there.

श्री हुकम चन्द कछवाय (देवास) :
उपाध्यक्ष महोदय, मैं व्यवस्था चाहता हूँ,
सदन में गण-पूर्ति नहीं है।

Mr. Deputy-Speaker: The bell is being rung. There is quorum now. Within 2 minutes, I have had to ring the bell thrice. Members should stay for some time and maintain the quorum.

Shri D. C. Sharma: It is a very wholesome thing that the system of rotation has been given up in this Bill. I hope in other constitutional bodies also, the Minister will see to it that this system is given a very decent and early burial.

It is no use amending the Advocates Act. It is no use plastering the wall of a house and white-washing it when the house itself is going to collapse. In order that the house may remain intact, I would draw the attention of the House to some reports of the Law Commission. The Minister said he was going to bring forward a comprehensive Bill at a later stage. I want that the observations made by me and other members should be incorporated in that Bill.

Firstly, legal education in this country presents on the whole a very dismal picture. There are certain States where legal education is thought to be an appendage of arts or science or other types of education. There are some States where legal education can be pursued in the evening as a hobby or leisure time occupation.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मैं व्यवस्था चाहता हूँ, सदन में गण-पूति नहीं है ।

Mr. Deputy-Speaker: The bell is being rung. I am sorry that within five minutes this is the fourth time I had to ring the bell. Members will stay on for sometime. If the quorum is challenged again, I will have to adjourn the House. No member should go out unless some other member comes in.

There is quorum now. He may continue.

Shri D. C. Sharma: The Law Commission's report on legal education contains 31 suggestions. I do not know whether they have been put into practice anywhere in any university, or whether the Government have taken any action on them. One

suggestion is that "the Law Colleges should be manned by full-time teachers". I do not know how many law colleges have implemented this. Another suggestion is that lectures should be supplemented by seminars or group discussions. I do not know how many colleges are making provision for this.

About legal aid to the poor, the Law Commission have quoted the observations of Viscount Buckmaster, then Lord Chancellor and have said that this is very necessary in a Welfare State. We are building up a Welfare State.

I think, Sir, so many persons, so many associations, have studied this problem. The Law Commission has given some of its recommendations on page 599. They say:

"(1) Free legal aid to poor persons and persons of limited means is a service which the modern State and in particular a Welfare State owes to its citizens..."

Then they say:

"(2) The legal profession must in the main, if not entirely, accept the responsibility for the administration and working of schemes of legal aid."

At the same time, it has been said:

"(3) The legal profession owes a moral and social obligation to poor members of society which it must discharge by every member of the profession doing a certain amount of legal work free for poor persons.

(4) The scheme for legal aid to poor persons and persons of limited means..."

They say, it should be put into effect as early as possible, and it should be put into effect in the light of what is being done in Bombay and West Bengal. Also it is said:

"(5) The States should, pending the implementation of such

[Shri D. C. Sharma] schemes, make provision for legal aid in gradual stages bearing in mind the priorities mentioned in paragraph 16 above;

(6) Measures in furtherance of legal aid mentioned in paragraph 17 above should be adopted immediately."

I want to know how many of these recommendations are going to be put into effect.

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, आप के निर्णय के अनुसार यहां पर मंत्रिमंडल का कोई मंत्री नहीं है।

Mr. Deputy-Speaker: You are unnecessarily disturbing the proceedings of the House.

श्री चन्द्रमणिलाल चौबरी (महुआ) : हाउस का टाइम इस तरह से बरबाद करना बहुत बुरी बात है और देशहित में नहीं है। यहां गरीबों के लिये बोला जाता है लेकिन माननीय सदस्य इस को समझते नहीं हैं। यह गरीबों के मुआवजे के लिये है।

Mr. Deputy-Speaker: Order, order.

Shri D. C. Sharma: Therefore, Sir, in view of these things, when the non-Minister wants to bring forward a comprehensive Bill to amend the Advocates Act, I would like him to make these two things, legal aid to the poor and legal education, the cornerstones of that Bill.

Shri U. M. Trivedi: Sir, I will not take a long time of the House . . .

Shri D. C. Sharma: Sir, there is no quorum in the House.

Mr. Deputy-Speaker: Is he challenging it?

Shri D. C. Sharma: You may count the numbers. There is no quorum.

Mr. Deputy-Speaker: Shri Trivedi may resume his seat. The Bell is being rung.

There is quorum now. He may continue.

Shri U. M. Trivedi: Mr. Deputy-Speaker, the point that I want to raise in this Bill is this. In 1961, this Advocates Act was passed. The primary object of this Advocates Act was that the legal profession should have trained lawyers. But that object has been put to the wind. Every time some influential man's son passes his law examination, his father approaches the proper authorities and an amendment is brought saying that without any further training enrolment must take place. Year after year these amendments have been made and the purpose for which this Act was passed has been put to naught. It is a very sorry picture, that in India, where most of us here in the House are also lawyers, we have not been able to administer the law for these advocates in a proper spirit. Today, this Bill indicates that the Bar Councils could not have this rotational election in two years which we are able to do in the Council of States. Why it was not possible, nobody is able to say. It is only said why this amendment was necessary. It is said that because you were a defaulter the amendment has to be passed. It is said that because you were a defaulter the Ordinance had to be passed, because you committed a mistake the Ordinance had to be brought and this Bill, in which nobody seems to take interest, has got to be put through because there is the Ordinance. It is of a vicious nature. Why is it that the primary object of this Advocates' Act is not yet being fulfilled? Yes, year after year, hundreds of thousands of boys pass the law examination and seek enrolment. Boys who do not know how to write two sentences correctly in English or even in Hindi, boys who do not understand the meaning of the word "instrument" as used in legal phraseology—they think that it is some type of instrument that is used

for cutting purposes or killing purposes—seek enrolment. Nobody realises that this type of tuition, this type of education is causing loss to one and sundry in our country and so many people are suffering on account of this . . .

श्री हुकम चन्द कछवाय : उपाध्यक्ष महोदय, मैं आप की व्यवस्था चाहता हूँ। इस समय हाउस में गणपूर्ति नहीं है।

Mr. Deputy-Speaker: There is no quorum. Shri Trivedi may resume his seat. The Bell is being rung (*Interruptions*). There is no quorum. There is no House. Nothing that is spoken now will go in record.

There is quorum now. Shri Trivedi may continue his speech.

Shri Sinhasan Singh (Gorakhpur): I would submit to you, Sir, and through you to the House, that we may resort to our old convention, that between 1.30 and 3.00 nobody should challenge quorum in the House and no voting shall take place. This convention was there for a very long time and it was violated only after Shri Kachhavaia came to the House. . . .

Mr. Deputy-Speaker: That was the convention that was being observed. Let us go on with the business now.

Shri Sinhasan Singh: We can re-start it. You can take the sense of the House. Shri Kachhavaia came and he began to challenge it in spite of the fact that there was such a convention. As a result of that, unfortunately, that healthy convention has been given a go-by. You may take the sense of the House now whether we should suspend the rule regarding quorum for 1½ hours between 1.30 and 3.00 as was being done before.

14 hrs.

Shri Tyagi (Dehradun): Either we should rise for lunch or we should revert to the old convention of not challenging the quorum during the lunch time.

Shri Sinhasan Singh: It was given the go-by.

Dr. M. S. Aney (Nagpur): This point was discussed and it was held that there could be no convention which is contrary to the provisions of the Constitution. If the Government so desire, let them change the provision relating to quorum in the Constitution. Otherwise, they cannot go against the Constitution. Since that convention was broken deliberately with the permission of the House, I do not understand how it can be reviewed.

Shri Narendra Singh Mahida (Anand): Sir, I rise on a point of order.

Rule 364 of the Rules of Procedure says:

“A matter requiring the decision of the House shall be decided by means of a question put by the Speaker on a motion made by a member.”

Under his rule, I move a motion that the old convention regarding non-challenging the quorum between 1.30 pm and 2.30 pm be revived.

Mr. Deputy-Speaker: I am sorry, I cannot agree with the hon. Member on this issue. The Constitution clearly enjoins quorum to proceed with the business of the House. If the entire House agrees, the Constitution can be amended. As long as that is not done, I cannot go against the Constitution. Anyhow, I will convey the feelings of the House to the Speaker. It is true that there was a convention in the past. But, that was challenged by several hon. Members and so was given the go-by. So, we cannot go on if there is no quorum.

It is the first and primary duty of the Members to maintain quorum in the House. Within 15 minutes I have rung the bell six times. It is the most disgraceful thing, I should say. When the bell rings, Members start coming in. The moment there is quorum and

[Mr. Deputy-Speaker]

proceedings start, they begin to walk out. That is not proper. So, I would request every Member to maintain quorum in the House. Now, Shri Trivedi.

Shri U. M. Trivedi: The Statement of Objects and Reasons attached to the Bill Says:

"Representations were received from the Bar Council of India and some State Bar Councils that the provisions of section 8 of the Act for retirement of one third of the elected members at the end of every second year and for biennial elections to fill the vacancies caused by such retirement were likely to involve considerable expenditure besides adding to the work of the Bar Councils."

This could have been envisaged when the law was made. Why was this fact not taken care of? We always resort to *post-mortem* remedy. In this case also the *post-mortem* remedy was followed in order to overcome the difficulty created by this situation.

The Statement of Objects and Reasons says further:

"In order to overcome the difficulty created by this situation, the Advocates (Removal of Difficulties) Order, 1966 was made by the Central Government on 10th January, 1966 under section 59 of the Act. This Order was, however, struck down by the Madras High Court by its judgment dated 8th April, 1966 in CMP No. 1446 of 1966 in writ Petition No. 4313 of 1965 as being *ultra vires* of the powers of the Central Government."

So, I can understand why the Advocates (Removal of difficulties) Order was made. But why at that very moment was this law not made?

श्री हुकम चन्द कड़वाय : उपाध्यक्ष महोदय, सदन में गणपूर्ति नहीं है।

Mr. Deputy-Speaker: The quorum is being challenged. So, the hon. Member may resume his seat. The bell is being rung.

An hon. Member: Let us adjourn the House for a short while.

Mr. Deputy-Speaker: If another time the quorum is challenged and there is no quorum I will adjourn the House. Now there is quorum. Shri Trivedi might continue his speech.

Shri U. M. Trivedi: Because of the frequent disturbance on account of challenging the quorum, it becomes very difficult for any Member to address the House in a coherent manner. This is not a joke. I think the Government should make up its mind once for all that legislation must be discussed before the Question Hour. That would be much better. In that case, Members will remain here. Those who want to receive publicity would like to remain here. Now only cheap publicity work is done and the real work for which we have been elected is not carried on in this House. We have all been elected for the purpose of making law.

Shri R. S. Pande (Guna): Many times, it has been demanded in the House that the quorum question should not be challenged . . .

Shri U. M. Trivedi: You are a new-comer. Every one is talking the same thing.

श्री हुकम चन्द कड़वाय : उपाध्यक्ष महोदय, गणपूर्ति नहीं है।

श्री शिव नारायण (बांसी) : आपका लीडर बोल रहा है और आप ही कोरम का प्वाइंट रेज कर रहे हैं

श्री चन्द्रगिलाल चौबरी : खाली दो मੈम्बर तो अपोजीशन बैचिज पर बैठे हुए।

Mr. Deputy-Speaker: Order order. The question of quorum is being challenged. The bell is being rung . . . Now, there is quorum. Shri Trivedi might continue his speech.

Shri U. M. Trivedi: As I was submitting, this is a very important subject. If we give attention to it, we will be paying attention to the administration of law and order in our country. I feel sorry that the interest which the consideration of this Bill should evoke is absent. It is really a sorry spectacle that seven times the bell had to be rung, three times when Shri Sharma was speaking and three times when I have been speaking. With all these obstructions it has become impossible to suggest coherently a proper, constructive criticism of this Bill.

As I have suggested, if the Government really mean business, if the Government really desire that the Advocates Act must be acted upon in a proper manner, then it is meet and proper that the Government should take courage in both hands and make the law work in the spirit in which it was made rather than get guided by personal or individual considerations, considerations of son, nephew or cousin. The Bar Council examinations must be conducted all over India, centralisation must take place and the riff-raff who are drafted into the legal profession must not be allowed to come into the picture. It must be a noble profession, a profession of the intelligent and the superior; it must not be a profession of the scum in the society. That is one of the things that I want to suggest to the hon. Minister and I hope he will take note of it.

This amendment has cast a slur upon us that we are not able to run our institution in a proper manner, that we are not able to elect members when necessary, so much so that we are making a provision that those who have been elected are no longer there, by virtue of the very law under which they have been elected or deemed to have been elected and those that have been elected shall be deemed to have been not properly elected. That a fiction of law is being created for a body which is exercising

quasi-judicial jurisdiction! I would suggest that such a sorry state of affairs should not be brought about and the law must, once and for all, be properly studied and modified when necessary and administered in the spirit in which it was made.

The Minister of State in the Ministry of Law (Shri C. R. Pattabhi Raman): I am obliged to the hon. Members who have taken so much interest in the Bill. I have already assured the House at an earlier stage that there was a meeting of the Members of Parliament, where the Attorney General was also present, for reviewing the Advocates Act, when it was decided to have a comprehensive amendment of the Act. So, we are going to bring as soon as possible a comprehensive Bill which will, if I may say so with respect, answer most of the queries raised today. This, as has been pointed out, is only to validate the Ordinance and to see to it that we have an Act giving the Bar Councils a four-year term. As has been pointed out by the hon. Member opposite just now, it is quite true that even those who have ceased to be members will be deemed to have been members in the new situation today. But just now I will not take much time of the House. I will just say that I have made a note of what fell from hon. Members and we undertake to bring forward a comprehensive Bill soon.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The House will now take up clause-by-clause consideration of the Bill. The question is:

"That clause 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. Deputy-Speaker: There is one amendment to clause 4 by Shri Kunwar Krishna Verma. He is not here. The question is:

"That clauses 4 and 5 stand part of the Bill."

The motion was adopted.

Clauses 4 and 5 were added to the Bill, Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri C. R. Pattabhi Raman: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

Shri A. S. Saigal (Janjgir): Sir, I want to say something on this.

Mr. Deputy-Speaker: On the Advocates (Amendment) Bill?

Shri A. S. Saigal: Yes, Sir. This is the final stage. I was waiting that I will get a chance to speak.

Mr. Deputy-Speaker: All right. Do you want the Bill to be rejected?

Shri A. S. Saigal: No; I do not want that. I am in favour of this Bill. It should have come earlier, but it has come after a long time. They have taken a long time to bring forward this Bill.

Mr. Deputy-Speaker: Only if you want to object and want the Bill to be rejected can you speak.

Shri A. S. Saigal: I have one or two observations to make.

Shri U. M. Trivedi: How can you do that during the third reading?

श्री अ० सि० सहगल : उपाध्यक्ष महोदय, कौंसिलर के सम्बन्ध में कुछ कठिनाइयों को दूर करने के लिए सेंट्रल गवर्नमेंट ने एक्ट के संवर्धन 59 के मातहत 10 जनवरी, 1966 को एडवोकेट्स (रीभूवल आफ़ डफ़ीक़्टीज)

आर्डर, 1966 जारी किया था। एक रिट पेटिशन नम्बर 4313 आफ़ 1965 दिये जाने पर मद्रास हाई कोर्ट ने अपनी जजमेंट डेटिड 8 अप्रैल, 1966 इन सी० एम० पी० नम्बर 1446 आफ़ 1966 में इस आर्डर को सेंट्रल गवर्नमेंट की पावर्ज के अल्ट्रा वायरस करार दिया। एडवोकेट्स (एमेंडमेंट) बिल, 1965 को राज्य सभा में पास कर दिया गया, लेकिन विधि मंत्रालय ने इस बात की कौशिश नहीं की कि उस बिल को लोक सभा में पास कराया जाये। मंत्री महोदय अब जो एडवोकेट्स (एमेंडमेंट) बिल, 1966 लाए हैं, मैं चाहता हूँ कि इस को जितनी जल्दी हो सके, पास कर दिया जाये। इस बिल में यह व्यवस्था की गई है कि स्टेट बार कौंसिल के हर एक इलैक्टिड मेम्बर का टर्म आफ़ आफ़िस चार साल होगा। इस बिल के द्वारा हर दूसरे या तीसरे साल एक तिहाई या आधे मेम्बरों की रिटायरमेंट और उन की जगह पर नए मेम्बरों के इलैक्शन की व्यवस्था को खत्म कर दिया गया है।

इस बिल के प्राविजन्स का स्वागत करते हुए मैं मिनिस्टर साहब से निवेदन करूंगा कि वह भविष्य में इस तरह के बिलों को जितनी जल्दी हो सके, लाने की कौशिश करें, ताकि भविष्य में वैसी देर न हो, जैसी कि इस बिल के सम्बन्ध में हुई है।

Shri Sheo Narain: Mr. Deputy-Speaker, Sir ...

Mr. Deputy-Speaker: Are you opposing the Bill?

Shri Sheo Narain: Yes, Sir.

श्री राम सहाय पाण्डेय : उपाध्यक्ष महोदय एक सीनियर मेम्बर इस पर बोलना चाहते हैं। आप इन को भी चांस दीजिए।

श्री शिव नारायण : उपाध्यक्ष महोदय, माननीय सदस्य, श्री त्रिवेदी ने इस बिल के बारे में अपने विचार प्रकट किये हैं। ही इज ए बिग लाइयर। मैं ला मिनिस्टर से निवेदन

करना चाहता हूँ कि पूअर पीपल को पैसा न होने की वजह से जस्टिस नहीं मिलता है, उन को सस्ता न्याय नहीं मिलता है। मैं अपील करना चाहता हूँ कि बार कौंसिलज कम से कम इस बात को तय करे कि वह कुछ हद तक गरीबोंकी मदद करे और उनके लिए फ्री वकीलों की व्यवस्था करे, ताकि उन को न्याय मिल सके। ला मिनिस्टर साहब एंशॉरेंस दें कि वह बार कौंसिलज से यह काम कराने की कृपा करेंगे।

जहां तक बार कौंसिलज के द्वारा एग्जामिनेशन लिये जाने का प्रश्न है, मैं कहना चाहता हूँ कि अगर यह व्यवस्था कर दी गई कि कोई व्यक्ति यूनिवर्सिटी में दो वर्ष तक पढ़े और फिर बार कौंसिल के सामने घुटने टेके, दो वर्ष जूनियर की हैसियत से प्रैक्टिस करे और इम्हतान दे, तो यह नये आने वाले वकीलों के प्रति इनजस्टिस होगा। मैं चाहता हूँ कि ला मिनिस्टर साहब इस बात का एंशॉरेंस दें कि इस बारे में कोई पाबन्दा नहीं लगाई जायेगी, क्योंकि इट इज ए प्राइवेट विजिनेस है—ला की प्राइवेट प्रैक्टिस होती है।

श्री राम सहाय पाण्डेय : इस को नेशन-लाइज कर दिया जाये।

श्री शिव नारायण : अगर कोई व्यक्ति अपनी जॉनियस और एबिलिटी के कारण एग्जामिनेशन में टाप करता है, तो उस को दोबारा किसी परीक्षा में बैठने के लिए मजबूर नहीं किया जाना चाहिए।

Shri C. R. Pattabhi Raman: I only want to assure you that we have already taken some steps regarding providing legal aid to the poor. It is being considered in the review committee. Steps are being taken by the Bar Council of India. I do not want to add anything more.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

1324 (Ai) LSD—8.

14.17 hrs.

**CRIMINAL LAW AMENDMENT
(AMENDING) BILL**

The Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence (Shri Hathi): Sir, I beg to move:

"That the Bill further to amend the Criminal Law Amendment Act, 1952, be taken into consideration."

This is a very small Bill. It consists of six clauses. The main purpose of amending the Act of 1952 is to rectify certain difficulties that arose in one case when certain personnel of the armed forces was being tried. As the House knows, under sub-section (1) of section 7 of this Act, offences specified in sub-section (1) of section 6 of the Act, that is to say, offences punishable under sections 161, 162, 163, 164, 165, 165A....

श्री हुकम चन्द्र कछवाय (देवास) :

चूंकि हाउस में गणपूर्ति नहीं है, इसलिए मंत्री महोदय यह बिल नहीं पेश कर सकते हैं।

Shri Gauri Shankar Kakkar (Fatehpur): You have said already that the House will be adjourned if there is no quorum. This is the eighth time now.

Mr. Deputy-Speaker: The bell is being rung...now there is quorum.

Shri Hathi: These offences, as I was mentioning, are triable by a special judge only. That is what is provided in section 7 of the Criminal Law Amendment Act. Under the Army Act, civil offences are to be tried by a court-martial. Thus, when section 7 provides that these offences could be tried only by a special judge, there is a conflict of jurisdiction whether the court-martial has jurisdiction or the special judge has jurisdiction. The Supreme Court held that these offences should be tried only by the