

the body started decomposing, the fact of his death came to be known.

The Police was called and they conducted enquiries into the case and came to the conclusion that this was a case of suicide. This belief of the Police was also supported by the discovery of a letter purported to have been written by the deceased asserting clearly that he was responsible for taking his own life. The handwriting of the letter was identified by persons who were acquainted with him. The body was duly postmortemed. From the evidence and the articles collected from the room, it has not been possible to establish exactly the circumstances leading to the tragedy.

श्री भक्त बर्षान (गढ़वाल) : दिल्ली में विद्यार्थियों की आत्महत्या की यह पहली ही घटना नहीं है। इससे पहले भी इस प्रकार की दो, तीन, चार घटनायें हो चुकी हैं। मैं पूछना चाहता हूँ कि क्या माननीय मंत्री जी ने इस के कारणों का पता लगाने का प्रयत्न किया है, और क्या कोई ऐसे उपाय किये जा रहे हैं कि इस प्रकार की घटनायें आगे न हो सकें।

डा० का० ला० श्रीमती : यही एक उदाहरण है, कारणों को ढूँढने की कोशिश की मगर पता नहीं लगा कि किस वजह से इस लड़के ने आत्महत्या की।

Mr. Speaker: He only wants to suggest that there may be a Welfare Officer going round the hostels and so on and finding out the facts in such cases.

12.56

*DEMANDS FOR GRANTS—contd.

MINISTRY OF LAW

Mr. Speaker: The House will now take up discussion and voting on

Demands Nos. 69 and 70 relating to the Ministry of Law for which 5 hours have been allotted.

Hon. Members desirous of moving cut motions may hand over at the Table within 15 minutes the numbers of the selected cut motions. I shall treat them as moved if the Members in whose names those cut motions stand are present in the House and the motions are otherwise in order.

The time-limit for speeches will, as usual, be 15 minutes for Members including movers of cut motions and upto 30 minutes, if necessary, for Leaders of Groups.

Motion moved:

DEMAND No. 69—MINISTRY OF LAW

"That a sum not exceeding Rs. 25,57,000 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, 1961, in respect of 'Ministry of Law'."

DEMAND No. 70—ELECTIONS

Mr. Speaker: Motion moved:

"That a sum not exceeding Rs. 88,92,000 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, 1961, in respect of 'Elections'."

Shri Sadhan Gupta (Calcutta-East): Mr. Speaker, there are many important subjects which could be dealt with in connection with the Demands of this Ministry, but I do not propose to cover all of them, not even the majority of them, but only a few of them. The reason is, firstly, that there would be no time to cover everything, and secondly, many of these have already been discussed in the House in other connections.

*Moved with the recommendation of the President.

[Shri Sadhan Gupta]

I shall confine myself only to certain matters connected with elections, with administration of justice and with the condition of the legal profession.

As regards the elections, the important thing today is to learn certain lessons from the elections recently held in Kerala. I am going to refer to certain matters not for explaining away the results—that is not my intention; the results have been accepted—but I want to refer to those matters to ensure free and fair elections in future, so that the lessons may be drawn and may be correctly applied to future elections, for that is essential for the proper functioning of democracy. Apart from that, I have to say something about the scheme of photographing electors which has been adopted in Calcutta.

Now, the first thing I want to say about the elections in Kerala is the religious threats offered by the Catholic clergy there. I again say I am not raising it for the purpose of explaining away the results; I am raising this matter because it is a serious matter. What has been done is this. You must have seen in the papers that the other day the Bishop of Trivandrum gave an order that all Catholic members of the Communist Party of India and of the Revolutionary Socialist Party must be ex-communicated. Not only that. He has further directed that those Catholics who have worked directly or indirectly for the Communist Party or the Revolutionary Socialist Party in the elections are to be denied the sacrament. The Bishop of Trivandrum has given this order and, I understand, throughout the elections, the Bishops in different places have issued these orders either in writing or orally.

This raises a very serious matter. The Bishop of Trivandrum, and, for the matter of that, every Catholic Bishop, has the right to dissuade Catholics, or for the matter of that every Indian citizen, from joining the Communist Party or the Revolutionary Socialist Party or from working for

the Communist Party or the Revolutionary Socialist Party. We have no quarrel about that. They may rail their very vilest against the Communist Party or the Revolutionary Socialist Party; we have no objection to that.

13 hrs.

Before independence, they railed against the Congress; after independence, they may rail against the Communist Party. We will be proud of the fact. But, then, the point is, it is not trying to dissuade by reason; it is not trying to dissuade politically. What the Bishop of Trivandrum and the other Bishops are trying to do is to wean away their fold by threat of consequences hereafter. What they threatened the Catholics with is ex-communication and denial of sacrament, which means to a devout Catholic that at God's great judgment seat, he will be condemned to eternal perdition. He will be condemned to eternal residence in Hell.

To a devout Catholic, Hell means much more than Hell to a devout Hindu. Among the Hindus, there is a spirit of penal reform in Hell; a term in Hell is not indefinite; after 5 years, 10 years, or 50 years or 100 years or even 1,000 years, he can come out and he can have a life of a worm or a dog or, perhaps, a man and then go back to whatever he deserves. Even after he has endured Hell, if he has any virtue to his credit, after this term in Hell he enjoys his term in Heaven. That is not the Catholic doctrine. If a Catholic does not secure the aid of the Church in this life, he is condemned to be eternally in Hell. That is a very serious matter for a devout Catholic. Whatever the reasons may be, whatever reason may be supplied to him politically, that reason flies in terror if he is threatened with these consequences. Similarly, there are other religions in our country where this kind of threat is going to have a very serious result.

Before and during elections, if this happens, it can be brought under the corrupt practice of undue influence. How can we prevent it after happening, after the elections? If a section of the community is threatened in this way, even after the elections, then they will be more careful during the next elections. That is why it is a problem of the fairness of the elections which should not be allowed to grow and which should be stamped out most firmly and with the utmost severity. I, therefore, suggest whether it would not be proper to make this kind of threat a criminal offence in future so that people who want to indulge in it may be deterred from doing so.

I will repeat, Sir, I am not saying so with a view to explaining away the results. I am saying so in order to ensure the fairness of the elections. Let there be all kinds of political persuasion to wean away the voters from the Communist Party or from any other party. Let us have the right to politically persuade them to get away from the Congress or the P.S.P. But, let not religion come into the matter and let any attempt to do it be firmly and determinately stamped out.

Another matter about Kerala is that there have been charges and counter-charges relating to the conduct of elections by all parties in Kerala. This is a unique thing. In all these years, it has happened the first time in the territory now covered by Kerala. There have been 5 elections—5 general elections—there from 1948 onwards. Never have such charges and counter-charges been levelled. The Election Commission, unfortunately, has taken the view that everything has been all right about the Kerala elections. This is very unfortunate in the face of these charges and counter-charges, and this needs investigation. This also I am not saying in order to explain away the results.

I would just give you one example which shows that things are not all right from whichever point of view you look at it. Some prominent Congress papers in Kerala published photo-

stat copies of two ballot papers which were alleged to have been found in the polling booth outside the box in a particular constituency, and these ballot papers bore the vote in favour of the Congress. That was one side of it.

On the other side, it was found that the photostat copies revealed that one of the ballot papers had the serial number 1 lakh and odd and the other had a serial number 7 lakhs and odd; and the total number of votes in the constituency was only 1,50,000 or so. Therefore, *prima facie* 6 lakhs of ballot papers could not have been issued in respect of that booth.

It was, therefore, necessary to make a thorough enquiry as to whether any presiding officer had tampered with the ballot paper in order to deprive the Congress of their votes, in the first place. We will also agree to that kind of enquiry because we do not want to win a victory by stealing the Congress votes; we want to win a victory by genuine votes. Therefore, that enquiry has to be made. On the other hand, enquiry has also to be made as to how the ballot papers bearing the number 1 lakh and odd and 7 lakhs and odd had come to be issued in respect of one booth. This could not be so *prima facie*. All this should have been decided by a proper enquiry. The Election Commission should have taken steps to convince the electorate and the people in general—not only in Kerala but throughout the country—that elections were really conducted in a fair manner and neither the electoral officers nor the political parties manipulated the ballot papers in any particular manner.

There are some other charges but I would not deal with them in detail. I have just given this in very brief to show the nature of things that have occurred or have been alleged to have occurred in Kerala. It is definitely necessary to hold an enquiry in this matter, to determine the responsibilities and the guilt of the persons concerned.

Another thing that happened in Kerala was the holding of the polling

[Shri Sadhan Gupta]

in one day. In normal circumstances, it is, perhaps, desirable because it speeds up election and it enables the results to be declared without influencing other results and so on, so that it would mean fairness in elections. But this amount of fairness cannot be ensured at the expense of freedom in elections.

For instance, it is said that what happened in Kerala was this. Because the polling was spread out, therefore, more than one policeman could not be provided in respect of one polling station. In certain places, certain *goondas* drove away genuine voters and introduced spurious voters in their place. Again, I am not explaining away the results. But it is quite clear that if the police force is inadequate in a particular area and if the election is fought in a state of tension, then, any political party which is strong in that particular area can capture the whole polling booth with spurious voters and shut out the voters of the other political parties. The policeman cannot do anything because one policeman cannot deal with the situation. Therefore, this aspect of the matter has to be kept in mind in holding polling in a short time in other places in future elections.

The marking system introduced in Kerala general elections has of course got this advantage that it prevents the persons carrying away the ballot paper because every ballot paper has to be given either to the presiding officer or put in the box. But the difficulty in Kerala was that the ballot papers were too thin and the ink on it too deep so that the symbols were visible on the reverse side of the ballot paper. Even the rubber stamp that was put by the voter was visible on the other side of the ballot paper. That means the secrecy of voting is gone. This should not be permitted in future elections. Either the ballot paper should be made thicker or the ink should be made lighter or the ballot paper must be folded once or twice more so that the symbol on the reverse is not visible.

Now, regarding the number of counting agents allowed, in Kerala the experience was, I believe, that one counting agent had to supervise four tables. I think it is the experience in every State. If you think that counting does not need any supervision, then of course, there is no necessity of counting agents at all but if you agree that counting does need supervision by counting agents—even where counting is absolutely fairly done, even there supervision is necessary and still more, supervision is necessary when there is suspicion that counting officers may do some foul-play—in either case, counting agents must be in a position really to supervise. One man cannot supervise four tables at a time. Therefore, either the number of agents should be increased or the number of tables should be reduced or both should be done at the same time so that one agent does not have to look after, say, more than two tables at a time.

Lastly, regarding the election, I come to the system of photography that has been introduced in Calcutta. A bye-election is pending in Calcutta and the system introduced is that every elector has to get himself photographed and unless he gets himself photographed, he cannot exercise his vote. Of course, what has happened in Calcutta is that Government photographers are chasing the electors and the electors are chasing the photographers because either the photographer does not find the elector at home or the elector does not find the photographer when he wants him. Sometimes, the electors are away from home from 6 A.M. to 10 P.M. and no photographer can catch him. Women want to be photographed by women alone. There are many women, particularly Muslim women and *pardah* ladies, who are determined not to be photographed. Then certain gentlemen, intellectually advanced, in high walks of life, have taken exception to the way the photograph used to be taken. The person was asked to hold the board showing his serial number and the photograph was taken. One gentleman remarked: "Are we convicts, that we are asked to do so?" I

understand a new system has been introduced and the board may be placed on a table before the elector. As a result of this, out of 3,40,000 voters, about a lakh have either not been photographed or have refused to be photographed. The aim of photographing is to prevent personation. Everyone wants to prevent personation but we should not lose sight of the perspective. What can you do by personation in a parliamentary election? Anyone would agree that it would be difficult to put in more than 10,000 personated votes in a parliamentary election even. It would be much less in an assembly election. To prevent 10,000 spurious votes, you are disenfranchising one lakh of persons even in an advanced place like Calcutta. If you extend it to other places, the proportion of disfranchisement will be much more. If you extend it to rural areas, election will become a travesty because only a fraction of the electors will allow themselves to be photographed. Therefore, I do not think it is a very wise policy although it may be desirable, if it can be carried out universally. It would really make a travesty of our democracy by large-scale disfranchisement.

I am now coming to the question of administration of justice. I do not propose to elaborate on this point because, as I said, many things have been covered but I will refer to certain aspects. The Law Commission has pointed out that the division of the functions connected with administration of justice between the Home Ministry and the Law Ministry is absolutely illogical and in fact it is an anachronism because in the British days, the Law Member was Indian and the Home Member was European. The important functions were concentrated in the Home Member and the unimportant ones, in the Law Member. But this situation no longer exists and on top of it, practically in all the countries of the world, all these functions belong to the Ministry of Justice. I would suggest another reason, apart from those given by the Law Commission, why this pattern should be followed.

The Law Commission has pointed out that in many cases, Judges have been appointed on considerations other than merit. However, we may try to deny it, it is a fact in many instances. Since the Law Commission has said it, steps must be taken to assure the public that this will not recur and judicial independence will be safeguarded. If judges are so appointed, it is a serious threat to judicial independence. This kind of threat is likely to be much less if appointments are taken out of the Home Ministry and given to the Law Ministry for this reason. The Home Minister is usually a person who is purely political, not with much of a legal background. The Law Minister is chosen particularly for his legal acumen. That is the usual rule. Such a person who has the legal background and a high legal acumen will revolt at the idea of introducing an incompetent judge, even for political reasons. Not that it would be impossible. But it is a fact that the professional man's conscience will have more intense pangs about this than the purely political person, who may sometimes have none at all in this matter. Therefore, I would suggest that all these matters of appointments of judges and other functions connected with the administration of justice with which the Centre is concerned should be taken over by the Law Ministry and the States should follow the same principle. Then we would have the chance of having a better judiciary than we can provide now.

Another point that I wish to deal with is the problem of high cost of litigation. This problem must be tackled. I do not want to go into all the recommendations made by the Law Commission; I want to confine myself to one or two matters. One very considerable item in many cases—the item of cost—is the cost of printing paper books, both in the Supreme Court and in the High Court. Sometimes in the Supreme Court, I know, the cost comes to Rs. 7,000 or Rs. 8,000 for printing paper books. That is absolutely unjustified and something must be done to rid the litigant of this kind

of cost. I think typing or cyclostyling would be good in any court. If it is good in any court, it should be good for the Supreme Court as well as High Courts. There may be some inconvenience, Sir, to the court, but considering the inconvenience to the litigants this should be adopted by all courts.

Another very serious matter is the conduct of labour cases in the High Courts and the Supreme Court. Particularly in the Supreme Court, labour is unable to represent itself in many cases because the cost in the Supreme Court is prohibitive. Because they cannot afford to employ good counsel in the Supreme Court, their cases go either unrepresented or badly represented. This has led to disastrous consequences in many cases. In many cases, important points affecting labour have been determined *ex parte*, and in many other cases the cases have been very badly conducted so that the employers have all had their own way. I do not blame the Supreme Court for it. The Supreme Court needed assistance and received none. Now, Sir, the position has somewhat improved because the presiding Judge of the Labour Bench has quite a background in labour matters. But, even in this case, unless even such a court is assisted properly, the labour cases cannot be correctly decided and the cases tend to go against labour.

Therefore, Sir, it is incumbent on the Government to appoint a sort of a Standing Counsel for labour of the status of the Attorney-General or the Solicitor-General, who would make it a point to appear in all labour cases at least to argue and make submissions on the law point. If that is not possible, at least the Attorney-General and the Solicitor-General may be retained for labour matters, if necessary on payment of proper remuneration.

Lastly, I come to the question of the plight of the legal profession. We all know that at one end of the scale, there are a few lawyers who make a fabu-

lous fortune out of the profession and at the other end are many struggling lawyers who live in penury. This thing does not depend purely on merits. Many meritorious lawyers do not find it possible to make their mark because often other factors are necessary to make the mark than pure merits. Some way should be devised to put an end to this situation. I suggest that the Government may call a conference of lawyers either to sponsor a legislation or, by persuasion, to organise panels on a court basis consisting of lawyers among whom steps may be taken to distribute the briefs equitably and share the fees equitably.

I cannot at this moment suggest details of such a scheme, but I am sure that if Government called a conference of lawyers such a scheme can be evolved. Such a scheme would enable, firstly, the meritorious junior lawyers to establish themselves in the profession and, secondly, it would incidentally save the litigants from the hands of touts and other undesirable people. If we can set up a proper organisation in which the public will have faith and which will also see to the equitable distribution of briefs, then we would do a great service both to the legal profession and to the litigants also.

Therefore, Sir, I would once more urge upon the Law Minister to look into the points I have raised regarding the conduct of elections, particularly, how to stop religious threats and also about the question of photographing in Calcutta. You can even persuade the Election Commission to drop it even at this stage. Secondly, I would request the Law Minister to give his attention to the question of costs and, particularly, to the question of appointment of a Standing Counsel for labour or retention of the Attorney-General or Solicitor-General for labour cases. I would also request him to see if some kind of a panel could not be organised in every court either on a voluntary basis or on a statutory basis in consultation with the profession to enable meritorious lawyers to establish them-

selves and to have a due share of the emoluments that are paid to the legal profession.

Mr. Speaker: Shri Amjad Ali. May I know how many hon. Members would like to participate in this debate?

Some Hon. Members rose—

Mr. Speaker: I find that the following hon. Members would like to speak: Shri Subiman Ghose, Lala Achint Ram, Shri Achar, Shri M. C. Jain, Shri K. N. Pandey and Shri Rami Reddy. All hon. Members will have an opportunity; only let them not exceed the time-limit of 15 minutes.

Shri Amjad Ali (Dhubri): Sir, I want to pose a question to the Ministry of Law. As early as 1957, in the month of August, there was a conference of the Ministers of Law known as the Law Ministers' Conference. Since then we have not heard what has happened to the Law Commission's Report that they were discussing. In the hand-out that has been given to us by this Ministry, in the second paragraph on page 3 it is said:

"The implementation of the recommendations of the Law Ministers' Conference held in September, 1957, with which the Law Ministry is concerned is also being processed in this Section in consultation with the other Ministries."

Even today, Sir, it is in the stage of processing and we do not know when the implementation is going to be done. Only today it has come out in the papers that the Law Ministers are going to meet again in about a month at Ootacamund, Mussoorie or somewhere in the cool heights of Simla after a long lapse of three years.

In the year 1958, Sir, the Law Commission submitted the report. Many of the subjects dealt with by them might have been controversial questions. The Law Ministry should have been eager or keen on looking into

these questions objectively and, I believe, something could have been done in this respect by now.

Sir, I wish the Law Ministers' Conference to be held after a month god-speed and I hope the Law Ministry would give a good account of themselves when they come out with their report. In their *Annual Report, 1959-60* which they have given to us, they have given in broad outline two very important sections: Department of Legal Affairs and Legislative Department.

Regarding the department of legal affairs, I find, as my predecessor has remarked, that the administration of justice is not in their hands. They have been relegated to the position of giving advice and advice alone and to draft Bills, draft treaties, and the agreements entered into with foreign countries. The documents connected with the United Nations with which India is concerned are also being examined in this section. The advice is given for prosecution or for non-prosecution or for the defence of the Government servants, both in the States as well as at the Centre. Rather than being content with this, I would like the Ministry to be in charge of the administration of justice also along with its present duties. They may answer that the administration of justice is a State subject and that it comes in the State list.

13.31 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

But in this connection, I might quote with advantage a few relevant lines from page 1223 of the Law Commission's report. The previous speaker, Shri Sadhan Gupta, also hinted at this. The report says:

"It is clear to us that such a division of functions between the two Ministries of the Government of India, apart from being not logical, is bound to adversely affect the administration of justice. The division is archaic and seems to

[Shri Amjad Ali]

have its roots in days when the portfolio of law was often held by an Indian Member of the Governor-General's Executive Council while Home Affairs was entrusted to a European Member, it being the function of the latter department to maintain law and order. It is not unnatural that in those days the question of the appointment of Judges to the High Courts should have been left to the Home Department."

So it was a time when the administration of justice was left in the hands of persons who came from the ruling race. But the times have changed and in the altered conditions, we would expect that the administration of justice is also placed in the hands of the Law Ministry which is all staffed by Indians now. This is needed in the interests of co-ordination between the States and the Centre in the matter of justice.

The Law Commission, in its fourteenth report, at page 1225, has observed as follows:

"It is, in our view, very necessary that a Ministry of Justice staffed by competent personnel, possessing the necessary technical knowledge and administrative experience, be established at the Centre for these purposes. Among other matters, such a Ministry would be charged with the task of ensuring that the High Courts in the various States possess adequate and competent personnel. It may also assume the control of the Indian Judicial Service whose creation we have recommended. Among other subjects, civil and criminal procedure and the legal profession might be dealt with by this Ministry."

So, the administration of justice should now be tacked with the Law Ministry rather than being left to the Ministry of Home Affairs who are admittedly not in the line and who are not supposed to be dealing with matters strictly legal.

The other point which I want to make is with regard to legal aid. This question has engaged the attention of the Law Commission and it has also exercised the minds of the thinking public. In the annual report of the Ministry it is said that the subject, "Legal Aid to the Poor" is also being dealt with in the Judicial Section. Till now we have not been able to know what particular shape it has taken in the matter of giving legal aid to the poor. There are poor persons who are helpless and who cannot pay for the litigation both in respect of court fees and of counsel fees. As it is always necessary to see that food is given to the person who is starving, drink is given to the person who is thirsty, we should also think about giving legal aid to the poor and the needy who cannot pay for the litigation, especially since ours is a welfare State.

I was reading an article in the *Law Quarterly Review* wherein Mr. E. J. Cohen has made some observations. After stating that the general principle that legal aid is a service which the modern welfare State gives to its citizen can no longer be disputed, this is what Mr. Cohen says:

"It is part of that protection of the citizen's individuality which, in all modern conception of the relation between the citizen and the State, can be claimed by those citizens who are too weak to protect themselves. Just as the modern State tries to protect the poorer classes against the common dangers of life, such as unemployment, disease, old age, social oppression, etc., it should protect them when legal difficulties arise. Indeed, the case for such protection is stronger than the case for any other form of protection. The State is not responsible for the outbreak of epidemic, for old age, or economic crisis. But the State is responsible for the law. That law again is made for the protection of all citizens, poor and rich alike. It is, therefore, the duty of the State to

make its machinery work alike for the rich and the poor".

In this connection, I would also like to quote from the summary of the Law Commission's report, given at page 599 of the report, on the subject of legal aid. Their recommendation is as follows:

"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. The State must, therefore, accept this obligation and make available funds for providing such legal aid to poor persons and persons of limited means;

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

This has been pointed out by Shri Sadhan Gupta, namely, that the legal profession also has got its duty towards the poor citizens of the State. The shape or the form in which this legal aid has got to be given or the way in which lawyers might think it possible to give legal aid to the poor are matters which I leave to the Ministry of Law to consider. They must see how best these things should be organised. Then the report says:

"This responsibility should be discharged by the profession by organising and by serving on bodies which will render legal aid, and representing in courts poor persons or persons of limited means on the payment of only a proportion of the fees payable on taxation;

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;

The scheme for legal aid to poor persons and persons of limited means outlined by the Committee on Legal Aid and Advice appointed by the Government of Bombay in 1949 and the scheme outlined by the West Bengal Committee should, with suitable modifications made in the light of local needs and conditions, be adopted by all States as soon as financial conditions permit;"

So, in this respect, I must mention the State of Kerala. They have also, in their humble capacity, been giving legal aid to the poor, and a scheme was drawn up by the late Ministry towards that end. They have supplemented what the Governments of West Bengal and Bombay have done. Bombay has been the pioneer in this respect and it has now been followed up by the Governments of West Bengal and Kerala. In this connection I would suggest that the Ministry of Law should see to it that it is done in every State so that poor persons who cannot defray their expenses for litigation are aided at the time of crisis.

Much has been said about the Election Commission and their doings by my friend, Shri Sadhan Gupta. I will supplement it by pointing out that in Punjab in certain cases because of the pressure of the higher-ups they were not doing their job and they had yielded to the wishes of the authorities concerned. This is a thing which has been agitating the minds of the public in general and I hope the Ministry of Law will look into this also.

Shri Achar (Mangalore): I would, first of all like to make a few observations on the conduct of litigation on behalf of the Central and State Governments. This is one important branch of this Ministry and I am not inclined to congratulate the Ministry for the way in which the conduct of cases is undertaken by the Central Government. Before I go into one or two points connected with the litigation

[Shri Achar]

tion in the country, I would like to refer to one important point connected with our litigation in the International Court at The Hague.

Of course, every member knows that we had a case there and only the judgment is pending now. But, before that, I am referring to the earlier stage when we raised the question of jurisdiction of that court to entertain that litigation relating to right of way to Portugal in Nagar Haveli. Portugal filed a case against us, and the most important point raised by us was whether that court had jurisdiction to consider that. Objection was taken by us and then a statement was filed on behalf of the Portuguese Government covering all the points that we had raised. There Portugal contended that the court had jurisdiction. At that stage, a lawyer of international repute was engaged on our behalf. I have nothing against Professor Walder. He is a well-known international lawyer of great repute. Portugal had engaged Professor Borquin. The point I am making is whether our Law Department, or even the External Affairs Ministry, really considered all aspects of the question and the consequences the appointment would have on the litigation. The point is that Professor Walder had written a series of articles in the British magazine, *Year Book of International Law*, arguing this point entirely against us. The point made out by him in those articles is that the court has jurisdiction. We engaged Professor Walder to present our case and argue against his very arguments in his articles.

Mr. Deputy-Speaker: Do the lawyers give their own opinions in the court?

Shri Achar: I will come to that point. So far as municipal law is concerned, it is an entirely different matter and even if the lawyer expresses one view and argues another view, the courts

here are guided by the decisions of the High Courts and Supreme Court. In the international field, even though I have not looked into all aspects of the question, it is my considered view that the International Court of Justice look into the opinions given by eminent lawyers also. That is exactly what happened when the question of jurisdiction came for hearing in the International Court. The counsel for the other side, Professor Borquin simply gave a great compliment to Professor Walder and said that he was a great lawyer of international repute and a great jurist and all that and finally said "I entirely adopt his own arguments". If it had been a municipal law, the position would have been different, because the opinion of lawyers do not count much, so far as the judges are concerned. Though I am not an expert in international law, I am definitely told that one of the things that the International Court considers is the opinion of eminent international lawyers.

Mr. Deputy-Speaker: If the lawyer was so eminent as the hon. Member thinks him to be, he could have said that on further study he has found he was wrong.

Shri Achar: So, what I am saying is that this point was found against us. I am not saying that the International Court went entirely by the opinion of Professor Walder but, all the same, we have to remember this aspect that the International Court always give great respect to jurists of international fame. Naturally, Professor Borquin, an eminent counsel on the other side, did not argue the case much except quoting the views of Professor Walder. In fact, I have also read one dispatch in *The Hindu* about it. Certainly it must have attracted the notice of the Government. I do not want to waste too much time on this but, all the same,

I would say that in selecting a lawyer the department ought to have studied the question as to what his views on the subject are. He may be an eminent lawyer but we have to consider his views also. In the statement filed by Portugal they have simply copied the points mentioned in the article written by Professor Walder himself. When that was so, was it not the business of the officers of the Law Ministry to look into that aspect of the question and see that a proper international lawyer was appointed, and not a professor whose points were all against us? That is why I said that in the conduct of cases great care must be taken. It may be that they had not come across his articles.

Dr. M. S. Aney (Nagpur): May I ask one question? Were the services of that international lawyer engaged by us after he had expressed his opinion or before he had expressed his opinion?

Mr. Deputy-Speaker: He says that the Professor was engaged after he had published his articles.

Shri Achar: It may be that our people had not read it. I am not saying that they have appointed him deliberately after seeing his articles. All the same, the fact remains that sufficient care was not taken in this case, and that has certainly affected our litigation on a very important matter in our dispute with Portugal.

Then I come to income-tax cases. I remember a case where the income-tax official charged income-tax on a trust property. In spite of representations and submissions, even in the Appellate Tribunal they included that property for purposes of income-tax. Subsequently the matter was taken to the civil court. In spite of the fact that it is a well-known proposition of law that trust property cannot be included for income-tax, the matter is taken to the court. Of course we know that so far as the civil courts are con-

415 (A) LS-5.

cerned they are above all these considerations. The suit was thrown out. The matter was taken up in appeal. There also it was thrown out. Fortunately it did not go to the High Court. Evidently the lawyers there must have told them not to contest the matter. But what does it indicate? If such litigation is carried on by Government what amount of cost is unnecessarily incurred? It is not only the cost to the Government but the cost also that is paid to the other side.

I have several instances of this kind, but I do not want to elongate this aspect of the question. I only wanted to emphasise this aspect. Several decrees are being passed and finally with costs the amounts are paid. I would request the Law Ministry to look into this aspect of the question and see whether this litigation to a considerable extent cannot be avoided.

Only the other day I remember I referred to that when the Railway Demands were being discussed. I referred to the case in which certain movable jewels and cash were taken possession of by the Railway Department and were detained for nearly 2½ years with the Department. The party was asked to produce a succession certificate. A succession certificate was produced. Of course, everyone knows that a succession certificate is a title against the whole world. Everybody is protected if the jewels are handed over after the production of the succession certificate. But even then the goods and the jewels were not handed over. Fortunately the matter did not go to court because it came to the knowledge of MPs. They wrote to the hon. Railway Minister. The party was requested not to file a suit. After some delay the jewels and the cash were given back. But if that had not been done certainly a suit would have been filed and the claim of Rs. 10,000 would have swelled at least to Rs. 15,000.

I am referring to this aspect of the question because I feel that not only

[Shri Achar]

in one department but in several ministries the cost of litigation and the cost paid to the other side by the Government could be very much reduced. I request the Ministry to look into this aspect of the question. Just as the Finance Ministry have a new unit to go and find out what unnecessary expenses are going on in the Ministries, I wish very much the Law Ministry also does this and looks into that aspect of litigation and try to minimise this unnecessary litigation.

The next point I would like to refer to is about the several reports of the Law Commission. I have got probably five minutes more.

Mr. Deputy-Speaker: All right.

Shri Achar: I do not know how many minutes have I at my disposal.

Mr. Deputy-Speaker: There are three more, but if he wants five minutes I will give him that much time.

Shri Achar: The next point I would like to refer to is about the several reports of the Law Commission. It is very excellent of the Government to have appointed the Law Commission. I find that the reports that are submitted one after another are submitted with the best possible recommendations about how the Law Department could be improved. One after another we have got reports but I do not know what has been done to them. I have felt at least that they have not been looked into and necessary Bills have not been introduced.

Before I say one or two words about that aspect of the question I would like to draw the attention of the House to one paragraph in the report relating to judicial administration, Volume I, page 158. I am sure the Law Ministry has read it. It refers actually to the breakdown of law. Instead of stating it in my own words I would like to read one paragraph on page 158.

"Our purpose in reproducing at very great length the observations made by the High Court of Allaha-bad and the Chief Justice of West Bengal is to point a.tention to this grave state of affairs in regard to the administration of justice which prevails in some of the States. In at least two of the States, the conditions reflect little credit on the State Governments and, particularly, on those in the Government in charge of judicial administration. Under the Constitution administration of justice and the constitution and organisation of courts other than the High Courts are the responsibility of the State administration. The facts revealed indicate, on the one hand a gross neglect by the State administration of their duty in establishing the necessary number of courts and on the other, a complete failure on the part of the State to carry out its obligations to provide trained and proper judicial personnel for presiding over the courts. The States in question cannot even urge financial stringency as an excuse for the figures reveal that these States have been making substantial gains out of the revenue earned by them by way of Court fees. It is a matter for serious consideration whether in order to prevent what appears to be virtually a breakdown in the system of judicial administration the Central Government should not, by an amendment of the Constitution, be given a greater measure of control over some aspects of judicial administration in the States. This suggestion is made on the basis that such control exercised by the Centre would tend to prevent such deplorable conditions arising."

Probably my time is up. Therefore I need not comment more on this. I would request the Law Ministry to take up this matter very seriously at least in the States' Law Ministers' Conference and see whether this could

not be removed. Of course this Report refers only to two States but I know in other States also cases are accumulating like anything. Even for five or six years suits are not disposed of. The cost of litigation is very high. In fact to that also the report refers where it says that they are making a profit out of that specially with regard to civil litigation. The State itself must look after the entire criminal litigation because it is a public matter and the public as a whole is interested in it. But civil litigation is made to pay very high Court fees. Litigation is very costly. In spite of that fact the delay is deplorable. From that point of view I would submit that the Law Ministry should take up the matter though it is a State subject. In fact the Report even says that they must change the Constitution and the Centre must look after it. Even if that is not done immediately, I would make this appeal that this matter must be taken up by the hon. Law Minister in the conference of the State Law Ministers to see whether something cannot be done. The real difficulty is that sufficient number of judicial officers are not appointed and cases accumulate. District judges and even High Court judges report that there are any number of cases pending for a long period. They recommend the appointment of more judges. Judges are not appointed. Cases are accumulating like anything and delay occurs. This is a known subject and I do not want to dilate any more on the matter.

One word about elections and I will sit down. There is a report produced about the cost of elections. In that respect I would like to submit one point for the consideration of the Ministry. A considerable amount of expenses is incurred by the candidates for the distribution of the slips giving the numbers and the names of each voter in every constituency. This is a very costly thing. A large number of volunteers have to be used by the candidate for this purpose. Specially in a double member constituency for Parliament it becomes a

very big and huge matter. The cost incurred by a candidate is also swelling up like anything. I wonder whether the Election Commissioner can not do something in this matter to see that these slips giving the numbers, the roll and all that cannot be distributed by the department itself.

14 hrs.

Shri K. N. Pandey (Hata): I am thankful to you for giving me this opportunity to express my views on the working of this Ministry.

While supporting the Demands, I want to place two important points for consideration. One is about election petitions and the other is about cases of labour in appeal before the Supreme Court or High Courts.

There is no doubt that after the election of 1957 there was some improvement in coming to decisions on election petitions. The procedure is that first the election petition has to be filed before the Election Commission who appoint a District Judge to go into the case. But one defect in this procedure is that while they give the designation of the Judge, they give his name also, and that creates some difficulty, and I may cite my own case as an example.

After the last elections, a petition was filed against me before the Election Commission, and the District Judge of Gorakhpur was appointed to decide the matter. After a few days he was transferred, but, since his name was also mentioned along with his designation, he had to take my case with him to his place of transfer. It so happened that sometimes he sat in Gorakhpur and sometimes in Sitapur where he had been transferred. You can easily imagine the difficulty of a person to conduct his case, since he had to engage two senior lawyers because, after having won the election, he could not ignore the election petition. Therefore, in future I suggest only the designation should be given. Whoever comes to the post can decide the case. The name should not be

[Shri K. N. Pandey]

mentioned, since that creates a difficulty. Every District Judge is a responsible person, and is capable of deciding these cases.

Though labour is organised into some unions and collects some money also, everybody knows that they are so poor that they cannot conduct their cases before the High Courts and the Supreme Court. Recognising this, a separate Act was passed, the Industrial Disputes Act, and some courts were created under that Act. Under that, the workers are not required to pay any fee or incur heavy expenditure to conduct their cases, in view of their poverty. But what happens is that after the decision of the tribunal is given, the employer, though he knows full well that he has not got a strong case, goes to the High Court and files a writ petition simply to delay the implementation of the decision.

I can give an example from U.P. Recently there was a meeting of the Indian Labour Standing Committee, and there I was told that out of the total writ petitions filed before the High Court of Allahabad, 80 per cent went against the employers. Even so, they are not leaving this practice, simply because they are entitled to it.

What is the use of creating a separate machinery if the same procedure, which results in delay, and heavy expenditure is followed? I therefore suggest that some concise procedure be evolved, so that labour may be relieved of this extra burden.

In some cases, the employers engage the top-most lawyer, and if labour has to win the case, it has also to engage a lawyer of equal rank, which requires a heavy sum which the workers cannot afford.

If, however, the procedure is to remain as it is, I request the Law Minister to engage somebody to conduct the cases on behalf of labour in

the High Courts and Supreme Court, just as legal aid is given to the poor.

If the worker has to file an appeal in the Supreme Court, even if he has, *prima facie*, a strong case, he has to deposit Rs. 2,000. How can a poor worker deposit this sum? So, I suggest that they should be exempted from depositing such fees. The employer has got money, and, simply to delay implementation, he can file a writ petition and go in appeal and lose in the long run, but labour, being poor goes in appeal in rare cases and, therefore, he should be exempt from this fee.

The Supreme Court is, of course, respected everywhere and by everybody, nobody can deny that, but it takes too much time to decide a case. If a worker is dismissed by a factory and is reinstated by the lower court an appeal is filed in the Supreme Court, and it takes three years. How can the poor man live without pay for three years? He has to wait till the decision is given by the Supreme Court. So, I request that some special Bench may be created for deciding these labour cases. If these cases are treated on the same footing as the general cases, they have to take their turn in the normal course.

Mr. Deputy-Speaker: There is an interruption from this side that already it does exist.

Shri K. N. Pandey: That is not especially for these cases. They have to do other work also. I have experience of such cases. Seventy five persons were dismissed from the Lakshmi Devi Sugar Mills, Chhitauni. An appeal was filed before the Supreme Court, and it took more than three years for the judgment to be given. Can you imagine the difficulty of those people when they have to wait for so long?

This is my suggestion that some concise procedure must be evolved so that the workers may get justice as speedily as possible.

Shri Subiman Ghose (Burdwan): During the British days, we used to denounce them for not separating the judiciary from the executive. After independence, we framed our Constitution and incorporated in it the directive principle that there should be separation by means of article 50. The Law Commission also discussed the matter threadbare in their report, in pages 850 to 863. In page 859, the Law Commission stated:

"We are of the view that this is a matter on which legislation by Parliament is necessary."

But up till now we find nothing has been done, even in this eleventh year of the Republic.

This was discussed in the Constitution Assembly when the Constitution was being framed, and I will do well to quote the Law Commission here: (page 851, Note V):

"So insistent was the public feeling in this matter that when the present article 50 was being debated in the Constituent Assembly, there was a considerable opinion in favour of fixing a time-limit of three years in the article itself for carrying out the separation. The time-limit was eventually not fixed on the assurance of the Prime Minister, Shri Jawaharlal Nehru, that the Government was entirely in favour of the separation and that in large parts of India that change might be brought about sooner than that."

That is the finding of the Law Commission. But what are we seeing today?

In this connection may I refer to a speech delivered by Dr. Rash Behari Ghose, one of the world-famous jurists so far back as 1913 when he quoted some of the British lawyers, judges and jurists that there should be separation between the judiciary and the executive, and ultimately he quoted Lord Dufferin who said that separation of judiciary from executive is a counsel of perfection; but after discussing why it

could not be done, Lord Dufferin said: "We can afford to consult times and seasons in carrying these improvements into effect." To that Dr. Rash Behari Ghose answered: "I wonder if that time and that season will ever come. There is a season, it seems for everything. There is a season for Seditious Meetings Act, there is a season for Press Act, there is also a season for Conspiracy Act. But there is no season, we ask with hearts sick with that sickness in which the iron sometimes enters into the soul, is there, we ask, no season for the redemption of solemn pledge?"

Mutatis mutandis I also press that before the House, and I very much like that the hon. Minister will answer this.

Next I shall come to another point which to my mind is a very serious one, and I want to know what the Law Minister has done in this respect. Some time back, on 9th September 1959, I tabled a starred question (No. 1274A) in which I wanted to know whether a Union Minister is running a magazine in which he gets advertisement from Government, from the Centre as also from the State Governments. That was answered, and all my my questions were answered in the affirmative, that is, that a Union Minister runs a magazine, that he is the owner of this magazine and that he is getting advertisement—that he was getting even before he was Minister and he is getting when he is Minister. And I shall give the last portion of the answer:

"In giving advertisements it is not our policy"—it was the Information and Broadcasting Ministry that was giving the answer—"In giving advertisements it is not our policy to enquire into the ownership of any particular periodical or paper". That is a very nice thing. "Advertisements are based on circulation and the standing of a paper. The parti-

[Shri Subiman Ghose]

ular paper referred to has been in existence now for more than twenty years and has been getting casual advertisements from Government off and on for many years."

Shri Amjad Ali: What is the name of that magazine?

Shri Subiman Ghose: The name of that magazine is *Chaturang*.

An hon. Member: A Bengalee paper?

Shri Subiman Ghose: Yes. This is the question which I tabled on the 9th September 1959. I know that many representations have been sent from West Bengal to the Ministry, even to the Rashtrapathi in this respect. Does it not infringe the provisions of the Representation of the People Act?

The Deputy Minister of Law (Shri Hajarnavis): No.

Shri Subiman Ghose: Certainly it is a contract; Government gives the advertisement and he published it and gets the money. Then it is very well that other Ministers will also run magazines and take advertisements from the Government, and the Information and Broadcasting Ministry will say "well, it is not our business to enquire who is the owner in this respect". They will earn something, they will be holding an office of profit....

Mr. Deputy-Speaker: This is a Minister of a State, who according to the hon. Member, is the proprietor of the Paper. The Ministry of Information and Broadcasting is distributing those advertisements. How could we hold the Ministry of Law responsible for this?

Shri Subiman Ghose: It is an election matter. If the Information and Broadcasting Ministry....

Mr. Deputy-Speaker: How is it an election matter?

Shri Sadhan Gupta: Pertaining to election.

Shri Subiman Ghose: It is holding an office of profit which offends section 7 of the Representation of the People Act.

Mr. Deputy-Speaker: Then it should be before the Home Ministry or something. How is the Law Ministry to deal with it?

Shri Subiman Ghose: My submission is this, that when this came out the Minister who is the owner of the magazine knew in his heart of hearts that he is doing something which is not fair at least. And when it came to the notice of the Information and Broadcasting Ministry was it not the duty of that Ministry to refer it to the Law Ministry to take their opinion? What is the Law Ministry doing? Is it not an infringement? At least I think it is.

Shri Hajarnavis: Apart from the question whether the Ministry of Law is responsible or not, I am definitely of opinion that it does not constitute an office of profit, nor does it infringe section 7 of the Representation of the People Act.

Shri Sadhan Gupta: Interest in a contract.

Mr. Deputy-Speaker: There are differences of opinion. They cannot be reconciled just now. Two hon. Members might hold different views on love!

Shri Subiman Ghose: But in that case what is the ordinary law?

Mr. Deputy-Speaker: He has given his own opinion now. We can fight it out in the court.

Shri Subiman Ghose: This is the only forum and it is for that reason I have....

Shri Sadhan Gupta: Let it be decided by *quo warranto*.

Shri Subiman Ghose: It is for this reason I have brought in the question. That has not been taken notice of. Again I am pressing it. Law is nothing but ordinary commonsense. In that case I will ask the hon. Minister....

Mr. Deputy-Speaker: But when that commonsense is embodied or recorded in a document, then that has to be seen as to what commonsense is there, not outside, extraneous commonsense.

Shri Subiman Ghose: Sir, I am not dilating on that any more. My submission is that every Minister will be entitled to start a magazine and get advertisements. That is a contract, because Government sends....

Shri M. C. Jain (Kaithal): How many more Ministers have started magazines after that?

Shri Subiman Ghose: He started that magazine long before that.

Shri M. C. Jain: I am asking how many more Ministers have started magazines. The hon. Member says that every Minister will start. No Minister has started.

Shri Subiman Ghose: That is another matter. I am not discussing that. If this is not a contract, then every Minister will be able to do so.

Mr. Deputy-Speaker: That Minister could be dealt with in the local Legislature. Members there could raise that question and have an answer there.

Shri Subiman Ghose: But he is a Minister here.

Mr. Deputy-Speaker: Now the hon. Member might continue his speech. He has given his own view-point, and he Minister has also said that it does not come within the purview of those restrictions.

Shri Subiman Ghose: I have brought it to the notice of the Minister and his to my mind infringes the Repre-

Next I come to the independence of the judiciary. Everybody in this world wants to live under the rule of law, and there cannot be a rule of law unless there is an independent judiciary. We might denounce the Britishers by bell, book and candle, but they had a high regard for the judiciary. We have seen from Sir Barnes Peacock to Sir Maurice Gwyer that they have established traditions to which we have yet to make the nearest approach. I shall just give one instance. During the British days a very celebrated advocate of the Calcutta High Court was speaking on the budget in the Bengal Legislative Council and he said in his speech that the Chief Justice and the Puisne Judges of the Calcutta High Court found a peculiar delight in hobnobbing with the executive; the result is that the Calcutta High Court has been robbed off its independence. He used unsavoury words also against some other judges, but if I repeat them, perhaps, I would be guilty of using unparliamentary expressions, and, therefore, I would not use them.

Mr. Deputy-Speaker: I would advise him not to use them.

Shri Subiman Ghose: Before your advice, I had myself thought over it.

Then, there was a commotion over this, and one very leading English Daily in Calcutta wrote a leader over this. And the judges sent a notice for contempt of court, and there was a Full Bench hearing, in which the editor was defended by no less a person than Sir Tej Bahadur Sapru. The Full Bench consisted of five judges, and ultimately, they found that this editor was guilty of contempt of court. And they want to know whether the editor was willing to tender an apology, but the editor perhaps thought that an apology was not so very cheap, and he preferred to go to jail. What I want to say is that the Britishers did not raise that pathetic cry when it was said by the celebrated advocate that the judges were not

[Shri Subiman Ghose]

patiently, and for the same purpose, the editor went to jail, that is, for the sake of the independence of the judiciary.

Perhaps, our Law Commission scented some inroads by the executive on the judiciary, and, therefore, they came to certain findings. It will be better if I place those findings before the House. In para 75 at pages 100 and 101 of the *Fourteenth Report of the Law Commission*, this is what we find:

"In the early British days and till very recently, the British and the Indian judges maintained as a rule a tradition of isolation and aloofness, declining to mix freely with members of the public and the executive at clubs and other social functions. That was the British tradition of the judges living, in the words of Sir Winston Churchill, 'their whole lives*** within strict and rigid limits'. So zealous were these judges to guard their independence and the public confidence in their impartiality, particularly in reference to the executive, that it was said of one High Court that the Chief Justice and judges would not approach the precincts of the Government House....".

Again, in para 76, they have stated :

"Far from avoiding the precincts of the Government House, judges have come to treat invitations from the Government House as 'commands'. Newspapers tell us of Chief Justices and judges being 'granted' interviews by Ministers."

I submit that this is the first charge that I shall make against this Ministry. Is it not a fact that this Ministry gave a party to the Chief Justice of India, suddenly, when he became a Chief Justice, at which party all the big Ministers were present? The Law Ministers are meant for implementing the recommendations of the Law Com-

mission; they are not meant for their violation. But that is what has been done recently. Is it not an inroad on the independence of the judiciary? The Chief Justice, with great respect to him I would submit, became a Chief Justice according to the seniority basis; there is nothing new in it. What was the occasion for the Law Minister to give a party to the Chief Justice? I do not know whether the party was given by the Law Minister—that is certain—in his personal capacity or in his official capacity; nevertheless, a party was given. I submit that that is tainting the independence of the judiciary.

We have also found that in political organisations or meeting convened here in Delhi in the bungalows of Ministers, the judges have been present. There was a meeting for giving reception to one swimmer who had crossed the English channel, in the name of a political organization; it has got no office whatsoever here; it is a branch organisation; the office is somewhere else. The reception was held in the bungalow of a Minister, which the judges of the Supreme Court attended. I submit that these are all inroads on the independence of the judiciary. This shows that we are not a zealous guard of the independence of the judiciary, and this morning's controversy points to that. I would like to tell the hon. Minister most humbly that the independence of the judiciary is like the chastity of a woman; a touchy one does not brook any violation. That should be our motto.

I now come to another article of the Constitution, namely article 222, which is meant for the transfer of the judges. There is one very great aspect which results out of this. If the judges are transferred to the different High Courts, if, for instance, the Rajasthan judges are transferred to Calcutta, the Calcutta Judges to Bombay, and the Bombay judges to Madras and so on, it proves the oneness of India, and it gives some relief to the lawyers also, because otherwise, the lawyers would be feeling suffocation. I

would not say anything against any judge, but I would ask this Ministry to enquire into the position at the Calcutta High Court, where, regarding some judges, the lawyers are feeling suffocation.

Shri Hajarnavis: If that is done, then the hon. Member will complain that we are interfering with the independence of the judiciary.

Shri Subiman Ghose: When there should not be any such feeling, but the Ministers feel like that.

Mr. Deputy-Speaker: The judges would feel like that, not the hon. Member.

Shri Subiman Ghose: There should not be any such feeling.

Mr. Deputy-Speaker: If some judge wishes to remain at a particular place, and he is transferred, then, certainly, it may give room for complaint.

Shri Subiman Ghose: So far as the greater aspect is concerned, I would say this. You were once a judge, Sir, and you would realise this. Will it not prove the oneness of India? We say so much that there will not be any regional considerations if there is done. So, if the judges are transferred from one High Court to another, what is the harm?

Shri M. C. Jain: Even the States Reorganisation Commission had recommended that.

Shri Subiman Ghose: Regarding industrial disputes, to which my hon. friend who spoke earlier had made a reference, it has been said that the deposit of Rs. 2,000 should be reduced so as to make it Rs. 250, in order that it might be within the reach of labour. As he was pointing out, suppose a labourer is dismissed, and the employer takes up the matter to the Supreme Court, and it remains pending there for three years, then the labourer remains stranded. I would suggest that the Law Ministry should

take some steps that in cases where labourers have been dismissed, if the employer wants to file an appeal with the Supreme Court, then the reinstatement of the labourers should be made a *sine qua non* to the filing of the appeal. In that case, the labourers will get some sort of relief, and the employers will think thrice before they go to the Supreme Court.

Regarding disposal of cases, there is a universal cry that there is delay. I submit that there is delay everywhere. I do not know in which department there is no delay. Why should the law courts be made a scapegoat for this cry or this bogey of delay in disposal of cases? I think our experience tells us that cases are being butchered like anything; they are not given due consideration. And yet we say that every matter should be disposed of more speedily. The result is that the lawyers....

Mr. Deputy-Speaker: He ought to be more cautious when he is talking about the law courts and saying that the cases have been butchered there.

Shri Subiman Ghose: I am sorry. What I meant was this. The due application of the judicial mind is not there, if the cases are disposed of in a hurry and in great speed. That is what I want to say.

Regarding criminal trials, I would like to ask the Ministry to give some consideration to one point. I do not know whether it comes within the scope of the Home Ministry or the Law Ministry. The point is that so far as criminal courts are concerned, applications under section 173 of the Code of Criminal Procedure and other allied sections are not given due consideration. This may be looked into.

These are all the matters which I place before the House for consideration in respect of the Demands for Grants.

श्री मू० चं० जैन : उपाध्यक्ष महोदय, यह जो १ करोड़ १५ लाख ६० की डिमांड हाउस के सामने है, उस डिमांड को तो मैं सपोर्ट करता हूँ, लेकिन किसी कांस्ट्रक्शनल गवर्नमेंट में ला मिनिस्ट्री को जो अहमियत हासिल है और एक चैजिंग ऐंड प्रोग्रेसिव समाज इस ला मिनिस्ट्री से जिन कामों और बातों का उम्मीद करता है, मुझे अफ़ोस है, मेरे लायक दोस्त डिप्टी मिनिस्टर साहब और ला मिनिस्टर साहब भी, जो तशरीफ़ ला रहे हैं, मुझे माफ़ करेंगे, वह उन की सन् १९५९-६० की रिपोर्ट में रिप्लेक्ट नहीं होता। जहाँ तक हमारी गवर्नमेंट का ताल्लुक है, वैसे तो मुझे इस बात की खुशी है कि हमारे ला मिनिस्टर साहब को जो, पहले कैबिनेट रैंक के नहीं थे, इस महकमे की अहमियत को महसूस करते हुए, उन को कैबिनेट रैंक का बना दिया गया।

श्री लुशबक्त राय (त्रेरी) : यह उन की हैसियत के एहसास की वजह से हुआ है, न कि महकमे की अहमियत के एहसास की वजह से।

श्री मू० चं० जैन : मैं जानता हूँ कि यह उन की निजी हैसियत के एहसास से हुआ है और उसके साथ महकमे की अहमियत के एहसास से भी कि हमारी कांस्ट्रक्शनल और डिमाक्रेटिक गवर्नमेंट में यह कितनी अहमियत का महकमा है।

मुझे से पहले मेरे लायक दोस्त ने कई बातें कही हैं, जिन को मैं दोहराना नहीं चाहता, लेकिन एक बात की खास तौर पर, जो उन्होंने कही, तरदोद करना चाहना हूँ। बंगाल में किसी मिनिस्टर ने अखबार चलाया हुआ है। उस के बारे में कहा गया कि यहाँ का ला महकमा उस की नोटिस ले। मुझे पता नहीं था, मैं ने उन से पूछा भी था कि कितने और मिनिस्ट्रों ने ऐसे अखबार चला दिये या मैगज़ीन चला दें। दरअसल किसी अखबार या मैगज़ीन को सरकारी इश्तहार मिलने का

क्राइटेरियन यह नहीं है कि वह किसो मिनिस्टर का चलाया हुआ है, बल्कि क्राइटेरियन यह है कि उस का सकुलेशन किना है, वह कितना ख़पता है, उस की यूटिलिटी कितनी है। बहुत ज्यादा सकुलेशन होने पर अगर किसी मिनिस्टर के अखबार को गवर्नमेंट के इश्तहार पहले मिलते थे या अब भी मिलते हैं तो इस में कोई पाबन्दो नहीं, और मैं तो इस से भी इत्फ़ाक़ करता हूँ कि रिप्रेजेंटेशन आफ़ दी पीपल ऐक्ट में कोई ऐसी पाबन्दो नहीं है, रुकावट नहीं है, जो इस पर आयद हो सके।

जहाँ तक इस महकमे की अहमियत का ताल्लुक है, मैं ने अभी जिक्र किया, और सब से पहली बात इस महकमे के सिलसिले में इंडेपेंडेंस आफ़ जुडीशियरी की आती है। इस के कई सब हेड्स मैं करता हूँ। एक बात सेपरेशन आफ़ जुडीशियरी ऐंड एग्ज़िक्यूटिव की है। मैं इस को इस लिये कई हेड्स में डिवाइड करना चाहता हूँ कि जैसा आज सुबह आचार्य कृपालानी ने फरमाया था, जम्हूरियत की चार बुनियादी चीजें होती हैं, जिन में एक लेजिस्लेचर और एक इंडेपेंडेंट जुडीशियरी का होना जरूरी है। आज हमारे देश में जुडीशियरी इंडेपेंडेंट नहीं है। जिस हद तक हमारे देश में जुडीशियरी इंडेपेंडेंट नहीं हो सकी उस हद तक हम जम्हूरियत को पूरे तरीके से लाने में नाकामयाब रहे हैं। आज जरूरी है कि हमारे देश में प्रजाराज पनपे और जुडीशियरी पूरे तरीके से इंडेपेंडेंट हो। इस के लिये यह जरूरी है कि जुडीशियरी और एग्ज़िक्यूटिव अलग अलग को जायें। मेरे लायक दोस्त ने मुझ से पहले ला कमिशन की रिपोर्ट की रिकमेंडेशनस हाउस के सामने रक्खी हैं, मैं उन्हें दोहराना नहीं चाहता। लेकिन मैं कहना चाहता हूँ कि हमारे ला मिनिस्टर साहब अपने जवाब में हाउस को खास तौर पर बतलायें कि सन् १९५० से, जब कि हमारा कांस्ट्रक्शन लागू हुआ है, दस वर्ष हो गये हैं, तब से कितनी स्टेट्स में सेपरेशन आफ़ जुडीशियरी ऐंड एग्ज़िक्यूटिव

हुआ है और कितनों में नहीं हुआ है। जब कांस्टिट्यूशन की दफा ५० बनाई गई तो उस पर प्राइम मिनिस्टर ने जो स्पीच दी थी उस की दोहरा कर दिखलाया गया है कि प्राइम मिनिस्टर का खयाल था कि शायद तीन वर्ष की मियाद के पहले ही एग्जिक्यूटिव और जुडीशियरी सेपरेट हो जायेंगी। लेकिन दस वर्ष बीत गये हैं, फिर भी ऐसा नहीं हो सका है।

मैं जानता हूँ कि कुछ सूबों में चीफ मिनिस्टर और वहाँ की एग्जिक्यूटिव को कुछ ऐसा मोह हो गया है कि वह मजिस्ट्रेटों पर अपना भ्रंगूठा रखना चाहते हैं। और अगर यह दोनों सेपरेट हो गई तो वे उन पर अपना भ्रंगूठा नहीं रख सकेंगे। अगर यह मिक्सड रहें तो रख सकेंगे। यह बजाते खुद एक बड़ा भारी कंडेन्शन है अगर इस तरह की भावना चीफ मिनिस्ट्रों में और दूसरे मिनिस्ट्रों में है और वह जिद करें और बराबर इस सवाल को टालते जायें। वक्त आ गया है कि ला मिनिस्ट्री मजबूत हाथ से इस मामले में दखलअन्दाजी करें और इस हाउस को तसल्ली तब होगी जब एक वर्ष के अन्दर स्टेट्स में सेपरेशन आफ जुडीशियरी और एग्जिक्यूटिव लागू हो जाये। इस से कोई आफत देश में आने वाली नहीं है। इस से हिन्दुस्तान के लोगों में विश्वास ज्यादा होगा और इन्साफ भी ज्यादा सही होगा। चूंकि यह डिमाकेमी और प्रजा राज के लिये अच्छी बात होगी इसलिये इसे जल्दी से जल्दी करना चाहिये।

इस सिलसिले में दूसरी बात इंडपेंडेंट जजेज के अप्वाइंटमेंट के बारे में है। मुझे या है, मुझ से पहले मेरे फाजिन दोस्त ने इस की तरफ तबज्जह दिलाई थी। मैं भी अप्वाइंटमेंट का जो तरीका है उस की तरफ ध्यान दिलाना चाहता हूँ। मैं जानता हूँ कि इस से ला मिनिस्ट्री का टाल्लुक नहीं है, लेकिन इस सिलसिले में ला मिनिस्ट्री वाले

तबज्जह दे सकते हैं कि जो तरीका इस वक्त चालू है वह यह है कि चीफ मिनिस्टर और गवर्नर की सिफारिश ही, चीफ जस्टिस की सिफारिश हो, फिर सुप्रीम कोर्ट की सिफारिश हो तब अप्वाइंटमेंट होता है, लेकिन एक पोलिटिकल आदमी की सिफारिश की बात जो रखी गई इस अप्वाइंटमेंट के बारे में, यह गलत है। स्टेट के चीफ जस्टिस का मशवरा हो, गवर्नर का मशवरा हो सकता है, सुप्रीम कोर्ट के चीफ जस्टिस का मशवरा तो होना ही चाहिये, किसी और ऐजन्सी का हो सकता है, लेकिन मैं इस बात के १०० फी सदी खिलाफ हूँ कि किसी स्टेट के चीफ मिनिस्टर का मशवरा भी उस में होना चाहिये। मुझे याद है कि जब हाई कोर्ट में अप्वाइंटमेंट के सिलसिले में पिछले साल पालियामेंट में जिक्र आया था तो होम मिनिस्टर ने एक दलील दी थी, उन्होंने प्राइम व शुमार दे कर बतलाया था कि पिछले दस वर्षों में कितने हाई कोर्ट के जजेज अप्वाइंट हुए हैं, शायद १०० या १५०, लेकिन उन में से शायद ही कोई ऐसा अप्वाइंटमेंट हुआ हो जब कि हाईकोर्ट के चीफ जस्टिस या सुप्रीम कोर्ट के चीफ जस्टिस के मशवरे के बिना काम हुआ हो। इस सिलसिले में मैं एक ह्यूमन नेवर की बात बतलाना चाहता हूँ। किसी अप्वाइंटमेंट के बारे में अगर तीन आदमियों के लिये मशवरा लिया जाये और तीन ही जज मुकरर किये जायें तो एक मानूली हिसाब की बात आप के सामने मैं रबता हूँ। हर एक में ह्यूमन बीकनेस होती है, फरिस्तों में ही किसी तरह से न हो तो न हो, अगर वहाँ पर तीन आदमियों को लेना हो तो तीनों जज आपस में उन बो, बांट लेते हैं कि यह तुम ले लो, यह तुम ले लो और यह मैं ले लेता हूँ। और चूकि वहाँ पर रिक्मेन्डेशन यूनेनिमस हांती है, इसलिये होम मिनिस्टर बजा तौर पर कह सकते हैं कि यूनेनिमस रिक्मेन्डेशन पर काम हुआ है, यही सुप्रीम कोर्ट के चीफ जस्टिस कह सकते हैं। लेकिन इस तरह से प्रोसीजर जहर आलूदा हो गया। वह जहर जब तक नहीं निकलेगा

[श्री मू० चं० जैन]

तब तक वह प्रादमी कभी भी इंडपेंडेंट नहीं हो सकता। इसलिये मैं चाहता हूँ कि जल्दी से जल्दी इस पर भ्रमल किया जाय। कोई आफत आने वाली नहीं है अगर चीफ मनिस्टर का मशवरा न हो। उस के बगैर आज सैंकड़ों नहीं हजारों अप्वाइंटमेंट हमारे देश में होते हैं। जुडीशिअरी की इंडपेंडेंट के लिये जरूरी है कि हाई कोर्ट के जजों के अप्वाइंटमेंट में किसी भी स्टेट के चीफ मनिस्टर का कतई मशवरा नहीं होना चाहिये।

Shri Amjad Ali: How does the Law Ministry of the Union of India come into the picture of appointment of Judges?

श्री मू० चं० जैन : यह तो मैं पहले ही कह चुका हूँ, मैं ने इस प्वाइंट को खुद एडमिट किया है, लेकिन ला मनिस्टर मशवरा दे सकते हैं एमिनेंट लाइअर की हैसियत से।

श्री खुशवक्त राय : उसे मानेगा कौन ?

श्री मू० चं० जैन : अगर पार्लियामेंट मान लेगी तो गवर्नमेंट को भी मानना होगा।

इस के बाद इस इंडपेंडेंस आफ जुडीशिअरी के सिलसिले में मैं तीसरी बात यह अज्र करना चाहता हूँ, जो कि शायद मुझ रिपीट करना होगा, कि हाई कोर्ट के जज एक सूब से दूसरे सूबे में अप्वाइंट होने चाहियें। न सिर्फ हाई कोर्ट के जजों को बल्कि दूसरे हाई आफिसर्स को भी। इस के लिये मैं स्टेट्स रिआर्गनाइजेशन कमिशन का हवाला भी देना चाहता हूँ। उन्होंने इस बात की सिफारिश की है कि हर सूब में जो हाई आफिसर्स हों, इन्क्लूडिंग जुडीशिअरी, वह दूसरे सूबों से ज्यादा से ज्यादा लिये जाने चाहियें। जैसा कि बजा तौर पर कहा गया था कि राजस्थान हाई कोर्ट में पंजाब के लोग हों, बम्बई के हों, इसी तरह से दूसरी जगहों के लिये भी होना चाहिये।

अब ऐसा होता है कि ग्राम तौर पर उसी सूबे के वकीलों को हाई कोर्ट्स के जजेज की पोजीशन पर एलिवेट किया जाता है। यह भी ठीक नहीं है। इसलिये जरूरी है कि ला मनिस्टर इस बात की तरफ भी तवज्जह दें।

इस के बाद चौथी चीज इंडपेंडेंस आफ जुडीशिअरी के बारे में यह कहना चाहता हूँ कि अगर आज हमारा डिस्ट्रीलाइजेशन आफ पावर की तरफ ध्यान है तो मैं इसे पसन्द करता हूँ, और इस का स्वागत करता हूँ। लेकिन गांवों के ग्रन्दर पंचायतें बनें, गांव के लोग ही उन पंचायतों को एलेक्ट करें, अपने वोट दे कर चुनें और उन पंचायतों के जिम्मे हम गांवों के छोटे छोटे झगड़ों का इन्साफ करने का काम भी सुपुर्द कर दें तो फिर हम उन से इन्साफ की उम्मीद कैसे कर सकते हैं? मैं खुद एक गांव का रहने वाला हूँ, और मैं इस चीज को जानता हूँ, मैं नहीं कहता कि उन बेचारों का स्टेन्डर्ड कुछ दूसरे लोगों से कम है, उन का स्टेन्डर्ड भी हम जैसा या हम से ऊंचा ही है, लेकिन फिर भी जिन की राय ले कर वह लोग आते हैं उन का खयाल तो रचना ही पड़ेगा। मुझे पता है, मुझे बाकायदा एलेक्शन लड़ना पड़ा, लेकिन फिर भी अगर मेरे पास कस आता है तो जैसी कहावत है "सोजरः वाडफ मस्ट बी अरबब सस्विशन"। इस का खयाल तो रखना ही पड़ेगा। किस तरीके से उन पर हम एतबार कर सकते हैं कि वह उन लोगों के खिलाफ राय देगा, सरपंच के खिलाफ राय देगा और हमारे साथ इन्साफ करेगा?

मैं समझता हूँ कि यह तो एक बहुत बुनियादी प्रश्न है। तमाम हिन्दुस्तान में पंचायती राज्य की लहर उठ रही है और वह उठनी चाहिये। लेकिन वह पंचायती राज्य में गांव की यूनिट के जिम्मे इसाफ का काम दिया जाना मैं कुछ मुनासिब नहीं

ममझता । उस के जिम्मे यह टैक्स वसूल करने और गांव के जितने भी बहतरी के काम हैं सफाई वगैरह के वह सब काम आप उसको सौंप सकते हैं । लेकिन जहां तक इंसाफ का ताल्लुक है, केसेज के फंमला करने का सवाल है वह बेसिक प्राइमरी यूनिट के जिम्मे नहीं सौंपा जाना चाहिये । अलबत्ता ५, ७ गांवों की एक न्याय पंचायत हो सकती है और उस यूनिट के जिम्मे यह इंसाफ का काम सौंप सकते हैं । लेकिन अगर बेसिक प्राइमरी यूनिट के जिम्मे इंसाफ का काम सौंपेंगे तो मैं यकीन दिलाता हूँ कि ऐसा करके आप अपने देश में एक ऐसी चीज इंट्रोड्यूस कर रहे हैं जिसका कि नतीजा दिन पर दिन खतरनाक ही निकलने वाला है और उसका अचछा नतीजा निकलने वाला नहीं है ।

इसके बाद दूसरा जो हैड है कौस्ट आफ लिटिगेशन तो उसके मुतालिक मुझे यह अर्ज करना है कि हमारे देश में कोर्ट आफ लिटिगेशन बढ़ती ही जा रही है और महंगी होती जा रही है । इसी सिलसिले में यह देखते हैं कि कोर्ट फीस और स्टाम्प की लागत बढ़ती जा रही है और आये दिन हुकूमत आर्डिनैन्स के जरिये यह कोर्ट फीस बढ़ा रही है । सस्ता इंसाफ लोगों को मिले, यह हमारा आदर्श है । अब इसके लिए तो खुद हमारे ला मिनिस्टर साहब हाउस को बतला सकते हैं कि इन पिछले १० वर्षों में इंसाफ महंगा हुआ है या सस्ता । जितनी भी मुकद्दमेबाजी है, एक छोटी अदालत से लेकर ऊपर हाईकोर्ट और सुप्रीम कोर्ट तक वह मेरे खयाल में पिछले दिनों में महंगी ही होती जा रही है । इस सिलसिले में एक तजवीज तो यह है कि कोर्ट फीस और स्टाम्प फीस कम हो । इंसाफ हर हालत में सस्ता होना चाहिये । गरीबों के लिये फ्री लीगल एड की ब्यवस्था सरकार को करनी चाहिये । इसके बारे में मेरे से पहले

कई आनरेबुल मेम्बरान ने तवज्जह दिलाई है और गवर्नमेंट की स्कीम भी है और स्टेट्स को सेंट्रल गवर्नमेंट लिखती भी है लेकिन उस स्कीम से निकला क्या । वह तो वही मसल हुई कि खोदा पहाड़ निकली चुहिया बल्कि मेरे तो कई दोस्त फरमा रहे हैं कि अरे भाई दस वर्ष से चुहिया भी नहीं निकली । मेरे खयाल में हाउस के तमाम मेम्बरान और ला मिनिस्टर साहब भी इसमें मुझ से इतिफाक करेंगे कि हमारा कानूनी ढांचा दिन पर दिन पेचीदा और साथ ही खर्चीला भी होता जा रहा है । किसी भी कम्प्लेक्स सोसाइटी में, किसी भी कम्प्लेक्स समाज में यह जरूर है कि कानूनी ढांचा भी कम्प्लेक्स होता जायगा । जैसा सोशल-लिस्टिक पैट्रन हम ने तय किया है तो कुदरती तौर पर हमारी स्टेट्स में भी और सेंटर में भी प्रोग्रेसिव लेजिस्लेशन बनते हैं । अब वह कितने लूने और लांड़े हैं वह पहलू अलग है और मैं इस मौके पर उधर ध्यान दिलाना नहीं चाहता । लेकिन यह जरूर कहना चाहूंगा कि जो प्रोग्रेसिव और तरक्की पसन्द कानून बनते हैं तो जिन अमीरों और सरमायदारों पर और लैंडलाइंड्स पर उनका असर होता है तो वह भरमक उनके एम्पली-मेंटेशन में देर लगाते हैं और उन को लेकर ऊपर सुप्रीम कोर्ट तक लड़ते हैं और जिन गरीबों के हक में यह प्राग्रेमिव लेजिस्लेशन बनते हैं, लेबर कानून बनते हैं और लैंड लेजिस्लेशन बनते हैं वे बेचारे इस लम्बी और पेचीदा मुकद्दमेबाजी से घबड़ा उठते हैं क्योंकि सबसे बड़ी चीज तो यह है कि उनके पास इतना पैसा नहीं होता कि वे अदालतों में मुकद्दमा लड़ने फिरें और हमारे गरीब मजदूरी पेशा लोग गरीब कायतकार और मुजारे लोग आ कर रोते हैं और कहते हैं कि यह तो हमारे लिए आफ त आ गई है । इसलिये मेरा कहना यह है कि उनके लिए ला सिम्पलीफाई होना चाहिये और उससे भी ज्यादा जरूरी यह चीज है कि उन के लिये फ्री लीगल एड का इतजाम हो । यह

[श्री म० च० जैन]

सोशलिस्टक पैट्रन का समाज जिसे कि कायम करने का हम दावा करते हैं और जैसा कि पार्लियामेंट ने सेकेंड फाइव इयर प्लान में तय किया है उसके मुताबिक यह जरूरी हो जाता है कि हम ऐसा इंतजाम करें ताकि इन प्राप्रेसिव लेजिस्लेशन के अमल में देर न हो। उन पर तेजी से अमल किया जा सके और यह कहावत चरितार्थ न हो कि खोदा पहाड़ और निकली चुहिया बल्कि जैसा कि मेरे दोस्तों का खयाल है चुहिया तक नहीं निकली। उन कानूनों को अमल में लायें ताकि हम यह कह सकें कि हम जो कुछ कहते हैं उसको करने का इरादा रखते हैं और उसको अमल में भी लाते हैं।

हमारे ला मिनिस्टर साहब की जो सन् १९५६-६० की रिपोर्ट है वह एक स्टूडी रिपोर्ट जैसी है। उसमें कोई विशेष चीज महत्व की नजर नहीं आती। एक तरक्की पसन्द समाज के ला डिपार्टमेंट होने के नाते तरक्की पसन्दीवागी का जिस तरह से मुमायां तौर पर रिफ्लेक्शन होना चाहिये था वह भी नहीं है, सिर्फ एक स्टूडी जैसा है। मैं चाहता हूँ कि हमारे ला मिनिस्टर साहब उधर ध्यान दें।

इसके बाद एक और चीज मैं इस सिलसिले में अर्ज करना चाहता हूँ और वह यह कि जब नये लेजिस्लेशन बनते हैं स्टेट्स के बारे में और जब भी कोई कानून नये बनते हैं या किसी पुराने कानून में तरमीम होती है तो एडमिनिस्ट्रेटिव आफिसर्स को इंस्ट्रक्शंस भजने पड़ते हैं कि यह हकूमत का मंशा है और यह उसके सिलियंट फीचर्स हैं और इस तरह से इस कानून को अमल में लाना है। लेकिन अब हालत यह है कि कानून बना लिये जाते हैं और कई कई जगह देखा जाता है कि उन कानूनों के तहत जो रूल्स और कवायद बनने चाहिये वह साल साल और डेढ़ डेढ़ साल तक बनते हैं और उनके बने बिना अमल नहीं होता है। यह रूल्स वक्त पर बनाये जाने बहुत जरूरी

हैं। अब मैं आपको मिसाल देकर बतलाऊँ कि क्रिमिनल प्रोसीज्योर कोड एक्ट के तहत चलने वाले मुकदमों में गरीबों के साथ किस तरह से अन्याय होता है। अब मान लीजिये कि एक टेनेन्ट जो कि अपनी जमीन पर काबिज है और जिसको कि लैंडलांड या उसके आदमी तंग करते हैं और वह इसकी फरियाद लेकर पुलिस के पास जाता है कि मेरा कब्जा है और मेरी हिफाजत की जाय तो आजकल बजाय इसके कि उसकी हिफाजत की जाय और उनको ज्यादाती करने से रोका जाय पुलिस यह कार्यवाही करती है कि नुकसेअमन में वह दोनों पार्टीज को गिरफ्तार कर लेती है लैंडलांड को भी गिरफ्तार कर लेती है और टेनेन्ट को भी गिरफ्तार कर लेती है। अब अगर ला डिपार्टमेंट से इस बारे में एक्जीक्यूटिव आफिसर्स को और पुलिस के हुक्काम को हिदायतें जाय कि उन गरीब टेनेन्ट्स को जिनको कि जमींदार या उसके आदमी बिला वजह तंग कर रहे हैं और वह कानूनी तौर पर अपनी जमीन पर काबिज है तो उनको उसको तंग करने से बाज रक्खा जाय और यह कि उस शिकायत करने वाले कास्तकार को हरेस न किया जाय तो वह मुनासिब होगा। मैं कोर्टस को इंस्ट्रक्शंस भेजने की बात नहीं करता। अदालतों को हम सलाह या इंस्ट्रक्शंस नहीं दे सकते लेकिन पुलिस आफसरान को, एक्जीक्यूटिव और एडमिनिस्ट्रेटिव आफसरान को जरूर हिदायतें भेजी जानी चाहिये कि असल में इस कानून की पीछे मंशा यह है और इसको इस तरह अमल में लाया जाय। इस तरह की हिदायतें कोई नई बात नहीं है। पहले अग्रेजों के जमाने में भी इस तरह की एक्जीक्यूटिव आफसरान को हिदायतें दी जाती थीं। पुलिस के हेड आफ दी डिपार्टमेंट को इस तरह की हिदायतें दी जायें कि यह जो कानून बना है इसको इस तरह से अमल में लाया जाय और इसके पीछे सरकार की यह मंशा है। आज इस तरह के इंस्ट्रक्शंस नहीं भेजे जाते हैं और अगर कहीं भेजे भी जाते हैं तो वह देर में भेजे

जाते हैं और अगर वह वक्त पर भेजे भी जाते हैं तो जो रिपोर्ट आफ दी टाईम है उसके मुताबिक नहीं भेजे जाते हैं। जिस रिपोर्ट में वह लेजिस्लेशन बना है उसके मुताबिक हिदायतें नहीं भेजी जाती हैं और न अफसरान उस पर जैसे कि उन्हें अमल करना चाहिये, अमल करते हैं। इसका सबसे बड़ा खतरनाक नतीजा यह हुआ है कि वे लोग जो कि इस देश में इतनी बड़ी तादाद में बसते हैं और जिनके कि भले के लिये हम प्रोग्रेसिव लेजिस्लेशन बनाने का दावा करते हैं वे उनके फायदे से वंचित रह जाते हैं, महसूस रह जाते हैं। इसका नतीजा यह हो रहा है कि जो हैक्स हैं वह तो हमारे खिलाफ इसलिये होते हैं कि हम उनके बेस्टेड इंटेरेस्ट्स के खिलाफ कानून बनाते हैं और वह गरीब भ्राम भी हमारे खिलाफ इसलिये हो जाता है कि उन हमारे कानूनों का उसे कोई फायदा नहीं पहुंचता क्योंकि उन पर सही तौर से अमल नहीं होता है। हमारे ला मिनिस्टर साहब को यह अच्छी तरह समझ लेना चाहिये कि इस तरह की एक स्टोन रिपोर्ट पेश कर देने और इस तरह स्टोन में काम करने से हम कभी भी अपने मकसद को हासिल करने में कामयाब न हो सकेंगे और साथ ही यह बदलता हुआ समाज भी इस तरह स्टोन में काम करने के लिये हमको कभी भी माफ नहीं करेगा।

इसके बाद एगजिस्टिंग लाज की तरफ-मीम का सवाल है। मुझे अफसोस के साथ यह कहना पड़ता है कि इस बारे में ला कमिशन की रिपोर्ट आ रही है और यह बतलाया गया है कि उनकी तरफ-मीम होनी जरूरी है लेकिन उन रिपोर्ट्स को अमल में लाने में देरी हो रही है। अब यह जो लाज है यह आज से ५० वर्ष पहले के या १०० वर्ष पहले के समाज के मुताबिक बने थे और अंग्रेजों ने यह एक्टिंस ऐक्ट और दूसरे कानून उस वक्त की जरूरत को देखते हुये बनाये थे जो कि आज के बदलते हुये जमाने में और जबकि हम एक सोशलिस्टिक पट्टन आफ सोसाइटी कायम करना चाहते हैं, तब आहिर है कि वे पुराने कानून आज के हालात

में मुआफिक नहीं आ सकते और उनकी तरफ-मीम होनी बड़ी जरूरी है और उस तरफ-मीम के काम में आज जो देरी हो रही है उसकी और में खास तौर से ला मिनिस्टर साहब की तबज्जह दिलाना चाहता हूं।

अब एक खास बात की तरफ मैं हाउस और ला मिनिस्टर साहब का ध्यान दिलाना चाहूंगा। मैं समझता हूं कि हाउस के कई मेम्बरान मेरी राय के खिलाफ भी होंगे। आज के कानून के मुताबिक कनफेशन बिफोर पुलिस इनऐडमिनिबिल है। अब अंग्रेजों के जमाने में तो यह किसी हद तक समझ में आने वाली चीज थी लेकिन आज जब कि हम आजाद हो गये हैं और हमारी अपनी पुलिस है तब इस देश की आजाद पुलिस के ऊपर यह एक बड़ा धब्बा है। यह तो ठीक है कि आज भी पुलिस बहुत अच्छी नहीं हुई है और उस में इम्प्रूवमेंट की काफी पूजाइश है तो भी इस तरह की चीज स्टैंचूट में कायम रहनी पुलिस के लिए धब्बा है। आज कानून में यह लिखा हुआ है कि अगर कोई इंस्पेक्टर जनरल आफ पुलिस, कप्तान पुलिस या किसी दूसरे पुलिस अफसर के सामने अपना इकबाल जुर्म कर ले तो वह कानूननू इनऐडमिनिबुल है लेकिन वही इकबाल जुर्म अगर वह किसी दूसरे अदालतों एथारिटी के सामने जुडिशिएल अफसर के सामने भले ही वह कितना ही छोटा क्यों न हो इकबाल जुर्म कर ले तो वह ऐडमिनिबुल हो जाता है। आज बारह साल के बाद भी हम अपनी पुलिस पर इतना ऐतवार न करें, यह कुछ जरा उचित नहीं जंचता। आखिर हमें यह नहीं भूल जाना चाहिए कि ट्रस्ट बिगेट्स ट्रस्ट। मैं यह नहीं कहता कि आज पुलिस बिलकुल चरित्रवान हो गयी है और आदश पुलिस हो गई है जैसी कि हम बनाना चाहते हैं लेकिन इस तरह की चीज रखनी यह स्टैंचूट पर एक धब्बा लगाना है। मुझे यह चीज बड़ी अखरती है और इसलिए मैंने इसका जिक्र कर देना मनासिब समझा कि जब एक्टिंस ऐक्ट को तरफ-मीम करने की

[श्री म० चं० जैन]

बात हो तो इस तरह भी ध्यान दिया जाय और इसकी भी तस्मीम कर लिया जाय ।

अब मैं थोड़ा सा अपने वकील भाइयों की निस्वत कहना चाँगा । आज हमारे देश में वकीलों की बहुत बड़ी तादाद है । तादाद के बारे में एक्तरलाह हो सकता है लेकिन यह हकीकत है कि हमारे वकील भाई लोगों से तो बड़ी लम्बी लम्बी फीसें लेते हैं और मैं तो यह कर्गा कि वे फीस ज्यादा चार्ज करते हैं लेकिन अपनी इनकम रजिस्ट्रों में सही दर्ज नहीं करते हैं और कम लिखते हैं । अब मैं कोई इस बारे में ऐदादी शुमार तो नहीं दे सकता लेकिन इतना जरूर कहूंगा कि हमारे देश में वकीलों की एक अच्छी खासी तादाद है और उनके जरिये इस तरह से काफी इनकमटेक्स की चोरी होती है । इसको रोकना जरूरी है और इसके लिए लीगल प्रैक्टिशनर्स ऐक्ट में तस्मीम करने या और किसी तरीके से ऐसा इंतजाम किया जाय ताकि वकीलों के वास्ते अपनी फीस की रसीद देना जरूर हो जाय । जितनी फीस वह क्लाइंट से चार्ज करता है उसकी रसीद वह उसको दे । ऐसी हालत में अगर वह ५०० रुपया लेता है और १०० रुपये की रसीद देता है तो क्लाइंट उसे कहेगा कि आप यह क्या कर रहे हैं, हाँ, अगर उन दोनों में गठजोड़ हो जाय तो दूसरी बात है ।

Shri Yadav (Barabanki): Trust begets trust, why this distrust?

श्री म० चं० जैन : इसके बाद मैं इलेक्शन पिटीशन के बारे में एक बात कहना चाहता हूँ । दो तीन रोज हुए इस बारे में हमारे मित्र श्री राम कृष्ण गुप्त की तकरीर पर ला मिनिस्टर साहब ने जो जवाब दिया था उसमें उन्होंने उन तमाम एनीगेशन्स के बारे में पता नहीं क्यों नहीं कहा जो कि पंजाब के चीफ मिनिस्टर के खिलाफ लगाये गये थे । मैं उन एनीगेशन्स के मैरिट में नहीं जाना चाहता । लेकिन पता नहीं उन एनीगेशन्स

में से जो मीरियस थे उनकी तरह उनकी तवज्जह क्यों नहीं गयी । और हाउस को उनके बारे में कुछ क्यों नहीं कहा गया . .

The Minister of Law (Shri A. K. Sen): I deliberately did not refer to these allegations in detail and I would request the hon. Member also to desist from going so as the matter is sub *judice*. Even if we do not say whether the allegations are correct, the mere reference to the allegation, in my suggestion, militates against the rule that we have.

Shri Tyagi (Dehra Dun): But the delay may be discussed.

Shri A. K. Sen: But the allegations against individuals, which are sub *judice* should not be discussed.

श्री म० चं० जैन : मैं सिर्फ यह बात कहना चाहता हूँ कि या तो ला मिनिस्टर साहब उन एनीगेशन्स का हवाला न देते और अगर हवाला दिया था तो जितने सारे एनीगेशन्स उस पिटीशन में थे उन सब की तरफ उनको ध्यान देना चाहिए था । मुझे विश्वास है कि ला मिनिस्टर साहब इस बारे में अनियत करेंगे ।

एक चीज की तरफ मैं और तवज्जह दिलाना चाहता हूँ । इस रिपोर्ट में जिक्र है कि हम कानूनों का हिं दी में ट्रांसलेशन कर रहे हैं लेकिन जिस रफ्तार से यह काम हो रहा है उससे तो मेरा खयाल है कि सन् १९६५ या उसके बाद की तारीख तक भी यह काम नहीं हो सकेगा । जिस रफ्तार से ला मिनिस्टर साहब चल रहे हैं उससे तो सन् २००० ई० तक भी यह काम पूरा नहीं होगा । तो मेरी गुजारिश है कि इस काम में उनकी तवज्जह होनी चाहिए कि इसकी तेज रफ्तार से किया जाये ।

मुझे इतना ही कहना था ।

श्री यादव : उपाध्यक्ष महोदय, इस समय विधि मंत्रालय पर चर्चा हो रही है

श्रीर इसी से सम्बन्ध है न्याय विभाग का भी । श्रीमि हमारे माननीय मित्र ने यह बताया कि विधि मंत्री का जो मंत्रालय है उस में क्या हो रहा है । वह क्या करना चाहते हैं इसका कोई खुलासा इस रपट में नहीं है । जो रपट हम लोगों के सामने है वह तो केवल ७ पन्ने की या साढ़े तीन मुफ्हे की है । इससे जाहिर है कि सरकार का श्रीर हमारे विधि मंत्री का इस मंत्रालय की श्रीर कितना जबरदस्त ध्यान है । वह क्या सुधार करना चाहते हैं या उनके सामने क्या समस्यायें हैं, अगर हम इस रपट को पढ़ते हैं तो इसके बारे में कोई चीज नहीं पाते हैं ।

यह सही है कि हमारे विधि मंत्री का दरजा बढ़ गया है । यानी वह मंत्रिमंडल के एक सदस्य हो गये हैं । यह हो सकता है कि उनकी व्यक्तिगत हैसियत बढ़ी हो, लेकिन जहां तक इस विधि मंत्रालय का श्रीर इसकी कार्य विधि का प्रश्न है उस में कोई भी इजाफा नहीं हुआ है और मैं तो यही समझता हूँ कि एक रूटिन वर्क की तरह से यह रपट आज हमारे सामने प्रस्तुत है । जो स्थिति हमारे देश की आज है उसको हम देखें तो मैं कहना चाहता हूँ कि न्याय की बात कहना हमारे देश में न्याय के साथ जबरदस्त अन्याय करना होगा । आज सवेरे जो घटना घटी श्रीर जिस पर कार्यस्थगन प्रस्ताव लाया गया उसको हमने देखा । इसी प्रकार की घटना उस समय घटी थी जब कि जीवन बीमा निगम की जांच के लिए एक हाईकोर्ट के जज, छागला साहब, की नियुक्ति हुई श्रीर उन्होंने अपनी रपट दी श्रीर उस रपट के बारे में माननीय प्रधान मंत्री महोदय ने जबरदस्त बात कही थी श्रीर कहा था कि उन का जो फैसला है वह इ-प्रापर है । इसी तरह का यह नानावती कांड हुआ, वह चाहे जितने ही बड़े पद पर हों, चाहे जितनी उनकी हैसियत हो, जब हाई कोर्ट के जजों ने उनके खिलाफ एक फैसला दे दिया कि उनको जीवन भर का कारावास मिलेगा

415 (Ai) L.S.—6.

उपाध्यक्ष महोदय : अब तो वह कांड खत्म हो गया, आप ला मिनिस्ट्री के बारे में कहिये ।

श्री यादव : मैं एक हवाला देना चाहता हूँ क्योंकि यह एक ताजा घटना है ।

Shri A. K. Sen: On a point of order. It has already been ruled this morning by the hon. Speaker that this matter should not be discussed here.

Shri Yadav: I am not raising this point here but I am simply giving reference to that. There is no point of order, I think, in this.

Mr. Deputy-Speaker: A decision has also been given!

श्री यादव : तो जजों ने जो लिखा उसकी इजाजत प्रधान मंत्री महोदय ने नहीं दी ।

उपाध्यक्ष महोदय : मालूम नहीं कि आपने आज सवेरे सुना या नहीं कि न तो उस मामले में किसी को छोड़ दिया गया है श्रीर न कोई श्रीर दखल दिया गया है । वह तो तब तक के लिए है जब तक कि वह दो चार दिन में वहां जा कर लीव टू अपील हासिल न कर लें । ऐसा तो नहीं है कि जजों का हुक्म किसी ने नहीं माना या उसको अमल में नहीं आने दिया ।

श्री यादव : मैं तो एक सरकमस्टांस बता रहा हूँ । जब दो चार दिन की ही बात थी तो ऐसा बरताव करने की क्या जरूरत थी ।

श्री त्यागी : अगर यह एक मिसाल है तो कोई हर्ज नहीं बशर्तकि हमें यह ऐतबार हो जाये कि आयन्दा यह श्रीर लोगों के लिए प्रिसिडेंट नहीं बनेगा ।

श्री यादव : तो मैं सिर्फ यह मिसाल देकर कहना चाहता था कि जब यह स्थिति हो तब तो फिर न्याय की बात करना न्याय के साथ ही अन्याय करना होगा ।

[श्री यादव]

अगर हम न्याय की ओर देखें, तो जैसा कि बहुत से माननीय सदस्यों ने कहा और मैं भी कहूँगा कि किसी भी सरकार के तीन प्रमुख भंग हुआ करते हैं, व्यवस्थापिका, कार्यकारिणी और न्यायपालिका और किसी नागरिक की स्वतंत्रता तभी रक्षित रह सकती है, उसका मान सम्मान, जिन्दगी और उसकी जायदाद तभी रक्षित रह सकती है जब इन तीनों के अधिकार अलग अलग रहें और किसी एक व्यक्ति के हाथ में या किसी एक संस्था के हाथ में न चले जायें। इस सिलसिले में मैं दो तीन महत्वपूर्ण पुरुषों के कोटेशन आपके सामने रखना चाहता हूँ।

श्री ब्लैक स्टोन ने कहा है :

“जहाँ कहीं भी कानून बनाने तथा उनको पालन करवाने का अधिकार तथा न्याय शक्ति आपस में अलग नहीं होते, वहाँ व्यक्ति का जीवन, स्वतंत्रता तथा सम्पत्ति सुरक्षित नहीं रह सकती।”

इसी संदर्भ में लाई ब्राइस ने कहा है

“किसी सरकार की उत्तमता का सर्वोत्कृष्ट चिह्न उसका न्याय विभाग है क्योंकि साधारण नागरिक के हित की सुरक्षा के लिए यह भावना आवश्यक है कि उसके माथ उचित न्याय शीघ्र किया जायेगा।”

इसी संदर्भ में गारनर ने कहा है :

“एक सम्य राज्य की बिना न्याय विभाग के कल्पना नहीं की जा सकती।”

जब हम इन सिद्धान्तों को देखते हैं तो पाते हैं कि अपने यहां इनका बिल्कुल अभाव है। यहां मजिस्ट्रेट में न्याय और कार्यकारिणी दोनों के अधिकार मिल गये हैं। यह मैं आपको एक उदाहरण देकर बताना चाहता हूँ। सन् १९५८ में उत्तर प्रदेश में अन्न के बड़े हुए वामों के सवाल को लेकर एक आन्दोलन हुआ,

और उसको दबाने के लिए सरकार ने मजिस्ट्रेटों का इस्तेमाल किया। मजिस्ट्रेट ने जाब्ता फौजदारी की धारा १०७ के अंतर्गत विधान सभा और विधान परिषद् के बहुत से माननीय सदस्यों को इसलिए गिरफ्तार कर लिया कि वे गड़बड़ करने जा रहे हैं और शान्ति भंग करने जा रहे हैं। इस तरह से उस धारा का उपयोग किया गया। इसी तरह से इस धारा का इस्तेमाल कर के इसी सदन के एक माननीय सदस्य श्री अर्जुन सिंह भदौरिया को और उनके साथियों को छः छः महीने की सजा और १००० रुपया जुर्माना किया लेकिन जज ने जुरमाना माफ कर दिया और सजा जितनी मिल चुकी थी उसी को काफी बताया। डी सी सिलसिले में सन् १९५७ मे डा० राम मनोहर लोहिया ने सेल्स टैक्स दफ्तर के मामले सत्याग्रह किया। उसके बारे में जज ने अपनी राय जाहिर की है। मैं उन कोटेशन को पढ़ना चाहूँगा। एक मजिस्ट्रेट ने, एक न्यायाधिकारी ने, सरकार के इशारे पर कहा कि डा० लोहिया जो अदालत के सामने . . .

उपाध्यक्ष महोदय : यह बात आप नहीं कह सकते कि किसी न्याय अधिकारी ने किसी मिनिस्टर के इशारे पर कोई फैसला दिया। यह बात कहना ठीक नहीं और न कहनी चाहिए।

श्री यादव : मैं पढ़े देता हूँ कि चूँकि . . .

उपाध्यक्ष महोदय : मैं कह रहा हूँ कि आप यह नहीं कह सकते कि किसी जज ने मिनिस्टर के इशारे पर कोई फैसला किया।

15 hrs.

श्री यादव : मैं कहना चाहता हूँ कि उस मजिस्ट्रेट ने कहा कि चूँकि डाक्टर लोहिया अदालत के सामने नहीं आते हैं तो उनको पकड़ कर, बल प्रयोग करके लाया जाए। जब जस्टिस ए० एन० मुल्ला और जस्टिस नसीरुल्ला बेग के सामने मामला पेश हुआ, तो मजिस्ट्रेट महोदय के खिलाफ जो शिकायत

थी, उसका जवाब उन्होंने दिया। मैं आपके सामने उसके बारे में पढ़ कर सुनाता हूँ।

“मजिस्ट्रेट ने बताया कि अभियुक्त ने दो बार उनके सामने आने से इनकार किया, जब वह जेल में उनका मुकदमा करने गए। 30 नवम्बर को वह जेल तीसरी दफा गए। लेकिन जेलर ने बताया कि अभियुक्त पेशी से इनकार कर रहा है और अदालत के सामने जबरदस्ती ही ले आया जा सकता है। तब उन्होंने आदेश दिया कि डा० लोहिया को कम-से-कम बलप्रयोग कर के सामने ले आया जाय और उनको कोई शारीरिक चोट न पहुँचे।

करीब २० मिनट बाद एक कुर्सी पर डा० लोहिया चार आदमियों द्वारा ले आये गए। फिर भी उन्होंने सबालों का जवाब देने से इनकार किया और दस्तावेजों पर दस्तखत नहीं किये। अदालत क्लर्क ने तब उनके ग्रंथों का निशान लेने की कार्रवाई की। उन चार आदमियों की मदद से, जो डा० लोहिया को ले आए थे, अदालत क्लर्क ने डा० लोहिया के हाथ पर से चादर हटाया जो उन्होंने लपेट रखा था और उनकी मूटठी को खोला।

श्री जस्टिस भुल्ला : ग्रंथों के निशान की क्या जरूरत थी ?

प्रतिरिक्त सरकारी बकील : वह अदालत के सबालों का जवाब नहीं दे रहे थे।

श्री जस्टिस बेग : ग्रंथों के निशान की क्या ग्रहणियत है ? दस्तावेज पर मजिस्ट्रेट का एक नोट काफी होता।

श्री जस्टिस भुल्ला : क्यों इस तरह के मजिस्ट्रेटों को ऐसे मामले दिये जाते हैं।

जो कानून नहीं जानते ? अधिक जानकार मजिस्ट्रेटों को इस तरह के मामले दिये जाने चाहियें।

प्रतिरिक्त सरकारी बकील : ग्रंथों के निशान की कोई जरूरत नहीं थी।

श्री जस्टिस बेग : क्या ग्रंथों का निशान लगवा लेने से दस्तावेज में खाम बजन पड़ जाता है ?

प्रतिरिक्त सरकारी बकील : नहीं श्रीमान्। लगता है मजिस्ट्रेट जरूरत से ज्यादा सतर्क थे।”

उपाध्यक्ष महोदय : इस ग्रंथों के निशान में ही माग समय चला जायगा।

श्री यादव : मैं खत्म कर रहा हूँ। इस संदर्भ में माननीय सदस्यों को यह सब बताना बहुत आवश्यक है।

“श्री जस्टिस बेग : मैं नहीं जानता कि न्यायालय के सामने मामले के तबादले की कोई दरखास्त है। लेकिन मैं नहीं समझता कि उस अदालत में मुकदमे की मुनबाई के लिये उपयुक्त वातावरण है।”

इस सम्बन्ध में श्रीमान्, मैं इतना ही कहना चाहता हूँ। यह मैजिस्ट्रेटों का हाल है। और भी ऐसे तमाम मामले हैं, जिन में पता चलता है कि किस तरह के मैजिस्ट्रेट हमारे बीच में हैं। उस का एक ही कारण है कि आज न्याय-पालिका और कार्य पालिका विभक्त नहीं हैं, अलग नहीं हैं, एक ही में चल रही हैं।

इसी मिलसिले में मैं एक मिसाल देना चाहता हूँ। जान्ता फौजदारी की धारा ४८० के अन्तर्गत मैजिस्ट्रेटों को यह अधिकार दिया गया है कि दफा १७५, १७८, २२८ आई० पी० सी० के अन्तर्गत आने वाले जितने जुर्म हैं, वे अगर किसी मैजिस्ट्रेट के सामने आये और अगर अभियुक्त कोई सलती करता है, तो उस को अदालत को बरखास्तगी तक

[श्री यादव]

कैद की सजा और दो सी रुपए जूमनि की सजा दी जा सकती है। अगर हम इन दफ़ात को पढ़ें और संपेरेशन आफ़ जूडिशरी—न्यायपालिका और कार्यपालिका को अलग रखने के सिद्धान्त को देखें, तो वे कितने बेमेल हैं। लेकिन बारह साल की स्वतन्त्रता के बाद भी माननीय न्याय मंत्री का ध्यान उस तरफ़ नहीं गया है कि इस तरह की दफ़ात हमारे कानूनों में मौजूद हैं और आज भी वे बराबर उसी तरह से चल रही हैं।

इसके बाद सबसे बड़ा अहम प्रश्न भाषा का है। शायद मैं दूसरा आदमी हूँ, जो कि इस देश की अपनी बोली में बोल रहा है। इस महत्वपूर्ण विषय—न्याय—पर जितनी बहस हुई है, वह सब अंग्रेज़ी में हुई है। मैं समझता हूँ कि इस मुल्क में अंग्रेज़ी के जानने वाले तो शायद केवल एक फ़्री सैकड़ा होंगे, लेकिन हिन्दी या हिन्दुस्तानी को जानने वाले उन इलाकों में भी, जिन के बारे में कहा जाता है कि वे इसका विरोध करेंगे क्योंकि वे अंग्रेज़ी ही जानने हैं, अंग्रेज़ी के मुकाबले में ज्यादा होंगे। लेकिन आज सारा अदालती काम-काज अंग्रेज़ी में होता है। हाईकोर्ट की भाषा अंग्रेज़ी है ही और सुप्रीम कोर्ट में भी अंग्रेज़ी ही चलती है। और न्याय-अधिकारी भी अंग्रेज़ी का प्रयोग करते हैं मैजिस्ट्रेट अदालतों में भी फ़ैमले अंग्रेज़ी में होते हैं। इस माननीय सदन में भी कानून अंग्रेज़ी में बनते हैं। ये कानून और फ़ैमले किस के लिये हैं वे इस मुल्क में बसने वाले चालीस करोड़ लोगों के लिये हैं, जिन की भाषा अंग्रेज़ी नहीं है, जो अंग्रेज़ी का एक अक्षर भी नहीं समझते हैं। अगर किसी को कोई फ़ैसला पढ़ाना हो, तो तीसरे आदमी, किसी वकील के बग़ैर वह ऐसा नहीं कर सकता है और उस को नहीं समझ सकता है। सब से जबदस्त प्रश्न भाषा का है। वह कितना जबदस्त है, उस के लिये मैं फिर डा० लोहिया को क्वोट करना चाहता हूँ। अंग्रेज़ के ज़माने में कांग्रेस के द्वारा चलाये जाने वाले सत्याग्रह

को दबाने के लिये एक स्पेशल पावज़ एक्ट बना था। जब उत्तर प्रदेश में नहर रेट आन्दोलन चला, तो उसी के तहत बहुत से लोग गिरफ़्तार हुए और डा० लोहिया भी गिरफ़्तार हुए। हाई कोर्ट में उस को उन्होंने ने चैलेंज किया और वहाँ वह जीत गये। फिर मामला सुप्रीम कोर्ट में आया। डा० लोहिया चाहते थे कि सुप्रीम कोर्ट में अपनी बात हिन्दी में कहें। उन्होंने ने वहाँ किसी वकील को नहीं रखा। सुप्रीम कोर्ट ने यह किया कि सरकार का पैसा खर्च करना अच्छा समझा और कोई वकील उन को दे दिया गया, लेकिन उन को नहीं बुलाया गया, क्योंकि वह चाहते थे कि सुप्रीम कोर्ट में हिन्दुस्तान की ज़बान में बहस करें। जब उन्होंने ने इस बात पर सवाल किया, तो एक जज ने कहा कि इस अदालत की भाषा अंग्रेज़ी है—मैं दूसरे के बारे में बताऊंगा आगे चल कर। मैं यह निवेदन करना चाहता हूँ कि जब तक न्याय, कानून जनता की भाषा में नहीं दिया जाता है, तब तक वह सही मायने में न्याय नहीं हो सकता और आज इस ओर न तो सरकार का और न न्याय मंत्रालय का ध्यान जा रहा है।

संविधान के अधीन इस देश के नागरिकों को कुछ बुनियादी अधिकार मिले हुए हैं, जैसे एक जगह से दूसरी जगह जाना, बोली की आज़ादी, विचार की आज़ादी, धार्मिक स्वतन्त्रता आदि आदि। उन्हीं को अगर, श्रीमन् लें, तो जिस तरह से अंग्रेज़ों ने इन अधिकारों को कुचलने की कोशिश की थी नये नये कानूनों के द्वारा, संविधान में भी एक धारा है, उस को प्रतिबन्धात्मक उप-धारा के साथ अगर लें, तो उस के ज़रिये हिन्दुस्तान के सभी नागरिकों की आज़ादी को कुंठित किया जाता है और जो कोई क्रान्तिकारी काम किया चाहते हैं, उन को रोका जाता है। उन को दबाने के लिये बंगाल ईस्टर्न फ़रन्टियर रेगुलेशन की धारा १८३

है। कोई व्यक्ति देश के किसी दूसरे भाग में नहीं जा सकता है। इसी सिलसिले में नेफ्रा का इलाका वर्जित है। इसी देश का नागरिक अपने देश के ही किसी दूसरे हिस्से में नहीं जा सकता है और अगर वह जाता है, तो उस को रोका जाता है। हमला करने वाले वहां चले आते हैं, उन को कोई रोकने वाला नहीं है, लेकिन उस व्यक्ति को रोकने के लिये सरकार और उस के अधिकारी मौजूद रहते हैं। इस देश के एक व्यक्ति के लिये ही देश का एक हिस्सा बेगाना है। स्पेशल पावर्ज एक्ट भी है और क्रिमिनल ला प्रमोडमेंट एक्ट भी है, जिस के जरिये देश की आजादी की लड़ाई लड़ने वालों को दबाया जाता था। आज भी वह मौजूद है और उस के अन्तर्गत बहुत से लोगों को रोका जाता है, जेलों में बन्द किया जाता है।

उपाध्यक्ष महोदय : अगर माननीय सदस्य ये बातें होम मिनिस्ट्री की डिमांड्स के दिन उठायें, तो अच्छा होगा।

श्री यादव : यही तो मुश्किल है कि उठाना चाहिये ला मिनिस्ट्री को, लेकिन हमारे ला मिनिस्टर और ला मिनिस्ट्री होम मिनिस्ट्री के हाथ में कठपुतली है। इस में मेरा क्या कुसूर है ?

इसी प्रकार प्रिवेटिव डीटेंशन एक्ट है। इसी तरह धारा १०६, १०७, १०९ और ११० हैं। धारा ११० ऐसी है, जोकि संविधान की आत्मा की हत्या कर रही है। धारा १०९ भी एक काला कानून है।

उपाध्यक्ष महोदय : मैं ने दो दफा कहा है कि यह तो होम मिनिस्ट्री के अस्तित्व में है। माननीय सदस्य कानून के ड्राफ्टिंग का जिक्र नहीं कर रहे हैं।

श्री यादव : खैर, मैं आप के कहने के मूताबिक इस को छोड़ देता हूँ। दूसरी चीज यह है कि हमारा जो संविधान है उस के आर्टिकल २२ के सब क्लॉज २ की अदालतों के जरिये इस वक्त कितनी अवहेलना हो

रही है। जब कोई व्यक्ति पकड़ा जाता है तो जितना समय उस को मैजिस्ट्रेट तक ले जाने में लगता है उस को निकाल कर २४ घंटों के अन्दर उस को मैजिस्ट्रेट के सामने पेश किया जाना चाहिये। लेकिन आर्य दिन संविधान की इस धारा का अतिक्रमण होता रहता है। इसी तरह फंसले भी अदालतों में होते रहते हैं, लेकिन फिर भी सरकार का ध्यान इस ओर नहीं जाता।

इसी तरह अष्टाचार की बात है। आज न्याय इतना महंगा है कि साधारण आदमी के लिये सम्भव नहीं है कि वह न्याय प्राप्त कर सके। आज आर्थिक असमानता और सामाजिक असमानता इतनी है जिस का ठिकाना नहीं है। आर्थिक असमानता होते हुए गरीब आदमी न्याय नहीं पा सकता, लेकिन आज सामाजिक असमानता इस से भी बढ़ कर है। अदालतों में यह देख कर फंसले होते हैं कि वकील किस बिरादरी का है और उस का मुवक्किल किस बिरादरी का है। आज न्याय विभाग में यहां तक स्थिति आ गई है।

जहां तक रिश्वत और अष्टाचार का सवाल है, मुझे ऊंची अदालतों की ज्यादा जानकारी नहीं है, मैं तो छोटी अदालतों की बात करूंगा जहां पर कि देश के जन-साधारण का सम्बन्ध रहता है। आज कदम कदम पर रिश्वत चलती है, अष्टाचार होता है और न्याय बिक रहा है और साधारण लोग उस न्याय के करीब नहीं जा सकते ?

उपाध्यक्ष महोदय : यह आप ला मिनिस्ट्री की बात कर रहे हैं ?

श्री यादव : न्याय विभाग की।

उपाध्यक्ष महोदय : तब तो वह चीज होम मिनिस्ट्री के सम्बन्ध में होगी।

श्री यादव : इस अष्टाचार को रोका जाना चाहिये।

[श्री यादव]

जहाँ तक जज्ज के अप्वाइंटमेंट का सवाल है, बहुत से माननीय सदस्यों ने कहा है, ला कमिशन ने भी इस तरफ तवज्जह की है, लेकिन आज तक इस बारे में क्या कार्रवाई की गई, यह मैं इस रिपोर्ट में नहीं पाता हूँ। पिछले अधिवेशन में यहाँ पर ला कमिशन के ऊपर बहस हुई थी। हमारे माननीय सदस्य पंडित ठाकुर दास भागवत ने भी इस पर काफी रोशनी डाली थी। लेकिन इस पर क्या तवज्जह हुई इस का पता मिनिस्ट्री की रिपोर्ट पढ़ने के बाद भी नहीं चला। अगर इस पर माननीय मंत्री कोई नई रोशनी डालेंगे तो सदन का बड़ा फायदा होगा।

Shri Rami Reddy (Cuddapah): Mr. Deputy-Speaker, Sir, first of all, I would like to mention about the conduct of elections both to the State legislatures and to Parliament. Shri Sadhan Gupta, while he was speaking, said that it was not desirable that the elections are completed in one day. He mentioned that the police force and other forces might be inadequate to deal with the situation.

Shri Sadhan Gupta: On a point of personal explanation. I said it is not desirable to hold the elections in one day when the elections are fought in a state of tension. Not that it is never desirable to hold the elections in one day. If there is peace, there is no harm. But if there is tension, then it becomes difficult.

Shri Rami Reddy: I would like to mention that there would not be any election without any tension. Elections are fought in tension, especially the general elections, when elections are held simultaneously, both to the State legislatures and to Parliament, in which there are strong or strict fights. When several parties are participating there is bound to be tension. But it is the electorate that has to be educated in this matter, and they must be made to feel that they should not indulge in acts of violence and

that they should not adopt undue methods in the elections.

I would appeal to the Government to see that elections are completed in one day. Now, the elections are spread over from 10 to 15 days. In 1957, when there was a general election, the elections were spread over a period of 15 days so much so that the candidates were put to heavy strain, the political parties were very much strained. They have to be in the thick of the elections over a period of 15 days, let alone the period prior to the elections which is occupied in preparations and all such things. So, it involves a lot of expenditure. I know that several candidates belonging to the Opposition, the Congress party and all other parties spend much more than the permissible limit laid down in the Representation of the People Act. They sometimes spend treble or four times the permissible limit. The money that is spent by the candidates is sometimes four to five times the permissible limit. Yet, to satisfy the law, they would only show the accounts as coming within the permissible limit.

Therefore, if elections are held in one day, much of these difficulties would be avoided. Much of the expenditure could be saved and much of the strain could also be avoided. Apart from that, if the general elections are spread over a number of days and the results are announced from day to day, they will have some serious repercussions in the other places where the results are yet to be announced. Therefore, I would strongly commend that elections should be held simultaneously throughout the State, in one day and completed in one day. It does not matter if the counting takes two or three days.

I also understand that the Election Commission is trying to hold the next general elections in such a way that they will be completed in one day. I would very much welcome such a decision, and I commend that such a decision, if it has been taken, is not altered.

In this connection, I would like to mention another aspect and that is in regard to the delimitation of constituencies. I think that the Government have taken a decision that there should be no plural constituencies for reserved seat candidates and that the elections for reserved seats shall be kept separate. I think that there is such a decision for which the Government are going to bring forward a legislation, namely, for reserved seats there would be single member constituencies. In that case, there will be an overall delimitation of constituencies throughout the country.

Now, there are certain difficulties. When we go from one end of a constituency to another constituency, we will have sometimes to pass through some other constituencies. There are parts of some other constituencies in all constituencies. To avoid all these things, I would request that, while delimiting the constituencies, proper care may be taken to see that the constituencies are compact and contiguous and that the distance from one end of the constituency to another is minimised to the maximum extent possible.

Coming to the administration of justice, I would first like to mention that the general standard of efficiency, both of the judges as also of the members of the bar, as is the case in the other spheres of administration, has considerably gone down. Therefore, proper steps have to be taken to increase the standard of efficiency both of the judiciary as well as that of the members of the bar. The primary necessity for increasing the standard of efficiency of the members of the bar as also the judiciary, to my mind, arises from the need to reorientate the legal education in the law colleges. Now, all graduates who do not find employment and who have no other opportunity to work anywhere go to

the law colleges and then they pass out of the colleges and set up practice. In the colleges also they do not take seriously to legal education. They just pass out and then set up practice. If you want to improve the efficiency of the bar and that of the judiciary, you will have to place certain restrictions in regard to the admission of students to the law colleges. If you want students to study in the professional colleges such as medical, engineering and so on, you require certain minimum standards to be fulfilled. In the case of law colleges, therefore, I would suggest that admission to law colleges should be guided by certain principles of efficiency, credit and merit and so on.

In regard to the recruitment to the subordinate judiciary, I would point out that now, in several States, recruitment is made by the Public Service Commissions. Of course, a judge of the high court is associated with the members of the Public Service Commission concerned, at the time of the interview. He is supposed to act as a technical expert in regard to the recruitment. But now, the number of members of the Public Service Commissions is too large at the interviewing boards. Their number would be generally three or four and there would be only one judge from the high court. Therefore, in many of the cases the views of the High Court judge may not be properly accepted by the other members of the Public Service Commission and, this way, people of real merit are not recruited to the subordinate judicial service. So, I suggest that in the coming Law Ministers' Conference he may impress on the State Law Ministers that the recruitment to the subordinate judiciary should be entirely entrusted to the High Court Judges, because they are the best persons to judge the merit of advocates and then recruit the best people to the subordinate judiciary. In this connection I would like to mention that some of the junior members of the bar are really brilliant and talented people and, for some reason or

[Shri Rami Reddy]

other, they are not prospering in the legal profession. As is well known, legal practice both in the High Courts and Supreme court and even in the district level is concentrated on a very few hands. A member of the bar may be very brilliant and he might have passed his examination with flying colours but he may not be getting enough practice, because for securing good practice several considerations weigh, influence and other things. Some of the talented juniors are not able to show their merit, because they do not get opportunities, and so they are not able to come up. I am sure that the Law Minister must also be aware of this, because he was an active member of the Bar. He must take some action to see that these talented juniors are not kept idle and that their talent is utilized in the administration of justice.

The second speaker on this subject suggested that the junior advocates might be asked to associate themselves with senior members of the bar and share with them their work so that they may gain experience. I really commend that suggestion.

Coming to the cost of litigation, I may point out that it is excessively high in several States. Some of the States are utilising court fees as a source of revenue. I am of the opinion that in a Welfare State justice should be dispensed to one and all free and not at a price to be paid by the litigant public. It is the duty of the State to dispense justice at its own cost. Now many of the States have very high rates of court fees. For example, the fees for a writ, which originally was only Rs. 10 now is fixed at Rs. 100. In the same way, court fees has been increased for many other items of litigation. So, I would like to request the hon. Minister to impress upon the State Law Ministers that appropriate steps should be taken in all the States so that the administration of justice and litigation may be very cheap and the court fees is the minimum possible amount.

Coming to legal aid to the poor, though this subject is being dealt with by this Ministry, I find from their report that they have not given any information as to what progress they have made in this direction. Except the information that this subject is also attached to the Ministry, they have not given any other information. What progress have they made? What steps have they taken in the matter? What suggestions have been made to the several State Governments to implement this? From this Report I have to judge that no progress has been made at all in this direction, because if any progress has been made certainly they would have mentioned it in four or five sentences. The Law Commission has also suggested that legal aid must be given to the poor. Of course, it involves some expenditure but I believe this Ministry would exert its utmost to impress on the State Governments the necessity of implementing it, if necessary by giving some Central assistance. In any case, legal aid must be given to the poor in all deserving cases.

Then, while referring to the standard of efficiency of the Bar, I forgot to mention one thing, and that is with respect to libraries. In most of the States, the libraries in the courts—I do not know much about High Courts, but, at any rate, at the district level—are inadequately equipped. I know of several cases where for want of latest decisions some other decision has been given by the district munsif or judge. Then in the course of a few days, ten or fifteen days, the decision which was given by the High Court or Supreme Court prior to the decision of the district munsif or Sessions Judge, on that point alone the case has to be taken to the High Court or Supreme Court. If the libraries are properly equipped, such contingencies could be avoided. In some of the municipal and district courts even text-books on laws are not available. Therefore, I would suggest that some financial assistance should be given by the

Centre to ensure that the Bar libraries and the courts are properly equipped with the text-books and the latest decisions of the various High Courts.

It has been recommended by the Law Commission that Nyaya Panchayats should be established throughout the country. Now it is my experience that in petty cases involving small sums, small cause suits involving Rs. 50 to 100, people have to go to a mofussil town at a distance of 50 to 100 miles. Both the parties have to go to the court a number of times. They have also to take their witnesses along with them. They have to stop their agricultural operations during those days. The value of the suit may be Rs. 100 or 150. There are hundreds of suits of this nature in the mofussil courts. The expenditure involved in this litigation would not be sufficient to meet the costs, even if it succeeds. Since we are now thinking of embarking on decentralisation of administration, in this view of the matter, if we establish *nyaya* panchayats throughout the country and small cause suits, petty criminal cases etc. are entrusted to the *nyaya* panchayats, litigation will come down to the maximum extent and the people concerned will be able to get proper justice.

Lastly, coming to criminal justice, in our country, in criminal matters especially, the courts have to depend purely on oral evidence of witnesses. In 99 per cent. of the criminal cases justice is dependent on the evidence of witnesses alone, and not documentary evidence. Scientific methods of investigation are not at all available. Even the science of finger print has not advanced sufficiently in our country so much so that in most of the criminal cases, though there are several accused in a case and only some of them would be really guilty because some would have participated in the crime and others would not have, when the witnesses are giving their evidence the prosecution would naturally like to contend that all accused participated in the crime. The judge has either to accept the whole evi-

dence or to reject the whole evidence. In the absence of any scientific evidence, say, fingerprints, the judge will be compelled either to accept the whole evidence and convict all the accused or to reject the whole evidence and acquit all the accused. In some cases innocent people are thus convicted and in many other cases the really guilty people are escaping. But if scientific methods of investigation are developed and if these methods are adopted, the investigation department would be able to find out the real accused and put up the case against him. Therefore I would request the hon. Law Minister to impress upon the several State Governments who are responsible for the investigation of these crimes and other things to improve the scientific methods of investigation.

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

Need for reduction in the expenditure on officers

Shri Yadav: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 13,00,000." (121)

Failure to abolish the system of solicitorship in Calcutta High Court

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (177)

Delay in the disposal of cases

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (178)

Need for recruitment of judges in the District Court from the Bar

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100" (179)

Need for fixing the maximum and minimum ceilings of legal fees

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (180)

Need for helping the Bar Libraries

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (181)

Need for reorienting the manner and method of legal education

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (182)

Failure to separate executive from judiciary

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (183)

Need to give free legal aid to the poor litigants

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (184)

Failure to reduce the rate of the court fees

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (185)

Speedy implementation of the recommendations of the Law Commission

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (198)

Need for careful drafting of agreements with foreign countries or foreign firms in public sector

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Ministry of Law' be reduced by Rs. 100." (199)

Policy regarding allotment of election symbols to political parties

Shri Yadav: I beg to move:

"That the demand under the head 'Elections' be reduced by Re. 1." (125)

Need for reduction in the expenditure on elections

Shri Yadav: I beg to move:

"That the demand under the head 'Elections' be reduced by Rs. 47,00,000." (122)

Unusual delay in holding South-Calcutta bye-election

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head 'Elections' be reduced by Rs. 100." (200)

Mr. Deputy-Speaker: These cut motions are now before the House.

Shri P. R. Patel (Mehsana): Mr. Deputy-Speaker, Sir, a great responsibility lies on the Law Ministry of this Government. The faith in demo-

cracy is always maintained by proper elections and proper administration of justice. If people lose faith in elections or in the judiciary or if the executive interferes in elections or in the judiciary and people so believe rightly or wrongly then that is the end of democracy and people take to undemocratic ways to redress their grievances. So I am submitting that it is a great responsibility on the hon. Law Minister to see that the judiciary functions well.

In our country the judiciary ranges from small courts to the Supreme Court. The lower judiciary is mostly under the administration of the State Governments. What I feel is that if at all the judiciary is to be made independent, if there be any transfer of or any punishment to any judge the sole authority should be the High Court and not any Government. Today what we find in the States where judiciary is separated from the executive is that transfers and promotions, these two things are in the hands of the State administration and so exert their influence. There are so many things said in this regard. So I would suggest that the hon. Law Minister may consider if he thinks proper whether the right to transfer a sub-judge or a magistrate or to punish a sub-judge or a magistrate for any fault should rest with the High Court and that power be taken away from the State administration.

The second thing I want to suggest is in regard to the appointments of public prosecutors. So far we know they are appointed by the police department in most of the States. The duty of the public prosecutor is to see that justice is done. It is not the duty of the police prosecutor anyhow to get conviction. But as they are appointed by the police administration they are under the thumb of the police administration and they always try to get conviction some way or the other. That is not a good thing. If they are convinced that the case is not a sound one or that the accused is not guilty, I think the public prosecutors or the

police prosecutors should be strong enough to say that in clear words to the hon. court. For that purpose I desire that the appointments of the prosecutors should rest with the Legal Remembrancer and not with the Police Department. I hope the hon. Law Minister will consider this matter too.

The third point that I would like to suggest is about the appointment of honorary magistrates and JPs. In some States, I would say in all the States, honorary magistrates and JPs are appointed by the State Governments. They are required to function under the Criminal Procedure Code. That is a judicial matter. No doubt more powers are not given to them and they have just to affix their signature, nothing more. However under the Criminal Procedure Code more powers could be given to the honorary magistrates. The section is very clear about it. If honorary magistrates happen to be those persons who take active part in politics or who happen to be those persons who support a particular political party in that case people think that these are the party persons who are appointed as honorary magistrates. They are there because of their affiliation to a particular party. I desire that honorary magistrates should be above any suspicion and political affiliation. I can tell you that so far as Bombay State and my constituency are concerned, I am sorry to say that what I find is that specially those persons who are affiliated with Congress are nominated as honorary magistrates. They function as honorary magistrates. Whoever functions is a different question but after all this is a part of the judicial function. An honorary magistrate is expected to discharge some acts under the Criminal Procedure Code.

15.38 hrs.

[SHRI MULCHAND DUBE in the Chair].

I desire that people should not feel that it is only the privilege of members of a particular party to be appointed as honorary magistrates.

Shri Achar: Are not others also appointed?

Shri P. R. Patel: No, Sir, not a single one. You will find that in the Bombay State not a single one who is not a member of the Congress Party has been appointed. But I did not like to say that.

An Hon. Member: Everywhere.

Shri A. K. Sen: I can tell you that in every State the honorary magistrates condemn the Government whenever they have an opportunity. Certainly they do it rightly and in justification. But that shows that the appointments are really of independent persons.

Shri P. R. Patel: That is not so. . . . *(Interruption)*. Just enquire into the matter.

Shri A. K. Sen: I refuse to have such a poor opinion of the Bombay magistracy.

An Hon. Member: What about other States?

Shri P. R. Patel: I would say one thing more. Some States claim to have separated the judiciary from the executive. It is a nice thing. No doubt certain powers are given to the executive which can drive out a person from a district without any trial. That power is given to the executive. Apart from that, after all the judiciary is separated in certain States. But there are certain States where the judiciary has not been separated from the executive. I wish that is done early.

Some days back there was a question here regarding some tribunal in Punjab. That happened because the judiciary happens to be under State control, because a Judge can be transferred and another appointed in his place.

The judiciary should work in such a way that the people have ample faith in it, that they take the decisions given by it as God's decisions and abide by them. Unless that feeling is there, I think we shall not succeed in making our democracy strong.

Another function of this Ministry is elections. This is also a very important thing. If we can educate the people and the voters that the Government can be changed by elections, I do not think they will resort to any but constitutional means, and so the responsibility is very heavy on the Law Ministry.

Today what do we find? We see, and naturally in a democracy there will be, political parties, and there ought to be political parties, because I do not agree that in a democracy there can be only one party as was said by a great leader of Russia in the Central Hall. I do not agree with it. But the political parties also should function in a way that the people feel that there would be fair elections.

Now, political parties spend money, they collect money. There have been discussions here. My P.S.P. friends have been charging the Congress with collecting large election funds, and the charge came from the Congress side that the P.S.P. was doing the same thing. Also, the charge came from the Communist friends, and the same charge was levelled against the Communist Party.

Naturally, in elections, the parties collect money and spend money, but I desire a section in the election law requiring the political parties to submit a return of their expenses. Today, a party can spend any amount and need submit no return of expenses, while an individual candidate is required to submit a return of expenses. The result is that if I am supported by a political party, I may spend any amount naturally, but submit a return for not more than the amount allowable; the political party may spend any amount for my election, and those expenses are not put before the tribunal.

Take the case of bribing. If a candidate bribes, it is an offence, but if the party spends money for bribing the voters, how are we to find out, because the return of the party's

expenses is not submitted to the election officer?

So, I submit the Law Minister should consider of having a section in the election law requiring political parties to submit a return of their expenses so that we can make out from that the ways in which they have spent the money.

Even a poor man, the common man, in this country should feel that he can stand in the elections, fight the elections, and go to a legislature or Parliament. If that feeling is not there, and if, on the contrary, there is a feeling that a man, only if he is supported by moneyed people or by a party having big money, can be returned to the legislature or Parliament, then the people will lose faith in democracy. I sincerely and earnestly request the Law Minister to consider this point and make a change in the law as early as possible.

Secondly, it is argued every time that communalism is bad, casteism is bad. I do say it is bad, but at the time of elections, we approach castes and communities to get their votes. Nobody can deny that.

An Hon. Member: No.

Shri P. R. Patel: When my hon. friend says "no", I would remind him of what happened in Kerala. Coalition with the Muslim League was entered into only for winning the Muslim votes.

Communalism and casteism must stop if we want to make our democracy strong, and I suggest that in the election law a section be added to the effect that having the support of a caste or a community would disqualify a candidate even if he wins the election. If we are very clear on this point and adopt this procedure, casteism and communalism will stop.

Shri Amjad Ali: There is a section in the Representation of the People Act.

Shri P. R. Patel: It is there, but it is not so clear. Everybody says that students should not take active part in politics. When there is any trouble in any university, everybody comes out with the statement that the students are used by political parties or politicians to their advantage, and it is true also. Students, young people, emotional people, are misused, but is there anything in the law debaring students from taking part in politics or supporting a political party or a candidate in elections? Nothing absolutely. So, I suggest that in our election law a section be added that no university, school, college, high school or any institution can support any political party or any candidate in elections, and if students' help is sought or is taken, that should be considered to disqualify the person concerned. Unless we take some such radical steps, I do not think we shall be able to keep students from active politics.

Today, what is happening? Everywhere, in any university, big or small, the students are organised, and they look more to their rights than to their duties, and political workers are always behind the students. I would suggest that if you want to have peace in our country, if you want that students should not be a party to any political party or any politician we should put a clause in the election law that if students are used then the election will be void. I know, Sir, in all elections.

Shri Tyagi: It will be difficult to get elected.

Shri P. R. Patel: Well, it may be difficult. But what happens is that students are being used for that.

Dr. M. S. Aney: I want to put a question. Suppose a student above the age of 18 stands as a candidate?

Shri P. R. Patel: An age of 18 is not sufficient. I may remind him, it is 21.

Shri A. K. Sen: It is 21.

Did not Mr. Patel have students canvassing for him?

Shri P. R. Patel: No, Sir. But I say students have been working against me. It should be stopped now.

Shri Tyagi: There are no schools there.

Shri P. R. Patel: After all, Congress uses Seva Dal. I did not like to mention all this. What is Seva Dal? And their patrika is issued by the Congress. In that patrika it was written that young boys should go to their parents, sit before them, persuade them and take them to the polling station and get the votes for the Congress. I have read this in the Seva Dal patrika. If you want to stop these things, I think the burden shall have to be borne by the major political party, not by a small party or individuals.

I shall end my speech by just submitting one thing more and that is the allotment of symbols. I think symbols should be such that no feelings should be created thereby. We use the symbol "cock". The Congress uses the symbol "two bulls" and in the villages people think, "If we just give our votes to 'bullocks', that would be better rather than giving to anybody else." I think these feelings should not be allowed to be aroused so far as the election is concerned. Again, to give the voters' list only to recognised parties who have collected 3 per cent votes is not proper. I think that is also a privilege and that should not be extended to political parties and candidates.

Lastly, I submit that so far as election tribunals are concerned, I am of the opinion that district judges are no good for tribunals. I think High Court judges be appointed in tribunals and they should be asked to conduct the election cases.

श्री अर्चित राम (पटियाला) : सभापति महोदय, मैं इस के मुताल्लिक केवल एक दो बातें कहना चाहता हूँ। मैं पढ़ रहा था इस मिनिसट्री की रिपोर्ट को कि क्या कोई

ऐसा तरीका हो सकता है कि जिस से ग्राम लोगों को इन्साफ मिल सके। आज हालत ऐसी है कि कानून सामने है। जो जज है वह भी इस बात का कायल है कि जो मुल्जिम है उस पर इतनी सख्ती से कानून का भ्रमल नहीं होना चाहिये। लेकिन इस के बावजूद भी मुल्जिम के बखिलाफ इस किस्म की सजाओं के फैसले होते हैं जो लोगों को हैरान कर देते हैं। मुझ खुद इस बात का तजुर्बा है। मुझे एक जगह पर पंजाब में एक मुकदमे में गवाही देनी पड़ेगी। जब मैं वहाँ गया तो जज ने मुझ से पूछा कि मेरी फलां भ्रादमी के बारे में क्या राय है। मैं उसे छिपाना नहीं चाहता। मेरे एक मोहतरम दोस्त हैं सरदार सज्जन सिंह, एक्स एम०एल०ए० हैं, हमारी सर्वेन्ट्स आफ पीपल्स सोसायटी के लाइफ मेम्बर हैं, उनके खिलाफ खयानत का मुकदमा चला। मैं जानता था कि वह मुकदमा ठीक नहीं है। जब मैं वहाँ गया और मुझ से मेरी राय पूछी गई तो मैंने कहा कि मैं तो उस भ्रादमी को दयानतदार समझता हूँ। मेरा उन का बड़ा प्रेम है। जज साहब फरमाते हैं कि आप के अन्दर उन के लिये जो प्रेम है उस की मैं कद्र करता हूँ। आप ने जो थोड़े से लफ्ज इस्तेमाल किये, उन में मैं बड़ा खुई हुआ। जो कुछ मुझ से पूछा गया, मैं न बतला दिया। उस के बाद जब तारीख खत्म हुई तो सरदार सज्जन सिंह ने मुझ से कहा कि आप के साथ मैजिस्ट्रेट ने बड़ा अच्छा सुलूक किया, लेकिन आप देखेंगे कि जब मुकदमे का फैसला होगा, तो उस के अन्दर सजा मुझ जरूर होगी। मैंने कहा यह कैसे हो सकता है? जब जज खुद मानता है कि तुम इतने दयानतदार भ्रादमी हो और वह तुम्हारी इतनी इज्जत करता है तो यह नहीं हो सकता। लेकिन जब मुकदमे का फैसला हुआ तो उस भ्रादमी को दो साल की सजा दी गई। मैं हैरान था कि जिस भ्रादमी के मुताल्लिक लोगों की जो राय है उसे जज साहब महसूस करते हैं और है भी ठीक, मेरा वाकिफ है, मैं भी कहता

हूँ कि दयानतदार भ्रादमी है, फिर भी दो साल की सजा हो गई। मुझे यह पता तो नहीं कि हमारे वा मिनिस्टर इस कानून को क्या शकल दे सकते हैं, लेकिन मेरी यह दर्शास्त है कि इस को ऐसी शकल दी जाय कि जज साहब मजबूर हो जायें इस बात के लिये कि इस किसम का जुल्म न होने पाये। वह ऐसा भ्रादमी है कि अगर इस इश्यू पर रिफरन्डम ले लिया जाय कि पंजाब के भ्रन्दर दयानतदार भ्रादमी कैसा होता है, तो शायद मैजिस्ट्री यह राय देगी कि वह शकल एक दयानतदार भ्रादमी है। मेरा जाती तजुर्बा है। वह मेरे घर के भ्रन्दर भ्राया और गलती से मेरा पेंट लेता गया। उस भ्रादमी ने घर जा कर उस पेंट को इस्तेमाल नहीं किया, घर में जा कर सन्दूक में रख दिया और बाद में वापस किया। वह सोशलिस्ट पार्टी का मेम्बर है, लेकिन इस का यहां पर कोई ताल्लुक नहीं है। ऐसे भ्रच्छे भ्रादमी के साथ इस तरह से हुआ। उस को दो साल की सजा हुई और ५०० रु० जुर्माना हुआ। उस ने कहा कि पार्टिशन के बाद में कहता रहा कि मेरे पास ३-० रु० हैं, मैं किंग दू। लेकिन उस की बात की परवाह नहीं की गई। इस लिये क्या कोई ऐसा तरीका हो सकता है जिस के भ्रन्दर बेगुनाह भ्रादमी, मुअज्जिज भ्रादमी, पब्लिक के भ्रन्दर जिस के ऊपर बड़ी भ्रच्छी राय हो, उसे ख्यानत करने के जुर्म में सजा हो जाय। सेशनस कोर्ट में मुकदमा गया। वहां पर दो साल की सजा माफ कर दी गई और ३०० रु० जुर्माना किया गया। अब उस की अपील चल रही है। यह बाक्या में इस लिये बयान कर रहा हूँ कि यह मेरे सामने है। हमारे मिनिस्टर साहब यहां बैठे हुए हैं, जिन के लिये मुझे बड़ा एहताराम है। क्या कोई तरीका ऐसा हो सकता है कि जिस से किसी बेगुनाह भ्रादमी को सजा न हो जाय? आज उस को सजा हो गई है और कोई उस को पूछने वाल नहीं है। इस तरह के बहुत से केसेज हैं, इस लिये मैं भ्रर्ष करूंगा कि कोई ऐसा रास्ता निकालिये

जिस से बेगुनाह बच सके और लीगले डिपार्टमेंट अपना फर्ज पूरा करता रहे।

इसके भलावा एक छोटी सी बात और कहना चाहता हूँ जो कि कोर्ट फीस के मुताल्लिक है। बाज दफा ऐसा होता कि है कोर्ट फीस में बहुत सा रुपया लोगों का लगा देना होता है, लेकिन कोई कोई भ्रादमी उस का इस्तेमाल नहीं कर सकता। इस के लिये पैसा वापस होने की हद छः महीने मुकर्रर की गई है। अगर छः महीने के भ्रन्दर उस को दाखिल कर दीजिये तब तो पैसा वापस हो जाता है, नहीं तो नहीं मिल सकता। कोर्ट फीस का कागज कोई गन्दा तो नहीं हो जाता, पैसा उस पर खर्च हुआ ही है, यह तो है नहीं कि उस का पैसा खर्च नहीं हुआ, इस लिये उस पर यह बन्दिश नहीं होनी चाहिये कि वह दो महीने या छः महीने में उसे वापस कर दे। जब भी वह वापस कर सके, तो उसे उस का पैसा वापस मिलना चाहिये।

मैं सिर्फ यही दो बातें भ्रर्ष करना चाहता था।

Shri Tyagi: Sir, I have very little to submit. I have all through been a lay-man and I do not know much of law. But I have suffered the infliction of law practically all through my life.

My first reaction about the present set-up is: that we are wasting a talented Minister like Shri Sen on this small Ministry of Law. Previously with Law there used to be some other department attached—mostly such departments as were not on the Union List. For instance, now also we have Ministers who deal with subjects which are not in the Union List. We still carry some vicarious responsibility which has been put on the shoulders of the State Governments, for instance, education, health and some such things—I do not know how many. So, I would suggest that now, after the hon. Minister has had his experience of the Law Ministry, the Prime Minister who is the Leader of the House

[Shri Tyagi]

might economise the expenditure and also make an economy of persons by just giving some more subjects to this Ministry. I think a Ministry dealing with the subject of giving opinions only is not actually a major Ministry. This is just a suggestion which I am making for the consideration of the Prime Minister.

16 hrs.

Shri Khushwaqt Rai: It is a case of under-employment.

Shri Tyagi: Coming to the procedure, I would say this. Although I do not know much about law and its procedure, yet I know the reaction of the people at large. The people generally feel, and their grouse against the whole procedure and system of law is that it has become too expensive. The lawyers' fees are rising. You will pardon me, Sir, for saying this, that I have not been quite happy with the class of lawyers, since we boycotted law courts in 1921. I have always been feeling that it is a class of parasites which comes second only to politicians. The first-class parasitic class is that of politicians who do nothing; they would not add any wealth to the nation, all the same, they occupy the highest positions and try to command, as if it is their right by birth or profession, I do not know, but that is the way of democracy. Immediately after them in the line of parasites come the lawyers. I can understand doctors charging....

Shri Amjad Ali: May I put one question to Shri Tyagi? Suppose he is falsely implicated in a kidnapping case, would he or would he not require the services of a lawyer?

Shri A. K. Sen: That is a contingency which it is impossible for us to visualise.

Shri Tyagi: I can assure my hon. friend that I shall not take to any such practices. I have passed that age.

Shri Amjad Ali: Suppose the hon. Member is falsely implicated.

Shri Tyagi: Whatever be the case, the position is this that the lawyers are a thriving class. Their number also is increasing, and they live on simpler people who are in trouble. Always, they exploit such persons as are miserable in society and are in trouble. I beg to be excused for saying this. Sir, you come also from the same class, and you know it better than I do.

The lawyers' fees are rising like anything. It is on that account that justice has become very costly. So, what is the fun of a democracy if we cannot give cheap justice, cheap not in the sense of the standard, but cheap in costs. Can we not give them cheaper justice, that is, justice at cheaper cost?

Dr. M. S. Aney: What things is my hon. friend getting cheap in democracy? Is he getting food, clothing or anything else cheap in democracy?

Shri Tyagi: That is the problem which faces the nation today, and I assure you that I am voicing the feelings of practically the whole of India when I say that justice is becoming exorbitantly costly, and, therefore, something must be done to reduce the cost. Unfortunately, this House is also composed mostly of lawyers, and they might not agree to cut their own pockets or to have their pockets cut. But my feeling is that perhaps they might consider this matter. These are the days of socialism and a lot of many other slogans. Could they not think of applying any ceiling to the income of this parasitic class, so that they could exploit society only to a limited extent?

Now, what is happening? There are murders committed in a particular district, and a murderer is reported to have said, 'Oh, it does not matter, there is Pandit Thakur Das Bhargava sitting, and he will argue my case, and he will save me from the court.' And that is what he says about Pandit Thakur Das Bhargava who is sitting

by my side here. This is the reputation of the lawyer. Anyway, I do not want to annoy my hon. friends, but I beg and pray that something must be done, and my hon. friend the Minister is the best person who can act very judiciously in this matter, because the lawyers have faith in him, and non-lawyers also have faith in him.

Shri Khushwaqt Rai: What about a ceiling on the income of politicians?

Shri Tyagi: My next grouse is against delays which tell on the people. Delays are now becoming a habit with all the courts. I tabled a question to the Home Ministry about the numbers of cases pending in the Supreme Court and the various High Courts. You will be surprised at the manner in which the pendency has risen. For instance, in the Allahabad High Court, the number of pending cases in 1947 was 15,333. From this figures, it has risen in 1957 to 41,834.

Shri Amjad Ali: Not much.

Shri Tyagi: High Court cases cost a lot, and if they go on pending every year, we know what happens. In the Madras High Court, in 1947 the number of pending cases was 11,254. But in 1957, ten years after, the figure has risen to 16,318. In the Punjab High Court, the number of pending cases in 1947 was 2,955. Ten years after, it is 14,896. Likewise, this is the position in each High Court. In this way, the total number of pending cases on the date when the question was answered was 1,95,119. This is the state of affairs in the High Courts.

There are cases as old as 10 years and 15 years. A generation is lost, but the case is not decided. It is better that the case was lost rather one lost one's life in waiting for the verdict of the Judges. What is this justice? This is a point about which the country is very sore. I think the time has now come when we should effect some reform to expedite justice.

Another point I want to bring to the notice of my hon. friend is about

jurisprudence. This also deserves consideration. In France, an accused can also be cross-examined. There is some such provision there. The method of jurisprudence is that the benefit of doubt must go to the accused. Very good. I think it is a good thing when there is litigation between an individual citizen and another citizen. I could understand it. But when it is a case of the State *versus* an individual, perhaps a little change could be effected. There the benefit of doubt must go to the State.

Shri Amjad Ali: Preposterous (*Interruptions.*).

Shri Tyagi: This is in case of doubt. Benefit of doubt is a neutral thing. It goes either to this side or that side. But when there is a case between the State and an individual the benefit of doubt must go always to the State. This is a suggestion which I would like my hon. friend to consider.

Then I come to cross-examination. I do not know why if an accused makes a confession, it is not regarded as valid. Therefore, although he confesses, he is not guilty still. That is something, the logic of which I do not understand. If the accused confesses, why should we take his statement not conclusive? Why unnecessarily give him the benefit of retracing his statement and telling lie also and his statement will have no value. I think it should be the most important statement to be taken notice of

Shrimati Renuka Ray (Malda): Suppose he make the statement under duress?

Shri Tyagi: Then that may be taken into consideration. There can be no duress.

Shri Sadhan Gupta: Why not?

Shri Tyagi: I only suggest that some changes may be effected not only in the procedure of law or the present jurisprudence as is being practised, but also in various other aspects of laws. It is high time we did that.

[Shri Tyagi]

I must also pay my compliments to the Law Commission. They have produced very good documents. Their reports are most interesting. I must congratulate them on the labour they have put in. They have made very good recommendations, though, perhaps, in many cases they do not satisfy me because they would not curtail all these delays. When is the Ministry going to take these recommendations into consideration? They are always coming forward with Bills like the Dowry Bill and other measures of social reform.

Shrimati Renuka Ray: Why not?

Shri Tyagi: My hon. friend is already married; she need not bother about it. There are many other social reforms which can take care of themselves. (*Interruptions*).

Shrimati Renuka Ray: Do you want to take cases only because they affect personally? I want to ask the hon. Member whether he wants to take the case of only those affecting him personally?

Shri Tyagi: It is all right for the hon. lady to have taken benefit of the previous customs by amassing so much of dowry and now denying it to others. That is another matter. (*Interruptions*).

Shrimati Renuka Ray: We do not belong to a community which takes dowry.

Shri Tyagi: I do not want to annoy any Member of this House.

Mr. Chairman: It should not be done.

Shri Tyagi: I am sorry, Sir. I again repeat; as long as my hon. friend is here, if the hon. Prime Minister does not pay heed to requests made from a little distance from this mohalla, he is in the same mohalla and cannot he make a suggestion? Why does he waste his life and talents on a small

Ministry? He can take over some other portfolio and keep himself fully engaged. That is all I have to say, Sir.

Shri A. K. Sen: Mr. Chairman, Sir, it has been a good fortune that every year the Law Ministry comes up before the House and is attracting more and more attention from the hon. Members. May I start with the very pertinent observations which have fallen from my esteemed friend, Shri Tyagi? May I say how heartily I agree with his demand for a system of justice which ensures speedy and inexpensive—I do not use the word 'cheap' because it has a double meaning—speedy and inexpensive justice for the ordinary man? I think if a country or if a system of Government fails to meet that most urgent demand which is the least that can be raised on behalf of the people, it fails in one of its essential duties. I must admit that in the midst of our craving for a more industrialised State or for more factories or for more production and for other things economic, we tend to lose sight of certain basic facts of our social and political life.

No democracy can thrive, there cannot be any stable system of administration of justice unless the people enjoy a system of justice which is dear to them, of which they can feel proud and which to them means something of their own. I am very sorry that as yet the system which prevails today is so expensive for the ordinary man that once he enters the courts of law he understands to his bitter cost how expensive an adventure he has undertaken and when he leaves the courts he comes back a bitter man even if he wins.

I remember the case of a person for whom I fought a case when I was a comparatively junior Advocate in the High Court. The suit was only for Rs. 3,500, for goods sold and delivered, against two defendants. The suit went on for a month and a half.

Even for paying the rather reasonable fee which I used to charge in those days, he had to incur a much larger sum than the claim for which he had filed the suit. As a result, after he obtained the decree, he never visited the High Court again, even to execute his decree. This is a lesson I learnt in the beginning of my life and a lesson I wish to preserve and keep on learning and not forget till the end of my career. . . . (An Hon. Member: professional) . . . professional or otherwise. I think it denotes a system which stands condemned—not the system as such basically—but a system which affords legal assistance only at an exorbitant cost for the ordinary man, those who are not happily placed. Big firms, big companies and big litigants do not mind it so much because they can pay the price that is to be paid to it. I am afraid that a lot has to be done yet to ensure to the common man a system for which he is not to bleed. If a man bleeds for a system which purports to give him justice, he does not love that system nor is that system to be continued for all times to come. I have said it previously and I wish to repeat today that there could be no shorter cut for achieving this result than by establishing fairly representative courts composed of men who are qualified to act judicially on the panchayat level to whom a large part of the smaller litigation should be entrusted for adjudication because if you entrust the small disputes to the ordinary courts, the expenses are bound to be unreasonable. You must give more and more work to our panchayat courts. The panchayat courts should be made representative and fit for the job. . . . (An Hon. Member: They are not) The reason being that we do not maintain or sustain a system of panchayat courts which have professionally qualified men in the courts.

Shri Tyagi: Will it come by elections because if they came by elections they will try to please the majority in the village?

Shri A. K. Sen: You should have to think of it. It may be that along with professional element, we have to associate others but the professional element may not have to please the electorate or even if the electorate has to be pleased, a good professional man may yet function properly but these are things to be considered. An ordinary court of law in no country can ensure cheap justice however much you may talk. Take for instance, the English courts system. Cheap justice is given to the poor because of the legal aid to the poor and but for that system the poor would not have got cheap justice there. So, even in England that was the position until a good system of legal aid to the poor was introduced. It is the same thing in America. But in other countries where they have something like the panchayat courts—call them people's courts or other courts—with qualified professional men to guide the court, they have been able to ensure very speedy and cheap justice. There is no doubt about it and I have seen it myself. A case does not go for more than two months and the professional element in the court introduces and ensures a proper and judicial element which ascertains facts judicially, impartially and fearlessly and applies the law equitably. We have to think of introducing such courts for the ordinary type of litigation. For the bigger type of litigations and more important types of cases, I do plead and I am firmly convinced that our system of justice is basically a sound one. Our Judges, and our traditions have been good and our Judges have been by and large fearless and good and independent and have proved their worth and quality, times without number. Even in the midst of heat and passion which we have witnessed in Kerala during the last two years, I must say that the judiciary was the only element in our political and social life which kept its balance undisturbed and preserved the fabric of our Government and Constitution without fear or prejudice, without trying to please either one or the other

[Shri A. K. Sen]

party, and trying to do its duty properly and independently.

An Hon. Member: Not everywhere.

Shri A. K. Sen: I said, by and large. We cannot generalise. Do not think that even in other countries everywhere there is complete perfection. I am very proud to say that our judiciary, by and large, has really settled a good tradition and commands the confidence of the public.

Why is it that the panchayat courts do not command the same confidence as our courts do? When I talk of panchayat courts, I could see my lawyer-friends Shri Pande and Shri Tyagi shaking their heads. Why? Because they know as leaders of public life that these panchayat courts have not yet created a tradition for themselves, and it is only a tradition of good, fearless, independent and impartial adjudication that gives a court the respect that our courts command today. Why is it that our litigants prefer an ordinary court to a panchayat court? Even if they do lose a case, they know that they do not lose it unfairly. That is the feeling with which our litigants look upon our courts of law.

I, therefore, freely and completely associate myself with the demand raised on behalf of the House as a whole—I do not think there is a single dissentient voice—that we must bring about as quickly as possible a system that gives speedy and inexpensive justice to everyone. It is not a matter which can be achieved in one year or two years. We must not forget that administration of justice is primarily a State subject. Our resources are not so great and our demands are so large that justice today does not receive the same attention as a steel factory or a factory for producing fertilisers. In the scale of priorities possibly it occupies a much lower place today. Therefore, all the funds that are necessary to create this

system may not possibly be forthcoming all at once. But let us hope...

An Hon. Member: We shall go on hoping.

Shri A. K. Sen: ...with the very comfortable surplus at our command we shall be able to do something better.

May I deal with the next point which is of importance, and that is the question of implementation of the Law Commission's Report. Hon. Members should recollect, no doubt, that—they know very well—the Law Commission has been functioning in a two-fold capacity. It functions as a permanent body for revising existing laws and statutes and also for recommending fresh laws. Secondly, it enquired into our judicial system and has submitted a very voluminous and laborious report containing recommendations for reform of our judicial administration covering a very wide field including appointments of Judges, both civil and criminal procedures and various other matters.

So far as the reports on the revision of existing statutes are concerned I wish to tell hon. Members that the work has been proceeding very very successfully. For instance, their second report was on sales tax. This has already been implemented by the Central Sales Tax Act of 1956. Their third report was on the Limitation Act. A Bill has been drafted and it is under consideration of the Government. I personally feel, and I think my lawyer friends here will agree with me, that it is not very prudent to try to alter the law of limitation very readily. After all, the law of limitation has stood the test of time—like the Transfer of Property Act, the Evidence Act and the Penal Code. It is an extremely well drafted statute. It has served us very well. I personally think that basically there is hardly anything to change. Therefore,

I have myself not been very enthusiastic about bringing forward a legislation for recasting the law of limitation altogether. But the Bill is under consideration, the Bill prepared according to the report of the Law Commission.

The fourth report was about the proposal that High Courts should sit in separate Benches all over the State. With regard to that, as you know, the States are primarily concerned and the matter is still under consideration of the States. I do not suppose this is a matter which can be decided very quickly or there would be uniform views on this subject. This is a very controversial subject. If you locate it at one place, other places will start clamouring. We at once create a local hostility. If you put a bench in Banaras, there will be a demand from Dehra Dun. If you put one at Dehra Dun, people will think that Shri Tyagi has managed to get it and so Shri Braj Raj Singh will start a demand of his and say one should be set up in his part of Uttar Pradesh. It is only with regard to the bigger States that this problem arises and it is really difficult. I personally think that in order to set at rest all these local jealousies, we should stick to one place. Except in States where more than one bench would be necessary, say, for instance, the present Bombay—with benches at Nagpur and Bombay, and there have been high courts sitting in those places and serving those areas—I think it is rather risky to start establishing high courts in different places. So, this is a matter over which the delay in coming to a decision is fairly understandable.

16.26 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

The next report is about the Bill regarding the application of British statutes. We have sent it to all the States. A Bill has been drafted and sent to all the States. We have not

yet received their considered views. This is the picture regarding most of the things. On many of the things, we have got a law. For instance, there is a law like the Sale of Goods Act which had been passed by the Rajya Sabha the other day. Some of the other measures have already been made into Acts. So, with regard to this part of the Law Commission's work, the work is permanent. The statutes are being revised and brought to Parliament from time to time after proper decisions are arrived at and then they are made into fresh laws.

With regard to the main reports, we have the report on the reform of judicial administration. Hon. Members will recollect that one of the main recommendations was the creation of an all-India bar. A Bill in respect of that has already been introduced and a Select Committee has been studying it. The Committee has completed its deliberations and we hope to make it into law in the course of this year.

There are other questions such as the amendment of the Civil Procedure Code and the Criminal Procedure Code which we have referred to the Law Commission for appropriate drafting. After the drafting is completed, we shall again consider them.

Then there are wider questions about the appointment of judges about which we have had many discussions last year. There were allegations that appointments are not fair, that appointments are made on extraneous considerations and various other things. I think there is hardly anything to be done about this matter.

Shri Tyagi: What is the procedure for the appointment of high court judges?

Shri A. K. Sen: The procedure is very simple. The Chief Justice of the State high court recommends the name to the Governor, and the Governor, on the advice of the Chief Minister, accepts the name or he may

[Shri A. K. Sen]

send another name. Sending of a different name rarely occurs. But if the Governor nominates another name, both the names are sent to the President through the Home Minister.

Shri Tyagi: Has the Law Ministry to do anything with the appointment? Has the Law Ministry nothing to do with it? Their opinions are not taken?

Shri A. K. Sen: The Law Ministry has nothing to do with the appointment of a high court judge, because there is the tradition from the old British days.

Shri Tyagi: Wrong tradition.

Shri A. K. Sen: From the old British days this has been going on in the matter of appointment of high court judges.

Shri Tyagi: The Law Ministry must be consulted.

Shri T. B. Vittal Rao (Khammam): This function should be taken away from the Home Ministry by the Law Ministry.

Mr. Deputy-Speaker: Order, order. Could they assume the powers now?

Shri T. B. Vittal Rao: We are suggesting.

Shri A. K. Sen: Then there was the other report of the Law Commission—the creation of a separate Ministry of Justice for the Central Government. The matter is still under consideration and no decision has been arrived at. It is really a matter not for me, but really for the Prime Minister, to deal with.

Shri Achar: The report practically says that there is a breakdown of the administration of law in the States. I read out that passage also. It is said that sufficient number of munsifs are not appointed. Things are accumulating and in two or three

States, practically there is a breakdown of the administration of law. That is the report. I would like to know what the position is.

Shri A. K. Sen: It is not really for us, it is for the States. The hon. Member is a lawyer himself and he knows that it is entirely the concern of the States. Appointment of sufficient number of munsifs, it is not for us the Centre but it is for the States. They have to appoint more munsifs. I am very sorry to hear that there are certain States where there are not enough munsifs. In fact, as I said, in our scale of priorities today justice rather occupies a low scale. I have told you so. Otherwise, I suppose if there were less fertilizers, there would have been a cry, if there were less number of roads, there would have been an outcry.

Shri Achar: The Law Ministers' conference is being held every year.

Shri A. K. Sen: We have recommended that there should be enough judges to deal with the number of cases which come up before any court. That applies not only to the munsifs courts but also to the High Courts. I am one of those who has consistently pleaded for appointing larger number of judges everywhere, because when the work has increased you cannot achieve quick results by retaining the same number of judges. And it is a fact that there is a change in the pattern of litigation due to the Constitution and the creation of various bodies special, fundamental and otherwise. The work in all the courts has increased since our independence and, therefore, you cannot cope with the increasing volume of litigation with the same number of judges. I personally feel that it is not proper economy if we try to keep the same number of judges to deal with litigation. In that case, as Shri Tyagi has pointed out, people have to wait for 10, 12 or 15 years to have the fruits of their litigation. Only the other day, Dr. Siddhanta, the Vice-Chancellor of the Calcutta University,

told me that a professor was wrongfully dismissed from the Calcutta university. He filed a suit against the authorities. The man was almost a pauper and he led a very hard life, and it is after his death that the suit has been decreed in his favour. His children possibly have the benefit but the poor man had to wait for ten years and he did not get the fruit of his suit. I think it is a very sad commentary on a system which cannot bring the fruits of one's litigation to him during his own life-time.

An Hon. Member: What are you doing about it?

Shri A. K. Sen: As I said, we require sufficient number of judges. That is my own personal feeling ever since I have come, and I must say I have succeeded partially in having additional Judges appointed in almost every High Court. I claim a good deal of pride for that and I must pay a tribute to the Home Minister and the Prime Minister for their accepting the suggestion that there should be sufficient number of judges at every level. For the first time, after 1957 we have additional Judges all over the country—Allahabad, Punjab, Bombay, Calcutta, everywhere—and I must say that with the appointment of Additional Judges the arrears has been tackled much better than it was before 1957.

About the question of elections I only want to answer a little in detail to what Shri Sadhan Gupta had stated. Naturally, the memory of the elections in Kerala is still fresh in our minds, and possibly many of our views regarding the election machinery and the election law are coloured by our attitude towards the Kerala elections as such. And I do not want to blame anyone. One does get obsessed with recent events in which one takes a violent side and one tries to blame all sorts of things for either the reverse or the success, that one party has suffered or the other has gained. But I must say with confidence, and

I think the whole House will agree with me, that notwithstanding the heat and passion of the elections in Kerala, one thing has been proved to the hilt, and that is the effectiveness and the efficacy of our election machinery, of our election law and the fair elections which they ensure. I have not heard one complaint against the impartiality of the Election Commission. There may be troubles as there are everywhere, but compared to the heat and passion which the elections in Kerala generated, I think the incidents there were far to insignificant. I think there were more incidents before the elections than during the elections in Kerala. I have no doubt that everywhere there will be tension and incidents during the elections.

I think the whole world now recognises that our election law and our election machinery are really model ones. They are emulated and followed in most countries in Asia and Africa today. Only the other day we sent one of our experienced election officers, the Deputy Chief Election Commissioner, to frame the law and to give them a bit of the experience which we have gained. It is not a matter of joke that an electorate of this magnitude is called upon every five years to elect representatives to the State assemblies and to the Parliament on the basis of adult suffrage. Nowhere in the world is there such a large electorate. Possibly there is a larger one in China but there there is not this rivalry between two, three or four parties. It is completely different.... (Interruption)

Sardar A. S. Saigal (Janjgir): The Chinese system is not like ours.

Shri A. K. Sen: But I think we have the largest electorate voting in a general election under the system of free elections and each party is free to abuse the other without infringing the election laws. I think our rigorous provisions designed to curb corrupt practices are strictly enforced. Many elections are set

[Shri A. K. Sen]

aside every time on the ground of technical corrupt practices. Take the election of Dr. Parmar for instance. It was set aside on a very technical ground of corrupt practice. Dr. Parmar never knew that the man who carried the nomination paper was technically a Government servant. He never knew that. It was admitted before the court. He never knew this yet his election was set aside. He was a valued friend of ours in this House, a good friend, a very pleasant personality, as you know. And he was disqualified. Mind you, not only was his election set aside but he was disqualified from standing again, I think, for three years. I do not think we shall find a parallel like this in many countries. In order to ensure a fair election we penalise even technical breaches of the rules regarding corrupt practice with such rigour and vigour.

Shri Sadhan Gupta: Not ex-communications?

Shri A. K. Sen: I am coming to it.

We have our law quite up-to-date and rigorous in regard to the influence which people may seek to bring to bear in influencing the electorate. That is section 123, sub-section (3). So far as the law is concerned, I would still like anybody to suggest any better provision. I do not see any defect in the law itself. If there was anything contrary to section 123, sub-section (3).....

Shri Sadhan Gupta: Sub-section (2).

Shri A. K. Sen:I do not see why appropriate steps are not taken in challenging any man who, according to my hon. friend, was influenced by religious considerations. It is no use agitating it here. It is for the election tribunal to decide it. We cannot decide it.

Shri Sadhan Gupta: What is the remedy if ex-communication comes afterwards?

Shri A. K. Sen: My learned friend is posing a question and answering it himself. Unfortunately in this country we have given the duty of adjudicating upon the existence or non-existence of corrupt practices to election tribunals. We have not taken upon ourselves the duty of adjudicating corrupt practices and very rightly so. How can we, divided by political considerations, divided into political parties and factions, take upon ourselves the duty of adjudicating whether a particular election has been vitiated by a corrupt practice or not? We have rightly given this duty to the election tribunal. If the hon. Member feels that any particular election has been influenced or vitiated by religious pressures, he should take appropriate steps.

Shri Sadhan Gupta: Not merely that. Here in the instance I quoted was a threat of ex-communication or actual ex-communication after the elections. In such cases future elections are bound to be affected for fear of future ex-communication. What I suggested was that this kind of thing should be penalised in the interest of free elections.

Shri A. K. Sen: I entirely agree with my hon. friend that there should be no fetter on one's conscience. At least our Constitution recognises no such fetter in the way of a man freely voting for one candidate or the other; and if a man tries to undermine that, he certainly does something completely repugnant to the spirit and letter of the Constitution. I am at one with my hon. friend on the other side, and if any such instance comes, I am sure appropriate action will lie in the civil court and criminal court.

Shri Sadhan Gupta: No.

Shri A. K. Sen: Of course, it will.

Shri Sadhan Gupta: Unfortunately, there is no remedy against it.

Shri A. K. Sen: I can say that if one's fundamental right is infringed by any one, he can certainly be restrained.

Shri Sadhan Gupta: There is no fundamental right involved here.

Shri A. K. Sen: I think there is a fundamental right to vote or support anyone one likes.

Shri Sadhan Gupta: No.

Shri A. K. Sen: If the hon. Member is afraid to go to a court of law....

Shri Amjad Ali: On a point of clarification.

Mr. Deputy-Speaker: He does not yield.

Shri A. K. Sen: As I am advised at present, if a man infringes upon my fundamental right to choose, or vote for, a candidate at a particular election, he really hurts and undermines my right guaranteed under article 19.

Shri Tyagi: Yes.

Shri A. K. Sen: If there is such a case, I cannot judge it, it is for the court to judge.

Shri Sadhan Gupta: Under which law?

Shri A. K. Sen: I have no doubt that appropriate action will lie.

Pandit Thakur Das Bhargava (Hisar): According to law, it is an offence to do so.

Shri A. K. Sen: I am coming to that; I said also under the criminal law. Under the criminal law, appropriate action will lie.

Pandit K. C. Sharma (Hapur): It is unlawful restraint.

Shri A. K. Sen: It is unlawful intimidation, not restraint. Anyway, I am not a court of law, and fortunately in this country these matters

have to be adjudicated by a court of law and not by Parliament. We can only pass a law, and so I do not think....

Shri Amjad Ali: Would he offer a clarification? If somebody says that his religious rights have been infringed by a certain party, would it be a corrupt practice because it has got some religious bearing?

Shri A. K. Sen: Not religious rights. As the hon. Member knows, it must be civil action under section 9.

Shri Amjad Ali: Under section 123, if he says his religious rights have been infringed upon by a certain political party, will it amount to a corrupt practice?

Pandit Thakur Das Bhargava: No, it is not a corrupt practice.

Shri A. K. Sen: The language of that section is quite clear. It says:

"The systematic appeal by a candidate or his agent or by any other person to vote or refrain from voting on the ground of caste, race, community or religion, or the use of or appeal to religious symbols, or the use of or appeal to national symbols such as the national flag, or the national emblem, for the furtherance of the prospects of the candidate's election."

He must appeal on the ground of caste, race, community or religion either to vote or refrain from voting, or appeal to religious symbols. If you appeal on the ground of religion: don't vote for a Communist",....

Shri C. K. Bhattacharya (West Dinajpur): Will you permit me to bring to the attention of the hon. Minister a placard that was issued by the Communist Party in Dr. Roy's election in Central Calcutta, in which an appeal was made to the Mussalman voters not to vote for Dr. Roy on the ground that they were being put under religious duress. I forget

[Shri C. K. Bhattacharya]

the exact Urdu word, but I have got the placard and the literature, and if required by the Chair, I can submit them tomorrow. This was exactly the language used that the Mussalman voters should not vote for Dr. Roy because the Congress had put them in religious duress, and put them in distress in other ways.

16.44 hrs.

[MR. SPEAKER in the Chair]

Shri A. K. Sen: Whether a Communist does it, or a Catholic does it, the law in this country is uniform, it applies to all equally, without favour, without prejudice, and with the same rigour. It makes no distinction between one caste and another, between one religion and another. If religious sentiments are sought to be roused and a person is asked either to vote or to refrain from voting on the ground of religion, that election will be vitiated. Whether Muslims do it or Communists do it or Catholics do it, that law is to be applied equally. The courts will have to do it, the Election Tribunal will have to do it. We cannot take upon ourselves the task of adjudicating, and rightly so. That is my submission.

And, as I say, if even after election, any man is said to be in jeopardy and his fundamental rights have been jeopardised, because he voted in a particular way, I have no doubt that a civil and criminal action will lie. If no such civil or criminal action has been brought, it means that those who are complaining have not enough evidence to substantiate in a court of law.

Shri Sadhan Gupta: It is a press report.

Shri A. K. Sen: The hon. Member knows that press reports are not admissible even in evidence.

Shri Sadhan Gupta: They are admissible in Parliament.

Shri A. K. Sen: I am talking of a court of law. How can Parliament

adjudicate whether a man has been threatened or not? What right have we to adjudicate upon the alleged misdeed of a particular priest in a particular village?

Shri Sadhan Gupta: We can penalise.

Shri A. K. Sen: As I submit, the law is quite enough. It is a question of bringing somebody to the books according to the law prevalent. (Interruption).

Mr. Speaker: Order, order.

Shri A. K. Sen: I know the difficulties of proving it. Possibly the hon. Member will not get any witness from that community to give evidence against the priest concerned. But that is a difficulty which possibly the hon. Member will have to face if he has to punish a man for this offence.

Shri Sadhan Gupta: You want to continue it. That is all!

Shri A. K. Sen: As I said, I am at one with the hon. Member, because I come from a place where there are no Catholics, but there are other communities to whom religious appeal is sometimes so very fatal. And I am at one with the hon. Member in condemning any form of religious persuasion in the matter of voting, because we have seen the malign effects of it in the past in the part of India from which I come, and we have paid heavily for it by having to subject ourselves to the partition of our soil. That is a different matter.

Shri T. B. Vittal Rao: That is past.

Shri A. K. Sen: Whether it is in the future or not, there is no doubt about any of us supporting any such religious persuasion; certainly not.

Well, I am sorry that possibly a few votes have been lost to the Communist Party by—I may even take for

granted from what the hon. Member says—the persuasion of the press. But then, so long as a press is there, there will be persuasion one way or the other.

Shri Sadhan Gupta: I myself said that they are free to persuade, but not to coerce.

Shri A. K. Sen: Now, Sir, I think that finishes all the points that have been raised.

Shri M. C. Jain: Separation of judiciary from executive.

Shri A. K. Sen: As the hon. Member knows, that is really not our function. It is an accepted fact. It is a Directive Principle. It is a matter over which there is no controversy. It is being applied legally in most of the States, factually in the remaining States; and today it is no longer a matter on which there can be any debate. It is a matter of implementing it as fast as we can. But, as I explained on the last occasion, it is not a matter which can be implemented straightway. You have to train enough judicial officers; because, up till now the same magistrate was functioning in the judicial as also in the executive capacity. If you suddenly have to divorce these two functions you have to have enough officers and train them, because training is more important. But that is being done quite fast. It is not a live subject in that sense. It is a matter over which every one is agreed, not only the Congress Party but all parties are agreed. And there is the Directive Principle in our Constitution.

Shri Sadhan Gupta: What about photographs of the electors?

Shri A. K. Sen: I am strongly in favour of it, coming as I do from a city where, I am very sorry to say, the art of impersonation has been almost brought to a finesse—I do not say by any particular group, but every group tries to be a past-master in the

job, and it becomes a farce. And I have had it from very responsible communist party Members that they will be very glad themselves if in the heavily congested industrial areas we have some sort of check by way of identity cards.

Shri Sadhan Gupta: Every one would be glad.

Shri A. K. Sen: The hon. Member says that one lakh of voters have been disenfranchised. Why? The photographers are going morning and evening, and if they cannot find these people the only inference is that they do not exist and that they will exist only at the time of voting in the form of other persons coming and impersonating and voting. How is it that when you have made photographers available and they are going, they cannot find these people? I have got this complaint before. I am very glad that the hon. Member has raised it, because I have got briefing about this matter some time back. In a particular place we find that thirty members are in a house. The photographer goes there. And every time he goes he gets only ten or fifteen. On behalf of the other fifteen it is said "well, we have been disenfranchised". Why are they disenfranchised? All that they are asked to do is to possess an identity card at the time they go and try to exercise their vote. And one has to subject himself to the application of the mark of an indelible ink, or one has to answer certain questions regarding his paternity and so on; but he has only to produce the card now.

I was being told by a very responsible member of the Communist Party the other day that he was present at the time of the elections in Indonesia some time back, and he was surprised to find the efficacy of the system of identity cards. Every man had an identity card, and the ballot papers were distributed overnight there before the date of the election, according to the identity card, and the

[Shri A. K. Sen]

man just came in the morning with his identity card and the ballot paper and put his mark on the ballot paper. I do not see any difficulty in the matter.

Why should there be any difficulties in people getting themselves photographed freely and getting a copy of their photographs free? We are not only photographing them freely, but as a matter of inducement we are giving one copy free to them.

I have myself gone and seen the photographing. I was told that women objected to being photographed. But I went to a very ordinary poor middle-class locality in Kalighat to see what objection there was. There were three or four photographers, and the Chief Election Commissioner, and I went there in *cognito*, so that it may not be said that people had gathered there to see me. I went from house to house, and I was most surprised that the women were coming out dressed in their best saris for being photographed.

Shri Tyagi: What does the Minister say to this? The election becomes unfair in the sense that men candidates can approach men only, whereas women candidates can approach both men and women. Therefore, the men candidates cannot approach half of the voters, because of the *pardah* system.

Shri A. K. Sen: There cannot be any *pardah* system at all. Shri Tyagi can come with me, and I am prepared to show him the actual position.

Shri Tyagi: They are a privileged class.

Shri A. K. Sen: I am not talking of the villages, but I am talking only of the towns in which this system is there. Muslim women can be photographed by women photographers. I do not see any objection to that. Why should women object to being photo-

graphed by women photographers? It is no use saying that any man or woman has been disenfranchised. This is the best system of identifying the person who is on the roll and who comes to exercise his franchise.

Shri Tridib Kumar Chaudhuri (Berhampore): May I ask one question? Should there not be some finality in this matter? This election has been kept hanging for the last so many months. So, whether the photographers are able to photograph all the voters or not, at least it must be said that after a particular date, no photograph would be taken, and the election must be called for and arranged after that date.

Shri A. K. Sen: Shri Tridib Kumar Chaudhuri is perfectly right. His anxiety is very understandable. It has exercised my mind also.

Shri C. K. Bhattacharya: If I may be permitted to make one observation, I would submit that it has already been announced in the papers that the election is going to be held on the 2nd May, 1960.

Shri A. K. Sen: Is that so? I have not seen it. I am glad that it is so. In fact, I had a talk with the Chief Election Commissioner on several occasions on this. But I may tell my hon. friend Shri Tridib Kumar Chaudhuri that the delay was not due to photographing. On the contrary, the delay was due to the fact that after photographing started, as I anticipated, it was found that 40 per cent. of the rolls was absolutely incorrect. It was composed of men who had either died or had gone away or were just there without existing physically. And that was one of the proofs, if any proof were necessary, that photographing in these heavily congested areas was an absolute necessity. When photographing started, it was found that the rolls were incorrect to the extent of about 40 per cent. It was only then that the Chief Election Commissioner came to

me and told me that he was surprised himself that there was so much of inaccuracy. I told him that that was my own estimate from my own experience. And then, the order was made by notification for a revision of the rolls by house-to-house checking.

Shri Tyagi: Could not the roll number of the voter also be given on the back of the photograph, so that the candidate may be saved the worry?

Shri A. K. Sen: Yes, the photograph shows the roll number, because the person is photographed with his roll number. There is a board which is held by him or her, containing the roll number, and there is a photograph taken of the person along with the roll number on the board. I think it is a perfect system, and no reasonable man can take any objection to this system. That is the only way by which we can ensure fair elections.

Shri Rami Reddy: On a point of clarification. Does the hon. Minister intend extending the system to the whole of the country?

Shri A. K. Sen: I think the hon. Member will recollect what we said when the Act was amended, that this was intended to be applied where, according to the Chief Election Commissioner, due to heavy congestion in urban or industrial areas there was a great probability of impersonation being resorted to on a fairly large scale. As I said, in the rural areas, the problem does not exist at all. It is only where you do not know your neighbour that this becomes necessary. You are living on the ground floor: you do not know who is living on the first floor. It is only in those areas that impersonation takes place on a large scale and this procedure becomes a necessity.

श्री यादव : एक प्रश्न चुनाव के सम्बन्ध
पूछना चाहता हूँ । जो रिकार्डनाइज्ड

राजनीतिक पार्टियाँ हैं उनको वोटस लिस्ट दी जाती है और जो अनरिक्वाय नाइज्ड राजनीतिक पार्टियाँ हैं उनको नहीं दी जाती । इसी तरह से चुनाव बिन्दु नियुक्त करने में भी उनके बीच भेदभाव किया जाता है । इसके बारे में मंत्री महोदय को क्या कहना है ?

श्री श्री० कु० सेन : माननीय सदस्य जानते हैं कि इसके बारे में जो कानून बनाया गया वह सब की सलाह से बनाया गया था ।

श्री यादव : समझ में नहीं आता ।

अध्यक्ष महोदय : समझ में नहीं आता तो क्या करें ।

Enough has been said on both sides. Does any hon. Member want any cut motion to be put to vote separately?

Shri Amjad Ali: Nothing has been said regarding legal aid to the poor. Is anything being done on that account?

Shri A. K. Sen: I am very glad that Shri Amjad Ali has raised it.

I have answered this several times. A firm decision was taken at the time the Law Ministers met in the last conference, that we should proceed with the implementation of a good system of legal aid to the poor. Thereupon, the matter was investigated and various schemes were being made. We are now proceeding finally with the formulation of a scheme, which we intend to circulate to the States. In the meantime, it was decided that the States themselves would be sending their own proposals to us. I am very sorry to say that except the State of Kerala not one State has sent any proposal so far. Nevertheless, we are proceeding with this and we hope to be able to finalise our scheme very soon.

[Shri A. K. Sen]

Hon. Members will, no doubt, remember that this involves expenditure and it also covers a very large area in which the States are primarily concerned. Nevertheless, this matter is being given proper attention and we hope that some sort of a scheme will be finalised before long.

Shri Khushwaqt Rai: By the end of the Third Five Year Plan?

Mr. Speaker: Is it necessary to put any cut motion separately to vote?— I shall put all the cut motions to vote together.

The cut motions were put and negatived.

Mr. Speaker: The question is:

“That the respective sums not exceeding the amounts shown in the fourth column of the order paper, be granted to the President, to complete the sums necessary to defray the charges that will come in course of payment during the

year ending the 31st day of March 1961, in respect of the heads of demands entered in the second column thereof against Demands Nos. 69 and 70 relating to the Ministry of Law”.

The motion was adopted.

Mr. Speaker: Originally we had fixed 5 hours for this discussion. We started at 1 o'clock and were scheduled to sit till 6 p.m. to complete the discussion and voting on the Demands under the Ministry of Law. Is it the wish of the House that notwithstanding the fact that we have finished earlier we shall sit till 6 p.m.?

Some Hon. Members: No, no.

Mr. Speaker: Then, the House will stand adjourned till 11 A.M. tomorrow.

17 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, March 15, 1960/Phalguna 25, 1881 (Saka).