DEMAND NO. 62—BROADCASTING

"That a sum not exceeding Rs. 5,14,36,000 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, 1962, in respect of 'Broadcasting'."

DEMAND NO. 63—MISCELLANEOUS DEPARTMENTS AND EXPENDITURE ZNDER THE MINISTRY OF INFORMATION AND BROADCASTING

"That a sum not exceeding Rs. 3,68,02,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1962, in respect of 'Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting'."

DEMAND NO. 126—CAPITAL OUTLAY OF THE MINISTRY OF INFORMATION AND BROADCASTING

"That a sum not exceeding Rs. 4,52,83,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1962, in respect of 'Capital Outlay of the Ministry of Information and Broadcasting'."

15.00 hrs.

MINISTRY OF LAW

Mr. Deputy-Speaker: The House will now take up discussion and voting on the Demands for Grants relating to the Ministry of Law.

As usual, the limit for speeches will be 15 minutes. Hon. Members desirous of moving the cut motions they have given notice of may hand over chits at the Table within 15 minutes.

DEMAND NO. 71—MINISTRY OF LAW

..**Mr. Deputy-Speaker** Motion moved:

"That a sum not exceeding Rs. 34,71,000 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, 1962, in respect of 'Ministry of Law'."

DEMAND NO. 72—ELECTIONS

..**Mr. Deputy-Speaker** Motion moved:

"That a sum not exceeding Rs. 26,08,000 be granted to the President to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1962, in respect of 'Elections'."

DEMAND NO. 73—MISCELLANEOUS EXPENDITURE UNDER THE MINISTRY OF LAW

Mr. Deputy-Speaker: Motion moved:

"That a sum not exceeding Rs. 1,27,000 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, 1962, in respect of 'Miscellaneous Expenditure under the Ministry of Law'."

Shri Sadhan Gupta (Calcutta-East): I am moving my cut motions Nos. 1033—1036 and 1038. One of the functions of the Law Ministry is to advise the Government, and I regret to say that in important matters, the advice has turned out to by either grievously wrong or improper. The classic instance is that of Berubari where apparently the Law Ministry had advised Government

[Shri Sadhan Gupta]

that our territory could be transferred to Pakistan without any amendment of the Constitution.

The Minister of Law (Shri A. K. Sen): It was the Supreme Court's advice.

Shri Sadhan Gupta: That was not the Supreme Court's advice.

Shri A. K. Sen: The advice was from the Supreme Court, not from the Ministry.

Shri Sadhan Gupta: If the correct advice had been given at the time of negotiations, if the difficulties had been brought to the notice of the External Affairs Ministry, I do not doubt that this transfer would not have been effected in such a cavalier fashion.

15.02 hrs.

[SHRI JAGANATHA RAO *in the Chair*]

If the External Affairs Ministry had known it, it would have had another negotiating counter against Pakistan which would perhaps have deterred Pakistan to some extent and strengthened our case. External Affairs Ministry in resisting the transfer of Berubari Union. That would have averted a lot of displacement and a lot of misery that will inevitably take place. Instead of this course, the Law Minister, unfortunately, adopted the extraordinary procedure of abstaining from voting on the issue when it was here by way of a Constitution Amendment Bill. That is an extraordinary procedure, because it is subversive of all cannons of collective responsibility. Either the Law Minister agrees with the decision or he does not. If he agrees with the decision, he cannot avoid responsibility; even if he does not agree with the decision, he has either to resign from the Cabinet or if he does not resign, he has to accept full responsibility for everything that has taken place in the Cabinet, full responsibility for this transfer to this extent that he has to defend it and vote for it. In collective responsibility, a Minister is not allowed to eat the cake and have it too.

Regarding the appointment of the Chairman of the Finance Commission, there may be a controversy whether the appointment was technically right or wrong. But it is very clear that the spirit of the Constitution has been violated in this matter, which is undesirable, because the Constitution bars the further—employment of the Comptroller and Auditor-General for a very good reason. The reason is that such an officer who is entrusted with the function of ruthless criticism of Government, if need may arise, should not be able to look up to Government for further chances of employment in future. Here he has been given an office and undoubtedly it carries certain remuneration, and whatever effect such prospects may have on the Comptroller and Auditor-General, it will grievously shake the public faith in such a high official. That should not happen. Even if technically it may be held that it is not an office of profit, yet it carries with it certain allowances and certain emoluments, and it is very desirable that an officer of the kind that the Comptroller and Auditor-General is, and is intended to be by the Constitution, should be kept clear of such temptations in future. If there is error, it should be on the strict side rather than on the liberal side.

Then comes the question of the Orissa Appropriation Bill and Ordinance. A point of order was raised in this House the other day. There may be nothing in the point of order. Here again, the Law Minister might have been perfectly right in advising that the Appropriation Ordinance was invalid. I agree with him on that point. But then the question is: is it proper for the executive to come to a decision about the invalidity of what purports to be a legislation? Very serious repercussions may arise conceivably from such a course. For ins-

tance, a court may afterwards declare that law to be valid. Then also all sorts of complications would arise. In such case, when there was what purported to be a legislation, what the Law Ministry should have advised was first to withdraw or cancel that particular legislation and then to proceed with subsequent legislation.

Speaking of Orissa, the coming elections there inevitably come to our mind. It seems the Government are determined to hold mid-term elections in Orissa. We quite appreciate the fact that a State should not be kept without a democratic set-up for long. But then the coalition of the Congress and the Ganatantra Parishad was there and the former Government had put Orissa in such a predicament that elections cannot be held in a fair manner before the date of the next general elections. I will tell you why. It is now March, almost April, and by the time the elections can be held there, most of Orissa will be under sweltering heat and voters will find it almost impossible to vote during the polling hours. That would inevitably mean that the elections would be a farce. Then after that, the rains will come and they cannot vote during that time. After that sometime will be taken for the roads to dry up and be passable. By that time, the harvest will come and after the harvest, the general elections will come.

So although it is necessary to give every State a democratic set-up as quickly as possible, it is also necessary to see that fair elections are held and we hope that in this instance, the Election Commission will assert itself and not listen to the *ipse dixit* of the Government. All the Opposition parties in Orissa are agreed that elections should not take place before the next general elections, and because they cannot fairly take place before that time. I hope the Election Commission will overrule the Government's unreasonable insistence on this point.

It is very necessary that we have proper elections there. The only objective of Government is that the ruling party will be better off with two different elections. They have money to spend; other parties have not the money to spend. Therefore, if put to two elections, one for the Assembly and the other for Parliament, the monetary resources of the Opposition parties will be seriously strained. But that seems to be the objective in forcing an election which could not be conceived of in the Orissa climate if an election is held now.

After this I will come to a very important point, the controversy that has arisen about the Presidents powers and what the Law Ministry should do in this regard. The central point of the controversy is whether the President is bound by the advice of his Council of Ministers as in the United Kingdom or whether he is not. I have no doubt that he is; and I shall presently very briefly explain why.

Mr. Chairman: Order, order. The hon. Member gave notice of a cut motion yesterday; and that has been disallowed by the Speaker. Therefore, he should not refer to that.

Shri Sadhan Gupta: I did not know that it was disallowed.

Mr. Chairman: It was disallowed. I request the hon. Member not to refer to that question....

Shri Sadhan Gupta: I was not told that it was disallowed. I submit for your consideration.....

Mr. Chairman: It has already been disallowed. There is no hing left for my consideration.

Shri Sadhan Gupta: I can submit against the disallowance. I was not informed.

Mr. Chairman: I am sorry; that point cannot be raised again.

Shri Sadhan Gupta: I can submit against the disallowance. It is my right to argue it. It is an *ex parte* decision.

Mr. Chairman: Whatever it is, if you dilate on this point, the name of the President is likely to be brought in. And, rule 352 is very clear on this point that it is not open to any hon. Member to bring in the name of the President. I would request the hon. Member not to bring in the name of the President.

Shri Sadhan Gupta: I am not going to bring in the President's name, or utter the name of the President in this connection.

Mr. Chairman: But it will be brought in.

Shri Sadhan Gupta: I am not trying to bring in the name of the President. I am just talking about the constitutional position. The question is, what is the constitutional position. The position is, certainly, that ministerial advice is binding. This will be clear from a peep into our constitutional history.

Shri A. K. Sen: If the cut motion has been disallowed, is the hon. Member entitled to speak on it, without first of all having that decision reversed? I am not against answering that point. But since the Speaker has disallowed the cut motion, is it open to the hon. Member to speak on it?

Mr. Chairman: I would ask the hon. Member not to refer to it again.

Shri Sadhan Gupta: I was not speaking on the cut motion.

Mr. Chairman: Even then the controversy is being revived.

Shri Sadhan Gupta: Even without the cut motion I can refer to it when speaking on the Demand.

Mr. Chairman: The Demand can be rejected only with regard to the cut motion. When the cut motion is disallowed, certainly, it is not open to the hon. Member to raise that question.

Shri Amjad Ali (Dhubri): When we are discussing the Ministry of Law, we are also discussing in this Demand the constitutional aspect. In discussing the constitutional aspect of this question, we need not bring in the name of the President or his statement somewhere or any controversy outside. What we are concerned here is about the position of law, the constitutional position of the President. Possibly, we can do it when we are discussing this. I do not think the disallowance of the cut motion by the Speaker will have any effect on this. The hon. Member may be allowed to go on.

Mr. Chairman: I am sorry; we are discussing the Demands of the Ministry of Law. It does not mean that we are entitled to discuss the interpretation of the Constitution with respect to certain articles.

Shri Tangamani (Madurai): We can oppose this Demand even without any reference to a particular cut motion. It is not necessary that we should speak only on a cut motion.

Shri Sadhan Gupta: May I submit, Sir, that I am within my rights to ask the Ministry of Law to refer any provision of the Constitution for the interpretation of the Supreme Court under article 143 of the Constitution. And, this is what I am doing today.

Shri A. K. Sen: That is not the cut motion. The hon. Member is trying to enter into a discussion of the constitutional position of the President.

Mr. Chairman: Government cannot decide it.

Shri Sadhan Gupta: I am trying to expound whether ministerial advice is binding or not. That is a thing that can be settled by the Supreme Court on a reference. And, that is what I am asking the Law Minister to do.

Shri A. K. Sen: If that were the position I would not have objected to it.

Shri Sadhan Gupta: That is what I am doing. (*Interruption*).

Shri Tangamani: There is an amending Bill introduced in the other House.

Shri Sadhan Gupta: There is an amending Bill also introduced in the other House.

Shri A. K. Sen: If the hon. Member moves a cut motion for reducing the Demand of the Law Ministry for its failure to refer this to the Supreme Court, that would have been quite a different thing.

Shri Sadhan Gupta: Even without a cut motion, on the Demand itself I can raise it. What prevents me from raising that point?

Shri Tangamani: Otherwise we would all be out of court.

Mr. Chairman: The hon. Member may proceed.

Shri Sadhan Gupta: I submit that if is agreed that what we have under the Constitution is responsible government. The idea of responsible government, for the first time, received recognition in our country from the notorious Preamble to the Government of India Act, 1919. For the first time it received statutory recognition in that way. That Preamble consisted of 5 paragraphs, which said:—

> "Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian Administration and for the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in British India as an integral part of the Empire..."

and so on and so forth.

Now, it is quite clear that with every word and every syllable of that preamble, the national movement has quarrelled at some time of the other. But, what it has not quarrelled with at any time is the two words and their seven syllables, 'responsible government'. We have never doubted that responsible government was what we were fighting for and responsible government was what we were striving to achieve.

The first substantial measure of responsible government came under the Government of India Act, 1935. Federation was envisaged under that. But it did not come into operation. It was brought into operation in a modified form after the achievement of independence. Under that Act, as originally passed, both in the Centre and in the Provinces the functions of the Governor-General and Governors were described. They were divided into two fields; one in which the Governor-General would exercise his functions acting in his discretion and the second where he would be aided and advised by a Council of Ministers, in the exercise of his functions.

The second field was again subdivided into two sectors; one in which the Governor-General would exercise his individual judgment, that is to say, in which he would seek for the advice of the Ministers but was not bound to follow it; and the other in which, presumably, he had no individual judgment and was bound by the advice tendered by the Ministers.

Now, when we modified the Government of India Act, after the achievement of independence, we omitted all references to discretion and individual judgment. So, it follows that what we meant was that there should be no more discretion, that there should be no more individual judgment. The aid and advice of the Ministers was the sole thing which would regulate administration. It is this modified form the Government of India Act—section 9 of the Government of India Act, to be precise—that we adopted in article 74 of the Constitution.

[Shri Sadhan Gupta]

Besides this historic background of article 74, which should be clinching, there are other provisions into which I have no time to go in detail. But, there is article 78 which is significant in this connection. Article 78 of the Constitution says:—

"It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council."

Now, this particular provision shows clearly that the initiative in 'administration'—I am quoting from the article itself or the power to take a 'decision'—I quote again—is in the Council of Ministers and nowhere else. A matter may be submitted to the decision of the Council of Ministers but it can be submitted only when a decision has been taken by an individual Minister and not otherwise. Even then, it cannot be placed directly before the Council of Ministers. Only the Prime Minister can be required to submit it for the consideration of the Council of Ministers. Without submitting a decision to the Council of Ministers, there could be no aid or advice and therefore there could be no action. Such other minor provisions could be referred to but there is no time. What is clinching is article 75(3) of the Constitution. It says:

"The Council of Ministers shall be collectively responsible to the House of the People."

This for the first time gives statutory and constitutional recognition to collective responsibility. The classic definition of collective responsibility which still holds good was given by Lord Salisbury, a British Prime Minister. He puts it in this way:

"For all that passes in a Cabinet, every member of it who does not resign is absolutely and irretrievably responsible and has no right afterwards to say that he agreed in one case to a compromise while in another he was persuaded by his colleagues. It is only on the principle that absolute responsibility is undertaken by every member of the Cabinet who, after a decision is arrived at, remains a member of it, that the joint responsibility of Ministers to Parliament can be upheld, and one of the most essential principles of parliamentary responsibility established."

This is the statement of collective responsibility which we have. Collective responsibility, therefore, is a very well-defined concept. In practice it means that an attack on a Minister is an attack on the Government; the defeat of a Minister is the defeat of a Government. In a word, the whole Council of Ministers is absolutely and irretrievably accountable to Parliament, to this House in the present circumstances for their acts of omission or the acts of any single Minister of the Government. There are qualifications to it but they have no relevance for our present purpose. Could there be such accountability of a Minister's advice was not binding? If a Minister or the Council of Ministers, when hauled up before this House, could say: well, I am not responsible or we are not responsible; we advised otherwise but we cannot help it. If that is the position, then God save collective responsibility. What responsibility could be attributed to the Ministers in that case? Here, as in most other cases, a man cannot serve two masters.

Therefore, it shows that the Ministers are the determining factor and there is no other authority that is the determining factor in this. There are one or two provisions which may appear to go counter. There is article 111 which, for instance, empowers the President to withhold his assent to a Bill passed by Parliament but I can explain how it is to be exercised on advice. I am sure the hon. Law Minister would be able to find out reasons himself. If he cannot, he can approach me and I will give him without fees. This thing should be settled once for all by reference to the Supreme Court. Otherwise, it may cause a constitutional crisis of a very far reaching character because no court can solve it; it must be solved, if at all, by bitter conflicts. The courts cannot solve it; the courts are precluded from enquiring into what advice was given and whether it was or was not acted upon. That is all about the controversy—I would not mention any name.

Now, I want to pass on to the question of bifurcation of the plural member constituencies. They are going to be bifurcated and it is necesary that at all levels the Election Commission should consult the representatives of recognised political parties on an All India or State basis. I would also express my regret at the way the Law Minister has been making reference to the Judges while on a tour of Kerala he was reported to have stated that judges become difficult.

Shri A. K. Sen: No notice of any cut motion has been given. I never said anything of this sort. I wish the hon. Member had put in a cut motion. I did not object to it earlier. But the only way by which the demands could be objected to is by giving notice of a cut motion. The Rules provide for it.

Shri Sadhan Gupta: Not at all. This is an extra-ordinary proposition.

Shri A. K. Sen: The Rules are clear.

Shri Sadhan Gupta: I can oppose the Demands.

Shri A. K. Sen: The Rules say that he has to put in notice of a cut motion.

Shri Amjad Ali: If the Demand is before the House, we are perfectly entitled to speak anything on that..... (*Interruptions*).

Shri Sadhan Gupta: If the hon. Law Minister's view is correct, then no Congress Member can speak.

Shri Raghunath Singh (Varanasi): We are to oppose the cut motions.

Shri Sadhan Gupta: They have been criticising the Government; they would not be able to do it.

Mr. Chairman: Anyway, the hon. Law Minister denies having made such a statement in Kerala; therefore the hon. Member need not refer to it again.

Shri A. K. Sen: Some of the hon. Members there were present on that occasion.... (*Interruptions*).

Shri Sadhan Gupta: We should handle our judges carefully because we must not forget that even apart from all the time that they spend in the Courts, a Judge has to spend time in writing judgments and so on and it is not proper to egg them up. For instance, if you hurry them up in certain matters, they become delay conscious and it may be that they become impatient in disposing of cases, which is not desirable. It is of course not desirable that there should be undue delay in disposing of cases. But I take it that we appoint good Judges or at least we ought to appoint good Judges. We can trust them to have that sense of responsibility and we should not go on criticising them off and on from the executive. That would seriously lower the morale of the judiciary and it is very undesirable.

I have almost finished. The only other thing is that progressive legal aid schemes have been very slow and

[Shri Sadhan Gupta]

it is necessary that the States should be egged on to institute legal aid schemes. The Centre should set an example by starting a legal aid scheme for the Union Territories.

Then, Sir, the elections are coming. The Ministry should exert its best to secure to all recognised political parties the right to give political broadcast both from the regional stations as well as from the centre at Delhi. The opposition parties are at a great disadvantage in this matter. The Congress as a party, I do not know what they get, are placed in a better position. Since the Congress is in Government the Ministers' utterances get publicity and that is Congress publicity, while the Opposition has no such opportunity. Therefore, Sir, it is necessary that the hon. Minister should exert his influence . . .

Ch. Ranbir Singh (Rohtak): The views of the Government and the views of the party are two different things.

Shri Sadhan Gupta: It is Government and the party Tweedledum and Tweedledee.

The point is that every effort should be made in the interest of fair elections to enable the opposition parties to make political broadcasts and place their point of view squarely and fairly before the electorate; otherwise, Sir, the elections tend to become a farce.

An Hon. Member: That was the recommendation of the Commission.

Shri Sadhan Gupta: If this was a recommendation of the Election Commission then there should be no difficulty.

Lastly, the Law Commission recommended the widening of the scope of article 226 of the Constitution. It is very necessary that this should be done quickly, because it is absurd to expect that someone from Calcutta, Assam or Kerala should rush to Delhi for setting aside an order by the Government of India through the Punjab High Court. What should be done, Sir, is that against the Government of India every High Court should have jurisdiction and it should operate somewhat on the same principle as the Civil Procedure Code does; that is to say, the jurisdiction should be also where the cause of action arose rather than where the defendant resides.

Shri Frank Anthony (Nominated—Anglo-Indians): Mr. Chairman, Sir, I wish to refer to certain matters which affect radically the administration of law and justice in the country. All hon. Members of this House have heard of our fundamental rights although perhaps they do not appreciate what content if any is left in our fundamental rights. But, Sir, we have done this and we have done this quite rightly, that we have accorded supreme importance to our fundamental rights in the Constitution. We have also, in recognition of that fact, given the right to every citizen to approach the Supreme Court directly. The Supreme Court itself is very conscious of its duties in this matter of fundamental rights, and as a very distinguished Judge of the Supreme Court once mentioned, the Supreme Court is constituted in the role of a sentinel on the *qui vive* in enforcing the fundamental rights.

That role it fulfilled very carefully till 1959. I am not suggesting that it has abandoned that right. In April 1959, unfortunately—and I say this advisedly—an Executive rule was brought into operation which makes it obligatory on any petitioner who approaches the Supreme Court under article 32, if he is to be ultimately heard, to first deposit a not negligible sum of Rs. 2,500.

Shri A. K. Sen: Governument rule?

Shri Frank Anthony: It is not a Government rule, it is an Executive Rule. Perhaps the Law Ministry can advise . . .

Shri A. K. Sen: Executive rule is Government rule. I can assure the hon. Member that the Government had nothing to do with such a rule.

Shri Frank Anthony: It is not a Government rule, it is a Supreme Court rule. But perhaps the Law Ministry is in a position very judiciously to advise the Supreme Court in this matter.

Shri A. K. Sen: The hon. Member is an experienced lawyer. We cannot arrogate to ourselves the super-human task of advising the Supreme Court. On the contrary, it is the Supreme Court that advises Government on important matters.

Shri Frank Aanthony: But still I do not think . . .

Shri A. K. Sen: I do not think it will be proper either. The hon. Member is a very experienced advocate. I do not think it will be proper either as a precedent for the Government ever to attempt to advise the Supreme Court.

Shri Frank Anthony: Well, I do not know that I am prepared to accept that and that is why I am underlining the hardship.

Shri A. K. Sen: I agree there.

Shri Frank Anthony: If the Law Minister is with me and he considers that it is operating harshly, I do not say that he can bludgeon the Supreme Court but certainly as the Law Minister of the Government of India this matter can be considered. In effect what has happened is this. Somebody may seek to justify it and say that this is to prevent frivolous petitions under article 32 going to the Supreme Court. The prevention of frivolous applications has already been made because a new procedure has been adopted. Before 1959 a petition under article 32 automatically ripened for hearing. Now there is a preliminary hearing, and it is only where a petition or a petitioner establishes that he has a *prima facie* case that the petition is admitted for final hearing.

What I am seeking to underline is this, that we have in effect by this rule placed the vindication of fundamental rights beyond the reach of the average citizen, beyond the reach of the small shop-keeper or the small businessman. If his fundamental right in the matter of business has been palpably encroached upon, he cannot vindicate his right because he has not got this large amount of Rs. 2500. I say, when a person goes to civil courts, even if he is a claimant against the Government for any amount of money he is entitled to pursue his relief without any pre-condition with regard to the deposit security for costs, and I feel this is a matter which might be considered carefully and favourably as to when we have placed quite rightly our fundamental rights on this pedestal, whether the need or the precondition to have to deposit this huge amount will not in effect stultify this right.

Sir, there is another matter of considerable importance and of urgency, and I would ask the Law Minister to address himself to this too favourably. It is the absence of any proviso in respect of an appeal by a person who has been convicted for the first time by the High Court. The Law Minister knows that unlike the position in Britain there is an appeal from an acquittal in this country. And I regret to say this that there is an increasing tendency for certain State authorities almost automatically to prefer appeals against acquittals (*Interruption*)—I won't mention Governments, I can mention other States also. There is also a tendency for certain High Courts almost automatically to accept appeals from acquittals. Formerly there was this principle that an acquittal would not be set aside except for compelling reasons. I say this with great respect that certain High Courts do not accept that principle in its original form. It has lost its validity. Certain High Courts in appeals from acquittals merely reassess the evidence and because they come to different findings they in effect substitute their opinion for the opinion of the acquitting court and convict the accused. What is happening? Practising lawyers like myself find this. It is not only the question of a person having

[Shri Frank Anthony]

been acquitted, it is not only the question of a person having his innocence affirmed by a competent court, for the first time a High Court sets aside an acquittal, for the first time a High Court substitutes a conviction, a conviction which often involves a life sentence—if it is a question of death sentence then there is an automatic right of appeal, but in all other cases, even in cases right up to life imprisonment, a person who has been convicted for the first time has not a single right of appeal. I am certain that this matter must shock the conscience of the Law Minister. The only remedy to a person who has been acquitted and then convicted for the first time to life imprisonment is to apply for special leave to the Supreme Court. The Law Minister knows this; that a special leave petition, whether it is by a person who was originally acquitted and then convicted or by a person who is convicted in the lowest court and has gone through all the different procedures of appeal and review, is treated on a par. The Supreme Court will not enter into the facts. So, the man who is acquitted and then convicted has every chance, like any one else, of having his special leave petition dismissed in five minutes, because the Supreme Court might say: "We are very sorry. This is a question of fact; we may not agree with the high court, but it does not show a substantive point of law." So, the man facing a life sentence, although he was acquitted in the first instance, has not got a single right of appeal. The position is, I feel, something which cries out for a remedy.

Contrast this with the position which we have for the litigant in civil cases under article 133. The Law Minister will remember that a person who is litigating in respect of a suit valued at more than Rs. 20,000 has a right of appeal to the high court and he has automatically a second right of appeal to the Supreme Court.

Shri A. K. Sen: No; provided the judgment is reversed.

Shri Frank Anthony: Yes; but we place so much value on property, but we have placed no value on a person's liberty and his reputation. I feel that this is a matter which is agitating the bar very considerably, and I sincerely hope that the Law Minister will look into this matter and do whatever he can.

Then, my hon. friend who preceded me made some kind of reference to the question of arrears and of trying to hurry the judges. There has been considerable criticism on the part of the executive and quite rightly about this feature of accumulated arrears in the courts and in the high courts too. There is one thing which I have not approved of, and that is, there has been a tendency—I am not pointing my finger at the Law Minister—and I regret to note it—on the part of the executive unnecessarily to pillory the judiciary. I feel that this is an unfortunate tendency. I myself am against unnecessary delays, and it is axiomatic that justice delayed is justice denied. As the Law Minister will know—he was very well known and was eminent when he was a practising lawyer—and I hope he still has some contact with the Bar—that there is this disquieting feature: that because of this pressure from the executive, there is a tendency to hurry, and there is a general feeling at the Bar that matters are not being admitted because of the urge for disposal. There is also a tendency—if matters are admitted—to hurry, a tendency to listen with ill-conceived impatience. This is an extremely bad thing, because any lawyer will assert this position, namely, that the very hallmark of justice is a careful and patient hearing, particularly by the higher reaches of the judiciary. We will at one stroke undermine faith in our judiciary if the man-in-the-street feels, when he goes to the higher reaches of the judiciary, that he cannot be granted both a careful and patient hearing.

There is another matter which was underlined by the Law Commission. Unfortunately, so far, the Government has not accepted this position. The

Law Minister perhaps may privately accept it. And that is the tendency for political considerations—I do not say everywhere but in some places—entering into the making of judicial appointments. It will not do for Government merely to throw up its hands in horror and say, "Why do you make such allegations? These allegations are not right." When the States Reorganisation Bill was on the anvil, I strenuously opposed the provision which sought to give power to the governor to have any say in the matter of judicial appointments. I stated there and I say it again here that once you admit a governor even in the position of condominium with the Chief Justice in the making of judicial appointments, because the power today is unhealthily concentrated in political hands in many States, through the governor, the Chief Minister will be virtually the appointing authorities of judges. Let us face this and let us not try to burk this issue. Everyone of us must be interested in maintaining the independence of our judiciary. Everywhere there is a talk among leading members of the Bar—not in respect of appointment in all the States but in many States—that persons who have had no practice, some who have never appeared, I am told, for one day in one case in the high court, are appointed to the high court Bench. This kind of thing is going to undermine seriously the position of our judiciary. It is happening, and I am certain, whether the Law Minister admits it here or not, he probably realises that it is happening. And I hope something will be done to see that it does not continue.

There is another matter in respect of which I have always felt strongly,—I do not know whether the Law Minister will agree with me—and that is the permission for judges to practise after they come down from the Bench. I say without qualification that permission to judges to practise after they come down from the Bench is not only an unhealthy but a pernicious convention. It may not be happening in Bengal. It is happening in other places. What is happening? I do not want to point a finger specifically here and there. Because a man has been an eminent judge, there is no guarantee that he is going to be an ordinarily successful advocate. The Law Minister will be the first to recognise that the qualities for a successful advocate are very different from the qualities for being a successful judge. Those people who have quite rightly been in those positions of eminence—they have been on a pedestal—come down into the hurly-burly of a fiercely competitive profession. Where do they start? They start right at the bottom—as struggling juniors they may fall into certain practice. The Law Minister knows this. I am not condoning it. He knows what struggling juniors are often compelled to do. They are compelled to resort to questionable practices, malodorous practices. Your high court judges—when they join the Bar—are nothing more than struggling juniors. I do not want to say that they compete with struggling juniors in adopting questionable practices, but they should not be placed in this position, the position of juniors, in, as I said, a fiercely competitive profession where all kinds of things are resorted to,—not by the eminent counsels, but by people on the bottom who endeavour to build up practice.

Another criticism that has been made—I regret to say it quite frankly it is something which is almost revolting; because the judges are allowed to practise in the high courts, they may practise in other High Courts or the Supreme Court. This criticism which is made openly by members of the Bar is extremely a bad thing, and because of this—I do not know whether this is true or not and I am hoping that this is not true in a single case—some judges are contemplating going into practice after they retire, have a tendency to lean towards certain leading members

[Shri Frank Anthony]

of the Bar in the hope that when they join practice, these leading members will feed them with briefs. That criticism of our judiciary should be possible, is a bad thing. Those of us who are jealous of the reputation of our judiciary should do something to see that conventions are not permitted which expose them to criticism. You may say, "You cannot stop criticism". You can stop criticism if you do not have these unhealthy conventions. I raised this matter before and I said, I believe in the maxim "once a Judge, always a Judge". But somebody said, "What about Lord Reading and Lord Simin?" That is all very good, but that has to be the exception. Use Judges, use their talent and experience in judicial and quasi-judicial capacity after their retirement, but do not allow them to come down and practise, because they come down in more senses than one. I have said this before and I want to underline it today.

There is tremendous criticism of this practice, which is hardening into a convention, of allowing judges to seek executive appointments. I dare not mention names of people, in the judiciary most highly placed, who have themselves been critical of this practice, of this permission of allowing judges to seek executive appointments. I mentioned this to one of our most eminent judges that it is demoralising the judiciary and he agreed with it. There is this prospect of executive perferment—I do not say all the judges will do it, but in the best ordered of fraternities, you will get exception. You will get persons waiting on Ministers hoping to get some kind of executive preferment. A gentleman turned round and said, "Mr. Anthony, they do not wait only on Ministers: they wait on Deputy Ministers". This was a very senior member of the judiciary.

I say this that no one is more jealous than I am of the need for maintaining absolutely in tact the dignity and the high reputation of our judiciary. The Law Minister is an eminent member of the Bar. I do not know whether replying here as a Member of the Government, he will agree with me. We have been breaking new ground. We have set ourselves some very wrong conventions. Let us even at this late stage in this matter have the courage to admit our mistakes and above all have the courage to rectify them.

पंडित ठाकुर दास भार्गव (हिसार) : जनाब चेअरमैन साहब, मैंने बड़ी तवज्जह के साथ श्री साधन गुप्त और मि० एन्थनी की स्पीचों को सुना । मैं ताज्जुब करता था कि ऐसे मामलात भी जो ला मिनिस्ट्री के खिलाफ कट मोशन्स की शक्ल में नहीं आये हैं, यहां अर्ज हो सकेंगे ।

Shri Rami Reddy (Cuddapah): I would request the hon. Member to speak in English.

Shri Tangamani: If he speaks in English, we will also understand.

पंडित ठाकुर दास भार्गव : मुझे कोई हिदायत देने की जरूरत नहीं है । मैं जिस लैंग्वेज में चाहूंगा उसमें बोलूंगा । कौन मुझे फोर्स कर सकता है कि मैं अंग्रेजी में बोलूं या किस लैंग्वेज में बोलूं ?

Shri Tangamani: We are only making a request him to speak in English. It is only an appeal.

पंडित ठाकुर दास भार्गव : मैं यह ताज्जुब करता था कि जो कटमोशन्स इस हाउस के अन्दर नहीं दिये गये हैं उनके ऊपर बहस जायज है या नहीं । लेकिन मैं खुश हूं कि जनाब ने या ला मिनिस्टर साहब ने यह नहीं फरमाया कि इस तरह की बहस के मौके पर यह ज़नरल बहस दुरुस्त नहीं है ।

मैं समझता था कि ला मिनिस्ट्री के खिलाफ या ला मिनिस्ट्री के किसी कंडक्ट के खिलाफ किसी किस्म की तनकीद होगी और

उस पर कोई कटमोशन आयेगा । लेकिन जो बातें इस कांस्टिट्यूशन बनने के वक्त कही गई थीं वही आज सारी की सारी इस बहस में लाई जा रही हैं, इससे मुझे बड़ा ताज्जुब हुआ इसमें कोई शक नहीं कि वह बातें बड़ी जरूरी हैं, और मैं आपकी इजाजत से उनमें से चन्द बातों पर कुछ अर्ज करना चाहता हूं ।

सबसे अव्वल तो हमारे एन्थनी साहब ने यह फरमाया कि सुप्रीम कोर्ट ने यह नया रूल बनाया है कि जब तक ढाई हजार रु० दाखिल न किये जायें तब तक किसी शख्स की दफा ३२ के तहत स्पेशल लीव सुनी नहीं जा सकेगी । मैं एन्थनी साहब का शुक्रिया अदा करता हूं कि उन्होंने यह खबर इस हाउस को दी । मुझे इसका इल्म नहीं था । मैं अर्ज करना चाहता हूं कि यह इतना सख्त आब्स्टेकिल है फंडामेन्टल राइट्स के रास्ते में कि हमारी ला मिनिस्ट्री को जरूर इसके बारे में कुछ करना चाहिये । आप जानते है कि दफा १४५ के मातहत सुप्रीम कोर्ट जो रूल्स बनाता है उसमें गवर्नमेंट दखल नहीं दे सकती । मगर मैं अदब से पूछना चाहता हूं कि आखिर क्या वजह है कि आप इन सारे फंडामेंटल राइट्स पर या एक फंडामेंटल राइट पर यह रोक लगाते हैं कि जो शख्स ढाई हजार रु० दाखिल करे उसी को इजाजत है कि वह सुप्रीम कोर्ट में जाये, वर्ना वह नहीं जा सकता । बड़े ताज्जुब की बात है कि कैसे सुप्रीम कोर्ट ने इस किस्म का रूल बनाया । मैं समझता हूं कि आज तक सारे हिन्दुस्तान में इसका पूरा इल्म लोगों को नहीं है नहीं तो इसका बड़ा सख्त क्रिटिसिज्म होता । यह कहना गलत है कि सिर्फ सुप्रीम कोट ही फंडामेंटल राइट्स का पासबां है । दफा ३२ के अन्दर सुप्रीम कोर्ट के सामने शिकायत हो सकती है । दरअसल फंडामेंटल राइट्स की पासबां तो हमारी गवर्नमेंट आफ इण्डिया है । मैं यह आज ही नहीं कह रहा हूं, जिस वक्त फंडामेंटल राइट्स के ऊपर मैं बोल रहा था उस मौके पर भी मैंने कहा था कि सिर्फ दो पासबां हैं फंडामेंटल राइट्स के, एक तो गवर्नमेंट और दूसरे सुप्रीम कोर्ट, जिसके लिये दफा ३२ में दिया हुआ है । अगर आप इस की तारीफ देखेंगे तो वह कांस्टिट्यूशन के अन्दर है । कांस्टिट्यूशन की दफा १३ के अन्दर स्टेट की डेफिनिशन दी हुई है, उसके बाद ही सारे डाइरेक्टिव प्रिंसिपल दिये हुए हैं । वहां पर हम पाते हैं कि गवर्नमेंट की जो जनरल पालिसी है उसको कायम करना हर एक गवनमेंट या स्टेट का फर्ज है । स्टेट, म्यूनिसिपल कमेटी या कारपोरेट अथारिटी हो या गवनमेंट आफ इण्डिया हो । डाइरेक्टिव प्रिंसिपल्स के बारे में हमने यह रक्खा है कि उनकी पासबां गवर्नमेंट आफ इंडिया है । जहां पर भी फंडामेंटल राइट्स का सवाल उठेगा, वहां पर गवर्नमेंट पाबन्द है । जो कांस्टिट्यूशन का असली प्रिंसिपल है उस पर गवर्नमेंट सब से ज्यादा पाबन्द है । क्या गवर्नमेंट को आज यह पता नहीं है कि अपने राइट्स को बचाने के लिये आज कौन शख्स सुप्रीम कोर्ट में ढाई हजार रुपया जमा कर सकता है । मेरे खयाल में हमारा पहला फंडामेंटल राइट है कि खुद सुप्रीम कोट को यह देखना होगा कि फंडामेंटल राइट्स से यह रूल कंसिस्टेंट है या नहीं। इस रूल के माने तो यह हैं कि जिस के पास रुपया है वही सिर्फ अपने हुकूक की रक्षा कर सकता है । एक मामूली आदमी कोई चीज सिविल कोर्ट में पेश करता है, लेकिन अगर कोई लीगल प्वाइंट है तो उसकी अपील सुप्रीम कोट में हो सकती है, लेकिन अगर किसी शख्स को काले पानी की सजा हुई तो वह उसकी अपील नहीं कर कर सकता । जब हमने सुप्रीम कोर्ट का ला बनाया तो उस वक्त भी मैंने अर्ज किया था और उसी बात को मैं आज दोहराता हूं कि एक मामूली आदमी इस तरह से समझ सकता है कि बड़े आदमी को हर एक आसानी हासिल है जबकि गरीब आदमी की परवाह करने वाला कोई नहीं है । यह गलत चीज है कि हम किसी मामूली आदमी की लिबर्टी की परवाह न करें । जिस आदमी के पास २०,००० रु० हैं उसकी प्रापर्टी को आप ज्यादा सिक्योर रक्खें

[पं० ठाकुरदास भार्गव]

यह ठीक चीज नहीं है । आखिर यह बात तो नहीं है कि किसी आदमी की जायदाद की हिफाजत ज्यादा सैंक्रोसेंट है लेकिन किसी आदमी की जिन्दगी और उसकी रेपुटेशन उतनी सैंक्रोसेंट नहीं है । सुप्रीम कोर्ट की पावर्स को तय करते वक्त मैंने बहुत से अमेंडमेंट्स पेश किये थे । मैंने उनके भीतर यह सब बातें रक्खी थीं । हाईकोर्ट किसी को सजा दे दे काले पानी की तो उसकी अपील सुप्रीम कोर्ट में ऐज ए मैटर आफ राइट नहीं हो सकती । हाई कोर्ट कोई भी सजा दे अलावा फांसी के तो उसकी अपील सुप्रीम कोर्ट में नहीं है । यह हमारे ऐडमिनिस्ट्रेशन के ऊपर एक ब्लाट है । जब भी हाईकोर्ट किसी को सजा दे देता है और उसकी रिट जाती है तो उसके लिये मुश्किल से दो या तीन मिनट मिलते हैं । मुझे अफसोस से कहना पड़ता है कि यह बीमारी सुप्रीम कोर्ट में ज्यादा है । शायद ८० या ९० परसेन्ट केसेज पहली ही पेशी में खत्म हो जाते हैं, तीन-तीन, चार-चार मिनट में खत्म हो जाते है । यह रूल बना हुआ है कि चूंकि हाईकोर्ट ने मान लिया या यकीन कर लिया है इसलिये सुप्रीम कोर्ट उसमें दखल नहीं दे सकता है । कम से कम और कुछ नहीं तो सुप्रीम कोर्ट की पावर्स और एन्हैन्स की जानी चाहियें और यह होना चाहिये कि चूंकि आज कल हर एक केस नहीं जा सकता, सिर्फ फांसी का केस जा सकता है, इसलिये हर एक कतल की सजा के मामले में राइट आफ अपील दी जाय । मैं पूछता हूं कि आखिर यह कौन सा जूर्म है जिस के लिये कोई राइट आफ अपील न हो । ३२३ में तो फर्स्ट अपील हो सकती है, सेकेन्ड अपील हो सकती है, फिर स्पेशल अपील हो सकती है, लेकिन अगर काले पानी की सजा हो जाय या उस से भी सख्त सजा हो जाय तो उस के वास्ते किसी आदमी को अपील करने की गुंजाइश नहीं है । यह एक फला है जिस को हम ने रक्खा हुआ है । यह चीज तो कांस्टीट्युएंट असेम्बली ने की थी । ला मिनिस्टर या ला मिनिस्ट्री को इस के लिये कैसे कुसूरवार ठहराया जा सकता है । इसलिये यह शिकायत करना कि उन्हों ने ठीक नहीं किया जायज नहीं है । इस तरह के और भी सवाल हमारे सामने आ चूके हैं, लेकिन उन की जिम्मेवारी ला मिनिस्टर या पर उन की मिनिस्ट्री पर नहीं डाली जा सकती । आप देखें कि बेरूबाड़ी का मामला था, उस के बारे में प्रेसीडेंट ने ऐक्शन लिया और इस हाउस में वह चीज मंजुर कर ली गई । तो ला मिनिस्टर का इस में क्या कुसूर है । अगर किसी चीज को इस हाउस ने मंजुर कर लिया या कांस्टीट्यूएंट असेम्बली ने मंजुर कर लिया उस के बारे में न कोई कट मोशन लाया जा सकता है और न उस के लिये ला मिनिस्टर को या ला मिनिस्ट्री को जिम्मेदार ठहराया जा सकता है ।

16 hrs.

इस तरह की बहुत सी बातें कही गयीं लेकिन उन के लिये इस तरह से कट मोशन नहीं लाया जा सकता । अगर कोई कहे कि चूंकि बंगाल में पानी खारा होता जाता है या हिसार का पानी ऐसा है कि उस में सेब पैदा नहीं होता और उस के लिये ला मिनिस्ट्री की डिमांड्स पर कट मोशन ले आय तो यह कहां तक वाजिब होगा । तो मैं अर्ज करना चाहता हूं कि जिस चीज को कांस्टीट्युएंट असेम्बली पास कर चूकी है उस के बारे में ला मिनिस्टर क्या कर सकते हैं ।

अब आप देखें कि इस हाउस में हम ने करोड़ों आदमियों का इलेक्शन के लिये खड़े होने का राइट छीन लिया । वह वोट तो दे सकते हैं लेकिन रिजर्व्ड कांस्टीट्युएंसीज से खड़े नहीं हो सकते । लेकिन इस के अन्दर ला मिनिस्टर क्या करें । हाउस ने इस चीज को तै किया । तो जो चीज हाउस के अन्दर तै हो चूकी है उस के लिये इस तरह से कट मोशन की इजाजत नहीं होनी चाहिये । अगर इस

बारे में कोई मोशन लाना ही चाहता है तो नया बिल बराबर तब्दीली कानून ला सकता है । मैं भी ला सकता हूं और कोई दूसरे मेम्बर साहिबान भी ला सकते हैं । लेकिन इन चीजों के बारे में कट मोशन लाना तो जायज नहीं है । इन मोशन्स को न दुरुस्त तौर पर कटमोशन्स की शक्ल दी गई है और न दी जा सकती है । जो चीज हाउस ने पास कर दी उस के बारे में ला मिनिस्टर क्या कर सकते हैं । यह तो हम सब की राय पर हुआ है । इसलिये इस तरह की चीजों के बारे में कटमोशन नहीं लाये जा सकते ।

एन्थनी साहब ने कुछ जरूरी बातें इस हाउस के सामने रखीं । उन में से दो बातों का तो मैं जिक्र कर चुका । एक बात के बारे में और अर्ज करना चाहता हूं । जैसाकि उन्हों ने फरमाया, इस में शक नहीं कि रिटायर्ड हाईकोर्ट के जजों को प्रेक्टिस करने की इजाजत नहीं होनी चाहिये । आज यह चीज एक स्कैंडल सी बनी हुई है । सच बात तो यह कि उन का मर्तबा इतना ऊंचा होता है कि उन को इस बात की इजाजत नहीं होनी चाहिये कि मामूली वकीलों की तरह आ कर प्रेक्टिस करें । यह ठीक नहीं मालूम होता । लेकिन यह किस ने किया ? जब कांस्टीट्यूएंट असेम्बली काम कर रही थी तो इन सब बातों पर विचार किया गया और उस ने जिस चीज को पास कर दिया उस में ला मिनिस्ट्री क्या कर सकती है । अब उन बातों को लाजिमी तौर पर मानना होगा । जब तक कि गवर्नमेंट कांस्टीट्यूशन को माडीफाई करने का बिल न लाये और उस को पास न कराया जाय जब तक इस बारे में क्या हो सकता है ।

इसी तरह से श्री साधन चन्द्र गुप्त साहब ने एक और चीज हमारे सामने रखी । उन्होंने प्रेसीडेंट साहब की पावर्स का सवाल उठाया । सवाल यह है कि सारे मिनिस्टर्स की कलेक्टिव रेसपांसिबिलिटी है । क्या प्रेसीडेंट गवर्नमेंट की राय को वीटो कर सकते हैं या नहीं । इस चीज को लेकर पहले ही सारे मुल्क में झगड़ा हो रहा है । तरह तरह की दलीलें दी जा रही हैं । उन्हों ने दो तीन सेक्शन बताये । जब कांस्टीट्यूशन बना था तो इस किस्म का कोई सेक्शन नहीं रखा गया था कि प्रेसीडेंट मिनिस्ट्री की राय को मानने का पाबन्द होगा या नहीं । तो यह कांस्टीट्यूशनल सवाल है । मैं भी चन्द रीजन्स दे सकता हूं कि उन को ऐसा करने का अख्तियार है । आप की इजाजत हो तो मैं रीजन्स दे सकता हूं कि उन को पूरा अख्तियार है । लेकिन यह बहस बेमानी है । इस मिनिस्ट्री की बहस के मौके पर यह बात कहना बेमानी होगा । अगर इसी तरह से देखा जाय तो किसी भी मिनिस्ट्री पर हम हर किस्म की बहस उठाई जा सकती है । तो मेरी अर्ज यह है कि जहां तक ला मिनिस्ट्री का सवाल है उस के बारे में इस किस्म के कटमोशन जायज नहीं हैं और इन बातों पर बहस नहीं की जा सकती ।

यह सवाल किसी ने नहीं उठाया कि किस मामले में ला मिनिस्ट्री ने गलती की है, बिल्स के ड्राफ्टिंग के अन्दर नुकायस हैं या फलां बिल इस तरह का लाया गया जोकि पब्लिक ओपीनियन के खिलाफ था। कोई ऐसी बात नहीं कही गई। जिन बातों का जिक्र किया गया है उन की जिम्मेवारी ला मिनिस्ट्री पर नहीं थोपी जा सकती । इसलिये मैं इन सारे कटमोशन्स को अपोज करता हूं और मिनिस्ट्री की डिमान्ड्स को सपोर्ट करता हूं ।

Shri Ajit Singh Sarhadi (Ludhiana): Mr. Chairman, Sir, at the outset I wish that the report of the Ministry of Law had not been so brief as it is. Brevity is very good, particularly in law when one argues a case, but in

[Shri Ajit Singh Sarhadi]

democracy modesty should not go to the extent as not to show the achievements of the Ministry. We had a conference of the Ministers of Law some time in June 1960 at Srinagar at which the Law Ministers of the country reviewed the decisions that they had taken in 1957. It is quite a long list which was given to us in reply to one of the questions about the recommendations which they had made to the different States. The decisions that they had taken pertain to very serious and important matters, but I am sorry that I do not find a mention of any of those things in the report that we have been handed over. I wish that we had something in the report about the decisions of the conference to discuss about.

I regret that I differ from the hon. Member who has preceded me and for whom I have got very great respect. We have certainly got to raise points which have come up from experience of all these years, though a decision may have been taken once. We have got to bring them to the notice of the hon. Minister of Law when he has got two capacities. He is an adviser on all matters pertaining to law and he has also got the capacity to decide on certain matters. Whenever legislation is called for or whenever an amendment is necessary. I think, this Ministry is the one to which a suggestion can be made and has rightly been made by certain hon. speakers who have preceded me.

The subjects under the Law Ministry are so vast and varied that it will be difficult for me to discuss them all. Therefore I will limit my observations to a few of them. During the course of the discussion in the Budget Session of 1960, the hon. Minister was pleased to say that he was very keen to see that administration of justice was not only speeded up—of course, the word he had used was not cheap—but that it should be inexpensive also. I would beg of the hon. Minister to see whether during the course of this year there is any change. What is the position at present? He said about the matter of priorities and that administration of justice cannot have that priority which the steel plants or the fertiliser plants have got, but when they have got surplus funds, it will be made cheaper. I agree with the premises and also with the proposition, but it is certainly the duty of the Ministry of Law to see whether the administration of justice in the different States is not being commercialised and the duties on stamps are not being raised with an objective to have revenue out of that. I beg of him to see the budgets of the different States. I do not want to name any State, but I would beg of him to see the budget of each State and find out how much revenue is being made by imposing duty in the matter of administration of justice, stamps etc. and whether it is just. Is it not the function of the Ministry of Law to see that the States are not allowed to do that?

I will refer to one other thing. I need not take the hon. Minister into the details of it, but I will just give an illustration. One of the items that was taken up at the Law Ministers' Conference was about the duty on advocates? Advocates are a part of the machinery of administration of justice. One of the recommendations of the Conference was:

> "The Conference recommends that the total fee payable by an Advocate on enrolment should not, inclusive of the fee payable to the Bar Council under the new Advocates Bill, exceed Rs. 500. The Conference was of the view that the amount collected by the State Governments should be utilised for the purpose of the legal aid to the poor."

A very healthy resolution! And what do we find? In-between, after the recommendation of the Law Ministers' Conference, the Punjab Government

raised this duty from the existing Rs. 500 to Rs. 750. I submit that these are the things to which attention has got to be given and they should be looked into.

As I have already said, I would not like to go into details about this. But I would repeat and re-emphasise that the budgets of the State Governments should be examined from this aspect and directives should be issued that this institution, that is the administration of justice in the States, should not be commercialised and revenue should not be made out of it. It should be made self-sufficient if you want. But it is most contemptible that this should be made a thing for getting revenue for the State Government. That is one point which I would like the hon. Minister to take into consideration.

Again, I heartily support the stand taken by the Law Ministers' Conference pertaining to the All India Judicial Service. They are opposed to it. I am at one with them. It does not fit in with the conditions in the country.

I am glad, and the country is grateful to the hon. Minister for having additional Judges appointed to the different High Courts to clear off the arrears. I think there was no other way, and I am sure the time is not far distant when the work will be cleared and it will be unnecessary that any further additional judges be appointed. But I would urge one point very strongly. We have incorporated provision in the Constitution giving protection for the Judges, for the security of their tenure in order to give them independence. That certainly does not apply to the additional Judges. But I believe it should apply in spirit and principle to the appointments of additional Judges also. They should be made as secure as long as they are there. As long as the absence of arrears does not compel their reversion or going back, as long as they are there, they should be secure of their tenure. I mean, once an additional Judge is appointed to a High Court, naturally he should have a right to being considered for appointment to a permanent vacancy. If his case is not considered, there must be some charge against him openly brought. But unless there is a charge, the normal practice should be that he should be appointed to it. All facts should be considered at the time of the appointment of an additional Judge. I may probably differ from my hon. friend, Shri Frank Anthony, about these appointments. I need not say anything on that. But certainly, the presumption is this, that once an appointment is made of an additional Judge, all the facts have been taken into consideration, his merit and so on, whether he is a person from the Bar or from out of the service. But once the appointment is made and he has been given some time, I believe it would be a fundamentally bad thing and most dangerous to the independence of the Judges if he should not be given a permanent vacancy—unless, of course, there is a charge in which case it should be openly brought.

Another point that I would like to draw the attention of the hon. Minister to is about the uniformity of law in the country. Of course, law is of two kinds, substantive law and procedural law. So far as substantive law is concerned, I can appreciate that every State must have its own requirements and must legislate in accordance with those necessities. But when we come to the procedural part of the law at least, it is the function of the Ministry to see to it that there is uniformity. It gave me the shock of my life and I was surprised to find that even the amended Criminal Procedure Code of 1956 does not apply to the Jammu and Kashmir State. I might say that I am not very much interested in the accused persons there. The law must have its course. I am not going to dilate on that point. But what I am surprised at is that the trial of those gentlemen there has

[Shri Ajit Singh Sarhadi]

taken years and years even in the enquiry stage, and I believe about two and half years' time has elapsed, and still it is in the examination stage under section 342. If this amended Act of 1956 had been there, the position would have been different. The committal proceedings would have been finished by this time, and the accused would have been before the sessions court, and the trial could have been expedited.

Shri A. K. Sen: No. How could we have saved time on this?

Shri Ajit Singh Sarhadi: Certainly, time could have been saved. The change postulated in the amended Act was easy and quick disposal. The hon. Minister knows very well what the amendments in the new Act postulated, what its intentions were, and how short a time it would take. The process or the procedure was also of different kinds. In certain cases, the trials could take place in the lower courts themselves. I am only illustrating this point with this objective that it is a matter pertaining to the procedure. Why should there not be uniformity in this? We find in every other Act the phrase 'except Jammu and Kashmir'. I could appreciate that in the case of certain Acts, because it is possible that Jammu and Kashmir has got its own points to look to and the Centre does not want to interfere. But when a matter of procedure comes, I cannot possibly understand why there should not be uniformity. This is one point to which I beg to draw the attention of the House and of the hon. Minister.

The third point which I want to place before the House is the one pertaining to legal aid to the poor. Here also, I find that a very good recommendation was made by the Law Ministers' Conference. They said that:

> "The Conference agrees in principle that there should be a scheme for legal aid to the poor in respect of both civil and criminal cases. The Conference suggests that the Central Government should consider making a contribution of 50 per cent of the actual expenditure incurred by each State in the implementation of the scheme as in the case of Scheduled Castes and Scheduled Tribes.".

That is quite true, but unfortunately, we have not got anything in the report of the Ministry about what the Centre has done, and what the Ministry of Law has done pertaining to this question of legal aid to the poor. As has been reported the other day, the Punjab Government have taken the initiative and rightly too, and have directed their public prosecutors and Government pleaders to allocate a certain time for giving advice to the poor people. Possibly, in the case of the Union Territories, the Ministry of Law can take it up directly, but I am afraid that nothing has been done so far, and it would be well if a model scheme is evolved by the Ministry of Law in this regard which will serve as an example to the other States to follow. We have not got anything of that kind now, though we have been talking about it. Possibly, the Ministry has been deliberating too on this point.

My fourth point is in regard to the age-long question which I have always been advocating, namely the separation of the judiciary from the executive. This is one of the questions that has been discussed both in this House as also outside several times. This has been incorporated in the Directive Priciples in the Constitution. At one time, as is well known, it was sugested that a three year period should be fixed for the purpose of an absolute separation of the executive from the judiciary. Leaving aside the three-year period, we are now in the eleventh year of our Constitution, but I am afraid—of course, in certain States, it may have been completely separated, but—

that there are certainly certain States where the question has not only not been handled and considered, but there are certain States where the question has been shelved. Therefore, I submit that this is one of the things which are very necessary, and I hope the Ministry of Law will pay its attention to this matter and see that at the earliest opportunity this separation is effected. In the Law Ministers' Conference at Srinagar also, they took up his point also, and they said that the executive and the judiciary should be separated at the earliest. Of course in their recommendations they opposed the question of parliamentary legislation for this. I can appreciate that. This legislation was not undertaken in 1950 when the Constitution was passed because it was found to be not necessary. All the same I do not see any reason why active steps should not be taken by the Centre to see that the States whichever States they be, without naming them, take up the question and bring about the separation of the judiciary and the executive, which is the basis of democracy. The main criticism is that the judiciary and the executive are not separated.

Then I entirely endorse and support my hon. friend, Shri Frank Anthony; when he said that hon. Judges should not, when they retire from the Bench, be allowed to practise. There are two things in this. I am not concerned with the aspect with which the hon. Member dealt, and which my hon. friend, Pandit Thakur Das Bhargava, with his wide experience has supported, namely of favouritism and other things creeping in; not favouritism exactly, but some weakness that might creep in. I do not want to deal with it. But I would certainly say that it looks rather unfair that they should be allowed to practise. When a government officer retires and takes up employment under another government agency, the pension that he draws is deducted from the remuneration that the other department fixes. Here an honourable Judge who retires starts practice, say, in the Supreme Court. He becomes an official of the court and also draws his pension. This is a rather anomalous position, leaving aside all other aspects. So I would certainly say that some measure should be devised and adopted whereby this practice should be stopped. Judges who retire should take into consideration the dignity of the position they had held and refrain from practising.

There is another point which I hope Government will take into consideration. The hon. Minister of Law certainly said, and rightly too, that we have got to take the advice of the Supreme Court in matters and not give advice. But in a matter of decorum and procedure, I think the Government can give some suggestion. I can tell the hon. Minister that most of the Jundges themselves feel very awkward now-a-days in this democratic age to be addressed at 'My Lord' or 'Your Lordship'. Since we are coming up in the democratic age and will be using Hindi, what will be the words which will be used in place of these? 'Shriman' or 'Shrimanji' is a more respectful and important word, as we say 'Shri' Rama or 'Shri' Krishna.

Shri M. B. Thakore (Patan): But when addressing in English, why not say 'My Lord'?

Shri Ajit Singh Sarhadi: It would be better if they are advised that we have reached a stage, when we are in a democratic set-up, when it would be awkward to use such expressions when addressing Judges. In this democratic age, with the principle of equality and all that and with the disappearance of the old system of Lords and Peers, we have got to discard the old usage and changeover to the new.

With these words, I support the Demands.

Mr. Chairman: Hon'ble Members may now move their selected cut motions subject to their being otherwise admissible.

Need for abolishing the discriminatory policy regarding entry of lawyers in the Counsels' Chamber of the Calcutta High Court

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (817)

Need to expedite the implementation of the recommendations of the Law Commission on different statutes

Shri Aurobindo Ghosal: I beg to move:

"That the demand under the head Ministry of Law be reduced by Rs. 100." (956)

Need to create a fund to aid the poor litigants

Shri Aurobindo Ghosal: I beg to move:

"That the Demand Under the head Ministry of Low be reduced by Rs." (957)

Need to improve the drafting of Bills

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (958)

Need to frame rules along with the Act.

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (959)

Advice given in respect of the agreement regarding transfer of Berubari

Shri Sadhan Gupta: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1033)

Advice given regarding the Orissa Appropriation Bill and Orissa Appropriation Ordinance

Shri Sadhan Gupta: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1034)

Need for the election commission to delineate constituencies in consultation with political parties recognised on All India and State basis while bifurcating plural member constituencies

Shri Sadhan Gupta: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1035)

Need to introduce schemes of legal aid to poor litigants

Shri Sadhan Gupta: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1036).

Advice given in respect of the appointment of the Chairman of the Finance Commission

Shri Sadhan Gupta: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1038)

Failure to consult Attorney General before former Comptroller and Auditor-General was appointed Chairman of the Finance Commission

Shri Tangamani: I beg to move:

"That the Demand under the head Ministry of Law be reduced by Rs. 100." (1039).

Need for preparation of the correct list of voters

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Elections be reduced by Rs. 100." (818).

Need for supply one list of voters free of cost to each contesting candidate

Shri Tangamani: I beg to move: move:

"That the Demand under the head Elections be reduced by Rs 100." (819).

Need for the liberal provision for enlisting voters even after the usual date for application

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Elections be reduced by Rs. 100." (82)

Need for Speedy disposal of Cases by the Election Tribunal

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Elections be reduced by Rs. 100. (821).

Need for liberalising the procedure for submission of accounts by the candidates

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Elections be reduced by by Rs. 100." (822).

Need for prohibiting allocation of fixed symbol to any communal party in the elections

Shri Aurobindo Ghosal: I beg to move:

"That the Demand under the head Elections be reduced by Rs. 100." (823)

Need to consult political parties at different levels before double member constituencies are bifurcated

Shri Tangamani: I beg to move

"That the Demand under the head Elections be reduced by Rs. 100." (1037)

Need to expedite the report of the Hindu Religious Endowments Commission

Shri Aurobindo Ghosal: I beg to move.

"That the Demand under the head Miscellaneous Expenditure under the Ministry of Law be reduced by Rs. 100." (824)

Mr. Chairman: All the cut motions are now before the House.

Shri Amjad Ali: I will read out a paragraph from page 4 of the Report given by the Ministry of Law. It says:

"This section"—that is, the Election Section—"deals wi h all matters relating to election Law and election expenditure, the administration of the Representation of the People Acts, 1950 and 1951, and the rules made thereunder, and all administrative matters concerning the Election Commission and the delimitation of Constituencies".

When we take up the question of making election law, the Minister of Law would surely agree that the present law of election, the Representation of the People Act, 1951, requires amendments in many respects. To illustrate this, I shall point out only a few that would show that the law requires a certain amount of recasting. I believe he will take it up because the elections are coming.

I would refer the hon. Minister to the question of election expenses. Under the section, the individual candidates are required to submit a return of their election expenses in order to know how much a candidate has spent. But in order to get at a correct idea of how much the election has cost a particular party, we should also know through a certain section of the Act what the election expenses of the party are. That should be a section so that we could know how much expenses a party has incurred rather than an individual.

During the discussions on the amendment of the Company Law, we had occasion to see that objections were raised to contributions to political parties. It was said that certain amounts which go to political parties should also be accounted for. This is an occasion when I would like to bring to the notice of the Law Minister that the election expenses incurred by a party, whichever party it is, should be accounted for.

The next thing is regarding appeals. Under section 116 of the Representation of the People Act, a Division Bench of the High Court sits in judgement over the decisions of the Elec-

[Shri Amjad Ali]

tion Tribunal. To that extent it is all right. After the decision of the High Court, if you want to go to the Supreme Court you have to go under article 136 of the Constitution of India. That is a very cumbrous and risky process because in these Special Leave petitions the Judges of the Supreme Court act as if you their whims. Sometimes, it so happens that a petition is dismissed in 5 minutes' time. This is an important thing which should be appealable to the Supreme Court. So, instead of one appeal there should be two appeals, and it should be expedited.

The other thing which strikes some of us is the precise details which the election petition should contain. Whenever an election petition is presented to the Election Commission, details have got to be given. The law is mandatory on that point. But, sometimes points are left vague and the details are filled in later. The law should be so specific that details could not be given afterwards. If details are not there, the election petition should be dismissed forthwith.

It has also been observed that in some cases the deposit of Rs. 1,000 is not enough. Nowadays the value of money has gone down. So, to that extent, the bringing in of frivolous election petitions is not remote. Whatever may be the criteria, the deposit of money for security of expenses should be more than Rs. 1,000|-. I would suggest, and if the hon. Minister is agreeable, it should be Rs. 2,500|-. Election petitions should not be brought in frivolously. It will be a check against frivolous election petitions. I can carry the point further. If the petition is dismissed and if it is found that it had absolutely no ground, then the money so deposited should be forfeited and the expenses given to the other party. This much, with regard to the Representation of the People Act and the amendments and rules.

As regards the Election Commission and delimitation of the constituencies, one point has been brought before the House. Orissa elections are coming near and it is to be brought to the notice of the Ministry of Law that mid-term elections are going to be held right in the month of June. It is a very hot month in Orissa as is not the case with many other States; it is also the cultivable season. The floods are also there. The weather is uncertain We do not know whether elections in June in Orissa is at all feasible or possible

In page 3 of the hand out issued, under the section heading judicial, there is a remark about the legal aid to the poor. This question was mooted as early as 1958 or 1959. Several Law Ministers' Conferences had been held and the Ministries in the States had also been drawing the attention of the Law Ministry here.

Shri M. B. Thakore: On a point of information, Sir. All the hon. Ministers are talking among themselves; they do not listen to the hon. Member's speech.

Mr. Chairman: I think they are listening.

Shri A. K. Sen: Is consultation prohibited?

Shri Amjad Ali: I have no grievance if the hon. Minister does not like to hear my speech.

Shri A. K. Sen: I have always been delighted to hear the hon. Member . . .

Shri Tangamani: Action speaks far better.

Shri A. K. Sen . . .as I have been delighted to hear Shri Tangamani.

Shri Amjad Ali: Special legal aid to the poor has been allotted to this section. Last year the hon. Minister of Law gave us the promise that this subject was engaging their serious attention. We were also told that the Ministry of Law had consulted the various State Law Ministries and a scheme was drawn up for giving legal aid to the poor. We see no visible signs of its implementation. There is only one sentence at page 3 which says "Legal aid to the poor is also

alotted to this section." Sir, I ask is this enough? There should have been some reference to the promise he gave us last. year during the Budget discussions. In his reply, we hope he should let us know what the actual position is.

With regard to the implementation of the recommendations contained in the Law Commission's report, he has given out the details in the hand out. He has said that some laws are on the anvil. There have been some delays.

For instance, to take only a few, the Legal Practioner's Bill was introduced in 1959, it was referred to a Select Committee in 1959 and in 1960 that Select Committee submitted its report. Half of 1961 is over, and I do not know why this Bill is not yet coming before the House. There are two other important Bills like the Specific Relief Act and the Law Limitation. These two Bills have been circulated to hon. Members. They have also been introduced in this House. There is no indication just now to show whether they are at all coming before this House for discussion and for being placed on the statute-book.

On page 8 of this book it is stated that the Law Commission has also engaged itself in the revision of the laws relating to a number of subjects. The important subjects among them are also mentioned. There are some ten Acts which are under their consideration for review and probably some changes are going to be brought in them. I have a fear in this respect. I candidly confess that there are some laws like the Indian Evidence Act, the Indian Penal Code, the Civil Procedure Code and the Criminal Procedure Code which are good legacies of the British period and which have worked for more than 150 years with a good deal of success. If the Law Commission has got to go into these laws, I should caution that too much of interference or too much of changes at every step as far as these laws are concerned is not good. The Indian Evidence Act is a monument on which you can very well rely. The Indian Evidence Act is a law which is flawless. Till now it has worked very satisfactorily, and if you make changes now possibly it will share the same fate as our Criminal Procedure Code. We have amended the Criminal Procedure Code and made it worse. We tried to make it workable in a better way, but the Criminal Procedure Code has actually gone from bad to worse. In actual working we have seen that the Criminal Procedure Code is not, as a matter of fact, working well. It is for the time being considered to be a very bad law.

An Hon. Member: Bad?

Shri Amjad Ali: In some respects it is a bad law.

A point has been brought to the notice of the Ministry of Law regarding writ petitions under article 226 of the Constitution. The scope of this article has got to be enlarged. It is really a pity that simetimes, as it happened a man had to come from Kerala right up to the High Court of Punjab for filing a writ petition. I think the hon. Minister will take note of this fact. He must be knowing the party involved in that case. It was brought to his notice also.

The Deputy Minister of Law (Shri Hajarnavis): We remember all the facts of the case.

Shri Amjad Ali: I am glad you know them. You take note of it.

Shri Tangamani: The Ministry is responsive to this demand.

Shri Amjad Ali: The other thing is the Law's delay. Kashmir possibly is regarded for all intents and purposes as part of India. The Ministry of Law for the time being is spending a huge amount since 1958 over two cases that are going on in Kashmir. One has gone right up to the examination of the accused under 342: and the other not beyond the committal stage. Justice delayed is justice denied.

[Shri Amjad Ali]

The accused were brought to trial as early as 1958 and from then on, the whole gamut of the trial is not going beyond the stage of committed.

Shri Hajarnavis: So far we have not objected to any criticism which was made in the House. *Prima facie* a great deal has nothing to do with the Ministry, but where it comes to a reference to the proceedings in a court of law, I think we must draw the line.

Mr. Chairman: It is *sub judice*.

Pandit K. C. Sharma (Hapur): It is not appropriate to refer to it. This is a matter which is *sub judice*.

Shri Amjad Ali: To that extent I agree. I have got nothing to do with the question of the mode trial or with the question of judgment. I have nothing to do with what the judges in those cases are doing. I have brought in the question of expenditure and the question of delay.

Shri Hajarnavis: There, we are entirely in the hands of the magistrates who tries the accused who are before the magistrate, and who go on taking their own time in their defence as they are advised.

Shri Amjad Ali: May I ask one question? The Hazaratbal case was started in the year 1958 is still there. The hearing in sessions has not begun till today. He is aware of it. I think he would say, "I am powerless in this respect." But I think there is no answer to that.

Shri Hajarnavis: We will try to place the facts before the House.

Shri Amjad Ali: With these words, Sir, I resume my seat.

Mr. Chairman: Shri Narasimhan.

Shri Rami Reddy: Those who have not participated so far in the Demands for Grants should be given a chance.

Shri Narasimhan: I would particularly refer to legislation made by this House and the part that the Ministry plays in it. There is a phenomenal increase in legislation. We have absolutely no time to attend to other matters. Sometimes I even wonder whether in these democratic countries it is the duty of the executive to fill us with legislative work and somehow or other divert us from concentrating on administrative work. I do not say this particular set-up is consciously responsible for this state of affairs, but that seems to be the kind of development in similar democracies elsewhere, and having adopted the virtues and vices of those democracies, we face similar difficulties here and there is no time for us to deal with administrative work. So we have to address ourselves to work connected with administration and legislation should be kept to a minimum.

Apart from that, when legislation increases, when there is pressure from the executive which has the initiative all the time in bringing forth legislation, and when the pressure increases, the Parliament as such finds it very difficult to go slow. They accept the hustling done by the executive and that upsets all the pieces of legislation which are recommended. Therefore, a certain amount of weaknesses which are bound to result from hasty step accrues to the pieces of legislation in the past.

Therefore, in the courts and various other fields, the parties are affected by the legislation, and we find in the courts a lot of criticism about the way we legislate. When we meet members of the bar, they do ask us as to how we legislate in the way we do. I wonder whether it is parliamentary or not, and so I hesitate to use the word which they use in regard to this matter. They ask us: "What the hell do you mean by passing such pieces of legislation"? They point out many inconsistencies in the legislation.

Shri Tangamani: Then the courts will have to go altogether. We cannot abdicate our right to legislate.

Shri Narasimhan: I met lawyers who have said that "here are such inconsistencies in the wordings which you have framed" and so on. Almost any person will question us like that, because in democracy, the legislator is challenged in every field by every voter in every sector. For what we do collectively here we have to face our voters signly. This being the position, and this being the question, we need not fight shy, and we should not close our eyes to such criticisms. It is even our normal duty to appreciate the criticisms in the right perspective. So, in this hustling, mistakes may occur. To the extent these matters lie in the hands of the Ministry, they can try to avoid it. There are solutions for it. For instance, Bills can be referred to Select Committees. Though the initiation of particular Bills may be the responsibility of the various Ministries, the Law Ministry, as the conscience-keeper of the legislative aspect of this Government, can certainly tell the sister departments that as far as possible complicated legislation should be referred to Select Committees. That would be one way to reduce hasty legislation. What we cannot do quickly and collectively, perhaps the Select Committee can do.

Another method by which legislation can be useful and acceptable to the country and can serve the purpose for which it is meant is to consult the views of the State Governments also, though constitutionally it may not be necessary, I have known cases where certain suggestions and amendments that emanate from Select Committees and from State Governments are much better than those that emanate from Government of India's advisers themselves.

Dr. M. S. Aney (Nagpur): You are partial to the State Government.

Shri Narasimhan: I am partial to what at the moment strikes me as correct. In many cases, I find that where the State Governments express their views or views are expressed at the Select Committee stage, the law advisers of the Government and the Law Minister as well as the other Ministers who pilot a particular legislation ignore the points mentioned at by the State Government, because they have the power to legislate without taking the advice of the State Government when the matter is in the Concurrent List, for example, or when the suggestion from the State Government is purely voluntary. My specific suggestion is, as far as possible, Bills should go before Select Committees and as far as possible State Government's reactions to these measures have to be obtained. This way we can certainly help to reduce the evils of hasty legislation.

Shri Hajarnavis: May I request the hon. Member to give me at least one instance where the views of the State Government were ignored?

Shri Narasimhan: I am referring to a long period of legislation and therefore it is not possibel for me to quote. There are many occasions: day in and day out representations are made. The other day, the Finance Minister of Madras was rather sorry that in the matter of excise legislation, they have surrendered some legislation to the Centre and now the Centre adds to the list of excise duties, with the result that the State's finances are affected. Therefore, this is nothing new Both may be right; their side may be right and our side may also be right. But my point is the State Governments should be consulted.

We are in a particular stage of national democratic development. When we do certain acts, we should do them so that they may be very good precedents for posterity. It is our duty to see that sound conventions are established. The Ministry

[Shri Narasimhan]

can certainly help in various administrative acts to establish sound conventions, where legally there are no good provisions. For instance, even in the matter of legislation, the Estimates Committee the other day referred to the State Trading Corporation levying duties on cement and thereby getting some money. They say it is not correct procedure. Taxation should be through legislation and not through an administrative act. What I want to say is, though it pertains to other Ministries, when a certain thing is found even by a committee of this House to be not correct and should be done otherwise, a good precedent can be established if the good offices of this Ministry are properly utilized at the appropriate time. For instance, the Committee says:

> "The Committee consider it most inappropriate that in addition to the considerable revenue raised by levy of high Excise Duty, Government should have taken advantage of its monopoly in raising substantial additional revenues by fixing high prices for cement. They are of the opinion that if such additional revenue had to be raised it should have been done through a specific taxation measure with the approval of Parliament had not under excutive action by charging high prices for an essential commodity like Cement."

Here I am not mentioning only the case of cement; nor am I saying that there should be no taxation. Let them take all the financial resources necessary for the Plan. Let them take even more, if necessary. But let us establish a precedent that all that will be done under appropriate enactments. Let us see that the letter of the law is kept sacred by appropriate enactments. Let it not be circumvented deliberately by Government, which is made a grievance of by committees of Parliament.

I now come to Orissa and, I am sure, Sir, you will be interested. I am rather sorry to find that while the general maxim is "ignorance of law is no defence" and that is how the average man has to function, as he has no other remedy, here we found even Governments are ignorant of law. Once a Government passed a law, which was interpreted by another Government as wrong, keeping the general public guessing I think in these matters we must be fore warned. There are various ways of contact between the States and the Centre. So, in all much matters I want fore-thought to be applied and it is always better to be fore-warned. This sort of thing does not do credit to the law officers, either of the State or of the Centre. And if the law officers, are not functioning properly, it is the man in the street who suffers. It does not do any harm to the State Government or the Central Government. Whether he is beaten with this stick or that stick, he feels the pain all right.

Then there was a case in Bombay of a naval officer where this Ministry gave some advice and, under that advice, the State Government acted in a particular manner and the act of the State Government was found to be wrong.

Shri Hajarnavis: May I point out to the hon. Member that our advice was upheld by the Supreme Court?

Mr. Chairman: The hon. Minister may address the Chair.

Shri Narasimhan: Even then they were not acceptable to some courts or other and what was ultimately held by the Supreme Court is a matter for considerable controversy and difference of opinion.

What happened in Orissa? In Orissa, it is claimed that the Centre advised the State in a particular manner. If they had taken the advice of the Centre it would have been better. In any case, ultimately, it is the man in the street that suffers.

Finally, there was a mention about the right of appeal to the Supreme Court. It was stated that by the increase in court fees the fundamental rights are affected. There is another matter. Under article 226 of the Constitution, as it stands at present, the writ appeals and others have to be channelled only through the Punjab High Court, and that reduces the efficacy of relief to the man in the street through other High Courts.

This has been referred to by various lawyers. Even the Law Commission has mentioned this matter. Some of us have introduced our own Bills, the Private Members' Bills, to remedy this defect. My colleague, Shri Pattabhi Raman has also given notice of a Bill and I have also given notice of a Bill for a similar purpose. Many other hon. Members have followed. I do hope that Government will apply its mind to see that this kind of disparity and discrimination between courts and in their capacity and ability to give redress is removed and all High Courts are made equal in this matter so that all citizens have the same advantage.

Shri Naushir Bharucha (East Khandesh): Mr. Chairman, Sir, I propose to speak on two subjects, firstly on the question of political contributions in relation to elections and, secondly, on the question of the recommendations made by the Law Commission and how far they have been translated into effect.

The hon. speaker, speaking before me, referred to political contributions to parties and the justification, so far as the ruling party is concerned for accepting political contributions from the corporate sector, was that the expenses of elections had become prohibitive and that a party had to incur heavy expenses. Therefore political contributions were justified. I am of the view that a time has come, if we really desire to make our democracy the democracy of the poor man to overhaul completely our conception of the responsibilities of candidates in the matter of election expenses. Normally the permissible limit of election expences is Rs. 25,000 which is a fortune beyond the reach of 99 per cent of the population of this country. Yet, we call it a people's democracy? How can it be a people's democracy when 99 per cent of the people are prevented by sheer reason of the expenditure from contesting elections or from making their contribution to the Government of the country? I am of the opinion that we should abolish this practice of political contributions and instead have straigh away payment of election expenses out of the exchequer to succesful candidates. Suppose a sum of Rs. 10,000 was paid to each successful Lok Sabha candidate, 500 candiates would require to be paid Rs. 50 lakhs in five years' time. And, suppose there are 4,000 Assembly candidates each being paid Rs. 5,000, it would come to Rs. 2 crores. Assuming for a moment that there were Rs. 3 crores to be spent in five years, that is Rs. 60 lakhs per annum, it would work out to a per capita incidence of 1½ nP per annum. I do not think that it is a big price which the people of India have to pay to make democracy really a people's democracy. I am of the opinion therefore that instead of permitting our public life to be currup'ed by contributions from the private sector, it is much desirable if political parties have to be assisted in organising elections that the burden of election expenditure must fall eqully on the State exchequer so that all parties benefit and nobody can complain.

Coming to elections, our elections have been managed very well. We have the biggest democracy in the world. There is no comparison with any other democracy from the point of its size. So far as this is concerned. Our electorate is nearly 170 to 180 million. Now perhaps it will run up to 200 million.

Shri Braj Raj Singh (Firozabad): 210 million.

Shri Naushir Bharucha: May be, 210 million. So far tht Election Commission have done the job extremely well and impartially. I think this House must pay a tribute to the fact that our elections have been beyond the influence of the ruling party. The day the previous Election Commissioner, Shri Sukumar Sen, retired, I paid him a tribute and I do hope that in the forthcoming elections the present Election Commissioner will maintain the rich traditions which the previous Election Commissioner has set up.

The purity of elections depends primarily on the method of recording the votes and one new me hod that has been suggested now by the Election Commission is to put a pencil cross against the name of the candidate for whom you desire to vote. And the difficulty experienced in this connection is that practically 80 per cent of the people of India have not handled a pencil in their life and cannot put a cross. But if you permit the old system of ballot papers being dropped into ballot boxes . . .

Shri Hajarnavis: May I explain what actually happens? I voted at one of the elections where the marking system had been introduced. What the polling officers provide is a rubber stamp, and only that rubber stamp is to be used.

17 hrs.

Shri Naushir Bharucha: Even that is extremely difficult for illiterate people to apply it at the right place. What I am suggesting is some hing simpler which will not cost you either for a pencil or for a rubber stamp. Accordig to my suggestion, a method should be devised for puncturing the symbol of the candiate either by a nail or a sharp instrument or even by a thorn with which even the commonest man in India is very familiar. If you, for instance, have a ballot paper where you have got the name of the candidate and the symbol and the necessary panels against the symbol, punc uring a hole in the panel is the easiest thing to do and it can be done. It saves the expenses on the pencil—and this pencil is not replaced for minutes together or hours together. When i s point breaks. All this is a question of applying original thought, and it should be done.

With regard to the recognition of political parties, the practice is that so long as 3 per cent of the total votes cast are obtained by a particular party, it is recognised as an all-India party. For the next five years new parties have no scope for recognition. I think the time has come for changing the procedure wi h regard to the recognition of political parties, and the criterion should be not 3 per cent of votes which you may have got in the past but your ability to put forward candidates in the field. And I am of opinion that any party which puts about 50 candidates in the case of Lok Sabha seats or 200 candidates for the Assemble seats should be given the status of a recognised party.

17.03 hrs.

[SHRI MULCHAND DUBE *in the Chair*]

There is one small point to which I would like to make a reference, namely, the certificate issued by the Election Commissioner on the election of a candidate which contains his address, that is of his residence, with the result that all our mails are redirected to our residential addresses. And ninety per cent of us are locked up here for six months in the year. So provision should be made for providing additional particulars where the successful candidate desires his mail to have redirected.

Coming to the question of the Law Commission's recommendation, I find a great many of the recommendations have not been fulfilled. I should like to ask the Minister what has been done with regard to the proposal for the creation of an All India Judicial

Service, and about the Law Reporting Council for the publication of Supreme Court Decisions, how far progress has been made in these directions?

I also put forward the plea for increase in the pension of the Chief Justice of India, the Supreme Court Judges and also the High Court Judges on the ground that they are debarred from taking up any practice in any court whatsoever. This is a salutary principle which should be followed. But then, to compensate for that there is need for increasing the pension of the Chief Justice of India and of the Supreme Court Judges and High Court Judges.

We hear of complaints of delay with regard to the disposal of cases by the High Court. I find that the pace of legislation has been at such a breakneck speed, that as the report of the Law Ministry indicates we have enacted 67 Acts during the last year. That adds to the work of the High Courts. I suggest it is very necessary, as the Law Commission has recommended, that an occasional review of the strength of High Courts should be undertaken and in the light of the recent increased legislation there should be appropriate strength of the Judges provided, together with the administrative staff.

I also would like to invite the attention of the hon. Minister to the question of disposal of arrears of work in the High Courts by the appointment of *ad hoc* additional judges. This is very desirable and it should be done.

The Law Commission has made numerous other recommendations such as that the writ jurisdiction of the High Courts should not be curtailed but that the additional petitions which now pile up with such enormous speed should be disposed of by increasing the strength of the High Courts correspondingly. What has been done about them?

Above all, I should like to know whether Government have taken any decision at Cabinet level for the creation of a Ministry of Justice. I am of the view that unless such a Ministry is created we shall neither have uniformity in the matter of administraton of justice nor have effective supervision or expedious administration of justice.

There are other recommendations made such as that the retirement age of the judges should be increasd to 58. I should like to know whether at Cabinet level, any decision has been taken on this matter.

Shri Amjad Ali: It was 65, and not 58.

Shri Naushir Bharucha: That was for the High Court judges. I am talking of the other judges.

Apart from this, the Law Commission made several other recommendations, some of which would require amendment of the Constitution. I should like to know whether Government intend to undertake any of those constitutional amendments. One of these is regarding debarring Supreme Court judges from accepting further employment under the Government as also High Court judges from practising in any court after retirement. I am also of the view, and I am sure many of the hon. Members would choose to endorse my opinion, that not only should they not be allowed to practise, particularly the Supreme Court and the High Court judges, but that no Chief Justice should be appointed Governor of any State nor should he be appointed as Ambassador, because it has got a very currupting influence. After all, notwithstanding the fact that we have a calibre of judges today who are beyond reproach, human nature being what it is, it is safe to provide for the posterity, and I think that either a convention should be developed or the Constitution should be changed, so that no Chief justice can be made a Governor or an Ambassador, much less, should he be

[Shri Naushir Bharucha]

given a ticket to contest the elections from the ruling party. There are numerous other questions such as limitation of jurisdiction under article 226 to the territorial jurisdiction of the High Court resulting from a decision of the Supreme Court, which requires to be removed. I think my hon. friend Shri C. R. Pattabhi Raman has introduced a private Member's Bill, and I think Government would do well to took in o that measure and see that this grievance is removed.

With regard to the question of special leave to appeal under article 136, to which reference has been made already, the Law Commission has made a recommendation that leave should not be given too freely. Unfortunately, I do not agree with this recommendation, and I hope that Government will not make any constitutional amendments but permit leave to be given in fitting cases, leaving it to the discretion of the Supreme Court.

Before I conclude, I would like to pay my tribute to that branch of the Law Ministry which looks into the work of drafting of Bills. It is true that the work of drafting has come in for criticism, sometimes, at the hands of the learned judges and very often at the hands of hon. Members here, who, if they were asked to draft a single section of a Bill of complicated a nature would have proved very miserable failures. I appeal to all hon. Members to face this fact that the output of legislation, so far as this House is concerned, is phenomenal, and often it has to be undertaken at break-neck-speed; it is humanly not possible to draft any piece of legisation that is free from all unforeseeable defects, but I do pay my tribute to that section of the Ministry which does this work day in and day out and under circums ances which are far from congenial, often under instructions which are imperfect, vague and often conflicting. I do hope that notwithstanding the criticism that is levelled, the parliamentary draftsmen will continue to render service to this House which they are doing, and I do hope that the requisite strength of administrative staff that this section needs will be given by the Ministry and not avoided on the ground of economy.

There are several matters on which the Law Commission has made recommendations, but they deal with minor matters that the High Courts under the rule-making powers can look into. But the points I have raised concern questions of policy and I do hope the hon. Minister will take this House into confidence and let us know how far Government have taken decisions or taken action on the recommendations of the Law Commission.

Shri Raghubir Sahai (Budaun): We are all familiar with the valuable work done by the Law Commission since it was first constituted. We know that it submitted its monumental Report on reform of judicial administration which we all admire. Since then, this body has become permanent and is now busy with revision of so many Acts and has issued reports from time to time. At the moment, it is busy with revision of many other Acts including the Code of Criminal Procedure, the Indian Penal Code and the Indian Evidence Act.

I may remind the House that when Dr. Katju was Home Minister in the Government of India, he undertook a revision of the Code of Criminal Procedure with the avowed object of reducing the cost of criminal litigation and reducing the delay in disposal of cases by symplifying the procedure and reducing the prevalent prejury in law courts. As is clear, although they were admirable objectives which he had in mind, even the amended Code of Criminal Procedure does not satisfy all these requirements.

Shri Amjad Ali: It has miserably failed.

Shri Raghubir Singh: Whatever that might be.

An Hon. Member: He does not agree.

Shri Raghubir Sahai: I agree that even after this amendment, a very comprehensive amendment at that, the cost of litigation has not been reduced and the delay in deciding cases has not been cut short, and the incidence of perjury has not gone down. There is another alarming feature, that the number of acquittals of guilty persons is getting larger and larger. All these points are to be considered while we take up the question of the reform of the administration of justice.

In this connection, I would like to invite the attention of the House and of the Law Minister to the very pertinent remarks of the Chief Justice of India, Shri B. P. Sinha, made after a tour of Japan. He said:

> "We should consider whether in India where the trend of law and litigation was fast changing, we should reform our legal system so as to conduce to speedy and effective administration of justice".

These are not the remarks of an ordinary layman but of the highest judicial authority in the country Speaking about his visit to Japan he said:

> "Cases were disposed of in Japan speedily by courts".

In this connection, he also said:

> "The Japanese background of law and litigation was the continental system unlike the common law system which was inherited by India from the British".

The Chief Justice further remarked:

> "We lawyers and judges by training and tradition are loath to change things and are always trained to look backwards".

I hope the Law Minister will take note of these remarks.

> "But in India the trend of law and litigation is fast changing and we have a pattern where we are looking forward instead of looking backward".

I feel these are very pertinent remarks from the highest source of justice. They should be taken note by the Law Commission because, at the moment, they are engaged in the revision of the Criminal Procedure Code, the Indian Penal Code and also the Indian Evidence Act.

Only this morning, in reply to a question by some hon. Member, the Home Minister was pleased to place a statement on the Table of the House which goes to show that the re-constituted Law Commission in considering the question of symplifying the procedure in courts. It will suggest necessary amendments to the procedural codes with a view to simplifying the procedure and ensuring speedier justice.

So, these remarks of the Chief Justice of India are very pertinent and should be taken note of by the Law Commission. Now, our aim should be that delay should be avoided in deciding cases not only in criminal courts but also in civil courts, and the cost of litigation should be reduced to a minimum and that perjury is eliminated altogether from law courts and that the real culprits are punished.

We are wedded to the old maxim of jurisprudence that one innocent person should not be convicted while 99 real offenders may be acquitted. I think the time has come when we should give the go-bye to this old legal maxim and should have another maxim instead that every guilty person should be punished and that every innocent person should be acquitted. This can only be possible when we accord some place to truth-speaking in the law court. It is very necessary that we should try to evolve a system of administration of justice where truth-speaking in law courts from the lowest to the highest should be insisted upon.

In this connection,.....

Shri Harish Chandra Mathur (Pali): Has the Law Minister anything to do with the law courts?

Shri A. K. Sen: He is meaning procedure.

Shri Raghubir Sahai: I am just inviting his attention to the fact that these matters should be taken note of. You have not, perhaps, followed my argument. They are all meant for the Law Commission. Perhaps, you were not here from the very beginning. *(Interruption)*.

In this connection, I may bring to the notice of the Law Minister that it was in the year 1958 that I brought forward a Private Member's Bill in this House suggesting an amendment of sections 342 and 562 of the Code of Criminal Procedure. In that Bill, I suggested that in section 342, the word, 'false' should be deleted and there shou'd be no statutory recognition guaranteed even to an accused to make a false statement in court. By an amendment of section 562 I wanted that 'making a clean breast of the whole thing' may be regarded as one of the extenuating circumstances.

It may be within the knowledge of hon. Members who were here in 1958 that this Bill was circulated for eliciting public opinion, and many High Court Judges, the District and Sessions Judges, District Magistrates, Bar Associations and others expressed their opinions on the Bill, many of them in its favour. I only wish that when the Law Commission is engaged in this great task of revising the Code of Criminal Procedure, the Indian Penal Code and the Indian Evidence Act the very valuable and important remarks of the Chief Justice of India may be taken note of and, all this material collected under my Bill may be forwarded to the Law Commission so that it may also take note of that and utilise it wherever it finds it necessary.

In this connection I may also invite the attention of the House to one of the recommendations of the Law Commission that the court fees that are prevalent at the present moment should scrapped. It is one of the fundamental duties of a government to dispense justice free of charge. That recommendation was made by such a high-power commission as the Law Commission and it should not be brushed aside. If it is not possible, then the court fees should be reduced to a minimum.

With these words, Sir, I support the Demands relating to the Ministry of Law.

Shri Aurobindo Ghosal (Uluberia): Mr. Chairman, Sir, we are living in a set up where rule of law has been acclaimed as one of the guiding principles in our activity, and I think that in all democratic countries law plays an important role. While I agree totally with my hon. friend Shri Bharucha that the draftsmen have got a very difficult job in drafting Bills in such a manner and at such a rate as we are proceeding where they have to make a mass production of Bills like a machine in a factory for being placed before our Parliament, still I must say that the standard of drafting has fallen down to some extent from what it was previously. This is evident from the fact that many amending Bills are coming before us year after year. I admit that Acts relating to some social or some topical subjects need changes according to the exigencies of the time or change of circumstances, but Bills for amending the provisions of Acts which are a permanent nature should not often be brought before this Parliament. If Bills are drafted with some farsightedness, with some idea as to what problems can arise in the course of operation of the law, I am sure many of these amending Bills can be avoided.

Secondly, I would like to refer to the tendency that we find both in the Central Government and also in the State Governments to avoid adjudications of the courts. There is one instance which has been already referred to, and that is regarding the Berubari matter. The Supreme Court gave its judgment. In order to avoid that judgment we had to amend even the Constitution. In the case of tribunals or other adjudications where judges are appointed, there also we find that not only the Central Government but even the State Government try to avoid implementation of those awards or decisions. I will

give one example. Recently I have come to learn that the Assam disturbance was enquired into by a court of law and by a tribunal. But after the tribunal had submitted its report the State Government refused to accept it and publicise it before the people. What is the meaning of appointing judges as adjudicators if the State Government or the Central Government do not ultimately agree to accept their verdicts? So I would request the hon. Minister to see that both the State Governments and the Central Government attach some honour to the judgments that are delivered by the adjudicators of tribunals which are presided over by judges.

Then I would like to refer to the difficulty that we face in the High Courts and the Supreme Court in the case of industrial and social legislations, because many times the judges nullify the provisions of these legislations by interpretation of the law with the result that we do not get justice. Sometimes the interpretations become too much technical. Legal quibbles spoil the purpose for which legislation is passed by this House. There are so many cases. Take the case of the provision for lay-off under the Industrial Disputes Act. The desire of the House was not reflected properly by the Supreme Court in their interpretation. Naturally, we had to bring an ordinance and thereafter an amending Bill. Take also the recent measure—the U.P. Sugarcane Cess Act. That Act was also declared by the Supreme Court, in quite a technical way, as illegal and that the State Government had no powers to pass such an Act. Ultimately we had to come out with an ordinance and thereafter a Bill had to be passed. Naturally, the judges who live in an egalitarian society, who have got little connection with the people, should be asked to liberalise their views at least in the matter of social and industrial legislation.

I then refer to the selection of legal people or people like legal advisers. I would request the hon. Minister to see that men of good and high standard, having the legal acumen, are appointed as legal advisers either in the States or at the Centre. Recently, as has already been mentioned earlier, a step was taken in Orissa according to legal advice. It was a simple, legal advice. It was such a simple thing that any student of law could say what should be the interpretation of the Constitution; that was a question raised in Orissa. Naturally, if the advice turned out to be wrong, that brings about a poor opinion on the part of the legal adviser who advised on this matter. The hon. Minister should look to the standard of the legal advisers before they are appointed.

Another point which has been previously mentioned, perhaps several times, in the course of the discussion of the Legal Practitioners Bill is this: it is about the maintenance of this distinction or division in two high courts of India—Calcutta and Bombay. This solicitorship is not liked by any section of the people. Only in the interests of one section of the people is this system being retained in the high courts at Calcutta and Bombay. In my State—West Bengal—these solicitors or attorneys are called *Ghughus* that is, the people are deprived and not even a single farthing is left if once the property goes to the solicitor's house. They charge high fees. Even in the union or small industrial cases, they charge high rates from the poor people and they are bound to give large sums if they want to file a suit on the original side of the high court. This sort of division or system which has been done away with in other high courts should also be done away with in Calcutta and Bombay high courts. One of the pleas that the hon. Minister made was that they can deal with commercial cases. But there are many advocates who have great experience and they can give better legal advice on commercial matters, even without the help of

[Shri Aurobindo Ghosal]

solicitors. Therefore, I would request the hon. Minister to consider the abolition of the solicitor system from these two high courts.

Another point which has also been referred to earlier may be mentioned. That is about the money that one is required to deposit in filing appeals in the Supreme Court, in the case of industrial appeals. That is also very exacting, and at least some steps should be taken so that in industrial appeals which are filed from the tribunals the depositing of security money in the Supreme Court may be done away with. Such appeals may be exempted from the provision of depositing the money.

Regarding legal aid to the poor, I do not know where it has been implemented in our State. I do not know whether the litigants are getting any help from the Government in regard to this matter. I would request the hon. Minister—he made an attempt—to minimise and to reduce the fees of lawyers. They are charging so much fees that it is impossible for the ordinary people and for unions and co-operatives to engage lawyers. Nowdays lawyers take fee not in cheques, but in cash, so that the money cannot come under the purview of income-tax or under the purview of the system that has been established by the Minister that lawyers should not take large amounts as fees. (*Interruption*): I paid Rs. 1500 for one industrial appeal because I engaged a good lawyer in the Supreme Court. I would not mention his name.

Coming to the census, I admit that census has been taken in all the States, but it is very embarrassing for us to find, for instance, that Ministers of two States are fighting on the figures of the census. The other day, the Finance Minister of Madras challenged the census figures of Bengal, which was disputed by the Chief Minister of West Bengal. (*Interruptions*).

Shri N. R. Muniswamy (Vellore): He did not challenge it.

Pandit K. C. Sharma: They are breeding like flies.

..**Shri Aurobindo Ghosal:** The Second Finance Commission has been sitting and all these things are taking place. These things should not go into the Press.

About bifurcation of constituencies, I would like to submit that the Minister assured us that after the bifurcation is complete, this would be gazetted and we will be able to know it. I would request the hon. Minister to see that after the bifurcations are completed, Members are given copies of the list of bifurcated constituencies in order to take necessary steps.

Pandit K. C. Sharma: Sir, it is a great subject on which I have to express my opinion, because we are at a very critical moment of our history, when we are building a great future for this country, which is likely to affect the world situation and perhaps the future of humanity to come. From that viewpoint, I regard it as a corner-stone in the building of India of tomorrow. I say corner-stone, because no progress is possible, unless peace is maintained in the country. Peace in a country cannot be maintained unless there is a sense of unity among the citizens. There is expectation of equal justice before court of law and there is the sanction of the people behind the Government. I will deal with the expectation of justice before court of law. Law as it is, which a citizen demands, is the law based on two principles, *viz.* the meta-physical attitude of the people and history. Law presupposes two important elements—the element of the experience of the people and the element of attitude with regard to what is good for the society. These are the two fundamentals of any law that has to be administered to the satisfaction of the people.

The question arises as to how justice is to be administered. The book of law does not lay down administration of justice to the people. It is the Judge who administers justice. In order that the expectation of the people is satisfactorily fulfilled and the demand of justice is properly met with, justice, as the Supreme Court Judge says, must be independent, must be fair and must be objective. There is no doubt about it that our judges are independent; nor is there any doubt that they are fair. But for objectivity, I may add that justice must be intelligently administered. A judge is not a judge unless he happens to be an intelligent man. So, justice should be not only independent, as it is, fair, as it is accepted, but it should be objective and intelligent also. A judge must be a learned judge.

17.36 hrs.

[MR. SPEAKER *in the Chair*]

It is wrong to say, as they say in many countries, that the quality of the decision is not based on the learning of a man of letters, or going through the precedent, or considering what another judge ten years before said or observed about a certain question of law. Well, the opinion both in India and in England has accepted that a judge must be a learned judge.

Now, I do not question the learning or the capacity of the judges, but I respectfully submit that objectivity is not a thing to be taken for granted. A crime was a question of right resulting from the conflict of the forces of life. It is the fruit of the cultural adjustment; it is not something in the air; it is not a chapter of the book; it is what is to be learned in the history. It is to be sensed by sensing the beat of the heart in unison with the common man. I submit respectfully that this great country with its long history and a great culture, before 1921 was having a static, stale and dull sort of life. It had no throbbing and there was no life pulsating. Therefore, a man born before 1921, brought up on the literature published thirty years before, which means in the 19th century, is not a fit judge to decide cases of citizens of today, because he cannot be objective.

I beg to submit that the question has cropped up as to what should be the age of the judge. My respectful submission is that the age of the judge should not exceed 50 years. It is wrong to keep a man sitting on the seat of judgment up to 65 years.

An Hon. Member: I do to understand it.

Pandit K. C. Sharma: You will not understand. It takes time to understand. You cannot.

My respectful submission with regard to this is that justice with regard to the administration of law must be objective. What is objectivity? Objectivity means that the judge must be conversant with the schemes of life, the active schemes of life, the consciousness of life as it is. The dignity of the individual in Indian life became something real in 1921. So, a judge, who was born long before and who is above 50 years of age, cannot imbibe the new spirit of life.

I would make a further submission with regard to this, and that is this, that there is difference between what is called classical jurisprudence and what is called modern jurisprudence.

Classic jurisprudence was static, a thing existent. A body was a body because a man was existing. Modern jurisprudence is a dynamic jurisprudence. It is a movement. It is a dynamic force. A man's rights and liabilities are to be judged in relation to their fundamental effect on the

[Pandit K. C. Sharma]

social structure Formerly, they were to be judged unrelated to social life. Therefore I would again forcefully submit, though humbly too, that the judges should be young, they should be learned, they should have a social background of training and at the same time they should not be too old to imbibe the new spirit of times.

Shri A. K. Sen: What is too old?

Pandit K. C. Sharma: In India after the age of 55 a man is supposed to be too old to learn.

Shri Braj Raj Singh: What is his age?

An Hon. Member: What should be the age limit?

Pandit K. C. Sharma: A lawyer is never too old to learn. He is different from the judges.

Mr. Speaker: He is prescribing age limit for judges but not for Members of Parliament.

Pandit K. C. Sharma: From the tone of my speech, you should have learnt that I am still young.

Shri Tyagi (Dehra Dun): So age does not matter. It is the voice that matters.

Pandit K. C. Sharma: Age matters, as you know, but in the case of Shri Tyagi it may not matter. He may be an exception to the general rule.

Now the other aspect of the question I am referring to is the constitution of the Law Commission and its work and recommendations with regard to law. I have gone through the report about the judiciary. I think they have done a good jod. With regard to further work I would request the hon. Law Minister to advise the Law Commission to consult the bar associations. I do not very much appreciate the work of the learned lawyers how so much seriously they might have taken to the job sitting in a room, consulting each other and coming to a certain conclusion. As I have already, submitted, in this rapidly changing world law is no exception to the changing conceptions of life. Where is it that one has to feel the glow and stream of life with regard to the rights and liabilities of a citizen except in the learned bars of the country? Therefore it would be proper that the bar associations should be consulted or evidence should be taken because it is a serious matter. You, Sir, will appreciate, being yourself a lawyer, that ours is a very unfortunate country so far as the administration of law is concerned, for the simple reason that our laws are adaptations more or less of English laws. These English laws were modelled on the Roman system of jurisprudence. Roman life was quite different from the life in Britain and yet the British lawyer was not competent enough to frame laws for his own country. They were copied from the Romans. The Roman laws, though they were bad for the administration of justice in Britain, were worse so far as the administration of justice in India was concerned. What was bad for England is worse for India. They were copied from the Roman law, filtered in the British courts, and then they came down to the Indian courts. So I would respectfully submit that it is a very serious question, it requires hard thinking, it requires consultations and evidence from the members of the Bar and has to be taken up seriously, which the question demands.

Having made these two suggestions I resume my seat.

Mr. Speaker: Shri Braj Raj Singh. He is a lawyer.

Shri A. K. Sen: That is only one of his aspects!

Mr. Speaker: That is a qualification which has now induced me to call him.

श्री ब्रजराज सिंह : अध्यक्ष महोदय, मुझे इस मंत्रालय के विषय में केवल एक बात पर जोर देना है। चुनाव कमिशन ने

राजनीतिक पार्टियों को मान्यता देने के सम्बन्ध में कुछ तरीके अपनाये हुए हैं उन की तरफ मैं माननीय मंत्री जी का ध्यान आकर्षित करना चाहता हूं ।

मैं अपने उन दूसरे मित्रों से सहमत हूं जिन्हों ने कि चुनाव कमिशन को उस के निष्पक्ष कार्य के लिये बधाई दी है । लेकिन मैं जानना चाहता हूं कि संविधान की कौन सी धारा के अनुसार या इस संसद् द्वारा बनाये गये किस कानून के अनुसार चुनाव कमिशन को यह हक हासिल हुआ कि वह किसी राजनीतिक पार्टी को चुनाव के लिये मान्यता दे । चुनावकमिशन ने दो जनरल इलैक्शन्ज़ के बारे में जो रिपोर्टें छपवाई हैं, उन को मैं ने गम्भीरता से पढ़ा है । उस से पता चलता है कि केवल एक नोटिफिकेशन जारी कर के यह तय उस ने कर दिया है कि किस किस राजनीतिक पार्टी को चुनाव के लिये मान्यता प्राप्त होगी और इस आधार पर उस ने किन्हीं राजनीतिक पार्टियों को इतनी सुविधाय दे दी हैं कि जिन का इलैक्शन में प्रभाव पड़ सकता है । जिन राजनीतिक पार्टियों को पहले से मान्यता मिली हुई होती है उन का चनाव निशान मतदाताओं के विभागों में बहुत पहले से रहता है । इस के अतिरिक्त जो राजनीतिक पार्टियां मान्यता प्राप्त हैं उन्हें यह भी सुविधा है कि मतदाता सूची उन्हें फ्री मिलेगी ।

आज सुबह ही की बात है कि मेरे एक प्रश्न के उत्तर में माननीय मंत्री जी ने कहा था कि इलैक्शन कमिशन का कोई इरादा नहीं है कि और राजनीतिक पार्टियों को बुला कर इस मसले पर गौर किया जाय । मैं निवेदन करना चाहता हूं यह एक ऐसी पद्धति है कि जिस पर गम्भीरतापूवक विचार किया जाना आवश्यक है । हम इस मल्क में जनतन्त्र को मजबत करना चाहते हैं और अगर जनतंत्र को मजबूत बनाना है तो उस के लिये यह आवश्यक है कि देश के हर नागरिक को समान सुविधायें मिलें । ऐसा कोई कानून या कोई नियम या कोई आर्डर नहीं होना चाहिये जिस से किसी नागरिक या नागरिकों के किसी समूह को विशेष सुविधायें मिल जाय और दूसरे नागरिक या नागरिकों के समूहों को कोई सुविधाय न मिलें । १९५२ में पहली बार चुनाव हुए थे ।

अध्यक्ष महोदय, एक सभा यहां आप की अध्यक्ष में चल रही है और उधर दूसरी ही सभा चल रही है ।

Mr. Speaker: The hon. member complains that the Law Minister is not able to attend to what he is saying.

Shri A. K. Sen: You have already heard, Sir, about the last-moment changes that have occurred.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Therefore we were discussing certain things which were more important than this.

Mr. Speaker: But the hon. Member is entitled to be heard.

Shri A. K. Sen: I have taken down notes of what he has said.

Mr. Speaker: Very well.

Shri Amjad Ali: May I rise to a point of order? To your question to the Minister of Parliamentary Affairs, Mr. Sinha, he stated that "we are attending here to more important questions than the discussion". That is treating the House with scant courtesy.

Mr. Speaker: I do not think he has said so.

Shri A. K. Sen: He has not said like that.

Shri Amjad Ali: He did say that, I have heard it.

Shri Narasimhan: We have not heard it, and it is not on record.

Mr. Speaker: I do not think he said so. The hon. Member says that when I requested the Law Minister and he Minister of Parliamentary Affairs to attend to what is going on here—the hon. Member wanted the Law Minister to hear what he was saying.

Shri A. K. Sen: Sir, I am used to using my ears even when I am doing something else. I have taken down notes. The hon. Member is talking about symbols for unrecognised parties, and the answer I gave this morning.

Mr. Speaker: I agree. But that is not the point now. Shri Amjad Ali says that the hon. Minister of Parliamentary Affairs said that they were attending to more important work here. I do not think he said so.

Shri Satya Narayan Sinha: Even if I had said that, I did not mean tnat; I do not know whether I said so; I only said that we were discussing important things.

Mr. Speaker: Anyhow, it was a slip.

Shri A. K. Sen: If anything, it is slur on our Ministry.

श्री अजराज सिंह: मैं निवेदन कर रहा था कि राजनीतिक पार्टियों को मान्यता देने के प्रश्न पर सरकार ने सुबह जो जवाब दिया है उस पर पुनर्विचार करना चाहिये । अब जो नियम बनाया गया है उस के मुताबिक अगर किसी राजनीतिक पार्टी को पिछले चुनावों में ३ प्रतिशत वोट प्राप्त हुए हैं तो उसे मान्यता मिलेगी । सन् १९५२ के चुनावों के पहले जब पिछली दफा इस मान्यता का प्रश्न उठा तब इस प्रकार की कोई बात नहीं थी । तो मैं चाहूंगा कि इस पर इस तरह विचार हो कि जो राजनीतिक पार्टी अपनी निश्चित विचारधारा रखती हो, जिस का लोक सभा और विधान सभा के बाहर कोई निश्चित संगठन हो, जिस का कोई अपना अनुशासन हो, जो लोक सभा और विधान सभा के अन्दर और बाहर दोनों जगह काम करती हो, उस पार्टी को सिर्फ वोट के आधार पर ही मान्यता न मिले । इस के अलावा और भी विचार किया जाना चाहिये दूसरी बातों का । जहां तक वोट्स का प्रश्न उठता है, हम सभी जानते है कि एलेक्शन कमिशन ने अपनी रिपोर्ट में ऐसा कहा कि कुछ इस प्रकार के अलायंसेज हुए, कुछ समझौते ऐसे हो जाते हैं जिन के कारण चुनाव के जमाने में कुछ लोग अधिक वोट हासिल कर सकते हैं । मैं समझता हूं कि कानून मंत्री जी मुझ से इस बात में सहमत होंगे कि देश के राजनीतिक जीवन को शुद्ध रखने के लिये यह बहुत आवश्यक है कि चुनाव के जमाने में इस तरह के कोई अलायंसेज और समझौते न हों जिन को अनहोली अलायंसेज कहा जा सके वोट्स प्राप्त करने के लिये । एक कार्यक्रम के आधार पर वोट जनता दे तो यह सही बात होगी लेकिन सिर्फ वोट प्राप्त करने के लिये कुछ लोग इकठ्ठे हो कर समझौता कर लें और इस तरह से ३ फी सदी वोट्स हासिल कर लें, और फिर एलेक्शन कमिशन के द्वारा उन राजनीतिक पार्टियों की मान्यता प्राप्त हो जाय मैं समझता हूं कि जनतंत्र के लिये यह उचित बात नहीं है । इसलिये चूंकि संविधान में कोई व्यवस्था नहीं है, कोई इस प्रकार का कानून संसद ने नहीं बनाया है, और जब एलेक्शन कमिशन इस काम को कर रहा है तो मैं समझता हूं कि इस ढंग से उसे किया जाना चाहिये जिससे देश के नागरिकों के दिमाग में कोई शंका न रहे कि उनके साथ कोई अन्याय तो नहीं हो रहा है ।

मैं सोशलिस्ट पार्टी के सम्बन्ध में निवेदन करना चाहता हूं । पिछले चुनाव में सोशलिस्ट पार्टी की तरफ से जितने उम्मीदवार खड़े किये गये, यदि उन सभी उम्मीदवारों के पूरे वोटों का हिसाब लगाया जाय एलेक्शन कमिशन द्वारा, तो मुझे विश्वास है कि वे ३ प्रतिशत से कम वोट नहीं होंगे । लेकिन

देखा यह गया है कि राजस्थान और मध्य प्रदेश से जितने सोशलिस्ट उम्मीदवार खड़े हुए थे, चूंकि उनको इस नियम के मुताबिक जो पेड़ का निशान था वह नहीं दिया जा सका था, इस की वजह से उनको जो वोट प्राप्त हुए थे, उनको नहीं शामिल किया जा रहा है । लेकिन एलेक्शन कमिशन ने अपनी रिपोर्ट में कहा है कि इन उम्मीदवारों ने पहले अपना नाम बता दिया था चीफ एलेक्टोरल आफिसर को कि उन्होंने सोशलिस्ट पार्टी को मान लिया है । तीन उम्मीदवारों ने मुझे बतलाया कि उन्होंने मैजिस्ट्रेट के सामने हलफ उठा कर अपने हलफनामे को एलेक्शन कमिशन के पास भेजा है । इसके बावजूद उनके वोटों को सोशलिस्ट पार्टी के लिये नहीं माना जा रहा है । मैं नहीं समझता कि यह कोई न्यायपूर्ण बात होगी । जब किसी पार्टी के उम्मीदवार को उस पार्टी में न माना जाय और उन को वोटों को शामिल न किया जाय तो भविष्य में इससे और भी अधिक दिक्कत आ सकती है ।

अब जो कुछ व्यवस्था की जा रही है उसके मुताबिक कोई राजनीतिक पार्टी अगर किसी राज्य के स्तर पर मान्यता प्राप्त किये हुए है तो उसके निशान को दूसरे राज्य में भी उस के उम्मीदवारों को दिया जायगा, जिसमें उसको मान्यता नहीं है, इसकी गारेन्टी नहीं है । इससे नतीजा ये निकलने वाला है कि कोई भी पार्टी, जिसका अखिल भारतीय संगठन है, अगर उसने अपने नियमों की शुद्धता को बनाय रखने के लिये चुनाव समझौतों में विश्वास न करते हुए, उनमें अपने को नहीं फंसाया, चुनाव समझौता नहीं किया और कम उम्मीदवार खड़े किय, अपने प्रति अनुशासन किया, और अगर उसकी वजह से उसे भारतवर्ष में अखिल भारतीय स्तर पर मान्यता न मिल सके, तो मैं समझता हूं कि यह बड़े दुःख की बात होगी और जनतंत्र तक के लिये बहुत बड़ा खतरा होगा । इसलिये मैं कहना चाहूंगा कि चुनाव कमिशन इस पद्धति में कुछ संशोधन करने के लिय तैयार हो, वह अच्छी तरह से हो भी सकता है । ३ फी सदी का जो नियम बनाया हुआ है, उसको ३ प्रतिशत के बजाय सन् १९५७ में १।४ परसेन्ट, १।८ या १।१० परसेन्ट कम रख कर ही मान्यता दे देता है, उस के साथ यह देख लेता है कि संसद और विधान सभा के बाहर, उनका संगठन है या नहीं, तो भी काम चल सकता है । मैं आशा करता हूं कि हमारे कानून मंत्री महोदय इस पर गम्भीरता से विचार करेंग और सरकार के विचार एलेक्शन कमिशन तक पहुंचाने का प्रयत्न करेंगे और उन पर यह जाहिर कर देंगे कि इस तरह से इस सदन की भावनाओं पर उचित विचार किया जाना चाहिये ।

दूसरी बात जो मैं कहना चाहता हूं वह यह है जिसका जिक्र हमारे मित्र भरूचा साहब ने भी किया है कि राजनीतिक पार्टियों को दिये जाने वाले चन्दे का प्रश्न अक्सर उठा करता है, और जब भी यह बात उठती है तो सरकार की ओर से कहा जाता है कि यह गरीब मुल्क है हर राजनीतिक पार्टी को पैसे की मदद लेनी ही पड़ती है जिससे कि वह चुनाव लड़ सके । मैं इससे इन्कार नहीं करता, लेकिन प्राइवेट पार्टीज से, खास कर कम्पनियों से अगर इस नाते चन्दा लिया जाये कि वह उसके बल पर सरकार की नीतियों में कुछ परिवर्तन करा लेंगी, या कम्पनियां कोई विशेष सुविधा हासिल करने के लिये कोई मदद दें, मैं समझता हूं कि इससे हमारा राजनीतिक जीवन भ्रष्ट हो जायेगा । इसलिये उचित यह होगा कि सरकार की तरफ से व्यवस्था हो, मैं समझता हूं कि इस तरह की व्यवस्था होते हुए सब से ज्यादा फायदा कांग्रेस पार्टी को ही होने वाला है, लेकिन यहां पर कांग्रेस पार्टी का सवाल नहीं है, अगर इस देश में गरीबों का राज्य

[श्री ब्रजराज सिंह]

कायम रखना है, और जनतंत्र को सफल बनाना है तो यह व्यवस्था करनी पड़ेगी कि अगर किसी को जनता का प्यार हासिल है तो वह चुनाव में हिस्सा ले सके। आजकल जो हमारी चुनाव व्यवस्था बनती जा रही है उसमें यह होता है कि वही आदमी चनाव में हिस्सा ले सकता है जो कि किसी एक संगठित पार्टी का आदमी है, या फिर उसको राजनीतिक चन्दा मिलता है बड़े बड़े जिसके पास जनता का पैसा इट्ठा होता है।

एक माननीय सदस्य : आपको कहां से मिला था ?

श्री ब्रजराज सिंह : मैं जो कुछ कहता हूं, उसको सुनने की कोशिश कीजिये। आपके खिलाफ नहीं कहा जा रहा मैं तो सिद्धान्त की बात कहता हूं गरीब लोग चुनाव नहीं लड़ सकेंगे यदि राज्य की तरफ से जनतंत्र को मजबूत करने की दिशा में कोई कदम नहीं उठाया जाता है। अभी भरूचा साहब ने हिसाब लगाया। मैं दूसरा हिसाब लगाता हूं। ५०० पार्लियामेंट के मेम्बर होते हैं, उन में से सब चुने हुये नहीं होते हैं, ३००० विधान सभाओं के मेम्बर चुने जाते हैं। अभी हमारे माननीय रणवीर सिंह जी को कम से कम २० साल तक चुन कर आने की आशा तो है ही, इस लिये उनको तो इसका फायदा मिलेगा ही। बहरहाल ढाई या तीन हजार विधान सभाओं के प्रतिनिधि और पांच सौ के सगभग लोक सभा के प्रतिनिधि होते हैं। सरकार की तरफ से उन के लिये १ करोड़ रु० की व्यवस्था पांच साल के लिये कर दी जाय। मैं डिमांड्स देखता हूं तो इसमें इलेक्शन कमिश्नर पर २८.५० लाख रु० की व्यवस्था है। मुझे इसमें कोई ऐतराज नहीं है। पांच साल के लिये अगर एलेक्शन कमिश्नर के दफ्तर पर १ करोड़ रु० और खर्च हो जाय। हमें देश में जनतन्त्र को मजबूत करना है, हम देखते हैं कि हमारे देश के आस पास यह खतरा पैदा हो गया है कि जन तन्त्र लड़खड़ाने वाला है, कहीं राज्य शाही कायम होती है कहीं डिक्टेटरशिप कायम होती है। हमारा शासन की पार्टी से कोई भी मतभेद हो सकता है लेकिन इस बात में हम सब एक को होना चाहिये कि इस मुल्क में हम को जनतन्त्र को मजबूत बनाना है देश में लाखों लोगों की सहायता से ही हम ऐसा कर सकते हैं। जनतन्त्र होते हुये एक चीज तो हमें मिली हुई है कि हम पांच साल के बाद कम से कम यह आशा कर सकते हैं कि सरकार को पलटा जा सकता है। लेकिन अगर यहां कोई डिक्टेटर खड़ा हो जाता है तो इस प्रकार की कोई आशा नहीं रहती। इस लिये जनतन्त्र को मजबूत बनाने के लिये अगर एक करोड़ रु० खर्च करने की आवश्यकता सरकार को पड़े तो इस पर सरकार को गम्भीरता से विचार करना चाहिये।

18 hrs.

मैं मानता हूं कि हमारे वित्त मंत्री की तरफ से कहा जा सकता है कि देश में डेवलपमेंट के लिये हम को धन की जरूरत है। मैं भी कह सकता हूं कि इस की जरूरत है, आज जिन के पास पैसा है अगर वे राजनीक पार्टियों को चन्दा दे सकते हैं तो उन पर प्रतिबन्ध लगाया जाये ताकि वे राजनीतिक पार्टियों को चन्दा न दे सक, और उन्हीं पार्टियों से आप पोलिटिकल लेवी की तरह पैसा इकट्ठा कर सकते हैं। इस के लिये नियम बनाया जा सकता है कि जब चुनाव इस देश में आयें तो उन लोगों से इस हिसाब से रुपया ले लिया जाये। मैं समझता हूं कि अगर एसी व्यवस्था मान ली जाती है तो यह नतीजा निकलेगा कि गरीब आदमियों के दिमाग में यह विश्वास रहेगा कि वे विधान सभाओं में और लोक सभा में चुन कर पहुंच सकते हैं। आज जो स्थिति है उस में चुनाव अधिक खर्चीले होते जा रहे हैं। जैसे जैसे चुनाव अधिक खर्चीले होते जायेंगे वैसे वैसे गरीब लोगों को जो कि अक्सर राजनीति में लग गये हैं, जो अपने धन्धों को छोड़ कर राजनीति में

लग जाते हैं, उन के लिये आसान नहीं रहेगा कि वे विधान सभाओं में या लोक सभा में चुन कर आ सकें। मुझे याद है कि मेरे स्वर्गीय मित्र, और मेरे ही नहीं सब के मित्र, श्री फिरोज गांधी के साथ बैठ कर मैं यहां पर बात कर रहा था लाबी में कि आज जो चुनाव व्यवस्था चलती आ रही है और जो ऐलाउन्सेस वगैरह मेम्बरर्स को ममिलते हैं, गरीब मुल्क में उस से ज्यादा नहीं मिल सकते हैं । चुनाव खर्च बढ़ता जा रहा है, अतः गरीब लोग भविष्य में चुनावों में भाग नहीं ले सकेंगे । मैं उनमें से रहूंगा जो अपने वेतन और भत्ते को और कम कराना चाहेंगे । लेकिन हम में से कोई चुनाव के खर्च को बरदाश्त नहीं कर सकता । इसके लिये, या तो आप यह करें कि चुनावों की ऐसी व्यवस्था की जाये कि किसी उम्मीदवार को कुछ खर्च करना ही न पड़े । कानुन में ऐसी व्यवस्था कर दी जाये कि किसी उम्मीदवार को चुनाव के सिलसिले में कोई मीटिंग नहीं करने दी जायेगी । सिर्फ एक पर्चा छप जायेगा और उसका खर्चा सरकार की ओर से किसी फंड में से उसको मिल जायेगा । उसके बाद कहीं किसी उम्मीदवार को जाने की जरूरत न होगी और जनता जिसको चाहे वोट दे सकेगी । लेकिन मैं समझता हूं कि इसको आप मंजूर नहीं करेंगे । इस लिये चुनाव को पवित्र बनाने के उद्देश्य से और जनतंत्रको मजबूत करने के लिये यह आवश्यक है कि ऐसे उपायों पर विचार किये जायें कि किस प्रकार चुनाव में कम से कम खर्चा हो और वह खर्चा ऐसा न हो कि जिसको देश का गरीब से गरीब आदमी न दे सके । वह खर्चा ऐसा होना चाहिये कि देशके गरीब सेनागरिकके लिये यह सम्भव हो कि वह लोक सभा में या विधान सभा में पहुंच सके । आज स्थिति यह है कि देश के एक प्रतिशत से अधिक नागरिक ऐसी अवस्था में नहीं हैं कि वह चुनाव का खर्चा करके लोक सभा या विधान सभा में पहुंच सकें । यह कैसा जन तन्त्र है कि जिसमें देश के सिर्फ एक प्रतिशत नागरिक ही लोक सभा या विधान सभा में पहुचने की आशा कर सकते हैं । यह जनतन्त्र तभी सफल हो सकता है जब देश के सभी लोगों को यह आशा हो कि वे लोक सभा या विधान सभा में पहुंच सकते हैं ।

Mr. Speaker: How long would the hon. Member take?

Shri Braj Raj Singh: Two minutes.

Mr. Speaker: All right; he may continue tomorrow.

Shri Rami Reddy: Tomorrow he will continue for 10 minutes.

Mr. Speaker: He will continue only for one minute.

The House will now stand adjourned to meet again at 11 A.M. tomorrow.

18.03 hrs.

The Lok Sabha then adjourned till Eleven of the clock on Friday, March 24, 1961/Chaitra 3, 1883 (Saka).