

SHRI HANUMANTHAIYA : I agree with the hon. Member that there are many lines in India which deserve the kind of treatment that the hon. Member suggests. The only question is, its one of availability of funds and priority in the matter of taking up these lines.

श्री ईश्वर चौधरी : क्या रेल मंत्री महोदय बतायेंगे कि राष्ट्रीय महत्व की दिल्ली-हावड़ा ग्रान्ड ट्रंक रोड पर बिहार प्रान्त के गया जिला-न्तर्गत शेरघाटी पुल टूट जाने से सड़क यातायात बिल्कुल बन्द हो गया है जिस की वजह से रेल स्टेशनों पर पर्याप्त मात्रा में भीड़ जमा हो गयी है और यात्रियों को बड़ी कठिनाइयाँ हो रही है। कृपया क्या आप मुगलसराय से धनबाद तक अप और डाउन गाड़ी बढ़ाने जा रहे हैं?

SHRI HANUMANTHAIYA : This is a new question.

श्री ईश्वर चौधरी : सम्भवतः मंत्री महोदय मेरा प्रश्न समझ नहीं पाये, मैं फिर दोहराये देना हूँ। मैं जानना चाहता हूँ कि राष्ट्रीय महत्व के दिल्ली-हावड़ा ग्रान्ड ट्रंक रोड पर गया जिले में शेरघाटी पुल के टूट जाने से सड़क यातायात बन्द है और इस वजह से रेलों पर यात्रियों की काफी भीड़ होने लगी है और गाड़ियाँ कम होने की वजह से यात्रियों को बड़ी कठिनाइयाँ हो रही हैं। इस बात को ध्यान में रखते हुए क्या मंत्री जी मुगलसराय-धनबाद के बीच में अप और डाउन गाड़ियों की व्यवस्था करने जा रहे हैं ताकि यात्रियों को आराम मिले?

अध्यक्ष महोदय : यह सवाल तो हावड़ा-आमता सेक्शन तक महसूस है।

Separation of Judiciary from the executive.

*491. **SHRI S. M. BANERJEE :** Will the Minister of LAW AND JUSTICE be pleased to state :

(a) the steps taken to separate Judiciary from Executive in various States ;

(b) the number of States which have not yet done so and the reason therefor; and

(c) the reaction of the Central Government in this regard.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI NITIRAJ SINGH CHAUDHARY) :
(a) A statement is laid on the Table of the House.

(b) and (c). The Government of Nagaland have expressed their inability to effect separation because of special situation prevailing in that State. The Code of Criminal Procedure is not in force in Nagaland but certain rules made under Section 6 of the scheduled Districts Act, 1874, govern the trial of offenders in the State. All criminal cases, except heinous crimes are settled according to local customary laws. The State Government in the circumstances do not consider it necessary to separate Judiciary from the Executive.

The subject 'Administration of Justice' falls in the State's sphere. It is primarily the responsibility of the State Government to take action for separation of the Judiciary from the Executive in Nagaland.

The Central Government have introduced a Bill in Parliament for the enactment of a new Code of Criminal

Procedure under which separation of the Judiciary will be made on an All India basis. The Bill is now before a Joint Committee of Parliament.

Statement

The Judiciary has been separated from the Executive in Gujarat, Haryana, Jammu and Kashmir (except Poonch Sessions Division) Maharashtra, Mysore, Punjab and West Bengal by Statute and by executive order in Kerala, Madhya Pradesh, Orissa, Tamil Nadu, Bihar, over substantial areas of Andhra Pradesh, Uttar Pradesh and in some areas of Assam and Rajasthan. The Punjab Separation of Judicial and Executive Functions Act, 1964, is in force in that part of Himachal Pradesh State which formed part of Punjab prior to 1.11.1956.

2. Among Union territories, statutory separation exists in Chandigarh where the Punjab Separation of Judicial and Executive Functions Act, 1964, is in force. The Union Territories (Separation of Judicial and Executive Functions) Act was enacted in 1969. It came into force in all the areas of the Union territory of Delhi with effect from 2nd October, 1969, and in all areas of the Union territory of Laccadive, Minicoy and Amindivi Island with effect from the 1st day of March, 1970. In relation to the Union territory of Goa, Daman and Diu, 1st July, 1971, has been appointed as the date on which the said Act shall come into force in the Union territory. In other Union territories the Act has yet to come into force.

SHRI S. M. BANERJEE : From the statement it appears that the judiciary has been separated from the executive, in Gujarat, Jammu and Kashmir (except Poonch Sessions Division) etc. and "over substantial areas of Andhra Pradesh", etc. What exactly is the definition of "over substantial areas" ? Why has it not been separated in the entire State ? Also, why has Poonch Sessions Division been omitted in Jammu and Kashmir ?

SHRI NITIRAJ SINGH CHAUDHARY : As I said, the administration of justice is a State subject. It is for them to separate the judiciary from the executive. Under article 50 of the Constitution, the Centre can give them advice and that is what we are doing. It is for the State Governments to decide where they should separate it and where they should not. As I said, we are amending the Criminal Procedure Code, so that the judiciary is separated from the executive on an all-India basis.

SHRI S. M. BANERJEE : About amending the Cr. P. C. may I know whether the views of State Governments have been obtained and if so, whether there is unanimity among them or whether there is difference of opinion ? If so, which are the States which differ ?

SHRI NITIRAJ SINGH CHAUDHARY : The Bill is before the Select Committee and all these aspects that have been raised will be considered.

MR. SPEAKER : He is asking whether the views of the State Governments have been ascertained on this.

SHRI NITIRAJ SINGH CHAUDHARY : I require notice of that question.

SHRI DINESH CHANDRA GO-SWAMI : Will the minister please state whether his attention has been drawn to certain opinions expressed by persons of eminence in the legal field that appointments of Judges of High Courts and Supreme Court either on the eve of their retirement or after retirement on different commissions affects the integrity and independence of the judiciary, because it is kept under the control of the executive ?

MR. SPEAKER : I am sorry it does not arise out of this question. Are you a lawyer ?

SHRI DINESH CHANDRA GO-SWAMI : Yes. Indirectly it arises because,.....

MR. SPEAKER : Separation of the judiciary from the executive is a specific subject. You can give separate notice of this question.

SHRI R. V. BADE : The statement says that judiciary has been separated from the executive in M. P. But cases under sections 107, 117C and 145 of the Cr. P.C. are tried by revenue officers and not by judicial officers. How can you say that they have been separated?

SHRI NITIRAJ SINGH CHAUDHARY : Sections 107 and 110 deal with offences relating to law and order questions. They are tried by revenue officers, who are also magistrates. In Madhya Pradesh in all other matters there is complete separation.

SHRI B. R. SHUKLA : In Uttar Pradesh there used to be complete separation of the judiciary from the executive with the result that magistrates attached to the executive side were not deciding cases arising under the Indian Penal Code. This policy was reversed by the government headed by Shri Charan Singh with the result that...

MR. SPEAKER : No speeches. Let him come to the question.

SHRI B. R. SHUKLA : May I know whether the executive magistrates in UP are now deciding cases arising under the Indian Penal Code?

MR. SPEAKER : This is a specific question about separation of the judiciary from the executive.

SHRI B. R. SHUKLA : May I know whether there is any separation of judiciary from the executive with respect to the trial of cases arising under the Indian Penal Code in Uttar Pradesh? I think my question is very very specific.

SHRI NITIRAJ SINGH CHAUDHARY : In the statement it has been

mentioned that in UP there is separation of the judiciary from the executive by an executive order.

श्री सतपाल कपूर : मैं आप की वाफत मिनिस्टर साहब से जानना चाहता हूँ कि जिन स्टेट्स में अभी तक जुडीशियरी एग्जिक्यूटिव से अलग नहीं हुई है क्या उन स्टेट्स को सेंट्रल गवर्नमेंट कोई हिदायत देगी कि कब तक जुडीशियरी एग्जिक्यूटिव से अलग कर दिया जाये?

श्री नीतिराज सिंह चौधरी : आर्टिकल 50 के अनुसार हमें सलाह देने का अधिकार है हिदायत देने का नहीं। हम सलाह दे रहे हैं और कोशिश कर रहे हैं कि जुडीशियरी से एग्जिक्यूटिव को अलग कर दिया जाये।

SHRI B. K. DAS CHOWDHURY : May I know whether it is a fact that in view of the financial stringency in West Bengal the process of separation of judiciary from the executive has not yet been completed and whether the State Government of West Bengal has already approached the Centre for certain financial relief to complete this process of separation, as directed by the Constitution?

SHRI NITIRAJ SINGH CHAUDHARY : I know it for a fact that in the State of West Bengal separation of the executive from the judiciary is not complete, but the reasons are not known to me. At least the Ministry is not aware of them.

Development of Light Industries Abroad with Indian Collaboration

492 **SHRI C. JANARDHANAN :** Will the Minister of INDUSTRIAL DEVELOPMENT be pleased to state :

(a) whether many nations sought India's help in developing light industries in their respective countries;