SHRI KAPIL VERMA (Uttar Pradesh): We have been demanding in the House that there should be a proper enquiry to determine who is responsible for grounding A-320.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Why are you getting up?

SHRI VISHVJIT P SINGH: The country lost Rs 700 crores.

SHRI DINESHBHAI TRIVEDI: Why only seven aircraft have re-inducted? Why not all of them?

SHRI KAPIL VERMA: We been demanding it.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): This subject cannot be taken up like this

SHRI KAPIL VERMA: have allowed him.

THE VICE-CHAIRMAN (SHRI ANNAJI MASODKAR): I have not allowed him; he just made this mention. Now, please sit down.

SHRI DINESHBHAI TRIVEDI: Can you tell me why other aircraft are not flying if the aircraft is good and why only seven? Don't be political all the time... (Interruptions).

VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Now nothing will go record. on Please take your seat.

SHRI KAPIL VERMA: *

SHRI V NARAYANASAMY: *

SHRI DINESHBHAI TRIVEDI: *

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Nothing is going on record.

श्रीमती सुषमा स्थराज (हरियाणा) : उपसभाष्यक्ष महोदय श्री विश्वजीत पृथ्वी-जित सिंह जी इतना ऊंचा बोलते हैं जिससे सदत में नोयाइस पोल्यूशन होता है में आपका संरक्षण चाहती हूं। पर्यावरणे मत्री जी से आप कहें कि इसका कुछ उपाय करें।

श्री विश्वजित पृथ्वीजित सिंह : मेरे बोलने से पोल्यूशन होता है: में उनको जवाब देना चाहता हुं। (ध्यवधान)

VICE-CHAIRMAN BHASKAR ANNAJI MASODKAR): Now, let us take up the Legal Services Authorities (Amendment) Bill. 1990.

THE LEGAL SERVICES AUTHORI-TIES (AMENDMENT) BILL, 1990

THE MINISTER OF LAW AND JUSTICE (SHRI SUBRAMANIAN SWAMY): Mr. Vice-Chairman, Sir, I beg to move:

"That the Bill to amend the Legal Services Authorities Act, 1987, be taken into consideration."

Sir, legal aid is the Constitutional mandate as per article 39A which requires that opportunities for securing justice are not denied to any citiven by reason of economic or other disabilities.

In fulfilment of its Constitutional obligation, the Central Government constituted a Committee known the 'Committee for Implementing Legal Aid Scheme'-in brief, CILAS -initially for a period of three years under the Chairmanship of Justice P. N. Bhagwati, the then Judge of the Supreme Court of India, by way of Resolution dated September, 1980. The Committee was charged with the responsibility formulating in detail and implementing comprehensive legal aid schemes on uniform basis throughout country. The term of the Committee for Implementing Legal Aid Schemes has been extended from time to time. The Committee has been reconstituted with effect from 14-11-1990 for a period of one year, or, till the Legal Services Authorities Act comes force, whichever is earlier.

According to the Model Scheme that was prepared, any citizen whose

^{*}Not recorded.

annual income from all sources does not exceed Rs. 6.000|- is entitled to three legal services up to High Court and Rs. 9,000 - for Supreme Court cases.

The legal aid in courts is being provided by the State Legal Aid and Advice Board and Legal Aid Committees which are primarily funded by the respective State Governments. **Implementing** The Committee for Legal Aid Schemes, of course, provides financial assistance for implementation of strategic or preventive legal aid programme or to tide over financial stringencies of any State Legal Aid and Advice Boards, wherever necessary.

The Committee for Implementing Legal Aid Schemes has been working for more than ten years and as per the statistics made available up to 18-12-1990, 12,53,885 people have been provided free legal aid and advice in the country. The number of persons belonging to weaker sections of the community is: Scheduled Castes-2,17,335; Scheduled Tribes—1,41,955; Backward Classes-36,707; Women-1,22,027 and Children-3,295.

The Lok Adalat, which is an innovative form of legal aid camps, proving an effective and successful alternative forum for resolution disputes at grassroot level. As per the latest statistics available with the Committee, as on 18-12-1990, 3,988 Lok Adalats have been held, where 24,08,275 cases have been settled, out of which, in 81,420 motor accident claim cases, compensation amounting to over Rs. 195.99 crores, i.e. nearly Rs. 196 crores, has been paid.

Sir, the Legal Services Authorities Bill, 1987, was introduced by Government of Mr. Rajiv Gandhi in the Lok Sabha on 24-8-1987. The Bill was passed by the Lok Sabha 27-8-1987. The Bill was passed this august House on 31-8-1987. The Bill received the assent of the President on 11-10-1987 and consequently it has become an Act known as the Legal Services Authorities Act, 1987, (No. 39 of 1987).

This Act, has, however, not been because its certain enforced so far provisions attracted criticism former Supreme leading lawyers, Court Judges and eminent law Professors. They had expressed doubts even about the Constitutional validity of some of the provisions of this Act. The Act was also the subject-matter the Chief Justices' of discussion at Conference held in New Delhi December, 1987. The Act was also discussed at the Conference of Executive Chairmen of the Legal Aid and Advice Boards and State Law Ministers held on 23rd and 24th April, 1988.

The Amendment Bill contains provisions for the setting up of Legal Services Committees at the Supreme Court, High Court and Taluka level under clauses 3A, 8A and 11A respective ly. No provision for these Committees is available in the principal Act. Sections 19 and 20 of the principal Act relating to the holding and jurisdiction of the Lok Adalats have been totally recast with a view making them more functional and effective on the basis of the practical experience gained.

Clause 2, 27 and 28 dealing with definitions and making of rules and regulations are of consequential nature.

I, therefore, move the motion for consideration and passing of the Bill by the hon. House.

The question was proposed.

SHRI MADAN BHATIA (Nominated): Mr. Vice-Chairman, Sir, there are two objectives of this Bill. The statute which is already there, which is sought to be amended by means of this Bill intends (1) to provide legal service to the poor people, and (2) to provide some mechanism speedy disposal of disputes between various parties. For that purpose, the

[Shri Madan Bhatia]

concept of Lok Adalat was brought in 1987 Act. Now Lok Adalat does not have any adjudicatory function. It cannot adjudicate upon any dispute. Its only function is to try to prevail upon the parties concerned to arrive at a settlement or mutually compromise. If no settlement can be arrived at or compromise effected between the parties, then the Lok Adalat has no power to deal with the matter. The matter has to go back to the court. Now, Sir, what does this amend ment seek to do? This amendment does not enlarge the jurisdiction of the Lok Adalat. The jurisdiction remains he same, namely to try to bring about a settlement between the parties concerned. The previous Act provided that if both parties agree that thei matter should be referred for a settlement to the Lok Adalat. the matter could be referred to the Lok Adalat, but now the amendment which is sought to be made includes other provisions. In three circumstances the matter can be referred to the Lok Adalat when it is pending in the court. Firstly, when both parties make a mutual application that their dispute may be referred to the Lok Adalat for settlement. Fair enough remains as it is, so for as the previous Act is concerned, it retains that position. Secondly, irrespective of the application made by the parties if the court is prima facie satisfied that this matter can be settled by mutual negotiations between the parties the matter may be referred to the Lok Adalat. Now this is something new amendment which has been put that there is a prima facie satisfaction that there is a possibility settlement between the parties. have no objection to this. But then it goes further and says that irrespective of the two condition which have been mentioned earlier the matter may still be referred to the Lok Adalat. What does this mean? It means, if the parties say that they are willing to settle their matter and the court is of the epinion that this matter

cannot be settled, by mutual negotiations, still the court has been given the power to refer this matter to the Lok Adalat. This will be merely an exercise in futility. This will be directing the parties to enter into the whiripool of unnecessary proceedings. This will go before the Lok where the parties will say, no, we do not want any settlement, and the Lok Adalat will have to send this matter back to the court. Why are you having this exercise in futility? makes no sense to me at all. Unless you give the adjudicatory power to the Lok Adalat, sending a to the Lok Adalat against the wishes of the parties, against the opinion of the court that the matter cannot be nothing but settled. is exercise which is inflicting unnecessary delay upon the disposal of the case. I am strongly objecting to this proposed amendment For that purpose I have brought in an ment to the Bill. The amendment is to delete this clause and to provide that in the first instance the itself, before which the matter is pending, will try to bring about a settle ment. Why should the court send this matter for settlement to the Lok Adalat if the court is prima facie satised that the matter can be settled by a mutual settlement? The court itself should make an effort in those circumstances to bring the matter to an end by a mutual settlement. Then, this matter may be referred to the Lok Adalat only if the court thinks that the intervention of the Lok Adalat is necessary for the purpose bringing about a settlement and there is possibility of a settlement and the parties understand that there is possibility of settlement. Only those circumstances should the matter be referred to the Lok Adalat. Otherwise there is no sense. This is amendment that I am seeking make.

The second amendment which I am seeking to make is this: At present there is one National Authority under

this Act to discharge the functions provided under this Act, and is one authority at each State level to perform the functions under this Act. Now what are we doing? We creating multiplicity of authorities. At the national level now there will be two authorities, at the State level also there will be two rities. Now, what is the function is to be discharged the new National Authority? To constitute the Supreme Court Legal Services Committee to exercise powers and perform such functions as may be determined by regulations framed by the existing National Au- ' thority. Now, in the first place, it is very vague. In the second place, I do not understand why you are creating a second authority with separate paraphernalia, with a separate staff, with separate members. And it is not clear what functions they are going to perform and whether those functions can be performed by the existing National Authority at all or not. I am respectfully submitting that the creation of this second authority will mean unnnecesary burden on the exchequer and it will simply provide an avenue for tired bureaucrats and retired Judges to get employment after retirement. And at whose cost? The basic function is to give aid to the poor, but most of the money which will be provided out of the Consolidated Fund, out of the public exchequer, which should go to the poor litigants, will be spent upon the establishments and nothing else I say so with responsibility because I have received complaints from some sitting Judges who have said that if you go in detail into the use of the money which was allocated under this Act, the primary portion of that fund has gone on the expenditure of these authorities and that has not gone into the pockets of the poor litigants who need that money. This is exactly so. Now the situation is going to become worse by creating these multiple authorities.

The amendment that I am suggesting is, if for any reason you want to

have the second authority, by means have them, but they should not have separate membership, they should not have separate paraphernalia and the existing authority out of its own staff and its own members. should constitute the Committee which is contemplated now, and the same staff should be used for purpose of functions of that Committee. There is no difference. The whole object is that the existing authority may delegate some of its functions by means of regulations, and if the whole authority cannot discharge all the functions by all sitting at time, let them constitute a committee from its own members, and that committee may be helped by the staff of the existing authority. There will be no problem. This, Sir, is the second amendment that I am suggesting

The third amendment is with regard to the accounts. This is very important in the context of what have already submitted in view of the complaints that I have received with regard to the user of the funds provided under this Act.

Sub-section (4) of section 18 of the existing Act says:

"The accounts of the authorities as certified by the Comptroller and Auditor-General of India or other person appointed by him in this behalf together with the audit reports thereon shall be forwarded annually by the authorities to the Central Government or the Government as the case may be."

Now the accounts shall be certified by the Comptroller and Auditor-General, and thep shall be forwarded to the Central Government or the State Government concerned. The amendment that I am suggesting I would just like to read.

VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): You have given that amendment.

SHRI MADAN BHATIA: I have given this amendment. Just four lines

these are I will read just these four lines. These accounts should be placed before both the Houses of Parliament. These accounts should specify how much money has been spent upon the establishment and how much amount has actually gone to the litigants by way of legal aid so that the House should know. Parliament should know how the money is being used, whether this money is being squandered away on the establishment or that money is really being utilised for the purpose of providing legal aid to the needp litigants. So, this is the amendment that I am suggesting.

Now the fourth amendment. Sir. it seems that an objection was raised by the existing authority which is presided over by the Chief Justice of India in regard to section 4 of the Act which provides for the functions of the existing authority. It says:

"The Central Authority shall subject to the general directions of the Central Government, perform all or any of the following functions....."

So, it means that the Central Government can give directions to Authority which is presided over by the Chief Justice of India. This was probably not liked, and this is being deleted. Well, let it be deleted. But I suggest that there are certain functions from which the Central ernment cannot be divorced Therefore, I have suggested that in the discharge of its functions the Authority shall take into account any views expressed through any communication received from the Central ment. This is the last amendment that I have suggested.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Nothing further you want to say on the Bill. You are only saying on the amendments.

SHRI MADAN BHATIA: Yes.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): All right. Mr Gopalsinh Solanki.

SHRI GOPALSINH G. SOLANKI: (Gujarat): Sir, this amendment has come before the House because 1987 when Parliament passed this particular Act it was quite defective and could not be implemented. Therefore, some suggestions were made by the Conference of the Chief Justices and the executives and Chairman of lawyers associations.

About this particular Amendment which has been sought for I would like to associate with my friend Mr.. Bhatia, who has suggested an amendment. The Act is still defective We find many Acts in the country which are defective and which are to be amand ended now. then. every amendment Today we had the 74th in the Reserve Bank of India Act, 1934, when it was enacted. It was made temporarily, but was made permanent. So, in this Act also there are many defects. So far as the establishment and the powers gated to the Central Government and the State Executives are concerned, they are also defective. Therefore, I say that the system brought about for the benefit of the weaker sections of the society under Article 39(a) is not going to help them at all.

Before I talk on Lok Adalat, I would like to say that there are more than 15 lakh cases pending in the High Courts of the country. Litigants just go there and come back. They are at the mercy of the courts and advocates. No one has considered the reasons why this has been happening. This large accumulation of pending cases in the courts has been caused because of the delay in disposal cases in the courts. In sessions courts where a murder trial is conducted by the sessions judge his working is considered to have taken three and a half days, even though he might have disposed it of in one day. Therefore, the judges like to take up only four

or five murder trials and some civil appeals in a month. Of course, the judges are competent, but since the cases are disposed of in this way, the cases are getting accumulated. Even in the Supreme Court one lakh fifty thousand cases are still pending If we stop filling new cases thereafter, courts would continue to be engaged with the pending cases till 1999. That is why the system of Lok Adalats has been thought out.

Now, what do the Lok Adalats do? Their functioning is very disgraceful. When the Lok Adalats are formed, social workers are called and then there is political intervention, because some of the leaders want to gain. So, in this way judiciary gets mixed with the political activity. Not only that, when the Lok Adalat is held at a particular place, judges don't work properly That is why there is large accumulation of pending cases. However, after World War II, this is the best measure of legal aid made available to the public. That is why in spite of all these defects I support the Bill.

VICE-CHAIRMAN THE (SHRI BHASKAR ANNAJI MASODKAR): Shri Shabbir Ahmed Salaria— absent. Shri Md Salim absent.

SHRI SUBRAMANIAN SWAMY: Both the hon. Members and Mr. Bhatia in particular, have made very useful points. Of course, Mr. Bhatia is a legal brain. I have great respet for his deep knowledge of the law. I understand the spirit in which the amendments have been offered However, since Mr. Bhatia in particular has pressed for certain amendments, I would like to say that it is not possible to accept any of his amendments, except one

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): You can accept when we come to clause-by-clause consideration stage.

SHRI SUBRAMANIAN SWAMY: Yes. I know but I would like to answer his points, because he has spoken

on the amendments. The amendments I am not going to accept. One of the amendments on which he made a point which I think needs to be rebutted is on sub-section 20 of clause 14 where he says what is the use to give this power. It says "The court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat." There it is a power that we would like to give to the Lok Adalats. Clause 20 (1) reads: "Where in any case referred to in clause (i) of sub-section (5) of section 19—(i) (a) the parties thereof agree; or (b) one of the parties thereof makes an application to the court for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement. So we would like to give this power to the Lak Adalats for certain special situations. This is not a question where it is going to be exercised arbitrarily and adequate opportunity would be given to parties to be heard. We would like this power to be given to Lok Adalats to have some teeth. This is one amendment on which he made some valid points. But we have considered the overall situation. thank the Members for taking interest in this Bill and making valuable suggestions which we will take into consideration.

Bill, 1990

VICE-CHAIRMAN THE (SHRI BHASKAR ANNAJI MASODKAR): The question is:

"That the Bill to amend the Legal Services Authorities Act. 1987. be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): We shall now take up clause-by-clause consideration of the Bill

Clause 2 was added to the Bill.

Clause 3—Substitution of new sections for section 3.

SHRI MADAN BHATIA: I move:

"(2) That at page 2, after line 24, the following be inserted, namelv:---

"(aa) A serving judge of the Supreme Court to be nominated by the Chief Justice of India."

(3) That at page 3, for lines 20 to 44 the following be substituted, namely :-

"3A(1) The Chief Justice of India may constitute a Committee to be called the Supreme Court Legal Services Committee from amongst members of the Central Authority for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Cabinet Authority.

Provided that the Chairman the Committee shall be the serving judge of the Supreme Court nominated by the Chief Justice of India under clause (aa) of sub-section (2) of section 3 of the Act.

(2) The Committee referred to in sub-section (1) shall be assisted in the discharge of its functions by the member-secretary and officers and employees of the Central Authoritv. "

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Now I will put clause 3 to vote. The question is:

That clause 3 stands part of the Bill.

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4-Amendment of section 4.

SHRI MADAN BHATIA: I move:

"That at page 4, after line 16, the the following proviso be inserted.

namely: -

"Provided that in the discharge of all or any of the functions enumerated in clauses (a) to (n) above, the Central Authority shall have due regard to any request made on any views communicated to it by the Central Government."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Now I will put clause 4 to vote. The question is:

"That clause 6 stands part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5-Substitution of new section for section 6. ·

SHRI MADAN BHATIA: I move:

That at page 4, after line 25, the following be inserted, namely:-

"(aa) A serving judge of the High Court to be nominated by the Chief Justice of the High Court."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Now I will put clause 5 to vote. The question is:

"That clause 15 stands part the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause -6 (Amendment of Section 7)

SHRI MADAN BHATIA: Sir, I move:

That at page 5, after line 28, the following (6) be inserted namely:-

"(iii) After clause (d) the fol-

lowing clause shall be inserted. namely: --

(e) Notwithstanding anything contained in clause (d) and subject to any direction by the Central Authority, the State Authority shall perform all or any of the functions mentioned in clauses (d), (e), (f), (1) and (m) of section 4 of the Act."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): The question is:

"That clause 8 stands part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Clauses 8 to 13 were added to the Bill.

NEW CLAUSE 13—A

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): There is one amendment for insertion of a new clause 13-A by Shri Madan Bhatia.

SHRI MADAN BHATIA: Sir, I move:

"That at page 9, after line 10 the following new clause be inserted, namely: -

"13A. After sub-section (4) of section 18 of the Principal Act, the following sub-section shall be added:

'(5) The Audit Reports of the Comptroller and Auditor General or of any person appointed by him on the accounts of each authority shall specify, details of the utilisation of funds under various heads of expenditure by each authority and shall be plac-

X.

ed before each House of Parliament."

The question was proposed.

SHRI SUBRAMANIAN SWAMY: Sir, we will accept this amendment. But we would like the wording slighty changed as follows:

"13A. After sub-section section 18 of the Principal Act. the following sub-sections shall be added:

- (5) The Central Government shall cause the accounts and audit reports received by it under . sub-section (4) to be laid as soon as may be, after their receipt, before each House of Parliament;
 - (6) The State Government shall cause the accounts and audit reports received by it under subsection (4) to be laid as soon as may be, after their receipt, before the State Legislature."

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Mr. Madan Bhatia, I hope you are satisfied with this. Now I will put it to vote.

The question is:

"That at page 9 after line 10 the following new clause be inserted, namely:---

- 13A. After sub-section (4) of section 18 of the Principal Act, the following sub-sections shall be added:
 - (5) The Central Government shall cause the accounts and audit reports received by it under sub-section (4) to be laid as soon as may be, after their receipt, before each House of Parliament;
 - (6) The State Government shall cause the accounts and audit reports received by it under sub-section (4) to be laid as soon as may be, after their receipt, before the State Legislature."

[Shri Bhaskar Annaji Masodkar] The motion was adopted.

New Clause 13—A was added to the Bill.

Clause-14

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): There are four amendments. Amendment 9 is by Mr. Madan Bhatia and 14, 15 and 16 are by Mr. Madhavan. They are not moved.

I shall now put clause 14 to vote. The question is:

"That clause 14 stands part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clauses 15 to 17 were added to the Bill.

CLAUSE-1 (SHORT TITLE)

SHRI SUBRAMANIAN SWAMY: Sir, I move:

"That at page 1, line 4, for the figure "1990" the figure "1991" be substituted."

The question was put and the motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

SHRI SUBRAMANIAN SWAMY: Sir, I move:

"That the Bill, as amended, be passed."

The question was put and the motion was adopted.

SPECIAL MENTIONS

Sad Plight of the Rubbers Growers in the country

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Now, we will take up Special Men-

tions. There are a few Special Mentions which we can take up to 6.00 P M. Mr. M. M. Jacob.

SHRI M. M. JACOB Mr. Vice-Chairman, Sir, I would like to draw the attention of the Government, especially the Minister Commerce Mr Subramanian Swamy, who is sitting here to the sad pl ght of the small growers of natural rubber in the country, majority of them in Kerala. I raise this matter on behalf of more than 30 lakh people and 4 lakh natural rubber growers' families, who hold 95 per cent of the total area of 4.15 lakh hectares under rubber, 81 per cent of the domestic rubber and constitute 99.9 per cent of the rubber producers. Their average holding is $\overline{0}.8$ per hectare. very existence of these 30 lakh people is threatened by the mounting cost of production of rubber stagnation in price and even a possible glut consequent crash in rubber during 1990-91 due to the substantial import of natural rubber Now Sir, imported when natural rubber is more than the requirement in this country, always a glut in the market is felt. So occasionally, this kind of phenomenon happens. There was understanding between the commerce Ministry and the rubber growing industry in this country that the total price will be studied periodically and cost revision will be made subsequently. Sir, the country requires 6.5 lakh tonnes of natural rubber by 2000 A.D and there is no short-cut for this 6.5 lakh tonnes of natural rubber. This rubber has to be imported if you are not able to produce it substantially in this country. So the only point is that you have to take care of the farmers who are employed and engaged in the natural rubber growing sector. If the price is not remunerative, they will not be interested in spending more money for the natural growth and cultivation. So recently, I have calculated and I found that almost by 2000 A.D., we may require 1,600 erores of rupees by way