

SHRI M. S. GURUPADASWAMY: The, where is the difficulty?

SHRI KHURSHID ALAM KHAN: That is only an imagination.

SHRI G. VARADARAJ: I want to make one point. Instead of reserving all items for the handloom sector, why we should not reserve these items only for power-loom sector?

SHRI KHURSHID ALAM KHAN: There is no need for powerloom sector, because they have got option to produce any item except which has been reserved for the handloom.

SHRI G. VARADARAJ: You have reserved 22 varieties... (*Interruptions*)

SHRI THANGABAALU (Tamil Nadu) : Sir, the Minister is talking only about powerloom. What about handloom sector?

SHRI KHURSHID ALAM KHAN: Sir, for one week they talk about handloom and then; next week they talk about power-loom.

SHRI G. VARADARAJ: You appoint another committee to go into this matter.

SHRI KHURSHID ALAM KHAN: There is no need for appointing a committee. A committee which was appointed consisted of experts and their recommendations were accepted by the Government. I do not see any justification for appointment of another committee.

I. THE CONSTITUTION (FIFTY-FOURTH AMENDMENT) BILL, 1986.
n. THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL, 1986.

THE VICE-CHAIRMAN (DR. BAPU KALDATE): We will take up the Constitution (Fifty-Fourth Amendment) Bill, 1986 and the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1986.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ): Sir, I move;

"That the Bill further to amend the Constitution of India, as passed by the

Lok Sabha, be taken into consideration. Sir, I also move;

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, as passed by the Lok Sabha, be taken into consideration."

Sir, since the commencement of the Constitution there has not been any increase in the salary of Judges of High Courts and Supreme Court as laid down in part 'B' of the second schedule of the Constitution of India. There has, however, been some improvement in the service conditions of Judges mainly through High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1976. Still, there has been a growing feeling that the salaries of judges are not adequate to attract the best talent from the bar. Various proposals for making improvement in the service conditions of judges have been received by the government of India from time to time. The Chief Justices conference held in February, 1985 made certain recommendations and pursuant to some resolution stressing the need for improving the service conditions of judges including increase in their salaries. The Joint Conference of Chief Justices. Chief Ministers and Union Minister held on 31st August and 1st September, 1985 in New Delhi also discussed the question of making substantial improvement in the service conditions of judges and passed resolution in this regard. The Chief Justice of India forwarded a consolidated proposal for making improvement in the service conditions of judges to the Government in September 1985. The Government have examined the proposal sent by Chief Justice of India in detail and have decided to increase the salaries of Judges and also to make improvement in the other service conditions of Judges of High Courts and judges of Supreme Court. To achieve the objective of the increase in the salary, it is proposed to amend part D of the Second Schedule to the Constitution. The amendment also envisages an increase in the salaries of

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supreme Court Judges judges in future by an Act of Parliament. Thus removing the rigidity in the pay-structure of judges. For making other improvements, in the service conditions of judges, it is proposed to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958. The amendment Bill provides for carry forward of leave to the High Court judges elevated from service and Supreme Court judges elevated from High Court upto 180 days. Facilities of staff cars with 150 litres of petrol per month and sumptuary allowance at the enhanced rates. The rates of pension and family pension have been enhanced and maximum ceiling on gratuity is enhanced from Rs. 30,000 to Rs. 50,000. Besides this, it is also proposed to extend some other benefits to the judges through the amendment of their respective laws-

Sir, this Bill got unanimous support in the other House and I am fully confident that this Bill will receive the wholehearted and unanimous support of the whole House here also.

The question was proposed.

THE MINISTER OF LAW AND JUSTICE (SHRI ASOKE KUMAR SEN): Sir, may I suggest that the debate may be common for both.

THE VICE-CHAIRMAN (DR. BAPU KALDATE): Yes.

SHRI SUKOMAL SEN (West Bengal): Mr. Vice-Chairman, Sir, I am in general agreement with the Bill for Constitution Amendment for the Conditions of Service of the Supreme Court and High Court Judges and I am trying to support the Bill but I have certain observations to make. Sir, this question of raising the salaries and other perquisites of High Court and Supreme Court judges was a long pending issue and by bringing this Bill into the Parliament, the Government has made a very candid admission to the fact that it has failed to contain the prices. It is the failure of their policy. In the statement of objects and reasons, it has been mentioned that since prices have gone up, so increase in allowances is necessary. Prices of petrol have gone up. So, increase in car allowance.

is necessary. All these things are mentioned in the statement of objects and reasons. This itself is an admission of the failure of the Government to contain prices. Now, whatever it is, the salaries and other perquisites of other sections of Government employees, are required to be revised. In fact, the Fourth Pay Commission has recommended some revision, although it has not been totally satisfying to the employees, there are objections to it and amendments are to be made. But the Pay Commission was appointed for revision of pay scales and to a certain extent, that has been done. So the salaries and other amenities of the judges also, whether they work for the High Courts or in the Supreme Court, should be improved. I agree to it. But at the same time, I would like to say that simply increasing the salaries and other amenities of the judges is not the whole thing. The judicial system is a very important component of the political system of our country, the political structure of the country, the State structure of the country. If the judicial system works properly, the political system also will be able to work, in a better way. If the system does not work properly, so many maladies will develop inside the society and ultimately the people will be the sufferers: they will be the victims.

Now the general complaint from the people against the judiciary is that justice is delayed. Everybody is aware of the old saying that justice delayed is justice denied. Now, in our country, although it is a very old saying, we could not overcome this malady. Even now justice is not only being delayed but it is being further delayed. There is an estimate that about five lakhs of cases are pending before the Supreme Court and the High Courts of the country. One report says that 50,000 cases are pending in the Supreme Court alone. Nobody knows when these cases will be disposed of. Also one does not know what is the rate of disposal of these cases either in the Supreme Court or in the High Courts and when the Supreme Court or the High Court's are going to dispose of the cases so that people get justice. And in this House so many times these issues have been discussed as to how to increase the efficiency of the judiciary. By efficiency J

mean quick, disposal of the cases. Although it has been discussed many times nothing has been done as yet. So, while supporting this, B'ill, I would like to know from the hon. Minister what steps have been taken to speed up to the disposal of the cases that are pending before the High Courts and the Supreme Court. There is one report that the Supreme Court itself receives about 40,000 writ petitions a year, out of which about 5,000 writ petitions are admitted. If it is a fact, how is the Supreme Court going to tackle this situation?

Now, there is a problem—and that problem also has been discussed in this House several times—that a large number of vacancies exist in the Supreme Court as well as in the High Courts. What steps has the Government taken to fill up these vacancies speedily? In the case of those who retire on superannuation, the date of superannuation is known to the Government. The Government should plan for filling up those vacancies. If somebody dies in harness or somebody resigns all of a sudden then it is a different thing. But retirement on superannuation is known to the Government. So there should not be any delay in filling up the vacancies. But there is a consistent complaint against the Government that the Government always delays in making appointments and as a result, a number of vacancies still exist in the Supreme Court as well as in the High Courts.

Apart from these difficulties, it is very difficult for the poor people of our country to get justice. Justice has become a very costly affair. Under the Constitution all citizens are equal before the law. That is very good. But it is extremely difficult for the poor people to get justice under the law of the land. What is the legal aid system? So many things have been said about the legal aid system. I want to know whether the Government has been able to evolve an effective legal aid system which actually comes to the aid of poorer sections of the people who are suffering from so many kinds of oppression in the society, who are suffering from social misery.

injustices. They cannot afford to go to court and even if they go to court, they cannot get justice. There are so many complications in the court that for poor people, for ignorant people, who cannot pay, who are not enlightened, who are not educated it is very difficult to get any justice there. With so many complications and redtapism of the judiciary, of the lower courts, the High Courts and the Supreme Court, the situation becomes worse indeed for the poor people. While this is so on one hand, on the other the lawyer's fee is quite a prohibitive factor. The honourable Minister is an eminent lawyer himself and he knows the amount of fee involved. Poor people cannot engage a lawyer, a lawyer who has some sense. That is why our present Chief Justice is on record saying that the judicial system of our country is on the verge of collapsing. This comes from the mouth of the Chief Justice himself. As I said, judiciary is a very important component of our system. Therefore, something should be done immediately and sufficient attention must be paid to the problem to remedy the system to make it a little more perfect, so that the people of country can get justice. I have great confidence in our honourable Minister. He is an eminent advocate. But so far I know, we see that he is so much busy in West Bengal politics that he has very little time left for looking after his department here. I do not know what his junior colleagues are doing. But as far as the honourable Minister is concerned, he is preoccupied in Bengal. That is why he cannot look after his department and the system here. I would request him to do some justice to his department while doing justice to his party in Bengal.

Before I conclude, there is another. While introducing this Bill and urging upon him to improve the system, I would like to say that the standard of judiciary—perhaps the honourable Minister will agree with me—is also falling day by day. What is the reason? Why are best persons not coming to the judicial service? There should be a probe into this. I would like to have statistics as to the number of brilliant boys from different universities opting for judicial service. In the past the best of boys issued come to the judicial ser-

vice. But I am afraid now that jrg_e 'or joining the judicial service is no longer there. Only some mediocre people are coming. Not only that. Because of political interference also in the judiciary many brilliant boy_s are not coming forward and the system is losing its standards day by day. In conclusion, I would also say that judiciary must also be made impartial. I know as communist that since our systemi is class-divided, is capitalist, j_n a class society justice also has class bias. A_s a result I find all our judicial pronouncements have a class bias in favour of the rich, of the capitalist and the 'haves'. Taking it for granted that this class bias will be there, I would like to point out that this class bias should not manifest itself so. very crudely. Sometimes it manifests very' crudely. What is happening in the High Court in West Bengal? There sometimes the High Court assumes itself as a super executive, overriding the executive, becoming the super-executive, as if they are ruling the State, as if they are, ruling the country. In West Bengal, so many land cases went to the Courts and the land-owners went to the Court_s and easily . got the injunction. The Government is going to take certain measures for land reforms and all these measures have been thwarted by the High Court which is easily granting injunctions in favour of the landowners. As a result, who are the sufferers? It is only the poor who are the sufferers peasants, the landless people who are the sufferers, ven the budga operation in West Bengal has been very much thwarted because the High Court intervened and a number of injunctions hav_e been issued by the High Court which put the Government in great difficulties. Now, if y<u go to West Bengal, you can see o"e thing. If anybody files a case againsj the Government, he will get an injunction ard he will win his case in the Hieh Court. So, sometimes this class bias becomes so crude that the people get disguised w'th the judiciary and the impartiality of the judiciary comes into question. The impartiality of the judiciary is being questioned because of this. So, T would like to make one request to the honourable Minirter, It is all rieht. Since it is a capitalist society the whole system is supporting the "<*" om'y and the judiciary also win support the rich. But there should be some limit. tl;eTe

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should be some decorum and mere saoulo be some moderation. With som-; modesty they should do it, i do not expect any impartial system of judiciary in a class-biased society. That is why my ,equest to th_e honourable Minister is that 'l,e should see to it that the -welfare measures undertaken by the State like land reforms are not thwarted by the judiciary by interfering as it is doing in West Bengal now. Thank you, Sir.

THE VICE-CHAIRMAN (DR. BAPU KALDATE); Now, Mr. Madan Bhatia.

SHRI MADAN BHATIA (Nominated). Mr. Vice-Chairman, "Sir, I rise to support this Constitution (Amendment) Bill and the connected Bill.

Sir, these Bills are not the price which the nation is seeking to pay to secure the impartiality and the independence of the judiciary. The impartiality of a judge does not come from the amount of money that you place in his hands. It comes from hist moral fibre. So, this is the tribute which the nation is seeking to pay to the tremendous service which the higher judicial institutions of the country have rendered to the Indian people. These Bills are also a tribute to the integrity of the higher judicial institutions of the country.

Sir, if you look at the Constitution, you will see that the Supreme Court and the High Courts constitute one of the most powerful bonds for the unity of India, whether by composition or by jurisdiction. If we take the composition of the High Courts, you will see that the Judges of the High Courts are appointed by the President of India, of course, in consultation with the Governors of the States. The Judges of the Supreme Court are appointed by the President of India., unlike the courts in other federal democracies like the United States, the jurisdiction of the High Courts and the Supreme Court is not ' limited to the interpretation of the Constitution alone °r to the applicability of he federal laws, but the jurisdiction of the High Courts and the Supreme Court of Inlia takes within its ambit every possible dispute which may arise in any part <# the country out of any particular law. This

his social ideas and concepts without any restraint.

Her third point which was the most important point, was 'hat no person can be deprived of his personal liberty except by a procedure which is fair and reasonable.

Her second point was that personal liberty does not mean merely freedom, from personal or physical restraint. The expression 'personal liberty' is of the widest amplitude, it takes within its ambit the right of a human being to exercise his intellectual his moral, his economic and

back. The Supreme Court has gone further. Right to livelihood has now been described by the Supreme Court as a part of personal liberty. Right of even access to the rest of India for the hill people by the construction of a road which will connect that little tiny village in the high mountains with the rest of the country has been taken by the Supreme Court as a Fundamental Right, as a part of personal liberty. This is the extent to which the Supreme Court has gone. This is how the Supreme Court has evolved the basic human rights of the Indian people. And it is in tribute to this tremendous service which has been rendered by the Supreme Court and the High Courts close on the heels of the Supreme Court that we stand here today to pay this tribute to the highest judicial institutions of the country by making this amendment in the Constitution.

Sir, it is no doubt, at the same time. I am not unaware of that basic constitutional doctrine, namely separation of powers. What is that doctrine? That doctrine provides that there should not be excessive concentration of powers in any of the three organs of the State, namely the judiciary or the executive or the legislature. If there is excessive concentration of power in any of these three powers, then according to Locke and Montesquieu, this would be the collapse of liberty. I do not mean to suggest that the Supreme Court and the High Courts the highest judicial institutions of the nation should concentrate within themselves the power which will be excessive and which will amount to encroachment on the powers of the executive or on the powers of the legislature. If Sir, the executive goes wrong, the Parliament and the Judiciary are there to correct it. If the Parliament goes wrong and makes laws which are unconstitutional, the Judiciary is there to "correct the Parliament. If the Judiciary goes wrong, there is no check in the Constitution except the inherent self-restraint. One of the famous American Judges has said that the only check and restraint on the exercise of judicial powers by the Judiciary is the inherent judicial self-restraint. Therefore, the principles of law which have been evolved, namely judicial activism and judicial

interest litigation—I am fully aware—have to be harmonised with the doctrine of separation of powers. What is judicial activism? The hon. Chief Justice of India has described this in these words. "A Judge is not an artisan; he is an artist who* not merely interprets the law but he creates the law, evolves the law in order to meet the new challenges which are thrown up from time to time by the country." This is judicial activism. And what is the doctrine of public interest litigation? The doctrine is that the courts on their own shall step in wherever there is an act of omission or commission or abuse of power or non-compliance with the Fundamental Rights of a citizen on their own and will come to the rescue of the citizens of the country. These doctrines are there. But no doubt, I have no doubt in my mind that these two doctrines will gradually find harmony with the doctrine of separation of powers. The doctrine of separation of powers was given by the Supreme Court itself and it would just close in one or two minutes. Sir, with these words. This was the well-known case of *Shrimati Indira Gandhi Versus Raj Narain*. The Supreme Court says regarding this doctrine of separation of powers that:

"The concentration of powers in any one organ may, by upsetting that fine balance between the three organs, destroy the fundamental premises of a democratic Government to which we are pledged. The three organs must act in concert, not that their respective functions should not ever touch one another. If this limitation is respected and preserved, it is impossible for that situation to arise which Locke and Montesquieu regarded as the collapse of liberty—the monopoly or the disproportionate accumulation of power in one sphere."

Sir, in the end I would respectfully submit that we are increasing the salaries of the judges, we are increasing the allowances of the judges and these will be a great national investment towards the independence of judiciary if after the retirement of a High Court judge and a Supreme Court judge he is entitled to the

[Shri Madan Bhatia]

ment. This will enable the hon. judges after retirement to live with the same dignity with which they were adorning the offices before their retirement. This will remove any possibility, any necessity of the hon. judges of the High Courts and the Supreme Court after retirement to look for another appointment with the Government or otherwise, and that will be the investment towards the independence of the judiciary. Thank you.

SHRI P. BABUL REDDY (Andhra Pradesh); Mr. Vice-Chairman, Sir, these two Bills, the Constitution (Fifty-fourth, Amendment) Bill, 1986. and the High, Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1986, are being considered together and in the House also all the sections are together in supporting the Bills. There is no difference of opinion. Sir, I was extremely happy to read that in trie Lok Sabha 400 Members, who were present when the Bills were being considered, have supported the Bills with one voice. Perhaps that is a new record. Of course, I am subject to correction. X think perhaps there was no other Bill which received the support of 400 Members till now.

Sir, I was very happy, and this is really a compliment to the working of judiciary in the country, that the Government was at least thinking of improving the conditions of the judges though belatedly. Sir, it was about 10 years back, i.e., on the 11th July, 1966, that a judge of the Bombay High Court resigned from his office declaring publicly the reasons which prompted the resignation. Even then in 1966, at that time the inflation was not of the present order, he said "The compensation which goes with the judge's position is very nearly vanished against the background of rising prices, growing inflation and high taxation. The present conditions of service are not consistent with the position which the office of a judge imposes on him and which he is expected to maintain." Sir, the judge who resigned then is no other than late Mr. Gokhate who later on became the Law Minister. In the year 1976. Mr. Gokhale tried to

make certain improvements. But unfortunately, I do not know the reasons why the Second Schedule was not amended to increase the salaries of judges Sir, before Independence, i.e., prior to 1947 a Judge of the High Court was drawing a salary of Rs. 4000 considered to be a princely salary. Sir, I remember Sardar Vallabhai Patel as Home Minister appealed to the judges to make sacrifices, to reduce their salaries so that the poor man living in this country, his condition could be bettered. Some judges responded voluntarily. They cut down their salaries. After the passing of the Constitution ' when everything is going up, the salary of the judges has been reduced from Rs. 4000 to Rs. 3500. This was the position in the year 1950. After 1956, the course of the last 36 years the salaries of all sections of workers are going up. I understand that one hon. Member mentioned in the Lok Sabha that the salary of a sweeper in the Premier Automobiles was Rs. 2500 per month. But a judge who decided industrial disputes living there gets only Rs. 1800 and he would be considering with tears the awful conditions of sweepers who get Rs. 2500 per month. This is the pitiable position in which the judges are placed. With this background, there cannot be two opinions and rightly the Lok Sabha also it was supported by 'all the Members who were present. I support all the amendments wholeheartedly but I have my reservations with respect to the amendment relating to staff car and 150 litres of petrol I do not know whether it has been worked out in monetary terms. I am not grudging; judges should be given all the facilities. But I feel many people may not have worked it out, I worked it out. It costs Rs. 5000 per month One thousand is the petrol cost; then one thousand minimum is the driver's salary; interest and depreciation would come to about Rs. 2000 and one thousand for maintenance, because once it is a Government car, the maintenance cost jumps up, because so many people, have to be fed. So, Rs. 5000 comes in monetary terms. I am not grudging; but I don't think they have applied their mind to this aspect. There are 480 judges in the High Courts, in the country. Poor people are suffering. But once again I

may repeat; I am not at a" grudging whatever facilities are provided to the judges. You be generous with the judges. After all in a country which has accepted the rule of law as the governing principle, judges who are the persons who should uphold the democratic values' ultimately and assure fundamental rights to the poor people, have got to be provided with all facilities. But there should be a limit on the generosity. What I humbly propose is that they can be given a liberal car allowance. Now they are being given Rs. 2500 (if they live in their own house, because they have to be provided rent-free accommodation. Now, instead of spending Rs. 5000]- you can suggest an alternative to them to accept Rs. 2500]- as car allowance. It would be a saving to the Government and they would gladly accept it. But here I think the provision made is a thoughtless provision. Perhaps, the reasoning is that when Ministers are given cars why not the judges? But Minister has got so many things. If there is fire, he has to go; if there is a strike somewhere, he has to rush there and he requires car to rush to so many places. But the judge goes in the morning to the court and safely returns home in the evening. Why should you give him a car? What will the driver do? The judge would be working..

SHRI BAHARUL ISLAM (Assam): Let me clarify that...

THE VICE-CHANCELLOR (DR. BAPU KALDATE): You can answer when you speak.

SHRI P. BABUL REDDY: I am sure Justice Baharul, Islam will support me in his own way.

SHRI BAHARUL ISLAM: Certainly I will support him.

SHRI P. BABUL REDDY: So, what should this driver do? The judge would be writing judgements, if he is vigilant; otherwise he may also be sleeping in the court, and the driver will be sleeping outside for 5-6 hours. Some thought should be given to it. One should be liberal, I would again say. But you have

to consider this aspect. I spent my lifetime in the court. I would be the last person to grudge it, to grudge the benefits being given to the judges. But this is a dubious benefit. On the other hand if you give him Rs. 2500 as car allowance, he will employ his own driver. He will see that his car is maintained properly. It is much better than the Government car. Time bell rings) I have a few submissions to make, because I spent my life in the courts. Give me five minutes more.

SHRI GHULAM RASOOL KAR
(Nominated); You can still go to court.

SHRI P. BABUL REDDY: But you will appreciate, from 1st January 1985, I gave up my lucrative practice to spend my time with you here.

Now, with regard to pending cases. Sir, there are about 1,40,000 cases which are pending in the Supreme Court. More shameful thing is that 2850 cases are more than 10 years old which are pending in the Supreme Court. And in all these cases, legal representatives have come on record. Sir, how long a man can live? He cannot live as long as the litigation goes. His life is shorter than the litigation. Then, it dies. Then, the legal representatives will come in in most of the cases by the time they go to the Supreme Court. Rent control cases. Some judges are tenant judges and some judges are landlord judges. They take pride. I do not understand. It is a shameful thing. The moment you say 'tenant', stay is granted. For ten years, it would be in the Supreme Court. My point is, the tenants as well as the landlords should get justice. There is no difference.

Then, Sir eleven judges' posts are vacant in the Supreme Court. Do they find it difficult to fill up the posts? After this vacillation and time-consuming process, it is doubtful whether they will select proper persons ultimately. We have passed a Bill in this House and it became an Act, a Constitution (Amendment) Bill, in regard to increase in the number of judges. It was only a Bill, not a Constitution

[Shri P. Babul Reddy]

(Amendment) Bill. But you are not taking steps to fill up the posts. What is the use of increasing the number on paper unless you appoint them? Then, 64 judges' posts are vacant in the High Courts. Proposals have been sent and they have been pending. They do not have time to appoint. The Chief Justices of the High Courts and the Chief Justice of the Supreme Court have approved. But for two years, it is pending. I do not want to go into the details. There was some dispute between the Chief Minister and the Minister of State for Law. I do not want to mention the name of the State. I do not want to go into that.

Then, regarding Benches, Justice Jaswant Singh Commission was appointed. He was a retired judge. There were three other members. High Court judges, to assist him. Some lakhs of rupees, if not crores, were spent to decide where to have a Bench in U.P. All the four members of the Commission were given cars, establishment, peons etc. They considered it for four years. Finally, they submitted a report. I would like to ask, can the Government itself not decide where a Bench should be? This is how you disown your responsibility. Should you appoint a judge for everything? It is a shameful thing. I will tell you what happened recently. In Kerala, one Minister resigned due to the observations of the High Court. The question whether he should be reinstated or not was referred to Justice Mathew, an eminent judge. I have great respect for him but at the same time, I pity him that he accepted the job. To decide whether a Minister should be reinstated or not, a judge has to be asked. He submitted the report. This itself is a shameful thing. Then, What happened? This is more interesting. "This was again referred to another retired judge Justice Janakiamma, to decide how this recommendation should be implemented. This is a shameful thing. It is unfortunate, eminent judges accept such assignments. They are asked to submit a report within 24 hours and this

is served after 12 hours. He is given 12 hours and he is very happy to accept it. Within a matter of 12 hours, he is asked to submit a report. The judges should be careful. They should not only get their salaries, but they should maintain their dignity also. This country which is 300 kms long and 200 kms wide..

THE VICE-CHAIRMAN (DR. BAPU KALDATE): It is 2,000.

SHRI P. BABUL REDDY: Sorry. It is 3,000 and 2,000 kms. In such country, what is the harm in having benches of the Supreme Court. Time and again, it has been debated, demand has been made. The answer given is that the Supreme Court had unanimously resolved and said 'No'. With great respect, I would like to point out that there is a principle in law, nobody can be a judge in his own cause. Does it not apply to the Supreme Court? It is a basic principle- It is one of the fundamental principles of natural justice. Nobody can be a judge in his own cause. If a judge is interested, he should not deliver the judgement. Are Supreme Court judges not interested in this? They do not want to go to Kerala. They do not want to go to Bangalore. They want to be in Delhi and rule, sitting by your side. Why should you think article 130 comes into the picture? My own reading is it does not come into the picture. It is not an obstacle. Supposing it is an obstacle. The Chief Justice has to decide where a Bench should be and he will send the proposal to the President of India. I think, we should amend this provision. -There is no disrespect involved to the Supreme Court. I have great respect for the Supreme Court, but why should it be left to them? It is a matter for the people of this country to decide. You can consult them, appoint the Chief Justice directly, but once he is appointed his word is final in the matter of Benches. Give it a serious thought. I am not saying it in a light way. Have a Bench in Bangalore. I am not selfish, I am not asking for Hyderabad. Have a Bench in Calcutta where the entire Assam, Tripura, Mani-pur, Meghalaya people can go instead of coming all the way here. Sir, you

know it much better than me. They have to spend two weeks in coming and going to Delhi. Notices are returnable within two weeks and the poor fellow has to spend two weeks to go and come back by train. Such is the situation. What is the harm ^m having Benches? Supreme Court is doing an excellent work. (*Time bell rings*). I know the got-ing is to take pl^{ac}e at 5.30 p.m. Wh'at is the hurry? Perhaps you were not there when the Chairman announced this. And I am not going up to 5.30.

THE VICE-CHAIRMAN (DR. BAPU KALDATE); I know that but I will not allow that also. Please complete now.

SHRI P. BABUL REDDY: Supreme Court is doing excellent work, there is 'no doubt about it. Its image has gone very high after the introduction of the concept of public interest litigation. The present Chief Justice has contributed a lot in upholding the image of the judiciary in this.

But, Sir, there is a limit to their working also. I am afraid, if the judiciary does not keep to its limits they would be denied of their legitimate limits also. For example, I would refer to medical college admissions. If the State makes a law or a rule saying that this is the reservation Supreme Court can say it is bad or good but where is the right of the Supreme Court to say that you have 30 per cent from all over India, 20 per cent for post-graduates and so on? When another petition was filed, they reduced the reservation from 15 per cent to 10 per cent. I want to know, are they the registrants of this country? Are they providing for reservations? Reservations are only enabling provisions. If one State is not making any reservations for the Scheduled Castes and the Scheduled Tribes, the Supreme Court cannot compel them, they have no right to do it. There is another example of distribution of Maruti cars. Some of the persons in collusion with them went to the Supreme Court and the Supreme Court has said that you can give from direct quota to army

personnel of the rank of brigadier, you can give to the opposition leaders, to the Ministers, to the Joint Secretaries. What is this? Is it the function of the Supreme Court to say to whom a Maruti car is to be given in direct quota? They have provided for them selves also. At least, they should have been graceful in saying, don't give it to the Supreme Court Judges. It would have been graceful for them. But then are they to give the guide lines? If that is so, they could better sit as the managing directors of the Maruti car. Sir, all this I have said not against the spirit of tilting the authority of the Supreme Court. I am always interested in upholding the dignity of the judiciary of this country. I am one who is interested in seeing that the courts discharged their functions properly so that democracy could live longer in this country. This it in that spirit that I have said all this.

SHRI BAHARUL ISLAM: Mr. Vice-Chairman, Sir, of course I partly agree to the statement made by my friend, Shri Babul Reddy. I am myself not clear about the meaning but I will put my own meaning of new section 22B which says, every Judge shall be entitled to a staff car and 150 liters of petrol every month or actual consumption of petrol per month, which-4.00 p.m. ever is less. My understanding is that a Judge will not be entitled to a car. He will be entitled to the use of a staff car. The car will belong to the staff, of the Supreme Court or of the High Court. It will be at the disposal of the Chief Justice' of the High Court or the Supreme Court.- The Judge will be entitled to its use in order to go to the court and come back from the court. This is my understanding. When I myself was a Judge in the High Court, we got nothing. Towards the end we got some car allowance of Rs. 300 to purchase petrol. But we had to have our own car. When I was a Judge in the Supreme Court, at that time also we had to have our own car. But we were paid a car allowance or petrol allowance of Rs. 400 or something of that sort. That was the idea. Later

[Shri Baharul Islam]

on, once we were told that the Chief Justice of the Supreme Court, Mr. Chandrachud, saw the Prime Minister, Shrimati Indira Gandhi, and told her about the difficulties of the Judges of the Supreme Court. We were told that she was surprised to know that the High Court/Supreme Court Judges were not provided with cars. She had been under the impression that Supreme Court Judges were provided with cars. Thereafter four staff cars were given to the Supreme Court. Whenever any Judge was in difficulty, then a staff car would come and would take him to the court; otherwise the Judges had to have their own cars. But the Judges used to get petrol/car allowance etc. So my reading of the section is that the car will belong to the Supreme Court, it will be called staff car, the Supreme Court Judge will be entitled to its use in order to go to the court or for coming back from court. Otherwise if the car belongs to the Judge himself, for any and every kind of use, certainly I cannot agree to that. For example, during the vacation a Judge from Madras or a Judge from Assam may take a car to Delhi and he may take the car and have a round of the country. This is not the idea, according to me. A car should be given to persons whose services are 24 hours necessary for the country—e.g. police officers, S.P.s and all such people.

Now I come to the question regarding Benches of the Supreme Court. I entirely agree on this point. I was arguing in the Consultative Committee and I also spoke here. The idea of the Supreme Court was that the image of the Supreme Court will be diluted if a Bench is created. I don't think so. We belong to the country of Mahatma Gandhi. At one time Mahatma Gandhi was equated to the Commander-in-Chief. The Commander-in-Chief of the British days was a most powerful man in India. At his command there would be a war. But on the other hand, it was Mahatma Gandhi who could command the

masses of India. And that Mahatma Gandhi was waging the War of Independence from a Bhangi Colony. Therefore, we must not be enamoured of a beautiful, majestic house from which only we can dispense justice. We can live in a simpler house and administer justice. It is possible. Therefore Mr. Babul Reddy is correct in saying that justice must reach the doorsteps of the poor people. Most of the litigants of our country are poor people. They cannot come from Madras to Delhi, from Manipur to Delhi. It is very expensive; they can not come. Therefore, justice should go to their doorsteps. I do not find any reason as to why Supreme Court must not have Benches—one in the South, one in the West, one in the East—

SHRI GHULAM RASOOL KAR: Like the five Zones.

SHRI BAHARUL ISLAM: I leave the details to experts, but this is my conception.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): It is a very good suggestion.

SHRI BAHARUL ISLAM: In fact, it is a pity that when a reference was made by the Government of India to the Chief Justice of the Supreme Court when Justice Chandrachud was there, the matter was discussed in the Full Bench but there was no unanimous decision. It was postponed from time to time, and thereafter Justice Chandrachud retired. Now I understand that the reply has come from the Chief Justice. He says, "No-It will be a dignified District Court." etc. etc. I do not understand. We must not forget Mahatma Gandhi. He had a great lesson to teach us. Jesus Christ said, "The greatest among you is he who is the humblest". If we can become humble, we can do great work in small buildings also and big buildings are not necessary.

Now I come to my own point. I did plead in this House, in the Consultative Committee and elsewhere also that Judges should be given higher salaries and allowances because they are suffering in silence. They could not speak out, normally they do not speak out. In our country the Government is sympathetic, I must say. From time to time they were enhancing the allowances. Now this time they have come with a Bill, and We are very thankful to the Government and particularly to the Ministry of Law and Justice. The Judges will get something more. Not a good sum. Apparently the amounts look so handsome, from Rs. 5000 to Rs. 10,000, from Rs. 4,000 to Rs. 9,000. It is not really so because now the dearness allowances have been merged in the salary itself. So, they may appear to be large. But a large slice of it will go by way of income-tax. Formerly when there was the allowance for every Judge, of Rs. 2,225 that was not taxable. Only the salary was taxable. Now the entire amount will be taxable. Even then, they will get something more. There will be enhancement of gratuity and pension etc, etc. It is a welcome gesture on the part of the Government.

Regarding the arrear cases. I can give you the staggering figures of the pending cases. By the end of January, 1985 in the Supreme Court there were 46,486 regular cases pending for hearing, and admission and miscellaneous matters. 1,05,013. Of these, three years old are 22,586; five years old, 2,540; ten years old, 846; fifteen years old, 482. These are the staggering figures. In 1986, three Judges, namely, Justice Thakkar, Justice R. N. Jaisr and Justice Eradi were doing commission works. Therefore, I do not think that during 1986 there has been any improvement in the disposal of arrears of cases. Now, very recently this Parliament enacted the Supreme Court (Number of Judges) Amendment Act. Eight new posts have been created. But I don't think that the Act has been implemented. I

said when I made my speech on that Bill that there were no sufficient number of chambers for these extra Judges, that there were no additional court rooms. I understand now at least two new courts are being set up in the building itself. I hope, these fresh Benches will start working in the Supreme Court soon. I request the Government to make appointment of the eight new Judges as early as possible so that they may function and some arrears can be disposed of.

About, the arrears in the High Courts, in July, 1986, three-year old cases were 5 lakhs; ten-year old cases were 30,000.

About vacancies, in the entire country, the sanctioned strength of the High Court Judges is 400. But in actual practice there are 350 Judges only, 50 Judges less. The posts of Additional Judges are 31, but the Additional Judges appointed are only 12. Therefore, there are fifty plus nineteen, that is, sixty-nine vacancies in the country in July, 1986 this year. These vacancies should be filled up as early as possible. But recently there was a controversy that the Law Ministry did this, that the Chief Minister of a particular State did this. These things can be easily solved under the leadership of the Chief Justice concerned. If the Chief Justice is fair and if he means business, the recommendations and appointments can be made smoothly. I have my own experiences. If you kindly allow me then with all humility, I can say that if the Chief Justice is free from bias and community bias or any other bias then he can select a few names from amongst the Advocates or from amongst the Judges of the subordinate judiciary. He can take the Chief Minister into confidence and discuss what can be done. From that point of view, the Chief Justice of Guwahati High Court has to face great difficulty, because he has to tackle with five Chief Ministers, now, it will be six Chief Ministers. Therefore, easy process is to invite the Chief Minister, over a cup of tea and tell him frankly "these are the vacancies and these are the names

[Shri Baharul Islam] • I want to recommend. Do you have any objection? Or do you have any suggestion?" These things can be chalked out. Similarly, it can be done with the other Chief Ministers and a consensus list can be prepared and there will be no difficulty. This can be done in the case of Assam. But so far as other States are concerned, it is much easier, because the Chief Justice of a High Court has to deal with only one Chief Minister. In some cases like Punjab and Haryana the Chief Justice has to deal with two Chief Ministers. That way if the Chief Justice is fair, I respectfully believe then he can do a lot of work smoothly in making appointments.

Similarly, Chief Justice of India also can do the same thing. He can request the Chief Minister of each State over a cup of tea with him and discuss these matters so that problems, if any, can be solved and vacancies filled up immediately. So far as the Law Minister is concerned, he may have the difficulty. Suppose he accepts • then, he has to go through the antecedents of a particular candidate. It is necessary. I have my own experiences. Some names have been sent after taking the consent of the Chief Ministers, Chief Justices, etc. Now, there are intelligence reports and CBI reports about their conduct and certain adverse remarks. Certainly they cannot be accepted. These are the difficulties and they cannot accept. If these difficulties are solved, I believe, appointments can be made quickly. I request the Law Minister to kindly find out some ways and means to solve this problem as early as possible so that vacancies can be filled up to dispose of arrears.

Now, I want to say a few words about the Guwahati High Court. I had just indicated the Guwahati High Court originally had five States under its jurisdiction. Now, there will be six States because Mizoram has been newly created. Now every one of the small States— Nagaland, Meghalaya, Manipur, Tripura and now Mizoram originally demanded a separate High Court for their own reasons. The number of cases won't justify. The main reason behind their demand

was that the Chief Justice of Guwahati High Court could not constitute Benches for all these areas. Therefore, the people were suffering. Even for an ordinary bail application or for habeas-corpus petition they have to run to Guwahati. Therefore, they demanded a separate High Courts. They said that they could not run like this. They also said that the Chief Justice is either an Assamese person or a non-tribal person and don't care for their needs. So that was their demand. But the establishment of a High Court is an expensive thing. A permanent Bench is more desirable and less expensive also. Now in all fairness, it must be said that States have given up their demand for separate High Courts. They have agreed to a permanent Benches in their States. In the Act creating Mizoram as a State, there was a promise that there would be permanent Benches in all the States, if that be so, Guwahati High Court should have 15 Judges is the minimum. I, therefore, request the Law Minister to formally create 6 more posts in the Guwahati High Court. As soon as these posts are created, they may be filled up immediately so that all States may get justice from the Guwahati High Court. Now, I would like to mention a few points about subordinate judiciary in the country. Now, as the salaries and allowances of the High Court judges and Supreme Court judges have been increased, there will be no reason as to why the subordinate judges should be ignored. I understand and I am not oblivious of the fact that this is the responsibility of the State. But even then, they are in such a bad condition that I cannot describe the same. I saw some of the Magistrates and Judicial Magistrate sharing houses with other people which is very undesirable. Judicial officer should be as aloof as possible but due to exorbitant rents, how can they pay that much rent? Therefore, they are sharing accommodation with others. At the same time, I must say that Government has allocated a sum of Rs. 14 crores 94 lakhs for the subordinate judiciary of the country to construct houses and I would only request the Law Minister to see that this scheme is implemented as early as possible so that all the

judicial officers of the subordinate judiciary also get their residential houses, otherwise, it will be undesirable for these judicial officers to share houses with others or to go without houses. With these words I support this Bill.

SHRI V. RAMANATHAN (Tamil Nadu); Mr. Vice-Chairman, Sir, the other House supported this Bill, I too am supporting the Bill though it is a long waited one. The salaries of the judges of the Supreme Court and the High Court are very poor and it has to be raised. It is good that at least now the Government has come forward with a Bill to raise the salaries, allowances and other facilities of the judges of the High Courts and Supreme Court and I support this Bill wholeheartedly as the other House has supported it. But one thing that I want to say is that pendency of the cases in High Courts, Supreme Court and other courts are due to so many factors, different members of the two Houses have expressed their feelings and how number of cases has risen. What I feel that pendency of cases, petitions, miscellaneous petitions and other things are due to the lower courts which are not functioning properly, which are not properly administering justice. That is one of the reasons for the accumulation of large number of petitions in the higher forums. On that score, we must take care the appointment of lower court judges, if it is properly done, we can reduce, some extent, the pendency of cases in the higher forums. Furthermore, a judge should conduct himself well. His behaviour should be above board and he should render justice in the manner that not only right but it seems to be right. And that too for a right reason. It must so be felt by the judges that they have borne all these things in mind.

As regards the appointment of High court judges, advocates having good practice should be considered and they must be given the responsibility of functioning as High Court and Supreme court judges. What is seen is that people who are rejected ones and those who are not having good practice, be-

cause of their political influence or other influence are allowed to get into the forum and the forum gets defamed and people also lose confidence in the judges and the judiciary.

[The Vice-Chairman (Shri M. P. Kaushik) in the Chair.]

Therefore, while making the appointment of judges, all these factors must be borne in mind. Now, regarding the appointment of High Court judges, the policy which is being adopted at the moment is that the High Court judge must come from other places and not from the local area of the same State. I want to bring it to the notice that this policy must be reviewed" and it must be reconsidered. The judge who is acting in a particular High Court must be a person having a knowledge of local language or regional language. He must be knowing the culture of the people. He must be knowing the mind of the people and the behaviour of the people. Then only it will be possible for him to administer proper justice in that area. If a man from a far-off place, if a man from Nagaland or from the north-east frontier is brought to the extreme south, he will not be able to know the culture and behaviour of the people or to understand the feelings of the people or the nature of the case, unless he is well-versed in that language. An argument may be raised that here in Parliament people from different parts of the country are coming, they are expressing themselves in different languages and they are understanding what is going on here; therefore, the judges also may appreciate what is actually going on in that area. That is not correct, I want to submit. Many people here who come from other areas do not know the language that is mainly used here, that is Hindi. Many people here do not understand even the interpretation. We are not able to fully understand from the interpretation also. Therefore, that difficulty will arise even in the High Courts. If a person from some other area is appointed as a High Court judge, he will not be able to administer justice properly. He should also understand the feelings of the people in that area.

[Shri V. Ramanathan]

Furthermore, justice is to be done without any blemish, without any murmur from the public. The judges, after their retirement, should not be given any assignment. If any assignment is given, they begin to go with the current. They begin to gauge what is beneficial for them even before retirement. They begin considering the areas in which they can improve themselves. Therefore, a High Court judge or any judge should not be given appointment after his retirement.

Till now, for the past 30 to 40 years, no impeachment has been made against any Supreme Court or High Court judge. But it cannot be said that no judge has deviated or has erred. I feel very sorry to say this. Because there is no impeachment, it cannot be said that the judiciary is functioning above all these things and it is without any problem. The High Court judges are taking part in all cultural functions. Whenever an opportunity comes to take part in any cultural function, film function, communal function, caste function or communal conference, they take part without any fear because they are very sure that no impeachment is going to be made against them. They are very sure about it. Without any fear they take part in communal functions, in film festivals, in cultural functions, where so many litigants, so many officers and the general public come in direct contact with them. If he goes to a cultural function in a cinema academy and distributes prizes to cine stars he spends some time in a cool manner. He is not able to forget it for another ten to fifteen days. And with the same memory he sits in the dais and he administers justice. The High Court judges or judges administering justice should not take part in such public activities, public functions. There must be some code of conduct. We are talking about a code of conduct for Governors, a code of conduct for high officials. Why not have a code of conduct for judges? At least there can be a self-imposed code of conduct for the High Court judges and the Supreme Court judges. Why can't they have a code of conduct? They can themselves

create such a code of conduct. If there is a violation, there must be an agency to supervise and question them. Now the functioning of the Supreme Court judge; and the High Court judges is not scrutinised by any forum. Unless a scrutinising agency is there, there cannot be any control. They may say that if scrutiny comes, the independence of the judiciary may go away. They may give that as an argument. As my friend, Mr. Babul Reddy has said, they write judgments or issue orders to their convenience, but when it affects them, they say no vigilance should be there. No code of conduct should be there; no authority should question their integrity; nobody should scrutinise their honesty. There is a Vigilance Section in High Court but it is under their control. What is the Vigilance Section doing? It is only trying to find out cases against its own officials. How many judges have been examined by them so far? How many cases have been gone into against judges? Therefore there must be an agency to scrutinise and supervise all these things. With these words I conclude.

श्री गुलाम रसूल कोर : वाइस चैयरमैन साहब, मैं इस बिल की पुरजोर तारीफ करता हूँ। हमारे जमहूरी तन्त्र निज़ाम में अगर इस तरह के निज़ाम का मजबूत और ताकतवर बनाना है, कायम रखना है, तो ज़ुडिशियरी का आज़ाद होना इससे पसंद होना और बाधातुर होना एक मायनी रखता है। जहाँ तक हमारे मुल्क की ज़ुडिशियरी का ताल्लुक है—खाह वह सुप्रीम कोर्ट हो या हाई कोर्ट के जजेस हों, दुनियाँ भर में उस की शौहरत है लेकिन बाज़ आँकत मुझे एज ए ले में देखने का मौका मिला है। न तो कोर्ट में जाता हूँ, मैं ने वकालत नहीं सीखी है, और न मैं अदालतों में जाता हूँ लेकिन आम लोगों के साथ वास्ता पड़ता है। इस मुल्क में किस गरज के लिए लोगों ने कुर्बानी दी थी—एक मसावात एक मसावी निज़ाम कायम करने के लिये लेकिन जब हमारा कॉन्स्टीट्यूशन बना उस में हमारे कॉन्स्टीट्यूशन का जो प्रियेबि है—सेकुलर डेमोक्रेटिक और सोशलि

स में हमारे जजेज ऐसे हैं कि जो पिपिटलिस्ट क्लास या फ्यूडल क्लास को बलांग करते हैं। जब तक हमारे पास, मारे सामने ऐसे जजेज हैं जो कमिटेड टु दि कांस्टीट्यूशन हों, हमारा काम ठीक से चलता है। मगर एक जज जो पिपिटलिस्ट क्लास में पैदा होता है, फ्यूडल क्लास में पैदा होता है, जाहिरा तौर पर उस के जेहन पर उस का असर रहता है, अपने बचपन का असर रहता है और वह अपनी तामीन और तरबियत से ताल्लुक रखता है। बालिग होने के बाद उस का जेहन बनता है आगे जा कर और कितना भी बालातर एक जज हो उस के जेहन पर अपने निजाम का, अपने माहौल का, अपनी सोसाइटी का, अपने इर्दगिर्द के समाज का असर रहता है। ग्राम तौर पर हिन्दुस्तान के लोग 70, 80 परसेंट ऐसे हैं जो गरीब तबके के साथ मिडिल क्लास के साथ ताल्लुक रखते हैं। हमारे जजेज का जहां तक ताल्लुक है, उन के दामन साफ हैं। उन के जेहन साफ हैं। लेकिन फैसला देने के वक्त उन के बचपन का माहौल जो होता है जो उन का कैपिटलिस्ट क्लास होता है, जो फ्यूडल क्लास के होते हैं उस सब का उन के जेहन पर कुछ न कुछ असर होता है और उन के जजमेंट का इंटरप्रेटेशन ऐसा निकलता है कि जो उस क्लास को ही मदद करता है। लिहाजा जरूरत इस बात की है कि जजेज को एप्वाइंट करते वक्त उन के क्लास को सामने रखना चाहिए। उन का घरेलू हिस्ट्री को सामने रखना चाहिए। उन के सेकुलर किरदार को सामने रखना चाहिए। क्या वह सेकुलर है, क्या वह फ्यूडल है, कैपिटलिस्ट है या वह ग्राम हिन्दुस्तान की तरह से रहते हैं जो कमिटेड टु दि कांस्टीट्यूशन है। लिहाजा मैं ला मिनिस्टर साहब से गुजारिश करूंगा कि एज ए ले मैं जब मुझे कोर्ट जाना पड़ता है वहां ऐसे बकला रहते हैं जो आपस में मिल कर, एक दूसरे के साथ मिल कर तारीफ लेते हैं और जज लोग उन के साथ एग्री करते हैं। मैं आप से यह कहना चाहता हू कि रिट्स की दरखास्त पेश होती है उन की तामीन और तरबियत में भी

जुडिशियरी रुकावट डालती है। मेरे पास ऐसे केसेज हैं कि जहां गवर्नमेंट ने चाहा, जहां कालोनीज तामीर होनी चाहिए, जहां ग्राम तामीर होनी चाहिए, जहां सरकार जमीन को या पास्चर जमीन को लेना चाहती है, वहां 10-15 साल उसको लेने में लग जाते हैं फैसला नहीं होता है। सड़के तामीर करनी हों या कारखाने तामीर करने हों, रिट्स की हवा इस मुल्क में फैली हुई है चाहे वह हाई कोर्ट हो या सुप्रीम कोर्ट हो। मैं कोई यहां पर जजमेंट की या फैसले की नुक्ताचीनी नहीं कर रहा हूँ लेकिन हमको ऐसे तरीके अपनाने चाहिए, ऐसी डाइलेक्टिव देनी चाहिए, ऐसा तरीका अपनाना चाहिए कि हर मामले में स्टे नहीं मिलना चाहिए। एक अदालत स्टे दे देता है तो दूसरा उसको बैकट कर देता है। उसका नतीजा यह होता है कि गवर्नमेंट को तकलीफ होती है। लिहाजा मैं अपने लॉ मिनिस्टर साहब से कहना चाहता हूँ कि जजेज को अपाइंट करते समय उनकी इंटिग्रिटी को देखना चाहिए, यह देखना चाहिए कि सैक्युलर पालिसी के बारे में उनको कोई वहम तो नहीं है; इस मुल्क में जो फिरकापरस्ती की हवा फैली है, उसने हमारे दिलों को कमजोर कर दिया है। अगर हिन्दुस्तान में यह फिरकापरस्ती बढ़ गई तो हमारा जो निजाम है जो डेमोक्रेसी है, वह बरबाद हो जाएगी, जुडिशियरी में आपको उन लोगों को रखना चाहिए जो सैक्युलर हों, जो सैक्युलर निजाम को मदद करना चाहते हैं। यह अफसोस की बात है कि हम 40 साल की आजादी के बाद भी सोशलिस्ट निजाम को नहीं कर पाए। लेकिन हमारा मकसद यह है कि हम सोशलिस्ट निजाम में अमीर और गरीब में फर्क कम करें, ग्राम सौदा लोगों को जस्टिस दिलाने में मदद करें। आज जरूरत इस बात की है कि हम हर मामले में आगे बढ़े आज औरतो को जजों के रूप में भरती करने में आपको क्यों रुकावट आती है? आज आपके जज कलकत्ता में, दिल्ली में, मद्रास में हैं, लेकिन लोवर कोर्टों में आप उनकी बहाली क्यों नहीं करते हैं? औरतें क्यों आपके इस मुल्क में नहीं हैं जो कि

[श्री गुलाम रसूल कार]

ला जानती हैं? बहुत सी औरतें हैं जो ला जानती हैं और हाई कोर्ट में, औरतें काम कर रही हैं। लेकिन जहरत इस बात की है कि हमें औरतों को आगे लाना चाहिए, उनकी हिफाजत करनी चाहिए। लेकिन प्रैक्टिकल में हम उनको आगे नहीं ला रहे हैं। आप यह रूल बना दें कि एक तिहाई औरतें मुकर्रर होनी चाहिए। हाई कोर्ट में और सुप्रीम कोर्ट में भी एक तिहाई औरतें मुकर्रर होनी चाहिए। औरतो को इसाफ मिलना चाहिए। उनको समाज में बढ़ाई और समाज में बग़ावत का मौका मिलना चाहिए। 60 वहाँ पर आपके जज हैं। मैं अपनी रियासत की बात करता हूँ। वहाँ पर 9 जज हैं, उन में से 4 जजों की मुकर्ररी नहीं बाकी है। क्यों नहीं आप उनको मंक मुकर्रर कर पाते हैं। वहाँ के चीफ जस्टिस और गवर्नर को ब्रैटकर फैसला करना है। सेशन जजों को प्रमोशन देनी चाहिए। चीफ जस्टिस और गवर्नर को नए फौरी तौर पर उनकी बहाली करनी चाहिए जो कि डेमोक्रेटिक नज़ाम पर यकीन रखते हैं उनकी बहाली करनी चाहिए जो इसमें आपको कौन सी दिक्कत है?

हमारे रियासत की टोपोग्राफी ऐसी है कि एक रीजन लददाख है, दूसरा जम्मू है। जम्मू के लिए 9 में से 2 मुकर्रर करना चाहिए, उसी तरह से लददाख रीजन के लिए एक होना चाहिए। वे लददाख में चार महीने रहते हैं, उनको बाई एयर आना पड़ता है, फिर वापस जाना पड़ता है। इसलिए 9 में से जो एक लेह में और एक को जम्मू लददाख डिवीजन में रखना चाहिए। तो जो 4 जजों की जगह खाली पड़ी हैं, उनको फौरी तौर पर भरना चाहिए। और उन पर फौरी अमल करना चाहिए। मैं आनरेबल ला मिनिस्टर साहब से अर्ज करना चाहता हूँ कि उनके जहन में यह होना चाहिए कि हम ऐसे जजों मुकर्रर करें जो कामि-टेड टू द कंस्टिट्यूशन हो कामिटेड टू द

कंटरो हो कामि टेड टू द नेशन हो, कामिटेड द निजाम हो। जिनका जहन फिरकापरस्त हो, जिनका जहन फ़ूटल बलास का हो जिनका जहन कैपेटलिस्ट हो उनको जजों मुकर्रर न किया जाए। इतनी ही मरं अर्ज है। इसी के साथ मैं इस बिल के पुरजोर ताईद करता हूँ।

[श्री गुलाम रसूल कार] †

چھو مین صاحب - میں س
کی کی پوروزور تائید کرتا ہوں -
ہمارے چھوڑی طرز نظام میں اگر
س طرز نظام کو مضبوط اور طاقتور
قائم ہے۔ قائم رکھنا ہے۔ تو جو تیشیری
کا آزاد ہونا۔ انصاف پسند ہونا۔ اور
بالآخر ہونا۔ ایک معنی رکھتا ہے۔
جہاں تک ہمارے ملک کی جو تیشیری
کا تعلق ہے۔ خواہ وہ سپریم کورٹ
ہو یا ہائی کورٹ کے ججز ہوں۔
دنیا بھر میں اس کی شہرت
ہے۔ لیکن بعض اوقات مجھے دہرایا ہے
میں نے دیکھنے کا موقع ملا ہے۔
نہ تو میں کورٹ میں جاتا ہوں۔
نہ میں نے وکالت سیکھی ہے۔ اور نہ
میں عدالت میں جاتا ہوں۔ لیکن
عام لوگوں کے ساتھ واسطہ پڑتا ہے۔
اس ملک میں کس غرض کے لئے
لوگوں نے قربانی دی تھی۔ ایک
مساوات۔ ایک مساوی نظام قائم
کرنے کے لئے۔ لیکن جب ہمارا
کانسٹیٹوشن بنا اس میں ہمارے
کانسٹیٹوشن کا جو پری ایمل ہے۔
میکولر ڈیموکریٹک اور سوشلسٹ
اس میں ہمارے ججز ایسے ہیں
کہ جو کپلسٹ کلاس یا فیوڈل
کلاس کو بلانگ کرتے ہیں۔ جب
تک ہمارے پاس۔ ہمارے سامنے
ایسے ججز ہیں۔ جو کمیٹیڈ تو

† 1 Transliteration in Arabic Script.

دی کانستٹی ٹیوشن میں۔ ہمارا کام
تھیک سے چلتا ہے۔ مگر ایک جج
جو کپیٹلسٹ کلاس میں پیدا ہوتا
ہے۔ فیوئل کلاس میں پیدا ہوتا ہے۔
ظاہری طور پر اس کے ذہن پر اس
کا اثر ہوتا ہے۔ اپنے بچپن کا اثر رہتا
ہے۔ اور وہ اپنی تعلیم اور تربیت
سے تعلق رکھتا ہے۔ بالغ ہونے کے بعد
اس کا ذہن بدلتا ہے۔ آگے جا کر
کتنا بھی بالاسر ایک جج ہو اسکے
ذہن پر اپنے نظام کا۔ اپنے ماحول کا
اپنی سوسائٹی کا۔ اپنے ارد گرد کے
سماج کا اثر رہتا ہے۔ عام طور پر
ہندوستان کے لوگ ستر۔ اسی پرسیٹ
ایسے ہیں۔ جو قریب طبقہ کے ساتھ
مقابل کلاس کے ساتھ تعلق رکھتے ہیں۔
ہمارے ججیز کا جہاں تک تعلق ہے۔
ان کے دامن صاف ہیں۔ ان کے ذہن
صاف ہیں۔ لیکن فیصلہ دیتے وقت
ان کے بچپن کا ماحول ہوجاتا ہے۔
جو ان کا کپیٹلسٹ کلاس ہوتا ہے۔
جو فیوئل کلاس کے وہ ہوتے ہیں۔
اس سب کا ان کے ذہن پر کچھ نہ
کچھ تو اثر ہوتا ہے۔ اور ان کے
ججمنٹ کا انٹریپرٹیشن ایسا نکلا
ہے کہ جو اس کلاس کو ہی مدد
کرتا ہے۔ لہذا ضرورت اس بات کی
ہے۔ کہ ججیز کو ایمانداری کے وقت
ان کے کلاس کو سامنے رکھنا چاہئے۔
کیا وہ سیکولر ہیں۔ کیا وہ فیوئل
ہیں۔ کپیٹلسٹ ہیں یا وہ عام
ہندوستانی کی طرح سے رہتے ہیں

جو کمیٹیڈ تو دی کانستٹی ٹیوشن ہے۔
لہذا میں لا ماسٹر صاحب سے
گزارش کروں گا کہ ایسے اے اے میں
جج مجھے کورٹ جانا پڑتا ہے۔
وہاں ایسے وکلا رہتے ہیں جو آپس
میں ملکر۔ ایک دوسرے کے ساتھ
ملکر تعریف لیتے ہیں۔ اور جج
لوگ ان کے ساتھ ایگری کرتے ہیں۔
میں آپ سے یہ کہنا چاہتا ہوں
کہ رٹس کی درخواستیں پیش ہوتی
ہیں۔ ان کی تعمیل میں بھی
جوتھیری رکارڈ ڈالتی ہے۔ میڈرے
پاس ایسے کیسز ہیں۔ کہ جہاں
کورنٹ نے چاہا۔ جہاں کالونیز
تعمیر ہونی چاہئے۔ جہاں شاپس
تعمیر ہونی چاہئے۔ جہاں سرکار
زمین کو پاسچر زمین کو لینا
چاہتی ہے۔ وہاں ۱۰-۱۵ سال
اس کو لینے میں لگجاتے ہیں۔
فیصلہ نہیں ہوتا۔ سرکاری تعمیر
کرنی ہوں۔ رٹس کی ہوا اس
ملک میں پھولی ہوئی ہے۔ چاہے
وہ ہائی کورٹ ہو یا سپریم کورٹ ہو۔
میں کوئی یہاں ججمنٹ کی یا
فیصلہ کی نکتہ چیلی نہیں کر رہا
ہوں لیکن ہم کو ایسے طریقے اپنانے
چاہئے۔ ایسی ڈائریکٹیو دینی
چاہئے۔ ایسا طریقہ اپنانا چاہئے۔
کہ ہر معاملہ میں اسے نہیں ملنا
چاہئے۔ ایک عدالت اسے دیتی ہے
تو دوسری اس کو ویکوٹ کر دیتی
ہے۔ اسکا نتیجہ یہ ہوتا ہے کہ

[شری غلام رسول کار]

گورنمنٹ کو تقاضا ہوتی ہے۔ لہذا میں لا منسٹر صاحب سے کہنا چاہتا ہوں کہ ججیڈ کو اپائنٹ کرتے وقت ان کی انٹیگریٹی کو دیکھنا چاہئے۔ یہ دیکھنا چاہئے۔ کہ سیکولر پالیسی کے بارے میں ان کا کوئی ریم تو نہیں ہے۔ اس ملک میں جو فرقہ پرستی کی ہوا پھیلی ہوئی ہے۔ اس نے ہمارے دلوں کو کمزور کر دیا ہے۔ اگر ہندوستانی میں یہ فرقہ پرستی بڑھ گئی تو ہمارا جو نظام ہے۔ جو قیود پرستی ہے۔ وہ برباد ہو جائیگی۔ چودیشیری میں آپ کو ان لوگوں کو رکھنا چاہئے۔ جو سیکولر ہوں۔ جو سیکولر نظام کو مدد کرنا چاہتے ہیں۔ یہ انیسویں کی بات ہے کہ ہم ۳۰ سال کی آزادی کے بعد بھی سوشلسٹ نظام کو نہ کر پاتے ہیں۔ لیکن ہمارا مقصد یہ ہے کہ ہم سوشلسٹ نظام میں امیر اور غریب کے فرق کو کم کریں۔ عام سادہ لوگوں کو جسٹس دلانے میں مدد کریں۔ آج ضرورت اس بات کی ہے۔ کہ ہم ہر معاملہ میں آگے بڑھیں۔ آج آپ کو عورتوں کو ججوں کے روپ میں بھرتی کرنے میں آپ کو کھوں رکاوٹ آتی ہے۔ آج آپ کے جج کلکتہ میں۔ دلی میں۔ مدراس میں ہے۔ لیکن لوہو کورٹوں میں آپ ان کی بھالی کھوں نہیں کتے ہیں۔ عورتوں کو آپ کے اس ملک میں نہیں ہوں۔ جو آگے لا جانتی ہیں۔ بہت سی عورتیں ہیں جو لا جانتی ہیں اور ہائی کورٹ میں اور سپریم کورٹ میں عورتیں کام کر رہی ہیں۔ لیکن ضرورت اس بات کی ہے۔ کہ ہمیں

عورتوں کو آگے لانا چاہئے۔ ان کی حفاظت کرنی چاہئے۔ لیکن پریکٹیکل میں ہم ان کو آگے نہیں لارہے ہیں۔ اب رول بنادیں کہ ایک تہائی عورتیں۔ مقرر ہونی چاہئے۔ ہائی کورٹ اور سپریم کورٹ میں بھی ایک تہائی عورتیں مقرر ہونی چاہئے۔ عورتوں کو انصاف ملنا چاہئے۔ ان کو سماج میں برابر کا موقع ملنا چاہئے۔ ۶۰ یہاں پر آپ کے جج ہیں۔ میں اپنی ریاست کی بات کرتا ہوں۔ وہاں پر تو جج ہیں۔ ان میں سے چار ججوں کی مقرری باقی ہے۔ کبھی نہیں آپ ان کو مقرر کر پاتے۔ وہاں کے چیف جسٹس اور گورنر کو بیٹھکر فیصلہ کرنا ہے۔ سیشن ججوں کو پرموشن دینی چاہئے۔ چیف جسٹس اور گورنر کو فوری طور پر ان کی بھالی کرنی چاہئے۔ جو کہ قیود پرستی کے نظام پر یقین رکھتے ہیں۔ ان کی بھالی کرنی چاہئے۔ جو اس میں آپ کو کوئی دقت ہے۔

ہمارے ریاست کی ٹیوگرافی ایسی ہے۔ کہ ایک ریجن لداخ ہے دوسرا جموں ہے۔ جموں کے لئے نو میں سے دو مقرر کرنا چاہئے۔ اسی طرح سے لداخ ریجن کے لئے ایک ہونا چاہئے۔ وہ لداخ میں چار مہینے رہتے ہیں۔ ان کو ہائی ایر آنا پڑتا ہے۔ اور پھر واپس جانا پڑتا ہے۔ اس لئے نو میں سے ایک کو لداخ ڈویژن میں رکھنا چاہئے۔ تو چار ججوں کی جگہیں خالی ہوں گی ہیں ان کو فوری طور پر بھرنی چاہئے۔ ورنہ ان پر فوری طور سے عمل کرنا چاہئے۔ میں آنریبل لا منسٹر سے عرض کرنا چاہتا ہوں کہ ان کے

ذہن میں یہ ہونا چاہئے کہ ہم ایسے ججیگز مقرر کریں جو کمیٹیڈ ٹو دی کاسٹی ٹیوشن ہو۔ کمیٹیڈ ٹو دی کونڈی ہوں۔ کمیٹیڈ ٹو دی نیشن ہوں۔ کمیٹیڈ ٹو دی نظام ہوں۔ جن کا ذہن فرقہ پرستی ہو۔ جن کا ذہن فیوکل کلاس کا ہو۔ جن کا ذہن کیپٹلسٹ ہو۔ ان کو ججیگز مقرر نہ کیا جائے۔ اتنی ہی میری عرض ہے۔ اس کے ساتھ میں مل کی پوز ور تائید کرتا ہوں۔]

SHRI PUTTAPAGA RADHAKRISHNNA (Andhra Pradesh): Mr. Vice-chairman, Sir, these two Bills are meant to achieve a common goal and they are receiving the support of all sections of th's hon. House. These Bills have received the unanimous support of the other Housa also. Anyhow, I welcome the Bill. Mr. Madan Bhatia has said that the improve-ment of service conditions of the Judges and enhancement of their salarie, will promote integrity in the Judges. If it is so, it is all right. I welcome it. I have two or three reservations on this.

SHRI MADAN BHATIA: On a point of explanation, Sir, I have not said it. On the contrary, I have said this is not the price which the nation is seeking to pay to secure independency of the judiciary. On the other hand, it is a tribute to the integrity of the higher judicial institutions of the country. There is a tremendous difference between the two.

SHRI PUTTAPAGA RADHAKRISHNNA: Anyhow, it will be welcome. I have two or three reservations on this. My first thing is the point raised by Mr. Babul Reddy and supported by others in this august House. The Judges need not be given independent cars and other facilities which are so costly because the other agencie.3 and other officers are there who deserve and who require special facilities and they are not given. Even the Members of Parliament are made to pay Rs. 2 for conveyance in parliamentary vans. They are not given independent cars and all these things.

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I also agree with Mr. Babul Reddy that whenever we inceased the salaries and other remunerations of any category or any class^ we must keep in view the pei capita income of the country and the poverty line of the country. There must be some definite ratio between the per capita income and the highest salary.

Then there are other constitutional institutions like the Public Service Commissions. The Government have also to pay attention to those bodies. I have been a Member of the Andhra Pradesh Public Service Commission. The -alary of Member of State Public Service Commission is only Rs. 2500/-. It is less than that of a Joint Secretary in the State Government. In the matters of protocol also, the officers of the rank of Joint Secretaries are put to precede th_e Member of th_e State Public Service Commission. That is why there Is need for the Government of India to look into these matters and to bring about a comprehensive Bill covering all the Public Service Commissions in the country to regulate and improve their service conditions and salaries. They may say that every State is having its own regulations to govern the service conditions and salaries. It is not good because the living conditions are almost the same in the country, but the salaries are different, the amenities Provided to them are different. It is nto good. When a Bill has been brought for the High Court Judges, the same thing can be applied to the Members of the Public Service Commission also in different States. That ia why, I have reservation on this point. There is one more thing Sir. The High Court Judges and th_e Supreme Court Judges ate covered unde, this Act. And there is a vast section which is left out of it. The subordinate judges and the other judicial officers are not provided under this. Of course, they cannot be Therefore, there should be a separate legislation for that. It may be said that the State Governments will look after that. Sir. I differ from that view, fhTe must be a common legislation or at least a common policy all over the country at least for the subordinate judicial officers and others.

Sir, regarding the functions of the judiciary, the public has very exhaustive

[Shri Puttapaga Radhakrishna]

opinions. But they have no chance to express their opinion because the contempt of court is there. If anybody opens his mouth, the contempt of court will come into operation. That is why there must be a definite definition of it. The Parliament should define it as to what actually is the contempt of court. There must be a chance to the public to have a debate on the functioning of the judiciary.

Sir, our judiciary is established primarily to interpret the written Constitution and to have a judicial review. This is based on the doctrine of separation of powers. But sometimes there has been over-riding. This principle is not being observed. In some cases, the judiciary is over-riding the executive decisions of the Government. And that is why it has to be reviewed at this level at least.

Sir, I would like to bring to the notice of this august House that nowadays the judicial set-up is very much discussed. The Judges mostly are belonging to the higher layers of the society and they have been the students of convents, they have been the students of public schools, and they have been the students of the Oxford University. And that is why they have no clear idea of the conditions prevailing in the rural areas of the country, the conditions of the lowest sections of the society. That is why this also has to be looked into, and it has to be examined by the Government whether the judiciary reflects the real society in the country, particularly of rural areas. Sir, more particularly there must be a social obligation on the judiciary also. They have not simply to interpret the law. They have also to keep in view the social requirements. Ours is a welfare state, and Government takes several welfare steps. And in that case, the judiciary should not come in the way of the welfare activities. Sir, to that effect, I would like to quote an instance. The Chief Minister of Andhra Pradesh, Mr. N. T. Ramarao has* revealed in the Joint Conference of the Chief Ministers, Chief Justices and the Law Ministers of the States on August 31 last year that there were 3,600 cases of land acquisition pending in the Andhra Pradesh High Court.

Mostly they were under stay. Mr. Sukomal Sen has so mentioned about it. This is a serious problem. There can be a safeguard of liberty of a person. But at the same time it should not come in the way of welfare activities taken up in the interest of the weaker sections of the society. There is another thing, Sir. The question of cost and delay is also very important. The cases are very much delayed. We know the cause of delay there may be delay for lack of Judges, there may be delay for lack of accommodation, there may be delay for lack of staff. There may be delay for lack of some other machinery. But the cases which are fully heard and concluded are kept without pronouncement of the judgment for years together. I know of one instance of Andhra Pradesh. That is on the retirement age of the employees. Even after finally hearing the case, the judgment of Supreme Court was delayed for one and a half years. That has to be looked into and we must be alive in the problems and requirements* of the day.

Sir, I want to say one more thing. Several speakers who have preceded me have demanded the setting up of Benches of the Supreme Court at different places in the country. I reiterate this demand and also support it. Sir, there was a Bench of the Supreme Court at Hyderabad during 1950—52, but later on it was withdrawn. The Andhra Pradesh Government have been demanding a Supreme Court Bench at Hyderabad but so far, no decision has been taken. In the year 1982, the then Chief Justice, Mr. Justice Bhabwati visited Hyderabad and inspected several buildings. He also saw the building which was meant for the Legislative Council which is not in existence now. That will be a suitable building for the Bench of the Supreme Court. In that case the Government can take a decision and it will be the most convenient thing for the people who have to come from farthest place; in the country. Sir, Justice Baharul Islam was also stated that there must be several Benches in the Country in the East, in the West and in the South. We can in fact have any number of Benches. It is one and the same court functioning at different places. It will be very convenient to the litigants to reach the courts. It will be like having

the law at your doorstep. So I request that a Bench of the Supreme Court should be set up at Hyderabad to facilitate the Southern people so that they can approach the court easily. With these remarks, Sir, I support the Bill.

श्री प्रमोद महाजन (महाराष्ट्र) :
 उपसमाध्यक्ष महोदय, मैं इस विधेयक का समर्थन करने के लिये खड़ा हुआ हूँ। स्वतंत्रता विरोधियों के लाख प्रयास के बाद भी व्यक्तिगत स्वतंत्रता का दीप जलाते रखने वाली हमारी न्यायपालिका को इस विधेयक के द्वारा हम स्वतंत्रता की 39वीं वर्षगांठ के अवसर पर उसका विनम्र अभिनन्दन कर रहे हैं। यद्यपि न्यायपालिका के संबंध में वर्तमान सरकार के सर्वसाधारण रवैये से हम संतुष्ट नहीं हैं फिर भी यह विधेयक एक सही दिशा में, चाहे वह छोटा सा क्यों न हो, प्रयास है और इसलिये मैं इस विधेयक का स्वागत करता हूँ और समर्थन करता हूँ। हम यह न मानें कि इस विधेयक के द्वारा हमने अपने न्यायाधीशों को बहुत दे दिया है लेकिन स्वतंत्रता के बाद, पहली बार, हम उच्चतम न्यायालय तथा उच्च न्यायालय के न्यायाधीशों के वेतन में वृद्धि कर रहे हैं। मुझे याद है कि मार्च 1984 में जस्टिस तुलजापुरकर ने, 1950 के बाद जो महंगाई बढ़ी, उसका हिसाब लगाते हुये यह कहा था कि 1985 की महंगाई को अगर देखें तो आज सुप्रीम कोर्ट के चीफ जस्टिस को केवल 1301 रुपये तनखाह मिलती है सुप्रीम कोर्ट के जजेज को केवल 1165 रुपये मिलते हैं और हाई कोर्ट्स के जजेज को 1021 रुपये मिलते हैं। मारीशस के जज को भी 10 हजार रुपया महीना मिलता है, इंग्लैंड में अगर पाँडों में गिना जाय तो लगभग 5 हजार पाँड एक जज को हर महीने मिलते हैं। इसलिये हम यह न मानें कि हमने बहुत कुछ दिया है। लेकिन मैं यह मानता हूँ कि केवल वेतन और सुविधाओं में वृद्धि करने से हमारी सारी समस्या हल नहीं होगी। अभी तक जो भी सम्माननीय सदस्य मिले उनका न्यायालयों से बहुत नजदीक का रस्ता रहा है, सम्माननीय न्यायमूर्ति के रूप में या वकील के रूप में। मेरा भी छोटी सी जिन्दगी में, न्यायालयों से नजदीक का

रिश्ता है लेकिन आरोपी के रूप में हमने यह देखा है कि राजनैतिक जीवन में विभिन्न आन्दोलन करते हुये भी कितनी देरी हो जाती है, इसका उदाहरण मैं थोड़े में दूँ। 13 साल पहले महा-विद्यालय में पढ़ते समय एक भ्रष्ट वन मंडल अधिकारी को गधे पर बैठा कर गांवों में घुमाने का हम पर आरोप था। 12 साल में वह वन अधिकारी मर गया, गधा मर गया, हम आपात स्थिति में सरकार के पास 18 महीने मौजूद थे सरकार जो चाहे तब हम को कोर्ट में ले जा सकती थी लेकिन 12 वर्ष के बाद उसका फैसला हुआ और फैसला देने वाला न्यायाधीश हम जब महाविद्यालय में पढ़ते थे तब विद्यालय में विद्यार्थी था। मैं एक उदाहरण आपको बता रहा हूँ (व्यवधान)

श्री हेच० हनुमन्तप्पा (कर्णाटक) :
 बीच में आपकी सरकार ने क्या किया ?

श्री प्रमोद महाजन : मेरी सरकार ने मेरे ऊपर केस विदड़ नहीं किया। (व्यवधान) मैं प्रार्थना करूँगा कि इसको राजनीति का स्वरूप न दें। हम सत्ता में थे हम इतनी जल्दी भूल गये। पता नहीं आपको हर क्षण क्यों याद रहती है कि हम थे और आप याद दिला कर हम को कष्ट मत दीजिये। उपसमाध्यक्ष जी, न्यायपालिका में हर सारी कमजोरियों और कमियों के बाद भी आज भारत की जनता को अपनी न्यायपालिका पर अटूट विश्वास है और अन्धश्रद्धा के इस अन्धकारमय वातावरण में अगर हमारे सामान्य नागरिकों के लिये कोई एक प्रकाश की किरण दिखाई देती है तो वह न्यायालयों में दिखाई देती है। एक सामान्य नागरिक की न्यायालय में जो अटूट श्रद्धा है यही न्यायपालिका पर बोल बन चुकी है। अन्धश्रद्धा की दुनिया में न्याय का एकमात्र मार्ग यही होने के कारण इस मार्ग पर चलने वालों की भीड़ इतनी बढ़ गई है कि स्वयं मार्ग अपने ही यात्रियों के बोझ से तरा रहा है और दूसरी ओर सामान्य नागरिक श्रद्धा से न्यायालय के दरवाजे खटखटाते समय कितना समय और पैसा लगाते हैं इसके कारण उनके हाथ थरथरा रहे हैं। न्यायालय सब के लिये उपलब्ध है। अगर एक प्रसिद्ध न्याय प्रीश की उक्ति में उधार लूँ तो मैं यह कह सकता

[श्री प्रमोद कहांजन]

हूँ कि यह न्यायालय ताजमहल होटल जैसा है जहाँ हर किसी को जाने की अनुमति है शर्त इतनी है कि उस होटल में जाने के लिये पैसे और समय आपके पास उपलब्ध हों। इसलिये हम यह देख रहे हैं कि उच्चतम न्यायालय में सर्वोच्च न्यायालय में पाँच लाख, उच्च न्यायालय में पाँच लाख और छोटे छोटे न्यायालयों में कितने केसज पड़े हैं शायद इसका हिसाब लगाना चन्द्रगुप्त के लिये बहुत कठिन काम होगा। इसलिये हम यह मानते हैं कि इन कमियों को दूर करने के लिये हम केवल वेतन और सुविधायें बढ़ा कर अपने लक्ष्य तक नहीं पहुँच सकते हैं। हमें न्यायाधीशों की संख्या में भी पर्याप्त वृद्धि करनी पड़ेगी। कर्णाटक, दिल्ली, इलाहाबाद, भुवनेश्वर, इन सारे विवादों में मैं नहीं जाना चाहता हूँ, जिम्मेदार भले एक दल हो या दूसरा दल हो, जिम्मेदार एक व्यक्ति हो या दूसरा व्यक्ति हो लेकिन न्यायाधीशों की नियुक्ति में देरी होती है और इस देरी की जिस प्रकार से दुनिया में चर्चा होती है उससे न्यायापालिका की गरिमा बढ़ी है और न हमारी बढ़ी है और न चर्चा करने वालों की बढ़ी है। इसलिये वेतन और सुविधाओं के साथ पर्याप्त संख्या में न्यायाधीशों की अविलम्ब नियुक्ति करना भी अत्यावश्यक होगा। न्यायाधीशों की नियुक्ति में उनकी प्राथमिकता, कानून का ज्ञान, देश और संविधान के प्रति उनकी अटूट निष्ठा, इन मानदंडोंका जरूर उपयोग होना चाहिये। अगर इन मानदंडों से न्यायाधीश दूर हो तो वह ठीक प्रकार से न्याय नहीं देगा। लेकिन कभी कभी गलती से संविधान और देश के प्रति की निष्ठा के अलावा किसी एक दल या किसी एक दल की सरकार के प्रति निष्ठा से जुड़ा हुआ अगर हम निर्णय लें तो उसमें बहुत दिक्कतें पदा होंगी। न्यायाधीशों को तनख्वाह बढ़ाने के साथ न्याय निष्पक्ष हो इसलिये न्यायाधीशों को विवादों से परे रखना पड़ेगा। हम न्यायाधीशों के न्याय निर्णय पर अधिकार वाणी से चर्चा जरूर कर सकते हैं लेकिन सभी दलों के उच्च नेता, सरकार के मंत्रिगण न्यायाधीशों की निष्पक्ष प्रक्रिया के संबंध में चर्चा करते समय कुछ सतकता भी जरूर बरतें जिसके कारण न्यायापालिका की गरिमा बनी रहे।

एक बात का विशेष उल्लेख करना चाहूंगा कि अगर न्यायाधीशों की निष्पक्षता बढ़ानी है तो न्यायाधीशों को आप जरूर जो चाहे पैसा दें, वेतन दें, सुविधायें दें, पेंशन दें जिदगी भर के लिये, अपनी सेवा निवृत्ति के बाद भी उसको किसी की ओर हाथ फैलाने की नीवत न आये इस प्रकार की सारी सुविधायें हम करें लेकिन उसके साथ निवृत्ति के बाद, सेवा निवृत्त होने के बाद न्यायाधीशों पर—विभिन्न प्रकार की राजनैतिक या गैर राजनैतिक जो न्यायदान से जुड़ा है, ऐसी जिम्मेदारी डालना, न्यायाधीशों का निष्पक्ष वातावरण तैयार होने में कठिनाई उत्पन्न करता है और इसलिये वर्तमान सरकार या कोई भी सरकार अगर कोई कमीशन बैठाना है, किसी की जांच करवानी है तो वर्तमान न्यायाधीशों से ही काम लें, सेवा निवृत्त न्यायाधीशों का उपयोग अच्छी परम्परा होगी, अच्छा मानदण्ड होगा यह नहीं लगता है।

न्यायालयों में न्यायाधीशों के वेतन और सुविधाओं के साथ भी बहुत छोटी लेकिन महत्वपूर्ण चीजों की ओर मैं आपका ध्यान आकर्षित करना चाहता हूँ। हमारे मुम्बई उच्च न्यायालय की इमारत 19वीं सदी में बनी है, 20वीं सदी समाप्त हो चली अब हम 21वीं सदी की ओर जा रहे हैं लेकिन दो सौ वर्ष से मुम्बई उच्च न्यायालय की बिल्डिंग वैसी की वैसी है। इसलिये मैं प्रार्थना करता हूँ कि हम सबको 21वीं सदी में जाने की अगर बहुत जल्दी है तो सदी तो समय पर आयेगी लेकिन जिस समय हम 21वीं सदी में प्रवेश करेंगे तो कम से कम एक ऐसी इमारत में कार्यालय हो जहाँ जजेज बैठ सकें, वकील बहस कर सकें मुवक्किल मिल सकें। ऐसी अड़चनें केवल बम्बई में नहीं हैं और भी न्यायालयों की हैं इस पर भी ध्यान देना पड़ेगा, केवल न्यायालय की बिल्डिंग सुन्दर और विशाल बनाने से कुछ नहीं होगा। जब भी किसी छोटे न्यायालय में प्रवेश करते हैं तो मानों कागज का हिमालय लांचने की कोशिश करते हैं। कम्प्यूटराइजेशन के लिये बात हो रही है, मैं आशा करता हूँ कि न्यायालय के कामकाज में भी, फाइल रखने में कम्प्यूटर्स का अगर ठीक प्रकार से उपयोग किया जाये तो इस कागज के पर्वत से हम बच सकते हैं।

कानून में उचित और आवश्यक सुधार भी अविलम्ब न्यायादान की प्रक्रिया को गतिमान करते हैं। वास्तविकता से दूर रहने वाले नये-नये क्लेस को जन्म नहीं देते हैं। इसलिये कानून के निरन्तर अभ्यास की भी प्रक्रिया हमको जारी रखनी पड़ेगी। अरबन लैंड सीलिंग एक्ट हो, रेंट कंट्रोल एक्ट हो ऐसे ढेर सारे कानून हैं कि उनमें अगर उचित सुधार किया जाये तो न्यायालयों में जाने वाले केसेज की संख्या कम हो सकती है। कभी-कभी तो लगता है कि कड़ी से कड़ी सजा भी संख्या कम कर सकती है। आज सबको ज्ञात है कि एक्साइज में 5 P.M. 1700 करोड़ रुपया सरकार का विभिन्न न्यायालयों में अटका पड़ा है। और यह अमीरों के न्याय की जो व्यवस्था है, उसमें उद्योगपति कानून का उपयोग, मैं दुरुपयोग तो नहीं कह सकता, कानून का उपयोग करते हुये भी इन 1700 करोड़ रुपये को अटकाये हुये हैं।

अब जब यह छूट जायेंगे, सरकार के पास आ जायेंगे, तो उस पर 6 प्रतिशत व्याज मिलेगा।... (व्यवधान)

एक माननीय सदस्य : सारा मिलेगा।
... (व्यवधान)

श्री प्रमोद महाजन : कर रहे हैं, तो अलग बात है, लेकिन किसी भी उद्योगपति के लिये मुम्बई के बाजार में जब 24 प्रतिशत पर मिलते हुये करोड़ों रुपया अगर उसके पास है, तो स्वाभाविक रूप से वह केसेज में अटकाये रखेंगे, उसका उपयोग होगा। इसलिये ऐसे जो कानून हैं, इन कानूनों में भी अगर हम परिवर्तन करें... (व्यवधान) तो केसेज की संख्या कम हो सकती है। उच्च न्यायालयों के साथ इनका संबंध कम व्यक्तियों से आता है, लेकिन जो नीचे की सारी न्याय की श्रृंखला है, इसमें भी आवश्यक वेतन अन्य सुविधायें करना, न्याय प्रक्रिया को गतिमान करके जितनी कम अपील ऊपर आयेंगी, हम व्यवस्था करें जितने अच्छे न्यायाधीश नीचे के स्तर पर हों, सुविधायें हों, सुव्यवधायें हों, जितनी कम अपील आयें, पेंडिंग केसेज उतने कम हो जायेंगे।

अन्त में एक मुद्दा में रखना चाहता हूँ। ढेर सारे केसेज, लाखों केसेज पड़े हैं, न्यायाधीशों के रिक्त पद हैं, हम इनको बढ़ा सकते हैं, लेकिन इस के बाद भी इतने केसेज का बंटवारा होना सम्भव नहीं है। न्यायपालिका के साथ लोग अदालत के रूप में हों, वकीलों को दो पक्षों में समझौता कराने का अधिकार देने के रूप में हों, या जैसे कैलीफोर्निया में रेन्टेड जज, इस प्रकार का एक सेवा-निवृत्त न्यायाधीश का कोई कानून बनाने की प्रक्रिया हो। मैं वकील नहीं हूँ—मैंने जैसा पहले ही कहा कि मेरा आरोपी के नाते ही फाँट से संबंध आया और इसलिये इन सारी प्रक्रियाओं को भी साथ में लेते हुये अगर हम न्यायालय के बाहर भी न्याय की व्यवस्था करें, पुराने जमाने में भी थी, जाति के तौर पर थी, धर्म के तौर पर थी, पंचायत के तौर पर थी—अब वह सारी व्यवस्था टूट चुकी है, उचित भी है, लेकिन अब नई व्यवस्था हमको इस प्रकार की कोई खड़ी करनी पड़ेगी।

अन्त में मैं इस विधेयक का एक बार फिर समर्थन करते हुये इतना ही कहना चाहता हूँ कि केवल न्यायाधीशों का वेतन बढ़ा कर तथा और सुविधायें देकर न्याय की प्रक्रिया गतिमान नहीं होगी। हम सब को न्यायालयों का राजनीतिकरण होने से बचना पड़ेगा और इसमें स्वाभाविक रूप से सरकार को पहल करनी पड़ेगी। मुझे आशा है कि सरकार इस दिशा में कदम उठायेगी।

SHRI J. P. GOYAL (Uttar Pradesh): Sir, I support the Bills and I congratulate the two hon. Law Ministers from whom at least I personally expect a lot. These two Bills ought to have come immediately after they were appointed as Law Ministers. In the Statement of Objects and Reasons it is stated that the Joint Conference of Chief Justices, Chief Ministers and Law Ministers of the States decided in 1985, and the Bills should have come immediately after that. Now almost a year has passed. Anyway, I do not want to go into the details but I would refer to one point which Mr. Reddy has said about the staff car. I think we should not grudge it. One hundred and fifty litres of petrol is costing about Rs. 1000 whereas I spend more than Rs. 2000 on petrol. (Interruptions). About the driver if it is a staff car,

[Shri J. P. Goyal] you cannot expect the Judge to drive the car himself. If a driver is there, I think this is a small thing and we should not grudge this.

Secondly, Mr. Madan Bhatia has said that the pension should be equal to the salary. I feel that it is quite reasonable, the reason being that the Supreme Court Judge will retire at the age of 65. A Judge of the High Court will retire at that age of 62. At that time he will not have so many liabilities as he may have before he retires. I feel as regards emoluments and salaries of Judges, this is all right and the Lok Sabha was right in passing the Bill unanimously. When I say the two Law Ministers, I expect a lot from them because both of them are from the Supreme Court. We have sat together, we have discussed matters together. I feel this is a very integral problem—the matter regarding the courts and the judiciary. This one aspect is good that the Judges are protected and provided for as far as financial aspect is concerned, but the State as defined in the Constitution consists of the executive, the judiciary and the legislature. We are spending a lot of money on our legislatures, on the executive. The Ministers have got full freedom to go anywhere by car; they have got not one car but more than one staff cars. Why should we grudge when we are spending something for the judiciary? For so many years we have been just thinking that the salary of the Judges who cannot agitate in the streets should be increased. I think the two Law Ministers should be congratulated that they have come forward with this Bill after such a long time.

About the question of strengthening the judiciary, my friends of the other side should not feel about it, but for the first time in 1973, three Judges of the Supreme Court were superseded. There was an all-India Convention of Lawyers held in the Asokan Hotel which was presided over by late Mr. M. C. Setalvad. In that conference there was a unanimous decision that independence of judiciary cannot be maintained so long as the executive has got the power of appointment and transfer of Judges. A 7-man Committee was appointed at that two-day meeting—I was

I also a member of that Committee—to communicate the resolution to the then President—I think the Acting President was Mr. V. V. Giri. We communicated that resolution that some amendment, if necessary, should be made in the Constitution that the executive should not be allowed to make appointment or have anything to say in the matter of appointment/transfer of Judges of the Supreme Court and High Courts, particularly when in the case of lower judiciary the Government has no say in such matters. There was a hue and cry during the British period and the Congress Party was for separation of judiciary from the executive, because the same officer used to be the judge and he also used to arrest the nationalist leaders and therefore that was not liked. After Independence, of course at the lower level—the magistracy and other judges—the appointment of the judges etc. is now in consultation with the High Court and all that. So they are free from the influence of the executive. But the interesting thing is that in the higher judiciary—the High Court under whose control the lower judiciary is—the Judges in High Courts and Supreme Court are appointed by the executive. By that I am not saving the President but here the Law Minister has full say. I must say, in the appointment and transfer of Judges of the High Courts and appointment of Chief Justice. At that time in 1973, this was the question of principle to be decided: was a particular Judge to become Chief Justice of India in accordance with seniority? "No, we are appointing a particular person who is fourth in the seniority". Similarly in the Punjab High Court a Judge was not allowed by the executive because of his independent judgments. All right, Justice Pandit was superseded and another Judge Justice Narula was appointed and so on. Again there was another supersession. Justice Bee was appointed superseding Justice Kinnara became Justice Khanna was inconvenient. During the Emergency he gave a very independent judgement in the habeas corpus case. So, the Question is not about the money which you are offering to the Judges, and the staff etc. and all that. The country wants to know whether your judiciary to which you are making appointments has any credibility. Can it have the credibility? I

executive today is very much responsible for the arrears of cases. Just as in the other House it was said, 80 per cent of the cases are of writ petitions in the High Court because the executive is usurping the legislative functions and are mostly passing wrong orders. Therefore, so many writ petitions are there in the High Courts. So, this is one aspect of the matter.

There are cases of writ petitions in which judgements of the Supreme Court are passed by a 11-Judge, Bench. 5-Judges Bench. Tomorrow the Government will bring an ordinance nullifying that judgement of the Court and saying "Notwithstanding any judgement of a court, whoever we have done is correct." Please learn how to respect the judgements of the Courts, judgements of the judiciary, which are well considered, based on reason You do not do that.

I shall just now conclude. I must also say that the Advocates Act requires amendment. If you like, in the Consultative Committee of the Law Ministry I shall put it, and we can discuss about it. Formerly, unless you practice for three years in the lower court, you cannot go to the High Court. You must practice for seven years in the High Court and then go to the Supreme Court. Here, an young man comes from a university and says "I am an advocate of the Supreme Court." What is all this? Many frivcleus cases are also-filed because he does not properly advise his client. So, in my submission, there must be training of advocates. You nv have the old system, please amend the Advocates Act so that only capable lawyers come to the Supreme Court. This is the Highest Court. Now you are flooded with so many lawyears. And every type of case on even small matters is filed in the Supreme Court. They were not

You say that one-third Judges should come from other States. Who are those one-third Judges? You may say. "Any Judge." It is a way of punishment. Therefore, there is terror. You say. "Once you accept the Judgeship, you cannot go back to your profession. You have given up your cases. You have gone out of practice." You are terrorising the Judges in a way. How can you expect independent judgement? There is no credibility of the Judges?

So, I am saying very strongly that the

filed formerly. Mr. Sen was practising there. He knows we used to say go away there is nothing in it. But now every case is filed. So all these cases have to be dealt with by the courts. So arrears of cases are mounting up. So my submission is that it is an eternal problem. It has to be dealt with not only by improving the conditions of service and enhancing salaries, but some ways and means have also to be found out for disposing of the arrears. Please give them full independence of working. This transfer business and one-third of the Judges from outside sound rather ridiculous. Thank you.

SHRI ASOKE KUMAR SEN, Mr. Vice-Chairman, Sir. I am extremely grateful to the hon. Members for the unanimous support they have extended for this Bill. It shows that there are certain matters on which the entire nation has agreed. Those matters cut across party lines and our judiciary and our concern for the judicial system is one. We are all concerned about its maintenance, its excellence, its impartiality, fearlessness and we have been laying emphasis on achieving these aims that to have a judiciary which would be excellent in quality, which would be independent, which would be without any fear or want of any other matters. It should be able to function independently and from very high position. Therefore, we have tried to formulate the increase in the emoluments and salaries which were originally fixed as far as back as 1950 and are trying to make it more realistic. Naturally while supporting this Bill, concern has been expressed on various matters which certainly need attention and rectification. For instance, we are again concerned with the delays and arrears in the various courts and remedies to be found. One of the remedies is to have efficient Judges. We hope to do it by this week and attract the best talent from the Bar and the services. We are also concerned with making justice speedy, inexpensive and bring in justice to the door of the commonmen. This one of the important steps we have taken we must go to the subordinate judiciary after this, because our people are mostly concerned at the

grass-root level with which they are concerned in their day-to-day life.

[Mr. Deputy Chairman in the Chair.]

We must agree that the conditions of service of the subordinate judiciary needs immediate attention and they have to be improved as we have improved the conditions of the High Court Judges and the Supreme Court Judges and not enough has been done for them for all these years. All the time we are taking about upper echelons of our judicial system, but the lower echelons are more concerned with the common man and we must have quality, we must have efficiency, we must have completely impartial—Judges and all the talks about Bars and other things must be wholly eliminated. While agreeing with all these observations, I feel constrained to disagree with some of the observations made firstly by Mr. Sukomal Sen. He says our judiciary is biased and on caste basis and the poor always suffers as a result of the Bars for the rich. I do not know whether he is a lawyer or not. But if he has read the judgement of the Supreme Court on the labour cases and the entire industrial law has been built up by the Judges of the Supreme Court and High Court after their judicial pronouncements and not by law. You would find that the Bar always has been in favour of the worker in matters of retrenchment, in matter of dismissal, in matters of compensation and various other things. If he has also read the recent judgement of the Supreme Court on the bonded labour cases, slum, dwellers cases and various other cases, he would not have made this remark that our Judges are biased and on a caste basis. In fact, it is said that the Judges weep more for the poor than they should and some poor people come with faked up faces and try to get some orders which possibly they don't deserve, but it is absolutely correct that the mandate of the Constitution that our Government and our justice must be fashioned to meet the end* of the poorer sections of the society, of the deprived sections of the society have been carried out faithfully and truly by the judiciary and as pronouncements in hundreds of cases in labour cases and in other cases where fundamental rights of

the poorer sections were st stake completely vindicate the standard of judiciary that they always slanted on the side of the deprived, the weak and the poor. We want them to be more vigilant because, al), we have fashioned a Constitution where the fundamental rights and other rights are to be enforced by the courts. We have not given a right to judge to the executive. A right to judge is given to independent judgss, That is the very-basis of our Constitution and the rule of law is founded upon that basis, namely that the judicial functioning, the function of judges, dispute between man and man, between the citizen and State rests in an indepndent judicial body, free from interference of the executive authority and completely impartial in the dispensation of justice and that is the very fulcrum on which our Government rests and we are very anxious to preserve it and I have no doubt that by and large, the two organisations of the Government which have evoked admiration from outside are the army and the judiciary. They have earned the admiration of tiie rest of the world by their work and their excellence and I was extremely happy when I was in Harare last month to find that Indian decisions being cited on public interest, or litigations, on parliamentary rights and on administrative law i_n hundreds and I am told by the Chief Justice at Harare that there is need of Indian decisions and they have not got them. So. I said, I will try to see if I can; at least make available to them one All India Reports from which they can get all the decisions. What they do is that some of the decisions are reported since 1965 in the Commonwealth Law keport but even then, they are not quoting. But I am happy to say that our Indian decisions are so prized and so admired outside India, (*interruptions*)

SHRI BAHARUL ISLAM; Sir, even in Malaysia also, they do it.

SHRI ASOKE KUMAR SEN: Yes, because there in criminal law. civil procedure code and ihe contract law, I had argued cases in Kuala Lampur and I had cited Indian decisions myself. There every lawyer's chamber has got an All India Law Reports and also our Constitu-

tion, our contract acts and various other acts.

Now, I was very happy, I can tell you when I met Chief Justice Warren in the Commonwealth Law Conference in Sydney in 1965. He was full of admiration about our Supreme Court judgebients "nd he said that one of the judgements which they have always admired was the decision of the Supreme Court of the Bengal Immunity on the sales tax case, the right of the State to levy sales tax but subject to the barrier of inter-State freedom and that they considered to be our one of the finest judgments out since then, many of our public interest litigation judgments have evoked considerable attention and praise of the outside world and by and large, our judiciary have functioned with an ability, excellence, impartiality and fearlessness and this is the only country where judges are still honoured and respected and their judgments are still obeyed, even by the highest. All over the world, you know. Governments are functioning and democracy is merely a farce in many countries which attained freedom after the last war. This is the only oasis, as somebody said, in the entire Afro-Asian world. the only oasis in a desert of dictatorships and military governments. All over the world, we have seen how military governments and dictatorships have overthrown democratic regimes and how the free constitutions have succumbed to force and to dictatorships.

Well, various things have been said, particularly about the poor not getting justice. While it is true that they have not been getting justice all these years, our scheme of legal aid is becoming more and more successful and the judges are taking; an increasing interst and are participating in the dispensation of our legal aid schemes.

Then about the constitution of benches of different High Courts in different areas, the matter is certainly under consideration. I personally think that at least small cases, criminal cases, should be decided near the home of the people ! concerned. And that is true also of the Supreme Court. It is true that in regard to the constitutional cases and other

[Shri Asoke Kumar Sen]

important cases, the country's unity and integrity demands that there must be one unified Supreme Court. But with regard to small criminal cases and other insignificant cases which do not require really a united Supreme Court to pronounce every day its judgement, it might be possible, profitable to examine the matter and consider whether it would not be better to disperse the seat of the Supreme Court for these small cases at least. Anyway that is a matter still to be considered. I have no doubt that the Judicial Reforms Commission will consider this in detail.

I do not think I have got much to say except about the staff car. I do not know why Mr. Babul Reddy, who is always very generous to the High Court and has a weakness for the High Court, should grudge the staff car, when everybody has a staff car. (*Interruptions*) Every district magistrate uses a staff car. The staff car does not belong to him. As Mr. Baharul Islam has said, the staff car belongs to the State. It is only for the work of the State that the district magistrate uses the staff car. But the poor district judge has no staff car. That is the difficulty. Why should he not have it Mr. Priya Ranjan Das Munshi said in the other House that he has seen judges travelling in the same bus with the criminals they are trying, with the chaprassis who serve them, and sometimes they are left out in the queue and the others get ahead of them. It happens in Delhi. You can see. The magistrates themselves have told me. About houses, we have not allowed houses for the subordinate judiciary, for the magistrates and when they retire they have nothing to fall back upon. All these things have to be attended to. These are matters which are immediately to be looked after to ensure recruitment of the very best talent for our judicial system. Our administrative officers have also to be looked after because all sorts of charges of graft and other things arise only because they suffer from many inconveniences.

With these words, I express my deep gratitude to all sections of the House. I hope the vote will be unanimous, as it

i was in the other House.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

The House, divided.

Mr. Deputy Chairman:

Ayes : 167

Noes : Nil

Ayes—167

Abdi, Shri Hashim Raza Allahabadi

Ahluwalia, Shri S. S.

Aladi Aruna, Shri alias V. Arunachalam

Alva, Shrimati Margaret

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram

Anand Sharma, Shri

Ansari, Shri Hayat Ulla

Antony, Shri A. K.

Arun Singh, Shri

Ashwani Kumar, Shri

Baby, Shri M. A.

Bagrodia, Shri Santosh

Balu, Shri T. R.

Banmali, Babu, Shri

Bansal, Shri Pawan Kumar

Barman, Shri Debendra Nath

Basu, Shri Chitta

Basumatari, Shri Dharanidhar

Bhajan Lal, Shri

Bhandare, Shri Murlidhar Chandrakant

Bhardwaj, Shri Hansraj

Bhatia, Shri Madan

Bhattacharjee, Shri Kamalendu

Bhim Raj, Shri

Birla, Shri Krishna Kumar

Chatterjee, Shri Nirmal

Chaturvedi, Shri Bhuvnesh

Chowdhary Ram Sewak
 Darbara Singh, Shri
 Deori, Shrimati Omem Moyong
 Desai, Shri Jagesh
 Faguni Ram, Shri
 Ganeshwar Kusum, Shri
 Ghan Shyam Singh, Shri
 Ghosh, Shri Dipen
 Ghosh, Shri Shantimoy
 Gopalan, Shri R. T.
 Goyal, Shri J. P.
 Gupta, Shri Vishwa Bandhu
 Gurupadaswamy, Shri M. S.
 Hanspal, Shri Harvendra Singh
 Hanumanthappa, Shri H.
 Heptulla, Dr. (Shrimati) Najma
 Islam, Shri Baharul
 Jadhav, Shri Vithalrao Madhavrao
 Jamuda, Shri Durga Prasad
 Jani, Shri Jagadish
 Jha, Shri Lakshmi Kant
 Jogi, Shri Ajit P. K.
 John, Shri Valampuri
 Joshi, Shri Krishna Nand
 Joshi, Shrimati Sudha Vijay
 Kadharsha, Shri M.
 Kakodkar, Shri Purushottam
 Kaldate, Dr. Bapu
 Kalita, Shri Bhubaneshwar
 Kamble, Prof. N. M.
 Kar, Shri Ghulam Rasool
 Kar, Shri Narayan
 Kaul, Shrimati Krishna
 Kaushik, Shri M. P.
 Khatun, Kumari Sayeeda
 Kidwai, Dr. Mohd. Hashim
 Kollur, Shri M. L.
 Kushnoor, Shri Vershetty Moglappa
 Kuthiravattom, Shri Thomas
 Laxmi Narain, Shri
 Mahajan, Shri Pramod

Mahendra Prasad, Shri
 Mahto, Shri Bandhu
 Majhi, Shri Prithibi
 Makwana, Shri Yogendra
 Malik, Shri Mukhtiar Singh
 Malik, Shri Satya Pal
 Manhar, Singh Bhagatram
 Masodkar, Shri Bhaskar Annaji
 Meena, Shri Dhuleshwar
 Mehta, Shri Chimanbhai
 Mishra, Shri Mahendra Mohan
 Mishra, Shri Sheo Kumar
 Mittal, Shri Sat Paul
 Mohanan, Shri K.
 Mohapatra, Shri Basudeb
 Mohanty, Shri Subas
 Moopanar, Shri G. K.
 Naik, Shri G. Swamy
 Naik, Shri R. S.
 Nalwa, Shri Hari Singh
 Narayanasamy, Shri V.
 Natarajan, Shrimati Jayanthi
 Natha Singh, Shri
 Pachouri, Shri Suresh
 Pahadia, Shrimati Shanti
 Palaniyandi, Shri M.
 Pandey, Shrimati Manorama
 Pandey, Dr. Ratnakar
 Panicker, Shri K. Vasudeva
 Panwar, Shri B. I.
 Patel, Shri Vithalbhai Motiram
 Patil, Shri Dinkarrao Govindrao
 Pattanaik, Shri Sunil Kumar
 Poddar, Dr. R. K.
 Prasad, Shri K. L. N.
 Puglia, Shri Naresh
 Quasem, Shri Mostafa Bin
 Radhakrishna, Shri Puttapaga
 Rafique Alam, Shri
 Rajagopal, Shri M.
 Rajangam, Shri N.
 Ramamurthy, Shri Thindivanam K.

Ramanathan, Shri V.
 Ramesh Babu, Shri S. B.
 Rao, Prof. B. Ramachandra
 Rao, Shri R. Sambasiva
 Rao, Shri Yalla Sesji Bhushana
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsinghbhai Pateliya-
 bhai
 Ray, Shri Deba Prasad
 Rayka, Shri Sagar
 Reddy, Shri Adinarayana
 Reddy, Shri B. Satyanarayan
 Reddy, Shri P. Babul
 Reddy, Shri T. Chandrasekhar
 Richharia, Dr. Govind Das
 Roshan Lal, Shri
 Sahu, Shri Rajni Ranjan
 Sahu, Shri Santosh Kumar
 Sambasivam, Shri Era
 Saring, Shri Leonard Solomon
 Scindia, Shrimati Vijaya Raje
 Sema, Shri Hokeshe
 Sharma, Shri A.P.
 Sharma, Shri Chandan
 Sharma, Dr. H. P.
 Sharma, Shri Satish Kumar
 Shukla, Shri Keshavprasad
 Siddiqi, Shri Shamim Ahmed
 Silvera, Dr. C.
 Singh, Shri Bir Bhadra Pratap
 Singh, Thakur Kamakhya Prasad
 Singh, Shrimati Pratibha
 Singh, Shri R. K. Jaichandra
 Singh, Shri Vishvajit Prithvijit
 Singh, Shri Vishwanath Pratap
 Sukhdev Prasad, Shri
 Sukul, Shri P. N.
 Surender Singh, Shri
 Swaminathan, Shri G.
 Tariang, Shri Jerlie E.
 Thakur, Prof. Chandresh P.
 Thakur, Jagatpal Singh
 Thakur, Shri Rameshwar

Thakur, Shri Surendra Singh
 Thangababalu, Shri
 Tiria, Kumarj Sushila
 Tripathi, Shri Chandrika Prasad
 Tyagi, Shri Shanti
 Vaduthala, Shri T. K. C.
 Vajpayee, Shri Atal Bihari
 Valiullah, Shri Raof
 Verma, Shri Kapil
 Verma, Shrimati Veena
 Vikal, Shri Ram Chandra
 Vincent, Shri M.
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Ramanand

Noes

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members Present and voting.

MR. DEPUTY CHAIRMAN: We shall now take up the clause-by-clause consideration of the Bill. If the House agrees, the result of the voting shall be taken as applicable to all the clauses*

The question is:—

"That Clauses 2,3 and 4 and Clause 1, the Enacting Formula 'and 'n' Tit' stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN:

Ayes.....167.

Noes.....NIL

Ayes: 167

Abdi, Shri Hashim Raza Allahabadi
 Ahluwalia, Shri S.S.
 Aladi Aruna, Shri alias V. Arunachalam
 Alva, Shrimati Margaret
 Amarjit Kaur, Shrimati
 Amla, Shri Tirath Ram
 Anand Sharma, Shri

Ansari, Shri Hayat Ulla

Antony, Shri A. K.

Arun Singh, Shri

Ashwani Kumar, Shri

Baby, Shri M.A.

Bagrodia, Shri Santosh

Balu, Shri T. R.

Banamali Babu, Shri

Bansal, Shri Pawan Kumar

Barman, Shri Debendra Nath

Basu, Shri Chitta

Basumatari, Shri Dharanidhar

Bhajan Lal, Shri

Bhandare, Shri Murlidhar Chandrakant

Bhardwaj, Shri Hansraj

Bhatia, Shri Madan

Bhattacharjee, Shri Kamalendu

Bhim Raj, Shri

Birla, Shri Krishna Kumar

Chatterjee, Shri Nirmal

Chaturvedi, Shri Bhuvnesh

Chowdhary Ram Sewak

Darbara Singh, Shri

Deori, Shrimati Omem Moyong

Desai, Shri Jagesh

Faguni Ram, Shri

Ganeshwar Kusum, Shri

Ghan Shyam Singh, Shri

Ghosh, Shri Dipen

Ghosh, Shri Shantimoy

Gopalan, Shri R. T.

Goyal, Shri J. P.

Gupta, Shri Vishwa Bandhu

Gurupadaswamy, Shri M. S.

Hanspal, Shri Harvendra Singh

Hanumanthappa, Shri H.

Heptulla, Dr. (Shrimati) Najma

Islam, Shri Baharul

Jadhav, Shri Vithalrao Madhavrao

Jamuda, Shri Durga Prasad

Jani, Shri Jagadish

Jha, Shri Lakshmi Kant

Jogi, Shri Ajit P. K.

John, Shri Valampuri

Joshi, Shri Krishna Nand

Joshi, Shrimati Sudha Vijay

Kadnarsha, Shri M.

Kakodkar, Shri Purushottam

Kaldate, Dr. Bapu

Kalita, Shri Bhubaneswar

Kamble, Prof. N. M.

Kar, Shri Ghulam Rasool

Kar, Shri Narayan

Kaul, Shrimati Krishna

Kaushik, Shri M. P.

Khatun, Kumari Sayeeda

Kidwai, Dr. Mohd. Hashim

Kollur, Shri M. L.

Kushnoor, Shri Veershetty Moglappa

Kuthiravattom, Shri Thomas

Laxmi Narain, Shri

Mahajan, Shri Pramod

Mahendra Prasad, Shri

Mahto, Shri Bandhu

Majhi, Shri Prithibi

Makwana, Shri Yogendra

Malik, Shri Mukhtiar Singh

Malik, Shri Satya Pal

Manhar, Shri Bhagatram

Masodkar, Shri Bhaskar Annaji

Meena, Shri Dhuleshwar

Mehta, Shri Chimanbhai

Mishra, Shri Mahendra Mohan

Mishra, Shri Sneo Kumar

Mittal, Shri Sat Paul

Mohanan, Shri K.

Mohapatra, Shri Basudeb

Mohanty, Shri Subas

Moopanar, Shri G. K.

Naik, Shri G. Swamy

Naik, Shri R. S.

Nalwa, Shri Hari Singh

Narayanasamy, Shri V.

Natarajan, Shrimati Jayanthi
 Natha Singh, Shri
 Pachouri, Shri Suresh
 Pahadia, Shrimati Shanti
 Palaniyandi, Shri M.
 Pandey, Shrimati Manorama
 Pandey, Dr. Ratnakar
 Panicker, Shri K. Vasudeva
 Panwar, Shri B. L.
 Patel, Shri Vithalbhai Motiram
 Patil, Shri Dinkarrao Govindrao
 Pattanaik, Shri Sunil Kumar
 Poddar, Dr. R. K.
 Prasad, Shri K. L. N.
 Puglia, Shri Naresh C. Chunnalalji
 Quasem, Shri Mostafa Bin
 Radhakrishna, Shri Puttapaga
 Refique Alam, Shri
 Rajagopal, Shri M.
 Rajangam, Shri N.
 Ramamurthy, Shri Thindivanam K.
 Ramanathan, Shri V.
 Ramesh Babu, Shri S. B.
 Rao, Prof. B. Ramachandra
 Rao, Shri R. Sambasiva
 Rao, Shri Yalla Sesai Bhushana
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsinghbhai Pataliyab-
 hai
 Ray, Shri Deba Prasad
 Rayka, Shri Sagar
 Reddy, Shri Adinarayana
 Reddy, Shri B. Satyanarayan
 Reddy, Shri P. Babul
 Reddy, Shri T. Chandrasekhar
 Richharia, Dr. Govind Das
 Roshan Lal, Shri
 Sahu, Shri Rajni Ranjan
 Sahu, Shri Santosh Kumar
 Sambasivam, Shri Era
 Saring, Shri Leonard Solomon
 Scindia, Shrimati Vijaya Raju

Sema, Shri Hokishe
 Sharma, Shri A. P.
 Sharma, Shri Chandan
 Sharma, Dr. H. P.
 Sharma, Shri Satish Kumar
 Shukla, Shri Keshavprasad
 Siddiqi, Shri Shamim Ahmed
 Silvera, Dr. C.
 Singh, Shri Bir Bhadra Pratap
 Singh, Thakur Kamakhya Prasad
 Singh, Shrimati Pratibha
 Singh, Shri R. K. Jaichandra
 Singh, Shri Vishvajit Prithvijit
 Singh, Shri Vishwanath Pratap
 Sukhdev Prasad, Shri
 Sukul, Shri P. N.
 Surender Singh, Shri
 Swaminathan, Shri G.
 Tariang, Shri Jerlie E.
 Thakur, Prof. Chandresh P.
 Thakur Jagatpal Singh
 Thakur, Shri Rameshwar
 Thakur, Shri Surendra Singh
 Thangabalu, Shri
 Tiria, Kumari Sushila
 Tripathi, Shri Chandrika Prasad
 Tyagi, Shri Shanti
 Vaduthala, Shri T. K. C.
 Vajpayee, Shri Atal Bihari
 Valiullah, Shri Raoof
 Verma, Shri Kapil
 Verma, Shrimati Veena
 Vikal, Shri Ram Chandra
 Vincent, Shri M.
 Yadav, Shri Jagdambi Prasad
 Yadav, Shri Ramanand

Noes—NIL

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clasuses 2, 3 and 4 were added to the Bill, Clause I, the Enacting Formula and the Title were added to the Bill.

SHRI ASOKE KUMAR SEN: Sir, I beg to move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The House-, divided

MR. DEPUTY CHAIRMAN:

Ayes .. 167

Noes ... Nil

Ayes—167

Abdi, Shri Hashim Raza Allababadi
 Ahluwalia, Shri S. S.
 Aladi Aruna, Shri alias V. Arunachalam
 Alva, Shrimati Margaret
 Amarjit Kaur, Shrimati
 Amla, Shri Tirath Ram
 Anand Sharma, Shri
 Ansari, Shri Hayat Ulla
 Antony, Shri A. K.
 Arun Singh, Shri
 Ashwani Kumar, Shri
 Baby, Shri M. A.
 Bagrodia, Shri Santosh
 Balu, Shri T. R.
 Banamali Babu, Shri
 Bansal, Shri Pawan Kumar
 Barman, Shri Debendra Nath
 Basu, Shri Chitta
 Bhajan Lal, Shri
 Bhandare, Shri Murlidhar Chandrakant
 Bhardwaj, Shri Hansraj
 Bhatia, Shri Madan
 Bhattacharjee, Shri Kamalendu
 Bhim Raj, Shri
 Birla, Shri Krishna Kumar

Chatterjee, Shri Nirmal
 Chaturvedi, Shri Bhuvnesh
 Chowdhary Ram Sewak
 Darbara Singh, Shri
 Deori, Shrimati Omen Moyong
 Desai, Shri Jagesh
 Faguni Ram, Shri
 Ganeshwar Kusum, Shri
 Ghan Shyam Singh, Shri
 Ghose, Shri Dipen
 Ghosh, Shri Shantimoy
 Gopalan, Shri R. T.
 Goyal, Shri J. P.
 Gupta, Shri Vishwa Bandhu
 Gurupadaswamy, Shri M. S.
 Hanspal, Shri Harvendra Singh
 Hanumanthappa, Shri H.
 Heptulla, Dr. (Shrimati) Najma
 Islam, Shri Baharul
 Jadhav, Shri Vithalrao Madhavrao
 Jamuda, Shri Durga Prasad
 Jani, Shri Jagadish
 Jha, Shri Lakshmi Kant
 Jogi, Shri Ajit P. K.
 John, Shri Valampuri
 Joshi, Shri Krishna Nand
 Joshi, Shrimati Sudha Vijay
 Kadharsha, Shri M.
 Kakodkar, Shri Purshottam
 Kaldate, Dr. Bapu
 Kalita, Shri Bhubaneswar
 Kamble, Prof. N. M.
 Kar, Shri Ghu'lam Rasool
 Kar, Shri Narayan
 Kaul, Shrimtai Krishna
 Kaushik, Shri M. P.
 Khatun, Kumari Sayeeda
 Kidwai, Dr. Mod. Hashim
 Kollur, Shri M. L.
 Kushnoor, Shri Veershetty Miglappa
 Kuthiravattom, Shri Thomas
 Laxmi Narain, Shri

Mahajan, Shri Pramod
 Mahendra Prasad, Shri
 Mahto, Shri Bandhu
 Majhi, Shri Prithibi
 Makwana, Shri Yogendra.
 Malik, Shri Mukhtiar Singh.
 Malik, Shri Satya Pal.
 Manhar, Shri Bhagatram
 Masodkar, Shri Bhaskar Annaji
 Meena, Shri Dhuleshwar.
 Mehta, Shri Chimanbhai
 Mishra, Shri Mahendra Mohan
 Mishra, Shri Sheo Kumar
 Mittal, Shri Sat Paul
 Mohanan, Shri K.
 Mohapatra, Shri Basudeb
 Mohanty, Shri Subas
 Moopananar, Shri G. K.
 Naik, Shri G. Swamy
 Naik, Shri R. S.
 Nalwa, Shri Hari Singh
 Narayanasamy, Shri V.
 Natarajan, Shrimati Jayanthi
 Natha Singh Shri
 Pachouri, Shri Suresh
 Pahadia a Shrimati Shanti
 Palaniyandi, Shri M.
 Pandey, Shrimati Manorama
 Pandey, Dr. Ratnakar
 Panicker, Shri K. Vasudeva
 Panwar, Shri B. L.
 Patel, Shri Vithalbhai Motiam
 Patil, Shri Dinkarrao Govindrao
 Pattanaik, Shri Sunil Kumar
 Poddar, Shri R. K.
 Prasad, Shri K.L.N.
 Puglia, Shri Naresh C. Chunnalalji
 Quasem, Shri Mostafa Bin
 Radhakrishna, Shri Puttapaga
 Rafique Alam, Shri
 Rajagopal, Shri M.
 Rajangam, Shri N.

Ramamurthy, Shri Thindivanam K.
 Ramanathan Shri V.
 Ramesh Babu, Shri S. B.
 Rao, Prof. B. Ramachandra
 Rao, Shri R. Sambasiva
 Rao, Shri Yalla Sesi Bhushana
 Ratan Kumari, Shrimati
 Rathvakoli, Shri Ramsinghbhai Pataliya-
 bhaj
 Ray, Shri Doba Prasad
 Rayka, Shri Sagar
 Reddy, Shri Adinarayana
 Reddy, Shri B. Satyanarayan
 Reddy, Shri P. Babul
 Reddy, Shri T. Chandrasekhar
 Richharia, Dr. Govind Das
 Roshan Lal, Shri
 Sahu, Shri Rajni Ranjan
 Sahu, Shri Santosh Kumar
 Sambasivam, Shri Era
 Saring, Shri Leonard Solomon
 Scindia, Shrimati Vijaya Raju
 Sema, Shri Hokishe
 Sharma, Shri A. P.
 Sharma, Shri Chandan
 Sharma, Dr. H. P.
 Sharma, Shri Satish Kumar
 Shukla, Shri Keshavprasad
 Siddiqi, Shri Shamim Ahmed
 Silvera, Dr. C.
 Singh, Shri Bir Bhadra Pratap
 Singh, Thakur Kamakhya Prasad
 Singh, Shrimati Pratibha
 Singh, Shri R. K. Jaichandra
 Singh, Shri Vishvajit Prithvijit
 Singh, Shri Vishwanath Pratap
 Sukhdev Prasad, Shri
 Sukul, Shri P. N.
 Surender singh, Shri
 Swaminathan, Shri G.
 Tariang, Shri Jereli E.
 Thakur, Prof. Chandresh P.

lhakur, Jagatpal Singh Thakur, Shri Ranwshwar Thakur, Shri Surendra Singh Thangabaaalu, Shri Tiria, Kumari Sushila Tripathi, Shri Chandrika Prasad Tyagi, Shri Shanti Vaduthala, Shri T.K.C. Vajpayee, Shri Atal Bihaii Valiullah, Shri Raoof Verma, Shri Kapil Verma, Shrimati Veena Vikal, Shri Ram Chandra Vincent, Shri M. Yadav, Shri Jagdambi Prasad Yadav, Shri Ramanand

Noes—Nil

The motion was carried by majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

MR. DEPUTY CHAIRMAN-. Now, I <hall put the other Bill to vote. The question is:

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, as passed by the Lok Sabha, be> taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We •hall now take up the clause-by-clause consideration of the Bill.

Clauses 2 to 12 were added to the BUI.

Clause 1, tile Enacting Formula and the Title were added to the Bill.

SHRI ASOKE KUMAR SEN: Sir, I beg to move:

"That the Bill be returned." *The question was put and the motion Was adopted.*

MR. DEPUTY CHAIRMAN: We shall now take up the next Bill, that is,

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the Tamil Nadu Legislative Council (Abolition) Bill, 1986.

THE TAMIL NADU LEGISLATIVE COUNCIL (ABOLITION) BILL, 1986

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ). Sir. I beg to move:

"That the Bill to provide for the abolition of the Legislative Council of the State of Tamil Nadu and for matters supplemental, incidental and consequentaj thereto, as passed by the Lok Sahha, be taken into consideration" .

Sir, under article 169 of the Constitution. Parliament may, by law, provide for the abolition of the Legislative Council of a State.

Sir, on the 14th May 1986, the Legislative Assembly of the State of Tamil Nadu passed a Resolution, in terms of Article 169 of the Cons:if;ition, for the abolition of the Legislative Council of that State. It k accordingly proposed to abolish th« Legislative Council of the Stato of Tamil Nadu. It further contains certain supplementary provisions. Clause 7 makes necessary provisions as to the pending Bills. That clause provides for lapsing of Bills originating in the Council, that is, Bills which have not been passed by the Legislative Assembly and are pending in the Legislative Council immidiately before its abolition. As regards the Bills pending in the Legislative Council before its abolition which have been passed by the Legislative Assembly, it has been provided that on the abolition of the Council, such Bills should be deemed to have been passed before such abolition by both the Houses of the Legislature of the State of Tamil Nadu in the form in which the Bills were passed by the Legislative Assembly so that they could be presented to the Governor for assent. Clause 7, further provides that in the case of a Bill which is either reject»d or amended by the Council before its abolition. th? Legislative Assembly may, after abolition of the Council,