

[Shrimati Monika Das]

once if we really want to change the educational system. Thank you, Sir.

THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL, 1985

MR. CHAIRMAN: Now we shall proceed with the legislative business. The Law Minister is to move the Bill for consideration.

THE MINISTER OF STATE IN THE
MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ): Sir,
I beg to 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, this is to provide for the enhancement of conveyance allowance payable to a Judge from Rs. 300 to Rs. 500 p.m. subject to the maintenance of a motor-car by him.

Sir, the immediate background for the need to enhance the conveyance allowance of the Judges comes from the Chief Justices' Conference which took place in 1983. The Resolution which the Judges passed in that Conference asked for chauffeur-driven cars to the Supreme Court Judges. In the alternative, it was also provided in the Resolution that in case it is not immediately implemented, the conveyance allowance of Judges should be increased from Rs. 300 to Rs. 500. So, agreeing on the Resolution of the Judges, we have introduced this Bill, and I hope that it will get support from all corners of the House.

The question was proposed.

MR. CHAIRMAN: Mr. Mostafa Bin Quasem.

SHRI MOSTAFA BIN QUASEM (West Bengal): Hon. Chairman, Sir, the present amending Bill seeking to enhance the monthly conveyance allowances of the High Courts and Supreme Court Judges from Rs. 309 to Rs. 500 has been initiated by the hon. Minister in pursuance, as has just now been stated, of a Resolution adopted to that effect in the Conference of the Chief Justices in 1983. In the face of steep rise in petrol prices. I do not think that the justifiability of the Resolution of the Chief Justices can be put to question. But what I think what can be rightly put to question is the attitude of the Central Government towards the Judges, Sir, the Resolution was adopted in 1983 and the Government is initiating this legislation only now in 1985. Now, when you accede to the demand of the Judges contained in the Resolution, when you concede the demand to be just, why is this delay in initiating this legislation? This delay, whether it reflects on attitude of reluctance or of neglect of both on the part of the Government of India towards the Judges of the Supreme Court and High Courts, is anybody's guess.

Sir, you know that for quite some time a demand is being made by responsible persons for a thorough review by the Government of India of the salaries, emoluments and service conditions of the High Court's and Supreme Court Judges. Recent newspaper reports go to indicate that the present Government is seized of the matter and the Government is thinking of making such a review and, if necessary, to make a revision of the salaries, allowances and other emoluments of the High Courts' and Supreme Court Judges of our country. My question is:—if the newspaper report is correct—when you are thinking or revising the salaries and allowances of these Judges, then why are you resorting to this piecemeal legislation or ad hoc legislation? The present Bill only touches on an insignificant part of the whole thing. A piecemeal legis-

lation, Sir, you will agree, is not good, and a piecemeal legislation in this particular respect relating to the Judges of the Supreme Court and High Courts of our country is not in keeping with the status of the law-making body, that is Parliament, not to speak of the status of the persons for whom this legislation is meant.

Sir, in this connection I would like to draw the attention of this august House, and particularly of the Government, through you, regarding the condition of service, emoluments of the vast number of Judges in the Subordinate Judiciary stretched throughout the country. Sir, it would be no exaggeration to say that in the majority of cases, a huge number of Judges in the Subordinate Judiciary have to act under most dismissing circumstances, in trying circumstances, and one may even rightly coin those as sub-human conditions.

I think there will be no two opinions in this august House that the emoluments, the salary and other privileges and facilities and service conditions of the Judges of the subordinate judiciary of our country need immediate improvement I would like to say that in spite of our having a federal system of Government in the country, the founding fathers did dispense with a dual judicial system as is operative in the United States of America or in some other federal countries of the world. Instead the founding fathers prescribed a single integrated judicial system in the country. This being so, the Government at the national level or at the Centre could not leave the whole matter to the States. There will be nothing new if I say that discontented Judges or to put it in other words, Judges with suppressed discontentment cannot be expected to render the quantum and quality of service expected of them. So, I would request the hon. Minister to look at the whole thing again. You cannot leave the entire

matter to the States because they are short of funds. The Central Government cannot sit tight over their condition.

What is the condition under which they have to work. Just to make a reference to that, I may say where the B.D.Os, they have a right to use official cars. An Assistant Engineer in the P.W.D. Department can use official car, the Sub-Divisional Judicial Magistrate cannot do so. In order to attend their courts, they have to travel by buses or by general conveyance. The irony of the situation is that in some cases they have to travel with the alleged criminals constantly running the risk of being intimidated on their way to the court. So, you should give a serious thought to this problem.

I think a discussion on the present Bill provides us an opportunity to discuss the state of the independence of judiciary in our country. I fully concede that free and independent judiciary is one of the most essential pillars of democracy in our country. In the Indian scheme of things where the Constitution has been given the supremacy. What is needed at the governmental level is some sort of mutual cooperation among the three arms of the Government and a balance has to be struck among the three arms of the Government. Viewed from this angle, the concept of the independence of the judiciary should come to mean that the judiciary should be free from undue, unnecessary and arbitrary interference from the other two organs of the Government particularly from the executive organ which is armed with the power of making judicial appointments and transfers, etc. It is for this reason that any design on the part of the executive to establish its ascendancy over the judiciary even though it is in the guise of instituting parliamentary supremacy should be opposed.

Sir, so far as the appointment of the Judges of High Courts and Supreme Court is concerned, we know the con-

[Sh. Mostafa Bin Quasem]

stitutional position. The constitutional right to appoint judges rests with the President. But for obvious reasons, practically speaking, it has come to be a prerogative of the executive. But it cannot be an exclusive or unfettered prerogative of the executive. That is my point. For the sake of maintaining the independence of judiciary, it is not enough that Judges should be independent.

What is needed more is that they should be 'seen as independents', so that the Judges may be seen as independent. The power of selection of Judges should not be entirely left to the sweet will of the Executive, if it is left to the sweet will of the Executive, and if the Executive entirely acts on its own, it may result in suspicion and misgivings in the minds of the people regarding the motive of the Executive behind such selections. So, if this feeling is to be removed, our suggestion is that at least in the case of appointment of Chief Justices, you should make an arrangement for having consultation with the national Opposition leaders of our country. That will help a lot in removing this suspicion which is there.

Sir, with your permission, I would like to dwell on one or two aspects of the Government's policy.

MR. CHAIRMAN: You have one more minute. Whatever you want to say, you say within that time.

SHRI MOSTAFA BIN QUASEM: Sir, the Government's persistence with the doctrine of committed judiciary continues to be a cause of grave concern and alarm for maintenance of independence of the judiciary in our country. Sir, the Government is still pursuing the policy of transfer of Judges. This policy of transfer of Judges gives the scope for pick and choose by the Government of Judges from the point of view of its own poli-

tical consideration. Sir, another disturbing feature is this. The Government is having so many officiating Chief Justices in the High courts Till very recently, no fewer than nine of the 17 Chief Justices were officiating Chief Justices. The whole thing amounts to this as if the officiating Chief Justices are kept on probation and the Government is constantly examining their performance, their way of thinking, their way of acting and after that if the Government is pleased, they are confirmed. Sir, this shortcoming has, perhaps, led to an hon. Justice of the Supreme Court to make a recent remark which has already caused a stir both inside this august House and the other House. So, I think, the Government has failed to have healthy norms regarding the appointment of Judges in our country. And until the Government evolves some healthy norms on the basis of a national consensus, such misgivings will lie in the minds of the people. Sir, there are other shortcomings....

MR. CHAIRMAN: No more time is left.

SHRI MOSTAFA BIN QUASEM: With these words, Sir, I conclude.

SHRI BAHARUL ISLAM (Assam): Mr. Chairman, Sir, I rise to give support to the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill of 1985.

Sir, the hon. Minister of State for Law and Justice has already stated the objects of this Bill. Of course, the increase of Rs. 200 from the original Rs. 300 to Rs. 500 by way of what is known as the car allowance is a meagre amount. But even then it is a welcome gesture on the part of the Government. In addition to this, we understand that a number of other measures have already been taken by the Government. For example, the dearness allowance of the High Court and Supreme Court Judges is now

made admissible to the extent of Rs. 2,250 or so. And we know, Sir, that these salaries and these amenities are not large salaries and not large amenities. During the British regime, the original salary of a High Court Judge was Rs. 4,000 which is today equivalent to about Rs. 80,000, if not more. But in a poor country like India, it is not possible to pay a salary of Rs. 80,000 to a High Court Judge. And proportionately also, the salaries of the Chief Justices of the High Courts, the salaries of the Judges of the Supreme Court and the salary of the Chief Justice of the Supreme Court will have to be raised. It is not possible. But even then, certainly a raise should be made to an extent that the Judges may reasonably live in some comfort in the country so that they can deliver the real justice to the people.

I would like to make a few suggestions to the Government for consideration. So far as the Chief Justices of the High Courts are concerned, they get, what is called, a sumptuary allowance of Rs. 400, I think, per month and the Chief Justice of the Supreme Courts and not paid this sumptuary Court are also paid this sumptuary allowance but the Judges of the High Courts are not paid this sumptuary allowance. My respectful submission would be that this anomaly should be removed and the Government should also consider payment of this allowance to the Judges of the High Courts.

There is an argument advanced that because the Salaries and other amenities to the Judges of the High Courts and the Supreme Court are meagre and as a result, talent is not attracted. As I submitted, the salary originally of a High Court Judge was Rs. 4000 which was reduced to Rs. 3500 after independence. Proportionately, it should have been Rs. 80,000 per month by now, which is not possible. Now, as I said, the argument advanced is that because of meagre salaries, real talent is not

attracted. It is, of course, difficult to understand what is meant by 'talent' perhaps what is meant is persons with a good practice at the Bar should be there. But as you know, the advocates with such practice are earning at least Rs. 30,000 to Rs. 40,000 per month, and even if the salary of the High Court and Supreme Court Judges is raised to Rs. 10,000 or Rs. 15,000 per month—which can possibly be raised, (because I know when I went to Malaysia, I found the salary of a High Court Judge in terms of Indian currency, comes to about Rs. 12,000 per month)—those advocates may not be attracted, because they have a lucrative practice at the Bar. To my mind, there are two categories of people: those who care very much for money, and the other kind who care more for prestige. Advocates earning Rs. 50,000 per month will not feel inclined to take up the job but there will be the persons of the second category. Our Judiciary has earned a lot of prestige, honour and respect and our judiciary is taken in a high esteem by the people. Even today, possibly, amongst all the organs of the State judiciary is one organ that commands the maximum respect from the people of the country, and this is no mean a compensation. So, there are people in the subordinate judiciary and advocates who will care more for this honour, for these values of life and other ethical values and they will certainly be attracted to the judiciary. Even then, at least some sort of amenities, some sort of minimum financial help should be offered to them. Under article 217(2) of our Constitution, the qualification of a judicial officer, or a person to be appointed a Judge of the High Court, is at least 10 years' practice at the Bar. A very good practice at the Bar should not be the only qualification. The real qualification should be honesty integrity, allegiance to the Constitution and the objectives enshrined in the Constitution understanding the changing social conditions of the country absolutely secular outlook, belief in ethical values and the like. A lawyer

[Shri Baharul Islam]

with such values is suitable to be appointed a Judge of the High Court. Our Indian judiciary has earned a great reputation in the international field. Our judiciary, our High Courts and Supreme Court are held in high esteem everywhere.

When I had occasion to tour several countries in Europe and also in Asia, I found that our High Courts and Supreme Court are kept in high esteem. I know that our judgments are cited at least in Malaysian courts.

Now, what is the basic function of the judiciary? Sometimes, we find that—we see from newspaper reports—the judgements of the High Courts and the Supreme Court are criticised by a section of the people. The judgements in the case of ordinary litigations, whether it is civil litigation or criminal litigation, are not taken notice of by these critics. But if a judgement involves an ideological question, may be with regard to property, may be with regard to some personal laws, it comes to be criticised. This is natural in a democratic country like ours. Certainly, it will be criticised by those sections of the people with whose views a particular judgement comes into conflict. Particularly, in the Supreme Court and in the High Courts, great battles are fought by way of writ petitions, great battles for ideological purposes, with regard to ownership of property, transfer of property, family laws and so on. For example, for enforcement of fundamental rights, or assumed fundamental rights or if possible to make the Directive Principles justiciable. In such matters, when judgements are delivered by the Supreme Court, naturally, some of these judgements are liable to be criticised by some sections of the people. It is most welcome in a democratic country. It is the duty of a judge, in my respectful submission, in trying such cases, to adjust the divergent claims in such a manner as to help for gradual transformation

of the society into one, as envisaged in the Preamble of the Constitution, namely, a society, socialistic, democratic, secular in character.

It is often said that the judiciary should not be committed. Certainly not. Nobody says that there should be a committed judiciary. If a judge is committed, he is not worth his salt. If the judiciary is committed, if the commitment is made to the dictates of the Government, that judiciary will not be worth its salt. But at the same time, I would submit, with great respect, that the judiciary should be committed to the Constitution. It should be committed to the Preamble of the Constitution. The Preamble is well-known. The judges, as such, should be committed to the aims and objects of the Constitution as envisaged in the Preamble. Our Constitution says that we are gradually proceeding to be a society, a socialistic type of society; a secular and democratic society. In writing judgements on ideological matters, certainly, the judges will have to keep an open mind on such subjects. When they do so, they cannot be said to be committed in the ordinary sense of the term. Then.

MR. CHAIRMAN: Your time is up.

SHRI BAHARUL ISLAM: I am finishing in a minute or two. It is said that there should not be 'sychophant' judges. I entirely agree. There should not be sychophant judges in the High Courts and in the Supreme Court. But at the same time, the judges should be discreet in their utterances and should not publicly criticise their colleagues in the High Courts and in the Supreme Court. It is said that the mind of a judge should be open, but his mouth should be closed. The mouths of the judges of the High Courts and the supreme Court should be closed. A judge should not criticise his colleagues or make some observations against his colleagues.

Now, on the question of selection and appointment of judges, one hon. Member just now mentioned that there

should not be any 'pick and choose'. Certainly, not. There should not be any pick and choose, in the case of appointment of judges. But how to select a new candidate either from the subordinate judicial service or from the Bar? An experienced Chief Justice will be knowing who are the suitable candidates from amongst the subordinate judicial officers, or from the Bar. If a Chief Justice is new, who has been transferred from outside, he can also select suitable candidates from the Bar or from the subordinate judicial officers, if he cares to consult his senior colleagues.

There will be no difficulty about it. He will have to see that these are the persons who will understand the objective of the Constitution, the real functions of the judiciary, whose character is above question and who should be recommended for appointment as a Judge of the High Court. Thank you.

SHRI R. MOHANARANGAM (Tamil Nadu): Mr. Chairman, Sir, the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1985, seeks to enhance the conveyance allowance for the Supreme Court Judges and the High Court Judges from Rs. 300 to Rs. 500. The hon. Minister has stated in his speech that during the Chief Justices Conference held two or three years earlier—i.e. in the year 1983—they had demanded that the conveyance allowance should be increased from Rs. 300, to Rs. 500, and that is the reason why our Minister has come forward and introduced this Bill on the floor of the House increasing the allowance from Rs. 300 to Rs. 500. I do not know how the Chief Justices came to the conclusion that this should be increased only by Rs. 200. Considering the price level in the year 1983 and the price level in 1985, and particularly the hike in the price of petrol, the resolution should have demanded not an increase from Rs. 300 to Rs. 500 but from Rs. 300 to Rs. 1000. With Rs. 500 you cannot pur-

chase even 70 litres of petrol and with 70 litres you can travel only 700 kilometers. That is not sufficient for the Supreme Court or High Court Judge to travel from his house to the High Court or Supreme Court, as the case may be.

As for the services conditions of the Judges, it is a well known fact that they are not in a position to say anything for the simple reason that they do not have a union to represent their case. And they themselves cannot come forward to speak about the general service conditions of the High Court Judges. Nobody speaks about them and they themselves cannot come forward and talk about these. Also we expect the Judges to be purer than Caesar's wife. I do not know how we can expect it when we give them a meagre salary of Rs. 4,000 to a Supreme Court Judge and Rs. 3,500 to a High Court Judge. And when anybody says that 8 lakh cases are pending in the High Courts and Supreme Court, these are the main reasons why all these pending cases are not tackled in time. Supposing for example I am a High Court Judge and our hon. Law Minister is an advocate appearing in a murder case, I will definitely think that while I get Rs. 4000 per month, he is getting Rs. 4000 for one appearance. My concentration, my energy would be only on that particular point. Unless and until we improve the service conditions of Judges and increase their salary, we cannot expect the justice that we expect now from them. Not only is it a question of salary, as a trade-unionist I can point out that if as a company employee I have a grievance, I can at once from an association, convene a meeting and talk about my grievances and difficulties, whereas High Court Judges cannot talk like that. If it is a Government employee, they can come forward and represent their case before anybody, but to whom will they represent their case? They can only convene a conference where they can talk about their grievances and after two years our Minister gets the sympathetic con-

[Shri R. Mohanaragam]

sideration to introduce this Bill after they had passed a resolution in their conference. But I want to know specifically from the Minister if this will be given retrospective effect, or it is going to be given from this month only. All these things we have to state.

Before stating all these things, I would like to point out the difficulties in regard to the service conditions of the High Court Judges. What about the housing problem? If at all a Judge comes out of his house and intimates to Government that he wants a separate bungalow, Government will give him a Type A bungalow of rental value of Rs. 4000 or 5000, whereas if he stays in his own house, the Judge is given only Rs. 350. That is what almost all the Judges in my State and in different States get. That is why I request our Minister to give a consolidated sum of Rs. 2000 as house-rent allowance for the High Court Judges as well as for the Supreme Court Judges.

Already we have pointed out on the floor of Parliament that there should not be transfer of Judges. But I am not going into that question and other arguments and I do not want to argue about the condition of Chief Justices on transfer from one High Court to another High Court. But my point is, if at all any Judge is transferred from one High Court to another High Court, he should have adequate knowledge of the language of that particular State.

Unless and until he possesses knowledge of the regional language of the particular State, a Judge should not be transferred. I do not say that he cannot be transferred, but unless and until he possesses sound knowledge of the regional language of that particular State, he should not be transferred from one High Court to another High Court.

My friend, Mr. Valampuri John, has written an article just a week ago,

stating that the Judiciary, one of the arms of the Government, has violently twisted the other two arms, Legislature and Executive, because of the menace of Judge-made laws. I do not know what those Judge-made laws are. Nowadays it is common everywhere, in almost all the High Courts, he says. I do not know how far it is true. But I personally feel that this poor salary is responsible for everything. Unless and until, Mr. Minister, you give sufficient salaries to the Judges and increase their allowances to the satisfaction of the Judges, we cannot expect full justice from the Judges. I do not blame any particular individual for all this. Society is responsible, you, the Government, are responsible, for giving these low salaries. They exist as they were in 1950 and there has been no change since then. I do not want to go beyond the scope of the Bill.

I personally feel that this allowance raise from Rs. 300 to Rs. 500 is not sufficient. We have to increase it to Rs. 1,000/-.

Thank you, Sir.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Mr. Chairman, Sir, I am thankful to you for this opportunity and also to the learned Law Minister for introducing this piecemeal legislation although I expected that other aspects of their service will also be looked into through comprehensive legislation.

While appearing before a High Court Judge, I asked him whether his class of service was covered by Civil Services. He said, "No. We are holding a constitutional post and we expected that our conditions of service would be better. But, unfortunately, I find that the conditions of service of the High Court Judge are somewhat inferior to certain classes of civil servants."

Now, when our Law Minister referred to the Chief Justices' meeting and the suggestions made by them, probably all the Chief Justices of all the

High Courts suggested that there should be an increase in salary. The second suggestion was, of two High Courts at least, that they should be given income-tax-free salary. Then the third suggestion was that there should be increase in pension and increase in conveyance allowance—to which this Bill relates—grant of superannuation allowance and raising the retirement age of High Court Judges. I think much of these suggestions needs serious consideration and the comprehensive Bill to which I was referring should contain many of these things for the fulfilment of those expectations—that the Judges should be impartial, they should not mix with other sections of the society, they should live a life of their own—and for all that it is necessary that certain conditions should be created for them. Now, the question of salary is assigned to three arguments. Firstly, because there is price rise, secondly, because there is a change in the economic situation and, thirdly, because there is inflation. I think there are good reasons why that aspect of the matter should be considered. Otherwise they cannot have a comfortable life. Other allurements will creep in.

I am sorry to admit that so far as the lower judiciary is concerned, in the District Courts, up to the level of District Judges corruption is gradually and slowly creeping in. I may also admit that some of the High Courts are also not free from this. I do not want to mention any High Court, but this aspect of the matter will have to be looked into because the increase in prices, changing economic situation and inflation are influencing their way of life. Now, Judges are not expected to go out and speak for themselves. So, I feel that our Law Minister will consider this aspect of the matter and bring a comprehensive legislation looking to other conditions.

Somebody just remarked from the Opposition about committed judiciary. What is wrong with a committed ju-

diary? The question is: Commitment to whom? Our ex-Judge of the Supreme Court just remarked that they should be committed to the Constitution. Yes, cause of justice may also be included into that commitment. Then, changing national requirement, that is the need of a developing society changing from a feudal structure, from a backward agricultural economy to a modern society. That should not be obstructed. What I mean to emphasise is that the transformation of the society from a backward society to a modern society, should not be obstructed by the judiciary. And I find that many of the amendments that have been introduced in our Constitution, were, as a consequence of some of the judgements that were delivered in the Supreme Court, especially with regard to the preservation of the property rights. I feel that the judiciary, being the third branch, an independent branch, tried to misinterpret our legislations for transformation of the society from a backward society to a developing society. Thus, the judiciary played a role of obstruction. I think the commitment of the judiciary should be to the cause of change, transformation, which is the biggest need of the time.

Many other things have been said. Somebody said that transfer of Judges should not be resorted to. Why not? You think that every High Court must sit only in segregation? Single Judge jurisdiction is so very limited that I do not think that you require use of local languages, and the language which is generally used in the court of law is sufficient to meet the needs. But where there is a problem of regional languages, out of the two Judges, one Judge can be one who is knowing the local language, and the other Judge can be English-knowing. So, there is no difficulty. As far as Judges are concerned, it is very essential, looking into the whole national pattern, that there should be national integration and I think transfer of Judges will be necessary.

[Shri Bir Bhadra Pratap Singh]

One of the suggestions which has been repeated time and again is that justice should be taken out from the Home Ministry, as Mr. M. C. Setalvad emphasised it very often and suggested the same to be put directly under the Law Ministry. I think that is a very good suggestion looking from the point of view of the independence of the judiciary and from other considerations because then our Law Minister will not be affected so much in bringing a comprehensive legislation and reforming the judiciary.

While concluding, I would say that other facilities such as house, medicine, education of their children and other things should be provided along with the allowance which has been increased a little bit and which requires to be increased further.

With these words, I support this Bill.

SHRI GAYA CHAND BHUYAN (Orissa): Mr. Chairman, Sir, while supporting the Bill, I want to say that there should be increase in the salary of the Judges and also other facilities available even to the Secretaries of the Government should also be given to the High Court and the Supreme Court Judges because the salaries, the Judges of the High Court and the Supreme Court and even the District Judges and other judiciary officers are getting are those of the pre-independence era. Now, the value of money has gone down ten-fold. Where one rupee was required then, ten rupees are required now. So, salaries and allowances and other facilities should be given taking into consideration the reduction in the value of money. Sir, I suggest that the District and Sessions Judge should be given the same salary of an I.A.S. officer. I agree with the previous speaker that there is corruption in our judiciary. I feel, to root out corruption and to increase the efficiency in our judiciary, the Judges salaries should be increased. If the salary is attrac-

tive, they can attract the best talented people to the judiciary. The quality of our Judges is also decreasing day by day, because the best talented persons in judiciary are not attracted. Our Judges work from morning to night. Even on holidays also they work. I suggest that the salaries should be in proportion to the quantum of work they put in.

There is a large number of backlog cases pending in different courts. Their number has increased manifold. To cope with the quantity of work, the number of Judges in the Supreme Court, High Courts, etc., should be increased significantly. The Ministry of Law should fix a time-limit for disposing of civil, criminal and other cases.

Alternatively, the Government of India, should set up a Tribunal at the national level with the same powers and status as enjoyed by Supreme Court and High Courts, and their adjudication should be made final. It should not be questioned in any court of law again so that the backlog cases can be disposed of quickly.

The poor people who are not able to get two square meals a day should be given free legal aid. The rich litigants can afford to delay the case for even 20 years. But the poor people cannot afford it and so I request the Government to provide legal aid to them. It is rightly said that the justice delayed is justice denied.

Regarding the procedure for appointment and transfer of Judges, in Article 217 (1) of the Constitution, it has been laid down that the "consultation with the Chief Justice of India" should be made. But, in my view, the word "consultation" should be mandatory and obligatory. It should not be interpreted as the desire and suggestion of the Chief Justice. The norms of convention of the suitability, security and efficiency which had been followed for a long time, has been

given a go-bye. I feel it should be again followed. And in case of super-session, it should not be arbitrary. There should be very few such cases. When there is a talented judge, there the question may arise.

MR. CHAIRMAN: I think you have finished.

SHRI GAYA CHAND BHUYAN: One minute. Sir. Moreover, the laws which we are now following were framed during colonial rule to rule this country—the Evidence Act, the Cr. P. C., the C.P.C., everything to delay the cases. So, now it is high time to see that they are changed to expedite the disposal of the cases.

Then the judges should not be allowed, after retirement, to hold any office in Government or in private bodies, as in the case of the Comptroller and Auditor General of India, the chairman and members of the public service commissions, etc.

Then the Ministry of Justice should be under the Ministry of Law. I do not see any argument for keeping the Ministry of Justice in the Home Ministry when there is a separate Ministry of Law.

Many people have said about a committed judiciary.

MR. CHAIRMAN: You have exceeded your time. You can keep it for the next occasion. Mr. Mahendra Mohan Mishra.

श्री महेंद्र मोहन मिश्र (बिहार) : अध्यक्ष जी, मैं यह विधेयक जो सदन में हमारे राज्य मंत्री जी ने रखा है इसमें कोई विवाद का प्रश्न नहीं है इसलिए मैं इसका तहेदिल से समर्थन करना हूँ। आज जब सवारी भले की बात उठती है तो अनायास एक भावना उठती है हमारे देश में जो न्याय प्रणाली है, उसकी और हमारा ध्यान जाता है। आज अगर उस ओर आप देखें तो ऐसा लगेगा कि भारतवर्ष की जो न्यायप्रणाली है वह

सस्ती और सरल नहीं है। दो वस्तुएँ सस्ती और सरल नहीं हैं, अगर इस पहलू पर आप देखेंगे तो उच्च न्यायालय में और उच्चतम न्यायालय में दोनों के बारे में कोई दो मत नहीं है। लेकिन जब हम जिला स्तर पर जायें, मैं कोई आक्षेप नहीं करता, लोकतंत्र में न्यायपालिका की जो स्थिति है उसको देखते हुए कह सकते हैं कि लोगों की आस्था में गिरावट आई है और अगर कोई कमजोरी आ जायेगी तो लोकतंत्र आगे नहीं बढ़ सकेगा।

[उपसभापति महोदय पीठासीन हुई।]

जो हमारे जिला स्तर के न्यायालय हैं उस ओर मैं मंत्री महोदय का और इस सदन का ध्यान दिलाना चाहता हूँ। मैं यह कहना चाहता हूँ कि लोगों की आस्था में न्यायालय के प्रति गिरावट आ रही है। आज से 10 साल पहले हम कहा करते थे कि आपस में अगर किसी बात का झगडा हुआ करता था तो कहते थे कि चलो कचहरी में और न्याय प्राप्त कर लो। मैं चाहता हूँ कि हमारी न्यायपालिका उसी स्टेज पर बनी रहे। जैसी पहले थी। यह ठीक है कि हमारे आदरणीय सदस्य जस्टिस श्री बहलूल इस्लाम जी ने कहा, जिस स्थिति में, जिस आर्थिक स्थिति में हमारा भारतवर्ष है उस अनुपात में हमारे जजों की जो तनख्वाह होनी चाहिये वह नहीं दे सकते। मेरा एक मुझाव होगा राज्य मंत्री जी से, वह स्वतः एक अच्छे अधिवक्ता रहे हैं, मंत्री भी हैं, उन जजों को आप खुद कहें कि आज की परिस्थिति में, भारतवर्ष जो कि एक डवलपिंग कंट्री है, जैसा हमारे बहलूल इस्लाम जी ने कहा कि समाजवादी कदम जो हम उठा रहे हैं, जो समाजवादी धर्म निरपेक्षता का नकशा हमने बनाया है वैसी स्थिति में न्यायपालिका की क्या भूमिका हो, उनकी सविस कंडिशनस, शर्तें क्या होंगी, कितनी तनख्वाह होगी, इसके लिये वह स्वतः एक समिति बना कर सरकार के सामने रखें। यह भी रखें कि इस वक्त जो न्याय प्रणाली मंही

[श्री महेंद्र मोहन मिश्र]

ह वह सस्ती होनी चाहिये और सरल और सुलभ होनी चाहिये। माननीय उपसभारूपि महोदय, आप जानती हैं कि जस्टिस डिलेड इज जस्टि; डिनाइड। हमारे देश में मुकदमों के फैसलों में बहुत विलम्ब होता है। छोटे छोटे मामले कई वर्षों तक चलते रहते हैं। अब स्थिति यहां तक आ गई है कि लोग कचहरियों में जाना नहीं चाहते हैं। यह बात सही है कि दीवानी के मुकदमों की संख्या कम हो गई है। लेकिन दूसरे लेबर केसेज, टैक्सेशन के मामले और एडमिनिस्ट्रेशन के मामले बहुत बढ़ गये हैं। मैं चाहता हूं कि सरकार को ऐसे केसेज के निपटाने के लिए जो हमारे देश के बड़े बड़े जस्टिस हैं, जजेज हैं, जो रिटायर हो गये हैं, उनका एक ट्राइब्यूनल बनाये जो इन मामलों के फैसले शीघ्र कर सके। हमारे देश में पंचायत की पद्धति है। इस प्रकार का प्रावधान हमारे देश के संविधान में होना चाहिए। सुप्रीम कोर्ट के जजेज और हाई कोर्ट्स के जजेज 62 या 65 वर्ष के बाद रिटायर होने के बाद भी इस योग्य रहते हैं कि उनकी योग्यता का उपयोग किया जाना चाहिये। ये ट्राइब्यूनल सारे मामलों को शीघ्रता से निपटा सकते हैं। हमारे देश में बड़े बड़े मसलों को हल करने के लिए पंचायत का सहारा लिया जाता था। हमारे देश में पंचायती राज की स्थापना का स्वप्न देखा गया था। महात्मा गांधी जी ने पंचायती राज की तरफ हमारा ध्यान आकर्षित किया था। लेकिन आज स्थिति यह है कि प्रोसीजर ने हमारे सामने एक हंगामा खड़ा कर दिया है। अंग्रेजों के जमाने के क्रिमिनल प्रोसीजर कोड और सिविल प्रोसीजर कोड के माध्यम से फैसले होते हैं। छोटे छोटे मामले एक वर्ष से लेकर 10 वर्ष तक कोर्ट में पड़े रहते हैं। मैं चाहता हूं कि हमारी सरकार इस तरफ ध्यान दे।

जहां तक जिलों का संबंध है, मैं यह कहना चाहता हूं कि जिलों में जो

जजेज काम करते हैं उनके लिए आवास की कोई व्यवस्था नहीं होती है। एक जिले में 10-15 से अधिक जजेज नहीं होते हैं, लेकिन फिर भी उनके रहने के लिए मकान नहीं होता है। इसलिए मैं चाहता हूं कि स्टेट्स गवर्नमेंट से सलाह करके और उनको फाइनेंस करके इन लोगों के लिए हाउसिंग की स्कीम बनाई जानी चाहिए। अभी हालत यह होती है कि कई स्थानों पर जिलों में जजेज को बरामदों में अपनी कोर्ट लगानी पड़ती है। जब उनके लिए रहने के लिए मकान नहीं होगा तो वे कोर्ट का काम किस प्रकार से संचालित कर सकते हैं और किस प्रकार से न्याय कर सकते हैं? सरकार को शीघ्र इस ओर ध्यान देना चाहिए। जजों के लिए रहने की सुविधा प्रदान की जानी चाहिए।

दूसरी बात मैं यह कहना चाहता हूं कि यहां पर क्वालिटीज आफ जजेज की बात कही गई है। उधर के माननीय सदस्यों ने कहा कि कमिटेड जजेज नहीं होने चाहिए। लेकिन मैं यह कहना चाहता हूं कि जजेज को हमारे संविधान के प्रति कमिटेड होना चाहिए। अगर संविधान के प्रति कमिटेड नहीं होंगे तो वे लोग न्याय किस प्रकार से कर सकते हैं। इसलिए हमारी न्यायपालिका को संविधान के प्रति कमिटेड होना चाहिए। हमारे संविधान में जो मूलभूत सिद्धांत हैं उनके प्रति हमें कमिटेड होना चाहिए।

तीसरी बात मैं यह कहना चाहता हूं कि जैसा कि कहा गया है, हमारे देश में हाई कोर्ट्स में और सुप्रीम कोर्ट में जो मामले पड़े हुए हैं उनमें 40 प्रतिशत मामले ऐसे हैं जिनमें सरकार मुद्दा होती है। इसलिए मैं कानून राज्य मंत्री जी से कहना चाहता हूं कि वे छोटे छोटे मामलों को स्वयं रिव्यू करें और उनका निष्पादन स्वतः कर दें। इन छोटे छोटे मामलों को स्वतः निष्पादित करके वापस लिया जा सकता है। हमारे विधि मंत्री जी ने कहा था कि फौजदारी के मामले एक साल में और दीवानी के मुकदमों दो साल में निपटा दिए जायेंगे। लेकिन

देखने में यह आता है कि इन मामलों के निपटाने में कई वर्ष लग जाते हैं। इसलिए आप एक कम्प्रेहेंसिव कमीशन बनायें जो इन लोगों की सर्विस कन्डीशन को और अन्य सारी चीजों को देखें। किस प्रकार से प्रोसीजर को कम किया जा सकता है, कैसे मुकदमों को जल्दी निपटारा जा सकता है, कैसे न्याय लोगों को सस्ता सुलभ हो सकता है, इस बारे में अपने सुझाव दें। सरकार उन सुझावों पर विचार करे।

दो-तीन बातें मैं और कहना चाहता हूँ। हमारे राष्ट्रपति जी ने भी अपने अभिभाषण में इन मुद्दों की चर्चा की थी। प्रधान मंत्री जी ने भी चर्चा की और विधि मंत्री जी ने भी कहा। इसलिए सरकार इस बात की ओर अग्रसर है और वह न्याय प्रणाली में सुधार लाना चाहती है लेकिन सरकार इसके लिए कमीशन बनाना भी चाह रही है। मैं चाहूंगा कि उस में ऐसे कम्प्रेहेंसिव टर्म्स एंड रेफरेंस उस कमीशन में जो हैं उन में इन सारी चीजों का समावेश होना चाहिए। न्याय पालिका में जो लोग हैं वे हमारे ट्रेड यूनियनों के कर्मचारी या कारखानों के कर्मचारी नहीं हैं। न्याय-पालिका एक ऐसा स्तम्भ है जिस में हमारा जनतंत्र लोकतंत्र स्थापित है। इसलिए 25 या 30 वर्षों की योजना को सामने रखकर और जजों से पूछकर इसमें कुछ करना चाहिए। कैपेसिटी टू पे एक सब से बड़ा इम्पार्टेन्ट फैक्टर हमारे किसी डिजीजन में होता है। इन मुद्दों के लिए एक कमीशन बनायें और उनकी राय लेकर उन चीजों का समावेश करें जिससे उनको सुविधा हो। आज न्याय के प्रति लोगों की आस्था में थोड़ी गिरावट आ रही है। यह कोई आक्षेप की बात नहीं है। यह कोई महोदया, यह जो है यह छोटे स्तर के न्यायालयों में यह बात आ रही है, लोग समझते हैं कि हमें न्याय नहीं मिलेगा। ऐसी चीजें न हों इसकी ओर हमें ध्यान देना चाहिए। इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूँ।

THE DEPUTY CHAIRMAN: Yes, Mr. Jaswant Singh.

SHRI JASWANT SINGH (Rajasthan): The purpose of this Bill is very limited and as far as that limited purpose is concerned, there is no disputing it and there is no objection to it. There is also the fact that in this House as also in the other House, Madam, most of the speakers have opened up the debate, having chosen to consider the whole question of the judiciary and a number of points have already been made about committed judiciary, about independent judiciary, about remuneration to the judiciary, etc. The task which is placed on a speaker like me is some what more difficult and it is difficult to speak on this without being repetitive. Yet, Madam, I shall endeavour not to be so.

Madam, I subscribe to the view that somewhere in our independent existence, the whole concept of justice and of law has gone seriously wrong. There is a conceptual wrong that has taken place and if a fracture has resulted therefrom, there is also disharmony. I cannot better exemplify what I am trying to say than to point to the majestic chair on which you sit, the Ashoka Chakra, the symbol or Emblem of our State, which is just above your head and the symbol of scale or balance, the scale of justice, down below.

SHRI H. R. BHARDWAJ: Behold her. . . (Interruptions.) I just said, "Behold her". I shall not repeat it.

SHRI JASWANT SINGH: This is my difficulty, Madam. This is precisely the difficulty that I face when I am trying to make my point.

Now, Madam, in these two symbols, in the presentation of these two symbols, I submit, is precisely where disharmony has arisen. There is the Occidental symbol, the scale of justice, which is just behind your head and there is the Oriental symbol, the

[Shri Jaswant Singh]

Chakra, which is more than oriental because India is not merely Oriental India, it has a civilisational, rational, ethical and mystical concept, which we have adopted for ourselves and that is the concept: "*Satyamev Jayate*". Mankind's history through millennia has established that satya does not triumph and it has not triumphed through millennia and it is an established fact and yet we adopted this concept. When we had adopted it, it is not as if we did not believe in it. Every Indian believes that truth shall triumph but when it will triumph, one does not know. The Occidental concept is that honesty is the best policy. They talk about the limited aspect of honesty and then they relate it to policy and they give it the adjective of its being the best policy. At a certain stage in the evolution of the West, Madam, following upon the Industrial Revolution, the middle classes became industrialised replacing the established aristocracy and they found that the best policy was to have, and to continue, something very practical like "*Honesty is the best policy*". But that does not apply to India. We adopted to ourselves: "*Satyamev Jayate*", a concept which we know from millennia has never really been established as a fact. Now, what does it do to us? Before that there is another difficulty that arises. It is not axiomatic that if you have law you shall necessarily have justice. Merely to have law books, merely to have the structure of law does not result in justice to the citizens for whom that law is being created.

Now, we are suffering from two things. There is a conceptual wrong which we continue to persist with. Because of that conceptual wrong, combined with the fact that to have law it is not axiomatic that justice will result, it compounds our difficulties, because the concept of justice has got flawed. Then the implementation, the administration of our law, then the interpretation of law has got

flawed because the concept of justice is wrong. When the interpretation becomes faulty then the implementation of law becomes unjust. How does it become unjust? Through the entire apparatus of police, of the jail administration, of languishing under-trials who spend their lives in jail. To them no law applies; to them the concept of justice is a dead concept. What does the State then do? The State, to contend, to cope, with every different manifestation of public discontent, comes up with a separate law. I started by saying that the object of this particular Bill is very limited. Other speakers have talked about various detailed aspects of the whole system of jurisprudence, etc. With none of those points one can have possibly any dispute. It is the fundamentals of law of about which I talk. I submit this, through you, Madam, for the consideration of the hon. Minister.

Now, because of flows in implementation and interpretation of our sense of justice, three things result. One is delay, the other is complexity and the third is costs. A number of speakers have spoken on this point also—delay and the usual clichés: Justice delayed, justice denied. Complexity of law: It is so complex and it is so costly that it is in effect unjust. And if we have to reduce the gap between law and justice, then we have to eliminate delay, we have to simplify and we have to reduce costs. In as far as this Bill goes towards admitting some of the known, established, existing faults in our system of jurisprudence, it is only a small—tiny step. After all, what is being done is to enhance a very marginal concession, very marginal facility which is available to the Judges of the Supreme Court, and one can possibly not have any difficulty in saying: Well, it is somewhat of a delayed action, it does not go far enough, but even if it does not go far enough, even if it is delayed, it is welcome as far as it goes.

Coming specifically to the question of the Supreme Court, Madam, I would submit for Government's consideration that you must please re-examine this whole question of the appointment of Justices, of their tenure and of their transfers. A number of others have spoken at length on this matter. You can explain it either way. Unless this whole question of appointment, tenure and transfers is made to appear in public mind as to be beyond the Executive's control, as to be above the Executive, you would have flawed further the whole concept of justice and law that we have in our country. It hardly bears repetition, we all know, that from the trial court, from the small causes court, to the appeal court, to the Supreme Court, the backlog, the sheer volume of work is such that it is mind-boggling where is one to begin to correct this flaw from? I do believe that if we reimpart to the judiciary the status—and this is my next point—if all of us purposefully, deliberately, reimpart to the judiciary, from the lowest level to the highest level, the status which rightfully belongs to them, which is justly theirs, then I think we would be making a beginning towards closing this gap between law and justice. This particular Bill is about remuneration and a number of speakers have said that the remuneration now available not just to the justices of the Supreme Court or of the High Courts, but all the courts, is pitifully small. It does not bear repetition, to go on and on explaining why it is pitifully small. We all know it is pitifully small. And the small allowances now proposed may perhaps mitigate only a fraction of the difficulties under which the Justices work. The specific query I would like the Minister to reply is about backlog. I am in correspondence with the Minister though I have not been favoured with a reply, but it is not the Minister of State who is responsible. I admit, it is the Minister though I don't differentiate between the two with the Government sub-

scribing, perhaps wrongly, to the system of Cabinet responsibility in the parliamentary system in which we are all participating. But, however, the Minister of State has declined any responsibility for non-reply to my letter. My letter refers specifically to backlog. We run into hundreds and thousands of pending cases in the Supreme Court. But I am not going into the aspect of those hundreds of thousands of cases and the figure given of such cases is on record in the House and it does not deserve to be repeated. I am more particularly concerned about the cases which number, I am informed, is about 30 to 40, in which the case has been heard but the judgment is pending. The judgment is awaited; in some cases it is awaited for as long as three years, four years. This, I find, is very difficult to accept. In this particular matter if a judgment having been pronounced, the written judgment itself is not given, then I think a serious injustice is done. I did also ask the Minister what would happen if in the meanwhile the Justice comes to retire and the judgment has not yet been written or the Justice is transferred. Therefore, one has to look at this whole question with a dispassionate eye and I would request the honourable Minister to please throw some light on this particular aspect of justice in the Supreme Court. (*Time bell rings*). I thank you, Madam, for your consideration.

SHRI MADAN BHATIA (Nominated): Respected Deputy Chairman, I do not wish to go into the larger questions which have been touched by the honourable Member on this side because this is a very innocuous Bill relating to one of the conditions of service applicable to the High Court Judges and the Supreme Court Judges. I can only say this much in the context of this debate that although the Indian Constitution has not incorporated specifically the doctrine of separation of powers, namely, the executive, the legislative and the judicial,

[Shri Madan Bhatia]

the whole Constitution, in fact is imbued with the spirit of this doctrine, and the Supreme Court in one of its judgments has held that this is a very practical doctrine which should be followed in this country while interpreting the Constitution. Some of the famous jurists in the 18th and 19th centuries had gone to the extent of saying that the whole liberty of citizens is based on this fundamental doctrine of separation of powers. I only wish to say at this stage—I say 'at this stage' because a further occasion may arise in this hon. House to discuss this matter in greater detail—that so far as the separation of judiciary powers is concerned, this necessarily implies inherent judicial self-restraint. If the Executive goes wrong, it can be corrected by Parliament and by Judiciary. If the Parliament goes wrong, it can be corrected by the Judiciary. But, unfortunately, if the Judiciary goes wrong, then chaos is likely to ensure. I wish to place before this hon. House that this fundamental bulwark to the independence of judiciary and to the doctrine of separation of powers, namely inherent judicial self-restraint is under great stress and strain. Particularly this new concept of public interest litigation, well-intentioned as it is, carries within itself the seeds of politicisation of the judiciary. I will discuss it in greater detail if and when the matter comes up before this hon. House.

So far as this Bill is concerned, I wish to make, Madam, only three points. One is the payment of death-cum-retirement gratuity to the High Court Judges. In 1961, the High Court Judges (Conditions of Service) Act was amended, and Section 17A was introduced. Under this Section, the

maximum limit of gratuity which is payable to a High Court Judge has been fixed at Rs. 30,000. This figure was taken because that was the maximum limit which was payable to the Central Civil Services (Class I) Officers at that particular time. And Section 17 specifically refers to the death-cum-retirement gratuity payable to such officers. But thereafter there have been two revisions with regard to this figure. This figure was raised from Rs. 30,000 to Rs. 55,000 in the case of Central Civil Services (Class I) Officers. And in the latest Budget, this figure has been raised to Rs. 30,000. But, unfortunately, no amendment has been made to Section 17(3) which limits the payment of gratuity to the maximum amount of Rs. 30,000. I shall request the Government of India through the hon. Minister of State present that this matter may be looked into and appropriate amendment may be made to Clause 3 of Sub-Section (3) of Section 17 of the High Court Judges (Conditions of Service) Act. The second point is with regard to the payment of interim relief to the High Court Judges. The High Court Judges Rules were framed in 1956. Rule 2 of these Rules provides that where the conditions of service have not been specifically provided either in the Rules or under the Act, those rules applicable to the All India Services (Joint Secretary Rank) Officers would apply *mutatis mutandis* to the High Court Judges. If that be so, then under rule 2 of All India Services (Conditions of Service, Residual Matters) Rules, applicable to the All India Services, interim relief was granted to the tune of Rs. 100 per month on 12th October, 1983 to the All India Services Officers, belonging to the rank of Joint Secretary. But so far as the High Court Judges are concerned, no such interim relief has been granted. And I have got this information that as far back as 1984, a letter was received by the Delhi High Court Registrar stating that the matter is still under consideration. In the last Budget, or after the last Budget, another interim relief has been

granted. This interim relief has also been refused to the High Court judges so far. I respectfully submit that the Government of India may look into the matter. The first point I am making is that under Rule 2 of the High Court Judges Conditions of Services Rules, this interim relief is applicable to the High Court judges as well. I say so because the dearness allowance which was paid to the All-India Service officers has been made applicable to High Court judges under Rule 2 of the High Court Judges Conditions of Service Rules. If the dearness allowance is payable by virtue of rule 2 of those rules to the High Court Judges, there is no reason why the interim relief should not become also applicable to High Court Judges.

SHRI BAHARUL ISLAM: That is being paid.

SHRI MADAN BHATIA: No it has not been paid.

SHRI H. R. BHARDWAJ: This has been paid. Rs. 100 has been paid from 1982. It is with retrospective effect and we are paying the arrears.

SHRI MADAN BHATIA: If the Government of India has decided, I am very happy to hear it, because my information was that so far it has not been paid. But if the order has been made, I need not dwell on it.

The third point is with regard to encashment of unutilised earned leave. The High Court judges are entitled at the time of retirement to 5 months' encashment of unutilised earned leave. There is an anomaly so far as the subordinate judges are concerned. When they are elevated to the High Court Bench, whatever leave they have earned before their elevation—had they not been elevated, they would have been entitled to its encashment, and in the case of Delhi higher judicial service, they are entitled to encashment to the tune of 6 months—whatever leave stands to their credit before the

elevation, it lapses. Unfortunately, this results in considerable financial hardship because these judges are elevated to the High Court when they are in their mid-fifties or slightly thereafter and it is not possible for them normally to get 5 months' leave accumulated through a period of 6 or 7 years during which they remain on the High Court Bench.

Therefore, I request the Government of India, through you Madam, that so far as the subordinate judges are concerned, when they are elevated to the High Court Bench, they should be allowed to carry forward the period of their unutilised earned leave which had been to their credit, subject to the maximum of 5 months which is available to the High Court judges at the time of retirement. Thank you.

श्री चतुरानन मिश्र (बिहार): उप सभापति महोदया, दूसरी समकक्ष सेवाओं के मुकाबले में हमारी जूडिशियरी की जो हालत है उस को देखते हुए यह विधेयक थोड़ी सुविधा उनको दे रहा है और वह स्वागत योग्य है। मैं भी इसका स्वागत करता हूँ। लेकिन यह कहते हुए कि यह बहुत कम सुविधा है। यह दुख की बात है कि जैसे मजदूर या दूसरे कर्मचारियों को विवश हो कर अपनी मांगों के लिए सड़कों पर आना पड़ा था वैसे ही बाध्य होकर हमारी जूडिशियरी के लोगों को सड़कों पर आना पड़ा और यह लज्जाजनक स्थिति है हम लोगों के लिए कि वे सड़कों पर आयें और आन्दोलन करें। इससे हमारी प्रतिष्ठा को आघात लगता है। इस लिए मैं सरकार से आग्रह करूंगा कि उन की अन्य सुविधाओं के संबंध में जैसे और बहुत से सदस्यों ने और हमारे पूर्व बक्ता मालवीय जी ने कहा है, इन सारी बातों को देखते हुए सरकार ऐसा निर्णय ले जिस से आगे इस तरह की घटनाएँ न हों।

इस प्रसंग में मैं एक बात की चर्चा और करना चाहता हूँ और वह यह है कि

[श्री चतुरानन मिश्र]

हमारी न्याय पद्धति लगभग कोलेप्स कर रही है। इतने ज्यादा मकदमे हो गए हैं और उन के फैसलों में इतना ज्यादा समय लगता है कि न्याय पद्धति बिल्कुल कोलेप्स कर रही है। जो क्रिमिनल्स हैं जो जमानत पर रहकर 20-20, 25-25 वर्ष तक बाहर रहते हैं और तब भी उनके मकदमों का फैसला नहीं होता। पुलिस पर या दूसरे साधनों पर आप ज्यादा खर्च करते हैं अपराधियों को पकड़ने के लिए या अपराधों को रोकने के लिए, लेकिन सरकार की चेतना न्यायपालिका की ओर नहीं है। मैं पूछना चाहता हूँ कि यह न्याय पद्धति या न्यायपालिका प्रसफल हो जाए तो उसके साथ संबंधित अपराध कर्मियों को पूरी छूट मिल जाएगी और यही आजकल हो रहा है। इसलिए मैं सरकार से आग्रह करना चाहता हूँ कि वह कोई ऐसा इंतजाम करें जिस से न्याय जल्दी मिल सके। हमारा ख्याल है कि मकदमों के ट्रायल में बहुत ज्यादा समय लग जाता है, उसके प्रोसीजर को कम किया जाए या इस तरह की कुछ पद्धति अपनाई जाए जिस से न्याय जल्दी हो सके।

हम लोगों को मालूम है कि बहुत सी जगहों में न्यायपालिकाओं में जो जगहें स्वीकृत हैं वह भी खाली हैं। तो सरकार को यह देखना चाहिए कि कम से कम वह पद तो खाली न रहें। मुझे इस बात का ज्ञान है कि हमारे बिहार में 1984 का मुकदमा था तो उसकी डेट 1985 में पड़ रही है और 1985 के मुकदमों की 1986 में पड़ रही है और संख्या इतनी ज्यादा हो गई है कि उनका निपटारा नहीं हो सकता। बहुत सी जगहों में जजों के बैठने के लिए भी स्थान नहीं है, और सुविधाओं की बात ही अलग है। इसलिए सरकार इस पर सोचे और जो भारी तादाद में मुकदमों का बकाया है, उसको कम से कम समय में सुलझा सके, इस पर जल्दी से जल्दी ध्यान देना चाहिए। नहीं तो हो यह रहा है कि 20-20, 25-25 साल तक लोग अंडर

ट्रायल रहते हैं जेलों में। आपको मालूम होगा कि बिहार में आज्ञादी के पहले जो लोग पकड़कर जेलों में रखे गये थे, उन्हें एक दो साल पहले मुफ्रीम कोर्ट ने और हाई कोर्ट ने रिहा किया, नहीं तो वे वही मर गये होते। यह हालत हमारी न्याय पद्धति की हो रही है। इसलिए इसकी व्यवस्था की जानी चाहिए और सरकार को इसकी और अविलम्ब ध्यान देना चाहिए।

दूसरी बात मैं यह कहना चाहता हूँ कि कमजोर वर्ग के लोगों को कानूनी सहायता देने की बात चल रही है, किन्तु वह अखबारों में, रेडियो में प्रचार में बहुत ज्यादा है और धरती पर बहुत कम है। इसलिए लोग कानूनी सहायता से वंचित रहे हैं। इसलिए इस विषय में मैं चाहूंगा कि सरकार शीघ्र ध्यान दे ताकि गरीब लोगों को कानूनी सहायता उपलब्ध हो।

मैं एक और बात की ओर सरकार का ध्यान आकर्षित करना चाहता हूँ। यह समस्या है मजदूरों को न्याय दिलाने के संबंध में। श्रम कानूनों के अन्तर्गत मकदमों 10-20 वर्ष तक लटकते रहते हैं और बहुत से पब्लिक सेक्टर के अफिसर्स भी लिटिगेट हो गए हैं, इंडिविजुअल कैसेज में वे मजदूरों को हैरस करते हैं। इसलिए ऐसी व्यवस्था होनी चाहिए कि जो श्रम करने वाले मजदूर हैं उनके मामले कम समय में सुलझा जायें ताकि उनको इन्साफ मिल सके और लम्बे समय तक मुकदमों से वे बच सकें।

इन शब्दों के साथ मैं सरकार से फिर आग्रह करूंगा कि न्याय पद्धति को सरल और सुगम बनाने के लिए जल्दी से जल्दी कोई व्यवस्था लावे नहीं तो न्याय पद्धति फेल कर रही है और उस से सिर्फ अपराध कर्मियों का राज्य कायम हो रहा है। इस ओर सरकार ध्यान दे ताकि लोगों को शीघ्र न्याय मिल सके।

SHRI N. K. P. SALVE (Maharashtra): Madam Deputy Chairman, it does not surprise me that various

sections of the House and in the Lok Sabha have supported this Bill. The issue involved is very insignificant. But it is symbolic of a certain attitude and approach which the Government has shown, which is very highly welcome. In fact, raising the conveyance allowance from Rs. 300 to Rs. 500, which was asked for by them, I think, is hardly fair. If they wanted to make it Rs. 500, in 1983, today, it should have been not less than Rs. 1,000, seeing the expenses one has to incur in the maintenance of the car, running of the car etc. etc. I really hope that the conditions of employment of the High Court and Supreme Court Judges and also of the subordinate judiciary services are taken up very seriously, because theoretically it is all right to pointificate that it is higher aspiration, higher motive, higher values which inspire people to go and accept High Court judgeship or Supreme Court judgeship, giving up lucrative practice, but the very important thing which is forgotten by those speaking in this vein is, that today with the erosion in the purchasing power of money, are you going to keep our judges in the High Courts and Supreme Court on starvation wages? Unless you are going to ensure that they are able to maintain themselves and their family with dignity and respect, unless you are able to ensure that they are able to give to their families economic security and are able to discharge minimum obligations which a respectable person must—and for that money is needed—I think we are taking an extremely unrealistic view in not raising salary of judges substantially and it will mean absolute disaster in the entire concept of administration of justice as enshrined in the Constitution or otherwise.

One need not repeat time and again that a fearless and independent judiciary is the very basis, the very foundation of parliamentary demo-

cracy and I could not endorse more what my colleague, Mr. Baharul Islam, said about committed judiciary. Nobody wants commitment to the executive. Nobody wants that judges should be supine, spineless people. But certainly they must be totally and entirely committed to the Constitution. And if the Preamble enumerates the very objectives for which the Constitution has to be implemented, any judge who does not subscribe devoutly to the Preamble which enshrines the objectives for which the Constitution is to work, has no business to be made a judge either of the High Court or of the Supreme Court. In fact, such a person has no place in Government hierarchy whatsoever. Therefore some times when you see the judgements in which you find the private humour or individual views of the judges manifesting themselves, especially in the Supreme Court, it creates an extremely disconcerting situation. There is a current joke. If an issue is involved in a particular litigation, there is a joke, they say "you tell us who are the Judges and we will tell you what the judgement is going to be". It may be this way or that way, depending upon the private humour and personal whims of the Judges. This is an extremely difficult and extremely dangerous situation. I really hope that in Supreme Court, things do not go by what a particular Judge thinks or what his personal predilections or affiliation are, but they go by the written law, by the Constitution which is written.

A very important observation was made by Mr. Baharul Islam about indiscreet remarks by the Judges. I really do not know how is it this these educated, sensitive people sitting in High Courts and Supreme Court as judges do not realise that any indis-

[Shri N. K. P. Salve]

creet remarks by them affects the very credibility, affects adversely the very respect and the confidence which the people have in the High Courts and the Supreme Court. Several times remarks are made which impel one to feel that there is factional bickering going on between Judges which is extremely unfortunate and derogatory to the dignity which Judges are supposed to keep for themselves. Unless the Judges show greater self-discipline it would erode their wage further. It is not as though between the Supreme Court and the God there is nobody else. The Supreme Court perhaps thinks they are not answerable to anybody, and therefore they can go ahead with anything with impunity. That sort of impression is created which is most unfortunate. Certain judgements of courts when they are wrong, it must be submitted that they are wrong. Some erroneous judgements shake the confidence of the people in the Supreme Court and raise doubt about Judges—fearlessness. The Supreme Court must be aware of these facts. Such a judgement was delivered during the time of emergency. I am a devout supporter of emergency and I feel the atrocities committed by the bureaucracy distorted the picture of emergency which was so salubrious and healthy for the nation's growth. This was the judgement in the case of appropriate writ petition before the High Courts have held that despite dispensation of some of the Fundamental Rights a *malafide* act of the executive could always be challenged in an appropriate writ petition before the Court and Supreme Court.

The matter came to the
1.00 P.M.

Supreme Court and the Supreme Court said, "No. Once the fundamental rights are dispensed with, the Executive can do anything that they want. They can kill the detenus. You will have no remedy in the

Supreme Court." It was this one single judgment rendered by the Supreme Court which shook the faith of the people in the very authority of the Supreme Court to protect the citizen against *malafide* harassment by executive authority. And that was not bad enough. *Inter alia* as a result of that judgment, the Emergency's entire structure got so distorted that what happened in 1977 and thereafter, was partly as a result of that judgment. Another judgment of Supreme Court gave recently with regard to section 80J of the Income-tax Act where the issue involved was whether a certain rule made by the Executive was contrary to the section which had been enacted by Parliament. High Court after High Court took the view that the rule made by the Executive was *ultra vires* because it went contrary to the provision of the section itself under which it was made. All the High Court judgments went in favour of the assessee; they were against the Revenue. Only one High Court held in favour of the Revenue on a ground which the Supreme Court decided in favour of the Assessee. Therefore, virtually all the High Courts went in favour of the tax payer. The matter came to the Supreme Court. In the meanwhile it so happened that the Public Accounts Committee was seized of very same matter and the Finance Ministry officials expressly conceded before the Public Accounts Committee that the rule, in part, went against the section itself. This was pointed out to the Supreme Court. Then the judgment was given. The judgment was rendered after 18 or 19 months. That is an aspect to which I am coming now.

SHRI BAHARUL ISLAM: More than that.

SHRI N. K. P. SALVE: Two years: it takes longer than that. And the judgment came overruling all the High Courts, holding in favour of the Revenue. A substantial amount of

revenue was involved. This happened to be a matter in which the issue involved went squarely in the realm of the Accountancy world. The Accountancy world was shocked at the judgement rendered by the Supreme Court. I don't want to impute any motives whatsoever. The judgement given by the Supreme Court happens to be the law of the land.

SHRI S. W. DHABE (Maharashtra):
The judgment can be wrong.

SHRI N. K. P. SALVE: Yes. When a judgment is wrong, it must be submitted fearlessly that the judgement is wrong. When a judgment becomes so utterly wrong, then it shakes the faith and confidence of the people in the entire functioning of the Judiciary. The independence of the Judiciary is not in the hands of the Executive; it is in the hands of the Judges themselves. They are the worst culprits if they do not command full confidence. If ever the independence of the Judiciary is impaired under the system in which we are working, it is the Judges who will have to thank themselves and nobody else.

There is only one matter, Madam, and I will take one more minute.

About pendency of cases, eminent lawyers have been telling us that if no litigation were to go to the Supreme Court from tomorrow, if absolutely there were to be no further disputes before the Supreme Court in future, then to dispose of the pending disputes Supreme Court it is going to take 15 to 20 years. Now, is this correct or not factually? Even if the number of Judges were to be increased, the existing pendency is so heavy that for 15 to 20 years...

SHRI RAMANAND YADAV (Bihar):
How many hours do they sit in the Court?

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SHRI N. K. P. SALVE: Supreme Court sits for four and a half hours. Now, why should they take two years, 18 months or one year to write judgements. Is it that there is no discipline on themselves? They are not answerable to anybody—good, in a way—but does it mean they are not answerable to themselves also? Should there not be self-discipline? If they are not going to impose self-discipline, they would land themselves and others in a tragic end. It must be laid down that a matter heard today should be decided in 10 or 20 days and should not take more than a month. Of what use it is for a Judge to sit two years on a judgment in the meanwhile he has heard dozens of other cases—and how will he recapitulate with any degree of accuracy. You can fall back upon written notes, but those who are in the profession do know that all the finer nuances of the case you are never able to recapitulate once there is such inordinate delay. I would like to know from the hon. Minister whether something can be done in this matter to ensure that the people are not kept waiting ad infinitum for deliverance. The judgment has to be delivered within a reasonable time. Lastly, Madam, under the Income tax Act, the Customs Act, the Excise Act, the MRTP Act, the IRDP Act and labour laws in which people are involved, today the writ litigations have assumed a dimension which is absolutely unprecedented. The founding fathers of the Constitution, I think, never envisaged that the writ litigations would be of this dimension. If we are going to load the High Courts and the Supreme Court with massive writ litigations, others litigants would have absolutely no chance whatsoever in this system. That is why, I may disagree with the hon. Member, Shri Jaswant Singh, on several other things which he mentioned but not on this. The basic concept of justice going haywire is a threat which we need to be aware of. It has to be ensured that justice to the poor to the needy expeditious justice to the poor, to the needy, is an affair which is more im-

[Shri N. K. P. Salve]

perative. Our system must ensure that. The rich can take care of themselves. They can go to hell if they want. But today what is happening is, these people who can afford, are having their matters heard days after days. Futile arguments go on. Lawyers get any amount of money. Simple issues are involved. I submit: Please take this matter seriously. You can have administrative tribunals, and let these matters be decided quickly and expeditiously one way or the other.

The public interest litigation is another aspect. Unnecessary politicisation is going on in this matter. If there is something to be said in favour of this litigation, there is a whole lot to be said against the public interest litigation. I do hope that some way would be found out so that poor people, the needy people, who cannot afford expensive justice, can get justice. Expensive justice is justice denied, Madam. Today I cannot think of a man living in a small, remote Adivasi village to go to the Supreme Court, whatever may be the magnitude of injustice done to him. What sort of system are we having? So far as the rich is concerned, he has just to throw out some money, a fat cheque on a bank account, and the next day his matter is admitted, and the whole thing is straight. The system is going haywire. We have to review the whole matter in correct perspective. I do hope that the two eminent members of the bar now in the Law Ministry, will do look at these things pragmatically.

Thank you, Madam.

THE DEPUTY CHAIRMAN: The House is adjourned till two o'clock.

The House then adjourned for lunch at seven minutes past one of the clock.

The House reassembled after lunch at three minutes past two of the clock.

The Vice-Chairman (Shrimati Kanak Mukherjee) in the Chair

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश) : माननीया उपासभाध्यक्ष जी, यह जो संशोधन विधेयक लाया गया है इसके पीछे आधार क्या है, यह समझ में नहीं आ रहा है? हाई कोर्ट जज और उच्च न्यायालय के जज ही इस देश में नौकरी करने वालों में ऐसे लोग हैं जिनका वेतन 1950 में घटाया गया था, क्योंकि जब हमारा संविधान पारित किया गया था उसके पहले न्यायाधीशों को चार हजार रुपया प्रति मास वेतन मिला करता था। लेकिन जब बाद में संविधान पारित हुआ तो संविधान के दूसरे शैड्यूल के हिसाब से हाई कोर्ट, जज की तनखाह घटा करके 3500/- रुपया की गई। बार बार इस बात की आवाज लोगों ने भी उठाई कि जो न्यायपालिका है और जो न्याय का सर्वोच्च मंदिर है, वहाँ के जजों को इतनी सुविधा कम से कम अवश्य मिलनी चाहिए इतना वेतन तो जरूर मिलना चाहिए कि जिसमें आदमी को सस्ता न्याय मिल सके और अष्टाचार रहित न्याय मिल सके। 1 अक्टूबर, 1974 से जो संशोधन 1976 के अनुसार पूर्व प्रभावी किया गया उसके अनुसार न्यायाधीशों के लिए प्रावधान किया गया कि तीन सौ रुपया प्रति माह इनको सवारी भत्ता मिलेगा, वशर्ते कि वह कोई गाड़ी या कार अपने साथ रखने हों। इसके पीछे निश्चित रूप से यह सिद्धांत रहा होगा कि सवारी भत्ता में मतलब, जो केवल मैं समझ पाया हूँ वह है पेट्रोल का खर्चा।

मैं माननीय मंत्री जी का ध्यान आकर्षित करना चाहूंगा कि अप्रैल, 1973 में पेट्रोल की कीमत थी 1 रुपया 50 पैसा प्रति लिटर, जुलाई, 1974 में कीमत थी 3 रुपया 23 पैसा प्रति लिटर, जुलाई, 1976 में हो गयी 3 रुपया 39 पैसा प्रति लिटर, मार्च 1978 में कीमत थी 3 रुपया 50 पैसा प्रति लिटर, अगस्त 1979 में कीमत थी 4 रुपया 41 पैसा

प्रति लिटर, जून 1980 में कीमत थी 5 रुपये 11 पैसे प्रति लिटर, जनवरी 1981 में यही पेट्रोल की कीमत थी 5 रुपये 50 पैसे प्रति लिटर और जुलाई 1981 में कीमत थी 6 रुपये 3 पैसे प्रति लिटर और अब बढ़कर यह कीमत हो गयी है 7 रुपये 5 पैसे या 7 रुपये 2 पैसे प्रति लिटर। जब यह तय हुआ कि 10 जुलाई 1974 से जजों को 300 रुपये सवारी भत्ता दिया जाएगा, उस वक्त पेट्रोल की कीमत 3 रुपये 23 पैसे प्रति लिटर थी और इसलिए जो मुख्य न्यायाधीशों का सम्मेलन हुआ 1983 में, उसमें यह बात उठाई गई कि सवारी भत्ता बढ़ाकर 500 रुपये किया जाए। तो जिस हिसाब से यह पेट्रोल की कीमत बढ़ रही है उस हिसाब से भत्ता भी बढ़ाया जाय, यह सिद्धांत इसके पीछे था। यह भत्ता जिस वक्त जुलाई, 1974 में दिया गया, उस वक्त पेट्रोल की कीमत 3 रुपये 23 पैसे थी और आज यह 7 रुपये 5 पैसे प्रति लिटर हो गयी है उस हिसाब से तो 675 रुपये भत्ते का प्रावधान होना चाहिए। लेकिन इसके पीछे क्या सिद्धांत है, यह मेरी समझ में नहीं आ रहा है।

दूसरे जब तक इस देश में न्यायाधीश को अपने परिवार के प्रति चिंता नहीं होगी और एक साधन-संपन्न जीवन वह नहीं बिता सकेंगे तो इस देश के लोगों को भ्रष्टाचार से राहत और न्याय नहीं मिल पाएगा। जो हमारे यहां की छोटी न्यायपालिका है चाहे मैजिस्ट्रेट हो, सेसन जज हो, वहां पर काफी हद तक भ्रष्टाचार है और यही नहीं है कई न्यायाधीशों के खिलाफ मुकदमे भी हुए हैं और उनको सजा भी मिली है। तो इस सिलसिले में मैं मंत्री जी का ध्यान आकर्षित करना चाहूंगा।

वर्तमान न्याय मंत्री श्री अशोक सेनजी, जिन्होंने इस बात को हमारे प्रश्नोत्तर में माना भी है और पटना में अप्रैल 13 को उन्होंने किसी बैठक में यह विचार प्रकट किया है, जो कि 14 अप्रैल के "स्टेट्समैन" में प्रकाशित हुआ है—

"The Union Law Minister, Mr. A. K. Sen, on Saturday said a revision of judges' salaries was a must if the judicial cadre in the country were to attract the best legal minds reports UNI.

"We must pay the proper price for quality", he said while inaugurating the annual conference of the Bihar Judicial Services Association here. Mr. Sen said the salary of judges was fixed 35 years ago when the value of the rupee was nine times more than its value today. The purchasing power of that salary of Rs. 3500 per month today is only Rs. 400 per month. The best brains cannot be attracted with this salary, Mr. Sen remarked."

मैंने तो शुरू में ही निवेदन किया था कि जो माननीय न्यायाधीशों का वेतन 3,500 रुपये प्रति माह शुरू में ही तय किया था, इसको माननीय मंत्री जी ने खुद स्वीकार किया है कि आज की मंहगाई को देखते हुए, आर्थिक व्यवस्था को देखते हुए सन् 1950 के 3500 रुपये की कीमत घट कर आज केवल 400 रुपये रह गई हैं। इसलिये मैं माननीय मंत्री जी से यह कहूंगा और जैसे दूसरे माननीय सदस्यों ने भी अपने विचार प्रकट करते हुए कहा है, कि इस सिलसिले में एक व्यापक और विस्तृत विधेयक लाएं, जिससे यह 300 रुपये सवारी भत्ता बढ़ाकर 1000 रुपये कर दिया जाय या 675 रुपये कर दिया जाये। हमसे इस संशोधन के पीछे जो सरकार की भावना है, जो आपका मकसद है, वह पूरा होने वाला नहीं है। इसके अतिरिक्त मैं उच्चतम न्यायालय के एक निर्णय की ओर भी माननीय मंत्री जी का ध्यान आकर्षित करना चाहूंगा। उच्चतम न्यायालय ने अभी हाल ही में जजों के वेतन के सिलसिले में एक निर्णय दिया है श्री एम० एल० जैन एंड एनादर वर्सेस यूनियन आफ इंडिया में और इसी संदर्भ में अतिरिक्त प्रश्न संख्या 533

[श्री सत्यप्रकाश मालवीय]

दिनांक 6 मई, 1985 के प्रश्नोत्तर में माननीय मंत्री जी ने खुद स्वीकार किया है।

"The Supreme Court in its judgment in the case of Shri M. L. Jain and another vs Union of India, has made certain suggestions for improving the service conditions of the judges".

यह समय की पुकार है। सरकारी कर्मचारी हो या अध्यापक हों वे अपना संगठन बना कर उस के माध्यम से अपनी सेवा शर्तों के सिलसिले में सरकार तक आवाज पहुंचा सकते हैं, आन्दोलन भी कर सकते हैं, सत्याग्रह कर के जेल भी जाते हैं और इस सिलसिले में इसी सदन के सदस्य श्री पी० एन० सुकुल जी को मैं बधाई देना चाहता हूँ, जब वह उत्तर प्रदेश में सरकारी कर्मचारी थे उन्होंने सरकारी कर्मचारियों के लिये आवाज उठाई, सत्याग्रह तक किया, आन्दोलन भी किया और गिरफ्तार होकर जेल गये और संगठन के माध्यम से सरकारी कर्मचारियों को काफी लाभ हुआ उनकी सेवा शर्तों में। लेकिन जो हाई कोर्ट के न्यायाधीश हैं वे इस सिलसिले में कुछ भी करने में असमर्थ हैं और इस लिये मेरा यही निवेदन है, जैसा कि आश्वासन दिया गया है, शायद 30 मई को मुख्य न्यायाधीशों का सम्मेलन होने वाला है और जो वे सुझाव देंगे उनके अनुसार सरकार फैसला देने वाली है।

अन्त में मैं यह बात कह कर खत्म करूंगा कि माननीय मंत्री जी को न्यायपालिका को भ्रष्टाचार से मुक्त करना चाहिये। हम लोग उत्तर प्रदेश से आते हैं, हमारे उत्तर प्रदेश में न्यायपालिका को कहा जाता है अदालत और देहाती भाषा में कहा जाता है अदालत का मतलब है अ से आओ, दा से दो, ना से लाओ और त से तबाह हो जाओ। यह परिभाषा उत्तर प्रदेश में न्यायपालिका की है। इसलिये मेरा मंत्री जी से निवेदन है कि भ्रष्टाचार को दूर करने के लिये, सस्ता न्याय दिलाने के लिये शीघ्रता से कड़े कदम उठाने चाहिये।

जसवन्त सिंह जी कह रहे थे जस्टिस डिलेड इज जस्टिस डिनाइड। इस देश में हर चीज की परिभाषा होती है। इसका ठीक उल्टा है "जस्टिस हरीड इज जस्टिस बरीड" मेरा निवेदन यह कि मंत्री जी को इस सिलसिले में शीघ्र ही ऐसा निर्णय लेना चाहिये जिससे न्यायपालिका के जज निश्चित होकर अपने कर्तव्य का पालन कर सकें।

SHRI B. KRISHNA MOHAN (Andhra Pradesh): Madam Vice-Chairman, while associating myself with the views expressed by the honourable Members in support of the Bill moved by the honourable Minister of State for Law, may I take the opportunity of appealing to him to consider the possibility of fixing the conveyance allowance at least at Rs. 1000? In many States, particularly in my home State, Andhra Pradesh, a Minister draws a conveyance of Rs. 1700 under the present Telugu Desam Government, for going from his official residence to the Secretariat and back. at least to be on a par with the Ministers in some States, the conveyance allowance of the judges of the High Courts and the Supreme Court should be fixed at Rs. 1000. Apart from that, I am one of those who firmly believe that for a successful functioning of democracy much depends on the judiciary enjoying and commanding dignity and independence. I, therefore, appeal to the honourable Minister to create favourable service conditions so that right type of people are attracted to man the judicial posts and the dignity and independence of the judiciary is maintained. Time and again the Law Minister is placing before the House statistics of vast accumulations of cases in the Supreme Court and the High Courts. The accumulation may be due to different factors. In order to clear some of the pending cases in the Supreme Court and the High Courts I appeal to the honourable Minister kindly to increase the number of judges both in the Supreme Court as also in the High Courts, and also to create Benches of the High

Courts in various places in the respective States and to create a Bench of the Supreme Court in the South, either at Hyderabad or at Madras or at Bangalore. The creation of a Bench of the Supreme Court in the South is essential for the speedy disposal of the cases, particularly those emanating from the South. Most of the cases pending in the Supreme Court are not being cleared. I will cite an example now. The Andhra Pradesh Government, by an executive order, abolished the posts of Village Officers and when a writ petition was filed before the Supreme Court, the Supreme Court took 1½ years to clear that petition. Likewise, when the very same State Government reduced the age of superannuation of the State Government employees from 58 to 55 years and when the State Government employees filed a writ petition before the Supreme Court, the Supreme Court took nearly two years to give its own verdict and so, the benefit given by the Supreme Court could not be enjoyed by many of the NGOs because they had already retired from service and they had been retired by the State Government. So, I would appeal to the Minister to see that the maximum number of cases pending before the Supreme Court and the High Courts are disposed of as expeditiously as possible since justice delayed means justice denied.

I also take this opportunity of appealing to the honourable Minister to kindly see that an All-India Judicial Service is introduced at the earliest, I emphasise this particularly because of the recent happenings in the State of Andhra Pradesh where nearly 60 posts of District Munsifs were to be filled by the Andhra Pradesh State Service Commission and, for the first time in the history of Andhra Pradesh, the posts of District Munsifs were not filled by the A. P. State Public Service Commission, but they were sold. They were not recruited to the posts, but the posts were sold. People who cannot stand for two minutes in a court and ask for an adjournment have been

selected. When two friends of mine were selected, I asked them, "How did you get selected?" I was told that many of these posts were sold and this is what is happening in the Telugu Desam Government!

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): You are wrong. It is all wrong.

SHRI B. KRISHNA MOHAN: If people can purchase the post of District Munsif—I am supported by facts and figures, Madam—for forty thousand or fifty thousand rupees, how can you expect justice from such people?

SHRI B. SATYANARAYAN REDDY: You are only maligning. (*Interruption*)

SHRI B. KRISHNA MOHAN: Your own Chief Minister's son-in-law got forty posts. (*Interruptions*).

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): No interruptions, please.

SHRI B. KRISHNA MOHAN: Such a sorry state of affairs is prevailing in Andhra Pradesh. In order to attract talented people, people who are committed to the judiciary, who are committed to the formation of a socialist form of society, I appeal to the honourable Minister, to take steps to create an All-India Judicial Service so that the right type of people are selected to these posts and the people also can expect justice from these judicial officers.

Then, Madam, I come to the question of legal aid to the poor. In most of the States, this scheme is not being properly implemented. I would like to request the honourable Minister to take effective steps in order to see that this scheme, the Legal Aid Scheme, is strictly implemented in all the States so that the needy people get legal aid at the appropriate time.

Lastly, I would like to say a word about judicial reforms. I would like to appeal to the honourable Minister to see that the judicial reforms which

[Shri B. Krishna Mohan]

are necessary are undertaken so that the entire judicial system is reorganised and restructured keeping in view the needs of the society when the people can expect speedy justice. Otherwise, as the saying goes, justice delayed is justice denied.

With these words, I support the Bill. Thank you, Madam.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Now, Mr. Satyanarayan Reddy.

SHRI B. SATYANARAYAN REDDY. Madam, the present Bill, which has been discussed and passed by the Lok Sabha, is now before us for our consideration. Through this Bill, the Government seeks to increase the conveyance allowance payable to the High Court and the Supreme Court Judges from Rs. 300 to Rs. 500. In this connection, I would like to draw the attention of the honourable Law Minister to the present-day rising prices and would like to ask whether, in view of the present inflationary conditions and the rising prices of petrol and other articles of daily consumption, the present increase in the conveyance allowance is sufficient at all. I would like to know this from the hon. Minister's own experience. The conveyance allowance of Rs. 300 was fixed in 1974. In 1983 the Chief Justices' Conference recommended Rs. 500. And in 1985 now we are raising it to Rs. 500 after a lapse of so much period. The present increase of allowance from Rs. 300 to Rs 500 is very low and inadequate. Similarly, the salaries paid to the Judges of the Supreme Court and the High Courts are also inadequate and need revision. In fact, the Judiciary, specially the Judges of the Supreme Court and the High Courts, require all facilities so that they give their judgments without fear or favour. At present the Chief Justice of the Supreme Court is paid Rs. 5000, if I am correct, and the Judges of the Supreme Court are paid

Rs. 4000, and the Judges of the High Courts are paid Rs. 3500. Law Minister was just now telling that they are also paid dearness allowance of rupees two thousand and . . .

SHRI H. R. BHARDWAJ: Rupees 2250.

SHRI B. SATYANARAYAN REDDY: This is the present position. In view of the inflationary conditions and rising prices, my suggestion is to have a second look, taking into consideration all these facts and taking into consideration the position in other countries. For example, in England in the beginning they were paid Pound 3600. Today they are getting Pound 45,000. In West Germany in 1950 the salary of a Judge was about 1500 DM. Today it is about 9213 DM. What is important before us is the dignity of the Judiciary and the independence of the Judiciary. And what we have to do is we have to draw the most intellectual, the best legal mind, to this field. That we are lacking.

In this connection, I would like to draw the attention of the hon. Minister to a statement made by the present Chief Justice of India that the quality of the judgments is going down because of the fact that we are not getting experts. Though they are qualified Judges, they require expertise in the legal field. The reason is that a lawyer is earning much more than a Judge. Well experienced lawyers are not forthcoming. This is the present position. I would like him to ponder over this statement made by the Chief Justice. I think the Law Minister is also well aware of this. It is not enough that we should very simply increase the allowances. The Judges, whether of the High Courts or of the Supreme Court, should have sufficient means to live with dignity and give judgments without fear or favour. This is very important.

In this connection I would like to draw the attention of the hon. Minis-

ter to the service conditions of the Judiciary in commensurate with the dignity and prestige of our Judiciary. We are not offering them proper emoluments. When they retire from service, we are not giving them the required pension. I think the Members who spoke from this side and that side were unanimous that the Judges should be well paid, and I think there can be no difference of opinion that the present increase is most inadequate, so far as this legislation is concerned.

That is the unanimous view of the Members of this House.

Then I would like to draw the attention of the Law Minister to the question of bifurcation of the Supreme Court into constitutional and non-constitutional benches. So far as this is concerned, I would like to draw the attention of the Minister that so far as the Supreme Court is concerned, the unity and dignity of the Supreme Court should be maintained. At the same time, it can sit in one place or in more than one place. That can be considered. For example, there is a proposal that the Supreme Court should sit once in a year in some other parts of the country, namely, at Hyderabad or at Bangalore or at any other place. I do not say that it should be in Hyderabad alone. It can be anywhere in Andhra Pradesh or in any other State because it is very difficult for the common people to come to Delhi to the Supreme Court spending lakhs of rupees. It should be done in order to facilitate the coming of people from far-away parts of the country to the Supreme Court so that they may get justice.

I would also like to say that there should be a common civil court for the whole country. This has been stressed on more than one occasion. I do not know why this vital question has been delayed by the Government. While its attention has been drawn,

the Government has not yet brought forward a Bill in this regard.

Then I come to the question of transfer of Judges. Judges are being transferred from one State to another. I don't object to it. But it should be done on a reasonable basis. It has been seen that sometimes if the Government is not in favour of some Judge, if he wants to go, there is State to another. It should be done with the consent of the concerned Judge. If he wants to go, there is nothing wrong in his transfer. But one should not be transferred because of disagreement with the Government of the day. It is also for consideration of the Government. I have made my point very clear.

About the retirement age of the Judges, I would like to say that for the sake of uniformity there should be a uniform age of retirement for all the Judges in the country irrespective of the fact whether he is a District Judge or a High Court Judge or a Supreme Court Judge. There should be uniformity.

SHRI BAHARUL ISLAM: Even the Judges of the Supreme Court do not agree on this point.

SHRI B. SATYANARAYAN REDDY: This is my point of view. If the Supreme Court Judges do not agree, I am not concerned. They get more age. I am speaking about all the Judges, the District Court Judges and other Judges. I am speaking about the High Court Judges. (*Time Bell Rings*). There should be uniformity in the age of retirement of Judges.

There are a number of recommendations of different committees and organisations for judicial reforms. I request the Law Minister to go into these recommendations of the committees. I think there should be a comprehensive Bill to replace the 1954 and 1958 Acts. The Government should take a clear view about it and bring forward a comprehensive bill.

SHRI SANKAR PRASAD MITRA (West Bengal): Madam Vice-Chairman, the hon. Members of this House who took part in this debate have raised numerous points. I am sure the hon. Law Minister who was a celebrated legal practitioner would reply to all these points.

I propose to deal with some of the points raised.

The present Bill appears to be the agree with Mr. Tapanand Yadav. I Justices' Conference passed in 1983. But this Bill does not answer the requirements of the situation. In my opinion, all remunerations of Judges of all categories need to be reviewed—their salaries, dearness allowance, housing allowance, car allowance, entertainment allowance, pension and retirement benefits. Article 125...

SHRI RAMANAND YADAV: Housing also.

SHRI SANKAR PRASAD MITRA: I agree with Mr. Ramanand Yadav. I do not generally agree with him. But on this point I agree with him. Madam, articles 125 and 221 of the Constitution were enacted in 1950. And, naturally, the founding-fathers of our Constitution did not envisage, and they could not envisage what would be the inflationary pressures on this country 35 years later. These are the articles guaranteeing minimum salaries only. And the Constitution has to be amended in the context of the present price structure, a demand which, I believe, is justifiable. Both in the United States and in the United Kingdom, Judges salaries are periodically revised, and I do not see why in this country such a practice should not be introduced. Certain questions, Madam, have been raised with regard to the present transfer policy of Judges and Chief Justices. As far as I am aware, this policy was adopted pursuant to the recommendations of the Law Commission, presided over

by Mr. M. C. Setalvad, the then Attorney-General of India, and Chief Justice Chagla, Chief Justice Wanchoo and other eminent jurists were the members of that Commission. I believe, this recommendation was also made by the Law Commission when Justice H. R. Khanna was the Chairman. When Pandit Gobind Ballabh Pant was the Home Minister, Shri Lal Bahadur Shastri was the Home Minister, this issue was raised. But, at that time, although some judges were willing to go to other States, the other State Governments were insisting on appointments from their own States. The situation now has changed. I have no particular knowledge as to how transfers are taking place at the moment. But I have read in the newspapers a statement made by Mr. Bhardwaj in the Lok Sabha that all these transfers in recent times have been made with the concurrence of the Chief Justice of the Supreme Court. If that is correct, Mr. Bhardwaj will kindly confirm me. But between 1975 and 1977, certain transfers were made to which exceptions could be taken. And it is, perhaps, not known that these transfers were made between 1975 and 1977 not on the insistence of the Executive Government alone but also on the insistence and at the initiative of a high dignitary in the judiciary; for reasons I ought not to discuss in this House, he was constantly asking the Government to make those transfers.

Madam Vice-Chairman, there is a statement made by one of the hon. Members about sycophant judges. A reference to a recent judgement of the Supreme Court has also been made to in the House. I have read in the newspapers a statement by the Union Law Minister who was one of the undisputed leaders of the Indian Bar that we do not want sycophant judges and there are no sycophant judges. I am prepared to accept the statement of Mr. A. K. Sen, M. Sc. (Eco) Lon-

don, Barrister-At-Law. one of the leaders of the Indian Bar, that he does not want sycophant judges. But I am not prepared to accept his second statement that there are no sycophant judges in the Indian judiciary.

[The Deputy Chairman in the Chair]

Madam Deputy Chairman, I am aware of the constraints imposed by the Constitution on me. I shall confine myself to those constraints. I shall not mention any names. I shall only refer to 3 or 4 newspaper reports from which the House is entitled to draw its own conclusions. If someone goes to a meeting of a Chamber of Commerce and openly declares that "When I delivered such and such judgement my conscience was pricking; but I did not have the guts to resign", what would be the reaction of the public to such a statement? If someone writes to a Prime Minister on the Prime Minister's return to power flattering and eulogising letter, the contents of which are published in the press, what would be the public reaction? If someone who has taken an oath to the Constitution, goes to a public meeting or a law seminar and says that under this Constitution, socialism will never be achieved, without resigning his post, what would be the public reaction to such a statement?

My learned brother, Justice Baharul Islam, has advised restraint. I believe when he was in the Supreme Court, he tried his best to persuade them to observe restraint; but how far he has succeeded, he alone can say.

Some Members have said that there should be an increase in the strength of judges of the High Courts and in the Supreme Court. I have read the statement by the present Minister sitting here as well as one by the Union Law Minister, that the strength of the Supreme Court judges will be raised from eighteen to thirty. Madam, I may humbly submit to him, with

due respect, that by increasing the strength of the judges either in the High Courts or in the Supreme Court, you will not solve the problem of arrears. You are unable to pay adequately even the existing judges and you are thinking of appointing more judges for the purpose of reducing the arrears. If you are serious about reducing the arrears, I am placing before you six points. Kindly make a note of these six points and you will see how the arrears are gradually reduced year after year.

Point number one: Introduce pretrial procedures as in the U.S.A. Point number two: Decentralise the judiciary. Point number three: Curtail the jurisdiction of the Supreme Court. Point number four: Constitute four national tribunals consisting of experts enjoying the status of the Supreme Court for trials of (a) tax cases (b) revenue cases (c) labour cases and (d) service cases. Point number five: Restrict the number of appeals available to a litigant. Point number six: Make strict provisions for the grant of special leave to appeal by the Supreme Court. It is indeed a tragedy, astounding, that the trespassers on the footpaths of the city of Bombay have been granted special leave to appeal to the Supreme Court and stay orders have been issued preventing the Government of Maharashtra from removing them from the footpaths. If this is the way the Supreme Court functions, kindly take immediate steps to restrict their powers of granting special leave. With these submissions, I conclude.

उपसभापति : यादव जी, आप बोलेंगे कि विदज्ञा कर लेंगे ?

श्री रामानन्द यादव : एक तो मेरा टाइम पहले ही कटते-कटते कर लिया और हमारे को बुला दिया। . . .
(व्यवधान)

THE DEPUTY CHAIRMAN: Please address yourself to the Whip. Your Whip has given the names and I am calling them accordingly. You address yourself to her.

श्री रामानन्द यादव : उपमहापति महोदया, मैं इस विल का समर्थन करने के लिए खड़ा हुआ हूँ। मैं यह दावा नहीं कर सकता कि जुडीशियरी के संबंध में कुछ बोलू और मेरा बोलना अधिक इस पर महत्व भी नहीं रखता है। लेकिन चूंकि मैं देहात से आता हूँ गरीब तबके का रहने वाला हूँ और अपने अनुभव के आधार पर इसके संबंध में कुछ कह देना उचित समझता हूँ, जैसा कि देहात के लोग फील करते हैं। आजकल ऐसा देखा जाता है कि जिन वकीलों की वकालत डिस्ट्रिक्ट कोर्ट में या लोअर कोर्ट्स में नहीं चलती है, वही लोग जुडीशियरी में आने के लिए बहुत उतावले होते हैं और वे प्रेफर कर देते हैं इसलिए कि वहां उनको कु प्रैस्टिज मिलता है। जजेज ऐसा प्रेस्टिज है कि जिसको वह एकवायर करना चाहता है और समझते हैं कि यह डंपिंग ग्राउंड है और वे ऐसे लोग हैं जो इंटेलिजेंट नहीं हैं। तो मैं यह चाहूंगा कि अन-इंटेलिजेंट पर्सनज का डंपिंग ग्राउंड जुडीशियरी को नहीं बनने देना चाहिए। आज जो जुडीशियरी में खामी है, इसका कारण है कि जो जजेज हैं वे काफी इंटेलिजेंट नहीं हैं।

उनके जो रिक्लूटमेंट है उनमें डिफेक्ट है। अब कहा रिक्लूटमेंट में डिफेक्ट है उस पर मैं कुछ कहूंगा। लेकिन आप यह भी देखेंगे कि जिन वकीलों की वकालत अच्छी चलती है, उनका काफी इन्गेजमेंट रहता है, वे कभी जज नहीं बनना चाहते, कभी सुप्रीम कोर्ट के जज नहीं बनना चाहते, वे चाहते हैं कि इस वक्त वे यहां हैं, वही रहकर अच्छा पैसा कमाएं। मैं यह मानता हूँ कि जजों के जो एलाउन्सेस हैं, वे बहुत कम हैं, उनकी सेलरी कम है, उनकी सेलरी बढ़नी चाहिए, उनके एलाउन्सेस बढ़ने चाहिए और उन्हें अधिक से अधिक सुविधा दी जानी चाहिए ताकि वे जल्दी से अपना जजमेंट दे सकें, उचित न्याय लोगों को दें सकें और करप्ट न हो सकें।

ऐसा देखा जाता है कि जज कोर्ट में अधिक देर तक नहीं बैठते। केवल चार घण्टा बैठते हैं और उठकर चले जाते हैं।

जितने सेलरीड परसन्स हैं, जिनका एपा-यंटमेंट चुनाव से, गवर्नमेंट द्वारा या किसी कमीशन द्वारा होता है, उसका समय निर्धारित है, लेकिन जज साहब के लिए उनके बैठने का कोई समय निर्धारित नहीं है, वह चार घण्टा बैठेंगे। तो सरकार को इस पर विचार करना चाहिए कि उनको भी आठ घण्टे काम करने की आवश्यकता है। एलाउन्सेस का जहां तक सवाल है इसको बढ़ाने के लिए मैं भी अपने और साथियों के साथ सहमत हूँ कि इन्हें अधिक से अधिक सुविधाएं दी जानी चाहिए ताकि अच्छा जजमेंट दे सकें, लोगों के हक में काम कर सकें ऐसा हुआ कि एक मंत्री भी जज हुए, ऐसा एक इंस्टान्स मिला है और जब उन्होंने अनुभव से देखा कि जो जज की हैसियत से उन्हें सुविधाएं प्राप्त हैं, वह मंत्री के बराबर नहीं हैं उससे भी कम है, उससे खराब हैं, तो उन्होंने रिजाइन कर दिया और वहां से चलते बने। इसलिए आज जरूरी है कि उनकी एकोनॉमिक हालत ठीक करने के लिए ताकि वे टेम्प-टेशन में न आएँ, करप्ट न बनें, उनको हर तरह की सुविधा देने की आवश्यकता है।

मान्यवर मैं चाहूंगा जो जजों का रिक्लूटमेंट है उसमें बेसिस यह रहना चाहिए यूमिनिटी का, एक व्यक्ति जो जज बने जुडीसरी में आए, उसमें मानवता कितनी है, इसका भी विचार होना चाहिए। साथ उसमें कोमन-सेन्स कितना है उस व्यक्ति में कामन-सेन्स कितनी मात्रा में है, यह भी देखना चाहिये साथ ही साथ यह भी देखना चाहिए कि वह सोशल जस्टिस के लिए कितना कमिटेड है, वह सोशल जस्टिस के लिए कमिटेड है या नहीं? ऐसे व्यक्ति का चयन ही होना चाहिए जिसमें सोशल जस्टिस के लिए भावना नहीं है साथ ही यह भी देखना चाहिये कि उसमें कंपेशन कितना है, वह लार्ज हार्टेड है या नहीं? जो सबसे ज्यादा इंपोर्टेंट है, उसके बारे में भी देखना चाहिए कि जो डायरेक्टिव प्रिंसिपल आफ स्टेट पालिसि है, उसके प्रति उसका कमिटेमेंट है या नहीं।

आज जितने जज हमारे आते हैं, प्रायः उसमें से अधिकांश वेस्टेड इंस्टरेस्ट के लोग हैं, जो वह जिस क्लास से आते हैं, उस क्लास के हित में जजमेंट देते हैं। वह समाज के हित में जजमेंट नहीं देते, समाज के हित में जजमेंट नहीं देते, सोसायटी के हित में जजमेंट नहीं देते, गरीबों के हित में जजमेंट नहीं देते।

आज तक अगर सुप्रीम कोर्ट में कोई जज आया है, तो मैं हाथ उठाकर कह सकता हूँ, दावे के साथ कह सकता हूँ कि जस्टिस भगवती ही हैं, जिन्होंने निम्न क्लास के बारे में सोचा कि उनको भी उचित न्याय मिलना चाहिए। गरीब तबका, जिसके पास पैसा नहीं है, जो आगे बढ़कर जजमेंट खरीद नहीं सकता, प्राप्त नहीं कर सकता, उसके लिए उन्होंने लीगल एड की व्यवस्था की और वह बराबर से कहते हैं कि जूडिशियरी में सोसायटी-के प्रति कमिटमेंट होनी चाहिए। आज हिन्दुस्तान की जूडिशियरी जो है, वह प्रगति में बाधक है। आप रोड बनाना चाहते हैं, इंटररिम इन्वेक्शन लेकर चले जाइये आपके खेत से रोड नहीं निकलेगी। जमींदारी उन्मूलन हुआ, तो चले गए सुप्रीम कोर्ट में और स्टे-आर्डर ले आये और जमींदारों ने जितनी जमीन थी, अपनी जमीन का बर्दावस्त करने लगे। प्रिवीपर्स का सवाल उठा, तो वहां भी लोग सुप्रीम कोर्ट में चले गए। अब आप देखियेगा, यह धंवर में जाकर एस्कोर्ट के मालिकों ने क्यों केस किया? यहां क्यों नहीं इन्होंने केस किया? यह बड़े-बड़े जो उद्योगपति हैं, इनके लिए जजमेंट सस्ता है, हाई कोर्ट, सुप्रीम कोर्ट कहीं भी चले जायें इनके मन के मुताबिक जजमेंट इन्हें मिल जायेगा। इसलिए आज जरूरत है कि इन बातों पर भी विचार करना चाहिए कि समाज के लायक जजमेंट देने वाले व्यक्तियों का ही चयन होना चाहिए, इन पदों पर।

महोदया, पुराने जमाने में समर वैंकेशन जजों के लिए होता था दो महीने आज भी दो महीने का होता है। सबके

लिए एक महीने की छुट्टी होती है, इन के लिए दो महीने की। समर वैंकेशन जज होते हैं, यह वैंकेशन जज नहीं हारवैस्टिंग जज होते हैं। जितना वेल् वगैरह लेना हो सुविधा से मिल जाएगा चाहे कोर्ट हो, चाहे सुप्रीम कोर्ट हो। इस तरह की व्यवस्था नहीं होनी चाहिए।

सुप्रीम कोर्ट के जज रिटायर करेंगे 65 वर्ष की उम्र में जब कि हाई कोर्ट के जज रिटायर करेंगे 62 वर्ष की उम्र में। क्यों नहीं दोनों को समान कर देते। उचित होगा कि दोनों की समान कर दें।

आज सुप्रीम कोर्ट और हाई कोर्ट में काफी कैसेज पेंडिंग पड़े हुए हैं। 21-12-84 को इसी सदन में जवाब देते हुए मंत्री जी ने बताया कि सुप्रीम कोर्ट में 5,48, 891 कैसेज पेंडिंग है और कन्ट्रीज के हाई कोर्ट्स में इसी तारीख को 8 लाख कैसेज पेंडिंग है। जब चार घंटे बैठेंगे तो कैसेज बढ़ेंगे ही। इस में वकील लोग भी दोषी हैं। वकील दस कोर्ट में केस ले लेंगे और वहां जाकर कहेंगे, रुक जाइये, डेट दे दीजिए, मुझे दूसरे कोर्ट में जाना है। वकील लोग क्या करते हैं? दो-तीन क्लाइंट्स से ब्रीफ ले लिये और जो सब से हाईएस्ट देगा उसी के लिए जायेंगे बहस करने के लिए बाकी लोगों को छोड़ देंगे। बाकी लिटिगेंट्स भरे। सरकार को इन बातों पर विचार करने की आवश्यकता है कि पेंडिंग केसेज के विषय में क्या करना चाहिए। कोई रास्ता निकालिए पहले सिविल केस जितने होते थे उन में लोगों के मर जाने के बाद जजमेंट होता था। बेतिया का केस चल रहा है, अभी तक चल रहा है, न मालूम उसका हेयर कब डिक्लेयर होगा। दो-तीन आदमी मर गये, चौथा मरने वाला है, शाही जी।

एक छोटी सी बात बताता हूँ आज सुप्रीम कोर्ट और हाई कोर्ट जज हर मामले में इन्टरफियर कर जाते हैं स्त्री और पुरुष के झगड़े में भी जजमेंट दे देंगे। कोई चीज ले जाइये

[श्री रामानन्द यादव]

सीधा आर्डर मिल जाएगा। मैन्यूफैक्चररों को अधिकार है कि किसी व्यक्ति को अपने कोटा में से कोई चीज दे सकता है जो वह प्रोड्यूस करता है, माल का प्रचार करने के लिए गिफ्ट दे सकते हैं जैसे मैडिसिन्स के एजेंट दिन-रात देते फिरते हैं।

श्री सत्यप्रकाश मालवीय : यह विषय सब जूडिस है जिस पर माननीय रामानन्द जी बोल रहे हैं, यह सुप्रीम कोर्ट के आगे पेंडिंग है इस पर वह बोल नहीं सकते।

श्री रामानन्द यादव : मैं उस पर कहना नहीं चाहता। मैं यह कह रहा हूँ कि केसेज पेंडिंग नहीं रहने चाहिए। पांच हियरिंग के बाद डेट दे दिया गया—एयर इंडिया को दे दिया और यह कहा कि पांच हियरिंग बाद में करेंगे। मैं चाहता हूँ कि हियरिंग जल्द से जल्द हो। जो कन्ज्यूमर है उस का 50-55 हजार सस्ते रेट आफ इन्टरस्ट पर पड़ा हुआ है। मैं समझता हूँ कि यह मामला पेंडिंग है, पेंडिंग नहीं रहना चाहिए।

महोदया, आप देखेंगी कि सुप्रीम कोर्ट के जज लोगों को अपनी स्टेट में नहीं रहना चाहिए। आज कल जातिवाद का समय है, धर्मवाद का समय है और रीजनलवाद का समय है। तो ऐसा देखा गया है कि अपने स्टेट में जब कोई हाई कोर्ट का जज रहता है तो निश्चित रूप से उस के रिलेशनस या उस की जाति के लोग आते हैं और उसकी इंफ्लूयेंस करते हैं और उसके चलते जजमेंट बदले जाते हैं। इसलिए जिस स्टेट का वह जज हो उस को उस स्टेट में नहीं रखा जाना चाहिए। मुझे याद है दक्षिण भारत के एक चीफ जस्टिस पटना हाई कोर्ट में थे। वे इतने प्यारे वहां हो गए थे कि जिसका कुछ कहना नहीं। पता नहीं क्या नाम था उनका। तो मेरे कहने का मतलब यह है कि दक्षिण के जज बिहार में गए ऐंड देयर ही वाज वैरी मच लब्ड इसी तरह से अगर बिहार के जज दक्षिण में जायें तो हो सकता है कि

कैन वेरी मच इंफ्लूयेंस दि पीपुल देयर। इसलिए जरूरी है कि जजेज को अपने स्टेट में नहीं रखा जाना चाहिए और उनको दूसरे दूसरे स्टेट्स में ही रहना चाहिए।

उपसभापति : यादव जी आप ठप्पा कर समाप्त करिये।

श्री रामानन्द यादव : हाई कोर्ट के जजेज अपने स्टेट में रहते हैं तो अपने रिलेशनस और वॉल वच्चा के स्टेट में प्रेक्टिस के लिये बुला लेते हैं। आज कल नौकरी तो आसानी से मिलती नहीं और हम लोग जो डिपेंडेंट हैं वे भी ऐसा सोचते हैं कि वह उन के बेटे हैं उन को इंगेज कर लेंगे तो जब उन के पास केस जाएगा तो आसानी से वे ल हा जायगी या आसानी से जल्दी ही जजमेंट हो जायगा। तो ऐसा नहीं होना चाहिए। उनके लड़कों को, उनकी डाटर्स को या उन के नियर रिलेशनस को उन के कोर्ट में प्रेक्टिस करने पर रोक लगा दी जानी चाहिए।

बैंकट पोस्ट जितनी है उन के लिए सरकार ही दोषी है। आज क्यों नहीं उन पर जजेज की वहाली की जाती है? उन पर जजेज की वहाली कर दी जाय। यह वहाला किया जाता है कि काम बहुत है लेकिन जजेज नहीं हैं। विरोध के लोग और हम लोग भी कहते हैं पोस्ट खाली क्यों रहती है। इन को जल्दी ही भरा जाना चाहिए।

आखिर में मैं यह कहना चाहता हूँ कि आज जरूरत इस बात की है कि सांथल जस्टिस हो। आज लोगों का विश्वास जूडिशियरी में घटता जा रहा है। इस लिए आवश्यक है कि गरीब तबके के लोगों को जजेज बनाया जाये। पिछड़ी जाति, आदिवासी, मुसलमान, क्रिश्चियन आदि में से हाई कोर्ट के जजेज बनाये जायें, सुप्रीम कोर्ट के जजेज बनाये जायें। अगर आप सचमुच में चाहते हैं कि देशवासियों को न्याय मिल सके तो आप को यह करना होगा और यह एक बहुत बड़ा कदम होगा। अगर

आप वह सोच कर चलेंगे कि पिछड़ी जाति के लोग, हरिजन, द्राविड, मुस्लिम या क्रिश्चियन, ने से डिस्ट्रिक्ट कोर्ट और हाई कोर्ट के जजों का बनाया जाय तो वे लोग उन का बहुत सा समस्याओं को समझते हैं और उन जिन सहा न्याय दे सकेंगे। सरकार को इन बात पर गम्भीरता से विचार करना चाहिए क्योंकि इन से न्याय करने में सुविधा होगी इस लिये कि वे उन को दिक्कतों का बहुत हद तक समझते हैं।

इन जजों के साथ मैं इस बिल का समर्थन करता हूँ।

SHRI H. R. BHARDWAJ: Madam, through you, I must express my thanks to all the speakers who have spoken on various aspects of improving the service conditions of the judiciary. I am again grateful to some of my seniors who have contributed substantially in guiding us on how we can get through the problem of clearing the arrears, how we can give speedy justice and how we can cut the costs of justice. I assure you, their suggestions will receive active consideration, and the results will be before you by the time we get back to you in the next session.

I especially thank Chief Justice Mitra who has been always kind to me, and here also he has been very candid and frank. His experience of judiciary has been indeed meticulous, fair and judicious. I agree with him that the problem between two Judges lies between themselves and nowhere else. So far as the Government is concerned, we have the 3-00 p.m. highest regard for those who constitute the institution and those who run the institution.

The Judges when they address themselves it is their own problem—the Judges when they address the Members of the Bar, it is a problem between the Bar and the Bench. The

Government only acts on certain suggestions which are made by the Members of the judiciary while in the conferences or otherwise. The weakness lies somewhere else. Therefore, the Government cannot enter into that area and correct it. Our hon. Member, Justice Mitra has been nice, has been very fair, when he pointed out that the weakness of judiciary is its own weakness. It has to be corrected by them. It is a problem between brothers and brothers and when they fight outside we need not intervene. So, with that view I urge that this is a controversy which is very, very delicate and we should not discuss it in this House, because the judiciary is an institution which is highly respected by the people and that respect flows even today. So, more we discuss about judiciary in Parliament, it causes more harm to the institution.

I always have restraint; sometimes I am provoked. I frankly confess when somebody says something, I am naturally provoked. But I restrain myself because I belong to that profession which compels me to have restraint. Therefore, when I say judiciary is an institution, it cannot be educated with any other institution.

The Executive, the Parliament—the Legislature as we called it—and the Judiciary are the three pillars of the State which essentially must work in harmony. That is the guideline on which we are working. Then, speaking for myself, we have been trained in a tradition in the Bar that when comments flow from the Bench, we ignore them, because we find the moment we will have the opportunity to address the Bench, the Bench will have to correct itself, because that is the question of conviction between the Bench and the Bar. We have always heard comments from the Bench, when we started out submissions before the Bench, as if we had no case. And I am proud to say that when we come out of the court, we have won the case. So, fortunately that is the tradition with which we are working.

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Today, the question before the House is to consider a little increase in the conveyance allowance of the Judges. I frankly concede that by itself, is nothing, because increasing the conveyance allowance from Rs. 300 to Rs. 500 itself would not be of any consequence at all. But I may also inform the House that the payment of various allowances to the Judges has always been considered from time to time at various stages. Each allowance is by itself nothing not is a part of what they should be paid. But, hon. Members would kindly appreciate that in addition to their salaries under the Constitution, the Government has been paying them Rs. 2,250 as dearness allowance. Perhaps hon. Members—Justice Mitra and Justice Baharul Islam might not have got this allowance, because it was effected only in 1984. Now, the Judges of the High Court as well as of the Supreme Court without any distinction are being paid Rs. 2,250 as dearness allowance, because now their service conditions have been tagged with the bureaucracy and the Secretary to the Government. Whatever increases are effected in their salary or emoluments, that has been paid to Judges also. If we take the salary of the Chief Justice of the Supreme Court which is Rs. 5,000 plus Rs. 2,250 DA, it comes to Rs. 7,750. Then, we have to pay Rs. 500 per month towards sumtuary allowance. In addition to this, we have also to pay Rs. 500 per month towards conveyance allowance. Then, we have to give him a free furnished house everywhere in Delhi; every Judge is enjoying this facility. There is a Supreme Court pool of their houses. I feel, they are the best houses, which are being given to the Supreme Court Judges. Then,

SHRI SANKAR PRASAD MITRA:
What about Delhi High Court Judges?

SHRI H. R. BHARDWAJ: The Delhi High Court Judges are also getting houses. In addition to this, the Sup-

reme Court Judge are being paid at present Rs. 2,400/- per year towards water and electricity charges. Similar to the conveyance allowance proposal, the Conference of the Supreme Court Judges also proposed into Rs. 500 p.m. That matter is also engaging our attention and I have persuaded the Works and Housing Ministry, which was reluctant to agree to it. Now they have changed their decision and we are trying to get that through. The Finance Minister has been very kind on this issue. We are persuading that the Leave Travel Concession facilities also should be liberalised. The judges must travel with their family members whenever they go back to their homes once a year. This is what the judges themselves told us. When we got into the Government, we met all the judges and our Prime Minister was so gracious. When the Chief Justices assembled in Delhi, he was on an election tour and from the election tour he came and organised a dinner for all the Chief Justices and Judges of the Supreme Court. There we had the opportunity to discuss their emoluments and all matters connected with their service conditions. Madam, I may assure you that all these issues were told to us. One was about the conveyance allowance. They said, "Our resolution is pending. Why don't you implement it?" Okay, done. Next, they said that nowadays Rs. 200 for water and electricity charges was nothing. We asked them how much we should raise it. They said, "A Cabinet Minister gets Rs. 500. You can equate us with Cabinet Ministers." Okay. The next moment I got in touch with the Justice Department and got it done. And I persuaded the Finance Minister to agree to it. Then they said, "When we go back to our homes during summer vacations, our children have to travel separately." We have persuaded again the Justice Department so that the entire lot of dependents can travel with the judges. After that, there is nothing more. But even then my Minister was nice and he said, "No, we will again assemble in a simi-

lar conference where we will invite Chief Ministers, Ministers and Chief Justices of all the States and we will discuss this issue of the judges' service conditions comprehensively", as has been suggested by the Members instead of piecemeal legislation. But how can I retain this Bill, because this is what they said, "You must implement it". I brought this Bill at the first Cabinet meeting which I attended and said that this must be passed at the first meeting. That was done. But I have not brought the other two provisions because they do not require any amendment of the statute. For raising the electricity and water charges, we need not amend any law. We will be paying them Rs. 500. We have agreed to it. So it is not that we are not looking into their service conditions. I am proud to say that we have the finest relations with the judiciary today and no judge is disagreeing with this proposition that the Government is sincerely trying to evolve some solution about the service conditions. The question is, when I bring some legislation on this issue, if I bring more, you will say, "Why are you giving so much to the judges?" I have brought this proposal which is very simple, which the judges wanted. It has been delayed, no doubt. It has been delayed substantially and nowadays the inflation in petrol cost is so much... (Interruptions) Either you implement it or you don't implement it. How can I answer as to what happened in 1983? I am telling you that we have brought this within three months of our taking it up. This is what I am telling you. They said, "Don't wait for the future. We can discuss it. Now you implement whatever is before you." The judges met us in the month of March or April only. Now it is before you in May. Where is the delay? Again we have assured them that keeping in view the conditions of our country, the judges have to be treated separately as an institution. I have started with that. Therefore, there is absolutely no discontentment among jud-

ges about their service conditions. They are quite satisfied. The moment we get any suggestion from them, we act quickly on that because, as I said, we are trained in that tradition that the harmony between the executive, the judiciary and the legislature should be complete so that better results can come.

Now, the other aspect which has been said—I do not know on what basis—is about the transfer of Chief Justices. It only started with K. B. N. Singh's transfer. There it was said that the Chief Justice was being transferred without the consent of the Chief Justice of the Supreme Court. Everybody who has some interest in the functioning of the judiciary knows that this case was heard by seven judges and it was found that the Chief Justice assented to the transfer of K. B. N. Singh to Madras. Thereafter I have checked up every case. I spoke in the other House and I am speaking here, we have taken every care that when a Chief Justice is transferred, the concurrence of the Chief Justice as envisaged in the Constitution of India, has been obtained. And once a constitutional requirement has been fulfilled, nobody can criticise it...

SHRI SANKAR PRASAD MITRA:

The Constitution does not require concurrence. The Constitution requires consultation. Your statement in the Lok Sabha was that it was done in concurrence ...

SHRI H. R. BHARDWAJ: I am putting it a little more explicitly. It was with consent, not even concurrence, and express consent, written consent. Every case has been referred to him. Only when he has agreed, then it has been implemented. I am subject to correction and in all humility I say that this is being followed in every case. That is how transfers are sometimes delayed. Otherwise by now all transfers should have been effected. I am aggrieved that some of five judges have not been transferred. But

[Shri H. R. Bhardwaj]

you cannot transfer a judge simply by way of punishment, simply because you do not like him. That should not be the attitude. There should be a uniform policy. That policy was put before the Court itself and the Court laid down guidelines and those guidelines were accepted by the Government for the purpose of transfer of Chief Justices and those guidelines are always before us whenever we get a proposal for transfer of a Chief Justice. The first thing we try to do is that the Chief Justice of India must concur or must consent. I was only thinking whether they had gone by consultation. No. It was concurrence and assent, express assent. All these cases have been accepted by the Chief Justice and there has been no divergence or deviation from the policy. Then where is the occasion for criticism? This is a fallacy which we must leave now. When we speak in the House, we must have some sense of responsibility. If the Government is doing something wrong, I will welcome the criticism and subject to correction I will stand before you and concede that there is something wrong. But when nothing is wrong and the policy has been accepted by the Court, then you have no business to criticise it. The Supreme Court laid down the guidelines, not the Government, not the Chief Justice alone. The Supreme Court laid down the guidelines 4:3. If the Court is divided, I am not to blame for it. There is a decision of the Court and that decision has guided us always. Once the Court gives a decision, you may not be satisfied with it, I may not be satisfied with it is the law of the land. The Supreme Court is the final court. Therefore, these are the features which are guiding us for transfer of Chief Justices. Some people may have difficulty with this policy. Some people may not like it because, after all, when some Chief Justice serves certain vested interests, naturally they would not like this policy. For example, there was an accusation, there was an open accusa-

tion, that the Chief Justices belonging to particular States, favour their communities. That question has been discussed in several seminars; several Bar Association resolutions were passed; there were complaints. Now this policy of transfer of Chief Justices has worked very well. Whenever a Chief Justice goes outside, he acts more independently than when he acts in his own State when he has to act under certain restraints and pressures of the local people. But now this policy of transfer has worked very well and we have no complaints from the Chief Justice who have gone to other places. But if it does not work, we will not hesitate to look into it again. But so far it has worked very well and this policy has to be implemented in full; we are committed to it and we will assure you that by the next Session all Chief Justices will be from outside in each High Court. This is an assurance I am giving.

Then, something has been said about the judiciary. It is a constitutional element that the judiciary must be independent. A judiciary committed to anything else except the Constitution is no judiciary at all because it is subservient to something. Judiciary has to be the pillar of strength to the Constitution because it is the custodian of the Constitution. The judges take oath under the Constitution. So they should be committed to protect and uphold the Constitution. I do not know why there are apprehensions that some judges do not follow that policy. And if somebody does not follow—they are also after all human beings—if somebody serves himself and not the Constitution, then we should not ridicule the whole institution. Our judiciary, Madam I am proud of it has stood the test of time. The law speaks the same language, whatever be the times, whatever party may be there, whatever form of Government may be there. The law speaks the same language and it has been there and we have seen it. The judi-

ciary has stood the test of time. The only thing is that our judicial process has gone wrong somewhere. Today, delays are there, arrears are there and costs of litigation are there. I wish the House had guided us on these things because if there are arrears, if there are delays, however highly paid the Judges may be, the people will not be satisfied. We have to sit together to find ways and means to see how we can make justice closer to the common man, how beneficial it can be made to the common man, how it can be made to serve the aspirations of those who are under-privileged, of those who have not been treated well in the past, of those who have certain rights, but who have been denied those rights because the laws have not served their purpose, and this is our anxiety and it is the Sociological concept of justice which we should be concerned with because there has been a change in the judiciary, in the Bar, and in the laws themselves. We are committed to serve the under-privileged, the poor, the Girijans, the Harijans those people who are Bapu's dreams, and we are committed to serve them and I hope the House will join with me when I say that these problems are to be grappled with. For that purpose, Madam, I again remind you, we have already decided that we would sit with the Chief Justices, the Chief Ministers, the Law Ministers of the States, etc. to discuss with them because the lower and the subordinate judiciary has always been forgotten in this country. People only say, "My Lord, ..." etc. But they are not true. The real justice is done at the subordinate courts' level and those people who cater to the needs of the common man are forgotten most of the time. The people who serve as Munsifs and Magistrates and District Judges, up to that level, do not get really what is their due. I have gone round and seen the courts and there are not good courts and there are no facilities for the Judges to travel comfortably or to sit comfortably to decide cases. This may be one of the things which need

our attention. But the problem again is that it is a State subject and the lower judiciary, the subordinate judiciary, is not with us. We are meeting the Chief Ministers and the Chief Justices to see that the lot of the judiciary is improved. Again, I would remind you—I am proud to remind you, Madam—that there was a problem with the Delhi judiciary in 1977-78 and there was a procession. When we came to power in 1980, I saw to it—I was not a Member of Parliament then, but I was an advocate—that all the demands of the Delhi judiciary were met because they come under the Union of India and the Delhi judiciary is a model judiciary and they are perhaps the best paid in the country and their case was followed up and we are trying to take up this issue with the other States also and we will persuade them and tell them, "You look after your judges properly. You give them the housing facilities." I say this because some States have adequate number of courts and some States have adequate number of houses for their judicial officers, but others do not have this facility because, when we send them funds, the Chief Ministers use them for other projects. We send them for their courts, but they use the funds for some other buildings. We are trying to see that these earmarked funds are used only for the purposes of courts. So, for this purpose, we are requesting even the Prime Minister to intervene in the matter because, after all, the subordinate judiciary is the real backbone of the judiciary is the real country. After all, how many Supreme Court Judges are there? About 18. How many High Court Judges are there? There are about 300 to 350 High Court Judges. But it is only the Subordinate Judges who are directly in touch with the masses. How many Munsifs, Magistrates and District Judges are there? There are many and they are directly in touch with the people and they have to be protected and, for them, I wish you all had spoken and we would have created an atmosphere in which the State Gov-

[Shri H. R. Bhardwaj]

ernments would be compelled to take measures for their benefit. I am proud to say, Madam, that the process of judicial reforms will be set in motion soon. We have said so in the President's Address and I can assure you, Madam, that within the next two months or three months, a Judicial Reforms Commission will be working in this country. We will give them a time-bound programme and tell them that within a particular period of time they have to tell where the snags are in the judicial system. They have to see where the procedures need to be amended. Justice Mitra was nice when he said that you must have a sort of pre-trial litigation. I have gone through all the States. I have gone to the U.K., U.S.A. and I found that most of the litigation is sorted out between the lawyers themselves, and only a crucial issue is put before the court. There is plea bargaining in the criminal administration of justice in the United States. The public prosecutor, because he is the District Attorney—he is elected—has certain powers to compound an offence with a man, and he can be let off.

SHRI SANKAR PRASAD MITRA:
State courts and federal courts.

SHRI H. R. BHARDWAJ: These provisions can be borrowed. But the question again is, in a country like ours which is highly democratised where you have to scrutinise everything, judicial reforms cannot be introduced by the Executive decision. We have to take suggestions from the Judiciary itself, and a Supreme Court Judge will go into it. I assure you that after these suggestions are made, we will see to it that the Judges and we sit together with the Chief Ministers and then decide how the Subordinate Judiciary has to be treated, how their emoluments can be improved, how we can cut short the procedures, and how we can provide legal aid.

Now, legal aid institutions suffered a setback from 1977 to 1980. But we have restored it, because up to 1977 we had started a big movement in the legal aid process. Mr. Dhabe was with me in those days. We had gone around the whole country. We saw what momentum it had gained. But it suffered a set-back because it was abandoned by the Government then. But we have started it again. Justice Bhagwati has done a good work in this. There is legal aid, education, and.....

SHRI SANKAR PRASAD MITRA:
You can consult the Judiciary here.

SHRI H. R. BHARDWAJ: We are only suggesting that all these issues the Judiciary must suggest to the Executive before we act on them. The legal aid system is a commitment. How do you ensure equality before law when you do not have anything for the poor, when rich persons can get Rs. 2000 crore stay from the Supreme Court? Today you say that there is a committed Judiciary. If the Judiciary had been committed, Government revenues to the extent of Rs. 2000 crores would not have been stayed by the courts. Where do we pay from? We have to pay from the Treasury and the Treasury has no money to pay them adequately, unless they remove all these snags from them. It is the courts which have stayed Rs. 2000 crores, not the Executive. So we have to rationalise these issues. If we bring some suggestions, it is always with an open heart, with that sense of respect, to the Judiciary, with that sense of high regard for the judicial institutions. And, mind it, no lawyer has abandoned his practice to get more money in the Judiciary. We know when we leave our practice and we go to politics or the Judiciary, it is with a sense of service to the country, because those judges are no longer there who came from the ivory towers and became judges. Today you have got 3 lakh advocates in the country, and out of that 80 per cent come from the lower strata of

society, and they have commitment to the society. You may say that there are no quality judges. But I know there is nothing like that, quality judges or non-quality judges. A judge is a judge. Once he has been appointed, he knows the law. The basic features of the Constitution he should know. The basic, fundamental criminal and civil jurisprudence he must know. What else should he know? I am grateful to Mr. Jaswant Singh who said there is complexity of law which confuses the whole thing. Why do you have laws which are complex? You see to it, where there is complexity of law this is removed. Why should there be different interpretations? Art. 368 was interpreted by some judges differently at different points of time. Either there is something wrong with the law or the court. What is the difficulty? But I tell you that the system will not be adequately represented in the country unless the common man participates. You say that they are not quality judges, because the poor people come from the poor strata of society. This is the basic prejudice against them. But we have to remove this basic grudge. We may be criticized for some time: If you do not bring the Bombay judge, or the Madras judge or Calcutta judge...

SHRI B. SATYANARAYAN REDDY: What about the statement made by the Chief Justice, the present Chief Justice. I referred to this in my speech. (Interruptions)

SHRI H. R. BHARDWAJ: Mr. Reddy, neither the Chief Justice is God, nor Mr. Bhardwaj is God. The country and the nation will expect from you that the Judges should come from all stratas of society.

They should not represent only the elite of the country. You must know that 80 per cent of India lives in the villages. We must give them representation. They must participate

in the mainstream. I have got tremendous rapport with the Chief Justice. He shares my view. The present judicial system needs changes. We are going to bring them. We are going to look into the grievances of the Judiciary and this is one of the measures which must be supported. Thank you, very much.

THE DEPUTY CHAIRMAN: 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.

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

The question is that Clause 2 stand part of the Bill. There is one amendment by Mr. S. P. Malaviya.

Clause 2 (Amendment of section 22B of Act 28 of 1954)

श्री सत्यप्रकाश मालवीय :
महोदया, मैं यह प्रस्ताव करता हूँ कि उच्च न्यायालय और उच्चतम न्यायालय (सेवा शर्त) संशोधन विधेयक, 1985 में निम्नलिखित संशोधन किया जाए, अर्थात् :—

1. "पृष्ठ 1 पर, पंक्तियाँ 5 से 7 के स्थान पर, निम्नलिखित प्रतिस्थापित किया जाए, अर्थात् :—

"2. उच्च न्यायालय न्यायाधीश (सेवा शर्त) अधिनियम, 1954 की धारा 22ख में, "तीन सौ रुपये प्रति मास" शब्दों के स्थान पर "एक हजार रुपये प्रति मास और सरकारी खर्च पर एक कार चालक" शब्द प्रतिस्थापित किए जाएँ।"

The question was put and the motion was negatived

THE DEPUTY CHAIRMAN: The question is:

"That clause stand part of the Bill"

The question was put and the motion was adopted.

Clause 2 was added to the Bill.

THE DEPUTY CHAIRMAN: The question is that Clause 3 stand part of the Bill. There is one amendment by Mr. S. P. Malaviya.

Clause 3 (Amendment of section 23A of Act 41 of 1958)

श्री सत्यप्रकाश मालवीय . महोदय,
मैं प्रस्ताव करता हूँ कि उच्च न्यायालय और उच्चतम न्यायालय (सेवा शर्त) संशोधन विधेयक, 1985 में निम्नलिखित प्रस्ताव किया जाए, अर्थात् :—

2. पृष्ठ 1 पर, पंक्ति 8 से 10 के स्थान पर, निम्नलिखित प्रतिस्थापित किया जाए, अर्थात् :—

"3. उच्चतम न्यायालय न्यायाधीश (सेवा शर्त) अधिनियम, 1958 की धारा 23क में, "तीन सौ रुपए प्रति मास" शब्दों के स्थान पर "एक हजार रुपए प्रति मास और सरकारी खर्च पर कार चालक" शब्द प्रतिस्थापित किए जाएँ।"

The question was put and the motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That Clause 3 stand part of the Bill."

The question was put and the motion was adopted.

Clause 3 was added to the Bill.

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

SHRI H. R. BHARDWAJ: I move that the Bill be passed.

The question was put and the motion was adopted.

STATUTORY RESOLUTION SEEKING APPROVAL OF THE INCREASE IN THE EXPORT DUTY LEVIABLE ON BLACK PEPPER

THE DEPUTY CHAIRMAN: We shall now take up the Statutory Resolution.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARI): Madam, I beg to move the following Resolution:

"That in pursuance of sub-section (2) of section 8 read with sub-section (3) of section 7 of the Customs Tariff Act, 1975, this House approves the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 148/85-Customs, dated the 7th May, 1985, published in the Gazette of India under G.S.R. No. 403(E) dated the 7th May, 1985, increasing the export duty leviable on black pepper to Rs. 3 per kilogram from the date of issue of the Notification, laid on the Table of the Rajya Sabha on the 7th May, 1985."

Madam, black pepper is specified under Heading No. 2 of the Export Tariff and the rate of export duty prescribed, therefor, has been Rs. 1.25 per kilogram. However, with effect from the 16th February, 1979, black pepper has been exempt from the whole of the customs duty leviable thereon. The FOB unit value realisation at that time was around Rs. 20 per kilogram.

International prices of pepper started going up by the end of 1983. The Government have been watching the trend of export prices for quite some time. The latest export value realisation of black pepper has been around Rs. 40 per kilogram. Accordingly, the exemption from export duty has been withdrawn and black pepper subjected to an export duty at the rate of Rs. 3 per kilogram. This measure is expected to bring an additional revenue of Rs. 7.5 crores in a year.