(Extension of Jurisdicti [Shrimati Ram Dulari Sinha]

(ब्यवधान) पेशांस रिखये। आप ही मजदूरों के मसीहा नहीं है हम भी हैं। बराबर हल्ला नहीं करना चाहिये। I also have a stronger voice than you. Mr. Jha. (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI) So far as the point raised by Mr. Shiva Chandra Jha is concerned, he is not opposing in the sense that he wants an improvement. And Mr. Kalyanasundaram has also, not opposed the introduction. Under rule 67 you can only oppose the introduction. If you have a suggestion, that is for the Government to consider. So far as the technical point raised by Mr. Era Sezhiyan that the Bill should be circulated two days before is concerned, the rule is there. I do not know what the practice has been. But there is no violation of the rules. And the Chair cannot help in that. So far as the technical point of Financial Memorandum is concerned, I leave this question open for the consideration stage. The hon. Minister can look into this aspect whether a Financial Memorandum is required, and if the that a Financial Government feels Memorandum is required, that lacuna can be covered. If she is of the opinion that no Financial Memorandum is required, in that case, she can reply to that point at the stage of consideration. Now, you please introduce the

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra): Two days' notice is very essential. Sir, you can direct the Minister that in future such notice should be given.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): The rule about two days notice is only after the introduction and not before the introduction. In that case, there will be no violation of the rules whereas the general practice of giving copies to the Members before two days should be followed as far as possible. But the Chair cannot help in that. There is no violation of the rules.

The question is:

"That leave be granted to introduce a Bill further to amend the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955."

The motion was adopted.

SHRIMATI RAM DULARI SINHA: Sir, I introduce the Bill.

THE HIGH COURT AT BOMBAY (EXTENSION OF JURISDICTION TO GOA, DAMAN AND DIU) BILL, 1980—Contd.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI); Now, we go to the High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, 1980. Shri Sibte Razi.

SHRI SYED SIBTE RAZI (Uttar Pradesh): Mr. Vice-Chairman, Sir...

SHRI ERA SEZHIYAN (Tamil Nadu): Sir, may I rise on a point of order?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): But the Member is on his legs. Let him complete.

AN HON. MEMBER; Sir, where is the Law Minister?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): The Law Minister has informed that he is busy in the Lok Sabha. Therefore. Mr. Shivraj Patil is taking the charge of the Bill. And I have permitted him to do so.

SHRI SYED SIBTE RAZI. Mr. Vice-Chairman, Sir, there has been a good deal of talk about ttie law's delay and a huge backlog of pending cases in our courts of law from the lowest $t_{\rm fl}$ the High Court and from High Court to the Supreme Court.

The delay involved in the administration of justice is, perhaps, more in our country than anywhere else in itoe world. Sir, the Chief Justice of the United States of America made a remark in 1958 in this regard about the situation prevailing in his country, quote:

"Interminable and unjustifiable delays in our courts of law are compromising the basic, legal right of countless thousands of Americans and imperceptibly corroding the foundations of the constitutional Government in the United States."

The same condition, Mr. Vice-Chairman, Sir, has come to prevail with us today. The rate at which our courts are flooded with the pendency of cases requires immediate tackling from the Government side. Sir, the pendency of cases creates untold miseries to the litigants. Other problems are also being created when there are a large number of pending cases in the courts. It becomes very easy to tamper the witnesses. And due to human infirmity and weak memory, it happens sometimes that the witnesses are not able to give evidence correctly. Sometimes, deaths occur and then there is great problem in the administration of justice and disposal of those cases. In this way it happens that the real culprits escape the clutches of law.

Mr. Vice-Chairman, Sir, the greatest cause of the delay in the disposal of cases is too much work for too few judges. There are so many other reasons also as, for instance, delay on the part of the lawyers and then there are so many cases where the Government is involved due to the bureaucratic set up with the result that in many cases the Government has to approach higher and higher courts. Then, Sir, the system of our law courts is quite procedural, as we inherited from the British Raj, where the greatest maxim was that justice Should not only be done but that it should also been seen to be done.

Such a procedure takes a great deal of time in the disposal of cases. I would request the Government to take a very serious view of the situation. In this connection I would like to place certain figures about the pendency of cases before the House-The number of cases pending in the various High Courts of our country today is about 6,25,670. If we take less than one year old cases, they number 1,76,574. More than one and less than two year old cases number 1,53,138. More than two and less than three year old cases number 94.881. More than three and less than four years old cases number 62,473. More than four and less, than five year old cases number 42,343. More than five and less than six year old cases number 28,225, and so on and so forth. More than nine and lesi than ten year old cases pending in the various High Courts in the country are 6,528 and more than ten year old cases pending in our courts are 15,716.

It has been so many times suggested that our courts should dispose of cases early. The Chief Justice of the Supreme Court, Mr. Chandrachud, has suggested that there should be a shift system in our courts of law also. Some people have suggested that we should have bare-foot judges who should go to the remote areas of the country. But the basic thing that has to be looked into is the decentralisation of High Courts and the Supreme Court, which is very necessary. Mr. Vice-Chairman, Sir, the need for establishing more and more separate benches of High Courts in places other than their principal seats of functioning is very important, especially in sprawling States like Andhra Pradesh, Madhya Pradesh Uttar Pradesh. It is advisable to have more additional benches in thes< States. Likewise, the establishmen of a separate bench of the Suprerm Court in South India at Bangalore o Hyderabad is long overdue

SHRI M. KALYANASUNDARAI (Tamil Nadu): Why not Madras?

(Extension of Jurisdiction

SHRI SYED SIBTE RAZI: Yes, it is for the Government to consider. You may include Madras also. I am just trying to express my feelings that the people are put to great hardships and that it is high time that we should think in termg of decentralisation of our courts. I also suggest it for Madras. Vice-Chairman, my request to the Governmesnt as well as to the Supreme Court is that they should take a liberal view and adopt a more generous attitude and help such decentralisation. Such a step will not only be in the right direction but I am confident that such a step will be in accordance with the attitude and tune of the people and the demands of the people. In U.P., there is a persistent demand of the consistent and people of western regions that a high court bench should be given to them. I feel that to make justice available at cheaper cost and to avoid unnecessary hardships to the litigants. this demand should be conceded and the Government should give a policy statement about what the Government thinks about the decentralisation of the courts.

With these words I conclude and support the Bill.

SHRI ERA SEZHIYAN: Sir, there is a technical difficulty; I have already written to you about it.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You can raise it; I have not got the papers.

SHRI ERA SEZHIYAN: When the Bill was taken for consideration on 16th February 1981, I raised that objection that there had been a Presidential recommendation under Article 117(3) obtained by the Government and published in the Bulletin dated 16th February. I asked them about the amount involved in the Consolidated Fund of India, and the hon. Minister of Law said:

"The only thing I want to ga_v is that no amount is involved so far a* Consolidated Fung ia concerned.

It is a charged expenditure. It is the State which spends the money. This does not come under Article 117(3) of the Constitution "

But already a recommendation was obtained under 117(3) from the President and circulated to everybody and it has been presented to us. But here the Minister comes before the House and says that it is not involved under 117(3) and that the amount ig a charged expenditure. Sir, the amount is to be spent out of the Consolidated Fund, even charged expenditure has to come out Of Consolidated Fund. Even if they say that it is charged expenditure, it is drawn from the Consolidated Fund and President's recommendation under Article 117(3) is obtained.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): What I find from the printed report is that Mr. Shiv Shankar said: "I will furnish information on both points when I reply to the debate."

SHRI ERA SEZHIYAN: Because the hon. Minister has come, I want to apprise him. Further complication has set in because of it. If you see the Bill, you will find clause 10 says:

"The expenditure in respect of the High Court at Bombay, including the expenditure in respect of the salaries and allowances of the Judges, officers and servantg of the High Court shall, a* from the appointed day, be allocated between the State of Maharashtra and the Union in such proportion as the President may, by order, determine."

That means, according to clause 10, there is going to be something drawn out of the Consolidated Fund of India later on. For this, they might have drawn. I am thinking for the Government itself, even though the hon. Minister's reply hag not been correct in regard to this.

There is on_e more thing. There is clause 10 which, as per my contention, attracts mentioned m the Financial Memorandum. The Financial Memorandum is silent about clause 10. Clause 10 concerns withdrawal of money from th_e Consolidated Fund olf India. They are talking of th_e other clauses. But this clause, namely, clause 10 ha_a not been indicated in the Financial Memorandum. Hence, to this extent, the Financial Memorandum is defective. They should have mentioned this in the Financial Memorandum. They should have said tttat this i_s going to be the liability on the Consolidated Fund of India.

There is one thing more. I have not raised this point tli^ other day. It is further complicated. Here, clause 10 says:

"The expenditure in respect of the High Court at Bombay, including the expenditure in respect of the salaries and allowances of the Judges, officers an'd servants of the High Court shall, as from the appointed day, be allocated between the State of Maharashtra and the Union in such proportion as the President may, be order, determine."

When you say this is going to be determined by the President, it i_s only th_e executive which is going to determine. It is a question of delegating the authority to the executive. This is a subordinate legislation. Here, I wouM like to refer to the State of Nagaland (Amendment) Bill, which comes in handy any which i_s going to b_e taken ^UP for consideration later on. Here, clause 2 says:

"22A. The allowances and privileges of the Governor of Nagaland shall, until provision in that behalf i_s made ^V Parliament by law under clause (3) of article 158, be such as th_e President may, by order, determine."

Now, if you see this Bill, there is a Memorandum regarding delegated legislation. Here also, it says:

".. .be such as the President may, by order determine."

This leads to a delegated legislation. In the State of Nagaland (Amendment) Bill, there is a Memorandum regarding delegated legislation. In the High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, Clause 10 clearly says:

.in such proportion as the President may, by order, determine.*

But the Memorandum regarding delegated legislation is completely silent about thig clause, namey, clause 10, where in delegated legislation takes place. It talks of clause 13 and clause 14. But it does not mention about clause 10. The reply given by the hon. Minister is not correct. The Financial Memorandum is defective. The Memorandum regarding delegated legislation is also silent about this vital clause, namely, clause 10, and, hence, both these things are defective. Therefore, further consideration of the Bill i? not d-sirable. Even if we consider it, it cannot be finalised today and this Bill cannot be passed because of the defects which I have pointed out.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I find from the records that, Mr. Sezhiyan raised .some point of order at the time when the Bil] was moved for consideration by the Law Minister. While replying to the point, the Law Minister, Shri Shiv Shankar, said:

"Th_e only thing I want to say *is* that no amount is involved i° a° far a= the Consolidated Fund is concerned. It i_s a charged expenditure. It i_s the State which spends the money. This doeg - not come under articl_e 117(3) ₀f the Constitution."

Then, you raised a point, Mr. Sezhiyan. The Law Minister replied:

"I will require more details to reply to it. I will do it at the end.

Then, the Vice-Chairman asked.

"Mr. Sezhiyan, <jo you have any objection to the introduction?"

You said:

"Introduction has been don_e in th_e other House. My objection is only to the consideration."

At this stage, Shri N. P. Nanda said:

"Mr. Sezhiyan's point can be answered just now by the hon. Minister and after that we will take up consideration of the Bill."

Then, the Law Minister said;

"I will furnish information on both the points when I reply to the debate."

I would now suggest that since this debate has gon_e on, these points can be answered by th_e hon. Minister when¹ he replies to th_e debate, both these points an[^] the point in regard to delegated legislation which has been raised today.

Now, Mr. Malik.

श्री सत्यपाल मलिक (उत्तर प्रदेश): मान्यवर, यह अच्छा बिल है। लेकिन सरकार का हाईकोट की खंडपीठ की स्थापना करने के मामले में बहत दोगला धीर बेइमानी का रवय्या रहा है। इसक्षे पहले कि मैं खंडपीठों की जहां जहां मांग है भीर जहां-जहां खंडपीठ की स्थापना होनी चाहिए, हाईकोर्ट बेंच की, उस मामले पर आऊं, मैं यह भी कहना चाहंगा कि इस सरकार से शिका-यत करना इसलिए बेमतलब है कि पूरी न्यायपालिका के ऊपर इन लोगों ने एक हल्ला बोल रखा है । पचासों जगह हाई कोर्टभौर सुप्रोम कोर्टमें खाली हैं। नियक्तियां इसलिए नहीं हो रही हैं कि जिस तग्ह के जजेज की इनकी जरूरत

है उस तरह के लोग इनको नहीं मिल रहे हैं और सुप्रीम कोर्ट के चोफ जस्टिस का रिटायरमेंट होने में ग्रभी वक्त है। खैर, मैं इस बात को छोड़ देता हूं।

मान्यवर, मैं इस भौके का इस्तेमाल करना चाहता हुं केन्द्र सरकार की इस मामले में बेईमानी की और दोगली नीति पर । उत्तर प्रदेश हिंदुस्तान का सब से बड़ा सुबा है । 110 मिलियन से ज्यादा लोग उस सुबे में रहते हैं। अभी पिछले दिनों मेरठ में करीब तीन महीने तक सारे पश्चिमी उत्तर प्रदेश के 26 जिलों की अदालतों का दो महीने से ज्यादा तक पूरा कामकाज बन्द रहा । किसी तरह का कोई सरकारी काम 26 जिलों में दो-ग्रढाई महीने तक हो नहीं पाया । ग्रीर उत्तर प्रदेश के इन 26 जिलों की मांग कोई नई नहीं थी। आजादी के फौरन बाद डा० सम्पूर्णानन्द का मंत्रिमण्डल जो कांग्रेस का मंदि-मण्डल था, उस मंत्रिमण्डल ने सर्व-सम्मति से फैसला किया ग्रीर केन्द्र को भेजा कि उत्तर प्रदेश में जो इलाहाबाद हाई कोर्ट है, उसके बैंच की स्थापना मेरठ में होनी चाहिए।

इसके बाद नारायण दत्त तिवारी मंतिमण्डल ने यही फैसला किया । बनारसी दास के मंतिमण्डल ने भी यही फैसला किया और श्राज जनता के दबाव में विश्व नाथ प्रताप सिंह के मंतिमण्डल ने भी यही फैसला करके दिल्ली भेजा है । लेकिन मुझे सखत अफसोस इस बात का है कि हिन्दुस्तान की प्रधान मंत्री श्रीमती इन्दिरा गांधी का रवैया इसमें एक बहुत नैरों लोकिलज्म की दृष्टि का रवैया रहा है । जिस वक्त मेरठ के वकील मिलने के लिए श्राए, पश्चिमी उत्तर प्रदेश के बाकी जिलों के वकील मिलने के लिए श्राय, तो उनको कहा गया

कि आपको घबराने की जहरत नहीं है, हम इस पर सहान्भृतिपूर्वक विचार करेंगे। नेकिन जब इलाहाबाद से वकीलों का डेलिगेशन, जो बहुत ताकतवर बार है, मिलने के लिए आया, तो उनको कहा गया कि घवराने की जरूरत नहीं है श्रीर पश्चिमी उत्तर प्रदेश को बैंच मिलने वाला नहीं है और तीन महीने के श्रांदोलन के बाद, तीन महीने तक 26 जिलों में पूरी तरह काम-काज बन्द रहने के बाद पश्चिमी उत्तर प्रदेश के लोगों को एक झठा आश्वासन दिया गया, उत्तर प्रदेश के मुख्य मंत्री ने कहा कि छह महीने के अन्दर-अन्दर हम बैंच देंगे। ग्राज चार-पांच महीने तो हो चके हैं, तीन ग्रादिमयों की एक कमेंटी बनाई गई है, लेकिन तीन दिन पहले जब लोक सभा में सवाल किया गया ला मिनिस्टर से कि आपकी इसके मामले में कोई राजनीतिक पालिसी है कि नहीं है ? तो उन्होंने कहा कि नहीं यह मामला डिस्कीशन का है भीर आप इस डिस्कीशन का राजनीतिक कारणों से बेइमानी के साथ इस्तेमाल करते हैं और मैं कहना चाहता हं--मेरी इस बात के पीछे ताकत है कि उत्तर प्रदेश में मेरठ कमिश्नरी सब से इम्पोर्टेन्ट कमिश्नरी है। श्रापके सीते-लेपन का सब से बड़ा सबूत है कि धापका चौफ मिनिस्टर साल भर से ज्यादा गद्दी पर है, लेकिन मेरठ कमिश्नरी में एक दिन भी दौरे पर जा नहीं पाया है ।

High Court at Bombay

(Extension of Jurisdiction

श्री सैयद सिब्ते रजी : ग्रमी 22 तारीख को जा रहे हैं।

श्री सत्यपाल मलिक : 26 जिलों की युनैनिमस डिमाण्ड को, सारे तबकों का पूरी तरह से बन्द सक्सेंसफुल हुआ हो, हर तबके के लोग उसको मांग रहे हों भौर आप उन लोगों की मांग मानने

के लिए तैयार नहीं हैं। मैं इससे ज्यादा कोई बेईमानी की बात मानता नहीं हूं।

Bill, 1980

to Goa, Daman and Diu)

मान्यवर, पश्चिमी उत्तर प्रदेश के लोगों को सात सौ, ब्राठ सौ किलोमीटर का सफर करना पड़ता है इलाहाबाद जाने के लिए । इलाहाबाद पहुंचने तक, जवान बदल जाती है, तौर-तरीके बदल जाते हैं, मौसम का फर्क हो जाता है भौर पश्चिमी उत्तर प्रदेश का भ्रादमी जब इलाहाबाद के स्टेशन पर उतरता है, तो पंडे इतनी लुटाई नहीं करते हैं जितनी वकीलों के दलाल ग्रीर टाऊट करते हैं श्रीर वे दूसरी दनिया में जाकर लटते हैं।

सव से ज्यादा मुकदमें झाज इलाहा-बाद के हाई कोर्ट में बकाया है। इला-हाबाद में जो उत्तर प्रदेश का हाई कोर्ट है--सारे देश में जो मुकदमों के डील करने की श्रीसत है एक जज की, साल भर की, 650 मुकदमें श्रीसतन हिंदुस्तान में डील करने पड़ते हैं। लेकिन इलाहा-बाद के हाई कोर्ट में एक जज को 1300 से ज्यादा मकदमें डील करने पहते हैं। सब से ज्यादा पैंडिंग मुकदमें झाज उत्तर प्रदेश की जो इलाहाबाद हाई कोर्ट की बैंच है, उसके पास पड़े हुए हैं।

म्राज राजस्थान, जिसकी कल मावादी 35 मिलियन से ज्यादा नहीं है, उसमें आपने एक बैंच दिया हुआ है। उत्तर प्रदेश जिसकी अबादी 110 मिलियन है, उसमें सिफं एक बैंच दिया है । मध्य प्रदेश जिसकी ग्रावादी 50 मिलियन है, वहां आपने दो बैंच दिये हुए हैं। वहां भी भोपाल में एक बैंच की मांग है। वह मानी जानी चाहिए । श्रीरंगाबाद में महाराष्ट्र में जो मांग है, वह भी मानी जानी चाहिए ।

[ओ सत्यपाल मलिक]

तो मान्यवर, श्राज सारे देश के जो जाने-माने जूरिस्ट हैं, श्री कृष्ण श्रम्यर ने कहा था—कुछ दिन पहले न्यायमूर्ति भगवती ने कहा कि न्याय को न्याय मांगने वाले के दरवाजे पर पहुंचाया जाना चाहिए । कृष्ण श्रम्यर साहब ने कहा कि डिसैन्ट्रलाइण्ड जस्टिस इज एक्सैसिबल जस्टिस । सारे लोग इस बात को मानते हैं कि मंहगा श्रीर दूर का इंसाफ कोई इंसाफ नहीं होता ।

तो मान्यवर, मैं यह निवेदन करना चाहता हं कि स्रापने अच्छा काम किया है कि इस बैंच को स्थापना की है। लेकिन उत्तर प्रदेश और बाकी सुबों की जो जायज मांग है जो जगह-जगह उठाई जा रही है, उसको द्याप मानिये। 12 जिलों के लिए ग्राप लखनक में बैच देंगे, लेकिन 26 जिलों के लिए आप मेरठ या पश्चिम उत्तर प्रदेश के किसी जिले में बैंच नहीं देंगे । इस से ज्यादा बेईमानो ग्रीर में फिर इसको दूहराना हं-ग्रीर कोई बात नहीं हो सकतो है। तो मैं चाहुंगा कि इस बिल पर बहस के दौरान ला मिनिस्टरं इस बात को साफ करें कि आप को इस मामले में नोति क्या है, ग्रीर यह घोषणा करें कि जल्दो से जल्दो मेरठ में या मेरठ के आसपास के किसो भो जिले में पश्चिमो उत्तर प्रदेश के लोगों को बैंच देंगे। यह कह कर मैं अपनी बात खत्म करता है।

SHRI SANKAR PRASAD MITRA (West Bengal): I a_m glad to hear from the hon. Minister that the Government has realised that in' every High Court and in th_e Supreme Court, there are far too many cases and too few Judges. It i_s not only a question of decentralisation; it i_a a question' ol increasing the strength of different High Courts as well as perhaps the strength of th_e Supreme Court. Unfortunately, in actual practice the strengths have not been increased

substantially and there are any number of vacancies in different High Courts. These vacancies are not being filled UP for years together. I am glad, Sir, that the Government is thinking in term, of decentralisation of the High Courts and the Supreme Court. There should be a clear-cut policy on the question of decentralisation. To my mind, however, decentralisation is necessary not only in the caseg of the High Courts and the Supreme Court but also at district levels including the setting up of rural courts within the reach of the rural poor. On this question, a comprehensive statement by the hon. Minister is required. I hope the hon. Minister would be good enough to apply his miny carefully to this question and come forward with a statement as early at possible.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh); This is a suggestion from the Chief Justice of West Bengal, Sir. The Minister may mind it that this is a suggestion from the Chief Justice of West Bengal.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI). It is not a suggestion' from the Chief Justice of West Bengal; it is a suggestion from an hon. Member who has s^ufrki^{en}* ^* experience.

SHRI NAGESHWAR PRASAD SHAHI; He is ex-Chief Justic_e of West Bengal.

SHRI NARASINGHA PRASAD NANDA (Orissa): We should be grateful to Mr. Shahi for introducing the ex-Chief Justice of West Bengal.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I do not think he needs introduction. Shri Gopalsamy.SHRI V. GOPALSAMY (Tamil Nadu): I am very thankful to you, Sir, for giving me this opportunity. hast time when the discussion took place in thU House on this Bill, I wai

. listening to late Bhupeshda whose memory remain₉ as a guiding star in this House. When he spoke on this Bill, he expressed the view that the demand of the Goans should be respected by this Government. We have to safeguard the interests of the people of Goa and we have to respect their aspirations also. When Vasco da Gama landed at Calicut, the Portuguese found the route via the Cape of Good Hope and Goa, Daman and Diu subsequently became the Portuguese colonies. Only after 1962, freedom smiled on them. So when the question of Goa came before the other House-the Lok Sabha-the great Pandit Jawaharlal Nehru respected thg sentimentg of the people of Goa. It will be very proper on my part if I quote what Pt. Jawaharlal Nehru said on the floor of the Lok Sabha on December 8, 1961.

"Goa i3 a fairly small enclave. In terms of Indian geography, it can well be a small part of a district of India. But, because of the Past > because of many things that have grown up in India, and because in India we have welcomed the fact that Ihdia is a country of considerable variety, and we have preserved it, we are prepared, and we intend, to keep Goa's individuality, and keep it as a separate entity, in direct connection with the Central Government, and maintain its special features, whatever they may be, such as customs, culture, etc., a_s we did i_n the cas_e of Pondicherry, till the people of Goa themselves want to change them. It will not be imposed on them. If they want to change them in future, of course, they can always change them."

Sir, what happened in 1967? An opinion poll was held. What was the desire of the people of Goa? They expressed in unmistakable term_s that they did not want any merger with Maharashtra. Now what has happened? Before the take-over of Goa, they had a High Court of their own. That is the point. After the take-over,

the status of that High Court waa re-

duced to that of a Judicial Commissioner's Court. Now we have abolished the Judicial Commissioner's Court and we are going to set up a Bench of the Bombay High Court at Pahaji. Why not we constitute a High Court of their own? That is the question I would like to put before the Government.

Sir, what has happened? The opinion of the Chief Minister of Maharashtra win be sought to decide matters concerning the appointment of the High Court Judges, and hot that of the Chief Minister of Goa. The opinion of the Chief Minister of Maharashtra will be sought to decide matters concerning the appointment of the High Court Judges. So where have we safeguarded their interests and where have we safeguarded their identity?

Again, in the year 1962, Jawaharlal Nehru spoke on the Constitution (Twelfth Amendment) Bill. Here also he was very clear:

"Goa, Daman and Diu will be Union territories and they will have a good deal of autonomy.

We have made it clear that we want Goa to maintain its separate identity, separate individuality, call it what you will, because in the course of more than 400 years Goa has had a separate ideVitity and the course of history had imparted it some."

So I would like to request the hon. Minister to consider my suggestions. Mr. Shiv Shankar, the Law Minister, ia a practical man, a pragmatic man, and I would like to put my suggestions to him. Though he is not here, I think what I put forth before tliis House will reach him. He should consider my suggestion: Let the Bill go to a Joint Select Committee to get the opinion of the local people there before we pass this Bill. This is the point I want to stress before this House.

Shri V. Gopalsamyl

(Extension of Jurisdiction

Mr. Bhandare, who is a lawyer from Bombay and an hon, Member of this House, when he spoke on this Bill he described Konkani as a dialect of the Marathi language. Because I am interested in languages I would like to say that Konkani has been recognised as an independent language over five years ago by the Sahitya Akademi. So, there is a strong feeling in Goa that the interests of Gog will be compromised by the high-ups in Maharashtra. So, that type of fear and suspicion should not be allowed to grow. So, how to respect the sentiments of the people of Goa? Also we have to keep the word which was given by the great Jawaharlal Nehru in the Lok Subha.

Sir, in this respect again I would like to stress my point; Let the Bill go before a Joint Select Committee.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): How can you? There is no Motion for reference to a Joint Select Committee or a Select Committee.

SHRI V. GOPALSAMY: If the Minister wants, he can move it. I am putting it before the Government and I am requesting the Minister because we are interested in the autonomy of the States.

One more point. Many things were said in this House though they do not come within the purview of the Bill. Many things were said about the Judiciary also. I would like to say that justice should reach the doors of the have-nots. Everybody says "Justice delayed is justice denied."- Therefore, justice should reach the doors of the have-nots. A have-not from Kanyakumari or Tirunelveli cannot come all the way to Delhi to seek justice at the Supreme Court. So it is better to have a Bench of the Supreme Court in the southern region-whether in Madras or in Hyderabad or in Bangalore or in any other place. For that, already, article 130 of the Constitution has empowered the Chief Justice of the Supreme Court to start a Bench of the Supreme Court at a place other

than Delhi after getting the approval of the President of India. Now the Supreme Court Chief Justice recently in a public meeting hag himself agreed that there is a demand and has and has and has the southern region should have a Bench of the Supreme Court. So I would like to stress upon the Government to fulfil the long felt demand of the South.

With these words, I conclude.

Thank you.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I think 'the House will cooperate. We have to finish this Bill today.

SHRIMATI PURABI MUSHO-PADHYAY (West Bengal); For how long will we sit?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI); The hon. Minister has to reply and there are some Member_s who are wanting to speak during the third reading of the Bill. But I think we will finish within a reasonable time.

श्री किय चल्ड झा (ब्रिहार) : थर्डरीडिंग बालों को बुलवा दीजिए तब मंत्री जी ब्रा जं⁸येंगे ।

संसदीय कार्य विभाग में राज्य मंत्री (श्री सीता राम केसरी) : मंत्री जी नहीं आर्येंगे । वहां बहुत देर होगी ।

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI SHIVRAJ V. PATIL): Sir, article 117(3) read₃ like this:—

"A Bill which, if enacted and brought into operation, would involve expenditure from the Conso-, lidated Fund of India shall not b^* passed by either House of Parliament unless the President has recommended to that Hou*e the consideration of the Bill."

SHRI ERA SEZHIYAN; That is the thing.

This provision in the Constitution is made with respect to the Money Bills, with respect to the Bills which will involve expenditure from the Conselidated Fund. Now, Sir, the subclause to article 117 does not mention that the date has to be given. The hon, Secretary of the Rajya Sabha is informed that the President recommended that the Bill passed by the Lok Sabha should be considered by the Rajya Sabha also. Now the essence of the formality is fulfilled. What is not given is the date. But the fact that the recommendation as obtained is brought with rotice of the non. Chair and the House means that in essence the formality is fulfilled. Apart from that.

SHRI ERA SEZHIYAN One point. On this, the Minister may not be aware of one thing.

SHRI SHIVRAJ V. PATIL: I hare gone through the record.

SHRI ERA SEZHIYAN: Not thia one.

SHRI SHIVRAJ V. PATIL. Let me finish.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI). He is not insisting on lhi_s point of order. Therefore, you may hot reply to this.

SHRI ERA SEZHIYAN; Yes, I am not insisting on the point of date. When we asked in the last session...

SHRI SHIVRAJ V. PATIL. That is exactly what I was going to explain. Before I finish, if you interrupt, there is likelihood of your committing some sort of... (Interruptions). I was going to say that, though it is hot necessary, we would give the date to this hon. House and *o the Chair, if required, in writing. I can inform this hon. House that on the 10th February, 1981, the recommendation was obtained. It may be given in writing aL"o. If there is a direction from the Chair, that direction will be fulfilled.

SHRI SHIVRAJ V. PATIL: If we have committed any mistake, we will stand corrected and we will follow all the directions given by the Chair.

The second, point which waf 5 P.M. made by the hon. Member

was: What is the amount of expenditure involved? Sir, a Financial Memorandum was given, and in thai Financial Memorandum it is suggested that the expenditure involved in maintaining the Judicial Commis,-sionerfs Court, was to the tune of Ks. 1.30 lacs. It is also mentioned in the Financial Memorandum that the additional recurring expenditure that would be required to be incurred on the establishment of this Bench of the High Court is Rs. 62,000 per vear. In all, the expenditure that would be involved would be Rs. 1.92 lakhs. Now that is mentioned in the Financi H Memorandum itself. So, there is no ambiguity as to what the amount of the financial expenditure involved is in establishing the new-Bench of the Court This point is also met.

The third point that was made wa» with respect to this. (Interruptions) I am coming to one point after another. After I cover all the points if you find that I have committed a mistake, you may raise it, and I will immediately reply.

Sir, the question put was; If it was to be incurred by the State Government, why was the recommendation of the President necessary? Sir, here the expenditure that would be incurred by the High Court of Judicature fat Bombay, would be borne by the-Maharashtra State, but the Part of the expenditure that would be involved in establishing the Bench at Panaji for Goa, Daman and Diu, would not be borne by the Maharashtra State, it would be borne by the Central Government. Tiiat i₃ why that money ha_a to come from the Consolidated Fund of India, and if the money ia

[Shri Shivraj V. Patil]

coming from the Consolidated Fund of India, then it would be necessary to take the recommendation of the President. So, the recommendation hag been obtained, and that recommendation has been submitted in the House also. This is m_v reply to the econd point.

The third point i_3 about the delegated legislation. What is the delegated legislation here? We are not giving powers to $t.h_e$ President to make any rules. We are not giving any legislative powers. What is provided iu clause No. 10 is-

"The expenditure in respect of the High Court at Bombay, including the expenditure in respect Of the salaries and allowances of the Judges, officers and servants of the High Court shall as from the appointed day, be allocated between the State of Maharashtra and the Union in such proportion as the President may, by order, determine."

Now, what will be the portion that would be borne for the Bench to be established there and all those things? If there is any expenditure over and above Rs. 1.92 lac_s and in the second year also if there is any expenditure more than that, how ha_a that expenditure to be apportioned between the . two, the State of Maharashtra and the Union Territory? Here, a Bill, was passed to provide for this kind of contingency with respect to the Assam High Court also. I am reading from the North-Eastern Area Reorganisation Act, 1971. Section 33 says.

'•The expenditure in respect of salaries and allowances of the Judges of the common High Court, shall be allocated among the States of Assam, Manipur, Meghalaya, Na£a-land, Tripura and the Union in such proportion as the President may, by order, determine."

Sir, here, we are giving the executive powers to the President to find out as to what amount of eipenditure has

to be borne by the State of Maharashtra and what amount of expenditure has to be borne by the Central Government or the Union Territory over there. Now, this is not a delegated legislation and so it is not necessary to provide with this Bill a memorandum on delegated legislation. What is mentioned in this clause is that the executive power is available to the President to say that this is the expenditure which will be borne by the State of Maharashtra and this is the expenditure which will be borne by the Central Government, So, in my humble opinion, it is not necessary to give a memorandum on delegated legislation with respect to this as this is a sort of executive power made available to the President.

SHRI ERA SEZHIYAN: The first point was regarding the date of the President's recommendation, and about "The Bill as passed by the Lok Sabha." There is no conflict between us about that. He said it is not necessary. My point is, the Chair has given a ruling on these two points and the rulings of the Chair should be implemented. We expect the rulings of the Chair to be implemented. But in this case, it has not been implemented. That is the only thing that I will point out. It is necessary to give the date...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Let us avoid that point.

SHRI ERASEZHIYAN: I say, it is necessary. The second point is, the Law Minister said that no amount is to be taken out of the Consolidated Fund and so it is not necessary to get a presidential recommendation under article 117(3). I want to know what happened to that statement. Is that statement correct or not?

SHRI SHIVRAJ V. PATIL; The previous statement of the Law Minister would stand corrected in the light of what I am saying.

SHRI ERA SEZHIYAN: Then he himself conceded that article 117(3) comes in because there is apportionment of the expenditure to be incurred by the High Court of Bombay. Clause 10 says.

"The expenditure in respect, of the High Court at Bombay, including the expenditure in respect of the salaries and allowances of the Judges, officers and servants of the High Court shall, as from the appointed day, be allocated between the State of Maharashtra and the Union in such proportion as the President may, by order, determine."

This brings it under article 117(3). That is why T asked for the Rules of Procedure. The rule says:

"Clauses or provisions in Bills involving expenditure from public funds shall be printed in thick type or in italics."

That means, clause 117(3) is attracted because clause 10 is there. If clause 10 was not there and only clause 9 was there, article 117(3) would not have been attracted, as it would not be from the Consolidated Fund of India but only from the Consolidated Fund of the State. Because clause 10 comet, article 117(3) has been invoked. And because article 117(3) has been invoked, there is financial implication and so clause 10 should have been printed in italics, which the Government has failed to do. They have not taken into consideration the purport of clause 10. Now the Financial Memorandum simply mentions the total expenditure. The House is interested in knowing how much is to be apportioned to the Consolidated Fund of India. That should have been indicated at least. You will not be able to say exactly how much. Probably it is going to be worked out. the Bill says that it has to he decided in future by the President by order. Therefore, these two lacunae are there. The Financial Memorandum

fails to mention this aspect. And ia view of article 117(3), clause 10 should have been put in bold type, which they have not done. This is a failure on the part of the Government because if there is financial implication, the clause should be in bold type.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI) j Wherefrom are you getting it?

SHRI ERA SEZHIYAN: From the rules. I think it is the same for tha Lok Sabha and this House. Regarding financial memorandum> the rule says!

"A Bill involving expenditure shall be accompanied by a financial memorandum which shall invita particular attention to the clausea involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law."

That means a Bill involving expenditure should be accompanied by a financial memorandum which shall invite particular attention to the clauses involving the expenditure. Here Clause 10 is involving a particular expenditure. Therefore, the financial memorandum should have invited the attention of the House to that particular clause and also given an estimate of the recurring and nonrecurring expenditure involved. My objection is as far as this House is concerned, we are interested in knowing how much is te be taken out of the Consolidated Fund of India. That they have failed to indicate. Having considered the point that we are going to take something out of the Consolidated Fund of India, they took sanction from the President but they have failed to mention it in the financial memorandum. So they have failed on two aspects; They have failed to mention Clause 10 and they have failed to mention the amount that will be taken out of the Consolidated Fund. It should have been put la bold letters...

followed your point.

as Clause 10 is concerned ...

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SHRi ERA SEZHIYAN-. The, third one is. he said there is no delegated legislation as far

SHRI SHIVRAJ V. PATIL: I have

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI)-. I think, Mr. Sezhiyan, there is no scope for rearguing the whole case. You have made your case. I don't think you can reargue the same thing...

SHRI ERA SEZHIYAN. Of course, they tave got the majority. They may be able to pass this measure but...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You leave it to me. On this aspect you leave it to me...

SHRi ERA SEZHIYAN: Again I will invite attention to the next Bill that is going to be introduced. There also you see...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have seen.

SHRI ERA SEZHIYAN: Wherever it is said, "the President may, by order, determine...", it becomes dele. gated legislation. This is a very crucial question. I want your very considered ruling on this point.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Minister, would you like to say something on this?

SHRI SHIVRAJ V. PATIL: I am t finishing in four, five, sentences, e point is the financial memoran-

Ltm gives the details. If the honour-Chair allows me, I will just read

"Under the existing arrangement there is a Judicial Commissioner'i court in the Union Territory of Goa, Daman & Diu consisting of the Judicial Commissioner and the Additional Judicial Commissioner. After jurisdiction of the Bombay High

Court is extended to the Union Territory the Judicial Commissioner's court will stand abolished. At present an expenditure of the order of 'Rs. 1.30 takhs per year is being incurred on the pay and allowances of the Judicial Commissioner and the Additional Judicial Commissioner arid their personal staff. It has been estimated that the establishment of a permanent twojudge bench of the Bombay High Court at Panaji as proposed in the Bill would involve an additional recurring expenditure of Rs. 62,000 per year."

Now, it is provided there...

SHRI ERA SEZHIYAN: With particular attention of the specific Clause and the amounts involved.

SHRI SHIVRAJ V. PATIL: It is very difficult to give the exact amount. It is an estimate. Now, the specific Clause is provided there, because next year if there is an expenditure more than this, how it is to be apportioned...

SHRI ERA SEZHIYAN: It is not mentioned.

SHRI SHIVRAJ V. PATIL: Let me say what I want to say.

Now, this year when the court will be established, this would be the expenditure. Suppose there is a little bit more of expenditure on this, how it is to be apportioned, or suppose next year there is some more expenditure incurred how it is to be apportioned, how much should be borne by the State Government and how much by the Central Government, and who should decide it, are the points. The authority for decision is given to the President, the Central Government. This authority has not to be exercised by framing rules. This authority has to be exercised as executive authority. So there is no question of delegation of power.

As far as the second point is con>cerned, it is mentioned at the top of the copy of the Bill, "As passed by the

Lok Sabha on 23rd December, 1880". It is mentioned in the Bill itself, in the copy of the Bill which is provided to the honourable Member and the honourable House. It is mentioned at the top of it, "As passed by the Lok Sabha on 23rd December, 1980". This is not a Bill of a different nature from the one which is passed by the Lok Sabha. This Bill, a copy of which you may be reading, mentions that fact. So, in essence, all these formalities have been fulfilled. Even after that! if the honourable Chair feels and if the honourable Member wants some more explanation to be given to understand the essence of the Bill, the heart of the Bill, the pith of the Bill, well, we are ready to give it. If there is any formality to be fulfilled it will be fulfilled. We are subject to the direction by the Chair. If anything is to be done, it will be done.

High Court at Bombay

(Extension of Jurisdiction

SHRI ERA SEZHIYAN: I did not raise the point. . . .

THE VICE CHAIRMAN (SHRI DINESH GOSWAMI): One point raised by Mr. Era Sezhiyan is that there is delegated legislation and the memorandum on delegated legislation is not there. He has drawn my attention to the next Bill, the State of Nagaland (Amendment) Bill, 1981. I feel there is a distinction. Jn the case of the Nagaland Bill the legislative power of Parliament for making laws on emoluments, allowances, etc. has been delegated to the Governor and, therefore, there is delegation of legislative power and as such the memorandum on delegated legislation is required.

But here in this case, no legislative power of Parliament is delegated under clause 10 of the Bill. What is done is that Parliament has conferred executive power on the President. Therefore, I do not think there is any need for memorandum on delegated legislation.

So far as financial memorandum is eoneerned, the position is like this. So far as expenditure is concerned, I feel it is clause 9 of the Bill which Is the

operative clause. Clause 10 only speaks of apportionment and It only confers on the President power to make apportionment of the expenditure between the State of Maharashtra and the Union. The only objection that can be taken is that in the financial memorandum there could be a paragraph stating that so much expenditure would be there from the Consolidated Fund of India. But that cannot be stated just now because it will depend on the decision of the President under clause 10. This is a technical omission and I rule out the objection raised. The hon. Minister can proceed with the consideration of the Bill.

SHRI SHIVRAJ V. PATH-: What is sought to be done by this Bill is abolition of the Judicial Commissioner's Court for Goa, Daman and Diu and establishment of a permanent Bench of the High Court of Judicature at Bombay. Why I am mentioning this fact so elaborately is that we are not establishing a permanent Bench in Goa, Daman and Diu in a void. The Judicial Commissioner's Court was already there. In place of that, a permanent Bench is being established. There was a demand for the establishment of a Bench of the High Court because under the Constitution the safeguards provided for the Judge sitting in the High Court are more pronounced and more effective than the safeguards available to the Judicial Commissioner's Court. That is why there was this demand and we are fulfilling this demand. This is something different from the position that is available in different other States.

A suggestion was made that there should be decentralisation of judiciary and justice should be taken to the door-steps of litigants. I have no quarrel with this proposition and to the extent possible it has to be done. I would not like to go into details as to whether it is possible and how it should be done, because for that other things have to be considered separately. Here the case is different.

IShri Shivraj V. Patil]

It is not a case where a new Bench is established where nothing is there. This is a completely different case. This is my submission.

The other point raised by hon. Members is that there should be no delay because justice delayed is justice denied. I have no quarrel with this kind of statement also. I do accept that justice has to be quickly done and how quickly that has to be done, what kind of machinery has to be evolved, etc., it will not be possible for me to discuss now while discussing this Bill. But I do concede that justice has to be quickly done. How quickly that has t₀ be done, whether by modifying the procedures or by appointing more judges or by having more Benches or by having arbitration, seeing by that the Court will not be flooded with cases, etc, all these things are to be considered while deciding this issue and it would not be possible to decide them here.

Then, Sir, the second point is about the personality of the Union territory of Goa. Sir, what is it that is being done now? Now, here a Bench is provided for Goa, Daman and Diu. The Judges sitting there, constitutionally and according to the recommendations also, can come from different States and it is not necessary that the Judges should come from Maharashtra or from Goa alone and it is not necessary that the Judge should necessarily be from Maharashtra: he can come from Goa also or from UP or from Bihar or from Tamil Nadu. It is because this kind of a provision is already available in the Constitution. Now, here we are creating a Bench for Goa. The executive authority that is available for Goa, Daman and Diu is not affected. Their financial powers are not affected and their power to modify the social structure is not affected. That remains intact and that would help in maintaining the personality of the Union territory and the creation of a Bench Is not going to affect this aspect in any

manner. Sir, it is an innocuous Bill and i think it is not necessary for mi to dilate too much

THE VICE-CHAIRMAN (SHHI DINESH GOSWAMI): You have a precedent for this when the Manipur Special Commissioner's Court was abolished. So, I have a precedent from my area also. This is just by the way.

SHRI SHIVRAJ V. PAXIL: Sir, all the formalities are fulfilled and I would request the House to pass this Bill. It is not necessary for me to say anything more on this.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI). The question

"That the Bill to provide for the extension of the jurisdiction of the High Court at Bombay to the Union territory of Goa, Daman and Diu, for the establishment of a permanent bench of that High Court at Panaji and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration".

The motion was adopted.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI). We shall now take up the clause-by-clause consideration of the Bill.

Clause 2 to 14 were added to the Bill.

Clause 1—Short Utile and commencement

SHRI SHIVRAJ V. PATIL; Sir, I beg to move:

2. "That at page 1, line 4, for the figure '1980', the figure "1981* b« substituted!',

The question was put and the moition was adopted,

VICE-CHAIRMAN (SHBI DINESH GOSWAMI): The question is

"That Clause 1, as amended, stand part of the BUI".

High Court at Bombay (Extension of Jurisdiction The motion was adopted.

Clause 1 as amended, was added to the Bill.

Enacting Formula

SHRI SHIVRAJ V. PATIL: Sir, I beg to

1. "That at page 1, line 1, for the word 'Thirty-first' the word 'thirty-second' be substituted".

The question was put and the motion was adopted.

VICE-CHAIRMAN DINESH GOSWAMI); The question

"That the Enacting Formula, as amendment, stand prat of the Bill1'.

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to, the Bill.

SHRI SHIVRAJ V. PATIL: Sir, I move;

"That the Bill as amended, be passed".

The question was proposed.

VICE-CHAIRMAN THE (SHRI DINESH GOSWAMI): Ther, are four names with me and I would only request the Members t₀ be very brief. Yes, Mr. Dhabe.

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra); Sir, I. congratulate the Government for having taken a decision to establish a High Court Bench at Goa. It was earlier demanded here and a number of times we raised this issue as the Judicial Commissioner's Court was not sufficient to meet the needs of the people. j I am sure the peopl of Goa would be very happy over the establishment of a High Court Bench in Goa.

There is nothing new about having common courts for one State or the other or Union Territories. But I would like to know what will happe» to the Judicial Commissioner, whether he will be eligible for appointment as a High Court Judge or not or they will be thrown out as soon as the Judicial Commissioners* Courts are abolished. I would like to request the Minister to consider seriously that the interests of the people who have worked there for a long time are not affected as is done in the case when abolition of courts takes place.

Bill. 1980

Sir, a Bench is being established at Aurangabad. There are 20 demands for Benches of various High Courti and Supreme Court. Some think that India is only north and south and bench should only be considered either at Bangalore or Madras. Also, there are areas like Gauhati. Bhubar neshwar or North Eastern areas—thousands of miles away from the seat of the Supreme! Court. Therefore, a suggestion was made by the Chief Justice that a Supreme Court Judge should go and sit along with two High Court Judges to dispose of the pending matters there itself. In my area also there is a demand for a Bench of the Supreme Court at Nagpur, which is 800 miles away. So, I would like to know that when he says that individual cases are being considered, the matter should be spelt but, and what is the criteria that is going to be followed to establish benches. 1 would like the Minister to specifically assure the House on this occasion that no decision will be taken without following the criteria to render justice to the poor people as pointed out by a number of person_s all over the country.

श्री शिव चन्द्र झाः उपसभाध्यक्ष जी. यह विधेयक जो है जिससे कि एक परमानेंट बिल बन रहा है गोधा में यह वैल्कम बात है, वैल्कम विधेयक है। मंत्री महोदय ने बहुत जोर दिया कि

डीसेंटलाईजेशन कर रहे हैं। बहुत ग्रच्छी बात है। कीर्ट का न्याय जितनी तेजी स जितना ज्यादा जनता के पास जाये हम इसका स्वागत करते हैं । लेकिन कुछ ऐसी बातें जो और कोटी को लेकर कर रहे हैं, बही बीमारी कहीं वहां न खो जाय । गोमा का बढ़ना सन 1962 जह हम्रा है। गोम्रा हम लोगों ने सहा है। जिस रूप में 62 के बाद दिश्रा में काम हो रहा है, खन्नी है कि गोआ में 62 के बाद से प्रगति हुई और बहुत तेजी से हो उस प्रगति में बह भी एक कदम है जो हम चाहते हैं। लेकिन मंत्री महोदय से मैं पूछना चाहता ह कि डीसेंट्रलाईजेशन जो श्राप कहते हैं जिस रूप में अध्वाइंटमेट की बात आप कर रहे हैं. श्रापने स्टेट के मिनिस्टरों को भी लिखा है कि उनसे कन्सेंट रिटन ले ली जाय तब ही हम उनका एप्वाइटमेंट करेंगे । यह प्राविजन, क्लाज यदि श्राप जगाते हैं तो क्या उस पर आप पाबंदी नहीं लगाते हैं जिसके लिए कि बात उठ इसी है देश में। रिटन कन्सेंट लिया जाय जो कहीं भी हम उनको ट्रांसफर करेंगे । तो यह तो मानी हुई बात है कि हिन्द्स्तान का जज हो, आई०ए० एम ग्राफिसर हो, ग्राई० पी० एस० ग्राफिसर हो, एक किनारे से दूसरे किनारे तक उसको ट्रांसफर किया जा सकता है। लेकिन उसके साथ यह प्रोविजन कि हम रिटंल लेंगे कुछ उस तरह की बात हो जाती है कि जैसे एक लायल्टी की लहर केलीफोनिया की वर्कले युनिवास्टी में चलो थी ग्रीर सारे अमेरिका में उसका विरोध हुआ था । उससे यह होता है कि राजसत्ता उसको दबा रही है। ऐसो चोज नहीं होनी चाहिए बीशारो वहां भी नहीं होनी चाहिए।

दूसरी बोत मैं समझता है कि जडीशियरी में एक रेडिकल ट्रांसफारमेशन की जरूरत है। जी बनावट है चाहे गोग्रा की हो, दिल्ली की हो, पंदना की हो, उसमें जजेज जो कि एप्वाइंटीज होने हों वे इलेक्टेड बाई द पीपुल हो इलेक्टेड, जनता द्वारा जज चुन जायें । आपने डी-सेंट्रलाइजेशन की बात कही वह उसी की एक कोरोलरी है कि जनता खंद चने आप न बहाल करें। ग्रापकी ग्राश्चर्य होगा यह सून करके कि अजीज कैसे चने जायेंगे। लेकिन द्विया में अभी भी पंजीबादो समाज में जैसे कैलोफोर्निया में सरकिट कोर्ट के जजेज चुने जाते हैं। इलेक्टेंड होते हैं, एप्बाइंटेड नहीं होते हैं, च्ने हये होते हैं। दिलोप सिंह सान पंजाद का एक व्यक्ति कैलोफोनिया में था. उल्फा उपजात उपजात उसके मन में भावता आई चताव लड़ने की और वह इलेक्शन में आ गया, सरकिट कोर्ट का जज चुना गया । फिर भी वह हाउस ग्राफ रिप्रेजेटेंटिव में चना गया। सुप्रीम कोर्ट में वहां इलेक्टेड सिस्टम नहींहै लेकिन लोग्रर स्केल में इलेक्शन सिस्टम है। इसी लिए यदि श्राप जनतंत्र को बढ़ाना चाहते हैं, जैसा नारा है कि एडमिनिस्ट्रेशन में भी जनता का पाटि-सिपेशन हो, जजेज की बहाली में भी जनता का पार्टिसिपेशन होगा जब ग्राप इलैक्टिव प्रासेस शह करेंगे, जनता चने । ग्राप शुरुग्रात कर सकते हैं डिस्ट्ब्ट जज से, स्प्रीम कोर्ट को थोड़ो देर के लिए छोड़ दीजिए । द्याप डिस्टिक्ट जज के लिए चुनाव कर सकते हैं। उसके, लिए इलैक्टोरेट जो वहां के रॉजस्टर्ड एडवोकेट्स हैं, वही इलक्टोरेट कालेज उनका होगा और उसी के जिस्स धापका इलैस्टिक जनता सिस्टम चलेगा ।

इसितिए आप ब्रियादी परिवर्तन लाएं । ग्रभी वही पुराना ढांचा है, इससे इसाफ नहीं हो पाता है। इस आंखों के सामने देख रहे हैं।

तोक्षरो बात, पिछले सँगन में कान्न मंत्रों ने बहुत जार दिया कि हम श्रीहल कास्ट, बैंकवर्ड जी हैं, इन लोगों की प्रश्रप देने को बात उठाई--कोई दूसरा महा था, जहां तक मझे याद है। आप बताएं कि कितने जज हैं देश में जी पिछड़े वर्ग के हैं, हैरिजन वर्ग के हैं और उनको प्रश्रम देंगे? खास बारके जब नवा वींच आप बना रहे हैं गोआ में सीर ब्राप कह रहे हैं कि विहार से, उत्तर प्रदेश से भेज सहते हैं। तो द्याप क्या यह प्रोवोजन रखोंगे कि जो पिछड़ा वर्ग का है, या हरिजन है, ऐसे लोग जो हैं, एक अपार पहेड लोग जो हैं, उनको प्रिफेंटिंग देंगे जो तया बैंच ग्राप वहां बताने जा रहे हैं ?

अत्र महिताक्यों को बात अ∷ जाती है। उनको भो प्रिफीशल ट्रीटमैंट की जरूरत हो**त**े हैं। तो यह जो बेंच बन रहा है, परमानैंट बैंच, हम इसका स्वागत करते हैं, गोग्ना खुब बढ़े, ग्रांच्छा है। लेकिन एक बात मैं एसाइड रिमार्क के रूप में कह देना चाहता हूं कि वह पनजो में जो पूल है ग्रभो तक लटका हुआ है ' चाहे यह बात इससे संबंधित न हो, लेकिन विकास की गति किस धीमी रफतार से चल रही है। वह पूल कितने साल तक बतेगा । इसलिए उसको स्पीड-ग्रंप करें। लेकिन जुडिशरी सारे देश में, एक बनियादो तौर पर उसमें परिवर्तन लाएं भ्रौर एक व्यवसा-संविधान में संशोधन करने की जरूरत हो, तो करें ताकि अजेज का जनता द्वारा चुनाव हो । यह पद्धति आप शुरू करें तब न्याय जो ह, द्वाप जनता के पास ही नहीं पहुंचेंगे, बीला हेकीकत में होगा । बीलक मोबाइत कोर्टयदि ग्राप बनावें, जरा सोचिए इत बात का...

भी सैयद शिब्ते रजी : झा साहब सुप्रोम कोर्डके जब हो गये।

भी शिव चन्द्र झाः इन सभी वाती को महेन तर रख कर के यह जो विधेयक है, यह स्वागत के लागत है, लेकिन आप दूर की बात सोचें।

भी हुक्मदेव नारायण यादव (विहार)ः उरतभाष्ट्राक्ष महोदय, मैं इस विधेयक के संबंध में कुछ बनियादो बातें मंत्री महीदय केसामने रखना चाहना है ग्रीर बहै। इत्तलिए कि ग्रामी कुछ सवाल श्री शिव चन्द्र झा पुळ रह थे। मैं ब्रापसे निवेदन करूंगा कि मैंने इसी राज्य सभा में प्रकत िया था अतारोक्ति प्रश्त नं. 1171 दिनों ह 11-8-1980 । सरकार ने उत्तर दिया कि उच्चतम स्थापालय में कार्यरत जजो को संख्या 1-6-1980 तक 336 है, जिसमें हरिजन पांच, त्रादिवासो शन्य, मुसलमान सोल**ह**, महिताएं नी ग्रीर पिछडे वर्ग के बारे में सरकार ने उत्तर विया कि पिछड़े वर्ग के बारे में सरकार की पता हो नहीं है कि कोई पिछड़े वर्ग का आदमी है, कहां नहीं है। तो जिस देश में--मैं कह रहा हं कि अभो आप खण्डपोठ की स्थापना कर रहे हैं, हाई कोर्ट के बैच बना रहे हैं, जहां 336 उच्च स्वायालय में, हाई कोर्ट में, देश के ग्रन्दर 1-6-1980 तक 336 जज थे, उसमें मात्र पांच हरिजन इस देश के हाई कोर्टस में जल थे, ब्राजादी के तीस-बत्तीस साल के बाद भी एक भो ग्रादिवासी को इस लायक नहीं

श्री हरमदेव नारायण यावन

बनाया गया इस देश में कि वह हाई कोर्ट का जन बन सकता है, क्या यह देश के जिए शर्मकी बात है या नहीं ी

इत पर भी सरकार की सीचना चाहिए ग्रौर फिर मसलमान भी 336 में केवल 16 बनाये गये । आदिवासी और **हरिजन तो** कम पड़े-जिखे थे, नहीं मिले तो नहीं मिले । मसलमानों में तो पहे-लिखे लोग कम नहीं है।

338 में से 16 ही कैसे बहाल हुए जबिक महिलाएं देश की आधी अवादी मात 9 हो जज नियक्त हुई । मैं सरकार से मांग करता हूं कि हाई कोर्ट में जजों की नियुक्ति में दबे हुए समुदाय को भी उचित प्रतिनिधित्व मिलना चाहिए संस्कार भी इस देश में असर दिखाते हैं। मन्ष्य जाति संस्कार सेपीडित होने के कारण उसो छोर प्रेरित होती है। स्वर्गीय डा० लोहिया ने लोक सभा में एक केस की नजीर दी थी जिसमें उन्होंने कहा था कि एक हरिजन लड़के ने एक द्विज की लड़की से शादी किया तो बिजों ने गुस्से में ब्राकर उसकी हत्या कर दी और जब मामला अदालत में गया तो फैसला दे दिया कि इस हरिजन लड़के ने दिज की लड़की से शादी करके उन जाति के लोगों को इंस्टिगेंट किया जिस इंस्टिगेणन में ग्राकर उन लोगों ने हस्जिन की हत्या कर दी और इसके बाद अभियक्त को बरी कर दिया गया। श्रव बताइए यह संस्कार कहां से प्रेरित होता है। यह जो जाति संस्कार होता है उस संस्कार से स्व-विवेक का इस्तेमाल होता है। इसलिए उच्च न्या-यालय में और न्यायालयों में दबे हए समुदाय के लोगों को जो न्याय नहीं मिलता है उसका एक कारण यह भी है।

मेरे प्रतारांकित प्रश्न संख्या 272, 9 मार्च, 1981को सरकारने उत्तर दिया है. जिसमें मैंने प्रकृत पूछा चा कि क्या सरकार बतायेगी भारत सरकार द्वारा नियुक्त श्रधिवनताश्रों की संख्या हाई कोर्ट और सुप्रीम कोर्ट में क्या है, कितने वकील हरिजन, श्रादिवासी: महिला, मुस्लिम एवं पिछड़े बर्ग के हैं? 330 हैं. उसमें औरतें 15 हैं। हरिजन श्रीर आदिवासी का कोई पना नहीं है। पिछड़े वर्ग के बारे में कोई पता नहीं है। जिस सुप्रीम कोर्ट में हाई कोर्ट में इतने इम्पोटेन्ट केस आते हैं. अक्टा बहुस को जातो है, वहां एक भी हरिजन सरकारी वकील श्राज तक बहाल नहीं हुआ, एक आदिवासी सरकारी वकील को आज तक बहाल नहीं किया गया। फिर पिछडे वर्ग केलोगींका तो सरकार को पता हो नहीं है कौन पिछड़ा है कौन नहीं हैं तो सरकार क्या बताएगी ? इसीलिए जान कर भी छपाया गया।

उपसमाध्यक्ष महोदय में आपसे निबंदन करना चाहुंगां कि जो आप खंडपीठ बना रहे हैं न्ययालय बना रहे हैं--उच्च न्यायालय-इस उच्च न्यायालय में फैसला करने वाले उस वर्ग ग्रीर समदाय के होने चाहिए जिन के ऊपर समाज में निरंतर जल्म भीर ग्रत्याचार होते आए हैं। इसलिए-पैरवी करने वाले ऐसे वकील और ग्रांध वक्ताओं की निय्क्ति होनी जाहिए जो समाजिक न्याय को समझते हैं और शीक्षित पीड़ित वर्ग के हितीषी हों।

आखिरी बात मझे कहनी है कि 30-32की ग्राजादी के बाद भी बिंहार जैसे प्रदेश जहां, से मैं आता हं- आपको सुन कर आश्चर्य होगा उस बिहार में माल केवल दो पिछड़े वर्ग हाई कोर्ट के जजबहाल किए गए हैं? भौर क्यों नहीं

बहाल होते हैं ? मैं मांग करता हं,हाई-कोर्ट जज का नामिनेशन नहीं होना चाहिए। इसमें किसी के सिफारिश का जरिया न ही बल्कि पवलिक सर्विस कमीशन द्वारा जैसे भाई० ए० एस० और दूसरे अफसरों की बहाली करते हैं वैसे ही कंपीटीशन के जरिए से नियन्ति करिए । मेरा दावा है भ्रगर ऐसा करेंगे, तो बैकवर्ड क्लासेज के भी ऐसे लोग हैं जो कंपटोशन से उस हाईकोर्ट जज की क्सी में जा सकते हैं। ग्राप नामिनेशन करते हैं सुत्रीम कोटं, हाईकोर्ट के जजेज का श्रीर गवर्नर्संका। यह तीनों के तिकड़े में जो नाम सिफारिश में प्राएगा वह नियक्त होगा । मैं कहंगा तेरा बेटा बेटी वह कहेगा तेरा नाती बेटा बेटो ---इस तरह मिल कर लेते जले जाएंगे आपस में सिफारिश करते चले जाएंगे । दूसरी तरफ दबे हए वर्गका बेटा खेत में मार खाता है। इसलिए मैं मांग करता है, उनको तब तक इंन्साफ नहीं मिलेगा. म्याय नहीं मिलेगा जब तक जडी शरी में उनकी उचितप्रतिनिधित्व नहीं मिलेगा। जब आप इस तरह का कानन बनाते हैं तो इस बात के ऊपर विशेष ख्याल करें।

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के साध मैं ग्रंपना कथन

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Yes, Mr. Hegde. Mr. Bhabhra, do you want to speak on thia?

SHRI HARI SHANKAR BHABHRA (Rajasthan): Yes, Sir.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): All right. Last time you were not here. I will give you a chance. Yes, Mr. Hegde.

SHRI RAMAKRISHNA **HEGDE** (Karnataka); Sir, I would not have chosen to speak on this Bill if tha hon. Minister had eared to reply U

the very important points raised by Mr. Gopalsamy, hon. Member from Tamil Nadu. He did not even touch the lew important points that the hon. Member raised. I do not agree with Mr. Dhabe either that the people of Goa will be happy with this measure. On the contrary, they will feel that something has been imposed on them. The people of Goa never asked for the extension of the jurisdiction of the Bombay High Court nor of the Karnataka High Court. They wanted the upgrading of the present system, that is, the Judicial Commissioner's post to the rank and status of a High Court. That was their demand. But by this measure, this Government has not only done injustice to the people of Goa, but it is also unfair to our great departed leader, Pandit Jawar-lal Nehru. Goa is not. like other Union Territories. It has its own history, its own culture. Goanese people have their own language, j do not know whoever told Mr. Bhandart that Konkani is a dialect of Marathi. Konkani is an independent language; it has been recognised by all people who know something about languages. And today we are having Konkani broadcasts. It might be true that in the northern parts of Goa, tha Konkani language that is spoken there, may be influenced by Marathi as it is influenced in the southern part by Kannad language and in Cochin where Konkani is spoken by considerable number of people, it is influenced by Malayalam language. This inter-impact between languages Is always there.

to Goa, Daman and Din)

Bill. 1980

Sir, I cannot help saying that through this measure, the Government of India is bringing about the integration of Goa territory into Maharashtra through backdoor, First, it was the extension of the jurisdiction of Bombay University to Goanese colleges. Now it is the extension of the jurisdiction of the Bombay High Court and tomorrow it might be that the Government of India will also extend the jurisdiction of All-India services Maharashtra cadre, that

(Extension of Jurisdiction

Shri Ramakrishan Hedge] is, lAs and IPS, to Goanese territory. Sir, the Goa.nese people have categorically rejected the idea of merger. It is true that there was '» persistent demand by my Maharashtra friends that Goa should become a part of Maharashtra. It is also true that there *ras a small section, particularly In \ the ruling party, which also wanted j the merger of Goa iri Maharashtra. 'But I had also some small, part to play in those days when we demand- I ed that the decision must be left to t the people. A few people in the ruling party should not be allowed to take a decision; but the people should ! have the chance, the opportunity to ' say whether they r^illy want their territory to be merged with Maharashtra or not. So, ultimately, the Government of rndia; agreed and a referendum was taken and the people emphatically, with overwhelming majority, rejected the idea of merger.

Now why this measure has been brought against the people's will, for indirect merger of Goanese territory into Maharashtra? I oppose it tooth and nail, with all my might. Sir, if there was a case of bringing about a measure it should have been in different form. Mr. Patil this morning read out the Statement of Objects and Reasons that there were certain Constitutional difficulties in upgrading the Judicial commissioner's position...

SHRI SHIVRAJ V. PATIL. No Constitutional safeguards...

SHRI RAMAKRISHNA HEGDE: Was it not possible if he had only amended the relevant provision in the Constitution providing for the same safeguards to the Judicial Commissioner? It was much easier. Why did you briag this Bill? Why do you want to extend the jurisdiction of Bombay High Court? This is against the will of Goanese people. I oppose it. Even at this stage i would appeal to the hon. Miniser to give a second thought and let this Bill be referred t₀ the Joint Select Committee.

भी हरी संकर आश्रहा : उपसभाव्यक्ष महोबस, में इस बिल का स्वासत करता है। होता कि गौद्धा में इस बेंच के बजाय धलग से एक द्वाईकोर्ट बना दिया जाता लेकिन बेंज़ बताने का भी मैं स्वागत करता है।

इस बिल के संबंध में कुछ काम्पली-केशन्स पैदा हो रहे हैं। मे चाहुंशा कि मंत्री महोदय उस तरफ इयान दें। एक तो इस में घारा 6 और घारा 8 इन दोनों धाराओं को आप देखिये, उन में कोई ग्रंतर नहीं है। मैं समझता हं कि किसी भीएक धारासे काम चल सकता या जब खास कर धारा 6 बना दी गयी हो धारा 8 में भी वहीं मख्दावलि है। केवन धारी 8 के संदर उन प्रोक्षीडिंग्स का उल्लेख किया गया है जो इसिकर की जाग्रेंगी बंबई हाई कोर्ट में । बाकी कोई भी वकील जो जडिशियल कमिशनर की अदालत में बकालत कर सकता है वह बंबई हाई कोर्ट में भी बकालत कर सकता है इसका शबधान ही धारा 8 में किया गया है । इसलिये दोनों को मिला कर एक ही किया जा सकता है और इसकी अलग ने रखने की आवश्यकता नहीं थी।

इसी तरह एक और परेशानी पैदा होने वाली है प्रेक्टिकली और वह है गोधा, दमन दीव के बीच में जो अंतर है वह शायद 500 किलोमीटर से ज्यादा का है। दमन और दीव तो बंबई के नजदीक पडता है और गोश्रा पडता है अतनागिति के मजदीक । दमन दीव के लोगों को बंबई नजदीक पहता है विनस्वत गोआ के । दमन, दीव के लोग पदि बेंच में एरियर होने के लिये, अपने मुकदमे करने के लिये बेंच में जायोंने तो उन को बंबई से हो कर 500 किलोमीटर की बाबा करनी पड़ेंगी जब कि बंबई पहुंचने में उन की 50 सा 100 मील की ही यात्रा करनी पडेंगी।

(Extension of Jurisdiction तौ इस तरह से जो बेंच गोश्रा, दमन, दीव को मिला कर कायम की गयी है उसमें से दमन दीव के लोगों को पहुंचने में परेशानी होगी श्रीर बंबई उन के लिये ज्यादा नजदीक होगा। इस पर विचार किया जा सकता है।

High Court at Bombay

अंत में मैं एक निवेदन और करना चाहंगा कि लोग कहते हैं कि जस्टिस डिलेड इज जस्टिस डिनाइड, लेकिन एक इम्मीनेंट जज ने यह भी कहा है कि जस्टिस हरीड इज सस्टिस बरीड, यानी हमें इन दोनों के बीच से कोई रास्ता निकालना है। श्राप एक तरफ तो न्याय-पालिका की इज्जत की अअण्य रखने के लिये बाध्य हैं और दूसरी तरफ त्यायपालिका में करप्शन त हो और न्यायपालिका लोगों को मामाजिक और आर्थिक न्याय भी दे यह देखने के लिये बाध्य हैं। इन दोनों के लिये आप को रास्ता निकालना पड़ेगा क्योकि हाई कोर्ट ग्रीर सुप्रीम कोर्ट के जजेज की ट्रांसफर कर के या उनं का क्रिटिसिज्म कर के कॉम नहीं चलेगा । ब्राज मफस्सिल कोर्टस के ब्रंदर ग्रधिकांश जनता परेशान हो रही है। उन की ग्राप जस्टिस नहीं दे पाते हैं। ग्राज ब्यादा जिकायतें लीगों की इन मफस्सिल कीर्टस से हैं और उन में जो करणान है उस के कारण वहां लागों कां ग्रासानी से न्याय नहीं मिल पाता है। उस का सुधार करने के लिये हम को कानुन ऐसा बनाना पडेगा कि नीचे की ब्रदालतों में लोगों को न्याय-सामाजिक श्रीर भाषिक न्याय, गरीब लोगों को भी मिल सके। मुप्रीम कोर्ट और हाई कोर्ट तक तो बड़े लोग ही पहुंच पाते हैं, पैसे वाले लोग ही पहुंच पाते हैं। साधारण गरीब लीग वहां तक नहीं पहुंच पाते । इस लिये सुप्रीम कोर्ट और हाई कोर्ट के जजेज की आलोचना करना या उन का किसी बहाने से ट्रांसफर कर देने से या उन पर कोई राजनीतिक ददाय हालने से न्यायपालिका का ज्यादा हित रहीं हं मा श्रीर उस से अदालतों का भ्रष्टाचार समाप्त नहीं होगा । हम को चाहिए कि अपनी न्याय-

पालिका की स्वतंत्रता की हम बरकरार गर्बे श्रीर तोचे के कोर्ट्स में जो लोगों को न्याय नहीं मिल रहा है, सामाजिक और श्रीयक न्याय नहीं मिल रहा है वह उन को मिले ग्रीर उसमें बहुत जल्दबाजी भी न हो। ऐसा कोई मार्ग हम को अपनाना चाहिए। यही कह कर मैं अपनी बात समाप्त करता है।

श्रीशिवराज वी० पादिल : उपसभाष्यक-महोदय, यह थर्ड रीडिंग के समय चर्चा हो रही है और सम्माननीय सदस्यों में हेमडे जी के सिवाय बाकी सारे सदस्यों ने यह कहा नहीं कि यह विल पारित नहीं होना जाहिए, यह बिल पास नहीं होना चाहिए । सिर्फ सम्माननीय सदस्य हेगडे साहब ने कहा कि मैं इसका बिर ध करता है, यह पारित नहीं होना चाहिए। यह कहते समय स्वयं उन्होंने कहा कि जो गोधा में बेंच बनाई जा रही है, उसके सम्बन्ध में जो कुछ ब्यालात हमारे एक दूसरे साथी ने यहां पर जाहिर किये थे, उसके बारे में मैने क छ भी नहीं कहा। मैंने उस समय कहा था ग्रौर ग्रव भी कहंगा कि यह वैंच बनने की यजह से गोधा में जो सरकार है, उसकी ऐडमि नरहे-टिव पावसं में, उसके प्रशासन के अधिकार मे कोई अन्तर आने वाला नहीं है।

श्री रामहण्य हेगड़ें : कर्नाटक हाई कोर्ट का बैंच क्यों नहीं बनाया ?

श्री शिवराज बी० पटिल : उनकी फाड़नेंगल पावर्स में भी कोई ग्रंतर ग्राने वाला नहीं है, उनके द्यार्थिक अधिकारों मे भी कोई ग्रन्तर ग्राने वाला नहीं है । वहां की सरकार को, वहां की जनता की जो नया समाज बनाना है और अपने को जैसा चौहे वैसा समाज धनाना है उसका जो अधिकार दिथा है, उसमें भी कोई अन्तर आने वाला नहीं है । इस प्रस्ताव से यह पता चलता है कि अगर वहां पर कोई व्यवस्था है तो वह व्यवस्था कायम रखने में हाई कोर्ट की बैंच बनने से कोई बाधा मान वाली नहीं है। श्राप थोड़ी देर के लिए सोचिये

बी शिवराज बी॰ पाटिली

(Extersion Jurisdiction

कि असम में से बहुत सारे स्टेट हो। गये, मगर हर एक के लिए अलग अलग हाई कोर्ट बनाया नहीं गया। इसलिए बनाया नहीं गया कि श्रगर वह ऐसा कहते तो भी हाई कोर्ट का बनाना भाषिक द्ष्टि से योग्य नहीं होता ।

High Court at Bombay

भी रामकृष्ण हेगड़े : जो अलग अलग स्टंट बन वह अपम स्टंट से बने, लेकिन गोश्रा महाराष्ट्र से नहीं बना। (ज्यवधान)

भी शिवराज बी॰ पाटिल: ग्रसम स्टेट में ग्रालग ग्रालग स्टेट बने, वहां की संस्कृति कायम रहे। . . (श्वश्रधान)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You are not very correct. Tripura is within the jurisdiction of Gauhati High Court.

SHRI RAMAKRISHNA HEGDE; I was not referring to that. He said that different States have been formed out of Assam, hut Goa is not part of Maharashtra Stale.

SHRI SHRIDHAR WASUOEO DHABE: i would like to know from the Minister whether the Chief Minister of Goa will be consulted in appointment of judges?

SHRI SHIVRAJ V. PATIL: I am coming to your point also. I cannot reply to all the points at one time. मैं वहीं कह रहा था। मैं कहने जा रहा था कि अजन में से अजन अजन स्टेंट स तैयार हुए और इस दृष्टि से बनाये गये कि वहां की संस्कृति कायम रहे और वहां उनकी पर्सनेलिटी कायम रहे। फिर भी वहां पर एक ही हाई कोर्ट रखा गया । वह इसलिए कि अजन अजन हाई कोर्ट बनारा संभव नहीं था । ग्रायिक दृष्टि से संभव नहीं था, दूसरी दिष्टयों से संभव नहीं था। उसी प्रकार यहां पर अगर अवन हाई कोर्ट बत वा जाए तो ऐडिमिनिस्टेटिव मशीनरी बर नो पड़ेगो, उस पर बहुत खर्चा होगा।

टैरिटरी कम होने की वजह से दूसरी हाई कोट बनाना ठीक नहीं है। इन सारी चीजों को ध्यान में रखकर ही ये सारी चीजें बनाई जाती हैं। . . (भ्यवधान)

Bill. 1960

आपने कहा कि जडिशल कमिश्नर्स क्यों महीं हैं। कांस्टीटयशन में सेफगाई नहीं है तो हाई कोर्ट का सेफगार्ड देने के लिए ग्राप क्यों नहीं बनाते। यह श्रापका स्झाव था। मगर इस सुझाव से आप देखिये कि जुडिशरी का सारा चित्र ही बदल जाता है। कई प्रकार के चित्र आ जाते हैं, एक सुप्रीम कोर्ट रहेगी, दूसरा हाई कोर्ट रहेगा, तीसरे जडिशल कमिश्नर रहेंगे। . . (ब्यवधान)

श्री रामकृष्ण हेगडे : जडिशल कमिपनर ग्रीर कहीं भी नहीं होता, ऐक्सैंप्ट गोग्रा ?

श्री शिवराज बी० पाटिल: इसीलिए मैं कह रहा हं कि एक नई प्रणाली एक नये प्रांत के लिए बनाना ठोक नहीं है। ज्डिशियरी में एकता का स्वरूप है, उसको बदलना आप च हते हैं ? तो उस से तो ग्रच्छा है इस प्रकार से करना । इसलिए इसका उद्देश्य वहां की पर्सनेलिटी को मिटाना या अलग रूप देना या किसी प्रांत का रूप देना ऐसा नहीं है। इसोलिये मैं कहना चाह गा कि इस द्घिट से जो किया गया है सोच-विचार करके किया ग्या है। वह श्रापको मान्य होना चाहिये। शायद श्राप ऊपर से न हों लेकिन दिल से मान्य होंगे, ऐसा मैं समझता है।

दूसरा सवाल यहां माननीय सदस्य झा साहब ने उठाया। बहु र बड़े-बड़े सवाल उन्होंने उठाये । मैं समझता हं इतना टाइम नहीं है कि सारो बातों का जवाब दं। उन्होंने जडि-शिवरो की बात कही, अपायंटेड जडिशियरी की बात कही। यह बहुत बड़ी बात है। दुनिया की घटनाएं, कंस्टीटय्यन्स हैं। अलग-अलग जगह पर अलग-प्रलग चोज है। अमेरिका के ग्रंदर भी सीनेट को, सुप्रीम कोर्ट के जल को चुनकर देना या देने का अधिकार है। फांस के संदर अनग-अलग चीज है। फ्रांस के कंस्टीट-

यशन के इन्टरप्रे टेशन के लिये वहां के स्पीकर, चेयरमैन ग्रीर पालियामेंट के मेम्बर बैठते हैं। जर्मनी के ग्रंदर इलेक्टिव जुडिशियरी है। इलेक्टिव ज्डिशियरो होनी चाहिये या नहीं होनी चाहिये यह बहुत बड़ी बात है। इसके कपर बिल पर विचार करते समय मैं अपने विचार प्रकट नहीं कर सकता। ग्रगर ग्रापके इस पर विचार हैं तो श्राप श्रपने विचार बाहर भीर यहां कहना चाहें तो यहां प्रकट कर सकते हैं। इलेक्टिव जुडिशियरी होना या न होना अलग बात है। अपनी जैसी जडिशियरी है यह बड़े सोच-विचार करके बनी है। जो कुछ इस पर हमारा काम चल रहा है उस पर कुछ बोलं तो उसको इन्टरपरेटेशन ग्रलग-ग्रलग हो सकतो है। मैं कंटरोवर्सी में नहीं जाना चाहता। एक भी शब्द बोल्गा तो उसका कोई भी इन्टरपरेटेशन कुछ भी कर सकता है। मैं न बरा बोलना चाहता हूं ग्रीर न ग्रच्छा बोलना चाहता हं, जैसा है वैसा ही ठीक है। हम उसी को चला रहे हैं। अगर आपके कुछ विचार हैं तो ग्राप जरूर कहिये। उस बारे में मैं इस बहस के ग्रंदर कुछ जवाब नहीं देना चाहता भीर न दे सकता हूं। दूसरा सवाल ग्रापने यहां पर टांसफर श्राफ जजेज का उठाया। मैं समझता हं यहां पर बिल पर विचार करते समय टांसफर श्राफ जजेज की बात करना ठीक नहीं है।

उपसभाध्यक्ष (श्री दिनेश गोस्वासी) : वह भी छोड दीजिए। (व्यवधान)

श्री शिव राज बी॰ पाटिल : मैं इस बारे में कुछ नहीं बोल्ंगा। मोबाइल कोर्ट्स के बारे में भी मैं कुछ बोलना नहीं चाहता । श्रापने, हरिजन भाइयों और महिलाओं को भी जज होना चाहिये इस वारे में कहा। मैं कहना चाहता हं कि अगर ऐसा हो सके तो अच्छी बात है और ऐसा करने का प्रयास हमारे ला मिनिस्टर ने किया है। सुप्रीम कोर्ट के ग्रंदर हरिजन भाई सबसे पहले जज बने हैं। महिलाएं भी बाती हैं तो अच्छी वात है मैं वैलकम

करूंगा। प्रपाएंटमेंट वर्गरह भी होती है और होती हैं, आप जानते हैं। उनको गयन मेर भ श्राना पड़ता है, सुप्रीम कोर्ट के चीप प्रित्त को रिकमेंड करना पड़ता है। अब माना जाता होती हैं तब अनाएंटमेंट होती है, एक बारा धाबे साहब ने उठाया था उस बार म में एका चाहता हूं । उन्होंने कहा कि जी अधिकार कमिश्नर हैं उनका क्या होगा । 😘 🤫 एडोशनल जुडिशियल कमिशनर है, जीनिश्यल कमिश्नर नहीं हैं। वहां सिर्फ एडा करन जुडिशियल कमिशनर है। हाई कार्ट कि जन बनाते संमय उनको बनाया जाएका क पहा बनाया जाएगा इस समय में कुछ केले एका सकता। अगर उनको बनाना है ता जा पार्नियान है, क्वालिफिकेशन है और दूसरी वास है। उस सव पर विचार होगा । अगर चना न हा है तो बनायेंगे ग्रीर नहीं बना सकते हैं जो नहीं बनायोंगे । मैं सब सदस्यों को धनावाद है। हं कि उन्होंने इस बिल का समर्थन किया। (व्यवधान)

Bill 1980

श्री रामकृष्ण हेगडे : ग्रगर हाई गाउं नो एक बेंच वहां स्थापित करना जहरे है। वय **ग्रापने कर्णाटक हाई** कोर्ट की क्या नहा में प्राप् महाराष्ट्र की क्यों की ? इसका ज्यान द दीजिए। (ब्यवधान)

THE VICE-CHAIRMAN ISHR DINESH GOSWAMI): 11 question is:

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

THE VICE-CHAIRMAN INTE DINESH GOSWAMI): TI stands adjourned to re-assemble t morrow at 11 A.M.

> The House there at fifty-nine minute years of the clock till eleven of 1 clock on Friday 111-2 August, 1981.