

**PAPERS) LAID ON THE TABLE!—**  
*Contd.*

**Notifications Of the Ministry of  
Finance (Department of Revenue),**

SHRI SAWAI SINGH SISODIA: Sir, I beg to lay on the Table of the House, under section 159 of the Customs Act, 1962, a copy each (in English and Hindi) of the Ministry of Finance (Department of Revenue) Notifications No. 19-Customs, G.S.R. No. 80(E), and 20-Custoxns. G.S.R. No. 81(E)', dated the 26th February, 1981, together with 'an Explanatory Memorandum thereon. [Placed in Library. See No. LT-1947/81]

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now, we go to the next item, the High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu.) Bill, 1980. Mr. Shiv Shankar.

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

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHIV SHANKAR): Sir, the Union Territory of Goa, Daman and Diu is the only territory left in the country which is not served by any High Court. Soon after the liberation of Goa, a Judicial Commissioner's Court was set up for that Union Territory. The institution has certain limitations, and there has been a peristent demand for the establishment of a permanent bench of a High Court there. Although the Judicial Commissioner's Court has been declared as a High Court for certain purposes, it is not a full-fledged High Court. The Judicial Commissioner holds office during the pleasure of the President and thus does not enjoy those constitutional safeguards which protect the independence of a High Court Judge. Initial-

ly, a special need was felt for having <a Judicial Commissioner's Court because the Union Territory was administrated largely under Portuguese -laws. This is no longer so, as Indian laws have gradually been made applicable there, and only a small proportion of cases pending in the Judicial Commissioner's Court now pertains to Portuguese laws.

The High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, 1980 thus seeks to meet a long-standing and just demand of the people ;of 1(ie Union Territory and to improve the tone of judicial administration there by extending to it the jurisdiction of the Bombay High Court and establishing a bench there of that High Court. This is a non-controversial measures which. I am sure, will get the support of all sections of the House. Sir, I move:

"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 question was proposed.*

SHRI ERA SEZHIYAN (Tamil Nadu): Sir, I rise on a point of order on two counts in regard to consideration of this Bill and seek clarifications from the Minister before proceeding with this.

In the last Session when certain Bills were sought to be considered by this House with the recommendation of the President under Article 117(3), at that time T raised an important point of order. There were some discrepancies about the dates then. Then we had a very long discussion. Thi two decisions were given by the ^" Chair. One was—the Deputy Chairman said—"it would have been better

The second point of order for which I seek a clarification—is the date and other things can be furnished, I think the direction that has been given has not been carried out—and this is more fundamental one, whether this has been obtained, whether President's recommendation has been obtained under 117(3). Article 117(3) is very clear. It says: "A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill." Therefore, if any Bill involves an expenditure from the Consolidated Fund of India, then

I would like to know whether they have obtained recommendation of the President under Article 117(3) on the basis of the exact amount involved out of the Consolidated Fund of India

SHRI SHIV SHANKAR: The onl thing I want to say is that no **amou**

[Shri Shiv Shankar] is involved so far as the Consolidated Fund is 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.

SHRI ERA SEZHIYAN: Butyou have obtained the President's permission. The Bulletin says: "The High Court of Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, 1980. (Copy of letter No. 30/19/76 Jus. dated the 13th February, 1981 from P. Shiv Shankar, Minister of Law, Justice and Company Affairs to the Secretary-General], Rajya Sabha)". The President having been informed that the High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, 1980 has been passed by the Lok Sabha on 23-12-1980, recommends the consideration of the Bill in the Rajya Sabha under Article 117(3) of the Constitution of India'. So, this has gone to the President. This was given in the Lok Sabha Bulletin also. And the recommendation is under Article 117(3) of the Constitution.

SHRI SHIV SHANKAR: I will require more details to reply to it. I will do it at the end.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Sezhiyan, do you have any objection to the introduction?

SHRI ERA SEZHIYAN: Introduction has been done in the other House. My objection is only to the consideration.

SHRI NARASINGHA PRASAD NANDA (Orissa): Mr. Sezhiyan's point can be answered just now by the hon. Minister and after that we will take up consideration of the Bill.

SHRI ERA SEZHIYAN: I want only information on two points. On<sub>e</sub> relates to the form in which it has to be put in the Bulletin. It should mention the date of the Presidential sanction. And it should say 'as passed by the Lok Sabha'. Do they want

to stick to the existing practice? Or, at least in future will they change the form? Secondly, I want to know the amount involved.

SHRI SHIV SHANKAR; I will furnish information on both the points when I reply to the debate

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Nanda, what is your objection?

SHRI NARASINGHA PRASAD NANDA: My submission is that *Mr. Sezhiyan* has raised some procedural points involving article 117(3) of the Constitution. The hon. Minister could give a satisfactory answer before the Bill is taken for consideration. What is the difficulty for giving the information right now?

श्री ल. डली मोहन निगम (मध्य प्रदेश):  
श्रीमन् यह एक संविधानिक अड़चन पैदा  
हो गई है। इसलिये मेरा निवेदन है  
कि सदन की परम्परा भी न टूटे और जो  
कार्य पड़ति है वह भी न टूटे। इसलिये  
आज हम बिल को न लें। इसकी परसों  
ले लिया जाय। तब तक संघी महोदय  
इस संबंध में आवश्यक तैयारी कर लेंगे।  
इसको आज मत लीजिये।

**SHRI R. RAMAKRISHNAN (Tamil Nadu):** What Mr. Sezhiyan raised is purely a technical point. I am sure the officials are at it and the Minister will be able to answer it at the end. I In the meantime we can go ahead with the consideration of the Bill.

SHRI SHIV SHANKAR; This was exactly what I also said.

SHRI R. RAMAKRISHNAN: I am supporting you.

SHRI SADASHIV BAGAITKAR (Maharashtra): The point raised is technical. It is all the more necessary that it is clarified in the beginning. What is the use listening to the Minister after the discussion is

over? We should have his reply before i  
forehand.

SHRI AMARPROSAD CHAKRA-  
BORTY (West Bengal): The point raised is a  
very vital one.

THE VICE-CHAIRMAN (SHRI ARVIND  
GANESH KULKARNI): The Minister has  
agreed to clarify the points in the end. Let us  
proceed with the discussion. Then we Khali get  
the clarification.

SHRI KRISHNA CHANDRA PANT (Uttar  
Pradesh): May I point out one thing? About two  
weeks back a ; similar point was raised with  
regard to a Bill and it was said that since the  
expenditure was to be met out of the State  
Consolidated Fund and not out of the Central  
Consolidated Fund, the permission of the  
President was not required. And the Deputy  
Chairman upheld that point. If I am not  
mistaken, the Law Minister was also present on  
that occasion. Now the Presidential assent has  
been obtained. But it is said that the expenditure  
will be incurred by the State. How can that be?

SHRI SHIV SHANKAR: What Mr. Sezhiyan  
wants is what exactly is the amount involved. At  
the time of replying to the debate I will certainly  
give these details.

SHRI KRISHNA CHANDRA PANT: No, Sir.  
Because the Law Minister is a learned man and  
because these points of procedure have come up  
in the House, I thought it would be better for the  
House also to be clear in these matters. Here is a  
position which was taken by the Government  
just last week and it was upheld by the Chair  
also. Now, in this case, it appears that the  
expenditure will be incurred by the State and yet  
the President's assent has been obtained.  
Therefore, I would like to know from the Law  
Minister which of these procedures is correct: If  
no expenditure is incurred by the Central  
Government from the Consolidated Fund of "J  
Jislia^the/i, in that case, Sir; is it

necessary to obtain the President's assent? If the  
President's assent has been obtained, should  
one assume that some expenditure has been  
incurred on the Central account also? On  
these two points, I would like him to clarify.

SHRI SHIV SHANKAR: Mr. Sezhiyan's  
point was that inasmuch as 117(3) is involved  
in this, what is the amount involved? That is  
his point.

SHRI KRISHNA CHANDRA PANT: But  
I am raising another point.

SHRI SHIV SHANKAR: I thought I will  
give the details when I make the reply. You  
are raising another point and I follow that also.  
To these points I will reply at the end. Though  
I am having some figures with me now, let  
me scrutinise those figures before I give. Let  
me give them off-hand, it would not be correct. I  
have got certain figures with me here. But I  
will give them at the end. About your point  
also, Mr. Pant, I will cover that later.

THE VICE-CHAIRMAN (SHRI  
ARVIND GANESH KULKARNI):  
Yes Mrs. Alva. I

SHRIMATI MARGARET ALVA  
(Karnataka): Mr. Vice-Chairman, Sir. I rise to  
oppose very strongly this move to extend the  
jurisdiction of the High Court of Bombay to  
Goa, Daman and Diu. My views on this  
matter are very well known to the Law  
Minister because I have, at different times, tried  
to convince him and his Government that this is a  
betrayal of the assurances given by Pandit Nehru  
and by the Government to the people of Goa at  
different times. I was waiting for a reference of  
Pandit Nehru's speech in the Lok Sabha because  
I had earlier referred to it and I wrote to the Prime  
Minister also. But they are not able to provide that  
as yet. But, Sir, there was a clear assurance given  
by Pandit Nehru, on behalf of the people of  
India, after Goa was taken over, that the  
identity of Goa would be maintained and  
that no decision that would affect the status  
of Goa would be taken by the Gov-

[Shrimati Margaret Alva] Government without the consent of the people of Goa.

Now, I only want to say this that over the years—I do not want to raise any border dispute of any kind. I come from Karnataka and I speak here as a Konkani-speaking person and also because Goa does not have an MP in the Rajya Sabha—there is a tendency to tie Goa to Maharashtra. This feeling is growing, has been growing, in Goa over the years that there is a deliberate effort, in one form or the other, to tie up Goa with Maharashtra.

SHRI SADASHIV BAGAITKAR:  
 Not at all.

SHRIMATI MARGARET ALVA: Let us not raise any border dispute here. I am trying to prove my point, Sir, and it is very embarrassing to speak about it when you are in the Chair.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You have to forget me because here I am without any opinion whatsoever. You can say anything against me or against Maharashtra.

SHRIMATI MARGARET ALVA: My complaint is against the Central Government only.

SHRI SHIV SHANKAR: Sir, in the Chair you are most ideal.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): My identity here is as that of God. I look at everybody in the same way.

SHRIMATI MARGARET ALVA: I, therefore, want to say that the opinion poll which was held in Goa in 1967 was a clear choice given to the people of Goa and the verdict was very very clear and they, in unmistakable terms, declared and voted that they wanted to retain their identity and did not want to be merged with Maharashtra. And yet, Sir, over the years, step by step,

Goa is being tied up with Maharashtra and I would just mention two or three instances here. For higher education and degrees, the students of Goa even today get their degrees from Maharashtra and it is the University of Bombay which is administratively responsible. Then, they must go to the Maharashtra Industrial Development Corporation. It is the Maharashtra Industrial Development Corporation that is primarily responsible for the industrial development in Goa. All the capital of the big business houses and the industrial tie-ups for Goa are now with Maharashtra. The Indian Airlines has gone a step further over the last one year they have cut out all connections to Goa except through Bombay. No flight from Mangalore or Bangalore or Cochin halts at Goa with the result that if along the coast you want to go from Mangalore to Goa you have to fly over Goa, go to Bombay and then fly back to Goa. This is the state. If from Bangalore you want to go to Goa you must fly to Bombay and then fly to Goa, having an overnight halt in Bombay. I have been objecting at various times. I have written to the Minister of Tourism and when this measure came in the Lok Sabha on the 21st November, I addressed a letter to the Prime Minister, giving the background and telling her why we were objecting to this particular Bill. After all, Goa has had a Judicial Commissioner's Court. It has done good service. It has been working very efficiently. Goa has got traditions of its own. Now, I am not one who believes that Goa must continue to have its Portuguese links continuously and eternally. I am certainly not for that. My point is that there are certain conventions and certain judicial decisions in Goa which are peculiar to the people and which are peculiar to their own background. And we have assured them that this would be reflected. Now today you say that, well, we will give you a High Court Bench but you are not good enough to have your own High Court.

cencn Dut you are not goua enough to have your own High Court Bench and Maharashtra must supervise you, you must go under the jurisdiction of Maharashtra. I am asking the hon. Law Minister, why are you insisting on tying up everything with Maharashtra. Leave out Karnataka, leave out Maharashtra, extend the jurisdiction Qf Andhra, if you want.

SHRI SHIV SHANKAR: Do you want it to be tied up with Karnataka?

SHRIMATI MARGARET ALVA: I do not want Karnataka either. Or go to Gujarat or even the Delhi High Court Administration. *(Interruptions)* | Why is it that you find only Bombay convenient? I know that this Bill is actually not the present Law Minister's baby. It was drafted by the earlier Government under a different person. But I will not go into this controversy because I know the background of the Bill itself. I had hoped to then and wished that the present Law Minister would see the sense of what I was saying and take an impartial view of that. But in spite of that, when I wrote a simple letter to the Prime Minister pleading for her intervention and bringing out these facts, the Chief Minister of Goa unfortunately or fortunately who happens to be a Maratha, in a Press Conference in Goa, attacked me, saying that I am a vested interest, working against the interests of Goa in Delhi. How am I working against the interests of Goa by asking, and I am requesting you, that you give an independent High Court to Goa. Let it be small, but let it be an independent High Court of their own. But even if you want to take this step let this Bill go to a Joint Select Committee. Let this Bill be circulated. Let them get the opinion of the people whether they are happy or they are for it. If the people of Goa are for it, either I nor you have any right to stop it. If the people of Goa have objections, you should stop it. Consult them on major issues and go by their opinion. But, unfortunately, this Government which i

talks so much about the line of Nehru, is not prepared to stand by it. This is where I have real differences with the Law Minister over this issue.

Mr. Vice-Chairman, Sir, what we feared seems to be happening. There was a report last week, in one of the weeklies published from Goa—I do not want to quote it, I am sure the Law Minister has read it—about the recent visit of the Parliamentary Committee for Law to Goa and how the lawyers from Maharashtra have already invaded Goa wanting appointments on the Bench—Lawyers from Maharashtra presenting a signed memorandum to the Law Minister and to the Committee.

SHRI SHIV SHANKAR: No, no. None of them came to me. Who told you?

SHRIMATI MARGARET ALVA: A report has come. It may be denied. I will send it to you.

SHRI SHIV SHANKAR: Nobody approached me. *(Interruptions)* Is it the Law Minister of Goa? *(Interruptions)*

SHRIMATI MARGARET ALVA: No. Sir. you can reply afterwards; I am not objecting. These reports show that already pressures have started, seeking political patronage. A number of them have gone. When you were in Goa, they wanted to impress the Committee or the Law Minister on each one's capacity... *(Interruptions)* After all, this is a very normal thing. I won't say, it is out of the way. If lawyers want to come to Panaji, it is in the interests of justice that they are trying to enhance their own prestige. It makes no difference. I am stating that this thing is already happening and the fear is that even the lawyers from Maharashtra would have an edge over the local lawyers because of the influence of the Maharashtra High Court. Therefore, I would like to ask you once again what is going to be your thinking? Even the appointment to this Bench is going to be influenced by the

leader. She is going to get her Government's resolution implemented by the Congress (I) Government three or four years later. This is the irony of the whole thing. Let me tell you, Sir, that I have never been a parochial person. But the Konkani speaking people of Goa who have been, up to now, quiet and who have maintained a great deal of dignity and restraint, cannot keep quiet. Let me tell you that we Konkani speaking people are from Goa up to Ratnagiri in Maharashtra and right down the coast in Karnataka. If we decide to take up this issue as a challenge, we are quite capable of becoming quite troublesome. But we are hoping that Goa's identity would be maintained, that Konkani would be given its due place and that this kind of backdoor method to push Goa into Maharashtra would not become a rule either with the Law Ministry or with all the other Ministries of the Central Government. The independent status to Goa has been refused. You will say that "this Bill is just an administrative measure and that there is nothing in it. They are going to get a High Court. It is going to be situated in Panaji. There is no problem at all. That are going to be happy and things will move smoothly." But the resentment that it has already created, Mr. Minister, is not going to be sorted out by this measure. This, I feel, is the beginning of a long drawn-out struggle because after all if the law courts can be instruments of peaceful moving forward, they can also be deadlocks at various stages. This confrontation within the judiciary which you are creating in Goa, which has already been exhibited during your visit, in various forums, local and others, is going to be blown into larger proportions and is going to create problems for you and the Ministry and the people of Goa. Thank you Sir.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE (Maharashtra): Mr. Vice-Chairman, Sir, I had expected that this measure, as stated by

disappeared in all the other Union Territories. Even the, Union Terri-tories like the Lakshadweep are now a part and parcel of the Kerala High Court for the purposes of their judicial matters.

[The Vice-Chairman, (Shri Dinesh Goswami) in the Chair].

Therefore, to say that in some form or the other, the Judicial Commissioner should continue is really not correct, because there is a great qualitative difference between a Judicial Commissioner and a High Court Judge. One is, as has been said, at the pleasure of the President. The other, as we all know, is under the Constitutional guarantee of the Constitution itself. Therefore, to the extent that this Union Territory of Goa is now going to be under the judicial control of the High Court, I welcome this measure. Sir, there seems to be another misunderstanding. And I am really shocked that at the end of all this, it should be put on this very narrow, parochial consideration. The tie up of Goa with Maharashtra is age-old. In fact, I can also claim that my origin is also from Goa. But those who know Konkani, those who speak Konkani will admit that it is a dialect of Marathi.

SHRIMATI MARGARET ALVA: I am sorry. It was recognised as an independent language by the Sahitya Akademi

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: It is a dialect of Marathi. It has its origin in Marathi. *(Interruptions)* And whether the hon. Member likes it or not, may I say this?

SHRI SHIV SHANKAR: Luckily I do not belong either to Karnataka or Maharashtra.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): But you will have to reply.



SHRI MURLIDHAR CHANDRA-KANT BHANDARE; If it comes to that, I will recount the sacrifices made by the Konkani-speaking people, particularly in Karwar to have Karwar merged with Maharashtra. I thought that we would not use this occasion to rake up an old controversy. But that is a separate matter.

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THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You are treading on a very dangerous ground.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE; It has been raised. And I must deal with it\*-

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am not expressing any opinion. I said that this ground is very dangerous.

**SHRI MURLIDHAR CHANDRA-KANT BHANDARE:** The point which I am mentioning is that the tie-up of Goa with Maharashtra is age-old. In fact, I can tell you that even when Karwar was part of the larger Bombay, Goa was not. You kindly see that. Students from Goa go to the Bombay University. They do not go to any other University and this tie-up is not something new ...

SHRI MURLIDHAR CHANDRA-KANT BHANDARE; I agree. But today, you go to Goa and ask them whether they would like their educational institutions to be affiliated to any other University. You will get an answer in the negative because Goa gets pride in getting their students degrees from the Bombay Uni-

versity. I need not emphasise on this. I know, if a referendum is held in Goa on this issue today, nobody will go to Karnataka. Nor will they opt for a Goan University. They will insist on being graduates of the Bombay University. (*Interruptions*) I listened to you in peace. Kindly reciprocate the same courtesy. I have not said one word when you were speaking. Hence, this allegation against the Government that in any manner or form, we are trying to build up any tie-up with Maharashtra is really baseless. Things have had their historical origin. Things have had their geographical contiguity and the very fact that Goa, for all its purposes, depended, leaned on Bombay, Maharashtra, cannot be forgotten ... (*Interruptions*) I did not interrupt you. Will you please keep quiet?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mrs. Alva, let him have his say.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: Then, sir, there seems to be some misunderstanding. Simply by giving a High Court Bench, I do not think, we are going to appoint another Chief Justice for Goa. This is a very wrong thing. I am really pained to find that the hon. Member is ignorant of the basic thing that though a Bench is provided, the

Chief Justice remains at the headquarters; in this case, it would be Bombay. I am quite sure that this Bill does not aim in any manner at destroying the civil law, which is prevalent in Goa today. The civil law will be as it obtains in Goa and it is not as if the law of the rest of India, which obtains in Maharashtra, will be applied. We know, there is a Portuguese civil code and there is a Portuguese civil law in Goa, which is applicable to the residents of Goa. There need not be any misapprehension that this law will be changed or the law of the rest of India will be applied there.

Now, one more thing which I would like to say is that I do not believe that the identity of any part of the country will be destroyed simply because there is a common High Court. We have many instances Where two States have a common High Court. Take, for example, Punjab and Haryana. Both of them have a common High Court at Chandigarh. Even in Assam, this is the position. Hence, the point which I am making is that ...

SHRI LADLI MOHAN NIGAM: Assam is under what High Court?

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: There is a provision in the Constitution itself.

- THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Five States have a common High Court.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE; I am obliged to the Chair. Five States having a common High Court does not really break up the identity of any particular State and I am quite sure that tying up for the purpose of the High Court will not break up the identity of Goa, because, I can assure the hon. Members of this House that I am more interested in preserving the identity of Goa. I am more interested in preserving and enriching the culture of Goa. I am more interested in seeing that Goa continues to have its own independence and its own identity. But this is not to say that placed as it is for more reasons than one, it should not grow through the medium of education which we have in Bombay, the finest education in this country. For example, I will tell you. Since the hon. Member seems to be whispering something, I will tell you that not one lawyer from Karnataka goes to the Judicial Commissioner at Goa, but sream? of lawyers are taken day after day from Bombay to argue before the Judicial Commissioner at Goa. Please do not talk about your talent. 'We can also talk about our talent.

SHRIMATI MARGARET ALVA: We are not talking about our talent I at all.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: I think, I have advanced sufficient arguments ... I

SHRI SHIV SHANKAR: You are talented, Mrs. Alva. Who say<sub>s</sub> no?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr, Bhandare, do not divide the lawyers' community now. There is enough division.

SHRI MURLIDHAR CHANDRA- I KANT BHANDARE; I think I have advanced sufficient arguments to show that this is not a tie-up, that this allegation that the Government is trying to build up something for Maharashtra is entirely baseless. As a Maharashtrian I would resist it. J Let me assure the hon. Member that j as a Maharashtrian I would resist it, but please do not start something which does not exist, something which ha<sub>s</sub> no basis and something which in the long run will prove only detrimental and harmful to the nation.

Than, Sir, there is only thing which I want to say that when We consider these aspects, I would appeal to the hon. Law Minister that h<sub>e</sub> will take this opportunity, having provided a bench there, he will respond to the aspirations, to the desires, to the general wishes of the Goans. and he will make an appointment very soon from among the Goans on the High Court j of Bombay so that they have one of them to administer justice for them. This is a long needed thing and I hope no time will be wasted in making an appointment which will really be helpful even in disposing of the cases in Goa,

Then there is the third most important thing which I wanted to stress here. Otherwise, this is a welcome Bill and on my part, ind-

[Shri Murlidhar Chandrakant Bhandare]

dentally, I was involved in this unnecessary debate. The third most important aspect of the matter is that it makes the best of the justice available very cheaply, even in places like Goa. Now I think the Government must be and is at all times, dedicated to see that justice is rendered cheaply, swiftly and without any trouble or pain to the litigants and I submit on this occasion that the Law Minister will take steps to see that more and more benches are put up. Particularly, I see that there is a demand for setting up of a bench at Meerut in western U.P. I just do not see why people should run, litigants should run miles and miles before they can get justice. I hope this will just be one step in the right direction and other steps will also follow.

With your kind permission, Sir, may I also take this opportunity of requesting the hon. Law Minister to look carefully into the question of netting up benches even of the Supreme Court in various regions? Can you see the difficulty in which a litigant is placed when he has to come from Kerala to Delhi or from Gauhati to Delhi? Therefore, this is a matter which really requires a very serious consideration. I wanted to emphasise this point in particular than supporting the otherwise non-controversial Bill. I think steps should be taken to see that justice is cheap and that it is taken to the doors of the people. What is happening today is, from Punjab and Hariana evicted people can come to the Supreme Court in certain matters litigants from Gauhati or Hyderabad or Kerala cannot come. I hope steps will be taken in this direction also.

I had many other things to say, but my time is over. Yet I am sure this occasion will be taken by the Law

Minister to clear the mounting arrears and to provide pleasure for meeting rather a hopeless situation.

With these words I commend this Bill for the universal acceptance of this House.

SHRI GHANSHYAMBHAI OZA (Gujarat): Mr. Vice-Chairman, Sir, while initiating the debate ... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please do not interrupt.

SHRI GHANSHYAMBHAI OZA: Sir, I was saying that while initiating the debate the hon. Minister was pleased to observe that this is a very simple Bill very short one. After seeing this controversy, I am sure he will revise his opinion. It projects, in my humble view many distortions in our public life, our utter helplessness in solving national problems. We believe in escapism. We do not face national problems boldly. When I say "we", I mean all of us, all the political parties and not only the ruling party. This problem has been hanging for the last so many years. Controversies are going on. Bad blood is being created. The Government cannot take courage into its own hands to solve this problem once and for all. I would leave it at that.

Sir Portuguese colonialism was over; but, in my humble view, it still continues. I wish the hon. Minister while moving this Bill, simple as he described it to be, but before the House a map of the Union Territory of Goa Daman and Diu. I do not know how many friends here are aware of this fact. I can understand the sentiments of the people from Goa. I do not want to enter into that matter far from it. I want to put it resolved as early as possible. But look at the other parts of this Union Territory. Perhaps you are aware where Diu is situated, where Daman is situated.

SHRI SHTV SHANKAR: Near Gujarat

SHRI GHANSHYAMBHAI OZA: It is in the stomach of Gujarat—in Saurashtra, not only Gujarat. It is far away. If you go by land and if you have to go from Goa, you have to go to Bombay, then to Surat, then you can go to Daman. And further up, you have got to go north, then come again in the south in the stomach of Saurashtra and then you come to Diu. I wish he had hung a geographical map of this Union Territory so that you cannot be complacent about all these problems and you cannot derive satisfaction. So far as the people of Diu and Daman are concerned, Portuguese colonialism is not still over for them. They are still a part of some colonialism. I do not know how to describe it. Can you imagine that people far removed » from the mainland of Goa, Diu and Daman have to look forward to the administration of Goa for their small problems? Can you imagine a similar state of affairs in any country? Can't you solve this problem? What is the difficulty about it? It is, as I said, a Gujarati-speaking area. Daman is absolutely a Gujarati-speaking area; so also is Diu. I am not taking any parochial view. Not at all. Look at the whole problem from their point of view, what inconvenience they are experiencing because the administration is located far away from them, geographically and in various other respects—from language point of view, for instance. Our Father of the Nation used to say that the States must be on language basis, because, after all, look at the State subjects. What are the State subjects? Education, agriculture, health etc. You have got to talk to the people in their own language if you want to advance education. If you want development in agriculture, you have to talk in their own language so that the poor farmers can adopt the new techniques. So also about health. Therefore, he always insisted that the States must be on language basis. That is the foundation stone of our Constitution. I do not agree with friends who say that

this leads to parochialism. Not at all. There are so many common factors. But diversity is also there in our culture and it has got to be properly respected and looked after. Only then you will have a strong Centre.

If you are going to trample 5 P.M. upon all these diversities,

various cultures and various aspects of our national life, you are going to weaken the idea of unity of this country. I am not arguing that Daman and Diu should be separated and put under a High Court. It is not for me to argue. You look at it. Why should I be the sole person to take an interest like that? Daman and Diu people, whose proceedings are in Gujarat], have to go to Goa. Perhaps Bombay is nearer, though a branch is going to be established at Panjim. I do not know how to put this whole thing before you. I would request the hon. Minister to convey to the Government that they may kindly take decisions boldly and in the larger interests of the country and for the unity of the country and also in the light of the principles by which we have been taking oath every now and then.

He was talking about the judiciary. I am, to be very frank—since this opportunity is given to me—extremely sorry about the state of affairs in our judiciary in the country. Go to the Supreme Court. What an amount of arrears! Go to the High Courts. So many arrears! Why is this happening? Because, in my humble opinion, we have adopted a judicial system from abroad which does not suit our genius. Look at the litigation in the lower courts. Procrastination! That advocates is competent, who can create so many problems, who can take so many adjournments if he is not interested in the quick disposal of cases. So this system, I think, has got to be revitalised. This, perhaps, does not suit us.

Sir, I will take a few minutes more with your kind permission. Once I

[Sliri Ghanshyambhai Oza], was in London. I was a lawyer so many years back. I went to a court. There a lady had filed a suit against a defendant for breach of promise to marry. There the lady had said that the wife of the defendant was sick in a particular hospital; I was running a drugstore near the hospital; the defendant used to come to my drugstore to purchase drugs and some other provisions; we developed friendship; we fell in love with each other; the defendant used to take me to London; we used to stay in the same hotel; he used to take me to theatres, cinema shows and so on; after his wife died I went to pay condolences; his sister came and said, "My brother thanks you for your kind visit but it will not be possible for him to see you." She took it as a breach of promise to marry because she said, "He had promised that in case my wife dies in hospital, I will marry YOU." (Interruptions) This is a case reported. I was present in the court Now, what did the defendant say? The defendant said: It is true that my wife was ailing in this hospital; it is true that the plaintiff was running a drugstore; it is true that I used to purchase provisions from her store; it is true that we became friends; it is true that we became intimate; it is true that I used to take her to London; it is true that We used to stay in the same hotel, but if by anything she has created an impression that I will marry her in case my wife dies, I am sorry for that impression: I have not created that impression. "This was the defence of the defendant. If the same is filed in any court in India, what would be the defence, you tell me? If you are engaged on behalf of the defendant, Mr. Shiv Shankar, the hon. Minister, what would you say? You would ask your client to say, "I do not know this plaintiff. She is trying to blackmail me. She has an eye on my and all such things. This is the structure of society where we have established all these forms of judiciary,

Mr. Nani Palkhivala, if I remember him properly, said that the Nixon case took hardly a few hours to be argued in the United States. "If that case had to be argued in India, I would have argued for six months." Therefore, you see the spirit behind it. All these judicial systems that we have established here are only lifeless forms of judiciary but not in the true spirit in order to give proper justice. So all these things are very pertinent, but since this Bill as he said, is a very simple one, I will not say much on it, but I hope he will revise his opinion looking to, I would not say ugly controversy but some controversy, to which I do not want to add. He should kindly think of Daman and Diu and ask the Prime Minister to solve the problem. Let come to Gujarat. I do not say it from parochialism. If they had been on the border, I would not have taken this line. But since they are in the very stomach of Gujarat, I would appeal through you to the Prime Minister to take a decision. She is a very bold woman. She can take very bold and courageous decisions. Let her take a decision on this point also. jV\*!

श्री राम लखन प्रसाद गुप्त (बिहार) :  
उपसभाध्यक्ष महोदय, यह हाई कोर्ट एट बोम्बे (एक्सटेंशन आफ जूरिस्डिक्शन टु गोआ, दमन और दीव) बिल, 1980 जो सदन में प्रस्तुत किया गया है, मैं इसका पूर्ण समर्थन करता हूँ। यह बात सही है कि वहाँ पर एक परमानेंट बेंच होना बहुत आवश्यक था। इसको आपने गोआ तक एक्सटेंड किया है, यह बड़ी खुशी की बात है ...  
(बढ़ावा)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): The decision is to sit up to 6 P.M. (Intemptia) Somebody's request is a different thing. Let the Parliamentary Affairs Minister say

f Extension

श्री राम लखन प्रसाद गुप्त : इसके साथ-साथ मैं यह भी कहना चाहता हूँ कि अन्य स्थानों पर भी इसी प्रकार की बैचें खोली जानी चाहिए। अन्दमान निकोबार भी इसी प्रकार की जगह है वहाँ के एम.पी. की यह मांग रही है कि कलकत्ता हाई कोर्ट की एक बैच वहाँ पर खोली जाये, लेकिन कलकत्ता हाई कोर्ट अपना जुरिस्टिक्शन वहाँ तक एक्सटेंड करने के पक्ष में नहीं रहने के कारण यह बात अभी तक नहीं हो पायी है। लोगों को जस्टिस प्रदान करने के हिसाब से भी यह बहुत आवश्यक है कि वहाँ पर हाई कोर्ट की एक बैच खोली जायें। साथ ही, जैसा अभी श्री भंडारे जी ने कहा है कि सुप्रीम कोर्ट की बैचें भी हमारे देश में जगह जगह पर, कभी-कभी हर स्टेट में जानी चाहिए। अगर ऐसा किया जायेगा तो हाई कोर्ट के हमारे देश में वहाँ पर सैट्स हैं वहाँ पर सुप्रीम कोर्ट की बैच खोली जा सकती है। इस से लोगों को इन्साफ मिलने में भी सुविधा होगी और लिटिगेंट्स परेशानी से भी बच जायेंगे। हमारे यहाँ बिहार में हाई कोर्ट की एक बैच रांची में है। लेकिन मुर्गेर और दरभंगा ऐसी जगह हैं जहाँ इसी प्रकार की बैच खोली जानी चाहिए। अगर हाई कोर्ट की एक बैच वहाँ जायेगी तो इसमें खर्चा भी अधिक नहीं है। इससे लिटिगेंट्स को बहुत सुविधा होगी। इसलिए मेरी मांग है कि इस पर भी हमारे मंत्री महोदय को ध्यान देना चाहिए।

इसके साथ ही, मैं कुछ बातें जस्टिस के विषय में भी कहना चाहूँगा। आप जानते हैं कि हमारे देश में लोगों को जो इन्साफ मिलता है वह बहुत ज्यादा कीमत पर मिलता है, बल्कि यह कहा जा सकता है कि हिन्दुस्तान में इन्साफ खरीदा जाता है। इन्साफ खरीदने की बात अगर हम

करें तो हमारे बिहार में इसके एक नहीं बल्कि हजारों-लाखों उदाहरण मिल जायेंगे...

श्री लडली मोहन निगम : श्रीमन्, मेरा निवेदन है कि हम लोग राज निर्धारित समय से बहुत ज्यादा देर तक बैठते रहे हैं। इस लिए मेरा मंत्री जी से यह निवेदन है कि इस बहस को कल के लिए स्थगित कर दिया जायें। अभी 5 बज चुके हैं। कल को इस बिल पर बहस हो सकती है। अगर आप चाहे तो इस पर फैसला कर सकते हैं। हम रोज 6 बजे के बाद तक भी बैठते रहे हैं।

संसदीय कार्य विभाग में राज्य मन्त्री  
(श्री सोताराम केसरी) : अगर आप चाहते हैं तो ठीक है। We can agree to it.

SHRI R. RAMAKRISHNAN: We can continue with it and finish it. If we continue like this, then it will be 6.30 P.M. every day.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Unless there is unanimity, I am not going to adjourn for the very simple reason that someone has asked for it. If the entire House agrees, I can do it. (Interruptions)

SHRI R. RAMAKRISHNAN: If you want to adjourn the House, adjourn it Why do you ask?

SHRI AMARPROSAD CHAKRA-BORTY (West Bengal): When will it come up?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Next Saturday. It will come on Saturday. On Saturday we are sitting because of the Budget day. I think the major business for which we had to sit is over.

SHRI AMARPROSAD CHAKRABORTY: Do you want to adjourn the House?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have left it to the pleasure of the House.

SHRI AMARPROSAD CHAKRABORTY: The Freedom Fighters' Conference is there on Saturday. (Interruptions).

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You come and speak' at any time on that day.

SHRI AMARPROSAD CHAKRABORTY: I have a great desire to participate in it. The Law Minister is here,

AN HON. MEMBER: The Law Minister will be there on Saturday also.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Chakra-borty. I think the major items on the agenda for which we were to sit up to six, have been over by now. If the House likes, I do not mind adjourning the House. Mr. Chakraborty has said that he has some difficulty. He can come on Saturday at any point of time.

SHRI AMARPROSAD CHAKRABORTY: I shall not be available because the Freedom Fighters' Conference is there.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You can leave it to some others.

SHRI AMARPROSAD CHAKRABORTY: There are problems, you know, not only this. I will not enter into the aspects of Goa, Daman and Diu. I will finish in five or ten minutes. He will speak up to 5-25.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): In that case we go upto six.

श्री प्यारेलाल खंडेलवाल (मध्य प्रदेश) :  
महोदय मेरे पास एक खबर है कि जालीन  
के एस. पी. को डाकुओं ने तीन दिन से  
उड़ा कर रखा है।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): No, please. If you want to raise it please give it in writing. I will examine it. Let the debate go on.

श्री प्यारे लाल खंडेलवाल : उनको इस  
आश्वासन पर छोड़ दिया गया है डाकुओं के  
खिलाफ सरकार कोई डाकु विरोधी अभियान  
नहीं करेगी।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): How can you raise it. There is no notice before me. I think we will continue up to six.

श्री राम लखन रासद गुप्त : उपसभाध्यक्ष  
महोदय, मैं कह रहा था कि इन्साफ खरीदा  
जाता है और इसके बहुत सारे उदाहरण देश  
में हैं और बिहार इसका एक बहुत बड़ा जीता  
जागता उदाहरण है जहां पर बहुत काफी  
संख्या में रुपए के बल पर लोग इन्साफ खरीदते  
हैं। आखिर इस देश के अन्दर, मंत्री महोदय  
यहां पर उपस्थित हैं, हमें यह सोचना होगा,  
कोई न कोई रास्ता इसका निकालना होगा  
कि किस तरह से रुपयों से इन्साफ न खरीदा  
जाए। इसके लिए कोई मार्ग निकालना  
आवश्यक है। अगर इसका कोई मार्ग नहीं  
निकलता है तो इसका अर्थ यह होगा कि हमें  
जितनी भी आजादी मिली है उस आजादी  
को भी हम नहीं रख सकेंगे और जितना हमें

इन्साफ चाहिए अगर उनका इन्साफ नहीं मिल सकेगा तो फिर प्रजातन्त्र की हम बात नहीं कर सकते। इसके अलावा अब यह भी हालत है कि खुद आम जनों के खिलाफ मन्त्री महोदय भी कहते हैं और ये परोक्ष रूप से चाहते हैं कि वे कमिटेड जज रहे। उनका एक स्टेटमेंट आया है जिसमें उन्होंने कहा है और यह कई मौकों पर कहा है कि the Judges are sitting on ivory towers. They are not in contact with social legislations. So, they are not in a position to interpret.

अगर इस तरह की बातें बाहर की सभाओं में जनों के खिलाफ एक मन्त्री, विधि मन्त्री द्वारा कही जाए तो यह समझा जा सकता है कि किस तरह का इन्साफ हमें मिल पाएगा। इसलिए मेरी यह राय है कि सरकार को यह ख्याम करके सोचना चाहिए कि किसी भी हालत में अगर जजों को हम कमिटेड जज बनाना चाहेंगे तो इससे हमारा कोई फायदा नहीं हो सकता है। अन्ततोगत्वा उससे नुकसान नहीं हो सकता है और उस हालत में हमें यह देखना होगा कि अगर सिर्फ जो पोलिटिकल अपॉइंट्स हैं, उनका दवाने के लिए अगर जजों से कुछ करवा लें तो इस तरह से ठीक नहीं होगा। मुझे तो याद आता है 1974 का एक किस्सा, जिस समय इम जैमी नहीं लगी थी, परन्तु उस समय भी मुझे दो बार मोसा के अन्दर बन्द किया गया था और ग्राउंड में लिखा गया था कि आपने विद्यार्थियों को वकालत मूपत में की है। दूसरी बार यह लिखा गया कि आपने हड़ताली रेलवे मजदूरों के लिए वकालत मूपत में की है इसलिए आपको मोसा में बन्द किया जाता है। यह 1974 और इमरजेंसी के पहले की भी हालत थी और आज हमें यह देखना होगा कि जूडिशियरी में जब तक ताकत न हो, जब तक उसे अपने ऊपर भरोसा न हो, वह तब तक निडर नहीं रहेगी और अपना कार्य ठीक नहीं चला पाएगी। मेरा ख्याल यह है कि

हमारे मंत्री महोदय को इन बातों को देखना चाहिए। मेरा यह ख्याल है कि इसका सुधार उसी हालत में हो सकता है जबकि जितने केसेज की संख्या बढ़ रही है और जिस तरह से धीरे इन्साफ हो रहा है अगर हम जजों की संख्या चाहे लोअर कोर्ट हो या अपर कोर्ट हो हम उसी अनुपात में बढ़ा दें जितने मुकदमों दायर होते हैं। जितनी संख्या में मुकदमों दायर किए जाते हैं उसी अनुपात में वहां के जजेज की संख्या हो। अभी जिस तरह से मुकदमों फाइल हो रहे हैं, अपीलें फाइल हो रही हैं उससे कम ही संख्या में उनका निष्पादन हो सकता है। इसका नतीजा यह होगा कि मुकदमों की संख्या बढ़ती जाएगी, अम्बार लगता जाएगा और इन्साफ नहीं हो पाएगा। इसलिए मेरा पहला यह सुझाव है कि जजों की संख्या बढ़ानी चाहिए। दूसरा यह सुझाव है कि जजों का एक तरह से कोटा फिक्स किया जाता है कि इतनी गवाहों की गवाहियां दिन भर में हों या इतने फैसले महीने या हफ्ते में लिखें, इनकी संख्या बढ़ाई जाए। इस तरह से हम देखते हैं कि जितना समय जूडिशियरी की गवाही लेने में, काम करने में लगाना चाहिए उतना समय कम से कम लोअर कोर्ट में नहीं दे पाते। अब तो कुछ हाईकोर्ट्स में इस तरह की बात होती है। समय पर जजेज नहीं आते हैं। अतः गवाहों के निष्पादन की संख्या और जजमेंट देने की संख्या में भी बढ़ोतरी की जाए। तीसरी बात यह है कि जो जजमेंट होते हैं, बहुत तो लोअर कोर्ट्स के जजमेंट अपर कोर्ट्स में आकर टूट जाते हैं। इससे साफ मालूम होता है कि इसके अन्दर कुछ मालप्रैक्टिस हुई है, गड़बड़ हुई है। कई मन्त्रों तो जजेज के रिमार्कस भी इस तरह से होते हैं। इसलिए मंत्रालय के अन्दर एक सेल ऐसा बने जो इस तरह के जजमेंट्स को देखे। जहाँ इस तरह की बात नजर आवे वैसे मैजिस्ट्रेट या जजेज के खिलाफ कार्यवाही की जाए ताकि किसी तरह से जो बेइन्साफी होती है या रूपों पर जो इन्साफ किए जाते हैं उस को हम रोक सकें। इतना



[श्री अमरप्रसाद चक्रवर्ती]

कह कर मैं इस बिल का समर्थन करता हूँ और  
अपना स्थान लेता हूँ

SHRI AMARPROSAD CHAKRA-  
BORTY: Mr. Vice-Chairman, Sir, I am  
tempted to say something on the Bill because  
we are a party to the freedom struggle for  
the liberation of Goa from the Portuguese.  
It was led by our leader, like Mr. Heman-  
ta Kumar Basu and one of our MPs, Mr. Tridib  
Choudhury. So it reminds us of the fight  
struggle and how it was freed.

Now there are some sentiments prevailing  
somewhere that there are local customs, there  
is a local system and the Portuguese law  
should remain. I do not understand this be-  
cause the Bill is really non-controversial. It is  
not creation of a new High Court; it is only  
extension of the jurisdiction of a High Court.  
So, how do my friends say that it is invasion  
of Goa by Maharashtra or invasion of the area  
of the advocate of Goa. I do not follow this.  
But I would only say that the law must be  
uniform-everywhere. Even if the Portuguese  
law is enforced there, it must be brought  
under Indian law and the Indian law should be  
uniformly applicable in every part of the  
country. There should not be any colonial  
touch anywhere, either of the Portuguese or  
the British.

So, Sir, I think the Law Minister has really  
brought a non-controversial Bill. But two  
points have been raised by Mr. Sezhiyan and  
by Mr. Pant, and they relate to the procedure  
of this. Now, coming to the other point, I  
have seen Diu and Goa, both, whether it will  
be under Gujarat or under Karnataka or under  
Maharashtra. I am not on that point.

But one thing I may point out. The Law  
Minister is making extension and trying to  
distribute justice to the people of the  
remotest parts. That is all right. But why is  
the Law Minister not appointing Judges of  
High Courts

all over India in the existing  
vacancies? These posts have been kept  
pending for months and months, especially in  
Calcutta. The Law Minister in the last  
Session also spoke about disposal of pending  
matters. In Calcutta there are 70,000 cases  
pending, in Allahabad there are more. But still  
these posts of Judges are kept vacant. The  
entire judiciary is kept under suspense with  
regard to transfer of judges from one place to  
another. Although it does not directly come  
under this Bill, but it is relative because the  
Law Minister wants that there should be a  
uniform judiciary and judiciary should be  
extended, the privilege should be extended  
to, all, as it is done regarding Assam—exten-  
sion is given. Then jurisdiction of  
Calcutta High Court is extended to  
Andaman and Nicobar. It is done very well.  
In spite of all this, then, why have you kept  
these posts of judges pending? Disposal is  
becoming lesser and lesser day by day. In  
Calcutta High Court there are ten seats vacant.  
Some names are sent by the State to the Centre  
and the Centre does not agree . . .

SHRI SHIV SHANKAR: No, no.

SHRI AMARPROSAD CHAKRA-  
BORTY: That is my information . . .

SHRI SHIV SHANKAR: I am interrupting  
you for a minute. The best person who can  
stand for me is Mr. Jyoti Basu . . .

SHRI AMARPROSAD CHAKRA-  
BORTY: I am not referring to any name . . .

SHRI SHIV SHANKAR: You can ask  
him about this.

SHRI AMARPROSAD CHAKRA-  
BORTY: Before coming here I had a talk  
with some of the judges. They asked me to  
request the Law Minister that these vacant  
posts should be filled up. I do not mention the  
names. I have also been there in the High  
Court for 30 years. Only they have made a  
request to me that I should request you. There  
is another point, there is a fear that judges are  
being

brought under the fiat of the executive and independence of judiciary is on-stake. Though the Law Minister will say under the Constitution Article so and so there is no limitation, we can do it—yes, you can do it, but so long a tradition has been created since 194" generally judges are not transferred..

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You are travelling a far wider arena and if you enter into this discussion there will be no end to, it now.

SHRI AMARPROSAD CHAKRABORTY: I am only pointing out how these things are brought into the arena. You will excuse me, Sir, my points are very vital, apart from Maharashtra, apart from Gujarat. (Interruption). We met in a meeting. v They asked me to make this request x. specially. If he can extend Calcutta High Court jurisdiction—the Chief Justice will stay there only not in Andaman and Nicobar . . .

SHRI SHIV SHANKAR: We have already done that.

SHRI AMARPROSAD CHAKRABORTY: My friend was suggesting you can extend it I have no objection . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): But don't extend the scope of this debate now.

SHRI AMARPROSAD CHAKRABORTY: I am not extending it, the debate has already been elongated, it has already been extended. You have seen how it is done. I am not saying that with the constitution of a bench all the advocates will be going to Karnataka. Advocates can practise anywhere under the Act. I am not disputing that. It may be due to a misapprehension of Mrs. Alva that she said that. I am not entering into that. (Interruption) No, she has used the word, that Maharashtra advocates will be invading Goa . . .

SHRIMATI MARGARET ALVA: What I said was different, not for practice . . . (Interruption).

SHRI AMARPROSAD CHAKRABORTY: That is another mistake. Here it is only creation of a bench of the High Court. The Chief Justice of Maharashtra will be the Chief Justice here also. There will be no separate Chief Justice in Goa. That is a mistake.

SHRIMATI MARGARET ALVA: There is no High Court at Goa now. It has to be created. Then only jurisdiction will extend. i

SHRI AMARPROSAD CHAKRABORTY: It is extended, not created. I support this extension of jurisdiction to Goa, Daman and Diu.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Is it the desire of the House to adjourn or to continue?

SHRI R. RAMAKRISHNAN: We will continue. I will speak now.

SHRI BHUPESH GUPTA (West Bengal): Sir . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I will call Mr. Ramakrishnan first and then you.

SHRI BHUPESH GUPTA: That is all right.

SHRI R. RAMAKRISHNAN: Mr. Vice-Chairman, thank you very much for giving me this opportunity to participate in the discussion on this Bill. *The* Bill itself is a very innocuous one and it deserves immediate passing. But in this context I would like to raise a few points for the consideration of the hon. Law Minister.

What are the objectives of such extensions? It is very clear that the main objective is that justice should be brought to the door-step of all the people concerned and it should be available at a minimum cost to the poor and toiling people of India. It is, therefore, a step in the right direction because High Courts in various places are being brought to the doorstep of the people. For example, the people of Goa who had hitherto to

[Shri R. Ramakrishnan].

go to Bombay can have justice rendered to them at Panaji itself. In that connection I would like to say that justice must not only be . . .

SHRI SHIV SHANKAR: Mrs. Alva is getting depressed.

SHRI R. RAMAKRISHNAN: I will support Mr. Bhandare's view, that more High Court Benches should be started in each bigger State. Mr. Shiv Shankar has been a High Court Judge. I am sure he will know the difficulties which are experienced by people in this regard. In this connection, there is a long pending demand for creation of a High Court at Madurai in Tamil Nadu. I would request the Law Minister to consider this demand earnestly. Let it be a Bench of two Judges as is done for Goa. I am sure an erstwhile High Court Judge like Mr. Shiv Shankar will appreciate this.

I have yet another suggestion. There are four States in the South. Now, a person in Kanyakumari has to come to Delhi if he wants to come to the Supreme Court. The distance he has to cover is 2,250 miles. Let there be a Supreme Court Bench either in Andhra Pradesh or Tamil Nadu or Karnataka. I would not say where it should be located. Probably it may not be located in Kerala. It can be at Hyderabad. This Supreme Court Bench should be started as early as possible. I am sure the Law Minister will agree with me. I would just place this demand before him for consideration in all earnestness.

Another point I wish to make is about the conditions of service of our Judges. I do not know how our Law Minister finds the transition from High Court to Law Ministership in terms of finance and monetary benefits.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): It is an inter-regnum between the two.

SHRI R. RAMAKRISHNAN: Yesterday we were talking about increased allowances and perquisites to Members of Parliament. In this connection, I feel that the salaries and perquisites of Judges should definitely be raised. Not only that, they should be given all facilities. They should be supplied with free petrol about which we spoke on an earlier occasion. I am raising this because judiciary is the last bastion for democracy in India. Fortunately, despite various utterances by various people—I do not want to go into that controversy—we, on both sides of this House, are still banking upon judiciary to see that democracy is upheld in India. If we want to attract talents to the judiciary, we should improve their service conditions. If a person who is an Advocate in a High Court with 20 years of experience and with an income of Rs. 25,000 per month has to be attracted to the Bench, there should be some incentive for him. At least he should be able to protect himself. He should not feel that he is worse off as a Judge. He should not be put to the necessity of tightening his budget by more than 50 or 60 per cent. There should be an upward revision of their salaries. There is no use being hypocritical about this. Rs. 3,500 or Rs. 4,500 we are at present paying our High Court and Supreme Court Judges. It is a pittance, I would say. With no disrespect to them, they will be finding it difficult. For those who had very good practice prior to their being elevated to the Bench, it means a lot of sacrifice. At least for future I would request the Law Minister to consider this suggestion.

From the point of view of a poor man, I will place another point before him, namely, free legal aid to the people. There are very many schemes, both at the Centre and in the States, and all these schemes should be monitored properly and he should see to what is happening to them. He should see actually as to what the cost of litigation is if a person, who can not afford to go in for litigation,

is taken to a court for litigation. Therefore, Sir, I would say that the Government has initiated these schemes. But there is no use in initiating and not monitoring them. The Law-Minister should definitely have some sort of a cell set-up to monitor all these schemes of the States and place the details regarding these schemes before Parliament every year so that we may know what exactly is happening in our country.

Then, Sir, on more point. I do not want, as you have said, to tread on the dangerous grounds. But I would say that the three-language formula has generally been accepted in many places and, in support of this, Sir, we are trying to make our official language, Tamil, in Tamil Nadu as the court language. In this connection, Sir, several steps have been taken and we have translated a glossary of legal terms in Tamil. In this connection, Sir, I would like to state that we are not opposed to the principle of transfer of Judges or any such thing. On that our Chief Minister has already written to him. But one thing is there. While you consider all these things, please see that if the masses are to be taken along with you and if they are to have any faith in the judiciary, then a person who knows the local language of the State should be made the Chief Justice of that State High Court or a Judge of that High Court. Then only there will be some sort of faith among the people in what is happening.

The last point, Sir, about which Mr. Bhattacharya also spoke. Recently, two or three days back . . .

SHRI V. GOPALSAMY (Tamil Nadu): Do you oppose the transfer **Of** Judges or **not**?

SHRI R. RAMAKRISHNAN: About that I have said in a separate debate. The Law Commission has also said about this.

SHRI V. GOPALSAMY: Do you support it or not? That is the question.

SHRI R. RAMAKRISHNAN: Let me answer Mr. Gopalsamy and, also it may please the Minister that we are not opposed to the transfer of Judges. But, definitely, if it is going to be discriminatory or *mala fide*, then on the individual merits of the case we have to view it. The Law Commission itself has said that for national integration there should be appointment of Judges like this. But, for that also, they have suggested like this: Let it not be by transfer, but by new appointments. On this point, I think, I have answered Mr. Gopalsamy.

Sir, on the question of the pending appointments of Judges to the High Courts, the Law Minister has stated about two or three days back, the total number of vacancies and the number of vacancies to be filled in. I am sure that there must be some technical difficulties which he knows best. But, in this matter, Sir, if steps are taken sufficiently in advance, I think this can be done.

I Sir, I am thankful to him for having brought forward this Bill and I hope he will consider the points, which I have made, in good faith. Thank you very much.

SHRI BHUPESH GUPTA: Sir some points have been raised which relate to more basic issues. But I think I would be better understood if I start with the statement reiterating that we stand for Goa being treated as and made a full-fledged State of India and being given a full-fledged Legislative Assembly, and a Council of Ministers responsible to it, rather than Goa continuing as a Union territory with Delhi appointing the Lt. Governor. Now, Sir, these problems could have been settled. There are some people who would not like Goa to have that status. There are others—and many of them are here and of course, in Goa—who would like Goa to be a State. We have got 22 States or so and now Goa would like to be another State. Tripura has become a State. Others have

Lbhn Bhupesn Gupta.]

become States. Why should not Goa become a State. In fact, Pondicherry and Goa should have become States. Goa should have become a State with a Legislative Assembly. If that were so, then perhaps, Sir, the demand for having an independent High Court rather than the extension of the Bombay High Court's jurisdiction there would have been irresistible.

Now, Sir, this is my fundamental position as far as the problem before us is concerned. Shrimati Alva has raised this point: I find that as far as the Resolution on which Pandit Nehru spok<sub>e</sub> on December 8, 1961 was sponsored by our party in the Lok Sabha, where Shri Jawaharlal Nehru, the then Prime Minister, spok<sub>e</sub> of the individuality and identity, of the cultural, identity and separte entity, etc.—I would not read out the whole thing—of Goa. Now this has not been respected. That was before Goa was liberated. In fact, our Resolution was moved by a member of our party, Mr. S. M. Banerji. At that time he said: This House is of the opinion that the Government of India should give a final ultimatum to th<sub>e</sub> Portuguese Government to withdraw from Goa Daman and Diu. Even at that time also I happened to be in charge of the CPI srroup, 20 years ago. Our line was that we must ask Goa to be liberated, Dut up as on<sub>e</sub> of the States of India iust like any other State and given all the status that our States enjoy That was our position. We did not get confused with a lot of other controversies as to where Goa should belong and all that. It did not arise in our mind.

Coming to this Bill, I find Chief Minister Antulay's shadow spreading over Goa. (Interruptions) Have you heard it? All the more I am apprehensive of the dark shadow of Chief Minister A. R. Antulay dangerously spreading over Goa under the cover of expansion of jurisdiction of the Bombay High Court. (Interruptions)

Why do I say so? [You will ask, how does Antulay come in? He comes in, because Goa will have a Bench and that Bench will be appointed by the Chief Justice of Bombay High Court. Two Judges of Bombay High Court will be sent to Panaji, to sit there and constitute a Bench to administer Justice there. As you know, Judges of the High Court are appointed on the basis of the recommendations sent here, firstly, processed by the Chief Justice of the State concerned—in this case Maharashtra—forwarded to the Centre by the Chief Minister of Maharashtra, that means, in this case, the same Mr. Antulay, and considered by our friend Mr. Shiv Shankar who defends Antulay. He thinks that Antulay has all the fundamental rights to run amuck, to behave like a political cowboy on a wild horse. (Interruptions) And then he will send the recommendation to him, monitoring what the Chief Justice of Maharashtra does. That is why the Maharashtra High Court sends the Chief Justice to him, and then our friend will be there. So the shadow of Antulay is spreading over Goa. I think the Goa people will appreciate it very much. Antulay is a fright, a horror in some respects. (Interruptions) If anything, he was a combination of a fire-eater and a joker when he was in this House. But now that he has become the Chief Minister, he has become something of a horror, running amuck.

SHRI R. RAMAKRISHNAN; Fran-  
kenstein.

SHRI BHUPESH GUPTA: No, not a frankenstein, because in Indira •saimSKd *ne sie fo*\\ dn ^as sju.puefi You have seen the "Kisan rally". There was no frankenstein but little things (*Interruptions*) Now, Sir, the independence of the judiciary is sought to be subverted and destroyed by this Government. Now, Mr. Shiv Shankar, you will give an answer. But we are not ignorant people. We are somewhat knowledgeable people. We do not live in the other planet.

We know it from reliable sources. I cannot name the sources. There are lawyers and others. There is an apprehension that in the name of transfer of Judges, transfer of Chief Justices, filling up of vacancies, monitoring lists sent by the States for filling the vacancies in the States, etc. there is a calculated cold-blooded attempt to manipulate judiciary at the highest level, High Court's level, and if possible, later on at the Supreme Court level or, at any rate, to straight-jacket the judiciary because they are afraid of Kesavabharati case or the Minerva Mills case and of some of the comments which the Judges are making today sitting in the Supreme Court. Now, judiciary should be independent. I am not one of those who would not say that improvement is needed. But Judiciary's independence from the executive, I repeat from the executive, is the most important prerequisite for the functioning of democracy and for the survival of democracy today. That is what I would like to say. I am not mentioning Parliament. Here, the judiciary and Parliament would have a different set of relations. But, at any rate, judiciary must be thoroughly independent of the executive.

Now the executive is trying to out pressure on the judiciary by different methods, by all kinds of inducements, by using its powers to appoint, post and transfer in such a manner that the entire judiciary is intimidated, terrorised and even humiliated in the eyes of the people. Mr. Antulay is the leading man among the Chief Ministers of the country. Mr. Shiv Shankar, you are clever to some extent.

SHRI SHIV SHANKAR: Thank you, for your left-handed compliment.

SHRI BHUPESH GUPTA: Whatever I give, I always give right-handed. Now, it is not left-handed. I say 'to an extent' because you are not the cleverest in the whole world. To a great extent, if you like it.

Goanese people are told that a Judge will come from Maharashtra High Court, from a State which is ruled by such a man as Antulay who does not have any respect for judiciary. In fact, some others are joining him. Mr. Jagannath Mishra in Bihar has joined him. Now, I find that a chorus has started within the ruling party attacking the judiciary. Mr. Vice-Chairman, you have heard me. I have also been critical of some things of the judiciary, especially about the socio-economic questions. But I am not one of those sort of blind critics of the judiciary as it is today. But

when I say that such attacks are made for some ulterior purposes and for some political designs by some Ministers, not all, by some Ministers who claim themselves very favoured in some quarters, naturally we have reason to be apprehensive. And, I think, these apprehensions, our friends, should express here. That is why, I think, it is all the more reason today that Goa's demand for having its own High Court should be conceded. Judicial Commissioner's Court was there. Was it not possible to appoint a three-man High Court? What is the difficulty there? If Goanese people want a High Court? If you want to put a Lt. Governor there, you send some of your superannuated men or useless officers there, who are retired. There are some politicians, good for nothing. Then you send them as Lt. Governor or you send some officials, well, whom you want to get rid of or who want promotion because they have done good to your favourites during that tenure. If you can do that and maintain that establishment, what is the difficulty in maintaining a two-man or a three-man High Court in Goa if the Goanese people want it? What is the difficulty? In fact, I stand for Goa to be a full-fledged State. Sir, I entirely support the feelings expressed by Smt. Alva and others. Sir, West Bengal has been dragged in needlessly. My friend said something about T. T. V. "Non WW did you say? (Interruptions) Sir he says

SHRI SHIV SHANKAR: I am sorry  
for the white lie. You dont know  
anything.

SHRI SHIV SHANKAR; I am very sorry  
for this statement ...

SHRI SHIV SHANKAR: ... that you can manufacture that much white lie.

SHRI SHIV SHANKAR: I am going to say about Calcutta. (*Interruptions*).

SHRI SHIV SHANKAR: Not under your umpireship.

ing upon the judiciary, undermining its independence, making it subservient to the executive. Kindly remove that apprehension, not by spoken word but by changing certain behavioural pattern, certain methods and certain functioning both on the surface and behind

SHRI SYED SIBTE RAZI (Uttar Pradesh): Mr. Vice-Chairman, Sir, it is my pleasure that I stand to support this Bill which is going to fulfil the long and cherished desire of the people of Goa, Daman and Diu and nobody can deny that there was a persistent demand for having a Bench of the High Court at Goa. I am happy and I congratulate our Law Minister that even while setting aside the recommendations of the Law Commission, made in their Fourteenth Re-

! Chairman, Sir we see that justice has become costly day by day. We have to pay attention to this and we have to prove from the core of our heart that we are trying to give justice to the litigants at their door-steps. Our Government, our Party, has proved it by giving this Bench to Goa and also by other programmes of free legal aid, legal consultations and so on, to the poorer sections of the society. But even then Mr. Vice-

Chairman, Sir, through you, I would like to draw the attention of the hon.

TLaw Minister that there are lakhs of cases pending before the different High Courts of this country. If we see the figures of the cases filed before the courts, after 1974, before the eighteen High Courts in the country, you will find that it comes to about four lakhs and twenty-five thousand. There is a common saying that justice delayed is justice denied. But there is also a saying

I that justice humed is justice buried. Sir, it is also not good if you make the people travel for long distances and face other difficulties to get justice. Sometimes, we see that the pronouncements by the courts come ^when the litigants sleep in their grave yards.

Now, Sir, I would like to bring to the kind notice of the hon. Minister the persistent demand in U.P. for an extra Bench in the Western Region. It is a fact that there are certain political and moral commitments to this persistent demand I remember, in 1976 the U.P. Cabinet recom-

mended that a separate Bench of the Allahabad High Court should be set up at Meerut. This was in 1976. Now, again, the U.P. Cabinet has recommended the same thing, in May 1979, for having a separate Bench at Meerut. Sir, in this regard, I would like to say that behind this demand of the bench of Allahabad at Meerut for western districts of Uttar Pradesh there are certain reasonable grounds. Here I would like to put certain figures that the area of Uttar Pradesh is about 2,94,413 sq. kms. and the population that resides in Uttar Pradesh is about 10 crores 17th of the total population of our country. In the western U.P. there are about six divisions, i.e. Meerut Division, Barreilly, Agra, Ultarkashi Kumayun and Moradabad divisions. Now, through you, Sir, I would like to bring to the notice of the hon. Law Minister the distances ranging from 819 kms. to 501 kms. from the place of litigants to the place of High Court, i.e. Allahabad. I will give certain figures from district headquarters to Meerut and to Allahabad.

	District Head- quarters	Distance from Meerut in Kms.	Distance from Allaha- bad in Kms.
Meerut Division	Meerut	0.0	637
	Ghaziabad	40.0	627
	Bulandshahr	74.0	563
	Saharanpur	130.0	767
	Muzaffarnagar	57.0	694
Uttarkashi Division	Dehradun	182.0	819
	Uttarkashi	336.0	925
	Chamoli	380.0	980
	Pithoragarh	457.0	610
Kumayun Division	Tehri Garhwal	270.0	745
	Pauri	250.0	692
	Almora	334.0	570
	Nainital	260.0	540
Moradabad Division	Moradabad	128.0	558
	Bijnore	110.0	652
	Rampur	157.0	633



Now, Sir, some people sometimes say that there are not a very big number of cases in these western districts. In this connection, I would like to put before this House, through you, Sir, the figures that about 4534 cases were filed during 1972, 1973 *end* 1974.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Will you finish or will you take some more time?

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Then, you will continue the debate on Saturday. The House stands adjourned till 11.00 A.M. tomorrow.

The House <sup>then</sup> adjourned at one minute past six of the Clock till eleven of the Clock on Friday, the 27th February, 1981.