

Table of the House. The memorandum of the Tatas says that their representative had discussions with the Government ...

MR. DEPUTY CHAIRMAN: No, please. You have first to obtain the permission of the Chairman.

SHRI BHUPESH GUPTA: I hope you will kindly consider it so that I have the permission of the Chairman to lay it on the Table of the House so that the Members can see what is happening. I am rendering service to the House. Why do you deny that service to the House?

MR. DEPUTY CHAIRMAN: I have called Mr. Krishnaswamy.

SHRI BHUPESH GUPTA: I do not know what the hon'ble Members feel.

MR. DEPUTY CHAIRMAN: This is a procedural matter. All matters cannot be discussed on the floor of the House.

SHRI BHUPESH GUPTA: It is connected with the Supreme Court.

THE CONSTITUTION (THIRTIETH AMENDMENT) BILL, 1972—contd

SHRI K. A. KRISHNASWAMY (Tamil Nadu): Mr. Deputy Chairman, Sir, I rise to support this Constitution Amendment Bill moved by the hon'ble Law Minister with all the strength at my command. Since the Indian Constitution came into operation on the 26th of January, 1950 and up to now Parliament has exercised its powers to amend the Constitution under Article 368 more than once in which 29 amendments have been so far made in the provisions of the Constitution. The process of democracy is really based on the doctrine that you make progress on the strength of reason and test the validity of your steps in the light of experience. If experience shows that words laid down in the Constitution were inadequate or inappropriate or have been erroneously interpreted,

reason requires that amendment should be made in the relevant words and Constitutional process allowed to function in aid of the basic objectives of the Constitution. That is the reasonable conclusion any student of democracy and Constitutional law would draw from the amendments so far made.

In this background, Sir, I wish to look at the Constitution Amendment Bill. The Bill seeks to achieve a few laudable objects. The main features of the proposed amendment are to remove the discrimination based merely on the value of the property and to give to the rich and the poor litigant an equal chance of going to the Supreme Court, to remove the unnecessary burden on the Supreme Court, and to give finality to the judgment of the High Court. Further, a change of procedure also has been effected in this Bill.

A new clause has been added which says that only those cases will be allowed to go to the Supreme Court by way of leave of appeal which involve substantial questions of law of general importance and where in the opinion of the High Court such questions need to be decided by the Supreme Court.

In this connection, Sir, I would like to emphasise that the new measure provides the absolute power in the hands of the High Court. My submission would be, instead, it could be made reasonable by incorporating suitable provisions in the amending Bill.

The provision may be as follows:

"Where the matter relates to vires of an Act (Central or State) or a rule made thereunder; or

Where there is a difference of opinion between one or more High Courts;

The High Court shall grant leave."

In fact, it has been stressed by the eminent jurist Justice Pathanjali Sastri that in cases of vires of an Act or even rule, it would be incumbent upon the High

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Court to grant leave to appeal to the Supreme Court

Again where the matter is heard by a Division Bench of the High Court in the very first instance or where again it is heard by a full Bench consisting of three or more judges, as the case may be, the High Court should have no option in the grant of leave

All these, I endeavour to point out not with a view to belittling the High Court or again not because of lack of confidence in the High Court, but in order that these principles may serve as guidelines and provide a uniform guide to all the High Courts in India. The discretion, instead of being uncanalised may be exercised on sound principles. Otherwise, as is said of the English Courts that equity varied according to the Chancellor's foot, the discretion is likely to be varying from one High Court to another.

The next point that I would like to bring forth in this discussion is the question of clearance of arrears in the courts. The recent statement made by the Shah Committee on the problem of arrears in High Courts reveals the true picture of the problem existing to-day. Undoubtedly every effort must be made to see that justice is rendered speedily. It is well known that justice delayed is justice denied. The hon. Law Minister said in the Lok Sabha the other day that not in one instance has the Government of India denied the request of any State Government for the appointment of additional Judges. It is found that in the last five years, the strength of the Judges has been increased from 245 to 324 in various High Courts. As many as 38 additional Judges have been made permanent. I feel very happy to note that the Government is taking earnest measures for the clearance of the arrears. Further, Sir, I have learnt that very recently the strength of the Supreme Court also has been increased to 14. This should have taken place long ago.

But, Sir, coming as I do from the State of Tamil Nadu, I cannot be blind to the fact that there has not been proper representation to the Bench of the Supreme Court from my State. I am not saying this in any narrow or parochial sense. But our grievance is a genuine one and the demand is a just and legitimate one. This can be seen evidently from the fact that it is singularly unfortunate that for more than 12 years none from the Madras High Court has been chosen to the Bench of the Supreme Court. The last appointment from the Madras High Court was in 1960.

Sir, it is no exaggeration to state— it is a fact—that the Madras High Court is a Chartered High Court. The other Chartered High Courts, namely, Bombay and Calcutta, have been consistently having due, if not over, representation on the Bench of the Supreme Court. There is no justifiable reason why our State alone should be discriminated against. In this connection, what I would like to stress is that you cannot deal with Chartered High Courts in this cavalier fashion. If the overrepresentation to Bombay or Calcutta or even Punjab is to be maintained from the very inception of the Supreme Court, if another part of the country like Tamil Nadu is denied its due share, I am sorry to remind you that feelings may grow as if the honour of adorning the Bench of this greatest judicial institution is only for a favoured few and not for all.

So, I earnestly request that the hon. Law Minister may take adequate measures to provide proper representation to Tamil Nadu in the Bench of the Supreme Court.

With these words, I have great pleasure in supporting this very welcome measure. Thank you.

3 P.M.

SHRI BHUPESH GUPTA: Sir, generally I welcome this Bill. It is a minor improvement in the legal situation. But it is not what is sought to be made out

It is suggested in some quarters as if it removes the discrimination between the rich and the poor in the matter of litigation. This is not so. That discretion in favour of the rich continues under our legal system. And I hope the Government will soon come forward with comprehensive measures by way of amendment to the Constitution including the restructuring of our entire legal system so that this anomaly in our political life in our legal system, in our socio-economic existence is removed. This does nothing of the kind except that it now enables subject to the sanction of the High Court certain appeals to come to the Supreme Court. The cost of an appeal to the Supreme Court at the very initial stages is extremely high and that remains so. According to our estimate the cost is like this: Court fee comes to Rs 250, cyclostyling etc costs Rs 150. Advocate on Record charges Rs 500. Admission fee for senior Rs 1040. That brings it to Rs 2040. Then security Rs 2000, printing paper, etc Rs 500 to Rs 2000, statement of the case Rs 530 junior's fee—and the senior also comes in—another Rs 800 hearing on the first day—per day the senior charges—I am not talking about the big ones like my friend Mr Daphtary—Rs 1680 and junior Rs 500 and there is also another one may be lawyer's wife or daughter or daughter-in-law Rs 500. The second day hearing appeals etc cost Rs 2180. Therefore, in the first two days I think from the filing of the appeal you have to shell out Rs 10,700. Now what consolation is it that the honourable High Court has given me the sanction to go to the Supreme Court? I have been given the sanction to go to the Supreme Court to be fleeced completely. That is all. I have won the right to go in black coat and white collar before the bar of the Supreme Court and to be watched by a combined estimable crowd of lawyers, judges, etc watching and enjoying it, then seniors, juniors, and the rest of them. This is our legal system. And you talk of equality. How many people sitting here can afford to spend in the very first two or three days of hearing Rs 10,700? I should like to

know who can afford that among you here granting that you are drawing full allowances attending here everyday. Very few of you can afford it. And yet we talk here as if things have been done. That is not so. It is there we must come to grips with the problem if we want to hold the balance of justice in an evenhanded manner. The scales of justice are loaded in favour of the properties classes held in favour of privileges and wealth, sometimes visibly sometimes invisibly. And that is what is happening. Palkiwala is not for you and me. Palkiwala is meant for Mr J. R. D. Tata whose memorandum I want to lay on the table of the House. I have got it here.

MR DEPUTY CHAIRMAN Mr Bhupesh Gupta please keep to the subject.

SHRI BHUPESH GUPTA It is relevant. Leave alone big cases.

Look at this bulky memorandum that Tata has written. How much it takes to write a memorandum of this type by an ordinary client? Tata has written this memorandum to be submitted to the Prime Minister and in that memorandum he says that in the course of the past few months Tata's representatives had discussions with high Government spokesmen and so on. I said this to make out a point. Now are we going to compete with these people in courts of law? Their representatives come here and discuss about compensation and other things with high Government officials. The general insurance compensation has been increased by Rs 5 crores partly because of Tata's memorandum. An Englishman has been given a higher rate of compensation and my friend Shri Babubhai Chinai complains why an Indian should not be given more. He is justified from Indian point of view. Your criticism against the British is all right. But I want neither you nor British to get anything.

SHRI BABUBHAI M CHINAI (Maharashtra) I do not hold any share in any insurance company, I can assure you. Therefore, I do not come into the compensation picture.

SHRI BHUPESH GUPTA: When you want to beat the British, I am with you. We shall hit him together. But then after that, I would like to beat you....

SHRI BABUBHAI M. CHINAI: I know how to beat you also. Do not escape from that.

SHRI BHUPESH GUPTA: I say this because I want Shri Gokhale to pay attention to it. Here is our friend Shri Daph-tary sitting. He was our former Attorney General. We have the advantage of having Attorneys General in succession. We had Shri Setalvad and now we have got Shri Daphtary. May be we will have Shri Niren De and then others will follow till we have this system of Attorney General which means very little to the country. Now they are important personalities and eminent figures in the legal world. They should also consider this problem. First thing to be done is: Fix a maximum ceiling on fee for lawyers. Why should a lawyer be paid Rs. 6,000 and Rs. 7000? Fix a ceiling and make it obligatory that payment should be made in cross cheques. Receipt of cash payment should disqualify a lawyer straightway....

SHRI BABUBHAI M. CHINAI: How are you going to find out that?

SHRI BHUPESH GUPTA: Being associated with under-world payment, you should know better.

SHRI BABUBHAI M. CHINAI: Under the table anybody can take money.

SHRI BHUPESH GUPTA: Somebody may run a way with somebody else's wife. Does it mean to say that there are no good marriages?

SHRI DAHYABHAI V. PATEL (Gujarat): What do you understand about marriage?

SHRI BHUPESH GUPTA: You are most of the time here....

SHRI DAHYABHAI V. PATEL: My wife is also here.

SHRI BHUPESH GUPTA: I pity your wife.

SHRI MAHAVIR TYAGI (Uttar Pradesh): Are you in favour of putting a ceiling on intelligence also?

SHRI BHUPESH GUPTA: If people have intelligence. Some people have neither ceiling nor floor nor intelligence. I am not talking about that.

Therefore, fix a ceiling and enforce it by law which should lay down this is the maximum for a particular appearance and this is the maximum for the whole case, keeping in view the social standards and ideals that we are preaching about, and the disparity of income and the rest of it. Then make it obligatory. My friend is right when he asked: How can we keep a check on them? It is a problem. But then it is not only in the case of lawyers, but many others. That we can see later. Let us come to an understanding on this issue and enforce it. Let there be a social sanction.

What is happening today? We find some lawyers having even their own relatives as their juniors and so on and earning money that way. We know how many lawyers are evading income-tax. Not all, but some lawyers are evading income-tax. Otherwise, explain to me how a lawyer earning about a lakh of rupees can accumulate in a matter of a few years several millions, two millions or three millions or so or can have millions of rupees worth of property if he is paying income-tax at the highest rate of, say, 95 per cent or 75 per cent? How is it possible? By no computation it is possible for him to leave that must of huge amount of money. How is it possible? Yet, you find that our esteemable big lawyers die leaving a huge property worth some crores! How is it possible? If they

were earning one lakh of rupees per month or fifty thousand rupees a month—that itself is a big amount—they should not have been left with an income of more than ten thousand rupees and out of that you deduct for their expenses on books and other establishment charges. If you do so, how could they have saved, for example, one lakh of rupees or even fifty thousand rupees every year in order to accumulate over, say, twenty years about ten lakhs or twenty lakhs of rupees? Explain it to me. There is no explanation. It is an open scandal today and I hope my lawyer friends will not take it amiss and I am not blaming any individual lawyer or lawyers as a whole. But I should say that some of them are pastmasters in evading income-tax like some film artists and film stars. Therefore, I say, Sir, fix this thing and make it obligatory as far as the legal profession is concerned. Unless you do so, it is not possible. This is my first suggestion with regard to that.

MR. DEPUTY CHAIRMAN: You must wind up now.

SHRI BHUPESH GUPTA: Sir, they are all smiling. But, Sir, these are all constructive suggestions and they will accept some of them. But I may not be here at that time. Some of them will be here. You would know, if you go through all these volumes kept here, how many of my suggestions you have accepted. Only the time-lag is much. This is a very serious problem and I think that the Government should give thought to it and it should not be confused with ceiling on urban property or other such things. We can certainly fix the maximum income limit just as we have done in the case of other services. We have settled it in those cases and in the case of the legal profession also we can certainly settle what should be the maximum income, permissible income, of a lawyer. We have settled it for the judges.

Sir, somebody said that we should not blame the judges. The moment you sit on

the Bench you do not become angels or divine creatures. You see, you are either taken from the Bar or you are recruited directly or promoted from below or some such method is there. Therefore, you have all the virtues and vices associated with others. You carry them with you, you carry your past with you, you carry your qualifications and attendant disqualifications, you carry all of them with you. Here, Sir, I have another suggestion to make. The system of appointment of judges should also change, because you have provided here that the High Court must give a certificate. But, how do I take it that the High Court will apply its mind properly or that proper social conditions will be there? Therefore, it is important to see who sits on the Benches. My suggestion in this regard is this: Judges should not be appointed, as at present, by the Executive only. As it is there in certain other countries, draw up a panel of names and place it before Parliament and Parliament should choose the judges. It will be a good thing for the nation knows that Parliament will exercise its responsibility properly and there is no reason to think that Parliament will discharge its responsibility in an irresponsible manner. You also need not think that it is not done in other countries. We are more responsible than many countries in this respect and we will do it properly.

Then, as far as the High Courts are concerned, let the Government draw up a panel, a list of eminent people, people of integrity, people without any connection with the vested interests or big business people who are progressive-minded and such a list should be prepared and it should go to the Assembly concerned.

Let the Parliament and the Assembly concerned choose their Judges. In this way, we will guarantee one thing—a good social sanction behind the appointment publicly given and publicly taken. And then, a sense of responsibility will also go with it to the judges themselves. They will gain our confidence that they are serving the society after having a kind of dire

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sanction from the society itself to fulfil certain social role apart from legal role, that is very very important. I make this suggestion. We should accept that. The restructuring of our High Courts and the Supreme Court has become very essential today for reorganising our legal system.

My friend Mr Daphtary quite rightly said that we cannot live in the days when we used to send our appeal to the Privy Council. Yet we are still spiritually and morally tied to the digits of the Privy Council. We may not have been tied physically but we are tied mentally. We have not yet freed ourselves from the cobwebs of the British legal system or for that matter from the Anglo-Saxon ideas. Why should we go to the Court and say 'My Lord'? Why 'My Lord'? Why is 'My Lord' said even now? Why do the judges come and sit in such funny dresses? Indian dress is very pleasant, why this imitation of the British? We are living in the 26th year of independence and our judges do not find a suitable Indian dress to wear to sit on the Benches. Then when our lawyers appear before them, they go and address imitating the members of the British Bar. Then, they must say fantastically 'My Lord'. What is all this fun I cannot understand. Therefore, Mr Daphtary, being a leader of the Bar, should try to exercise his own influence. He should refuse to call them 'My Lord' and let us see what happens. Mr Daphtary is more powerful than all the 'My Lords' sitting there on the Benches.

SHRI C K DAPHTARY I have had no opportunity of saying anything like that.

SHRI BHUPESH GUPTA Therefore, say. Why should these things be there? We have been suggesting this thing to the Government again and again. Many Law Ministers have come and gone but this 'My Lord' has never gone. 'My Lord' has never become even 'My Fair Lady', but 'My Lord' remains. Yes, all the lawyers have been doing it.

Then, take this blessed gown. Why

should it be there in a warm country like ours, in a smouldering heat of Delhi? It is an English gown borrowed from the Inns of the Court from England. They have been wearing this and they do not know how like monkeys they look. Yet, they think they are the elite of the society, upholding the scales of justice, doing justice to mankind and saving humanity from injustice. All these things, Sir, are entirely wrong. Therefore I suggest that the whole thing has to be gone into. I can make many more criticisms but I do not wish to do so. I would like to repeat the two points that I have made today.

It is very very important for us to make justice available to the poor man not only in monetary terms but it should be such as it should socially ensure justice and at the same time does not place the rich people in an advantageous position. We have not liked demonstrations or legal terrorism of the Palkiwallas in the country any more. That is what I want. That is why I would suggest the Government to abolish this system. We should see that the common man gets assistance, equal advantages and legal aid is provided to him whenever he is not in a position to find finances to pursue his case. He should be given legal assistance of the Government ungrudgingly.

I suggest that at the Bar there should be a Collegium system of the lawyers under the aegis of the Government and the Collegium itself should try to distribute cases among their members more or less on the co-operative basis so that the poor man and the poor lawyers also—the poor lawyers have no case. I should say—are helped and they are briefed properly and at the same time the poor clients are helped. In no case should the rich people have the advantage in our society.

Let us begin somewhere. This is a beginning but this is really an eye-wash. We are going to support it but this does not even touch the fringe of the problem, the tedious problem of injustice and inequality in the matter of the administration of justice. We say all are equal in the

eyes of law but in practice the poor man is put down and the rich man with his power, privilege and wealth gets all the advantages of the law and law is prostituted to serve his class interests and to the detriment of the interests of the downtrodden masses

SHRI BABUBHAI M. CHINAI Mr Deputy Chairman, Sir, I would like to make one submission. Mr Bhupesh Gupta in his speech, while describing the dress and other things of the Judges says that they look like monkeys. This is derogatory to the highest Judges. This is derogatory to our Judges. The Law Minister who was only the other day a Judge of the High Court of Bombay should have protested himself against this but I do not understand why he is silent. To say that the Judges of a High Court or the Supreme Court appear like monkeys is derogatory. I strongly object to it and I would request you to expunge that word.

(*Interruptions*)

MR. DEPUTY CHAIRMAN Please take your seat.

SHRI A. N. MULLA (Uttar Pradesh) Mr Deputy Chairman, I rise at a time when the atmosphere of the House is really charged in a fashion that it would be difficult for people to appreciate the legal submissions that I would like to make in support of the Bill which has been placed before the House. Now the first thing on which one should concentrate is as to why this amendment has become necessary.

The Directive Principles contained in our Constitution include that there should be equality before the law for all the citizens of this country. The existing law was in conflict with this fundamental right given to the citizens of this country for there was an anomaly between the rights of those whose cases involved a sum of Rs 20,000 or more and those whose cases did not involve such an amount. There is a provision in our Constitution that if a reasonable basis can be found for making any discrimination it may be acceptable. But

if no reasonable basis can be found for this discrimination then such a rule cannot be acceptable within the meaning of the Constitution of India. The only two reasons which can be given as to why this discrimination should be made between those whose cases involve Rs 20,000 or more and those whose cases do not involve this amount are (1) that the law does not care for trivial wrongs and, therefore, perhaps it was thought that if a wrong decision might have been given in a case which involved less than Rs 20,000 it may come under the head 'trivial wrong', and (2) that a right to be heard by the Supreme Court cannot be given in all cases and so a line had to be drawn somewhere to restrict the number of such cases and for this purpose Rs 20,000 was considered to be a suitable line. As far as I can think these perhaps could be the only two reasons why this discrimination was made between the two types of cases.

Looking to the conditions of life that prevail in this country, and the normal wealth that an ordinary citizen possesses, it is unconscionable to hold that any dispute which involved less than Rs 20,000 was a trivial wrong and was not a major consideration for that particular person who was involved in that particular dispute. Similarly the demarcating line between cases in which the decision of the High Court is final and the other cases in which it is not entirely 'wealth oriented' and cannot be accepted as a reasonable classification. Therefore I have not been able to find any justification as to why a discrimination should be made in favour of those who possess more than Rs 20,000 worth of property in this country.

I may draw attention of the Honourable Member to other anomalies of a similar nature that exist in our laws and I will place one of them before you and for the consideration of the Minister for Law. I think an effort should be made to remove it. Under the existing law, a criminal appeal if filed through an advocate must be heard before it is dismissed but if an appeal is not filed through an advocate and the accused sends that appeal from jail

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then under the existing law the Judges may dismiss it similarly in their Chambers. Can there be any greater anomaly in the law than this that a person who has the capacity to engage a lawyer has the right to be heard but a person who has not the capacity to engage a lawyer has no right to be heard and his appeal may be dismissed *in limine* summarily by the Judges sitting in their Chambers? Actually I had submitted a Bill for the removal of this discrimination when I was functioning as a Member of the Lok Sabha but that Bill lapsed and it never came before the House.

I had also raised this question of discrimination on the basis of Rs. 20,000 more than three years ago when I brought a Bill in which I wanted that the powers of the Supreme Court should be enlarged in criminal appeals, in those cases where an acquittal was given by the High Court and then the State had gone in appeal against that order of acquittal. I had mentioned in the Statement of Objects and Reasons of that Bill that it was extraordinary that we were not concerned when a man was to be imprisoned for 20 years but we were very much concerned when he was to lose Rs. 20,000. I am happy that that Bill was accepted unanimously by the House and it is now the law of the land. I had raised this point at that time and I had even said that we seemed to be property conscious but we were not liberty conscious. I am very happy that this anomaly is very rightly removed by this Amendment for it was absolutely a scar on the body of our Constitution and our laws.

There are two other points on which I would like to place some submissions before the hon. Members of this House. Mr. D. P. Singh had made the point that the words of article 133 are such that when cases involving less than Rs. 20,000 are placed before the Judges of the Supreme Court they rely upon the language of article 133 and reject interference even when it is stated before them that a grave injustice has been committed in the case. In

my opinion law is one thing and interpretation of law is another thing. I find nothing in the words of article 133 which overrides the scope of article 136 and which would justify this line of approach made by the Judges, if the facts of the case point to a grave injustice.

Actually, the words in Article 136 are comprehensive, and wherever a grave injustice is committed, the Judges of the Supreme Court can look into the gravity of the injustice and should not hesitate to do so because of some words in Article 133. The law is not defective; but if Shri D. P. Singh's Contention is Correct, it is the Judges who, by their own interpretation of these Articles, have restricted their application for these two articles should be harmonised and should be considered as supplementing each other.

One other thing I will like to say. A great point has been made on several sides that this is just tinkering with the problem, and the real question is that it should be made possible for the poor man to seek justice and the high costs which are involved in litigation should be somehow reduced and unless that is done, really no relief is being given to him. I think the criticism is valid as far as it goes. But is it not a fact that on several matters, instead of thinking on the national level, we unfortunately are inclined to think on the provincial level and this has placed too many hurdles in the way of cheapening the cost of justice? I shall give you an example of what is going on now in several High Courts. In the old times the records used to be in English and then it was easy for those records to come to the Supreme Court and the decision could be given on the basis of those records. Now, with the provincial languages coming in the front in every Pradesh, the situation that arises is that the High Courts are preparing the records in the languages of their own provinces. Thus, a whole translation department has become necessary in the Supreme Court to translate the whole records of the High Courts into English. It has become necessary now. You cannot

possibly have Judges in the Supreme Court who know all the languages in this land. And if they do not know all the languages in this land, then what is to be done? Can we in this country have a Supreme Court of 300 Judges? The idea is only to be mentioned to be rejected. Therefore, there must be a language which should be known to all the Judges of the Supreme Court—I do not say which that language might be. If you think you can make it Hindi, make it if you can. But if it cannot be Hindi, then please do not introduce those reforms at this stage which, at the same time, make it very difficult for ordinary persons to seek justice in their case if they are to be saddled with the burden of thousands of rupees to get their records printed in English.

There are other things to say, but as the House is agreed on them, it is not necessary for me to dilate on them in favour of this amendment. Therefore, I support the Bill.

श्री भूपेन्द्र नारायण मंडल (बिहार) : उपसभापति महोदय, जो संविधान संशोधन विधेयक हमारे सामने प्रस्तुत हैं मैं उसको सपोर्ट करता हूँ। जो यह संशोधन आया हुआ है उस के पहले भी एक संशोधन 1969 में आया था, लेकिन जिस समय हमारा संविधान बना था 1950 में उस समय में यह 20 हजार रुपये रख गया था कि 20 हजार रुपये से कम वेल्युएशन की जो अपील होगी वह सुप्रीम कोर्ट में नहीं जा सकती है। उस समय के जो कानून बनाने वाले लोग थे वह समझते थे कि इस तरह की पिक्चूरियरी लिमिट कायम कर देना जरूरी है। एक समय था कि पार्लियामेंट ऐसा समझती थी, लेकिन उसके बाद 1969 में जो पार्लियामेंट थी, उसका वह भाग जो राज्य सभा कहालता है, जिस के मेंबर हम लोग हैं, यहाँ पर जब वह विधेयक आया तो यहाँ समझा गया कि वह 20 हजार की लिमिट काफी नहीं है क्योंकि रुपये का मूल्य घट गया है इस लिए उसको पांच गुना बढ़ा कर एक लाख रुपये का जुरिस्ट्रिक्शन रखा गया। आज उसी राज्य सभा में यह विधेयक फिर आया है और आज कहा जाता है कि सारी पिक्चूरियरी लिमिट वाली बात को, सारी रुपये वाली बात को खत्म करो। यह बात जो कही जा रही

है, जो यह प्रस्ताव सरकार की तरफ से आया है, स्वागत के लायक है, लेकिन इस तरह का जो तफरका, जो चीज दिमाग में आता है यह क्यों आता है इस पर भी सोच विचार करने की जरूरत है। शायद मैं समझता हूँ कि अभी समाजवाद की हवा हिन्दुस्तान में तेजी से बहाने की कोशिश हो रही है जिस के सिलसिले में ही यह विधेयक यहाँ आया हुआ है और यह अच्छा ही है। उस समय भी हम को बोलने का मौका मिला था। हमने उस समय भी कहा था कि पिक्चूरियरी जुरिस्ट्रिक्शन रखना यह हिन्दुस्तान ऐसे देश में अच्छा नहीं है। एक साधारण आदमी, अगर वह हिन्दुस्तान का मालिक समझा जाता है, क्योंकि हिन्दुस्तान का एक एक नागरिक हिन्दुस्तान का मालिक है, तो उस मालिक को अगर ग्रीविसेज है तो देश की जो इमाफ करने वाली सब से बड़ी संमंद है वहाँ तक वह इस लिए नहीं पहुँच सकेगा कि उसके पास पैसा नहीं है और मैं समझता हूँ कि अगर ऐसा होता है तो यह अन्याय है। इस लिए, बराबर मेरा तो ऐसा मत रहा है कि यह गलत बात हो रही थी और यह जो संशोधन हो रहा है यह ठीक है।

अभी भूपेश गुप्त जी ने जो सारी बातें कही हैं उन की एक एक बात की मैं तारीफ करता हूँ। मैं यह भी चाहता हूँ और जैसा कि उन्होंने भी कहा कि जज जिन ड्रेस में आते हैं वह मकिश है। उस पर आन्वेषक हुआ। यद्यपि मकिश कहना भाषा में बुरा मालूम पड़ता है, लेकिन हिन्दुस्तान की परिस्थिति में हम को ऐसा मालूम पड़ता है कि हम लोगों का जो इम्प्रेशन है, हम लोगों के अंदर जो आज अच्छा और खरा समझने की शक्ति है वह शक्ति इतनी वृद्धि हो गयी है कि किम चीज का अच्छा समझना चाहिए और किम चीज को बुरा समझना चाहिए इस में भी इस देश में तफरका हो गया है। इस देश में आज एक तबका है जिस के हाथ में आज सारी पावर है। उस के सोचने विचारने का एक अजीब ही तरीका है। वह इस बात में कोई अगलीनेस नहीं समझते हैं कि इस देश में रह कर इस देश की बेश-भूषा इस देश की भाषा, इस देश का कल्चर, इस देश की मिट्टी, इस देश के लोगों को अच्छा समझा जाय और यह बात उन को अच्छी नहीं मालूम पड़ती है। जिन को अंग्रेजों के जमाने में अच्छा

[श्री भूपेन्द्र नारायण मडल]

समझा जाता था उन का ही आज अच्छा समझा जाय यह उन की आदत पड़ गयी है और आज भी वही इफीरियरिटी काप्लेक्स अंग्रेजी पढ़े लिखे लोगो में है और इसलिए अच्छा किस को समझे और बुरा किस को समझे इस बात में भी तफरका पैदा हो गया है। इसलिए जा कुछ भूपाेश जी ने कहा है, म समझता है कि वह बिल्कुल ठीक है। शब्द अगर अपेक्षित लगता हो तो उस की भरमभटत के लिए कोई दूसरा शब्द मस्सीट्यूट कर लीजिए, लेकिन निश्चित तरीके पर इस बारे में साचन और समझने की जरूरत है और आज जो हमारी जर्जियरी है जिस का ले कर हम का घमंड होना चाहिए और घमंड है भी बहुत मायना में लेकिन कम से कम उस में यह जा पुरानी चीजे है सामंतशाही के समय की उन को बदलने की जरूरत है और इस को वह बदले ऐसा मेरा निवेदन है।

आज जो तरीका देश में लीगल सिस्टम का चल रहा है वह लीगल सिस्टम हिन्दुस्तान जैसे गरीब देश के लिये अच्छा नहीं है कोई दूसरे लीगल सिस्टम का यहाँ के लिये चनाव होना चाहिये। हर कट्टी न इस तरह से अपना अपना लीगल सिस्टम निकाला है कम न भी निकाला है ता हम समझते हैं कि गरीबी का रयान कर के कम ने या ऐसे जा देश है उन लोगो न जिस तरह का सिस्टम निकाला है उस सिस्टम का अध्ययन करना चाहिये और अगर उस तरह का सिस्टम हम यहाँ पर लागू कर सकें जिसमें कि जो गरीब से गरीब आदमी है वह ऊँचा से ऊँचा इसाफ पा सके जहाँ पर ऊँचा से ऊँचा इसाफ मिल सकता है वहाँ पर ऊँचा से ऊँचा इसाफ उसका मिल सके ऐसी परिस्थिति कायम हाता अच्छा है। ऐसा में चाहता हूँ। इसके लिये कहा गया कि अभी तक बहुत से केसेज पडिग है हाई कोर्ट के सामने भी हैं उसके नीचे के कोर्ट के सामने भी हैं और सुप्रीम कोर्ट के सामने में भी हैं और हम आशा दिलाई गई है कि यह जो अमेडमेंट है इससे जो गरिबर है उसमें कमी होगी लेकिन हम नहीं समझते हैं कि उस पर इन बालो का कोई असर पड़ने वाला है।

जा अभी अमेडमेंट है उसके बारे में मुझे सिर्फ इतना कहना है कि जो आर्टिकल 133(1) का अमेडमेंट हा रहा है उसमें पेक्युनियरी ज्युरिसडिक्शन की जो बात है उसका बारे में मैं पहले कह ही चका हूँ लेकिन इसकी एक जो दूसरी लाइन है उस लाइन के बदले में मैं चाहता हूँ कि जो संविधान में पहला लाइन था वही रहे जा 133(1)(सी) में पहले न

That the case is a fit case for appeal to the Supreme Court

अगर यही शब्द इसमें भी रखा जाता तो अच्छा हाता और इसके लिये जैसा कि मैं समझता हूँ वहाँ भी शायद इसी तरह कुछ बात कही है, ता मैं समझता हूँ कि वही अगर रहता तो वह अच्छा हाता।

SHRI K. CHANDRASEKHARAN (Kerala) Mr Deputy Chairman, this Bill rightly seeks to remove an arbitrary and discriminatory provision which has existed in the Constitution Sir, even though the first reason stated in the Statement of Objects and Reasons that the valuation basis is not a proper yardstick so far as certificate to be granted for appeal to the Supreme Court is quite acceptable, it is not possible to know as to why in spite of that reason being accepted article 133(3) is retained in the Constitution I am of the view that if the first reason stated in the Statement of Objects and Reasons, which appears to be very sound, is acceptable to the Government, Government ought to have deleted article 133(3) of the Constitution particularly because article 133(3) states that Parliament may by law legislate so far as certificate being granted from an appeal decided by a single Judge of a High Court is concerned. Sir, this distinction between a decision of a single Judge of a High Court and a Bench of two Judges of a High Court is a distinction according to me without a difference In practice the decision of a Division Bench is in many cases for many reasons the decision of or is as good as or as effective as the decision of a single Judge.

Then, Sir, there are other practical considerations. In many of the High Courts in the States—and I am personally aware of the legislations in at least three or four States in the South—in regard to the Madras High Court Act, the Kerala High Court Act, the Mysore High Court Act and the Andhra Pradesh High Court Act, the High Court Act provides for the procedure of disposal of cases pending in the High Court by Judges.

Sir, in these four States, a civil appeal for valuation below Rs. 19,000 is decided by a single Judge and a Bench of two Judges decides a civil case only if the valuation is above Rs. 10,000. Now, Sir, even though by this amendment we have taken off this distinction unnecessarily made in the Constitution on the basis of valuation of Rs. 20,000 or above, the distinction so far as many of the State High Courts are concerned, on account of the fact that financial limits have been imposed in regard to valuation for cases being decided by a single Judge or by a Bench of two Judges, exists. On account of that fact, in spite of the amendment that we are making, in spite of the fact that distinction is sought to be ended and it has been stated that by and large this is in tune with the socialistic approach, I would submit that there is no provision under article 133 now as it stands for a certificate being granted by a High Court in respect of a case whose valuation is below Rs. 10,000 which is on account of the fact that the case is decided by a single Judge of the High Court and not by a Bench of two Judges.

Then, it has been stated that the provision contained in article 133(1)(c) also should go as per the provisions of this Bill. I am entirely in respectful agreement with the observations made by the first speaker who participated in this debate, the hon. Mr. Daphtary, and I am in great doubts as to whether it is not after all really to the disadvantage of the large class of litigants that article 133(1)(c) is being taken away. In so far as criminal cases are concerned, in respect of the certificate to

be granted by the High Court in respect of criminal cases, a like provision for a certificate being granted on the basis that the High Court considers it a fit case for appeal to the Supreme Court continues to exist under article 134(1)(c) of the Constitution.

Sir, the second reason that has been stated in the Statement of Objects and Reasons is that this amendment now proposed in the Bill would curtail the appeals to the Supreme Court. I am not at all sure of the same. Sir, in spite of the fact that the amendment is there, and in spite of the fact that the scope of article 133(1)(a) is restricted and limited in the fashion now proposed in the amendment, there are bound to be several cases in which the High Courts would not grant certificates and there are bound to be a larger number of cases which are brought to the Supreme Court by way of special leave applications under article 136 of the Constitution. That would mean that this purpose of curtailment of appeals which is also thought of in the Statement of Objects and Reasons would not at all work. Probably, Sir, this aspect also is referred to in the Statement of Objects and Reasons on account of the fact that there is a very heavy pendency and arrear of work not only in the various High Courts in the country but also in the Supreme Court. A statement that was delivered by the hon. Minister to this House some weeks back says that more than six lakhs of cases are pending in the various High Courts in the country and a large number of cases with long years of pendency are still pending in the Supreme Court in spite of the best efforts made by the Supreme Court to dispose of the same.

Sir, the hon. Minister has stated in a statement that was placed in answer to a question tabled in this House that as on 1.8.72 as many as 48 vacancies of High Court Judges have to be filled up. The hon. Member from Tamil Nadu who spoke has given the figure as 324 being the num-

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[Shri K. Chandrasekharan]

ber of High Court Judges in this country, and if out of 324 High Court Judges, 48 Judges are not there, one can just imagine the progress of work in the various High Courts.

I would submit, Sir, particularly from the point of view of wiping off arrears in the High Courts and in the Supreme Court and to see that the number of appeals to the Supreme Court are restricted on account of the fact that greater number of decisions without delay would be there in the High Courts in the country, I would submit, Sir, that larger number of cases should be decided by single Judges of the High Courts rather than by Division Benches of the High Court. In that view the distinction now made in article 133(3) should undoubtedly go. I am submitting, Sir, that the question of arrears is a very important aspect so far as the rendering of justice is concerned. In the Administration Report of the Ministry of Law and Justice for 1971-72 it is rather strange that not a word regarding this aspect is referred to. The only reference is to the fact that there has been appointed a High Court Arrears Committee which has since delivered its report. We would like to know from the hon'ble Minister in what way he proposes to tackle this larger aspect of arrears and pendency which also, naturally, is referred to in the Statement of Objects and Reasons appended to this Bill.

श्री एन० पी० चौधरी (मध्य प्रदेश) : उपसभापति जी माननीय न्याय मंत्री जी ने सदन के समक्ष संविधान का तीसवा संशोधन विधेयक जो प्रस्तुत किया है, मैं उसका समर्थन करता हूँ और स्वागत करता हूँ। मेरा ऐसा अनुमान है कि न केवल यह सदन बल्कि देश की सारी जनता इस विधेयक का, इस संशोधन का तथा ऐसे कानून का स्वागत करेगी जो देश के हित में हो और जनता के हित में हो। इसी भावना को लेकर यह संशोधन विधेयक इस सदन के समक्ष प्रस्तुत किया गया है।

वैसे समय के बदलने पर हमें इस बात की जरूरत महसूस होती है कि हम अपने देश के पुराने

कानूनों को भी बदल दें। कोई भी देश इस चीज को बरखास्त नहीं कर सकता है कि बैलगाड़ी के युग में जो कानून बने थे, आज जेट और राकेट के युग में वही पुराने और रूढ़िवादी कानूनों को मानते चले जायें। आज आवश्यकता इस बात की है कि जब देश समय के अनुसार तेजी से बदल रहा है, तो हमें इस देश में इस चीज की आवश्यकता महसूस हो रही है कि जो हमारे पुराने कानून हैं उन्हें भी बदला जाय। यदि हमने इस समय अपने पुराने कानूनों को, वर्तमान कानूनों को नहीं बदला, उनमें संशोधन नहीं किया, तो मैं सोचता हूँ कि जतना हमें इस बात का दोषी ठहरायेगी कि हम अपने कर्तव्य से च्युत हो गये। तो इसी भावनाओं को लेकर मैं इस विधेयक का समर्थन करता हूँ।

वर्तमान में जो कानून हमारे हैं, उसमें आप यह देखेंगे कि एक रेखा खींच दी गई है, इस तरह का प्रावधान था कि इतने से ऊपर की राशि के जो मुकदमे हैं वे ही सर्वोच्च न्यायालय में जा सकते हैं। इस तरह से गरीब लोगों के जो मुकदमें न्यायालयों में होते थे, जिनकी राशि कम होती थी और वे मुकदमे ऐसे होते थे जो जन हित की दृष्टि से बहुत ही उपयुक्त होते हैं, अच्छे होते थे, परन्तु उस रेखा की वजह से, गरीब लोग अपने केस को सर्वोच्च न्यायालय में नहीं ले जा सकते थे और इस तरह से वे न्याय पाने से वंचित रह जाते थे। इसी बात को दूर करने के लिए, इस कठिनाई को दूर करने के लिए, यह संशोधन यहाँ पर लाया गया है।

मैं आप से एक बात यह भी अर्ज करना चाहता हूँ कि जब देश में हम समाजवादी समाज की रचना करना चाहते हैं, तो फिर उस चीज को साकार रूप में तब ही दे सकते हैं जब हम उसके अनुरूप चीजों को करें। इसलिए हम जो यह संशोधन करने जा रहे हैं वह एक उपयुक्त चीज है मैं यहाँ पर इसका स्वागत करता हूँ और सच्चे हृदय से समर्थन करता हूँ।

उपसभापति जी, एक बात मैं यह भी कहना चाहता हूँ, कि वर्तमान में जो हमारे कानून हैं,

उसमें इस बात का प्रावधान है कि एक निश्चित मूल्य के ऊपर का कोई मुकदमा सुप्रीम कोर्ट में जा सकता है और उस पर वहां विचार किया जा सकता है, चाहे उसमें कोई जन हित का प्रश्न निहित हो या न हो। अब हम जो सशोधन करने जा रहे हैं उसमें मूल्य की कोई रेखा नहीं खींची गई है और कोई भी व्यक्ति सर्वोच्च न्यायालय में जाकर अपने लिए न्याय की पुकार कर सकता है और न्याय ले सकता है।

किन्तु बहुत से गरीब वर्तमान स्थिति में इतना रुपया खर्च नहीं कर सकते, हालांकि उनके मुकदमों में ऐसे मुद्दे निहित होते हैं जो जनहित से सम्बन्धित होते हैं, किन्तु गरीबी के कारण, पैसे की कमी के कारण वे सर्वोच्च न्यायालय में नहीं जा सकते, न्याय नहीं पा सकते। इन्हीं कारणों को देख कर, इन्हीं कठिनाइयों को देख कर यह विधेयक यहां प्रस्तुत किया गया है।

मैं एक बात और बताना चाहता हूँ। अगर हमारे सदस्य इस और ध्यान देंगे तो देखेंगे दुनिया में जितने भी विकासशील देश हैं, चाहे अमरीका हो, रूस हो, चाहे बर्तानिया हा, चाहे पश्चिमी जर्मनी हो या कोई और विकासशील देश हो, उन्होंने अपने यहां के कानून में मूल्य की कोई इस प्रकार की सीमा निर्धारित नहीं की है। उन्होंने अपने यहां के कानूनों में इस बात का प्रावधान किया है कि यदि किसी मामले में जनहित निहित है या ऐसे मुद्दे निहित हैं जिसका सर्वोच्च न्यायालय में जाना या वहां विचार किया जाना आवश्यक है तो उसके लिए इस बात की छूट है। इस बात की आवश्यकता हमारे देश में भी थी कि उस प्रकार का कोई सशोधन आए और इसलिए यह सशोधन यहां लाया गया है।

आज इस अवसर का लाभ उठाते हुए, मैं अपने यहां के न्याय मंत्री जी से कुछ बातें कहना चाहता हूँ, सुझाव देना चाहता हूँ। आप जानते हैं कि हमारे देश में न्याय कितना महंगा है। हमारे पूर्व वक्ताओं ने उस और ध्यान आकर्षित किया है। गरीब लोगों के लिए यह सम्भव नहीं है कि वे उच्च न्यायालयों में या सर्वोच्च न्यायालय

में जाकर अपने मामलों में याय पाएं। मैं आपसे निवेदन करना चाहूंगा, आपसे रिक्वेस्ट करना चाहूंगा कि ऐसा सशोधन लाएं या ऐसा रास्ता निकालें जिससे गरीब से गरीब आदमी भी हमारे यहां के उच्च से उच्च न्यायालय में जाकर न्याय पा सके।

दूसरी बात जो मैं आपसे कहना चाहता हूँ वह यह है कि मामलों के निपटाने में बहुत ही समय लगता है। अभी कुछ आकड़े हमारे पूर्व वक्ताओं द्वारा प्रस्तुत किए गए हैं। उन्हें देखने से आपको मालूम होगा कि लाखों की सख्या में केसेज पेंडिंग हैं। इसी तरह सर्वोच्च न्यायालय में भी बहुत से केसेज पेंडिंग हैं। आपको यह जानकर ताज्जुब होगा, मेरे पास व्यक्तिगत रूप से यह जानकारी है, तीन मुकदमों के बारे में मैं जानता हूँ जिनमें बहुत ही अधिक समय लगा, पीढ़िया की पीढ़िया गुजर गई, तब कहीं जाकर फैसला हुआ। यह मध्य प्रदेश की बात है। एक केस के फाइनल जजमेंट में लगभग 80 वर्ष लगे। 80 वर्ष तक कौन जाएगा? कितनी पीढ़िया खपी? तीन पीढ़िया गयीं तब जाकर उमका अन्तिम निर्णय हुआ। दूसरे केस में 60 वर्ष लगे। 60 वर्ष में न्याय मिला। तीसरा केस ऐसा है जिसमें 32 वर्ष लगे। ऐसा समय लगेगा तो उस आदमी का क्या ह्वा होगा जिसने न्याय पाने के लिए न्याय का दरवाजा खटखटाया था। उस कहावत को तो आप जानते हैं, सभी जानते हैं :

Justice delayed is Justice denied.

इस कहावत का आपको दूर करना पड़ेगा, इससे मुक्ति पानी पड़ेगी।

जजों की कमी के कारण, जैसा कि बहुत से सदस्यों ने कहा बहुत से मामलों का निपटारा नहीं हो पाता। तो मैं आपसे यह भी निवेदन करना चाहता हूँ कि जब जजों का एगोइन्टमेंट करना है पेंडिंग मुकदमों को निपटाना है तो क्या हम उनका एगोइन्टमेंट न करें, जनता की इस मांग को स्वीकार न करें और मुकदमों का जल्दी निपटाने का प्रयास न करें। मैं आशा करता हूँ कि आप इन सब बातों पर ध्यान देंगे। इन्हीं शब्दों के साथ मैं इसका समर्थन करता हूँ

4 P.M.

SHRI HAMID ALI SCHAMNAD (Kerala) : Mr. Deputy Chairman, Sir, I support this Constitution Amendment Bill. It has been pointed out by our learned Law Minister that the basis for bringing this Bill is the Report of the Law Commission. Sir, the Supreme Court is the highest court of India. Mr. Setalvad, former Attorney-General of India, while speaking at the inauguration of the Supreme Court, said :

"It can truly be said that the jurisdiction and powers of this Court in their nature and extent are wider than those exercised by the highest court of any country in the Commonwealth or by the Supreme Court of the United States of America."

A similar view was expressed by the late Sir Alladi Krishnaswami Iyer who observed that the Supreme Court of the Indian Union has more powers than any Supreme Court in any part of the world. As such every citizen of our land would like to get his rights redressed in the Supreme Court. Under Article 133 an appeal today would lie only if the value of the subject-matter is not less than Rs. 20,000 or such other sum as may be specified in that behalf by Parliament or that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value or any other case that has been certified by the High Court that it is a fit case for appeal. The valuation being the criterion has been removed under the present Amendment. I really welcome this gesture on the part of the Law Minister. Another important matter to which I would like to draw the attention of the Law Minister is Article 124. Under Article 124 a Judge of the Supreme Court should not plead or act in any court or before any other authority within the territory of India. This is definitely to keep up the integrity of the judiciary. But at the same time Article 220 provides that the Judges of the High Courts could plead in any other High

Court or the Supreme Court. Here I humbly submit to the Law Minister to examine in the interests of equity and good conscience that a Judge of the High Court or the Chief Justice of the High Court, after his retirement, should not be given the freedom to go and plead in the Supreme Court or any other High Court because after holding the highest post of Chief Justice of a High Court, if he goes and pleads before another High Court, there is a sense of feeling that justice will not be meted out because some of the Judges sitting in that High Court or in the Supreme Court would be some of their own juniors and that will lead to the feeling in the litigant public that they would not get justice at their hands. This may be examined by the Law Minister, whether further amendment could be brought forward to bring the Judges of the High Courts also in tune with the Supreme Court Judges with regard to their right to practice after their retirement.

†SHRI PAPI REDDY (Andhra Pradesh) : Mr. Deputy Chairman, one of the few good acts done by the Congress Party is this Bill and I, therefore, whole heartedly support this Bill. As a result of this Bill justice will be given to all without discrimination of big and small and all are equal before the law. I, therefore, whole heartedly support this Bill. Another effect of this Bill is that the responsibility and work of the Supreme Court increases. Therefore, I request the Government to open a bench of the Supreme Court in the South. I request the Minister to open this bench of the Supreme Court at Hyderabad as it is a Central place in the South. I hope the Minister will agree to my suggestion.

Recently one of the judges of the Bombay High Court was transferred to the Supreme Court. At a reception given to him that judge stated that more than five lakhs of cases were pending in the High Courts. He expressed the alarming view that unless immediate action is taken to dispose of these cases expeditiously the litigants will

†Original speech in Telugu.

get frustrated and take the law into their own hands to settle their case

One minute more, Sir I do not mind a bench of the Supreme Court being set up at Madras. If these five lakhs of cases are pending in the High Courts then some millions of cases might be pending in the lower courts. If we ask the reason for these arrears of cases we are told that it is due to the fact that judges are few in number. But my own view is that nowadays we want commitment in everything. I want a commitment to this effect. If we think about this problem deeply—at least by using commonsense—these arrears of cases may be disposed of quickly by the courts. With these words I conclude my speech.

SHRI H. M. TRIVEDI (Gujrat) I would like to welcome this Bill on the ground that it would remove the valuation test and it would remove the distinction between rich and poor in terms of going before the Supreme Court at least on questions relating to law of general importance and also because this Bill, when passed, would also bring about some finality to several matters at the High Court level.

I would like to refer to the observations which were offered by my learned friend Shri C. K. Daphtary. I am almost in agreement with him that the omission of sub-clause (c) of article 133(1) may perhaps lead to an ambiguous situation. If you read all relevant articles of the Constitution the present position is that there is almost an automatic right of appeal to the Supreme Court, that is if sub-clause (c) is retained. The Law Commission in their 44th report has recommended its retention. But in the 45th Report the Commission has given a different view. Obviously, therefore, there is some difference of opinion even among eminent jurists with regard to whether or not sub-clause (c) should be retained or deleted. Taking the Constitutional position as it stands today retention of sub-clause (c) means automatic right of appeal to the Supreme Court. I would like to be enlightened by the hon. Law Minis-

ter as to what the position would be after this Bill is passed not only in relation to those matters which in fact satisfy conditions laid down in the amendment but in relation to matters of substance or matters of fact or matters of public and private importance which could be agitated upon in terms of certificate from the High Court.

A great deal has been said with regard to the right of the poor to go to the Supreme Court. I am not particularly enamoured of this right because it becomes a theoretical right considering the cost of litigation. In this connection I would like to remind the hon. Minister that there is no organised system of legal aid for poor in this country. He may consider it as part of Government duty to come forward with a comprehensive legislation to provide legal aid to the poor not only at the High Court or Supreme Court level, but right from the Taluq level.

References have been made to delay and cost. Both these features are part of our judicial system. Only a fundamental, structural change in our judicial system can remove these two features. What is really required is a fundamental revision of our Civil Procedure Code. I hope the hon. Minister will in the near future come forward with an amendment to the Civil Procedure Code and remove the features of delay and cost.

MR. DEPUTY CHAIRMAN: Yes, Mr. Sen Gupta. At the very outset I must tell you that you must finish within three minutes, because we are short of time.

SHRI DWIJENDRALAL SEN GUPTA (West Bengal): Mr. Deputy Chairman, I shall not make a speech. I shall only make some points for which I crave your indulgence.

My first suggestion is this. We are considering today the 30th Amendment Bill and the Constitution was adopted in 1950. In the course of twenty-two years we have come with the 30th amendment. Why should there not be a standing committee

[Shri Dwijendralal Sen Gupta]

of the Members of Parliament like many other committees which can review the Constitution and in one amendment can bring out what necessarily should be done instead of bringing forward, as in the present case, the first amendment, the second amendment, the third amendment and so on and so forth?

My second suggestion is this: There are three articles only in the Constitution, article 133, article 134 and article 136, under which we can make an appeal to the Supreme Court. Now, article 134 remains and also article 136 remains. We are going to amend only article 133(1). I support the Bill, but with this reservation that we shall be absolutely in the subjective discretion of the judges according to whom a particular question of law may be substantial, may be of general importance and according to some of whom it may not be a substantial question of law and it may not be a matter of general importance. So, Mr. Deputy Chairman, Sir, if (a) and (b) would have been deleted from article 133 (1) and only (c) would have remained, there would have been no need for this amendment, because under (c) the High Court should certify that the case is a fit one for appeal to the Supreme Court and it must obviously come under the two provisions made in clause 2 of the amendment Bill, because the case involves a substantial question of law and of general importance and that in the opinion of the High Court the said question needs to be decided by the Supreme Court. These are the two things which can possibly come under (c) and nothing else. So, there was no need also for deleting article 133(1)(c).

Mr. Deputy Chairman, Sir, there is one more point. In spite of article 133(1), article 136 will remain and by getting special leave people will be coming to the Supreme Court and you cannot stop them. My friend, Shri Pranab Kumar Mukherjee, raised that question. If in 1950 twenty thousand rupees was made the criterion, in 1972, if it is raised to one lakh and fifty thousand rupees, it would have been

more appropriate and it would have been a positive standard and it would not be in the discretion of the judges. Not that twenty thousand rupees is today equivalent to one lakh and fifty thousand rupees. It is not twenty thousand rupees or thirty thousand rupees. But, at least there would have been some concrete standard and that has not been done. In this connection, before I finish, I want to remind you of what one very important jurist in the country, the late Shri N. C. Chatterjee, said. He very often used to express, with some kind of pangs, that in the eye of law everybody is equal, but not in the court of law.

If Mr. Daphtary appears on behalf of a client and another junior lawyers appears on behalf of another client, it counts very much in the court, because the majority of the judges of the Supreme Court are from members of the English Bar. We have done one good thing. We have prohibited being barristers of England now. We have not prohibited barristers becoming judges of the Supreme Court.

Mr. Deputy Chairman, Sir, I hope all these aspects will be taken into consideration.

MR. DEPUTY CHAIRMAN: Mr. Gokhale.

SHRI H. R. GOKHALE Mr. Deputy Chairman, Sir, I thank all the speakers who participated in this debate for having fully supported the proposed amendment to Article 133(1). In view of the fact that there has been unanimity on the need for this amendment, I do not think that a very elaborate and long reply is necessary. At the same time, I would like to make it very clear at the outset that when Government is bringing this Bill for the consideration of the House it does not want to make a very tall claim that by passing this Bill all disparities between the rich and poor in the matter of settlement of litigation are going to be solved; we are aware of it.

This was one of the articles in the Constitution which, according to me, was

brought from the past it was a legacy of the past.

It came from the British. We just got it from the Civil Procedure Code in 1950 when we brought our Constitution into force. Though the logic and experience of my friend, Mr. Daphtary, is much more than mine, and I value his opinion, I do not agree that at that time this provision for Rs. 20,000 being the value of the property, was justified, because the highest court was sitting three thousand miles away. I think what was done at that time was only a reflection of the mental approach of the colonial rulers who had introduced this into this country. Whether far or near, the question was always there whether the competence of the High Court should be made dependent on the value of the property alone. It is this approach which we are trying to attack by way of this amendment. I am very confident and I am glad that all the Members of the House have supported that aspect of the House have supported that aspect of the for me to dilate on that aspect of the matter again.

There are a few things which were mentioned with regard to the provisions of the proposed amendment. It was stated in the other House and in this House also that it would have been better if clause (c) of Article 133(1) had been kept as it is. This clause says that if the High Court is satisfied that it is a case fit for appeal to the Supreme, a certificate may be granted. But if you look at the clause literally, there are no guideline in the clause, because what is fit and what is unfit for appeal, from that point of view it is a matter for the High Court to decide. But by a long series of judicial interpretations, this particular clause had come in for construction and all lawyers who have dealt with this are familiar that at one time the Chief Court several years back took the view that even though it is fit for appeal it really means a substantial question of law of general public importance. The Privy Council negated this. The Privy Council added the words "not only of general public im-

portance but of private public importance". The illustration given was that there might be a dispute between me and my friend over the interpretation of a will as to whether I succeed or he succeeds to the property. It is a very important matter for both of us. But the world at large is not concerned with this. It is a dispute *inter se*, where it is not of general importance. But in such cases the Privy Council then decided: it might not be of general public importance; it might be a question of private importance. It is really to obviate appeals which have only disputes *inter se* between parties, with which the community at large is not concerned. It has no effect on broad policies, social policies of the community, or for that matter in any other way the community is not affected.

An *inter se* dispute can raise a substantial question of law, I know, of importance to them. But it does not necessarily follow that it is a matter of general public importance, because it is a matter of private importance. Therefore, this phrase, by sheer history and judicial interpretation, had come to be enlarged to mean "not only a dispute between parties which can raise questions of general public importance, but also a dispute involving substantial questions of law of private importance".

Necessarily, for the purpose of obviating appeals which do not have such repercussions on the needs of the community, it was thought that we should not allow these matters of dispute only between parties *inter se* to come to the highest Court of the land. It was agreed even by Mr. Daphtary—I have great regard for his experience and learning in this matter—that in theory we accept that we must make the High Court the final court of appeal. What was said was that looking to the circumstances in which we are today, the kind of people we are able to attract on the Benches, how far it would be right to do so. Well, the suggestion is that the High Court can be fallible, but for that matter no court, howsoever high, can be regarded in fallible. The Supreme Court also cannot be regarded as infallible. In fact the Sup-

[Shri H R Gokhale]

reme Court itself has revised its own judgments more than once. Therefore, there must be some place where litigation must end and we must accept that finality should be given to litigation and I do not think that there is anything wrong if we give that finality in the judgments of the highest Court in the State. It might be remembered that the qualifications for appointment of the High Court Judges and the qualifications for appointment of the Supreme Court Judges are almost similar and an endeavour has always been either to select the best talent from the Bar or from the Services. So far as the question of being fallible or infallible is concerned I do not think we can treat them in principle in any different way. The idea is that you have to give finality to the matters which are not of general public importance and this principle is underlying the new provision.

Some doubt was expressed as to what was the matter of general importance. It was said that the two clauses are linked together. Yes, they are because it is not enough to say that it is a substantial question of law of general public importance but it is also necessary to certify that it needs to be decided by the Supreme Court. For obvious reasons it has been put there because there can be a substantial question of law of general importance but it is not needed to be decided by the Supreme Court as the same has already been decided by the Supreme Court in another matter. In that particular case it can be argued that it is a substantial question of law. You cannot deny the fact that it is a matter of general importance. But you can confront the man that the judgment of a Supreme Court with an identical substantial question of law of general public importance has already been decided and determined and the Court will say that there is already a decision on this question, that it need not be decided by the Supreme Court because it has already been decided by the Supreme Court in another judgment.

It has also been said: What is needed to be decided, what is the substantial question of law, what is the question of general importance? As all lawyers are familiar, these terms for one reason or the other have come for construction at various times. We know that there are different judgments of the various High Courts and the basis of all systematic judicial systems is that there must be uniformity of law. People must know what the law is. If the Andhra Pradesh High Court says one thing and the Bombay High Court says another, the litigant does not know what really the law is. I am sure the High Court will say that here is a matter which raises a substantial question of law of general importance because this is a general matter in which the law is not known to the people and that the Supreme Court must, as the final arbiter for all these matters, decide once for all whether the Andhra Pradesh High Court is right or the Bombay High Court is right. I was mentioning this merely for illustration. It is also not unknown that the Supreme Court has on occasions spoken in two voices. Lawyers practising in the Supreme Court in the High Courts, particularly the Judges, from the High Courts, have felt this difficulty as to which judgment of the Supreme Court should be followed. On different occasions they have said things not deliberately, but the things have happened, and different expressions have led to confusion with the result that the High Court does not know really what the opinion of the Supreme Court is. The High Court will certainly in such matters say that this is a substantial question of law which needs to be decided by the Supreme Court.

In any case, all that I can say is that just as the original phrases in the original article 133(1) had come in for interpretation on various occasions in the olden days by the Privy Council, now by the Supreme Court and the High Courts, even the new clause would come in for interpretation and I am sure that the courts of this country will put an appropriate construction on these provisions which are now proposed to be moved before the House so that

the intendment of the Legislature in passing this Constitutional Amendment is duly complied with and is duly fulfilled.

I know, at the very outset when I began my speech, my friend, Mr. Bhupesh Gupta, asked me to clarify as to what I am going to do or I am going to think about minimising the cost and about cutting out delays.

As I said just now we are not making a tall claim that by making this amendment it is the be-all and end-all of all the problems relating to litigation. We know that the whole question is much wider than this. This is just a very very small beginning and I know that the whole question has to be tackled in a wide way, an integrated way. I know merely appointing more Judges also is not the final solution of the question. Well, I repeat as I have had occasion to say before, that at least in the last one year or more whenever a proposal came up for the appointment of some more Judges, the Central Government has not denied it and it is not the policy of the Central Government to say that we won't give you more Judges even when in an appropriate case a proposal for additional strength is made. I know that a substantial number of Judges has been appointed but that is not the end. I know that alone will not solve the problem. I know there are procedural delays, outmoded procedures. The Civil Procedure Code I am referring to; the one we have in force is of 1908. There was an earlier one but I need not go as far as that. The one of 1908 still continues to be in force. I know that the main cause of delay in civil proceedings is the out-of-date and outmoded provisions of the Civil Procedure Code. That is one thing which we tried to set right. The whole question has been referred...

SHRI PITAMBER DAS (Uttar Pradesh): Who prevents you from amending it?

SHRI H. R. GOKHALE: That is what I am telling you; just have the patience.
12RSS/72-8

We have referred this question to the Law Commission and I am happy to tell the House that in a very short time we think that all these causes of delay shall be removed. The Select Committee to which a Bill had been referred thought that the provisions which were proposed at that time were perfunctory, they touched only the fringe of the matter and really did not tackle the main problem of cutting down the delays and reducing the cost. Instead of sticking to those provisions we have taken this matter again to the Law Commission and we requested them to look into the Civil Procedure Code not only from the point of view of making incidental changes so as to fit in with the differences of opinion in the various High Courts but to go to the root of the matter, look at it basically, may I say even radically, and alter the procedure in a way that the delay in civil proceedings is cut down to an absolute minimum and give a new basis for civil litigation in the country.

As the House knows, in the matter of criminal procedure a Bill is already before the Select Committee and various major changes have already been proposed. Therefore, in the matter of criminal litigation also the question is being tackled at that level. I know that instead of doing all this the problem is really one of enabling the poor man to go to the portals of justice to obtain justice and that problem will not be solved. I am fully conscious of it; I do not want to over estimate the importance of the earlier factors which I have mentioned. Therefore I had occasion to speak in the other House, and I say with pleasure again before this House that unless we have a comprehensive legal aid scheme which enables the poor litigant who has a justifiable cause to go to the court of law, to go to the court of law with the aid of the State, any amount of effort which we might make to amend our laws is not going to solve the problem. This question is presently under the active consideration of the Government and all that I can say at present is that we are not going to look at the problem only from the point of view of providing legal aid in the High Court

[Shri H. R. Gokhale]

or in the Supreme Court because I am conscious that the real cost in our litigation starts at the Taluka level for example where there is a greater possibility of the poor litigant being exploited by the various forces. I need not refer to all of them here but it is really from there the proper legal aid scheme should commence and should end at the Supreme Court level.

Various other matters were referred to and some very good suggestions were made. I will keep them in mind but I do not think that all of them were germane to the main question of whether or not this Bill should

be passed. It is apparent from the fact that all Members without a single exception have supported the Bill. I thank them for it and I once again commend that this Bill be taken into consideration.

MR. DEPUTY CHAIRMAN: The question is:

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

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—183; Noes—Nil.

AYES—183

Abdul Khader, Shri M. S.
Abid, Shri Qasim Ali.
Abu Abraham, Shri
Advani, Shri Lal K.
Ahmad, Shri Syed
Ahmad, Dr. Z. A.
Alva, Shri Joachim
Alva, Dr. K. Nagappa
Amjad Ali, Sardar
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman
Banarsi Das, Shri
Barbora, Shri Golap
Basar, Shri Todak
Berwa, Shri Jamna Lal
Bhagwati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri Nand Kishore
Bisi, Shri P. N.
Bobdey, Shri S. B.
Buragohain, Shri N. C.
Chakrabarti, Dr. R. K.
Chandrasekharan, Shri K.
Chattopadhyaya, Dr. Debiprasad
Chaudhari, Shri N. P.
Chettri, Shri K. B.
Chinai, Shri Babubhai M.
Choudhury, Shri M. M.
Chowdhry, Shri A. S.
Daphtary, Shri C. K.
Das, Shri Bipinpal

Dass, Shri Mahabir
Deshmukh, Shri T. G.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash
Gadgil, Shri Vithal
Goray, Shri N. G.
Gowda, Shri U. K. Lakshmana
Gujral, Shri I. K.
Gupta, Shri Bhupesh
Gupta, Shri Shyamlal
Hathi, Shri Jaisukhlal
Himmat Singh, Shri
Hussain, Shri Syed
Jahanara Jaipal Singh, Shrimati
Jain, Shri A. P.
Jain, Shri Dharam Chand
Jain, Shri Rattan Lal
Jairamdas Daulatram, Shri
Joseph, Shri N.
Kalanja, Shri I. K.
Kalyan Chand, Shri
Kamalanathan, Shri M.
Kapur, Shri Yashpal
Kaul, Shri B. K.
Kemparaj, Shri B. T.
Kesri, Shri Sitaram
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Kollur, Shri M. L.
Krishna, Shri M. R.
Krishan Kant, Shri
Krishnan, Shri N. K.

Krishnaswamy, Shri K. A.
Kulkarni, Shri A. G.
Kulkarni, Shri B. T.
Kumbhare, Shri N. H.
Lakshmi Kumari Chundawat, Shrimati
Lalbuaia, Shri
Madani, Shri M. Asad
Mahanti, Shri B. K.
Mahavir, Dr. Bhai
Mahida, Shri U. N.
Majhi, Shri C. P.
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Mandal, Shri B. N.
Mariswamy, Shri S. S.
Mathur, Shri Jagdish Prasad
Mehta, Shri Om
Menon, Shri K. P. Subramania
Mirdha, Shri Ram Niwas
Mohammad, Chaudhary A.
Mohan, Shri V. R.
Mohideen, Shri S. A. Khaja
Mohta, Shri M. K.
Mukherjee, Shri Kali
Mukherjee, Shri Pranab Kumar
Mulla, Shri A. N.
Munda, Shri B. R.
Murthy, Shri B. P. Nagaraja
Musafir, Shri Gurumukh Singh
Narasiah, Shri H. S.
Narayanappa, Shri Sanda
Narayani Devi Manaklal Varma. Shri-
mati
Nawal Kishore, Shri
Nurul Hasan, Prof. S.
Oberoi, Shri M. S.
Pai, Shri T. A.
Panda, Shri Brahmananda
Pande, Shri C. D.
Parashar, Shri V. R.
Patel, Shri Dahyabhai V.
Patel, Shri T. K.
Patil, Shri G. R.
Patil, Shri P. S.
Pitamber Das, Shri
Prasad, Shri Bhola
Prasad, Shri K. L. N.
Pratibha Singh, Shrimati
Prithwi Nath, Shri
Punnaiiah, Shri Kota
Purabi Mukhopadhyay, Shrimati
Puri, Shri Dev Datt
Raha, Shri Sanat Kumar

Raju, Shri V. B.
Ramaswamy, Shri K. S.
Ramiiah, Dr. K.
Rao, Shri Katragadda Srinivas
Rathnabai Sreenivasa Rao, Shrimati
Reddi, Shri Papi
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri M. Srinivasa
Reddy, Shri Mulka Govinda
Refaye, Shri A. K.
Roshan Lal, Shri
Roy, Shri Kalyan
Sangma, Shri E. M.
Saraswati Pradhan, Shrimati
Sardesai, Shri S. G.
Saroj Purushottam Khaparde, Miss.
Sarojini Krishnarao Babar, Dr. Kumari
Satyavati Dang, Shrimati
Savita Behen, Shrimati
Schamnad, Shri Hamid Ali
Sen, Dr. Triguna
Sen Gupta, Shri Dwijendralal
Shah, Shri Manubhai
Sharma, Shri Yogendra
Shashtri, Shri Bhola Paswan
Shilla, Shri Showalees K.
Shukla, Shri Chakrapani
Shukla, Shri M. P.
Shyamkumari Devi, Shrimati
Singh, Shri Bhupinder
Singh, Shri Bindeshwari Prasad
Singh, Shri D. P.
Singh, Shri Inder
Singh, Shri M. B.
Singh, Shri Mohan
Singh, Shri Ranbir
Singh, Shri Sultan
Singh, Shri Triloki
Singh, Dr. V. B.
Sinha, Shri Awadheshwar Prasad
Sinha, Shri Ganga Sharan
Sisodia, Shri Swaisingh
Sita Devi, Shrimati
Sivaprakasam, Shri S.
Sukhdev Prasad, Shri
Sumitra G. Kulkarni, Shrimati
Suraj Prasad, Shri
Sushila Shankar Adivarekar, Shrimati
Swaminathan, Shri V. V.
Tanvir, Shri Habib
Thakur, Shri Gunanand
Tilak, Shri J. S.

Tiwari, Shri Shankarlal
 Tiwary, Pt. Bhawaniprasad
 Tohra, Sardar Gurcharan Singh
 Trivedi, Shri H. M.
 Tyagi, Shri Mahavir
 Varma, Shri Man Singh
 Venigalla Satyanarayana, Shri
 Vero, Shri M.
 Vidyawati Chaturvedi, Shrimati
 Villalan, Shri Thillai
 Vyas, Dr. M. R.
 Wajid, Shri Sikandar Ali
 Yadav, Shri J. P.
 Yadav, Shri Shyam Lal

NOES—NIL

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

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. There are no amendments. The question is:

"That clause 2 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—183; Noes—Nil

AYES—183

Abdul Khader, Shri M. S.
 Abid, Shri Qasim Ali
 Abu Abraham, Shri
 Advani, Shri Lal K.
 Ahmad, Shri Syed
 Ahmad, Dr. Z. A.
 Alva, Shri Joachim
 Alva, Dr. K. Nagappa
 Amjad Ali, Sardar
 Amla, Shri Tirath Ram
 Anandam, Shri M.
 Arif, Shri Mohammed Usman
 Banarsi Das, Shri
 Barbora, Shri Golap
 Basar, Shri Todak
 Berwa, Shri Jamna Lal
 Bhagwati, Shri B. C.

Bhardwaj, Shri Jagan Nath
 Bhatt, Shri Nand Kishore
 Bisi, Shri P. N.
 Bobdey, Shri S. B.
 Buragohain, Shri N. C.
 Chakrabarti, Dr. R. K.
 Chandrasekharan, Shri K.
 Chattopadhyaya, Dr. Debiprasad
 Chaudhari, Shri N. P.
 Chettri, Shri K. B.
 Chinai, Shri Babubhai M.
 Choudhury, Shri M. M.
 Chowdhry, Shri A. S.
 Daphtary, Shri C. K.
 Das, Shri Balram
 Das, Shri Bipinpal
 Dass, Shri Mahabir
 Deshmukh, Shri T. G.
 Dikshit, Shri Umashankar
 Dutt, Dr. Vidya Prakash
 Gadgil, Shri Vithal
 Goray, Shri N. G.
 Gowda, Shri U. K. Lakshmana
 Gujral, Shri I. K.
 Gupta, Shri Bhupesh
 Gupta, Shri Shyamlal
 Hathi, Shri Jaisukhlal
 Himmat Singh, Shri
 Hussain, Shri Syed
 Jahanara Jaipal Singh, Shrimati
 Jain, Shri A. P.
 Jain, Shri Dharam Chand
 Jain, Shri Rattan Lal
 Jairamdas Daulatram, Shri
 Joseph, Shri N.

Kalania, Shri I. K.
 Kalyan Chand, Shri
 Kamalanathan, Shri M.
 Kapur, Shri Yashpal
 Kaul, Shri B. K.
 Kemparaj, Shri B. T.
 Kesri, Shri Sitaram
 Khan, Shri Maqsood Ali
 Khan, Prof. Rasheeduddin
 Kollur, Shri M. L.
 Krishna, Shri M. R.
 Krishan Kant, Shri
 Krishnan, Shri N. K.
 Krishnaswamy, Shri K. A.
 Kulkarni, Shri A. G.
 Kulkarni, Shri B. T.

Kumbhakar, Shri N H
 Lakshmi Kumari Chundawat Shrimati
 Lalbuaia Shri
 Madani, Shri M Asad
 Mahanti, Shri B K
 Mahavir Dr Bhai
 Mahida, Shri U N
 Majhi, Shri C P
 Malaviya, Shri Haish Deo
 Mali, Shri Ganesh Lal
 Mandal, Shri B N
 Mariswamy, Shri S S
 Mathur, Shri Jagdish Prasad
 Mehta, Shri Om
 Menon, Shri K P Subramanian
 Mirdha, Shri Ram Niwas
 Mohammad Chaudhary A
 Mohan, Shri V R
 Mohideen Shri S A Khaja
 Mohta Shri M K
 Mukherjee, Shri Kali
 Mukherjee Shri Pranab Kumar
 Mulla Shri A N
 Munda, Shri B R
 Murthy, Shri B P Nagaraja
 Musafir, Shri Gurumukh Singh
 Narasiah, Shri H S
 Narayanappa Shri Sanda
 Narayani Devi Manaklal Varma Shri
 mati
 Nawal Kishore, Shri
 Nurul Hasan, Prof S
 Oberoi, Shri M S
 Pat, Shri T A
 Panda Shri Brahmananda
 Pande, Shri C D
 Parashar, Shri V R
 Patel, Shri Dahyabhai V
 Patel, Shri T K
 Patil, Shri G R
 Patil Shri P S
 Pitamber Das, Shri
 Prasad, Shri Bhola
 Prasad Shri K L N
 Pratibha Singh, Shrimati
 Prithwi Nath, Shri
 Punnaiah, Shri Kota
 Purabi Mukhopadhyay, Shrimati
 Puri, Shri Dev Datt
 Raha, Shri Sanat Kumar
 Raju, Shri V B
 Ramaswamy, Shri K S
 Ramiah, Dr K

Rao, Shri Katragadda Srinivas
 Rathnabai Sreenivasa Rao, Shrimati
 Reddi, Shri Papi
 Reddy Shri Janardhana
 Reddy, Shri K V Raghunatha
 Reddy, Shri M Srinivasa
 Reddy, Shri Mulka Govinda
 Refaye, Shri A K
 Roy, Shri Kalyan
 Roshan Lal, Shri
 Sangma Shri F M
 Saraswati Pradhan Shrimati
 Sardesai, Shri S G
 Saroj Purushottam Khaparde Miss
 Sarojini Krishnarao Babar, Di Kumari
 Satyawati Dang, Shrimati
 Schamnad, Shri Hamid Ali
 Sen, Di Timguna
 Sen Gupta, Shri Dwijendralal
 Shah Shri Manubhai
 Sharma Shri Yogendra
 Shashtri, Shri Bhola Paswan
 Shilla, Shri Showaleess K
 Shukla, Shri Chakrapani
 Shukla, Shri M P
 Shyamkumari Devi Shrimati
 Singh, Shri Bhupinder
 Singh, Shri Bindeshwari Prasad
 Singh, Shri D P
 Singh Shri Inder
 Singh, Shri M B
 Singh, Shri Mohan
 Singh Shri Ranbir
 Singh Shri Sultan
 Singh, Shri Tilok
 Singh, Di V B
 Sinha, Shri Awadheshwar Prasad
 Sinha, Shri Ganga Sharan
 Sisodia, Shri Swaisingh
 Sita Devi, Shrimati
 Sivaprakasam, Shri S
 Sukhdev Prasad, Shri
 Sumitra G Kulkarni, Shrimati
 Suraj Prasad, Shri
 Sushila Shankar Adivarekar, Shrimati
 Swaminathan, Shri V V
 Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Thengani, Shri D
 Tilak, Shri J S
 Tiwari, Shri Shankarlal
 Tiwari, Pt Bhawampasad
 Tohra, Sardar Gurcharan Singh

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Trivedi, Shri H M
 Tyagi, Shri Mahavir
 Varma, Shri Man Singh
 Venigalla Satyanarayana, Shri
 Vero, Shri M
 Vidyawati Chaturvedi, Shrimati
 Villalan, Shri Thillai
 Vyas, Dr M R
 Wajd, Shri Sikandar Ali
 Yadav, Shri J P
 Yadav, Shri Shyam Lal

NOES—Nil

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

(Clause 2 was added to the Bill)

MR DEPUTY CHAIRMAN The question is

That clause 3 stand part of the Bill "

The House divided

MR DEPUTY CHAIRMAN Ayes—
 182 Noes—Nil

AYES—182

Abdul Khader Shri M S
 Abdul, Shri Qasim Ali
 Abu Abraham Shri
 Advani, Shri Lal K
 Ahmad, Shri Syed
 Ahmad, Dr Z A
 Alva, Shri Joachim
 Alva, Dr K Nagappa
 Amjad Ali Saidar
 Amla Shri Tirath Ram
 Anandam Shri M
 Arif, Shri Mohammed Usman
 Banarsi Das, Shri
 Barbora Shri Golap
 Basar Shri Todak
 Beriwa, Shri Jamna Lal
 Bhagwati, Shri B C
 Bhardwaj, Shri Jagan Nath
 Bhatt, Shri Nand Kishore
 Bisi, Shri P N

Bobdey Shri S B
 Buragoham, Shri N C
 Chakrabarti, Dr R K
 Chandrasekharan, Shri K
 Chattopadhyaya, Dr Debiprasad
 Chaudhari, Shri N P
 Chettai, Shri K B
 Chinai Shri Babubhai M
 Choudhury, Shri M M
 Chowdhry, Shri A S
 Daphtary Shri C K
 Das, Shri Balram
 Das, Shri Bipinpal
 Das, Shri Mahabir
 Deshmukh, Shri T G
 Dikshit, Shri Umashankar
 Dutt, Dr Vidya Prakash
 Gadgil, Shri Vithal
 Goray, Shri N G
 Gowda, Shri U K Lakshmana
 Gujral, Shri I K
 Gupta Shri Bhupesh
 Gupta, Shri Shyam Lal
 Hathi, Shri Jaisukhlal
 Himmatt Singh Shri
 Hussain, Shri Syed
 Jahanara Jaipal Singh Shrimati
 Jain, Shri A P
 Jain Shri Dharam Chand
 Jain Shri Rattan Lal
 Jairamdas Daulatram, Shri
 Joseph, Shri N
 Kalania, Shri I K
 Kalyan Chand, Shri
 Kamalanathan Shri M
 Kapur, Shri Yashpal
 Kaul, Shri B K
 Kemparaj, Shri B T
 Kesri, Shri Sitaram
 Khan Shri Maqsood Ali
 Khan, Prof Rasheeduddin
 Kollur Shri M I
 Krishna, Shri M R
 Kushan Kant Shri
 Kushnan Shri N K
 Krishnaswamy Shri K A
 Kulkarni Shri A G
 Kulkarni, Shri B T
 Kumbhure Shri N H
 Lakshmi Kumari Chundawat Shrimati
 Lalbuaia Shri
 Madani Shri M Asad
 Mahanti Shri B K

Mahavir, Dr Bhai
 Mahida, Shri U N
 Majhi Shri C P
 Malaviya, Shri Harish Deo
 Mali, Shri Ganesh Lal
 Mandal, Shri B N
 Mariswamy, Shri S S
 Mathur, Shri Jagdish Prasad
 Mehta, Shri Om
 Menon, Shri K P Subramania
 Mirdha, Shri Ram Niwas
 Mohammad, Chaudhary A
 Mohan Shri V R
 Mohideen, Shri S A Khaja
 Mohta, Shri M K
 Mukherjee Shri Kali
 Mukherjee, Shri Prannab Kumar
 Mulla, Shri A N
 Munda, Shri B R
 Murthy, Shri B P Nagaraja
 Musafir Shri Gurumukh Singh
 Narasiah, Shri H S
 Narayanappa Shri Sandi
 Narayani Devi Manaklil Varma Shri
 mati
 Nawal Kishore, Shri
 Nurul Hasan, Prof S
 Oberoi, Shri M S
 Pat Shri T A
 Panda, Shri Brahmananda
 Pande, Shri C D
 Parashar, Shri V R
 Patel, Shri Dahyabhai V
 Patel, Shri T K
 Patil, Shri G R
 Patil, Shri P S
 Pitamber Das, Shri
 Prasad, Shri Bhola
 Prasad, Shri K L N
 Pratibha Singh, Shrimati
 Prithwi Nath, Shri
 Punnaiah, Shri Kota
 Purabi Mukhopadhyay Shrimati
 Puri, Shri Dev Datt
 Raha, Shri Sanat Kumar
 Raju, Shri V B
 Ramaswamy Shri K S
 Ramiah, Di K
 Rao Shri Katragadda Srinivas
 Rathnabai Seenivasa Rao Shrimati
 Reddi, Shri Papi
 Reddy, Shri Janardhana
 Reddy Shri K V Raghunatha

Reddy, Shri M Srinivasa
 Reddy, Shri Mulka Govinda
 Refaye, Shri A K
 Roshan Lal, Shri
 Roy Shri Kalyan
 Sangma, Shri F M
 Saraswati Pradhan Shrimati
 Sardesai Shri S G
 Saroj Purushottam Khaparde, Miss
 Sarojini Kishnarao Babar, Dr Kumari
 Satyawati Dang, Shrimati
 Schamnad, Shri Hamid Ali
 Sen Di Triguna
 Shah, Shri Manubhai
 Sharma Shri Yogendra
 Shashti, Shri Bhola Paswan
 Shilla, Shri Showaleess K
 Shukla Shri Chakrapani
 Shukla Shri M P
 Shyamkumari Devi Shrimati
 Singh, Shri Bhupinder
 Singh, Shri Bindeshwari Prasad
 Singh, Shri D P
 Singh Shri Inder
 Singh, Shri M B
 Singh Shri Mohan
 Singh, Shri Ranbir
 Singh, Shri Sultan
 Singh, Shri Triloki
 Singh Dr V B
 Sinha, Shri Awadheshwar Prasad
 Sinha, Shri Ganga Sharan
 Sisodia, Shri Swaisingh
 Sita Devi, Shrimati
 Sivapirakasam Shri S
 Sukhdev Prasad, Shri
 Sumitra G Kulkarni, Shrimati
 Suraj Prasad Shri
 Suhhila Shankar Adivarekar, Shrimati
 Swaminathan Shri V V
 Tinvir Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J S
 Tiwari Shri Shankarlal
 Tiwary, Pt Bhawaniprasad
 Tohra, Sardar Gurcharan Singh
 Trivedi, Shri H M
 Tyagi Shri Mahavir
 Varma, Shri Man Singh
 Venigalla Satyanarayan Shri
 Vero, Shri M
 Vidyawati Chaturvedi Shrimati
 Villalan, Shri Thill

Vyas, Dr. M. R.

Wajid, Shri Sikandar Ali

Yadav, Shri J. P.

Yadav, Shri Shyam Lal

NOES—NIL

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

Clause 3 was added to the Bill.

MR. DEPUTY CHAIRMAN The question is

"That clause 1, the Enacting Formula and the Title stand part of the Bill"

The House divided

MR. DEPUTY CHAIRMAN Ayes—183, Noes—Nil

AYES—183

Abdul Khader, Shri M. S.

Abid, Shri Qasim Ali

Abu Abraham, Shri

Advani, Shri Lal K.

Ahmad, Shri Sved

Ahmad, Dr. Z. A.

Alva, Shri Joachim

Alva, Dr. K. Nagappa

Amjad Ali, Sardar

Amla, Shri Tirath Ram

Anandam, Shri M.

Arif, Shri Mohammed Usman

Banarsi Das, Shri

Barbora, Shri Golap

Basar, Shri Todak

Berwa, Shri Jamma Lal

Bhagwati, Shri B. C.

Bhardwaj, Shri Jagannath

Bhatt, Shri Nand Kishore

Bisi, Shri P. N.

Bobdey, Shri S. B.

Buragohain, Shri N. C.

Chakrabarti, Dr. R. K.

Chandrasekharan, Shri K.

Chattopadhyaya, Dr. Debiprasad

Chaudhary, Shri N. P.

Chetty, Shri K. B.

Chinnai, Shri Babubhai M.

Choudhury, Shri M. M.

Chowdhry, Shri A. S.

Daphtary, Shri C. K.

Das, Shri Bipinpal

Dass, Shri Mahabir

Deshmukh, Shri T. G.

Dikshit, Shri Umashankar

Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal

Goray, Shri N. G.

Gowda, Shri U. K. Lakshmana

Gujral, Shri I. K.

Gupta, Shri Bhupesh

Gupta, Shri Shyamlal

Hathi, Shri Jaisukhlal

Hemant Singh, Shri

Hussain, Shri Syed

Jahanara Jugal Singh, Shrimati

Jain, Shri A. P.

Jain, Shri Dharam Chand

Jain, Shri Rattan Lal

Jaramdas Daulatram, Shri

Joseph, Shri N.

Kalanika, Shri J. K.

Kalyan Chand, Shri

Kamalanathan, Shri M.

Kapoor, Shri Yashpal

Kaul, Shri B. K.

Kesri, Shri Sitaram

Khan, Shri Maqsood Ali

Khan, Prof. Rasheeduddin

Kollur, Shri M. L.

Krishna, Shri M. R.

Krishan Kant, Shri

Krishnan, Shri N. K.

Krishnaswamy, Shri K. A.

Kulkarni, Shri A. G.

Kulkarni, Shri B. T.

Kumbhare, Shri N. H.

Lakshmi Kumari Chundawat, Shrimati

Lalbuata, Shri

Madani, Shri M. Asad	Reddi, Shri Papi
Mahanti, Shri B. K.	Reddy, Shri Janardhana
Mahavir, Dr Bhai	Reddy, Shri K. V. Raghunatha
Mahida, Shri U. N.	Reddy, Shri M. Srinivasa
Majhi, Shri C. P.	Reddy, Shri Mulka Govinda
Malaviya, Shri Harsh Deo	Refaye, Shri A. K.
Maji, Shri Ganesh Lal	Roshan Lal Shri
Mandal, Shri B. N.	Roy Shri Kalyan
Mariswamy, Shri S. S.	Ruthnaswamy, Shri M.
Mathur, Shri Jagdish Prasad	
Mehta, Shri Om	Sangma, Shri E. M.
Menon, Shri K. P. Subramania	Saraswati Pradhan, Shrimati
Mirdha, Shri Ram Niwas	Sardesai, Shri S. G.
Mohammad, Chaudhary A.	Saroj Purushottam Khaparde, Miss
Mohan Shri V. R.	Sarojini Krishnarao Babar, Dr. Kumari
Mohideen, Shri S. A. Khaja	Satyavati Dang, Shrimati
Mohta, Shri M. K.	Sivita Behen, Shrimati
Mukherjee, Shri Kali	Schamnad Shri Hamid Ali
Mukherjee, Shri Pranab Kumar	Sen, Dr. Triguna
Mulla, Shri A. N.	Sen Gupta Shri Dwijendralal
Munda, Shri B. R.	Shah Shri Manubhai
Murthy Shri B. P. Nagaraja	Sharma, Shri Yogendra
Musafir Shri Gurumukh Singh	Shashtri Shri Bhola Paswan
Narasiah, Shri H. S.	Shilla Shri Showale K.
Narayanappa, Shri Sanda	Shukla Shri Chakrapani
Narayani Devi Manaklal Varma, Shrimati	Shukla, Shri M. P.
Nawal Kishore, Shri	Shyamkumari Devi Shrimati
Nurul Hasan, Prof. S.	Singh Shri Bhupinder
Oberoi, Shri M. S.	Singh, Shri Bindeshwar Prasad
Pai, Shri T. A.	Singh, Shri D. P.
Panda, Shri Brahmananda	Singh, Shri Inder
Pande Shri C. D.	Singh Shri M. B.
Parashar, Shri V. R.	Singh, Shri Mohan
Patel Shri Dahyabhai V.	Singh Shri Ranbir
Patel, Shri T. K.	Singh, Shri Sultan
Patil, Shri G. R.	Singh, Shri Triloki
Patil, Shri P. S.	Singh, Dr. V. B.
Pitamber Das, Shri	Sinha Shri Awadheshwar Prasad
Prasad, Shri Bhola	Sinha, Shri Ganga Sharan
Prasad, Shri K. I. N.	Sisodia, Shri Swarsingh
Pratibha Singh Shrimati	Sita Devi, Shrimati
Prithwi Nath, Shri	Sivapirakasam, Shri S.
Punniah, Shri Kota	Sukhdev Prasad, Shri
Purabi Mukhopadhyay, Shrimati	Sumitra G. Kulkarni, Shrimati
Puri, Shri Dev Datt	Sutaj Prasad, Shri
Raha, Shri Sanat Kumar	Sushila Shankar Adivarekar, Shrimati
Raju, Shri V. B.	Swaminathan Shri V. V.
Ramaswamy, Shri K. S.	
Ramiah, Dr. K.	Tanvir, Shri Habib
Rao, Shri Katragadda Srinivas	Thakur, Shri Gunanand
Rathnabai Sreenivasa Rao, Shrimati	Tilak, Shri J. S.
	Tiwari, Shri Shankarlal
	Tiwari Pt. Bhawaniprasad

1972

Tohra, Sardar Gurchatan Singh
Trivedi, Shri H M
Tyagi, Shri Mahavir

Varma, Shri Man Singh
Venigalla Satyanarayana Shri
Vero, Shri M
Vidyawati Chaturvedi Shrimati
Villalan, Shri Thillu
Vyas, Dr M R

Wajd, Shri Sikandar Ali

Yadav, Shri J P
Yadav Shri Shyam Lal

NOES—Nil

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

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

SHRI H R GOKHALE Sir, I beg to move

That the Bill be passed "

MR DEPUTY CHAIRMAN The question is

That the Bill be passed "

The House divided

MR DEPUTY CHAIRMAN Ayes—
184 Noes—Nil

AYES—184

Abdul Khader Shri M S
Abid Shri Qasim Ali
Abu Abraham Shri
Advani Shri Lal K
Ahmad Shri Syed
Ahmad, Dr Z A
Alva, Shri Joachim
Alva, Dr K Nagappa
Amjad Ali, Sardar
Amla Shri Tirath Ram
Anandam Shri M
Araf, Shri Mohammed Usman

Banarasi Das Shri
Barbora, Shri Golap
Basal Shri Todak
Berwa Shri Jamma Lal
Bhagwati Shri B C
Bhardwaj Shri Jagan Nath
Bhatt Shri Nand Kishore
Bisi Shri P N
Bobbey, Shri S B
Buragoham Shri N C

Chakrabarti Dr R K
Chandrasekharan Shri K
Chattopadhyaya Dr Deiprasad
Chaudhuri Shri N P
Chetty Shri K B
Chinnai Shri Babubhai M
Choudhury Shri M M
Chowdhry, Shri A S

Diphtary Shri C K
Das Shri Bipinpal
Dass Shri Mahabir
Deshmukh Shri I G
Dikshit Shri Umashankar
Dutt Dr Vidyut Prakash

Gadgil Shri Yethal
Goray Shri N G
Gowda Shri U K Lakshminar
Gujral Shri I K
Gupta Shri Bhupesh
Gupta Shri Shyam Lal

Hathi Shri Jaisukhlal
Himmat Singh Shri
Hussain Shri Syed

Jahanara Japal Singh Shrimati
Jain, Shri A P
Jain Shri Dharam Chand
Jain, Shri Rattan Lal
Jiramdas Daulatram Shri
Joseph Shri N

Kalania Shri I K
Kalyan Chand, Shri
Kamalanathan Shri M
Kapur Shri Yashpal
Kaul Shri B K
Kempuraj Shri B T
Keshri, Shri Sitaram
Khun Shri Maqsood Ali
Khan Prof Rasheeduddin

Kollur, Shri M. I.
Krishna, Shri M. R.
Krishan Kant, Shri
Krishnan, Shri N. K.
Krishnaswamy, Shri K. A.
Kulkarni, Shri A. G.
Kulkarni, Shri B. T.
Kumbhare, Shri N. H.

Lakshmi Kumari Chundawat, Shrimati
Lalbuata, Shri

Madani, Shri M. Asad
Mahanti, Shri B. K.
Mahavir, Dr. Bhai
Mahida, Shri U. N.
Majhi, Shri C. P.
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Mandal, Shri B. N.
Mariswamy, Shri S. S.
Mathur, Shri Jagdish Prasad
Mehta, Shri Om
Menon, Shri K. P. Subramania
Mudha, Shri Ram Niwas
Mohammad Chudhary, A.
Mohan, Shri V. R.
Mohideen, Shri S. A. Khaja
Mohta, Shri M. K.
Mukherjee, Shri Kali
Mukherjee, Shri Pranab Kumar
Mulla, Shri A. N.
Munda, Shri B. R.
Murthy, Shri B. P. Nagaraja
Musafir, Shri Gulumukh Singh

Nair, Shri G. Gopinathan
Narasiah, Shri H. S.
Narayanappa, Shri Sandi
Narayan Dev, Manaklal Vaidya, Shri
mati
Nawil Kishore, Shri
Nurul Hasan, Prof. S.

Oberoi, Shri M. S.

Pat, Shri T. A.
Pandey, Shri Brahmananda
Pande, Shri C. D.
Parashur, Shri V. R.
Patel, Shri Dahvalbhai V.
Patel, Shri T. K.
Patil, Shri G. R.
Patil, Shri P. S.

Pitamber Das, Shri
Prasad, Shri Bhola
Prasad, Shri K. L. N.
Pratibha Singh, Shrimati
Prithwi Nath, Shri
Punnath, Shri Kota
Puri, Shri Mukhopadhyay, Shrimati
Puri, Shri Dev Datt

Raha, Shri Sanat Kumar
Raju, Shri V. B.
Ramaswamy, Shri K. S.
Ramiah, Dr. K.
Rao, Shri Katragadda Srinivas
Rathnabai Sreenivasa Rao, Shrimati
Reddi, Shri Papi
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri M. Srinivasa
Reddy, Shri Mulka Govinda
Refaye, Shri A. K.
Roshan Lal, Shri
Roy, Shri Kalyan
Ruthnaswamy, Shri M.

Sangma, Shri E. M.
Saraswati Pradhan, Shrimati
Sardesai, Shri S. G.
Saroj Purushottam Khaparde, Miss
Sarojini Krishnarao Babai, Dr. Kumari
Satyawati Dang, Shrimati
Savita Behen, Shrimati
Schammad, Shri Hamid Ali
Sen, Dr. Triguna
Sen Gupta, Shri Dwijendralal
Shah, Shri Manubhai
Sharma, Shri Yogendra
Shashtri, Shri Bhola Paswan
Shilla, Shri Showalek K.
Shukla, Shri Chakrapani
Shukla, Shri M. P.
Shyamkumari Devi, Shrimati
Singh, Shri Bhupinder
Singh, Shri Bindeshwari Prasad
Singh, Shri D. P.
Singh, Shri Indel
Singh, Shri M. B.
Singh, Shri Mohan
Singh, Shri Ranbir
Singh, Shri Sultan
Singh, Shri Triloki
Singh, Dr. V. B.
Simha, Shri Awidheshwar Prasad

Sinha, Shri Ganga Sharan
 Sisodia, Shri Swaisingh
 Sita Devi, Shrimati
 Sivaprasadam, Shri S
 Sukhdev Prasad, Shri
 Sumitra G. Kulkarni, Shrimati
 Suraj Prasad, Shri
 Sushila Shankar Adivachan, Shrimati
 Swaminathan, Shri V. V.

Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J. S.
 Tiwari, Shri Shankarlal
 Tiwari, Pt. Bhawaniprasad
 Tohra, Sardar Guicharan Singh
 Trivedi, Shri H. M.
 Tyagi, Shri Mahavir

Varma, Shri Man Singh
 Venigalla, Satyanarayana, Shri
 Vyas, Dr. M. R.
 Vidyawati Chaturvedi, Shrimati
 Villalan, Shri Thillai
 Vyas, Dr. M. R.

Wajid, Shri Sikandar Ali

Yadav, Shri J. P.
 Yadav, Shri Shyam Lal

NOES—Nil

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

MR. DEPUTY CHAIRMAN: Next item of the legislative business.

HON. MEMBERS: No, no.

MR. DEPUTY CHAIRMAN: We are sitting till 6.00 p.m. (*Interruptions*). But if the Members agree that the rest of the business can be finished by tomorrow, then we can adjourn the House. Do you agree that the rest of the items on the agenda will be finished by tomorrow because we have to finish the business also?

AN HON. MEMBER: Tomorrow we will finish.

MR. DEPUTY CHAIRMAN: If the Members agree that we can finish the business tomorrow, we can adjourn today.

The House stands adjourned till 11.00 a.m. tomorrow.

The House then adjourned at fifty minutes past four of the clock till eleven of the clock on Wednesday, the 23rd August, 1972.