decree, order or sentence had been passed or made by the Judicial Commissioner's Court."

Such cases can be referred to 1he Supreme Court of India. So in order to meet the hardships of the people who are entitled to send an appeal to the superior court but are not able to enjoy that right, because no adequate provision is made for that purpose, this Bill is brought forward.

Madam, a lot of unnecessary discussion has taken place about political motive, etc. I do not want to waste the time of the House any more. All that I want to say, Madam, is that there is no denial of any fundamental rights either by passing this Bill or by the fact that certain laws are in force.

SHRI P. N. SAPRU: It is an inferior type of judiciary.

SHRIMATI LAKSHMI N. MENON: It Is not an inferior type of judiciary because all the three Judges who are going to be there are people who sre eligible to be considered for the High Court.

SHRI P. N. SAPRU: You used to have a Judicial Commissioner in the Non-Regulation provinces and it was regarded as a discriminatory system in the British days.

SHRIMATI LAKSHMI N. MENO'.NT: Suppose, for instance, the hon. Mem-'ber who was himself an eminent Judge of the Allahabad High Cotrt was considered for the judicial Commissioner's court at Goa, would he say that the justice administered in Goa is inferior to the justice administered in Allahabad just becaus happens to be in Goa and not in Allahabad? For instance, may I point out that Justice Parlekar, who is the third Judge now appointed, is an eminent Judge. And just because he is given the task of administering justice in Goa or to help them with the transformation or with the integration of the legal system there with the Indian legal system, it does not mean that he suddenly becomes an inferior sort of person. So, Madam, I move that the Bill be passed.

SHRI BHUPESH GUPTA; Madam, there is no quorum. Therefore, you see how people like this Bill.

SHRIMATI LAKSHMI N. MENON: Twenty-two is the quorum.

SOME HON. MEMBERS: No. Twenty-five.

(Quorum bell rings)

THE DEPUTY CHAIRMAN: There is quorum now. The question is:

"That the Bill be passed." *The motion was adopted.*

THE ADVOCATES (AMENDMENT) BILL, 1964

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI BIBUDHEN-DRA MISRA): Madam, I move:

"That the Bill further to amend the Advocates Act, 1961 as passed by the Lok Sabha, be taken into consideration."

Madam, I would only remind the House that when the Advocates Act was passed in the year 1961, it had three purposes. The first was to eliminate the different classes of practitioners in this country and to create only one class of legal practitioners, and secondly, to have a common roll throughout the territory of India so that each one on the roll can practise not only in the High Court but also in the Supreme Court of India, and thirdly—the most important 'of it all— to create an autonomous Bar. That means the advocates have been given the right to administer themselves through the State Bar Councils and the All-India Bar Council. During the last two years, experience has

[Shri Bibudhendra Misra.] shown some difficulties and the State Bar Councils and also the All-India Bar Council engaged themselves in finding out suitable ways and means for proper implementation of the provisions of this Act. Almost all "these provisions that have been incorporated in the present Bill, Madam Deputy Chairman, were considered by the All-India Bar Council. It is only on their recommendation that not only it should be passed but passed early so that the provisions of the Act can be implemented soon that the Government has come forward with this Bill. Madam, I would only deal with the main amendments.

You will remember that so far as the admission of advocates is concerned, the Act provided that whosoever had passed the degree of law examination before the appointed day could automatically enrol himself as an advocate, and those who take to any law examination after the appointed date, shall have to undergo a course of training prescribed by the Bar Council. And it was subsequently that Chapter III which deals with the appointed day came into force on 1st December 1961. And since the Bar Councils were not ready with their rules and also the plan of training—what sort of training the trainees should have—this date was extended from time to time so that in the present Act you find that the provision is that all those people who passed the law examination before 28th February, 1963 are exempted from any further training and are entitled to enrol themselves as advocates. Nov/, it is proposed, Madam, that this date should be extended to 31st March, 1964 from 28th February, 1963 because up till that day, I am told, arrangements were not ready. Even now some State Bar Councils have not been able to arrange for proper training of law graduates. Therefore, the difficulty that was experienced by the law graduates in India is that while under the rules if they pass after a prescribed period, they have to undergo training, since no training programme has been evolved by the Bar Councils, they are debarred from practice. So it is only to clear up these hard cases and to permit those who have passed the law examination before March, 1964 to practise in a court of law as advocates that this date has been extended.

PANDIT S. S. N. TANKHA (Uttar Pradesh): How many State Bar Councils are there which have been unable to arrange for training within their jurisdiction?

SHRI BIBUDHENDRA MISRA: I do not have figures. The Bar Council of India is of the opinion that this will be the last extension, and the law graduates who pass after 31st March, 1964, for them they will be able to arrange proper training and all that. That is the opinion and recommendation made by the Bar Council of India.

PANDIT S. S. N. TANKHA: I asked the question because I think most of the Bar Councils have instituted the course of training.

SHRI BIBUDHENDRA MISRA: It is one thing to institute the course of training and it is another thing to implement it. I will try to find out if I can get the information by the time this Bill is over.

SHRI P. N. SAPRU (Uttar Pradesh): What about the Madras Bar Council?

SHRI BIBUDHENDRA MISRA: I am talking of all the Bar Councils in the country. You do not permit a law graduate for being enrolled as an advocate unless he takes the training, and if you do not arrange for proper training, you debar him from practising. That is why this date from 28th February 1963 has been extended to 31st March, 1964. I hope that it will not be necessary to extend this date because all those who pass after this date, probably, by the time they pass from the universities, proper arrangement must have been evolved by the State Bar Councils and the

Bar Council of India for their training, etc.

Then, Madam, I was talking of the aims of the Advocates Act; namely *We* want to have one class of practitioners. They are advocates. And if you look at section 24 of the Act which prescribes the qualifications for practising advocates, you will find that most of the people who are nw practising under different names such as vakils, mukhtars etc., ire not qualified to be enrolled as advocates although they have been in the field for a long time and by virtue of their training and experience are entitled to be advocates. In such circumstances it would be meaningless, futile, to say that we want one class of advocates in this country unless you try to assimilate—I am not talking of inferior stuff—all those legal practitioners who are practising in the country today, who are by vir'.ue of their experience in the line, in the profession or by some other reason are entitled to be advocates. Therefore you will find—I will read it out— that in clause 13 of the Bill a list has been enumerated permitting many classes of practitioners who are practising today in the different courts to be enrolled as advocates.

So far as a common roll of Edvo-cates is concerned, the provision at present is—sub-section (3) of section 20—that the common roll shall be maintained by the Bar Council of India in the order of seniority. The Bar Council of India has pointed out that it is very difficult to maintain a State roll first of all, on the ba?is of seniority and then an all-India roll on the basis of seniority. We want a list to be completed soon, as early a.'; possible, because unless the list is prepared, it becomes very difficull for advocates at one place to practise in another place. Therefore the proposal is that the list should be not according to seniority that the Bar Council should be left to frame rules according to which the list should be maintained so that they can evolve some process and maintain a list without being 236 RS—5

bound down to maintain it according to seniority.

Under section 21 of the Act all complaints regarding seniority are to he determined by the Bar CounciL of India. It will be quite fair to give the power to the Bar Council to determine the manner in which the common roll of advocates is to be maintained. Therefore sub-section (3) of section 20 is being amended for this pun;

I will refer to another imporlant amendment. Clause 8 seeks to amend sub-section (4) of section 16 of the Act. You will find that there are two classes of practitioners practising in the Supreme Court of India, namely, the senior advocates and the junior advocates. The senior advocates only plead and they work under some disabilities. They are not entitled to take up the work that a junior is entitled to take up. Now the position is, all those people who are practising as senior advocates or as junior advocate on the day th_e Act came into force, remained as such. There has been representation from many and the Bar Council also felt desirable that opinion should be given to those senior advocates that if they want to be treated as junior advocates, they should be permitted. That is why this amendment has been brought forward.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Who are there already as seniors?

SHRI BIBUDHENDRA MISRA; If they want to. So far as the power of appeal to the Bar Council is concerned, if you look at section 37 of the Act. it only gives power to the Bar Council of India to decide matters in appeal which had been decided by the State Bar Council on matters coming under sub-section (3) of section 35. Supposing a complaint is altogether dismissed, if they take up a complaint in any disciplinary matter and pass an ordc*. then under sub-section (3) the party

[Shri Bibudhendra Misra.]

who is aggrieved by the passing of that order is competent to come before the Bar Council of India in appeal but supposing a complaint or appeal is dismissed under sub-section (3), there is no right of appeal as such. Therefore the power of the Bar Council of India is now being widened so that sub-sections (2) and (3) of section 35 may be covered so that their ambit, so far as the power of appeal is concerned, is being widened. I need not go into th 2 details. It is well known that the State Bar Council has quite a disciplinary jurisdiction now because we are seeking to have an autonomous Bar and they have a Disciplinary Committee and so on and it was represented also by the Bar Council of India that we provided for election to the State Bar Councils. The Bar Council of India also felt that in view of the wide disciplinary powers given to the State Bar Councils it is desirable that there should be some senior advocates and if it is a question of election, generally senior advocates who would otherwise be desirable in the State Bai Councils do not like to contest in the elections. Therefore, they wanted a provision that at least half the number of the State Bar Councils should be of members who have ten years of practice. That means senior representatives should be there from the St»*° Bar. In view of the fact that it hn« wide disciplinary powers, in view of the need to have an all-India policy, it was felt necessary that the Bar CounMl of India should have more power so far as the working of the State Bar Council is concerned. It is not only in matters of appeal but they should also have the power to give directions to the State Bar Councils wherever necessary and call for records of the State Bar Councils in non-appeal cases and to frame rules for the purpose of carrying out elections and also for carrying out revision matters and so on. For that purpose, two new clauses Clauses 19' and 20 are added which give specific powers to the All-India Bar Council to control, to supervise over the State Bar Councils.

These, in short are the main recommendations of the Bar Council of India which have been incorporated in the Bill. There are certain ancillary provisions into which I need *not go* at this vta&e. I do not feel it is necessary. If any Member raises any point, I will try to answer in regard to any doubt that may be raised. With this I move that the Bill, as passed by the Lok Sabha, be taken into consideration.

The question was proposed

SHRI BHUPESH GUPTA (West Bengal): We welcome some of the improvements th^t are being made in the affairs of the legal profession in general and the Bar Council in particular but at the same time I'must say-that it is time we enacted a radically different type of legislation with a view to reorganising the legal profession in our country. It will not do us any good if we tinker with the problem or continue to imitate essentially what has been given to us by the British legal system. I think in our conditions, with such social objectives as we hav« set before us, in the midst of the 20th century, latter half of it, we should try to evolve an entirely different system, an entirely different legal profession. Why I say this T shal presently elaborate but I am glad for one thing. The hideous distinction between the members of the so-called English Bar and others is being[1] steadily removed and is almost gone. I come from Calcutta and I b°lieve my name also appears on [f]he roll of the Calcutta High Court Bar but just by accident I happen to be a member of what is called the English Bar. Some people feel very proud about it and I have no reason to be particularly proud but then in Calcutta you had. until very recently, an arrangement where the members of the Indian Bar. so to say, those who have qualified in [T]ndia, or trained in India or passed from the Indian universities, mav not even enter the Higlh Court Bar Library Club which is supposed to be exclusively meant for the gentlemen of the English Bar. From the very day I went there in

1941, I intensely disliked this insult-rng system but then we had certain Bengali barristers who would not condescend to speak in Bengali but would rather speak in English even to their Bengali friends. I do not think that we are living in those days fortunately. Recently here was a strong resistance on the part of the members of the English Bar in Calcutta to allow other advocates to join the Bar Library Club or come to the Bar Library Club during the lunch time. The gentlemen would be having their lunch in the English way so that no cn« who might be regarded in the old days as 'native' could come in. That was the idea. Anyhow, today, I am glad that the Supreme Court in its judgment, has said that there should be no such discrimination and that all those who plead should be as much eligible to the Bar Library Club that way, or to the barristers' company as anybody else, as barristers themselves are. And it is a good thing. Let it completely go. There should not be even a semblance of this discrimination. If it is necessary, by law we should compel the Calcutta Bar Library Club to abolish itself and merge with the Bar Association, or fuse them together in order that there remains only one institution. This is a caste distinction of the colonial regime, and this new type of caste distinction, which came to this country with the British, should be completely abolished. I do not think the Government has yet been able 1o do so. Perhaps Mr. Ashok Sen has yet to live down his barrister's past. Well. I do not know, but the Deputy Minister, I believe, is not a barrister, and it is good that he is not one. Let us hope that he will take the initiative in this matter to see that this is done This is point number one.

The second point is that you are having many regulations. Why this funny dress, this gown, a black thing, and all that kind of other things. Well, this should go. I think we can have some kind of decent dress which is typically Tndian and which does not remind us of the seventeenth century or the sixteenth century Elizabethan lawyers. We can easily have it. Why can-'t we have it? I am sure Dr. Sapru will support me because, as you know, we should forget this thing; we are a civilised nation. Had we been free two hundred years ago we would have perhaps evolved a much better legal system with all its majesty and grandeur than the one the British had evolved. I think we should feel proud about it, about our genius. But now that we are free, why should we hang on to the tail of the English legal system and flaunt that kind of dress which has no place in the Indian national context?

PANDIT S. S. N. TANKHA: Does civilisation mean going about shabbily?

SHRI BHUPESH GUPTA: Well, that is a very childish question. Does civilisation mean that you would ask your wife to wear slacks and jackets and go about the streets of Lucknow? You will not do that. The Americans may do it if they like. They love their wives and also love them all the more in slacks. But you will not do, Mr. Tankha, I am sure, and you are a civilised man. I am not suggesting any such thing. Then why bring in this extraneous thing? You have your Indian dress. Just adapt it to the requirements of the legal profession. "'.lake it Indian, typically Indian. Well, that is all I want. This is a matter to be settled through discussions by all concerned. I am not prescribing any particular dress, but one thing I can certainly say; that black gown, that black jacket, black tie—everything is black that way—you can do r.way with them. That is all I say.

Then I should also like the system of addressing the[1] High Courts in the Indian Republic as "My Lord" to go. The High Court lawyers, the advocates—sometimes they are very old men too—getting up and addressing the very young Judges as "My Lords" sounds funny.

DR. NIHAR RAN J AN RAY (West I Eengal): Yes, it does.

SHRI BHUPESH GUPTA: I have got some of my friends as Judges in the Calcutta High Court—we were together students—and I would not like <)r. Sapru appearing before one of them and addressing him as "My Lord". Anyhow, apart: from that, why should we address people as "My lord"? Cannot we find other forms of address, other expressions of address? Other countries do not have these words "My Lord". In a republican set-up this business of addressing Judges as "My Lord" is irritating to good sense, is something which is not to our taste, but we have got accustomed to this kind of palate just as we have imbibed it in other respects from the British. I think that .should also go.

Then the most important point is that we should reorganise our legal profession, and there I make a substantive suggestion.

SHRI KRISHAN DUTT (Jammu and Kashmir); I would request you to suggest a substitute address in place of "My Lord".

SHRI BHUPESH GUPTA: We can discuss it later. We can consult the Hindi Prachar Samiti in order to find out

SHRI P. N. SAPRU: I just intervene to say that this expression "My Lord" has got a particlular history about it? Under the British system of justice, the King was supposed to represent justice in person and the Judge was supposed to be the representative of the King. It was therefore for that reason that he was addressed as "My Lord". Here we have no such tradition. I know; I have cbjected to my being described as "My Lord", but then our advocates are used to it.

THE DEPUTY CHAIRMAN: Anyway dress and address are best left to a discussion later.

I SHRI BHUPESH GUPTA: No, this is very important. You are having rules. Now he gave an explanation about "My Lord". Well, we have given up the use of "His Excellency", or "Your Honour" when we address Ministers, although some Ministers would like to be addressed as "Your Excellency", or "Your Honours"—I know—but generally they do not like. nor do we do so. This is what we say. Whatever the actual origin, well, this kind of arrangement is somewhat cut of tune with the present temper of Ihe people in the changed set-up of ..he country. This is what I say.

Then my main point in connection with this Bill is the need for reorganisation of the Bar on an entirely different basis. What do we have in this Bar? You are dealing ' with senior advocates and junior advocates, <he senior doing many things and the junior not doing many 'things, the junior acting as a beast of burden for the senior, shallwe say, in many ways. Then you have got the solicitors, you have got the advocates, you have got the pleaders and so many things. There should be a new form. I do not eee as to why there should be ' the dual system of solicitors and advocates. It is not necessary in our times to have this kind of thing. As a matter of fact, in India, in every State, we do not have solicitors and advocates. In Calcutta. and in certain other places perhaps we have got it, but net in the country as a whole. This should go.

Then I think what is really unfortunate in the legal profession even after seventeen years of independence is this. At the apex of the legal profession there are some very prosperous people who monopolise between themselves all the big briefs and so on. which fetch a lot of money. We have a kind of monopolist concentration there, some 10, 12, 15 top notch lawyers at the top, senior lawyers. Well, they monopolise between themselves, in terms of money value 80 per cent.

or even perhaps 90 per cent, oi me matter handled in a court of law; all the major briefs go to them. They charge fabulous fees to take them up. 1 am told that some of the lawyers, when they accept them, ckarge Ks. 3,000 a day. What gems of law they drop from their lips, I do not l.now, which a junior cannot do if given proper training. But they get Rs. 5,000, Rs. 3,000 and so on, and they are proud of it. I do not know whether they pay income-tax on every rupee they earn—that is for Dr. Sapru to tell us. But they earn so much money, whereas at the bottom you have got lawyers who do not earn even enough to make their both ends meet. They go about on a cycle or in II Class compartments of tram-cars, and some of them even walk the distance in order to appear before a court of law. But we have got lawyers at the top who go about in big limousines, and many have many cars, palaces, and so on, not only ir the places where they practise but also in other places. Now this is something which should go. This again came from the British. In the English legal system you have got this; kin J of arrangement, some top people at the apex and downtrodden people at th2 bottom. We are having this system with a vengenee. Go to tht Bankshal Court, go the Sealdah Court, go even to the High Court, if you lik". You see poverty wril large on the faces of a large number of lawyers. They are struggling hard to keep their fact in the legal world but they are denied the avenues of makin? good in the legal profession. A kin'.[1]. of vested interest has developed in the legal profession. Some of them club together and through their relations and so on, connected with a solicitor's Arm, they block the way fo; the younger *men* to come up in the legal profession. Everybody knows it. We want democracy to be extended even in the administration of the legal system. We want our social objectives to be reflected even in the affairs of the lawyers as between themselves when they handle their cases and so on. xi>u -can uu i+ua only by reorganising this profession on the basis of a collegium of lawyer?. This is what I would like to have. I cannot say how exactly it should be organ'-.ed but the principle will be riore or less co-operation, that is to say, a kind of collegium which wouV distribute all work. All the lawyers of a purticular Bar should be members of that particular collegium and the cases should be distributed to them according to particular talent or nature of the case but in the matter of distribution care should be taken to see ihat distribution is made with a view to helping especially those who are juniors. That is how it should b'? done. The junior people must come up. Now, you know that these multi-'nillionnaire pick-pockets or multi milliomaire 420s—many of them are — appciiit lawyers whom they pay five thousand rupees or six thousand rupees as fees but when it comes to a poor man, even if he is hauled up under i very serious charge, he can-net afford a big lawyer. He appoints one whom he pays only a small fee. It should not be done like this. The cases should be distributed according to their nature and the money should be pooled and distributed, shall we say, according to talent in the beginning. I am not saying that the seniormost lawyer should be get exactly what the junior is getting but the discrepancy should be not much? on the one hand ten, eleven or twelve rupees per day and on the other hand *ten* thousand rupees. Now, the disparity • in our social income should be eliminated even in the legal profession and all the more so because this profession is in the limelight of our public life. This is what I would suggest to the Government to consider. Now, the collegial system is eminently a democratic system and I think our senior lawyers would help in organising such a thing. This is very very important. This obtains in certain coun-tries and if we do so, I think, the in-convenience in the legal profession and social disparities, disparities in income will have been considerably

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I it not completely eliminated. This would moreover afford an opportunity for the junior men to come up rather than superannuated lawyers sticking to the courts of law minting millions when they need no money at all. This is what I would like to say.

Then, we should have a restriction on the maximum legal fees one can charge. I should like to have it enacted by law. I would not like to approach the question of ceiling on incomes and so on when I allow the lawyers to charge ten or fifteen thousand rupees for a case. This should not be and there should be a ceiling on the legal fees a lawyer can charge just as there should be a minimum also which should be assured to a lawyer. This is very very essential and the gap between the two should be narrowed down as much as possible. I do not see any reason why a lawyer should need thirty to forty thousand rupees a month when a man like Dr. Ray can lead an excellent and cultured life and write very good books on Rs. 1200 per month plus what he gets as a "Member of the Rajya. Sabha if the Congress Party does not take away what he gets from the Rajya Sabha. The Congress Party is very generous in this matter. His classmate, who was not such a good student as he was, who has certainly made no contributions which Dr. Ray is making to our culture, is earning perhaps in the High Court, twenty thousand rupees per month. This is something which is abhorrent even to think of. Therefore, I say, restrictions should be there. Now, at what level the ceiling should be fixed is for people to decide but we should accept the principle of fixing a ceiling as far a-s the topmen are concerned. The Advocates-General who are rather big figures in the Bar Councils should not be allowed perhaps any private practice at all. We have got it done to a certain extent in the Supreme Court. The Attorney-General is not given full opportunity for private practice. We should put a cent per cent, ban on private practice by the Attorney-General, the Solicitor-General, the Additional or Deputy Solicitor-General as well as by the Advocates-General in the States and if they want to function as such, they should reconcile to getting what the State gives them. If you like, you increase their salary a little but that is all; they should not get and would not get anything more than that.

We should have an arrangement in the Bar Council for giving legal aid to poor men what is called Poor Man's Legal Aid and so on. It should be a function of the legal profession itself and it should be part of the work of the Bar Council. The Bar Council, as a collective body, should be administered in fair administration of justice as far as possible. In a court of law, inequality comes in the moment a poor man is up against a rich man. The poor man is confronted with a very top lawyer whose very name counts in the legal world, let alone his erudition or legal learning. In such cases, provision should be made for a poor man to be given assistance by the Bar Council. The | Bar Councils shrould if necessary. i spend money and certainly assign j some of its members to help such i poor people when they are in such legal proceedings and do not have the wherewithal to meet the legal expenses for the cases in which they are involved. This is also very important. Therefore, from all these angles, I think trie time has come to discuss the whole question of the legal profession. We have got mukh-tiyars in the districts. Some of them are very good people, small people who speak in English and Bengali combined which sometimes we do not understand but they make good sense and they get away. I think these poor chaps should be given good treatment because we cannot import big barristers and big, lawyers from ' the cities to the sub-divisional towns

or the taluka towns, lhe cases there are handled by the mukhtiyars and I think their status should be elevated. They function more on the basis of common sense than on the basin of very profound or deep knowledge of law. In fact, it is not needed for them, for the kind of case they handle there. Therefore I think that p.fl^ attention should be paid to those rather neglected sections in the legal profession. They need to be sympathised with and given encouragement in the matter but at the same time we should see that they have the minimum requisite qualifications to deal with legal problems, cases and so on.

Madam Deputy Chairman, these are some of the suggestions that I wanted to make but I must again say that I would like the country to forget, that name barrister. I do feel chat way. Let them be known as advocates. I think we should ban people calling themselves barristers. What does it mean? In fact they are advocates but some of them would like to call themselves barristers. I think we should have only one system in the higher echelons of the legal profession and they should be called advocates. That is about all.

Madam Deputy Chairman, it all depends on how you reshape and reorganise our legal profession. In the recent times we have seen how Mr. Setalvad, the former Attorney-General, came forward in defence of the fundamental rights of the Constitution, how other lawyers of the Supreme Court ignoring the frown of the Government stood up to the challenge of the authoritarian encroachment on the part of the Government and vindicated the honour of the Constitution and of the fundamental rights. That is why we had the 18th amend- . ment to the Constitution introduced by the Government ultimately withdrawn. The counsel did not come from the Treasury Benches. The Treasury Benches tried to by-pass the issue. It was the legal world, the Bar Associations of the Supreme Court and other places that raised their voice in protest against the attitude of the Government and compelled even this haughty Government to take that Bill back.

SHRI AKBAR ALI KHAN: But the initiative came from the Congress Party.

SHRI BHUPESH GUPTA: Well, it goes to the credit of the Congress Party also i should say. I say, those men in the Congress Party who pressed ior the withdrawal of this sinister, foul and insulting Bill have rendered a great service to the country and to the Constitution and I have no hesitation from the Opposition side in congratulating those friends of the Congress Party who stood for certain principles even when the Home Ministry, the Law Ministry, the Cabinet and all of them conspired and sought to disregard the opinion of Mr. Setalvad and others, and wanted to proceed with the Constitution (Eighteenth Amendment) Bill. I do fully acknowledge the services of the Congress members and others have rendered.

Mr. Akbar Ali Khan will remember that in May 1963 in this very House armed with Mr. Setalvad's opinion I pointed out to you that detention without trial was illegal and that the Government will be liable to pay damages for their wrongful and illegal act. Well, I met with all kinds of interruptions from your side and some of you perhaps thought that I was talking something which did not make much sense but today I stand vindicated here because those acts have been held illegal. Everybody knows that the detentions under the Defence of India Rules are illegal detentions and that is why they came up to have the Constitution (Amendment) Bill passed fn order to legalise their illegal acts after the emergency was over hut here again the legal profession stayed their hands. Mr. Setalvad was foremost in this matter of taking initiative and he is no party man. Therefore I find that there are such great people in the legal profes-

[Shri Bhupesh Gupta.] sion whose conscience is not sold to the dictatorial bullyings on the part of the Government. So, I say, let us organise the legal profession in a manner which should make it highly democratic, highly sensitive to all encroachments on fundamental rights, which would inspire it to uphold the principles of the rule of law in every sphere of our public life. We want to see a legal profession not motivated merely by a desire to make gains in money; we would like to see our legal profession inspired by the high ideals of our past and present civilisation which will play its part at a time when the nation is remaking itself. That is the kind of legal profession that we want today. Let us hope that the legal profession will in the days to come be playing a constructive nation-building role and remoulding the culture and life of our people and help in keeping the political system of the nation in a democratic way. That is what we want.

Therefore I would urge upon the Government to take counsel with Members of the Opposition and other eminent lawyers on their side and outside in order to formulate certain comprehensive proposals so that we can have before long a complete radical reorganisation of the legal profession in our country. We want the lawyers to play their part in the making of the nation and they will be able to play their part only when we h Parliament help them in taking theii place in the context of our ability of our State and of our legal set-up

This is all that I have to say and I hope these words will be considered. About the minor things I am no1 much interested.

SHRI P. N. SAPRU: Madam Deputy Chairman. T would like to move ar amendment to this Bill. I think it has been circulated and I don't need tc rond it.

[THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) *in the Chair)*

Today we have had a thought-provoking speech in many respects from Mr. Bhupesh Gupta. I do not say that I agree with everything that he has said but there are things which he has said with which I, speaking personally, agree. I think the legal profession if it is to function as a great profession in a democratic society, has to view things from a different angle than hag been the case so far.

Now, the Advocates. 'Act was a great achievement. It unified the Bar. It did something which I think Britain has not been able to achieve because in Britain you have the English Bar, you have the Scottish Bar and you have the Irish Bar. It did something which Australia or Canada have not been able to achieve. They have State Bars or Provincial Bars. There is no Canadian Bar or an Australian Bar. Here, for the first time, the legal profession was unified. It did away with the institution of solicitors though, of course, a man can choose either to advise or plead or do both. It did away with the distinction between the so-called English Bar and the Indian Bar completely. It did away with the distinction between advocates, pleaders and even mukhtars and brought all of them under one banner. Now, the Benchers in Britain did some of the work of the Bar Councils. In Britain it is the Bar Councils which are responsible for the discipline of the Bar. They are also responsible for maintaining the legal standards of the profession. They have got to ensure that the men who enter the profession are properly trained and have legal education. Inspection and supervision of it is one of their main functions. When we were discussing this Bill in the Select Committee I was taking a somewhat conservative view based upon expe-

rience of a whole lifetime in the practice of the profession and I wa; not happy with the very very large measure of autonomy which had been given to the Bar Council. I do not say I am not in favour of an autonomous Bar. Here, for example, we have gone further than the Incorporated Law Society in England. In some respects we have gone further than the Incorporated Law Society in England in regard to the autonomy that has been conceded to the Bar. Experience has shown that the educated electorates do not exercise in this country their vote with a sense of responsibility. The common man does it with greater responsibility than educated men. We have had trouble with the universities. Elections to the courts or senates of universities are at times a scandal. Elections to the Bar Council too have been a scandal. In days before the Bar Councils Act came into force, I think, in some of the States some of the men who had been elected to the Bar Council were men who should not have beer elected. There are many about whom cases of professional misconduct are pending and they have been elected to the Bar Council. And the Bar Council concerns itself with the discipline of the Bar. We shall have a Disciplinary Committee which will deal with cases of professional misconduct. On this Disciplinary Committee there will be no representation of the courts. The tribunals under the old system used to be appointed by the Chief Justice of the court concerned. Well, the Chief Justices, whether of High Courts or of the Supreme Court, cease to exis; so far as the Bar Council is concern ed. The Disciplinary Committee will be selected by the Bar Council itself and I need not go into the elaborate provisions in regard to these Disciplinary Committees. What I wanted to say was that a very responsible duty has been cast upon the Bar Council. They will be hereafter responsible for the discipline of the Bar.

It is, therefore, supremely important that the men who get into the Bar Council should be men of ability, of integrity, of character, of unflinching loyalty to certain ideals. Unfortunately that is not the case. Elections are utilised for purposes of propaganda. Elections are utilised for the purposes of canvassing. Elections are utilised for the purpose of catching new men who will in few days start functioning in the profession as advocates. Senior men, respected men, leading members of the Bar hesitate to stand for the Bar Councils. Now, that is a sorry state of affairs. It has happened in some States. I do not wish to go into details in this delicate matter. But I make this assertion with a certain sense of responsibility. Therefore, I have suggested that the the minimum qualification that we should prescribe for membership of the Bar Council should be ten years' practice. That is number one. What I have suggested is that two-thirds instead of one half of the members of the disciplinary Committee should be appointed from members of the profession who have put in ten years of practice. The Chief Justice has no right of nomination to the Bar Council. The High Courts have no right of nomination to the Bar Council. The Supreme Court has no right of nomination to the Bar Council. Even the Attorney-General and the Advocate-General have not been given any right of nomination to the Bar Council.

SHRI NAFISUL HASAN (Uttar Pradesh): They are ex-officio members.

SHRI P. N. SAPRU: That is the only concession that we have given them. They have not been prescribed as heads of the profession. Even they have not been given the right of nominating one or two or three senior men as members of the Bar Council. Therefore, I think it is desirable that we insist ppon this "two-thirds" requirement.

PANDIT S. S. N. TANKHA: May I point to Mr. Sapru that the amend-

[Pandit S. S. N. Tankha.] ment which he has tabled relates— from out-half to two-thirds—to the general body of the Bar Council and not to the Disciplinary Committee?

SHRI P. N. SAPRU: The Disciplinary Committee will come from the Bar Council. So far as I am concerned, the Disciplinary Committee would have been constituted in a very different way. I had no occasion to speak on the Advocates Bill when it was passed in this House. 1 had a number of suggestions to make. I was not in sympathy with some of the important lines on which the Bill had been drawn up and I thought it to be rather an ill-conceived measure in some ways. And this is one of the directions in which, I think, it should be improved.

Then, may I also say this? The first date fixed was the 31st March, 1961. Then it was extended

PANDIT S. S. N. TANKHA: No. It was originally 31st December, 1961.

SHRI P. N. SAPRU: I have misplaced my papers. Therefore, I wanted to find them out. The first date fixed was the 31st December, 1961. Then, the date was later changed to 28th February, 1963. And it is now proposed that it should be changed to the 31st March, 1964.

PANDIT S. S. N. TANKHA: In between there was one other stage.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): You are also one of the speakers. Let Mr. Sapru finish.

PANDIT S. S. N. TANKHA: The position is that this date was again extended up to 28th February 1963 and then to 31st March, 1963 which was another date which was fixed later.

SHRI P. N. SAPRU: Now the latest date is going to be 31st March 1964. It means this that all those who are pleaders, who are actually practising or who have legal qualifications on that date will be eligible for practice in the profession. Well, I should have thought that by appointing the 31st of March 1964 we are giving opportunity to a large number of people who have not had the required legal training to get enrolled in the profession. One of the requirements for future enrolment is that a person shall receive a proper legal training in the chambers of an advocate and that there shall be an examination after that training has been received. We have not been able to make arrangements for that training and we have therefore been going on extending the date, and now we have fixed the 31st March 1964 as the date up to which it will not be necessary for any man Lo have had any legal training such as is contemplated in the Act. I think this is defeating the very purpose of the Act.

I know that it is difficult to frame rules and regulations. Rules and regulations have to be framed in regard to various matters under the Act. Rules and regulations have to be framed by the State Bar Councils and then they have got to go for approval to the All India Bar Council. But it was possible to have ail these rules framed in the first instance by the All-India Bar Council, and had that been done, it should have been possible for us to start the work of organising the training of our advocates in 1962 or 1963. Many of the Bar Councils have not undertaken the work of providing facilities for the training of advocates in a serious manner. I think that Madras' has done so but I am not sure whether other States have done in the manner in which it was intended that it should be done. We attach great importance to training, and it was thought that at the end of the training there would be an examination and we wanted also indirectly to have a separation effected between what I might call the academic and the practical side of law. We wanted the academic side of law to be the' concern of the universities. We

wanted the practical side of law to be i the concern of the Bar Councils. The Bar Councils were to keep themselves in touch with the universities. They were, in fact, to supervise legal education in the universities much in the same manner as the Medical Council of India does in regard to medical education. All that is not being done during all these four years and methods have been invented for apprentices of the Bar to get over the requirements. You know that the State Bar Council made it easy for apprentices to get themselves enrolled as advocates in Mysore. Then there was a writ petition before the Mysore High Court and the applicants were declared ineligible.- Now all this could have been avoided if greater care had been taken in ensuring that rules and regulations which were necessary for the proper functioning of the Act were framed in as short a time as possible. My point is that undue delay has taken place in the framing of rules and regulations, and the result of the delay is that the floodgates of the profession has been thrown open to all and sundry. I do not wish the legal profession to be the preserve of the rich. I do not wish the legal profession to be the preserve of the wealthier sections of the community. Some of the great men who have adorned the legal profession have been men who had a humble origin. There is a story told

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THE VICE-CHAIRMAN .SHRI AKBAR ALI KHAN): There are many other speakers.

SHRI P. N. SAPRU: There is a story told by Viscount Simon in his Retrospect, which I would like to mention there. Simon was a junior of about a year's standing when he was asked by Mathew K. C. to come and visit him in his chambers. When ht *went* to Mathew K. C. Mathew asked him whether he would accept as a gift the big library that he had collected all his life. He said that he had watched him for a year, that he was a young man of promise and that he wanted to make a gift of his library to him. But there was a condition attached to the gift. He said, 'when you retire from the profession, you should gift it to someone whom you consider to be deserving of making use of this library." Simon :iccepted the offer and when the Library of the Middle Temple was destroyed by a bomb, he presented that library to the Middle Temple with a Latin inscription in which the details of how he came into possession of his library are given. I should like our seniors to take an interest. Whatever you might say of the English Bar, leading members of the English Bar take interest in their juniors. I think there is not that feeling of solidarity here in the profession which is essential for its successful functioning. There is the senior Bar which keeps aloof from the junior Bar and there is resentment in the junior Bar. The junior Bar is not taught the art of how to conduct itself in the profession. They do not know, or they are not trained to have knowledge of the ethics of the profession. Many cases of professional misconduct are due to the fact that the man just does not know what correct professional etiquette in a matter is. And may I say that I am shocked to find that in some of the elections to the Bar Council men who have joined the profession a few months ago have found themselves members of the Bar Council? Do you expect the men who have spent only about six months or a year or even less than six months in the profession to be the sort of people who will set standards, who will give a lead to the profession? These are matters to which attention should be paid. Of course, there are basic issues which were raised by Mr. Bhupesh Gupta. I do not wish to go into the question of procedure. that raises a difficult issue. But it was possible for our Bar Councils to organise a system of State-aided legal aid. And I do not And that any serious effort has been made to provide aid to the poor litigants in this country, to litigants who have a righteous cause.

I think these are aspects of the matter which deserve attention and I

[Shri P. N. Sapru.] hop? that the Deputy Law Minister will bring some of the facts which I have mentioned to the notice of the Bur Councils. I would like these Councils to function in a manner which would add to the glory of the legal profession, in a manner which would bring credit to the legal profession, in a manner which would make the legal profession an instrument, a vehicle, for the enlargement of human liberties.

Thank you very much.

PANDIT S. S. N. TANKHA: Mr. Vice-Chairman, Sir, I stand to support the Bill. In the main, 1 agree with all the remarks which have been made by my hon. friend, Mr. Sapru, and with only some of the remarks which have been made, or rather suggestions which have been thrown, by Mr. Gupta, also.

Now, you know, Sir, very well what the position of the Bar has been for the last several years. It has been in a very said plight. All lawyers know it very well. It is not only that there has been a considerable increase in the number of members in the Bar, but the volume of work has been considerably reduced in most of the courts, especially those of a lucrative nature. And the result of it has been that there has been an unhealthy competition among the members to earn their living, and it is this which has brought about a great deterioration in the profession. We know that there is large-scale touting going on and persons even go to the length of paying as much as 50 per cent, of their earnings to the touts. Not only is the institution of touting continuing—it is, in fact, much worse than it was several years back—but the present position is that unfortunately the lawyers themselves have become the touts of other lawyers. For instance, th$_e$ men in the mofussil who send briefs to their friends in the towns where the High Courts ar$_e$ situated act as touts of these persons and these lawyers receiving the briefs are compelled whether willingly or unwillingly to pay them something out of their fees —you may not call it toutism or call it by any other name you like, but that is what it comes to. The result is that there is little work available for anyone who wants to be clean in the profession.

Now, when this is the situation, looking to all these things, it was considered proper that certain restrictions be placed upon the legal profession and that their training, their conduct, discipline and everything else should be brought under control. And with this end in view, the main objectives of the 1961 Act when it was passed were that there should be one single class of legal practitioners who would be known as advocates; they would be required to hold law degrees and would undergo legal training for a certain period. The second reason for passing this Act was to confer upon these lawyers and advocates the right to practise throughout the country. Formerly, the law was that the lawyers who were enrolled in a particular High Court could practise in that High Court only as of right, while if they went out to practise in another High Court, they were required to ask for the permission of that High Court for their appearance. It was only when permission was granted that they could appear in it. But in certain cases the High Courts even refused to give permission. Therefore, the right was given to the advocates under the parent Act to practise in any part of India as also in the Supreme Court.

The third reason for passing the Act was to create autonomous Bar Councils both at the Centre and in the States which would control the conduct and maintenance of discipline among all the advocates enrolled with in their jurisdiction. The fourth reason for the passing of the Act may be said to be that Bar Councils were given the right to look after the legal education of the lawyers who would be enrolled thereafter. With these

objects in view the Act was passed. But, unfortunately, many of the Bar Councils were unable to make the necessary arrangement for the training of graduates, and for that reason the Law Minister has now come forward to ask for the extension of time.

When the hon. Member, Mr. Sapru was speaking I asked why was it 'hat this date has been extended twice. Originally it was 31st December, 1961, then it was extended to 28th February, 1963 and later to 31st March, 1963 and now it is sought to be exterded to 31st March, 1964. Sir, this sort of extension of date every time causes uncertainty in the minds of people, specially law graduates who desire to get themselves enrolled. Therefore, it is necessary that a final date should be fixed.

Now, even under the present Bill you will notice, Sir, that while the Government has taken the stand that the date should be extended to 31st March, 1964 in place of 31st March, 1963, still they have given a further right to the Bar Councils to extend this period further if they so desire. This is a wholly wrong method. After all, if a certain date is fixed undev the Act, all the persons who take their law degrees later will certainlv b_e put to a disadvantage whether the date fixed b_e one or the other. If it is decided th-'. 'he passing of the law examination is a necessity, and if it is stipulated that Inw graduates passing after a fixed date should also be put to training before they enter the profession, then one final and absolute date should be fixed and it should not be extended by later amendments of the Act. Therefore, Sir, I am wholly against this provision of extending the date beyond 31st March, 1964. Also J would urge upon the Law Minister that while he has provided in this Bill that the power of the extension of date further has been given to the Bar Councils he should, through the All-India Bar Council, advise the State Bar Councils not to extend this date any further and that the provisions of the Act and what it seeks to achieve should be strictly followed by them hereafter.

Now, Sir, to remove the other de lects and drawbacks in the working of the principal Act other important changes made by this amending Bill, which I wholly welcome, are that cer tain classes of people who were prac tising in law courts before the passing of the 1981 Act and who were depriv ed from practice by the Act, namely, such persons as were not law gradu ates shall be allowed to practice. You are well aware, Sir, that mukh- tars and pleaders who, though they were not law graduates were in most cases, or at least in many cases, cer tainly competent men. They were even leaders of the Bar specially in the mofussil towns. They had very lucrative practice and they were much better qualified persons in law than many of the law graduates. It was a great hardship to them to be depriv ed from the legal profession by stipu lating that none other than law gra duates shall be admitted for enrol ment. Therefore, I am glad that change has now been made in clause 13(c)(3)(a) whereby all vakil?, pleaders and mukhtars, who though not law graduates, but who were in practice at least three years previous to the principal Act of 1961, would now be deemed eligible for enrol ment. This is a very welcome change and I am sure throughout the coun try lawyers in general will appreciate this change. %

Then, Sir, another change, which also is a welcome change, is the inclusion of another class of persons who had not been admitted to the profession because of the fact that upon the amalgamation of certain High Courts where new Bar Councils upon coming into existence—I am giving the instance of my own State of U.P., where the High Court of Lucknow which was functioning, was amalgamated with the High Court of Allaha- bad by an amalgamation order of the President—required all lawyers to pay a fee of Rs. 10 for enrolment; while most of the lawyers paid this small

[Pandit S. S. N. Tankha.] amount. Some lawyers did not do it either for want of knowledge of the requirement or whatever the reason might be, the result was that they were not enrolled as advocates. Similarly, in the High Court of Gujarat, upon its separation from the Maharashtra High Court, the same difficulty arose and a number of persons were not, found eligible for enrolment. The present amending Bill admits them, or rather authorises such persons to be admitted, by the Bar Councils, and this too, I submit, is a welcome change.

Yet another category of persons is of those lawyers Sir, who were practising in those territories which were at one time under the administration of the Indian Government, but upon independence having been granted to this country, they fell outside the Indian Government's jurisdiction, such n_s P>urma, Sind and other places and lawyers from which areas were not admitted as advocate;; under the 1961 Act. Therefore, the Bill, before us, to obviate this hardship, provides that advocates on the roll of Judicial Commissioner's courts and attorneys of High Courts of such areas and advocates of the Chief Court of Sind, advocates of the Rangoon High Court, and all persons who were entitled to be enrolled as advocates of any High Court including the High Courts of the former Paj* B States, shall now be eligible for Enrolment as advocates. As such this change in the law too is very good and I am glad that the Government has come forward with these suggestions, but as I have already stated. I am opposed to any extension of date beyond 31st March. 1964 for the reasons I have stated earlier and if any further date had to be extended, it would have been better for the Government—if they were *of* the view that all the Bar Councils had not made preparation.; fo_r training and could not impart that training until now—then they should have fixed a definite later date, six months or a year afterwards, but not left the thing vague by giving further right to the Bar Councils to extend che date further.

Then, Sir, Shri Sapru has put forward an amendment to the Bill and 1 expect the Law Minister will accept it even though it has been brough'. forward at a late stage. The Bill having been passed by the Lok Sabha, the Government might think that accepting the amendment now would mean sending the Bill back to the Lok Sabha for its acceptance, but, I think, the suggestion of Mr. Sapru is such that even if this little inconvenience is caused to the Government or some delay occurs in the passing of the Bill, since the next Session of the Lok is to be held again within This month, no great hardship would result by this small delay and therefore i' is desirable to accept the amendment.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The Minister will take note of it.

PANDIT S. S. N. TANKHA: Why it is necessary to do so is, as Mr, Sapru stated, that the creation of the Bar Councils and the introducing of the element of voting has resulted in very bad results since it has been found that in some Bar Councils young men who have just passed out barely three months or six months or one year earlier have stood for elections and have even been returned. This of affairs is wholly unsatisfactory not only because these young men cannot be considered fit for the work which is desired of the Bar Councils but particularly because the Bar Councils have to deal with disciplinary matters which requires sufficient experience and a clean record of the person who is judging—it would be very difficult to entrust the work of disciplinary action to young inexp<»-rienced persons.

The suggestion of the Government in this Bill of fixing a limit of at least 50 per cent of the members of the Bar Council being of 10 years' standing is indeed a good thing but then all the same it doe? not sufficiently meet the

situation. Therefore rn$_v$ friend Shri Sapru's suggestion that this strength of lawyers of 10 year$_s$ standing should be increased to two-thirds of the total number of members in tfee Committee is very desirable and should be accepted by the Law Minister in the interest of the profession. We also find that the rights of the Bar Council and its privileges have been extended. This is also a very good provision. As the Minister has informed us already the Bar Councils have been given the right to call for the records of cases which have beca disposed of by the State Bar Councils. This is a very salutary thing. The Bar Council of India can call for the records on its own initiative. This powsr of sion has been given und?r clause 48(a) to the Bar Council of India and under clause 48(b) powers to issue direction to the State Bar Councils have been given. This is a good amendment since it has besn found in the working of the Act that some of the State Bar Councils did not follow the suggestions, or directions, that had gone from the Bar Council of India and, therefore, conferring of this right and making it obligatory on the State Bar Councils to follow its directions is a very sound amendment.

There is one thing which I do not quite appreciate in the Bill and that is the proposed amendment under clause 21 about the rule-making powers. So far, under the Act, the rule-making power was given to the Bar Councils and whatever rules the State Bar Councils passed, they had to get them approved by the Bar Council of India but the rules teamed by the Bar Council of India were final. The Government did not step in, and could not step in. to revise them or alter them in any way but now I find under clause 21, a new rule—49A—has been brought forward and that is—"Th$_e$ Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this ' Act including rules with respect to any matter for which the Ba$_r$ Council of India or a State B*r Council ha$_s$ power to make rules." Why do you have this? Has H been found that any, rules made by the Bar Council of India were not of a proper type and therefore it became necessary for the Government to step in and, if that was not so, why is it that the rule is being altered'.' 3 P.M. My own view is that, since the responsibility of the legal pro fession, its rights, its privileges, its training, everything. ha$_s$ been lift to the Bar Councils, it is necessary that the rule-making power should also vest m them com-pleflv, and the Central Government should not step in. One advantage of it, it may b$_e$ said, would be that Parliament would be kept in touch and thos$_e$ rules would be laid before the Houses of Parliament and that in that way Parliament will know what rule$_3$ have been framed But I submit. Sir, that this is not at all necessary. When you have made a Bav Council an autonomous bodv to guide the whole legal profession, hen all rules which are made by it should be final, and if it was found r.rcessary, then the change effected should have been that those rul$_e$ framed by the Bar Councils be placed before the Houses of Parliament, instead of providing that the rules would be made by the Central Government. You will see, Sir, what are the subjects the rules to be made by the Central Govern ment will relate to. They are all those subjects in respect of which power n : hr'en given to the State Bar Councils and the Bar Council of India to make rules, and which, as you will see, are laid down as follows: CI) qualifications for membership of a Bar Council and disqualifications for such membership; (2) the manner in which the Bar Council of India may pxenrse supervision and control over State Bar Councils, etc., (3) th class or category of persons entitled to he enrolled as advocates under this Act; (4) the category of persons who may be exempted from undergoing a course of train-ling, etc.; (5) the manner in which seniority among advocate* may be determined; (6) the procedure to be followed by a disciplinary committee

[Pandit S. S. .N. Tankha.] of a Bar Council, etc. So all these subjects are those which are within the jurisdiction of the State Bar Councils and the Bar Council of India. So, making any change In thig i_s *on* absolutely wrong thing to adopt, and I would like the hon. Minister to delete this if it is possible now, cr at a later stage, when he brings in another amending Bill, then it should take away this power of the Central Government also.

Then, as 1 have staterl, Sir, the suggestion made by my hon. friend, Mr. Sapru, should be accepted by the Law Minister.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : That, you have mentioned.

PANDIT S. S. N. TANKHA: I think it is a thing which we should accept. After all, when the Law Minister agrees, or is of the opinion that at least fifty per cent, members of the Bar Council should be men of over 10 years' standing, then instead of 50 per cent, why not may it be increased to two-thirds, in which case there will be greater efficiency, and no particular harm will be done.

With these words, Sii\. I strongly support the Bill.

SHRI MULKA GOVINDA REDDY (Mysore): Mr. Vice-Chairman, Sir, I would like to make some observations on this Advocates (Amendment) Bill, 1964. The original Act 1951 was passed only three years back, and this is the third amending Oil] which is now placed before this House for cur approval. It looks as though the Law Ministry does not bestow proper attention while framing legislation before placing it for the approval of Parliament. This amending Bill ha_s got so many clauses; it looks a_s though the entire Act is being replaced by this amending Bill. This is the third time that this Advocates Act, 1961, is being amended.

PANDIT S. S. N. TANKHA: Fourth time.

SHRI MULKA GOVINDA REDDY: I thank you for the correction. Now for the fourth time this Advocates Act is being amended. The legislation that is brought $befor_e$ us i_s so shabby that unnecessary obstacles are put in the way of persons and they have to undergo some difficulties with regard to enrolment as advocates. It was pointed out that the last date fixed for enrolment of law graduates as advocates should be extended to a later date, till such time as proper facilities are provided for the training of those law graduates so that, after their full training, they are entitled to enrolment, to practise a> advocates in High Courts. It is unfortunate that the Bar Council of India and the State Bar Council have not yet framed rules under which the law graduates, after their graduation, will be provided the facility to undergo training for a period of fifteen months or eighteen months, after which they will b_e entitled to enrol themselves as advocates of one High Court or thn other. Now the lacuna is sought to b_e made good, and those la_w graduates who had $_n$ot been provided the facility for undergoing training because of the non-framing of rules by the Bar Council of India and the State Bar Councils, will now be allowed to enrol themselves as advocates of any High Court. I do not know whether any Member pointed out the fact that a large number of law graduates, because of certain difficulties in Delhi, had to go to some other place to get themselves enrolled.

PANDIT S. S. N. TANKHA: To Mysore.

SHRI MULKA GOVINDA REDDY: Yes, because of the facilities that we give to them in Mysore, some of them went to Bangalore got themselves enrolled as advocates and later on went back to their respective States tn practise as advocates—.just to get over the difficulties that were created by this Act, the frainers of which had not foreseen these difficulties and the" had not implemented the provisions of

thi$_s$ Act by directing the Bar Council | of India or the State Bar Councils to frame rules under which the law graduates should undergo training.

There are som$_e$ povisions in this amending Bill before us with regard to the constitution of these Councils and also with regard to the qualifications, which they have tried to prescribe, for people to be eligible to become members of the Bar Councils. I refer to clause 2 where i:i sub-clause (b) it says:

> "to sub-section (2), the following proviso shall be added, namely: "Provided that as nearly as possible one-half of such elected members shall, isubject to any rules that may be made in this behalf by the Bar Council of India, be persons who have for at least ten years been advocates on a State roll, and in computing the said period of ten years in relation to any such person, there shall be included any period during which the person has been an advocate enrolled under the Indian Bar Councils Act, 1926."

This amendment ha$_s$ been brought before us on the ground that advocates with sufficient experience at th$_e$ bar have not been returned to the State Bar Councils so much so that the State Councils are deprived of the rich experience of senior advocates. I do not think it is wholly true. Partly it may b$_e$ true that some of them could not get themselves elected. Acceptance of this provision which is a discriminatory one will create a number of difficulties. Elections to the State Councils have already been held twice. Recently, th$_e$ State Councils have been constituted and according to the Act one-third of the members will have to Tetire after two years. So, it will be difficult to fix the ratio that has now been proposed in the amending proposition which says that as nearly as possible one-half of such elected members shall be those who have *t least ten years of experience of the Bar. It is difficult to work this out in practice. Instead of this, if they had said 236 RSD.—6.

that those eligible for election to the State Council should have at least put in five years or ten years of practice at the Bar, it would have been more rational and the purpose for which this Bill has been brought before Parliament would be easier of implementation. If we accept the proposition as it is now, it will be very difficult to work out. Dr. Sapru wants two-thirds instead of fifty per cent, of th$_e$ members of the State Councils to be those who have put in ten years of practice at the bar. The voters for the Bar Council are all double graduates. We should leave it to their good sense to elect such members whom they like and with all sense of responsibility they would very much lik$_e$ to elect as members senior advocate$_s$ with long experience who will be in a position to guide the destinies *at* the advocates in that particular State and who would be in a position to shape the working of th$_e$ State Councils.

PANDIT S. S. N. TANKHA: But what about the pre-election cenvassing that goes on?

SHRI MULKA GOVIND A REDDY: When we have accepted democratic institutions, when we have entrusted the destinie$_s$ of 450 millions to the elected bodies, there is nothing wrong in entrusting this to our young advocates. We hope that they will exercise their franchise with all responsibility and elect proper men to the State Bar Councils. I, therefore, am not inclined to support this clause.

Another salient provision is clause 3 which say$_s$ that the membership of the representative of the State Council on the Bar Council of India will expire on the date on which i$_s$ membership of the State Bar Council would have otherwise expired.

Clause 5 says:

> "For section 9 of 'he principal Act, the following section shall be substituted, namely:
>
> "9(1) A Bar Council shall constitute one or more disciplinary committees each of which shall consist of three persons of

[Shri Mulka Govinda Reddy.] whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst advocates who possess the qualifications specified in the proviso to sub-section (2) of section 3 . . ."

According to the present provision of the Act, there will be five members on this committee. Instead of five, they want only three members to be on the committee. I do not know why within such a short time Government have thought it fit to reduce the number. Under rare circumstances it may be possible that these committees may not function for want of quorum but that will be a very rare thing. It should have been allowed to continue— this provision of having five member[1]; on this committee—for some time and if after sufficient experience it was found that it was not working properly they could then have thought of reducing this number.

I prefaced my observations by saying that the Law Ministry had not bestowed proper thought on this legislation before they brought it to tho Parliament for obtaining our approval. They should have thought of these things and they should have mentioned the figure three instead of five so far as membership of this committee is concerned. This is my first complaint.

Again, in clause C they cay:

"10A An elected member of a Bar Council shall be deemed to have vacated his office if he is declared by the Bar Council oC which he is a member to have been absent without sufficient excuse frcm !hree consecutive meetings of such Council,

These are normal things which are put in the body of any piece of legislation and I really fail to understand why the Law Ministry which is supposed to be the brain trust of the Government of India in framing legislation should think of such a provision after three years of the law being enacted. These are all things which should have been included when the Bill came up before us for our consideration.

There is another salient amending clause which gives the option to a senior advocate either to continue as a senior advocate or to revert to the status of a junior advocate. This lacuna which was there ha^ now been removed by the provision which says:

"Provided that where any such senior advocate makes an application before the 3l3t December, 1965 to the Bar Council maintaining the roll in which his name has been entered that he does not desire to continue as a senior advocate, the Bar Council may grant the application and the roll shall be altered accordingly."

I now come to clause 13(A) (b)(ii> Vhich says;

"(i) a person who has obtained a degree in law from any University in India on the results of an examination held before the 31st day of March, 1964 or such other later date as! may be prescribed, or a barrister who was called to the Bar before such date, or a barrister who, having qualified after that date, has received such practical training in law as may be recognised in this behalf by the Bar Council of India;".

I pointed out, Mr. Vice Chairman, that many law graduates for lack of facilities for undergoing training as prescribed by the present Act could not get themselves enrolle-i as advocates of any High Court, and now, because of lack of facilities for giving training to these law graduates, they are now trying to extend the time for enrolment of law graduates as advocates. Here also the whole thing has not been properly thought out. Examinations at the end of the final year are held in most of the Universities in the month of April and the results are declared some time in the month of May or June. I do not know on what basis the Government of India arrived at this date, the 31st day of March,.

1964. It is true that for accounting purposes, the 31st day of March is taken into account but I do not know how for academic purposes the 31st day o>° March can be taken into account. As I said before, examinations are held in April and the resi Its-are declared in May or June. If they had stipulated the date as the 30th of June, 1963, we would never have had any quarrel with them. The Deputy Minister, while replying to the debate in the other House, said that Government had taken power to extend this time limit and quoted the phrase:

> "or such other later c'.ate as may be prescribed".

This is what they say. That is what they say. For thi3 the students or the representatives of the State from which those students pass their law examinations the results of which are announced in the month of May or June will have to go in deputation to the Central Government to get extension of this date. This power should not be ordinarily vesled in the Central Government. For everything they expect that the students or their representatives from the States should come to them for some obligation or other. This should not be the motive behind the measure. When they want to extend this facil ty to the students who appear for the examinations in 1964, that is, those who have studied in 1963-64, even those students whose examination results will be announced in May or June also should be automatically entitled, I would therefore urge—even now it is not too late for the Government to amend this date cf 31st March to 3Cth June 1964—upon the Government *o change the date so that it will be helpful for those students whose results will be announced in the months of May or June.

Now, the Government have thought fit to enable vakils, pleaders or muklv-tars who are law graduates to be enrolled as advocates of any Hi fh Court and such of those people, vakils, pleaders or mukhtars, who are not law graduates but who had put in three years of practice and who were otherwise entitled to be qualified as advocates have also been permitted by this amending Bill to enrol themselves as advocates of any High Court It is said here:

> "Notwithstanding anything contained in sub-section (1) a person who—
>
> (a) before the 31st day cf March, 1964, has for at least three years, been a vakil or a pleader or a mukhtar, or was entitled at any time to be enrolled under any law then in force as an advocate of a High Court (including a High Court of a former Part B State) or of a Court of Judicial Commissioner in any Union Territory;".

This clause will enable such of those people who are otherwise debarred from becoming advocates of the High Court to get themselves enrolled as advocates.

I take strong objection to clause 21 which seeks to insert a new section 49A which says:

> "The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules."

Objection has already been taken by Mr. Tankha who said that this provision was unnecessary. This will only create an opportunity for the Central • Government to make inroads into the province of the State Bar Councils or the Bar Council of India. The Act gives powers to the Bar Council of India and the State Bar Councils to frame rules with regard to qualification of membership, with regard to disqualification of membership, with regard to voting rights and such other things. Over these powers which the Bar Council of India and the State Bar Councils have been given under

[Shri Mulka Govinda Reddy.J this Act the Central Government wants to exercise its own authority by framing rules, which is repugnant to the very purpose of this Act. I would therefore urge upon the Minister to delete this clause 21. It will trample down under fool the powers of the Bar Council erf India and the State Bar Councils.

Thank you.

SHRI NAFISUL HASAN: Mr. Vice-Chairman, Sir, I rise to give mv general support to thi$_s$ amending Bill. It is really unfortunate that after the main Advocates Act was passed in 19S1 we have had to consider amending the Act at least on three or four occasions. The fact that the provisions of the Act have not been brought into force because of the failure of the Bar Councils to frame rules to my mind does[1] not appear to be adequate because all these contingencies could have been foreseen and although the present Bill tries to take into consideration many provisions of the Act and tries to amend them I am not quite certain that we may not have in the near future to consider furtaer amendments to thi$_s$ Act.

I am really not happy about the provision which is to be added as new section 49A under clause 21. My friends, Mr. Tankha and Mr. Reddy have already referred to this povision. It is admitted on all sides that for the proper development of democracy the existence of an independent judiciary is very essential and nobody can deny that for an independent judiciary an independent and fearless Bar is also necessary. When the original Act was passed we thought that its main object was to help develop an autonomous, independent and fearies$_3$ Bar. Originally, under the old Indian Bar Councils Act, 1926 the functions of the Bar Council were simply advisory. The decisions were taken by the High Courts in all disciplinary cases. But the 1961 Act dispensed with the High Courts altogether and laid upon the Bar Councils lull responsibility for taking action in disciplinary cases. The proposed section 49A interferes with the autonomy of the Bar Council. There i$_s$ also another reason why I am opposed to it. The same rule-making power i$_s$ given under section lb to the Bar Councils. Of course, a State Bar Council has got to make rules subject to sanction by the Bar Council of India. Yet if we see it we will And that on the $_s$ame subjects both the Central Government and the Bar Council have been given power to make rules. I think there is going to be confusion. There is a provision that in case there is some inconsistency between the rules made by the Bar Council and the rules made by the Central Government, the rules made by the Central Government shall prevail. That cuts at the very roct of the autonomy of th$_e$ Bar. I think it may not be possible just now for the Government to give up this particular clause which they want to incorporate, but on some occasion in the near future a provision of this kind should go.

Now, Sir, there are certain other clauses on which 1 will seek some clarification. Much ha$_s$ been said by hon. Members here about the amendment contained in clause 2 which deals with section 3 of the Act, with regard to the proposal of one half of the members to b$_e$ elected to the Bar Council. Something like nearly, half should have a standing of ten years. My friend, Mr. Sapru, for whom I have got the greatest respect, has suggested an amendment, viz. not only half but two-thirds of the members Should have a standing of at least ten years. When we resort to the system of election for particular posts or membership of certain committees, I do not think it i$_s$ proper to place any retrictions on the persons who are to he elected. After all, members o? the Bar are educated persons and if thev are not in a position to ev^rcise their right of vote properly, what can we expect from others'?

SHRI P. N. SAPRU: How did they exercise their votes in your own Stute? You know it.

PANDIT S. S. N. TANKHA: He iays it by experience.

SHRI NAFISUL HASAN; By experience they learn, if they commit a mistake. It is only by committing mistakes that a man learns. Once they have voted for a wrong man, •they will know the result of it and they will learn a lesson. But normally I do not think even this will achieve the object which is in the mind of my learned friend here. How doe^ he think that undesirable persons whom he thinks have come are of a standing of less than ten years?

PANDIT S. S. N. TANKHA: Yes. Even of two months' or three months' standing only.

SHRI NAFISUL HASAN; May b« one case or may be two. The objection which my friend, Mr. Sapru, has in mind relates to some other persons, some undesirable persons. They come in on account *ot* canvassing, but the canvassing will continue, even if half with ten years' standing are to be elected and half others.

SHRI P. N. SAPRU: The canvassing amounts to touting.

SHRI NAFISUL HASAN: Touting is in the entire profession like anyt'iing. It has got to be rooted out.

PANDIT S. S. N. TANKHA: Who will root it out?

THE VICE-CHAIRMAN (SHRI AKBAR Au: KHAN) ; Mr. Tankha, let him go on. In fact, the amending Bill says tone half. He has increased it to two-thirds.

SHRI MULKA GOVIND A REDDY: Even that is not necessary according to him.

SHRI NAFISUL HASAN: In my opinion, T fail to see sufficient justification even for this restriction of 50 per cent, being placed, because I feel that normally more than fifty per cent., maybe 70 or 80 per cent, of the persons to be elected as members of every Bar Council will be advocates with a standing of more than ten years.

Then, there is another provision in clause 2, i.e., amendment of section 3. One thing more is sought to be added, namely:

> 'An advocate shall be disqualified from voting at an election under sub-section (2) or for being chosen as, and for being, a member of a State Bar Council, unless he possesses such qualifications or satisfies such conditions as may be prescribed in this behalf by the Bar Council of India, and subject to any such rules that may be made, an electoral roll shall be prepared and revised from time to time by each State Bar Council."

No such provision wag in the original Act and this is sought to be added. What should I understand from it? In respect of a person who is an advocate and who is on the roll of advocates, do we require any further qualification? There may be certain disqualifications and a person may be disqualified from voting. But certain qualifications a^e to be prescribed which may entitle the person to vote. Normally every person who is enrolled as a member of the Bar Council should have the right to vote and should be eligible fo_r election as a member of the Bap Council. I do not see any justification for Ihis. At least I am unable to appreciate it.

Now, Sir, there is one other provision in clause 10 viz amendment of section 18, under which the name of an advocate may be transferred from one Bar Council to another at his request. Now, a proviso is being added:

> "Provided that where any such application for transfer is made by a person against whom any disciplinary proceeding is pending or whert

[Shri Naflsul Hasan.] for any other reason it appears to the Bar Council of India that the application for transfer has not been made bono *fide* and that the transfer should not be made, the Bar Council of India may, after giving the person making the application an opportunity of making a representation in this behalf, reject the application.".

I can very well understand that during the pendency of disciplinary proceedings he may not be transferred.

PANDIT S. S. N. TANKHA: After the disciplinary action has been taken against the man he wants to be transferred elsewhere.

SHRI NAFISUL HASAN: According to the existing Act it has been provided that whenever any application for transfer is made, there is no question of its rejection. The name will be transferred. But now a proviso is being added to say:

"Provided that where any such application for transfer is made by a person against whom any disciplinary proceeding is pending or where for any other reas'on it appears to the Bar Council of India that the application for transfer has not been made *bona fide."* etc.

I could not follow this because according to the Act a person can remain on the roll of only one Bar Council. He cannot be allowed to remain on the rolls of two State Bar Councils. Therefore, how can it be said that the application is n'ot bona *fide'!* Suppose I want to be transferred from U.P. to Punjab. It means that I am not entitled to practise after that in U.P. But if I apply for transfer of my name to the Punjab Bar Council, because I have decided that I would practise in the Punjab High Court, what can be the reason to determine that my application is not bona *fide?*

PANDIT S. S. N. TANKHA: Appre hending that I would be debarred by the U.P. Bar Council I apply for trans fer to Punjab. Such cases will not be allowed. j f

SHRI NAFISUL HASAN; There is no question of apprehension because any time the Bar Council under whose control I come can ask me to account for my actions during the period I was not under their control. Whatever I did under one Bar Council when I was enrolled in U.P., even after my transfer there is nothing in the law to prevent action being taken against me by the Bar Council under whose jurisdiction I go or even by the former Bar Council, whichever the case may be.

Then, Sir, there is another matter. Although it is not the subject of an amendment, there is another provision of the Act over which 1 am not happy.

THE VICE-CHAIRMAN (SHRI AKBAR An KHAN) : Has that been bought here?

SHRI NAFISUL HASAN: That is a suggestion. An occasion has arisen and it is just a suggestion I want to make to the Government. Of course no amendment has been brought as I have said at the outset. Sir, I have listened with the greatest patience to many speeches which had nothing to do with the amendment which is before the House, and I may be allowed to make just one suggestion which I consider important. That is section 4 which relates to the constitution of the Bar Council of India. It says that there shall be a Bar Council for the territories to which the said Act extends to be known as the Bar Council of India which shall consist of the following members, namely the Attorney-General, the Solicitor-General, one member elected by each State Bar Council from among its members, etc. Now, Sir, it is" this portion to which I object. This provision goes against our very idea of oneness of the Bar. Every State goes to elect members of its own Bar Council, and those mem-

bers send one of their representatives to the Bar Council of India. So the members of one Bar Council or, say, members practising within one State have no sort of contact with members practising in the other" States. That is not healthy for our integration purposes. I think what should be done is that there should be a common roll maintained by the Bar Council of India, and there will be no difficulty if all the members to be elected to that Council are elected by all the members of the bars throughout India through proportional represent *tion by means of the single transferable vote. Then the Bar of one State wall come in contact with the Bar of the other.

There is one other consideration. Now what is the position? Every State has to send one representative whether that State has got cnly 200 members of the bar or whether that State has got 4000 members of the bar on the roll of the State Bar Council. Then it is quite possible that o:ie State may be able to give two or three first class persons to be members of the Bar, Council of India. Under the present system it is not possible. It will be possible if we have a common roll, we are going to have it, and all the persons to be elected to the Bar Council of India may be elected through proportional representation by means of the single transferable vote.

With these words I support the Bill. Thank you very much:

श्री विमलकुमार मन्नालालजी चौरड़िया (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, यह अधिवक्ता कानून में संशोधन करने के लिए विधेयक प्रस्तुत हुआ है । १९६१ में जो कानून बना था उसका मुख्य उद्देश्य तीन प्रकार से था । पहला यह था कि अधिवक्ता के बारे में जो भिन्न भिन्न कक्षाएं हैं उन्हें एक किया जाय और दूसरा उनके लिए एक कामन ला तैयार किया जाय । तीसारा उद्देश्य यह था कि आटोनामस बार कायम किया जाय । तीन उद्देश्यों के लिए कानून बनाया गया था और इसको बड़े बड़े और अच्छे विद्वानों ने बनाया था, किन्तु उसका प्रैक्टिकल साइड को नहीं देखा और उसमें इस तरह का प्रतिबंध रखा कि यह नहीं होना चाहिये, वह नहीं होना चाहिये, विद्यार्थी को एल० एल० बी० की परीक्षा के बाद ट्रेनिंग लेनी चाहिये और उसके बाद इनरालमेंट होगा । इस तरह से कई प्रकार के बन्धन लगा दिये जिसको हम समझ नहीं पाये और न उनको असेस ही कर पाये कि जिनके द्वारा यह काम करना है वे उसे पूरा करने को तैयार है अथवा नहीं ।

हमने एक नेक इरादे से अधिवक्ता कानून बनाया ताकि उसमें काम करने वालों को सुविधा व उनका स्तर ऊंचा रहे । जिस दृष्टि से और जिस लक्ष्य को प्राप्त करने के लिए हमने वह कानून बनाया था वह प्राप्त नहीं हो सका और उसके परिणामस्वरूप हमें बार बार अमेन्डमेंट करना पड़ा । उस कानून में अमेन्डमेंट करने के बाद भी हमारा काम सुस्ती से चला यह आश्चर्य की बात है । उसके बाद जो रूल्स बनाने चाहिये थे, परीक्षा के लिए जो व्यवस्था करनी चाहिये थी वह नहीं की गई और विद्यार्थी एल० एल० बी० की डिग्री हाथ में लेकर इधर उधर फिरते रहे कि कहां ट्रेनिंग लें और कहां किस के अन्तर्गत परीक्षा होगी तथा ट्रेनिंग के बाद कहां ऐनरालमेंट होगा । इन चीजों की तो चिन्ता नहीं की गई और फिर यह अमेंडमेंट बिल लाया गया है और इन चीजों को ठीक करना पड़ रहा है । जो अमेन्डमेंट लाये गये हैं वे बहुत अच्छे हैं लेकिन हमारे मंत्री जी ने कुछ विशेष शब्दों का प्रयोग किया है । उन्होंने इन शब्दों का प्रयोग किया है :

"held before the 31st day of March, 1964 or such other later date as may be prescribed."

यह एक गली निकाल करके हमें कम से कम इस बात से मुक्त कर दिया कि भविष्य में हमारे मंत्री जी इसके लिये हमारे पास अमेंडमेंट बिल लेकर खड़े नहीं होंगे कि एक साल की अवधि बढ़ा दीजिये । अभी तो कई बार

[श्री विमलकुमार मन्नालालजी चौरड़िया]

कौंसिल्स ने, उनकी अपनी परीक्षाओं के नियम क्या हों, उनकी ट्रेनिंग किस तरह से हो, इस तरह की व्यवस्था नहीं की है। तो इस तरह से जो माननीय मंत्री जी ने किया, वह ठीक किया मगर मैं यह जानना चाहूंगा मंत्री जी से कि जिस समय हमने मूल कानून बनाया, उस समय हमने क्या यह कल्पना की थी कि एक साल के अन्दर सारी बार कौंसिल्स की व्यवस्था जमने के बाद, वे रूल्स भी बना लेंगी ट्रेनिंग की व्यवस्था कर लेंगी और परीक्षायें ले लेंगी। यह अगर कल्पना नहीं थी, तो क्या कारण था कि हमने प्रारम्भ में ही ३१ मार्च, १९६२ रखा, उसके बाद एक साल का और मौका दिया, और उसके बाद फिर हमको अमेंडमेंट लाना पड़ा। तो जहां कहीं भी इसकी भूल हो, उसको देखना होगा और इस तरह, के मामलों में वह भूल आगे दोहराई न जाय। इसके लिये हमारा शासन क्या विचार कर रहा है। उसको सोचना अत्यंत आवश्यक है। अभी हमारी थोड़ी सी गलती की वजह से हम समय पर कानून नहीं बना सके और पहले से इसके बारे में हमने विचार नहीं किया। हम जानते थे कि हमारे यहां पर रूल्स नहीं बने हैं। उसके परिणामस्वरूप कई विद्यार्थी को अपनी एल० एल० बी० की डिग्री ले करके अपने यहां से बंगलोर जाना पड़ा और बंगलोर जा करके वहां पर वे एक रोज में प्लीडर बन गये और दूसरे रोज पांच सौ रुपये दे करके उन्होंने अपना नाम एडवोकेट्स में लिखवाने की व्यवस्था कर ली। तो इस तरह से हमारी गलती की वजह से सैकड़ों विद्यार्थियों को भारत के भिन्न भिन्न कोनों से ऐसे स्थानों पर जाना पड़ा जहां इस कानून के अन्तर्गत एडवोकेट्स में नाम लिखवाने की व्यवस्था थी। तो क्या इस तरह से अच्छे इरादे से कानून बना करके लोगों को कष्ट देने की इच्छा थी? जैसा कि मैं कहा करता हूं कि अगर बंदर के हाथ में उस्तरा दे दिया जाय तो वह हजामत करने के बजाय अपनी नाक काट लेता है। उसी तरह से हमारे यहां पर इस कानून के द्वारा हमारी सरकार ने अच्छी व्यवस्था करने की अपेक्षा हमारे लोगों को कष्ट दिया है। अभी तक का यही अनुभव रहा है और आगे के लिये यह निवेदन है कि आगे यह चीज फिर दोहराई न जाय और जैसा कि इसमें रक्खा गया है "as perscribed" तो यह "as perscribed" का काम अपने यहां पर कहीं देर से निगाह में न आये और कई विद्यार्थी इसकी वजह परेशान हो जायें, इसके बारे में विचार करना आवश्यक है।

अभी अभी हमारे माननीय मंत्री जी बंगाल से आ रहे हैं और वे जानते हैं कि कलकत्ता में उपद्रवों के परिणाम स्वरूप कई विद्यार्थियों को ३१ मार्च के पहले अपना रिजल्ट नहीं मिला होगा। ऐसी स्थिति में जो विद्यार्थी परीक्षा से रुक गये या परीक्षा नहीं दे पाये, वे इसी से संबंधित हैं और उनके साथ हम न्याय क्यों न करें? केवल ३१ मार्च के पहले जिन्होंने परीक्षा दे दी, उनकी तो इसके अन्तर्गत हम व्यवस्था कर लें और उसके बाद जो उपद्रव के कारण या किन्हीं और कारणों से ऐसा न कर पाये, उनकी हम व्यवस्था न करें, यह कुछ उचित नहीं लगता है। इसके अतिरिक्त कई स्थानों पर ये परीक्षाएं अप्रैल में होती हैं और रिजल्ट उसके बाद में आते हैं। एल० एल० बी० की परीक्षाएं भिन्न भिन्न युनिवर्सिटीज में अलग अलग तारीखों में और अलग अलग महीनों में होती हैं, तो ऐसी स्थिति में हमें यह प्रावधान क्यों नहीं करना चाहिये कि सन् १९६४ में जो भी परीक्षाएं हों और अप्रैल महीने तक जो भी रिजल्टस आने वाले हों उनको देखने के बाद जो भी उचित होगा उसको लाग करेंगे। मैं यह भी पूछना चाहूंगा माननीय मंत्री जी से कि क्या हमने सब स्थानों पर इसके लिये रूल्स बना लिये हैं और रूल्स बना करके उनकी ट्रेनिंग की या जो भी व्यवस्था होनी चाहिये, वह कर ली है और ट्रेनिंग के बाद परीक्षा के लिये क्या कैरिकुलर रहे, क्या नहीं रहे यह सारा तय

हो गया है या तय नहीं हुआ है ? अगर तय नहीं हुआ है, तो मैं उनसे अभी प्रार्थना करूंगा कि मेहरबानी करके यह सन् १९६४ का प्रतिबंध भी मत रखिये । जब तक सब जगह अखिल भारतीय दृष्टि से व्यवस्था नहीं हो जाती है, तब तक आप इस तरह का बंधन लगा करके लोगों को कष्ट में न डालिये । इसलिये हमारी सहमति लेने से पहले मैं माननीय मंत्री जी से यह जानना चाहूंगा कि क्या उन्होंने इस बात की संतुष्टि कर ली है कि समस्त स्थानों पर इस तरह का कोर्स निर्धारित हो गया है, ट्रेनिंग की व्यवस्था हो गई है और परीक्षा लेने की भी व्यवस्था हो गई है । इन चीजों की अगर उनको पूरी संतुष्टि हो गई है कि सारे भारतवर्ष में ऐसी व्यवस्था हो गई है तब तो इस तरह के बंधन के लिये हम सहमत हो सकते हैं । मगर उसके अभाव में अगर वे यह चाहें कि ट्रेनिंग की व्यवस्था नहीं भी हुई है तब भी उनको बंधन का अधिकार दे दिया जाय, तो यह कुछ न्यायसंगत प्रतीत नहीं होता है और इस दृष्टि से माननीय मंत्री महोदय स्पष्टीकरण करेंगे तो ज्यादा अच्छा होगा ।

वैसे देखा जाय तो यह वकील का, अधिवक्ता का व्यवसाय ऐसा है जो बहुत नोबल प्रोफेशन की गिनती में आता है । परन्तु आजकल कहीं कहीं ऐसा भी देखने में आता है कि हमारी कई छोटी कोर्टस में समझ लीजिये. बड़ी बड़ी कोर्टस का तो पता नहीं, मगर कहीं कहीं बड़ी कोर्टस में भी ऐसे लोग मिलेंगे जो विटनेसेज को टेम्पर करते हैं । फोर्जरी तक करते हैं । ऐसे लोग कहीं कहीं पकड़े गये हैं और उन पर केसेज चले हैं । हमारे यहां इन्दौर में भी इस तरह का एक केस हुआ था । तो ऐसे जहां पर प्रकरण होते हैं, वे इस व्यवसाय की प्रतिष्ठा के प्रतिकूल होते हैं । अगर हम यह चाहते हैं कि जैसी इस व्यवसाय की प्रतिष्ठा प्रारम्भ में थी और इसके प्रति लोगों में श्रद्धा और आकर्षण सारा था, वह वैसे का वैसा बना रहे, तो हमारी ये जो बार कौंसिल हैं उन पर कुछ विशेष प्रतिबंध लगा करके ऐसी व्यवस्था की जाय कि जहां मामूली भी शिकायत हो, वहां अनुचित काम करने वाले के खिलाफ सख्त कार्यवाही की जाय । यह सरे आम कहा जाता है कि और सब जानते हैं कि अगर कोई चोर चोरी करके आता है तो उसको हमारे वकील साहब यही राय देते हैं कि, भैया, वहां कह देना कि मैंने चोरी नहीं की । "I plead not guilty" इस तरह पहले से ही उसको यह सारी ट्रेनिंग दी जाती है । तो क्या हमारे यहां यह व्यवसाय ऐसे दोषियों को भी दोषमुक्त करने के लिये व्यवस्था करवाने के लिये है अथवा न्याय में मदद करने के लिये है ?

हमारे इस व्यवसाय का मुख्य लक्ष्य न्याय में मदद करना है, मगर हम, आप और सब यह महसूस करते हैं कि न्याय में मदद देने की अपेक्षा हमारे कई अधिवक्ता भाई धन के कारण या जितना अधिक धन प्राप्त हो सके उसके लिये किसी भी तरह से, चाहे जितना कोई दोषी हो उसको मुक्त कराने का प्रयास करते हैं और कम से कम छोटी कोर्टस का हमारा अनुभव यही है । उनका इस बात का प्रयास नहीं रहता है कि उसने चोरी की है, इसलिये केवल कम से कम जितनी सजा हो सके, उसके दिलवाने का प्रयत्न करें । उनका कभी यह प्रयास नहीं होता है । उनका हमेशा प्रयास यही रहता है कि किस तरह से दांवपेच लगा करके उसको चोरी से मुक्त कराया जा सकता है । तो आज यह जो प्रयत्न बढ़ता जा रहा है, इससे इस व्यवसाय के लोगों के प्रति एक ऐसी अश्रद्धा का निर्माण होता जा रहा है कि भाई, वकील का काम ऐसा हो गया है कि जो पैसा दे, उधर की वह बोले और इस प्रकार कई तरह के आरोप और कई तरह के शब्दों से इस व्यवसाय को विभूषित किया जाता है ।

तो मैं यह प्रार्थना करूंगा कि हमारी ये जो बार कौंसिल बनने वाली हैं और जो

[श्री विमलकुमार मन्नालालजी चोरड़िया]

आटोनामस बाडीज हैं, इनमें इस बात का विशेष रूप से ध्यान देना चाहिये कि ऐसे गलत काम करने वाले जो भी वकील या ऐडवोकेट जो भी हों, उनके खिलाफ इतना सख्त एक्शन लेना चाहिये कि उनको इससे बिल्कुल रिमूव ही कर देना चाहिये । आज छोटा छोटा कोर्टस में टाउट्स वगैरह रहते हैं । वे लोगों को ढूंढ ढूंढ करके लाते हैं और इस प्रकार सारा काम चलता है । तो यह जो हमारे यहां नीचे से बीमारी घुसी हुई है, इस बीमारी को निकालने का हमको प्रयत्न करना चाहिये । मगर ऐसा दिखाई देता है कि यह बीमारी दिन प्रति दिन बढ़ती जा रही है और इस बीमारी की ओर दुर्लक्ष्य किया जा रहा है । कारण यह है कि यह जो इलेक्शन का आजकल युद्ध चलता है कि बार कौंसिल में किस को इलेक्ट होना चाहिये, किसको नहीं होना चाहिये, उस युद्ध में ही लोग इतना व्यस्त रहते हैं कि सारी बीमारियों को दूर करने का उनको समय ही नहीं मिलता है । तो इस दृष्टि से भी इसमें कुछ किया जाना चाहिये ।

हमारे मित्र भूपेश गुप्त जी ने एक सुझाव दिया कि पूल बनाना चाहिये और फिर आमदनी को टैलेंट्स के हिसाब से बांट देना चाहिये । मेरी समझ में यह नहीं आया कि एक तरफ वे यह कहते हैं कि सब को बराबर मिलना चाहिये और दूसरी तरफ वे यह भी कहते हैं कि सब की टैलेंट्स अलग अलग होती हैं । जो भाषा हमारे माननीय भूपेश गुप्त जी दे सकते हैं, संभवतः उनके दूसरे साथी वैसा अच्छा भाषण न दे सकें । इसी प्रकार जितनी अच्छी वकालत एक अधिवक्ता कर सकते हों, संभवतः उनके दूसरे साथी, जो उनसे ज्यादा पढ़े लिखे हों, उतनी अच्छी वकालत न कर पाते हों । ऐसी स्थिति में यह विचार करना पड़ेगा कि यह बंधन बांधना कहां तक उचित होगा कि सब में बराबर बांट दिया जाय । फिर देने वाला मिलता है, तब कोई लेता है । यह जरूर है कि कुछ नैतिक बंधन ऐसा होना चाहिये जिसके आधार पर कोई सीमा निर्धारित हो जाय । वैसे आजकल अगर कोई सीमा रख दी जाय तो अच्छे वकील के पास सब चले जायेंगे और उस बेचारे को खाने पीने तक की फुर्सत मिलने वाली नहीं है । इस लिये ऐसा होता है कि जो ज्यादा पैसा देता है उसका वह काम पहले करता है और कम पैसा देने वालों के लिये कोई दूसरा छोटा वकील होता है ।

इस तरह से पूलिंग व्यवस्था और टैलेंटस का जहां तक संबंध है, माननीय भूपेश गुप्त के समाजवाद या साम्यवाद में भी टैलेंट्स का बहुत बड़ा फर्क रहता है । टैलेंट्स के फर्क के हिसाब से वे भी चाहते हैं कि योग्यता के हिसाब से लोगों को मिलना चाहिए । मैं तो यह समझ रहा था कि शायद वे यह चाहते हैं कि सब वकीलों को बराबर बराबर बांट दिया जाय और चाहे पाठक साहब हों, चाहे कोई दूसरा वकील हो, सबको एक बराबर दिया जाय । साम्यवाद में शायद ऐसा सिद्धांत हो, परन्तु उन्होंने कम से कम यह तो माना कि सब एक सरीखे होते नहीं, अपने अपने टैलेंट्स के हिसाब से सब होते हैं । इस प्रकार जो सुझाव उन्होंने दिया कि एक पूल बनना चाहिये, वह यदि लागू हो गया तो उससे जितनी दिलचस्पी आज वकालत करने वाले या ऐडवोकेट महोदय या बेरिस्टर महोदय लेते हैं, वह बाद में वे लेने वाले नहीं हैं । इसका एक दूसरा लाभ यह हो सकता है कि लोग यह कहें कि अपने को पैसा तो मिलने ही वाला है, इसलिये पाप का काम क्यों करें, झूठे काम क्यों करें और क्यों न न्याय में जितनी मदद हो सकती हो, उतनी मदद करें । यह एक दृष्टिकोण भी हो सकता है । मगर जो बेस्ट सर्विस टैलेंट्स की मिलने वाली है, वह इस पूल की वजह से मिलेगी नहीं । इसलिये मैं उनके इस सुझाव का विरोध करता हूं ।

4½ P.M.

जहां तक ड्रेस की बात है, यह सचमुच आश्चर्य की बात है कि ऐसा हो होना जरूरी है। हमारे भारतवर्ष में भिन्न भिन्न क्लाइमेट मिलती है उत्तर से दक्षिण तक और इस लिहाज से ड्रेस के मामले में फर्क हो जाता है मगर यहां यह बंधन है कि इस तरह का कोट पहन कर आना है, इस तरह का गाउन होना है और वह काला होना है। हमारे यहां तो काला रंग एक अपशुकन माना जाता है और विदेशों में भी उसको अपशुकन मानते हैं, कहीं कहीं तो जब माउर्निंग सेरीमिनी करते हैं तब काला कपड़ा होता है नहीं तो एक काली पट्टी लगा कर जाते हैं। मगर हमारे यहां वकील साहब के लिये यह है कि काला कोट हो, टाई भी काली होनी है और गाउन भी काला होना है, कुछ समझ में नहीं आता है कि यह सारा का सारा काला क्यों है, यह पाप को छिपाने के लिये है या पाप को अपने पीछे रखते हैं और बाकी पुण्य ही पुण्य बाहर रहता है। यह किस दृष्टि से है समझ में नहीं आता है। मैं मानता हूं कि रंग से कुछ फर्क नहीं पड़ता है मगर मैं कई वकीलों को देखता हूं कि पसीने से तर रहते हैं फिर भी काला कोट डाले रहते हैं, बड़ी से बड़ी गर्मी हो फिर भी कोट होना चाहिये और उस पर यह भी कि टाई भी बंधी होनी चाहिये, वे सांस भी नहीं ले पाते हैं मगर बंधन है इसलिये पहनते हैं, वकालत का व्यवसाय ऐसा है कि उसके अन्तर्गत उन बेचारों को इस बन्धन में रहना पड़ता है। ऐसी स्थिति में मैं प्रार्थना करूंगा...

श्रीमती सीता युद्धवीर (आंध्र प्रदेश) : इसके बारे में क्या किसी वकील ने आपसे शिकायत की है ?

श्री बिमलकुमार मन्नालालजी चौरड़िया: मैं खुद वकालत करता था। अब मैं इसीलिये इस कुर्ते पर आ गया हूं, यह हल्का कुर्ता पहनता हूं इसमें पसीना नहीं आता है और आराम से रहता हूं लेकिन मैंने भी काला कोट पहना है, मैंने कुछ दिन वकालत किया है और मैंने खुद महसूस किया है कि गला बन्द है टाई बंधी हुई है और पसीना बह २ कर आ रहा है, पूरे अपटुडेट बन कर जाना है, चाहे भीषण गर्मी हो रही हो, कुछ हो, मगर उस एटिकेट का मेनटेनेंस करना है और उसमें किसी तरह की कमी नहीं आनी है। यह मेरे स्वयं के अनुभव की बात है, फिर मैं दूसरे के चेहरे पर जो भाव हैं उसको भी पहचानता हूं, उसको भी देखता हूं और जो मेरा अनुभव है उसके आधार पर भी कह रहा हूं और आशा है कि आप भी मुझ से सहमत होंगे। तो हमारे देश की जलवायु के लिहाज से...

पंडित श्यामसुन्दर नारायण तन्खा : कोट और टाई का तो कोई बन्धन नहीं है, आप अपना हिन्दुस्तानी कपड़ा पहन सकते हैं। यह जरूरी नहीं है, मगर यह जरूरी है कि अचकन या कोट पहनिये या और कोई चीज पहनिये, कुछ चीज होनी चाहिये।

THE VICE CHAIRMAN (SHRI AKBAR ALI KHAN) : There must be some uniformity, whatever it may be. That is the dignity of the Court.

श्री बिमलकुमार मन्नालालजी चौरड़िया : इसमें तो कोई दो मत हो नहीं सकते श्रीमान्, मगर यूनिफार्मिटी लाने वालों के लिये यह अत्यन्त आवश्यक है कि वह यह सोचे कि गर्मी के दिनों में भी वही ड्रेस प्रेस-क्राइब करके नहीं रखें जो कि ठंड के दिनों के लिये है। भारत के उत्तरी हिस्से में भी वही ड्रेस आवश्यक है जहां कि ठंड पड़ती है और वही दक्षिण भारत वालों के लिये भी आवश्यक जहां कि ठंड नहीं है, यह चल नहीं सकता, हालांकि दक्षिण भारत वालों का मैंने बड़ा अच्छा देखा कि वह कोट भी पहनेंगे, टाई को भी लगायेंगे, हैट वगैरह भी अपने लगायेंगे मगर वह अपनी लुंगी बराबर रखेंगे, उसमें किसी तरह की कठिनाई उन्हें नहीं होती, उनका देश ऐसा है कि इसके बिना

[श्री विमलकुमार मन्नालालजी चौरड़िया]

उनको कठिनाई होती है, कई तरह की बीमारी पैदा होती है, वगैरह वगैरह । तो जैसा कि माननीय तन्खा साहब ने कहा कि यह बन्धन नहीं है मगर मैं भी एक छोटे कंट में वकालत करता था, १९५७ तक वहां था और वहां यह बन्धन बराबर लगा था कि आप इस वेश में आयें, काले कोट में आयें, बन्द गले का कोट हो तो दूसरी बात है नहीं तो हाफ कोट हो तो उस पर टाई भी बांधे, यह बन्धन था कि आप को इस ड्रेस में आना चाहिये और जब बड़े कोर्ट में जायें, हाईकोर्ट में जायें तो गाउन बराबर होना चाहिये, ये सारे बन्धन थे । मैं यह नहीं कहता कि यह काला हो या नहीं हो—अपने यहां कुछ लोग काले को अपशकुन मानते हैं और इंग्लैण्ड में भी काले को अपशकुन मानते हैं लेकिन काला रहे तो कोई आपत्ति नहीं है मगर ड्रेस ऐसी होनी चाहिये . .

شری انیس قدوائی (اتر پردیش) : کیا کالا کرتہ پہنا جائے –

[**श्रीमती अनीस किदवाई** (उत्तर प्रदेश) : क्या काला कुर्ता पहना जाय ?]

श्री विमलकुमार मन्नालालजी चौरड़िया : अगर आप पूरा सुन लेतीं तो आपको यह कहने का कष्ट नहीं उठाना पड़ता । तो हमें अपने देश की जलवायु की दृष्टि से भी ड्रेस का निर्धारण करना चाहिये, अपने देश की परम्पराओं की दृष्टि से ड्रेस का निर्धारण करना चाहिये । हम यह नहीं कहते कि कोई हाफ पैंट पहन कर के वकालत करने चला जाय ।

श्रीमती सीता युद्धवीर : तो आप कोई कोई रंग बता दीजिये, आप कोई ड्रेस बता दीजिये ।

†[ ] Hindi transliteration.

श्री विमलकुमार मन्नालालजी चौरड़िया : मैं चाहूंगा कि आपकी और मेरी और पांच सात सदस्यों की कमेटी बनाली जाय और सब मिल कर देश के हिसाब से सोचें तो अच्छी तरह से निर्णय कर सकते हैं । मैं मालवा की तरफ से सुझाव दूंगा तो आंध्र की बहन कहेंगी कि यह ठीक लागू नहीं होगा, हमारे यहां तो लुंगी पहन कर आना है, उत्तर भारत के, काश्मीर के, लोग कहेंगे कि हमारे यहां पैंट चाहिये । इसलिये इन सब बातों पर विचार करने की दृष्टि से अच्छा हो कि हमारा शासन इनीशिएटिव लेकर वकीलों की, भिन्न भिन्न प्रान्त के लोगों की एक कमेटी बना कर बिठाये और फिर उसमें निर्णय करें कि हमारे देश में वकीलों की ड्रेस क्या होनी चाहिये ।

अब एक चीज और है जो कि अंग्रेजों के काल से चली आ रही है, एक गुलामी की प्रवृत्ति है और वह यह कि "माई लार्ड" और यह सारी बात आज के युग में ठीक नहीं लगती । यह जरूरी है कि हमें उस कुर्सी को मान देना चाहिये, उस कुर्सी को मान देने की दृष्टि से अच्छे शब्दों का इस्तैमाल करना चाहिये—जैसे कि "श्रीमान्" शब्द है, इतना अच्छा है, "माई लार्ड" तो ऊपर से निकलने वाला एक रूटीन का शब्द हो गया है मगर "श्रीमान्" हृदय से, अन्तरात्मा से निकलने वाला एक शब्द है, अंग्रेजों की दृष्टि से "माई लार्ड" भी अन्तरात्मा से निकलने वाला शब्द हो सकता है मगर हमारे यहां वह एक तरह से रुटीन में पड़ गया है, वह एक रुटीन सा है ऐसा मुझे लगता है । इसलिये इस दृष्टि से हमारे यहां बोलने में, आचरण में भी कुछ न कुछ परिवर्तन करने की आवश्यकता है ।

एक और निवेदन कर दूं । हम लोग आज कल हिन्दी के लिये बहुत प्रयत्न करते हैं और एडवोकेट्स की जो बार कौंसिल्स हैं इनको भी इसमें सहायक होना चाहिये । हमारा मध्य भारत का क्षेत्र था, मध्य भारत के क्षेत्र में हाई कोर्ट तक में हिन्दी में प्लीडिंग्स की जाती थीं.

जिनको बहस वगैरह करनी पड़ती थी वह बराबर हिन्दी में कर सकते थे, हमारे यहां के न्यायालयों में निर्णय आदि भी हिन्दी में दिये जाते थे और वहां हिन्दी का काफी प्रचार हो गया था मगर जब से यह मध्य प्रदेश बना, हमारे नये कानून बने, तब से उसके बाद से हमारे यहां उल्टी दिशा हुई, हिन्दी गायब होती गई और उसकी जगह अंग्रेजी स्थान लेती गई। तो मैं चाहूंगा कि अपने अपने प्रान्तों की रीजनल लैंगुएज को और अपनी हिन्दी भाषा को, इन दोनों को भी महत्व दिया जाय और अगर कोई चारा नहीं हो सकता , प्रान्तीय भाषाओं में भी काम नहीं हो सकता और अपनी हिन्दी में भी नहीं हो सकता तो अंग्रेजी को कहीं कहीं सबस्टीट्यूट किया जा सकता है मगर हमारे यहां पर हिन्दी को, प्रान्तीय भाषाओं को, प्रोत्साहन दिया जाना चाहिये।

एक और निवेदन कर दूं। हमने यहां करीब डेढ़ साल की ट्रेनिंग रखी है। कोई साल तो एल एल बी० तक की पढ़ाई में गुजरे और एल० एल० बी० होने के बाद डेढ़ साल प्रतीक्षा में लग जाय तो यह बहुत अधिक समय हो जाता है। अगर डेढ़ साल ही उपयुक्त हो तो मुझे कोई आपत्ति नहीं मगर अभी तो एक साल का छः महीने का कोर्स भी नहीं बना है, ऐसी स्थिति में छः महीने से प्रारम्भ करे, फिर देखें और आवश्यक समझे तो एक साल का कर सकते हैं डेढ़ साल का कर सकते हैं, जैसी कि चार्टर्ड एकाउण्टेंटस के लिये तीन या चार साल आर्टिकल क्लर्क होना है वैसी कोई व्यवस्था कर सकते हैं लेकिन अभी छः महीने से प्रारम्भ करें क्योंकि शुरू शुरू में पता ही नहीं है कि क्या कैरिकुलम है और क्या है।

इन शब्दों के साथ, आखिर में यही निवेदन करूंगा कि मन्त्री महोदय इन बातों का खुलासा करेंगे तो बड़ी कृपा होगी कि जो प्रारम्भ में विधान बना था उस समय क्या यह कल्पना नहीं की थी कि हमारी बार कौंसिलों का निर्माण क्या हो जायगा, कैरिकुलम की, परीक्षा की व्यवस्था क्या हो जायगी, दूसरे यह कि यहां पर जो दो तीन बार अमेंडमेंट लाने का कष्ट उठाना पड़ा वह क्यों उठाना पड़ा, तीसरे यह कि अब यह जो कानून को ३१ मार्च १९६४ तक के लिये किया है तो क्या सारे भारतवर्ष में उनकी ट्रेनिंग की, कोर्स की, परीक्षा की व्यवस्था कर ली है अथवा नहीं। इन चार पांच बातों का जवाब देंगे तो बड़ी कृपा होगी।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mrs. Guha. I hope you will be brief.

DR. SHRIMATI PHULRENU GUHA (West Bengal): It will be only three minutes.

Mr. Vice-Chairman, whil$_e$ I $_s$upport this Bill I like to suggest that the fees charged by the legal practitioners should be fixed. I mean that there should be a minimum and maximum fee that they can charge. That does not mean that I do not recognise the able practitioners. That does not also mean that I do not give full credit to the ability of the legal practitioners who have established their name and fame by their hard work and their good talent. But I should like to point out that in the same profession one person is getting Rs. 4 whereas another person is getting Rs. 20,000 a day. This type of disparity should not exist. For that may I sugest that the Bar may be consulted and fees fixed?

Another point that I like to suggest is that there should not be any disparity between the legal practitioners. From wherever they pass their examination they should be treated equally and facilities should be given to all of them on the same basis in all the States.

My last point is that there should be arrangement fo$_r$ legal help to poor people, particularly to women. It is often seen that when a women is in need of legal help, either she is in the hands of unscrupulous people or she

[Dr. Shrimati Phulrenu Guha.]

has not enough money to defend herself. Thank you.

SHRI T. CHENGALVAROYAN (Madras): Mr. Vice-Chairman, I cannot resist the temptation of participating in the debate on this important Bill. I owe a duty to the profession to which I have the honour to belong, to lend my support to the provisions of this amendment Bill. In so doing, may I be permitted *to* first answer the criticism that very often there has been an amending Bill and that shows either a defect in the concept of the original Bill or in the want of appreciation of the dynamic nature of the movement of law? I would submit with very great respect that experience always beckons us to correct certain mistakes, if mistakes have been committed or to fill up gaps if gaps have been created and, therefore, this amending Bill cannot be criticised on that score. May I also say that when we created the Bar Councils under the Advoctes Act, we imprinted the Bar Councils with certain powers, with certain duties and with certain functions. I should submit that the Bar Council today has become a very important institution not only for the purpose of supervision, direction and control of the legal profession but, by and large, it has a triple function •which any Bar Council, particularly the State Bar Council has to perform. It is in charge of the unification of the Bar throughout our country and that task has been accomplished by the Advocates Act by successive amendments but I am afraid that with reference to this other task which is as important as the first one, namely that the Bar Council should undertake an organised attempt both institutionally and otherwise, with reference to the legal education the contents of that education, the course of that education and the conduct of that education, there I am afraid, the State Bar Councils have not yet evolved a particular pattern of legal education. May I therefore take this opportunity of requesting the State Bar Councils, if they cannot, the Central Bar Council, to evolve a particular pattern of legal education so that our future generation of lawyers would not only be found equal to the occasion but something even higher?

There is the third task that the Bar Council has to engage itself in and that is upholding the high traditions and sanctifying associations and memorials of this very noble profession of law. I am sure the Bar Council has to certainly discharge this important role in maintaining the highest and sublime standards of professional conduct. With these tasks, the Bar Council will be having a very great historic role to play but in the context of this Bill there have been two or three criticisms which have been made and I would respectfully, agree with one such criticism, namely, that in regard t° changing the date on which or before which admission to the roll of advocates will have to be made. I have very great sympathy for this provision in sub-clause (1) of clause 13 of the Bill which now states:

> "A person who has obtained a degree in law from any University in India on the results of an examination held before the 31st day of March, 1964."

It certainly fulfills certain hardships and handicaps which certain section? of these graduates had suffered but I have my own apprehension with regard to the necessity of the succeeding clause which states:

> "or such other later date as may be prescribed."

I am afraid such a provision will lend itself to unnecessary and personal considerations which, I am afraid, will not contribute to the sublimity of the Bar Council or the legal profession. I may also make one or two observations with regard to one provision which has been criticised and that is with reference to clause 10 which states:

> "Provided that where any such application for transfer is made by

person against whom, any disciplinary proceeding is pending or where for any other reason it appears to the Bar Council of India . . ."

The criticism was that that should not be at all introduced in this Bill. I would certainly feel that that provision is very salutary because we have conferred a certain amount of jurisdiction on the State Bar Councils in tie matter of disciplinary proceedings. If a disciplinary proceeding has been started by a State Bar Council and if a particular advocate has applied for the transfer of his name to another roll, then the difficulty will arise aid the doubt will be created as *to* which State Council will have disciplinary jurisdiction. That will create certainly a conflict of jurisdiction and in the conflict of jurisdiction the real disciplinary matter may not be taken up. I therefore submit that this clause is very salutary indeed and pending the decision on the disciplinary proceedings, the transfer application may not be ordered.

There is one other provision wheh has been made and that is with re "c -rence *to* section 49A which empowers the Central Government for the purpose of making rules. It is *no* doubt true that these Bar Councils both in the State level and in the Centre, are autonomous bodies but it does not mean therefore that the autonomous bodies must be left to their own empires and to their own imperialism, if I may use that word and the Central Government, if it has got the power to make rules and regulaticns. there is this very salutary safeguard given in this very clause that such rules will be placed before the Houses of Parliament while they are in Session. That is a very important provision because this House and the other House will always have periodical opportunities for assessing the provisions of the rules that the Central Government may make. I therefore submit that it is a very good provision which I request this House to accept without any difficulty.

One word more and I have done. There have been certain suggestions made particularly by my comrade Shri Bhupesh Gupta, with reference to three things which are rather very controversial and particularly, in the context of this Bill, I would submit they are rather irrelevant and not germane at all.

[THE DEPUTY CHAIRMAN in the Chair].

For example, on the question of addressing the learned Judges of the High Court, it has been suggested as to why we should address them a3 'My Lord'. For one thing, it has become part of a legend in law that we always address the learned judges not because by virtue of any sycophant spirit, not because we want to have any kind of slavish mentality but we always hold and hold in high esteem all those who dispense justice. They are in the position of God Himself and therefore whenever we look upon a learned judge, dispensing justice between parties and parties, we always look upon him as the embodiment of the very Divinity which alone is the source of all justice. I, therefore, submit that the criticism of my friend, Shri Gupta, that we should not address judges as 'My Lords' is certainly not legal, if not otherwise.

Ther$_e$ has been another criticism.

SHRI AKBAR ALI KHAN: That was the observation of Mr. Chordia.

SHRI T. CHENGALVAROYAN: There was another criticism that the professional robes of the lawyers must be changed. I do not know how that could be considered within the ambit of this Bill but even as a suggestion emanating from an hon. member of the Bar, as Mr. Gupta is, I would submit that professional robe has become another legendary fact. If a postman can have his uniform, if a teacher can have his uniform, I wonder why lawyers should not be given their uniform.

It has been said, Madam Deputy Chairman, of the legend in the British

[Shri T. Chengalvaroyan.]

system, namely that the gown is put on not for any other purpose, but because we are supposed to act for the client, and it is the mantle of the client that hangs on our shoulders; that is the legend of the professional robes, and JI should submit that, whatever might not have been done, one thing should not be done and that is that these professional robes have to Jje maintained. I agree with my friend, Mr. Chordia—though I could not follow all that he said—When he was explaining to this House that these professional robes give a certain mark of distinction. Otherwise, Madam Deputy Chairman, when we go into the corridors of the court, there will not be any distinction between a party and a lawyer, and in order to have that mark of professional distinction and in order to have certain uniformity I should submit that it will be a very dangerous idea for Members to suggest that we must dispense with the professional robes.

One more point, Madam Deputy Chairman, and that is with reference to the question of the Bar Councils functioning and trying to frame a set of rules. I take this opportunity to request the Bar Councils in the States to immediately begin to frame the rules under the provisions pf this Act. The clause provides that half the number of members of a Bar Council should be advocates of ten years' standing, and. my venerable friend, Mr. Sapru, suggested that two-thirds of the members should be of ten years' standing. May I here suggest, Madam Deputy Chairman, that the existing provision is adequate? We cannot, all at once, at one stroke, say that all those persons who are not having ten years' standing at the Bar will not have the competency to be members of the State Bar Councils—that will not be a good thing to say— and the provision that half the number of members of the Bar Council should be of ten years' standing is sufficient safeguard for any steadfastness and for any high standard that the State Bar Councils could always adopt.

With these words, Madam Deputy Chairman, 1 have very great pleasure in whole-heartedly supporting the provisions of this Bill, but when this Bill is passed into an Act, may we hope that the Bar Councils functioning in the States would really function for the integrity and the nobility and the sublimity of this profession? Let not these Bar Councils become one of several other institutions from which we suffer in this country. Let it not become an *impe-riuvn* in imperio. Let it not become a mere election-rriongering institution? Let it not become a handle for unscrupulous professional jealousies. Let it not become any of those ignoble practices which ithe legal profession could never countenance, and I am sure, Madam Deputy Chairman, that this Bill will be a guarantee against all such practices.

SHRI D. L. SEN GUPTA (West Bengal): Madam Deputy Qhairman, when I take this Bill in hand, it reminds me whether the Indian Parliament is going to introduce a new system of protection and safeguards unknown heretofore. So long we were acquainted with protection for the minorities, safeguards to those who are culturally backward or socially backward or have not the competitive capacity. But here is this clause we find that the makers of the Bill have deemed it necessary that protection should be afforded to advocates with more than ten years' experience, that fifty per cent, seat* should be reserved for them. Those who are in the profession for the last ten years, numerically they are a minority, and for that minority there is no protection, nor dr> we want any. But those who are firm for more tlhan ten years in this profession, who are numerically more and supposedly more intelligent, more respected, for them there is protection here, and it is a strange thing. It is something which this Parliament is going to pass, and it will go down in history that for the most learned

profession this Indian Parliament conceived of certain provisions to safeguard the interests of the majority in that profession, those who are supposedly more experienced in the profession.

Madam, I raise the matter from this angle for serious consideration, whether any such protection is really called for and whether anybody has asked for any such protection. Where i; the fear complex, and from what fear complex this has been provided here?

1 have full respect for the members of the Bar. They know their position. Those who are serious in their profession and as such eminent, they liave no time to serve on these committees of the Bar Councils, and I also know for certain that there are many in this profession who, even after twenty years or thirty years, have been a complete failure whereas, on the other hand, a man with five years, experience has built up a stature. So this period is no criterion for efficiency or good experience. This is one aspect of the thing—I have referred to clause

2 and *my* criticism relates to th* proviso thereunder.

Now, coming to clause 2 of this amending Bill, what do we find? We find that the makers of this Bill, those who have placed this Bill for ha ring it enacted, have no respect for these Bar Councils, for their rich experience and learned erudition because, over their head, they have made a provision here for the Central Government to make rules. Are we to suppose that the Central Government knows the law-year's business much m'ore than these experienced men? If they know it for certain, then what is the justification for giving protection to those with ten years' experience, as we find them do in the proviso to clause 2" It is not a consistent attitude to take. A lawyer's business is best known to the experienced lawyers, not to the; Under Secretary of the Law Department or to the Deputy Secretary of the Law Department or to the Joint Secretary of the Law Department, who were never on the Bar possibly. By virtue of their official status they have not become all-knowing persons. They cannot be given this credit that because they have been in the Government they are more competent to make a Bill—which, of course, will be passed by a brute majority—that they have the right to supersede the rules which the Bar Councils might frame for themselves. I, therefore, say to the Government: don't take that position; leave it to the Bar Councils; you have no right to insult the advocates; you have no right to insult the Bar Councils. I take it as an insult, and as a member of this profession I request the hon. Minister to look at it from the lawyers' point of view, how they will take it. Make it function as a really autonomous body.

Then I draw the attention of the House to my other criticism; I criticise the uncertain attitude of the Government's mind; Government does not know its mind, it seems. In the Bar Councils Act, since repealed, such a provision of safeguards for senior members of the Bar did exist. But that was repealed. When this Advocates Act, keeping in view the whole Bar Councils Act, was passed, you repealed it; the House repealed it; the House said by implication that it should not be there. And what has happened three years after that you want to reintroduce it? We want to know from the Minister concerned what has suddenly happened in three years' time? What is the reason for this abrupt change in the attitude of the Government to make certain things here in the law, what- wa3 not there. I am drawing the attention of the House to page 13 of the Bill as introduced in Lok Sabha, to paragraph 3 of the Statement of Objects and Reasons:

> "The State Bar Councils have been given wide powers under the Act in respect of various matters, including disciplinary matters. It is considered that, in the interests of efficient functioning of a State Bar Council, it should consist of some

[Shri D. L. Sen Gupta.]

advocates who have at least ten years' standing. There was such a provision in the Indian Bar Councils Act, 1926. It is accordingly proposed to provide that, as nearly as possible, one-half of the elected members of every State Bar Council should be advocates of not less than ten years' standing."

It was there in the Bar Councils Act and this Advocates Act was supposed to be an improvement over that Act. Otherwise there was no necessity to repeal that Act wasting time and money of the Government and of this House. It was more or less an amended Act in place of the Bar Councils Act, If this provision was repealed, what has happened in the last three years to justify another amendment to bring in a provision which was there before? This is a matter for serious consideration. We shall do away with something today and next year we shall bring in the same thing which we repeal today. Is it the way to amend an enactment? I am not opposed to bringing in amendments on good and sufficient grounds, on justifiable grounds. I know the objective itself changes. The world is in a dynamic process and such things might come in necessitating the bringing in of amendments to cope with the social system, to cope with the situation and to cope with the country's needs but what is there in this amendment? If there is nothing in it, then certainly because you have a right to bring in a Bill, you have the right to bring in an amendment, you cannot treat the House in such a shabby manner.

Now, the other important thing to which I should like to draw the attention of the House is this. I know you will pass this Bill and I also know that no suggestions will be considered. This is also known to me. The legal profession is a very respectable profession. The lawyers would not like to be treated as Government employees nor do they have the protection of article 311 of the Constitution. Clause 19 of this Bill says:

"No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being" heard."

You give a person a reasonable opportunity of being heard and then take penal action. What was the old law for unprofessional conduct and other misconduct? I understand professional misconduct but 1 do not know what is meant by "other misconduct" in section 35 (i) of the Advocates Act after keeping which in view the Bar Council will administer justice and give reasonable opportunity to the person concerned. Now, do the Bar Councils assume the status of the custodians of public morals? Are we to surrender all our private lives, because we are lawyers, to the jurisdiction of the Bar Councils? If a husband and wife quarrel, will that be a matter to be enquired into by the Bar Council? If you kindly refer to the Statement of Objects and Reasons, you will find that they make no secret of it. They say that this has been done to tighten the disciplinary measure. What are the disciplinary measures? The Bar Council has to see that a member of the Bar does not do anything or commit any offence which might undermine the prestige of lawyers or not conform to certain laws which might be there. We do not know those rules. The only point to be considered is that in the name of giving reasonable opportunities you are going to punish a man for any misconduct whatsoever. That is rather too much. In spite of all this, there is one re-deen^ng feature so far as this Bill is concerned and it is to be found in clause 13(C) where they say:

"Notwithstanding anything contained in sub-section (1) a person who—

"(a) before the 31st day of March, 1964, has, for at least three

years, been a vakil or a pleader or a mukhtar, or was entitled at any time to be enrolled under any law then in force as an advocate of a High Court --------- or of a Court of Judicial Commissioner in any Union territory;"

Madam, all these were there and if the Law Minister had applied his mind, as an eminent counsel he ought to have, he would have found that the mukhtars as a class were in existence. They are experienced in criminal law. Now, we are having specialisation in every thing. In medicine, there is one batch specialising in gynaecology, one batch specialising in tuberculosis, one on eye and so on. Similarly, so far as law is concerned, one set of lawyers has experience of revenue matters, another set of lawyers develop constitutional law, one batch develops industrial law, civil law, criminal law and so on. Similarly, criminal law is the field which the mukhtars have developed. Since this was known to the Law Minister, he should have seen to it that they were included in the first instance. They ought to have been. Now, wa know that this nomenclature, barrister or mukhtar does not matter much. There are barristers who have proved a complete failure and there are successful mukhtars. There are barristers who had the good fortune to be sons of rich men or sons-in-law of rich men. They had the money to go to England and become barristers. Brilliant students who had no money or less money become advocates and those who, because of their extreme poverty, could hardly pass the matriculation examination and could not take the degree in law were made mukhtars. We know their history. If anybody does *not* know it, then he will be doing wrong to them. Before we pass this measure providing for thi$_s$ "three years' experience" clause, we must understand their history. Whv do you close the door and not permit the mukhtars hereafter to be enrolled as advocates? Why are you making this profession a close preserve only for those who are big enough, who can get a law degree and become advocates? It is meeting half way, it is not meeting to the fullest extent which this Ministry should have done. Th$_e$ law makers have lacked imagination ana~I request that the door which enables the poor to become an advocate, to be enrolled as an advocate should be open for those mukhtars who have not yet completed three years. The door for them should not be closed and they should not be debarred.

Another thing is this. It is my experience that nothing is taught in the law colleges. One has got to qualify by taking degree and he learns law only when he comes to the profession. You do not learn law when you are in the colleges. You simply pass an examination and when you get a client you get a brief, you start learning law. That being the position why do you make this 31st day of March 1964 as the dead-line beyond which a man wanting to be enrolled as an advocate has to pass through a course of studies? That clause is redundant Let everybody join the Bar and there develop his qualities. If he can develop, it is all right. There should be no question of one or **two** or three years. He will wait for some **time** to qualify; if not, he will leave the profession. You have ample safeguards. If there is any case of professional misconduct, the laws are there to take their own course. If they are not qualified the clients would desert them. So what is the useful purpose that will be served by wasting their valuable one year or two years' time in the name of training, in the name of articleship? If those who will be passing by 31st March can be directly enrolled as advocates without undergoing any course of training why should you make this restriction in the case of others? This is rather inconsistent. If this Bill reflects anything it reflects the uncertain mind of Government.

SHRI BIBUDHENDRA MISRA: Madam Deputy Chairman, the provision in the Bill which seeks to extend

[Shri Bibudhendra Misra.j the date from 28th February 1963 to March 31, 1964, thereby enabling those law graduates who pass before March 1964 to be straightway enrolled as advocates has come in for criticism, and diametrically opposed criticism. Mr. Sapru, for example—for whom I have the highest regard—is opposed to the very idea of extension of the date. His point is that if, on principle, you have decided that those who enter the Bar in order to he able to properly discharge their duties must have some additional training besides having the degree of law, why we should extend the date from time to time and open the door of the courts to those people who are not qualified for it. On the other hand there is the demand made by Mr. Govinda Reddy, my friend from Mysore. He wants to know why we have fixed the deadline as 31st March 1964 and why we do not take into calculation the fact that in most of the universities in India examinations are held in the month of April. He asks, "why don't you extend the date further?" For this the answer is very simple. So far as Mr. Sapru's contention is concerned it is based on the very principle that was accepted by Parliament when it passed the Advocates Act that it is essential that they must have some additional training but. unfortunately, a deadline has to be fixed because the authorities have to be created under the Act and the State Bar Councils have to come into operation.

SHRI P. N. SAPRU: Even now the deadline is flexible; it gets increased from time to time.

SHRI BIBUDHENDRA MISRA: I am coming to it. Therefore some date has to be fixed since authorities have to be created. After the authorities have been created, after they frame rules,—only then—we can think of giving the necessary training to the graduates. Therefore it was first decided that there should be a deadline, then the authorities should be created and a time limit set by which elections should b$_e$ held so that the Bar Councils would come into existence and frame the rules and then start giving the training. Unfortunately it could not be done. The Bar Councils came into being very late and the rules were framed still later and so We were compelled to extend the date from time to time.

The principle on which this extension is based is not the fact of examinations being held in any university at any particular time. A plea has been made that it should be extended because some universities hold their examination in April. It could also be argued that it should be extended to May because some other universities hold their examinations in May and perhaps some in June also and so on it will go which means that we will have to go on extending the date and the very principle we have accepted, namely, giving a particular type of training before the graduates are enrolled as advocates will be set at nought. Therefore it is after much deliberation, Madam, that this date of 31st March 1964 has been fixed.

I think a question was raised whether all the Bar Councils would have framed rules by this date. My information is that they are all ready and though we have given the power to the Bar Council of India to extend the date if necessary by their rules, I do not think it will be necessary because I am told—I have got the information from the Bar Council of India—that they are ready now and all those graduates who pass their examinations after the specified date will not have any difficulty in getting the training prescribed by the Bar Council of India.

Then, Madam, so much has been said about elections to the State Bar Council. On the one hand it has been asked, 'why don't vou allow the elections to b$_e$ free? Why do you want to impose a restriction that half the members should have te$_n$ years' standing?' On the other hand the contention of hon. Members like Mr. Sapru is that if you have invested the Bar Council with so much disci-

plinary powers and other powers it is only proper that, if you want to make a success of this measure, persons with experience should he brought in. And persons with experience who are ordinarily in the Bar would not like to contest elections and, therefore, this half which we have provided should be raised to two-thirds. My only answer is 1hat after three years of experience of the working of this Act the Bar Council of India recommended that half of it should be members of ten years' standing and that is why this prevision has been incorporated here. I do not want to go into particular questions but I believe that when the Bar Council of India made this recommendation they took all the circumstances into consideration and "hey thought this was the proper recommendation to make.

Then, Madam, it has been suggested that there should be a uniform legal education in the country and the Bar Council of India should see to it. I would only like to point out that under section 7 of the Act the Bar Council of India has to do that; one of the functions of the Bar Council of India is to promote legal education and to lay down standards of such education in consultation with the universities in India imparting such education and the State Bar Councils, and I am informed that the Bar Council of India has formed a Legal Education Sub-Committee and they have decided urjon a course of syllabus. I hope they will be in touch with the universities and have a uniform syllabus throughout the country.

Then objection has been taken to the representation of State Bar Councils in the All-India Bar Council. I do not think that it is a serious objection because in such a vast country if you want to have one uniform rule for the whole country it is necessary that you should know the state of affairs obtaining in the different States. And how are you going to frame rules for the entire country as a whole unless you have a representative from each Bar Council to give the opinion of the State 0Bar Council concerned on any matter which comes up before the All-India Bar Council?

Madam, objection has been taken also to the power taken by the Central Government to make rules and it has been said that it is an insult to the legal profession. The last speaker, Mr. Sen Gupta, said it is an insult to -the legal profession; 'we do not want the Joint Secretaries, Deputy Secretaries or Under Secretaries of the Ministry of Law to make rules'. I would only point out that it may not be necessary to frame rules. If the Bar Council frames rules for any particular purpose it may not be necessary for the Government of India to frame rules. It is only in cases where there are no rules or where rules are required immediately to be framed that this power can be exercised. The House will remember that on the last occasion we took this power to frame certain rules and I would also point out to the House that we have sufficient respect for the profession; we have sufficient respect for the Bar. It is the Parliament which passes the Act and it has been provided that the rules that are framed will be placed before the House.

I would request hon Members to look at the relevant provision where it has been laid down that the rules so framed shall be placed before Parliament. And if it is found that any of the rules is repugnant or undesirable, we have the power to alter it, we have the power to modify it and we have the power to rescind it also. So there is no question of having any rule which will be repugnant or which will be unfair because it will be a rule passed by the legislature. It is unfair to say that the Government wants to take power so as to hand it over to the Joint Secretary or the Deputy Secretary of the Government.

Mr. Bhupesh Gupta made some suggestions, very useful suggestions, but I should say, not about the provisions

[Shri Bibudhendra Misra.]

of the Bill but strictly about matters which should come within the purview of the consideration of the Bar Council. H_e has suggested that there should be legal aid to the poor. He has suggested that something should be done to see that the junior advocates and others who are really efficient and capable do not go starving. I think the Bar Council of India as well as the Bar Association of India will take note of it and they are already taking note of it. I remember— speaking subject to correction—at the third all-India Law Conference held sometime back in Delhi the All-India Bar Association itself passed a Resolution that pending any action that may be taken by other sources legal aid should start from the Bar Association itself. For the purpose the Bar Association of every State should form Committees and examine it. They have broadly made certain recommendations on which the legal aid programme should follow.

So far as monopolism, according to him, in the profession is concerned, he does not know how to stop it and I have also no idea as to how it can be stopped. In any profession in the world, whatever be the profession, whether it is law, whether it is medi cine, there are bound to be some people at the top. You cannot elimi nate it by any process of distribution. If the fee is a matter of contract bet ween the lawyer and his client, I do not understand, I do not quite follow what measures can be adopted to stop it altogether. There is bound to be a top class and Mr. Bhupesh Gupta him self took pride in the fact that the top class lawyers in the country back ed up their demand for the with drawal of the Constitution (Eighteenth Amendment) Bill. There fore, he is also proud of the top class. There is bound to be a top class in the orofession. As I said, this did not concern . . .

SHRI BHUPESH GUPTA: I am not proud of the top class. I did not say that.

SHRI BIBUDHENDRA MISRA: The top lawyers. In that background I said about the top lawyers of the country. In every profession there is bound to be a top class. I said that with reference to lawyers.

SHRI BHUPESH GUPTA: I would not like them to draw Rs. 30,000.

SHRI BIBUDHENDRA MISRA: That is a matter where he can talk to his friends, persuade them and create public opinion.

SHRI BHUPESH GUPTA: It should be restricted by law.

SHRI BIBUDHENDRA MISRA: We shall see that when you come to power how you restrict it. These are the suggestions . . .

SHRI P. N. SAPRU: Our income-tax will suffer.

SHRI BIBUDHENDRA MISRA: . . . that have been made by him and they will receive the consideration they deserve.

SHRI BHUPESH GUPTA: What do you say about the collegium idea?

SHRI BIBUDHENDRA MISRA: I said it is for their consideration. I cannot have better ideas than Mr. Bhupesh Gupta. Therefore, I said only a group of people who have better ideas would consider it.

Then, of course, he has said that he hates this term 'barrister'. Nobody should be called a barrister. In the Act itself nobody is called a barrister. The Act only says that there shall be one class of lawyers, namely, advocates, in the country. There are various conditions added to a qualification that entitles one to become an advocate just as we add our foreign degrees to our names sometimes.

SHRI BHUPESH GUPTA: I understand it, but I vant the rules of the Bar Council so made as to compel people not to write the word 'Barrister" after their names.