

[Shri B. R. Bhagat.] course, that has nothing to do with this because, as I said and explained a little earlier, we always prefer—it is always better—to have investments in the private sector from international organisations like this than in the public sector. They may have their own policies or prejudices. But this is an international organisation in which we are also a member, the policies of which we decide also. They are always better from any larger policy point of view or in the larger national interests. So, what he means by his reference to the particular point of international policy or economic policy, I do not know. If he means private foreign investment, this does not concern that aspect but there too we don't allow any private investment from foreign countries into this country unless it is acceptable or it conforms to the pattern of our industrial and economic policies. So I want to ask in all humility, what does the hon. Member talk about, what does he mean when he says that we are surrendering our economic sovereignty or political sovereignty? If he thinks that any stick is good enough to beat the Government, he can do so, but I can only say that it is a pity that such a fine and resourceful mind, because it is obsessed by some fantasies that do not exist, always goes off at a tangent and misses the real point.

MR. DEPUTY CHAIRMAN: The question is:

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

**THE SUPREME COURT JUDGES
(CONDITIONS OF SERVICE) BILL,
1958**

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS (SHRI B. N.
DATAR) : Sir, I beg to move:

"That the Bill to regulate certain
conditions of service of the Judges

of the Supreme Court; as passed by the Lok Sabha, be taken into consideration."

Sir, in this case we are dealing with the regulation of certain conditions of service so far as the Supreme Court Judges are concerned. The matters with which this Bill is concerned are the leave of absence, pensions and certain other conditions of service for which a provision either has been made in the Bill or will be provided for in the rules to be made under this Act. Now so far as the Supreme Court is concerned, under the Government of India Act, 1935, the Federal Court was established and that continued to function till the Constitution came into operation. Under the Constitution it was laid down that a Supreme Court should be established for the whole of India. That was done after the commencement of the Constitution and so far as the conditions of service were concerned, one condition was actually defined in the Constitution. That was with regard to the pay that was to be offered to the Chief Justice of India as also to the other Judges of the Supreme Court. Rs. 5,000 was the pay that was offered to the Chief Justice of India and Rs. 4,000 was the pay to be offered to the other Judges of the Supreme Court. In respect of the other conditions like leave of absence etc. it was laid down that until Parliament by law makes suitable provisions, what the law then was, was to continue and certain provisions were made in Schedule II, Part D, and therein also it is stated that in respect of leave of absence etc. the rules formerly made under the Federal Court Order passed in 1937 might continue, and in this respect I would invite the attention of the House to article 125(2) of the Constitution.

"Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such provisions as were

vileges, allowances and rights as are specified in the Second Schedule."

So under these circumstances, we had certain provisions made, but now, after considering all the circumstances after taking into account the experience that we have gathered during the last 8 years, the Government have come to the conclusion that certain provisions should be definitely made and certain provisions should be liberalised to a certain extent.

I might point here for example, that so far as the leave rules were concerned, under the earlier law, the leave was granted either on medical certificate or otherwise than on medical certificate or what was known as extraordinary leave for certain reasons which the Judge may have in view. So far as the last class of leave was concerned, he was not given any pay or allowance at all but in respect of the two other types of leave, a certain amount was given to him. That amount was Rs. 1,110 so far as the two types of leave were concerned. The period also was fixed; in each case it was six months or rather, in the other case also, it was six months. But a particular hardship was there in the sense that this leave had to be taken once and could not be split up. Therefore, certain difficulties were felt and Government considered the matter, and after considering all the circumstances in connection with this question, it considered it advisable to have the same type of rules or provisions, so far as the Supreme Court Judges were concerned as the one that we had in respect of the High Court Judges. So far as the High Court Judges are concerned, in 1954, Parliament passed an Act known as the Part A States High Court Judges Act. On and after 1-11-1956, as you are aware, there was a re-organisation of States and Part B States ceased to function and therefore certain adaptations were made in the rule and we have now for the High Courts a standard Act, known as the High Court Judges Act, 1954. Certain amendments are to be introduced in that Act also.

That amending Bill is now before the other House. So far as the Supreme Court Judges are concerned, in respect of leave, it was considered advisable to place them on the same footing. In respect of High Court Judges, a system has been followed which on the whole is convenient to all the parties concerned. There what has been done is that a leave account is opened in respect of every High Court Judge. That is going to be followed in respect of the Supreme Court Judges as well. In the leave account the total leave to which he would be entitled would be to his credit. So, the credit side would point out the total amount that he would be entitled to take from time to time. So far as the debit side is concerned, to him will be debited the leave or periods of leave that he would be taking from time to time. For easy computation, this leave has been expressed in terms of leave on half allowances. That is how it has been done. So, the same system is working fairly well. Here also we consider that it would be better to follow the same pattern.

So far as this leave that has to be to the credit of the High Court Judges is concerned, certain principles have been laid down. One principle is that all the periods of leave taken together under any of the heads pointed out should not exceed one-quarter of the actual period of service. The words 'actual service' have been defined in this Bill and therefore the maximum would be, the highest computation would be, in terms of one-quarter of the actual period of service, subject however—this might kindly be noted—to a maximum period of 3 years on half allowances. If this computation were to go on, then it is quite likely that it might exceed even 3 years of half allowances leave. Therefore, it has been laid down that though the computation is one-fourth of the actual service, still it is subject to a maximum of 3 years. And then it has been further laid down that the aggregate amount of leave should not exceed three years on half allowances.

[Shri B. N. Datar.] Another principle laid down was with regard to the maximum amount of leave so far as leave on full pay, or rather full allowances is concerned—it would not be proper to put in the word "pay" because of certain changes that have been made and to which I shall refer presently—a certain limitation was laid down according to which a Judge of the High Court will not be entitled to leave or full allowances except to the extent of one-twenty-fourth of the actual period of service. It was further laid down that the maximum at one time for leave on full allowances would be five months and that for leave on half-allowances would be sixteen months. These are the periods that have been laid down in the interest, naturally, of the efficiency of the work that they have to carry on and in the interest of their convenience also. The method in which the leave is to be computed has also been pointed out. The maximum has been laid down in all these cases.

Subject to these, it would be open to a Judge to take leave as described in this Bill. Oftentimes it happens, that a Judge has to go on leave for certain unavoidable purposes and at that particular time there is no sufficient leave to his credit. Under these circumstances a special provision was made in section 6 of the High Court Judges Act of 1954. A similar provision has been made in the present Bill as well, where it is stated that it might be open to a Judge to take leave in excess of what is to his credit at a particular time and the period also has been mentioned, namely, six months at the highest. It may be on medical certificate or otherwise. So far as leave on medical certificate is concerned, naturally it would not be possible to fix the minimum or maximum period of leave because it is on medical certificate and the illness or ailment might take longer. Therefore, no particular period has been mentioned so far as leave on medical certificate under these provi-

sions is concerned. So far as leave on grounds other than medical certificate is concerned, there the period of six months has been laid down and as I have pointed out, this leave for a period of six months can be taken either at one time or at more periods than one, subject to the fact that the highest amount of leave should not exceed six months.

Then it has been laid down that so far as such leave in excess of the leave to his credit, to which he is entitled at a particular time is concerned, it is provided that no such leave* shall be granted if the Judge is not expected to return to his duties at the end of such leave and earn the leave granted. Therefore, you will find that so far as these questions are concerned, we have laid down certain circumstances under which such leave can be claimed.

Another question so far as leave is concerned is: What will be the allowance that the Judge will be entitled to? Under the former law or the law that now governs such cases, he can go on leave for six months under any one of the two categories and he will be entitled to a fixed allowance from the time he goes on leave, of Rs. 1,110 per month. That is the amount to which he would be entitled, provided he went on leave according to the circumstances that I have pointed out. It was, however, considered that if we take into account the new pattern of leave and the new pattern of the procedure by which leave is granted, it would be advisable to liberalise the scheme under which such leave is given. So far as leave on full allowances is concerned, the House will agree that it ought to be not necessarily the whole of the allowances for all time to come, but something which is fairly reasonable. Therefore, whenever a Judge goes on leave on full allowances, then as a special case, what has been done is, it has been laid down that he can have his full allowances, after he goes on leave, for a period of 45 days. In the case of

the High Court, under the Act of 1954, he was entitled to leave on full allowances for 30 days. Here, Sir, provision has been made that so far as leave on full allowances is concerned, for the first 45 days he will get the allowances to which he is entitled each month

DR. W. S. BARLINGAY (Bombay): Why this discrimination between the High Court Judge and the Supreme Court Judge?

SHRI B. N. DATAR: There is no question of discrimination. After all, the Supreme Court Judges are there and they are entitled to further amenities. They, to a large extent, interpret the law and decide very complicated questions. Only fifteen more days have been given.

SHRI P. N. SAPRU (Uttar Pradesh): In England appointment to the Court of Appeal is not considered promotion. The Judges of the Court of Appeal stand on the same footing as Judges of the Supreme Court.

SHRI B. N. DATAR: Yes. I submit that for 45 days he will be entitled to his actual pay, and after that, if he has taken leave on full allowance, he will be entitled to Rs. 2,220 per month for the period after 45 days. So far as leave on half allowances is concerned, he is entitled to half the latter amount, *i.e.*, Rs. 1,110 per month. That is what has been done. In this case, so far as the quantum of allowances is concerned, it has been considerably enlarged after taking into account a number of circumstances and the manner in which the Supreme Court has been carrying on its work. I shall come to that question after some time. I am pointing out all these circumstances to show that we have liberalised the rules as regards the actual amount of leave to be given, to a large extent, and certain further facilities have been given in respect of the quantum of allowances to be given to the Judges. This is so far as leave is concerned.

Next I come to the subject of pension. In respect of pension, I may

point out that we have generally followed the same pattern that has been governing their cases earlier, though we have laid down certain rules for clarification. One rule which has been laid down in this respect is that a Supreme Court Judge, whenever he retires, even if he retires before completing the period of service to which reference has been made, he will be entitled to a minimum pension per year of Rs. 7,500 just as in the case of the High Court there is a rule under the Act of 1954 that a Judge who is appointed as a permanent Judge of the High Court—not an acting or additional Judge, but a Judge who has been appointed to the High Court permanently—if he goes on retirement, then in that case, he is entitled to a minimum pension of Rs. 6,000 a year or Rs. 500 per month. Here again, on similar grounds, we considered that so far as the question of pension is concerned, the minimum pension ought to be Rs. 7,500 per year.

SHRI H. P. SAKSENA (Uttar Pradesh): In a poor country like India?

SHRI B. N. DATAR: I may point out to the hon. Member that in the other House there was a proposal made that the pension should be enhanced and even doubled in some cases. I may tell the House that we have given fairly liberal terms, against the context of our economic conditions and I believe that we have given them all that is necessary and all that could be given, more or less, in a liberal spirit. That is the reason why we laid down that Rs. 7,500 should be the minimum pension per year. So far as the highest or maximum pension is concerned—and my hon. friend Shri Saksena will kindly note that also—in respect of the Chief Justice, the highest pension to which he will be entitled will be Rs. 26,000 per year. So far as the other Judges are concerned, we have laid down certain principles according to which after a certain number of years' service, according to that table, the amount is to be enhanced, but the highest pension, the maximum pension to which the Judge would be entitled, would be

[Shri B. N. Datar.] Rs. 20,000 per year. We have laid down these two principles so far as the maximum and minimum pension is concerned.

4 P.M.

Certain other procedural matters have also been dealt with. In all these cases, in respect of allowance, pension, etc., the amounts have naturally been mentioned in terms of rupees instead of in terms of the sterling as it formerly was. In addition to this, we have also made provision, as exists in some other earlier enactments, for giving what is known as disability, pension or injury gratuity. These are technical terms and what they mean is this. If a Judge of the Supreme Court suffers injury or is subject to certain accidents while performing the duty or in the course of his duty then it is but right that he should be compensated. We have got a similar rule so far as the Central Services of the Government of India are concerned. If, unfortunately, a Judge dies as a result of such a disability or as a result of such an accident, then a provision has been made for the payment of gratuity to his family. In a case where the accident is fatal or becomes fatal then you would agree, Sir, that some proper provision should be made for helping the family. These are the main provisions that have been laid down.

There is only one point that I would like to mention. That is a question which is likely to be raised by hon. Members. It was raised in the other House. That relates to the question of vacation. The vacation is for terms and is not an ordinary holiday for a day or for two **days**. Generally, the Supreme Court has the summer vacation and the Christmas vacation. While formerly—we had the Federal Court UD to 1950—the House will be interested to know that the Federal Court had a vacation for four months every year. That was the longest period but when the Supreme Court started functioning, the period of this vacation

was reduced to 3½ months. Subsequently, in 1957, the period of this vacation was further brought down to three months and I am very happy to point out that from this year onwards, the Supreme Court has made a rule, with the approval of the President, for curtailing the period of the vacation and this vacation would last only ten weeks now. I may point out to this House as to how, as a result of all this, the number of working days has increased. In the year 1949, the total period of the vacation, apart from holidays, etc., was 138 days. In the year 1957 it came down to 105 days and you will find that it has been substantially reduced from the year 1958 onwards. The period will be only 84 days. I would now point out the result of this reduction or curtailment in the days of the vacation so far as the actual working days are concerned. In 1956, the number of working days was 162. In 1957, it was 171 and now, for the current year, the number is 185. This period is arrived at after deducting the periods of vacation and public holidays. The number of public holidays is also not very large. On the one side we have got the curtailment of the vacation and on the other we have got an increase in the number of working days. After taking all these circumstances into consideration, Government considered that it might be well to bring the law in this respect on a par with that which has already been incorporated in the High Court Acts subject to certain modifications that are necessary so far as the Supreme Court is concerned.

These are the main points, Sir, on which this Bill has been brought forward and I am quite confident that it will commend itself to the acceptance of this House.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to regulate certain conditions of service of the Judges of the Supreme Court, as passed by the Lok Sabha, be taken into consideration."

We have got 65 minutes. There are seven speakers. Allowing ten minutes for reply, we will be left with 55 minutes. Each Member will take about 7 to 8 minutes. Yes, Mr. Sapru.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I would like first of all to say that I do not like the title of this Bill. I am not raising any objection against the substance of the Bill. I am in agreement with the substance of the Bill but I do not like the title of the Bill. I shall explain myself. According to my reading of the constitutional theory as well as development in regard to the Judges, a Judge is not a public servant. Mr. Datar will find an illuminating article in the "Law Quarterly" by Sir William Holdsworth, 1932—"Are Judges servants of the Crown?" The answer was that they are not. Our Constitution avoids the word "service". Mr. Deputy Chairman, I would have liked some other word. I would have liked, "Supreme Court Judges, leave, allowances and the rights Bill" or something like that. I never take interest in questions of leave, questions of allowance and questions of salary. We are a poor country and, therefore, we have to cut our coat according to our cloth. I know that in the British days they paid their Judges very highly. The Judges of the High Court got £ 10,000 per year. In England now the Lord Chief Justice gets £ 10,000 per year; the Lord Chancellor gets £ 12,000 per year. The Appeal Court Judges get £ 10,000 per year and these Judges got two-thirds of their salary as pension on retirement but then, Sir, the incomes at the English Bar are enormous and men like Lord Radcliffe who had an enormous practice, sacrificed that practice in order to serve their country as Judges of the High Courts as Lords in Appeal or as ordinary Judges. I know that in the old days some eminent lawyers as Sir Asutosh Chaudhuri who had a practice of 20,000 rupees and Dr. Surendranath Sen of Allahabad who had a practice of about 20,000 rupees a month, accepted the Judgeship of the High Court as a sacrifice. Therefore, I am not raising any question as regards the

salaries. I am not also raising any question as regards the leave rules. The leave rules have been liberalised and I also recognise that the vacation has not been cut down to an absurdly low limit. It is ten weeks. In London they get very much more, but our conditions are different, and that is all right. But then there are certain other matters to which I should like, Sir, to make a reference. Democracy does not only mean the ballot box; it also means the rule of law, and for that it is quite right for us to preserve the independence of our Supreme Court Judges. I know the Supreme Court Judges are highly independent, but one of the things that favours their independence—this has been the universal experience of democratic countries—is life tenure, and you have life tenure in Britain, you have life tenure in the U.S.A., and you have life tenure in other democratic countries—I am not talking of eastern democracies. Now, as a matter of convention judges retire now at the age of 72 or 73 in England, but Lord Chief Justice Gouddard retired the other day at 81, and the *Times* had to remind him that it was time that he retired.

Now, Sir, the appointing authority must be the executive Government—that is inevitable in democracy, but once appointed, a Judge should not be put to any look to favour from Government, and I do not like our Supreme Court Judges after their retirement serving on quasi-judicial tribunals subject to the superintendence of the High Court under article 227. It detracts from the dignity of a Supreme Court Judge to serve under these conditions. Moreover, Mr. Deputy Chairman, if a Judge is fit enough to serve on a quasi-judicial tribunal, if he is fit to do other jobs for Government, surely he is fit to be taken on the Bench, and his maturity of judgment should be valued by Government. Therefore I would say: Either have life tenure or raise the age of retirement of the Supreme Court Judges from 65 to 68 and leave it to professional opinion to make a Judge retire when he is getting a little too old.

[Shri P. N. Sapru.] Then, Mr. Deputy Chairman, another thing that I wanted to say.

(Time bell rings)

Well, Mr. Deputy Chairman, I had a lot* of things to say here of interest in this matter, and I would like you to give me five or ten minutes as a matter of indulgence.

MR. DEPUTY CHAIRMAN: Take three minutes more.

SHRI P. N. SAPRU: Very well. Now, Mr. Deputy Chairman, I wanted to say that we should have some direct appointments from the bar to the Supreme Court. I do not accept the view—I speak from personal knowledge—that our big lawyers will not be forthcoming to accept Judgeships to the Supreme Court. Dr. Katju and Mr. Kanhaiyalal Munshi and so many others gave up their big practice to join the Government of the day. Why can't our lawyers make that sacrifice for the Supreme Court? It is not as if all wisdom resides in the men who are occupying the distinguished position of a Supreme Court Judge. You want fresh blood. A Judge must be—as described by Theodore Roosevelt in the famous letter which he wrote to the Congress recommending the appointment of Mr. Justice Holmes, the greatest American social philosopher—a constructive statesman. He must be steeped in the social philosophy of his country. He must have complete knowledge not only of current law—he must not be merely a person disposing of cases quickly and well experienced in criminal law and so on—he must also be a person who can give due direction to the legal thought, who can strike new lines of thought in law. Are we making, Mr. Deputy Chairman, any contribution towards the development of the science of law? Our Judges are blamed for giving judgments which are not in accordance with the spirit of the age. Well, may I very respectfully point out that there is a very serious difficulty in their way? Our Constitution asks our Judges to interpret the Constitution **not** as a Constitution but according to

the canons of interpretation by the General Clauses Act. Now I tell you a great difficulty. According to the Interpretation Act, according to the rulings of the Interpretation Act of England, the progressive interpretation in a fiscal matter is an interpretation which is in favour of the subject. Now here we are talking in terms of a welfare or a socialist State, and is it not necessary for us to revise our interpretation Act or our General Clauses Act in the light of our declared objective? I do not know whether thought has been given to the subject. I may say, when the Constitution was being framed, I had incidentally a talk with Dr. Ambedkar, and I pointed out to him this difficulty, and he told me that he was thinking in terms of an interpretation, adding certain rules or certain articles to help the Judges to interpret the Constitution. Well, we had the Directive Principles, but the difficulty with the Directive Principles is that they are not justiciable, and it is after some difficulty that the Judges have come to the conclusion that they may look into those Directive Principles for guidance where there is some ambiguity about the Constitution.

SHRI B. N. DATAR: Well, Sir, all these things are interesting, but it has nothing to do with the provisions of this Bill.

MR. DEPUTY CHAIRMAN: We are concerned only with pension and leave and certain incidental provisions—not with recruitment of Judges' to the Supreme Court.

SHRI P. N. SAPRU: I think on a Bill like this I can talk generally. So far as the Bill itself is concerned, well, as I say, I think that the leave rules have been liberalised. I admit that the pension laid down is fairly all right and I am glad that we are going to have a minimum pension of Rs. 7,501 a year for Judges who cannot earn their normal pension. I hope the advantage will be taken of this clause to invite distinguished members of the High Court bars and Supreme Court bars to serve as Judges of the Supreme

Court, and thereby we shall be adding to the strength and vitality of our Supreme Court. Thank you.

SHRI D. P. SINGH (Bihar): Mr. Deputy Chairman, Sir, this Bill, so far as it concerns the conditions of service of the Judges of the Supreme Court is a welcome measure. We can hardly find fault with it except to say that if some more improvements were made in the conditions of service of the Supreme Court Judges, possibly the Judges could be kept even more than now above want. So far as this Bill is concerned we can hardly have any objection, but I would like to suggest that this Bill should not have been so limited in its scope, that certain other things should have been brought in so that the impartiality and the independence of the judiciary could have been better ensured, Sir, so far as spending a little more money for the judiciary is concerned, what objection can we have? We are spending so much money over the army; we are incurring the expense because we think it necessary in the interest of our freedom. Similarly, if we spend a little more money over Supreme Court Judges or over the judiciary as a whole, I think we should not grudge it. Independence of the judiciary is as essential for the growth and for the maintenance of democracy in our country as strengthening of the army is for the defence of our freedom. I therefore fully welcome this Bill so far as this aspect is concerned but it must be remembered that the independence of the judiciary which is so essential for the building up of democracy in our country does not depend only on satisfactory service conditions. The independence and integrity of our judiciary can be ensured only when, in addition to satisfactory service conditions, the hand of the executive is eliminated in appointing Judges and also when jobs are not offered to our Judges after retirement except jobs of a quasi-judicial character. I submit, Sir, that Judges either on retirement or while in service should not be offered other jobs by the executive. If that happens, inevitably there is some kind of a temptation offered

to the Judges and that inevitably undermines the independence of the judiciary. As I have submitted, the independence of the judiciary is absolutely essential for the development of democracy in our country. If that is so, I have not been able to understand why Governors and Ambassadors have been appointed from out of the Judges, either Judges who are in service or judges who have retired. Sir, I would request the hon. Minister to lay on the Table of the House a statement showing how many Judges have been appointed so far in different jobs by the executive, by the Government—both Union and State Governments—during our post-independence period. I believe, Sir, that this practice must come to an end. If there is a feeling in the country that the Judges can be offered jobs by the executive, inevitably our faith—the faith of the ordinary man—in the independence of the judiciary and the independence of our Judges will be shaken, will be undermined. That is not a state of affairs which we would like to be created.

I would also suggest, Sir, in this connection that even in the appointment of Judges the executive should not come in at all. As far as I know, the executive has a say in the appointment of Judges of the Supreme Court and also of the High Courts. The Home Ministry comes in; the Chief Minister comes in. I think so far as these appointments are concerned, only the Chief Justice of India and the Chief Justices of the High Court concerned should be consulted by the President and then appointments should be made. I say this because I have had some experience of how the judiciary is being weakened, how the judiciary is being demoralised. I have some experience in my own State in Bihar. I know how so many prospective Judges of the High Courts visit the bungalows of some of the Ministers and spend most of their time in flattering the Ministers. This is a very sorry state of affairs, I regret to say. I am not saying this in any spirit of carping criticism; I say this because I

[Shri D. P. Singh.] am very much distressed about it. If our people lose their faith in the judiciary even by an iota, there is no doubt in my mind—and there cannot be any doubt in the minds of hon. Members of this House—that the growth of democracy which we all want to build up, will be very seriously impeded. Sir, I know of a case where a Judge of the Patna High Court was to have been promoted. He was to have become the Chief Justice. The executive at that time—I mean the Government—did not like the Judge to be so promoted. So a man was brought from the bar and he was made the Chief Justice. He was an able man but till this time nobody had been appointed Chief Justice of the Patna High Court from the bar but that gentleman was brought in. And before he retired this gentleman who was to have become Chief Justice was sent to some other State. Now, we can very well imagine how the executive is interfering, how the executive is able to influence in such things and if this kind of influence of the executive continues in the matter of appointment of Judges and their promotion and if jobs are given to our Judges of the Supreme Court or of the High Courts either when they are in service or after they have retired, then our faith in the independence, impartiality and objectivity of the judiciary is bound to be undermined. Sir, with these words, I welcome this Bill.

DR. ANUP SINGH (Punjab): Mr. Deputy Chairman, Sir, I fully support the changes that have been recommended in this Bill. I am quite sure, judging from the two previous speeches, that nobody will take any objection to these provisions. They have been brought forward in view of the experience that the Ministry has gained and I am quite sure that they have been discussed with the people who are going to be affected. I personally wish that this had come much earlier but anyhow this is a welcome change.

Now, two of the criticisms that have been made here and also in the other House can be pinned down to two basic objections. They are not relevant to this Bill; they have been brought forward as an excuse. The gentleman who just preceded me said that this Bill should have been more comprehensive and it should have taken care to ensure certain guarantees about the independence of the judiciary. Speaking strictly, I think, this is outside the purview of this Bill. It seems to me that everyone agrees: that these changes are welcome but now that certain criticism has been made, I would like to make one or two comments myself.

I do not believe that the hand of the executive can be removed or it is desirable to remove it. I am not at all sure what is meant when it is said that the judiciary should be so isolated from the rest of the State that it should function in a vacuum, that the executive should have nothing to do. After all, the executive is the supreme executive and it takes an overall view of the entire State and its problems and I am sure that it can be presumed that when they make these appointments practically all considerations are borne in mind, the competence of the man, his experience and so on. Now, there may be mistakes here and there and I have no doubt that mistakes are made. They have been made in the past and unfortunately they will perhaps continue to be made. That is only human. This is not only true of India. In almost every country that you can think of certain criticism about certain individual choices has been made but nobody has seriously suggested to my knowledge that the executive should have nothing to do with the judiciary. I believe that our judiciary by and large is independent and I think lapses here or there should not be generalised to make out any case against the practice that now prevails here. One of the hon. Members in the Lok Sabha also said that eminent lawyers would not be forthcoming because it requires sacrifice. One of my colleagues told me the

other day that it is not exactly so because every lawyer at his heart has the ambition to be called 'My Lord' once in his life and it is a great honour; it should not be considered only in terms of money.

The second point that has been made is that after retirement Judges should not be offered any post of a political nature. There again I find it very difficult to subscribe to that view and I do not think that the criticism is valid. There have been very few cases, isolated cases here and there and I think these appointments are made only in exceptional cases. Nobody is suggesting that every retired Judge should be offered a political post, and if any post has been offered, as I think most of the Members have in mind the recent case of an eminent Judge being appointed as Ambassador to the United States, there have been precedents. One of the hon. Members mentioned in the other House that Lord Reading was sent as Ambassador to the United States of America. There may be some other cases. I personally do not think there should be any objection. When these appointments are made, I am sure that it is not a question of any partisanship. The man must be eminently qualified and there must be many other considerations and to insinuate that any Judge will be influenced by his being in the judiciary with a view to securing some political job, is not being very fair to him. I do not think that any member on the Bench is influenced. Again, I say there may be isolated cases. But to say as a general policy that he will be influenced in the conduct of his duty by harbouring some kind of a feeling that five or ten years later he may be appointed as Ambassador, or chairman of this, that and the other, is not a fair criticism. Therefore, I believe that both of these criticisms are not warranted and they are not valid and I support the Bill as it stands.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, I

cannot take so easy a view of this Bill, as the hon. Member just preceded me has taken, not that I am opposed to creating conditions which make our Judges function efficiently and in an independent manner. I am all in favour of it. That, I believe, is the main justification for a Bill of this kind. But before I proceed to give my ideas with regard to this matter, I should like to draw the attention of the House to the manner in which sometimes the executive deals with the Judges. I do so with a view to protecting the dignity and the independence of the Judges. The Judges have certain administrative functions in their own sphere of the legal system to fulfil and it is for the Government to respect them and their role in that set-up. You are aware that it is on the recommendations of the Chief Justice of the High Court that the District Judges are appointed. Government, of course, appoint, but the recommendations are that of the High Courts, of the Chief Justices. Now, Sir, the Chief Justice of Calcutta recommended four persons from the bar to be appointed as District Judges. One of them was Mr. S. P. Sen, an eminent lawyer of Calcutta.

MR. DEPUTY CHAIRMAN: We are not concerned with District Judges, nor the High Courts.

SHRI BHUPESH GUPTA: I am coming to that. I know that. Nor are we concerned with Mr. Justice God-dard.

MR. DEPUTY CHAIRMAN: Anything concerned with the Supreme Court?

SHRI BHUPESH GUPTA: I am coming to that. I accuse the Government of interfering. I accuse the Government of interfering with the administrative functions of the High Court Judges and of the Supreme Court Judges. I am only giving an illustration. In that way, we are not concerned with Mr. Justice Goddard nor with Mr. Katju. I do not know whether we are concerned with Mr. Katju,

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[Shri Bhupesh Gupta.] or some other Judges in England, Lord Reading and so many names had been given. The moment I start, you say we are not concerned with it. I think I am concerned with it. Now, Sir, I accuse the Government. This is the occasion when I raise my voice over it. Sir, I am all in favour of the integrity and the independence of the judiciary. That is why I am speaking. I am not making any reflection on them at all. Far from it. I want to protect them. The recommendations were made and then three were appointed as District Judges. Mr. S. P. Sen was not appointed. When he made enquiries from the Chief Secretary, he said owing to police report he could not be appointed. He went to the Chief Justice who said he was helpless and he could not do anything because the police report was unfavourable. Now, who are intervening? A C.I.D. sub-inspector had precedence over the Chief Justice of the High Court in the matter of appointment. I would ask you whether it is right?

SHRI B. N. DATAR: This is entirely irrelevant. We are not dealing with the High Court Judges at all. We are dealing with the Supreme Court Judges.

SHRI BHUPESH GUPTA: That is your attitude. From the High Courts you get the Supreme Court Judges and even at the base you are keeping with them . . .

MR. DEPUTY CHAIRMAN: Order, order.

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SHRI BHUPESH GUPTA: Now, Sir, there I say the Government is in the picture. The discrimination was made, the accusation against Mr. Sen.

MR. DEPUTY CHAIRMAN: We are not concerned with the appointment of District Judges in the States. Order, order. Please be relevant.

(Interruptions)

SHRI BHUPESH GUPTA: I have to question the conduct of the Government with regard to the judiciary. It is within my right to state . . .

MR. DEPUTY CHAIRMAN: Not on this Bill.

SHRI BHUPESH GUPTA: It is on this Bill. We are concerned with this. I will not trust this Government. I have no faith in this Government in this regard and, therefore, I want to say that. I will give you an example as to how it should have been done. Here these people did it. Although Mr. Sen said that he had . . .

(Interruptions)

MR. DEPUTY CHAIRMAN: Order, order. All that has no relevance here.

SHRI BHUPESH GUPTA: Kindly listen. I cannot always say palatable things. If you want palatable things, you can bring in Mr. Katju, you can bring in Mr. Justice Goddard, Hails-bury, and everybody else.

MR. DEPUTY CHAIRMAN: That will be relevant in the State Assembly.

SHRI BHUPESH GUPTA: Everything is relevant if it is palatable to the Government. I refer to their attitude to the appointment here. It was a political discrimination. It was raised on the floor of the West Bengal Assembly and also in public.

MR. DEPUTY CHAIRMAN: Therefore, it will be relevant in the State Assembly.

SHRI BHUPESH GUPTA: Now, Sir, another thing. The same authorities, this Government appoint defeated Congress candidates as High Court Judges. In Calcutta it had been done. Two candidates . . .

MR. DEPUTY CHAIRMAN: We are only concerned with the Supreme Court Judges.

(Interruptions).

Order, order.

SHRI BHUPESH GUPTA: Not that I am making any reflection. They are very good men.

MR. DEPUTY CHAIRMAN: Whatever it is, we are not concerned with it.

SHRI BHUPESH GUPTA: That is why in the appointment, I say, of Judges political prejudice should not come in. This is my point and this should be applied in the case of Supreme Court Judges. Can I get the guarantee that political prejudice will not be used, when I see in Calcutta, West Bengal, that this is being used? Some ten years ago Mr. Sen was associated with the Communist Party. (*Interruption*) Then there is the other case where a defeated Congress candidate, defeated by the Communists, has been appointed as a High Court Judge. What is the guarantee I would ask the hon. Minister that such will not be the practice in the Supreme Court when they have some say in the matter? They are certainly to be more respected. This is all that I say. Have you got the point now? I have raised a very serious point. Government should satisfy you. You are a lawyer* Sir. What would you feel as an eminent lawyer? Hon. Sapru suggested direct recruitment from the bar. I support his views sometimes. Have direct recruitment from the bar. But in this recruitment, first of all, political prejudice of the kind that I mentioned should be given no quarter. Secondly, a successful lawyer, legal practitioner, that is to say, who makes a lot of money, need not always necessarily make a good Judge. Their functions are different. The functions of lawyers . . .

SHRI P. N. SAPRU: I could not develop this point. But I would not exclude jurists. The only qualification for the Bench is not a big practice. Integrity and knowledge of the law—they are the qualifications required.

MR. DEPUTY CHAIRMAN: It is time.

SHRI BHUPESH GUPTA: I hope you do not mind the interruption of the

hon. Shri Sapru and I hope that will not reflect adversely on my time. Now, Sir, this is the point. I do not say that this is the only qualification. What I say is choose the right type of people. People whose minds are imprisoned in the moth-eaten law books do not necessarily make good Judges. People with a sense of dynamism, whose minds are attuned to dynamic jurisprudence and legal system should also be placed in the highest pedestals of justice. This is what I say. Political prejudice, as I have said, should be given no quarter at all in such matters.

Now, here may I say that in the case of the present High Court Judges, you are creating for them certain conditions? Personally, I do not think why we should give very high pensions and all that. I do not think it is necessary. This kind of inducement would not be to their liking. They should be given a reasonable pension. But money should not always be given as an inducement. That is demoralising things and I have a better notion of our judicial men than the hon. Minister opposite has, because he thinks only if more money is given good people would be available. I take a better and more charitable view of our men of the judiciary, of our judges. But they should be people who know how to interpret the law, not according to what was said at the time of the Magna Carta of William III, but having regard to the changing times and the spirit of the times, when new social values are coming up, when we have to interpret law, not to establish some other dicta or dogmas, but in order to ensure social justice. Their functions are social, to serve the community. Therefore, such people should be chosen. In other words, we want people with broad vision, knowledge of law, progressive mind, who know how to function independently despite the political prejudices, frowns and bullies that come from the Members opposite. We want such people, as like Mr. Sapru, if you like. I would any day put him as a High Court

tShri Bhupesh Gupta. J Judge or Supreme Court Judge. Even though he belongs to that party, I see in him a sense of independence and spiritedness. I want such legal minds which have that independence of outlook and integrity of character. I want such people to man our judicial courts, because interpretation of law is a very very important thing. On many occasions we have seen how such interpretations have gone against the very purposes of legislation and have been regressive in nature. Therefore, we want such people to occupy these positions of authority and justice, who have a broad mind, democratic vision, public spiritedness, and above all courage and independence. I want to save the Judges from the encroachments of those people, from their political pressure, their political prejudice, their tardiness and their feelings of hostility towards others.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Deputy Chairman, it was rather very refreshing today to hear from the leader of the Communist Party all these praises about the independence of the judiciary and the Judges. May I know, in the countries where the Communist Party happens to be in actual power, what is the position of the judiciary and where are the judges there? So independent indeed are they that they dare not utter a single word against the tenets . . . (Interruption) Anyway it seems that we are doing some good in this country by inviting these gentlemen to this House so that gradually by a soft of psychological infiltration they are getting converted to the rule of law. It is because we love the rule of law, we love the independence of the judiciary . . .

SHRI BHUPESH GUPTA: We express it better than you do.

SHRI J. S. BISHT: Imitation is the best form of flattery.

Sir, I welcome this Bill because it has come none too soon. As provided by the Constitution, it gives all the facilities that are needed and which we

can afford to give at present with regard to leave, with regu.j.u 10 pension,, with regard to accommodation, free medical help, free treatment to the Supreme Court Judges and their families, etc. It is noteworthy that, as the hon. Minister has already said, the Supreme Court was previously allowed four months' vacation and that has been cut down to two and a half months or nearly ten weeks, and that is very right. The working days have been increased because the work is accumulating, and the number of Judges has also been increased.

Recently, Sir, when our President, was pleased to declare open the new building of the Supreme Court, he was pleased to remark that justice delayed. was justice denied, and it was very-right because one of the great troubles in this country is that you may file an appeal today and it may come up for decision after four or five years. So, this cutting down of the vacation and increasing the number of working days will greatly help in expediting work.

Then, there are certain points that have been raised with regard to the question of salary. One of my hon. friends whom I respect, Mr. Saksena, made a cutting remark when the Minister was developing his argument,, that Rs. 7,500 was the minimum pension that would be admissible to a Judge who had become a permanent Judge but who could not complete the requisite number of years of service, that is to say, seven years, in order to entitle him to get the benefit of full pension. I am sorry to hear that remark because here we are not concerned with the question of whether we are a rich or poor country. In fact we are concerned here with the main idea of attracting the best people from the bar to the bench. If we want good Judges, if we want the principles of law to be enunciated in a way that would be of permanent use to the whole community, it should be our endeavour to attract the best minds in the country to the bench. Of course, there are people who are prepared to make sacrifices, but there I should be a reasonable limit for those

sacrifices. We have laid down in our Constitution that a Judge of the Supreme Court shall retire at the age of 65. We have also laid down in the Constitution that after his retirement he will not be entitled to practise in any court in India. Now, Sir, the top lawyers in the Supreme Court are commanding a practice to the extent of Rs. 25,000 to Rs. 30,000 a month. That is known to everybody in the profession. Now, to ask these people to come to the bench, that is to say to the Supreme Court, and soon after, that is as soon as they have attained the age of 65, to retire on a petty pension would be asking rather too much. You can ask people to make sacrifices, as I said, reasonable sacrifices, but not sacrifices which are totally unreasonable, which have got no relationship with the market trend. I say that even in the Communist countries, in Russia, there are people who are getting Rs. 25,000 or Rs. 30,000 a month,—ballet dancers, musicians, artists, professors, etc. There is a class of people there who get such sums because they value these things there; but they do not value an independent judiciary; they do not value the rule of law; so they have not given that a high place. It is a complete dictatorship, a rule of 'danda', a rule of terrorism. But they lay store by dancers and musicians and artists and people like that. But we in our democracy are guided by the rule of law. We all place a high value on the judiciary. As I said, we may be a poor, people. Mr. Saksena has not been a practising lawyer. If he goes to the humblest village in India today, he will see that the people have the greatest faith in our judiciary. If you ask them "do you want to pay the judges well and have clear justice", they will say "yes". Even if a plebiscite is held on this issue, I am sure 99 per cent, of them will vote for this, so that they may get good justice, pure and impartial justice between man and man. This is the one thing that our people value most—much more than mere goods which our friends there dangle before them so much. Any practi-

sing lawyer will tell you that they value justice above anything else. Therefore, I say that all the generous conditions which have been given with regard to pension and other things are very welcome. In fact I agree with my friend, Mr. Sapru, that their retirement age should not be less than 70 for Supreme Court Judges because a mature mind always delivers better judgment. You know that those learned rulings of the Privy Council are an intellectual treat to read any day. These things do not come when one is not fully grown up, when the efflorescence of the mind has not attained that full maturity which is only possible in due course of time. I have no doubt that the hon. Minister will deeply think of these things and some day bring in an amendment of the Constitution by which the High Court Judges and the Supreme Court Judges are allowed to retire at a later stage. I would agree that they may not be allowed to practise at all in any court, and that they may not be allowed to accept any other post, after retirement, as in the case of the Auditor-General or as in the case of the Public Service Commission. But then, the Judges should be people in whom we have confidence, and that is the greatest guarantee of our liberty.

SHRI H. P. SAKSENA: Sir, he has made a personal reference to me. On that reference, I beg to inform him that I remain unconvinced and it is now for him to revise his view of the position in which we are living.

SHRI SONUSING DHANSING PATIL (Bombay): Sir, the Bill has got a very limited scope and it relates only to the Union judiciary as far as the conditions regarding pension, leave and certain other facilities are concerned. Of course, the discussion veered round many points, from political discrimination to the qualification of Judges and certain other ancillary matters.

As far as the question of the pension of the Judges is concerned, I want a clarification from the hon. Minister.

[Shri Sonusing Dhansing Patil.] Clause 21 says that the President will have the right to grant extra-ordinary pension. I want to know whether that extra-ordinary pension is included in the maximum amount of Rs. 26,000 which the Chief Justice of the Supreme Court gets or Rs. 20,000 which the other Judges get. The second point is, the conditions of leave, as we see, are apparently liberalised; the position has a little bit eased, looking to the arrears of the work and the clearance of the arrears. It is but natural that a judiciary charged with certain very responsible duties is considered as the guardians and custodians of the liberties and rights of the citizens. One of the lacunae in our Constitution—as I have watched it working since its enactment—is this. We have got a chapter on Fundamental Rights which is now tried to be converted into Fundamental Licence. But we have no Fundamental Duties of the citizens. Quite apart from that, we should see that the supreme body of the legislature is not converted into a political forum through many extraneous matters and used as a sort of a base for something by way of propaganda.

The question of the separation of the judiciary from the executive is recognised in the Constitution. India has adopted a *via media* between the judicial supremacy of America and the parliamentary supremacy of England. We have treated or are treating our Constitution as supreme and the laws of Parliament are subject to the interpretation of the Union judiciary and they have to interpret and adjudicate upon the laws. So, this power we have given to the judiciary. We have not only done that but we have recognised under the chapter dealing with the Directive Principles of the State Policy—Article 50—that in the public services, there will be separation of the judiciary from the executive.

Sir, the importance attached to the independence of the judiciary is long recognised and we have built up very

good traditions in this country and the Judges have acted fairly and independently. But the question is whether the Judges have acted also fearlessly. We see in normal life that the legislature—in India it is considered to be the supreme body—passes enactments to further the end of the welfare of the public, but the judges at the lower level are not fearless. They are subject to the tactics or pressures of the persons who hover around them. Lest they should be set upon, even in regard to the prohibition laws, the Judges are afraid of awarding punishment according to the law. That reflects on the fearlessness of the judiciary.

We want that our judiciary is to be treated independently. Fortunately or unfortunately, in this country we have not adopted that system where the people's courts are resorted to, where they are made part and parcel of the law of the land. My friend commented upon political discrimination. I may bring to his notice the fact under Article 102 of the Constitution of the 'U.S.S.R., the people's courts are recognised and the Protector General is used to supervise and dictate the law to the Ministers. If the executive goes to that extent, how can we expect an independent judiciary in such a State? He wants everything here to be independent because-he wants to make the judiciary a lame organ of our Constitution. Our executive, judiciary and legislature are the three strong arms of our democracy and if they do not pull together in a successful manner, there is no use. It is true that the judiciary should be immune from the control of the executive. But the judiciary requires certain inherent qualities, individual qualities, like the calibre of the Judge, his integrity, his independence and his ability or capacity to deal with matters. These things are already recognised and the Judges are always chosen from among the most eminent, topmost men from the bar generally. Of course, they are working with a sustained effort, with a great mental effort and with unremitting energy. As we-

see, in certain countries even assistance is given to the Supreme Court Judges to enable them to write good judgments. Such types of facilities we have not extended to our Judges. But whatever is possible, we are extending to them commensurate with their status. They are quite enough and the Constitution has laid down conditions about their pay, etc. and it is left to the executive to decide. The supreme power of the Parliament is here, but it is somewhat taken away by the power of interpretation given to the Judges. The Judges cannot remove the law or cannot convert it into something else. They have to take into consideration the spirit of the law.

The Bill which is now before us is of a limited nature and has got its own significance because it deals with some of the conditions of service of the Judges of the Supreme Court or what you call the Indian judiciary.

With these remarks, I support this Bill.

SHRI BHUPESH GUPTA: Sir, I have to make a submission to you. You did not allow me to refer to the Calcutta High Court. You thought I was irrelevant. But the hon. Member referred to the Soviet Supreme Protector General and there was not a word from you against that. Just see how things happen.

SHRI B. N. DATAR: Mr. Deputy Chairman, Sir, I am happy to find that so far as the provisions of this Bill are concerned, they are generally welcomed from all quarters. Certain other points also were raised which, I might submit, were more or less irrelevant.

A question was raised • as to who should be appointed. A provision has been made in the Constitution according to which it is the prerogative of the President to appoint the Chief Justice of India and then, when other Judges are to be appointed, the Chief Justice of India has to be consulted. So, it is only in this way that the Judges of the Supreme Court are

appointed. It is not necessary, in the course of the consideration of this Bill, to go into the question as to how the District Judges or the High Court Judges are appointed. I would submit that, inasmuch as the purpose of this Bill is confined only to certain matters, it is only on those matters that we should devote some consideration.

I am very happy to find that a number of hon. Members like Mr. Sapru, Mr. Bisht and Mr. Anup Singh have answered most of the points that were raised from the other side. Whenever the Supreme Court Judges are appointed, they are appointed with full care and solely on the question of merits and there is consideration at the highest level.

I agree that their independence has to be maintained. It is being maintained and as Shri Bisht has rightly pointed out, we have a very high tradition for independence and impartiality as also competency so far as the Judges are concerned.

Only one point requires to be dealt with. An hon. Member wanted to know whether the extra-ordinary pensions and gratuities that are likely to be given would be in addition to the ordinary pension. So far as these are concerned, as I have already explained, they are given only to those persons who receive injuries in the course of or on account of the performance of duties, while they are carrying them on. Under these circumstances, that would be entirely different. Clause 16 deals with the question of extra-ordinary pension and the Government will lay down proper scales of pensions and gratuities and rules will be made and they will be placed on the Table of the House. Under these circumstances, it is not necessary for me to refer to the other points.

SHRI BHUPESH GUPTA: Do you advise the President? Does the Government give any advice to the President? That is the question I ask.

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SHRI B. N. DATAR: Naturally, Sir, we are entitled to advise him.

SHRI BHUPESH GUPTA: Naturally, therefore, you appoint defeated Congress candidates.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. N. DATAR: It is not a question of Congress candidate or anything like that, Sir.

SHRI BHUPESH GUPTA: And he who had connections with the Communists is not appointed.

MR. DEPUTY CHAIRMAN: Order, order.

The question is:

"That the Bill to regulate certain conditions of service of the Judges of the Supreme Court, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

5 P.M.

MR. DEPUTY CHAIRMAN: We shall take up clause by clause consideration of the Bill.

Clauses 2 to 25 and the Schedule "were added to the Bill.

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

SHRI B. N. DATAR: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI BHUPESH GUPTA: Sir, just a few words before we depart and let us depart sweetly. I would only request the Government to be extremely cautious in such matters. I raised certain things. Let them go into them. It may not be absolutely germane to this particular Bill but what I would like is that the Government should not behave in a manner which creates difficulties in the way of selection of

Judges to the High Court or the Supreme Court. In the matter of selection and appointment of Judges for which the Chief Justice of the Supreme Court or of the High Court is responsible the reports of Intelligence Branch should have no status at all. They should not be placed before them even. On merits good lawyers, public-spirited men—let them be appointed with eyes open. This is my point. Government should not come in. I did not like to make that observation. I said it because a particular case has arisen. That should be a lesson for the Government to go into this matter. This is what I said.

With regard to this, I want good conditions to be given to the Judges— vacation etc. There should be speedy justice. Here, there is the question of leave and other things. I don't know whether we need so much of leave, but I don't need. If I were to be a Judge of the High Court I would not require so much of leave. Now, they should be placed in good conditions of work so that they function efficiently. There is a complaint in the country that things accumulate. Justice is not done in time. Litigation continues often to the detriment of the poor people. That should not be done. In formulating other rules under this or even in applying such rules, care should be taken that while not impairing the functioning of the Judges, we ensure the speediness of justice. That is what I said.

Finally, I would ask the hon. Minister through you before I leave this House and you also leave, to go into the question I have raised. I have not cast any reflection on the Judges. One has been a friend of mine. They are very good people. There is no quarrel at all but I only say that it is a bad example before the country that people, for having associated with the Communists, were to be debarred on police reports and Congress candidates, defeated in the general elections, one of them being a P.C.C. Member, to be appointed as High Court

Judges. A Judge should be of the same status—whether of Congress, Communist Party, P.S.P. or any other Legal merits, integrity, efficiency—these should be the qualifications; and save us from the depredations, interference and foul treatment of these hon. gentlemen of the Home Department.

SHRI P. N. SAPRU: Sir, I would like to say that vacation should not be cut down to anything less than 10 weeks. I agree that 10 weeks is a sufficient vacation—it is a good vacation but vacations are necessary both for the bench and the bar. The bench needs time to read. They need to keep themselves abreast of latest developments in jurisprudence and law and the bar also needs time or leisure to prepare the cases.

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SHRI BHUPESH GUPTA: Don't take too long a leisure.

SHRI B. N. DATAR: So far as this question is concerned, I have pointed out that 10 weeks is a period which has been fixed, so far as the Supreme Court is concerned.

Now my friend wanted an assurance. May I point out that in all cases Government give the most anxious thought before a particular person is appointed and therefore there is no need for giving any further assurance at all? In all the cases, so far as the appointment of Supreme Court Judges is concerned, I have pointed out the relevant portion of the Constitution according to which we have to consult the Chief Justice of India. So far as the High Court Judges are concerned,

though it is irrelevant, may I point out that we always follow the rule of having before us the opinion of the Government as also the Chief Justice of the particular State and it is the Chief Justice who initiates the proposal? Under the circumstances, no particular assurances are needed.

MR. DEPUTY CHAIRMAN: His complaint is that you did not appoint an ex-member of his Party.

SHRI BHUPESH GUPTA: Although he is a very prominent and eminent lawyer of the Alipore Bar, on the word of an officer of the C.I.D. . . .

SHRI B. N. DATAR: That incidentally happens but not on that ground but on grounds relating to suitability he might have been rejected.

SHRI BHUPESH GUPTA: Here is a letter .

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SHRI H. P. : That is intended for you and you alone.

SHRI BHUPESH GUPTA: Please go into that.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The

motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned *sine die*.

The House then adjourned *sine die* at five minutes past five of the clock.