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EIGHTH SESSION



TENTH LOK SABHA

LOK SABHA SECRETARIAT

NEW DELHI

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LOK SABHA DEBATES

LOK SABHA

Saturday, December 11, 1993/
Agrahayana 20, 1915 (Saka)

The Lok Sabha met at
Eleven of the Clock.

[MR. SPEAKER in the Chair]

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Speaker, Sir, I would like to draw your attention to the fact that last time a furore was created in this House over 'Sahmat' and the Government had assured that 'Sahmat' is a prestigious organisation which comprises journalists, artists and even Congress Ministers. I don't say that they are doing anything wrong. Many cases were filed against 'Sahmat' organisation in Faizabad and various courts of Delhi while leveling false charges against it and posters were also posted. When we raised this matter, Mr. Rajesh Pilot assured us that the Government would take appropriate action so that the wrong cases that had been registered against 'Sahmat' may be withdrawn. But those cases have not been withdrawn till date. Swami Vivekanand Rock Memorial Organisation had also stated the same thing which had been said 'Sahmat'. Through posters Dalmia, Rana Dey Vishwa Hindu Parishad and members of their organisation are involved in the campaign. I believe that the aim of the campaign started against such

a prestigious organisation was to harm secularism. We demand from the Central Government to take appropriate action so that the cases filed in the court of Faizabad and Delhi against them may be withdrawn. It is a very important question. It would be good if the Government could state its reaction in this regard.

[English]

SHRIMATI MALINI BHATTACHARYA (Jadavpur): Mr. Speaker, Sir, it is clear that the House has been misled on this issue by a section of this House. We endorse entirely the opinion of Shri Ram Vilas Paswan. So, we address ourselves to the Government and we think that all the cases should be taken back.

[Translation]

SHRI CHANDRA JEET YADAV (Azamgarh): I am raising a fundamental question in this regard. For thousands of years we have considered it a fundamental right of the citizens to express their views freely.

[English]

Freedom of expression is a fundamental right in this country.

[Translation]

This fundamental right is not ensured through legislation alone, infact this has been essential part of our age old culture and tradition. At present, the fun-

damentalists in the whole world are mounting attacks on the freedom of expression of individuals. Nobody can freely express himself through writing a book, an article or through candid views or a drawing. I believe this is a fundamental question. Such things are being resorted to with a view to encroach upon this right. As regards 'Sehmat', some people are trying to stop it and they are encroaching upon fundamental rights of citizens. The whole country has candidly expressed its views against them. So, the Government should immediately take steps in this regard. Otherwise, it will be an attack on our views and fundamental rights.

SHRI RAJNATH SONKAR SHASTRI (Saidpur): We should have Government's reactions on it. It is an important question. You should instruct Minister of Law, Justice and Company Affairs, who is sitting here in this regard.

11.06 hrs.

PAPER LAID ON THE TABLE

Explanatory Statement Giving Reasons For Immediate Legislation By The Merchant Shipping (Amendment) Ordinance

[English]

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI JAGDISH TYTLER): Sir, I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Merchant Shipping (Amendment) Ordinance, 1993.

[Placed in library. See No. LT 4698/93]

11.06 1/2 hrs.

MESSAGES FROM RAJYA SABHA

[English]

SECRETARY GENERAL: Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

- (i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 9th December, 1993, agreed without any amendment to the National Council for Teacher Education Bill, 1993, which was passed by the Lok Sabha at its sitting held on the 14th May, 1993."
- (ii) "In accordance with the Provisions of rule 111 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to enclose a copy of the Merchant Shipping (Amendment) Bill, 1993, which has been passed by the Rajya Sabha at its sitting held on the 9th December, 1993."

11.07 hrs.

MERCHANT SHIPPING (AMENDMENT) BILL

As passed by Rajya Sabha

[English]

SECRETARY GENERAL: Sir, I lay on the Table the Merchant Shipping

(Amendment) Bill, 1993, as passed by Raja Sabha on the 9th December, 1993.

11.07 $\frac{1}{2}$ hrs.

STANDING COMMITTEE ON FOOD,
CIVIL SUPPLIES AND PUBLIC
DISTRIBUTION

Second Report and Minutes

[English]

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Sir, I beg to present the Second Report (Hindi and English versions) of the Standing Committee on Food, Civil Supplies and Public Distribution on Annual Report of the Ministry of Food (1992-93) and the Minutes of the sittings of the Committee relating thereto.

11.08 hrs.

STATEMENT BY MINISTER

Withdrawal of Postal Strike

[English]

THE MINISTER OF STATE OF THE MINISTRY OF COMMUNICATIONS (SHRI SUKH RAM): I am happy to inform the Honourable Members of this House that the strike by the Postal employees and ED Agents stands withdrawn with effect from 5.00 P.M. of 10 December 1993. Having regard to the Honourable Members' concern expressed in this House, I had personally appealed to them to call off the agitation.

The strike has been called off without preconditions and the various pending demands of the Unions will be discussed with them. The package of benefits agreed to before the commencement of the strike will be given to them and orders will be issued immediately. Such of the demands as would be beyond the competence of my Ministry would be recommended for sympathetic consideration in the concerned Ministries at an early date.

I have agreed to increase the interim relief from Rs. 35/- per month announced earlier to Rs. 50/- per month to every ED Agent. Furthermore, a few benefits have been slightly expanded to reflect the wishes of the employees better.

I would like to assure the Honourable Members and the citizens of this country through this House, that our efforts to give better postal services as well as to grant the justified demands of our employees will continue. I am sure that the entire Postal fraternity will make sincere efforts to restore normalcy and maintain the high standards of postal services as they have been rendering in the past.

11.10 hrs.

BUSINESS OF THE HOUSE

[English]

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): With your permission,

Sir, I rise to announce that Government Business during the week commencing 13th December, 1993 will consist of:—

1. Consideration of any item of Government Business carried over from today's Order Paper.

2. Discussion on the Resolution seeking disapproval of the Protection of Human Rights Ordinance, 1993 and consideration and passing of the Protection of Human Rights Bill, 1993.

3. Discussion on the Resolutions seeking disapproval of the following ordinances and consideration and passing of the Bills replacing these Ordinances as passed by Rajya Sabha:—

- (a) The Merchant Shipping (Amendment) Ordinance, 1993.
- (b) The Kalakshetra Foundation Ordinance, 1993.

4. Discussion and voting on the Supplementary Demands for Grants (General) for 1993-94.

5. Consideration and passing of:—

- (a) The Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992.
- (b) The Inland Waterways Authority of India (Amendment) Bill, 1992.
- (c) The Jute Manufactures Development Council (Amendment) Bill, 1992.
- (d) The President's Emoluments & Pension (Amendment) Bill, 1993.

(e) The Sick Industrial Companies (Special Provisions) Bill, 1992 as passed by Rajya Sabha.

(f) The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991 as reported by Joint Committee.

6. Discussion on the National Culture Policy—An Approach Paper.

[*Translation*]

SHRI SHARAD YADAV (Madhepura): Mr. Speaker, Sir, hon'ble Minister has announced next week's business in order. I would like to submit that at BAC, a unanimous decision had been taken that the Lok Sabha must have a discussion during this session on the explosive situation created by the constantly increasing population. It will be very kind of you if you could give your consent in this regard.

MR. SPEAKER: This business is to be taken up next week.

[*English*]

We will take it up.

[*Translation*]

SHRI SHARAD YADAV: It will be better if it is taken up sometime during this session.

[*English*]

SHRI BRAJA KISHORE TRIPATHY (Puri): Sir, I request the following items may be included in the next week's

agenda:—

- (a) Regarding discussion on the necessity for raising Calamity Relief Fund of Orissa.
- (b) Regarding lack of developmental works relating to Railways in Orissa.

SHRI SRIBALLAV PANIGRAHI (Deograh): I request that the following may be included in the next week's agenda:—

1. Proposed amendment to Pressler's law by U.S.A. to facilitate sanction of grants to Pakistan to the disadvantage of India.
2. Situation arising out of natural calamity like earthquake in Maharashtra, Karnataka and cyclone in Tamil Nadu and Pondicherry and the steps being taken in this regard.

MR. SPEAKER: The hon. Agriculture Minister is making a statement on the last topic and then, we will take it up.

SHRI SRIBALLAV PANIGRAHI: Pressler's law is also very much concerned with India.

11.13 hrs.

TRANSPLANTATION OF HUMAN ORGANS BILL—Contd.

As passed by Rajya Sabha

Motion to refer the Bill to a Select Committee

[English]

MR. SPEAKER: Bill for consider-

ation and passing of Transplantation of Human Organs Bill.

I think, it was agreed in the House that this Bill may be referred to the Standing Committee. There is probably some difficulty in referring it to the Standing Committee. We will refer it to the Select Committee of this House.

Shri Paban Singh Ghatowar.

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI PABAN SINGH GHATOWAR): I beg to move:

6 "That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha be referred to a Select Committee consisting of 21 members, namely:—

1. Dr. Krupasindhu Bhoi
2. Prof. Susanta Chakraborty
3. Shri Sharad Dighe
4. Smt. Saroj Dubey
5. Shri Bhupinder Singh Hooda
6. Shri Kehlan Ram Jangde
7. Dr. K.D. Jeswani
8. Shri Dau Dayal Joshi
9. Dr. G.L. Kanaujia
10. Dr. Ravi Mallu
11. Shri Peter G. Marbaniang
12. Dr. Smt. Padma
13. Dr. Laxminarain Pandeya

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14. Dr. Vasant Niwruutti Pawar
15. Dr. R.K.G. Rajulu
16. Shri Mullappally Ramchandran
17. Shri Venkateswara D. Rao
18. Shri Roshan Lal
19. Shri Rajnath Sonker Shastri
20. Shri Vishwa Nath Shastri
21. Dr. C. Silvera

with instructions to report by the 18th December, 1993."

14. Dr. Vasant Niwruutti Pawar
15. Dr. R.K.G. Rajulu
16. Shri Mullappally Ramchandran
17. Shri Venkateswara D. Rao
18. Shri Roshan Lal
19. Shri Rajnath Sonker Shastri
20. Shri Vishwa Nath Shastri
21. Dr. C. Silvera

with instructions to report by the 18th December, 1993."

MR. SPEAKER: The question is:

6 "That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha be referred to a Select Committee consisting of 21 members, namely:—

1. Dr. Krupasindhu Bhoi
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9. Dr. G.L. Kanaujia
10. Dr. R. Mallu
11. Shri Peter G. Marbaniang
12. Dr. Smt. Padma
13. Dr. Laxminarain Pandeya

The motion was adopted.

MR. SPEAKER: The Bill is referred to the Select Committee of the House. Shri Peter G. Marbaniang will function as the Chairman.

11.18 hrs.

STATUTORY RESOLUTION *RE*:
DISAPPROVAL OF THE STATE
BANK OF INDIA (AMENDMENT)
ORDINANCE, 1993
AND
STATE BANK OF INDIA
(AMENDMENT) BILL—*Contd.*

[*English*]

MR. SPEAKER: We shall now take up further discussion regarding Items 6 and 7 of the Agenda. Shri P.C. Chacko to speak now.

SHRI P.C. CHACKO (Trichur): I support the State Bank of India (Amendment) Bill, 1993 moved by the Minister of Finance.

The Narasimham Committee on the Financial Sector which is an expert committee recently went into the details of the functioning of the nationalised banks as well and the whole banking system and has made its recommendations.

One of the salient features of these recommendations is regarding the capital adequacy norms of the Indian banks. The Indian Banks are not possessing sufficient capital on par with the capital adequacy norms being accepted or being followed by the international banks. The fact remains that the credibility in the banking system depends very much on the capital that every bank is possessing. The international standard is to be followed because India is on the threshold of opening up its economy. This is mainly due to the new economic policy is being pursued by India which is being appreciated by the people of India and also by the people all over the world and it requires that the banking system in India also is streamlined and is also made up to the standards of the level prevailing all over the world.

So, the international convention and norm in this regard is to have at least eight per cent of the risk weighted assets of a bank. The suggestion of the Narasimham Committee report is that the Indian banks should attain this eight per cent capital adequacy norm in a phased manner over a period of four years. The Indian banks are expected to attain four per cent of the capital adequacy by 1994. All the Indian banks which are having a foreign presence are expected to complete this norm, before 1996. So, the State Bank of India, being the biggest national bank in the country having an international presence, can well be considered as an international bank and it should attain the capital adequacy norm which is

being proposed by the Narasimham Committee before 1994. So, that is the main requirement and main compelling reason for the Minister to move this Bill.

Sir, there are certain amendments to the State Bank of India Act which have become necessary and they are being introduced before this august House in the form of the Amending Bill. In the light of this Bill, certain points have become necessary to be debated in this House because under an Act of this Parliament this Bank has been constituted. The streamlining of the functioning of the bank in this country has become very necessary especially in view of the alarming facts that certain irregularities are going on in the banking sector. I do not think that these are incurable problems. If these problems are not attended to in time, it may assume very alarming proportions which may even destroy the entire credibility in our system. So, we have to take into account the banking system and how the banks are functioning today. Many Committees have been appointed by the Government on various occasions to look into the various aspects of the banking system. Here, I want to make a critical comment. Unfortunately, many of these reports are gathering dust in the Reserve Bank of India and in the Ministry of Finance. Many of the reports are not being implemented properly. For the health of the banking system, for the revival and vitality of the banking system, many useful recommendations have been made by many committees in many reports. If we analyse the whole recommendations made to the Government of India, at least half of the recommendations are not being implemented. In this context, I recollect the hon. Minister's statement yesterday in this House regarding the merger of the New Bank of India with the Punjab National Bank. When he was answering a question in this House yesterday, he gave a very

[Shri P.C. Chacko]

categorical reply that there is not going to be any further merger or any proposal before the Government for merger. Even then I pointed out that the Minister may not be correct. I was astonished to listen to that reply. The merger for or the economic viability of banks is a major question before the Government now. So, there are many Public Sector Banks which are in the red continuously losing hundreds of crores of rupees. In fact, the people of this country are losing this huge amount. How the banks can be made viable is a question which is very actively engaging the attention of the Government. I probably thought that the recommendations that have been made by the Narasimham Committee in this regard are some guidelines for the Government. But after the Minister's reply some confusion has been created. I do not know whether the Government has got any intention to go deep into this question, study the recommendations and implement the recommendations of the Narasimham Committee. I think some very concrete suggestions were made by the Narasimham Committee regarding the structure of the Indian banking system. I hope the Government will consider that. Especially in view of the answer given yesterday, some suspicion is being cast in the minds of the people on this subject. I think this is a point which the Government should study. It must think of what is the ideal and viable set up regarding the structure of the Indian banks.

Regarding these amendments, some amendments are particularly to be made to the State Bank of India Act. These are regarding the local head office; keeping up of accounts in the branches and some other details of House-keeping. I am not going into the

details at this stage. Regarding the appointment of official Directors and non-official Directors, some mention is there in this amendment.

It is a sad fact that many of the posts of Directors, both official and non-official, are kept vacant for so many years. We are happy to support this because anything which does good for the banking system, which does good for the State Bank of India, this House will be happy to support that. But for the last many years, hundreds of posts in the banks have been kept vacant. Will the hon. Minister give an answer to that? (*Interruptions*)

SHRIMATI MALINI BHAT-TACHARYA (Jadavpur): Your opinion is the opinion of the House.

SHRI P.C. CHACKO: I agree. We all welcome that. There is no point in discussing if there is no difference of opinion, as Madam rightly said. About the vacancies in the Director's post, I am sure, even those who oppose this viewpoint will agree that vacancies in the Director's posts of the banks should not be kept like that. At least for the last two years, there have been a large number of vacancies in the Director's posts of the nationalised banks. I do not know what is standing in the way. Very often we are given a reply that steps are being taken for filling up all these vacancies. It is good. Now suggestions are made about the directorship in the local boards. But while accepting this amendment and passing this Bill, let the Government take immediate steps and give an assurance to this House that all these vacancies in the Boards of the nationalised banks, regional Boards and local Boards will be filled up.

I want to make another suggestion.

According to Narasimham Committee norms, not only the State Bank but all the nationalised banks in India as also the private sector banks, are supposed to reach the eight per cent capital adequacy norm by 1996. What are the steps the Government is going to take regarding the public issues which the banks want to go in for to raise the capital. This Bill is only about the State Bank of India and I support it. And I want to caution that there is a proposal that the share price of the State Bank of India is going to be slashed to Rs. 90 per share. I would like to know from the hon. Minister what is the basis adopted by the Government regarding this. The face value of the share which is Rs. 100 today is going to be sold at Rs. 10. We can understand about public participation. If more and more people are going to be the shareholders of these nationalised banks, it is a very good thing. There are certain norms for deciding the market value of a share. When the Government has come to the conclusion that it should be Rs. 90 instead of Rs. 100, the market rate I would like to know what is the basis taken for the valuation of this. The face value of the share is going to be reduced. I would like to know whether the Government has made any study into the market value of the share of the State Bank and if so, what is the market value of the share. We would also like to know what is the market value of the share according to the Government's assessment.

Then there is a restriction of one per cent voting. Here it is proposed that the voting rights should not be restricted to one per cent. It should be increased to ten per cent. This also is a good suggestion and I welcome it. I also welcome the suggestion regarding the reduction in the face value to Rs. 10 so that more people can participate. The State Bank of India is allowed to go to the public to raise their

share capital. It is a must because specially in the international arena, the State Bank of India has got a very good opportunity to open branches and start the operations in other countries. There is one aspect here. A large number of foreign banks are opening their branches in India. Recently we have read in the newspapers that many branches of the foreign banks are being opened in India. But why are the Indian banks are not allowed to open their branches in foreign countries? There should be a reciprocal arrangement. Recently I had been to Gulf. There are some private sector banks in India which are having lakhs and lakhs of account holders from the foreign countries specially from the Gulf countries. There are large number of expatriat Indian population who are now in the Gulf countries. For example, I have information about the private sector banks like the Federal Bank having 1,50000 account holders in the Gulf countries.

But, they are not allowed to open their branches there. If the foreign banks are opening up their branches in India, it is always understood that there is a reciprocal arrangement that the Indian banks also will be allowed to open up their branches in the foreign countries. Ensuring this reciprocal arrangement is a matter which the Government should take up very seriously and see that the Indian banks, including the State Bank of India, nationalised banks as well as Indian private banks are allowed to open up their branches in other countries also. This reciprocity should be ensured by the Government while allowing other banks to start their branches in India.

Sir, the State Bank of India is expected to raise their capital to this level. In the same way, all other Indian banks should also be allowed to raise their cap-

[Shri P.C. Chacko]

ital. They are in a position and they all to approach the Indian capital market for raising their capital according to the capital adequacy norms. But, they are facing some restrictions of a similar kind which the State Bank of India is facing now. So, the Government must view these things in a larger perspective and allow other banks also to approach the capital market; they should take away these restrictions which are now placed before them so that they can also approach the public to make them as contributors in the share capital of the banks. So, such restrictions on other banks also should be removed.

MR. SPEAKER: You are repeating it again and again.

SHRI P.C. CHACKO: And then only the intention of the Bill will be fulfilled.

With these words, Sir, I conclude my speech. I support the Bill moved before the House and I think that the participation of the Indian public in the share capital of these big nationalised banks will be successfully completed. I support this Bill.

PROF. SUSANTA CHAKRABORTY (Howrah): Sir, the State Bank of India (Amendment) Bill, is a planned attempt to demolish and destroy the great edifice of public sector banks that we have built up in our country with a view to distribute the banking funds as per plan priorities, to assist the weak sectors, to curb the evils of concentration of economic power in few hands and the malpractices attached thereto, and to promote banking facilities in unbanked area.

Sir, I oppose the Bill. It is the first

step towards privatisation of the nationalised banks in the name of maintaining the capital adequacy norms as dictated by Basley Committee. The capital norms of eight per cent that the Basley Committee recommends is not applicable in the case of India because, in our case, Indian banks are concerned immediately and intimately with the economic development of the country and a strong capital base is not an essential prerequisite for that purpose. What you see from the functioning of these commercial banks in our country, say for example, Bank of India or other banks?

With a capital to business ratio of 1.78 per cent, Bank of India did a business of Rs. 28,763 crore; the Syndicate Bank, with a capital to business ratio of 1.01 per cent, did a business of Rs. 11,323 crore; Even the foreign banks operating in India, do not find the need for excessive capitalisation. The Standard Chartered Bank, as on March 1991, had a capital base of Rs. 26 crore for a business of Rs. 1,856 crore. What I want to say, Sir, is that the capital adequacy norms did never stand in the way of Indian banking business. The ideals before the public sector banks, in our country, differed from those prevalent in the West.

So this requirement I think is not needed. But we all know it is a part of the structural reform programmes that we have undertaken in our country in the name of globalisation.

The Narasimham Committee in its report recommended two more things. They recommended that private sector banks should also be allowed in this field. They recommended that even joint venture of foreign banks and public sector banks in our country, the joint venture of foreign banks and private sector banks in

our country can also be considered. So the aim is to denationalise the banking system in our country. So this amendment is there. In the name of raising the capital adequacy ratio shares are being issued to the public by the State Bank of India. For the purpose certain amendments have been made for the reduction in the face value of the banks' shares, removal of ceiling of 200 shares on individual holding, relaxation of restriction placed on voting rights from 1 to 10 per cent and maintenance of branch registers at local head offices to be dispensed with. These are the amendments that have been made here. The SBI amendment ordinance amends not only the State Bank of India Act, but also the Banking Public Financial Institutions and Negotiable Instrument Act 1988. The section 13 of this Act amends Section 21(a) of the State Bank of India Act 1955 limiting the terms of members of local boards of State Bank of India to six years. The Presidents of the local boards are the ex-officio directors of the central board. Section 12 has been amended and included. With this inclusion of Section 12 of BPF and NI Act, the members of the local boards who are also members of the central board whose term has expired beyond six year term. It is these people who are members of the central boards who have taken this decision. I would request you to please consider how far it is legal and legitimate. It is for the Government to think.

Secondly, after taking over of the Imperial Bank the entire share was vested in the Reserve Bank of India. Only by way of compensation to the shareholders RBI issued them shares in the State Bank of India. The public holding in State Bank of India is limited to shares by way of compensation. State Bank of India never in the past came out with any public issue. The Reserve Bank of India holds 98.23

per cent of the shares of the State Bank of India and the general public hold only 1.77 per cent. By the proposed public offer the holding of the Reserve Bank will be reduced to 68.93 per cent. The Government says that because their share in the State Bank of India is more than 50 per cent, they will have the necessary control over the banks. But that is not our experience. The experience is otherwise. If the shares are distributed in this way, it is the tycoons who will control the market and it is not the Reserve Bank of India. It is what they want. Just imagine the fate of the public sector banks, the main aim of which was to lead our country towards a people oriented goal. Banks have again not revaluated their assets properly. The book value of the assets is Rs. 261 crore. This has appreciated in value by this time. Therefore the estimated value of the assets as has been reported by the Union and some responsible representatives of the State Bank of India is at least Rs. 26000 crore.

The asset value per share of Rs. 10/- is Rs. 1,300/-. The price of the new public issue should therefore be within the range of Rs. 1,000/- to Rs. 1,300/-. But the price has been fixed at Rs. 100/- for the public and at Rs. 60/- for the existing share holders and employees. For whose interest, I would like hon. Minister to answer.

The justification for fixing the premium at Rs. 90/- on share of the face value of Rs. 10/- is founded, Mr. Minister, on wrong premises. Underpricing will deprive the State Bank of India of the premium that it is entitled to. The benefit will be passed on to the selected few members of the public. For instance, if the premium is fixed at say, Rs. 290/- for a share of Rs. 10/-, the State Bank of India will get as much as Rs. 3,596 crores. By

[Prof. Susanta Chakraborty]

fixing a lower price, the bank is getting only Rs. 1,146 crores—a loss of Rs. 2,450 crores. Why? I want an answer from you, Mr. Minister.

Was there no alternative way to raise the capital? Mr. Minister, I would request you to please consider that. Without resorting to the public issue, if the State Bank of India, as in the past, only makes a Rights issue and prices it correctly, it can get adequate capital to meet its capital requirements. For example, the proposed Rights issue of 12 crore shares, if priced at Rs. 1,000/-, that is, face value of Rs. 10/- plus premium of Rs. 990/-, it could fetch the Bank at least Rs. 12,000/- crores. Now, it requires only Rs. 2,032 crores. Why then, did you not take that step, Mr. Minister? The point is all these things are being done according to the Narasimham Committee report because you want to adhere to the international standards; and so, you have to change the practice of accounting norms and other things.

The erosion of capital did not happen overnight. You go on saying that it is system failure. But, is it so? There are rules and regulations which you could have practised, but you did not. There was political intervention to arrange 'loan melas' and to allow the fund to go in any way. So, this is the position. It is not that there is dearth of rules but want of will.

I shall be brief and I shall put them in the question form. May I know as to:

- (1) Whether the statutory auditors do audit the individual accounts?
- (2) Whether the Long Form Audit

Report appears along with the balance sheet?

- (3) Whether the Audit also checks that the amount advanced was actually spent for the purpose for which it was meant?
- (4) Whether the Government is considering the recommendations of the Ghosh Committee on frauds to introduce the system of concurrent audit for very large branches?
- (5) Whether the Government is prepared to deal with the acts of omission and commissions very strictly?
- (6) Whether you are prepared, Mr. Minister, faced with the situation, to accept the proposal of auditing of banks and financial institutions by CAG and to increase its accountability?

So far as the sticky advances are concerned, are you prepared to disclose the names? You conceal them in the name of 'secrecy' clause. But, even our neighbouring country, Pakistan, during the time of election, came out with such names of the powerful and some big tycoons. So, what is the harm in disclosing the names? Why do you try to conceal? What is your interest, I do not know. So, these bad debts, these sticky advances, the method of reconciliation are to be taken into consideration. Only by passing a Bill, you cannot expect Heaven in the banking sector. You have already started the process.

Only in today's "Times" we have seen that you have allowed eight private

banks to come here. You have started the latest phase of financial sector reforms with the stock market floatation of the IFCI which has launched \$ 167 million equity issue.

Even the Narasimham Committee admitted that the public sector banks have extended the branches to unbanked areas. The public sector banks have done a great deal to the agriculture sector and to the small industries sector. The public sector banks have done a great deal to the unemployed youth. They have done all these things. Now you want to privatise it. You want to denationalise it.

I know, you will say the majority of the shares will belong to us. But I reiterate the point that I have already raised. Only with two or three per cent of shares in a big company, it plays with the Government of India. So, are we thinking of a financial sector that will serve the needs of some individuals—a financial sector with foreign banks in our country? The joint venture that you are dreaming of will do away with everything that we have achieved so far. So, I cannot but oppose the Bill. I wish the Government consider it again and again before they take such decision of floating shares to the public in order to raise money in the name of adequacy of capital.

[Translation]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, I oppose this Bill, I believe that this Bill is the first step towards privatisation of our whole banking system. I had thought that the attack on the Public Sector Banking System of our country will start from some smaller Bank. They could have started from any of the 10-15 Banks under Public Sector Banks. But we had never thought that the

State Bank of India would be first target. This Government is going to create a very dangerous situation by victimising the State Bank of India at the very outset. So, it becomes imperative to have a proper discussion on this Bill in the House.

Mr. Speaker, Sir, the State Bank of India is not one similar to other nationalised banks. I am not going into the history of the State Bank of India. But I would like to say that the State Bank of India Act was enacted in 1955 and the responsibilities of the Imperial Bank were entrusted to the State Bank of India. This Act clearly states about the responsibilities of the Bank and the jobs undertaken by the State Bank of India. Mr. Speaker, Sir, I would like to read out section 32, Chapter 6 which is titled—"Business of the State Bank". Business of the State Bank starts from Section 32 and its first responsibility entrusted to it is:

[English]

"State Bank to act as agent of the Reserve Bank: The State Bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch".

[Translation]

And State Bank of India has thousands of branches.

[English]

"So, at all places in India, it shall act as an agent of the Reserve Bank or where there is even its branch of the subsidiary of the State Bank."

[Shri George Fernandes]

[Translation]

[Translation]

And it may have several thousand branches because it has several subsidiaries.

Mr. Speaker, Sir, now the State Bank can itself take steps to perform another major work as per section 35.

[English]

[English]

"And where there is no branch of the Banking Department of the Reserve Bank".

"The State Bank may acquire business of other banks. The State Bank may, with the sanction of the Central Government and shall, if so directed by the Central Government, in consultation with the Reserve Bank enter into negotiations for acquiring the business including assets and liabilities of any banking institution."

[Translation]

i.e. where RBI does not have its own branches, the State Bank of India will function as an agent of the RBI.

[Translation]

[English]

And it has been specified for what purpose.

As regards the other terms etc., I will not go into that. So far as general banking business is concerned it is provided in section 33:

"For paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India."

[English]

[Translation]

The business of the Central Government and the State Governments will be carried out by the State Bank of India through its thousands of branches.

"Other business which the State Bank may transact subject to other provisions contained in this Act, the State Bank may carry on and transact the business of banking as defined in Clause B of Section 5 of the Banking Regulation Act."

[Translation]

[English]

"The terms and conditions on which any such agency or business shall be carried on by the State Bank on behalf of Reserve Bank shall be such as may be agreed upon."

Mr. Speaker, Sir, as I already mentioned, a very dangerous step is being taken, and so much responsibilities can be thrust upon the State Bank by the Central Government and the RBI. And you are not merely privatising the top most Bank of the country but 31 per cent

of the capital of the Bank is being given to the private hands.

Mr. Speaker, Sir, I have objection over the Bill for several reasons but my main objection is over the flow of foreign capital into the Indian Stock Exchange during the past several days. Foreign Institutional Investors (FIIs), have come in large number and the same game is again being played as was played by Harshad Mehta sometime ago. In the past one year, after the FIIs began entering the share market, the share market index has reached 3440 points from 2000 i.e. an increase of 50 per cent. I can visualise the same game as started by Harshad Mehta in Bombay Stock exchange. Another thing that has been made clear is that the FIIs are not buying shares for long term investment. Instead, as per the papers reports, the speculative buying of shares in the Bombay share market is being undertaken. What would be its result for the nation, at this juncture, is a separate thing to consider. The FIIs by purchasing the shares of the State Bank would become more powerful. It needs not to say that we are taking our nation and the economy to a very dangerous direction.

Mr. Speaker, Sir, I feel, the Government resorted to some sort of cunningness on its part while introducing the Bill. Cunningness in the sense that it tried to hide the hidden meaning of provision concerning voting rights in order to avoid criticism of it by the opposition. Those holding more than 10 per cent of the capital would not be entitled to exercise voting rights in respect of any shares held by them in excess of 10 per cent of the issued capital.

[English]

"No Shareholder other than the Re-

serve Bank shall be entitled to exercise voting rights in respect of any shares held by him in excess of 10 per cent of the issued capital."

[Translation]

And now it is only 1.77 per cent. That too because the shares were given as compensation. The rest 98.23 per cent is in the hands of the Reserve Bank of India. Provision was made in the rules for two directors against 1.77 per cent of the shares held by private people. As per the revised rules there is provision for two directors upto 10 per cent of the shares in private hands.

[English]

Section 19 : Composition of the Central Board: If the total amount of holdings of the shareholders other than the RBI whose names are on the principal register three months before the date fixed for election of Directors is not more than 10 per cent of the total issued capital: two Directors.

[Translation]

You knew that State Bank had no intention to increase the 1.77 per cent ceiling. When the rule was made, there was no question of going beyond this limit. When this law was made in 1955 no one thought that State Bank of India, one day, would be used by the Foreign Investors and speculators in India for the purpose of furthering their financial interest. All the equity of this bank is likely to go into the hands of the utterly despicable capitalists, who by earning money in India, send it to banks abroad through Havalas transaction. Today, you have said while making this law, that it is mentioned

[Shri George Fernandes]

in it that those with 10 per cent holdings would have voting rights, limited to 10 per cent. You are trying to mislead the nation and the House. When the Share holding would be diluted so much in the coming days, i.e. 30 per cent would go to foreigners, then it would be justified if they go to the courts and would demand amendment in the rules. The Indian industrialists are only carrying on a discussion for level playing field. On 9th November, Indo-US joint council meeting was held. In it the Americans expressed their opinion and our Finance Minister said that a level playing field would be provided to everyone. There was provision for two directors when 1.77% shares were in the private hands. Now 30% shares are in the private hands. In such circumstances how long their demand to increase the number of directors is to be resisted is a matter to be imagined. Changes in the law have to be done in either six months or in a year. When Shares would go to the foreigners, then, their representatives would sit in this board. We will be able to see this within few days. Therefore, we should understand the extent of danger and this attempt of the Government should not be allowed to succeed.

12.00 hrs.

I want to say one more thing in this context. A few days ago the State Bank of India tried to take over BCCI in which lock out was declared. It was investigated by British Parliamentary Committee and the American Senate Investigating Committee. It was revealed this bank had attempted to defraud the world. In this House too, question were raised on the BCCI. I remember a lot of discussion took place. Now the Government is trying to

merge that bank with the State Bank of India. I have no objection to it. I know that some big people tried to take over the bank, so as to take it to private sector, because their stake in that bank was very high. I am happy that the Government did not permit the bank to go into the hands of these people. But I would like to say that the State Bank of India has taken over the BCCI, the accounts of smugglers, black-marketeers, those engaged in transaction of black money, those sending money to foreign banks through big industrialists and havala racket are now in the hands of the Government, so the Government should inform the House as to when it was going to make these accounts public? This is essential as you are going to privatise the State Bank of India the culture of which I do not want to praise because involvement of this bank in our biggest ever scam was not less as several officials of it have been prosecuted and several have to resign. It was by no means an ordinary irregularity. Therefore, there is nothing to say in praise of this Bank's culture. But I believe that the State Bank of India provided that largest number of officers for the banking system, for which this Bank should be praised. Therefore, I would like to say that the responsibility for keeping under wraps the culture of BCCI and its misdeeds should not fall on the State Bank of India. You should place before the nation the real situation of BCCI. This is not merely my demand. But it is mandatory that this be done. I do not want to say much. I said this only on matter concerning privatisation.

I would like to make a last point. Our colleague said that audit of banks is essential. The Government should declare its policy in this regard. In India audit of defence department is done. Through CAG, all aspects of defence, even matter

concerning security of this nation are audited. But it is said that if Banking audit is done it would result in demoralisation of banking sector. There is no question of demoralisation, if work is done with honesty, no matter by whom it is investigated in the world. When we had brought this question in the House, much before the scandal, the Finance Minister, Manmohan Singh said:

[English]

"You are demoralising the banking industry"

[Translation]

When I again broached the question regarding the Rs. 2000 crore scandal each year in banks, he said:

[English]

"You are speaking in a very irresponsible way."

[Translation]

These are the words stated by him in this House within two months of this the scandal surfaced. The House, therefore, should seriously deliberate on this matter, the Government should not delay this. It should entrust the responsibility of audit of the entire banking sector in the hands of CGA.

And irrespective of the Parliamentary Committees, be it PAC, but for that a banking Committee should be formed. I would urge you to take the initiative to form a banking committee. All related aspects should be placed before the Parliament to ensure banks function with honesty.

Mr. Speaker, Sir, with these words, I oppose this Bill.

[English]

SHRI SUDHIR SAWANT (Rajapur): Mr. Speaker, Sir, I rise to support the bill and at the outset I recollect those days of euphoria when Indiraji initiated progressive steps and nationalised the banking system.

Sir, this was a longstanding demand and the country even today remembers those days with gratitude to Indiraji because while nationalising the banks the primary objective before the government of that time was that of social obligation of the banking system. This was the precise reason that the banks were nationalised. Now in today's circumstances, things have changed drastically and across the board, we hear criticism that the banking system and the public sector banks have failed, or that the public sector banks are not profitable.

The report of the Reserve Bank of India—which I have here—states that—

"One of the features of the Indian banks over the years has been the low level of the profitability. As a result resource build up has been at very low levels and consequently own funds had to be strengthened by repeated infusion of additional capital. The Government had contributed Rs. 4,000 crore up to March 31, 1993."

While saying that one of the features of the Indian banks is the low level of profitability, the RBI had recognised one fact, that this low level of profitability was due to the obligations which have

[Shri Sudhir Sawant]

been undertaken by the nationalised banks to fulfil the social obligations set to them by this Government, and various other factors where the banks have functioned primarily, keeping in view the goals of this government in disbursing credit in priority sectors and at low interest rates and other objectives which have been set for them. Thus, one fundamental question arises today, whether the banking system, specially the public sector banks should be allowed to function in a totally commercial manner, or the banking system should also be responsible for fulfilling the social obligations of the Government that this country has set to do, based on the Directive Principles of State Policy. That is why there is no reason and there has been no occasion when I can think, or anybody can think, that if the public sector banks today are allowed to function on a totally commercial basis, the Reserve Bank of India would not have to put this statement in its report. Definitely, we have today the manpower, the capability in the public sector banks to generate surpluses to look after their own interests, the interests of the banks in pure market terms.

If we see in a broad perspective the social functions which these banks are doing, then we will realise that the low level of profitability is arising mainly due to this particular factor. The banks have had to open branches in many areas where they were not commercially viable. But the banks had gone and opened branches in these areas. If we ask the public sector banks not to look after the social functions and purely work as commercial banks, then definitely our banks will do much better. The second factor is the Government's interference, which comes in the way of their functioning, which I have already covered.

While making the banks function in a totally commercial manner, then we, including the Opposition Parties, should not insist on their functioning in a sacrosanct manner.

This Bill has been placed here for some reasons. Some findings were there in the Narasimham Committee Report. To engineer reforms in the banking system, this Bill has now come up before this House. We had seen what had happened due to scam. The Joint Parliamentary Committee had gone into the details of that. And that is why, there has been a demand for transparency in the accounting system of the banks. When the norms for transparency have been set, then there are going to be some effects. If the norms are followed, then by March 31, 1993, our thirteen banks will show an aggregate loss of Rs. 3500 crore. These are the facts. That is why, the Government proposes in 1993-94 Budget to subscribe capital to an extent of Rs. 5,700 crore. If the capital advocacy requirement and the demand for transparency in the accounting system have to be fulfilled, then everything cannot be done by the Government. And that is why, there is a need to subscribe public equity, which I fully support.

If we want our public sector banks to become profitable, then we should allow them to function on commercial basis. If that is so, then the banks should be allowed to go and raise capital in the open market. But definitely there should be certain limits set on that. The ceiling on voting rights has now been increased to ten per cent. I welcome that. There is nothing wrong in that. China has made the public sector ventures profitable by one method. They have invited foreign capital. They have invited private capital. But, in what? They have invited foreign

capital and private capital in the joint ventures of their public sector banks and thereby they are reviving their public sector banks and making them to function in a total commercial manner.

As long as the Government holds control over the public sector banks, I do not think there is anything to fear. And that is why, the equity of the Government to the level of safety must be retained and also the voting right to the level of safety must be retained, so that while these banks become profitable. They also fulfill the social obligations.

[Translation]

SHRI BHOGENDRA JHA (Madhubani): Mr. Speaker, Sir, it is very sad for our country that the most powerful bank the State Bank of India the next only to Reserve Bank of India is also going to be handed over to both the Indian & the foreign Private capitalists. There is apprehension that later on, the foreign capitalists will be in dominating position.

Our colleagues from the ruling party still mention the name of Indiraji in the context of banks. There is the healthy tradition in our country to call a dead person "swargiya". It is just contrary to that. All are aware of it that at the time when the issue of the nationalisation of banks was raised, the then Finance Minister had said that till he was the Finance Minister, the banks would not be nationalised and the hon. Prime Minister Smt. Indira Gandhi left the Congress party or was made to leave it. At that time also I was in the House and whatever little we could do to save the Government, we did. At the time of the nationalisation of banks the practice of giving privy-purses of the kings were stopped. The projects which were stopped at the direction of the World Bank

for three years and there was a plan holiday, were started again and the country started progressing again, but now they are trying to roll it back. This Government has been affected by the disease of issuing ordinances. The session of the Parliament was likely to start and there was no need at all to issue an ordinance regarding State Bank. The Government could have brought the bill during the Session, whether it was good or bad, therefore we are opposed to the issuing of ordinance. However, we favour this practice to be followed in case of an urgency only. This practice should be followed only when it is not possible to wait otherwise it should not be followed. Therefore, this is one of the main reasons of our opposition to this.

Mr. Speaker, Sir, it is a fact that this Bill provided a chance to the banks dealing in foreign exchange. to raise their capital by 8 percent to form their base and we were to do something in this regard. The State Banks, dealing with foreign countries, are required to do something by March, 1994. Now they have to raise their capital by 10 per cent. There is a dangerous proviso that they will have the right to vote, whenever the Government wants as per the opinion of the Reserve Bank of India and they need not come before the Parliament. The private investors would be in the Board and they would leave the right to vote whenever the Government wants after seeking the opinion of the Reserve Bank of India. It means that the State Bank will be the State Bank just for the name and after they have the right to vote, it would just be a Private bank. This provision is dangerous for our country. The chances are dim yet I urge upon the Government to delete this Proviso. If the Government feels the need, it can come before the Parliament, but the Government should not take into

[Shri Bhogendra Jha]

its hands the right to provide the right to vote to the private investors in the board otherwise its basic character would be changed and that is why I feel that this proviso in the Bill is dangerous.

Mr. Speaker, Sir, some of our colleagues contend that the utility of the banks should also be taken into consideration for our developmental projects and our removing acute backwardness by giving aid. There should be a planned system of production. We are 90 crore people, the main power is the man power and there are 180 crore hands. Those hands should be utilised for production so that our domestic industries can also compete with the world market and it can also fulfill needs of the country that is why since independence we feel the importance of our domestic industries. We know it that today we can not make progress without big industries. There is a dire need of small, medium and big industries in our country and we can not make progress without big financial support from the banks. Our progress is negligible. There is no proper utilisation of money for which, it is granted and that is why our production is not increasing. Money is being wasted. The role of banks in it is also condemnable. Therefore, it would be dangerous if this bank is run purely on commercial basis. It is not good for the country which has such a large population.

Mr. Speaker, Sir, often the example of China is cited. You were leading us when we paid a visit to China this year in January. We had seen there that China had given permission for the foreign capital to enter only in three fields. Our society and our country do not have the capability to allow it in 3, 300 or 3 thousand

fields and even then it will not serve our purpose. China has the capability to allow the foreign capital in three fields and it is confined to the three fields only. When we cite the example of China's success that she permits the foreign capital then we not only keep the people in darkness but we also present a different picture.

The day before yesterday, the hon. Member Shri George Fernandes had said that the Chinese living in other countries love their motherland and they do not want to sever their connections with their motherland. They have invested their money. There are a few countries where such thing happen. All other countries have their own State Banks, which are running smoothly. It is not wise to cite the example of the success of Private sector or the failure of Government banks in our country and to appreciate the private sector. There is not even a single private sector industry, not even those of Birla, Tata or Kirlosker, which is running without bank's money. I would like to say that the hon. Finance Minister or any other person from the ruling party should cite an example of even a single industry which was set up without taking loan from the bank. Our experience of our own country speaks that the story of the private sector's success and the failure of Public Sector has been told shamelessly by those who had taken loans from Government banks, from the people and who have done other frauds to declare the industries sick. These people just give a distorted picture. The main base of the industries of the country is still the capital of the Government's banks even today. The black money, which they use is covered by the Public money.

Mr. Speaker Sir, there is scope for the private sector to show its might. After independence our first Prime Minister Pt.

Jawahar Lal Nehru had said that if the private sector is given liberty then it would invest in hotels and cinemas from where it can have quick returns. I would like to know the name of anyone in private sector, who has invested in agriculture, engineering or the science which has far reaching consequences. They are not ready to wait for the profit for such a long period. I understand that there is not even a single capitalist in our country who can set up an industry like *Hatiya*. Therefore, I feel it dangerous for our country. It should not be done. I think all the hon. Ministers of the ruling party are not happy over it. Those who have an Indian heart might have seen the days during the independence struggle. He may not have seen our freedom struggle but he must have seen the days of 1969-70-71, when the hon. Prime Minister Smt. Indira Gandhi was sacked on the issue of banks. We had demanded at that time not more than that the projects should be commenced, the banks should be nationalised and hasten the pace of the land reforms. Today it is being tried to stop our progress.

My submission is that if wisdom prevails on the Government then it should not present this Bill in this form and at least it should not provide the right of vote to its board members. We have to accumulate capital, which is possible for banks to collect throughout the World. I do want that our State Bank should be in that category and it should not lose its claim. But the right to vote and the 10 per cent rebate in the capital, should not be given. I oppose the Bill in its present form and also oppose it on behalf of my party and I want that the House should defeat this Bill.

[English]

SHRI RAMESH CHENNITHALA
(Kottayam): Mr. Speaker, Sir, this Bill has

been brought with the intention of amending the State Bank of India Act, 1955 to enable the bank to mainly augment its capital market with public issue. The bank is entering into the capital market in order to augment its capital base to the level of 8 per cent. Today, all Indian banks have the capital base of 4 per cent. This is not upto the international standards. To be in conformity with the international standard, we have to raise it to 8 per cent. In the Statement of Objects and Reasons of the Bill it is said that this Bill is formulated on the basis of certain recommendations of the Narasimham Committee.

Because the capital base of our banks is 4 per cent, we have little significance in international arena. The State Bank of India has overseas operations and it needs additional capital of Rs. 3,227 crore to be in conformity with the international norm of 8 per cent. So, the entry into the capital market is necessary. In fact the Basle Committee has recommended that the capital base of Indian banks should be 8 per cent. For this a massive investment of Rs. 10,000 crore would be required which is impossible thing in view of stringent financial conditions which are prevailing in our country. The Budgetary deficit is to be controlled. Therefore, the disinvestment in our public sector banks became absolutely necessary.

Now the Reserve Bank of India is allowing other private agencies also to start and operate banks in our country. Certain private banks are also coming up now. I was told that one has already been started in our country. So, there will be a stiff competition. My request to the hon. Minister is that not only for the State Bank of India but we have to allow other banks also to go in for disinvestment so that their capital base can be strengthened

[Shri Ramesh Chennithala]

and they can compete with other private banks also.

Sir, in the coming days our nationalised banks are going to face a stiff competition and major challenges. In fact the nationalised banks should be allowed to move quickly to face these challenges because of the coming up of the new private banks.

The banking industry has developed in a big way since nationalisation in 1969. At the time of nationalisation the commercial banks had 8,000 plus branches and their deposits were Rs. 6,000 crore. Today the branch network exceeds 60,000 and the total deposits crossed Rs. 2,25,000 crore.

In fact, the top 10 banks have a market share of 50 per cent. However, the status of the Indian Banks and ranking in the international arena is insignificant. That is the most important thing which we have to keep in our mind.

Sir, now we have opened up our economy. Our banks are facing new challenges from the foreign banks and new avenues of savings in the capital money market are also there now. So, in order to face all these challenges, our strategy should be changed. The whole strategy which we are following in the banking system has to be reviewed. Due to the liberalization policy and the opening up of our economy, in the coming days our banks are going to face a major challenge. Therefore, we have to formulate new strategies for our banks.

Sir, over the years the marketing techniques have undergone tremendous changes and the market has been flooded

by specialized banking services. This is the most important lesson which the Indian banks should learn. It is said that the performance of the Citibank is an example before us. Firstly, they have entered into a new business era and secondly, they have introduced innovative customers' package of financial services. Our prime priority should be to recast our strategy. We have to face all these new challenges and for this, an overall change in the strategies is highly needed. So, in this regard the Indian banks should adopt new strategies and try to face the challenges without any further delay. We have to rush up. Otherwise, the future of the Indian banks will be very bleak.

Sir, I have certain suggestions in this regard. Firstly, one area in the Indian banks should be focussed on merchant banking and secondly, they can enter into the capital market and undertake a related consultancy or advisory management services etc. So, we have to adopt these strategies so that our banking system can be strengthened.

Sir, the other hon. friends have mentioned about the nationalization and the social obligations of the banks and so, I do not want to go into the details. Basically, bank is a commercial enterprise. Of course, it is true that we have to fulfil the social obligations, but at the same time, we have to see that the banks exist. What is happening now? According to the estimate, nine to 10 nationalized banks have been operating on loss. Certain loans are such that they cannot be recovered. Due to the non-recoverable loans, the yearly losses are accumulating. We have to look into this problem very seriously. In certain banks, even the officers know that a particular loan cannot be recovered, but still he is adding the interest and projecting an inflated income. So, the position of our

banks is deteriorating and because of the huge social obligations the burden of the banks is unimaginable. The Narasimham Committee has suggested certain measures in this regard, but because of the social and political pressures we cannot adopt all the recommendations of the Narasimham Committee. Therefore, keeping in view that the banking sector is facing a lot of challenges and since the financial base of our banks is eroding day-by-day, we have to see that our banks function as a commercial enterprise.

Of course, we have to fulfil the social obligations. But we have to make sure that our banks should exist and our banks are able to compete properly in the international arena.

[*Translation*]

SHRI DEVENDRA PRASAD YADAV (Jhanjharpur): Mr. Speaker, Sir, this Bill has been introduced with the aim of changing the banking system but I think it is not going to bring about changes in banking system so I am not at all surprised at this. I think the Government's basic concept to bring about changes is itself utterly wrong. This is because, the Government has already accepted the recommendations of the Narasimham Committee for guidance. The recommendations of the Narasimham Committee, have been prepared under pressure from World Bank and the International Monetary Fund. And the Government's compulsion in accepting them is due to its helplessness and necessity of handing over the banking sector to the foreign forces. Therefore, I would like to clearly state that this is the first instalment, through this Bill. Towards attaining the aim of implementing the Narasimham Committee's Report by March 31st, 1994. I believe, that through this Bill the work of first stage would be completed by 31st

March, 1994. This I think, is the intention and aim of the Bill. This is its real objective.

At present there are 10,000 branches of banks in the country which are incurring losses. In the coming days, these would be closed, this is their plan. I would like to say that banking is a sector in which 4-5 lakh people are employed. There is a danger of their being rendered unemployed, due to this policy. With the implementation of this policy, the greatest threat would be that the employment opportunities in the Government sector would no more exist and this Bill would result in creating unemployment. I believe that the poor would be denied the opportunity to get loans from nationalised banks and those already in employment would be denied further opportunities of employment. The loans provided by the State Bank of India, particularly to the poor people, like the rickshaw-puller, the tongawala etc. and the economic facilities, would not be provided to them in the future. And the subsidy, which they get would be stopped, as per the provisions of this Bill. The economic facility and the Government grants provided to the marginal farmers and the small industrialists, would be stopped.

Therefore, I would like to say that the Government is completely ignoring the social responsibility as referred to by our friend Shri Chennithala and Shri Sudhir Swant. With this Bill the social responsibility would completely come to an end. Therefore, I have said that this Bill is dangerous.

As far as the question of share is concerned, several members including George Fernandes have expressed their views extensively. In my view, if the

[Shri Devendra Prasad Yadav]

shares go in the hands of foreign private investors, the foreign powers would certainly get a boost and the foreigners would take the shares to their countries. This would be a dangerous practice that would be followed in the country. I understand that the recommendations of the Narasimham Committee have certainly been prepared under pressure from the World Bank and International Monetary Fund. It is a link for implementing most of the recommendations. The first step towards privatisation of Banks has been taken. Be it the dimension of new economic policy, the Government is endeavouring to attain its target in order to implement the policy, be it the banking sector, be it other sectors, be it economy and due to this the economic disparity is going to be increasing. The employment opportunities that are to be provided to the poor people will now be no more available. In the coming days the helplessness of the Government will increase and the entire banking sector will go in the hands of the foreigners. The country is moving towards this direction. With such a banking system, the economy of the nation would be shattered. I believe that the nation's entire economic structure is about to collapse and the foreign powers are going to dominate over here. The foreigners would be benefited by this banking system.

With these words I express my strong objection and oppose this Bill.

SHRI HARI KISHORE SINGH (Sheohar): Mr. Speaker, Sir, so much discussion has taken place in regard to this Bill and I do not have much to say. I want to refer to 2-3 things. First, the upswing in the stock market at present indicates that the industrial production has gone up and the economy has improved. Hence, there

is a sharp rise in the prices of shares of companies. This is not so. The foreigners are playing their game in the nation's stock market. It would become clear after some days. The companies whose shares have shot up would come back to the situation in which you had constituted the JPC, whose report is going to be submitted in the House. State Bank of India is the backbone of Indian banking system. In importance it is next to the Reserve Bank of India. So far, the Government has not been able to answer the question regarding the justification of increasing the private participation in the State Bank of India. What is the justification of issuing an ordinance on the 15th October? Was anything going to happen which could have delayed the holding of Parliamentary Session, which was to be held after a month. What was the urgency of issuing the ordinance? And today we are merely approving it in this House. This clearly shows the extent to which the Government discharges its responsibility towards the House. The Government should reveal today the need for issuing the ordinance on 15th October. And secondly, what was the urgency of increasing the shares of the private share holders in this way. It would have been justified if by increasing the private share holding, the banking system would have become efficient or streamlined. Is there any possibility that this would increase faith of the people further. People do have faith. People still have faith in the banking system in spite of this step of the Government. In view of this, does the Government believe that it was essential to take such a major step towards privatisation?

Thirdly, what I want to say is that I have been asking this question from the Government, ever since the new policy was announced and even today I am raising this question and let the Govern-

ment clarify that the foreign banks would not be allowed to operate in a big way in this country. This Government would not give them an opportunity to do business. In America too, there is a provision that a bank would not be allowed to open more than one branch in a State, if the State has no bank of its own.

When the foreign banks would come, what is the guarantee that they will do the same thing here. The finance, at very low interest rates is available in foreign countries. They will arrange the capital and purchase the shares of the banks here and it would result in buoyancy in the share market. How does the Government visualise our plight then?

Last thing, I want to say is that the State Bank was nationalised earlier and when nationalisation of banks took place in 1969 there was lot of enthusiasm and people thought they could get loans to start their trade and business. This benefited the people. As Shri Devendra was saying, it is correct that there are very few defaulters among the small traders like small shop keepers, rickshaw-pullers and Tongawalas. Defaulters are those who while sitting in London and Dubai are looking the Punjab National Bank and State Bank. It is said that their partners are also present in Delhi then how will you stop such people?

Mr. Speaker, Sir, State Bank is going in the direction of privatisation. What would happen to the social security aspect with which the banks were nationalised? Till the new economic policy, under the pressure of World Bank and International Monetary Fund is not implemented, what will happen to the social security of those who are associated with our economic policy and Banking sector? The Government today, should clarify the position in this regard

and assure that the facilities available at present will continue to be given in future and there will be no reduction.

With these words I oppose this Bill and conclude my speech.

[English]

SHRIMATI PRATIBHA DEVISINGH PATIL (Amravati): Mr. Speaker, Sir, according to the Narasimham Committee, all the banks have to ensure that their total capital equals at least eight per cent of their risk weighted assets. To achieve this eight per cent asset, some suggestions have been made in this Bill itself. It has been said that the face value of the Bank's share will be reduced from Rs.100 to Rs. 10. It is feared from the Opposition Benches that probably the foreign capital will flow; a lot of overseas people will take these shares away and this Bank will be overpowered by the foreign agencies and the foreign capital. But I think nowhere it has been said that the local people, the Indian people will not be allowed to purchase the shares. So, this is going to be open for all. I would suggest here that there are hundreds of urban cooperative banks in this country. Those banks should also be allowed to purchase the shares of this Bank so that there will be a lot of local credit gathering which will make up the share capital of eight per cent. Instead of restricting it only to individuals, let the other banks also purchase the shares. The Cooperative Credit Societies should also be given the chance to purchase the shares.

Secondly, the private people who want to purchase the shares should not be asked from where they have brought the money, from where they are purchasing the shares. There is a lot of unaccounted money floating around. It will

[Shrimati Pratibha Devisingh Patil]

be better if we can lock it up into the capital of this National Bank and that will be helpful because we are not going to ask the foreigners from where they are bringing the money. If we are not going to ask them, then it would be better if we do not ask our people also. To that extent also, the unaccounted money which is already there in the field will be reduced and it will help the Bank strengthen its capital of eight per cent. Ultimately, it will go to strengthen the economy of our country. Since we are having a new Industrial Policy and a new Economic Policy also, it is necessary that we must strengthen our assets. This will help directly and probably indirectly also the Indian economy to make it strong. I wanted to make these suggestions.

[Translation]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. ABRAR AHMED): Mr. Speaker, Sir, I am grateful to the hon. Members who took part in this discussion.

Mr. Speaker, Sir, some of the submissions made by the hon. Members were based on mere apprehensions and misconceptions and were also quite at variance with the facts.

Yesterday, while replying to the submissions of the hon. Members, regarding capital structure of the State Bank of India, I had categorically stated that contrary to the apprehensions of a few hon. Members SBI is not going to be privatised. Earlier the Reserve Bank of India had 96.23 per cent share, individuals 0.84 per cent and others 0.93 per cent in the

capital base of SBI. However, now RBI share will come down to 68.93 per cent while the public alongwith employees will have share equal to 20.33 per cent, financial institutions 5.73 per cent and Indian Mutual Fund 5.37 per cent. From the afore-mentioned data it is clear that since the share of RBI is maximum, therefore, the Government will continue to have full control on SBI regarding policy matters and other decisions. I would like to allay the fear of the hon. Members that the Government is going to privatise SBI. The hon. Members putforth their views regarding conditions prevailing in banks and they are correct that the condition of some of the banks is not good. Yesterday while replying to a question I stated that some banks are incurring losses and their condition is bad. Time and again this issue is being raised in the House. However, I would like to State that the Government is making constant efforts to improve the situation. In the recent past the Government has taken a few steps to improve the condition of SBI and has also accepted the recommendations of the committees constituted for the same. The Government took the steps in accordance with these recommendations. As a result of the steps taken by the Government condition of these banks has improved. Banks have been allowed to close down loss making branches and to shift non-profitable branches of various administrative and zonal offices to business potential areas. Recently SLR and CRR were reduced so that banks can lend away their surplus funds to improve profitability. In the last session Bank Recovery Tribunal Bill was introduced. In the Bill provision for stringent measures has been made so that the loan money could be recovered easily and got utilised elsewhere as litigation process is quite time consuming. Sticky advances will be monitored to minimise litigation and to solve

cases through compromise. Emphasis is being laid on computerisation so that such cases could be easily detected. RBI has issued instructions regarding concurrent audit of banks. Proformas of C.Rs of bank employees have been changed to introduce the concept of accountability. In addition to fulfil capital adequacy norms a provision of Rs. 5700 crore was made last year. This assistance is being disbursed.

Regarding Chairmen and Directors of Banks, I would like to submit that Chairmen of most of the banks were appointed only recently. CMDs of SBI, Central Bank of India, Bank of Maharashtra, Bank of Baroda, UCO Bank, Syndicate Bank, Indian Overseas Bank, Allahabad Bank were appointed recently. Posts of CMDs of Andhra Bank, Dena Bank and United Bank of India are lying vacant. This post fell vacant in Dena Bank and United Bank of India only recently. Proposals to fill up these are under consideration. The Government has instructed that the post of CMD should be filled up as early as possible. Even names for the post of Directors are being proposed. It is believed that these also will be filled up as soon as possible.

SHRI HARI KISHORE SINGH: Why does the Government not start the selection process even before the dates on which these are going to fall vacant?

DR. ABRAR AHMED: The whole process is time consuming because names are suggested by the Government to the RBI and if some information is lacking in the bio-data then queries are made. Efforts are being made to minimise time delays and to fill up the vacancies immediately.

A few hon. Members raised some issues in their speeches. Shri Mohan

Singh is not present in the House. Yesterday he submitted that banks are going to be privatised. His apprehension is baseless because the provisions for the capital structure that are being made will keep the powers with the Government. Regarding closure of branches I would like to state that loss making branches are proposed to be closed down. Profit making branches will not be closed down. All pending queries I have already replied. Shri Chacko raised the issue of Narasimham Committee. I would like to state that the recommendations of the said Committee have already been accepted and implemented. Yesterday he specifically quoted a point from my reply. I would like to reiterate what I stated yesterday that no other proposal on the lines of merger of New Bank of India with Punjab National Bank is under consideration. However, it should not be constructed that no other bank will be amalgamated in future. If the Government thinks it necessary to amalgamate banks it won't hesitate and will also take all the necessary measures. However it is not proper to quote all this as authoritative statement from the Government side. I am reiterating this again today.

13.00 hrs.

I made the position already clear regarding appointment of the Directors. Recommendations of Gopuria Committee are being implemented and customer services will also be improved. Regarding valuation of shares I would like to submit that the face value of a share has been reduced from Rs. 100 to Rs. 10 so that small investors may also invest in these shares. Share of Rs. 10 is being sold at a premium of Rs. 90. The share of Rs. 100 is being sold in the market for Rs. 3,000.

[Dr. Abrar Ahmed]

In response to the query of the hon. Member regarding opening up of bank branches abroad I would like to submit that there is no blanket permission. Branches abroad could be allowed to be opened depending on their viability.

MR. SPEAKER: Will you bring down the price of a share from Rs. 3,000?

DR. ABRAR AHMED: Mr. Speaker, Sir, I am coming to this point. In response to the query regarding market prices of shares I would like to state that when shares on sale are less prices shoot up and when trading starts, prices plummet. Therefore, shares of Rs. 100 each valued at Rs. 3,000 in the market are released in large number then prices definitely decline. All this is evident from the market trends itself. However, it is wrong to suggest to fix a premium of Rs. 290 for a share of Rs. 100 having the market value of Rs. 3,000.

MR. SPEAKER: Even if Rs. 90 premium is fixed value will not fall below Rs. 100?

DR. ABRAR AHMED: Therefore, face value of a share has been fixed Rs. 100 so that small investors can also buy these.

[English]

PROF. SUSANTA CHAKRABORTY: Why is this premium?

[Translation]

DR. ABRAR AHMED: I am coming to this.

SHRI HARI KISHORE SINGH: Why the face price of a share valued at Rs. 3,000 in the market is not being fixed at Rs. 3,000?

DR. ABRAR AHMED: You mean why the premium for a share of Rs. 10 which is being valued at Rs. 300 is not being fixed at a premium of Rs. 290?

MR. SPEAKER: Question is why the price has been reduced from Rs. 100 to Rs. 10?

DR. ABRAR AHMED: Price will come down from Rs. 100 to Rs. 10 as and when the issue opens.

MR. SPEAKER: Why?

DR. ABRAR AHMED: Price was fixed at Rs. 10 so that small investors can also make investments.

I would like to inform Shri Chakraborty that RBI has already issued instructions that from 1993-94 recommendations of Ghosh Committee will be implemented. Share of SBI of Rs. 10 has a book value of Rs. 84 and it is expected that the share will be listed at a price 15 times more than the face value when public issue opens as is happening in the case of the share of the financial institutions. Such issues are expected to be quoted at Rs. 150. To attract small investors present issue is being sold to public at Rs. 100. In addition the present offer price according to projected earning is 9.2 as per P.E. ratio during 1993-94 and book value of each share is 1.8 times. Therefore, present offer price in view of all this is quite reasonable. Market value of a share of Rs. 100 at present is in the range of Rs. 2800 to Rs. 3000.

SHRI GEORGE FERNANDES:
Please tell how many out of these are being sold to the public and in what ratio shares are being sold to the present share holders and to the employees?

DR. ABRAR AHMED: Sir, the question of the hon. Member is quite important. Sir, through you, I would like to clarify the number of shares being sold to each one of them.

To public 7,50,00,000 equity shares, of Rs. 10 each at a premium of 90 are being sold. Face value of these shares is Rs. 75,000 crores and issue price is Rs. 750 crores. Financial institutions will be sold 2,45,00,000 equity shares of Rs. 10 each at a premium of Rs. 90 whose face value is Rs. 24.95 crores and issue price 245 crore. For Indian Mutual Funds registered with SEBI 2,45,00,000 equity shares of Rs. 10 each at a premium of Rs. 90 had been kept, whose face value, is Rs. 24.5 crore and issue price is Rs. 245 crore. In the case of rights category—12,00,00,000 equity shares of Rs. 10 each at a premium of Rs. 50 each share will be sold, whose face value is Rs. 120 crore and issue price is Rs. 720 crore. In Employees Category—1,20,00,000 equity shares of Rs. 10 each at a premium of Rs. 50 each share had been kept, whose value is Rs. 12 crore and issue price is Rs. 75 crore.

I had already replied to the query of Shri George Fernandes regarding privatisation. Directors will enjoy only 10 per cent voting rights. It is wrong to suspect that laws will be amended or what will happen in future. I think all these apprehensions are baseless. In Section 19(1) C of SBI Act already provision is there that in case of private share holdings limit is 10 in case of minimum 2 Directors. Between 10 to 25 per cent in case of 3 Di-

rectors and more than 25 per cent in case of 4 Directors.

SHRI GEORGE FERNANDES:
Probably total number of shares is 25 crores.

DR. ABRAR AHMED: Face value is Rs. 256 crore and issue price is Rs. 2032 crore.

SHRI GEORGE FERNANDES: In the Amendment Bill what is the Capital?

[English]

Section (2) of the Bill that you have moved here, at page 1, says:

"In section 4 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act),—

- (i) for the words "twenty lakhs", the words "two crores" shall be substituted;
- (ii) for the words "one hundred rupees", at both the places, where they occur, the words, "ten rupees" shall be substituted."

[Translation]

DR. ABRAR AHMED: Mr. Speaker, Sir, if you listen to the submission of the hon. Member in a different form than there won't be any scope left for doubts. At present the amount holding of RBI is Rs. 196.46 crore.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, please come to my help.

[Shri George Fernandes]

Sir, through you, I request the hon. Minister to throw more light on it.

[English]

Section 4 of the Act as reproduced in the Bill, is given in the Annexure at page 10 says:

"Subject to the provisions of this Act, the authorised capital of the State Bank shall be twenty crores of divided into twenty lakhs of fully paid up shares of one hundred rupees each."

Instead of twenty lakh shares of hundred rupees each, you are making it two crore shares of ten rupees each. So, the authorised capital—as now in the amending Act—will be the same twenty crore rupees in two crores of shares.

[Translation]

I am unable to understand this complication because the authorised capital is Rs. 20 crore going by Rs. 100 price of a share each of 20,00,000 shares. However, share price of Rs. 100 is being reduced to Rs. 10. Even when the capital base will remain at Rs. 10 crore yet the figures being disclosed run into many crores. I am not bothered about the total amount going to be mobilised.

DR. ABRAR AHMED: The doubt of the hon. Member....

SHRI GEORGE FERNANDES: My question is when the authorised capital base is of Rs. 20 crore and even in the Amendment Bill it has been kept at Rs. 20 crore then from where money will flow in case of capital issue of Rs. 1,000 crore?

DR. ABRAR AHMED: I would like to inform the hon. Member that RBI has a share of 196.46 crore individuals 1.68 crore and other 1.86 crore. Therefore, the total comes to 200 crore. After the proposed issue capital structure will be as follows: RBI will have share of 314.3 crore and public including employees 92.7 crore. In addition financial institutions will have share of 24.5 crore and Indian Mutual Funds 24.5 crore. Therefore, the total comes to 456 crore.

[English]

SHRI GEORGE FERNANDES: I am still not satisfied. I am sorry if my knowledge of Company law is almost zero.

MR. SPEAKER: Well, I am on the same footing.

SHRI GEORGE FERNANDES: So, I do not understand it. We need some clarification. Can the issued capital be more than the authorised capital? Does the Company law enable you to have an issued capital which is more than the authorised capital? I am ignorant on this. So, I would like to be enlightened.

[Translation]

DR. ABRAR AHMED: I would like to inform the hon. Member that authorised capital can be changed any time with the permission of the Central Government. Already it has been raised from Rs. 20 crore to Rs. 1,000 crore. This will be the position after this proposal in the share market as has already been detailed by me.

[English]

SHRI GEORGE FERNANDES: It cannot be outside the Act. The authorised

capital should be within the incorporation of the bank or of the company.

[*Translation*]

The Central Government is all powerful. I do know this. However the law authorises the Government to have an authorised capital of Rs. 20 crore whereas it proposes to float shares worth one thousand or two thousand crore. I am unable to understand this.

DR. ABRAR AHMED: The limit has already been increased from Rs. 20 crore to Rs. 1000 crore.

[*English*]

SHRI GEORGE FERNANDES: You are amending the law today. You are amending it only to convert twenty lakh shares of hundred rupees each to two crore shares of ten rupees each.

[*Translation*]

DR. ABRAR AHMED: There is no need for it. The Central Government can increase or decrease the capital.

[*English*]

SHRI GEORGE FERNANDES: Sir, I do not understand this. (*Interruptions*)

It cannot be outside the Act. I would like the Law Minister—he is here—to clarify.

[*Translation*]

SHRI HARI KISHORE SINGH: If there is no need, why the amount is being increased from Rs. 20 crore? (*Interruptions*)

[*English*]

MR. SPEAKER: If your law provides that the Union Government is authorised to increase the authorised capital, you can do it. But if it is not specifically mentioned in the law and if the law says that the authorised capital is going to be only twenty crores of rupees, you cannot do that. You shall have to show that in the law also. Is it provided that the Central Government is authorised to increase the authorised capital?

[*Translation*]

SHRI INDRAJIT GUPTA (Midnapore): When was the capital increased to Rs. 1000/- crore?

[*English*]

DR. ABRAR AHMED: "Provided that the Central Government may increase or reduce the authorised capital as it thinks fit so however that the shares in all cases shall be fully paid-up shares of one hundred rupees each."

MR. SPEAKER: Is it a part of the law?

DR. ABRAR AHMED: Yes, Sir. It is an extract from the State Bank of India Act, 1955 regarding authorised capital. (*Interruptions*)

[*Translation*]

DR. ABRAR AHMED: There is a provision for it in the rules and regulations of the State Bank of India.

[*English*]

MR. SPEAKER: Right. You can do it.

MR. SPEAKER: If the law says that the authorised capital will be initially Rs. 20 crore and if any other provision in the law says that this authorised capital can be increased to a higher amount of money, then it can be done by the Union Government. It would be allowed.

SHRI GEORGE FERNANDES: Is it done without being reflected in the law?

MR. SPEAKER: It is already reflected in the law. The Act is authorising the Union Government to increase it.

SHRI GEORGE FERNANDES: But is it not needed to be reflected within the law, Sir?

MR. SPEAKER: There may be two provisions in the law. Initially, the authorised capital may be Rs. 20 crore and they may say that taking into account the volume of business to be transacted, the authorised capital can be increased by the Union Government. If that kind of a provision is there in the Act, they can do it. And I was trying to understand whether that kind of provision is there or not; the hon. Minister says that that kind of provision is there and he has read it out now.

SHRI HARI KISHORE SINGH: Generally speaking, public limited companies are authorised only 25 or 30 per cent of the share capital to retain from over-subscription.

MR. SPEAKER: There are public sector undertakings and others which are authorised to increase their authorised capital.

[*Translation*]

DR. ABRAR AHMED: Mr. Speaker, Sir, Shri Yadav talked about social re-

sponsibility. In this regard, I would like to submit that so far as private sector lending is concerned Government strictly monitors it and with regard to foreign banks the percentage of priority sector has been increased from 15% to 32% and if this much is not deposited there, it shall be deposited in SIDBI. We shall not tolerate any sort of injustice, not shall we allow it to take place. The question raised by other hon. Members are answered automatically with the reformatory steps taken by the Government.

The question of fake or 'Benami' accounts is raised time and again and it is related with the working of the banks. Reserve Bank of India is going to make it obligatory from January next year that for opening a new account the applicant will have to attach his photograph. This will check the practice of opening fake accounts.

SHRI BHOGENDRA JHA: Mr. Speaker, Sir, I had raised a point the Government has increased the voting right from one percent to ten percent and even more than that, what is the need of it?

[*English*]

PROF. SUSANTA CHAKRABORTY: Sir, one part of the question has not been answered. In the interest of transparency and accountancy, we demanded that auditing should be done by the C&AG. The Minister is silent in this regard. I want to know his reaction on this point.

MR. SPEAKER: Would you like to say something on this point?

[*Translation*]

DR. ABRAR AHMED: So far as the hon. Member's submission regarding the

voting right is concerned, when people are being invited for this issue, they will certainly be given rights. It is on the basis of this that percentage has been increased from 1 per cent to 10 per cent.

[English]

MR. SPEAKER: It is about accountability of banking. The second question has been raised many times on the floor of the House as to how we make the banks more accountable. They are already accountable but how to make them more accountable.

[Translation]

DR. ABRAR AHMED: I have already stated just now that the Reserve Bank of India has already given directions for concrete auditing. Besides, the Standing Committee of the Parliament Constituted in this regard is also reviewing the matter, it has already hold 2-3 meetings. The aspects of accountability and transparency should also be there. The Government is also considering it.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, the question raised by you is covered in the bill under discussion and should be fully included in the objects and reasons of the bill but these are not forthcoming.

[English]

MR. SPEAKER: It was raised by Mr. Chacko.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, it is correct, however the reply sought here and the reply given by the

Minister in this regard raises some more questions. I would like to submit that the Government proposes to allot 12 crore shares to the existing share holders. Those having 1.77 per cent of the total shares are being given Rights Issue worth Rs. 12 crore in turn of which the Government is likely to earn Rs. 720 crore. They are being issued shares at a premium of Rs. 50 per share whereas those being issued to the public will be at a premium of Rs. 90 which means a share to the general public will go for Rs. 100. In this regard, the hon. Minister has made no reference to the foreign institutions or investments. Clarification should be given as to what extent they will be permitted. A premium of Rs. 90 has been fixed with regard to the areas in which the money will be used. On what basis the Government fixed very nominal premium of Rs. 50 per share for the existing shareholders?

DR. ABRAR AHMED: It is a Rights Issue, meant for the persons already having these shares. There is a provision according to which the premium amount for the Rights Issue may be lesser than that fixed for the public issue.

SHRI GEORGE FERNANDES: The provision for providing special facilities to them is fixed by the Government at their own. It is not a legal provision. Mr. Speaker, Sir, we are not convinced in this regard. You may please give your ruling over it.

MR. SPEAKER: I give my ruling with regard to rules and not policies.

SHRI GEORGE FERNANDES: Let this bill should be referred to a committee so that it may be examined. Let it not be said that the House admitted the issue

[Shri George Fernandes]

without examining it threadbare and then inadvertently became a party to another scandal. At least, neither you nor we should hear any such thing.

[English]

SHRI SAIFUDDIN CHOUDHURY (Katwa): We are sceptical about the whole thing.

MR. SPEAKER: I only repeated the question asked by Shri Chacko.

[Translation]

SHRI GEORGE FERNANDES: Our friend Shri Chacko understands these matters very well and I am very thankful to him for raising this question here. The Government should refer the matter to the Finance Committee or the Select Committee and get it investigated, because I smell rat in it I always prefer to express my views before hand.

[English]

MR. SPEAKER: I shall now put the Statutory Resolution moved by Shri Mohan Singh to the vote of the House.

The question is:

"That this House disapproves of the State Bank of India (Amendment) Ordinance, 1993 (No. 33 of 1993) promulgated by the President on the 15th October, 1993."

Let the lobbies be cleared—

Now, the Lobbies have been cleared.

The question is:

"That this House disapproves of the State Bank of India (Amendment) Ordinance, 1993 (No. 33 of 1993) promulgated by the President on the 15th October, 1993."

The Lok Sabha divided:

Division No. 2]

[13.28 hrs.

AYES

Bala, Dr. Asim
 Bhattacharya, Shrimati Malini
 Choudhury, Shri Saifuddin
 Dubey, Shrimati Saroj
 Fernandes, Shri George
 Giri, Shri Sudhir
 Gopalan, Shrimati Suseela
 Gupta, Shri Indrajit
 Hossain, Shri Syed Masudal
 Jha, Shri Bhogendra

Laljan Basha, Shri S.M.
 Mukherjee, Shri Subrata
 Mukhopadhyay, Shri Ajoy
 Paswan, Shri Ram Vilas
 Prasad, Shri Hari Kewal
 Rai, Shri Lal Babu
 Rongpi, Dr. Jayanta
 Shastri, Shri Vishwanath
 Sinha, Shri Shiva Sharan
 Tripathy, Shri Braja Kishore

Ummareddy Venkateswarlu, Prof.

Yadav, Shri Devendra Prasad

Vadav, Shri Chun Chun Prasad

Yadav, Shri Sharad

NOES

Bansal, Shri Pawan Kumar

Palacholla, Shri V.R. Naidu

Bhagat, Shri Vishweshwar

Panigrahi, Shri Sriballav

Bhakta, Shri Manoranjan

Patel, Shri Uttambhai Harjibhai

Bhoi, Dr. Krupasindhu

Patil, Shri Anwari Basavaraj

Buta Singh, Shri

Patil, Shrimati Pratibha Devisingh

Chacko, Shri P.C.

Pattanayak, Shri Sarat Chandra

Chaliha, Shri Kirip

Prabhu Zantye, Shri Harish Narayan

Chandrakar, Shri Chandulal

Rajeshwari, Shrimati Basava

Chennithala, Shri Ramesh

Rao, Shri P.V. Narasimha

Chowdhary, Shrimati Santosh

Rawat, Shri Prabhu Lal

Dadahoor, Shri Gurucharan Singh

Sawant, Shri Sudhir

Dalbir Singh, Shri

Selja, Kumari

Das, Shri Anadi Charan

Shukla, Shri Vidyacharan

Deka, Shri Probin

Siddhartha, Shrimati D.K.

Dennis, Shri N.

Sidnal, Shri S.B.

Dev, Shri Sontosh Mohan

Silvera, Dr. C.

Faleiro, Shri Eduardo

Singh, Shri Khelsai

Ghatowar, Shri Paban Singh

Singh, Kumari Pushpa Devi

Islam, Shri Nurul

Singh Deo, Shri K.P.

Kamson, Prof. M.

Sodi, Shri Manku Ram

Kasu, Shri Venkata Krishna Reddy

Tara Singh, Shri

Kuli, Shri Balin

Thangka Balu, Shri K.V.

Mallu, Dr. R.

Thomas, Prof. K.V.

Mathur, Shri Shiv Charan

Thungon, Shri P.K.

Mirdha, Shri Nathu Ram

Topno, Kumari Frida

Nayak, Shri Mrutyunjaya

Upadhyay, Shri Swarup

Netam, Shri Arvind

Verma, Kumari Vimla

Wasnik, Shri Mukul

MR. SPEAKER: Subject to correction, the result of the division is:*

Ayes : 24

Noes : 55

The motion was negatived.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, the hon. Prime Minister is present here. This Bill has been brought here at such a time when several questions are being raised in the country. Particularly, several questions are being raised about the disinvestment in the Public Sector. A major step is being taken towards privatisation of State Bank, which was set up in 1955. I will not go into the ideological discussion whether it is being privatised or not or what it will mean. The original shareholders owned 1.77 per cent of shares and now arrangements are being made through law to give 31 per cent of shares to private shareholders. The hon. Minister himself has stated that a share of Rs. 100 is being sold at Rs. 3000 in the market today. As the Government wants to bring small investors in this field, it proposes to break up the face value of shares. I have no objection in that regard. In our country all the shares of Rs. 100/- have been standardised to Rs. 10/-. But, proportionately, a share of Rs. 10/- is valued at Rs. 300/- because a share of Rs. 100/- is valued at Rs. 3000/- in the market. The hon. Minister has stated that the shares are being allotted to the people on a premium of Rs. 90/- because when a large number of shares

will come in the market the price will be levelled and it is their belief that the price of share will come to nearabout Rs. 100/- during the levelling. There are two things in it. Firstly, the existing private shareholders who actually invest in them and who were holding 1.77 per cent shares till now are being given their shares as their rights. Whatever may be the basis—it is not written here—of providing them the rights shares, but they are only charged with a premium of Rs. 50/- per share of Rs. 10/- whereas if anyone buys new equity in the market, he will have to pay Rs. 100/- as the premium is Rs. 90/- for a share of Rs. 10/-. We have objections in this regard and I would like to say that discrimination should not be done between the new investors, who have got the opportunity to invest in this bank, and the earlier share holders. My second complaint is as to how the valuation was done and where is the report of the valuation? It was not presented in the Parliament. We are discussing such a major Bill, but we do not have the report with us. We can say anything today. But when it will be publicly known tomorrow that the shares were sold at a very low rate and an enquiry will be demanded, we the Members of the House and the Government both will be held responsible for not raising the issue in time. So, I am raising this issue in time. I am neither levelling any allegation nor criticising anyone. Mr. Speaker, Sir, the hon. Prime Minister is sitting here and I would like to request him to refer the issue to the Finance Committee. The Committee can meet on Monday and if the Finance Ministry gives all the valuation papers to us, we can submit the report within two days.

* The following members also recorded their votes

Ayes: Shri Saifuddin Choudhary

Noes: Shri Imchalemba

SHRI BHOGENDRA JHA: Mr. Speaker, Sir, I also support the proposal that it should be referred to the Standing Committee on Finance and...
(Interruptions)

MR. SPEAKER: I will not listen to all. I am not reopening the debate.

Shri Bhogendra Jha, you are a senior Member. I have great regard for you but you go on expressing your views in your own way. If the Members want that the Bill should be referred to joint select committee, they should have given an amendment. No amendment has come in this regard. I have only received amendments for circulations to the people at large.

[Translation]

Secondly, if the Members of the House unanimously decide to refer it to the Committee, there is no problem in it. But if there is division in the House on this point, it will be difficult to do anything on it later on. The Government has listened to what you wanted to say and they have given their reply. So, there is no ambiguity on this point now. The only point is that why this was done and if would have been better if this was done instead of that. But I do not think that there is anything to investigate in it. However, we shall accept whatever the House decides..... (Interruptions)

[English]

SHRI P.C. CHACKO (Trichur): Sir, I would like to make one submission. I fully agree with what Shri George Fernandes has said. But let there not be any confusion in the House at the time of adoption of this Bill. Only three matters are brought

in this Bill. One is regarding the change in the face value from 100 to 10. For that he has no objection. Like that, on individual share holdings also, he has no objection. The three points, which have been mentioned in the Bill, can be accepted.

His objection, which I fully support, is regarding the market value of the share. That is something, which the Government has to bear in mind at the appropriate time. So, there is no need for referring this Bill to the Select Committee or any other Committee.

MR. SPEAKER: Now I put the motion to the vote of the House.

The question is:

"That the Bill further to amend the State Bank of India Act, 1955, be taken into consideration."

The motion was adopted.

MR. SPEAKER: Now we shall take up Clause by Clause consideration of this Bill.

The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—Substitution of new section for Section 11—Restrictions on voting rights

SHRI BHOGENDRA JHA
(Madhubani): I beg to move:

"Page 1, —

omit lines 18 to 20." (6)

[Translation]

Mr. Speaker, Sir, I have a small amendment. In the last paragraph of the first page,

[English]

"Provided that such shareholder shall be entitled to exercise voting rights at such higher percentage as the Central Government may, after consultation with the Reserve Bank, specify."

MR. SPEAKER: You have already spoken on this.

[Translation]

SHRI BHOGENDRA JHA: I want that this should be removed because if the Government continues to do this without taking the opinion of the Parliament, the State Bank will not remain a State Bank, but will fully become a privatised Bank. Voting rights have already been given to the shareholders holding 10 per cent of shares. So, this power should not be taken away from the Parliament. If necessary, the Government should take up the issue again in the Parliament. The Government should not be allowed to do it on its own without knowing the opinion of the Parliament. That is why I have brought this amendment. I would urge that the Government should accept it now, otherwise there may be another Government tomorrow.

[English]

MR. SPEAKER: Now I put the amendment No. 6 of Clause 3 moved by Shri Bhogendra Jha to the vote of the House.

The Amendment No. 6 was put and negatived.

MR. SPEAKER: The question is:

"That Clauses 3 to 13 stand part of the Bill."

The motion was adopted.

Clauses 3 to 13 were added to the Bill.

Clause 14—Amendment of Section 24

Amendment made:

Page 4, —

for lines 32 and 33, substitute —

'(a) in sub-section (3), for the words, brackets and figures "of sub-section (1) of section 19", the words and figures "of section 19" shall be substituted:' (4)

(Dr. Abrar Ahmed)

MR. SPEAKER: The question is:

"That Clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

*Clause 15—Amendment of Section 25**Amendment made:*

Page 5, line 2, —

for "in the portion" *substitute* —

"for the portion" (5)

(Dr. Abrar Ahmed)

MR. SPEAKER: The question is:

"Clause 15, as amended, stand part of the Bill."

*The motion was adopted.**Clause 15, as amended, was added to the Bill.*

MR. SPEAKER: The question is:

"Clauses 16 to 23 stand part of the Bill."

*The motion was adopted.**Clauses 16 to 23 were added to the Bill.*

MR. SPEAKER: The question is:

"That Clause 1, the Enacting Formula and the Long Title stand part of the Bill".

*The motion was adopted.**Clause 1, the Enacting Formula and the Long Title was added to the Bill.*

DR. ABRAR AHMED: Sir, I beg to move:

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

MR. SPEAKER: Motion moved:

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

MR. SPEAKER: Shri Sudhir Giri, be brief, please.

SHRI SUDHIR GIRI (Contai): Mr. Speaker, Sir, I am sure that the Statutory Resolution for disapproving the motion for passing the Bill has been rejected and what I will say in opposing the Bill will also be rejected. In spite of this, I want to be on record that the passage of this Bill will pave the way for privatisation of the nationalised banks. Shrimati Indira Gandhi, the former Prime Minister of India brought this provision keeping in view the welfare of the State. So, the report of the Narasimham Committee is based on earning the maximum profit. It is not the profit alone but the welfare of the masses of the Indian people should be carefully looked into. So, I suggest, even at the last stage, that the Bill should not be passed or step should not be taken to privatise the Indian banking system.

MR. SPEAKER: The question is:

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

The motion was adopted.

MR. SPEAKER: In the afternoon, we will take up Item Nos. 8 and 9 together and may I request the hon. Member to speak on the amendments only and not on the entire gamut of the judiciary so that we may finish it within the time? The House stands adjourned to meet again at 2.45 p.m.

13.43 hrs.

The Lok Sabha then adjourned for Lunch till forty five minutes past fourteen of the clock.

Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

14.55 hrs.

The Lok Sabha re-assembled after Lunch at fifty-five minutes past Fourteen of the Clock.

[SHRIMATI MALINI BHATTACHARYA—in the Chair]

SUPREME COURT JUDGES
(CONDITIONS OF SERVICE)

AMENDMENT BILL

AND

HIGH COURT AND SUPREME COURT
JUDGES (CONDITIONS OF SERVICE)
AMENDMENT BILL

The first Bill seeks to provide that where a Judge of the Supreme Court does not avail himself of the official residence, he would be paid an allowance of Rs. 3,000/- per month and this allowance would not be included in the computation of his income chargeable under the head "Salaries" under Section 15 of the Income Tax Act, 1961. Normally, the Supreme Court Judges are given official residences and no house rent allowance was being paid to them. But recently we increased the strength of Judges and there is, sometimes, the difficulty to provide them official residences. So, now we propose to make a provision that in case a Judge does not get his house immediately, then in lieu thereof we will be paid Rs. 3,000/- per month. Already such a provision exists for High Court Judges and they are paid Rs. 2,500/- per month which is exempt from income tax also. So, a similar provision is being brought in now for paying Rs. 3,000/- per month, in case a Judge is not given a house immediately. This is a matter which is non-controversial in nature.

MR. CHAIRMAN: Now, the House shall take up item Nos. 8 and 9 together for discussion.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Madam Chairman, I beg to move:

"That the Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

"That the Bill further to amend the High Court Judges (Conditions of

Madam, the other Bill which I propose for consideration is to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958. Recently in 1986 the Judges were given two Leave Travel Concessions to travel to their hometowns. The Judges who are posted from one place to another have to visit their hometowns and considering this problem, the Leave Travel Concessions were provided to them once in a year.

That Leave Travel Concession is not, at the moment, exempted from income tax. So, a relaxation is now being made under the Income Tax Act that these Leave Travel Concessions are not to be taxed hereafter. Hence, these Leave Travel Concessions can be properly utilized by the Judges, because whatever money they spend on Leave Travel Concession, if it is put to tax, then they do not really get this facility and becomes almost elusive.

These two matters are very non-controversial and it has been a tradition of this House that whenever we consider the Salary or Conditions of Service of the Judges we have always got the unanimous support from the House. So, I commend that these two matters may also get the support of this House unanimously.

MR. CHAIRMAN: Motions moved:

"That the Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

15.00 hrs.

MR. CHAIRMAN: There are amendments to Motion for consideration of the two Bills.

Shri Girdhari Lal Bhargava—not present.

Shri Anna Joshi—not present.

Shri Pawan Kumar Bansal may speak.

SHRI PAWAN KUMAR BANSAL (Chandigarh): Madam Chairman, I rise to support these two Bills. In our society, as in any other modern society, judiciary plays a very important and crucial role. Any aberration in the working of the democratic institutions is checked by the judiciary. Though the orderly functioning of the society depends upon the health of its three wings, namely the Executive, the Legislature and the Judiciary, yet it is the judiciary which is considered to be the ultimate repository of people's faith and confidence. It is the bastion of rights and freedom of the people. Even we, the politicians and the bureaucrats rush to the Courts to seek redressal of our individual grievances as does the State in a very large number of cases to get unresolved matters decided by the courts. The Constitution provides for seeking of the Supreme Court's opinion on various vital matters by the President of India. With this hallowed position of the judiciary in our polity, it is essential that the men manning it are men of high calibre, standing and integrity. In order to attract such men who can stand steadfast in any turmoil, who can dispense justice without fear or favour and who can by precept and practice prove to be worthy inheritors of India's age old but unfortunately dying tradition of justice and equity, it is imperative that their conditions of service are such that they do not have to worry about that and they can devote their time and energy to the dispensation of justice, immune from influence of the Executive.

With that end in mind, any measure to improve the conditions of service of the

[Shri Pawan Kumar Bansal]

judges of the Supreme Court, the High Courts and even the subordinate judiciary must be welcomed and supported by all.

In the past, we have taken up this matter on quite a few occasions but have sought to improve the working conditions only in dribblets. These two present Bills, unfortunately, are being taken up two years after introduction in Parliament. What we are really giving to the judges is again not even touching the fringes of the problem. In one case, for judges of the Supreme Court, we are providing, that in case they are not given official residence, then in lieu thereof, they will be paid Rs. 3000 which is not even the market rent of one room in Delhi. I am sure, the hon. Minister would come forth with a piece of legislation which would really do justice to the matter.

I suggest that a committee headed by the Chief Justice of India be constituted to go into the entire gamut of the matter so that we can come up with a proposal having an in-built system to raise the emoluments etc., of the judges periodically to offset the galloping inflation as well.

Only then we can attract the best lawyers to the Bench.

I do not mean to suggest that we can in any way provide a salary to the judges equivalent to the earnings of the best lawyers, but surely their remuneration and other conditions of service should be reasonably attractive. In this context, though I may be deviating a little from the two Bills before us I do want to take this opportunity to refer to the rather unsatisfactory conditions of service of subordinate judiciary.

While their remuneration is poor, the housing arrangements for them are grossly inadequate and there are cases where the judges of the rank of District and Sessions Judges have to go repeatedly to the Deputy Secretaries and Officers below that rank to ask for a house failing which they have to go to the market to get one at an exorbitant rental.

I suggest to the hon. Minister to take initiative in this direction also and prevail upon the State Governments to make sufficient funds available to the Chief Justice of the High Courts for this purpose as also for court buildings.

Having said that, I would venture to touch upon an aspect of the Judges Conditions of Service that has often been voiced by different Bar Associations with equal support from the discerning public. This relates to the transfer of High Court Judges. The very fact that the demand is gaining momentum shows that dispassionate discussion on the issue is called for. Our Constitution which we must understand is a charter of change and development and not an apologia of status quo also provides for transfer of a judge from one High Court to another by the President under Articles 222 and 217.

Many years back hon. Mr. Justice Y.V. Chandrachud, the then Chief Justice of India had said:—

"Experience shows that there are cases, though fortunately they are few and far between, in which the exigencies of administration necessitate the transfer of a judge from one High Court to another. The factious local atmosphere sometimes demands the drafting of a Judge of Chief Justice from another High

Court and on the rarest of rare occasions which can be counted on the fingers of a hand, it becomes necessary to withdraw a Judge from a circle of favourites and non-favourites. The voice of compassion is heard depending upon who articulates it. Though transfers in such cases are eminently in public interest, it will be impossible to achieve that purpose if a judge cannot be transferred without his consent. His personal interest may require that his moorings ought to be served to act as a reminder that the place of Justice is a hallowed place."

In 1976, sixteen judges were transferred from their respective High Courts. In one case, the action was challenged by an hon. Judge and the Gujarat High Court set aside the transfer. But in appeal, the Supreme Court, by a majority judgment, upheld that transfer. Thereafter, some time back, in another case, the Supreme Court has held that transfer without consent was outside the purview of Article 222 and power to transfer in a selective fashion makes judges vulnerable to pressure or blackmail.

I do not dispute this but humbly submit that this does not militate against the basic question. Even hon. Mr. Justice Krishna Iyer, lamenting the kin-syndrom that prevails in many High Courts has said that justice is more important than Justices.

The principle of transfer is suggested to preserve and not to whittle down the independence of judiciary. It is to keep the fountain of justice pure. And to do, it may be imperative to ensure that transfers are effected in accordance with an acceptable policy without discrimination. According supremacy to the opinion

of the Chief Justice of India, as the hon. Minister has been rightly doing in the past would allay all the misgivings that have been expressed about such a scheme.

With all respect to the judiciary an other matter that I would like to raise here is about the opinion that has been expressed in certain quarters that truth should be permissible as a defence in the law of contempt of court as the present stringent provision of law debar a citizen from even pointing out an impurity in the elixir of justice. I am of the unshakable view and commitment that judiciary has to be accorded reverence that is duty to the temple of justice and that any standards utterance or writing has got to be really looked down on and discouraged. But should a true and honest revelation of an aberration remain unnoticed for the fear of contempt? That is a vital question which is being raised in certain circles and I suppose, it is time that we addressed ourselves to this.

To conclude, I would refer to the tremendous pressure that the various high courts and the Supreme Court is presently undergoing because of the heavy inflow of cases to these courts. The Supreme Court is increasingly becoming a court of appeal and contrary to what perhaps, our founding fathers anticipated and wanted the apex courts to be like, today, it is flooded with routine special leave petitions and most of the time is taken in deciding interim matters. Cases remain pending in all the courts for years and decades and the result is that justice is often denied because of the delay in the decision of the cases causing injustice to the poor and benefiting only the scheming and the dishonest litigant. Shri Rajiv Gandhi while speaking on the imperatives

[Shri Pawan Kumar Bansal]

to bring about judicial reforms had said and I quote:

"We must develop a dynamic judicial system that would be able to answer the needs of the people."

That remains the question before us. And I am sure the hon. Minister would take steps in this direction. I thank him for bringing forward these two Bills and having given us the opportunity thereby to raise certain important matters. I am sure, after this, a deeper exercise, as I suggested, would be undertaken to ensure that the best working conditions are provided to the judiciary so that, as I said earlier, they work free from all strains in the discharge of their responsibilities.

SHRI SRIBALLAV PANIGRAHI (Deograh): Madam Chairperson, this is a Bill which has a very limited purpose. The Bill provides for certain facilities to be given to the hon. judges of the Supreme Court and the high courts. There can be no controversy or dispute about that. They are entitled to Government accommodation.

When such an accommodation is not available, in that case, an allowance of Rs. 3000/- has got to be paid to the Supreme Court Judges for getting a house on rent or something like that. My previous learned speaker Shri Pawan Kumar Bansal has already referred about the difficulties faced by them with regard to the availability of accommodation. In a city like Delhi they face difficulties in paying the rent that is required to get a good house. Anyway, this is not adequate. But we also cannot afford to pay a very high amount. So, there should always be ef-

forts on the part of the Government to provide them with Government quarters.

Secondly, as regards LTC, they are getting certain LTC facilities. I think in the case of the High Court Judges, it is twice a year and in the case of the Supreme Court Judges it is three times or something like that in a calendar year. But they also get the benefit of the income-tax exemption though not in respect of the entire amount of LTC. It is limited to two within a period of four years or so. If I am wrong, it may be clarified. Now I am told it is limited to two within one year. As per this amendment, the income-tax exemption should cover all the LTCs. We do not have objection about that also because when the LTC and some substantial portion of it will have to be paid by way of income-tax, then the real benefit that is intended to be given is also eroded. But I have a serious reservation about this. They have been getting these facilities from the 1st of April, 1986. This is 1993 and this year 1993 is going to be over shortly within a fortnight or so. In fact, after seven years, we are debating this today. We will pass it today. I have a question to pose to the Government. Why is this benefit sought to be given to the Judges retrospectively? The last two sentences of the Statement of Objects and Reasons say: "Since the enhanced facility was being extended to the Judges since 1st April, 1986, it is proposed to grant such exemption from the said date." Why are you giving this benefit retrospectively?

SHRI H.R. BHARDWAJ: I want to clarify the position. The point is they have been given the LTC facility. They have enjoyed it. It was not mentioned at that time that they are tax-free so that the Judges are not being asked to repay by

way of income-tax. So, this amendment is necessary. Otherwise, it could have been given prospectively.

SHRI SRIBALLAV PANIGRAHI:
Technically-speaking, for the last one year or so, the income-tax statement etc. might have been under process. But for the last seven years, it cannot be so. Whatever it is, you please give your explanation. But I have a feeling that in a country of our size and population, poverty is a companion of our people. At the same time, I agree with you that they are very brilliant people. I confess that some of the Judges both in the High Courts and in the Supreme Court have made some sacrifices by being elevated to the Bench. Those Judges were having a roaring practice. They also decided to join the Bench and they got selected by the due selection process. But in terms of monetary benefit, they are the losers. I agree. About the retrospective effect which is sought to be given now, this is only a technicality, a formality that is made. Anyway, this point has been clarified.

Then there are certain features of our judiciary, as at present, which are also very much disturbing us. Judiciary, as you know and as visualised by the Constituent Assembly, has got to be freed from the control of the Executive and the Legislature. Judiciary is independent and free from any such influence also. By and large, it is so. The high courts, the Supreme Court and the entire institution are autonomous. But, I think, there will be no two opinions about the people. After Independence, as the time is advancing, people are gradually and increasingly losing faith in our judiciary. I think, there cannot be two opinions about it. There are some very good judges both of superior judiciary and of subordinate judiciary. But

there are certain black sheep and there are many allegations that can be levelled and that are being levelled also against the judges with regard to their integrity etc. I can say that judiciary—what to talk of ideal condition—is not in good shape. It is not moving in the right direction and we have to take corrective measures, corrective steps as quickly as possible to correct the situation.

As you know, ours is the greatest and the largest democracy in the world. We have got not only the largest democracy but we have also got the longest Constitution, written Constitution in the whole world. We have a very long list of Fundamental Rights. The Supreme Court and the High Courts have their special jurisdiction with regard to writs etc. On Fundamental Rights they have their jurisdiction. All this enhances the responsibility, the burden of work of the senior judiciary, the topmost judiciary, the Supreme Court and the High Courts. What we say is that justice should be easily available, should be demonstrated in such a way that the litigants are not harassed and they get the justice as quickly as possible. We know the famous saying, 'justice delayed is justice denied and justice denied is justice buried.' We know, several lakhs of litigation cases are pending adjudication for more than a decade in different High Courts. They pendency of cases in all the courts is one crore. According to one estimate, the pendency of cases in the High Courts is twenty lakhs spread over 25 high courts and the total number is two crores in the entire judicial system. More than a lakh cases are a decade old cases. We are in such a state of affairs.

Added to all this, of late, there are allegations about justice being sold at different levels. I do not want to castigate anything against any one. I want to quote

[Shri Sriballav Panigrahi]

the Chief Justice of the Supreme Court who has retired very recently.

Chief Justice. Shri Venkataramaiah, about four years ago, on the eve of his retirement, some time in December 1989 or earlier said:

"The judiciary, in India, has deteriorated in standards because such judges are appointed as are willing to be influenced by ladies' parties and whisky bottles."

MR. CHAIRMAN: Shri Panigrahi, may I request you to remain within the scope of the Bill?

SHRI SRIBALLAV PANIGRAHI: Madam, it is quite a related matter. I do not want to take much time since you have reminded me about this time factor.

Another thing which is very much disturbing us now is the nexus between the judge and his kith and kin. Please ask anybody as to what is happening now in different courts. Judges in the High Courts, even in Supreme Court, have their own sons, daughters, sons-in-law, daughters-in-law, and brothers practising in different courts and what is happening is anybody's guess. And it is more so nearabout Delhi.

There are figures to prove this. Fourteen out of the 28 sitting judges have close relatives practising, eight of them having more than one relative in nearly all the twenty High Courts of the country; close relatives of the judges are having a thriving practice. This is what is going on.

You are perfectly right, Madam, to say that this Bill does not cover all these aspects. But, this provides an opportunity to us to express our concern at what is going on in the judiciary, how it is drifting away and how its standards are deteriorating. That is why, we have to address ourselves to the system and see as to what sort of improvement could be made.

MR. CHAIRMAN: Please also say a word or two on the Bill itself.

SHRI SRIBALLAV PANIGRAHI: I will do, Madam. The deterioration in the judicial standards compels people to lose faith in the judiciary; faith in judiciary is being eroded. It is not a good thing at all. People are being harassed.

Madam, you should be rather liberal by giving us an opportunity to deal with all these things here because, outside, we cannot say all these things. We will be hauled up for contempt of court. It is only here, on the floor of the Assemblies and Parliament, where we have the privilege to say these things; elsewhere, we cannot talk all about it. That is another danger. The hon. Minister of Law should also think about it. I am just not criticising anybody for the sake of criticism or any particular judge. I come from a District Bar and Pawanji also comes from High Court Bar and we know what is happening in all these areas. So, naturally, in a democracy, a provision should exist where everything should be transparent, when such a wall like this contempt of court exists to conceal their misdeeds. It is also time for us to debate on this; there should be a national debate on our legal jurisprudence, on our legal system to find out what are its shortfalls.

Madam, some judges like to invoke the provision of contempt of court in order to silence their critics from saying anything against the judgments and their conduct. It is very important to improve the judiciary's image in the eyes of the public. So, both the Government and the judiciary have to take concrete steps to ensure speedy and cheap justice to litigants. They also need to preserve judiciary's integrity and efficiency.

So I would only request through you the Government and the hon. Minister of Law that the basic national objective of dispensation of justice should be easily available as far as possible at their doorsteps; it should not be very much costly; it should be within their means and they should also not be harassed.

Naturally decentralisation of superior judiciary is called for in this context. When there is decentralisation in different spheres, I do not think what is sacrosanct about not having the decentralisation at the higher level of judiciary. In High Courts also there is a great pressing demand for this from different regions which are agitating for establishment of autonomous development council from areas which are backward which remain backward due to various reasons and which are farflung areas, far away from the seats of headquarters of the High Court. Now the Government should initiate action so that High Court benches could be set up in such deserving places or at least High Courts can go and hold circuit courts in such places. In that context I would mention that there is a long-standing genuine demand for the establishment of a bench of Orissa High Court at Sambalpur, the headquarters of Western Orissa. There are six districts which have a different type of culture. They are

far away from Cuttack and about one crore people will be benefited.

With this I support the Bill. As I said there is nothing controversial, there is nothing to oppose. At the same time since it relates to promotion of judiciary and improvement of our judicial system—in a way that is also the purpose—therefore when the entire judiciary is in the process of deterioration it calls for immediate attention, immediate action from all concerned, so that it does not further deteriorate and before that also necessary corrective measures could be taken.

[*Translation*]

SHRI GEORGE FERNANDES (Muzaffarpur): Madam. Chairperson, there is no question of opposing this Bill. There can be no objection when a Bill is moved to increase the salaries of the hon'ble judges of the Judiciary, particularly High Courts and Supreme Court.

But I am only distressed to say that the Government observes dual policy in such matters. There is a separate policy for people in high places and a separate one for people in low places. For example, the postal workers were on strike some 4 days back which included extra departmental employees also. They were demanding an increase of Rs.30-50 in their wages. And for such a small demand you made them sit on road for 4 days.

[*English*]

Whenever a point is raised to provide even an ordinary facility to a lowly placed person the Government looks worried as to how the money would be arranged and many logics are given in support of their statement and instead of

[Shri George Fernandes]

solving the problems, the problems are made more complex. The Government had given the decision in this House on the day before yesterday on behalf of Ministry of Personnel, Public Grievances and Pensions. There was a small question put by the Board of Arbitrator regarding leave encashment of Government employees as on 31st March, 1989. The Government turned it down saying that they were not in a position to afford it. It was only about leave encashment, and a big amount had not been demanded. In fact, it was not a demand of the employees, it was an award of the Board of Arbitration. This Board consisted of a retired judge of the High Court, and Justice K. Bhaskaran was its chairman. The Board of Arbitration comprises of three members one of them is a retired judge and one is from the staff side i.e. from the side of employees and the third one from the official side, could be from the Ministry of personnel or Ministry of Home or some other department, I am not aware of that. But one official is also there. Not only one but two awards were given by them. One of the awards is to provide transport allowance of Rs.30 for those employees who neither get any transport allowance nor any conveyence is provided. It means transport allowance of Rs.30 per month was to be given to the employee of the lowest category but they did not accept it. Whenever there is talk of providing some facility or improving the condition of an ordinary and poor man, you start harping on the economic problems we are facing. But the judges of the Supreme Court or high courts will come to only about 250 or 300 in number and not more than that. I have objection to this fact that when question is raised to give them an increase of Rs.3000 to them, you do not

think of the economic situation of the country. This Bill, however has been pending for the last two years.

Today when I obtained a copy of this Bill from the Parliament House I found that it had been destroyed by ants. This Bill should have been brought earlier. This Bill should have passed as soon as it was brought. If the need be, you could even have passed it in a sitting on Saturday and that too without quorum. That's what you're doing now. But you should dispense with your dual policy ... (Interruptions)... Dispense with this dual policy. Don't behave with the employees in this way. This dual policy is not restricted to wages only, it is practised in courts also. I have to express my objection to that because the hon'ble Minister of law is present here. He is a renowned lawyer and is held in high esteem both in courts and outside. If dual policy is practiced in distribution of wages, it will have its effect in courts and in the matters relating to law also. The observance of laws is different both for highly placed people and ordinary citizens. If a highly placed person needs a bail then in some cases the judge himself goes to the house of the person concerned and grant him bail. Similarly, even bail can be availed for that person at mid-night by going to the house of the judge. You are ever ready to flout all rules to facilitate a big person in order to save him from going to jail or a police station. And we are the witnesses to such incidents in the capital.

Madam, same is the case in the event of committance of a crime. A person picks a pocket for five rupees, because he does not have money to have one square meal, if he is caught, he is beaten black and blue in police station

and is humiliated to the maximum extent in the court and is awarded 6 months imprisonment and thus made to become a professional criminal when he is released from jail. Such system prevails in India.

But if a person who loots Rs. 500 crores or Rs. 1000 crores turns out to be a big person of the share market or a person belonging to some big industrial house, then not to speak of punishment, he is invited to Rashtrapati Bhavan. It happened only two days back and it was in yesterday's newspaper that he went to the Prime Minister's house and presented a car to the Prime Minister and he said that the car would be gifted to a needy institute. The security personnel did not allow him to take the car inside. He took a picture of it and presented the same to the Prime Minister and told him that he would send the keys later. He is the same person who is being prosecuted for before deals in a Swiss court and he was even responsible for bringing the Minister of External Affairs on the point of tendering resignation. When this is the position then, who will respect your laws.

My colleague Shri Sriballav Panigrahi has just now told us that the judges are not fair in their profession and our judiciary is getting defamed. I will not oppose what he has said but I must comment on the ideals being set by our bureaucracy and our politician before our judges. When a person who is being prosecuted in a Swiss court, is shown with the Prime Minister, on the cover page of the newspapers and the same person is invited to PM's residence is given a warm welcome. What can you expect from a judge when the same person is prosecuted in a court. So, it is not right to criticize the judges alone. I do not say that the conduct of judges is good. Only a few months back motion of impeachment

was brought in the House against a justice and this motion was not brought either by like us or the opposition but it was brought on the basis of a decision given by a committee, set by the Chief Justice on the recommendation of three judges of Supreme Court and we had only presented that decision in this House. Many of your members had supported what was said here, what was said by Punjab High Court and Supreme Court but then at the eleventh hour the Prime Minister issued directive to his party members not to support the motion and truth was decided here on political basis and thus an untruth was decided here on political basis and thus you saved that justice. Then on what basis you make complaints against judges. An opportunity had presented itself to the House to differentiate between honesty and dishonesty but the House did not avail of it.

Madam, I would like to say that before finding faults with justices and aluminising them we should first see what ideals we have set before them and we, especially the politicians, should introspect ourselves.

Madam Chairperson, I would like to say a few more words about complaints against courts. Shri Panigrahi has stated that 2 crore cases are pending with the courts. This matter has not been raised for the first time. Our friend Shri Shahabuddin would be surprised to know the truth. These are official data and not prepared by politicians. A judge of the Supreme Court and some other judges have mentioned figures on various occasions. The Minister of Law may state here in the House that these cases are connected with the poor people only and not with the highly placed people. You are in the Government which has been sup-

[Shri George Fernandes]

porting GATT and the new economic policy of the IMF and you have been one of the great champions of socialism. The workers of this country have been knocking the door of Supreme Court in search of justice for 25 years. Are you not aware that cases related to workers have been subjudiced in the Supreme Court for the last 20-25 years. If these were clubbed together for disposal, I would have said that since Government has to decide about crores of people, it is very difficult to formulate a policy and that's why it is being delayed. The bureaucracy has the power in its hands. You may imagine the plight of the employees of the public undertakings, Government departments and Government undertakings. How can a poor person seeking justice can be deprived of that? I had felt it when I was the then Minister of Railways. I used to say that our friends would not go to courts but the officials urged that if that case did not go to courts then it would lead to involve everybody. It was a matter of right and wrong. It is the bureaucracy which has resorted to moving courts for maintaining wrong practices. You are the Minister of Law, you are required to probe it and not to introduce amendment Bills during your Ministership. You may get it probed through your Ministry that why so many cases are not being disposed of for so long. Finally these cases are being referred to Supreme Court and High Courts. You may get this also probed as to how the people in individual cases are being harassed by Public Sector Undertakings in the Supreme Court and High Courts. Yesterday, Ms. Mamata Banerjee had taken up the problems of some particular employees of West Bengal. These days lakhs and crores of workers are being harassed through courts. But your Ministry is not willing to pay attention to these cases.

They all do lip-service. But in actual practice they don't practice what they preach. My request is that the number of judges and courts be increased and arrangements be made to provide justice at lower level. The workers should not be subjected to court proceedings for every little thing. Where on the one hand the judiciary is being resorted to put hurdles in the way of poor people in getting justice, on the other hand, it is being used to save big people from getting punishment. I am putting before you my experience. If BJP and you people had not removed us from power, we would have got a period of three months. I was the then Minister of Railways. A case had been put before me. There was a piece of land outside New Delhi Railway Station. This piece of land was in the possession of first agent of coca cola in India. Now he is making some other cold drink. He had not paid the rent. He refused to vacate the land. When I took charge of the Ministry of Railways in 1989-90 this case had been brought before me in the beginning of 1990 and I found that an amount of Rs. five crores was outstanding against that company. This case had been pending in the courts for the last ten years. It was brought to my notice that the case was being delayed not because of judges but because of lawyers. It won't be right to name anybody and Minister of Law knows everything. We tried to get a speedy disposal of that case but somehow it could not be disposed off due to some mismanagement. The administration of Railways does not have funds for development and a meager amount is being spent on it. On the other hand an amount of Rs.7-8 crores is to be earned by the Railways from that piece of land but Railway cannot get this amount. It will take another 25-30 years to recover this amount. His three generations will enjoy. It's your judiciary, your judges and you are also present here.

I would like the Government to consider these questions seriously. You should put forward a new thinking before the country with a view to provide justice to people. The problems of the people created due to inadequate number of judges and load of work should be overcome.

With these words, as I had said in the beginning also that I would not oppose it, I support the Bill.

[English]

SHRI SYED SHAHABUDDIN (Kishanganj): Madam Chairperson, I rise to support these Bills which I consider to be technical, though, there is one point that I would like to make in connection with these Bills. The limit of Rs.3,000 that they have set will obviously have to be revised after a few years. It should have been set in terms of a percentage.

SHRI H.R. BHARDWAJ: I may just explain to you, there was no provision for any amount. The judges are already entitled, under law, for a free official residence. Earlier, there were 18 judges, but now their strength has increased. Higher type houses to which the judges are entitled are not available. This is a temporary rather transitory period. Once the houses are available, this provision will not apply.

SHRI SYED SHAHABUDDIN: Well, I do recall that there is a provision for the officers of the Government who are also entitled to free Government accommodation or accommodation at concessional rates, that if the Government accommodation is not made available to them, then a certain percentage of salary is payable to them. That would have been a permanent solution to the problem. As

and when it may happen that either the Government don't have houses to provide or a judge under a given circumstance may not like to take the Government house—he may have a house of his own—in either case, certain percentage relative to his salary or emoluments should have been provided for. That would have solved the problem for all times rather than, the Hon'ble Minister is saying, having to make a temporary arrangement.

SHRI H.R. BHARDWAJ: It is suggested by the Supreme Court.

SHRI SYED SHAHABUDDIN: That is not the important point that I am making. I am mentioning that in these days of inflation in all Bills rather than mention an absolute limit, there should be some sort of a relative limit so that it can rise with the flux of time.

Madam, I would like to take this opportunity to make a few brief points. I am sorry to say this. But I find that the quality of justice is going down, that there is a smell of corruption in the halls and corridors of judiciary, and that the fountains of justice are now getting contaminated. Now, I am making this observation with due sense of responsibility. I will not like to name names. I think there is many a story floating around and that does not redound to the credit of judiciary.

I would like to take this opportunity first to focus on the system for appointment of judges. I think the Constitution envisaged the three states; the legislature, the executive and the judiciary, to be independent of each other. There is a separation of powers, that is implicit in the Constitution. But, somehow in working out the system of recruitment of the higher judiciary, we have politicised

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the system. I dare say, perhaps the hon. Minister of Law will not be happy with this observation, that the recruitment of judges today has become, to a very large extent, a matter of political patronage. I, therefore, suggest that a time has come to review the entire system of recruitment of higher judiciary, the judges of the High Courts and the Supreme Court and to make it, as far as possible, absolutely independent of the wishes of the executive. I think some sort of a Committee system must be evolved whereby the Chief Justice of India and the Chief Justice of the respective High Courts have greater authority; the legal profession has a say in the matter. Perhaps, the Law Minister may himself be a part of that Committee. One can envisage that. Perhaps, a senior Parliamentarian can be a Member of that Committee but there should be a Committee system where the wishes of the Chief Minister or the wishes of the Government of the day should not prevail, as they have been prevailing. Do you know how they have been prevailing? They have been prevailing because the only other option is all right, there shall be no appointment. There are Chief Ministers who sit on the papers, who refuse to communicate to higher authorities the recommendations made by the Chief Justice of the High Courts and they say, "Unless you put the name of so and so person, we are not going to sign it up". This is what we have come to. And, therefore, a time has come in my opinion to review the recruitment system and, as I said, to make it as far as practicable independent of the wishes of the executive.

The second point which I would like to make, Madam, Chairperson, is that when we consider the judiciary, we forget the subordinate judiciary, which is in a

pitiable state. You go to any State, go to Munsif's court and see in what condition they are working and in what condition they are living. That is where corruption has penetrated and for very good reasons because they are ill-paid, ill-staffed, ill-equipped, ill-housed and ill-accommodated in the office. A Munsif's court consists of a table, a chair and a ramshackle bench. This must go.

I saw a report the other day that the hon. Law Minister has applied his mind to it. I think Rs.1200 crore are provided for improving the working conditions of the judiciary. I hope that you are able to do something immediately about it. In fact the way I look upon the judiciary, Madam, Chairperson, it is as an organic whole; from the Chief Justice of India to the junior most Munsif, they all form a part of the chain. We cannot possibly separate the levels and the living conditions of one from the other without detriment to the whole system. I think the judiciary, if it is to command respect, if it is to be effective, if it is to be efficient—and that is what we demand—if it is to be above politics, if it is to be totally free from corruption then both these aspects, that is the system of recruitment and the working conditions, need to be looked into.

Thirdly, Madam, I would also like to focus briefly on the question of transfers. Recently, the hon. Law Minister must be aware of the fact that the Chief Justice of India visited Chandigarh and he was given a reception by the Punjab and Haryana High Court Bar Association. There, a member of the Association had the guts to stand up and say on the face of two Chief Justices that the sons and daughters and immediate relations of so many judges were practising in the High Courts. I believe that the two Chief Justices walked out but can their walk out conceal the fact that there is something

called a negative practice and that there are judges who are giving finishing touches to the briefs prepared by their near and dear ones? This is what is being talked about. Therefore I believe that in working out the transfers of Judges this reputation and these facts must be taken fully into account.

16.00 hrs..

Now, another brief point that I would like to make is, with regard to the arrears that have been talked about. I saw the other day an estimate that if the cases were to be handled at the present rate, at the existing rate, it will take another 225 years to finish the arrears. And of course, it would be an endless process because more arrears would be accumulating in the meantime. There are many ways, you know, of reducing the arrears. But I would suggest one thing. And I have pleaded for it the past and the hon. Minister has slurred over my suggestion. There is something called 'human load'. With so many High Courts and so many judges, we can average out the number of cases that a judge can reasonably be expected to handle under the present dispensation. Therefore, by simple arithmetic, you can work out the average number of pending cases and annual number of new cases that are flowing into a High Court every year and the human capacity of the judge for handling the cases and work out the number of judges. I mean, if we want our judiciary really to be efficient, we have to pay for it. Therefore, I would again join with my friend, Shri George Fernandes, in pleading with you that the number of judges of a High Court should be determined on a rational basis and we should not shirk the figure. We should appoint the desired number of judges.

I am not going to take any time of the House on the other procedural system

like revising the present system of adversarial justice. This has been talked about and the judges have many representations. The Law Commission has also made some suggestions. But there is one thing that I would like to add here. I do not understand one thing. Why does the High Court or the Supreme Court for that matter not have specialised benches? Surely if two or three judges were to deal with all rent control cases, which overwhelm the Supreme Court and overwhelm the Delhi High Court—I know a vast portion of the cases that are clogging the judicial machinery belong to particular categories—one can make an analysis. And if it is, say—I am taking one example—rent control, there can be one or two judges who shall decide only the rent control cases. So, in that case by virtue of a specialisation, the cases can be ticked off just like that and the progress can be much faster. Why do we shirk a specialisation? Why can we not have special benches dealing with the civil matters or the criminal matters, which should be permanent? So many times, adjournments are granted or cases be heard serially and continuously only because the bench has been broken. So it goes on, cases go into the limbo, until the bench is rejoined, the cases cannot come up. Now that can surely be a structural reform, which can immediately be introduced once this idea sinks in that even in the judiciary, the multiplicity of cases need a specialised approach.

The last point that I would like to make is with regard to the appointment of the Chief Justice and the appointment of the judges of the Supreme Court. If our vision of judiciary, as an organic entity from top to bottom, is valid, then in that case we cannot possibly have unreasonable and arbitrary supersessions. The Law Minister is aware of what I am hinting at. There was a time

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when a large number of judges were appointed to the Supreme Court and so many senior judges were by-passed. Why? For what reason? Why do you introduce an element of discontent in the system? Why do you introduce an element of irritation in the system? Surely one can make a rule, as I have always pleaded, that in any system nobody should be permitted to go the top unless he has got a minimum time to put in. But, otherwise, generally unless a man has been found to be unfit or unless he himself offers to opt out, it should go by the line of seniority. I know the case of Justice Jafar Imam who refused to be the Chief Justice of India because he himself felt that in his existing state of health, he could not perform the duties. That was noble of him. But, otherwise, normally it should go by the line of seniority and specially when you are appointing judges of the Supreme Court, you must take the relative seniority of the Chief Justices of various High Courts into consideration.

And when you are appointing the Chief Justice of a High Court, you must take relative seniority of the Justices to the various High Courts into consideration. When you are appointing the Chief Justice of India, you should take the relative seniority of other honourable judges into consideration. As I said, may be a voluntary system can be evolved and a consensus worked out that when a person has got, say, only three months to go then he should himself opt out and say, 'No', sorry. The next man at least must have one year so that he can do something about the system. He can leave an impress on the system. He can concentrate and apply his mind on the system. That should apply not only to him but also to the Cabinet Secretary. In my opinion, it

should also apply to the Chief of the Army Staff. Anyone going to the top must have time to give something to the system as a whole.

So, I would plead with you not to supersede judges or promote them out of turn. I am telling you with my personal knowledge that people feel so unhappy. They have no forum. They cannot turn to anyone. They cannot plead their case in public. They cannot come to the Parliament. They cannot petition to anybody. That upsets the system and that creates tensions in the body.

Madam, I thank you very much for giving me this opportunity of saying a few words and presenting my suggestions to the hon. Minister for consideration.

With these words, I support the Bill before the House.

[Translation]

KUMARI MAMATA BANERJEE (Calcutta South): Mr. Chairman, Sir, I rise to support the Bill introduced in the House regarding the service conditions of the Supreme Court and High Court Judges and I would like to draw the attention of the Government and the august House to two or three important things. However, this Bill is not a Controversial Bill, it is very simple one. I would like to express my thanks for giving me an opportunity of saying a few words regarding this Bill. I support this Bill introduced by the Minister to amend the present service conditions, accommodation and LTC facilities provided to the Supreme Court and High Court Judges. But on the basis of my own experience, I would like to submit that once I happened to present myself as a witness in connection with a case in the

court of a District Judge and I had to wait for two hours there. When I wanted to know the reason, I came to know that the judge did not have any vehicle. The police generally bring him to the court when they get time and the proceedings of the court start thereafter only. I would like to submit that if a person like me is required to appear before the court of a subordinate judge or a District judge to defend myself in a case and has to wait for such a long time then how it will do? I appeal to the Government that all the District and Subordinate Judges should invariably be provided vehicles as well as Government accommodations. Normally it takes too much time to dispose of a case in our country. The subordinate judges should be provided the same facilities as are provided to the Supreme Court Judges. I, therefore, support the amendment introduced by the Hon. Minister in this regard and I urge upon the Government that subordinate Judges should also be provided accommodation and vehicle facilities because it will help the common man.

I understand that our present Judicial System needs a discussion in the House. Previously there has been a debate in the House over Justice Ramaswamy case. But instead of discussing the case of an individual judge, the entire judicial system should be discussed in the House. Today we have full faith in the judiciary. But at the same time, I would like to state that gradually the common people are losing their faith in judiciary. They think that political influence has increased these days. As Shri Syed Shahabuddin and Shri George Fernandes has said that today political appointments are made to the posts of judges. Only blaming the Government of India will not serve the purpose because for the appointment of judges in a High Court in a State a panel is prepared after consultations between

the Chief Minister and the Chief Justice of the High Court of the concerned State and then sent to the Law Ministry. Law Ministry then finalise the names for appointment from that panel. There are non-Congress Governments in many States today, be it West Bengal, Tripura, U.P., Bihar or any other State, there should be no political interference in the judiciary.....(Interruptions) Please listen to me first. I am talking about all the States. I want to say that there should be no political interference anywhere and we should think about the welfare of the common people. That is why I say if our judicial system does not function properly and there is political interference, people will lose their faith in it and it will not be in the interest of our country. The Courts are the places where people can get justice. I, therefore request that a comprehensive discussion should be held in the House in this regard and it is necessary to think over as to how our judiciary should function properly and independently. I support the views expressed by Shri George Fernandes. The labourers, farmers and the poor people get meagre amount today, we have to think over it.

Madam Chairman, I have to make two or three suggestions. There should not be political interference at all in our judicial system. It is heard that the judges release only those accused on bail who are related to them. I request that it should not happen at all. If such a case comes to the notice of the Government, Government should take a serious note of that and that judge should be transferred. The rules concerning transfer of judges are framed by the Government. Similarly, local persons should not be appointed judges in their own areas. You know all about the judges. But some cases of irregularity have come to my notice and if you want I can tell you in confidence.

[Kumari Mamata Banerjee]

Something must be done to dispose of the cases pending in the courts. If two crores cases are lying pending in the courts then you can well imagine the fate of the nation. I, therefore, would like to request you that immediate steps should be taken to solve this problem.

Madam Chairman, I have to make one more suggestion. As per rule, chargesheet should be served by the police within 90 days of filing the case in the court. If it is not served then the case should be deemed as withdrawn. There are such people in the country who by using their money power and muscle power create obstructions in serving the chargesheet within 90 days of filing that case. Consequently, the criminals and the persons responsible for bomb blasts are saved. Such manipulation goes on. I, therefore demand that if the chargesheet is not served even within 90 days then it should be looked into as to who is behind this manoeuvring. Although it is the duty of the administration, to investigate, yet the Department of law should also look into it. I do not want to speak more about the judiciary. I have faith in judiciary, but if a farmer is served injunction against cultivating his own land, then he cannot cultivate his own land. Even if an injunction is served on a worker, the officers do not act accordingly. It is essential to think in this regard. If the judgement given by the court is not implemented properly, the people will lose faith in the judiciary. The Lok Pal Bill was passed in the House. But how many Lok Adalats have been set up so far? The Lok Adalats have not been set up in desired number. Official panels are prepared for lawyers, the names of those lawyers are included in the panel who have influence. Instead the names of those lawyers be in-

cluded in the panel who work for the cause of the poor. If the names of those lawyers who have money power and having relations with judges, or with Ministers are included in the panel than no such person will be ready to provide free legal aid. I have such a team of lawyers which provide free legal aid to the poor.

A labourer named Bhikhari Paswan is living in my area. His wife was sick, yet he was arrested by the police at 12 O' Clock at night, and was beaten severely. When his condition worsened, the police took him to police station. His wife told me that she did not have money to buy rice for food. Then I filed a Habeas Corpus writ petition in the High Court. 80 per cent of population in our country is neglected and nobody thinks about it. Government policy is there but it is the duty of the State to implement it. If the State Government do not implement it properly, then a way-out must be found.

I, support this Bill and I would like to add that the Government should introduce a Comprehensive Bill in the House in order to make the judicial system effective and hold a discussion on it. With these words, I thank you.

SHRI BHOGENDRA JHA (Madhubani): Madam Chairman, there is no question of opposing this Bill. I also support this Bill. I would not like to repeat the points raised by my hon. colleagues. I would not like to contradict the points also with which I differ. In the capitalistic world and now even in Russia, justice is legally a saleable item. I am not talking about corruption. Justice is saleable even as per our own constitution. Just now Kumari Mamata Banerjee has mentioned that a person who does not have money cannot have an access to the court because money is required for stamp fee, lawyer's

fee and also for getting the copies of the judgement. In course of getting the copies of the judgement only one has to sell his two to four bighas of land, and the question of winning or losing the case arises later on.

Is there any remedy for it?

16.20 hrs.

[SHRI TARA SINGH *in the chair*]

Right from 1940 till date I myself had to fight my own case. I want that we should provide in this bill not only from money point of view but also from the lawyers point of view so that they are not able to distort the facts but fight for the truth only. We have our panel Code. I was also a member of its Select Committee. I fought for the point that one should be allowed to become witness for oneself. All the members of the Select Committee were against it. I argued that in the event of any quarrel between the two why the third person should be asked to become a witness, why one should not be allowed to narrate the incident oneself I should be cross-examined, I would like to be a witness but I would not like to hear anything incorrect from third person.

The Government should make provision under which a common man and a poor person should be exempted from paying stamp fee and those who cannot afford to engage a lawyer should be provided a lawyer. A provision should be made to exempt these people from fee and copy charges.

We should devise a way to get justice at the earliest. A blunder has already been committed by us. In the Joint Select Committee on the 72nd and 73rd Constitution on Amendment Bill of which I was

also a member, I urged upon that the Nyaya Panchayats and Gram Kachaharis also be given statutory status but my request was turned down. I do not know why the Government did not accept it. This could have solved the cases of common poor people in Gram Panchayats. An amendment should be brought so that majority of cases are disposed of at Gram Panchayats, Panchayats Samiti and Block levels only. There should be no scope for appeal also unless there is a gross violation of laws. There is no need of going through the facts as truth is revealed there. It is my personal experience that is why I am saying so. An amendment may kindly be introduced to lessen the burden. It will help in disposing of the half of the cases lying pending in High Courts. Simple cases will be disposed of at this level.

Political appointments should not be made in judiciary. Politics should not be defamed by money power. Politics should uphold the dignity of our Constitution. The court could not implement the Directive Principles. The judges should keep it in their minds. They should decide the judicial course where law and Act is not clear. There should be guidelines for the courts as well as for judges. Our politics should be like this. But politics has not been able so far to give it the shape for leading the country in proper and distinct direction. We should march towards a fixed direction. Provision should be made that there is no party politics and factionalism.

The courts have still many shortcomings. It is not necessary that one would get justice certainly. The court is bound to give judgement on the basis of the facts as per the provisions of the Constitution, and Acts thereunder. In the course of implementing the laws or acts, injustice or justice may be done or a new

[Shri Bhogendra Jha]

thing may come out but the courts cannot violate the laws. The courts cannot go beyond the Constitutional limits while delivering their verdict even if they wish to do so.

MR. CHAIRMAN: Mr. Jha, please speak on the amendment. You are talking any thing you like.

SHRI BHOGENDRA JHA: It is true that I sometimes go beyond the point of discussion but not to that extent as my other hon. colleagues. I am more pertinent. Time and again a lot has been said about the shortcomings of our courts. Of course these shortcomings are there but the things have now improved a lot. I would like to say that it would not help us if we do not have trust in our present judicial system. When Supreme Court was set up in India in Calcutta. Sir Elgines was appointed its Chief Justice. Sir Hastings fought the case of his friend and got him reinstated. At the behest of Sir Hastings, Raja Nand Kumar was hanged on the basis of the statement based on a dream. If the Chief Justice of the Supreme Court of India had deliberately shown cruelty 200-250 years ago, was he a corrupt judge? We were in jail in the 1942 during freedom movement and Shri Salisbury was the district and session judge. When he found himself in danger he himself burnt villages. There were some Indian judges also that time whose name I do not want to refer to, but most of the members might be knowing them. The judge of Patna Hight Court was the real brother of a very great leader. I would not like to go into it. I am talking about the pre-Independence era. We were in our childhood at that time. Therefore, it is not correct that the situation has worsened now. Today the society is bad, the

Government is bad, the State is bad. Therefore, a person like me continued to fight against the Government even after Independence. It is right that desired progrees has not been achieved. The functioning of the courts has not much improved and it requires major changes.

The provisions made by the Government enabled people to move court on so many issues. Be it the Supreme Court, High Court or a district court though I have not been to all the High Courts, yet wherever I went I found that there was congestion everywhere therefore judges should be provided sufficient space for their offices. Number of judges should also be increased, be it district level, Sub-Division level, High Court level and Supreme Court level. We have increased the number in 1986 and it needs to be increased more and the provision on the basis on which promotions and recruitment are to be made, needs to be modified. Ours is a democratic system and we have elected form of Government. If we are not in power and Shri Bhardwaj is in that position naturally he would move the Bill. Apart from this, we believe that democracy form of the Government is the best form of Government. However, neither we can say nor it is a fact. Perhaps it will never be so. But if democratic set up is followed, someone will certainly have the responsibility to restore it. At the same time precaution should be taken to create such an infra-structure that there is no scope of any mistake. It at all mistakes are committed these should be rectified immediately. Similar attitude should be adopted with regard to promotions, otherwise there will be conflict. After independence it was at the instance of the Prime Minister of Bihar—I am referring to the period before 1950, there were Prime Ministers in States at that time not in Delhi—that a judge of Patna High Court

was suspended who in turn condemned this act openly in the all India Conference of advocates held at Nagpur. There have been such flaws.....

[English]

MR. CHAIRMAN: Mr. Bhogendra Jha, this is not relevant.

[Translation]

SHRI BHOGENDRA JHA: No some issues were raised when you were not present.

MR CHAIRMAN: If the earlier speakers have not spoken to the point, that does not mean that you too would follow them.

(Interruptions)

SHRI BHOGENDRA JHA: Therefore my submission is that there is a need to provide better opportunities of promotions. There is a need to give more seats to them. More judges should be appointed and measures should be taken to provide more facilities and in expensive justice to people. I am talking of those who do not employ advocates, They should be provided a true copies free of cost.

We have made certain provisions in the penal procedure code. For instance if a person who files a law suit is poor and illiterate gets a copy of it. We forced the Government to make a provision to this effect. However, police officer were to provide a copy of it to the person who lodges complaint most of the time he does not do so. But the complainant needs all other copies also to fight his case. We should make arrangements so that more

and more people get justice. I would like the hon. Minister of Law, Justice and Company Affairs to make an announcement today that Panchayati Raj has been brought within the purview of constitution through 72nd amendment. Therefore it is not the will of the Government that it may or may not hold elections for 15 years together, as it happen in Bihar. At the same time the Government should make arrangements for providing justice at Panchayat level itself so that more than fifty per cent cases may be disposed off at this level. It would enable the people having limited resources to get inexpensive justice. The rent fixed at Rs. 3000/- per month recently would be revised again after some years. Government can adopt the pension like formula which go on increasing with the rise of price index in respect of rent also. I am not referring only to the rent of the house, a systematic procedure should be adopted in each case. With the increase in inflation the rent should automatically increase. It does not look nice for the judges and Members of Parliament to revise the rent of the houses time and again. It becomes awkward both ways to favour or to oppose the move to that effect. The Government should evolve a policy under which the amount should increase automatically with the price rise. At present the amount has been fixed at Rs. 3000/-per month, I feel that it is reasonable and thus there is no possibility of making any amendment into it.

I support this Bill, and would submit to the Government that justice should be provided at Panchayat level by means of Panchayat Raj or constitution so as to make it somewhat cheaper. This system is being adopted in many states, and the Government should adopt the same in the other parts also so that they are relieved of their burden. The number of law suits is

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increasing day by day and for their disposal more space is required, but there is shortage of space everywhere. So far as other factors related to this issue are concerned, I would not like to give my opinion. I would only submit that we should move ahead with it and if the hon. Minister of Law, Justice and Company Affairs makes an announcement to bring it within the purview of constitution I feel, that not only the mistake we committed under 72nd Amendment will be rectified but we will be in a far better position. Moreover, the burden of the upper courts will also ease.

[English]

SHRI H.R. BHARDWAJ: Mr Chairman, Sir, as I submitted in the beginning, so far as these two small measures are concerned, one deals with providing Rs.3,000/- in lieu of official residence to Supreme Court Judges. I may inform the House that existing laws provide that the Judge of the Supreme Court will be provided an official residence free of charge, rent free accommodation, furnished. But as I submitted we had shortage of bungalows. Some of the Judges who are newly appointed to New Delhi from various places and they have to stay sometimes in the accommodation provided by the States in the shape of Bhavans which are provided by various States in New Delhi and they have to spend money from their pockets. So, in order to meet the short stay of Judges, this provision. It is imperative and necessary that all Supreme Court Judges have to be provided Type VIII bungalows and we do provide them. But sometimes it takes a month or two to provide them.

Otherwise, I may make it clear that they are not accepting Rs.3000/- as a

permanent measure. So, they are accepting Rs.3000/- for the transitory period. The High Court Judges accept Rs.2500/- That was already there. The House had granted that facility to the Judges. In the case of Supreme Court Judges, we never had any problem of houses. Recently, we increased the strength from 18 to 26. So, this problem arose. The houses earmarked for the Judges fell short by eight. We had difficulty in obtaining these eight houses from the Urban Development Department. We could get quite a lot of houses and some problems remain in the case of one or two houses. So, when we are not able to give the house, we will provide them Rs.3000/- for that month or for the period of the month. So, this measure is not, as a matter of fact, a substitute for the official residence. I am very happy that the entire House has supported it.

Regarding the other measure, I must explain to the House that today the High Court Judges have two LTCs and the Supreme Court Judges have three LTCs. That gives an opportunity to them to visit their places. For example a judge from West Bengal comes to Delhi. Something happens in the family. Suppose, there is marriage. A Judge has to go and attend the marriage. He has no provision under the law. So we give him the LTC facility saying that he can visit his home town once, twice or thrice. Or, in connection with some mourning or any such emergencies, they have to be provided this LTC. Today, the Judges are enjoying it tax-free. When you purchase an air ticket, you are not supposed to pay tax on that. This is a facility for travelling to your home town. So, today they are enjoying it. But unfortunately when this provision was made in 1986, it was not specifically mentioned that it would be tax-free. So, the tax-people raised this issue. They

gave notices to some judges saying that they have enjoyed it and have to pay this money. No judge can afford to pay this money because he has enjoyed this. So they did not want to do it themselves. They discussed it with the Chief Justice of India who in turn discussed with us and we agreed. In this no tax is involved now. Now, they are having it tax-free. This is the second measure which I have brought forward before this House. I am very thankful that all the Members have, like on the earlier occasions, supported this measure. This House has that respect for the judiciary and it always has it. Whenever it relates to the perks—we may debate our own allowances and perks—of Judges, as far as the Judges are concerned, the Members have unanimously supported the measures always. I have seen the Constitution Amendment also being supported unanimously. This has been so today also. Therefore, to that extent, I am very grateful to this House.

Sir, besides these two matters, some hon. Members have drawn my attention to various problems that are facing the country today in the case of judicial administrative system. I am one with them that in our country, we need to have radical reforms in our judiciary and legal system. This country has given itself a Constitution where the life, liberty and property of the citizens have a significant meaning and they have to be protected by all of us. So, the judicial system must be really very effective. I think it is my duty that I must take the House into confidence as to what we have been thinking and what I have done in this matter when I have taken over recently as the Minister of Law, Justice and Company Affairs. Earlier, in 1986, I had brought forward a reform by consulting all the Chief Ministers and the Chief Justices in August 1985

and 1st September 1985. I requested the then Prime Minister to summon all the Chief Justices and the Chief Ministers because if we think that we can introduce the legal and judicial reforms by ourselves at the Centre, it is not possible to do it because it is a quasi-federal structure where the States have their own powers. The High Courts, the Subordinate Judiciary are located in the States. Their viewpoint is necessary because they spend money from their own Consolidated Fund. We cannot go over and above their views. So, whenever we want to bring forward any reforms, we have to consult them. On certain issues, the States were with us. At that time also, we had agreed. A court-room which was constructed 50 years ago when there were 20 lawyers is wholly inadequate where there are 1000 or 2000 lawyers today. Those days, nobody was there to enter a court-room. Now, it is an open court-room with the gift of democracy. No proceedings can take place unless everybody is allowed entry in a public hearing of a case.

That is democracy. Therefore, now it needs that we should give a serious look to our judicial infrastructure. I have been requesting the Chief Ministers time and again to please give their serious consideration for providing court rooms, bar rooms, canteen facilities to litigants and also the judicial housing. But this has not got that attention which it ought to have got because the judiciary and justice administration was not a planned subject. It was a non-plan subject. Therefore, no development took place in this direction. You will appreciate that the way we are legislating here in Parliament and in the States everyday, we are creating offences and creating problems which are justiciable. We create disputes where they have to be resolved. While we have not brought any alternative system of resolution as

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was suggested by Shri Jha. We have to decentralise justice down to the Panchayat level in our country. We have not been able to do it for obvious reasons and I will explain to you why it has not been done. But we have to do that work and unless we do that, nobody will bring utopia in the system of working of courts because you require better environment for the functioning of the court. That is, you require proper court room proper staffing, proper judges, proper lawyers because you cannot minimise quality of justice. People are not going to accept a very cheap type of system as against the present one. It must be something better and more effective. When I was the Planning Minister, I intervened specifically for that purpose and requested the Prime Minister to make this justice administration as a planned subject. And I am happy to tell this hon. House that this scheme was accepted that it should be a centrally sponsored scheme like other centrally sponsored scheme where we must allocate equal amount of money for court buildings, court housing and judicial infrastructure to the State. And today, we have earmarked Rs.1,200 for development in this plan. If this money is really spent in these buildings and other things, it will sufficiently improve our court system, housing system and infrastructure that is required in the next four to five years. Besides that, you will appreciate that I have again been meeting the Law Minister of all the States. During the last year when I completed my discussion with them, we brought out a charter containing 23 points on reducing arrears, reducing expenses and reducing delays. These points of charter were again brought by the Law Minister and the Law Secretaries of all the States. I started from Bangalore, then went Pondicherry, Madhya Pradesh and Goa where the Law Minister from all

the States were taken into confidence. We drafted a unanimous declaration saying we were going to act the following programmes. That was based on the Malimath Committee Report which went into the question of reducing arrears and simplifying the procedure. We immediately got in touch with the Chief Justice of India. I would beg to submit that no Minister, no Government can cure the system of administration of justice unless we take the judiciary, the bar into confidence because it is they who have to implement it in the courts. Suppose a lawyer does not curtail his argument and goes on arguing and arguing, just as we sometimes prolong the debate, on the point which are wholly unnecessary for the relevance of the case, that would not reduce the arrears. Therefore, this matter to consult judiciary was also started and we went to the Chief Justice of India with those proposals so that there is interaction between the judiciary and the executive face to face. We had three meetings with him. He called his senior colleagues, all the three were the Supreme Court Judges and they discussed the judicial agenda. They gave a final touching and thereafter I requested the Prime Minister of India to call a meeting of all the Chief Ministers. Again a few days back, we had a meeting in New Delhi of the Chief Justices of the High Courts, the Chief Justice of India, Chief Ministers, Governors, Law Ministers and Law Secretaries. There we put across these two or three important questions. One is about what the senior Member and a freedom fighter Shri Jha has said and the other is of Shri George Fernandes. They said that we must do something immediately for the poor litigants.

We do not care if the people who have money go on spending in various courts; but, we must do something for this

poor peasant, for this worker and for those who are down-trodden so that they do not feel the pinch of these expenses, delays and all these other things. So, I have suggested that we should immediately revert to a more effective, more substantial and less expensive system for rural litigation in the case of workers and peasants.

Now, in principle, the States have agreed that they are going to adopt something like a *gram nyayalaya* where you can send the court to them and they can take the help of the panchayats or laymen or retired judges who are living in that area and decide those cases within that block or taluka. (*Interruptions*)

KUMARI MAMATA BANERJEE: Sir, I wish to seek one clarification. If you are going to give this power to *gram* panchayats, as you are aware, everywhere, in every *gram* panchayat, some political parties will be in power and there is no impartial system; in such a situation, if the other party goes there, what justice will they get? So, there should some independent organization.

SHRI H.R. BHARDWAJ: Mamataji, I am not giving any power to them.

SHRI SAIFUDDIN CHOUDHURY (Katwa): That point should be well taken. This power should not be given to the panchayats.

KUMARI MAMATA BANERJEE: They should be independent and away from the panchayats.

SHRI H.R. BHARDWAJ: Mamataji, let me explain it to you. This thing is not there; we are not giving any power to the panchayats. (*Interruptions*) Kindly listen to me. (*Interruptions*) why do you discuss

among yourselves when I am giving you the reply? We are not giving any power; Mr. Chairman, we are not giving back any power to the panchayats because they were tried earlier in 1970s.

MR. CHAIRMAN: I was saying the same thing. I was asking about what its past performance was.

SHRI H.R. BHARDWAJ: Our intention is to send the same stipendiary court which is functioning in an urban area; we want to send the same court to the village; they could listen to the woes of the poor people there and dispense justice so that they do not have to come to the urban areas. It is just like a mobile court where they will use the outside people in their advisory committees, as we have the jurors and assessors so that the evidence is available there. That is simplified and that is given in the report of the Law Commission.

Now, a debate will take place in this House on the type of rural litigation or the litigation to help a layman, without diminishing the quality of the justice that we can give to them and then we would like to strengthen that system with adequate legal aid provisions so that if a worker has to fight a case, he must be given legal aid or money for the legal aid. (*Interruptions*)

SHRI GEORGE FERNANDES: What is the purpose if it takes twenty years?

SHRI H.R. BHARDWAJ: It does not take twenty years.

SHRI GEORGE FERNANDES: I will give you a list of the cases which my own organization had filed.

SHRI H.R. BHARDWAJ: You have to do something now. If you go on saying that way, we cannot do anything. I am telling you about what I have done. If you are interested in it, I will tell you about it because I want to take this House into confidence on what is being done and what is in the offing. This was born out by the events that have taken place a week back. (Interruptions) If you do not want to hear me, I can sit down. Since some points were raised by very senior Member—if I want, I can just stick to two points about the provisions in the Bill—I just want to tell you that we are now offering a separate package of justice for the poor people backed by the provisions of the legal aid.

SHRI SAIFUDDIN CHOUDHURY: It should not be a poor justice.

SHRI H.R. BHARDWAJ: It should not be a poor justice. It should be substantial and effective justice. There is no question of diminishing the quality of justice. If you all agree, we will have a debate on it because when we bring that report before you, then, we would like to have a proper discussion on it and whatever comes out of the discussion will be in the shape of a law.

So, it is not that we are sleeping over it. I have done that work within the shortest period. In the month of October, I have done all the consultation and the Chief Ministers having agreed to it, my work will be easier now to proceed further. So, we are not sitting on the problems of the poor and the down-trodden. We are quite conscious of it.

SHRI BHOGENDRA JHA: Will this get finalised by the next Budget Session?

SHRI H.R. BHARDWAJ: Let me complete this session. In the next session, we will see what we can bring. I think, one of you can raise this question—the question of judicial reforms in the country—in a substantive motion.

SHRI GEORGE FERNANDES: We can jointly sponsor a discussion.

SHRI H.R. BHARDWAJ: I am ready, whenever you like: I would like this House to debate on this and give suggestions because of its urgency.

I have done something on several points. Regarding corruption in judiciary I have again gone to the Chief Justice of India. The one-third transfer of judges was pending since 1980. Last month I have transferred eleven Chief Justices of High Courts on the recommendations of the Chief Justice of India. Wherever the Chief Justice felt that the transfer is necessary in public interest he recommended and we implemented it. Now, I am giving information, we have received around 38 transfers of judges which we are going to implement. Another list will be coming. So the Chief Justice of India as the leader of the judiciary is doing his work sincerely and we must hope that he succeeds in it with the cooperation of everybody.

We have to minimise it. I cannot say that we will be succeeding in wiping out corruption from any institution—judiciary or any other sphere—but let us try to make a sincere effort to minimise it. It is where we will not come into controversy. It is the Chief Justice of India who is going into this question. He has constituted a committee of four judges—two judges of

the Supreme Court and two Chief Justices. He left it to them; they are taking data from all High Courts about the complaints which you are making. Now Shri Syed Shahabuddin has mentioned about the Punjab case. Immediately after his return he went around the country and a regional conference of Chief Justice was held. He has obtained data as to who is practising where, whether he is related to a judge or anybody is influencing the course of justice. That is the statistics available with him. Based on that he has constituted a house committee which is going to deal with it.

I personally do not want to come into it nor do we want to take the credit or the discredit for it. Because I am from the Executive Wing, the moment we will come into the picture, the question of judicial independence will come and you will yourself criticise it. We are leaving it to the judges. So whatever the Chief Justice of India has recommended, we are implementing it. I hope it will have a salutary effect and it will have the desired effect also. This aspect of tackling the problem of relatives and kith and kin of judges is being tackled.

Then about supersession. You can take it I am not saying what happened earlier— that I am telling you with full confidence that we have not superseded a judge who was getting an opportunity for even seven days. One judge was entitled to remain for one day as Chief Justice. Even he was not superseded. We gave his due and he remained the Chief Justice for one day. Likewise there are cases of one day, seven days, two months, three months. It is because we do not want to get this type of a stigma that we are choosing or handpicking judges and putting them in place.

Seniority is being adhered to. It is one of the principles. Again as you said, if the question is decided we will have a tenure fixed for judges as Chief Justice if it is in the interest of the institution. Let the institution say so. But we will not do that because it creates a lot of heart-burning in a very noble institution. Whatever we may say, people do have confidence in our judiciary.

About what hon. senior Member Shri George said, we have improved upon judiciary which was alien to our system. They used to give justice. Now our own brothers and sisters are occupying the chair of judges. We should try to see that they function impartially, independently and people are satisfied with the quality of justice they administer. Our duty is to strengthen their hands. As I said at the outset, this House has already supported whatever we have done for furthering this cause, namely to give them perks here and there. I personally feel that a lot more needs to be done in this. There should be no interference from political side.

Regarding appointments I will say one word. That issue has also been sorted out. Recently nine Judges of the Supreme Court went into it. It is not as though nobody argued this case. We opened this case with an open mind in the Supreme Court. Earlier people used to say that the Government said that they must preserve their right of appointment of judges and all that. This time you see the affidavit filed by the Government. The Attorney General was told that while we want that the Government of the day should be responsible for appointing judges, we will definitely give primacy to the Chief Justice of India. It is our affidavit, the Law Ministry's affidavit. We do not want that in the judicial appointments the Chief Justice should say that he has

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no say in these appointments. We have supported the position of the Chief Justice of India and we wish him good luck in this.

We do not want to take the blame that appointments are tainted, appointments are politically motivated. We do not want this.

SHRI GEORGE FERNANDES:
Since they used to be in the past!

SHRI H.R. BHARDWAJ: I cannot say. Past is past, the present should be good enough and the future should be better. We should wish for the future; and there is room for improvement at every stage.

SHRI BHOGENDRA JHA: We all know more about the past.

SHRI H. R. BHARDWAJ: I told yesterday, Shri Jha, that when you were participating in the freedom movement, we were just kids.

SHRI BHOGENDRA JHA: I am talking about the Government.
(Interruptions)

SHRI H.R. BHARDWAJ: We know Shri George, when he was a trade union leader and all young men supported him. Now we are across the table. These are the things. From time to time, people have to take note of the changing situations.

I am only saying that our conviction to strengthen the judiciary has increased. It has not gone back. We have not gone to the situation which we had ten years back. Has there ever been any supersession? Not one. They used to say

that we were sacking the judiciary by political people. I filed an affidavit. I filed my official affidavit through the Ministry saying that we had not appointed any judge so far, without the recommendation of the CJI. Wrong impressions are being given and wrong impressions are being created. No person can afford to have a political judiciary. Now the Government has changed.

SHRI BHOGENDRA JHA: In the last ten years, is there not a single instance?

SHRI H.R. BHARDWAJ: No.

SHRI SYED SHAHABUDDIN: Mr. Minister, will you yield for a minute? When we have a number of cases of late, the judges who retire from the Bench tend to join a political party. Does it have something to do with the political considerations, before they are elevated to the Bench?

SHRI H.R. BHARDWAJ: Nothing. That is an attraction in that political party. If I am attracted by you—I admired you yesterday in the debate — that does not mean that I share all your views. That is the attraction. If you are attracted by a party, another is attracted by another. Like this, judges have their own views. They are human beings. But, according to me, judges should not join political parties. Once they retire as judges, they should contribute towards strengthening the judicial institution; and politicians should contribute towards politics. Judges have, over the years commanded a lot of respect. If they say somebody that you are being hanged, he goes to the gallows and gets himself hanged. He can not do it at my instance as a Minister. So this is the difference between the judiciary and the

executive. Judiciary is held in very high esteem. That is why, they are kept aloof; and that being aloof should not mean that they should not know what is happenig in the society. Political considerations should not weigh in the appointments. I agree with Kumari Mamataji. Otherwise, who will administer justice between State and individual and between individual and individual? Even the state is 99 per cent litigant in criminal matters.

So, a judge has to be independent. Therefore, what I say is that, day by day, it is being strengthened; and a debate is always healthy on this, provided it is constructive. We do not denigrate our institution. We have developed a very sound judiciary; and our judiciary, I can say with a confidence, command respect world over. They have not cared for individuals. You may say whatever you may; but there are judges who have unseated the mightiest and they have decided the cases of the mightiest; and they have shown their impartiality, time and again. So, we should be proud of that heritage and that is the strength of our commitment to the rule of law and democracy. So, I personally feel that whatever has been suggested is already in our minds.

About transfer of judges and appointment of judges, there is always something which you can improve upon. About the latest judgment, many people have told me, "Mr. Law Minister your powers are no longer with you". I said, "I am happy". At least I will have some good time in Parliament. People will say, "Now that he has no powers, he cannot do any wrong". I am happy about this. But, I personally feel that that is not the constitutional scheme. How can you deprive a Chief Minister of his consultation? Money is being spent from his own Consolidated Fund in the High

Court. So, we have to consult him. But the recommendation must not come from the Chief Minister; it must come from the Chief Justice of the High Court. We are adhering to it. We are now giving time schedule also that within six weeks every constitutional functionary will have to give his or her views. If he does not do it, we will take it that he has no views to offer. That is given. (Interruptions) Within four months we will complete the appointments; and the filling up of the vacancy will start four months in advance. If a vacancy arises in April, the process must start in January.

17.00 hrs.

This is in the latest judgment and in the resolution adopted. So, we are streamlining everything. Now, we hope that if this House lends us support and if we discuss all these issues in a healthy manner, we will have a good time in judiciary. People are realising it. Judges themselves have realised it. They have met now and decided. I wanted to bring this specific thing to your kind notice. We are very conscious that the poor man suffers. If we talk of equality, we must give him some financial help so that he can stand up and fight his case.

Mr. Jha has suggested about copying and all these things. We are trying to bring computerisation and automation of the courts. I must tell you that during the last year, we computerised the Registry of the Supreme Court. The arrears have come down from 45,000 to 35,000 now. We are making categories of cases—bunching of cases—and one decision would render judgment in hundred cases by classification and documentation in the judgments in the Supreme Court Registry.

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We have requested all the states now. Most of them have gone half - way to computerise their records so that there is codification and classification of all their matters. Then, they can decide in bunches. We have 23 items on how to reduce the arrears. Most of them have been agreed to. I think, it is not difficult to grapple with the problem of arrears. The arrears have been there. But they have increased because of various factors. We have over - legislated over the years. Parliament and State Legislatures passed so many laws off the hand. Immediately when problems come, you pass another law although our substantial laws are very adequate to meet everything. Sometimes, the opposition rightly says that this law is not necessary. But to meet the exigencies of certain challenges, we have to bring laws.

New courts are created. New problems are created. But we are a poor country. Whenever we go to states and tell them to set up courts, they say: "Where are the funds? Where is the infrastructure?" So, even with the resources which are available to the States, we are going to review strength of Judges also. We may have relevance in this. I think, today the criterion of a High Court Judge is to decide 700 cases. They are deciding 700 cases. I monitored the working of all the High Courts. Normally, the High Courts are doing that work. But the institution has increased. The strength has not increased to that extent. But we have consulted. We have found that we should try to increase the strength of judges also. We will be doing that. After all this is done, I think, we can have a better system and every day, we can improve.

I am grateful for your patient hearing and the support you have extended to me. Thank you very much.

MR. CHAIRMAN: The question is:

"That the bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958 be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now, the House will take up clause - by - clause consideration of the bill. The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1—Short title

Amendment made:

Page 1, line 4,-

for "1991" substitute "1993" (2)

(Shri H.R. Bhardwaj)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1,-

for "Forty-second" substitute "Forty-fourth. (1)

(Shri H.R. Bhardwaj)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

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

MR. CHAIRMAN: The question is:

"That the long title stand part of the Bill"

The motion was adopted.

The long title was adopted to the Bill.

SHRI H.R. BHARDWAJ: I beg to move:

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.

MR. CHAIRMAN: Now we will take up the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

The question is:

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House now take up Clause-by-Clause consideration of the Bill.

The question is:

"That Clauses 2 and 3 stand part of the Bill."

That motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1—Short title and commencement

Amendment made:

Page 1, line 4,-

for "1992" substitute "1993" (2)

(Shri H.R. Bhardwaj)

MR. CHAIRMAN: The question is:

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

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

17.09 hrs.

Amendment made:

ADVOCATES (AMENDMENT) BILL

"1, Page 1, line 1,-

Amendments made by Rajya Sabha

for "Forty-third" substitute "Forty-fourth" (1)

[English]

(Shri H.R. Bhardwaj)

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Sir, I have got a small request to make to you. Item No.13 was passed by the Lok Sabha unanimously and similarly, it was passed in the Rajya Sabha. But the Lok Sabha had passed it in 1992. So, I request that this small amendment be agreed to by the Lok Sabha. It is only a technical thing because it is now 1993. If you kindly allow me, I can move it.

MR. CHAIRMAN: The question is:

"That Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

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

MR. CHAIRMAN: All right.

The question is:

"That the long title stand part of the Bill."

SHRI H.R. BHARDWAJ: I beg to move:

The motion was adopted.

"That the following amendments made by Rajya Sabha in the Bill further to amend the Advocates Act, 1961, be taken into consideration:-

The long title was added to the Bill.

Enacting Formula

SHRI H.R. BHARDWAJ: I beg to move:

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

That at page 1, line 1, for the word "Forty-third" the word "Forty-fourth" be substituted. (1)

MR. CHAIRMAN: The question is:

Clause 1—Short title

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

The motion was adopted.

That at page 1, line 3, for the figure "1992" the figure "1993" be substituted. (2)

MR. CHAIRMAN: Motion moved:

"That the following amendments made by Rajya Sabha in the Bill further to amend the Advocates Act, 1961, be taken in to consideration:-

Enacting Formula

That at page 1, line 1, for the word "Forty-third" the word "Forty-fourth" be *substituted* (1)

Clause 1—short title

"That at page 1, line 3, for the figure "1992" the figure "1993" be *substituted*."

SHRI GEORGE FERNANDES: Sir, why did the Rajya Sabha take such a long time to pass it? The Lok Sabha passed it on 30th November, 1992 and transmitted to Rajya Sabha for its concurrence. Rajya Sabha passed the Bill with amendments at its sitting held on the 7th December, 1993. Why did the Rajya Sabha take one year and one month to pass it?

SHRI H. R. BHARDWAJ: Can Lok Sabha question Rajya Sabha in this manner?

SHRI GEORGE FERNANDES: I am not questioning the other House. I would like to know the reason for delay.

SHRI H. R. BHARDWAJ: I said so in a lighter vein. Let me please explain. I have another Bill seeking amendment to Section 30. It was controversial in nature and the Bar Council objected to it. As a result, both these Bills, which were bunched together, were kept pending. Then the discussions with the Bar Council

went on. They were first not differentiating between the two Bills. It took some time to convince them that the Advocates (Amendment) Bill had nothing to do with amendment to Section 30. All this process took time and that was the reason for delay.

MR. CHAIRMAN: I shall now put the consideration motion to the vote of the House.

The question is:

"That the following amendments made by Rajya Sabha in the Bill further to amend the Advocates Act, 1961, be taken in to consideration:-

Enacting Formula

That at page 1, line 1, for the word "Forty-third" the word "Forty-fourth" be *substituted* .(1)

Clause 1—short title

"That at page 1, line 3, for the figure "1992" the figure "1993" be *substituted*." (2)

The motion was adopted.

Enacting Formula

MR. CHAIRMAN: The question is:

"That at page 1, line 1, for the word "Forty-third" the word "Forty-fourth" be *substituted* (1)

The motion was adopted.

Clause 1—Short title

MR. CHAIRMAN: The question is:

"That at page 1, line 3, for the figure "1992" the figure "1993" be substituted." (2)

The motion was adopted.

SHRI H. R. BHARDWAJ: I beg to move:

MR. CHAIRMAN: The question is:

"That the amendments made by Rajya Sabha in the Bill be agreed to."

The motion was adopted.

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): Sir, the next item to be taken up relates to the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Bill. There are a number of hon. Members who would like to speak on this item. Being a Saturday, most of the hon. Members are not present. So, I would request you and the hon. Members of the house to kindly consider taking up Agenda Item 12 in respect of Public Premises (Eviction of Unauthorised Occupation) Amendment Bill and pass the same. If there is still some time available with us, we may then take up the Election Commissioners Bill and we can continue with it on Monday also.

17.13 hrs.

[MR. SPEAKER in the chair]

Mr. Speaker Sir, just now, we have adopted the *Advocates (Amendment) Bill*.

MR. SPEAKER: May I congratulate you?

SHRI MUKUL WASNIK: Thank you Sir. Just now, I have stated that we may take up the Election Commissioners Bill on Monday because many hon. Members would like to participate in the debate. In the meanwhile, today we may pass the Public Premises Amendment Bill.

MR. SPEAKER: I think we can now take up the Election Commissioners Bill. It can continue on Monday.

SHRI GEORGE FERNANDES: I have already moved a motion that the House may now adjourn. Today there is no Question Hour. We have transacted the legislative business for more than the normal time. Moreover, Sheilaji is also tired.

SHRI MUKUL WASNIK: Mr. Speaker, Sir, if you kindly agree we may take up the public premises Amendment Bill and pass it. That way, we can complete one item.

MR. SPEAKER: We may take up the Election Commissioners Bill. It will anyway spill over to Monday. Why should we not stick to the agenda in seriatim? Today we can allow some Members to speak on this and on Monday, we may continue the debate.

SHRI MUKUL WASNIK: I may mention that the *Advocates (Amendment) Bill* is already taken up and adopted even though it is at the end of the agenda.

MR. SPEAKER: That is because those are related matters.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I beg your pardon, a motion of disapproval of the ordinance is proposed to be moved and moreover the hon. Members who were to move the motion are not present in the House today.

My only submission to you is that it is an important issue, and in a sense it is a controversial issue. I would give due regard to your ruling. But....

MR. SPEAKER: It will not be passed easily, therefore, it will not be passed today.

SHRI GEORGE FERNANDES: Had it been discussed in the presence of all the hon. Members, it would have been better. If the House is to sit till 6 pm, we may take up the other Bill and keep this pending.

MR. SPEAKER: All right.

SHRI GEORGE FERNANDES: It may be taken up on Monday. Let the Bill presented by Sheilaji be passed today.

MR. SPEAKER: If the discussion on it concludes today we will pass it, otherwise the time for it may be extended.

SHRI BHOGENDRA JHA: Mr. Speaker, Sir, I would like to submit to Shri George Fernandes that presence of more hon. Members is required for having a discussion on the Bills regarding Public Premises and Rent Control. Therefore, neither of the Bills is likely to be passed today. We may take up the Bill regarding Election Commissioner today and pass it after having discussion on it.

MR. SPEAKER: All right. If the discussion on this second Bill concludes to day. We will pass it.

SHRI BHOGENDRA JHA: The most important issue in it is about Delhi and most of the hon. Members are absent today.

[English]

SHRI RAMESH CHENNITHALA (Kottayam): Sir, we were going according the schedule but now suddenly the minister has come and introduced a new Bill.

MR. SPEAKER: It is not an adjusment. There was an understanding to this office. We took up the Bill, which we have just new passed, earlier, because it was a little complicated one.

[Translation]

SHRI HARI KEWAL PRASAD (Salempur): I would like you to give your ruling there is no quorum in the House, you please give your ruling on this, then only the proceedings of the House may continue.

MR. SPEAKER: The quorum bell is being rung.

The quorum is complete now.

[English]

May, I request the hon. Member not to please abstract the House unnecessarily. When everybody is trying to work, there is no point in unnecessarily getting up and saying something.

17.19 hrs.

PUBLIC PREMISES (EVICTION OF
UNAUTHORISED OCCUPANTS)
AMENDMENT BILL

[*English*]

As passed by Rajya Sabha

THE MINISTER OF URBAN DEVELOPMENT (SHRIMATI SHEILA KAUL): Sir, as you are aware, the Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 1992 which was introduced by me in the Rajya Sabha during march, 1992, was passed by the house of elders without any amendment on 16.7.1992. During the pendency of the Bill in this House, certain further developments have taken place which necessitate a few more amendments to the Act.

The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was enacted to provide for the eviction of unauthorised occupants from public premises including the premises of government companies and those of corporations established by Central Acts and organisations specified in the Act.

Over the years, certain lacunae in the Act have come to the notice of Government. A number of hon. Members of Parliament have written to me about the arbitrary use of the provisions of the Public Premises Act by various Central Public Sector Undertakings, including nationalised banks, for evicting even genuine tenants. In order to limit the use of the summary powers by these undertakings under the Public Premises Act intended, primarily to evict unauthorised occupants or retired/transferred employees, my

Ministry had issued to the administrative Ministers in January, 1992 guidelines to be followed by the Public Undertakings under their Ministries, while initiating eviction cases under the Public Premises Act. We are pursuing the matter with various Ministers for implementation of these guidelines so that the interests of genuine tenants are not jeopardised.

The Bill, as passed by the Rajya Sabha include two major amendments. These are:-

(a) To include premises of the state governments situated in Delhi and other Union Territories within the definition of "public premises".

(b) To provide for summary procedure for eviction of unauthorised occupants in respect of temporary allotment made by the Central Government, State Government, Government of Union Territories and statutory authorities in guest hostel, holiday houses, tourist accommodation, etc, with a shorter notice than presently provided.

As I have already mentioned, after passing of the Bill by the Rajya Sabha, further developments have taken place necessitating certain more amendments to the Act. These amendments are based on the suggestions made in the estimates committee report and the judgements of Civil Courts. These are:

(i) To include the properties managed by the Cantonment Boards within the meaning of "public premises".

(ii) To make the summary eviction in respect of temporary allotment of guest house, etc. more stringent without insisting on any statutory time limit.

(iii) To remove certain ambiguities in the language of section 4 dealing with manner of serving of show cause notice to all occupants of a public premises.

Temporary allotment of guest houses is normally allotted for short periods to guests of Members of Parliament, Ministers, etc. The existing procedure of evicting unauthorised occupants takes a longer time from the period for which the accommodation was allotted. It was, therefore, decided that the time limit for show cause and eviction be restricted to 48 hours only. Subsequently, the estimates committee of Parliament suggested that this notice period should be done away with to avoid litigations. The present amendment, therefore, prescribes no time limit for evicting such unauthorised occupants in guest houses and such other premises which are allotted for short time. The Estate Officer shall make such enquiries as necessary and if he is satisfied about the unauthorised occupancy he shall forthwith take action to evict the occupant.

The other official amendment relates to Section 4 of the Act which deals with the issue of show cause notice to the unauthorised occupants. Subsection (4) of Section 4 provides that the show cause notice should be served on each and every unauthorised occupant. Subsection (3) on the other hand provides that in case a notice is pasted on a conspicuous part of the premises, it would be deemed to be served on all occupants of that premises. On examination of these con-

tradictory provisions it has been decided to remove this ambiguity by omitting subsection (4) from the Act.

I have already given separate notice for moving the above amendments as official amendments to the Bill as passed by the Rajya Sabha.

I would like to mention that the proposed amendments are either at the behest of the State Governments on the basis of recommendations of Estimates Committee of judicial pronouncements and are non-controversial in nature and would provide for better enforcement of the Act.

With these words, I request that the Bill as passed by Rajya Sabha may be considered by this august House with further amendments for which I have given separate notice.

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Public Premises (Eviction of unauthorised occupants) Act, 1971 as passed by Rajya Sabha, "

Now, Shri Manoranjan Bhakta.

SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands): Mr. speaker, Sir, as we all know, nowadays since the encroachments and unauthorised occupation of Government accommodations are the social evils, we have to fight it out. I rise to support this piece of legislation and I also like to thank the hon. Minister because she has brought this piece of legislation as per the wishes of the Estimates Committee which has gone through the long process of examining this subject and thereafter made the recommendations.

[Shri Manoranjan Bhakta]

Sir, I would also like to request the hon. Minister that we are passing a lot of number of legislation, but ultimately while implementation we are not getting much of satisfaction. So, that is why, whatever the legislation is passed today it should be implemented in letter and spirit and proper precaution should also be taken so that there is no misuse of authority. The concerned authorities who have been given powers should not misuse the powers and they should see that it is properly used.

I support this Bill for consideration.

[*Translation*]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, I would like to say a few things regarding this Bill. I am not against it, but the way it has been passed by the Rajya Sabha, gives me a pinch. My objection is that the Government is going to give wide powers to the Estate Officer. There is a provision in it that if the Estate Officer thinks that a person is living in a temporary allotted premises beyond the permissible period then he would issue a 24 hours' notice to that person. If he does not vacate it even after the notice is served then he would personally go there for enquiry. How long will this inquiry continue is not clear in it. It has been explained in 3(a) (2):

[*English*]

"after the expiry of the said period of twenty-four hours the Estate Officer may visit the said premises and make such enquiries as is expedient, including an opportunity of giv-

ing oral hearing to the persons concerned, if they are available at the premises."

[*Translation*]

Now there are two things in it. May be he calls on the concerned person at a time when there is none at the premises, it will create a problem. If he is there, the process of enquiry will start but it has not been mentioned in it as to how long it will last. If he is absent due to some valid reason, if he has gone to hospital, school or market, then he would have no escape, but the one who is present—he may be occupying the premises illegally has been given a chance to present his case. Then we have some objection to the clause 3(a) (2):

[*English*]

"If, after the aforesaid enquiry, the Estate Officer is satisfied that the persons concerned should be evicted, the Estate Officer may make a written order of eviction forthwith, directing that the said premises shall be vacated within twenty-four hours with effect from the date and time specified in the order."

[*Translation*]

Basically, we support this Bill. We would like to say that the Government should not create a situation in which a person is thrown on the road. Therefore, the hon. Minister should incorporate some provision in it to solve this problem. Most of the people who continue to occupy the public premises unauthorisedly are VIPs. Some MPs continue to live there even after they cease to be Members of Parliament. I would not mention the names of

the Ministers since they live there for years even after they cease to be the Ministers. There is no law for them. This amendment is for the States and Union Territories.

[*English*]

It is mentioned here: "Any State Government or the Government of a Union Territory situated in the Union Territory of Delhi or in any other Union Territory."

[*Translation*]

Even after the eviction is ordered, Members of Parliament and high officials continue to occupy Government accommodation till their death. We have seen it and it is going on even today. You want the right to evict the poor person who happen to stay there for some urgent work and over stays for four more days in the process. We have objection to it that the Government is not ready to enforce the right of eviction against an hon. Minister or a former Minister. We want that the same norms of justice should be followed for all and whatever amendment is required to achieve this end should be made. If wrong order is passed for the people occupying high positions, then we can not expect observance of rules at the lower level.

[*English*]

SHRI RAMESH CHENNITHALA (Kottayam): Sir, I rise to support this Bill. It is a welcome step because this new amendment which has been brought here, includes the State Government's properties also and, therefore it will be helpful to the State Government to recover their properties. For example, in re-

spect of the Travancore House, which was the property of the Kerala Government, hectic efforts were done by the Government of Kerala for more than fifteen years, but the MRTP Commission, which had been occupying the Travancore House for more than 15-20 years, was not at all vacating it. Finally they were vacated. This new amendment will be helpful to all the State Governments and, therefore, I welcome this Bill.

As regards the guest accommodation of M.Ps, as rightly pointed out by Shri George Fernandes, it is very difficult for an M.P. to get a guest accommodation. Some people are permanently staying in the Western Court and in some other guest accommodations. Therefore, even if an M.P. writes repeatedly to the Estate Office or to the Chairman, House Committee, he will not get it because some people are occupying that for years and years. They are permanently staying in the Western Court and other guest accommodation. So, the Government should take necessary steps to vacate their permanent residents.

The second point I wanted to raise is the accommodation problem which is being faced by the Government employees who are staying in Delhi. People from different States are working in the Union Territory of Delhi. They are not getting proper accommodation. They have to go to ministers for out-of-turn priority allotments and other things. But how many out-of-turn priority orders can be given by the minister? Lack of accommodation is the main problem. So, Government should take adequate steps to solve this very serious problem. Those who are working in different departments of the

[Shri Ramesh Chennithala]

Government especially who are from Southern States and North-Eastern States are not at all getting accommodation here in Delhi. So, Government should take care of this seriously.

I was told that more than 1,000 houses are unauthorisedly occupied by certain people in Delhi. Even if Government employees retire, they are not vacating the house. What do they do? They file a petition in the court and they submit it to the litigation branch. These cases were never fought. If a case is filed, the employee can stay in the house for another 3-4 years more because nobody is going to take up this issue and nobody is going to pursue this. These litigations were not at all be settled. So, everybody is going for litigation. The litigation branch is such a branch that they welcome all the injunctions but will not pursue them. Once you put an application in the litigation branch, it will not be pursued. So, the occupants are safe. That is what is happening.

Sir, I do not want to take much time of the House. The Government should settle this issue.

I agree with Shri George Fernandes on the question of occupation of houses by ex-M.Ps. Of course, when we are Members of Parliament we are getting accommodation. But when we are not entitled to this, we should not retain them. But unfortunately this is a regular feature now. When I came as a first-time M.P. I had to wait for more than 7-8 months to get accommodation. That is the case of most of the M.Ps.

I think that merely passing a legislation will not help. This should be imple-

mented and pursued properly. Therefore, I urge the Minister to review the cases pending in the litigation branch which is under the Urban Development Ministry Hon.Minister should review the working of the litigation Branch's.

I am sure the hon.Minister will take care of all the points mentioned by me.

SHRI UMRAO SINGH (Jalandhar): Mr. Speaker, Sir, I rise to support this measure. But, at the same time, I would also like to say that most of the houses which the Government has been keeping as Government accommodation for their own people—may be M.Ps. or Government servants—are under unauthorised occupation of some people. Now the Government want more stringent measures to get them vacated. This, I think, will be supported by all.

I will request and seek your protection on one point. Is this law only applicable to the poor people or the poor guests of the M.Ps or other people also who are in high authority like ex-ministers and ex-M.Ps or those who are occupying high positions? Most of the Members of Parliament are without houses. I do not want to refer to my own case. But I would like to say about my colleagues from Punjab who were elected two years before, in January, 1992. Two of them still do not have a house.

A lot of work is held up and we are not able to function properly without accommodation. I am just bringing this to your notice about the difficulties which we are facing and other M.Ps are facing. I will just seek your protection and help because we can only effectively work as Members of Parliament or a Member of Legislature and we can meet our voters who come here when we have proper

working accommodation. Then we can come here fully prepared for the debates.

So, I submit that those people who are having unauthorised occupation—either guest houses or other houses—by those who are in high authority, may be even an ex-minister or ex-M.P.—should vacate the place. Law should have a similar course of action on all the people. It should be equally applicable to all. I submit that not only the Members of this House should be given preference but all those who are not getting houses should be given preference so that they can work effectively.

With these words I conclude my speech.

[*Translation*]

SHRI CHANDULAL CHANDRAKAR (Durg): Mr. Speaker, Sir, I am a strong supporter of this Bill but the officers interfere in petty things and create problem. For example, there is a shortage of houses and it leads to a fight for the houses. This fight will continue until the accommodation increases. One cannot get guest accommodation in Western Court since it has become a centre of conspiracy. Therefore, the Government or the DDA should construct more houses. The Government has brought this Bill to get the premises evicted from those who have been occupying it for years unauthorisedly. How can these be got evicted when this right will be with those officers who are involved in the bungling?

Mr. Speaker, Sir, Delhi is a big city. Professors, intellectuals and politicians from every corner of the country come to stay here but they have to live in hotels due to the shortage of accommodation. Those who have money can stay in 5 Star

hotels but for the people belonging to low income group, there should be a facility of hostels in a Central place in Delhi where at least one to two thousand people could stay. This accommodation should be on 'no profit no loss' basis. Earlier accommodation used to be available for the guests in V.P. House but now the officers and politicians are staying there permanently.

The Government employees have to wait for long for Government accommodation since their numbers too are increasing day by day. Therefore, through you, I urge the Government to give permission to convert the one-story houses into 4-5 storeys so that the number of Houses could be increased. Besides, if this eviction law is implemented, it will be a good thing. In this context the officers should be given permission to get the accommodation evicted and the definition of eviction should be made clear.

I express my thanks to the hon. Minister for introducing this Bill in Rajya Sabha and I hope that it would be passed by the Lok Sabha since "it is never too late."

[*English*]

SHRI SYED SHAHABUDDIN: Mr. Speaker, Sir, I rise to support the Bill subject to the clarifications sought by the hon. Member, Mr. George Fernandes. But I rise also to make a very special plea, a very brief plea in respect of public charitable endowments that they should also be treated as public premises from the point of view of eviction of illegal or unauthorised occupation. This is the point I have repeatedly made because a large number of such public endowments including public wakfs, of which the public at large is the beneficiary, are unlawfully

[Shri Syed Shahabuddin]

occupied and occupied for years and years. The normal processes of law which are applied to private property take for too long for their vacation and for their becoming available to the public at large for whom they are made.

That is why, it is suggested that public charitable endowments, including public wakfs of which public at large is the beneficiary should be treated as public premises and should be brought within the definition of public premises by a suitable amendment to this particular Act.

[*Translation*]

SHRI DHARAM PAL SINGH MALIK (Sonepat): Mr. Speaker, Sir, I will not take much time of the House. In regard to the present amendment Bill, I think that it will not particularly affect the implementation of the existing Public Premises Act because the eviction procedure under it is applicable to only licensed buildings or properties. It does not apply to tenancy occupation as such. I have been pleading for the past ten years on the subject and I have dealt with several cases connected with the Act. License is issued to any public premises, a hostel, a guest house or any other Government accommodation and when such licence is withdrawn, the possession becomes unauthorised. The position has not changed at present except for the inclusion of the property of the cantonment area within the scope and definition of the Public Premises Act. It is only a matter of implementation. In the States, the implementation is in the hands of the State Governments. Proceedings linger on for one to one and a-half years and such cases are dealt at the level of SDM or Deputy Commissioner and there

is no one to advocate on behalf of the Central Government. Cases are dragged on for ten years or so. Therefore, my submission is that instead of making an amendment, emphasis should be laid on implementation and strict rules should be framed for setting a time limit within which licenses would be terminated and unauthorised occupants should be evicted through summary proceedings. I would suggest that we should make a study on these fines and bring about necessary amendments.

SHRI ANADI CHARAN DAS (Jaipur): Mr. Speaker, Sir, many adivasis are in Government service today. My request is that before evicting them from Government accommodation they should be allotted alternative accommodation. They have not been allotted Government accommodation so far. The scavenger community also falls within this category. I myself have observed the miserable plight in which they are living. Five working families are living together in a single house.

ONE HON. MEMBER: Our position is also not better than the adivasis.

SHRI ANADI CHARAN DAS: There is no need to refer to your condition. You will get it. A large number of people are living there. They should not be evicted. It is imperative that they are provided new accommodation before they are evicted. Otherwise it will be very difficult to come across people like us.

SHRI BHOGENDRAS JHA: Mr. Speaker, Sir, I support the Bill but I cannot understand the need for introducing such a Bill. Does such a law not exist already? There have been one or two occasions when I made my guests

stay at the Western Court. Such occupation is needed for a week. For over-stay the concerned Ministry is accountable. Necessary legislation already exists and the same is quite adequate. Therefore, I think that it is necessary to first submit a list of such Government buildings, flats etc. where there is unauthorised occupancy. Even if they are Ex. MPs or Ex- Ministers, their identity should be made clear. If the hon. Minister does not have the list at present, she should table it in the next week so that the country comes to know about the persons who are unauthorisedly occupying the Government premises.

Mr. Speaker, Sir, Shri Shahabuddin had rightly said that the land of some temples is also being misused. Such type of land should also be included in this Bill or another Bill should be brought in this regard. This property does not belong to the management of the temples and mosques. In such situation, it is better to include such land in this Bill or separate Bill should be brought in that regard. This public property is being misused in Delhi as well as in the other parts of the country. A list of such properties should be tabled in the House and the hon. Minister should tell about the short-comings. Even the land on all sides of the Parliament House is being illegally occupied. The hon. Minister should also pay attention in this regard.

SHRIMATI SHEILA KAUL: Mr. Speaker, Sir, I am grateful to the hon. Members for taking so much interest in this Amendment Bill. It is hoped that this amendment will provide a lot of relief. You are well aware that we are as distressed as your people are. The recommendations I receive are sent by the hon. Members and I have to accept recommendation and Act accordingly. I am

happy that they are supporting me in this regard. They are able to understand our problems.

I have listened to the views expressed by Shri George Fernandes, Shri Bhagat, Shri Bhogendra Jha, Shri Ramesh, Shri Chandulal Chandrakar and others. It has been said that there are no hostels for intellectuals but it is not so. There are hostels, but they are being occupied by your friends. If you do not recommend, we can ask them to vacate after one week. It is a problem both ways while allotting or not allotting.

SHRI BHOGENDRA JHA: This problem will continue even after this amendment.

SHRIMATI SHEILA KAUL: No, it will not be there, because I will restrain and there will be strict implementation. I accept whatever is being asked by the hon. Members. But now this will be implemented according to your own will. The Government officials act according to the law and we are above them. Some Members continue to stay in Delhi. It should not be so. Delhi is only like a inn for us. We should not establish our home here. Some Members establish their homes here for education of their children or for other reasons. It should not be like that.

I am grateful to you all for giving the suggestions. I would like to get them implemented and you all should assist us in this regard. Whatever Shri Shahabuddin had said is a State subject. You give it to the States...(Interruptions). Please assist us in evicting the people illegally occupying the hostels, V.P. House and guest houses of Corporations. This is a very small issue.

MR. SPEAKER: The question is:

"That the Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. SPEAKER: The House will now take up clause-by-clause consideration of the Bill. Now, we take up Clause-2

Clause-2—Amendment of Section 2

Amendments made:

"Page 1, line 13,—

for "following item" substitute "following items" (3)

Page 2, line 2,—

for "Union territory of" substitute "National Capital Territory of" (4)

Page 2, line 3,—omit "and;" (5)

Page 2, after line 3, insert —

"(viii) any Cantonment Board constituted under the Cantonments Act, 1924; and" (6)

2 of 1924.

Page 2,—after line 4, insert—

'(a) in the opening portion, for the words "Union Territory of Delhi"

the words "National Capital Territory of Delhi" shall be substituted," (7)

Page 2, line 5,—

for "(a)" substitute "(b)" (8)

Page 2, line 7,—

for "(b)" substitute "(c)" (9)

Page 2, line 8,—

for "(c)" substitute "(d)" (10)

Page 2, after line 12 insert—

'(2) in clause (fa), in item (iv) for the word, brackets and figure "and (vi)", the brackets, figures and words ",(vi) and (viii)" shall be substituted;" (11)

Page 2, line 13,—

for "(2)" substitute "(3)". (12)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

*New Clause 2A—Motion for suspension of
Rule 80C*

SHRIMATI SHEILA KAUL: There is a new clause 2A, I beg to move:

"That this House do suspend clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 13 to the Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 1992 and that this amendment may be allowed to be move." (17)

MR. SPEAKER: The question is:

"That this House do suspend clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 13 to the Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 1992 and that amendment may be allowed to be moved." (17)

The motion was adopted.

Amendment made"

"Page 2, after line 20, insert, -

"2A. In section 3 of the principal Act, in clause (a), after the words

"officers of Government" the words "or of the Government of any Union Territory" shall be inserted." (13)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

"That new Clause 2A be added to the Bill."

The motion was adopted.

New Clause 2A was added to the Bill.

Clause 3—Insertion of new section 3A

Amendment made:

"Page 2, for lines 23 to 45, substitute—

"3A. Notwithstanding anything contained in section 4 or section 5, if the estate officer, after making such inquiry as he deems expedient in the circumstances of the case, is satisfied that any persons who were allowed temporary occupation of any public premises are in unauthorised occupation of the said premises, he may, for reasons to be recorded in writing, make an order for the eviction of such persons forthwith and, thereupon, if such persons refuse or fail to comply with the said order of eviction, he may evict them from the premises and take possession thereof and may, for that purpose, use such force as may be necessary." (14)

Page 3,—

omit lines 1 to 17 (15)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

"That Clause 3, as amended, stand part of the Bill."

The motion was adopted.

*Clause 3, as amended, was added to the
Bill.*

18.00 hrs.

Clause 3A—(New)

SHRIMATI SHEILA KAUL: I beg to move:

"That this House do suspend clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 16 to the Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 1992 and that this amendment may be allowed to be moved."

MR. SPEAKER: The question is:

"That this house do suspend clause (i) of Rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 16 to the Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 1992 and

that this amendment may be allowed to be moved."

The motion was adopted.

Amendment made:

Page 3,—

after line 17, insert—

'3A. In section 4 of the principal Act, sub-section (4) shall be omitted; (16)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

"That new clause 3A be added to the Bill."

The motion was adopted.

New Clause 3A was added to the Bill.

Clause 1—*Short title and commencement*

Amendment made:

Page 1, line 4, -

for "1992" substitute "1993" (2)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

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

The motion was adopted.

*Clause 1, as amended, was added to the
Bill.*

Enacting Formula

18.05 $\frac{1}{2}$ hrs.

Amendment made:

PANEL OF CHAIRMEN

Page 1, line 1, -

[English]

for "Forty-third" substitute -

"Forty-fourth" (1)

(Shrimati Sheila Kaul)

MR. SPEAKER: The question is:

"That Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

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

MR. SPEAKER: The question is:

"That the long title stand part of the Bill."

The motion was adopted.

The long title was added to the Bill.

SHRIMATI SHEILA KAUL: I beg to move:

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

MR. SPEAKER: The question is:

"That the Bill, is amended, be passed."

The motion was adopted.

MR. SPEAKER: I have to inform the House that under Rule 9 of the Rules of Procedure, I have nominated the following Members to the Panel of Chairmen.

1. Shri Sharad Dighe
2. Shri Peter G. Marbaniang
3. Shri Nitish Kumar
4. Shrimati Geeta Mukherjee
5. Shri Tara Singh
6. Shrimati Malini Bhattacharya
7. Shri Ram Naik
8. Shri P.C. Chacko
9. Shrimati Santosh Chowdhary
10. Prof. Rita Verma

MR. SPEAKER: I should really thank the Members for their excellent co-operation.

Now the House stands adjourned to re-assemble on Monday, the 13th December, 1993 at 11.00 a.m.

18.06 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 13th December, 1993/Agrahayana 22, 1915 (Saka).