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PARLIAMENTARY DEBATES

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LOK SABHA DEBATES
(Part I—Questions and Answers)

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LOK SABHA

Wednesday, 3rd August, 1955.

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

साल्क पोलियो वैक्सीन

*३५७. श्री एम० एल० द्विवेदी :
क्या स्वास्थ्य मंत्री यह बनाने की कृपा
करेंगी कि :

(क) भारत को अमेरिका से साल्क
पोलियो वैक्सीन के निर्माण का सूत्र किन
शर्तों पर मिला है;

(ख) क्या वह वैक्सीन भारत की
जलवायु में लाभप्रद पायी गई है; और

(ग) क्या सरकार ने वैक्सीन को बड़े
पैमाने पर बनाने के लिये कोई योजना बनाई
है, और यदि हां, तो उसका व्योरा क्या है ?

स्वास्थ्य उपमंत्री (श्रीमती चन्द्रसेखर) :

(क) इसके लिये कोई भी शर्त नहीं रखी
गयी है ।

(ख) अभी तक भारत में उस वैक्सीन
का प्रयोग नहीं किया गया है ।

(ग) जी, नहीं ।

श्री एम० एल० द्विवेदी : मैं यह
जानना चाहता हूँ कि क्या इस वैक्सीन का
प्रयोग अमेरिका में हुआ है और उससे लाभ
हुआ है, यदि हां, तो उसके आधार पर
भारत में उसके बारे में क्या योजना है ?

187 LSD.

Shrimati Chandrasekhar: It was
proved not very successful, and we
have not started using the vaccine here.

Shri M. L. Dwivedi: I wanted to
know whether experiments had been made
in America and, if so, what is the result of
those experiments.

Mr. Speaker: She has replied to
that question. She said it has not been
very successful.

Shrimati Chandrasekhar: Recently,
that is a few weeks back, it was shown
that the vaccine has produced poliomyelitis
in children to whom the vaccine was
given. So to introduce safety methods,
steps are being taken.

Shri M. L. Dwivedi: If the efficacy
of the vaccine has not been very successful
in America, what are the reasons why
India has accepted it for manufacture
here?

Shrimati Chandrasekhar: We have
not accepted it; the vaccine has not been
tried in India at all.

Shri M. L. Dwivedi: I am referring
to the formula.

Shrimati Chandrasekhar: It has
not been accepted.

Dr. Rama Rao: Is it a fact that this
great advance in medical science has been
misused by a certain firm which manufac-
tured the vaccine, the use of which gave
devastating results, thereby bringing this
vaccine into contempt; and may I know
what steps Government are taking to uti-
lize the formula given by the American
Government?

Shrimati Chandrasekhar: We need
not do anything about American firms and
the American Government. We are not
using it here.

Mr. Speaker: The point of the ques-
tion as I have understood it is that while
the manufacturers supplied something
which is not up to the standard, the American
Government has adopted certain formulae;
and he wants to know what the Govern-
ment are doing for working those formulae
instead of purchasing it from the firms.

Shrimati Chandrasekhar: We have done certain researches on the vaccine that has been used in America, and we find that the strains of the types of virus for which this vaccine has been used are also seen in India. That is what we have found in the Polio Research Unit of the Indian Council of Medical Research.

Dr. Rama Rao: The American Government has....

Mr. Speaker: We need not discuss the scientific part of it. The hon. Member may discuss it elsewhere.

Dr. Rama Rao: The American Government has announced the formula at a ceremonial function.

Industrial Disputes Act, 1947

*358. **Shri Radha Raman:** Will the Minister of Labour be pleased to state the amendments that have been proposed to the Industrial Disputes Act, 1947, by the Conference of Labour Ministers held recently?

The Deputy Minister of Labour (Shri Abid Ali): The recommendations relating to the amendment of the Industrial Disputes Act, 1947, made by the Labour Ministers' Conference are still under consideration of Government and it will not be in the public interest to disclose them at present.

Shri Radha Raman: May I know if the Conference of Labour Ministers recommended that the amendments should be brought before the House in an amending Bill?

Shri Abid Ali: The amendments will certainly be brought before the House through an amending Bill when these are finalised.

Shri Radha Raman: May I know how many Labour Ministers attended this conference?

Shri Abid Ali: Almost from all States.

Shri B. S. Murthy: May I know whether the Labour Ministry has accepted the recommendations made by the conference?

Shri Abid Ali: That is exactly what is under consideration, Sir.

Regional Research Institutes

*359. **Shri Barman:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the recommendation of the Estimates Committee in their Tenth

Report for the setting up of four Regional cattle breeding and dairying institutes has been accepted by Government; and

(b) if so, the steps taken towards furtherance of the project?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes.

(b) The proposals are being included in the Second Five Year Plan. 200 acres of additional land is being obtained from the Mysore Government for developing the existing Institute at Bangalore into a Regional Station for the Southern Region. The National Dairy Institute at Karnal will cater to the needs of the Northern Region. The sites for the Eastern and Western Regional Stations will be selected in consultation with the State Governments concerned when the Second Five Year Plan is finalised.

Shri Barman: In that Report it has been mentioned that the three varieties, namely, Sahiwal, Tharparkar and Red Sindhi, have been concentrated at Karnal and that they should be dispersed to other centres to avert any epidemic or calamity occurring in that centre. Before this regionalisation is actually done, have Government thought about that matter to decentralise these herds and not concentrate them in the one place?

Dr. P. S. Deshmukh: I have no information at the moment about what decision has been taken on this recommendation; but I am sure the recommendation will be considered in its due perspective when we bring this Institute into being.

Shri B. K. Das: May I know whether there is any idea of having a central Institute anywhere? I understand that Karnal has been the central Institute. After the regional Institutes are started I want to know whether there will be any such central Institute or not.

Dr. P. S. Deshmukh: I think Karnal will be the central Institute; the others will be Regional Stations, and not Institutes.

Shrimati Kamalendu Mati Shah: In the North, may I know in how many places and at what places exactly these Regional Institutes are proposed to be opened?

Dr. P. S. Deshmukh: In this particular scheme, Karnal will be the only Institute in the North.

Shri Barman: Will buffalo improvement and dairying be also included in the functions of the Regional Stations?

Dr. P. S. Deshmukh: Buffalo continues to play a very predominant part in our dairy development.

Employees of Insurance Companies

*364. **Shri Gidwani:** Will the Minister of Labour be pleased to refer to the reply given to Starred Question No. 2096 on the 9th April, 1955, and state:

(a) whether it is a fact that a deputation of the Insurance Employees' Federation met him in Bombay on the 15th May, 1955, and submitted another memorandum in connection with the Insurance Industry in general and some of the Insurance companies in particular;

(b) whether it is also a fact that the deputation requested him that the dispute be referred to a tribunal for adjudication; and

(c) if so, whether Government have considered the proposal and taken any decision thereon?

The Deputy Minister of Labour (Shri Abid Ali): (a) Yes.

(b) Yes.

(c) One of the cases has since been settled in mutual negotiation. Government do not consider that the other cases merit reference for adjudication.

Shri Gidwani: What are the reasons for not referring them for adjudication?

Shri Abid Ali: These are retrenchment cases. The insurance companies concerned have been losing business considerably every year, and therefore the retrenchment was found to be justified.

Agricultural Development Programme

*365. **Shri Dabhi:** Will the Minister of Food and Agriculture be pleased to state:

(a) the subjects discussed at the recent Conference with the representatives of State Governments for framing an Agricultural Development Programme; and;

(b) whether any targets for the Second Five Year Plan have been decided upon?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) The Conference of States' Representatives discussed proposals relating to agricultural production, animal husbandry and dairy development, fisheries, soil conservation, forestry, agricultural education, agricultural research and training and resettlement of landless labourers, etc.

(b) The targets for the Second Five Year Plan are still under consideration in consultation with the Planning Commission and the State Governments.

Shri Dabhi: May I know the approximate amount likely to be allocated for agricultural development during the Second Five Year Plan?

Dr. P. S. Deshmukh: That is one of the things which is still under discussion, and it will be very wrong to give any figure at this stage.

Shri R. S. Diwan: The amounts granted by the Central Government to the State Governments for agricultural development have in many cases not been consumed for want of technical personnel. May I know if this subject was discussed in the conference and what the Government is going to do in respect of that?

Dr. P. S. Deshmukh: I could not say whether this side-issue was raised by somebody; I am unable to give the information.

श्री बिभूति मिश्र: क्या इस कान्फ्रेंस में यह भी बात तय हुई थी कि एग्रीकल्चरल कमोडिटीज की कीमत मैन्युफैक्चर्ड गुड्स के साथ टैग की जाय ?

Dr. P. S. Deshmukh: In the development of agriculture, prices certainly play an important part. There is no resolution on record, but I am sure that directly or indirectly this must have figured in the deliberations of the Conference.

Rural Water Supply Scheme

*366. **Shri S. C. Samanta:** Will the Minister of Health be pleased to state:

(a) whether the locations of the two pilot projects for the provision of adequate water supply and proper sewage system in villages have since been finally settled;

(b) what special considerations were taken into account in selecting the sites for the pilot projects; and

(c) whether Government propose to take up any more such pilot projects in the near future?

The Deputy Minister of Health (Shrimati Chandrasekhar): (a) Not yet.

(b) Does not arise.

(c) There is no such proposal at present.

Shri S. C. Samanta: Since one year, we are hearing about these projects. May I know the reason why the location has not yet been settled?

Shrimati Chandrasekhar: We have referred the matter to the State Governments. We have not yet received replies from the State Governments. Till then, we cannot decide where to locate these two projects.

Shri S. C. Samanta: May I know what will be the share of the Central Government in this scheme and what will be the share of the W.H.O.?

Shrimati Chandrasekhar: The W.H.O. will be providing two Public Health Engineers for two years—one for assignment to each of the States where the projects may be started. They will work in the projects. The Government of India will provide all personnel, materials supplies and equipment necessary for the projects, transport, all incidental expenses including local transportation, medical care and hospitalisation charges of the international personnel.

Shri S. C. Samanta: May I know the area that would be covered by this scheme or the population that would be included in the area?

Shrimati Chandrasekhar: Each project will cater to the needs of 100 villages or about 100,000 people.

Kurnool Head Post Office

*367. **Shri C. R. Chowdary:** Will the Minister of Communications be pleased to state:

(a) whether any site has been acquired for the construction of a Head Post office at Kurnool; and

(b) the estimated cost thereof?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes. Possession of the site has not yet been obtained as instructions are awaited from the State Government.

(b) Rs. 82,764/-.

Shri C. R. Chowdary: May I know whether there is any provision for providing quarters to the staff under this scheme?

Shri Jagjivan Ram: Some quarters have already been constructed and some are under construction.

Shri Nanadas: May I know the extent of the House site acquired?

Shri Jagjivan Ram: It is 1.71 acres for the office building.

Shri B. S. Murthy: May I know whether the site is also intended to house the Directorate of Posts and Telegraphs, Andhra?

Shri Jagjivan Ram: I am not quite sure; but, for the present, it will accommodate the Directorate also.

Foodgrains Import

*368. **Shri Ibrahim:** Will the Minister of Food and Agriculture be pleased to state the amount of freight paid on

imported foodgrains to Indian owned ships and foreign ships separately, during the years 1953-54 and 1954-55?

The Minister of Agriculture (Dr. P. S. Deshmukh): The freight paid on imported foodgrains to Indian owned ships and foreign ships during the years 1953-54 and 1954-55 separately is as under:

Year	Freights (in Lakhs of Rupees)	
	Indian owned ships	Foreign ships
1953-54	53	750
1954-55	144	259

श्री इब्राहीम : क्या मैं जान सकता हूँ कि फारेन शिप्स को इतना फ्रंट क्यों दिया जाता है ?

डा० पी० एस० देशमुख : हमारे पास इतने जहाज नहीं थे कि हम अपना मारा माल अपने ही जहाजों में लाते ।

Indigenous System of Medicines

*370. **Shri Jhulan Sinha:** Will the Minister of Health be pleased to state the action taken, if any, on the recommendations of the Central Health Council for the constitution of a Committee for laying down a uniform policy for the education and regulation of the practice of *Vaidis*, *Hakims* and *Homoeopaths*?

The Deputy Minister of Health (Shrimati Chandrasekhar): The Government of India appointed a Committee on the 27th April, 1955, under the Chairmanship of Shri Dyashankar Trikamji Dave, Minister for Health, Government of Saurashtra, to go into the question.

Shri Jhulan Sinha: May I know if the Government are aware of the varying standards obtaining in this country, bordering almost on chaotic conditions and the need for taking the earliest steps in the matter?

Shrimati Chandrasekhar: All this will be gone into by the Committee that has been appointed. When they submit the report, all that would be taken into consideration.

Shri Achuthan: May I know whether that Committee includes allopathic doctors?

Shrimati Chandrasekhar: The Members consist of Ministers from the various States. There is also a doctor, who is the Director of the Central Institute of Research in Indigenous Systems of Medicine, Jamnagar.

All India Soil Survey

*371. **Shri Bishwa Nath Roy:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that Government propose to undertake an All India Soil Survey for the purpose of agricultural improvement; and

(b) if so, whether any decision has been taken for starting new Agricultural Research Stations in the country?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes. A scheme of All India Soil Survey to be conducted in four regional zones, has been sanctioned from this year. Indian Agricultural Research Institute will co-ordinate the work of these four zones.

(b) No.

Shri Bishwa Nath Roy: May I know whether this year soil survey has been undertaken in area?

Dr. P. S. Deshmukh: Soil surveys beyond the scheme that is proposed are being carried out by some of the States themselves. These four zones will be starting very soon.

Shri Bishwa Nath Roy: May I know whether any scheme is under consideration for starting new research stations under the Second Five Year Plan?

Dr. P. S. Deshmukh: That is still under discussion so far as extension of research is concerned.

Shri Bishwa Nath Roy: May I know how many research stations there are at present in the country?

Dr. P. S. Deshmukh: I could not off hand say.

Shri V. P. Nayar: May I know what is the duration of this course? What will be the number of students who will undergo this course every year?

Dr. P. S. Deshmukh: I have not referred to any course of training. This is a soil survey which is going to survey the various areas.

Shri R. S. Diwan: Before undertaking any fresh survey, may I know if Government have acted upon the survey reports of the regions which have already been surveyed, for example, by Ramamurthi and other people?

Dr. P. S. Deshmukh: I am sure no survey has remained un-used. Surveys are carried out with some purpose and I am sure the purpose is pursued.

Purchase of Indigenous Stores

*372. **Shri Bibhuti Mishra:** Will the Minister of Railways be pleased to state:

(a) the number of indigenous products standardized for use on Railways

as a result of trials arranged to test their suitability; and

(b) the approximate value thereof?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). If the Hon'ble Member has in mind the Press Note recently issued inviting offers from indigenous manufacturers for trials of their products, then it is too early to say.

श्री बिभूति मिश्र : क्या सरकार इन्डिजिनस सामानों की बड़ी बड़ी फैक्टरियों से खरीदेगी या जो गांव गरीब और छोटे-छोटे मोहार बनाते हैं उनसे भी खरीदेगी ?

Shri Alagesan: The articles that are in use in the railways are not capable of being manufactured by the hand.

श्री बिभूति मिश्र : बहुत से रेलवे के सामान ऐसे होते हैं जैसे पेंच पुर्जे और छोटी छोटी कांटी जिनको गांव के गरीब मोहार बनाते हैं। अगर रेलवे उनको खरीदे तो उनकी जीविका चल सकती है। क्या सरकार इस पर ध्यान देगी ?

रेलवे तथा परिवहन मंत्री (श्री एस० बी० शास्त्री) : ध्यान तो सिर्फ रेलवे को ही नहीं सारी गवर्नमेंट को देना है। लेकिन जो चीज जहां आसानी से बन सकती है और सस्ते में बन सकती है वहां बनानी पड़ेगी। अगर एक फैक्ट्री पुर्जों के बनाने के लिये बनाई गई तो वहां छोटे पुर्जे भी बनते हैं तो वे अलग तो फिर नहीं बनाये जा सकते।

फफूंदी

*373. **श्री के० जी० देशमुख :** क्या खाद्य तथा कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि १९५४-५५ में पंजाब में गेहूं की फसल पर फफूंदी से उत्पन्न होने वाला एक रोग देखने में आया था ;

(ख) क्या यह सच है कि इस रोग से पंजाब में गेहूं की फसल को ४० लाख रुपये की क्षति हुई है; और

(ग) यदि हां, तो इस रोग को रोकने के लिये सरकार ने क्या कार्यवाही की है ?

कृषि मंत्री (डा० पी० एस० देशमुख) : (क) से (ग). सभा के टेबिल पर एक विवरण रखा दिया गया है। [देखिये परिशिष्ट ३ अनुबन्ध संख्या २५]।

श्री के० जी० देशमुख : क्या मैं जान सकता हूँ कि इस के पहले भी कभी इस रोग का असर हमारे देश में हुआ था ?

Dr. P. S. Deshmukh : I think, Sir, it has occurred before as early as the year 1952, and probably before also.

श्री के० जी० देशमुख : जो उपाय पहले किये गये थे, क्या वह कार्तकारों को बतलाये गये हैं ?

डा० पी० एस० देशमुख : जी हाँ, इस बारे में कोशिश हो रही है, जैसा कि स्टेटमेंट में बताया गया है।

श्री के० जी० देशमुख : इस रोग का असर किसी खास किस्म के गेहूँ पर होता है या सभी प्रकार के गेहूँ पर होता है ?

डा० पी० एस० देशमुख : यह इन्फार्मेशन फ़िलहाल मेरे पास नहीं है।

Dr. Rama Rao: Government have developed two varieties resistant to this disease and they have developed simple method of fighting this disease. In spite of these two facts, may I know why this disease is still so prevalent? What are the Government doing to popularise these two methods?

Dr. P. S. Deshmukh: It has been already stated in the statement that we are trying to treat a very large amount of seed with this method and it is becoming popular with the cultivators also. I am sure the incidence of the disease will diminish as time goes on.

रेल दुर्घटना

*३७४. श्री रघुनाथ सिंह : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि २४ मई १९५५ को खरघोडा रेलवे साइडिंग पर एक मालगाड़ी एक ट्रक से टकरा गई जिस से पांच व्यक्तियों की मृत्यु हो गई; और

(ख) यदि हाँ, तो दुर्घटना के कारण क्या थे ?

रेलवे तथा परिवहन मंत्री के सहायक सचिव (श्री शाहनवाज खाँ) : (क) और (ख). विवरण सभा पटल पर रखा है। [देखिये परिशिष्ट ३ अनुबन्ध संख्या २६]

श्री रघुनाथ सिंह : मैं जानना चाहता हूँ कि जिन पांच आदमियों की मृत्यु हो गई थी, क्या उनको कोई हरजाना भी दिया गया है या नहीं ?

श्री शाहनवाज खाँ : न कोई हरजाना दिया गया है और न इसकी मांग ही की गई है।

Safety First Committees in Railway Workshops

*375. Shri A. K. Gopalan: Will the Minister of Railways be pleased to state:

(a) the number of accidents reported by the "Safety First Committees" on the Southern Railway during the period from the 1st January, 1954, to the 30th June, 1955;

(b) the number of accidents recognised as such by Government; and

(c) the amount of compensation paid in each case?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) These Committees do not report accidents to the administration.

(b) Information is being collected.

(c) A statement is laid on the Table of the House giving particulars of the compensation paid in the Golden Rock Workshops of the Southern Railway during 1954 and for six months of 1955 [See Appendix III, annexure No. 27], but similar information is not readily available in respect of the other workshops of that Railway.

Shri A. K. Gopalan: May I know whether any such information of some accident at Shoranur in the Southern Railway has come to the notice of the Government?

Shri Shahnawaz Khan: I do not have any definite information with me now, but I shall obtain the information for the hon. Member.

Shri V. P. Nayar: In answer to part (b) of the question, the hon. minister said that information is being collected. Am I to understand that at present there is no arrangement by which accidents are reported to some central organisation as and when they occur?

The Deputy Minister of Railways and Transport (Shri Alagesan): This information is with the Railways. They have not been able to send it in time. We are expecting that information and it can be placed on the Table of the House.

Shri V. P. Nayar: Unfortunately that is not the question. He says....

Mr. Speaker: The hon. Member wanted to know whether there is a central organisation at which all this information comes in so that it can be readily available.

Shri V. P. Nayar: So that such answers can be avoided in future.

Shri Alagesan: This is with respect to the period 1st January to 30th June. We have not had information so far.

Warehouses

*377. **Shri Jethalal Joshi:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government propose to construct warehouses in every village to store foodgrains;

(b) If so, how many warehouses will be constructed by the end of 1956; and

(c) the total expenditure proposed to be incurred on this account?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) It is not intended to construct warehouses at every village, but the objective is to have warehouses and godowns at all important points of trade.

(b) and (c). The proposals are at present in a formative stage.

Shri Jethalal Joshi: Will the Government encourage private persons to construct warehouses in case the Government finds it unable to do so?

Dr. P. S. Deshmukh: I do not see any reason why we should not encourage it provided the proposal and the scheme are in consonance with our ideas and policy.

Shri Jethalal Joshi: May I know how many of the store-houses are at present Government-owned, and how many are taken on hire?

Dr. P. S. Deshmukh: It is difficult to reply to this question because I do not know if the hon. Member wants only the Government of India's store-houses. The information is not available with me at the moment.

Shri T. S. A. Chettiar: As this matter is connected with rural banking, when does Government propose to introduce the Bill which they promised to introduce?

Dr. P. S. Deshmukh: Very shortly. Within a week or two.

सरदार ए० एस० सहगल : क्या मैं जान सकता हूँ कि जिस वक्त फूड कंट्रोल आर्डर था उस वक्त तमाम स्टेट्स में बेयर हाउस बनाये गये थे, क्या वे तमाम बेयर हाउस केन्द्रीय सरकार के कब्जे में हैं या प्रांतीय सरकारों के कब्जे में?

डा० पी० एस० बेशमुख : जो हमारे अपने बेयर हाउस थे वे हमारे पास हैं। और भी काफी गोडाउंस हमारे पास हैं हमारे पास गल्ला इतना ज्यादा है कि उसको रखने के लिये हमारे पास जगह नहीं है।

Shri N. B. Chowdhury: May I know whether the proposed constructions will be by the Government themselves, or the work would be entrusted to the proposed Warehousing Board?

Dr. P. S. Deshmukh: I would like my hon. friend to await the introduction of the Bill.

वन आयोग

*३७९. **श्री भागवत झा आजाद :** क्या साहब और कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि सरकार एक वन आयोग स्थापित करने का विचार कर रही है; और

(ख) यदि हां, तो इस आयोग को कौन से काम के सौंपे जाने की सम्भावना है ?

कृषि मंत्री (डा० पी० एस० बेशमुख) : (क) सरकार एक वन आयोग स्थापित करने के प्रश्न पर विचार कर रही है।

(ख) स्थापित हो जाने पर स. अबन है कि आयोग नीचे दिखलाये हुये काम के काम करे।

- (१) कार्य प्रणाली की प्रधान योजनाओं और निर्धारित रीति में फेरफार की सूक्ष्म परीक्षा करना ।
- (२) वन सम्बन्धी आंकड़ों और समाचार का संग्रह कर के उन्हें नियमित रूप देना और पूरे समय पर प्रकाशित करना ।
- (३) मंडियों में खरीदी बित्री और दूसरी हालतों का अध्ययन करना ।
- (४) राज्यों और विदेशों से प्राप्त टेक्निकल जानकारी को एकत्रित करके उस का प्रसारण करना ।

संभव है कि वन सम्बन्धी बातों को लोकप्रिय बनाने के लिये आयोग विस्तार कार्य भी हाथ में ले ।

श्री भागवत शा आजाद : क्या विभिन्न राज्यों ने इस सम्बन्ध में अपनी कोई सम्मति केन्द्रीय सरकार के पास भेजी है ?

डा० पी० एस० देशमुख : हमने एक फारेस्ट बोर्ड की मीटिंग बुलाई थी और वहां पर मालूम हुआ कि सभी इसके पक्ष में हैं ।

श्री भागवत शा आजाद : चूंकि समस्त हिन्दुस्तान में जंगलों और जंगलों से उत्पन्न विभिन्न चीजों का बड़े पैमाने पर दुरुपयोग हो रहा है, तो क्या यह आयोग इस बारे में भी सिफारिशें करेगा कि इन सम्पत्तियों को बचाने के लिये क्या उपाय सरकार करे ?

डा० पी० एस० देशमुख : मैंने काफी तफ़्सील में इस आयोग के बनाने के उद्देश्यों को बतलाया है । इन उद्देश्यों को देख कर मैं समझता हूं सदस्य महोदय क्या कर सकते हैं जो बात उन्होंने कही है, वह इस में आ सकती है या नहीं ।

श्री भागवत शा आजाद : क्या सरकार यह बता सकती है कि चूंकि समस्त हिन्दुस्तान में जंगलों और जंगलों से पैदा होने वाली सम्पत्तियों का बड़े पैमाने पर दुरुपयोग हो रहा है, इसलिये आयोग से एक निश्चित समय से पहले अपनी रिपोर्ट देने को कहा जाये ?

डा० पी० एस० देशमुख : यह बात जो माननीय सदस्य ने बतलाई है उस को हल करने के लिये कमीशन की आवश्यकता नहीं है । इस में हम दिल-चस्पी ले रहे हैं और इस पर गौर भी कर रहे हैं ।

श्री भक्त दर्शन : क्या यह सत्य नहीं है कि जो कार्य इस आयोग को सौंपे जाने हैं, जिन के बारे में कि अभी माननीय मंत्री जी ने बतलाया, यह कार्य अभी भी वन विभाग द्वारा किये जा रहे हैं ?

डा० पी० एस० देशमुख : जी नहीं, उतने पैमाने पर नहीं जितने पैमाने पर कि हम चाहते हैं । साथ ही हमारे पास काफी स्टाफ भी नहीं है । सूक्ष्म परीक्षा, जैसा कि अभी बताया गया है, करने के लिये फिलहाल बन्दोबस्त नहीं है ।

Fishing Craft Training

*380. **Shri V. P. Nayar:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether there is any proposal to open a training school for imparting training to fishermen in the handling of fishing craft worked by engines;

(b) if so, where the training institution will be located; and

(c) how many persons will be trained there every year?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes, Sir.

(b) Satpati (Bombay), Tuticorin (Madras) and Cochin (Travancore-Cochin).

(c) 120.

Shri V. P. Nayar: May I know whether this number has been fixed with reference to the possible number of people

who will be required to handle the mechanised fishing industry in the course of the next Five Year Plan?

Dr. P. S. Deshmukh: I am not sure if it bears a very direct and proper relationship to that, but we have to take into account various other considerations also in determining the number of candidates we can train, but I will certainly bear this suggestion in mind.

Shri V. P. Nayar: May I know whether the number of 110 as given out by the Minister is the total number for all these three schools, or is it 110 each?

Dr. P. S. Deshmukh: It is the total.

Shri Nanadas: May I know the facilities proposed to be given to the trainees?

Dr. P. S. Deshmukh: I have not got a list of the facilities here. We will certainly make the necessary arrangements. It being a six months course, all the necessary facilities which will make a success of the centre will be provided.

Shri B. S. Murthy: May I know....

Mr. Speaker: Next question.

डाक तथा तार विभाग

*३८१. श्री भक्त बर्शन : क्या संचार मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि डाक तथा तार विभाग के कार्यों में वृद्धि हो जाने के कारण परिमण्डलों, मण्डलों और खण्ड मण्डलों (निरीक्षक क्षेत्रों) की संख्या बढ़ाने और उनका पुनर्संगठन करने पर विचार किया जा रहा है; और

(ख) यदि हाँ, तो हम सम्बन्ध में अब तक क्या प्रगति हुई है ?

संचार मंत्री (श्री जगजीवन राम) :

(क) जी हाँ, परिमण्डलों को छोड़ कर, यह बात ठीक है। फिर भी राज्य पुनः संगठन कमीशन की रिपोर्ट प्राप्त होने पर कुछ एक परिमण्डलों का पुनः संगठन करना आवश्यक हो सकता है।

(ख) मद्रास और मध्य प्रदेश परिमण्डलों का विभाजन करके आन्ध्र और राजस्थान में दो नये परिमण्डल १९५३ में बनाय गये थे। अब परिमण्डलों की संख्या

बढ़ाने की कोई विशेष आवश्यकता नहीं है। १९५३ से ४१ डाक-सम्बन्धी अतिरिक्त मण्डल, ६ रेल डाक मण्डल तथा तार विभाग में ११ अन्य इंजीनियरिंग मण्डल बनाये जा चुके हैं। जहाँ कहीं उचित समझा जायेगा कुछ और नये मण्डलों की मंजूरी भी दी जायेगी।

डाक-घरों तथा मेल लाइन संस्थापनों की संख्या में वृद्धि होने के साथ साथ निरीक्षकों की संख्या भी बढ़ायी जा रही है।

श्री भक्त बर्शन : क्या इस सम्बन्ध में सारे देश के लिए किसी योजना का नकशा तैयार कर लिया गया है कि जिस समय डाक तथा तार की सुविधाओं का विस्तार पूरा हो जायेगा, तब देश को कितने परिमण्डलों, मण्डलों और इन्स्पेक्टर एरियाज की आवश्यकता होगी ?

श्री जगजीवन राम : यह तो विकास के ऊपर निर्भर करता है—यह सिर्फ मण्डलों, निरीक्षकों की संख्या और सिर्फ डाकखानों की संख्या पर निर्भर नहीं करता है, बल्कि काम पर निर्भर करता है। जैसे जैसे काम बढ़ता जाता है, वैसे वैसे मण्डलों, खंड मण्डलों और निरीक्षकों की संख्या भी बढ़ा दी जाती है। पहले से ही कोई योजना बना लेना सम्भव नहीं है ?

श्री भक्त बर्शन : क्या यह सत्य है कि अब जो नये मण्डल अर्थात् डिबिजन खोले जा रहे हैं, वे एक ही जिले के लिये एक के हिसाब से खोले जा रहे हैं, जब कि पुराने मण्डल तीन तीन, चार चार जिलों के लिये खुले हुये हैं और उनके पास काफ़ी काम है ?

श्री जगजीवन राम : यह तो काम के ऊपर निर्भर करता है। अगर एक ही जिले में बहुत ज्यादा काम है, तो सम्भव है कि उस जिले में दो मण्डल खोले जायें।

और अगर वहां ज्यादा काम नहीं है तो सम्भव है कि दो तीन जिलों में एक मण्डल खोला जाये।

Shri Thimmaiah : May I know whether there is any separate development wing in each division or the inspector himself has to attend to the development work?

Shri Jagjivan Ram : It is not possible to have a development wing in each division. Perhaps, the hon. Member is aware that division is a very small unit. The work of development has to be done at a central place, either in the Directorate or in the Circle office.

F. A. O.

*382. **Shri Nanadas :** Will the Minister of Food and Agriculture be pleased to state :

(a) whether it is a fact that the Food and Agriculture Organisation have worked out a scheme for making available to India surplus food from other countries; and

(b) if so, the details thereof?

The Minister of Agriculture (Dr. P. S. Deshmukh) : (a) and (b). No scheme as such has been worked out by F. A. O. A pilot study on "Uses of Agricultural surpluses to finance economic development in under-developed countries" has, however, been carried out by the F. A. O. Copies of this report have been placed in the library of the Lok Sabha.

Shri Nanadas : May I know whether Government have examined this pilot study, and if so, what decision have Government taken in this respect?

The Minister of Food and Agriculture (Shri A. P. Jain) : This study came up for consideration in Rome recently in the Committee for Commodity Problems. It was discussed in a general way, but the final decision on this scheme was postponed to the next session.

Shri Nanadas : In view of the fact that the prices of foodgrains are falling in the country, may I know whether Government have examined the effect of importing such surplus food into this country?

Shri A. P. Jain : That question is always before us; and before we decide upon import we take that point into consideration.

वन्य पशु

*३८३. **सेठ गोविन्द दास :** क्या कृषि और वन्य पशु मंत्री यह बताने की कृपा करेंगे कि १९५४-५५ में वन्य पशुओं के संरक्षण पर कितना व्यय किया गया?

कृषि मंत्री (डा० पी० एस० देशमुख) : वन्य पशुओं के संरक्षण पर भारत सरकार ने कोई भी व्यय नहीं किया है। किन्तु इन्डियन बोर्ड ऑफ वाइल्ड लाइफ के कार्यों के सम्बन्ध में सन् १९५४-५५ में १२३० रुपये १४ आने का व्यय हुआ है। इस बारे में राज्य सरकारों द्वारा किये गये व्यय की जानकारी डकट्री की जा रही है और यथासमय सभा पटल पर रख दी जायेगी।

सेठ गोविन्द दास : इन वन्य पशुओं में कौन कौन से पशु आते हैं? क्या सरकार के पास कोई तालका है?

डा० पी० एस० देशमुख : उन सभी पशुओं की लिस्ट देना कठिन है, जो कि वनों में रहते हैं—और वह लिस्ट कुछ फाइनल भी नहीं है, क्योंकि नये जानवर भी वहां जा सकते हैं।

सेठ गोविन्द दास : क्या यह बात सही है कि भ्रंशेजी राज्य के समाप्त होने के बाद शिकारियों की कमी की वजह से सिंहों और दूसरे वन्य पशुओं की रक्षा बहुत हद तक अपने आप ही हो गई है?

कृषि और वन्य पशु मंत्री (श्री ए० पी० जैन) : नहीं, बात इसके उलट है। अब पशु—और खास तौर पर शेर और चीता—ज्यादा बेरहमी से मारे जा रहे हैं।

Employment Exchanges

*384. **Pandit D. N. Tiwary :** Will the Minister of Labour be pleased to state :

(a) whether it is a fact that the duration of the registrations at the Employment Exchanges is only two months;

(b) whether the registrations of those who fail to renew their registrations within two months, are considered as new registrations; and

(c) whether Government are aware that this rule adversely affects the rural candidates, who are not able to go to the Employment Exchanges for some reason or the other?

The Deputy Minister of Labour (Shri Abid Ali) : (a) Yes.

(b) Yes, if they fail to renew within two months. A period of grace, of three days, is however, allowed.

(c) This rule should in no way adversely affect rural candidates because such candidates are permitted to renew their registrations by post.

पंडित डी० एन० सिबारी : क्या मैं जान सकता हूँ कि क्या सरकार के पास कोई ऐसे आंकड़े हैं, जिन से मालूम हो कि कितने परसेंट नाम रीन्यूअल न कराने के कारण कट जाते हैं ?

श्री आबिद अली : जी हाँ, ऐसे आंकड़े हमारे पास हैं और अगर नोटिस दिया जाय, तो मैं पेश कर दूंगा।

पंडित डी० एन० सिबारी : क्या सरकार को यह बात मालूम है कि कुछ भाग्यशालियों को छोड़ कर सब लोगों को, जिनका नाम दर्ज होता है, नौकरी छः महीने के बाद मिलती है, पहले नहीं ?

श्री आबिद अली : मुमकिन है कि कुछ लोगों को एक साल नौकरी न मिले और कुछ को दो साल भी न मिले और कुछ को जल्दी मिल जाये। यह बात तो जगह और उसके उम्मीदवारों की संख्या पर अवलम्बित है।

पंडित डी० एन० सिबारी : इस समय को छः महीने तक बढ़ा देने में सरकार को क्या विरोध है ?

श्री आबिद अली : इसलिये कि हमें मालूम हो सके कि जिन लोगों ने खुद का रजिस्ट्रेशन कराया है, उनको नौकरी मिल गई है या नहीं, और वे नौकरी चाहते भी हैं या नहीं।

Shri A. M. Thomas : May I know whether the qualifications being equal, in sending applicants to the recruiting authority, priority of registration is a guiding principle? May I also enquire whether complaints have been reaching Government that in the matter of sending the applicants to the recruiting authority, favouritism is shown either by the employment exchange or at the instance of the recruiting authority?

Shri Abid Ali : Subject to the priorities, other qualifications being equal, first registered gets first opportunity. With regard to favouritism, I have been hearing this often, and I have always been requesting my friends to give us some specific instances to help us to find out favouritism, if any. With regard to the employing authority, we have no control.

Rice

***386. Chaudhri Muhammed Shafiee :** Will the Minister of Food and Agriculture be pleased to state :

(a) whether Government are supplying rice at a reduced price for the benefit of the districts which are vulnerable to floods;

(b) if so, the quantity which will be given to each State; and

(c) the price at which it will be given?

The Minister of Agriculture (Dr. P. S. Deshmukh) : (a) Rice and/or other foodgrains are issued by Government for concessional sale in districts which are actually affected by floods, and not which are merely vulnerable to floods.

(b) and (c). The need of the flood affected areas and the extent of distress caused by the floods determine in each case the quantity of foodgrains to be supplied for concessional sales and the price at which such sales should be made.

Shri N. B. Chowdhury : May I know whether the Government of West Bengal has approached the Central Government for certain subsidies to sell rice at a cheap rate in the areas which were affected by drought and floods last year?

The Minister of Food and Agriculture (Shri A. P. Jain) : A couple of days ago, I received a request from the Food Minister of Bengal to the effect that relief for flood and drought may be given according to the accepted formula, namely 50 per cent. up to an expenditure of Rs. 2 crores, and 75 per cent. in respect of any expenditure in excess of Rs. 2 crores; and I have approved of it.

Bombay Port

*387. **Shri M. S. Gurupadaswamy :** Will the Minister of Transport be pleased to state :

(a) whether the first berth in the Marine Oil Terminal at Bombay has been completed ;

(b) if so, the total expenditure incurred thereon ; and

(c) the progress made for the completion of the other berths ?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Yes.

(b) It is difficult to determine how much of the expenditure on the Marine Oil Terminal pertains to berth No. 1. The total expenditure of the project upto 31st March, 1955, amounted to about Rs. 6.3 crores.

(c) The second berth was completed on the 12th July, 1955. The work on the third berth is progressing.

Shri M. S. Gurupadaswamy : May I know how much time is required to complete all the berths ?

Shri Alagesan : The third berth also will be completed very soon.

Shri M. S. Gurupadaswamy : May I know how many foreign technical personnel have been employed for the purpose of these works ?

Shri Alagesan : This has been let on contract, and Messrs. Royal Netherlands Harbour Works are executing the work.

Shri M. S. Gurupadaswamy : To which country do they belong ?

Shri Alagesan : I think they are from Holland.

खाद्यान्नों का क्रय

*३८८. श्री बी० के० दास : क्या खाद्य और कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) केन्द्रीय सरकार ने १९५५-५६ में राज्यवार कितने मूल्य का गेहूं और ज्वार खरीदा है ;

(ख) इस खरीद के लिये राज्य सरकारों को क्या कोई कमीशन या मेहनताना दिया गया है ;

(ग) यदि हां, तो किस दर से और प्रत्येक राज्य को कितनी राशि दी गई ; और

(घ) क्या खरीद किये हुये खाद्यान्न को सरकार किसानों को बीज के रूप में बांटने का विचार करती है ?

The Minister of Agriculture (Dr. P. S. Deshmukh) : (a) A statement is laid on the Table of the Lok Sabha [See Appendix III, annexure No. 28].

(b) and (c). No Commission or remuneration is being paid to the State Governments for these purchases. The arrangement, however, is that in the case of jowar, the actual out of pocket expenses are being paid to the State Governments, and for wheat the State Governments are being paid at a flat rate which is intended to cover all expenses for purchase and preservation of wheat for six months. A statement showing the flat rate payable to each State for wheat is placed on the Table of Lok Sabha. [See Appendix III, annexure No. 28].

(d) There is no scheme to distribute corn so purchased as seed, but at their request the U. P. Government have been authorised to sell jowar for seed purposes to those who may wish to buy it. Similar requests from other Governments will be considered on merits.

Shri B. K. Das : In the statement the names of six States from which wheat was purchased and of seven States from which jowar was purchased are given. Do I understand that the price of wheat in other wheat-producing States, such as Bihar, is above Rs. 10 per maund ?

Dr. P. S. Deshmukh : I think the inference is correct.

The Minister of Food and Agriculture (Shri A. P. Jain) : May I add that in certain parts of Bihar wheat is selling at Rs. 18 per maund ?

Shri B. K. Das : May I know whether there is any scheme for giving price-support to any other foodgrain in any part of the country ?

Shri A. P. Jain : If need arises, we shall give price-support to other grains also.

सेठ अचल सिंह : क्या मंत्री महोदय बताने की कृपा करेंगे कि जो ज्वार और गेहूं स्टेट गवर्नमेंट खरीद रही हैं उसके नफ़े और नुक़सान का ज़िमेदार कौन होगा ?

श्री ए० पी० जैन : उसके नफे और नुकसान के जिम्मेदार हम हैं।

Dr. Rama Rao : The purchase price of wheat has been given as Rs. 10 per maund. May I know how this compares with the price we pay for the wheat we get from the United States of America under the recent agreement ?

Shri A. P. Jain : The price of imported wheat varies from time to time according to the prevailing price there. Of late, speaking in a general way it has varied from Rs. 13-8-0 to Rs. 15-12 at the ports.

C. T. O.

*389. **Shri Kamath :** Will the Minister of Food and Agriculture be pleased to state :

(a) whether any complaints, protests or resistance have been reported to Government from any States against the Central Tractor Organisation;

(b) if so, from which States ;

(c) the nature of such complaints, protests and resistance ; and

(d) the action taken by Government in the matter ?

The Minister of Agriculture (Dr. P. S. Deshmukh) : (a) to (d). A statement is placed on the Table of the Lok Sabha. [See Appendix III, annexure No. 29].

Shri Kamath : With regard to the statement laid on the Table of the House, so far at least as Madhya Pradesh is concerned, is it a fact that the opposition to the tractor operations, particularly in Hoshangabad district, has arisen not merely on account of the high charges, as mentioned in the first part of the answer, but also because these operations have been undertaken without the consent of the cultivators concerned, and have been compulsory ?

Dr. P. S. Deshmukh : The CTO acts according to a certain plan and we are guided by the proposals of the State Government. But in a particular area where we want that tractorisation should be done, there can be a few cultivators who do not like it ; but for the benefit of the larger number, the State Government and we had agreed to tractorise the land.

Shri Kamath : Has the attention of Government been drawn to an incident in Banapura Tahsil of Hoshangabad district where women and children laid themselves prostrate in front of a tractor and the tractor had to be withdrawn on account of that ?

Dr. P. S. Deshmukh : Such tricks are often resorted to in many places and in many instances.

Shri Kamath : With regard to the last part of the answer laid on the Table of the House, may I ask whether Government have received representations for reduction in the rates of interest on tractor *taccavi* ?

Dr. P. S. Deshmukh : I am not aware of this specific representation, but representations are always being made since popular Ministries have come into being.

The Minister of Food and Agriculture (Shri A. P. Jain) : May I add that the rate charged for tractorisation has been reduced from Rs. 52 to Rs. 45, and recently it has been reduced from Rs. 45 to Rs. 40 per acre ?

Shri Kamath : The last sentence of the last part of the statement says that further reductions are now under consideration. When do Government expect to announce these further reductions ?

Shri A. P. Jain : Under the Second Five Year Plan.

Shri Kamath : Second Five Year Plan ? Too late.

Employees' State Insurance Corporation

*390. **Shri L. Eacharan :** Will the Minister of Labour be pleased to state :

(a) whether it is a fact that the Employees' State Insurance Corporation has been exempted from recruiting candidates through the Employment Exchanges ;

(b) if so, the reasons there for ; and

(c) the number of other departments under the Central Government which have been exempted from recruitments through the Employment Exchanges ?

The Deputy Minister of Labour (Shri Abid Ali) : (a) and (b). Statutory corporations like the Employees' State Insurance Corporation which have independent powers under the Law, do not at present come within the Government of India rules pertaining to recruitment under the Central Government but the question of making the Employment Exchange procedure obligatory on them also is under consideration.

(c) No Ministry or Department of the Central Government, to which general rules of recruitment under the Government of India apply, has been exempted from recruitment through the Employment Exchanges.

Shri L. Eacharan : May I know what percentage of the Central Government vacancies are notified by the departments to the Employment Exchanges ?

Shri Abid Ali : Mostly.

Shri Nanadas : May I know the categories of jobs for which exemption is given at present, and the reasons for giving such kind of exemption ?

Shri Abid Ali : I have already stated that no exemptions are given.

Workshop at Jagadhari

*391. **Sardar Iqbal Singh :** Will the Minister of Railways be pleased to refer to the reply given to Starred Question No. 76 on the 23rd February, 1955 and state :

(a) whether it has been finally decided to establish a locomotive workshop at Jagadhari ;

(b) if so, when the construction work will start ; and

(c) the estimated recurring and non-recurring expenditure to be incurred on this workshop ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan) : (a) No.

(b) and (c). Do not arise.

Sardar Iqbal Singh : May I know whether, with the loss of the railway workshop at Lahore, Government will consider the proposal to establish one Railway workshop in the Punjab region ?

Shri Shahnawaz Khan : The idea of establishing a first-rate railway workshop in Punjab has been accepted in principle. Negotiations are going on with the Government of East Punjab regarding acquiring the Punjab Government's Central Workshop at Amritsar. As soon as the negotiations are completed, we will go ahead.

Sardar Iqbal Singh : May I know whether Government want to shift this Central Workshop from Amritsar to somewhere else or want to run the workshop there ?

Shri Shahnawaz Khan : The negotiations are still going on. Before we can think of shifting it from Amritsar, the negotiations must be completed.

The Minister of Railways and Transport (Shri L. B. Shastri) : The workshop is not to be transferred from Amritsar ; it will remain there. The Punjab Government has agreed to transfer the workshop to the railways ; the details are being looked into.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : The question is not of transfer of the workshop. It is only transfer of the organisation from the Punjab Government to the Government of India. But the thing remains where it is.

Railway Lines in Orissa

*392. **Shri B. C. Das :** Will the Minister of Railways be pleased to state :

(a) whether the Railway Board has received any suggestions from the Government of Orissa for the construction of a railway line connecting Berhampur, Gopalpur and Durgaprasad ; and

(b) if so, when the survey is to be undertaken ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan) : (a) The Orissa State Government have not included this proposal when recommending lines to be taken up in the 2nd Plan Period.

(b) Does not arise.

Shri B. C. Das : May I know whether sometime in 1944 or 1945, there was a survey conducted by the railway authorities for a major part of this line from Berhampur to Russelkonda (Bhanjanagar) ?

Shri Shahnawaz Khan : No survey as such was carried out. But this prospect was looked into and it was also examined by the Central Board of Transport in March 1949, and it has been decided to drop this idea.

Shri B. C. Das : May I know whether Government are aware that this line connects the tribal area of Phulbani district with the modern world ?

The Minister of Railways and Transport (Shri L. B. Shastri) : That may be so, but there are many other important lines which have been given first priority. We have to take them up first ; this line will have to be considered at the appropriate time some time later.

Shri B. C. Das : May I know whether Government have received recommendations from the conference of the M. Ps. and MLAs. of Ganjam district to include this line in the Second Five Year Plan ?

Shri L. B. Shastri : I have not seen the resolution of that conference but the State Government have certainly sent their recommendation.

Milk Colonies

*395. **Shri Veeraswamy :** Will the Minister of Food and Agriculture be pleased to state :

(a) whether it is a fact that Government propose to start Milk Colonies in the country ;

(b) if so, their number and the names of the places where they will be located ; and

(c) estimated cost of this scheme ?

The Minister of Agriculture (Dr. P. S. Deshmukh) (a) Yes.

(b) and (c). The number and names of places and the total estimated cost will become available only after all the State Schemes to be included in the Second Five Year Plan, which are in the course of preparation or discussion are finalised. Necessary provision of funds to cover these schemes will be made in the Plan.

सेठ गोविन्द दास : क्या मैं जान सकता हूँ कि जहाँ तक दूध का यह प्रबन्ध है इन स्थानों में क्या इस बात का भी प्रयत्न किया जायगा कि जो जानवर रखे जाय उनकी नस्ल का भी सुधार किया जाय ?

Dr. P. S. Deshmukh : I think it would be possible to pay some attention to this also.

Shri B. S. Murthy : May I know whether in establishing these milk colonies the population of different States will be taken into consideration ?

Dr. P. S. Deshmukh : The main question is the resources and not the population ; it will also depend upon the milk habit of the people.

Shri Veeraswamy : May I know whether the object of the Government in starting the milk colonies is to make milk available at cheap rates to the poorer masses also ?

Dr. P. S. Deshmukh : Yes, Sir. We aim at various objectives. As a matter of fact, we also want to remove the nuisance of cattle from big cities ; we want to preserve them and we want to increase the yield of milk and we also want to look to the welfare of the consumer and give him cheaper milk.

रेल दुर्घटना

*३६८. **श्री अनिलदत्त सिंह :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि १४ जुलाई १९५५ को नरकटियागंज से मिमरिया घाट जाने वाली ट्रेन उत्तर-पूर्व रेलवे के दरभंगा स्टेशन पर एक लगेज बैन से टकरा गई ;

(ख) यदि हां तो दुर्घटना के कारण क्या थे ;

(ग) उसमें जन घन की क्या क्षति हुई ; और

(घ) क्या दुर्घटना की कोई जांच की गई है और यदि हां, तो उसका क्या परिणाम निकला ?

रेलवे तथा परिवहन मंत्री के सभा-सचिव (श्री शाहनवाज खां) : (क) जी हां, १४-७-५५ को शाम के ५ बज कर ७ मिनट पर जब ३३२ डाउन सवारी गाड़ी पूर्वोत्तर रेलवे के नरकटियागंज-समस्तीपुर सेक्शन के दरभंगा स्टेशन में दाखिल हो रही थी वह बन्द साइडिंग (Dead end siding) पर चली गयी और वहां खड़े सामान के डिब्बे (Luggage Van) से टकरा गयी।

(ख) और (घ). इस घटना का विभागीय जांच की गयी है जिसकी रिपोर्ट अभी तैयार नहीं है।

देखने में तो दुर्घटना का कारण यह जान पड़ता है कि सवारी गाड़ी तेजी के साथ प्लेटफार्म से बाहर निकल कर बन्द साइडिंग में चली गयी जिसके कांटे गलत ढंग पर बदले गये थे।

(ग) न कोई मरा और न घायल हुआ। इससे रेलवे को लगभग ३०० रुपये की हानि हुई।

श्री अनिलदत्त सिंह : इस दुर्घटना के लिये जो जवाबदेह व्यक्ति हैं उनके लिये क्या कोई विभागीय दंड देने की व्यवस्था की गई है ?

श्री शाहनवाज खां : इस मामले की जांच पड़ताल मुहकमाना तौर पर की गई है और उसकी फाइनल रिपोर्ट अभी नहीं आ सकी है।

Delhi Transport Service

*३७७. **श्री Radha Raman :** Will the Minister of Transport be pleased to state:

(a) the number of buses that have been added so far during the year 1955-56 to the fleet of the Delhi Transport Service ;

(b) the amount of loan given to the D.R.T. Authority by the Central Government during this year so far; and

(c) the total amount of loan so far given?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) 75.

(b) Nil.

(c) 155 lakhs.

Shri Radha Raman: May I know how many buses will be added to the fleet during the remaining portion of this year?

Shri Shah Nawaz Khan: 59.

Shri Radha Raman: May I know what is the amount of loan so far given to the D. R. T. by the Government and what is the rate of interest charged by the Government?

Shri Shah Nawaz Khan: As I said before, the total amount of loan so far given is Rs. 155 lakhs.

Shri Radha Raman: May I know the interest which Government is charging and how it is going to be repaid?

Shri Shah Nawaz Khan: The rate of interest varies from year to year. For the year 1953-54, it was 4½ per cent. for 1954-55 again it was 4½ per cent. It is being returned by instalments. No instalment is due in the year 1954-55.

Shri Radha Raman: May I know what will be the total number of buses running on the roads at the expiry of the First Five Year Plan in Delhi State?

Shri Shah Nawaz Khan: 405.

Shri V. P. Nayar: It was said that the total loans given to the company amounted to Rs. 155 lakhs. In the report of the Public Accounts Committee for 1953 they have pointed out that there is gross mismanagement in financial affairs, over-estimating, under-valuation of properties taken over by the Delhi Road Transport Authority and excessive annual recurring expenditure. May I know what is the amount actually advanced after the publication of this report?

Shri Shah Nawaz Khan: I shall require notice.

Rolling Stock

*400. **Shri D. C. Sharma:** Will the Minister of Railways be pleased to lay a statement on the Table of the House showing:

(a) the number of locomotives, boilers, coaches, wagons and cranes manufactured in India during the year 1955-56 so far; and

(b) their number supplied by foreign manufacturers during this period?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). A statement is laid on the Table of the Lok Sabha. [See Appendix III, annexure No. 30].

Shri D. C. Sharma: May I know if the import figures as given in this statement are samples of the imports that are made every year? I mean to say within the first two months 73 locomotives, 19 boilers, 51 coaches, 21 wagons and 8 cranes have been imported. May I know whether if this is divided by 2 and multiplied by 12 it will represent the total imports in a year made by the Railway Administration?

Shri Alagesan: The assumption is wrong.

Shri D. C. Sharma: May I know what efforts are being made to bridge the gap between imports and indigenous manufacture so far as locomotives are concerned? I find that 73 have been imported and 28 have been locally manufactured.

Shri Alagesan: As far as the locomotives are concerned, for the past 10 months we have been producing at the rate of 10 locomotives per month and also 8 boilers at Chittaranjan. The previous target was 120 locomotives and 50 spare boilers per year and it has been decided to take it up to 200 locomotives and 100 spare boilers. So far as the target of the TELCO is concerned it has been substantially raised. In spite of all this we will have to import locomotives for some time to come.

Shri D. C. Sharma: Are there no facilities for manufacturing cranes in this country because I find that all the 8 cranes have been imported from abroad?

Shri Alagesan: At present no capacity has been developed; but, we are trying to develop capacity for the manufacture of cranes.

Defalcations

*401. **Shri Gidwanji:** Will the Minister of Communications be pleased to state:

(a) the total number of cases of defalcations or loss of public money which came to light in the Post and Telegraph Department during the year 1954-55;

(b) what was the total amount involved in these cases; and

(c) how many officials of the Department are involved in these cases?

The Minister of Communications (Shri Jagjivan Ram): (a) 1256.

(b) Rs. 6,15,300 (approximately).

(c) 870.

Shri Gidwani: Has any punishment been awarded to the officers who were involved in these defalcations and, if so, what is the nature of the punishment?

Shri Jagjivan Ram: Two types of actions are taken against them. Some cases are referred to courts and in other departmental action is taken. During the year, 378 persons were prosecuted out of which 127 have been convicted and 27 acquitted. The others have been dealt with departmentally, the figures for which have not yet arrived at the Directorate.

Shri Gidwani: May I know whether the Government have included in the losses all public money apart from defalcation; and, if so, what are the losses?

Shri Jagjivan Ram: These are the losses; where defalcation takes place public money is also involved; either it is insurance or money order or things like that.

Shri Gidwani: My question was, apart from defalcation, what is the loss incurred by way of loss of insurance, parcels and other things.

Shri Jagjivan Ram: That figure I have not got at present. That, I think, will not be any appreciable figure.

Shri B. S. Murthy: May I know how many out of these 27 persons who have been acquitted are still in service and, if so, has any departmental action been taken against them?

Shri Jagjivan Ram: That depends upon the nature of the judgment of the court. In some cases where the acquittal is quite clean, departmental action is not taken. In some cases, even after acquittal by the court, some departmental action is taken.

Shri Gidwani: Apart from defalcation, may I know whether the loss of public money is due to lack of sufficient accommodation in many post offices, non-provision of security measures etc., and, if so, will Government take steps?

Shri Jagjivan Ram: That is hypothetical. I do concede that in certain post offices there is lack of accommodation. But that has not been the cause of any appreciable loss of goods or parcels or other things.

SHORT NOTICE QUESTION AND ANSWER

Floods in U.P.

S.N.Q.No. 2 Shri Raghunath Singh (on behalf of Shri Algu Rai Shastri): Will the Minister of Food and Agriculture be pleased to state:

(a) the extent of damage to life and property by heavy floods in the Eastern districts

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of Uttar Pradesh caused by incessant rains on the 15th/16th July, 1955;

(b) the names of the districts severely affected by floods; and

(c) the extent of the aid given by the Central Government to the districts affected by floods and the source from which the aid was given?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) to (c). I have got a statement which I may read out.

STATEMENT

The Districts of Azamgarh, Faizabad, Jaunpur, Gorakhpur and Basti in Eastern U. P. have been severely affected by the floods since 15th July, 1955. Distress has also been caused in certain other districts of the State.

2. It has not yet been possible for the State Government to make a precise assessment of the havoc caused by floods in these districts. Although no loss to life or cattle has so far been reported, it is feared that heavy damage has been caused to crops and houses, many low lying areas having been inundated.

3. The State Government has made adequate arrangements for supply of food-grains, fodder for cattle, medical relief and building material. The Army authorities have also offered to supply three units each of 200 men of Auxiliary Cadet Corps for rescue operation work in the areas, and tents for three thousand persons. The Army is also establishing one mobile wireless station in Azamgarh and another in Lucknow.

4. The State Government have reported sanctioning of an amount of 7.14 lakhs towards gratuitous relief. To the severely affected districts of Azamgarh, Faizabad, Basti, Jaunpur and Gorakhpur one lakh each has been sanctioned. The following districts have also been provided with funds to cover gratuitous relief:—

Allahabad and Sultanpur	—Rs. 35,000 each.
Balia and Doria	—Rs. 20,000 each.
Bahraich, Banaras, Barabanki, Farrukhabad, Ghazipur, Gonda, Hamirpur, Moradabad & Sitapur	—Rs. 10,000 each.
Bareilly	—Rs. 6,000 each
Pratapgarh	—Rs. 4,000
Rampur	—Rs. 2,000
Unnao	—Rs. 1,500
Shahjehanpur & Hardoi	—Rs. 500 each

In addition to the above, the State Government has further sanctioned the following amounts for construction of houses to give protection to the victims of the flood from the Chief Minister's Distress Relief Fund :—

Districts of Deoria & Sitapur	Rs. 20,000 each
Gorakhpur, Basti & Ballia	Rs. 15,000 each
Districts of Azamgarh, Bahraich, Gonda, Ghazipur, Banaras & Allahabad	Rs. 10,000 each.

Districts of Faizabad, Farrukhabad, Hamirpur, Barabanki, Unnao, Shahjehanpur, Fa-daun, Hardoi, Sultanpur, and Moradabad

Rs. 5,000 each.

A sum of Rs. 20,000/- has also been sanctioned by the Minister (Food & Agriculture) for relief measures in affected areas from the Indian People's Famine Trust Fund.

5. The Minister for Food approached the Union Minister for Food & Agriculture in connection with the relief measures. He has been assured that Central assistance will be available on the basis and in terms of principles adopted by the Govt. of India for financial assistance to States on account of natural calamities, namely—

The State Government will be eligible for grant of half the total expenditure on gratuitous relief upto Rs. 2 crores and three-fourths of the expenditure in excess thereof. In addition the Central Government will be prepared to render the following assistance as a part of the flood relief measures:—

- (i) A grant equal to half the expenditure on the repairs of Govt. roads, bridges, embankments, etc. damaged by floods in cases where such expenditure does not produce any new assets to the State.
- (ii) A grant equal to half the cost of repairs to administrative and other Govt. buildings, and
- (iii) in the case of roads and buildings of local bodies whose resources are exiguous and to whom the State Govt. cannot give the whole of the necessary additional assistance, a grant equal to 37½ per cent. of the cost of such repairs.

The State Government have further been assured that wheat, jowar, and rice in any quantity they require will be made available to them.

6. I may add that the situation has been changing from hour to hour and day to day. The reply to this question has been revised by me more than once as I was receiving more information. Since this reply was submitted to the Parliament Secretariat, I have received some further information which I would like to give:—

- (i) Distribution of gratuitous relief for rebuilding houses
Jaunpur Rs. 25,000; Azamgarh Rs. 2,50,000;
Basti Rs. 2,00,000; Gorakhpur Rs. 25,000; Faizabad Rs. 25,000; Allahabad Rs. 25,000; Sultanpur Rs. 25,000.

- (ii) Distress tahsi: Basti Rs. 2,00,000; Jaunpur Rs. 1,00,000; Azamgarh Rs. 1,00,000; Allahabad Rs. 1,00,000; Gorakhpur

Rs. 1,00,000; Faizabad Rs. 1,00,000; Sultanpur Rs. 1,00,000; Rai Bareilly Rs. 1,00,000; Ballia Rs. 20,000.

- (iii) Flood situation: Rivers ghagra and Rapti rising in Deoria and in Gorakhpur Rapti water entered a part of the city.

River Naraini receding in Deoria and Gorakhpur. Overall improvement in situation at other places.

श्री रघुनाथसिंह : फॉडर के वास्ते क्या इन्तजाम हुआ था जिस की इस वक़्त खास आवश्यकता है ?

Mr. Speaker : Order, order. I will just invite the hon. Member's attention that this is hardly a question on which supplementaries can be put, really speaking. He himself has called for a statement though he does not use the word 'statement'. An exhaustive statement of this kind has been made and the hon. Minister has said that the situation has been changing from hour to hour. It is, therefore, no use taking up time in putting supplementaries. In addition, if I mistake not, the hon. Minister for Planning is also going to make a statement.

Shri A. P. Jain : He has made a statement.

Mr. Speaker : I know he has made a statement, but he said at the end of that statement that he was going to make statements from time to time. So let us have the statements, and after studying those statements, if any question arises, it may be put as a question.

WRITTEN ANSWERS TO QUESTIONS

Godowns

*360. **Shri D. C. Sharma :** Will the Minister of Food and Agriculture be pleased to state the approximate capacity and cost of godowns to be constructed for the storage of foodgrains during 1955-56?

The Minister of Food and Agriculture (Shri A. P. Jain) : About 8 lakh tons' capacity at an estimated cost of Rs. 7.6 crores.

बाल वसावात

*361. **डा० लखचारी :** क्या स्वास्थ्य मंत्री यह बताने की कृपा करेंगी कि :

(क) क्या सरकार ने देश में बाल वसावात की बीमारी के विषय में कोई सर्वेक्षण किया है; और

(ख) यदि हां, तो क्या सरकार एक विवरण प्रस्तुत करने का विचार करती है जिसमें यह दिखाया गया हो कि देश में कितने रोगी हैं और किस राज्य में इस रोग का सबसे अधिक प्रभाव है ?

स्वास्थ्य उपमंत्री (श्रीमती चन्द्रशेखर):

(क) इस तरह का कोई सर्वेक्षण नहीं किया गया है ।

(ख) यह प्रश्न नहीं उठता ।

दिल्ली-रिवाड़ी रेल सम्पर्क

*३६३. श्री नवल प्रभाकर: क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या उत्तर रेलवे पर दिल्ली और रिवाड़ी के बीच बड़ी लाइन बिछाने का कोई विचार है; और

(ख) यदि हां, तो इस कार्य के कब तक पूरा हो जाने की सम्भावना है ?

रेलवे तथा परिवहन मंत्री के सभासचिव (श्री शाहनवाज खां): (क) दिल्ली और रिवाड़ी के बीच मीटर गेज लाइन पहले से है और उसकी जगह पर बड़ी लाइन बनाने का अभी कोई विचार नहीं है ।

(ख) सवाल नहीं उठता ।

Khandwa—Hingoli Link

*३६९. श्री Krishnacharya Joshi: Will the Minister of Railways be pleased to refer to the reply given to starred question No. 356 on the 6th September, 1954 and state :

(a) the progress made so far in the construction of the railway line between Khandwa and Hingoli; and

(b) the amount spent on its construction so far ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) The overall progress so far made on this construction is 5%.

(b) The total expenditure booked upto the end of April 1955 is Rs. 32 lakhs approximately against an estimated cost of Rs. 8.9 crores.

Ayurveda Post-Graduate Training

*376. Shri Punnoose: Will the Minister of Health be pleased to refer to the reply given to Starred Question No. 478 on the 3rd March, 1955 and state :

(a) whether a post-graduate training centre in Ayurveda has since been established at Jamnagar; and

(b) if so who are the members of the Governing Body of the Centre and which organisations they represent ?

The Deputy Minister of Health (Shrimati Chandrasekhar): (a) Yes.

(b) A statement is laid on the Table of the Lok Sabha. [See Appen x III, annexure No. 31].

Japanese Method of Rice Cultivation

*378. Shri K. P. Sinha: Will the Minister of Food and Agriculture be pleased to state the total amount spent so far on propagation of the Japanese method of Rice Cultivation ?

The Minister of Food and Agriculture (Shri A. P. Jain): The total amount spent by the Government of India for the propagation of the Japanese method amounts to Rs. 2,30,141 since the beginning to the end of 1954-55. In 1952-53 the expenditure was Rs. 3,007 and in 1953-54, Rs. 37,500. This whole amount of Rs. 40,507 was spent mostly on preparation of publicity material and its distribution. Out of Rs. 1,89,634 spent in 1954-55, Rs. 40,555 were spent on publicity material and its distribution; and the rest was given to State Governments in the shape of subsidy, grants or loans as stated in the statement laid on the Table of the Lok Sabha. [See Appendix III, annexure No. 32].

Newton Chikoli Colliery Disaster

*385. Shri T. B. Vittal Rao: Will the Minister of Labour be pleased to refer to the reply given to Starred Question No. 457 on the 3rd March, 1955 and state :

(a) whether the Court of Inquiry appointed to go into the causes of the accident in the Newton Chikoli Colliery on the 10th December, 1954 has submitted its report; and

(b) if so whether a copy thereof will be laid on the Table of the House ?

The Deputy Minister of Labour (Shri Abid Ali): (a) Yes, it was received on the 22nd July, 1955.

(b) Yes.

Import of Sugar

*393. **Shrimati Tia Palchoudhury** : Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that sugar has been imported from East Germany during the current year;

(b) if so, the quantity imported so far;

(c) how the quality and price of this sugar compare with the quality and price of sugar produced in India; and

(d) whether any sugar has been imported from West Germany during the above period?

The Minister of Food and Agriculture (Shri A. P. Jain) : (a) Yes.

(b) 80,533 tons.

(c) East German sugar is manufactured from Sugar beet while the sugar in India is produced from sugarcane. Taking into consideration the colour and size of grain East German sugar is equal to I.S.S.E. 29 grade of Indian sugar. In view of the fact that East German sugar is produced from beet and has comparatively inferior packing, it sells at a discount of -/12/- to Rs.1/8/- per maund, as compared with similar grade of Indian sugar.

(d) No.

Fertilizers

*394. **Shri Ram Shankar Lal** : Will the Minister of Food and Agriculture be pleased to state :

(a) the total quantity of fertilizers imported so far under the Indo-U. S. Technical Co-operation Agreement;

(b) whether it is a fact that most of these fertilizers have been given free of cost to the State Governments; and

(c) if so, the terms on which the State Governments are required to distribute them to cultivators?

The Minister of Food and Agriculture (Shri A.P. Jain) : (a) 2,39,400 tons of various fertilizers as on 30-6-1955. Part of it was in transit.

(b) No. Only 6,936 tons were supplied free of cost to States upto the end of March, 1955.

(c) A statement is laid on the Table of the Lok Sabha. [See Appendix III, annexure No. 33].

Calcutta Port

*396. **Shri B. D. Shastri** : Will the Minister of Transport be pleased to state the progress made as far in the construction of a suction dredger at the Calcutta port?

The Deputy Minister of Railways and Transport (Shri Alagesan) : An order for the construction of a suction dredger for the Port of Calcutta was placed in June, 1955. The dredger is expected to be delivered in August, 1957.

Machkund Project

*397. **Shri Sanganna** : Will the Minister of Food and Agriculture be pleased to refer to the reply given to starred question No. 2672 on the 28th April, 1955 regarding the Machkund Project Soil Erosion Scheme and state the stage at which the matter now stands?

The Minister of Food and Agriculture (Shri A.P. Jain) : The scheme was fully considered and a Subsidy of Rs. 4,70,100, and a loan of Rs. 9,40,200 have since been sanctioned.

स्वयंचालित तुला

*४०३. **श्री नवल प्रभाकर** : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) स्वयंचालित तुला (एक घाना डालने पर भार बताने वाले यंत्र) अब तक कितने स्टेशनों पर लगाये गये हैं; और

(ख) १९५४-५५ में इन यंत्रों से कितनी आय हुई ?

रेलवे तथा परिवहन मंत्री के सभासद (श्री शाहनवाज खाँ) :
(क) ११३ ।

(ख) १,१६,०६६ रु० ११ आ० ३ पाई ।

Eastern Shipping Corporation

*404. **Shri Ibrahim** : Will the Minister of Transport be pleased to lay a statement on the Table of the House showing:

(a) the total number of ships with their respective purchase costs owned at present by the Eastern Shipping Corporation; and

(b) the total amount invested in this Corporation by the Central Government upto-date and the percentage of shares held by them?

The Deputy Minister of Railways and Transport (Shri Alagesan) (a) and (b). A statement is laid on the Table of the House. [See Appendix III, annexure No. 34].

भारतीय विमान निगम के विमान की दुर्घटना

*४०५. श्री रघुनाथ सिंह : क्या संचार मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि भारतीय एयर लाइन्स का एक चिटगांव जाने वाला विमान जिसमें १२ यात्री और ४ चालक थे हवाई भ्रष्टे से उड़ने के पश्चात् शीघ्र ही दुर्घटनाग्रस्त हो गया और उसके एक इंजन में भाग लग गई; और

(ख) यदि हां तो दुर्घटना के कारण क्या थे ?

संचार मंत्री (श्री जगजीवन राम) :

(क) और (ख). श्रीमान् मैं सभा पटल पर एक वक्तव्य प्रस्तुत कर रहा हूँ जिसमें अपेक्षित सूचना दी गई है। [वेबसाइट पर परिशिष्ट ३, अनुबन्ध संख्या ३५]।

Central Rinderpest Control Committee

*406. Shri K.G. Deshmukh : Will the Minister of Food and Agriculture be pleased to lay on the Table of the House a statement showing:

(a) the principal recommendations made by the Central Rinderpest Control Committee, at its meeting held at Ranchi on the 7th May, 1955; and

(b) how far Government have implemented them?

The Minister of Food and Agriculture (Shri A.P. Jain) (a). A statement is laid on the Table of the Lok Sabha. [See Appendix III, annexure No. 36.]

(b) The recommendations are being communicated to the Central and State Governments and other authorities concerned for finalising the schemes. These schemes will be taken up during the Second Five Year Plan period.

औषधीय जड़ी बूटियां

*४०७. श्री भक्त बर्मान : क्या साध तथा कृषि मंत्री १० मार्च १९५५ को दिये गये तारांकित प्रश्न संख्या ६९४ के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) तात्कालिक प्रयोग तथा अस्पतालों में परीक्षण के लिये जिन जड़ी बूटियों की सिफारिश राज्य सरकारों से की गई थी उनकी उपयोगिता के सम्बन्ध में क्या राज्य सरकारों ने अपने मत व्यक्त किये हैं ;

(ख) यदि हां, तो उनका स्वरूप क्या है; और

(ग) क्या उनके उत्पादन तथा विकास के लिये कोई कार्यवाही की गई है या की जाने वाली है ?

साध तथा कृषि मंत्री (श्री ए० पी० जैन) : (क). राज्य सरकारों के मत इतनी जल्दी पाने की प्रत्याशा नहीं की जा सकती। कुछ चुनी हुई देसी जड़ी बूटियां कई पशु चिकित्सक अस्पतालों में प्रयोग की जा रही हैं और किसी विषय नतीजे पर पहुंचने के पहले जरूरी है कि उनका पशुओं की काफी संख्या पर प्रयोग हो

(ख) तथा (ग). प्रश्न ही नहीं उठता।

Rail Equipment Exhibition

*408. Shri Jethalal Joshi: Will the Minister of Railways be pleased to state:

(a) whether it is a fact that a Rail Equipment Exhibition was held in Madras in the first week of June, 1955; and

(b) if so, how much of this equipment was indigenous and how much foreign?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a). Yes.

(b) 1/3 of the items displayed represent indigenous and the balance 2/3 represent imported material.

Passenger Rolling Stock

*409. **Pandit D. N. Tiwary:** Will the Minister of Railways be pleased to state:

(a) whether Government are aware that the coaches (especially of the upper classes) running on the North Eastern Railway are in very bad condition;

(b) whether it is a fact that there have been very few replacements and additions of coaches on the North Eastern Railway; and

(c) if so, the reasons therefor?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a). The condition of some of the coaches in use on the North Eastern Railway is not upto the standard.

(b) No, Sir. A statement showing the number of new coaches added on the North Eastern Railway since 1952, is placed on the Table of the House. [See Appendix III, annexure No. 37].

(c) Does not arise.

Mines Inspector's Report

*410. **Shri T. B. Vittal Rao:** Will the Minister of Labour be pleased to refer to the reply given to Starred Question No. 876 on the 14th March, 1955 and state when the Chief Inspector of Mines in India is expected to submit his annual report for the year 1954?

The Deputy Minister of Labour (Shri Abid Ali): Tabulation of the annual statistical returns is more or less over and drafting of the report has been taken up. The report is expected from the Chief Inspector in about 3 months' time.

Tractors

*411. **Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total number of tractors imported by the Central Tractor Organisation so far;

(b) their cost; and

(c) the number found unsuitable for Indian conditions?

The Minister of Food and Agriculture (Shri A. P. Jain): (a). C.T.O. purchased 372 imported tractors through the D.G.S. & D. for reclamation purposes. In addition, C.T.O. purchased 219 tractors from American Army Surpluses through D.G.S. & D.

(b) The value of 372 tractors is about Rs. 2.15 crores, while the value of tractors along with other equipment is about Rs. 28 lakhs.

(c) No tractor has been found unsuitable for Indian conditions.

North Eastern Railway

*413. { **Shrimati Ila Palchoudhury:**
Shri Barman:

Will the Minister of Railways be pleased to state:

(a) whether it is a fact that certain offices of the North Eastern Railway now located in Calcutta are proposed to be transferred to Gorakhpur; and

(b) if so, the number of the offices and the staff which will be affected by such a move?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a). Yes.

(b) The move will affect, for the present, only three offices and 387 staff, all of whom will be absorbed on the Eastern and South Eastern Railways.

Transport Advisory Council

*414. **Shri Sanganna:** Will the Minister of Transport be pleased to refer to the reply given to Unstarred Question No. 860 on 16th April, 1955 and State:

(a) whether the views of all the State Governments in regard to the free movement of road transport in the country and reduction in taxes on motor vehicles have been received; and

(b) if so, the final decision taken in the matter?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). Some of the State Governments are still to ratify the conclusions reached at the last meeting of the Transport Advisory Council and they are being reminded. The progress achieved in the implementation of the Council's recommendations will, however, be reviewed at the next meeting of the Council which is likely to be held in October or November this year.

Posts and Telegraphs Forms

*415. **Shri D. C. Sharma:** Will the Minister of Communications be pleased to state:

(a) how many kinds of forms and receipts made use of by the Posts and Telegraphs authorities have been printed in Hindi and the regional languages so far; and

(b) how many such forms and receipts are still printed only in English?

The Minister of Communications (Shri Jagjivan Ram): (a). For the present only such forms as are used by the public in their daily transactions will be printed in Hindi. There are 76 such forms and receipts (Postal 51, Telegraph 17, Telephone 2, General 6) of which six have already been printed in Hindi. The rest are in the process of being translated into Hindi in consultation with the Ministry of Education. P & T forms are not being printed in regional languages.

(b) About two thousand.

Defence Savings Bank Accounts

***417 416. Shri Gidwani :** Will the Minister of Communications be pleased to state:

(a) whether it is a fact that during the course of audit of the Defence Savings Bank transactions of a Head Post Office or the months of September to November 1947, it was noticed that in a batch of Defence Savings Bank Accounts, payments had been made twice;

(b) if so, what was the amount of overpayment; and

(c) the action taken against the officials responsible for such withdrawals?

The Minister of Communication (Shri Jagjivan Ram): (a) Yes, in Meerut Head Post Office.

(b) Rs. 4,700 (approximately)

(c) Offenders have been convicted in a Court of Law and dismissed. Departmental action against others responsible for contributory negligence has been mooted.

Betwa River Bridge

***417. Shri Radha Raman:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that Government have sanctioned the construction of a high level bridge over the Betwa river at Jhararghat on Jhansi-Saugar Road; and

(b) if so, when the construction will start and when it is expected to be completed and ready for use?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Yes.

(b) The construction of the bridge is expected to be commenced shortly and completed in about two years.

बड़ीनाथ को रेल से जोड़ना

***४१८. श्री रघुनाथ सिंह :** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि क्या बड़ीनाथ धाम तक रेलवे लाइन बनाने की कोई योजना है ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेसन) : जी नहीं ।

Ships

168. Shri Raghunath Singh: Will the Minister of Transport be pleased to state the number of coastal and sea-going ships owned either by Indian concerns or concerns sponsored by Government which are more than twenty years old?

The Deputy Minister of Railways and Transport (Shri Alagesan): 28 coastal vessels of 61,763 gross registered tons and one overseas vessel of 5191 gross registered tons.

Hide Flaying

***169. Dr. Satyawadi:** Will the Minister of Food and Agriculture be pleased to refer to the reply given to Unstarred Question No. 752 on the 12th April, 1955 and state:

(a) the number of trainees at present receiving training at the Training Centre in Hide Flaying, etc. at Lucknow; and

(b) the conditions for admission of the candidates in this Centre?

The Minister of Food and Agriculture (Shri A. P. Jain): (a). Twenty.

(b) The information is being collected and will be laid on the Table of the Lok Sabha.

Solar Eclipse

Shri Kamath :
Shri S. C. Samanta :
Dr. Ram Subhag Singh:
170. { Chaudhri Muhammed
Shafee:
Shrimati Ila Palchoudhury:

Will the Minister of Communications be pleased to state :

(a) whether a report of their observations on the recent Solar Eclipse has been submitted by Indian Scientists and Astronomers as made in this country and in Ceylon; and

(b) whether Government will lay a copy of the report on the Table of the House?

The Minister of Communications (Shri Jagjivan Ram): (a) and (b). The observations on the Solar Eclipse of the 20th June 1955 made in this country and in Ceylon by the Indian scientists and astronomers are still being studied and it will take some time to analyse fully the observational data collected. A copy of the publication containing the results of the analysis will be laid on the Table of the Sabha, as soon as it is ready.

Sambalpur-Balangir-Titilagarh Rail Line

171. Shri R. N. S. Deo : Will the Minister of Railways be pleased to refer to the reply given to Starred Question No. 919 on the 14th March, 1955 and state :

(a) whether it is a fact that a preliminary engineering survey of the Sambalpur-Balangir section was done in 1946-47;

(b) whether the survey of the Sambalpur-Titilagarh project now undertaken will include also the survey of the Balangir-Sambalpur section, and

(c) if so, the reasons therefore?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a). Yes, Sir.

(b) No, Sir. Only the figures of the 1946-47 Preliminary Engineering Survey of the Balangir-Sambalpur portion are being revised. New survey has been sanctioned for Balangir to Titilagarh portion for which there is no existing survey.

(c) Does not arise.

Tube-wells

172. Shri Karni Singhji : Will the Minister of food and Agriculture be pleased to state :

(a) the number of tube-wells sunk so far in Rajasthan (Division wise) under the "Grow More Food" Scheme; and

(b) the programme of sinking tube-wells during the year 1955-56 (District-wise)?

The Minister of Food and Agriculture (Shri A.P. Jain): (a). The number of tube-wells sunk so far in Rajasthan under the "Grow More Food" Scheme is eleven. These tube-wells have been sunk in the Jaipur Division.

(b). No programme for 1955-56 has yet been approved by the State Government.

Employment Exchanges]

173. Shri Karni Singhji : Will the Minister of Labour be pleased to refer to the reply given to unstarred question No. 124 on the 3rd March, 1955 and state :

(a) the number of Intermediates registered with the Employment Exchanges in Rajasthan from October 1952 to December 1954, year-wise.

(b) the number amongst them who got employment through these Exchanges during the above period; and

(c) the approximate number of those who could not be employed due to scarcity of posts?

The Deputy Minister of Labour (Shri Abid Ali) : (a) and (b).

Year	No. registered	No. placed in employment.
1952 (Oct.-Dec.) .	106	5
1953	880	36
1954	990	119
TOTAL	1,976	160

(c) 256 Intermediates remained on the Live Registers of Exchanges seeking jobs, on the 31st December, 1954.

New Railway Lines

174. Shri Radha Raman : Will the Minister of Railways be pleased to refer to the reply given to Starred Question No. 2323 on the 16th April 1955 and state :

(a) the approximate cost of laying two broad gauge lines near Delhi; and

(b) the benefits to be derived therefrom?

The Deputy Minister of Railways and Transport (Shri Alagesan) (a). It is presumed the hon. Member is referring to the two additional lines which

are being surveyed near Delhi. Engineering and Traffic surveys have not yet been completed and it would be possible to indicate the cost of the lines only when survey reports are finalised.

(b) The proposed lines are primarily meant for diverting the traffic from Bombay side to Delhi-Ferozepore and Delhi-Karnal-Ambala-Amritsar routes and *vice versa*, avoiding its passing through the congested yards at New Delhi/Delhi Main.

Railway Employees

175. Shri D. C. Sharma : Will the Minister of Railways be pleased to state:

(a) the total number of employees of the Eastern Railway suspended during the year 1954;

(b) how many of them are still under suspension; and

(c) the main reasons therefor?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) 841.

(b) 261.

(c) The main reasons are the cases being either under trial in the Law Courts or under investigation by the Police.

National Malaria Control Programme

176. Shri D. C. Sharma : Will the Minister of Health be pleased to state the measure of success achieved so far in Punjab under the National Malaria Control Programme?

The Deputy Minister of Health (Shrimati Chandrasekhar) Assessment of the anti-malaria work carried out has revealed an unprecedented reduction in the number of malaria cases in Punjab during 1954 as compared to the previous years. This is evident from the data reproduced below:

Year	No. of Malaria cases recorded in the hospitals and dispensaries of the State
1950	6,80,059
1951	5,11,775
1952	5,16,777
1953	5,08,636
1954	3,80,496

There has also been appreciable reduction in the number of fever deaths which is evident from the following data :

Year	Total number of fever deaths.
1950	2,10,961
1951	1,58,871
1952	1,63,140
1953	1,84,858
1954	1,25,055

The number of labour days lost during 1954 on account of malaria was 22,82,996 as compared to 40,80,354 during 1950.

There have been reports in regard to improved attendance of labour in factories and projects and for work in connection with the production of crops. Effective malaria control measures have been chiefly responsible for considerable increase in paddy production throughout the State and reduction of school absenteeism to the minimum in rural areas.

बाल पक्षाघात (पोलियो) गवेषणा केन्द्र, बम्बई

१७७. डा० सत्यबाबी: क्या स्वास्थ्य मंत्री यह बताने की कृपा करेंगे कि :

(क) बाल पक्षाघात गवेषणा केन्द्र, बम्बई में किस प्रकार का गवेषणा कार्य अब तक किया गया है;

(ख) अब तक उस पर कितना व्यय हो चुका है; और

(ग) गवेषणा के परिणामस्वरूप बाल पक्षाघात की चिकित्सा में क्या सुधार हुये हैं ?

स्वास्थ्य उपमंत्री (श्रीमती चन्द्रशेखर):

(क), (ख) व (ग) एक विवरण सभा की मेज पर रख दिया गया है। [दिलिये परिशिष्ट ३, अनुबन्ध संख्या ३८]

यात्री शोध

१७८. श्री नवल प्रभाकर : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सराय रोहिल्ला और सन्धी मंडी रेलवे स्टेशनों का विस्तार करने तथा वहाँ शोध का व्यवस्था करने का कोई विचार है ;

(ख) क्या इन स्टेशनों के स्टेशन मास्टरो से यात्रियों के आवागमन के सम्बन्ध में कोई प्रतिवेदन मांगा गया है; और

(ग) यदि हां, तो पिछले दो वर्षों में इन स्टेशनों से कितने व्यक्तियों ने यात्रा की ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन) : (क) इन स्टेशनों को बढ़ाने का कोई विचार नहीं है। तो भी अगले माली साल में सब्जी मण्डी रेलवे स्टेशन पर साढ़े तीन तीन सौ फीट लम्बे दो शेड बनाने का विचार है और रेलवे अधिकारियों से कहा गया है कि दूसरी पंचवर्षीय योजना में सराय रोहिल्ला स्टेशन पर अधिक शेड बनाने के सम्बन्ध में विचार करें।

(ख) और (ग). आवश्यक सूचना इस प्रकार है:—

वर्ष	जानेवाले यात्री	आनेवाले यात्री
रेलवे स्टेशन का नाम—सब्जी मण्डी		
१९५३-५४	३०७५०४	२४६४२८
१९५४-५५	३४४६५३	१९३७४४
रेलवे स्टेशन का नाम—सराय रोहिला		
१९५३-५४	३६०१८६	२७२४२०
१९५४-५५	३७६६८१	२५०५०६

पहाड़ भत्ता

१७६. श्री नवल प्रभाकर : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या कालका-शिमला सैक्शन पर स्थित स्टेशनों के रेलवे कर्मचारियों को कोई पहाड़ भत्ता दिया जाता है; और

(ख) यदि हां, तो किस हिसाब से ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन) : (क) जी हां। कोटी और उससे आगे वाले स्टेशनों के कर्मचारियों की ।

(ख) विवरण सभा-पटल (Table of the House) पर रख दिया गया। देखिये परिशिष्ट ३, अनुबन्ध संख्या ३६]

रेल कारें

१८०. श्री नवल प्रभाकर : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) कालका-शिमला सैक्शन पर इस समय कितनी रेल कारें चल रही हैं; और

(ख) इन रेल कारों के द्वारा १९५० से १९५४ तक प्रति वर्ष कितने यात्रियों ने यात्रा की ?

रेलवे तथा परिवहन उपमंत्री (श्री अलगेशन) : (क) कालका और शिमला के बीच आम तौर पर रोज एक रेल-कार आती जाती है। लेकिन यदि आने-जाने वालों की संख्या अधिक हो, तो दोनों तरफ से एक रेल-कार और चालू कर दी जाती है।

(ख)

साल	रेल-कारों से जाने वाले यात्रियों की कुल संख्या
१९५०	४४६२
१९५१	४८४२
१९५२	५२६४
१९५३	४६८४
१९५४	४६८७

Wagons

181. Shri Ibrahim : Will the Minister of Railways be pleased to state :

(a) the total number of Broad Gauge wagons on Government Railways at present;

(b) the average carrying capacity of each wagon;

(c) the tonnage carried during the year 1954-55; and

(d) the average turn round of wagons?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) The total number of broad gauge wagons for public use on Indian Government Railways as on 31st March, 1954 is 155,079.

(b) The average carrying capacity per broad gauge wagon works out to 21.9 tons.;

(c) The latest information available relates to 1953-54 only, during which the tonnage originating amounted to 75,029,000 on the Broad Gauge Railways. Statistics of 1954-55 are not yet available.

(d) The average turn round of wagons during 1954-55 was 10.5 days on broad gauge.

Telephone Connections

182. Shri Jhulan Sinha : Will the Minister of Communications be pleased to state :

(a) the number of applications for telephone connections still lying undisposed of at Patna; and

(b) the steps taken or proposed to be taken in the matter?

The Minister of Communications (Shri Jagjivan Ram) : (a) 161.

(b)(i) Additional cables are proposed to be laid in the near future.

(ii) An Automatic Exchange of 3000 lines has been planned for the year 1957-58. These will enable the existing demands to be met and provide for future expansion.

Demurrage Charges

183. Shri Jhulan Sinha : Will the Minister of Food and Agriculture be pleased to state the total amount of demurrage charges paid by Government due to delay in unloading of foodgrains from ships during the last three years ?

The Minister of Food and Agriculture (Shri A. P. Jain) : The total amount of demurrage charges paid by Government due to delay in unloading of foodgrains from ships during the last three years i.e. from April, 1952 to March, 1955 is about 2.5 lakhs of rupees.

Late Running of Trains

184. Shri A. K. Gopalan : Will the Minister of Railways be pleased to state :

(a) the number of passenger trains running daily between Shoranur and

Mangalore Stations on the Southern Railway and the average daily number of passengers who made use of these trains from January to June 1955;

(b) the number of occasions on which these trains ran to schedule during the above period;

(c) the reasons for their late running, and

(d) the steps taken to ensure punctuality?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Six trains each way run on the Shoranur-Calicut, Calicut-Cannanore and Cannanore-Payyanur sections, and five trains each way on the Payyanur-Mangalore section. The approximate daily average number of Passengers booked both ways, on the various sub-sections of the Shoranur-Mangalore section during January to June, 1955 were as follows:—

Month	The approximate daily average number of passengers booked on.		
	Shoranur Calicut Section	Calicut-Cannanore Section	Cannanore-Payyanur-Mangalore section
January 1955 .	8,800	8,184	10,680
February 1955 .	9,064	7,957	10,667
March 1955 .	9,006	8,836	11,180
April 1955 .	8,583	7,890	12,080
May 1955 .	7,864	6,822	10,751
June 1955 .	8,714	7,932	11,418

(b)

Month	Percentage of right time arrival at destination.	
January, 1955 .	75.1	
February 1955 .	77.8	
March 1955 .	60.9	
April 1955 ; .	51.5	
May 1955 .	64.5	
June 1955 .	90.4	

(c) Every year, during the summer, there is some deterioration in the punctuality performance of trains on the Shoranur-Mangalore section mainly due to shortage of water at most of the watering stations on the section and due to water turning brackish.

(d) All feasible efforts were made to overcome the shortage of water. Water was regularly carried to Calicut and Mangalore and alternative temporary water columns were also provided. Inspecting officials are deputed to travel very frequently on important trains on the sections to eliminate avoidable delays. There has been an improvement in the performance of trains on the section during June, 1955.

Seed Bulls

185. **Shri K. P. Sinha** : Will the Minister of Food and Agriculture be pleased to state :

(a) the number of seed bulls imported from U.S.A. upto May 1955 since the new Scientific Cattle Breeding Scheme was launched; and

(b) their total cost?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Six Jersey bulls.

(b) They are a gift from the United States Technical Co-operation Mission in India.

Sugar Stocks

186. { **Shri K.P. Sinha** :
Pandit D.N. Tiwari :
Shri M.L. Agrawal :

Will the Minister of Food and Agriculture be pleased to state :

(a) the total quantity of sugar in stock on the 1st January, 1955 with the factories; and

(b) the quantity of sugar imported from January to May, 1955?

The Minister of Food and Agriculture (Shri A.P. Jain): (a) 3.03 lakhs tons.

(b) 3.10 lakh tons including 3.06 lakh tons of Refined Sugar and 4000 tons of Raw Sugar.

बेकारी

१८७. **सेठ गोबिन्द दास** : क्या अन्न मंत्री यह बताने की कृपा करेंगे कि :

(क) जून, १९५५ के अन्त तक बेकार व्यक्तियों की कुल संख्या क्या थी; और

(ख) इनमें से शिक्षित व्यक्ति कितने थे?

अन्न उपमन्त्री (श्री आशिष शर्मा) :

(क) और (ख). जून १९५५ के अन्त तक ६,२४,०७४ बेकार व्यक्ति नियोजनात्मक सहायतायें नियोजन केन्द्रों में रजिस्टर किये गये थे, जिनमें २,०६,५२१ व्यक्ति शिक्षित थे । बेकार व्यक्तियों की कुल संख्या प्राप्य नहीं ।

Telegraph Offices

188. **Shri Rishang Keishing** : Will the Minister of Communications be pleased to state :

(a) the names of the district and sub-division Headquarters in the hills of Assam, Manipur and Tripura where telegraph offices have been opened during the period from 1952 to 1955;

(b) the amount that Government had to spend for the opening of the offices and the expenditure incurred on their maintenance annually; and

(c) the effort Government are making to provide every district and sub-divisional Headquarters of the three States with a telegraph office?

The Minister of Communications (Shri Jagjivan Ram) : (a) A statement showing the required information is placed on the Table of the Lok Sabha. [See Appendix III, annexure No. 40].

(b)

		(in rupees)
	Cost of erection	Cost of Maintenance
1952-53
1953-54	4460	175
1954-55	2003	680

(c) Steps are being taken to provide telegraph facilities at the remaining districts and Sub-Divisional headquarters towns during the current year.

Rice Cultivation in Manipur

189. **Shri Rishang Keishing** : Will the Minister of Food and Agriculture be pleased to state:

(a) the total acreage of lands under rice cultivation in Manipur in 1954;

(b) the quantity of rice produced there; and

(c) the quantity and value of rice exported from there upto June, 1955?

The Minister of Food and Agriculture (Shri A.P. Jain): (a) 2.01 lakhs acres approximately.

(b) About 40 lakh maunds of paddy.

(c) Permits for export of 2,500 maunds of paddy were issued upto end of June, 1955. Estimated value is Rs. 18,750/-.

Rice

190. Chaudhri Muhammed Shafie: Will the Minister of Food and Agriculture be pleased to state :

(a) whether Government have built up rice stocks at strategic points in each such State; and

(b) If so, the names of the places State-wise, where stocks have been built up and the quantity stocked therein?

The Minister of Food and Agriculture (Shri A.P. Jain): (a) Yes Sir.

(b) Two statements are placed on the Table of the Sabha showing:

(i) the stocks held by the Government of India in each of the Central Reserve Depot in Bihar, West Bengal and U.P.; and

(ii) the stocks of rice in the possession of each of the States of Assam, Bihar, West Bengal, U.P., and Orissa. [See Appendix III, annexure No. 41].

दुर्घटनाय

१६१. श्री एम० एल० द्विवेदी : क्या रेलवे मंत्री १६ नवम्बर, १९५४ को तारांकित प्रश्न संख्या ४७ के उत्तर में दिये गये आश्वासन को कार्यान्वित करने के हेतु १२ मार्च १९५५ को सभा पटल पर रखे गये अनुपूरक विवरण संख्या ३ (मद संख्या ३१) के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) दुर्घटनाओं के लिये उत्तरदायी ठहराये गये व्यक्तियों के विरुद्ध किस प्रकार की अनुशासनीय कार्यवाही की गई और ऐसे कर्मचारियों की संख्या क्या थी ;

(ख) वे स्थान कौन-कौन से हैं जहां दुर्घटनाओं को रोकने के लिये यान्त्रिक उपाय किये गये हैं; और

(ग) क्या इसके परिणामस्वरूप टनाओं में कमी हुई है ?

रेलवे तथा परिवहन उपमंत्री (श्री बलगेशन) : (क) अनुशासन की जो कार्यवाही (Disciplinary Action) की गयी :—

नौकरी से हटाना
पद गिराना
सालाना तरक्की रोकना
उपदान (Gratuities) रोकना
प्रिविलेज पास बन्द करना
जुर्माने
लानत-मलामत
चेतावनी

ऐसे कर्मचारियों की संख्या जिनके विरुद्ध अनुशासन की कार्यवाही की गयी

५६६

(ख) रेलवे कर्मचारियों की गलतियों को रोकने के लिये ५४-५५ जिन स्टेशनों और खण्डों पर यान्त्रिक उपाय (Mechanical Devices) काम में लाये गये उनके नाम नीचे दिये गये हैं :—

मध्य रेलवे :

स्टेशनों के नाम :—कीरतगढ़, टाकु, बरखेड़ा, पोमलवाडी, सोगांव, लागरगांव, टोंडला, गोपावरम्, भ्रमदारा, पोण्डिल्लापल्ली, पतवारा बरबतपुर, टिकोरी ।

खण्डों के नाम :—चालिसगांव, भुसावल, खंडवा-इटारसी, आगर-कैंट दिल्ली, नागपुर-भुसावल, कल्याण-पूना, भुसावल-खंडवा, झांसी-बीना, इटारसी-जबलपुर, बारसी-कुरडवाडी-मुलियार, जबलपुर-इलाहाबाद ।

पर्व रेलवे :

स्टेशनों के नाम :—गुमादा, जमादीपेट, सिंगापुर रोड, धरुवाली, विषमकटक, मुनीगुड़ा, डोइकल्लु, भम्बोदला, लांजीगढ़

रोड, कपरा रोड, मुरीवहाल, हरिशांकर रोड, साखना, खरियार रोड, बागबहरा, भीमखोड, बेलसोन्डा, महासामुंड, झाझा, गिडौर, रतनपुर, जमुई, मननपुर, बंसीपुर, किऊल, टांटानगर, गोमहारिया, सिनी, महालीमारूप, राजखारसमवा जं०, बड़ा बम्बो, चक्रधरपुर, लोटा पहाड़, सोनूधा, गोइलकेरा, पोसोइता, और मनोहरपुर।

पूर्वोत्तर रेलवे:

स्टेशनों के नाम :—डंडखोरा, सोनैली, झाउधा, दलकोला, सुधानी, सूर्यकमल, तेस्ता, कंकी।

खण्डों के नाम :—इन्दारा-सलीमपुर।

पश्चिमी रेलवे :

प्रजमेर के रेल कारखानों में त्रुटिसूचक यंत्र (Supersonic Flaw Detectors) लगा दिया गया है।

स्टेशनों के नाम :—बचपुर स्टेशन याडं, बिलहरघाट, कटहरी, मालीपुर, पटियाला, गाजियाबाद, जींद जंक्शन, कनोह, शोधी, शाहजहांपुर, नगरिया सादत, मिलक, शाहजगद नगर, चीलो, नोखा, सुरपुरा, तालछापर, सुजानगढ़, इलाहाबाद, भाऊपुर, रूरा, अम्बियापुर, झींझक, कौरारा, मकखनपुर, च्यौकी, कानपुर-लोको, इटावा, टुंडला, दलपतपुर, मुडापांड, फीरोजपुर।

खण्डों के नाम :—बनारस-मुगलसराय रूबौली-मटरंगा, अयोध्या-दशरथनगर, प्रतापगढ़-भोपियामऊ, धलनाभारी-गुसाईं गंज, फैजाबाद-बिलबिला, जलंधर सिटी-मुकेरिया, रामगंगा ब्रिज-बशारतगंज, दस्तारा-आसफपुर और चुनार-शक्तेशगढ़।

दक्षिण रेलवे :

सूचना मंगायी जा रही है और बाव में भी बाधगी।

(ग) ट्रैक्टर सन् १९५४ से मार्च १९५५ तक होने वाली मालगाड़ी की दुर्घटनाओं की संख्या अप्रैल, ५४ और सितम्बर, ५४ के बीच होने वाली दुर्घटनाओं से कम है। लेकिन यह नहीं कहा जा सकता कि दुर्घटनाओं में जो कमी है वह कहां तक उन उपायों के कारण है जो प्रश्न के 'क' और 'ख' भाग में बतलाये गये हैं।

Tractors

192. Shri Kamath : Will the Minister of Food and Agriculture be pleased to state :

(a) the number and types of tractors belonging to the Central Tractor Organisation which are at work in the country at present ;

(b) their break down State-wise;

(c) the various purposes for which they are used in the different States;

(d) the acreage of land so far tractorized in each State; and

(e) the period for which they have been at work in those States?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) The Central Tractor Organisation operates 260 heavy tractors of the following types for reclamation of jungle lands and lands infested with Kans weeds:—

	Nos.
'Allis-Chalmers', Model HD-19	91
'Cletrac' Model FDE	81
'Caterpillar', Model D-8	58
'International Harvester', Model TD-24	30
	260

The reclamation season is from October to May/June, and as such the tractors are not working at present.

(b) In the last (1954-55) reclamation season the distribution of the tractors was as follows:—

State	Type of Tractors	Number
Uttar Pradesh	TD-24	30
Do.	HD-19	15
Madhya Pradesh	D-8	23
Do.	F D E	30
Do.	HD-19	30
Madhya Bharat	D-8	35
Do.	FDE	30

State	Type of tractors	Number
Bhopal	FDE	21
Do.	HD-19	31
Assam	HD-19	15
		260

Distribution for the next season has not yet been finally decided.

(c) The main function of the C.T.O. hitherto has been reclamation of Kans-infested lands and jungle lands. In the last season 230 tractors were engaged on Kan clearance and 30 on jungle clearance. In Assam jungle clearance alone was done, while in Bhopal Kans clearance as well as jungle clearance was done. In other States Kans clearance was the only work done.

(d)

	acres	
U.P.	3,19,172	These figures are provisional as the figures for 1954-55 have not yet been finalised.
Madhya Pradesh	4,78,549	
Madhya Bharat	3,19,835	
Bhopal	3,27,992	
Punjab	13,521	
Assam	975	
	14,60,044	

(e) The reclamation seasons during which the C.T.O. has worked in the various States are indicated below:—

U.P.	1947-48 to 1954-55
Madhya Pradesh	Do.
Madhya Bharat	1948-49 to 1954-55
Bhopal	1949-50 to 1954-55
Punjab	1948-49 to 1949-50
Assam	1954-55.

All India Mango Shows

193. **Shri P. Ramaswamy** : Will the Minister of Food and Agriculture be pleased to state :

(a) whether any All-India Mango Shows have been held so far ;

(b) whether these Shows are regulated by any Central body and if so, the name of that body;

(c) the efforts made towards standardisation of mangoes and propagation of best varieties; and

(d) the names of the varieties which find good export market?

The Minister of Food and Agriculture (Shri A.P. Jamm) : (a) Two All-India Mango Shows have been held so far, one at Bombay and the other at New Delhi.

(b) These shows were held by the Indian Council of Agricultural Research.

(c) Final grade specifications have been laid down in respect of Bathua and Alphonso varieties of mango. Tentative grade specifications have been laid down for 17 other varieties.

Efforts are being made by all State Governments to propagate best varieties of mango in their States.

(d) Alphonso, Langra, Daschri, Swarnrekha, Banganpalli, Peter, Malgoa and Neelam.

Magazines

194. **Sardar Iqbal Singh** : Will the Minister of Railways be pleased to state:

(a) whether it is a fact that different Zonal Railways publish their own Magazines;

(b) if so, their object; and

(c) the amount spent by each Railway on publication of such magazines in the year 1954-55?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Yes.

(d) The object is to foster "esprit de corps" among all classes of railway men and also to help in the technical and general education of staff by publishing articles of general interest and on railway subjects. The magazines also educate the travelling public on Railway matters and foster good relationship with them.

(c) No amount is spent by Railways on the publication of these magazines.

Rural Post Offices

195. **Sardar Iqbal Singh** : Will the Minister of Communications be pleased to state the number of Post Offices in the rural areas of Punjab which are run in schools and where teachers act as Post-Masters?

The Minister of Communications (Shri Jagjivan Ram) : 1891.

बड़ीनाथ जाने वाली सड़क

१९६. श्री कुप्ताचार्य जीमी: क्या परिवहन मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या तीर्थयात्रियों की सुविधा के लिये ज्योतिमठ की बड़ीनाथ से मिलाने वाली सड़क बनवाने का विचार किया जा रहा है; और

(ख) क्या हरिद्वार से पीपलकोटी तक की सड़क की मरम्मत के लिये सरकार अधिक वित्तीय सहायता देने का विचार करती है ?

रेलवे तथा परिवहन उपमंत्री (श्री भल्लगेशन) : (क) उत्तर प्रदेश की सरकार से जो, मुख्यतः इस सड़क से संबंधित है, परामर्श हो रहा है और विषय विचाराधीन है;

(ख) सड़क के सुधार तथा पुलों के लिये खर्च का दो तिहाई के बराबर १२,६८,००० रुपये तक का अनुदान स्वीकृत किया जा चुका है ।

Training in Civil Aviation

197. **Shri B. D. Shastri** : Will the Minister of **Communications** be pleased to state the total expenditure incurred by Government on the Officers of the Civil Aviation Department sent abroad for training in Civil Aviation during 1954-55?

The Minister of Communications (Shri Jagjivan Ram) : Rs. 47,000 - approximately, inclusive of Rs. 16,000 - on account of the pay and allowances of the Officers.

Sugar Cane

198. **Shri M. L. Agrawal** : Will the Minister of **Food and Agriculture** be pleased to state the quantity of sugar, cane crushed during the 1954-55 season, State-wise?

The Minister of Food and Agriculture (Shri A. P. Jain) : The quantity of sugarcane crushed during 1954-55 season State-wise is as under:—

States	Cane crushed in 1000 tons.
Uttar Pradesh	9347
Bihar	2194
West Bengal	86
Punjab	217
Orissa	30
Madras	521*
Rajasthan	116
Travancore-Cochin	56
Bombay	1486
Bhopal	45
Mysore	500
PEPSU	103
Hyderabad	425
Madhya Bharat	111
Andhra	676
TOTAL	15913

* One factory is still working .

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

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LOK SABHA

Wednesday, 3rd August, 1955

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

12-8 P.M.

PAPER LAID ON THE TABLE

RATIFICATION BY INDIA OF I. L. O.
CONVENTION No. 5

The Deputy Minister of Labour (Shri Abid Ali): I beg to lay on the Table a copy of the statement regarding ratification by India of I. L. O. Convention No. 5 fixing the minimum age for admission of children to industrial employment. [See Appendix III, Annexure No. 42]

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

THIRTY-SECOND REPORT

Shri Altekar (North Star): I beg to present the Thirty-second Report of the Committee on Private Members' Bills and Resolutions.

ALLEGED ILL-TREATMENT OF A SATYAGRAHI BY PORTUGUESE POLICE

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Yesterday, Sir, there was a motion before you in connection with 197 LSD

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certain allegations about the Portuguese police and you were pleased to say that I might obtain information on the subject and place it before the House. This was in regard to Shri S. M. Nandedkar.

Shri Nandedkar entered Goa together with a number of other satyagrahis on the 16th July. Nearly all the others were pushed back the next day. Shri Nandedkar and two others were kept in Goa till midday the 27th July, when they were pushed out of Portuguese territory in an injured condition. First aid was given immediately. Shri Nandedkar was then admitted into the Sawantwadi Hospital and on the 1st August transferred to the Belgaum Civil Hospital.

The following report has been received by us about Shri Nandedkar's injuries:

"He had black eyes with hard swelling on the right eye. The eyes, according to the doctor, are safe. On both the arms there were multiple contusions. There were no signs of branding, but there were bruises on the wrists and on the head. There was also some swelling on the face.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

The Minister in the Ministry of Law (Shri Pataskar): I beg to move for leave to introduce a Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951."

The motion was adopted.

Shri Pataskar: I introduce the Bill.

REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL

The Minister in the Ministry of Law (Shri Pataskar): I beg to move for leave to introduce a Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951."

The motion was adopted.

Shri Pataskar: I introduce the Bill.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

* **Mr. Speaker:** The House will now proceed with the further consideration of the motion moved by Shri Pataskar yesterday. It refers to the Code of Civil Procedure and I do not think that I should read the whole motion. Along with that motion there is the amendment of Shri Agrawal.

Shri S. V. Ramaswamy (Salem): Mr. Speaker, yesterday I was saying that the Bill was wholly welcome because it was innocuous.

[**MR. DEPUTY-SPEAKER** in the Chair]

If you kindly permit me to go through these clauses, there are four clauses on one subject, Clauses 8, 16 (5), 17 and 18 relate to execution proceedings.....

Mr. Deputy-Speaker: Hon. Members will kindly make it as interesting as possible. Yesterday, we had thrice to ring the bell. Otherwise, we will finish the debate early.

Shri S. V. Ramaswamy: There are very few cases pending under section 68 to 72 of the Civil Procedure Code. Therefore, there can be no objection to the clauses relating to this. Clause 12 relates only to a verbal amendment to bring it in line with Article 133. Clause 14 has become necessary in view of the decision of the Rajasthan High Court to bring that section in conformity with article 14. The other clauses 2, 4, 5, 7, 9, 10, 15 and 16 are quite unobjectionable. I would only make a comment upon clauses 2, 11 and 16 before I state my objections to clauses 6 and 13.

Clause 2, I think, is very welcome. The decision of the High Courts with regard to the payment of interest had varied. I will just give three examples. One view is that the contract rate should be allowed; the other view is that 12 per cent. is reasonable and there is a third view that even 24 per cent. is not high. The views of the courts vary from person to person and we should not allow the courts to function in such a manner that the amount decreed varies from court to court and from case to case. Six per cent. I think is reasonable and it must be accepted.

With regard to clause 11 my hon. friend, Shri A. M. Thomas objected to the raising of the level from Rs. 500 to Rs. 1,000.

Shri S. S. More (Sholapur): We are unable to hear. Something is wrong with the mike. We are very much interested in what my hon. friend says.

Mr. Deputy-Speaker: He may raise his voice.

Shri S. V. Ramaswamy: Are the reporters able to hear?

Shri Kamath (Hoshangabad): He can move to the front bench.

Shri S. S. More: That does not depend upon him.

Mr. Deputy-Speaker Nor does it depend upon Shri Kamath.

Shri S. V. Ramaswamy: There shall be no objection with regard to clause 2; it is most welcome. With regard to clause 11 my friend Shri A. M. Thomas objected to the raising of the level from Rs. 500 to Rs. 1,000. The tendency now is to raise the jurisdiction of courts. For instance recently in Madras they passed an Act by which the jurisdiction of the courts of the District Munsifs had been raised from Rs. 3,000 to Rs. 5,000. They also passed an Act by which the jurisdiction of the City Civil Courts had been raised to Rs. 50,000. This got the desired effect of taking 800 suits from the original side of the High Court. That is the tendency now and I do not see any objection why summary proceedings should not be raised to the level of Rs. 1,000 from Rs. 500. That also is welcome.

My main objection is to clause 6, which, I am afraid, may lead to many difficulties. Clause 6 deals with section 47; in so far as it attempts to settle the question whether the purchaser at a court auction is a party to the proceedings or not, it is quite good and welcome. But I am afraid that clause 6 is going to lead to difficulties for this reason. The note on clause 6 says:

"The principle of *res judicata*, including those of constructive *res judicata* are expressly provided in the case of suits under section 11. There is no such specific provision in regard to execution cases. Courts have, however, applied the principles under lying section 11 to execution cases also. There is a difference of opinion among the various High Courts as to how

far these principles can be applied to execution cases. This clause seeks to provide expressly how far the principle of *res judicata* should be applied to execution cases."

I am afraid by expressly providing this, complications are likely to arise. If you look into the original section 47, you will see that the explanation to sub-clause 3 there is incorporated here as explanation (1). Explanation (2) to the present clause is explanation (2) to section 11 of the original Code and explanation (3) is analogous to the explanation (3) of section 11. I can understand explanations (2) and (5) for section 11 being omitted in its application to clause 6, but what about explanation 4. My friend, Shri A. M. Thomas touched upon it but did not go wholly into the matter. Explanation IV to section 11 reads thus:

"Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit."

The effect of excluding this from the explanation will be to restrict the scope of this clause only to cases where it has been specifically taken. I see that even as early as 6 Allahabad, it has been noted:

"Section 11 is not applicable to execution proceedings as it relates to matters decided in suits. It is only on principles analogous to that section that *res judicata* can be applied to execution proceedings."

Now, when it is clear that explanation IV to section 11 has also been judicially construed as applicable to execution proceedings, when you exclude explanation IV to section 11 from being incorporated in clause 6, it comes to this: the "might" and "ought" clause of explanation IV cannot hereafter be applied. Then

[Shri S. V. Ramaswamy]

what becomes of those judicial decisions by which this "might" and "ought" clause, which has been a headache to all civil lawyers, has been applied? What happens to them? Does it apply to execution proceedings. What happens to those judicial decisions which have been made hitherto applicable? I am afraid the House would like to have a fuller clarification of this point from the hon. the Law Minister.

The Minister in the Ministry of Law (Shri Pataskar): What is the opinion of the hon. Member? Should it be applied?

Shri S. V. Ramaswamy: I cannot anticipate things. It may have to go to the Supreme Court and we shall have to wait and see the complications that arise.

What I am contending now is that the existing law will be disturbed when you specifically state the scope of the section and limit it to the particular aspect. You cannot apply the judicial decisions which have grown around this. Therefore, this is a limiting factor and how it will react on the existing decisions remains to be seen. I am afraid it will lead to an element of great complication.

Again, what about explanation VI of section 11? Why has it been excluded from the operation of clause 6? Explanation VI to section 11 reads thus:

"Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating."

Supposing there are execution proceedings in respect of some decree arising out of a suit where there is a *bona fide* litigant in respect of public right; what happens to such

suits? What happens to the execution proceedings in such suits? I do not know. I think, here again, the Law Minister will be pleased to explain why he has excluded explanation VI of section 11 from being made applicable in clause 6 of the Bill.

The other point that I wish to contest is clause 13. I am afraid I must state clearly that I am never for restricting the revisional jurisdiction of High Courts which is one of the great safeguards of human liberty. It may be that there is abuse of this power but I cannot conceive of the revisional powers being replaced by any other which will guarantee or ensure the just interests of the people. When the hon. Minister seeks to limit it to such of those cases where there is no appeal and drives the party to wait till such time as he can appeal against such things, I am afraid he is restricting the right of the parties and the rights of the parties may be gravely jeopardised. It is in that sense I say that the revisional powers of the High Court should not be restricted in any manner.

Then there is clause 16. As I pointed out, clause 16(5) is consequential to clauses 8 and 17. I do not see why clause 16(4) has become necessary. Now, read Order XX, rule 1. The existing Order XX, rule 1 is quite all right and there is no need to change it in terms of clause 16(4). The Statement of Objects and Reasons with regard to clause 16(4) reads thus:

"This clause seeks to give a statutory direction to courts to pronounce judgements as early as possible after the hearing of the case."

Now, what does Order XX, rule 1 say? It says:

"The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of

which due notice shall be given to the parties or their pleaders."

The word used there is also "shall" and so it is mandatory. Therefore, I do not see any justification for introducing this new clause at all.

Now, I had dealt with the expenses and delay in civil proceedings. The question of reduction of expenses in a sense can be solved if delay can be avoided. But, the major problem is this. So long as the State Governments depend for their revenues on the income from the administration of justice, I am afraid, the expenses will mount. I am hoping for a day when no State will depend upon—what shall I say—the "profits" from the administration of justice, to run the general administration. It should never be the aim of a State to make money out of the business of administering justice. Justice should be made as cheap as possible. Instead of that, because the tax structure in the States is so inelastic and the resources are so restricted, the States resort to the Court Fees Act as a sort of *Kamadhenu* to take out as much money as possible out of the litigant public. This attitude must change. Unless this attitude changes I am afraid the question of reducing expenses cannot be properly tackled. That will lead me to subjects other than Civil Procedure Code because the methods will have to be devised by which the revenues of the States can be augmented and made independent of the revenue from the administration of justice.

Sir, I will give you one example. You may remember the time—possibly you were in practice at that time—when the court fee on copy stamp was one anna.

Shri Pataskar: May I bring to the notice of the Chair that there is a good deal of criticism since yesterday about the court fee being levied by the States? I do not know what I am expected to do about that matter in the Civil Procedure Code.

Shri S. V. Ramaswamy: I was only bringing to the notice of the House that the claim need not be made that this Bill seeks to reduce the expenses. That is my humble contention.

Shri Pataskar: So far as I can see that is envisaged under this Bill.

Shri S. V. Ramaswamy: Take for instance Order XV. I want an Order XV-A to be introduced for this purpose. Often-times after issues have been settled some courts write like this on the notes paper: "For trial or settlement. Posted to such and such a date". But, no court applies its mind after settlement of issues to see that a particular suit is settled as early as possible. They automatically write on the notes paper as I said before. No attempt is made by the court to apply its mind to the question of settling it before the trial. If by chance the parties come to some understanding and they report settlement, the court is only too pleased because it means disposal. They welcome such a thing. But I want that after the settlement of issues, a suit must be posted for a particular date for a settlement, if possible, after, I suggest applying Order 15.

Mr. Deputy-Speaker: Are there not complaints that some munsifs are *vaji* or compromise munsifs and that they coerce the parties and compel them to come to terms?

Shri S. V. Ramaswamy: The element of compulsion is there. That is the thing which is objectionable. If it could be possible that after the settlement of issues they thrash out the thing and explore the possibilities of settling the suit it would be all to the good.

Mr. Deputy-Speaker: I think there must be conciliation officers appointed.

Shri S. V. Ramaswamy: That is what I am emphasising.

Shri Pataskar: Supposing the judge tries to effect a compromise and he finds that some parties are obdurate

[Shri Pataskar]

and do not agree, naturally there is a prejudice created in his mind about the parties concerned, and so I do not think that will be a very good procedure to be followed.

Shri S. V. Ramaswamy: When we are having conciliation procedure for conciliation and arbitration, why is it not possible for the courts to apply their minds, after the settlement of issues, to clarify the issues and to narrow down the issues, to try to bring the parties together and see if they cannot effect a settlement before going to trial? If, of course, after exploring these possibilities, the suit must go to trial, by all means, let it go, but let this be done before the issue of summons to witnesses. It will be a matter of saving for the parties. It will be a matter of saving of trouble for the witnesses and for the litigant public also. It appears that such a new order like order 15-A might be introduced.

There are other things for suggestion. The question is whether question could be settled at the district court level and what is the category of such questions. There are other questions like hearing of first appeals by itinerating division benches of High Courts if possible. This will also reduce the pendency of suits and expedite justice. I do not want to take much more time. If one is invited to make suggestions, so many suggestions could be made.

With regard to the motion moved by Shri M. L. Agrawal that the matter may be opened up for suggesting other amendments to the other portions of the Code, I am very diffident as to what would happen. You will remember that when I introduced by private Member's Bill for the limited purpose of abolition of assessor and jury systems in the application of the criminal Procedure Code, the then Minister of Home Affairs got up and said that he would come forward with a very comprehensive measure for the reform of the criminal Procedure Code and tried to

persuade me to withdraw the Bill. But I stuck on and I was contending that I shall not withdraw the Bill till such time as the promised comprehensive Bill came up for the consideration of the House. When the Bill did come—as it has now come—it was far from being comprehensive. It dealt, just like the Civil Procedure Code is now being dealt with, with only few sections. But then it was suggested and it was accepted by the Minister and the hon. Members of this House that the Committee might receive suggestions with regard to amendments covering other sections not dealt with by the amending Bill, and many of us have circulated printed amendments covering other points as well. But so many were the amendments that were received by the Committee that the Committee, in its report, submitted that this is too vast a subject and that it cannot deal with those amendments and that question may be deferred till such time as a more comprehensive Bill could be put up. I fancy that similar will be the fate of those suggestions and if the House accepts that the suggestions for amendments with regard to the other sections, orders and rules might also be given, we shall certainly get busy and send so many amendments, but ultimately I think the result will be the same, and the report will say that there are so many amendments that a comprehensive Bill may be brought forward later! With these words, I support the Bill.

Shri Kamath: Sir the Minister of Law—I am sorry, the Minister in the Ministry of Law is....

Mr. Deputy-Speaker: It is something like a son-in-law and a father-in-law.

Shri Kamath: The Minister in the Ministry of Law is piloting a measure which, to my mind, is a child of the Government's predilection nay passion for change, and of its indifference to the cause or the interests of real justice

Turning first to the Statement of Objects and Reasons, the Minister has observed thus:

"While a thorough overhaul of the Code of Civil Procedure is a difficult task which should be entrusted to an expert Committee, some amendments of the Code appear to be desirable from the point of view of reducing the delay and expense".

Some of the amendments proposed in this Bill appear to be designed to reduce the delay and expense but only at the cost of the highest standards of justice which have been objective and our goal in this country for so many decades. It is unfortunate that merely with a view to reducing delay and expenditure, certain salutary provisions of the Code of Civil Procedure should be sought to be amended. It will only deprive our litigants, who are already suffering in many ways in the lower courts, of their right of appeal and revision.

Much has been said on various clauses of the Bill and I do not wish to traverse the ground which has already been covered. I will confine myself to two or three clauses of this Bill. I shall not deal in the order in which they appear in the Bill but I shall take them as I deem fit. I will take up first the clause concerning exemptions—clause 14 of the Bill—about which a lot was said yesterday by my friend Shri S. S. More and other hon. Members too in this House. It seeks to amend section 133 of the principal Act. Exemption is sought to be conferred upon a whole cart-load of dignitaries of the Indian Union. The Speaker is one, the President is one, the Vice-President is one, but Ministers are at least 300, I think, in the whole of India. If you take all the 27 States and add up the number of Ministers there will be at least 300 to 400 Ministers in the Indian Union.

Shri S. V. Ramaswamy: Then it is a train-load, not a cart-load.

Shri Kamath: Cart-load or a car-load or even train-load, as you please. May I submit, in this connection, that firstly it is not clear whether this term 'Minister' includes Deputy Minister, Ministers of State and also Parliamentary Secretaries. The list of Members as given by the Lok Sabha Secretariat contains in the first few pages the whole list of the Cabinet Ministers, Ministers of the Cabinet rank but not Members of the Cabinet, Ministers of State, etc.

Shri S. S. More: Our rules of procedure define Ministers as including Parliamentary Secretaries.

Shri Kamath: In the Centre, as you are very well aware, their number has been enlarged recently and it is I believe,—if my memory does not betray me—only four short to make a complete pack of cards.

Shri Asoka Mehta (Bhandara): Excluding joker.

Shri Kamath: If the joker be included, it would be five short. Of course, we have got the aces, kings and queens etc., but only the dukes are lacking.

Mr. Deputy-Speaker: The hon. Member goes in an indirect manner into the appointment of Ministers, which is very wrong. He can just say, all these categories of persons ought not to be exempted. But it is another thing to say that Ace or Jack has been exempted.

Shri Kamath: I never disputed the Government's right or President's right to appoint any number of Ministers. I only stated as a fact that there are so many Ministers.

Mr. Deputy-Speaker: Of course there are a number of Ministers, but to go into details that he is Ace or Jack is wrong.

Shri S. S. More: He is only adding some humour in order to keep the quorum in the House.

Mr. Deputy-Speaker: But there are limits to it.

Shri Kamath: It is not merely humorous; it is a serious statement, Sir. There are 300 Ministers in the Indian Union. Of course I do not wish to dispute anybody's right to appoint any number of Ministers. My point in this connection is that if any of these dignitaries—President, Vice-President, Speaker and Ministers—happens to be a plaintiff in a civil suit, he should not be exempted from personal appearance in court. Exemption may be granted in other cases; but exemption should not be granted in cases where any of these dignitaries happens to be a plaintiff in a civil suit. Recently we have had some measure about defamation. Some case might arise in which some Minister might file a suit for damages. It may not be for defamation, but for damages, which is a civil action. In that case, if Minister files a civil suit against somebody for damages, the Minister should not be exempted from attendance, because he becomes a plaintiff. What is given in the Bill is a blanket provision that so many persons in the Indian Union shall be exempted. This must certainly be amended to this extent that if any of these persons happens to be a plaintiff in a civil suit, he should not be exempted or allowed to claim exemption.

Then, as regards the reason for amending section 133 of the Code, the explanatory memorandum says that the Rajasthan High Court ruled that section 133 of the Code was *ultra vires* of articles 14 of the Constitution. This is mentioned in the note on clause 14 of the Bill. I am sorry I could not get a copy of the judgement of the Rajasthan High Court. If it was attacked by the Rajasthan High Court on the ground that the State Government had been empowered to notify for exemption certain persons, then I concede this amendment will serve the purpose. But if the exemption of certain persons has been attacked on the ground of inconsistency with article 14 of the Constitution, then I do not understand how this amendment will work.

Shri Pataskar: For the information of the hon. Member, I may tell him that the Rajasthan High Court judgement proceeds on the basis that in all such matters there should be some sort of a classification. The object of the present section of the Bill is to prevent exemption being given to anybody arbitrarily. That is the object. I can send the judgement of the Rajasthan High Court to the hon. Member if he likes. The present section has been considered as not *ultra vires* by another High Court—Punjab High Court. We do not want to leave the section in this condition. I was going to deal with this point in my reply, but now that so many Members are raising this point, I would like to point out to hon. Members that the basis for a distinction ought to be some sort of a classification and it should not be left to the arbitrary decision of the Government as to who should be exempted. You can say these are the persons who should be exempted and you can also include 687 ex-rulers. I would like to explain this also: The present position is that there are agreements of merger in which it has been agreed that these persons would get exemption. We have to continue it now.

Shri S. S. More: All ex-rulers are not Rajpramukhs.

Shri Pataskar: I just wanted to explain the position regarding the decisions of the High Courts. There is one High Court which has held this section is not *ultra vires*; there is another High Court which says that this is rather arbitrary and from that point of view it is not consistent with the Constitution. We have made an attempt here to see that all these controversies are settled.

Shri Kamath: If the Rajasthan High Court suggested that there should be a reasonable classification, was any exact type of classification mentioned in the judgement?

Mr. Deputy-Speaker: It will take some time for the hon. Minister to

refer to the judgement and give the information. Whatever information the hon. Member has ordered will be given, but the hon. Member can continue his speech.

Shri Kamath: If section 133 of the principle Act was declared *ultra vires* of article 14 of the Constitution on the ground of equality before law, I fail to understand how the present section in the Bill will meet the requirements. This also may be held by the Supreme Court as being *ultra vires* of the Constitution. Also, I am afraid that it will not be held reasonable to include so many dignitaries of the Union. Further I would ask the Government to straightway make it clear as to what categories are included in 'Ministers'. In the last Parliament when the question of disqualification of Membership of Parliament arose, the Government brought an amending Bill to include the Deputy Ministers also within the scope of exemption from disqualification on account of offices of profit. Therefore, just to obviate any difficulty which might arise later on, they should define the term 'Minister' in this Bill.

Mr. Deputy-Speaker: I believe there is only one category of Ministers in the Constitution.

Shri Kamath: Council of Ministers is mentioned. There is no Minister mentioned individually or as such.

Mr. Deputy-Speaker: All of them are members.

Shri S. S. More: May I bring to your notice that in the Rules of Procedure, 'Minister' has been defined. It has been defined in such a way as to include even a Parliamentary Secretary.

Mr. Deputy-Speaker: That is another thing.

Shri S. S. More: My hon. friend Shri Kamath is perfectly right in making the statement that the word 'Minister' ought to be defined.

Shri Kamath: Next Sir, My hon. friend Shri S. S. More, yesterday made out a point with very cogent arguments that you too, Mr. Deputy-Speaker, should also be exempted.

Mr. Deputy-Speaker: Why?

Shri Kamath: He argued very rightly....

Shri S. S. More: It is not a question of you. When Ministers are exempted, if the Deputy Ministers are exempted, why not the Deputy-Speaker?

Mr. Deputy-Speaker: Unless it is absolutely necessary and I make a request, hon. Members need not plead my case here.

Shri S. S. More: I was mainly responsible for making that point. You yourself were absent. Otherwise, it would have been awkward for me. Apart from the personality, the occupant of this office should be exempted.

Pandit Thakur Das Bhargava (Gurgaon): If the Speakers of the State legislatures are exempted, our Deputy-Speaker is more dignified. There is no doubt about that.

Mr. Deputy-Speaker: Order, order.

Shri Pataskar: I shall be very happy if the Deputy-Speaker is also included. People need not argue about it.

An Hon. Member: When the House is in session, what about the Members?

Shri Sadhan Gupta (Calcutta South-East): What about the panel of Chairmen?

Shri Pataskar: I am not prepared to go further at present. The Select Committee might consider anything.

Shri Kamath: My point in this connection was whether it is the President or the Vice-President or anybody else right down to the last category, if he happens to be a plaintiff in a civil suit, he should not be exempted by the court. He should be

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required to appear in the court. If he fails to do so, the presumption should be as much against him as against any ordinary citizen of the land.

Pandit Thakur Das Bhargava: What is the warrant for legal presumption? If they do not appear themselves, the court may not force them to come. Supposing they are able to come and they do not appear, the presumption will be against them.

Mr. Deputy-Speaker: Merely because there is a suit, each one of them ought not to fall ill. Notwithstanding the fact that they are hale and healthy and strong, if they do not appear, no presumption can be drawn when there is a statutory provision under which they can absent themselves.

Pandit Thakur Das Bhargava: Because they are exempted, the court will not compel them. Suppose a person chooses to come, cannot he come?

Mr. Deputy-Speaker: He can.

Pandit Thakur Das Bhargava: In his own interest, it is for him to appear. If he does not appear the presumption of law will be there that he does not want to appear.

Mr. Deputy-Speaker: It is not for us to consider what the court is likely to do. A person is exempted. The option is to him to appear or not. If he takes advantage of this provision, whether there is presumption or not, it is for the courts to decide. We are not giving any hypothetical rulings upon what may happen or may not happen. If the presumption arises, it will arise. If there is no presumption, there will not be any presumption. There is already an Act. The High Court or the Central Government may grant exemption to various persons. The Government has only to notify to the High Court. In view of some judgement, the Government wants to categorise them. The only point is whether you should

have any categories, or whether there are too many categories or some more have to be included. Whether any presumptions will arise or not is not a matter for our decision here.

Shri Kamath: The question of presumption must be considered. I definitely demand that as plaintiffs they should be required to appear in court.

The Minister of Law and Minority Affairs (Shri Biswas): May I draw attention to clause 3 of section 133 as it stands? It is on page 15 of the booklet that has been circulated. It says.

"Where any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs."

The only change which is now proposed is the deletion of the word 'so exempted'. What I am pointing out is this. The mere fact that their names are in the new clause (1) does not mean that they will be automatically exempted. They have got to claim the privilege. If by reason of the claim it is found that the other party will be damaged, because he has to take out a commission for his examination, the costs of the commission will have to be paid by the person who claims exemption. I am only pointing this out; I am not making any comments. I only want to draw attention to the existing clause 3 or section 133.

Shri S. S. More: It is a sort of a deterrent.

Shri Kamath: My point is about the examination in court: not on commission, which is quite different from appearance in court. I say, as a plaintiff, he should not have the benefit of examination on Commission.

Pandit Thakur Das Bhargava: This shows that he does not get any benefit.

Shri Kamath: As the plaintiff, he should not be allowed to claim it.

Mr. Deputy-Speaker: The point seems to be that he ought not to avoid the witness box and a public cross-examination. Commission is an entirely different thing.

Shri Raghavachari: Appearance is under two categories: as a party and as a witness. My friend is saying it applies to both.

Shri S. S. More: It does apply. It does not say, as a witness.

Shri Raghavachari: Exactly. It is only as a witness that he has to pay the costs of the commission.

Shri Kamath: Coming to clause 11 of the Bill, it seeks to raise the pecuniary floor limit for second appeals from Rs. 500 to Rs. 1,000. I think, in the conditions prevailing in India today, this is a retrograde proposal. It will affect the poorer section of the population very adversely. A Government committed to a welfare state and what not, should not be desirous of or should not even dream of affecting the poorer classes in any adverse manner at all. I have not practised law myself. But, I have for a short while, Sir, administered the law. I have heard lawyers, haranguing, fighting like kilkeny cats on occasions. I have learnt from them a lot, though not very much from books. I personally feel that if the right of second appeal in respect of suits below Rs. 1,000 in value is sought to be taken away, and the litigant is deprived of this right, I am afraid the lower courts and the small cause courts would behave more arbitrarily than they are doing at present. There are no small cause courts in all places; in particular courts there are small cause days in a week. I have personally heard it said; these days are referred to as bazaar days for that court, because there is such a crowd and such a rush of people, that it is not even possible to get into it.

Mr. Deputy-Speaker: Has the hon. Member experience of civil judicial work also?

Shri Kamath: I was additional District Judge for two years. The Small Cause Judge happened to be my neighbour for a year. I knew what used to pass in that small cause courts.

Mr. Deputy-Speaker: I am sure the hon. Member's judgements have never been taken in appeal.

Shri Kamath: I did not decide small cause suits.

Pandit Thakur Das Bhargava: May I know what was the percentage of appeals accepted in respect of your judgements.

Shri Kamath: I want notice, Sir. I was referring to small cause judges and if you will permit me, I shall refer to the observations made by a full bench of the Supreme Court consisting of Chief Justice Mahajan, S. R. Das, Ghulam Hassan, Bhagwati and Venkatarama Aiyar. In the reported case of Dhakeswari Cotton Mills, they held that the income-tax officer and the tribunal passed their judgement on pure guess-work. Here is the relevant portion of the judgement.

"...it is equally clear that in making the assessment under sub-section (3) of S. 23 of the Act, the Income-tax Officer is not entitled to make a pure guess and make an assessment without reference to any evidence or any material at all."

Mr. Deputy-Speaker: We are not on the Income-tax Act now.

Shri Kamath: Our small cause courts may behave worse than when they know there is no second appeal.

Shri Pataskar: The very nature of the word "small cause" shows that they are for small causes, not connected with immovable property etc.

Mr. Deputy-Speaker: The value of Rs. 1,000 today is not more than Rs. 500 of earlier days.

Shri Kamath: It may not be. For poor people, it means quite a lot. In the course of the trial of my election case in the Supreme Court, Chief Justice Mahajan remarked that if this protection by appeal and revision under articles 226 and 227, 136 etc., were not there, these courts, tribunals and others would behave,—and they have behaved, like petty dictators. That was the remark made during arguments in my case. It is good the Constitution has given more than powers of revision. Otherwise, the lower courts may run amuck, and I do feel that there is no case for raising the pecuniary floor limit in the circumstances prevailing today. This may be considered perhaps at a later stage when the country is more prosperous and we have settled down and the Civil Procedure Code is revised by an expert committee as the Minister has promised in the Statement of Objects and Reasons, but at the present day there is absolutely no case for raising the floor limit from Rs. 500 to Rs. 1,000.

While I am on the subject, I may refer to this expert committee. Though it is not part of the Bill, it is part of the Statement of Objects and Reasons. The Minister has referred to the future revision—"overhaul" is the word used here—of the Civil Procedure Code by an expert committee. I do not know what exactly is meant by the word "expert". Experts very rarely agree and they very often differ, fight among themselves, quarrel among themselves. If it is entirely legal experts, I hope the Minister will not take such a step. and I hope that when Government appoints this committee, it will also include persons who have been conversant with social, economic and political life and developments in this country. Not mere lawyers would do. I hope Government will hear that in mind before they proceed with the appointment of this committee. This is only a sub-

sidary observation because it is not immediately relevant to the consideration of the Bill. It has been provoked by the remark made by the Minister in the Statement of Objects and Reasons.

Coming to clause 13, it seeks to amend section 115 of the principle Act. The effect of that would be that revisional powers of the High Courts in certain cases would be restricted. The High Court would be deprived of its revisional powers where an appeal lies. Now, there are various stages in a civil suit. It is not clear whether this particular provision refers to all stages, interlocutory and final. There are stages where an issue of law may arise which, in my judgement, only a High Court should decide and not any lower authority. The ex-Chief Justice, of India, Shri Mahajan, shortly before his retirement, said in Ambala or somewhere else that the lower ranks of the judiciary were showing an unhealthy tendency to become subservient to the executive. He said that he deprecated this tendency and he hoped that the judiciary would maintain the highest standards so far as the administration of justice was concerned. Now, if the High Court is deprived of the powers of revision where issues of law are concerned, it will affect many litigants adversely because revision on an issue of law is quite different from an appeal on issues of fact. The High Court can sift the evidence affecting particular issues, and decide the matter very quickly and remand it to the lower court for trial. A lower appellate court, judging by the way things are going in many parts of the country, will not decide it as efficiently, or even as quickly perhaps, as a High Court will do. As a matter of fact, the section in the principle Act refers to only issues of law. What does it say?

"..... appears—

- (a) to have exercised a jurisdiction not vested in it by law,
or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity."

These are issues of law, not issues of fact at all, which may even call for exercise of the powers of High Courts under article 226. Under this article the High Courts have the power to issue writs of certiorari and other writs. These are however not affected by this, as the law cannot override the Constitution. Under article 227 the powers of superintendence given to the High Courts are very wide, and in my own case a ruling was given for the first time by the Supreme Court that by superintendence is meant not only administrative superintendence, but also judicial superintendence.

Mr. S. S. More: May I ask if clause 13 takes away the original power of revision, because the only word omitted is "thereto"? By omitting this word, on the contrary, the power of revision is widened. My friend is arguing on the assumption that this clause 13 would take away the powers.

Mr. Deputy-Speaker: Till now no revision was allowed except in cases where an appeal lay to the High Court. Appeals may lie to subordinate courts. Even then, under this amendment omitting the word "thereto", it is open to have revision to the High Court, wherever an appeal lies, from the Munsif to the District court etc.

Shri S. S. More: Sir, am I right when I say that by the omission of the word "thereto"....

Shri Pataskar: That is to say, it is quite clear that if there is the remedy by way of appeal open to the person concerned, then, naturally, he will not be able to go to the High Court, if this amendment is accepted.

Mr. Deputy-Speaker: Wherever the appeal may lie.

Shri Pataskar: The whole idea is where there is a remedy by way of an appeal even to another court, in that case, there will not be a revision application to the High Court. I would just like to ask the hon. Member: is it not the common experience that interim proceedings like waiting for record etc., cause an amount of delay?

Shri Biswas: If I might interrupt, as a matter of fact, the object of the present section 115 is quite well known. The remedy is provided by way of a revision petition to the High Court for this reason, namely that even if there is an appeal open to a district court, say from a munsif to a subordinate judge or from subordinate judge to a district judge, it may still be necessary to move the High Court by an interlocutory application. Otherwise, a lot of money and time may be wasted. If there is a point of law, and you go up to the High Court all at once and get a decision on that point of law, that may finally conclude the case, and then other proceedings in the lower courts may be wholly unnecessary.

What has happened is that section 115 has come to be abused to a large extent. Advantage has been taken of the words 'with material irregularity' in sub-section (c) of section 115. My hon. friend Shri Kamath pointed out the various provisions, but referred only to points of law. Now, so far as points of law are concerned, if you go to the High Court only for a final decision on a point of law, which will practically render other proceedings unnecessary in the lower courts, one can understand it. But taking advantage of these other words 'with material irregularity'; even when the point is something beyond a point of law, people rush to the High Court, and the High Court is over-flooded with numerous petitions in revision, most of which ultimately come to be thrown out. The result

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is that in the meantime much valuable time wasted as well as money. Owing to the accumulation of work in the various High Courts, these revision petitions have come to be regarded as a clog in the administration of justice. That is why this change has been made. Although there was a good deal to be said in favour of an immediate recourse to the High Court to get a point of law settled, still after taking all matters into consideration, in the balance, it was found that we might try and see what is the effect of an amendment like the one which has now been proposed.

Pandit Thakur Das Bhargava: The logical course then would have been to take away the words 'with material irregularity' rather than to take away the entire right. According to my hon. friend, the entire right is very useful. So, only the words 'with material irregularity' could have been removed.

Shri Biswas: I was explaining the considerations which moved Government to adopt this course. One might or might not accept that view. There might be other ways. I am not suggesting that the object might not be attained by other ways. I am only explaining what led Government to make this amendment.

Shri B. S. Murthy (Eluru): Why should there be a total denial of the right?

Shri Sadhan Gupta: May I know whether Government have any figures to show the extent to which this particular provision has been abused, because normally I would have thought that the High Court would promptly reject any application in a matter in which appeal lies to another court or to itself, and it is only in very abnormal circumstances that such an application would be accepted.

Mr. Deputy-Speaker: Is not the hon. Member aware of the cases where lists of documents have not been admitted?

Shri Sadhan Gupta: No appeal lies from that. The particular thing remains unaffected even now.

Mr. Deputy-Speaker: An appeal lies against that order only when the appeal lies against the case itself. Now, in interlocutory orders, there is no appeal.

Shri S. S. More: Even with the present amendment, parties who have ample funds to spend will rush to the court and come back.

Shri Pataskar: The provisions of the Constitution, as I pointed out yesterday, are already there. So, we are aware of that.

Shri Kamath: The hon. Minister Shri Biswas has been an eminent judge of the Calcutta High Court. I would ask him to tell us whether he was speaking from personal experience when he said that the High Courts are flooded with these applications for revision. He has decided many well known cases like the *Bhowal sanyasi* case, and he has been a judge for many years. During his tenure of office, was he flooded with these applications for revision? I would like to know that.

Shri Biswas: My friend is asking me to state my own experience. I will say this that I have sat with several colleagues on the High Court Bench. Well the judicial mind changes like the Chancellor's foot, and particular judges have particular views on these matters. Some are very liberal; some are very strict. I need not give names. But there it is. If you have a strong colleague who can assert himself, the other judge may yield. Otherwise, the personal equation prevails, and that is the real position. If I might mention one name, for instance, if people went to the late Justice Sir Ashutosh Mukerjee, they might be sure almost in every case of getting a rule, whatever the ultimate result might be. If on the other hand, you went to a judge, the late Mr. Justice Buckland, it was very difficult to get any rule. That personal equation prevails even now.

We cannot help it. And there you are. You have to decide here whether you should or should not retain the existing provision or make a change.

Shri Kamath: I proceed on the assumption that our High Court judges will be liberal and just. At the same time....

Shri Pataskar: There is no doubt about it. All of them are just.

Shri Kamath: I hope there will be a liberal interpretation of law, liberal so far as the citizen is concerned, as against the State.

I submit that it is wrong to curtail or restrict the powers of revision that have been conferred on the High Courts by section 113 of the principal Act. If that is not accepted, I am afraid that the only remedy in certain cases might be to have recourse to the constitutional powers conferred on High Courts under articles 226 and 227; but it is not always easy to invoke these powers. So, I would earnestly plead that this clause seeking to curtail the powers of revision should not be accepted, and the powers of revision as they are today should continue.

In this connection, I would only briefly mention in passing that this illustrates a tendency which has been noticeable in very recent months. There has been a spate of speculation in the press, and there have been rumours, that Government want to curtail the powers conferred on the High Courts under articles 226 and 227.

Shri Pataskar: But there is no justification for any such thing.

Shri Kamath: There have been so many rumours and reports.

Shri Pataskar: They are rumours only and nothing more; and absolutely, there is no intention on the part of Government to do anything of that kind.

Shri Kamath: May I take it that this is a definite assurance and promise by the hon. Minister?

Shri Pataskar: I do not know what more is required than this. I say there is nothing under consideration before Government to take away those powers. The matter is not under consideration.

Shri Kamath: I might draw the attention of the hon. Minister to article 226 where the last phrase is 'for any other purpose'. There was a very strong rumour that this phrase 'for any other purpose' was sought to be deleted, and that Government would introduce an amending Bill even in this session or the next session. But I am glad over what the hon. Minister in the Ministry of Law has stated, and I hope that will be endorsed by his senior colleague also on behalf of Government.

Shri Biswas: I can say this, that so far there is no proposal to that effect.

Shri Kamath: That is a very half-hearted 'so far'.

Shri S. S. More: They cannot speak for eternity.

Shri Biswas: I cannot speak for the future.

Shri Kamath: Has it been mooted any time in the Cabinet?

Shri S. S. More: That is a Cabinet secret.

Shri Kamath: If it is not a secret, he could tell us.

Shri Biswas: Whatever takes place in the Cabinet is a secret, and I am on an oath not to speak about it.

Shri Vallatharas (Pudukkottai): There is no quorum. We are only 39.

Shri Chattopadhyaya (Vijayavada): This lack of quorum seems to be like history which repeats itself. It repeated itself three times yesterday. We should adjourn the House now.

Shri. Altekar (North Satara): There is no question of quorum between 1 and 2-30 P.M.

Shri S. S. More: May I bring to your notice that the recent statement that during the lunch period the question of quorum should not be raised....

Shri Vallatharas: It is said that there need not be quorum between 1 and 2-30 P.M. So I withdraw my remark.

Shri S. S. More: is absolutely wrong? In the House of Commons, there is no statutory provision for the purpose of maintaining quorum and, therefore, they can develop a convention which cannot be in conflict with any statutory provision. In our Constitution, there is a regular provision, an article which says that 50 shall be the number required to form quorum, and a convention which conflicts with this constitutional provision cannot have any validity. I respect the dignitary who made that sort of suggestion, but looking to the brass-tacks, that sort of convention, not to count out the House during this period is in conflict with a provision of the Constitution, and will therefore have no validity. Therefore, if anybody raises that question, you will be kind enough to take this into consideration.

Shri Chattopadhyaya: I refer to clause (3) of article 100 of the Constitution.

Shri S. S. More: That is what I refer to.

Pandit Thakur Das Bhargava: If there is no quorum, all this argument is useless.

Shri Pataskar: You will remember that when we decided to sit continuously even during lunch hour, it was a sort of understanding that nobody should raise this objection. If we do not have quorum, then the only course is to wait for quorum.....

Shri S. S. More: If you want to have any convention, amendment of

the Constitution will be the easiest way.

Shri Biswas: So far as the point raised by Shri S. S. More is concerned, he is strictly right from the legal point of view. We recognise the necessity of amending the Constitution, and that may be done.

Mr. Deputy-Speaker: Until that is done, what is my position?

Shri Biswas: That lies in the hands of the occupant of the Chair. There was that understanding, a gentleman's understanding, while the full House was here, and whether we should adhere to that or not is a matter for the Members to decide for themselves.

Shri S. S. More: I want to make a very sober suggestion for your consideration. People are interested much more in their lunch than in the discussion here. Will it not be more honest and straightforward to adjourn for lunch so as not to put Members to the necessity of either foregoing their lunch or foregoing their responsibilities to the House?

Pandit Thakur Das Bhargava: Quite right.

Mr. Deputy-Speaker: All I can say is that during this period no vote is taken, unless there is a unanimous vote. So far as the decision is concerned, the decision is of a full House. It means 50 and above; that is, the quorum is full. It is a question of making speeches and then trying to convince the others. Yesterday, as hon. Members are aware, it was not during lunch time that there was no quorum, but at tea time. Then there may be dinner time and so on; various times come one after the other and there is want of quorum. Therefore, it is not mere lunch time that takes away the quorum, but other times also. Therefore, I would urge upon hon. Members not to raise the question of quorum during this period; I will also feel that there is quorum. We can go on for some time because we have to get through the work.

Not that I say there can be any convention overriding a statutory provision, but we get on as if there is quorum; nobody brings it to my notice and I do not take notice.

Shri S. S. More: It becomes a gentleman's understanding which goes against the spirit of the Constitution.

Mr. Deputy-Speaker: After all, if it is modified day after tomorrow, we are absolutely in the right. Nothing is sought to be forced.

Shri Kamath: We cannot leave it, unless it is withdrawn.

Shri Vallatharas: I have already withdrawn it.

Shri Biswas: There are so many things which we shut our eyes and ears to.

Shri Vallatharas: I only brought it to the notice of the chair because no quorum situation is often talked of in the bazaar openly.

Mr. Deputy-Speaker: I shall take care that except during the lunch hour, the deliberations are conducted with quorum, whether the matter is brought to the notice of the Chair or the Chair itself takes notice of it. Without quorum, no proceedings will be conducted, but during this period, quorum is assumed to continue; only hon. Members need not bring it to the notice of the Chair. The Chair also need not take notice of it.

Shri Chattopadhyaya: That is highly imaginative.

Mr. Deputy-Speaker: If we do not accept the convention, I shall bring it to the notice of the hon. Speaker who started this convention, and I will leave it to his decision.

Shri Biswas: May I have your leave to leave the House, although I am not a Member of this House?

Shri S. S. More: He cannot be a part of quorum.

Mr. Deputy-Speaker: The hon. Minister, Shri Pataskar, is here.

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Shri Kamath: I am only submitting on that point that without quorum this will be unconstitutional.

Mr. Deputy-Speaker: No decision is taken.

Shri Kamath: There is article 100 (3) of the Constitution. This is a Parliament which has to function within the limits of the Constitution. It is our duty to uphold the Constitution.

Mr. Deputy-Speaker: I can only ask hon. Members to sit for a while, because there is no quorum.

Shri Kamath: I was on the point of the High Court's powers of revision, and I can only hope that that is not the shape of things to come, or what is very expressively said in another phrase, coming events cast their shadows before. I do hope that the assurance given by the Minister will not prove to be a three days' wonder but will be honoured and respected at least for some reasonable time to come. I cannot of course bind him for an indefinite future.

Shri Pataskar: Why attach so much importance to rumours?

Shri Kamath: It is not only rumour. Some rumours precede Government announcements. I have seen that on many occasions. I cannot bind the Minister for the entire future, because he too may not be there. So for a reasonable time, he must assure us that the High Courts' powers and Supreme Court's powers in regard to issuing writs and in other matters, namely, articles 226, 227, 132, 133, 136 and so on, will not be curtailed or abrogated or restricted. I hope that the Joint Committee will take note of the suggestions I have made on these three clauses, namely, High Courts' powers of revision, exemption of dignitaries from attendance in courts and raising of the pecuniary floor limit in the matter of second appeals. I hope that these suggestions will commend themselves to the Joint

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Committee and these will be incorporated in the Bill when it comes back to the House from the Joint Committee.

Shri S. S. More: Don't be so optimistic.

Shri Altekar: Speed, efficiency, impartiality and cheapness are the principal objectives to be attained in the administration of justice—full proper justice. If we take up two of these, impartiality and efficiency, they, of course, cannot be so much effected by any procedure. Impartiality has to be vouchsafed by the Constitution, by making the judiciary independent, and that has been so done. With respect to efficiency, I would like to point out that it depends upon the personnel, the proper choice of the personnel. For that, of course, a great effort will have to be made. I think so far as civil justice is concerned, it enjoys the confidence of the public to a great extent. So far as speed and cheapness are concerned, this Procedure Code has to do a good deal in that respect. But cheapness can be obtained only by revising the Court Fees Act and by changing the present structure of the judiciary so as to establish primary village courts for simple matters. If cheapness is to be secured the court fees and other costs of litigation will have to be curtailed to a great extent and the expenses of the judiciary will have to be reduced in such a way as to pave the way for the reduction in the costs of administration of Justice. From that point of view, a radical investigation into the Code of Civil Procedure, as also the Court Fees Act and the Evidence Act will have to be undertaken. That cannot be done unless and until the Commission which has been contemplated by the Government takes these matters in hand and goes through them.

Meanwhile, the question is that if there are some important reforms that could be brought in, whether they should not be attempted. If a

very fundamental reform is undertaken the criticism is that this should not be done merely by the Minister but rather the question should be put into the hands of a competent Commission. That is the sort of criticism we saw at the time of the Criminal Procedure Code (Amendment) Bill. Now, when the reform that is sought is I may say, moderate the criticism that is levelled is why introduce such a Bill at all. I would like to point out that when such a great investigation requires time we should bring about changes which are very essential, and which could be brought about without any sort of controversy. From that point of view there are, I think, many provisions in the Bill which are very salutary and they require to be enacted into law.

Take, for instance, the question of repealing sections 68 to 72 and the Third Schedule of the Civil Procedure Code. We have seen that when decrees are transferred to the Collectors they take a lot of time. I have seen proceedings in which when the matter is sent to the Collector for partition it has dragged on for 5, 6, 7, 8 or even 10 years. In the case of maintenance decrees also, when they are sent to the Collector for the sale of the land, they take a good number of years. I have seen cases in which, in the meanwhile, we have amended the execution applications by adding year after year additional claims during the pendency of that execution proceeding. So, it is quite necessary and desirable; and it is a reform that is called for from all classes that the execution of the decree should be made by the court rather than be sent to the Collector. I have seen, in a partition suit brought by an adoptive father, where the son took possession of the property, the father had to sue for partition and possession and the case was decided and the decree was given. But, when the matter was sent for execution to the Collector it went on for years. The father died meanwhile, and the son

remained in exclusive possession undisturbed as before. So, there was absolutely no use of such proceedings.

So far as this reform is concerned, I have discussed this with many of my friends at the Bar as also some gentlemen who are working for the cause of social reform and so on. All of them say that this is a very useful and salutary reform. I think that if the execution of those decrees which heretofore were being transferred to the Collector for execution are ultimately executed by the court itself, a good deal of time will be saved. From the point of view of achieving speed in the execution of justice, I think, this is a step in the right direction. The only thing would be that perhaps some clerks fit to serve in the Survey Department will have to be engaged in courts or if a partition of land has to be effected some commission will have to be issued to a survey or in the office of the District Land Records. Apart from that, I think, this is a step in the right direction, and will spell no difficulty.

Another point which I think of equal importance is in connection the determination once for all of the controversial question of the status of the auction purchaser at a court sale. There was a great controversy and that has been set at rest.

Yet another point which has been a matter of controversy here is *res judicata* in execution proceedings. I think that the principles that apply in suits in regard to *res judicata* or Order II, Rule 2, cannot apply in the case of execution proceedings because there are certain matters in which orders are passed only in connection with the matters that are in issue at the time being. In a suit, the plaintiff is bound to seek for all the reliefs that he is entitled to get. If he does not do so, then, he cannot subsequently agitate the matter by a different suit. But, in execution proceedings we often see that when a decree is passed for so many reliefs the plaintiff just asks for the execution of some

of them; and, he can ask for the rest within the period of limitation. It is not so in respect of suits. Therefore, in execution proceedings only those points that have been actually pleaded, denied or accepted, will be matters of *res judicata*. That, I think, should be the proper approach.

Another important point that has been taken up in this Bill is in connection with restitution. Orders were not the subject-matter of restitution under section 144 and they have now been so taken and I think that is the proper thing to be done.

But, in connection with the amendment of section 115, that is the revisional powers of the High Court. I am rather not of the same mind as the hon. Minister of Law. I think there are certain types of interlocutory orders which, if not allowed to be taken in revision to the High Court, would entail great cost upon the parties. Take, for instance, the question of the amendment of plaint. If section 115 is amended as it is sought now, then in a case where a proper amendment of the plaint is not allowed to be made—this being an order against which there is no appeal—it cannot be hereafter taken to the High Court. However, when the case is decided and when the party goes to the appellate court the question can be taken up there whether the amendment was not allowed rightly or otherwise. Under these circumstances, the situation would be that if this revision was there he could take it to the High Court and get it decided at comparatively less cost, and, of course, earlier than it would be when it is decided by going through a regular appeal. If this amendment is made that particular facility which was there—I myself have availed of it about half a dozen times and thrice successfully—to a litigant would be taken away. This is a point which is worthy of consideration by the hon. Minister and also by the members of the Select Committee.

In connection with speed, there are certain other considerations. Great

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criticism was levelled against the judges yesterday that they do not decide cases quickly. Unfortunately, there is no representative of the judges here and if any one were there we would have heard what obtained in the courts. Many times the cases are adjourned because the pleaders apply for adjournments and the judges are unwilling to grant adjournments and when they allow, it is often with great reluctance. I would, at the same time, like to point out that the situation in our country is such that expeditious trial will not be possible until the position of the masses in regard to education improves. We know it for a fact that most of them are illiterate and they do not know what documents are required. Many times when we ask them to procure extracts from the record of rights or copies of decisions in old cases and when we get them in our hands we get some information and from that we ask them to get some more documents. We are not able to get that information in time because they are illiterate and because they are not well acquainted with their own cases and only when we get information in this way we know what documents are necessary, even then copies are not supplied in time by some departments—. That being so, it sometimes happens that even written statements are not being given in time. Of course, they could be given in one month or two months if necessary information would be made available. It so happens that owing to the ignorance on the part of the general litigant public, it is very difficult to expedite the litigation as we intend, in the present circumstances in the country. Of course, we should try to do our best. Not many adjournments for written statements should be given and no unnecessary adjournment for the purpose of hearing also should be given, but it should not work in such a way as would ultimately defeat the ends of justice by not allowing the proper case to be put up and proper documents or evidence to be produced before the court. This

should be taken into consideration in the peculiar social level or social circumstances that obtain in the country. All these facts have to be taken into consideration when we are speaking about expediting the administration of justice. This, in particular, is a very important factor and should not be overlooked.

In connection with another point—interest on costs, I would rather say that the deletion of that particular sub-section will not be in any way desirable, because in many cases it so happens that the court exercises its discretion by looking into all the circumstances of the particular cause that is being agitated before it. As pointed out by one of my friends here the other day, on account of some complicated and intricate points the litigation itself drags on for a number of years and under such circumstances the party who has contracted debt for litigation and has to await the result for a long time, should not be put to additional strain. Many times it so happens that the other side puts in certain pleas that are quite not legitimate and proper—of course, under section 35A there is a compensatory clause. But in every case, the compensatory costs will not be allowed. There are certain cases in which the pleas put in by the other side may not exactly come within section 35A, but the court, taking all facts into consideration, may allow interest on costs. So, I think that that particular clause should be retained, sub-section (3) of section 35.

In connection with section 92, I submit that the addition that is being sought is quite desirable, because of a trustee is removed and he is in possession of the property, then the new trustee that is appointed should be given possession of that property and the possession from the old trustee should be taken away. That will prevent multiplicity of suits and it has been provided for rightly in this Bill.

In connection with clause 16, I have to point out that there are very salutary provisions suggested therein with

respect to the service of summons by registered post and so on, but with respect to sub-clause (3), I have to bring one circumstance to the notice of the Select Committee as also of the hon. Minister. It says:

"Where any party to the suit has, at any time on or before the day fixed for the hearing of evidence, filed in the Court a list of persons either for giving evidence or for producing documents, the party may, without applying for summons under rule 1, bring any such person, whose name appears in the list, to give evidence or to produce documents."

So far as production of witnesses is concerned, I have no objection, but so far as it relates to the production of documents, I submit that if a person in that list produces the documents on the day of hearing, the other party has no notice of it and cannot know what documents the opposite party wants to produce. The pleader for other party has to take information and instructions from his client, and only after taking such information, he can cross-examine or conduct the case further. Or he may be also thinking of producing any evidence for rebuttal. Though it may not be necessary to have a summons for documents being produced in court, the list should be given quite early—I may say on a previous date before the day of hearing. The documents may be produced without any summons by the witnesses. But if the list is to be given the same day on which the document is to be produced and the case to be heard, then it will take the other side by surprise. In spite of the present provisions in the Code, there are certain practitioners in law who desire to take the other side by surprise and to produce documents at the latest stage. They would get a license to do so. That should not be allowed. So, in the case of documents which are to be produced in court, a list should be given at least, say, fifteen days before the date of hearing and summons need not be given to the witnesses. They may produce the documents on the day of hearing, but

the list and the information as regards the documents should be given sufficiently early so that the other side may get an opportunity to take full information in connection with the documents and also to produce certain documents, if it is necessary to produce, by way of rebuttal. This aspect of the case deserves to be considered by the Select Committee.

I have not much to say with regard to the security from parties and other things, which are matters for the Select Committee to go into, but I have brought the important aspects to the notice of the House. What I have to say in connection with this Bill generally is that there are certain matters which have been touched upon—many of them are not controversial but some of them are very important, and from that point of view the hon. Law Minister has done well in bringing the Bill before the House. If it is to be kept back until the whole enquiry is completed by the Law Commission, which may perhaps take other Acts also for consideration first, it may be a long time before anything can be done in this matter. As I have already stated, two or three Acts will have to be taken into consideration in order to bring about an expeditious measure of administration of justice; the Evidence Act, for instance, will have to be considered. In certain cases, in the case of registered documents, we do not know with which of the alliances or which of their heirs the document lies so, that it is difficult to get produced the original in time. What is usually being done is that certified copies of the documents are produced, and if the law is to be strictly followed, and copies are not allowed to be exhibited it will be a long time before a proper procedure is followed for producing the documents. Generally, in the case of certified copies, it is the practice to admit them, but if it is not done, it will be rather difficult to get expeditious trials. The sections in connection with the admission of documents, secondary evidence and other matters also in the Evidence Act will also

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have to be considered. So the Evidence Act, the Criminal Procedure Code, the Court Fees Act and several other Acts should be looked into thoroughly and then alone the contemplated thorough and complete revision of the Civil Procedure Code will come in. It will take quite a lot of time and before that the very important provisions that are sought to be made by this Bill are properly done and I support this Bill subject to the suggestions made by me.

पीडित ठाकुर दास भार्गव : इस बिल को पेश करते वक्त हमारे ला मिनिस्टर साहब ने यह बातें नहीं कहीं कि वह इसके जरिए से कोई रैफॉल्मेशनरी चेंज इस बिल के द्वारा सिविल प्रोसीजर कोड में लाने जा रहे हैं। जैसा कि इस बिल के आम्बेक्टेड एंड रीजन्स में लिखा है यह कोई ऐसा बिल नहीं है जिसके जरिए से कि जितनी भी शिकायतें मुकदमोंबाजी की हैं वह सब दूर हो जाएंगी। जैसा कि कहा गया है कि यह मामूली सी एमेंडमेंट्स हैं जिससे कि जरूर फायदा होगा और मैं भी समझता हूँ कि इसमें कोई शक भी नहीं है कि इन से कुछ फायदा होगा। इस बात में कोई शक नहीं है कि यह एमेंडमेंट्स फायदेमंद हैं।

श्री कामत : चन्द एक।

पीडित ठाकुर दास भार्गव : चन्द एक ऐसी है जो कि प्रॉक्टिस में आई हुई है। ऐसी बात नहीं है कि अगर यह बिल न आए तो उन पर अमल होना बन्द हो जाए। लेकिन मैं तो कहना चाहता हूँ कि उनका वह जो कहना है कि हम थोड़ी सी और मामूली सी एमेंडमेंट्स लाए हैं जो कि आम तौर पर क्लर्क की जानी चाहिए, यह दुरुस्त ही मालूम होता है और मेरे विचार में उन्होंने इस बिल को लेकर लीटिगेंट पीपल के लिए एक अच्छा काम किया है। मैं तो श्री पाटस्कर साहब से भी यह एक्सपेक्ट कर रहा था कि वे एक ऐसा बिल लाएंगे जो कि एक बुनियादी बिल होगा और जिससे खर्च व तेज इन्साफ में बहुत फर्क पड़ जाएगा। लेकिन उन्होंने यह ही फरमा दिया कि वह ऐसी सब चीजें एक्सपर्ट कमिटी पर छोड़ देना चाहते हैं और मैं

समझता हूँ कि यह दुरुस्त बात भी है। काटजू साहब जब अपना बिल लाए थे तो हम ने बहुत कुछ नुकताचीनी की थी और आखिर में भी जिस दिन यह बिल पास होना था, जनाबवाला को याद होगा, मैं ने अर्ज किया था कि उस बिल पर अमल नहीं होना चाहिए। क्रिमिनल प्रोसीजर कोड में जो तबदीलियां की गई थीं वह ऐसी थीं जिनसे कि इसकी खूबसूरती और पॉइज (Poise) ही खत्म हो जाते हैं और इसीलिए मेरे खयाल में यह बेहतर होता कि हम इतिहास करते। लेकिन यह एमेंडमेंट्स जो इस बिल में लाई गई हैं इनसे कोई लम्बा चौड़ा फर्क सिविल प्रोसीजर कोड में नहीं पड़ता और इसीलिए मैं इस बिल के लाए जाने पर कोई एतराज नहीं करता।

अब इस बिल में जो बातें दर्ज हैं और जैसे मैंने अर्ज किया वह इस किस्म की नहीं हैं जो बुनियादी हों और जिनके बारे में बहुत कुछ कहने की जरूरत हो। जहां तक खर्च का सवाल है यह मानी हुई बात है कि सभी कोर्ट्स में खर्चा होता ही है। लेकिन जो बहुत ज्यादा खर्चा होता है उस फजूल खर्च को रोकने के लिए इस बिल में कहीं कोई एमेंडमेंट नहीं है। यह एमेंडमेंट्स प्रोसीजर को तो स्मूदन करती हैं लेकिन खर्च के बारे में कुछ भी नहीं कहा गया है सिवाय इसके कि अगर आप अपील या रीविजन करना चाहें तो न करें तब तो खर्चा पढ़ने का सवाल ही नहीं उठता। खर्चा किस में होता है? सिविल कोर्ट्स में सब से पहले तो वकील की फीस का सवाल उठता है। उसकी फीस का यह बिल टच नहीं करता। बहुत से बड़े बड़े मुकदमों में वकीलों को पांच फीसदी फीस मिलती नहीं है जो आप खर्च के अन्दर दिलाते हैं। छोटे मुकदमों में वकील ज्यादा लेते हैं और आप दिलाते हैं पांच फीसदी। तो यह दोनों तरह के केसों में खराबी की बात है। इसमें कुछ कमी करने के बारे में कुछ नहीं किया गया है। आपने कोई ऐसी इन्स्टीट्यूशन बनाने का सुझाव भी नहीं दिया जहां से गरीब आदमियों को मुफ्त सर्विस मिल सके या बार एसोसिएशन

ऐसा इतिजाम करे। अगर ऐसी कोई बात इस बिल में होती तो भी खर्चा कुछ कम हो सकता था लेकिन ऐसी बात कोई नहीं है।

जिस चीज पर और खर्चा होता है वह है कोर्ट फीस के मुताबिक। अभी मेरे दोस्तों ने कहा कि राज मरा कोर्ट फीस बढ़ती ही जा रही है। क्योंकि प्राविशल गवर्नमेंट्स को स्पे की जरूरत होती है और कोर्ट फीस को बढ़ाना उनके अस्तित्व में है इस वास्ते वे कोर्ट फीस बढ़ा देती हैं। मेरे देखते देखते जब से मैं ने प्रैक्टिस शुरू की है इसका कोई अन्दाजा नहीं है कि कोर्ट फीस कितनी बढ़ गई है। जब कोर्ट फीस बढ़ती जा रही है तो मैं पूछता हूँ कि खर्चा कैसे कम हो सकता है....

श्री कामत : अव्याम की भलाई के लिए!

पीडित ठाकुर दास भार्गव : मैं यह नहीं कहता कि अव्याम की भलाई के लिए यह बढ़ती गई है परन्तु कोर्ट फीस जब बढ़ती है तो कई बार ऐसा होता है कि इस बढ़ती हुई कोर्ट फीस को देखते हुए जो लोग फजूल से काँसस दायर करते हैं वे ऐसा नहीं कर पाते और इसके साथ ही साथ जो लोग सच्चे केस को लड़ते हैं वे भी इस बढ़ी हुई कोर्ट फीस को देखते हुए इनको छोड़ देते हैं।

अब और जो खर्चे होते हैं सिविल कोर्ट्स में उनकी तरफ मैं आपका ध्यान दिलाना चाहता हूँ। आपको शायद मालूम न हो कि वहाँ पर कितने स्पे वकील की फीस और कोर्ट फीस वगैरह के अलावा खर्चा होते हैं क्योंकि पाटस्कर साहब ने शायद लोबर कोर्ट्स में प्रैक्टिस न की हो। मैं ने चूँकि छोटी से छोटी कोर्ट में भी प्रैक्टिस की है और वहीं से मैं ने प्रैक्टिस शुरू की थी, इस वास्ते जो वहाँ पर खर्चायाँ हैं, वह मुझे मालूम है....

श्री कामत : आपकी प्रैक्टिस अधिकतर क्रिमिनल रही न ?

Shri Pataskar: I have also practised in all courts from the bottom to the top.

पीडित ठाकुर दास भार्गव : उस जमाने में जब मैं ने प्रैक्टिस शुरू की थी उस जमाने में

पुराना सिविल प्रोसीजर कोड चलता था और १९०८ में नया सिविल प्रोसीजर कोड आया। हम ने जो इम्तिहान पास किया था वह १९५२ के एक्ट के अंदर किया था। उस जमाने में और आज के जमाने में बहुत फर्क आ गया है। उस जमाने में मैंने देखा कि जो सिपाही अदालत के बाहर खड़ा रहता था अगर उसको चार आने दे दिये जाते थे तो वह कुछ इन्फार्मेशन आप को ला कर दे देता था। अगर किसी अहलकार को या नाजिर को एक रुपया दे दिया जाता था तो वह खुश हो जाता था और आपका काम चल जाता था। आज कल जो सर्बाइनेट कोर्ट्स के क्लर्क हैं उनके ही खर्चे इतने बढ़ हुए हैं कि कुछ ठिकाना ही नहीं है....

श्री कामत : स्टैंडर्ड बढ़ गया है।

[SHRI BARMAN in the Chair]

पीडित ठाकुर दास भार्गव : इसके अलावा जो सम्मन ईशू करता है उसको भी जब तक आप दो रुपए न दे दें तब तक उससे भी काम करवाना मुश्किल है। इसी तरह से जब तक आप जो सम्मन तामील कराने के लिए जाता है उसकी मूट्ठी गर्म न कर दें तब तक सम्मन की तामील ही नहीं होती। एक दो किस्से मुझे सिविल कोर्ट्स के याद आते हैं और उनको मैं यहाँ पर अर्ज कर देना मुनासिब समझता हूँ। मैं क्रिमिनल प्रैक्टिस भी कर रहा हूँ लेकिन जिस वक्त मैं ने प्रैक्टिस शुरू की थी तो मैं ने देखा था कि मेरी आमदनी इतनी नहीं थी जितनी कि मेरे वालिद साहिब के अदली की आमदनी थी। मैं समझता हूँ कि उस वक्त एक अदली एक मामूली प्रैक्टिस करने वाले वकील से ज्यादा आमदनी कर लेता था। तो मैं अर्ज करता हूँ कि यह खर्च की जो मद है इसमें कमी करने की बात को सोचना चाहिए था। जब कोई मामूली आदमी मुकद्दमा करने के लिए जाता है कोर्ट फीस वगैरह छोड़ कर वकील का खर्चा छोड़ कर, अगर वह चाहे तो वकील कर सकता है और अगर न चाहे तो नहीं भी कर सकता है, वकील बहुत सस्ते भी मिल जाते हैं, किस तरह से उसके खर्चे में कमी आ सकती है, इस पर पाटस्कर साहब को सोचना चाहिए था। अब कस कोई भी काम नहीं होता कोर्ट के अन्दर

[पीठित ठाकुर दास भार्गव]

जब तक कि सब की मुट्ठी गर्म न कर दी जाए। नाजिर, चपड़ासी, अहलमद वगैरह सब की मुट्ठी उसको गर्म करनी पड़ती हैं। रीडर का तो कहना ही क्या। वह जो चाहे लिख देता है। इसका कोई इलाज नहीं किया गया है। यह न तो स्पीड ही होने देता है और न मुकदमेबाजी को सस्ता ही रहने देता है। आपने इसके बारे में सोचने की कोशिश नहीं की।

श्री कामत: यह ओवरहाल में आएगा।

पीठित ठाकुर दास भार्गव: मैं चाहता था कि इसके बारे में कुछ तो कर दिया जाता। खर्चा बढ़ाने वाली जो एक दूसरी मद है वह जैसा कि आल्टेकर साहब ने कहा, रूलज इतने स्ट्रिक्ट हैं रीजस्टर्ड डाकुमेंट्स के बारे में भी कि जब तक लोगों को गवाही में पेश न करें तब तक काम ही नहीं हो सकता। जब तक आप दस्तखत को साबित न करें, स्टैटमेंट को साबित न करें तब तक महज कापी से काम नहीं चलता है। सर्टिफाइड कापीज कोर्ट के अन्दर मौजूद होती हैं उसकी जब तक आप कातिब या गवाहान की गवाही से साबित न करें तब तक It is not admissible in evidence. इसी तरह से जब तक आप १०, १० और २०, २० रुपए कापी लेने के लिए कार्पिंग क्लार्क को या कार्पिड एजेंट्स को न दे दें तब तक आपके लिए कापी लेना मुश्किल है। यह जो लीटिगेंट पब्लिक को खर्च करना पड़ता है यह खर्च की दूसरी मद है। इसका आपने कोई इलाज नहीं किया है। जजिज जो रिश्वत लेते थे उसका मैं जिक्र नहीं करना चाहता। अब उस तरह से रिश्वत जजिज में नहीं चलती जैसे कि पहले चलती थी। आज की ज्यूडिशरी पहले की ज्यूडिशरी से बेहतर है। पहले जमाने में मैं ने देखा है कि जजिज खूब रिश्वत लिया करते थे। एक किस्सा मुझे याद है कि जब हम एक मुनीसिफ के यहां रुबरू पेश हुए और उनसे आरीबिट्रेशन करने की दरखास्त पेश की और जिसमें बक्ला खुद ही पंच व सरपंच बन गए थे और कहा कि गांव में आ कर मुकदमे का फौसला कर देंगे, राजी नामा करा

देंगे तो मुनीसिफ साहब कहने लगे इतना तो इसको मिल गया इतना इसको मिल गया। इतना जो पंच होगा उसे मिलेगा, मगर मुझे क्या मिलेगा। वह मुंसिफ साहब उस वक्त शराब में मस्मूर थे और ऐसी बेलुकी बातें करने लगे। आप ये बातें सुन कर हैरान होंगे, लेकिन वह पुराना जमाना था। यह आज के जमाने की बात नहीं है। आज-कल तो बहुत से बी० ए०, एल० एल० बी० जजिज बनते हैं। अब ज्यूडिशरी में ज्यादा गढ़ लिखे लोग आते हैं। मैं समझता हूं कि जहां तक बाइबरी का ताल्लुक है, वह पहले से काफी कम हो गई है—मैं यहां सिविल कोर्ट्स का जिक्र कर रहा हूं। आज ज्यूडिशरी का कौलिनबर भी ऊंचा हो गया है। इस सिलसिले में काफी इम्प्रूवमेंट हुई है।

लेकिन इसके साथ ही मैं अदब से अर्ज करना चाहता हूं कि अगर आपका मकसद थोप और स्पीडी जस्टिस प्रावाइड करना है, तो आप को एक नई तरह का सिस्टम शुरू करना चाहिए। पिछले दिनों दिल्ली का एक एक्ट सिलेक्ट कमेटी में गया था और हम सब ने मिल कर तजवीजें पेश की थीं। सिस्टम यह होना चाहिए कि हर एक कोर्ट में दस बीस नाम आरीबिट्रटर्स के होने चाहिए, जो कि प्रूड मैरिट और इन्टीग्रीटी के शख्स हों। हर कोर्ट में इस किस्म की एक लिस्ट होनी चाहिए और जब कोई मुकदमा आए तो कोर्ट का यह फर्ज होना चाहिए कि वह पार्टीज को कहे कि "तुम्हारे जिले के ये नाम हैं, इनमें से किसी को पंच बना लीजिए और अपना फौसला कर लीजिए।" मैं अर्ज करना चाहता हूं कि अगर आप जस्टिस में स्पीड लाना चाहते हैं तो मुकदमात में पंचों का इन्तजाम कर दीजिए—कान्सलिएशन का इन्तजाम कर दीजिए। पिछले दिनों हमने हाइवॉर्स के लिए कान्सलिएशन को जरूरी कर दिया है। क्यों न हर मुकदमे के लिए कान्सलिएशन का प्रावजन किया जाए? यह निहायत जरूरी है। मैंने देखा है कि सिविल कोर्ट्स में जब कोई टेक्निकल आबजेक्शन होता है, तो वकील की बाछें खिल जाती हैं।

मैंने देखा है कि लाखों रुपए के मुकदमा टिकट न लगी होने की बिना पर खींच कर दिए जाते हैं। जो बाकी निकलती है -- जो बलेंस होता है, उस पर अगर एक आने का टिकट नहीं लगा है, तो मुकदमा खारिज हो जाता है, क्योंकि तब वह "प्रोमिस टु पे" नहीं होता है। इस तरह कितने ही मुकदमे खारिज हो जाते हैं। हमारे जितने बजट हैं, उनका फर्ज है कि हमारे पुर्गने ह्याल और हमारी पुरानी सभ्यता के मुताबिक वे मुकदमों का फौसला करें। मुकदमा जिस कोर्ट में भी जाए, उसका फौसला सही तौर पर किया जाए और टेक्निकल बातों की तरफ ज्यादा ध्यान न दिया जाए। आज एविडेंस के सिलिसिले में यह होता है कि कोर्ट काक्स की गेम (मुरगाँ की लड़ाई) में एक स्पेक्टटर की तरह बैठती है और अपना फर्ज अदा नहीं करती है। वह पार्टीज को यह नहीं बताती कि इस एविडेंस की कमी है, इसको लाओ। वह महज यह लिख देती है कि "दयर इज नो एविडेंस आन रिकार्ड"। आज-कल तो कोर्ट सिर्फ तमाशा देखती है। उसका यह फर्ज होना चाहिए कि वह सारी फौसला करने की गरज से पार्टीज को हायरक्वैन्स दे।

हमारी पार्लियामेंट ने हिन्दुस्तान में आइन्दा एक सोशलिस्टिक पैटर्न आफ सोसाइटी कायम करने का फौसला कर लिया है। इसलिए मैं निहायत अदब से अर्ज करना चाहता हूँ कि उसका कोई न कोई नमूना हमको अपने मूल के जस्टिस में लाना होगा और देखना होगा। थोड़े दिन हुए, हमने रीफ्यूजीज के लिए पार्लियामेंट में एक ला पास किया था -- इट्स एडजस्टमेंट एक्ट। उसमें हम ने यह फौसला किया था कि जिस आदमी की आमदनी २५० रुपए से कम होगी, उसकी कोई चीज एटैच नहीं हो सकेगी, लेकिन दफा ६० में हमने वही पुराना दीकान्सी नुक्ता-ए-निगाह कायम रखा हुआ है और प्रोवाइड किया हुआ है कि फलां फलां चीजें, जैसे कमर्श और औरतों के लहंगे वगैरह, एटैच नहीं हो सकती हैं मगर ऊँचा होने पर मामूली सामान और १०० से कम तनखाह या मजदूर क्यूक न होनी

चाहिए। ये सब बातें हमको तबील कर देनी होंगी।

मुझे इस सिलिसिले में एक वाक्या याद आता है। हमारे जिले हिसार में स्किनर (Skinner) फौमली की दूसरी स्किनर (Skinner) फौमली पर कई लाख रुपए की डिक्री हो गई। वह डिक्री कई बरस के भगड़ के बाद सन् १९१५ में हुई थी, लेकिन जब १९२६-४० में मैं अपने जिले में जब मैं सिविल कोर्ट की अपनी प्रैक्टिस खत्म की -- उस वक्त भी एक्सीक्यूशन का भगड़ा चल रहा था।

श्री कामत: क्या हिसार में?

पंडित ठाकुर दास भार्गव: जी हां।

डिफेंडेंट के मुस्तार मुझे कहते थे कि रुपया भरने के लिए बँलियां सिलवा लो। इसकी वजह यह थी कि हम जानते थे कि हर एक उजरदारी के बाद सिविल सूट होता था और वह प्रिवी काउंसिल तक पहुँचता था। हमारे किसी बज ने ठीक ही कहा भी हुआ है कि लिटिगेंट की तकलीफ डिक्री से नहीं बल्कि एक्सीक्यूशन से शुरू होती है। पाटस्कर साहब से मैं कहना चाहता हूँ कि रंस जुडिक्टा के सिलिसिले में उन्होंने जो प्राविजन दिया है, वह काफी माफूल है। मैं समझता हूँ कि अगर वह इस सारी बातें रंस जुडिक्टा को लिख देते, तो भगड़ा पड़ जाता। उन्होंने एक भगड़ा का फौसला कर दिया है। जो कुछ उन्होंने लिखा है, वह मुनासिब है। आइन्दा जब एक दफा फौसला हो जाएगा, तो दोबारा उस पर भगड़ा न होगा। मैं ने अभी जिक्र किया है कि एक्सीक्यूशन के मुकदमे प्रिवी काउंसिल तक जाते रहे हैं। इस लिए मैं अदब से अर्ज करना चाहता हूँ कि यह प्राविजन हमारे लिए बहुत मुफीद है। जैसा कि अभी मेरे दोस्त आलोक साहब ने फरमाया है, जिस बक्तर नई कमिटी (कमिशन) बँडगी, तब नए रूलज आफ एविडेंस बनेंगे। मैं कहना चाहता हूँ कि हमारे मौजूदा रूलज एक ऐसे मुल्क से आए हैं, जहाँ के ज्यादातर लोग पर्द-लिवे हैं। पहले हमारे यहां इतनी लिटीगेशन नहीं थी, लेकिन अब लिटीगेशन ज्यादा हो गई है। अब तो अगर

[पंडित ठाकुर दास भार्गव]

किसी आदमी ने किसी तरह आब्रॉक्शन कर दिया, तो वह उस पर अड़ा ही रहता है। लेकिन मैं समझता हूँ कि अब भी अगर हमारी जीनियस अं मुताबिक रूलज बनेंगे, तो मुझे एरा यकीन है कि हमारी ये आदतें खत्म हो जाएंगी और हमको चीप और अच्छा जस्टिस मिलेगा। यह मैं जानता हूँ कि जिस जमाने में मैं ने प्रैक्टिस शुरू की थी, उसके मुकाबले में आज बहुत फर्क हो गया है। अब पंचायतों को भी कुछ अस्तियारा मिल गए हैं। अब वे सिविल कंसेज और छोटे छोटे क्रिमिनल कंसेज करती हैं। मैं नहीं जानता कि वे कहां तक इन्साफ करती हैं। जहां तक मैं ने सुना है, उससे मुझे तसल्ली नहीं हुई। यह ठीक है कि अब गांवों में भी बड़ी पुरानी राइ-बैलीज, पार्टीबाजी, अदावतें, दुश्मनियां और जेल-सीज चल रही हैं, लेकिन मेरा ख्याल है कि अब भी रिहॉम्पशन की गुंजायश है। छोटे छोटे मुकद-मात को पंचायतों के सुपुर्द कर दिया जाए और रिविजन और अपील की ज्यादा गुंजायश न रहे, तो मुझीन है कि गांवों में एक दूसरे के सामने लोग झूठ बोलने की जरूरत न समझें। मैं जानता हूँ कि आज किसी को अदालत के सामने सफेद झूठ बोलने में भी कोई भिन्नक नहीं होती है। पंजाब में एक मसल है कि जो अदालत में सच बोलता है और पंचायत में सच नहीं बोलता है, वह अपने बाप का बेटा नहीं है।

एक बात मैं अदब से कहना चाहता हूँ और उम्मीद करता हूँ कि सारा भवन इसको नोट करेगा। विलायत में प्रथा है कि जब बच्चा बहुत छोटा होता है, तो मदरसे में अच्छे से अच्छा उस्ताद उसी मिलता है और उसकी आदतों को मोल्ड करता है। कालिज में भी प्रोफेसर अच्छे होने चाहिए। लेकिन स्कूल में जो मास्टर हो, वह अवल दर्जे का होना चाहिए। इसी तरह हमारे गरीब लोगों के लिए अच्छे से अच्छे जज आने चाहिए, लेकिन वे नहीं आते। जब यहां पर यह कानून बनाया गया था कि सुप्रीम कोर्ट में बीस हजार से कम की वैल्यू की कोई अपील न होगी, तो मैं ने कॉन्स्टिट्यूट असेम्बली में अर्ज किया

था -- और इस वक्त उसको फेर दोहराना चाहता हूँ कि यह उसूल गलत है कि कोई शब्द मालियत की बिना पर बड़ी से बड़ी अदालत में जा सके। यह दुरुस्त नहीं है। एक गरीब आदमी को जिसका दौलत का आइंडियल एक, दो या पांच हजार रुपए का है, अनी जायदाद उतनी ही अजीज है, जितने कि एक करोड़पति को अपने करोड़ रुपए अजीज हैं। यह उसूल गलत है कि आप हायर कंसेज के लिए अच्छे जज रखें और छोटे कंसेज के लिए, जो कि गरीबों के होते हैं, अच्छे जज न रखें और यह मुकर्रर कर दें कि पांच हजार की मालियत का मुकदमा हाई कोर्ट में जाएगा और बाकी नहीं जाएंगे। अगर यह डिस्टिक्शन (Legally mooted point) भगाई के पायंट की बिना पर किया जाए, तो उसको तो मैं समझ सकता हूँ, लेकिन मालियत की बिना पर ऐसा करने पर मुझे खस्त एतराज है। सांशलिस्टिक पॉटर्न आफ सांसाइटी कायम करना हमारा एम है। इसलिए बीस हजार या तीस हजार की यह हद रख देना मनासिब नहीं है।

श्री कामत : इससे ताल्लुक ?

पंडित ठाकुर दास भार्गव : इससे ताल्लुक है। अभी तो आप हजार रुपए और ५०० रुपए के बार में फरमा रहे थे। आप ही की स्पीच सुन कर तो मुझे यह रिमार्क करना जरूरी हुआ और आप ही यह फरमाते हैं कि इससे क्या ताल्लुक है।

तो मैं यह अदब से अर्ज करना चाहता हूँ कि जहां तक जुरिस्टिक्शन ५०० रुपए का हो तो उसको बढ़ा कर १००० कर दिया जाए यह मैं पसन्द नहीं करता।

अभी ला मिनिस्टर साहब ने फरमाया कि सेक्शन ११५ क्लाज १२ के ऐसे मामले जो कानूनी मामले हैं उनको अगर हाई कोर्ट ले जाने की इजाजत दी जाएगी तो मुकदमे लम्बे हो जाएंगे। लेकिन मैं समझता हूँ कि उन मुकदमों को हाई कोर्ट ले जाने की इजाजत नहीं दी जाएगी तो वे

ज्यादा लम्बे हो जाएंगे। अगर इंटरलोक्यूटरी आर्डर के सिलीसले में कोई भगड़ा हाई कोर्ट जाता है तो वह यह रूलिंग देती है कि अगर यह सिर्फ इंटरलोक्यूटरी (Interlocutory) है तो हम इंटरफियर नहीं करेंगे। अगर यह पाइंट मुकदमे की जड़ तक जाता है तभी हम इंटरफियर करेंगे। इसलिए अगर कोई पाइंट मुकदमे की जड़ तक जाता है तो उसमें वह इंटरफियर करते हैं वरना नहीं करते। लेकिन अगर आप कहते हैं कि ऐसे मामलों का हाई कोर्ट में जाना बन्द कर दिया जाए तो आप लोगों को उस रैमंडी से महरूम कर देंगे जिसको कि वह अर्स दराब से एंजाय करते आए हैं और जिसके बारे में कोई फॉक्ट्स और फीगर्स हमारे पास नहीं हैं कि वह एब्जुज होती हैं।

बनाब वाला, इस मुल्क में गलत तौर पर या सही तौर पर हाई कोर्ट और सुप्रीम कोर्ट में लोगों का बड़ा विश्वास है और इस कदर विश्वास है कि अगर हाई कोर्ट से और सुप्रीम कोर्ट में इन्साफ न मिले तो लोग कहते हैं कि कानून में गलती है। इसलिए जहां पर कोई हाई कोर्ट या सुप्रीम कोर्ट के जुरिस्टिक्शन में इंटरफियर करता है तो पब्लिक में वही सेंसेशन होता है जो मिस्टर कामथ में २२६ के बारे में होता है। मैं चाहता हूं कि हाई कोर्ट और सुप्रीम कोर्ट के जुरिस्टिक्शन को कम न किया जाए। जब हमने कांस्टीट्यूशन बनाया उस वक्त जितनी कोशिश हो सकी हमने की कि इन अदालतों का जुरिस्टिक्शन बढ़ाया जाए। लेकिन जो रूल्स बनाए गए उनकी रू से १० हजार या २० हजार से कम के मुकदमे सुप्रीम कोर्ट में नहीं जाते। यही चीजें हैं जो कि इन्साफ के मिलने में खलल अन्दाज होती हैं और मुझे अफसोस के साथ कहना पड़ता है कि जो हमारा मंशा था वह पूरा नहीं हो रहा है। मैं ने देखा है कि जो पावर्स हमने सुप्रीम कोर्ट को दी थीं उनसे वह गरज पूरी नहीं हो रही जिनके लिए हमने वह पावर्स दी थीं। इसमें जर्ज का कृष्ण नहीं है। सेक्शन १२४ और १२६ की रू से उन्होंने अपने चारों तरफ एक आयरन बाल बना ली हैं। मैं चाहता हूं कि यह आयरन बाल हाई कोर्ट और सुप्रीम कोर्ट के

चारों तरफ न रहे। इन टैक्निकल रूल्स की वजह से इन्साफ के रास्ते में रुकावट पड़ती है। हम इन्साफ चाहते हैं। हम नहीं चाहते कि इन रूल्स की वजह से इन्साफ में रुकावट पड़े। इस बिल में ऐसी कोशिश की गई है कि इस किस्म के कुछ रूल्स को हटाया जाए, लेकिन कुछ ऐसे रूल्स को वापस लाने की भी कोशिश की गई है।

जहां तक रिव्यू का सवाल है उसके लिए मैं देखता हूं कि आर्डर ४७ रूल २ है। अब तक यह था कि अगर उसी जज के सामने मामला न हो तो उसका सक्सेसर नॉटिस जारी नहीं कर सकता था। यह चीज हटाई जा रही है। मैं खुश हूं कि इसको लिबरलाइज किया जा रहा है।

इसी तरह से एक बड़ा सवाल है जिसके बारे में अमेंडमेंट करने का जिफ्र है। सन् १९०५ के एक्ट के पहले तक सिविल कोर्ट्स को जायदादों को नीलाम करने का अख्तियार था। लेकिन सन् १९०५ में यह ख्याल किया गया कि शायद र्वेन्यू आथारिटीज एग्जीक्यूटिविस्ट के इंटरस्ट को ज्यादा अच्छी तरह से समझ सकें इसलिए यह काम र्वेन्यू कोर्ट्स को दे दिया गया। लेकिन इसमें देर बहुत होने लगी क्योंकि सिविल कोर्ट्स में एग्जीक्यूशन में बहुत देरी होती थी। वह मामले उतनी जल्दी तें नहीं हुए जितनी कि उम्मीद की गई थी। इसी वजह से पाटस्कर साहब ने अमेंडमेंट दिया है। लेकिन पेशतर इसके कि इस मामले पर सिलेक्ट कमिटी गौर करें मैं यह जानना चाहंगा कि इस अमेंडमेंट से ऐसा तो नहीं होगा कि जो फायदा हम एग्जीक्यूटिविस्ट को पहुंचाना चाहते थे उससे वह महरूम हो जाए। मैं चाहता हूं कि इस बात की तहकीकात करने के बाद ही यह अमेंडमेंट किया जाए। मैं मानता हूं कि आजकल इन मामलों में देरी होती है और हो सकता है कि इनके सिविल कोर्ट में जाने से इतनी देरी न हो। लेकिन हमको यह देख लेना चाहिए कि एग्जीक्यूटिविस्ट को जो फायदा पहुंचाना मखसूस था उससे तो वह महरूम नहीं हो

[पीडित ठाकुर दास भार्गव]

जाएगा। मैं चाहता हूँ कि इस मामले को ठीक कर लिया जाए।

एक यह जिक्र आया है कि कास्ट के ऊपर इंटरस्ट न लिया जाए। उसूलन तो मैं इसके खिलाफ नहीं हूँ क्योंकि जो हार जाता है उसको कास्ट देना ही मुश्किल हो जाता है। लेकिन मैं जानता हूँ कि अदालत पूरी कास्ट तो देती नहीं है। सिर्फ कायद का खर्चा दिलाया जाता है। ऐसी हालत में अगर किसी आदमी ने डिग्री हासिल की है और उसका कंस जस्ट था और डिफेंडेंट ने डिसआनस्टी की है, तो मैं नहीं समझता कि कास्ट पर इंटरस्ट क्यों न दिया जाए। जिन लोगों को बेजा तौर पर कार्ट मिलती है उन पर अगर सख्ती की जाए तो मैं समझ सकता हूँ लेकिन अगर एक आदमी का जस्ट कंस है तो मैं नहीं समझता कि क्यों इंटरस्ट न दिया जाए। जिस रोज वह आदमी डिग्री हासिल करता है उसी दिन वह अपना रुपया पाने का हक्दार है; आम तौर पर कोर्ट्स कास्ट पर इंटरस्ट नहीं लगातीं। लेकिन अगर वह लगाती हैं तो यह कौन से उसूल के खिलाफ है। कोर्ट्स को डिस्क्रिशन है। उनके सामने कंसेज आते हैं और वह उन पर डिस्क्रिशन इस्तेमाल कर सकती हैं। हो सकता है कि उनके इस डिस्क्रिशन को काट लेने से कुछ कंसेज में फायदा हो जाए। लेकिन मैं समझता हूँ कि अच्छा है कि आप डिस्क्रिशन को वहीं रहने दें जहां कि उसे रहना चाहिए।

श्री कामत : कास्ट में वकीलों की फीस कितनी होती है ?

पीडित ठाकुर दास भार्गव : उनकी फीस वही होती है जो हाई कोर्ट ने मुकर्रर की हुई है। कुछ रकम तक ५ पर सेंट होती है और उसके आगे २ पर सेंट और २ पर सेंट होती है। जिसने वकील को फीस दे दी उसके पास से तो पैसा चला गया। ऐसी हालत में कास्ट रिकवर करते वक्त इंटरस्ट देना गैर वाजिब नहीं है। मुझे खुशी है कि कामत साहब इंटरस्ट में इतना इंटरस्ट ले रहे हैं।

एक अमेंडमेंट पोस्ट के जरिए तामील के बार में है। यह सेक्शन १६(२) के बार में है। इसके

बार में मैं यह अर्ज करना चाहता हूँ कि लोग भाजकल इतने हांशियार हो गए हैं कि जहां कहीं कोई समन जाता है वहां वह पोस्टमैन के साथ जाकर "रिफ्यूज" लिखा लेते हैं। अगर सिर्फ पोस्टमैन अपनी तरफ से यह लिख दे तो मुझे एतराज नहीं, लेकिन लोग खुद जा कर पोस्टमैन से यह लिखा देते हैं। पोस्टमैन को भी क्या गरज पड़ी है कि बार बार उस आदमी के यहां जाकर देखे कि वह है या नहीं। इसलिए ऐसा लिखने में दोनों का फायदा होता है और पोस्टमैन "रिफ्यूज" लिखा लिया जाता है। ऐसा होने से बहुत से कंसेज एक्सपार्टी हो जाएंगे और लोगों को बहुत सी दरखास्तें मसूखी देनी पड़ा करेगी। मैं अदब से अर्ज करना चाहता हूँ कि यह मरं तजब की बात है। मरं तजब मैं ऐसे कंसेज आए हैं कि जहां समन पर रिफ्यूज लिखा हुआ था लेकिन वह गलत था....

Shri Pataskar: What about the bailiffs also?

पीडित ठाकुर दास भार्गव : यह हो सकता है कि बीलफ गलत लिख देते हैं लेकिन बीलफ का हिल्फया बयान तो होता है। पोस्टमैन का तो कोई हिल्फया बयान नहीं होता। न पोस्टमैन पर सिविल कोर्ट का कोई अख्तियार होता है। बीलफ पर तो कोर्ट को अख्तियार भी होता है। अब तक जो समन अनररिजस्टर्ड भेजे जाते हैं उन पर भी अगर "रिफ्यूज" लिख दिया जाता है तो उन कंसेज को एक्सपार्टी कर दिया जाता है। आपने इतना तो किया। रीजस्टर्ड इसमें किया, इतना तो किया, लेकिन रीजस्टर्ड में और नान रीजस्टर्ड में जब किसी आदमी ने लिफाफा भेजा, तो उसमें कोई लम्बा चौड़ा फर्क नहीं रहता, दोनों में रिफ्यूज लिखना है। हाई, तीन जाने का खर्चा और बढ़ गया है, बाकी इम्प्रूवमेंट इसके अन्दर कोई नहीं हुआ।

जहां तक गवाहान के लाने का आपका सवाल है, उसको मैं बिल्कुल अननसेसरी समझता हूँ। आज के दिन जो जज इसका प्रिजम्पशन कर, वह वायलेंट प्रिजम्पशन करता है, कोई मजबूत गवाहान को अपने साथ ले जाए, कोई यह कहें

और इसको बिलीव कर ले कि जितने गवाहान हैं वह ऐसे सीधे हैं कि कोर्ट का सम्मन गया तो आ गए और कोर्ट का सम्मन नहीं जाता तो वह वहां पर नहीं आते। तो वह गलती करता है, सम्मन आप भेजें या न भेजें, हकीकत यह है कि गवाही देने के लिए बड़ी लांग आते हैं जिनकी रिक प्लेटिफ और डिफेंडेंट खुशामद करके ले आते हैं।

रूल 8 में आम तौर पर यह होता है कि कोर्ट अपना फैसला दोनों पार्टीज को बुला कर सुनाता है वरना भगड़ा हो जाता है और उसके लिए वह डेंट मुकर्रर कर देता है पहले से कि फलां तारीख को वह फैसला सुनाएगा। यह भी मेरी राय में इतना नेसेसरी नहीं है।

तो मैं अदब से अर्ज करूंगा कि इसमें बहुत सारी बातें हैं जो काफी साफ हैं और आजकल भी प्रैक्टिस में मौजूद हैं। बहुत सारी बातें ऐसी हैं कि जिनको हमें कबूल कर लेना चाहिए और मुझे उम्मीद है कि सेलेक्ट कमेटी, यह जो सब मेम्बर साहबान ने एतराजात किए हैं, उनके अंदर जाकर जो मुनासिब समझेंगी करेगी।

एक दूसरे सवाल की बाबत मैं जनाब की इजाजत से अर्ज कर देना चाहता हूं कि मरं एक भाई ने अमेंडमेंट मूव किया है कि सिवाय इन सेक्शन्स के और जितने सेक्शन्स हैं, उनके बारे में भी इजाजत होनी चाहिए कि सेलेक्ट कमेटी में अमेंडमेंट होकर आ जाएं। उसलन तो मैं यत्र समझता हूं कि कोई लम्बा चौड़ा एतराज इसमें नहीं होना चाहिए क्योंकि अगर श्री पाटस्कर साहब इन चीजों को देख लेते और इसमें लिख देते तो वह सारी चीजें सेलेक्ट कमेटी को सुएर्ड हो जातीं। अब अगर उन्होंने उनको देखना मुनासिब नहीं समझा या नहीं देखा, किसी तरह से नोटिस में नहीं आया, तो अगर कोई मेम्बर साहब चाहते हैं कि उन बाकी सेक्शन्स पर भी सेलेक्ट कमेटी में गौर हो जाए, तो उसलन इसमें कोई हर्ज नहीं है, कटर्ड हर्ज नहीं है। लेकिन मैं अदब से अर्ज करूंगा, यह जरूरी सवाल है कि अगर कोई ऐसी तब्दीली है, अगर तबदीली है जो इस बात पर मुन्हासिर करती

है, जैसा कि श्री पाटस्कर साहब का ख्याल था कि कहीं एक्सपर्ट कमेटी करके या कोई ऐसी बड़ी भारी तबदीली है, तो ऐसी बड़ी तबदीली इसका अन्दर नहीं आना चाहिए, क्योंकि खुद इस बिल के अन्दर पाटस्कर साहब ने यह लिख दिया है कि हम छोटे मोटे मामलों को लेना चाहते हैं जिससे लांगों को फायदा हो जाए और कुछ न्याय मिलने में स्पीड भी तब हो जाए और उसके सम्बन्ध में होने वाला खर्च भी कम हो जाए। तो ऐसी चीजें जिनके लाने से फायदा हो, ऐसी चीजें जो अन्-कंट्रोवर्शियल हों, ऐसी हों जिनके अन्दर कोई भगड़ा न हो, उनका आना मुनासिब है। सिविल प्रोसीज्योर कोड की फीलड इतनी बसीह है कि जिसका कोई ठिकाना नहीं, महीनों तक इसको आप एमेंड करते रहिए, काम पूरा नहीं होगा और वह कंट्रोवर्शियल हो जाएगा। श्री पाटस्कर ने जितनी चीजें रक्खी हैं, वह इतनी ज्यादा कंट्रोवर्शियल नहीं हैं, एक्स्लाफ राय हो सकता है, लेकिन बीसक्ली कोई एक्स्लाफ नहीं है। इस बिल को हमें इस डाइरैक्शन के साथ सेलेक्ट कमेटी को भेज देना चाहिए कि इसके अन्दर जो ऐसी चीजें हैं कि जो बहुत कंट्रोवर्शियल न हों, उन पर अगर अमेंडमेंट लाए जाएं तो कोई हर्ज नहीं है और उन पर भी गौर करके फैसला कर लिया जाए, वरना अगर बुनियादी चीजों पर वहां भगड़ा हुआ तो इस बिल की नेचर ही तबदील हो जाएगी।

Shri B. K. Ray (Cuttack): Mr. Chairman, the motion before this House is a very interesting one. With regard to the discussion of the Civil Procedure Code, almost all the grounds have been covered and I do not propose to take much time. Amongst the many arguments advanced, one is that the Civil Procedure Code stands now as a harmonious and coherent structure and if it ought to be revised, it ought to be revised as a whole. There should be no haste about it. Let the expert committee examine it and then revise it. This sort of piecemeal revision would bring about disharmony and may do more injustice rather than justice. This argument, I should say, is not entirely

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without force; but it can be met if we extend the scope of the Bill. How does the Bill read? The Bill reads, "a Bill further to amend the Code of Civil Procedure, 1908"; therefore I should say that the scope of the Bill is not confined to the clauses that have been proposed there. Now for example, it is said that if the witness has been named, then a party can produce him in court without taking any summons for his production. Till now, we know that every party has got the full right to bring a witness to court without summoning him and even without previously naming him. This has been the practice. So far as the provision for summoning witnesses is concerned, it is just to help a man to call any witness to a court. I know of a particular decision of a High Court which set the law at rest in this respect. Previously witnesses brought into courts without summons used to be discredited on account thereof. The final decision of the High Court was that as there was no provision to prevent a witness from coming to a court without summons on being solicited by a party, he should not be discredited on that ground. Therefore, if this provision is enacted, then it will mean that no longer can anybody produce a witness either without summons or without previously naming him in the court. In this way, some of the amendments may adversely affect the law as it is. Therefore, I give value to this opposition objection. But as the hon. Deputy-Speaker has opined—which presumably is the sense of the House also—if such amendments of the Code as are incidental to the proposed amendments or as have a relation thereto so that, if not inserted consequentially, it will lead to dereliction of justice and injudicious procedure, are allowed as being within the scope of the Bill, there will be no harm, but some good will be done to the cause of dispensation of the civil justice. Therefore, I would appeal to the hon. Minister in charge of this Bill to remember this opinion of the Deputy-Speaker, the sense of the House

and accept amendments which have a relation with the remainder of the provisions of the Act.

Secondly, I have found from the discussions that there is some misconception about the Civil Procedure Code. It is thought as if the Civil Procedure Code is the source of all the delays and expenses in disposal of civil cases. In this respect, without claiming any infallibility for my words, I should like to express my strongest possible opinion that the Civil Procedure Code is very well designed. It was the result of the wisdom of a country whose jurisprudence is highly developed and it has been so enacted that if it is strictly followed, all the delay and expenses involved in the administration of civil justice will be reasonably abridged. It is a matter for pity that those who are in charge of administering the Civil Procedure Code are not strictly following it. I would like the House to bear with me for a few minutes.

When I was the Chief Justice of a High Court I had been on tour. I was told by a District Judge that he wanted a subordinate judge because he had got a big case which would take about two months and fifteen days and there were many other old cases pending. Therefore he thought that an additional man was necessary. I told him: "You better send the papers of that case to me at the headquarters." They were sent to me; I read them; I went through the orders and I found that the Procedure Code had not been followed.

Now what does the Procedure Code say? The Procedure Code says that there will be a first hearing. What is the meaning of first hearing? At the first hearing both the parties will be present; matters really in dispute will be sifted, subtracting those that are admitted or that are unimpeachably proved by documents, and will have to be categorised, classified and put down into issues. No court ever

follows that procedure. First hearing in mofussil court means—so far as my experience, extending over a period of forty years goes—simply stating the parties, cases and putting down some issues tentatively. Nothing further is done.

In the Civil Procedure Code there are provisions for discovery and inspection of documents; there are provisions for issue of interrogatories; there are provisions for calling upon the other party either to admit or not to admit documents or facts; there are provisions for examination of witnesses on commission. These provisions are there to facilitate speedy disposal. If they are strictly followed, then certainly by the time the case comes to be heard a lot of matter should have been admitted, a lot of documents should have been admitted on record, or proved on admission. There is a sanction behind these provisions because the Procedure Code provides that if somebody wrongfully disowns particular documents or facts and the same are proved against him in court, notwithstanding the fact that he wins the case on the whole he will have to pay the costs of the opposite party incurred by him on this particular item which the party has proved. Now none of the members of the subordinate judiciary follow these provisions.

Going back to my experience, I transferred the case to my file. Then, I made the first hearing; I called upon the lawyers on both sides to issue interrogatories of such facts which they thought may be admitted. Each issued interrogatories on the other. Then I called upon both the parties to discover the documents and give inspections thereof to the other party calling upon him to admit or deny. That was done. The majority of the documents were picked up and were admitted to be genuine. Ultimately it was found there were only five documents to be proved by oral evidence and three witnesses to be examined. There the whole case ended.

Therefore, it is wrong to think that the delay and expense are due to the

Civil Procedure Code. I should say it is due to the fact that the Code has not been strictly followed. If speedy and cheap justice has to be obtained, I think strict scrutiny should be made by the higher judiciary of the work of the lower judiciary.

Coming to the High Courts, what happens in the High Court is this. The papers are listed for being printed. The printing presses take two or three years. That is mainly the cause of the delay in the High Courts, quite apart from inadequate personnel or anything of the kind.

Suppose you introduce a rule that the appellant whose appeal is admitted has to produce all the necessary papers, either printed or typed, from the very beginning and the respondent will in a short time produce all the papers that he wants the court to go through a lot of time would be saved?

Shri Rane (Bhusaval): Why not dispense with printing altogether?

Shri B. K. Ray: In the High Court there are two judges forming a Bench and two sets of papers are necessary. Previously, the judges were Englishmen and translations had to be done. Now things are changed.

Shri Pataskar: What about the two or three High Courts which have got original jurisdiction? There all the procedure of the Civil Procedure Code is strictly followed, but the complaint in their case is that the amount of expenditure is so excessive that the parties find it difficult.

Shri B. K. Ray: There the expenditure is due to the system of attorneys. About that also, I shall tell the House my experience.

It was recently decided that all cases with regard to companies under liquidation proceedings should be heard by the High Court in its original jurisdiction where the Head Office of the company is situated. As a result of this a large number of cases from the Calcutta High Court were to be transferred to my court, that is the Orissa court. Now the liquidator came and

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reported to me that each attorney wanted Rs. 500 to apply for and get transfer of the records in his charge from the Calcutta High Court to my court. I asked my Registrar to write to the Registrar of the Calcutta High Court. Thereafter Sir Trevor Harris, who was the Chief Justice, ordered that all the records should be sent to Orissa. Within a fortnight all the records were there. He wrote to me that with regard to certain documents and private papers with the attorneys he could not help.

So, the main expenditure is due to the attorney system. Of course there is a moral aspect to the attorney system. That keeps our barristers and advocates above suspicion. I should, therefore, urge that the scope of this amending Bill should be widened, so that the Civil Procedure Code, or at least those parts of it which will be consequentially affected by the proposed provisions, should be considered. That has been the sense of the House, so far as I have been able to understand and that has the sympathy of the Minister incharge. With regard to the amendment of the Civil Procedure Code, there is another answer to any objection, namely that some parts of it are severable. The fundamental principles are coherent and harmonious, but some parts are severable for example. So far as exemption of particular persons from appearance in court is concerned, that has practically nothing to do with the rest of the Code. There may be similar amendments when occasions arise.

With these words, I support the Bill.

Shri Mulchand Dube: (Farrukhabad Disstt.-North): : During my experience at the bar for more than 40 years, I have come to the conclusion that the Civil Procedure Code as it stands has not got many defects. It consists of two parts, one containing sections up to 158 and the other consists of Orders and Rules. So far as the portion that deals with Orders and Rules is concerned, the Rules can be amended by the High Courts. Every High Court has a Rules Committee

which examines the Rules from time to time and according to the prevailing local conditions, alters or amends them. Therefore, I do not agree with the hon. Minister when he says that overhauling the entire Code is a stupendous task and requires a Committee of experts. All that seems to me to be necessary is that the State Governments and the High Courts should be alerted so that they may examine the Orders and Rules and alter them or amend them according to the conditions prevailing in each State. For this Parliament to take up the entire Code consisting of Orders and Rules would certainly be unnecessary, because, in that case, the rules will have to be framed on a uniform basis with the result that they may not be adequate or fully applicable to all the States in the country.

So far as the sections are concerned my submission is that they lay down very sound principles and do not call for any change. When the hon. Minister says that the task is stupendous and it is difficult to overhaul the entire Code, the only conclusion to which I can come is that the defects are not so patent as to be easily visible. I think this expression of his supports my view that the Code as it stands is not as bad as it is made out to be.

In the course of the debate on this Bill a question about the incompetence of the judiciary has been raised. My submission is that there are certainly delays, and sometimes misappreciation of evidence also. But, the judges are not the only party to blame. There are three parties who must share the blame. The litigants are responsible for producing false evidence or setting up false cases before the court. The advocates are also to a certain extent responsible for trying to win their cases by their skill in advocacy; the judges are also responsible to a certain extent for not being able to appreciate the evidence fully. But, in spite of all this, it can be said with confidence that 90 per cent. of the cases at least are decided correctly. This is all to the

credit of the judges and the great experience and knowledge of human nature that they have to bring to bear upon the decision of these cases.

I shall now come to the various amendments that have been placed before the House. The first point is, I have not been able to understand why the Code is not being made applicable to the State of Jammu and Kashmir. When we turn to section 1 of the Code as it stands at present, it reads:

"It extends to the whole of India except—

(a) the Tribal Areas in the State of Assam;

(b) Save as hereinafter provided, the Scheduled areas in the State of Madras;

(c) the State of Jammu and Kashmir; and

(d) the State of Manipur;"

It appears from section 1 that the Code is not extended to the State of Jammu and Kashmir. When we come to the definition contained in section 2 we find:

"(7B) 'India', except in sections 1, 29, 43, 44, 78, 79, 82, 83 and 87A means the territory of India excluding the State of Jammu and Kashmir;"

That is, a part of the Code, sections 1, 29, 43, 44, 78 and others are made applicable to Jammu and Kashmir. These sections relate to service of summons, execution of decrees and such other matters. If the Code could be made applicable to Jammu and Kashmir in these matters, I do not see any reason why it should not be made applicable to the State of Jammu and Kashmir as a whole. I expect that the hon. Minister will clarify the position.

The first amendment that is sought to be introduced is that the successful party should be deprived of the interest on costs that he has incurred. I have not been able to understand the reason behind this. The successful party has

incurred considerable costs and the costs taxed against the opposite party represent only a small part of the costs that have been actually incurred. If a person, on account of the wilful default or wrong committed by another person, has been driven to the court, and has had to incur expenses and spend money from his pocket, there does not seem to be any reason why he should be deprived of interest on costs that he has incurred. It is said that it is a matter of social justice. My submission is that this kind of thing is likely to encourage the judgment debtor to desist from paying Costs as they fall due. He can withhold the costs and put the decree-holder to considerable expenses and trouble even after he has obtained the decree. It is a common saying that the troubles of the decree-holder begin only after he has obtained the decree. Therefore, I do not quite understand the hon. Minister when he says that costs should not bear any interest after the decree has been passed.

The next amendment proposed to section 35A is a welcome and salutary amendment. Up till now, it was necessary for a party claiming special costs or compensatory costs to raise that objection at the earliest possible opportunity. The words 'earliest possible opportunity' are being omitted with the result that the courts will be in a position to grant compensatory costs even though they have not been claimed at the earliest possible opportunity or even though they have not been claimed at all. This is all to the good. This is bound to result in deterring unscrupulous litigants from launching vexatious or frivolous claims. The amendment of section 47, bringing in the principle of *res judicata* is a welcome and salutary change, because up to now the principle of *res judicata* was surely applied to execution cases, but it was constructively so applied, but there was no provision in the law as to whether that principle should or should not be applied. I think it is a good amendment to apply that principle. My hon. friend Shri Ramaswami said that the question of might or ought

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should also be applied to execution proceedings. I do not agree with him, because it is more a question of constructive *res judicata*. Therefore, such points which have been heard and finally decided should be *res judicata* not others which might and ought to have been raised and have not been raised.

The amendment to section 92 is also a salutary and good amendment. Up to now what happened was that a person who succeeded in ousting a trustee from trust property only got a declaration and in case he wanted to take possession of the property, he had to file another suit. Now, this is a necessary amendment and this is quite welcome.

Mr. Chairman: The amendments with which he agrees, he need not recapitulate because it has been said by so many Members. He should try to economise the time and just speak on those clauses where he has something to say.

Shri Mulchand Dube: In regard to amendment of section 133, I have some doubts as to whether the proposed amendment is going to meet the objections that have been raised by the High Courts in regard to the exemption of persons. The amendment reads as follows:

"In section 133 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

(1) the following persons shall be entitled to exemption from personal appearance in Court, namely:—

(i) the President of India;

(ii) the Vice-President of India;..."

Now, the opening words are "The following persons" and the exemption is in regard to their offices. The question is whether the word "persons" covers, and is comprehensive enough to include, the offices held by these persons. If the persons are to be exem-

pted, it should be clearly stated that the persons holding the following offices shall be entitled to exemption. That would be, I think, more correct. My submission is that the hon. Minister might take this fact into consideration, because, in order to meet the objection raised, in order to bring the clause in line with the provisions of article 14 of the Constitution, we should see to it that the proposed amendment is made consistent with the article of the Constitution.

Article 14 reads:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Now, the word used here is "person" and according to the rule of interpretation contained in the Constitution itself, the definition of "person" is to be taken from the General Clauses Act. In the General Clauses Act, this word "person" includes any company or association or body of individuals, whether incorporated or not. It would be noticed that the definition leaves intact the ordinary meaning of the word "person", which is an individual human being. Therefore, the word "person" would mean an individual human being and would include any company or association or body of individuals whether incorporated or not. Now, these offices which are mentioned in the amendment to section 133 are neither men nor associations of men nor bodies of individuals incorporated or unincorporated. So, these offices do not come within the definition of "person" and therefore, in case it is considered necessary to give exemption to these offices, it should be said that persons holding these offices are exempt. The amendment of the section as it is framed does not say so. It only says the following persons are exempt and then it names the offices. I think the opening words of the section should be: "persons holding the following offices". If it is put in this way, it may be that it might meet the objection to meet which this amendment is being brought forward.

The Minister of Defence Organisation (Shri Tyagi): I wonder if these offices can be treated as institutions.

Shri Mulchand Dube: Institutions are not mentioned anywhere. Institutions do not count. It is the persons that count.

Shri Tyagi: For instance, there is Lord Krishna's Mandir. Lord Krishna in law is a person although he does not exist.

Mr. Chairman: These are all personalities.

Shri Mulchand Dube: I entirely agree with my hon. friend Pandit Thakur Das Bhargava that justice should be administered and every person should have a right to get justice in respect of any wrong that he has suffered or in respect of any wrong that is being done to him. My submission is that that is certainly an ideal which it is difficult to reach, and if all such cases were to come to the Supreme Court or the High Court, it would be impossible for them to deal with the plethora of such cases.

There is one other point which I wish to mention and that is that the revisional jurisdiction of the High Court should not be curtailed in the manner it is sought to be curtailed. The High Court should have the power to call for the record of any case, to examine whether justice has or has not been done.

With these words, I support the Bill.

Shri Achuthan (Cranganur): This process of codifying the Civil Procedure is not new, it has been going on for a century now. It is not a new instance with regard to this Parliament. There is no meaning in waiting till the Law Commission exhausts the whole law and comes out with its recommendations before this House to effect the necessary changes. Moreover, it may take a long time, so that, according to me, if this amending Bill goes to the Select Committee and if the Select Committee considers changes in other relevant sections and Orders of the Civil Procedure Code which may have

the effect of seeing that justice is meted out as quickly as possible and in an efficient manner, it will be well and good. But my concern is not with regard to the provisions in the Code but with regard to other matters outside this Code and with regard to the judiciary. We must have a competent judiciary. We must have enough number of judicial men. In some States we see there are a number of cases pending in small courts where the Munsiff is not able to deal with them in full. There are cases which are older than five years, not in the High courts or appellate courts—I am referring to the original Munsiff Courts.

Shri Bibhuti Mishra (Stran ^{CUM} Champaran): Do the Munsiffs sit from 10 to 4?

Shri Achuthan: 11 to 5, excepting for one hour for lunch. Though he may not be in the bench, he has to do administrative work. You have no experience of that. That is the difficulty.

Mr. Chairman: Order, order.

3 P.M.

Shri Achuthan: So that, we are not to blame the judiciary as a whole. They are as conscientious as we are. The judges must be properly paid. That is my main submission. Unless the judiciary becomes contented and unless they are made to feel that their future is safe and that they can have a contented and happy life, they become discontented, and dissatisfied, and as a result, their full energy and enthusiasm are not forthcoming. So, it is very necessary that they must be properly paid.

Secondly, there must be enough number of persons on the judiciary. And there must be a standardisation in their scales of pay. We find that there are wide variations in their pay scales at present as between the different States. In one State, the munsiffs scale may go up to Rs. 300, but in some other States, it may be very much less. These variations must now be set right, and there must be an all-India pay scale for all these judicial men. That will

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create the necessary atmosphere in which they can feel that they are independent, and that they form one lot from one end of India to another; and this will also result in the speedy disposal of cases.

Even more important is the part that we advocates have to play. I know personally that there is a good number of my fellowmen in the different courts who may not play the part that is expected of them. You know well what sort of advice we give sometimes to our clients. If we make a little introspection we shall find that in many cases the parties may not have to go to court at all and that the case could be settled better by arbitration or by some sort of compromise or conciliation, and thus the matter could have been expeditiously dealt with, but yet the case has been taken to the courts, under our advice. Unless we are united, and we have in view the new and changed social conditions, and we adapt ourselves to the new set-up, I for one feel that delay in the disposal of cases cannot be solved in the near future.

Then comes the question of the litigant public and the witnesses. They are also responsible sometimes for delay. They are expected to tell the truth and the truth only, and they must abide by the summons issued to them. But I can give you a number of cases in which even though the witnesses are ready and it is convenient for them to go to court and give their evidence, yet they plead inconvenience on the ground that they are laid up or that they have some other urgent matter and then ask for postponement of the case, or leave of absence. This is the sort of tactics that has been employed in our courts beginning from the lowest and ending with the highest. In the face of all this, delay is certainly inevitable.

Unless we realise all these factors, and unless we realise that quick administration of justice is a part and parcel of justice, and that delay should be reduced to the utmost, we shall find this sorry state of affairs continuing in

the future also. As far as possible, we must see that the cases are settled outside the court itself. Otherwise, the expenses by way of lawyers' fees etc., which the parties will have to bear, will mount up to a high figure. Moreover, in certain cases, it may happen that the status of the parties to a case might be different; the plaintiff may be a rich man, and he may employ one of the biggest advocates; then necessarily, the defendant also, even though he may have a strong case in his favour, will run after a big advocate. These big advocates will be brought to the lower courts, and it is just possible that on that particular day, there might be a number of other hearings, and this particular case may not be taken up at all. And yet the lawyers' expenses will be there. The result of all this will be that even though the defendant succeeds ultimately in this case, yet with regard to his financial position he will be nowhere, and he will become just an insolvent. We have to take all these factors into consideration and see that justice is made as quick and as cheap as possible. This is by way of general remarks.

Now, coming to this small amending Bill, I feel that it is not of much significance. Only some very small and minor matters have been taken up. And even there, I find that there are some hardships likely to be caused as a result of the proposed amendments. For instance, with regard to the question of costs, everybody will admit that when a party spends some money by way of costs, he must receive interest on the same. What is the justice, or what is the rational in saying that the interest will not be allowed on the quantum of costs that the party has spent for obtaining the decree in his favour? If you say there will be no costs at all paid to any party, I could quite well understand that. And moreover, it will act as a deterrent to the litigant public from going to court, for they will not get even a single pie by way of cost. If that sort of provision is made, I can appreciate that. But there is no point in saying that while

costs would be allowed, the costs will not bear interest, and that the question of allowing interest on costs will be left to the discretion of the court. Suppose in a particular document, 12 per cent interest is claimed, and the decree also is granted in favour of the person concerned, certainly the courts are not going to allow that rate of interest. But certainly discretion should be left in the courts to award such rate of interest as they think just and proper.

Then I come to the question of compensatory costs. According to me, this is a very important provision. As far as my experience goes, there have been quite a number of frivolous and vexatious cases. Unless the courts are armed with full powers to grant compensatory costs in respect of frivolous, untenable and useless contentions, the litigant public will only be encouraged and the incidence will be on the increase. But if this provision is there, according to which the court can at any time award compensatory costs to the party concerned, then it will have a deterrent effect on persons contesting such cases in the courts.

Some other devices also can be adopted to minimise the number of these vexatious and frivolous contentions. If the parties could come to a settlement that there is no substance in the contention, then the court fee can be refunded. This kind of provision existed in our State, and in fact it exists even today. If there is an agreement between the parties that there is no contention at all, then half the court fee will be refunded. This acts as an encouragement to the parties to settle their cases outside the court if possible. And if the parties come to a settlement even at the stage of framing of the issues, then the whole of the court fee will be refunded. If this sort of provision is made, then somehow or other a tendency will be created among both the parties to a case to try to settle the matter among themselves and not pay the court fee to the State concerned.

The best way to reduce the number of cases in courts is to encourage the

system of arbitration, conciliation or compromise. If this course is adopted, then in many cases, the advocates of the two parties could settle the case among themselves within one week. That has been our experience. But if we allow them to go to court, we find that the case drags on even for as long a period as two or three years. If we advocates are certainly at it, and we have a mind to settle the cases outside the court, then we shall be able to settle many of these cases within just a week's time; but if we take those cases to the court, they might well drag on for years.

Shri Raghavachari (Penukonda): All your fees should be realised first.

Shri Achuthan: I for one feel that some sort of provision must be there with regard to settlement of cases by arbitration or compromise outside the court. But I find that there is no place for that in the Civil Procedure Code. There is no doubt an Act with regard to arbitration, namely the Indian Arbitration Act, but only very few persons have recourse to that. If only we could see that the tendency to seek arbitration is encouraged among the litigant public, there will be less of delay in the disposal of cases in the courts. A number of prominent persons also have been saying the same thing and it will be in the interests of the litigant public themselves if they resort to arbitration rather than go to a court.

Now, I come to the question of *res judicata*. They were in use before, and they are in use even now also. In our State, there were cases of *res judicata* even in execution proceedings but ultimately it is for the High Court to say whether a particular matter could be agitated or not on the principles of *res judicata* or not. But I find that nothing much could be gained in this regard by means of the present amendment.

Then I come to the question of revision and appeal. According to me, the provision in regard to revision is necessary. It is not that I am against revision itself. When there is very little of justice, or there is a violation of

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justice, or a question of an important point of law is involved, certainly the parties would not keep quiet, and the matter will definitely go to the High Court, where they will try to convince the judge concerned that it is a very important matter which will affect the whole tide of the case, that there will be a repetition of the losses, and so on; and on this, necessarily the High Court will interfere and pronounce its opinion. At present, even in regard to some small intricate matters, the party runs to the High Court, even though he could get some real relief from the district court itself, where the case has been dragging on for two or three years. If these stay orders could be got from the district court itself, then the High Courts will be left free to deal with more important matters only. At present, what happens is that because a revision petition has been filed in a High Court, and it may come up only after a year or so because the High Court is preoccupied with other more important work, the whole case comes to a standstill, and the aggrieved party is put to a great loss and suffering.

Then there is the question of appeals in regard to small causes. I think the provision in this regard in the Bill is absolutely necessary. It lays down that only in causes involving a corpus worth more than Rs. 1000 a second appeal can lie. At present, the provision is that causes where the valuation exceeds Rs. 500 can be agitated by way of second appeal. Only in cases where some serious financial loss is involved should the matter be allowed to be agitated by way of a second appeal. So, it is very necessary that there must be some limit fixed in this regard, beyond which only a second appeal can be made.

Now, as regards service of summons through post, there is one very serious difficulty. We must have post offices throughout India. Unless we introduce the postal service throughout India, this difficulty may remain. Now, in villages with a population of 2,000 and above, we find post offices. Unless we extend the postal facilities, I think

the delay will continue. Even the preliminaries take three months or six months. In some big cases, where there are about 200 or 300 defendants, the service of summons will go on for two years. I know of a case in the Madras High Court in which I am interested. The appeal was filed in 1948. We are now in 1955. The last date of service of summons has not been completed. Seven years have lapsed, but still the last service is yet to be completed. That is the position. So unless we take it into our heads to see that the postal service is sufficient for the purpose, delays cannot be avoided, as it will be prolonged. So this amendment in clause 16 regarding the inclusion of postal service instead of having the other service is a welcome change which has to be adopted.

So also with regard to the bringing of witnesses. Even now a party brings witnesses. Even though the other party may cross-examine them and ask them, 'why have you come at the invitation of the other party?', the court does not take notice of it. Courts nowadays realise the social consciousness of the people. People now do not depend on the wealth of the people bringing them. In cross-examination, the veracity and *bona fides* of the witnesses can be well understood. So not much value can be attached to the fact of witnesses being brought by the party. Actually, sometimes witnesses may not like it. They say, 'We do not want to follow you. Let us get the summons and we will come and say what we have to say'. Therefore, even though we may have this provision here, it won't be made much use of, because there are respectable witnesses, they may not like to come with the party. They may consider it as an insult to go to the party's house and then come along with them. So even though we have the provision incorporated here, it will not be made much use of by the parties.

Then with regard to sub-clause (6) of clause 16, Order XXV, rule 1; asking for security for costs, according to my experience in the Bar, we ought not to be content with the existing provision

alone. At the hearing stage, the plaintiff who is not a resident there and who has no immovable property, goes on raising contentions, and on demand by the other party, furnishes security. According to me, even now parties who are settled here and who have no immovable property, raise a lot of contention. But no court can demand security for costs; it can only have the person brought there, when security for his appearance is demanded and furnished. But, according to me, we must go a step further. In a number of cases, we find that this cannot stand for a moment. So when the court finds from the written statements and other pleadings that those contentions are frivolous—because the process must go on—the court must be vested with powers, even though the parties concerned may be belonging to the place or have no immovable property, to demand security for costs. That will also be a check against raising frivolous contentions, which are raised not for succeeding but for the sake of contention.

These are welcome changes. They have to be looked into and seriously examined by the Joint Committee. Moreover, provisions in Parts I and II of the Civil Procedure Code may also be examined by the Committee, so that we need not wait till the Law Commission examines the matter and comes out with its exhaustive report dealing with so many other matters also. We shall, meanwhile, as far as possible try to achieve the object, namely, reducing the time and expense and achieving more efficiency. Let us see what can be done. Let the Joint Committee go into the matter and revise all those provisions of the Civil Procedure Code which require revision and see that as far as possible, better provisions are adopted which will have the desired effect. So I welcome this measure.

श्री आर० डी० मिश्र (जिला बृलन्दसहर): मैं समझ रहा था कि सिविल प्रोसीज्योर में कोई भारी परिवर्तन होने जा रहा है क्योंकि जिस तरह डा० काटजू साहब ने क्रिमिनल प्रोसीज्योर कोड एक्ट के सम्बन्ध में अपना भाषण दिया था और

उसके सम्बन्ध में बहुत से कागजात हमारे पास भेजे थे उससे हमने समझा था कि इस सिविल प्रोसीज्योर कोड के बारे में भी काफी मसाला हमारे सामने रखवा जाएगा, लेकिन जब यह बिल हमारे सामने आया तो मालूम पड़ा कि ऐसा कुछ भी नहीं है। जो इसमें छोटी मोटी त्रुटियों की जा रही हैं, उनके लिए तो मेरी समझ में यह भी नहीं आता कि यह बिल सेलेक्ट कमेटी को क्यों भेजा जा रहा है। इसमें ऐसी कौन सी बात है कि जिस पर सेलेक्ट कमेटी डेढ़ महीने गौर करेगी और बिजनेस कमेटी ने भी यह नहीं सोचा जो यह दस घंटे का वक्त बिल के सोचने के लिए दिया, वह बहुत ज्यादा है। इस से पहले जो हाउस के सामने स्प्रिचुअस प्रीपेरेशन बिल रखवा गया और जिसमें कि एक साल की सजा का प्राविजन था अगर कोई उसकी खिलाफ वर्जी करता हुआ पकड़ा जाए। यह जानना एक धानेदार के लिए कि इस प्रीपेरेशन में C_2H_5OH का कीमकल कम्पोजीशन है या नहीं बहुत मुश्किल होगा, उस बिल को तो यहां पर तीन घंटे में पास कर दिया गया। उसके सम्बन्ध में बहुत कुछ कहा गया और बहुत बातें समझाई गईं, लेकिन कोई भी बात नहीं मानी, लेकिन इसमें जिसमें कोई डर नहीं है, सिर्फ यह है कि सम्मन चपरासी के बजाय डाकखाने से भी रीजिस्ट्री चिट्ठी द्वारा भेज दिया जाया करे, या मुंसिफ का चपरासी भी तामील के लिए जाए और साथ ही डाकखाने की रीजिस्ट्री भी चली जाए, या खर्च पर सूद न दिया जाए, या डिग्री के साथ आर्टि शामिल कर लिया जाए, या इसमें कहीं "एंड" का लफ्ज जोड़ दिया जाए, ऐसी मामूली सी बातों के लिए मेरी समझ में यह नहीं आया कि हमारे आनरबल मिनिस्टर साहब ने इस बिल को सेलेक्ट कमेटी में ले जाने के लिए कौन सी बड़ी बात समझी।

इसी तरह इसमें जो रिवीजन का क्लॉज है उसके अन्दर से "द्वयरेट" का लफ्ज निकाला जाए, उसके ऊपर सेलेक्ट कमेटी गौर करेगी, तब उसमें कोई बदलाव होगा, ऐसी बातों को रख कर हाउस का भी वक्त खराब करना है और सेलेक्ट कमेटी का वक्त भी खराब करना है। अगर वाकई आपने इस सिविल प्रोसीज्योर कोड

[श्री आर० डी० मिश्र]

में कोई लाभदायक अमेंडमेंट करना हैं तो जो संशोधन में भाई श्री मुकुन्द लाल अग्रवाल ने दिया हैं कि सेलेक्ट कमेटी को यह इन्स्ट्रक्शन्स दिए जाएं कि सिविल प्रोसीज्योर एक्ट में अमेंडमेंट करने के लिए जितने भी संशोधन आए, उन पर सेलेक्ट कमेटी गौर करे, तब तो यह बिल सेलेक्ट कमेटी को भेजना जरूरी हो जाता हैं और अगर यह मंशा हो तो मैं जरूर अपने आनररबल ला मिनिस्टर साइब से अपील करूंगा कि भाई मुकुन्द लाल अग्रवाल का जो अमेंडमेंट हैं, उसको मंजूर कर लें। और सिविल प्रोसीज्योर एक्ट में तरमीम करने के लिए सदस्यगण जो भी अमेंडमेंट दें, कमेटी उन सब सुझावों पर गौर करे, और अगर ऐसा होता हैं तो यह एक बड़ी मुनासिब और माकूल बात होगी।

हमारे एक साथी ने जो उद्दीसा के चीफ जस्टिस रह चुके हैं हमको बतलाया और अपना चालीस वर्ष का तजुर्बा हमारे सामने रखता। उन्होंने हमें बतलाया कि सिविल प्रोसीज्योर एक्ट में कोई ऐसी ज्यादा बात नहीं हैं जिससे कहीं बं-इंसाफी हो जाने वाली हैं। हां, कहीं कहीं पर लोग इस सिविल प्रोसीज्योर एक्ट पर पूरा अमल नहीं करते हैं जिसकी वजह से मुकदमों के तै होने में देरी होती हैं। जो बात उन्होंने कही हैं वह समझने की हैं। दूसरे आपने खुद कहा हैं कि ढिले होती हैं, देरी होती हैं। ढिले का एक खास कारण तो यह हैं कि अदालतों में जजों और मजिस्ट्रेटों की कमी हैं। दूसरी वजह यह हैं कि इन सिविल कोर्ट्स को इतनी लम्बी छुट्टी दी जाती हैं कि काम काफी पिछड़ जाता हैं। सुप्रीम कोर्ट चार महीने के लिए बन्द हैं, तमाम हिन्दुस्तान का काम जो उस अदालत को करना होता हैं, वह पड़ा रह जाता हैं। इसी तरह हम देखते हैं कि दूसरी अदालतों भी जैसे हाई कोर्ट और दीवानी अदालतों का भी लम्बी छुट्टी मनाती हैं, जिसके कि कारण काम पड़ा रह जाता हैं। आप ढिले को हटाने के लिए लम्बी छुट्टियों को कम कीजिए और जजों और मजिस्ट्रेटों की तादाद को बढ़ाइए। तीसरे जैसे कि क्रिमिनल प्रोसीज्योर एक्ट के अन्दर हैं कि आनररी मजिस्ट्रेट रखे जाएं और

आनररी कोर्ट्स हों, उसी तरह हिन्दुस्तान में जितने भी रिटायर्ड जज, मजिस्ट्रेट और वकील मिलें उनको आप आनररी जज और आनररी मजिस्ट्रेट बना कर मुकदमों फैसला करने का प्रबन्ध कीजिए या कुछ तनखाहदार मुकदमे करिए ताकि लांअर कोर्ट्स और हाई कोर्ट्स में जितना पिछड़ा हुआ काम हैं वह सब पूरा हो जाए, अगर आप ऐसा करें तब तो समझ में आ सकता हैं कि आप वाकई तरमीम कर रहे हैं...।

श्री बिभूति मिश्र : ऐसा करने से अनएम्प्लायमेंट भी दूर हो जाएगा।

श्री आर० डी० मिश्र : मैं आनररी के मुताबिक कह रहा हूं, मैं तो रिटायर्ड लोगों के रखने के वास्ते कह रहा हूं जिन्हें पेंशन भी काफी मिलती हैं और जिन्हें अपने घर में वक्त काटना भारी हो जाता हैं, ऐसे लोगों को यह काम दे दिया जाए ताकि वह आनररी जज या मजिस्ट्रेट बन कर कुछ मुकदमात तय कर सकें। इसके अलावा आप कुछ सरकारी नौकर भी बढ़ावें जिससे ढिले दूर होगी और जैसा कि मेरे दोस्त ने कहा ऐसा करने से अनएम्प्लायमेंट भी दूर होगी।

इस बिल के अन्दर कुछ बातें ऐसी हैं जो जरूर अच्छी हैं और जिनको कि मैं मानता हूं कि वह वाकई में अच्छी हैं। अब चूंकि हमारे यहां जमींदारी प्रथा खत्म हो गई हैं इसीलिए पहले जो लैंड रवेन्यू अदा करने वालों जायदादों के नीलाम के सिलीसिले में एक्जिक्यूशन के कागजात नीलाम के वास्ते कलेक्टर के पास जाते थे, अब उसकी जरूरत नहीं हैं। लैंड रवेन्यू सिस्टम के कारण वह इजरा डिग्री के कागजात कलेक्टर के पास भेजे जाते थे ताकि लैंड रवेन्यू सिस्टम में कोई खराबी न आने पाए और ठीक ठीक काम हो जाए और साथ ही सिविल कोर्टों के पास ज्यादा काम न रहे।

अब जमींदारी खत्म हो गई। कलेक्टर के यहां एग्जिक्यूशन के प्रोसीज्योर भेज दी जाएं और वह जायदादों को नीलाम कर के दीवानी अदालतों को इजरा वापस कर दें। अब इन दफात की जरूरत नहीं रह जाती हैं उनका निगलना जरूरी समझा जा सकता हैं। लेकिन इस बिल में बाकी

कुछ ऐसी बातें भी रक्खी गई हैं कि बाज जगहों पर तो उनको दंड कर रूहानी तकलीफ होती है।

एक माननीय सचिव: रूहानी तकलीफ कैसी?

श्री आर० डी० मिश्र: रूहानी तकलीफ यह है कि यह हमें अपनी गुलामी की याद दिलाती है। इस बिल में जो दफा ५ है, उसमें यह रक्खा है कि जो इंडियन इंडिया है, जहां पर कि राजा लोग राज्य करते थे, वहां की अदालतों की जो एक्स पार्टी डिगिरियां हैं वह भारत के उस भाग में जो ब्रिटिश इंडिया का हिस्सा था, जिस में आप ने लाल रंग नक्शे में देखा होगा, एग्जक्व्यूट नहीं हुआ करेगी, और ब्रिटिश इंडिया की अदालतों की एक्स पार्टी डिगिरियां इंडियन इंडिया की अदालतों में एग्जक्व्यूट नहीं होगी। क्यों साहब? आपको इस अमेंडमेंट लाने की क्या जरूरत है। इसकी वजह आनरबिल ला मिनिस्टर साहब बतलाते हैं कि २६ जनवरी, सन् १९५० से पहले इन भागों की अदालतों में आपस में इजराय डिगरी के ताल्लूकात नहीं थे। अब साहब, हिन्दुस्तान गुलामी से निकल गया, मुल्क आजाद हो गया, तमाम हिन्दुस्तान एक हो गया, इंडियन इंडिया और ब्रिटिश इंडिया का फर्क मिट गया तमाम स्टैंडर्स यूनिथन आफ इंडिया में मर्ज हो गई। तब फिर आप गुलामी की याददाश्त की इस दफा को दोबारा क्यों रख रहे हैं? अब हालत में फर्क आ गया है अब पिछली बातों को फिर ताजा करना ठीक नहीं है। अब अगर एक्स पार्टी डिगिरियां हों तो उनको कानून के अनुसार एग्जक्व्यूट किया जाए। मैं यह मुर्नासब समझता हूं कि अगर कहीं राजाओं की रियासतों के अन्दर की अदालतों की एक्स पार्टी डिगरी पास की हुई है और डिगरी हासिल किया हुआ आदमी ब्रिटिश इंडिया के इलाके की अदालत के जरिए इजरा डिग्री का तबादला कराकर रुपया बसूल करना चाहता है तो उसको यह हक होना चाहिए। आप इसको रखिए, मैं आपके साथ हूं। हां, अगर किसी आदमी ने बेईमानी से डिगरी हासिल की है तो वह एग्जक्व्यूट न होनी चाहिए। लेकिन इसका तरीका यह नहीं है जो आपने दफा ५ में रक्खा है। इसका तरीका यह है कि जजमेंट-डेंटर को

दफा ४७ के मातहत मौका दिया जाए कि वह उसको रद्द करा सके। अगर कोई जजमेंट-डेंटर आम्बेक्शन करे कि उसे उस डिगरी का पता नहीं तो अदालत को इसकी तहकीकात करने की जरूरत नहीं कि उसको नालंज भी था नहीं, उसको वह डिगरी मेंट असाइड कर देने चाहिए और रंगुलर स्ट की तरह की जांच करनी चाहिए। उसके बाद अगर रुपए की डिमान्ड अनक्यू पाए तो उसको ठीक कर दें। इसमें ब्रिटिश इंडिया और इंडियन इंडिया का सवाल नहीं है। ब्रिटिश इंडिया की अदालतों में डिग्री आए तो यहां एन्क्वायरी हो, डिगरी की ठीक जांच कर के रुपया बसूल कराया जाए, अगर वहां इंडियन इंडिया की अदालतों में यहां की डिग्री जाए तो वहां तहकीकात हो और तब रुपया बसूल हो। यह तो मेरी समझ में आ सकता है। लेकिन यह बात समझ में नहीं आती कि वह डिगिरियां इजरा नहीं होंगी। सन् १९५० में आपने खुद तमाम स्टैंडर्स को मर्ज किया, यहां का कानून वहां लागू हो गया। और आज पांच साल बाद आप कहते हैं कि अब फिर दोबारा इधर की दुनिया उधर होगी। इसलिए दफा ५ में जो बात रक्खी गई है वह ठीक नहीं है। इसको आप को एमेंड करना चाहिए और सेलेक्ट कमेटी को भी इस पर गौर करना चाहिए। इंडियन इंडिया और ब्रिटिश इंडिया की बात इसमें नहीं रहनी चाहिए। हां, इस के लिए कोई रास्ता निकाला जाए कि जो गलत डिगिरियां किसी ने ले रक्खी हैं वह सेंट एसाइड हो जाएं और ठीक डिगिरियों का रुपया बसूल हो जाए।

दूसरी बात आपने क्लोज दो में रक्खी है ६ परसेंट स्ट की। यह एक मामूली बात है:

It is the regular rate of interest throughout India.

६ परसेंट से ज्यादा कोई कोर्ट इन्टरैस्ट नहीं देता। अगर कोर्ट अपने फैसले में कह दें कि "विथ इन्टरैस्ट" तो समझा जाता है कि ६ परसेंट इन्टरैस्ट।

the regular interest of Six per cent is the regular rate of interest throughout India. तक डिग्री की रकम पर ६ परसेंट ही स्ट अदालतों आजकल देती हैं अगर आप इस स्ट की दर को इस बिल के

[श्री आर० डी० मिश्र]

जीए दफा २४ में दर्ज कर देना चाहते हैं तो वह दंड कोर्ट बात नहीं है। यह मामूली बात है।

इस बिल के द्वारा आप दफा २५ए में तरमीम कर रहे हैं। २५ए की इस बात का मैं मानता हूँ कि उसमें से यह शब्द निकाल देना चाहिए कि अगर कोर्ट शर्त सब से पहले मौके पर इस प्रकार का एतराज करे तो उसको खर्चा मिल सकता है। अदालत को किसी मौके पर भी अगर वह मालूम हो जाए कि किसी आदमी ने झूठा या बेकसेशनस मुकदमा दायर किया है तो अदालत को अख्यार होना चाहिए कि वह कम्पेन्सेशन या खर्चा दिला दे। यह बात भी मैं मानता हूँ कि अगर कोई झूठी डिगरी जारी करता है, नीलाम बायदाद करता है या कोई इजरा डिग्री में झूठा उजर करता है, वहाँ लॉअर कोर्ट को इसका अख्यार देना चाहिए कि वह दफा २५अ में खर्चा खास दिला सके। लेकिन अपेलेंट कोर्ट को अख्यार न दिया जाए, यह बात मेरी समझ में नहीं आती क्योंकि अगर एक आदमी ने झूठी या बेकसेशनस नालिश लॉअर कोर्ट में कर दी और लॉअर कोर्ट ने किसी गलती से नालिश को झूठी न समझ कर डिगरी दे दी, उसके बाद जजिल में जा कर अगर अपेलेंट कोर्ट यह समझे कि लॉअर कोर्ट का जजमेंट गलत है और वाकई नालिश झूठी है, तो क्या वजह है कि अपेलेंट कोर्ट दफा २५अ में खर्च को न दिला सके? एक छोटा सा मुंसिफ तो खर्च को दिला सकता है, लेकिन हाई कोर्ट का जज या डिस्ट्रिक्ट जज जो है वह उस खर्च को न दिला सके, यह बात मेरी समझ में नहीं आती। अपेलेंट कोर्ट को भी यह अख्यार होना चाहिए। चूँकि अपील भी झूठी हो सकती है इसलिए उसमें भी वह खर्चा दिला सके। मान लीजिए कि एक आदमी ने लॉअर कोर्ट में नालिश कर दी, लॉअर कोर्ट ने उसको झूठी समझ कर खारिज कर दिया और उस पर सूट का खर्चा दिलाया, और २५अ में खर्चा खास दिलाया। लेकिन वह आदमी आगे अपील करता है, यह जानते हुए कि नालिश झूठी है और मुंसिफ ने हालाँकि उसको खारिज कर दिया है फिर भी वह अपील कर रहा है। तो अगर

ऊपर की अदालत इस नतीजे पर पहुँचे कि वह मुकदमा झूठा है लॉअर कोर्ट का फैसला सही है। यह आदमी सिर्फ दूसरी पार्टी को तंग कर रहा है, नीचे की अदालत में उसने झूठा मुकदमा चला कर तंग किया और अब ऊपर की भी अदालत में अपील करके तंग कर रहा है, तो अदालत अपील का खर्चा खास दिलाने का अख्यार मिलना चाहिए। मेरा कहना यह है कि अपेलेंट कोर्ट को भी यह हक रहना चाहिए कि जो आदमी फाल्स या बेकसेशनस अपील करे उन से २५ए के मुताबिक वे दूसरी पार्टियों को कम्पेन्सेशन दिला सकें।

इसके बाद आप देखेंगे कि दफा ६० में तरमीम की जा रही है। क्या तरमीम की जा रही है? कि जब सरकारी नौकर के खिलाफ इजरा डिगरी होगी तो उसमें अटर्चमेंट से सरकारी मुलाजिमों की तन्खाह का १/२ एग्जेंट रहेगा। वैसे अब तक था कि तन्खाह के पहले १०० रु० अटर्चमेंट से एग्जेंट रहेंगे और उसके ऊपर जो तन्खाह बचेगी उसका ५० परसेंट भाग एग्जेंट रहेगा शेष भाग कोई आदमी जब चाहेगा तब अपनी डिगरी में ले सकेगा। अब ऐसा मालूम होता है जैसे बहुत सी औरतें मेंटनेन्स डिगरी ले कर सरकारी अफसरों के खिलाफ आ रही हैं और उन औरतों की हिमायत में हमारी मिनिस्ट्री आ रही है कि २/२ तो बीवी को मिलना चाहिए और १/२ खाबिन्दों के पास रहना चाहिए।

एक माननीय सदस्य: आप क्या चाहते हैं? मेंटनेन्स की डिगरी कितने की होनी चाहिए?

श्री आर० डी० मिश्र: बराबर बराबर बंटना चाहिए। पति के खिलाफ बीवी की डिगरी और किसी दूसरी डिगरी में फर्क हो जाता है। स्त्री जो है वह अर्द्धांगिनी होती है, अगर उसके मेंटनेन्स की डिगरी हो तो ५०, ५० होना चाहिए। आप ने २/२ का रूल कहाँ से निकाल कर रक्खा यह मेरी समझ में नहीं आता। मेंटनेन्स डिग्रीयों में आधी तन्खाह एग्जेंट रहनी चाहिए।

Shri Pataskar: It is not going to be applied only to maintenance decrees in favour of women.

श्री आर० डी० मिश्र: आप साँच लीजिए।

इसके बाद आप क्लॉक ११ के जरिए स्माल काउंटेज कोर्ट को डिगियाँ की सैकेन्ड अपील में ५०० रु० की मियाद को बढ़ा कर १००० रु० कर रहे हैं। यह आप गरीब आदमियों के साथ अन्याय कर रहे हैं कि ५०० रु० को बढ़ा कर १००० रु० कर रहे हैं और उसको सैकेन्ड अपील की इजाजत नहीं दे रहे हैं। लाखों रु० का मामला तो हाई कोर्ट तक जा सकता है, सुप्रीम कोर्ट तक जा सकता है, लेकिन गरीब आदमी को जो सैकेन्ड अपील का राइट था उसको उस से छीन रहे हैं। यह आप अच्छी बात नहीं कर रहे हैं। इसका आप साथ लीजिए।

दफा १४ के मातहत जो आप कोड की दफा १२२ में तरमीम कर रहे हैं कि प्रीजिडेंट वगैरह का अदालतों में हाजिर होने से एग्जैम्प्ट किया जाए, यह तो बड़ी अच्छी बात है और इसे मैं मुनासिब समझता हूँ कि उन्हें अदालतों में हाजिर होने से एग्जैम्प्ट रक्खा जाए।

अब सवाल यह आता है कि आप सर्विसेज आफ सगन्स में भी कुछ तरमीम कर रहे हैं। इसमें यह तरमीम की जा रही है कि डाकखाने की रजिस्ट्री के जरिए से समन भेज दिया जाए और वह हुनकारी वापिस हो तो तामील काफी मान ली जाए। मेरा कहना यह है कि जब कोई रजिस्ट्री जाती है तो रजिस्ट्री का पाने वाला पहले समझ लेता है कि कोई न कोई नालिश का कागज है। ऐसा होने पर वह कागज को लेगा ही नहीं। जिस पर न्याया चाहिए वह रजिस्ट्री को लेगा ही नहीं। रजिस्ट्री को रिफ्यूज कर देगा। दूसरी बात यह भी हो सकती है कि इस की कोई गारंटी नहीं है कि रजिस्ट्री उसके पास गई भी थी, और अगर डाकखाने वाला बेईमानी करना चाहेंगे तो पोस्टमैन लिख देंगे कि रिफ्यूज। अब तो थोड़ा सा सैफगार्ड था कि चपरासी तामील करने जाता था और उसी को समन की तामीली करनी पड़ती थी। उसको कम से कम यह निखना होता था कि मुद्दायल के मकान का दरवाजा पूर्व को है या पश्चिम को। इससे कम से कम यह मालूम होता था कि चपरासी मुद्दायल के मकान के दरवाजे तक गया था।

बंजित डी० एन० तिवारी (सारन दक्षिण):
कचहरी में पहुँचा था।

श्री आर० डी० मिश्र: लेकिन कम से कम पृष्ठता तो था और साथ में दो गवाहियाँ कराता था कि मुद्दायल ने उनके सामने लेने से इनकार किया। तो दो गवाहों की एविडेंस मिलती थी, मकान का हूँलिया मिलता था फिर कोर्ट में जा कर अफसर के सामने जान ओथ स्टेटमेंट देता था कि मैं गया और इस तरह फलां फलां गवाहों के सामने फलां आदमी ने समन लेने से इनकार किया। तो इतने सैफगार्ड के साथ चपरासियों के द्वारा समन की तामील होती थी। लेकिन फिर भी कोर्ट नहीं मानता था और दूसरे जरिए से भी उस समन को तामील करता था। अब आप कहते हैं कि अगर सिर्फ डाकखाने से लिख कर चला जाएगा कि रिफ्यूज तो तामील काफी मान ली जाए। उस रिफ्यूज पर न किसी की गवाही है न स्टेटमेंट जान ओथ है, और आप कहते हैं कि इसको मान लिया जाए। यह कहाँ तक ठीक होगा। यह तो बड़ी निरक्षमी सर्विस होगी और इससे और ज्यादा बेइन्साफी बढ़ेगी। इससे ज्यादा बेहतर तो मैं यह समझता हूँ कि अगर रजिस्ट्री न करा कर अंडर पोस्टल सर्टिफिकेट समन भेज दिया जाए तो ज्यादा बेहतर होगा। इससे यह तो साबित हो जाता है कि सम्मन भेज दिए गए हैं और साधारण रूप में वह मुद्दायल पर चिट्ठी की तरह पहुँच गए होंगे। हम रोजमर्रा देखते हैं कि जो चिट्ठियाँ बगैर रजिस्टर करवाए भेजी जाती हैं वे पहुँच जाती हैं और इससे यह प्रिजम्पशन निकलती है कि वे पहुँच गई हैं। रजिस्टर कराने में बड़ी गड़बड़ी होगी। इस से वह मुद्दाई पोस्टमैन के पास पहुँच जाएगा और उसको एक दो रुपया देकर "रिफ्यूज" के लपज लिखवा देगा। आप करप्शन को कचहरीयों से हटा कर के डाकखानों में पहुँचा देना चाहते हैं लेकिन मैं प्रार्थना करता हूँ कि कम से कम डाकखानों को तो करप्शन से बचाए रखा जाए। करप्शन के मुताबिक भार्गव साहब ने कहा कि कचहरीयों में नीचे से ऊपर तक करप्शन फैला है। चपरासी रिश्वत लेते हैं, नाजिर लेता है, तमाम अहलकार लेते हैं और आप किसी ऐसे आदमी को नहीं पाएंगे जो रिश्वत न लेता हो। यहाँ पर मैं यह कहना चाहता हूँ कि पार्लियामेंट ने एंटी करप्शन एक्ट पास किया। हाई कोर्ट ने यह तय कर दिया था कि क्रिमीनल

[श्री आर० डी० मिश्र]

प्रोसीजर कोड का सैक्शन १६७ रिश्वत के मामलों में लागू नहीं होता है। इस में in the discharge of public duties का काम नहीं है। उसमें मुकदमा चलाने के लिए किसी सैक्शन की जरूरत नहीं है। हाई कोर्ट्स के इस रूलिंग को बरतारफ करने के लिए एंटी कर्प्शन एक्ट पास कर दिया गया। उसमें यह लिख दिया गया कि रिश्वत के जितने भी मुकदमे होंगे वह सब तक नहीं चल सकते जब तक कि उस डिपार्टमेंट की मंजूरी न ले ली जाए जिस डिपार्टमेंट में कि वह आदमी नौकर है। अगर वह किसी डिस्ट्रिक्ट बोर्ड में नौकर है तो उस बोर्ड के चेयरमैन की मंजूरी लेनी होगी, अगर वह लोकल गवर्नमेंट में है तो लोकल गवर्नमेंट की मंजूरी लेनी होगी, अगर सेंट्रल गवर्नमेंट में है तो सेंट्रल गवर्नमेंट की मंजूरी लेनी होगी। हाई कोर्ट ने रिश्वत बन्द करने के लिए जो फंसला दिया आप ने यहां पर एक्ट बना कर रिश्वत खोरी को नहीं बन्द होने दिया। इसका नतीजा यह हुआ है कि जब रिश्वत लेने में सब साक्षीदार हैं, खुलाम रिश्वत ली जाती है और जब मुकदमा चलाने के लिए सैक्शन मांगी जाती है तो वह मिलती नहीं है। जितनी रिश्वत १९२७ में सरकारी अफसर लेते थे उससे कहीं बढ़चढ़ कर आज रिश्वत ली जाती है। जहां पहले एक रुपया वे लेते थे वहां आज दस रुपए लेते हैं, जहां एक सौ लेते थे वहां आज एक हजार लेते हैं और जहां हजारों लेते थे वहां आज लाखों लेते हैं। आज हालत यह है कि इनके कहीं पर तो टाउनशिप बन रहे हैं, कहीं कालोनीज बन रही हैं और कहीं दुकानें बन रही हैं। आज आप आर्डर ईशू करते हैं कि सरकारी अफसरों से उनकी सम्पत्ति का हिसाब लिया जाए। लेकिन इन से कुछ होता नहीं है। आज जो आर्डर आप ईशू करते हैं उन पर अमल नहीं किया जाता है। हाउस में जो कुछ मॅम्बर साहिबान कहते हैं इसकी भी कोई परवाह नहीं की जाती। एक टाई की ही मिसाल में लीजिए। इसके मुताबिक प्रेजीडेंट साहब ने कुछ आर्डर जारी किए तत्कालीन तीन साल पहले,

लेकिन अब भी हम देखते हैं कि कम से कम जो सैक्रेटरी लोग हैं उनके कालर तो जरूर बन्द हो गए हैं वह बन्द कालर का कोट पहनते हैं लेकिन जो अंडर सैक्रेटरीज हैं उनके अभी भी टाई लगी रहती हैं। अगर यह कहा जाए कि फ्लां जगह के रहने वाले लोग नहीं मानते, बम्बई के जो लोग हैं वह नहीं मानते, तब तो बात समझ में आ जाती है। लेकिन दहली में, यहां सरकारी अफसरों की लाबीज में अंडर सैक्रेटरीज को बगैर टाई के नहीं देखता। मैं ने सोचना शुरू किया कि आखिर बात क्या है कि सरकार के आर्डर की तामील क्यों नहीं होती। जो फर्क मैंने देखा वह यह है कि राष्ट्रपति के आर्डर की तामील, होम मिनिस्ट्री के आर्डर की तामील सिर्फ सैक्रेटरियों तक ही होती है और नीचे के अफसर इन आर्डर की तामील नहीं करते। फिर मैं ने सोचा कि आखिर क्या कारण है कि नीचे के अफसर गवर्नमेंट के आर्डर को नहीं मानते, क्या उनको इन आर्डर को न मानने से जो नताइज निकल सकते हैं, उनका डर नहीं है। मुझे पता चला कि सैक्रेटरीज ने अपने अंडर सैक्रेटरीज से कह रखा है कि हमें तो रोजमर्रा मिनिस्टर्ज के पास जाना पड़ता है और इसलिए हमें गला बन्द रखना चाहिए और चूंकि आपको नहीं जाना पड़ता, इसलिए आप टाई बगैरह लगा सकते हैं और खुला गला रख सकते हैं। तो ऐसी हालत में हम क्या आशा करें कि यह हमारा काम करेंगे, ठीक ठीक करेंगे और जल्दी से करेंगे। रिश्वत-स्तानी को जब हाई कोर्ट्स ने रोकने की कोशिश की तो यहां पर एक एक्ट पास करवा लिया गया कि मुकदमा चलाने के लिए सैक्रेटरी की सैक्शन जरूरी है और जब तक वह सैक्शन नहीं मिलती, मुकदमा नहीं चल सकता। मैं ने देखा है कि असमारियों के पिछले खानों में फाइलें पड़ी रहती हैं जिनके बारे में यह पता नहीं चलता कि वे कब कब की कॉन सी फाइल हैं। इन बातों का जिक्र करना इस सिविल प्रोसीजर कोड के बिल के बारे में मेरे विचार में फिजूल सी बात है। मैं चाहता हूं कि न्याय जरूर मिलना चाहिए। अगर कोई चोरी करता है तो उसको सजा होनी चाहिए, अगर कोई डकैती डालता है तो उसको

उसकी सजा मिलनी चाहिए, अगर कोई कत्ल करता है तो उसको फांसी की सजा मिलनी चाहिए। अगर किसी को स्मए दंड है और वह दंड नहीं रहा है तो उस पर डिगरी हो जानी चाहिए। वह डिगरी कैसे होगी उसके लिए प्रोसीजर दिया गया है। इन प्रोसीजरों के कारण न्याय नहीं हो रहा है। इतनी कोर्ट फीस जरूरी है, इतने और पैसे चाहिए, इतनी वकील की फीस चाहिए, इतना तलबाना चाहिए और जब तक वह इतने पैसे खर्च न करें, उसके लिए इन्साफ लेना मुश्किल है। खाने को तो बेचारे के पास रोटी के पैसे नहीं होते तो इतना ज्यादा खर्च वह कहाँ से लाए। अगर कर्जा लेकर वह मुकदमा लड़ता भी है और इमानदारी से जीत भी जाता है तो अब कहा जाता है कि खर्च पर सूद नहीं मिलेगा। मैं पूछता हूँ कि क्या बजह है कि उसको सूद न दिया जाए? उसने क्या कर लिया है? जब वह अदालत में आया और उसने सच्चा मुकदमा लड़ा और वह जीत गया और जब आप उसे मजबूर करते हैं कि इतने स्मए के टिकट लगाओ, इतना तलबाना दो, वकील को भी उसे देना पड़ता है और यह सब खर्चा करने के बाद जब डिग्री हुई कि इतना स्मया खर्च का भी मुद्दालह को देना चाहिए और जो एमाउंट एडजस्ट होगा वह दूसरा होगा। इस तरीके से जब आप कहते हैं कि खर्च पर सूद नहीं मिलेगा तो मैं पूछता हूँ कि यह कहाँ तक मुनासिब है। उसने तो कर्जा ले कर मुकदमा दायर किया था और जब डिग्री हो गई तब अगर दूसरा फ्रीक उसे फॉरेन ही पेंमेंट कर दे तब तो यह बात ठीक है। मगर जब दूसरे फ्रीक को मालूम है कि उसको कोई खर्च पर सूद नहीं देना पड़ेगा तो वह दो बरस या ज्यादा जरसा रुक्या दंड में भी लगा सकता है और इस तरह से यह और डाइलेटरी प्रोसीजर बन जाता है। यह मुकदमों को निपटाने के लिए स्पीडी प्रोसीजर नहीं हो सकता। हाँ अगर यह कहा जाए कि मार्टगेंज का सूद नहीं मिलेगा तो समझ में आता है। जो बहुत ज्यादा सूद लेते हैं उस सूद को रोकने के लिए हम ने जरूर कोरिशन की थी और यह किया था कि गरीब आदिमियों को इससे तकलीफ न हो और उनको सूद दर सूद न देना पड़े, कम्पाउंड इंटरेस्ट न देना पड़े, असल के दंड से ज्यादा जो स्मय हो

गए हैं वह नहीं मिलने चाहिए, यह तो ठीक बात है लेकिन जब आप एक आदमी को मजबूर करते हैं कि वह अदालत में आए स्मया लगाए तो अगर वह मुकदमा जीत जाए तो उसको उसके अदालती खर्च पर सूद न दिया जाए यह ठीक बात नहीं है। डिग्री की तारीख से अदा करने की तारीख तक खर्च पर सूद दिलाया जाना चाहिए।

इसके अलावा आपकी एक तरमीम क्लॉज १६ में सब-क्लॉज ६ के ऊपर है। इसमें कहा गया है कि मुद्दई से सिक्चारिटी ले ली जाए। अब तक तो यह था कि अगर कोई आदमी हिन्दुस्तान से बाहर जाता था या जाने वाला होता था तो मुद्दई से सिक्चारिटी ले ली जाती है। अब इसको आम तौर पर लागू करने की बात कही गई है कि अदालत चाहे जिस से सिक्चारिटी डिमांड कर ले और अगर मुद्दई भारत से बाहर हो या बाहर जाने वाला हो तो उससे जरूर ले ली जाए। उसमें आपको इसका भी ख्याल रखना चाहिए कि यह ड्रफा पापर सूट पर भी एप्लाइ करती है। अगर किसी गरीब आदमी के पास ठाया नहीं है, तो वह जमानत कैसे देगा? मैं यह भी कहना चाहता हूँ कि पापर के मुकदमों से सम्बन्ध रखने वाली दफाओं में भी आपको जरा कुछ अमेंडमेंट करनी चाहिए। इस विषय में जो कानून है, वह इतना गड़बड़ है कि गरीब आदिमियों के लिए अदालत में जाने का रास्ता बन्द है। उसमें बहुत सी बातें बदल देनी चाहिए ताकि अगर किसी गरीब आदमी के पास कोर्ट-फीस देने लायक पैसा न हो, मकान, जमीन या कैश न हो, तो उसको मुकदमा करके अपने अधिकार की रक्षा का अवसर प्राप्त हो जाए। अगर कोई बड़ी भारी जायदाद का मालिक हो, लेकिन उसको गुंडों ने छीन लिया हो, तो उसको भी इन्साफ हासिल करने का मौका मिल सके। इस बारे में एक बहुत लम्बा चॉइस सिलसिला रखा हुआ है। पहले मजिस्ट्रेट तहकीकात करता है, ज्ञान-बीन करता है, अगर उसको यकीन हो जाता है, तब वह नॉटिस देता है और उसके बाद फिर गवाही होती है। इस तरह कई तारीखें पड़ती हैं। पापर के पास बैस भी पैसा नहीं होता है। वह तो पापर होने की तहकीकात में डर हो जाएगा और उसके पास कुछ नहीं

[श्री आर० डी० मिश्र]

रहेगा। बकील और गवाह करने में ही उसका तत्ताम रूपया खर्च हो जाएगा। हमें ऐसी व्यवस्था करनी चाहिए कि उसको आसानी हो और उसको इन्साफ मिल सके।

मैं आप से अर्ज कर रहा था कि अगर आपको इस बिल को उसी सूत्र में पास करना है, जैसा कि वह इस वक्त यहां रखा गया है, तो इसको सिलेक्ट कमेटी में भेजना बेकार है। अभी तीन चार घंटे बाकी हैं। आम तौर पर सब मेम्बरजें ने इसके प्रिन्सिपल्ज को मान लिया है और कोई खास आवेकेशन नहीं किया है। इसलिए आप जो कुछ इस बिल में रखना चाहते हैं, उसको अभी रख लीजिए और जो कुछ निकालना चाहते हैं, उसको निकाल दीजिए। तीन चार घंटे में यह खत्म हो जाएगा। इसको सिलेक्ट कमेटी में क्यों भेजते हैं। लेकिन अगर आप सिविल प्रोसीजर कोड में इस प्रकार की तरमीम करना चाहते हैं कि लोगों को इन्साफ मिले और सब खराबियां दूर हों, तो आपको इसका स्कोप वाइडन करना चाहिए और सिलेक्ट कमेटी को यह अख्तियार देना चाहिए कि वह उन बातों पर गौर करें। सिविल प्रोसीजर कोड में दफा १२१, १२२, १२३ और १२४ मौजूद हैं, जिनके मूलाधिकार रूज बनाने के अख्तियारात हाई कोर्ट को हासिल हैं। वे जो कुछ चाहें कर सकते हैं। वे काबिल आदमी हैं, इसलिए समझता हूं कि एक्सपर्ट कमेटी की ज्यादा जरूरत नहीं है। आप हाई कोर्ट को कह दीजिए कि आपको इस तरह रूज बनाने चाहिए कि स्पीडी जस्टिस हो सके। अभी इस सदन के सदस्य एन्स चीफ जस्टिस साहब ने कहा था कि प्रोसीजर में कोई खराबी नहीं है, लेकिन लोग उसको पूरे तौर पर समझते नहीं हैं और या उस पर पूरा अमल नहीं करते हैं। आप हाई कोर्ट्स को कीजिए कि फ्लां फ्लां रूज आवश्यक नहीं हो रहे हैं—इंटरोगेशन, इस्पेक्शन वर्गरेह के रूज आवश्यक नहीं हो रहे हैं—उनको मातहत अदालतों से आवश्यक कराइए ताकि मुकदमेबाजी कम हो और जल्दी जल्दी काम चले। अगर रूज में कोई खराबी है, तो हाई कोर्ट के जज साहबान उनमें तरमीम कर

देंगे। मैं आर दि बंस्ट एक्सपर्ट्स। मैं आपसे फिर अर्ज करना चाहता हूं कि अगर आप वाकई सिविल प्रोसीजर कोड में कुछ तरमीम करना चाहते हैं, तो आपका इसका स्कोप बढ़ाइए। आप श्री मुकुन्दी लाल अग्वाल की तरमीम को मंजूर कर लीजिए। मैं बढ़ना चाहता हूं कि इसमें ऐसी बहुत सी बातें हैं, जिनको बदलना निहायत जरूरी है। आप शुरू से लीजिए।

सब से पहले लीगल रिप्रेजेंटेटिव की डिफिनीशन आती है। इस बारे में हाई कोर्ट डिफर करते हैं और इसके सम्बन्ध में कांटाडिक्टरी रूलिंग मौजूद हैं। यह किताब दीखिए। सिविल प्रोसीजर कोड की कमेंटरी में लिखा हुआ है कि फ्लां हाई कोर्ट के जज साहब ने कहा है कि कोर्पासनेर लीगल रिप्रेजेंटेटिव हैं और दूसरे ने कहा है कि नहीं हैं। इस बारे में डिफरेंस आफ ओपीनियन है। जब हम तरमीम कर ही रहे हैं, तो हमको दोनों में से एक राय को मान कर उसको ला बना देना चाहिए और तय कर देना चाहिए कि जो सक्सेसर होगा, वह लीगल रिप्रेजेंटेटिव होगा।

इसी तरह रंस जूडिक्टे में काज आफ एक्शन डिफरेंट हो और डिफरेंट टाइम पर एगइज हो, वहां भी क्लिगज डिफरेंट हैं। रंस जूडिक्टे तब होता है जब कि सेम इशज हों। इशज कई प्रकार के होते हैं: इशज आफ ला और इशज आफ फैक्ट। इशज आफ ला एंड फैक्ट बानी मिक्स्ड भी होते हैं। जब सिर्फ इशज आफ ला हो, तो वह रंस जूडिक्टे होना चाहिए या नहीं यानी अगर एक अदालत ने किसी इशज आफ ला को गलत इन्टरप्रेट कर दिया हो, तो वह दूसरे मुकदमे में रंस जूडिक्टे होना चाहिए या नहीं। इस बारे में भी डिफरेंस आफ ओपीनियन है। बम्बई हाई कोर्ट कहता है कि होना चाहिए, लेकिन कलकत्ता हाई कोर्ट और दूसरे हाई कोर्ट्स कहते हैं कि नहीं होना चाहिए। कौन ठीक है और कौन गलत है, यह तय करना आपका काम है। मैं यह नहीं कहता कि आप फ्लां हाई कोर्ट की राय मानिए। ये सब बातें आपके सामने मौजूद हैं और उनको देख कर आप फैसला कर

दीजिए। आपने स्टेटमेंट आफ आवजेंक्ट्स एण्ड रीज़न्स में लिख दिया है कि सिविल प्रोसीजर कोड में तरमीम करना बड़ा मुश्किल काम है और इसको एक एक्सपर्ट्स कमेटी करेगी। मैं आपसे पूछता हूँ कि फिर आपका सैक्रेटेरियट क्या कर रहा है? यह उसका काम था कि वह इस काम को करता, लेकिन उसने कुछ नहीं किया। सैक्रेटेरियट के लोग तो साग दिन टबल पर बैठ रहे हैं, काम कुछ करते नहीं हैं और मजा मार रहे हैं। आपके सैक्रेटरी हैं ला मिनिस्ट्री के। आप उनसे कहिए यू आर दि एक्सपर्ट। आपके नीचे पूरा डिपार्टमेंट है। आप जो कुछ पूछना चाहते हैं, हाई कोर्ट से पूछिए। इसके अलावा सब कुछ किताबों में छपा हुआ है। तो फिर एक्सपर्ट्स की क्या जरूरत है? आप मिनिस्ट्री से कहिए कि जहां दो हाई कोर्ट्स की राएं डिफर करती हैं, वे हमारे सामने रखी जाएं और बताया जाए कि उनमें से कौन सी राय मुनासब है। मिनिस्टर साहब देखें कि बम्बई और कलकत्ता हाई कोर्ट्स क्या कहते हैं और फिर इस बारे में कोई फैसला कर दें। पार्टी में फैसला कर दें और हाउस को बता दें। मेरी समझ में नहीं आता कि यह एक्सपर्ट्स कमेटी क्या करेगी। मेरे ख्याल में उसकी कोई जरूरत नहीं है।

इसके बाद दफा २९ आती है जुरिस्टिक्शन की। सवाल है किसी अदालत को मुकद्दमा करने का जुरिस्टिक्शन है या नहीं। इसके सम्बन्ध में लिखा है कि अगर सांठर कोर्ट में इस बारे में आवजेंक्शन ले लिया गया हो, तो अदालत अपील में वह माना जाएगा वरना नहीं। हाई कोर्ट की क्लॉग है कि अगर एपेरेण्टली जुरिस्टिक्शन वार्ड है, तो अदालत की तमाम कार्यवाही गलत हो जाती है। इस बारे में भी हाई कोर्ट्स डिफर करते हैं। इसीलिए इस सिविल प्रोसीजर में लिख दीजिए कि अगर जुरिस्टिक्शन नहीं है, तो उसकी कुल कार्यवाही गलत है। हाउस को यह भी अख्तियार है कि वह उसको मही मान ले। जिस बात पर हाई कोर्ट्स डिफर करते हैं, हाउस को उसके बारे में फैसला करना चाहिए कि कौन ठीक है और क्या कानून रहना चाहिए। आप कहते हैं कि ओवर-हॉलिंग में बहुत

दर लग जाएगी। मैं तो कहता हूँ कि इसके लिए एक्सपर्ट्स कमेटी की कोई जरूरत नहीं है। यह थाम मिनिस्ट्री और डिपार्टमेंट के हेड के सुर्द कर दीजिए। वे पढ़ें और देखें और जहां दो हाई कोर्ट्स डिफर करते हैं, वह मामला हमारे सामने रख दें। लेकिन ऐसा नहीं किया गया है।

इस सिविल प्रोसीजर में लिखा हुआ है कि अगर किसी फ़िर्मल पर छिड़ी हो, तो फ़ीमेल्स को इजरा डिग्री में जेल नहीं हो सकती। मैं कहना चाहता हूँ कि अब कांस्टीट्यूशन गस हो गया है उससे सब को बराबरी का राइट मिल गया, औरत और मरद बराबर हो गए, तो फिर क्या बजह है कि औरतें जेल में न जाएं और मरद जाएं। आर्टिकल १४ कांस्टीट्यूशन के अनुसार ऐसी सब दफा नाजायज है। मैं यह नहीं चाहता कि स्त्रियां जेल जाएं और न ही यह चाहता हूँ कि मरद जाएं। जब किसी के पास रुपया देने को नहीं है, तो कानून कहता है कि वह इनसासर्वेंट बन जाएं। वकाया डिग्री का रुपया न दें तो जेल में जाने से ~~क्या~~ हो जाएगा? कपड़े और खाने का खर्चा और बढ़ जाएगा और आदमी महीना भर जो कमाता है, वह नहीं कमा सकेगा। रुपया कैसे बसूल होगा? रुपया बसूली के लिए किसी को जेल भेजना फिजूल बात है। हमारा कहना यह है कि कोई आदमी रुपए की बसूली के लिए जेल नहीं भेजा जाना चाहिए। अगर कोई आदमी जर्म करता है, डकैती डालता है, करल करता है या और कोई खराब काम करता है उसी हालत में उसको जेल जाना चाहिए। सिविल प्रोसीजर में डिग्री के एग्जीक्यूशन के सिलसिले में जो अर्रेस्ट या हिटेशन के प्रावीजन हैं उनको निकाल देना चाहिए। ऐसा करने से न स्त्रियों को शिकायत रहेगी और न पुरुषों को शिकायत रहेगी।

Shri Altekhar: On a point of information, Sir. Will the hon. Member state whether he has not got the experience that a judgment-debtor makes arrangements to pay the amount in the court in many cases where a warrant for arrest is issued?

श्री आर० डी० मिश्र: यह बहुत गलत बात है। जो रुपए वाले होते हैं उनके दिल नहीं होता।

[श्री आर० डी० मिश्र]

एक साहब ने एक आदमी का घर नीलाम करवा दिया और उसकी कीड़ियां निकलवा कर नीलाम करवा दीं। मैंने उनसे पूछा कि आपकी डिग्री तो सौ रुपए की है पर आपको इस नीलाम में सिर्फ ६ रुपए मिले। उन्होंने कहा कि ऐसा करने से इसके बच्चे तो चौड़े में रहेंगे। दूसरों का सबक मिल जाएगा और वे रुपया द देंगे। मैं कहता हूँ कि जेल भेजने से रुपया बसूल नहीं होता। वह तो बदले की भावना से जेल भेजते हैं। रुपया न देने की वजह से कोई जेल नहीं जाना चाहिए। जब हिन्दुस्तान का नक्शा बदल गया है और इस बात को सब को समझ लेना चाहिए।

श्री पाटस्कर: यह बात तो ठीक है। लेकिन आप ही कहते हैं कि जो डिग्री मिले उस पर भी सूद देना चाहिए।

श्री आर० डी० मिश्र: आप सूद दें यह तो इमानदारी है। हो सकता है कि किसी गरीब आदमी ने अपने को डिफेंड करने के लिए कर्ज लिया हो तो उस आदमी को कास्ट पर सूद क्यों न मिले। लेकिन मैं यह नहीं कहता कि उसके रुपए के लिए किसी को जेल भेजा जाए। चाहे वह गरीब का रुपया हो या अमीर का रुपया हो। लेकिन जो ठाया अदालत बतौर कास्ट करार दे दे उस पर सूद न दिया जाए यह गलत बात है। और रुपया बसूल कराने के लिए किसी को जेल भेजना यह भी गलत बात है।

फिर आप दिसंगे कि दफा ६० में सरकारी नौकरों के एलाउंसज कर्क होने से एग्जैम्प्ट हैं। मैं चाहता हूँ कि यह जो एम० एल० एज० और एम० पीज० वर्ग रहें इनके भी एलाउंसज एग्जैम्प्ट होने चाहिए। सेलरी आप कर्क कर लें वह मैं मान सकता हूँ। लेकिन इधर तो वह मकान का किराया दे और उधर कोई उसका एलाउंस भी कर्क करा ले तो उसके लिए काम करना मुश्किल हो जाएगा। इसलिए मैं चाहता हूँ कि एम० पी० और एम० एल० एज० वर्ग रहें का एलाउंस भी एग्जैम्प्ट होना चाहिए। अगर वह एलाउंस किसी लाला या व्यापारी के घर से

आता होता तब तो दूसरी बात थी, लेकिन वह तो सरकारी खजाने से मिलता है। अगर इसको एग्जैम्प्ट नहीं किया जाएगा तो वह अपना काम इमानदारी से अन्जाम नहीं दे सकेगा। मैं यह नहीं कहता कि सरकारी नौकरों का भी एलाउंस कर्क कर लिया जाए, बल्कि मैं तो यह कहता हूँ कि एम० पीज० वर्ग रहें का भी एलाउंस एग्जैम्प्ट होना चाहिए।

सिविल प्रोसीज्योर कोड में सेक्शन ६४ में यह लिखा है कि जब कोई प्रापर्टी एटच हो जाएगी तो जजमेंट इंटर उसको बंध नहीं सकेगा। मेरे तजर्ब में यह आया है कि जब डिफ्री होल्डर किसी की प्रापर्टी को कर्क कराता है तो वह वह कोशिश करता है कि वह कम से कम कीमत में नीलाम हो जाए। अगर यह जजमेंट कर दिया जाए कि जजमेंट इंटर अदालत की इजाजत से अपनी प्रापर्टी के एक हिस्से को या कुल को बंध सके तो हो सकता है कि वह अपनी कुछ प्रापर्टी को बचा सके। यह ट्रांसफर वह अदालत की इजाजत से करेगा। साथ ही यह भी प्रावीजन कर दिया जाए कि प्रापर्टीज का परचेंजर रुपया अदालत में जमा कर जजमेंट इंटर को न दे। ऐसा करने से डिफ्री होल्डर का रुपया भी सीज्योर हो जाएगा ...

श्री पाटस्कर: आप जरा दफा ६४ को पढ़ कर देखें Section 64 says ".....shall be void as against all claims enforceable under the attachment."

श्री आर० डी० मिश्र: यही तो मैं कह रहा हूँ कि आर उसको बंधने की इजाजत दे दें।

I am saying that here permission should be given.

Shri Pataskar: Why it is necessary? It is only void as against all claims enforceable under the attachment: otherwise the transaction is valid.

श्री आर० डी० मिश्र: इसमें दिक्कतें हैं। आप इसको पूरा पढ़ लें तो आपको साफ हो जाएगा।

Mr. Chairman: I want to point out one thing to Shri Misra. If you give way to any other Member to have his say, at that time you should sit down.

Shri S. S. More: That means he should not give way to anyone.

Shri R. D. Misra: Thank you.

अब इसमें एक दफा २७बी है जिसमें क्लर्क को रियायत दी गई है, जो कि कारिन क्लर्क को भी दी गई है। लेकिन अब हिन्दुस्तान आजाद हो गया है और सब बराबर के सिटीजन हैं। इसलिए इसमें यह तरमीम कर दी जानी चाहिए:

They can be sued and they can sue like any other citizen of India.

Mr. Chairman: You should try to conclude now.

श्री आर० डी० मिश्र: बहुत अच्छा।

इसके अलावा आप दफा १२२ में अमेंडमेंट कर रहे हैं कि मैजिस्ट्रेट और मिनिस्टर एग्जेंट हों। इसी तरह से मैं चाहता हूँ कि आर मेम्बर आफ लीजिस्लेचर कौंडरिंग the sessions of the legislature and meetings of committees एग्जेंट कर दें। अगर सेशन या मीटिंग हो रही हो और मेम्बर उस मुकाम पर मौजूद हो तो उसको अदालत में समन के जरिए वहां से जाने के लिए मजबूर न किया जा सके। इसमें यह एग्जेंप्शन होना चाहिए।

दफा १२८ में यह बात है कि हाई कोर्ट को राइट है कि वह किसी ला कोर्ट को मजबूर कर सकती है कि वह अपना रिकार्ड अंग्रेजी में रखे। अब यह चीज इसमें से निकाल दी जानी चाहिए। हमारा कांस्टीट्यूशन अब बदल गया है। लेकिन कोर्ट जिस जमान में चाहे रिकार्ड रखे, उसे अंग्रेजी में रिकार्ड रखने को मजबूर नहीं किया जाना चाहिए।

पापर्स के लिए मैं कह ही चुका हूँ।

मेरा कहना है कि जो कुछ सजेशन मैं ने आपके सामने रखे हैं वे सबकी बिना पर रखे हैं। अगर आपको मेरे सजेशन रीजनेबल मालूम हों तो आइ इस बिल के स्कोप को बढ़ा दीजिए।

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आपकी सिलेक्ट कमेटी तो अक्टूबर में मीट करेगी। इस बीच आप मेरे सजेशन पर राय मंगा लीजिए और गौर कर लीजिए कि कौन कौन सी चीजें जरूरी हैं। उन चीजों पर सिलेक्ट कमेटी अगर गौर करे तो अच्छी बात है। इस मामूली से बिल के सिलेक्ट कमेटी में जाने से बचा फायदा होगा। इन सबों के साथ जो अच्छी बातें इस बिल में हैं उनको मैं सपोर्ट करता हूँ और चाहता हूँ कि जो इसमें खराबियां हैं उनको निकाल दिया जाए। मैंने पाटस्कर साहब के साथ काम किया है और मुझे पूरी उम्मीद है कि वह मेरे रीजनेबल सजेशन को मान लेंगे। लेकिन मुश्किल यह है कि जो उनकी नीचे की मशीनरी है उसमें जंग लगा हुआ है। वह एक कामा तक नहीं बदलने देगी। मैं चाहता हूँ कि मिनिस्टर साहब उनके कहने में न आवें और इस बिल का स्कोप बढ़ाया जाए या न बढ़ाया जाए इस मामले में अपने जजमेंट से काम लें। अगर वह ऐसा करेंगे तो मुझे उम्मीद है कि वह मेरे सजेशन को मान लेंगे। मैं मिनिस्टर साहब से प्रार्थना करता हूँ कि वह श्री एम० एल० अंगुवाल के अमेंडमेंट को मंजूर कर लें और इसके स्कोप को बढ़ा दें।

Shri Kasliwal (Kota-Jhalawar): Sir, the hon. Members who have preceded me have advanced long arguments on the question as to whether the scope of this Bill should be widened or not. Many Members—and I am also of that view—have said that this Bill is a sketchy and scrappy Bill and could hardly serve any useful purpose. There are some Members like my hon. friend Pandit Thakur Das Bhargava who said that the scope and object of this Bill was a very limited one and as such the Bill was welcome.

In the heat of this controversy one particular fact has been forgotten and that is this. What is the genesis of this Bill. I want to take you very briefly through the history of the matter. In 1953 Dr. Katju who was then the Home Minister addressed a long circular letter to the various State Govern-

[Shri Kasliwal]

ments, public bodies, high court judges and to some others. That letter contained certain things particularly with regard to the administration of criminal and civil justice. His view was that, if not wholesale amendments, a lot of reform was necessary in the administration of both civil and criminal justice and he raised four points in his letter and those were: dilatoriness in the proceedings in courts, expensiveness of litigation, cumbersomeness of procedure and some other miscellaneous suggestions. I want to say that if this is the genesis of this Bill, this Bill does not touch the fringe of the problem. This Bill is a very limited and, I must say, a useless Bill, so far as those particular points are concerned. How does it in any way say that expenses on litigation will be saved by the provisions in this Bill? How does it say that now, there will not be any dilatoriness in proceedings in courts and so on? I do not want to go into greater details because various Members have already addressed this House on those points. I leave it at that, and I leave it to the judgment and wisdom and good sense of the Select Committee to see that certain very important provisions to which attention has been drawn by Members here are included in this amending Bill.

I want to come to the provisions of the Bill now. I will not waste the time of the House in repeating the arguments on those clauses on which hon. Members have said a great deal but there is one provision on which, first of all, I want to draw the attention of this House, and I welcome that provision. I am sure that when I welcome that provision, the hon. Minister also will be very glad.

Shri Pataskar: I am always glad both ways.

Shri Kasliwal: I am not going into the matter in the serial order of the Bill but I am going in the reverse order. First of all, I want to take clause 16. In this clause you have included one sub-clause, namely, sub-clause (8). What is sub-clause (8)?

Sub-clause (8) seems to be very innocuous or insignificant in a sense but really it is a very salutary provision, because, for the first time, in the entire country a summary procedure in respect of liquidated demands is proposed to be introduced. This Order XXXVII, rule 1 was previously applicable only to the three cities of Madras, Bombay and Calcutta. Now, for the first time, with the incorporation of this amendment, this new provision is sought to be made. I heartily welcome it because it is my experience that in suits on negotiable instruments, all sorts of vexatious, bogus and frivolous defences are made. It is more or less the objective of the defendant to try in every possible way to defeat or to delay the plaintiff's suit or the decree that he might later on obtain. With the introduction of this new provision, the defendant will find himself in difficulties so far as the question of defeating or delaying justice is concerned.

Now, what are the provisions of this order XXXVII? It is this. When summons are being sent to the defendant, the summons will say, "You have got to enter appearance within ten days." If he does not enter appearance, the plaintiff will be entitled to get a decree immediately on any negotiable instrument. If he enters appearance, then, the court will say, "All right, I will give you the right to defend the suit only on certain conditions. You might file a security". Under such circumstances alone the defendant will be in a position to defend a suit and not otherwise. I do not want to enter into details on this point but I most heartily welcome this provision.

Shri Raghavachari: It applies to all courts of original jurisdiction in all places.

Shri Kasliwal: It applies only to the presidency towns. The Civil Procedure Code does not mention what you say.

Now I come to clause 5. My hon. friend Shri R. D. Misra was the first Member to refer to this clause. I am

rather surprised that for the first time after five years the Ministry of Law should have awakened to this anomaly. The hon. Minister said that there is an anomaly now because the decrees which were passed *ex parte* before the 26th January, 1950, were being executed on both sides. That is to say, when decrees were passed in the old British India they were being executed in the Indian States and the decrees which were passed *ex parte* in the Indian States were being executed in British India. What was the matter in these last five years? In these last five years, thousands of *ex parte* decrees have been executed and many other decrees in thousands are in the process of execution. What is going to happen to these decrees? Today, after five years, you are going to pass an extraordinary measure in this respect. If the Ministry has realised that there was any such anomaly, I say that there is no anomaly at all in this. My friend Shri R. D. Misra said there is really no anomaly, and that they wanted to bring out something very old which related to the division of India—British India and the native States. If there was such an anomaly, it was the business of the Ministry to have brought it before the House earlier and not after five years. I cannot say how it is going to affect the people as a whole.

There is another matter. There is no mention of the question of limitation. There will be many decrees which will have become time-barred. How can you file suits on all these *ex parte* decrees now? No mention has been made of that question in clause 5. I say that the Minister should reconsider the whole position so far as clause 5 is concerned. I would appeal to him not to keep clause 5 in this Bill.

I would very much like to refer to the Minister's speech while he was speaking about clause 5. He said that there were decrees from the then Indian States which were being executed in British India. I do not know what he really meant, but if it was an insinuation to the effect that judicial officers in the then Indian States were

not as competent as judicial officers in the then British India, I would like to correct that impression.

Shri Pataskar: My learned friend is an advocate himself. There is no question as to what the character, etc., of the judicial officers in the Indian States were. As I made it clear, as the law then stood, if a person had not submitted to foreign jurisdiction, then the question is whether such an *ex parte* decree should be allowed to be executed in the foreign territory, simply because the native States have now merged in the Indian Union. Of course whatever suggestions the hon. Member has to make, I can understand. I have made it clear in my speech that if a man in Bombay obtained an *ex parte* decree against somebody in Hyderabad, when the Hyderabad man had never submitted himself to the jurisdiction of Bombay, such a decree would not be proper. I quite understand other hon. Members speaking about British India and all that. I do not understand an eminent advocate saying like this.

Shri Kasliwal: I was saying that the hon. Minister had only mentioned that *ex parte* decrees which have been passed in Indian States were being executed in British India.

Shri Pataskar: I have read my speech, I referred to the decrees obtained in the Bombay State as an example.

Shri Kasliwal: I will now pass on to clause 8. The original sections refer to the delegation of certain powers to Collectors. This provision was introduced in 1908. It was done primarily with the object that in the villages, the Collectors and the revenue officers subordinate to the Collector would be in a better position to see that the sale and auctioning of immovable property take place properly. In the city of course there is the civil court and the property can be mortgaged and auctioned. But in the villages, it is the Collector and his staff who could do it properly. Now it is proposed to abolish all these and the power of the Collectors is sought to be taken away.

[Shri Kashiwal]

The hon. Minister has said that Collectors are more burdened now and they do not look to this work properly. The Collectors may be overworked, but have we examined the position with regard to the agriculturists and the villagers? Has the hon. Minister satisfied himself that this will not cause any inconvenience to the people in the villages? I want him to examine this matter from that point of view and then alone come to a decision about the abolition of sections 68 to 72 and the Third Schedule.

There is one other matter to which I would like to refer about which many hon. Members have already spoken, namely, clause 13, which deals with the curtailment of the revisional powers of the High Court. I am in agreement with all those hon. Members who have said that the powers of the High Court in this respect should not be curtailed. I do not want to enter into other details; but I only want to say this thing. When Dr. Katju wrote that famous circular letter on the amendment of the Criminal Procedure Code, he made it clear as to how far curtailment of the revisional powers of the High Courts should be done in both criminal and civil matters; and he expressed the view that in criminal matters, the revisional powers of the High Court should not be curtailed. I am, therefore saying that in civil matters also, the revisional powers of the High Courts should not be curtailed.

There are many other small matters about which other hon. Members have already spoken and I do not want to take up the time of the House by entering into them. I only want to appeal to the Select Committee that they should take all these matters into consideration, apply their minds and see that this truncated Bill does not come out in this truncated form, but in a full-fledged form.

श्री बिभूति मिश्र: जब मैं प्रथम पार्लियामेंट में आया तो यह सोचता था कि हमारी सरकार बार चीजों में आमूल परिवर्तन करेगी। पंनल कोड, सिविल प्रोसीजर कोड, क्रिमिनल प्रोसीजर कोड और एक्ट्स एंड, क्योंकि इन

कानूनों का जनता के साथ रोजमर्रा का बहुत ज्यादा सम्बन्ध है। मैं जब आया तो दस्ता कि पिछले सेशन में क्रिमिनल प्रोसीजर कोड में कुछ सुधार हुए। हमारे वह भाई जो साइकिल पर चलते हैं उनको पता होगा कि जब साइकिल के रिपेअर होने लगते हैं तब साइकिल कितना त्राम द पाती है। आता सोचिए कि सिविल प्रोसीजर कोड के जो पैंच रिपेअर हो रहे हैं उनसे कितना काम होगा। हमारे ला मिनिस्टर साहब पुराने कांग्रेसी हैं, वह बूढ़ हुए और उनको रोज कानून से सावका पड़ता होगा और कचेरीयाँ का भी ज्ञान होगा और कचेरीयाँ की बहुत सी बातों को दस्ता होगा। साहब, सिविल प्रोसीजर कोड में किस के लिए सुधार हो रहा है। वहाँ पर बोलने वाले अधिकतर वकील हैं। मैं पूछता हूँ कि कानून बनाने के पहले, जो हमारे कानूनों को चलाने वाले पंडा हैं, हमारे वकील हैं, उनके सुधार के लिए क्या हुआ। उनका काम कैसे हो, इसके लिए मैं चाहता था कि सरकार कोई कानून लाती।

मैं जानता हूँ कि कचेरीयाँ में क्यों डिले (delay) और दूसरी गड़बड़ी होती है। वह सब कुछ वकीलों की बजह से होती है। मैं कचेरीयाँ में जाता हूँ, कुछ न कुछ काम रहता हूँ। मैं कांग्रेस का कार्यकर्ता हूँ, कोई न कोई भाई ले जाता है। किसी ने कहा कि कचेरीयाँ में जो गड़बड़ी होती है वह वकीलों की बजह से होती है। मैं ने सुना था कि शायद रोम में यह प्रथा चली कि फीस नहीं लेंगे क्योंकि जो गाउन पहनते हैं उनके बगल से छूँद रहता है। रोम में उस गाउन के पहनने वाले कहते हैं कि मुफ्त काम कर दिया करते थे और अच्छा काम करते थे। वह कहते थे कि फीस नहीं लेंगे। मैं जानना चाहता हूँ कि आज तक कितने वकील हमारे यहाँ ऐसे हुए जिन्होंने किसी केस को बिना फीस लिए हुए मुफ्त काम किया हो? मैं हिन्दुस्तान की सरकार से और ला मिनिस्टर से बेलेंज द कर के एडवा हूँ कि जिला में कितने वकील ऐसे हैं जो बिना फीस लिए हुए किसी गरीब के केस में गए हों। एक भी नहीं। मैं तो दस्ता हूँ कि जो भी सिविल कोड में सुधार हो

रहा है, उससे गरीबों का ही मुद्दान है। तो मैं चाहता था सरकार को इस कानून को साने के बदले सिविल प्रोसीजर कोड को बिन्दुल औरहाल करना चाहिए था, पहले उसको पूरी तरह सुधारना चाहिए था। हिन्दुस्तान की वर्तमान स्थिति को देखते हुए, हिन्दुस्तान का सोशलिस्टिक पर्व है उसको देखते हुए इस कानून में पूरा सुधार करना चाहिए।

दूसरी बात यह है कि इस कानून को चलाने वाले जो पंडा हैं, उनके लिए सरकार पहले कानून बनावे। जो इस वक्त वकील लोग हैं उनमें काफी सुधार की जरूरत है। जब तक इन दोनों का सुधार नहीं होगा तब तक अदालतों का सुधार नहीं हो सकता।

तीसरी बात है कि जो कचेरीयां हैं उन सभी में सुधार की बड़ी जरूरत है। आप लाखों कानून बनाएं, अभी हमारे एक पुराने चीफ जस्टिस बैठे हुए थे, उन्होंने भी बताया कि आप लाखों सुधार कीजिए लेकिन उनसे काम चलने वाला नहीं है। यह कानून है, चेअरमैन साहब, जरा आर सोचिए कि स्माल काजेंज कोर्ट में जहां पर कि गरीबों के मामले चलते हैं जिनको जूनियरी के मामले कहते हैं उनके लिए लिखा हुआ है कि स्माल काजेंज कोर्ट के मामलों की मियाद ५०० रु० से बढ़ा कर १००० रु० तक कर दी गई है। फिर उनकी अपील भी नहीं है। मान लीजिए कि किसी गरीब के पास २, ९ एकड़ जमीन है। हमारे बिहार में एक एकड़ से ज्यादा जमीन नीलाम होती है और एक एकड़ से कम नहीं हो सकती है। आज गांव गांव में रहने वाले बड़े आदमी किसी गरीब आदमी के अंगूठ की छाप किसी तरह ले लेते हैं, उसका कोई भी कागज तैयार कर लेते हैं और उस पर नालिश कर देते हैं। गरीब आदमी के खिलाफ डिगरी हो जाती है डिगरी के बाद नीलामी हो जाती है। कुछ दिनों तक वह उस जमीन को उसके पास छोड़ देता है। उसके दो वर्ष या तीन वर्ष बाद पिछली डिगरी के आधार पर वह जा कर जमीन पर कब्जा कर लेता है। अब हमारे ला मिनिस्टर साहब ने स्माल काजेंज कोर्ट की मियाद ५०० से बढ़ा कर १००० कर दी है।

पांच सौ से ज्यादा की जमीन तो किसी के पास कम ही होगी। किसी के पास आधा एकड़ होगी, किसी के पास चौथाई एकड़ होगी। लेकिन उस पर भी जब मियाद ५०० से बढ़ा कर १००० कर दी तो इससे गरीबों का क्या लाभ होगा वह मैं समझ नहीं पाता। आपको तो जैसे पहले ५०० मियाद थी वैसे रहने वाली चाहिए थी। इसमें आप ने जमीन भी नहीं रक्खी है। हमारे यहां जूनियरी के मामले स्माल काजेंज कोर्ट में चलते हैं। उसको अपील भी नहीं रक्खी है। हमारे यहां जूनियरी है। भला बताइए जिसके पास खेत नहीं खाने को नहीं है। वह अपील करने को शहर जाएगा तो ४ सेर सत् ले जाएगा, और उसको खाने के बाप जब वकील साहब के यहां पहुंचेंगे तो वकील साहब पछेंगे कि हमारी फीस लाए या नहीं। अगर नहीं लाए तो वकील साहब गालियां देते हैं, निकाल देते हैं। इस सदन के जन्म बैठने वाली सरकार के बोटर में समझता हूं कि ५० की सदी से ज्यादा गरीब हैं। मैं इन ५० की सदी आदमियों की बात आप से करता हूं। मैं पूछता हूं कि आप यहां जो कानून बनाते हैं वह गरीबों के लिए बनाते हैं या धनिकों के लिए। आप बताइए कि जब गरीबों और अमीरों की सड़ाई होती है तो उन गरीबों के साथ कचेरीयां में कितना गोलमाल होता है, धनिकों के लिए कोई गोलमाल नहीं होता। जहां गरीब पिसते हैं वहीं गोलमाल होता है। गरीब आदमी की सुनने वाला कोई वकील नहीं मिलता। कचेरीयां में जो क्लार्क लोग होते हैं वे भी उनकी नहीं सुनते। हाकिम की तो कुछ भी न पूछिए। हमारे एक भाई साहब ने कहा कि साहब बूरी लगती है, डिल होता है, मैं पूछता हूं कि हमारे प्रधान मंत्री जितने समय तक काम करते हैं क्या हमारे अफसर लोग भी उसी तरह से इमानदारी से दस बजे से पांच बजे तक काम करते हैं? मैं तो समझता हूं कि वे नहीं करते। जब कमी पूछा जाता है कि फलां अफसर कहां हैं तो कहा जाता है कि साहब वह फलां काम कर रहा है लेकिन असलियत यह होती है कि वह अपने दोस्तों से, वकील लोगों के साथ गप्पें मारने में लगा रहता है। जब दो तीन बजे तब वह आता है और दो चार अपीलें सुनने के बाप चला जाता

[श्री बिभूषि मिश्र]

हैं। जो बलक लोग होते हैं वे भी मिले रहते हैं और फिर पीसियां दं दंते हैं। गरीब आदमी जो बीस बीस कोस से चल कर आते हैं उनका तारीख दं दी जाती है और कह दिया जाता है कि फलां तारीख को हाजिर हो। अब उन बेचारों को निराश हो कर वापस चले जाना पड़ता है। मैं प्रार्थना करता हूँ कि हमारी जनता की सरकार है और हम ने आजादी की लड़ाई लड़ी है और हमारा फर्ज है कि हम यह देखें कि गरीब आदमियों का भला हो। जिन लोगों ने गरीबों का उद्धार किया वे पैगम्बर माने जाते हैं जैसे, ईसा, गांधी जी, नाना साहब बगैरह। हमें भी सांघना चाहिए कि हम लोगों का उद्धार कैसे कर सकते हैं और जो तकलीफें आज लोगों को उठानी पड़ी हैं उनका हम कैसे दूर कर सकते हैं। इस वास्ते स्माल काउन्सिल कोर्ट के बार् में मुझे इतना ही कहना है वहाँ पर किसी किसम की अपील की गुंजाइश नहीं है। पर होनी चाहिए।

दूसरी बात हमारे आर० डी० मिश्र साहब ने सम्मन की तामील के बार् में कही है। आप ने अब यह तय कर दिया है कि सम्मंज रिजिस्टर्ड पोस्ट से भी भेजे जा सकते हैं। सम्मंज की सर्विस के बार् में पहले ही बहुत गड़बड़ी होती है और इस से अब और भी ज्यादा गड़बड़ी हो जाएगी। इसमें अब ऐसे होगा कि जिस आदमी को सम्मंज ईशू होंगे वह आदमी पोस्टमैन के पास जा कर उसको दो रुपए दं कर उनके ऊपर रिपयूज के लफ्ज लिखवा लेगा। इसका सब से बेहतर इलाज तो यह है कि यह सम्मन बाई पोस्ट भेजने के अलावा जिन गांवों में पंचायतें हैं उन के जरिए से इनकी तामील करवाई जाए। अब सरकार ने पंचायतें गांव गांव में खोल दी हैं। मैं अपने सूने की बात जानता हूँ। गह्रां, हर उस जगह पर जिस की कि आबादी चार या पांच हजार की है, एक एक पंचायत खोल दी गई है। इन गांव पंचायतों में एक गांव सेवक भी होता है और यह सम्मंज गांव सेवक जा कर इनकी तामील करवा सकता है। इसको एक दो रुपए सम्मन तामील करवाने के लिए पंचायत को फीस के बर्तार दिए जा सकते

हैं। जो सम्मन इस तरह से तामील कर देवें जाएं उनको सर्वेज मानना चाहिए। हमारे गांवों में लोग हैं वे अनपढ़ हैं और कई बार उनको तब पता चलता है जब डिग्री हो जाती है और हुग्री बजती है। सर्विस आफ दी सम्मंज में भी गरीब आदमी ही मारं जाते हैं और अमीरों को आंच तक नहीं आती। इसके बार् में जो प्रोसीजर एडाप्ट किया जाता है उस से गांवों के कितने ही घर बरबाद हो गए हैं। अमीरों के घर बरबाद नहीं होते, गरीबों के ही घर बरबाद होते हैं। जब दम्मी गरीब आदमी के खिलाफ मुकदमा चलाया जाता है तो वह तबाह हो जाता है क्योंकि वह पढ़ा लिखा नहीं है, कुछ जानता नहीं है, कुछ समझता नहीं है, सारी की सारी जमीन उसकी नष्ट हो जाती है। इस वास्ते मैं सरकार से प्रार्थना करता हूँ कि सर्विस आफ सम्मंज के बार् में काफी सरलता बरती जाए और मैं सिलेक्ट कमेटी से भी दरखास्त करता हूँ कि वह इसके बार् में सरल कदम उठाए।

अब एक बात पापर्ज के बार् में कही गई है। मैं आप से पूछना चाहता हूँ कि पापर्ज किस को कहते हैं। इसकी कोई परिभाषा होनी चाहिए। मैं पूछता हूँ कि हमारे गांवों में जो लोग एक एक दो दो और तीन तीन एकड़ जमीन के मालिक हैं और साल भर मेहनत करने के बाद, मजदूरी करने के बाद जब उनको खाने को नहीं मिलता है, जब उनका गुजारा नहीं होता है उनको आप किस कंटेंगरी में लेते हैं। हमारे यहां एक एकड़ जमीन की कीमत डेढ़ हजार से ले कर तीन हजार तक है। मैं पूछता हूँ कि जब ऐसे आदमियों के हाथ में से एक एकड़ या दो एकड़ जमीन चली जाती है और उन के पास एक ही एकड़ जमीन बच रहती है तो क्या यह उनके गुजारे के लिए काफी है। एक एकड़ अगर उस में से निकाल ली गई तो शेष उसको मुकदमा करना हो तो उसके ऊपर तीन चार सौ रुपए कोर्ट फीस लगोगी तो वह रुपया कहां से आएगा। आगे ही गरीब कारखानों के पास बहुत ही कम जमीन है और साल भर मेहनत करने के बाद भी उसका गुजारा नहीं होता है। इस वास्ते मैं ला मिनिस्टर साहब से प्रार्थना

करता है कि जब वह पापर की परिभाषा करे तो बड़ी हीशियारी से करे। इस में जितने भी गरीब आदमी हैं उनके लिए गुंजाइश होनी चाहिए। पापर का अर्थ तो हमारा यहां यह लगाया जाता है कि जिसके पास कुछ न हो, जो भीख मांगता हो। तो मैं पूछता हूं कि ऐसा आदमी जिसके पास कुछ नहीं है और जो भीख मांगता है वह मुकदमा कैसे दायर कर सकता है या कैसे मुकदमा लड़ सकता है। इसके लिए वह पैसे कहां से लाएगा। वह आदमी जिसके पास लोटा भी नहीं है, बाली भी नहीं कोई चीज नहीं है वह पापर होता है। भला बताइए कि ऐसा आदमी कैसे किसी मुकदमे में आ सकता है। इसीलिए पापर की कुछ ऐसी परिभाषा होनी चाहिए जिसमें गांवों के जो गरीब आदमी हैं उनका उद्धार हो क्योंकि हमारी जो सरकार है उसकी मंशा गरीबों का उद्धार करने की है। जमीर आदमी तो हाई कोर्ट में भी जा सकते हैं, सुप्रीम कोर्ट में भी जा सकते हैं, दो दो और चार चार हजार खर्च कर सकते हैं। इस वास्ते मैं सरकार से प्रार्थना करूंगा कि पापर की परिभाषा निम्नलिखित करते वक़्त उसको इन गरीबों का बहुत ध्यान रखना चाहिए। जब ऐसा हुआ तभी यह कहा जा सकेगा कि सरकार न्याय करती है। अगर आप के कानून में गरीबों के लिए कोई गुंजाइश न हुई तो यह कहा जाएगा कि यह सरकार गरीबों के लिये कुछ करना नहीं चाहती और सिर्फ जमीरों के लिए ही यह सब चीजें करती है।

एक बात जजमेंट्स के बारे में कही गई है। कचहरियों में बहस हो जाती है और बहस हो जाने के बाद जज साहब कहते हैं कि फलां तारीख को जजमेंट सुनाया जाएगा। वे बेचारे वापस चले जाते हैं और जब दूसरी तारीख आती है तो फिर हाजिर हो जाते हैं। वकील साहब जब कभी भी कचहरी में आते हैं उसके पैसे उस गरीब आदमी से वसूल कर लेते हैं। जो थोड़े बहुत इन बेचारों के पास होते हैं वे भी इधर उधर खर्च हो जाते हैं। कुछ वकील साहब इस बात का पता लगाने का कि कैसे का क्या कुछ हुआ है ले लेते हैं और कुछ जिससे वह पछने

बातें हैं उसको देने में खर्च कर देते हैं। इस वास्ते मैं अर्ज करना चाहता हूं कि कोई ऐसा कल बनाया जाए जिस से कि मुकदमे की सुनवाई हो जाने के बाद कुछ निश्चित दिनों के अन्दर फैंसला सुना दिया जाए। आप यहां पर 14 या 20 दिन की हद मुकर्रर कर सकते हैं। उस अर्जे के अन्दर उनको जरूर जजमेंट डिलीवर कर देना चाहिए। बार बार गरीब लोगों के कचहरियों में आने से एक तो उनकी फसल की ठीक तरह से देखभाल नहीं होती और दूसरे उनका काफी रुपया खर्च हो जाता है। इस वास्ते यह बहुत जरूरी है कि एक मुकर्रर वक़्त से पहले जजमेंट डिलीवर हो जाए। अगर ऐसा नहीं हो सकता तो उस जज को लिखना चाहिए कि क्या कारण है कि मुकदमे की सुनवाई हो जाने के बाद इतने दिन तक जजमेंट डिलीवर नहीं हुआ। जैसे कि एक काहावत है :

Justice delayed is Justice denied.

जब तक एक मुकदमे का फैंसला न दे दिया जाए, तब तक क्या जरूरत है दूसरे को बुलाने की? लेकिन आजकल ऐसा ही हो रहा है और फैंसलों में बहुत देर लग जाती है।

इसके बाद मैं यह कहना चाहता हूं कि जब जजमेंट डिलीवर की जाती है, तो प्लीडर को खबर कर दी जाती है। मैं इस बात से राजी नहीं हूं। मुझे भी कचहरी का थोड़ा बहुत तजुर्बा है। जब हम किसी पर मुकदमा करते हैं, तो दूसरी पार्टी को नोटिस देना पड़ता है। कचहरी का खपरासी उसको वकील के दस्तखत करवाने के लिए ले जाता है कि नोटिस पाया। वकील साहब दस्तखत करते हैं और उसको पाकेट में रख लेते हैं और चलने के वक़्त फाड़ देते हैं। जब वकील साहब से पूछा जाता है कि क्या बात है, तो कहते हैं कि सिलीस्ता में दरियाफ्त कीजिए। बिहार में कचहरी में ब्लाक काम करता है। जाठ आने लया उसको देना पड़ता है। जब उसको बात बतलाई जाती है। फिर जब वकील साहब से पढ़वाना हो तो एक लया कचहरी में देना होता है और वकील साहब पढ़ कर बताने का दो लया अपने लिए वसूल कर लेते हैं। वकील साहब को फुरसत

[श्री निम्बूराव मिश्र]

नहीं होता है। जब दो रूप मिलते हैं, तो काम कर देते हैं। जरूरत इस बात की है कि सरकार निश्चय करे कि हर एक हाकिम को सुनवाई के उस या पन्द्रह दिन के बाद जजमेंट जरूर डिलीवर करनी पड़ेगी और इन दि प्रेजेंस आफ पार्टीज करनी पड़ेगी। आज-कल होता यह है कि हाकिम साइब जजमेंट लिख देते हैं, लेकिन किसी को उसका पता नहीं होता है। हम को इस बात का निश्चय कर देना है कि हाकिम ग्यारह बजे से एक बजे तक सब आर्डर दे। बेचारे किसान पन्द्रह बीस मील चल कर आते हैं। अगर उनको पक्का पर हुक्मनामा मिल जाए—वह हारे या जीते, यह अलग बात है—तो वह आराम से शाम को घर पहुंच सकते हैं। शाम को जब कोर्ट आदमी कचहरी में नहीं रहता, तो पेशकार कहता है कि जजमेंट डिलीवर की जाएगी। शाम तक अगर किसान को वहां रहना पड़े, तो उसको बहुत परेशानी होती है। अगर वह दुकान में खाना खाता है, तो पैसा ज्यादा लगता है। इसलिए यह आवश्यक है कि जजमेंट डिलीवर करने के लिए समय निश्चित होना चाहिए ताकि सब लोगों को सहीलगत हो। हमने देखा है कि तीन तीन महीने जजमेंट डिलीवर करने में लग जाते हैं।

एक बात मैं एक्सीक्यूशन की बतलाता हूँ। बहुत से आदमियों की डिक्री हो जाती है तो जमीन का एटेंचमेंट कराया जाता है। फर्ज कीजिए कि मेरी डिक्री हो गई है और किसी की जमीन हम ने नीलाम करानी है। तब हम ऐसा करते हैं कि एक आदमी की जमीन को एटेंच नहीं करते, बल्कि परिवार के दो तीन आदमियों की जमीनों को एटेंच करा लेते हैं। परिणाम यह होता है कि जो निर्दोषी हैं, जो पार्टी नहीं हैं, उसको भी मुकदमा करना पड़ता है। और उसको कष्ट होता है। इसलिए जमीन एटेंच करते समय पूरी तरह छान-बीन कर के ही एटेंचमेंट करनी चाहिए।

इन सबों के साथ मैं सॉ मिनिस्टर से प्रार्थना करूंगा कि जो बकील नहीं हैं, लेमैन हैं, उनका

जो अनुभव है, उनकी जो कठिनाइयाँ हैं, उनको देखते हुए ही यह कानून बनाएं। साथ ही मैं यह भी कह दूँ कि ये जो बकील भाई हैं, वे बाल की खाल खींचते हैं। वे चाहे वहां जाएं, हाई कोर्ट में जज हो जाएं या सुप्रीम कोर्ट में जज हो जाएं, उनकी जो परिरपाटी बन जाती है, वह बदलती नहीं है—वह अभ्यास से दूसरी प्रकृति बन जाती है, सैकंड नेचर बन जाती है। आप डिस्पेंशन हो कर—निरपेक्ष हो कर—देखें कि कचहरियों में कहां तक इन कानूनों का पालन होता है और अगर होता है तो कैसे होता है। ब्रिटिश गवर्नमेंट ने जो कानून बनाए हैं, उनके विषय में क्या अनुभव हुआ है? जाहिर में मैं कहना चाहता हूँ कि सिविल प्रोसीजर कोड का पूरा ओवर-हालिंग हो—इस प्रकार के पैच-रिपेयर से कुछ होने वाला नहीं है।

Shri C. R. Iyyanari (Trichur): I welcome this Bill, not for the grounds that are mentioned in the Statement of Objects and Reasons, but for other reasons. The main object is said to be to prevent dilatoriness in the disposal of suits and to reduce expenditure. As a matter of fact, if we go through the various clauses of the Bill, we will find only one or two small things wherein the expenditure can be reduced and dilatoriness cut short. If we go through the Civil Procedure Code section by section and if the courts are inclined, as has been suggested before by a previous speaker, to stick to things that are stated there, it will not be difficult to cut short the expenditure and at the same reduce the dilatoriness. I know of instances in certain States where there is very little dilatoriness, whereas in other States there is plenty of dilatoriness. How can that be correct in view of the fact that there is not much difference in the Civil Procedure adopted in the two States? The reason is simple. If the Chief Justice or the High Court is inclined to see that cases are disposed of properly, it is not a very difficult matter at all. That is the case. I am acquainted with the High Court in Cochin, and I am also acquainted with the High Court in Tra-

vancore. Years ago the practice was that by the tactics of the advocate or the parties, it was not difficult to get a case protracted as much as possible. But when the High Court or the Chief Court there wanted to see that the accumulation of cases was reduced and that the time taken to dispose of cases was reduced, they issued certain instructions. What they said was, if it is a suit of a particular nature, say a money suit, then it must be disposed of within such and such a time so far as the Munsiff Court is concerned, and if it goes in appeal to the district court, it must be disposed of in such and such time, and similarly in the High Court. If within the time fixed the cases are not disposed of, the Munsiff or the District Judge was called upon to explain why the cases had been delayed. When that procedure was adopted by the Chief Court then and the High Court subsequently, there was quick disposal of work. That is the way in which it ought to be done. Whereas in Travancore some years ago the practice was that the cases used to be protracted indefinitely. The reason was that the High Court there was not particular about the quick disposal of cases. That is the reason. Now, after integration I find that the number of cases disposed of is very much more than before and pending cases are also very little. So, there is no use of finding fault with the provisions of the Civil Procedure Code. What is needed is that the High Court or the Supreme Court must insist upon the lower judiciary to see that the cases are disposed of within a definite time, and if this is not done, they may be asked to explain why there is so much delay. If the delay can be avoided, much of the difficulty will be gone.

With regard to the expenditure side also, after all, there are only two or three clauses which say something about it. One provision is with regard to the sending of notices. In case it is found that a notice cannot be served personally, then it can be sent by post. That is one of the essential things.

With regard to the other matters also, it will be seen that it is because of conflicting opinions by courts that

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certain provisions have been introduced. For instance, if we look at the provisions connected with interest on costs and so on, we shall easily see that they have nothing to do with dilatoriness or the question of expenditure.

On the other hand, there are certain provisions here, which I think, in very desirable. And they are provisions in regard to review petitions. Suppose a review petition is to be put in, and the judge who was dealing with it before does not issue a notice or something like that, then it is difficult for a review petition to be admitted. But under this provision which is now proposed, even in such cases, the successor can admit the review petition and pass orders on the same. That is certainly a welcome thing.

As regards other matters, since most of the other Members have expressed their views already, I do not think I should unnecessarily take the time of the House and try the patience of hon. Members.

Shri Pataskar: I am really thankful to the hon. Members of this House, those who have criticised the Bill as well as those who have supported the same. For, I find that all their criticism has emanated from a desire to improve the administration of civil justice, a desire with which I also entirely agree. The difference may be with respect to what can be done so far as this Bill is concerned, and what has to be unavoidably left to be done on some other basis.

Arguments have been advanced as to what is the necessity for bringing forward a Bill, which as I already explained, has got a limited purpose only, when a Law Commission is shortly going to be appointed. I would take a little time of the House to explain the necessity to bring forward a Bill of this nature, for which I never made any tall claim, though probably some people have been under a wrong or mistaken impression that I was doing so.

[Shri Pataskar]

The history of this Code is as follows. Ever since the year 1908, there has been this Civil Procedure Code, which has set the pattern of administration of civil justice in our country. Before that also, there were civil procedure codes, but at least for the last 50 years or so, this Civil Procedure Code has been there. We have found even in this House that there are two sections amongst the lawyers themselves. For instance, the hon. Member who is an ex-Chief Justice of the Orissa High Court expressed a definite opinion that so far as the framework of the Civil Procedure Code is concerned, it is a very good one. On the other hand, there are other hon. Members also here, whose opinion is equally deserving of consideration, who say that in the new pattern of society, that framework must undergo a change.

The object of the present amending Bill is most certainly, as I have declared in the beginning itself, not to change that framework, for that is a task which must be deferred for a different body. But what is our experience? The question has been asked why I should not wait till the proposed Law Commission is appointed, they make their report, and then the matter is brought before the House. As a matter of fact, the very history of a legislation of this type has to be taken into account before we can have a proper perspective in regard to a matter like this.

First, there was the Civil Justice Committee which was appointed as far back as the year 1928. Their report is a big volume. But I know that only very little of their recommendations has been incorporated in the new Act, due to various reasons.

Shri S. S. More: Are not committees appointed for the purpose of not doing anything?

Shri Pataskar: I do not take exactly the same view which my hon. friend

takes about the past. We are bound to differ. But let us not colour this either with what I have got to put in my own way, or with what the hon. Member has to put in his own way. But the fact is that apart from any colour which we might or might not get, experience has shown that the Civil Justice Committee—whoever might be responsible then—thought that some changes should be made, and a certain amount of expenditure was incurred in that behalf. There was in that committee a man known as Mr. Justice Rankine. Many of those who are students of law must certainly be knowing his name. He was a very good jurist, and particularly a jurist who knew the basis of the Indian law as such. And I think there were no two opinions about his capacity.

Leaving that aside, there was the committee which was appointed by the U. P. Government as late as the year 1949 or 1950. There were certain powers under which rules could be made by them, etc. and therefore they made an enquiry into the matter. Still, not much has been done.

Then again, this question of the reform of the whole judicial administration cannot be done by merely amending the Civil Procedure Code. In the course of the discussion, we have found, for instance, that a good deal of criticism was addressed particularly to the State Governments. It was stated here that the State Governments are trying to increase their revenues by the imposition of court fees and so on. That is a matter which cannot be dealt with by an amending Bill of this nature. Nor can it be dealt with, unless a good deal of time is spent in that regard, for that is a State subject. Many steps will have to be taken before, if at all, that particular aspect of the proposed scheme of improvement of judicial administration can be carried out. We shall have to consult the State Governments, and various other matters will arise. Similar is the position with regard to recruitment of judges, with regard to having more

efficient judicial servants and so on. There is also the question as to whether we should still conform to the present method of judicial administration or whether there should be some other method. All these matters, I for my part feel convinced, would take too long a time. If at all these reforms could be carried out very early, certainly I am one with those who have criticised this Bill from that point of view. I have no desire whatever to protect matters in this respect. But I thought that, as I see and envisage, a long time is bound to intervene even if a commission is appointed, for the State Governments have to be consulted on their proposals, then the judicial machinery and various other bodies have to be consulted and so on. Naturally, all this is bound to take some time. Then there is also this drawback namely that when there is a parliamentary type of democracy what could the will of an individual do. What has to be done in a democratic way, in accordance with the system which we have adopted, and to which we adhered, takes in the very nature of things a long time.

Considering all these matters, I thought—and in fact, our Government thought more than myself, because this had originated even before I become a Minister—that there was no reason why if at all some changes could be made, which were at any rate beneficial and useful from the point of view of the present system of judicial administration, there should be any difficulty in trying to do it, because that is not going to hinder or mar whatever is going to be decided subsequently by the proposed Law Commission, whatever Government might decide and whatever time it may take. That is my justification for having brought forward the measure which, in the present form in which it is brought in, I am aware and conscious, limited in object. I would, therefore, make an appeal to hon. Members to realise that while fully appreciating the need for some different system, there should be no difficulty so far as this Bill is concerned.

Some of the hon. Members went to the length—naturally, having once started with the idea of entirely changing the whole picture of the judicial administration, without seeing what was there in the Bill—of wrongly characterising it—it pained me—as a puerile thing; some said there was nothing in it; some others said it was not worth the paper on which it was written. But ultimately those very Members, when they began to take into account the provisions, said, this is good, that is good, but it does not go far enough. Who claimed in the beginning that this was going to be the last word so far as the civil judicial administration was concerned? I had made it clear in the beginning that this was not meant for overhauling the entire system, but that if we succeeded in passing these amendments, with such modifications as might be proposed in the Joint Committee, it would go a long way in achieving those objectives which we have in view. I do not claim that as soon as this Bill is passed, expenses on litigation will immediately go down; I do not say that immediately after passing this Bill, all suits will begin to be disposed of quite quickly enough. Such a claim I never made, and I do not know whether we could, even after the Commission etc. are appointed...

Shri S. S. More: So he does not stand by his statement in the Statement of Objects and Reasons.

Shri Pataskar: I propose to stand by every word of what I have said there and here. I will try to argue that this is going to achieve those objects wherever it is possible; this is going to reduce expense and delay. I will take some time to explain what I mean. But I do not say, as some hon. Members seem to think, that immediately this is passed it will be a heaven for all people who have to go to courts for civil litigation. For instance, there was a good deal of talk both ways. Some of my friends thundered against the lawyer class. May be; we know they may have their own faults, but then I do not see how by amending the Civil Procedure Code, I am going to do away

[Shri Pataskar]

with this system. Then, about corruption, everybody waxed eloquent. I myself would say that I have practised mostly in civil courts for more than 30 years—35 years—and I know what is going on. I am not like those who have come from somewhere outside and do not know what is happening in all these courts. But the point is that impatience takes us nowhere. The point is that we have to see at this time what can be done to prevent corruption, by amending the Civil Procedure Code, because that itself we can try to avoid wherever it is possible to avoid. Anything that could be done to see that there is the least chance of somebody making money in this way could be done. Therefore, I think it would not be proper to look at this Bill from any other approach than this general approach. I request hon. Members that in their anxiety to solve all these problems by an amendment of the Civil Procedure Code only—an impossible task, in itself, as I regard it—they should not fail to look more to the provisions which I have tried to incorporate here with the limited object of improving the present system of civil judicial administration within the framework of the present Civil Procedure Code. I also took some time that day to explain that this is a procedural law, this is not a substantive law. But, unfortunately, in the course of arguments, I have found that substantive law has been mixed up with procedural law. What has to be achieved by substantive changes in the substantive law cannot be achieved by merely trying to make some changes in the law of procedure. Therefore, I would request hon. Members to look at this problem from that point of view and not to raise unnecessary apprehensions about what is being laid down. They should look at it from the point of view of what it is going to achieve.

Then as regards the claims made in the Statement of Objects and Reasons, I do not know whether all will agree that all of them are satisfied to the satisfaction of every single Member. But I will try to point out—it is my

duty to do so—that within the limited sphere, limited not on account of any desire not to do things, but on account of the very nature of what we are trying to do, we should look at those provisions which we are trying to make in this.

Then again, this Civil Procedure Code, as I said, being in itself in the nature of a procedural law, does require amendments from time to time, from year to year. That was why I gave the history of it, because even from 1908 to 1950 or 1952 when the last amendment was made, there have been more than 35 enactments. Why? Because, in the case of procedural law, whenever you get any difficulty, whenever you come across any trouble which you think can be removed, it should be removed. This may probably be on account of changed circumstances; what applied in 1908 may not apply to the conditions of 1930; conditions have undergone further changes and they were not what they were in 1952 or 1953. Naturally, therefore, a procedural law does require—whatever the form of the law which we enact—amendment from time to time so as to suit changed conditions which may exist. Therefore, we need not wait for any overhauling of the system, but we will try to do whatever is possible within the framework of the present Act. So that whatever changes are justified on account of the constitutional changes, on account of the changing circumstances, on account of change in ideas of the structure of society, will have to be done, by amending the law of procedure suitably. That is the purpose of the present Bill.

Now, take, for instance, clause 2. I thought it was a very simple provision and I never expected that there would be anybody in this House who would very seriously object to making a change in the year 1955, that when costs are awarded, the courts should not award interest on the amount of costs. Some of my friends, very vehemently argued on that point. There was Shri S. V. Ramaswamy, a

barrister, who said, 'why should he not get interest on that?' Incurring costs and giving a loan are two distinct matters. I can understand that interest is giving primarily when there is an agreement to give interest, because it is something in the nature of a thing which should carry interest. But to say that because a man goes to a court and succeeds, therefore, the other side should be vindictively dealt with, that it should incur not only the costs—which may be heavy—but also, add to that, the interest on it, is something which I, for one, fail to understand, as to how it can be consistent with whatever ideas we have got. That people should be expected to pay costs is reasonable; if the party succeeds, the other side should pay costs.

Shri S. V. Ramaswamy rose—

Shri Pataskar: I know there are some people—there are one or two other hon. Members also—who think that way, but I for one do not think that anybody should be allowed to make out of this cost of litigation something as if it was a loan which he gave to the other side. If it is not viewed from that aspect, I think it would not be proper, from the point of view of the ideas of justice, at any rate.

Shri S. V. Ramaswamy: If the money was invested in a bank, would it not have carried interest?

Shri Pataskar: It would not enter into an argument, because this is not a discussion about the social phenomena underlying these processes.

Shri S. S. More: Can you avoid that?

Shri Pataskar: I would rather avoid it and I think the majority will agree that this is not the right thing to do.

Shri Kamath: Avadi spirit.

The Minister of Commun (Shri Jagjivan Ram): It is per Kamath.

Shri Pataskar: This will, in less, be a matter which will be decided in the Joint Committee, and I think they will do the right thing.

Clauses 2 and 3 are the same. I think nobody has found fault with the rate of interest, of 6 per cent. I think the provisions, so far as they go, are acceptable and will effect a good change.

Then I come to the question of compensatory costs in respect of false vexation claims. What is the present law on the subject? Section 35A introduced subsequent to 1908—in 1908 or thereabouts. The object was to prevent false and vexatious claims. At that time, there was a condition that unless that point was raised just in the beginning, no compensatory costs could be allowed.

5 P.M.

Shri S. S. More: Madam, is he likely to take a long time after five o'clock?

Mr. Chairman: I thought that the sense of the House was that the hon. Minister should conclude. If you want to adjourn I have no objection.

Shri Pataskar: How can I conclude? It would not be right on my part not to take into account what the hon. Members have said.

Mr. Chairman: Then, we shall adjourn till tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 4th August, 1955.