

The motion was adopted.

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

Enacting Formula

Amendments made:—

Page 1, line 1,—

for "Twenty-fifth" substitute—

"Twenty-seventh" (1)

(*Shri Om Mehta*)

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

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

The Title was added to the Bill.

SHRI OM MEHTA: I beg to move:

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

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

18.55 hrs.

ADVOCATES (AMENDMENT) BILL

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYDI MUHAMMAD): I beg to move:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

Sir, by introducing the Bill to abolish the dual system of Advocates and Solicitors in force in Bombay and Calcutta High Courts, I am only implementing the recommendation of the Joint Committee of both the Houses on

the Advocates (Amendment) Bill, 1970. The hon. Members, or such of them who have served on the Committee, would recall the recommendation of the Committee:

"It was pointed out that the existence of the dual system on the original sides of the High Courts of Bombay and Calcutta under which a litigant has to engage not only a counsel but also a solicitor to instruct counsel (i.e. he cannot engage or brief a counsel directly) is expensive and causes hardship to the poor litigant particularly. The dual system militates against the basic idea of unification of the Bar in the country. It also creates a monopoly for a section of the Bar to practice in a particular court. The Committee strongly feels that the system should be abolished as early as possible. The Committee could not, however, make any specific provision in that regard in the Bill as it felt that the matter should first be examined in all its aspects by the Government in consultation with the concerned Courts and others."

In deference to the above wishes of the Committee, we ascertained the views of the High Courts at Bombay, Calcutta, the concerned Bar Associations, the Bar Council of India, the Incorporated Law Societies of Bombay and Calcutta and certain business houses. The compulsion of engaging a Solicitor has no doubt been minimised by the amendment of the rules of the respective High Courts, but in actual practice the dual system continues to exist in these High Courts by force of habit as a legacy of the past. It imposes a multiple burden on the poor litigant inasmuch as he has to engage two sets of professionals, namely, a Solicitor and an Advocate for the conduct of his proceedings. I feel that the time has come when the dual system may be abolished with a view to reducing litigation expenses, but care has been taken to ensure that there is no hiatus in the continuity of practice by attorneys who have been enabled to enrol themselves as Advocates by

[Dr. V. A. Seyid Muhammed]

the end of this year. From the new year onwards there will be only one class of persons entitled to practice the profession of law, namely, advocates as envisaged in section 29 of the Act.

Now I turn to the two other aspects of the Bill. The first is regarding the share of the Bar Council of India in the fees paid by an applicant to enrol himself as an advocate from the existing 40 per cent to 20 per cent. One of the hon. Members from the opposition, Dr. Laxminarain Pande, had moved a private Member's Bill for reducing the share to 10 per cent. We ascertained the views of the Bar Councils and found that those of Andhra Pradesh, Assam, Meghalaya, Manipur and Tripura, Tamil Nadu, Uttar Pradesh, Orissa, Rajasthan, Maharashtra, West Bengal, Punjab & Haryana, Bihar are in favour of the proposal. The Bill seeks to meet the demand partially, by reducing the share of the Bar Council of India in enrolment fees to 20 per cent instead of 40 per cent proposed by the hon. Member from the opposition.

Secondly, the Bill seeks to make the Attorney-General of India and the Advocates-General of the States the *ex-officio* Chairman of the Bar Council of India and the State Bar Councils respectively. You would abide by me when I say that these Law Officers are leaders of the profession in their own right and it seems incongruous to deny them the Chairmanship of the professional body. Certain minor adjustments have been made for the Bar Council of Punjab & Haryana as well as the Bar Council of Eastern States so that the Advocates-General of the constituent States get their turn to the Chairmanship by rotation.

Considering the peculiar feature of the Bar Council of Delhi, it is proposed to empower the Central Government to nominate an Advocate as its Chairman and also give representation to the Central Government on the apex body, namely, the Bar Council of India.

Our major aim must be and remains, to reduce litigation expenses as far as possible and hence I would commend the Bill to the House as it seeks to achieve this aim and crystallise the wishes of the hon. Members from both the sides of the House.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

श्री मूल चन्द् डागा (पाली) : उपाध्यक्ष महोदय, मैं इस बिल का स्वागत करता हूँ, क्योंकि इसके द्वारा एक प्रकार का दोहरा शासन खत्म कर दिया गया है। बम्बई या कलकत्ता में अगर कोई क्लायंट किसी एडवोकेट के पास जाना चाहता था, तो वह डायरेक्ट नहीं जा सकता था, बल्कि उसको सालिसिटर के जरिये जाना पड़ता था। इस तरह उसको सोलिसिटर और एडवोकेट दोनों को फीस देनी पड़ती थी। कानून में यह संशोधन लाकर मंत्री महोदय ने एक बड़ा उपकार किया है और गरीबों को राहत पहुंचाई है, क्योंकि अब वह डायरेक्ट एडवोकेट के पास जा सकेगा।

आज भी सुप्रीम कोर्ट में कोई व्यक्ति बिना एडवोकेट आन रिकार्ड के किसी भी सीनियर एडवोकेट के पास नहीं जा सकता है। इस तरह उस पर दोहरा खर्च पड़ता है। मैं यह जानना चाहता हूँ कि क्या सरकार इस व्यवस्था में कोई रद्दोदल करना चाहती है ?

आज बार काउंसिल ब्रॉड इंडिया और स्टेट बार काउंसिल के सारे मेम्बरस एलैक्टेड होते हैं। इस संशोधन के द्वारा सरकार चाहती है कि बार काउंसिल ब्रॉड इंडिया का चेयरमैन प्रतार्नी जनरल और स्टेट बार काउंसिल का चेयरमैन एडवोकेट जनरल बन जाये। इस तरह से सरकार एक प्रकार से नामिनेशन लागू करना चाहती है। मेरी समझ में नहीं आता है कि

सरकार एक इलैक्ट्रेड बाडी को इस तरह क्यों डिस्टर्ब करना चाहती है। इस तरह बार काउंसिल्स की इम्पार्टेंस कम हो जायेगी और लोग उसको महत्व नहीं देंगे।

क्लाज 3 में कहा गया है कि :—

“There shall be a Vice-Chairman of each State Bar Council who shall be a senior most advocate amongst members of that Council.”

सीनियरमोस्ट से क्या मतलब है ? क्या चेयरमैन और वा इस चेयरमैन को नामिनेट करना प्रजातंत्र के सिद्धान्त के अनुकूल है ? एक भ्राम्यी सीनियरमोस्ट हो सकता है, मगर वह एफिशियेंट नहीं हो सकता है, उसकी रोरिंग प्रैक्टिस नहीं हो सकती है। सीनियर होना कोई क्वालीफिकेशन नहीं है। जो भी व्यक्ति वाइस-चेयरमैन हो, उसको एफिशियेंट होना चाहिये, उसका लीगल नालेज होना चाहिये और उसकी रोरिंग प्रैक्टिस होनी चाहिये।

मेरा निवेदन है कि मंत्री महोदय बार काउंसिल्स में, जिनमें हिन्दुस्तान की इन्स्टीट्यूटियन, बुद्धिजीवी वर्ग के लोग हैं, डेमोक्रेटिक प्रोसेस को खत्म करने के बारे में फिर से सोचें। मैं समझता हूँ कि इलैक्ट्रेड बाडीज में नामिनेशन करना डेमोक्रेटिक प्रिंसिपल्स के विरुद्ध होगा।

इस विधेयक में यह व्यवस्था की गई है कि एनरोलमेंट के लिये दिये जाने वाले पैसे में से बार काउंसिल ग्राम इंडिया को 40 प्रतिशत के बजाय 20 प्रतिशत हिस्सा दिया जायेगा

मेरा कहना यह है कि बार काउंसिल ग्राम इंडिया में बाहर के लोग लैक्चर देने के लिये आते हैं और इस तरह उसको काफी खर्च करना पड़ता है। इस हालत में उसके हिस्से को इतना कम क्यों किया गया है ? बार काउंसिल ग्राम इंडिया और स्टेट बार काउंसिल्स में रुपये को 20 परसेंट और 80 परसेंट के हिसाब से बांटने के बजाये 50-50 के हिसाब से बांटना चाहिये।

श्री रामावतार शास्त्री (पटना) : इस विधेयक का पूरा समर्थन करना मेरे लिए सम्भव नहीं है। यह ठीक है कि द्वैध प्रणाली को उठाने की व्यवस्था आपने की है। एडवोकेट से ही काम चले, वकील ही रहे, सालिसिटर लोग नहीं रहें यह तो ठीक है। आपने यह भी कहा है कि जो बार काउंसिल के सदस्य होंगे और जो उनका सदस्यता शुल्क होगा उसमें से 40 प्रतिशत के बजाय अब 20 प्रतिशत ही बार काउंसिल ग्राम इंडिया कोटे के रूप में लेगा। यह भी ठीक है। ऐसा करने से उम संगठन को काम करने में आसानी होगी। इसका मैं विरोध नहीं कर सकता।

लेकिन जो बुनियादी बात है वह यह है कि जो स्टेट बार काउंसिल होगी और बार काउंसिल ग्राम इंडिया होगी जिसका पहले 1961 के एडवोकेट्स एक्ट के मुताबिक चुनाव होता था, दोनों पदों के लिए जो लोग प्रच्छे थे, एडवोकेट्स और बार काउंसिल के सदस्य जिनको ठीक समझते थे अपने संगठन के लिए उनको बे निर्बाधित करते थे। अब इस व्यवस्था को बदल कर अपनी और से आप मनोनीत करना चाहते हैं। बार काउंसिल

[श्री रामावतार शास्त्री]

आफ इंडिया में भी आप मजबूतीत कहेंगे, एटार्नी जनरल साहिब चेयरमैन हो जाएंगे और सर्टिफिकेट जनरल ब्राइस चेयरमैन हो जाएंगे। स्टेट बार काउंसिल में एडवोकेट जनरल को चेयरमैन बना देंगे। ऐसा क्यों? यह बात मेरी समझ में नहीं आई। देश में जनतंत्र को अधिक से अधिक विकसित और विस्तारित करने की बात चल रही है ताकि जनता अधिक से अधिक हर चीज में हिस्सा ले सके। लेकिन आप यहां पढ़े लिखे जो एडवोकेट होते हैं जो तमाम बातें समझते हैं और दुनिया को समझाते हैं उनके अधिकारों को इस तरह से कुंठित और सीमित करने का काम कर रहे हैं, इसका क्या अर्थ हो सकता है? क्या इसका और जनतांत्रिक विकास का कहीं मेल है? इसका यदि आप ठीक उत्तर नहीं देंगे तो जनता को जरूर यह विश्वास होगा कि धीरे धीरे आप जनतंत्र को सीमित कर रहे हैं और कुछ लोगों के हाथ में तमाम सत्ता सौंपते जा रहे हैं। इस दृष्टि से अगर देखा जाए तो यह जो व्यवस्था आपने की है, पुरानी जो सही व्यवस्था थी उसको उलट करके, यह गलत व्यवस्था है। इसका कोई भी वार काउंसिल मा एडवोकेट्स या बर्कालो का कोई संगठन समर्थन नहीं कर सकता है। आपको चाहिये कि आप पुरानी व्यवस्था को रहने दें। आप उनको मौका दें कि वे जिस को ठीक समझें उसकी चुनें। आपने यह व्यवस्था भी की है कि जो सीनियर मोस्ट एडवोकेट होगा उसी को चुनेंगे। इसका लोगों पर यही असर पड़ेगा और समझेंगे कि सरकार अपने

विरोधियों को चुने जाने का अधिकार नहीं देना चाहती। हो सकता है कहीं आपके विरोधी चेयरमैन हो जाएं और कहीं आपके ही भादमी हो जाएं लेकिन इतना डर क्यों है? आप सारी ताकत को अपने हाथ में केन्द्रित क्यों करना चाहते हैं? क्यों इस प्रकार की भावना बर्कालो में पैदा करना चाहते हैं कि जनतंत्र को अंधा खत्म किया जा रहा है? इस धारा का इसलिए मैं जोरदार विरोध करता हूँ। इसका मैं कभी समर्थन नहीं कर सकता हूँ। लेकिन जो बाकी बातें हैं वे समर्थन लायक हैं।

प्र० ए० ए० ल० सक्सेना (महाराजगंज)
मैं डागा साहब की स्पीच का पूरा समर्थन करता हूँ। यह बहुत गलत बात है कि 40 परसेंट से आप ने 20 परसेंट कर दिया। फिर जैसा माननीय सदस्य ने कहा जो एक जनतांत्रिक प्रणाली थी उस को आप खत्म कर रहे हैं। वार कॉमिशन जैसी पूरी तरह एक्नाइटे जमात को भी यह अधिकार नहीं रहेगा कि वह अपने चेयरमैन को चुन सके। सरकार ने एटार्नी जनरल या एडवोकेट जनरल को चेयरमैन बना दिया। क्या कारण है? कोई कारण नहीं है। इनसे साफ मालूम होता है कि आप डर गए हैं। चूंकि इस वक्त जो चेयरमैन है वह जनतंत्र ही इसलिए आप सोचते हैं कि ऐसा नहीं होना चाहिये। एक वार अगर कोई जनतंत्र ही हो गया तो क्या आप चाहते हैं कि उनका यह राइट ही छीन लिया जाये? मैं समझता हूँ यह ठीक नहीं है और मैं आशा करता हूँ

बैंकों की इसकी वापिस लें सब धीरे यह टाइम
उन्हीं के पास रहने देंगे ताकि वे जिलेकी बातें
उस को चुन ।

SHRI K. MAYATHEVAR (Dindigul): I appreciate two points in this Bill and oppose the rest.

The appreciable points introduced in this Bill by way of amendment are (1) the abolition of Solicitors both in Bombay and Calcutta High Courts. Still the Solicitor's posts are retained in the Supreme Court. I have got my own personal experience. When I take a case from the Madras High Court to the Supreme Court, my clients are asked to pay dual fees even now in the Supreme Court. Therefore, it is high time that the hon. Law Minister and the Government of India consider this matter and abolish Solicitors in the Supreme Court also.

The second appreciable point is that you have given 20 per cent to the All India Bar Council and the rest 80 per cent to the State Bar Councils. It is a very healthy point in the Bill in respect of the State Bar Councils which are crippled in their functioning and developmental activities for want of funds.

Regarding the points that I oppose, I plead with the hon. Minister to consider favourably this point. In regard to State Bar Council elections, even now the Advocates of the State High Court are electing the Bar Council Members. Then the Bar Council Members are electing their own Chairman on the basis of the democratic system. Now, the Advocate-General of Madras or Bombay High Court or other State High Courts are appointed Chairmen of the respective State Bar Councils...

SHRI M. C. DAGA: Nominated.

SHRI K. MAYATHEVAR: Yes, nominated. I oppose this. This is not a democratic way of doing things because in every other case, for example,

in the case of Vice-Chairman you say the seniormost lawyer....

MR. DEPUTY-SPEAKER: You have made the point.

SHRI K. MAYATHEVAR: I am coming point by point. Why should you say the seniormost lawyer? A lawyer who has got a minimum of 10 years may be allowed to contest for Vice-Chairmanship. Old people need not necessarily mean that the eldest people should be elected. Regarding the All India Bar Council, the Solicitor-General is going to become the Vice-Chairman. That also I am opposing. Therefore, they must encourage young lawyers to come up. This is a noble profession. That everybody accepts.

Then, Sir, regarding appointment of Government pleaders and advocates, in Madras High Court, we have got very old lawyers who are aged 70 or 80 who are still appointed Government Pleaders and Prosecutors. They are entrusted with Central Government cases in customs and other things. Why not you give your cases to junior lawyers? It is high time that you distribute your work.

Now, Sir, there is an unhealthy competition in the legal profession. That is admitted by all. Then why not the Government of India come forward to regulate and reduce the intake of students in the Law Colleges?

Then, Sir, the advocate's fees are not at all revised for the last 100 years. It is high time that you fix advocate's fees on a realistic basis in civil cases and civil suits.

With these few points, I support the Bill and I request the Government to come forward with very useful Bills covering the points I have raised in the next session at least.

SHRI Y. S. MAHAJAN (Buldana): Mr. Deputy-Speaker, Sir, I welcome

[Shri Y. S. Mahajan]

this small but significant piece of legislation. It provides for *ex-officio* Chairmen for the Bar Council of India and the State Bar Councils. The Attorney General of India and the Advocates-General of the States are the people who have distinguished themselves by reason of their ability, erudition, integrity and scholarship. They are undoubtedly the leaders of the Bar and therefore, this Bill turns the *de facto* into a *de jure* situation.

Secondly, it says that 20 per cent of the enrolment fees of advocates is to be given to the apex body instead of 40 per cent as at present. It is contended that more funds are required by the States Bar Councils to provide for insurance, Provident Fund etc. for the Members and also to pay for legal aid to the poor. I would like to know from the hon. Minister whether there are State Bar Councils who have in this way large enough funds to pay for legal aid to the poor people.

I am glad the dual system in Bombay and Calcutta is going to be abolished and against which there have been loud protests for so many years. It makes legal justice expensive and very dilatory. The amendment will reduce the delays and make justice less expensive than before. In this connection, I would like to make a suggestion to the Hon. Minister. The main difficulty in our legal system is that it delays justice and thereby it denies justice to the poor people.

If the Government were to appoint a Committee to enquire into the causes of delay and then take steps to improve procedural law and organisation of the legal profession, we would be able to have a better piece of legislation.

सरदार स्वर्ण सिंह सौखी (जमशेदपुर):

डिप्टी स्पीकर साहब, इस बिल को हाउस के सामने लाने के लिये मैं मिनिस्टर साहब को बहुत बधाई देना चाहता हूँ। यह वाकई बहुत अच्छा बिल है, इस से गरीब लिटिगेण्ड्स को बहुत राहत मिलेगी। इस में आप ने सोलिसिटर्स को बीच में से निकाल दिया

है—यह बहुत अच्छा कदम है कलकत्ता में पहले अगर कोई प्रादमी कोई केस लेकर किसी सोलिसिटर के पास जाता था तो वे उस को इतना ज्यादा लूटते थे, जिसका बयान नहीं किया जा सकता। बलेम से ज्यादा तो उनकी फीस बन जाती थी, टेलीफोन रिसीव करने के ही 5-7 रुपये रखवा लेते थे; मुकदमा लेने से पहले ही फीस जमा करवा लेते थे, इतना ज्यादा लूटते थे कि जिस की कोई हद नहीं थी। एक बात यह कहना चाहता हूँ—जब आप ने सोलिसिटर्स हटा दिये हैं, सोलिसिटर जनरल को क्यों रखा हुआ है, इस को भी हटाइये।

आप ने इस में बार कॉन्सिल आफ इण्डिया का हिस्सा 40 परसेन्ट से घटा कर 20 परसेन्ट कर दिया है—यह भी एक बहुत अच्छा कदम है। इस से स्टेट बार कॉन्सिल को मदद मिलेगी कि वे बीस सूत्री कार्यक्रम के तहत गरीबों की ज्यादा मदद कर सकेंगे।

स्टेट बार कॉन्सिल के चेयरमैन के लिये आप ने दो साल का प्रावीजन किया है, लेकिन आसाम, नागालैंड, मेघालय, मनिपुर और त्रिपुरा में हर दो साल के बाद बाई-रोटेशन नम्बर आया करेगा; इस तरह से एक स्टेट का नम्बर 10 साल के बाद आयेगा—मैं चाहता हूँ कि इस को आप थोड़ा ठीक कीजिये।

मैं एक बार फिर मिनिस्टर साहब को बधाई देता हूँ—इस बिल को लाकर आप ने बहुत अच्छा काम किया है।

SHRI D. N. TIWARY (Gopalganj): Mr. Deputy-Speaker, Sir, I welcome this Advocates Amendment Bill. I support all the provisions except one. The provision for the division of fees 20—80 is very good because the Central Bar Council will get fees from all the States and thus they will have a substantial amount for them to spend while Bar Councils of the States will get income from that State only which will not be much. Therefore, this provision is good. I do not know why Shri Daga is opposed to it?

But, I do not relish the idea of nomination of the Chairman and Vice-Chairman. Even in sister institutions like Universities, students choose their executive through elections; the teachers of universities have also got elections. Why do you bar the Advocates from the elections? If you were to abolish elections, you first abolish the elections in the Universities because the students are to devote to their studies and not to the politics. Advocates are mature people and know politics. They indulge in politics. Why do you want to exclude them from exercising their rights. I would like to appeal to you to re-consider this matter and allow the elections for the selection of Chairman and Vice-Chairman to the Bar Council at the State level and also at the Central level.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): Mr. Deputy Speaker, Sir, I am thankful to all the hon. Members who have participated in the debate.

I am glad that generally there is support to the abolition of what is called the dual system. There is criticism about the other provisions. Mr. Daga and two other hon. Members have suggested that if you are going to abolish the dual system everywhere in India then why do you want to retain the advocate-on-record which corresponds to something like solicitor in other courts.

Sir, I can explain as to why it is necessary to have advocate-on-record in the Supreme Court. I started practice in the Supreme Court about 18 years ago. There are three types of advocates in the Supreme Court—advocates-on-record, junior advocates and senior advocates. In the course of eighteen years of practice in the Supreme Court, I have undergone all these three processes.

Sir, it is not only my experience but also it is the general experience of everybody that senior advocates has to be there and the advocate-on-record has also to be there. In the highest court to the land when extremely difficult and complicated legal problems are to be settled there must be eminent—who are accepted as eminent lawyers—senior advocates to plead the cause in all its various legal implications and subtleties before the court. The advocate-on-record's work is to file *wakalatnamas*, attending to various processes in the court, attending to the chamber work, seeing to cyclostyling work, etc. There is so much of administrative work. If the senior advocate is to take up that work it would be impossible for him to do full justice to the court. If the senior advocate attends to all this miscellaneous work then I do not think during the whole of the year he will be able to take more than two to three cases. So, it is very essential to have advocate-on-record, junior advocate and the senior advocate. Further, Sir, this three-tier system of advocates has not been created by an Act but by the rules of the Supreme Court. Section 52 of the Act empowers the Supreme Court to make rules under Article 145 of the Constitution.

It is under these rules that this has to be done. We cannot enter the field. Once under art. 145 the Supreme Court exercises the power conferred on it for rule making for the procedural and other necessities of the court, we disappear from the picture. This is entirely for the Supreme Court. They have justification for this. I would not repeat what I said. They have full justification for retaining these three-tiers of advocates.

Another point raised by Saksenaji and others is about the 20 per cent contribution of the State Bar Council to the Central Bar Council. I am proud to say, I am happy to say, that after a long slumber and indifference on the

[Dr. V. A. Seyid Muhammad]

part of the members of the Bar after independence—before independence they were in the forefront of the freedom fight; then they shank into a shell and became completely impervious to the social needs and their obligations to society as a whole—I am glad to say that in the last 1-1/2—2 years, there has been an awakening throughout India. I have travelled through most of the capitals of the States.

In the District Bars, there is an awakening which has come which is electrifying. The twenty point programme mentions about legal aid. It has become a slogan throughout India and members of the Bar are coming in thousands to help. They have started themselves thinking about their own situation, the necessity for insurance, the necessity for provident fund, the necessity for various other things to encourage junior members of the Bar as well as the poor sections. We have had a preliminary examination and find that this requires some voluntary contribution from the members themselves and a partial contribution from the Bar Council so that we foresee a situation when the Bar will come forward taking up these various progressive social measures to help themselves and also the entire public, particularly the indigent litigants. In that situation, a considerable amount will be required by the Bar Councils themselves for which we find it is necessary to cut down the percentage of contribution to the Central Bar Council. Actually the Central Bar Council has got Rs. 74 lakhs lying with them. What is the necessity of enriching them with another 20 per cent making the Rs. 74 lakhs into Rs. 1 crore? On the other hand, with 20 per cent more, these Bar Councils can do a lot for the indigent litigants as well as for themselves. It is not arbitrarily done; not that we sat down and said 'All right, from 40 we cut it down to 20'. We have definite reasons for this. I very recently came from the Bar, and I am sure I will have to go back to it

again, sooner or later—so also my senior colleague. Their problems are very much in our mind. Nobody can expect to make a permanent home here. So that we know those problems. After I became a Minister, travelled throughout the country, know the situation in these Bar Councils and I have found the new awakening. It is with justification that we have reduced it.

Another thing is about the nomination question. There was some criticism on principle. You would recall that when the Advocates Act came into existence first in 1963, I think there was a provision that the Attorney-General would be the *ex-officio* Chairman and the Solicitor-General *ex-officio* Vice-Chairman, as we have done now. We tried it for two or three years. Then we thought, why not try the other system, the principle which hon. Members want is, why not election. We tried it. It became absolutely impossible to carry on.

Bar Councils are split as a result of these elections. The man who gets elected as Chairman has his supporters and opponents and a regular fight is going on between them. Every issue is decided on the basis whether a particular person worked against the Chairman or for him during the election. When the Chairman wants to do certain things, those who were against him put restrictions and so on. So, there was complete chaos. This has been going on throughout the country, not in one Bar Council alone.

SHRI Y. S. MAHAJAN: Does it mean that lawyers cannot manage their affairs democratically?

DR. V. A. SEYID MUHAMMAD: Lawyers are capable of very many things. They are incapable of certain things. They are not perfect in situation.

There are other reasons also. Various statutory duties are entrusted to the Advocate General as the leader of the Bar. Under Section 92 of the C.P.C., for example, he has to determine whether a suit should be allowed to be filed in the case of a trust. The law has been interpreted that once the Advocate General refuses or permits it, there cannot be an appeal against it. The High Courts have held that when the Advocate General discharges his function under section 92, he is not acting as a government representative. Therefore, it is not correct to say that he is government man and he will act in a particular way. I was Advocate General and I know that the Advocate General has to give his independent opinion. He is not a rubber stamp of the government. If he has not got the guts to tell the government what his independent opinion is, he is not worth his salt. So, I do not agree that he is a government official or a party man.

With these words, I commend the Bill for the acceptance of the House.

SHRI Y. S. MAHAJAN: How many Bar Councils have started social services like insurance, provident fund, etc?

MR. DEPUTY-SPEAKER: Having been a lawyer, in his own words, he is generous enough to say that lawyers are the people who need discipline most.

The question is:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: We shall take up clause by clause consideration.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (Amendment of section 3).

MR. DEPUTY-SPEAKER: There are two amendments by Shri Daga.

SHRI M. C. DAGA: I beg to move: Page 2, line 13,—

after "senior-most advocate" insert "with due legal acumen, efficient and having a roaring practice" (1)

Page 2,—

after line 14 insert—

"(3AA) The Chairman and the Vice-Chairman of the Bar Council of India and of the States and union territories shall invariably be guided by the majority decision of the respective Bar Councils and in no case the decision of the Chairman or Vice-Chairman be imposed on the members of the Council." (2)

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): It is self-explanatory.

MR. DEPUTY-SPEAKER: Are you pressing the amendments?

SHRI M. C. DAGA: No.

MR. DEPUTY-SPEAKER: Does he have the leave of the House to withdraw his amendments?

HON. MEMBERS: Yes.

Amendments Nos. 1 and 2 were, by leave, withdrawn.

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 11, Clause 1, the Enacting Formula and the Title were added to the Bill.

DR. V. A. SEYID MUHAMMAD: I beg to move:

"That the Bill be passed."

श्री जांबुवंत घोटे (नागपुर) : अधिवक्ता संशोधन विधेयक जिससे उनमें तथा उनके सेशन में एक तबदीली और हलचल भ्रमने वाली है, उस पर जब हम चर्चा कर रहे हैं तो देश के कानून मंत्री श्री गोखले साहब यहां हाजिर नहीं हैं। एक बात तो मैं यह कहना चाहता हूँ।

एक प्वाइंट आफ इनफार्मेशन है। प्वाइंट आफ आर्डर नहीं है। ऐसा महत्वपूर्ण कानून बिना कोरम के पास कर लेना कहां तक उचित है? हम सदन की गरिमा को कितना गिराना चाहते हैं, इसकी जानकारी श्री मैं आप से चाहता हूँ।

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: Does the Minister want to say anything in reply?

DR. V. A. SEYID MUHAMMAD: No, Sir.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed"

The motion was adopted.

MR. DEPUTY-SPEAKER: Hon. Members, we have come to the end of our labours. I wish you a good journey home or wherever you may go and a happy return thereafter. *The House stands adjourned sine die.*

19.38 hrs.

The Lok Sabha adjourned sine die.