

16.35 hrs.

ADVOCATES (SECOND AMENDMENT)
BILL

THE DEPUTY MINISTER IN THE
MINISTRY OF LAW AND IN THE DE-
PARTMENT OF SOCIAL WELFARE
(SHRI M. YUNUS SALEEM) : On behalf
of Shri P. Govinda Menon I beg to move :

“That the Bill further to amend the
Advocates Act, 1961, as passed by
Rajya Sabha, be taken into consi-
deration.”

Mr. Chairman, the House may recall
that in February 1966 a committee consisting
of the lawyer Members of Parliament was
appointed to consider suitable amendments
to the Advocates Act of 1961.

SHRI DHIRESWAR KALITA (Gau-
hati) : On a point of information. I heard
that this Bill is going to the Select Com-
mittee. Is it true ?

सभापति महोदय : पहले मंत्री महोदय को
वक्तव्य देने दीजिए ।

SHRI M. YUNUS SALEEM : The
Committee suggested certain amendments
and this Bill had been prepared on the basis
of its recommendation. The Advocates Act
of 1961 was not applicable to the State of
Jammu & Kashmir and the Union Terri-
tory of Goa, Daman and Diu. The object
underlying this Act is to have a unified bar
for the whole country. Through an amend-
ment that Act will now be made applica-
ble to Jammu and Kashmir, Goa, Daman and
Diu so that a unified all India bar may
come into existence.

There were other recommendations also.
Certain advocates who were practising law-
yers in Pakistan have migrated to this coun-
try. According to the provisions of this
Act they are not eligible to be enrolled as
advocates. So, provision has been made
now to treat them as advocates and allow
them to practice in all the courts of the
country.

It was felt that after spending three
years in study and obtaining a law degree
the law graduates should not waste more

time to get practical training. It has there-
fore been decided to abolish the requirement
of practical training on the part of law
graduates for enrolment as advocates. Sec-
tion 49(a) of the Act empowers the Central
Government to frame rules and the Bar
Council of India has also similar powers to
frame rules and in order to overcome the
difficulty and avoid conflict this section is
being omitted from the Act.

Similarly we have received some recom-
mendations from the Bar Council of India
also because they have considered the differ-
ent provisions of the Act and have suggested
certain amendments.

Apart from the Bar Council of India,
different proposals and suggestions have been
received from different sources which have
been incorporated in this Bill. Therefore,
this is a comprehensive Bill, an amending
Bill, which I submit before this House for
its consideration, and I hope that it will
receive the support of all the hon. Members.

Before I ask the hon. Members to ex-
press their views on this Bill, I should like
to point out that we have received a motion
from Shri Goyal to refer this Bill to a
Select Committee. I accept his proposal
and hereby move that this Bill be referred
to a Select Committee of this House con-
sisting of the following Members :

Shri P. Govinda Menon ;
Shri Jagannath Pahadia ;
Shri R. D. Bhandare ;
Shri Vikram Chand Mahajan ;
Shrimati Savitri Shyam ;
Shri Randhir Slugh ;
Shri S. S. Deshmukh ;
Shri Mohsin ;
Shri Mohammed Yunus Saleem ;
Shri A. K. Sen ;
Shri K. Narayana Rao ;
Shri J. K. Choudhury ;
Shri A. N. Mulla ;
Shri N. C. Chatterjee ;
Shri Srinibas Misra ;
Shri Shantlal Shah ;
Shri Viswanath Pandey ;
Shri G. Viswanathan ;
Shri Chand Goyal ;
Shri S. Xavier ;
Shri A. K. Gopalan ;

[Shri Yunus Saleem]

Shri H. N. Mukerjee ; and
Shri S. M. Joshi.

समापति महोदय : प्रस्ताव सदन के सम्मुख है ।

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I am grateful to the hon. Minister for having accepted my motion for referring this Bill to a Select Committee of the House. There were a number of complications involved in this Bill, and the very fact that over a hundred amendments have been tabled by various hon. Members prove my contention that there were a number of complications which needed to be resolved in a more calmer atmosphere by the Select Committee.

The most important provision against which most of the Members have moved their amendments is that there is proposal in this amending Bill to appoint the Attorney-general India as the ex-officio Chairman of the Bar Council of India and to appoint the various Advocates-General of the State Bar Councils to be the ex-officio Chairmen of their Bar Councils. I would submit that this is a retrograde step. The Government wants to take us 23 years back. We have adopted this democratic method of electing people to the jobs for which they are suitable but now Mr Chairman, you are very well aware that these Advocates-General are appointed on political considerations. It is not that one who is the leader of the Bar automatically becomes the Advocate-General, and with every change of the Government these Advocates-General have also been changing because the Government is anxious to appoint men in whom they have confidence. We cannot impose the leadership on certain people. In my school days I had learnt that some leaders are born; some people are born great; some acquire greatness; and greatness is thrust upon some people. This is one of the categories where we are going to thrust on some advocate the leadership of the bar, however small or high he may be in the profession. It is not the most competent man who is invariably appointed to the office of Advocate General, but it is the person who enjoys the confidence of the Government who occupies that place. It will be wholly unwarranted, undesirable and without justi-

fication to appoint the Attorney General as the ex-officio Chairman of the Bar Council of India. Bar Councils are not Government bodies; they are statutory bodies. The 1960 Act visualised autonomy for the Bar Councils. The members of the Bar Councils will be solely in charge of deciding their own affairs and taking disciplinary action against those who misuse their powers in the discharge of their professional duties. Now instead of allowing them to choose their own leader we are providing that the Advocate General would become the ex-officio Chairman of the Bar Council, whether he is acceptable to the members or not. I submit that if he is a competent man, he is free to contest the election and if he is liked by a majority of the members, he would automatically become Chairman. If he is not popular, he will be rejected. But we are going to say good-bye to the principle of autonomy of the Bar Councils as visualised in the 1960 Act. This is a highly retrograde and undemocratic step, which would take the country 23 years back.

In support of my contention, the Bar Council of India and the Bar Councils of all the States have resented this measure very strongly. They have passed unanimous resolutions, excepting one Bar Council—I think it is the Bar Council of Maharashtra—condemning this step.

SHRI M. YUNUS SALEEM : He can raise all the objections before the Select Committee.

SHRI SURENDRANATH DWIVEDY (Kandrapara) : Even for reference to the Select Committee, it has to be debated.

SHRI SHRI CHAND GOYAL : The advantage of making speeches now is that the Select Committee would have certain guidelines for their working. This retrograde step should be done away with and there should be a suitable amendment which will guarantee that the Bar Councils will have the option to elect their own Chairman and no Chairman will be thrust upon them.

समापति महोदय : आप स्वयं प्रवर समिति में रहेंगे। इस वास्ते आप अपने विचारों को संक्षेप से कहिये ।

SHRI SHRI CHAND GOYAL : Then, young advocates will be burdened with a certain amount of fee for enrolling themselves as advocates will be a restriction and burden which they are not in a position to bear, at least in the initial stages of their career, So those who are seeking their career as advocates should not be burdened with this heavy stamp duty.

Thirdly, the right of appeal which is being provided is not a right of appeal. There must be adequate provision to ensure that decisions in appeal will be decided on merits.

Further, this Bill contravenes certain provisions of the original Advocates Act, 1961. That difficulty has to be removed. There are some other complications which have also to be removed.

I once again thank the Minister for agreeing to refer this Bill to a Select Committee.

SHKI M. YUNUS SALEEM : Sir, I have a submission to make. By mistake I submitted that there are 23 members in the Select Committee. As a matter of fact, there are 24 members. I omitted the name of Shri Tenneti Viswanatham, which may be included.

SHRI K. M. KOUSHIK (Chanda) : Certain amendments are necessary in order that the Act could be made workable. There are also certain lacunae. Unless those lacunae are actually thrashed out in the Select Committee I think this Bill will not be perfect and it will not be workable. I give my full support to the suggestion of Shri Goyal.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : In addition to the objections raised by Shri Shri Chand Goyal, with which we heartily agree, there is another section in the Bill which reads as follows :

“(49A). (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct a Bar Council to make any rules or to amend or

revoke any rules already made within such period as it may specify in this behalf.”

Even to read it hurts my feelings and to hear it jars my ears that the government should have the right to send a direction in writing to the Bar Council to change or amend a rule. Having given the proper to the Bar Council to make its own rules and having always said that the Bar Council will be an autonomous body, if the government, which is after all not an expert on these matters, gives a direction to the Bar Council on what rule it should have, it is repugnant to all sense of justice. So, it is quite right that the Minister has moved that it should be referred to a Select Committee. The objections raised by Shri Shri Chand Goyal are very fundamental. All these things have to be gone into by the Select Committee. I support the motion of the Minister.

SHRI RANDHIR SINGH (Rohtak) : Mr. Chairman, I whole-heartedly support the amendment moved by my colleague, Shri Goyal, and accepted by the hon. Minister, for referring the Bill to the Select Committee. It is very gratifying to note that the Bill would be applicable to the entire country, including Jammu and Kashmir, Goa, Daman and Diu. Probably this is the first time that a Bill passed by this Parliament will be made applicable from the date of its coming into force to the entire country, including Jammu and Kashmir, which is an integral part of our motherland.

Another thing which I would like to appreciate here is legal aid being made available under the provisions of clauses 6 and 7 of this Bill at all levels including the Supreme Court. I would like that it should be further amplified. Since the matter is going to the Select Committee and I being a member of that Committee, I will make my observations there also.

Then, I appreciate the provision making certain relaxations in the case of displaced-lawyers coming from West and East Pakistan and in the rigours of the law as it stood. It is good.

About the three-year degree course, students who will be completing the three-year degree course will be exempted from any examination or test. It is certainly a very salient provision which has been made in this Bill.

I refrain from taking the valuable time of the House. With these comments I give my full support to the Bill and I support the demand that the matter may be referred to the Select Committee as demanded by the hon. Minister.

SHRI M. YUNUS SALEEM : The hon. Member, Shri T. Viswanatham, raised the point that the provision to give powers to the Central Government to issue directives was objectionable. I may bring to his notice for his consideration the fact that this provision is similar to section 30 of the Chartered Accountants Act, 1939.

The Bar Council of India has got powers to frame rules and the Central Government also has powers to frame rules. In order to maintain the autonomous position of the Bar Council of India, we are deleting this provision from the Act and instead of that provision of making independent rules and applying those rules to the Bar Council of India, we have said that wherever it is necessary suitable directives will be given. That power has got to be maintained by the Government of India in case of necessity.

There is no other point which has been made by any of the hon. Members. All the points which have been raised by Shri Goyal and other Members will be considered by the Select Committee. I hope that the motion for reference of the Bill to a Select Committee will be approved.

समापति महोदय : प्रतीत ऐसा होता है कि मंत्री महोदय अभी प्रस्ताव पूरी तरह से तैयार कर के नहीं लाए हैं। इसलिए सदन के सम्मुख अभी यह उपस्थित नहीं किया जा सकेगा।

अब क्योंकि 5 बज रहे हैं और कार्य सूचि

में 5 बजे एक दूसरा विषय लेना है—मध्याह्निक संसदीय निर्वाचनों के सम्बन्ध में 19 नवम्बर, 1969 को विधि तथा समाज कल्याण मंत्री द्वारा दिए गए वक्तव्य पर चर्चा—पूर्व इस के कि श्री कबंर लाल गुप्त चर्चा प्रारम्भ करें श्री प्रकाश चंद्र सेठी एक वक्तव्य देना चाहते हैं। मैं उन्हें अनुमति देता हूँ कि वह वक्तव्य दें।

16.59 hrs.

STATEMENT RE: MEETING OF CERTAIN OFFICERS WITH SHRI T. T. KRISHNAMACHARI

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI Mr. Chairman, this morning Dr. Ram Subhag Singh made the following observations :—

“I have already communicated to you, Mr. Speaker, my views on one point. TTK for whom I have every regard was here last week. He was sent for by the Prime Minister for consultation along with other policy framers. He invited some of the Finance Ministry officials and they perhaps went there with files. TTK who was not a Minister was shown these files and the officers were there and they discussed policy matters.”

17 hrs.

The facts are that Shri T. T. Krishnamachari was recently in Delhi and met the Prime Minister. As the House is aware, he is an old and valued colleague with long experience and enjoys an eminent position in our public life. In the course of these meetings the Prime Minister naturally had occasion to exchange ideas on many subjects.

Shri T. T. Krishnamachari conveyed to the Prime Minister certain ideas and suggestions in regarding to social and economic development. It was with the