

Shri Sidheshwar Prasad: Yes.

Mr. Deputy-Speaker: Has the hon. Member, Shri Sidheshwar Prasad, the leave of the House to withdraw his amendment?

Some Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Has the hon. Member, Shrimati Savitri Nigam, the leave of the House to withdraw her Resolution?

Some Hon. Members: Yes.

The Resolution was, by leave, withdrawn.

17.21 hrs.

RESOLUTION RE. PEOPLE'S PROCURATOR

Dr. L. M. Singhvi (Jodhpur): I beg to move the following Resolution:—

"This House is of opinion (a) that an Officer of Parliament to be known as the People's Procurator (Lok Ayukta), broadly analogous to the institution of Ombudsman in Sweden, Denmark and New Zealand, be appointed, under suitable legislation for the purpose of providing effective and impartial investigating machinery for public grievances, for eradicating corruption at all levels, for redressing administrative wrongs and excesses, for securing the liberties of citizens, and generally for strengthening the basic foundations of parliamentary democracy as a system of government;

(b) that the People's Procurator should be a person of known legal ability and outstanding integrity and should be appointed by the President of India on the recommendation of both Houses

of Parliament. The term of each Procurator shall be coterminous with that of each Parliament and a Procurator shall not be eligible for re-appointment as such and shall not accept any office of trust or profit at the disposal or in the dispensation of the Central Government or any State Government for at least ten years after his laying down the office of Procurator. The Procurator shall be removable only in accordance with the procedure laid down in article 124(4) of the Constitution.

(c) that broadly the People's Procurator or Lok Ayukta should have the following powers and functions:—

(i) The Procurator shall have the power to investigate any decision or recommendation made or any act done or omitted, relating to a matter of administration affecting any person or body of persons in or by any of the Ministries and departments or by any Minister, Officer, employee or member thereof in the exercise of any power or function conferred on him by any Statutes, rules or directives. The Procurator shall make general and specific recommendations to the Government and shall suggest action against those, who in the execution of their official duties, have through partiality, favouritism or any other cause or consideration, committed any unlawful act or neglected to perform their duties properly;

(ii) The Procurator may make any such investigation either on a complaint made to him in accordance with requirements to be detailed in a suitable enactment or on his own motion;

(iii) Without limiting the foregoing provisions the Procurator shall also investigate any petition that may be referred to it

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by either House of Parliament or any Committee thereof subject to the directives of the referring House or Committee and shall submit his report thereon;

(iv) The powers of the Procurator shall be exercised in accordance with the principles and directives laid down in a motion to be passed by the House of the People and approved by the Council of States from time to time;

(v) If any question arises whether the Procurator has any jurisdiction to investigate any case or class of cases, the Procurator may, if he thinks fit apply to the Supreme Court for an advisory opinion in the matter;

(vi) The Procurator shall have power to summon any documents or persons and shall have power to examine any person on oath;

(vii) The Procurator shall in each year make at least one comprehensive report to Parliament on the exercise of his functions;

(viii) The People's Procurators, with analogous powers and functions should also be appointed in all the constituent States of the Indian Union, and that necessary steps should be taken expeditiously in order suitably to amend the Constitution and to enact legislation for effectuating the aforesaid purposes."

Sir, while speaking on the subject of such a great importance, I would submit that I speak with profound humility and with complete open-mindedness. At the same time, I should like to submit that the rationable of my Resolution is embed-

ded in the profound conviction that there is great need today for regulating the exercise of administrative discretion and that there is great need today for an institution for the redress of the common man's grievances. The twentieth century is often described as a century of the common man. And yet in this twentieth century, in our own democratic country, we find procedural and institutional obstacles to the ventilation of the common man's grievances and to their redresses.

In moving this Resolution I do not wish to point any accusing finger at anyone. It is not my intention to censure the civil service for its sins of omission or commission. It is not my purpose to impugn the motives which impel politicians to act in a particular manner. My main purpose is to focus attention of this august House to the central problems of a democratic society in which the maintenance of rule of law is by far the most important consideration and in which the redress of a common man's grievance is the sheet-anchor for the existence of a democratic society itself. We have, therefore, to devise effective means and to put into operation adequate measures so that the grievances of the common man may be heard, dealt with and redressed notwithstanding the predilections of the administration, notwithstanding the prejudices of the politicians and notwithstanding the procedural obstacles in the way of redressing such grievances.

I should like to cite before this august House what Pascal in a very memorable sentence has said. He says:

"Justice without power is un-availing. Power without justice is tyrannical. We must, therefore, combine justice and power making what is just strong and what is strong just."

It is this kind of thinking, it is this motivation, which has persuaded me to bring this Resolution before this august House and I am sure when the hon. Members of this House participate in this discussion and when the hon. Ministers of the Government of India intervene in this debate, they would give me at least the credit for not having been motivated by any consideration of seeking to censure or to condemn anyone as such.

There have been several studies made of the various institutions for redress of public grievances. Indeed, even at present, there are several procedures in vogue which can be resorted to by a common citizen for the redress of his grievances. Quite often, an aggrieved citizen may publish in the press the cause of his grievance. He may resort to writing to his representatives in the legislature of the State or in the national Parliament. He may represent to the administration itself, and if he is so lucky, he may even contrive an access to the Minister concerned. But there would be no denying the fact that these opportunities are of a highly restricted character. These opportunities are of a highly insufficient character. It is because of the insufficiency of the existing procedures for the redress of grievances against administrative injustices that the institution of Ombudsman as it is popularly known in the Scandinavian countries was devised.

The dictionary meaning of the term 'Ombud' is 'public duty'. And the term 'Ombudsman' means a solicitor in pursuance of public duty. The Ombudsman in Sweden is an appointee of Parliament, and he goes into the grievances of the common citizen on behalf of Parliament, laying the report of his work during the year before Parliament. A similar pattern has been followed in Denmark, Finland and Norway with variations to suit their own local conditions. It is heartening and gratifying that the institution of

Ombudsman was brought into existence even in New Zealand which felt that perhaps such an institution alone could answer the central problem of modern administration *vis-a-vis* the common citizen.

I am reminded of a memorable observation once made by Lord Denning. He said that just as the pick and the shovel had become inadequate tools for modern scientific agriculture, likewise, writs of *certiorari*, *mandamus* and prohibition had become inadequate in the modern context of governmental operations and citizen's rights.

The judicial procedure existing in our country guarantees certain Fundamental Rights, and indeed, our Constitution goes further and guarantees even the remedy of invoking the jurisdiction of courts of law for effectuating those rights. But I am afraid that the ancient writs are not available generally to the common citizens because of procedural obstacles, because of the high cost of litigation and because of the complexities of legal procedure. I am sure the House would appreciate that even when a common citizen has a perfectly good case, he is not always able to succeed in a court of law, and that is because of the complexity of legal procedure, because of the formal character of legal procedure and because of the nature of evidence that is required. Therefore, it is difficult to depend merely on the existing procedure of jurisdiction with which our courts have been invested.

In the same day, I would respectfully submit that the procedure of writing to Members of Parliament, or Members of Parliament writing to Ministers or Members of Parliament raising certain questions in Parliament, is also highly inadequate and constricted. We cannot, by our rules of procedure raise specific questions; we cannot, because of our customary practices, raise questions of local or parochial importance only in this

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House, and therefore, such questions as we may agitate in this House are only of general policy. That is only right because this House cannot always afford, it, both because of the paucity of time and the inappropriateness of this forum being used for venting local or specific grievances. And yet those grievances remain, and yet those grievances stare us in the face today, until the momentum of those grievances has risen very high, until the tempo of discontent has gone deep down in the marrows of our public consciousness in this country. Is it not time, then, to think of devising adequate and efficacious means of ensuring that the citizen's grievances, the citizen's causes of discontent, may be dealt with in an appropriate manner by some machinery on behalf of this Parliament and on behalf of the legislatures of various States?

After all, the *raison d'être* for the existence of democracy itself is that it is a better system suited to solving people's problems; and if this system has ceased to be conducive, in the context of the complexity of modern life, to the solution of people's problems, it is time we reviewed the whole tradition and the existing procedure.

I should like, in the first instance, to submit that there are two ways open before this House and the Government of this country which is responsible to this House. Either we have to resort to a system of administrative tribunals in this country with a Conseil d'Etat, like the French model, sitting at the apex; in the alternative, we have to adopt the institution of Ombudsman, with such variations as may be suitable for the exigencies of political and administrative life in our country.

The famous report submitted by Sir John Whyatt, entitled "A Report

by Justice—The Citizen and the Administration—The redress of grievances" deals with these problems in the context of British conditions, which is equally applicable to the conditions obtaining in our country. In concluding Chapter 3, the Report says:

"And in regard to both the judicial and the advisory functions of the Conseil d'Etat, it is important to bear in mind the fact, emphasised by a leading English authority on the Conseil d'Etat, that its successful working depends on the corporate unity of its judicial and advisory sections, for which there is no real parallel in the English dichotomy of an Executive under Ministers responsible to Parliament on the one hand and an independent judiciary on the other."

To this dichotomy the Indian system of government is also dovetailed, because we have largely followed in this respect the system prevailing in Gt. Britain. Therefore, if we cannot achieve, as Gt. Britain, unity of the judicial and advisory functions which are available to the Conseil d'Etat in France, the only alternative which remains before us is to consider the possibility of adopting the institution of Ombudsman in our country.

It is time we attempted a detailed study of the administrative problems of this country. It is time we had a commission like the Frank Committee in Gt. Britain to go into all the various aspects of administrative problems in this country. It is time Government gave some specific, coherent thought to the possibility of bringing into existence a uniform administrative procedure code for the whole country. I am sorry that in all these years there has been very little creative thinking in the field of

administrative reforms and in the field of implementation of certain policies with respect to administration. It is time that this Parliament enjoins upon the Government to give specific and coherent attention to these central problems of a democratic society which wishes to flourish under the rule of law.

Mr. Deputy-Speaker: The hon. Member may continue on the next non-official Resolutions days.

17.36 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Saturday April 4, 1964/Chaitra 15, 1886 (Saka).