



REPORT
OF
THE HIGH COURTS ARREARS
COMMITTEE 1972

VOL. I

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CHAPTER I

I. INTRODUCTORY

(a) Reasons for setting up the Committee

1. One of the critical social problems which we are facing in our country is the acute congestion of cases especially in the High Courts. There is gross delay in the disposal of pending files, leading to serious dissatisfaction in the public mind about the effectiveness of Court process for ventilating the grievances of citizens.

2. Delay in the disposal of cases pending before Court has an unhealthy effect on our social conscience; it renders the reputation of our Courts vulnerable. Delay deprives the citizens of a basic social public service which it is the duty of the State to provide. It is unhealthy primarily because it may cause severe hardship to some parties and may affect litigants—differently. It is also unhealthy because it involves loss of public confidence and respect for the Judicial process, and brings in its wake many secondary evils and engenders cynicism about the administration of justice. Delay in the disposal of cases, results in deterioration of evidence; it nurtures a sense of injustice because of the long period of uncertainty which the litigant has to endure before he could get reparation for wrongs.

3. It must be granted that no agency concerned with judicial administration intends or desires that there should be delay in the disposal of cases. The Court system, it may be conceded, does not suddenly fall out of step; it is a gradual and an imperceptible slow process, the result of many causes, tendencies and pressures. But once the system begins to suffer from appreciable delays it is difficult to reverse the process. In almost all the High Courts, there has been over the last few years, heavy congestion of cases. The accumulation of heavy arrears, has assumed serious proportions. This is primarily due to heavy institutions, and disposals not keeping pace with the institutions.

4. Greatly concerned with the problem of accumulating arrears of cases in the various High Courts, the Government of India, conducted in 1967 a review of the state of work in each High Court and found that inadequacy of Judges was the main cause for the accumulation of arrears in some of the High Courts and that the other contributing factors were—

(a) delay in filling up vacancies;

(b) lack of court accommodation; and

(c) diversion of serving judges to other duties such as Commissions of Inquiry etc. without providing replacement in the High Court.

The then arrears in the High Courts of Gujarat, Calcutta, Bombay, Madras, Andhra Pradesh, Kerala and Madhya Pradesh called for special attention and the Chief Ministers were advised to take certain measures, such as increasing the Judge strength in the High Courts to the extent considered necessary, taking into account the institutions and disposals and the arrears to be cleared, and filling up of vacancies in the High Courts without any delay. It was recommended that whenever a serving Judge is diverted to other duty and is not likely to come back to the High Court within six months, an additional or an ad-hoc Judge should be appointed in his place so that the High Court does not suffer and that the appointment of more Judges would involve additional Court accommodation and such accommodation should be made available within a period of 6 to 9 months.

5. In accordance with those recommendations, the Judge strength of some of the High Courts was increased.

(b) Setting up of the Committee

6. But since the position regarding arrears did not improve, the Government of India requested the Chief Justice of India in April, 1969 to consider the desirability of appointing a small Committee of Judges to go into the problem of arrears in all its aspects and to suggest remedial measures. At the end of the year 1969, the Government of India with the concurrence of the Chief Justice of India constituted an informal Committee presided over by then Chief Justice of India, with the Hon'ble Mr. Justice J. C. Shah, then seniormost Judge of the Supreme Court and the Hon'ble Mr. Justice K. Veeraswami, Chief Justice of Madras, as its Members. When the Chief Justice of India the Hon'ble Mr. Justice Hidayatulla retired, his successor the Hon'ble Mr. Justice J. C. Shah was appointed as the Chairman of the Committee with the Hon'ble Mr. Justice K. Veeraswami, Chief Justice of Madras as the Member. When subsequently the Hon'ble Mr. Justice J. C. Shah retired as Chief Justice of India, the Government of India requested him to continue as Chairman of the Committee.

(c) Terms of Reference

7. The Committee is an informal one and has no specific terms of reference. It is not charged directly with considering the efficiency of the High Court's procedure or the quality of justice nor with the law administered by the High Courts. But the Committee is charged with the duty to suggest ways and means for reducing the arrears of cases pending in the High Courts only. It is not concerned with the delays which occur in the hearing and disposal of cases in the Courts subordinate to the High Courts. Any observations which the Committee makes which travel outside the periphery are, therefore, intended to be incidental to the main task.

(d) Sitzings of the Committee

8. In February, 1970, the Committee issued a Questionnaire to all the High Court Judges, Advocates General, Government Advocates, Presidents of the Bar Councils, Presidents of the High Court Bar Associations, Incorporated Law Societies and some senior members of the Bar, in order to obtain their views and suggestions. Statistical information regarding the

institution, pendency and disposal of cases; and the statutes passed by the Central and various State Legislatures, and population figures were collected. After examining the replies to the Questionnaire received from the various High Courts, the Committee decided to hold discussions with the Chief Justices of the various High Courts. Such meetings were held at Delhi on 11-6-70, 8-8-70, 22-8-70, 26-9-70 and 5-12-70. At its meeting held on 5-12-70, the Committee considered it necessary to visit the various High Courts, not only with a view to meet the various persons connected with the administration of Justice and elicit from them their views and suggestions in regard to the problem of arrears in the several High Courts, but also with a view to have "on the spot" study of the special problems that confront the several High Courts in the matter of achieving expeditious disposal of cases. It was also decided that whenever the Committee visits a High Court and has its meeting there, the Chief Justice of that High Court, would sit as a co-opted member of the Committee in that meeting.

9. Accordingly the Committee held its meetings :

at Delhi (in the building of the Delhi High Court) on	27-2-1971
at Chandigarh (in the building of the High Court of Punjab and Haryana) on	28-2-1971
at Bombay (in the building of the High Court, of Bombay) on	13-3-1971
at Ernakulam (in the building of the High Court of Kerala) on	2-7-1971
at Bangalore (in the building of the High Court of Mysore) on	3-7-1971
at Madras (in the building of the High Court of Tamil Nadu) on	4-7-1971
at Hyderabad (in the building of the High Court of Andhra Pradesh) on	5-7-1971
at Srinagar (in the building of the High Court of Jammu and Kashmir) on	24-7-1971
at Calcutta (in the building of the High Court of West Bengal) on	3-9-1971
at Cuttack (in the building of the High Court of Orissa) on	4-9-1971
at Ahmedabad (in the building of the High Court of Gujarat) on	23-11-1971 and 24-11-1971
at Jodhpur (in the building of the High Court of Rajasthan) on	25-11-1971
at Allahabad (in the building of the High Court of Uttar Pradesh) on	7-2-1972
at Patna (in the building of the High Court of Bihar) on	8-2-1972

We did not visit the High Courts of Himachal Pradesh, Madhya Pradesh and Assam and Nagaland, where there are not much of arrears.

2. PREVIOUS COMMITTEES AND SUMMARY OF THE REPORTS AND RECOMMENDATIONS MADE BY THEM

10. The problem of accumulating arrears of cases in the High Courts is long standing. It is not a problem which is peculiar to our country. Other countries like the United States of America and Great Britain, have been confronted with the problem and had from time to time attempted to tackle it. In our country also, periodical attempts had been made to consider the problem in its several aspects and to adopt various remedial measures.

(i) Recommendations of the Civil Justice Committee

11. In 1924, the Civil Justice Committee under the Chairmanship of the Hon'ble Mr. Justice Rankin, then Puisne Judge of the High Court of Judicature at Fort William, in Bengal was set up to "enquire into the operation and effects of the substantive and adjunctive law. . . . followed by the Courts in India in the disposal of Civil Suits, appeals, applications for revision and other civil litigation. . . with a view to ascertaining and reporting whether any and what changes and improvements should be made so as to provide for the more speedy, economical and satisfactory despatch of the business transacted in the Courts and for the more speedy, economical and satisfactory execution of the processes issued by the Courts."

12. The Committee examined the problem of delays in the disposal of civil suits, appeals and execution proceedings in all its different aspects and made several recommendations.

13. Since the present High Courts Arrears Committee is not directly concerned with the delays that occur in the matters that go through the subordinate Courts, we are not in this report referring to the recommendations of the Civil Justice Committee in regard to the progress of civil litigations in the subordinate Courts, and we will be referring only to those recommendations which are directly concerned with the delays in the disposal of matters in the High Courts.

14. Sir Tej Bahadur Sapru, one of the members of the Civil Justice Committee in his "Note on causes of delay in Civil Courts" had listed the following as the causes of delay in High Courts:

- (a) Insufficient judge strength in some of the High Courts;
- (b) Understaffing of the Translation Departments in the High Courts which result in delays in translation and printing of records;
- (c) delays caused by the time taken in serving notices on the parties concerned;
- (d) delay caused by proceeding for the substitution of heirs of deceased parties or for the appointment of guardians or next friends of minors;
- (e) The system whereby every single document is translated and printed, causing overloading of the records with totally unnecessary documents which are not even referred to by counsel during the argument in many cases.

15. Adverting to the inordinate delays that occur in the matter of service of processes on defendant or respondent, the Civil Justice Committee stressed the necessity for improving the emoluments and service conditions of process servers so that persons of higher social status and from more literate classes could be attracted and for proper supervision over their work and for proper training of process servers before they are launched on their duties. While opining that service of summonses and notices by registered post may be used as an ancillary mode of service rather than as the primary mode, the Committee nevertheless recognised that such service by post is effective in certain cases and it recommended that rules may be made providing for service by registered post, in certain cases apart from those cases in regard to which provisions for such service were already existing, such as on creditors in Insolvency proceedings and on defendants residing outside the State where the court of trial is situated. It further recommended that when in the first instance a process is returned unserved, while reissuing it, cumulative use should be made of the post office over and above an attempt at personal service and affixture, and in addition..... one copy of the process may be handed over to the party concerned for effecting personal service on the defendant. The Committee recommended that rules be made (as in Bombay where certain specially selected solicitor's clerks were authorised by the Sheriff to serve processes) whereby some specially suitable vakil's clerks could be authorised to serve processes, subject to close supervision by the Court. The Committee recommended the introduction of a system of "registered addresses" whereby it would be rendered obligatory upon every party who intends to appear and defend any suit, appeal or original Petition, to file in Court a proceeding stating his address for service, before the date fixed in the summons or notices served upon him, as the date of hearing, and providing that service by affixture at the registered address, in the absence of the defendant or the respondent, shall be deemed to be as effectual as if the notice or process had been personally served and also providing for any change of such address to be notified to the Court by means of a verified petition, notice of which to be given to all the other parties to the proceeding and providing further that the failure to file such an address shall result if the default is by the plaintiff in the dismissal of the suit for want of prosecution, and if the default is by the defendant, in the defence being struck out and further providing that such registered address should hold good throughout all appeals, and after the final determination, should hold good for a further period of two years for all purposes, including purposes of execution.

16. Adverting to the unnecessary delay that often occurs in serving notices of an appeal or of an interlocutory motion, on a respondent against whom the suit had proceeded *ex parte* in the trial Court, the Committee suggested that discretion should be given to the Court to dispense with service of notice on that respondent against whom the suit had proceeded *ex parte* in the trial Court.

17. The other recommendations made by the Committee in regard to service of processes were the following:

- (1) Permitting preparation of processes, on forms supplied by the Court, by the party concerned or his pleader;

- (2) Amending Rule 5 of Order III to make service on the pleader as effective as service on the party, provided such pleader is acting and not merely pleading;
- (3) Making the parties responsible in the first instance for service of processes on their own witnesses;
- (4) Adoption of an additional form of summons whereby the defendant would be called upon to appear merely for the purpose of stating whether he does or does not contest the claim and in the event of contest, of receiving directions as to the date on which he has to file his written statement, the date of trial and other matters;
- (5) Making it obligatory on the part of the plaintiff to pay process fees along with the plaint.

18. The Committee recommended the introduction of the English system whereby the plaintiff in an ordinary case is required to take out summons for directions, especially in the Commercial Court.

19. With regard to appeals, the Committee was of the opinion that it was possible to give to cases of small or intermediate valuation, a first and final appeal on fact and law before two trained, experienced and specially selected Judges and the right of further appeal withdrawn, provision being made for appeal to the High Court in cases of disagreement between those Judges and for stating a case to the High Court upon specially difficult or important points of law if the Judges should think it necessary to do so.

20. The Committee felt that there should be restrictions on Letters Patent Appeals and recommended that such appeals should lie only upon a certificate.

21. In regard to Second Appeals, the Committee felt that it is necessary to provide for a stricter and better scrutiny of Second Appeals and that they should be made subject to special leave, instead of giving an absolute right of appeal limiting it to question of law. The Committee felt that "instead of a Second Appeal being brought as of right and summarily dealt with only when no arguable point arises, the appellant should have to satisfy the court that on a point of law there is sufficient reason to think that the decision of the first appellate Court is erroneous, to make it necessary, in an endeavour to do justice with reasonable diligence as between the Appellant and Respondent," that a further investigation should be made. The Committee further recommended that applications for leave to appeal should be heard by a Court constituted in like manner as a Court would require to be constituted in order to dispose of the appeals and cases valued under Rs. 1000/- should be dealt with by a single Judge and in other cases by a Bench.

22. The Committee recommended that an inflexible rule should be made that in every Second Appeal to the High Court, the appellant should be required to deposit in Court in cash or in Government promissory notes, a definite sum by way of security for the respondent's costs of the appeal.

23. The Committee recommended that the limit of Rs. 500/- laid down by Section 102 C.P.C. should be raised to Rs. 1000/-.

24. In regard to the Revisional jurisdiction of the High Court in civil causes, exercised under Section 25 of the Provincial Small Cause Court Act, the Committee referred to the erroneous "tendency in some quarters to regard Sec. 25 of the Provincial Small Cause Court Act, as though it gave a right of appeal on points of law much after the manner of that defined by Sec. 100 C.P.C." and pointed out that "the power of revision is an extraordinary one vested in the High Court to control directly the lowest grade of Court trying the smallest and simplest and most numerous classes of cases" and that the wide discretion given under Section 25 is given as "an ultima ratio, a security held in reserve against the sort of injustice and illegality that can be detected from a mere summary record," and as such the decision to be taken in such revisions, is "whether the case shows such *prima facie* ground for believing that there has been a miscarriage of justice, as to make it necessary that the respondent should be called upon to defend his decree in the High Court." The Committee emphasized that the applicant in revision has to show why the High Court should call for the case at all. The Committee further pointed out that such applications in revision should not be examined as Second Appeals are examined under Order XLI, Rule 11, C.P.C. since the policy of the law is that there should be no appeal, in these small cases, not even on a point of law.

25. The Committee was of the view that revision application under Section 25 of the Provincial Small Cause Courts Act should not be allowed to a defendant, save upon his depositing into Court the decretal amount or atleast a sum of Rs. 400/- without prejudice to the right of the Court to require deposit of the whole amount if it thinks fit, such deposit to be made with the filing of the application.

26. Referring to the tendency of some of the High Courts, to enlarge their powers of revision beyond the ambit of Section 115 C.P.C. the Committee recommended that it would be convenient if it is laid down that the power of revision of the High Courts did not extend beyond the limits of Section 115 C.P.C. save and except in cases where special statutory provision is made to the contrary.

27. In considering the question whether interlocutory orders should be subject to revision, the Committee pointed out that every such rule granted will have the effect of staying proceedings in the lower Court and many such rules will be applied for and obtained for the purpose merely of delay.

28. The Committee recommended that the right of revision should in the case of interlocutory orders, be confined to cases of the kind contemplated by the first clause of Section 115 C.P.C. *i.e.* to cases where the lower court appears to have exercised or to have decided to exercise a jurisdiction not vested in it by law. The Committee opined that in regard to cases coming under clause (b) of the section a right of interlocutory interference was unnecessary, and in cases contemplated by clause (c) interlocutory interferences are attended in practice with too great risk of injustice and delay caused by rules which have ultimately to be discharged and as such interlocutory order

should not be revised under clause (c) before the conclusion of the case. The Committee suggested the remodelling of Section 115 in the following manner:

Section 115 C.P.C.

(1) The High Court may call for the records of any suit on proceeding, in which a decree or order has been made by a Court subordinate to such High Court, from which decree or order no appeal lies thereto.

II(a) In the case of any such *decree* as is referred to in sub-section (1), if the subordinate Court appears—

- (1) to have exercised a jurisdiction not vested in it by law; or
- (2) to have failed to exercise a jurisdiction so vested; or
- (3) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order as it thinks fit.

(b) In the case of any such *order* as is referred to in sub-section (1), if the subordinate Court appears to have exercised or to have decided to exercise a jurisdiction not to vest in it by law, the High Court may make such order as it thinks fit.

Explanation (1): An erroneous exercise of discretion in a matter of *procedure* is not acting illegally or with material irregularity within the meaning of clause (3) of Sub-section II(a).

Explanation (2): Any finding or decision as to the jurisdiction of such subordinate Court is an order within the meaning of this section.

29. The Committee deprecated the practice—prevailing in some High Courts—of constantly reserving judgments and pointed out that such a practice gives an impression that the Court cannot grasp facts, or does not know the law or cannot state in reasonably clear terms what it knows. It has observed that as a general rule judgments should be delivered in open Court at the close of the arguments.

30. The Committee also referred to the inadequacy of staff in some of the High Courts and has remarked that of all forms of delay and injustice that caused by inefficiency and insufficiency in the office of the Court is perhaps the least tolerable.”

(ii) **Recommendations of the High Courts Arrears Committee, 1949**

31. In 1949 a High Courts Arrears Committee was set up by the Government of India, under the Chairmanship of Mr. Justice S. R. Das for enquiring and reporting as to—

- (a) the advisability of curtailing the right of appeal and revision;
- (b) the extent of such curtailment;

- (c) the method by which such curtailment should be effected; and
- (d) what other measures if any, to be adopted to reduce the accumulation of arrears.

32. The need for large scale reforms in various directions including the modification of some substantive laws and a considerable simplification of the law of procedure was stressed by the Committee, since only such reform can strike at the root of the evil of heavy arrears and delayed justice.

33. With regard to the advisability of the curtailment of the right of appeal and revision, the Committee opined that the right to approach the High Court given by the Constitution cannot be curtailed nor would it be right to deprive a party of the right of coming to the High Court by way of appeal or revision, given by certain special legislation for safeguarding the rights of the citizens against arbitrary exercise of powers conferred on the special Court or authority set up by such legislation.

34. With regard to the rights of appeal and revision in the normal civil and criminal proceedings in the High Court, the Committee felt that it was possible to a certain extent to control and keep down the institution of civil appeals and revisions in the High Courts by extending the jurisdiction of the subordinate Courts and by curtailing the right of appeal and revision before the High Court. But in regard to Criminal matters, the Committee opined that it would not be advisable to cut down or curtail the rights of appeal and revision, so long as there is no complete separation of the judiciary from the executive.

35. The Committee suggested the following measures :

(1) investing the District Courts with jurisdiction to dispose of first appeals upto the value of Rs. 10,000;

(2) the adoption by other High Courts of the practice prevailing in the Madras High Court, wherein after Second Appeals had been numbered and registered, the Registrar sends the papers by rotation to a single Judge of the High Court, who after scrutinising them outside court hours admits such of them as he considers proper and directs the doubtful cases to be placed on the list before him under Order XLI Rule 11 C.P.C.;

(3) Barring Second Appeals, except by special leave of the High Court, in suits for recovery of money valued at Rs. 2000/ or below or for recovery of immovable property of the value of Rs. 1000/ or below;

(4) Transferring to the District Judge the jurisdiction now vested in the High Court under section 25 of the Provincial Small Cause Courts Act;

(5) The raising of the single Judge's jurisdiction in Civil matters to Rs. 5000 in High Courts where it is below Rs. 5000, leaving it to the single Judge dealing with a Second Appeal below Rs. 5000 in value to have the case posted before a Division Bench or a full bench if it involves a complicated question;

(6) Enlargement of the revisional jurisdiction exercised by Sessions Judges under Section 438 Cr. P.C. to enable them to pass final orders for acquittals instead of referring the case to the high Court for orders and suitably amending the section to relieve the High Courts of Criminal references under that section by Sessions Judges.

(7) Prescribing by means of rules of the Court that (a) in all Second Appeals a full statement of the case on law and facts should be filed by the appellant along with his Memorandum of Appeal or soon after within a time allowed by the court; (b) in all Civil Appeals to High Courts a concise statement of the case with relevant law and authorities, which will in all essential features be presented to the Court at the time of the final argument, should be exchanged between the parties and filed in court a short time before the hearing of the case actually begins in the Court, and the parties should ordinarily be confined to the points and contentions raised in their respective statements of case but fresh points to be allowed to be urged with the leave of the court.

36. The other recommendations of the Committee were : (1) that inordinate delays in filling up vacancies on the High Court bench should be avoided, as much as possible; (2) that there should be an immediate increase in the judge strength of such of the High Courts where the judge strength is not commensurate with even the current volume of work; (3) that the working days of the High Courts should be about 200 days in the year with Saturdays and Sundays continuing to be non-working days for the Judges; and (4) that the leave rules for Judges should be similar to those of higher executive Officers.

(iii) Recommendation of Other Committees

37. Two of the States in India also set up each a Committee in the years 1950-51, for effecting judicial reform in those States.

(a) *Uttar Pradesh Law Reforms Committee*

38. The Uttar Pradesh Law Reforms Committee constituted in the year 1950 felt that the need of the hour was that rules of procedure and evidence should be so simplified that justice may be available to the rich and poor alike and that it may be prompt and effective and that provision should be made for definite and final decision at an early stage. It opined that any drastic change in the British system of justice, as applied to our country, and which was the result of a long process of evolution, might not be advisable at that moment. Hence the Committee did not propose to make any recommendations of a revolutionary character but restricted itself to suggesting changes that might to some extent, bring about relaxation in the rigidity of the laws of procedure, efficient working of Courts and reduction in crime and litigation.

39. The Committee after examining the problem of arrears in the Uttar Pradesh High Court recommended that first appeals in cases valued at between Rs. 5000 to Rs. 10,000 be heard by a Bench of two District Judges and in case of difference of opinion in any particular case, the point on which the difference arises, to be referred to a third District Judge.

40. In regard to Second Appeals, the Committee was not in favour of curtailing the right of Second Appeal and substituting it by a right of revision, but it recommended that the pecuniary limit laid down by Section 102 C.P.C. may be raised to Rs. 2000 and that the jurisdiction of a single judge of the High Court in hearing appeals may be raised from Rs. 2000 to Rs. 5000.

41. The Committee felt that it would not be proper to do away with Letters Patent Appeals.

42. While opining that no change was necessary in regard to Section 104 C.P.C. it recommended that in appeals from orders provided in Order XLIII, Rule 1 of the C.P.C. those provided in sub-clauses (g), (i), (o) and (w) may be omitted.

43. The Committee did not think it feasible to restrict the present right of appeal in execution, in addition to what had already been suggested above. In regard to appeals against orders in execution, the Committee recommended that in money decrees including decrees for sale passed on mortgage bonds and decrees for costs only, the jurisdiction of the Court of appeal should be governed by the amount of the money decree finally passed, but that this principle should not be extended to appeals against decrees in suits.

44. The Committee felt that in order to enable the Court to remand cases outside the scope of Rule 23 of Order XLI of the C.P.C. when it finds it necessary to do so in the interest of justice, Rule 23, should be amended to read as follows:

“Where the Court, from whose decree and appeal is preferred, has disposed of the suit upon a preliminary point and the decree is reversed in appeal, or where the appellate court in reversing or setting aside the decree under appeal considers it necessary in the interest of justice to remand the case, the appellate court may by order remand the case and may further direct what issue or issues shall be tried in the case so remanded and shall send a copy of its judgment and order to the Court from whose decree the appeal is preferred, with directions to readmit the suit under its original number in the register of Civil Suits and to proceed to determine the suit and the evidence (if any) recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand”.

45. In regard to revisions, the Committee did not recommend any change, for it felt that since under the Constitution the High Court has got revisionary powers of superintendence over all Tribunals within its jurisdiction, the conferment of revisionary power on the District Judge would not take away the right of the High Court to exercise powers of revision under its general power of superintendence as well as under Section 115 C.P.C. The Committee further felt that conferring revisionary powers on the District Judge in small cause court cases would only amount to increasing one more forum for revision.

46. The Committee was not in favour of taking away the right of review in cases where an appeal lies, since it felt that such a course would result in hardship in certain cases and since a review provides a speedier remedy as compared to an appeal and in quite an appreciable number of cases when an application for review is allowed, the party appealing does not press his appeal. It observed that if every person who is aggrieved against the decree of the lower Court is driven to the necessity of filing an appeal, it would mean that cases in which the mistake could be rectified in review, will also have to go in appeal.

47. In regard to Criminal cases, the Committee felt that the right of appeal should be allowed against all convictions except convictions by a Magistrate of a First Class or a Court of Session, in which the sentence imposed is only, of a fine not exceeding Rs. 50 and they accordingly recommended the amendment of Sections 413 and 414 Cr. P.C.

48. The Committee was of the firm view that a complainant should not be allowed any right of appeal against acquittal because any such change would result in a large number of appeals.

49. In regard to Criminal Revisions, the Committee recommended that the Sessions Judge should be given full powers to hear and determine all Criminal Revisions except—

(a) Revisions against orders of acquittal ; and

(b) Revisions for enhancement of sentence.

In these two excepted cases, revisions to lie directly to the High Court and suitable amendments of Sections 435, 438 and 439 Cr. P.C. were recommended for implementing that suggestion.

50. The Committee recommended—

(1) an amendment of Section 435 (1) Cr. P.C. so that the Sessions Judge may be empowered to suspend also the execution of *any order* passed by a Magistrate and not merely the execution of a sentence as it is now provided in Section 435 (1) Cr.P.C.

(2) Amendments of Sections 435 to 437 Cr. P.C. to make them applicable only to Sessions Judges;

(3) the deletion of sub-section (1) of Section 438 of the Cr. P.C.;

(4) amendment of Section 439 Cr. P.C. so as to make it applicable exclusively to the High Court, and to make it contain all the provisions now contained in section 435 Cr. P.C.

(5) the prescribing, in regard to the filing of Criminal Revisions, of a period of limitation of 90 days for the High Court and 30 days for the Sessions Court, from the date of the order and making Section 5 of the Limitation Act applicable to applications for revision.

51. The Committee was of the unanimous opinion that the main cause of delay in the disposal of appeals in the Uttar Pradesh High Court was the shortage of Judges. Yet another cause for delay according to them

was the printing and translation of records in all cases and the Committee suggested that printing and translation of records may be restricted only to those cases which have a valuation of Rs. 20,000 and above and that in cases of lesser valuation translation and printing may be dispensed with, and paper books may be typewritten only when a case is to be heard by a bench of two Judges and that in cases to be heard by a single Judge, no typewritten paper books need be prepared at all and that in all cases where capital sentences have been awarded, and in Government Appeals, against acquittals, where death sentence was possible printing will have to be done.

52. In regard to the concurrent jurisdiction of the High Court and the District Court in matters relating to the Divorce Act, Succession Act and Copyright Act, the Committee felt that there was no justification for such concurrent jurisdiction in the High Court and the District Court and recommended that the powers under these Acts may be conferred exclusively on the District Courts and an amendment be made in the Indian Divorce Act, empowering the District Judge to pass a final decree of divorce without submitting the proceedings to the High Court for confirmation.

53. The Committee recommended that the power of entertaining applications under Sec. 26 of the Patents and Designs Act now vesting exclusively in the High Court, may be vested in the District Court, since the same grounds which are mentioned under Section 26 may be pleaded, in defence in suits under Section 29 before the District Court and that the Original Jurisdiction under the Trade Marks Act and the Patents and Designs Act may be vested in the District Court.

(b) Judicial Reforms Committee for the State Of West Bengal

54. The State of West Bengal constituted a Judicial Reforms Committee in the year 1949 in order to consider the following matters and to make recommendations and report the same to Government:—

1. Reforms in the system of administration of justice in Calcutta with particular reference to the following questions:
 - (a) Whether there should be a City Civil Court and City Sessions Court for the Calcutta area to bring the administration of justice in the Presidency Town of Calcutta in line with the system in the remainder of the province?
 - (b) Whether such City Civil and Sessions Court if established should have jurisdiction over the Presidency Town of Calcutta only or over the whole area administered by the Calcutta Corporation, and in the latter case how the jurisdiction of the Civil and Sessions Court of 24 Parganas at Alipore should be modified?
 - (c) Whether the Calcutta Small Cause Court should remain as a distinct court or be amalgamated with the City Civil and Sessions Court?

- (d) Whether the Original Side of the Calcutta High Court should have concurrent jurisdiction either (i) generally, or (ii) in suits above a certain value with the Courts at Alipore, Sealdah and Howrah or alternatively with all Civil Courts in the province?
- (e) Whether the existing admiralty, vice-admiralty, Testamentary, Intestate and Matrimonial jurisdictions should be exercised solely by the Original Side of the Calcutta High Court?
- (f) Whether the Original Side of the Calcutta High Court should be retained and if retained its procedure should be brought into consonance with the procedure in the Civil Courts of the districts?

55. That Committee did not favour the abolition of the Original Side of the High Court in its entirety. But it recommended that a City Civil Court should be established in Calcutta to try (a) commercial suits below Rs. 5000, (b) suits relating to land other than mortgage suits where the value of the land is less than Rs. 50,000 and (c) other suits the value of which do not exceed Rs. 25,000. But in regard to Insolvency matters, the Committee recommended that the Original Side of the High Court and the City Civil Court should have concurrent jurisdiction, while admiralty, vice-admiralty and matrimonial jurisdiction should be exclusively exercised by the High Court, which should also continue to exercise jurisdiction under the Companies Act and also in regard to work connected with the liquidation of Banking Companies. In regard to criminal matters, the Committee recommended that certain classes of cases such as fraud by and against Banks and Insurance Companies and certain other offences which are of a serious nature and which frequently involve determination of difficult questions of fact and law should be tried by the High Court while all other offences should be tried by the City Sessions Court. The other recommendations made by the Committee, do not have relevance to the problem of arrears as such and hence are not referred to in this report.

• 56. The following were the other Committees formed in the Uttar Pradesh—

- (a) A Committee under the Chairmanship of Mr. Justice Louis Stuart, in 1921 for formulating a Scheme for the separation of Judicial and Executive functions in the United Provinces;
- (b) A Committee under the Presidentship of Mr. Justice Dalal to examine the question of the extension of the Jury system in the State;
- (c) The deputation of Mr. W.C. Dible in 1938 to re-examine the question of the separation of the judicial and executive functions;
- (d) A committee under Mr. Niamat Ullah in the year 1938 to investigate the desirability of extending the system of trial by jury;
- (e) A Committee appointed in 1946 under the Chairmanship of Shri Charan Singh to consider the reorganisation of Revenue Courts;
- (f) A Committee appointed in 1949 under Shri P.N. Jha to consider matters pertaining to disposal of Criminal cases.

CHAPTER II

LAW COMMISSION'S REPORT

1. The High Courts Arrears Committee of 1949 had referred in its Report to the absence of a Standing Law Commission. In 1955, the Government of India appointed the Law Commission. The first term of reference to the Commission was to review the system of judicial administration in all its aspects and suggest ways and means for improving it and making it speedy and less expensive. The Commission's inquiry into the system of judicial administration was to be comprehensive and thorough including in its scope: (a) the operation and effect of laws substantive as well as procedural with a view to eliminating unnecessary litigation, speeding up the disposal of cases and making justice less expensive; (b) the organisation of Courts both Civil and Criminal; (c) recruitment of the judiciary. In its Fourteenth Report on the reform of Judicial administration, the Commission dealt with the entire judicial system prevailing in the Courts in India and has examined the problem of arrears in the High Courts, in its various aspects and has recommended a number of measures.

2. According to the Law Commission the two main causes for the increase in the work of the High Courts are—

(1) the growing volume of ordinary litigation, following the economic and industrial development of the country, which has considerably added to the normal work of all the Courts ; and

(2) The expansion of the High Courts Special Jurisdiction under a variety of fiscal enactments like the Income Tax and Sales Tax Acts and other special laws, like the Representation of the People Act by which the High Court is empowered to hear Appeals from the decisions of Election Tribunals.

3. The Commission has observed that the fundamental rights conferred by the Constitution and resort to the remedies provided for their enforcement have contributed largely to the increase in the volume of work in the High Courts, and applications for the enforcement of fundamental rights applications seeking to restrain the usurpation of jurisdiction by administrative bodies and applications or suits challenging the Constitutionality of laws, have made large additions to the pending files of the High Courts. It has further observed that the complexity of recent legislation has resulted in a large number of novel and difficult questions having been brought before the High Courts and such decisions have not only taken longer time, but have led not infrequently to references to Full Benches.

(a) Regarding Appointments Service Conditions Of Judges

4. As another important cause for the accumulation of arrears, the Law Commission has mentioned, the denial to the High Courts of the necessary judge strength.

5. The Law Commission in its report has referred to the unsuccessful endeavours of the Chief Justices of the High Courts to obtain additional judge strength for their Courts, which efforts were thwarted by reason of the faulty tests adopted by the Home Ministry, in assessing the necessary judge strength. The Law Commission has suggested that it should be a convention that if the Chief Justice of a State makes a request for appointment of additional judges and if the need for such additional judges is accepted by the Chief Justice of India, the Chief Justice's request should be acceded to.

6. According to the Law Commission yet another factor which has been responsible in a considerable measure for the accumulation of arrears in the High Courts, is the delay in filling up vacancies in the High Courts.

7. Diversion of available judge power for conducting judicial enquiries was another such factor referred to by the Law Commission.

8. Characterising unsatisfactory appointments to the High Court bench, as a factor which has considerably aggravated the situation caused by the accumulation of arrears, the Law Commission after critically examining the procedure adopted for, and the practice prevailing in the matter of, making appointments to the High Court has observed that "the almost universal chorus of comment is that the selections are unsatisfactory and that they have been induced by executive influence."

9. It has further observed that some of the members of the Bar appointed to the Bench did not occupy the front rank in the profession in the matter of legal equipment or of the volume of their practice at the Bar, and that even in respect of persons selected from the services, equally forceful or even more unfavourable comments had been made. The Law Commission has pointed out that the selection of a person for a High Court judgeship, on considerations other than of merit, has far reaching repercussions for such a Judge, would not be able to secure from the members of the bar the full measure of co-operation needed for the proper administration of justice, and would lack that amount of confidence in himself which alone can contribute to the efficient discharge of his duties, and as a consequence the work turned out by such a judge in the matter of quantity and quality, would not come up to the proper standard.

10. The difficulty of inducing leading and talented members of the bar, to accept judgeships has been mentioned by the Commission as an important cause for the fall in the standards of the High Court judiciary. Decreasing respect in Governmental circles for the judiciary and the courts, inadequacy of the salaries and pensions of High Court Judges, and the offering of judgeships to promising members of the Bar at a very late stage of their career, have been referred to by the Commission as some of the reasons for the reluctance of talented members of the bar to accept judgeships. The Commission however was of the opinion that the existing salaries of High Court Judges are not so inadequate as to deter competent members of the bar from accepting judgeships except in Calcutta and Bombay.

11. Having regard to the aforesaid factors, the Law Commission made the following recommendations :—

- (1) Any proposal made by the Chief Justice of a State for increasing the strength of the High Court, if it has the concurrence of the Chief Justice of India, should be accepted without demur or delay.

- (2) The frequent deputation of Judges for non-judicial work without the provision of a substitute is also responsible for the High Courts being undermanned and hence if such deputation is likely to last for a substantial period of time, arrangements should be made to appoint a substitute.
- (3) While consultation with the State executive is necessary before appointments are made to the High Court and it should be open to the State executive to express its own opinion on a name proposed by the Chief Justice, it should not be open to it to propose a nominee of its own and forward it to the Centre, and the role of the State executive should be confined to making its remarks about the nominee proposed by the Chief Justice and if necessary asking the Chief Justice to make a fresh recommendation.
- (4) In order to avoid delays it would be advisable for the Chief Justice of a State to send a copy of his recommendation direct to the Chief Justice of India.
- (5) Article 217 of the Constitution should be amended to provide that a Judge of a High Court should be appointed only on the recommendation of the Chief Justice of that State and with the concurrence of the Chief Justice of India.
- (6) The seniormost Puisne Judge should not be automatically appointed as the Chief Justice unless he has, apart from judicial competence administrative ability and a personality so as to be able to assess and regulate the subordinate judiciary and win the regard of the executive and while there is no need to have a rule that the Chief Justice of a State shall always be from outside the State, yet when a vacancy arises in the office of the Chief Justice of a High Court, the fittest person should be selected, if necessary from outside.
- (7) The appointment of the Chief Justice of a High Court should be with the concurrence of the Chief Justice of India.
- (8) The difficulty caused by the low salaries of Judges can be counteracted by offering judgeships to rising junior members of the Bar at a comparatively early age. But indiscriminate invitations to junior members of the Bar overlooking the claims of seniors tend to destroy respect for the Judges and consequently competent seniors from accepting judgeships.
- (9) There should be a convention or condition of service that a High Court Judge should not decline to accept the office of a Supreme Court Judge if called upon to do so.
- (10) The retiring age of High Court Judges should be raised to sixty five, in the case of appointments to be made hereafter.
- (11) The pension of the Chief Justice of a State High Court should be fixed at Rs: 2000/- per month and that of a Puisne Judge at Rs. 1750/- per month for 12 years of service.

- (12) The Judges of the High Court shall be allowed to draw their full salary for the period for which they are entitled to leave on full allowances and half salary for the period of leave on half allowances.
- (13) High Court Judges should not be permitted to practice in any Court after retirement.
- (14) The Constitution should be amended to bar a Judge of a High Court from accepting any employment other than as a Judge of the Supreme Court, after retirement either under the Union or under the State.
- (15) Sub-clause (a) of Clause 2 of Article 217 should be amended so as to permit the appointment to the High Court of only those judicial officers who have exercised for atleast three years judicial functions as District Judge.
- (16) The permanent strength of the High Courts should be refixed in consultation with the Chief Justice of that State and the Chief Justice of India, after taking into consideration the recent increase of their work and on the basis of the average annual institution of all types of proceedings in a particular High Court, during the last three years and the strength so fixed should be reviewed at intervals of 2 or 3 years.
- (17) All proceedings pending in a High Court beyond a period of 2 years in the case of First Appeals, one year in the case of Second Appeals and Letters Patent Appeals and six months in the case of Criminal matters, Writs and Civil Revision Petitions, should be classified as arrears and additional Judges appointed for the sole purpose of clearing these arrears within a period of two years and such Judges should not be diverted to the disposal of current work and these additional Judges should be appointed from amongst the most competent persons available at the Bar or in the service. For the purpose of recruitment the entire country should be treated as one unit, and an effort should be made to persuade suitable senior practitioners to accept judgeships for atleast a short period as a public duty.
- (18) An *ad-hoc* body presided over by the Chief Justice of India should be created to draw up a panel of names of persons suitable for appointment to the High Court.
- (19) Legislation should be immediately undertaken for transferring all First Appeals valued below Rs. 10,000 now pending in the High Courts to the District Courts.
- (20) The available judge-power of the High Courts should be conserved and used in an economic manner by increasing the power of single Judges.
- (21) The Judges should be assigned to deal with those branches of work in which they are most competent.
- (22) The work of admission should be entrusted to senior and specially competent Judges and cases should be admitted only after careful scrutiny.

- (23) The High Courts should work for atleast 200 days in the year. Once this is done, it should be for the High Courts to regulate their vacations as they think best.
- (24) The Judges should sit in Court and do judicial work for atleast five hours on every working day and should set an example of strict punctuality on the bench, and the practice of retiring to chambers for dictating judgments or doing administrative work during court hours is not desirable.
- (25) It is not desirable to have an all India cadre of High Court Judges in the sense that Judges should be easily transferable from one High Court to another.
- (26) Setting up benches of the High Court at different centres in a State is undesirable.

(b) Regarding Civil Appeals

12. The Commission considered the question of abolition or curtailment of the Original Side Civil Jurisdiction of the three High Courts of Calcutta, Bombay and Madras. It recommended the continuance of this jurisdiction but suggested that its lower limit be raised to Rs. 10,000 in Calcutta and the jurisdiction of the City Civil Courts in Madras and Bombay be reduced to Rs. 10,000/-. The restriction upon the jurisdiction of the Calcutta City Civil Court as to commercial cases and mortgage suits was also proposed to be abolished so that the Court should be able to try cases of all types upto a value of Rs. 10,000. Cases of this valuation already pending in the Original side of the Calcutta High Court were proposed to be transferred to the City Civil Court.

13. Chapter 15 of the Report deals with Civil appeals. The Commission was of the opinion that much relief could be given to the High Courts by implementing the recommendations of the High Courts Arrears Committee of 1949, to raise the appellate jurisdiction of the District Courts to Rs. 10,000/-.

14. In regard to Second Appeals, the Commission concurred with the view expressed by the High Courts Arrears Committee of 1949 and opined that the limit of Rs. 1000 laid down by Section 102 C.P.C. was low and it proposed that the limit should be raised to Rs. 2,000 and should cover even those suits which are not of a small cause nature provided that no right over or in respect of immovable property is involved in such suit.

15. Agreeing with the views of the Civil Justice Committee and opining that the restriction of the right of Letters Patent Appeal to cases certified by the Single Judge (who disposes of the Second Appeal) as fit ones for Appeal, would not suffice, the Law Commission was firmly of the view that there should be no Letters Patent Appeals at all from decisions of a single Judge of the Appellate Side of the High Court but that in a case in which the single judge who hears it takes the view, that the case is one of such difficulty or importance that it should be heard by a Division Bench, he should have the liberty to refer it to a Bench.

16. The Commission was against the omission of any of the items contained in the list of appealable orders under Section 104 and Order XLIII rule (1) C.P.C. The Committee was against the Constitution of Appellate Benches on the District level.

17. In Chapter 16 of their Report, the Law Commission considered the Civil Appellate Procedure. The Commission recommended an amendment of Rule 1 of Order XLI so as to permit an appeal to be filed without copies of the decree or judgment of the lower Court, as has been done in Madras. The Commission further recommended an amendment to the rules of the High Court so as to provide that before the appellate Court condones the delay under Section 5 of the Limitation Act, it should give notice to the respondent and hear his objections if any to the condonation of the delay.

18. The Commission recommended that a provision should be made in the rules of the High Court that when more cases than one or disposed of by a single judgment, the Appellate Court may dispense with the necessity of filing more than one copy of the judgment of the Court below.

19. Since sometimes, in an appeal, it becomes difficult to know precisely what relief the Appellant seeks, the Commission recommended an amendment of Rule 1 of Order XLI, so as to cast a duty upon every appellant to state in his memorandum of appeal the precise form of the order, he seeks at the hands of the appellate Court.

20. The Law Commission observed that the real purpose of Rule 11 of Order XLI—which has been enacted to enable the Court to dismiss Second Appeals in cases of decisions based on findings of fact, which do not disclose a point of law such as is required by Section 100 and clothes the Court with power to dismiss an appeal in limine without notice to the respondent, after hearing the appellant's pleader and sending for the record, if necessary, in such cases, has not been served in practice. It pointed out that having regard to the terms of Section 100 an appeal should not be admitted merely because the appellant has shown that an arguable or a *prima facie* valid point of law arises in the appeal, but that the Court has to be satisfied that the decision of the lower Appellate Court on a point of law was erroneous and that in order to do justice between the appellant and the respondent, it is essential that a further hearing should be given to both the parties. The Commission recommended the adoption of the practice of circulating the papers relating to a Second Appeal to a Judge outside the Court hours for the purpose of enabling him to determine whether it should be admitted straight away and notice issued to the respondents or whether the appeal should be posted for a preliminary hearing under Order XLI Rule 11. The Commission recommended that such a scrutiny should be by a senior and experienced Judge. To ensure a stricter and better scrutiny, the Commission suggested that there should be a statutory requirement providing that the Judge admitting the Second Appeal should state the point or points of law which arise for consideration and enabling the High Court to admit a second appeal on specified points only and it should be provided by rules that where a Second Appeal is filed, certified copies of the judgements of both the Courts below should accompany the memorandum of appeal and if in any such

appeal the appellant proposes to raise, any question of the construction of a document, a true translation of the document should also be filed with the Memorandum of appeal.

21. The Commission was of the view, that in case of summary dismissals of appeal an elaborate judgment was not necessary but a brief statement of the reasons for its dismissal would suffice.

22. The other recommendations of the Commission relating to Second Appeals were as follows :—

(1) Providing by means of rules that —

(a) The Memorandum of Appeal should contain the address for service filed by the respondent in the Court below.

(b) The memorandum of appeal is liable to be rejected unless it is accompanied by the requisite process fee for service of notice on the respondent and the process form duly filled in by the appellant, the appellant being entitled to a refund of the process fee in the event of a summary dismissal of the appeal.

(c) In cases where the appellant is required to pay the process fee a second time, the first notice not having been served on the respondent, provision to be made enabling the Court in the event of non-payment by the appellant of such process fees as required to dismiss the appeal for want of prosecution.

(2) Order XLI Rule 14 of the Code of Civil Procedure should be amended so as to empower the appellate Court to dispense with service of notice on respondents who have not appeared in the Lower Court.

(3) Notice of appeal should be sent in the first instance by registered post.

(4) The courts should be empowered to dismiss an appeal for non-prosecution, in the event of non-payment of process fee or for failure to take steps to have the paper books prepared.

(5) Since under the procedure laid down in the Code the respondent is not obliged, being served with a notice of appeal, to enter appearance or take any other steps to defend the appeal, or to inform the court or the appellant of his intention to contest the appeal, and can come forward on the very date of the hearing to support the judgment of the lower court and in order that the appeal if uncontested can be dealt with expeditiously and paper books may be dispensed with, a rule may be framed requiring a respondent who intends to appear and defend the appeal, to enter appearance in the appellate court, by filling a memorandum of appearance within a specified time, containing his address of service and the form of summon in an appeal should be amended, as has been done in Madras to apprise the respondent of the need for his entering an appearance.

- (6) The printing of paper books should not be entrusted to the Government press and private printing may be allowed, and the printing of records in cases which are not likely to go to the Supreme Court, reduced to the minimum.
- (7) Whenever possible, cyclostyling may be permitted instead of printing and other High Courts may adopt the practice followed in the Bombay High Court of printing only the memorandum of appeal and the judgment of the lower Court, while the evidence and other proceedings are typed in the District Court and sent to the High Court in book form, and then a combined paper book is prepared in the High Court, which comprises the proceedings of the case, the memorandum of appeal or cross objections if any, the judgment of the lower court, the evidence recorded in the case and the exhibits if any. The printing of judgments to be done locally under the supervision of the subordinate Courts and the responsibility for preparing the paper book in Second Appeal and furnishing a copy of it to the respondent, may be cast on the appellant on pain of dismissal of the appeal for non-prosecution in case of default.
- (8) In taxing the costs of an appeal the appellate court should be vigilant and disallow the costs of including unnecessary papers in the paper book.
- (9) In appeals valued over Rs. 20,000/- all papers should be translated into English and a sufficient number of paper books should be prepared including paper books needed for use in the Supreme Court.
- (10) Fixed dates should not be given for the hearing of appeals in High Court except when counsel from outside have to appear. In all other cases, a continuous list of ready cases should be prepared and cases taken from that list day after day.
- (11) Papers relating to an appeal should be circulated to the judges before hand so that they can come prepared before the hearing of the appeal.
- (12) The powers of a single judge should be raised in all the High Courts so as to enable them to hear and dispose of finally all first appeals and miscellaneous appeals valued below Rs. 10,000 and also all second appeals.
- (13) Order XLVI Rule 27, Code of Civil Procedure, should be amended to enable a party to an appeal to adduce additional evidence if he could not, with due diligence, have produced it in the lower Court.
- (14) Order XLI Rules 23 and 25, Code of Civil Procedure should be amended to enable an appellate court to remand a case whenever it considers it "necessary in the interests of justice".

- (15) When a case is remanded for trial of a particular issue or for recording additional evidence, the appellate court should, in its order of remand, fix a date by which the lower court has to resubmit the case. In such cases, the appellate court should also fix a date on which the parties should appear before the lower court to receive its directions.
- (16) Section 98 of the Civil Procedure Code should be amended on the lines of clause 36 of the Letters Patent (of Calcutta, Madras and Bombay) to enable the judges to refer any point on which they differ to a third judge.
- (17) Judgments should as far as possible be delivered immediately on the conclusion of the hearing and judges should not retire to their chambers or take working days off in order to write reserved judgments.
- (18) The practice of reading out reserved judgments in open Court should be discontinued in order to save time.
- (19) It is not desirable to place the draft judgment on the table before signature, as this is likely to lead to a reopening of the case.

(c) Regarding civil revisions

23. In regard to Civil Revisions, the Law Commission found that over fifty per cent of revision applications under Section 115 of the C.P. Code are dismissed summarily by the High Courts and even out of those in which a rule *nisi* is issued, the percentage of ultimate success is very low and that many of these revision applications are made against interlocutory orders passed by the subordinate courts in pending proceedings and that when a rule *nisi* is issued in such cases, the proceeding in the lower court is generally stayed and its further progress is held up during the pendency of the petition in the High Court and since when a rule *nisi* is issued on such applications the record of the case is generally called for from the subordinate court—even when no order of stay has been made—the subordinate court is prevented from proceeding further in the absence of the record, resulting in an automatic stay of the proceedings before the Lower Court. In these circumstances, the Law Commission considered whether the right of revision against interlocutory orders should be drastically curtailed and revision restricted only to cases falling within—clause (a) of Section 115 of the C.P.C., and not be permitted in cases falling under clauses (b) and (c) of that Section. The Law Commission was of the opinion that the powers of the High Court in revision generally should not be curtailed and that the right of revision against interlocutory orders being a valuable one should not be abolished.

24. It made the following recommendations regarding Civil Revisions:

- (1) A rule *nisi* should not be issued except upon very careful and strict scrutiny;
- (2) Where a stay is not granted the records of the subordinate court should not be called for and if it is thought that the records are necessary, only certified copies of the records should be required to be produced:

- (3) Whenever a rule *nisi* is granted and a stay order issued, every effort should be made to dispose of the revision application within two or three months;
- (4) The High Court should obtain from subordinate Courts a periodical return showing the cases which have been held up on account of the pendency of revision petitions in the High Court;
- (5) a provision should be made in Section 115 of C.P. Code that nothing therein shall apply to interlocutory orders from which no appeal lies unless the order likely to occasion a failure of justice or cause an irreparable injury;
- (6) Provisions similar to those in Order XLI Rule 5 of the C.P.C. should be made by means of a rule regulating the power of the High Court to grant stay in revision applications;
- (7) In view of the difference of opinion that has arisen between the High Courts in the interpretation of the words "case decided", in Section 115 of the C.P.C. amendment of Section 115 C.P.C. should be made in order to make it clear, that the expression "case decided" includes an interlocutory order including an order deciding an issue, from which no appeal lies;
- (8) It should also be made clear by a suitable amendment in Section 115 C.P.C. that the power of revision is limited to such interlocutory orders, which if decided in favour of the petitioner, would be sufficient for the final disposal of the suit or proceeding and the section should be further amended to permit a revision application to be filed against an order, if otherwise capable of being revised, in cases in which no appeal lies either to the High Court or to the District Court from the order in question.

25. In regard to the powers of the High Court under Article 227 of the Constitution, the Commission was of the opinion that such a power should be left untouched.

26. According to the Commission the revisional jurisdiction under Section 25 of the Provincial Small Cause Courts Act should continue to remain with the High Court, and not be transferred to the District Court, and in the admission of an application for revision under Section 25 of the Provincial Small Cause Courts Act should not be made conditional on the applicant depositing the decretal amount in court. Likewise it was not in favour of continuing the proviso to Section 17 of the Provincial Small Cause Courts Act in so far as it requires a deposit of the decretal amount or security from an applicant for setting aside an *ex parte* decree.

(d) Regarding Execution matters

27. In regard to execution matters the following were some of the recommendations made by the Commission:

- (1) Orders in execution should be non-appealable if they deal with pleas of payment within the limits of the small cause jurisdiction of the court executing the decree.

- (2) In appeals against orders in execution of money decrees, the appellant judgment debtor should be required to deposit or at least give security for the decretal amount as a condition precedent to the admission of the appeal.
- (3) The requirement of security or imposition of conditions before granting stay of decree under Rule 26, Order XXI should be mandatory and not discretionary and Court's power to stay execution by issuing a temporary injunction under Order XXXIX Rule 21 should be taken away.

28. The Commission was not in favour of the total abolition of Second Appeals in orders passed under Sections 47.

29. Referring to the evil of protracted hearings of appeals the Commission observed that the American system of "written brief" and restricted oral arguments was not suitable for introduction in our country and that the desirability of introducing in the High Court, at any rate in heavier appeals, a system of filing a statement of the case, as is being done in the Supreme Court, did not commend itself to them; and that if the judges read the papers relating to an appeal before the hearing, the object sought to be achieved by filing a statement of the case can equally be well served. The Commission however suggested that in order to prevent surprise and to ensure adequate and speedy assistance to the court, counsel should exchange, before the date of the hearing lists of the authorities they propose to cite.

30. The Commission was of the view that the High Court should continue to retain exclusive jurisdiction in insolvency matters in Presidency towns.

(e) Regarding writ petitions

31. In regard to writ petitions the Law Commission was of the opinion that there should not be any abolition or curtailment of the scope of Article 226 of the Constitution since that Article is intended to formulate procedures which would enable the citizen to approach the courts to obtain speedy and effective redress against any unconstitutional enactment or unwarranted executive action, and the existence of the new jurisdiction conferred under Article 226 of the Constitution has made the citizen conscious that the State exists primarily for his good and that under its laws, he has rights of which he can obtain quick enforcement by the highest court in the State at a very reasonable cost. At the same time the Law Commission emphasised the necessity for scrutinising Writ Applications at the admission stage so that the files of the courts may not be clogged by applications which *prima facie* have no merit and which are bound eventually to fail. It also emphasised the need for very expeditious disposal of such applications within a period of six months. The Law Commission, however, left it to each court to devise its own procedure in regard to the disposal of such applications. While deprecating the tendency on the part of certain High Courts to grant interim stays in writ applications too readily with the result that a number of administrative measures of importance were held up for a considerable period, the Law Commission observed that an application for stay in any matter is required to be supported by special circumstances and that should be so in a greater degree in the case of an extraordinary remedy in the nature of an application under Art. 226

and as such the Courts should be very circumspect in dealing with the application for interim stay. Their recommendations regarding the writ jurisdiction of the High Court under Art. 226 were summarised as follows:

- (1) The writ jurisdiction of the High Court has served a very useful purpose and should under no circumstances be restricted.
- (2) The strength of the High Courts should be increased wherever necessary to enable them to deal with this extra work expeditiously.
- (3) Writ petitions should be disposed of with in a period of six months from the date of their institution. The present duration of these petitions in some of the High Courts is too long.
- (4) These petitions should be carefully scrutinised at the admission stage and a rule *nisi* issued only in proper cases.
- (5) It should be for the individual High Courts to decide, having regard to the local circumstances, whether writ petitions should be heard by a single judge or by a bench in the first instance.
- (6) Rules should be framed by the High Court on the lines indicated in their report (on the Specific Relief Act) to enable them to record evidence and to determine, if necessary, disputed questions of fact in proper cases in proceedings under Article 226.
- (7) The court should be circumspect in granting stays in writ petitions and normally stay should be ordered only after giving notice to the respondent and hearing him.
- (8) In emergent cases, when an *ex parte* stay is ordered it should be operative only for a very short time within which the respondent should be served with notice and heard.
- (9) Care should be particularly exercised in granting stays in revenue matters in which it is proposed to stay the assessment or collection of taxes.
- (10) Steps should be taken to remove the hardship on the citizen created by the decision in "*Election Commission v. Saka Venkata Rao*".

(f) Regarding administrative authorities

32. The Commission considered the position of administrative authorities, some purely administrative and some quasi-judicial constituted by a number of statutes and specially considered the problem presented by petitions by Government servants seeking redress in service matters and pointed out the danger of the High Courts being turned into Tribunals for deciding disputes between the Government and its employees. As a solution to the problem the Commission recommended the simplification and redrafting of the relevant service rules and the establishment at the Centre and the States of an appellate tribunal or tribunals presided over by a legally qualified chairman and with experienced civil servants as members, to which can be referred memorials and appeals from Government Servants in respect of disciplinary and other action taken against them. The Commission was against the establishment of the system of administrative courts which would take the place of ordinary courts of law, for examining the validity of administrative action.

33. The Commission's recommendations in regard to administrative bodies were summarised as follows :

- (1) The existing jurisdiction of the Supreme Court and the High Courts which enables them to examine to a limited extent the action of administrative bodies should be maintained unimpaired.
 - (2) The creation of a general administrative body like the "*Conseil d'Etat*" in France is not practicable in our country.
 - (3) Decisions should be demarcated into—
 - (a) judicial and quasi-judicial; and
 - (b) administrative.
 - (4) In the judicial and quasi-judicial decisions, an appeal on facts should lie to an independent tribunal presided over by a person qualified to be a judge of a High Court. He may be assisted by a person or persons with administrative or technical knowledge. The tribunal must function with openness, fairness and impartiality as laid down by the Franks Committee.
 - (5) In the case of judicial or quasi-judicial decisions, an appeal or a revision on questions of laws should lie to the High Court. Special machinery can, if necessary, be provided to assist the High Court judge. The suggestions made by the Spens Committee may be adopted in this connection.
 - (6) In the case of administrative decisions, provision should be made that they should be accompanied by reasons. The reasons will make it possible to test the validity of these decisions by the machinery of appropriate writs.
 - (7) The tribunals delivering administrative judgments should conform to the principles of natural justice and should act with openness, fairness and impartiality.
 - (8) Legislation providing a simple procedure embodying the principles of natural justice for the functioning of tribunals may be passed. Such procedure will be applicable to the functioning of all tribunals in the absence of special provision or provisions in the statutes constituting them.
 - (9) Appropriate legislation will have to be enacted to provide for tribunals to operate in the manner indicated above for the discharge of quasi-judicial or judicial functions by administrative bodies or officers, which may be entrusted to them by any legislation.
- (g) Regarding criminal appeals

34. In regard to Criminal Appeals, the recommendations of the Commission were summarised as follows :

- (1) The Criminal Procedure Code should be amended so that appeals, even from orders passed under Section 122 refusing or rejecting a surety, lie to the Sessions Judge and not to the District Magistrate.

- (2) As in the case of presidency Magistrates, a sentence of imprisonment not exceeding six months or a fine not exceeding two hundred rupees imposed by a court of sessions should be non-appealable.
- (3) In non-separation States, the cadre of assistant Sessions judges should be strengthened to enable them to dispose of appeals from the decision of second and third class Magistrates.
- (4) In separation States, appeals from the decisions of second and third class magistrates should lie only to the District Magistrate (Judicial) or to any specially empowered judicial first class magistrate. The code may be amended for this purpose.
- (5) Criminal appeals in the High Courts should be disposed of within six months and in the courts of session and the courts of magistrates within a maximum period of two months. It is, however, possible for the sessions courts and courts of magistrates to dispose of criminal appeals within thirty days and this should be aimed at.
- (6) The powers of a single judge in all the High Courts should be enlarged so as to enable him to dispose of all criminal appeals except those in which sentences of death or imprisonment for life have been passed. However, if there are no arrears in a High Court and the judge-power permits this, it should be open to particular High Courts to provide that Criminal appeals should be heard by a Bench of two judges.
- (7) To ensure that criminal appeals in High Courts are disposed of early, the printing of paper books should be expedited and, if necessary, cyclostyling should be resorted to instead of printing.
- (8) The methods set out in paragraph 25 of the Commission's report may be followed to ensure expeditious disposal of Criminal appeals.
- (9) The suggestion that Government appeals against orders of acquittal should not be liable to be dismissed at the state of admission cannot be accepted.
- (10) It is not immediately necessary to amend the law to clarify the position with regard to the powers of the High Court in dealing with appeals against an order of acquittal. The matter may be left to the Supreme Court itself for clarification.

(h) Regarding Criminal revisions

35. In regard to Criminal Revisions the following were the recommendations of the Commission:

- (1) All criminal revision petitions in the High Court other than those in which a sentence of death or transportation for life can be passed should be heard and finally disposed of by a single judge.

- (2) Sessions Judges should be invested with full powers to pass final orders in revision in all matters other than petitions against orders of acquittal or for enhancement of sentence.
- (3) The judicial district magistrate should continue to retain his power of revision under the Code to refer cases to the sessions judge for final orders.
- (4) Magistrates should maintain a memorandum of the substance of the evidence of witnesses even in non-appealable cases tried summarily.
- (5) Presidency magistrates also should be required to make a memorandum of the substance of evidence in non-appealable sentences.
- (6) Presidency magistrates should be required to frame a charge in all warrant cases even if they pass only non-appealable sentences.
- (7) The inherent powers of all criminal courts should be statutorily recognised.
- (8) The courts of session should be recognised as having inherent power to pass appropriate orders to prevent the abuse of the process of any subordinate court by an appropriate amendment to section 561-A of the Criminal Procedure Code.

CHAPTER III

POSITION OF ARREARS AS FOUND BY THE LAW COMMISSION IN 1956 AND POSITION OF ARREARS AT THE END OF THE YEAR 1970

1. For comparison we have taken the institutions pendency and disposal of cases in the various High Courts in 1956 when the Law Commission considered the problem of arrears and the position at the end of 1970. The High Courts of Delhi, Gujarat and Simla were not in existence in 1956. Figures for the years 1957 and 1961 respectively for the two High Courts of Delhi and Gujarat have, therefore been taken for comparison. Figures for the year 1956 were not available from the High Court of Jammu & Kashmir and on this account the figures for 1958 for that High Court have been taken into consideration.

(i) Statistical Annexures

2. The nature and magnitude of the problem can easily be seen from the figures we have given in the Annexures.

3. ANNEXURE I—shows the institutions, disposals and pendency of cases in the various High Courts during the year 1956 and 1970;

ANNEXURE II—shows the number of various types of cases instituted during the year 1956 in the various High Courts;

ANNEXURE III—shows the number of various types of cases disposed of by the various High Courts during the year 1956;

ANNEXURE IV—shows the number of various types of cases which remained pending at the end of the year 1956 in the various High Courts;

ANNEXURE V—shows the number of various types of cases instituted during the year 1970 in the various High Courts;

ANNEXURE VI—shows the number of various types of cases disposed of by the various High Courts during the year 1970;

ANNEXURE VII—shows the number of various types of cases which remained pending at the end of 1970 in the various High Courts;

ANNEXURE VIII—shows the number of various types of cases pending in the various High Courts at the end of June 1971;

ANNEXURE IX—shows the number of Election Petitions filed in the various High Courts during the years 1967, 1968 and 1969 and the number of days devoted to their hearings;

ANNEXURE X—shows the number of Writ Petitions filed under Article 226 and 227 of the Constitution, the number of Writ Petitions challenging the validity of statute, the number of Writ Petitions in respect of service matters, the number of suits involving service matters, Land Acquisition cases,

under the Tax Laws, Company matters, cases involving litigation with Municipalities; the number of original suits and original petitions, and the number of Letters Patent Appeals filed. That annexure further shows the total number of suits filed and disposed of in the subordinate Civil Courts in the years 1956 and 1969;

ANNEXURE XI—shows the number of appeals against orders of Election Tribunals instituted in the years 1964, 1965 and 1966 and the number of days devoted to their hearing.

4. These statements and the graphs attached to this report clearly disclose that the total institution of causes during the year 1970 is more than double the total institution during the year 1956. They also show how even though the disposals have correspondingly increased, the pendency has also considerably increased.

(ii) Norms for Determining Arrears

5. It is obvious that a High Court cannot dispose of an appeal, a revision application or a petition for a writ or a suit as soon as it is entered in the registers of that Court. Many preliminary steps have to be taken before a case is ready for hearing; process fee has to be paid and the respondent or the defendant has to be served; the record has to be prepared for the use of the Court and for that purpose in appeals the record may have to be summoned from the Court whose decision is appealed against. Again the respondent has an opportunity of filing cross-objections if a part of the decree appealed from is against him, and he has not preferred a substantive appeal. If a party to the proceeding dies, his heirs may have to be brought on the record. In petitions for writs the respondent must be given an opportunity of filing his counter or reply affidavit and the petitioner, an opportunity to file his rejoinder. A cause before the High Court cannot, therefore, be said to be delayed until it is ready for hearing.

6. Jurisdiction exercised by the High Court varies according to the class to which the cause belongs. Normally in a first appeal the parties are entitled to canvass the correctness of the decision appealed from on grounds of law and fact. In second appeals the jurisdiction of the High Court is limited by Section 100 of the Civil Procedure Code to what may be called errors of law. In civil revision applications against adjudications, interlocutory as well as final, the jurisdiction of the High Court is restricted, by the terms of Section 115 Civil Procedure Code, to examine refusal to exercise jurisdiction or illegal assumption of jurisdiction or illegality or material irregularity in the exercise of jurisdiction.

7. In applications for revision of the order of the Court of Small Causes, the test applied is whether the parties had a fair trial of the dispute. In revision applications under Section 75 of the Provincial Insolvency Act correctness of the decision on a question of law may be canvassed.

8. Right to appeal under the Letters Patent is exercisable in certain cases. The nature of the jurisdiction exercised by the High Court varies according to the class to which the cause decided by a Judge of the High Court belongs. Against the exercise of civil revisional jurisdiction there is no

appeal under the Letters Patent. Against decisions in second appeals an appeal may lie under the Letters Patent only with the leave of the Judge who decided the appeal.

9. In an appeal under the Letters Patent against the decision of a single Judge in a first appeal, there is no expressed limitation but the circumstances that the party has had one hearing before a Judge of the High Court is taken into consideration.

10. In appeals under the Letters Patent against decisions of a single Judge under special statutes or in the trial of suits there is apparently no restriction on the scope of the enquiry. No appeal, however, lies under the Letters Patent against the orders of a single Judge in an Election Petition under the Representation of the Peoples Act.

11. The jurisdiction exercised by the High Courts under Art. 226 of the Constitution permits an enquiry, on questions of fact as well as of law into the legality, correctness, or propriety of the action of the State (as defined in Art. 12 of the Constitution) and its servants. Art. 227 confers jurisdiction which is supervisory in character and may be exercised within approximately the same periphery in which jurisdiction under Section 115 Civil Procedure Code may be exercised, emphasis being more on the competence and regularity of the proceedings of the Court or Tribunal than the technical correctness of the decision.

12. The High Court also exercises advisory jurisdiction under the various taxing statutes: the Income-tax Act, Wealth Tax Act, Gift Tax Act, Estate Duty Act and except in certain States also under the State Sales Tax Acts. Certain other taxing statutes also invest the High Court with advisory jurisdiction.

13. In the exercise of Criminal appellate jurisdiction there are no gradations like first appeals and second appeals.

14. In Criminal appeals questions of fact and of law are open to be canvassed. But from the very nature of the jurisdiction exercised by the Court of first instance, in an appeal against an order of acquittal the High Court brings to bear the test that the presumption of innocence of the accused with which the proceeding commenced in the court of first instance is reinforced by the order of acquittal. No qualitative limitations are laid down in regard to the criminal revisional jurisdiction. All questions are theoretically open to be canvassed by the High Court naturally concerns itself with determining the regularity of the trial to substantial observance of rules of procedure and determining whether injustice has resulted because of gross error of law or misconception of evidence.

15. Jurisdiction under Section 374 Criminal Procedure Code is exercisable by the High Court when a Court of Session has passed a sentence of death. The proceeding is required to be submitted to the High Court and the sentence cannot be executed unless it is confirmed by the High Court. The High Court is required, in the exercise of its jurisdiction, to consider the entire evidence on record.

16. The High Courts also try as Courts of original jurisdiction certain classes of causes *e.g.* under the Companies Act, Election Petitions under the Representation of Peoples Act. Besides the High Courts of Calcutta, Madras, Bombay and Delhi are Courts of original civil jurisdiction and try suits where the subject-matter exceeds a specified value. Some of these High Courts also exercise original jurisdiction in Admiralty, Matrimonial, Probate and Insolvency.

17. Even though the Letters Patent of the Calcutta, Madras and Bombay High Courts provide for the exercise of original criminal jurisdiction by the High Courts, in practice the jurisdiction is not exercised and the cases committed to the courts of Session in their respective jurisdiction are tried by the City Civil and Sessions Courts located within the towns.

18. Time required for disposal of causes in different jurisdictions cannot be measured by a uniform duration test.

19. Making a cause ready after institution for hearing in the exercise of original, appellate, and revisional jurisdiction and under the writ jurisdiction, involves several procedural steps. In original jurisdiction even after the cause reaches hearing considerable time is taken in recording evidence of witnesses and in hearing arguments. In determining whether a cause may be said to be in arrear, the time taken up in making the case ready for hearing must be excluded. Different norms were suggested as to the probable duration of first appeals, second appeals, revision applications, confirmation of death sentence references, criminal appeals, criminal revision applications and tax references.

20. It was said that an ordinary first appeal should be disposed of within two years; a second appeal within one year; an appeal from an order and a civil revision application within six months; a criminal appeal within about nine months, a criminal revision application within six months, a death sentence of reference within three months. These are stated to be normal durations in causes in which time is not spent for incidental proceedings like bringing heirs on record, for obtaining additional evidence, for determining issues which have not been determined etc.

21. It is, however, difficult to adhere to any time schedule for disposal of a given cause because the time taken for disposing of each individual cause will be determined by many factors.

22. A complication is the statutory priority accorded to Election Petitions which have to be finally disposed of within six months. These receive special priority pushing out even cases which are ready for hearing. Cases for confirmation of death sentences and cases, which by order of the Court, are given special priority, because delay in the disposal of the cause is fraught with grave damage to public or private interests, have also to receive early attention.

23. Any attempt to work out at a given time the number of causes in arrears in a High Court must involve a laborious calculation requiring determination of the time taken in each case between the point when the cause is ready for hearing and when it is finally disposed of.

24. We have given much thought to evolving an exact method for determining the number of causes which may be said truly to be in arrears in a High Court at a given time. The Law Commission has suggested that those cases which have been pending for periods of time longer than those mentioned below should be classified as arrears :

Second Appeal and Letters Patent Appeal	One year
First Appeal	Two years
Criminal matters, Writ and Civil Revision Petitions	Six months

In our opinion such a formula would not enable a proper assessment of the arrears in the various High Courts. After considering the various methods we think that a rough test may be adopted as fairly reliable that the number of substantive causes (not including applications for interlocutory orders) pending at a given time in excess of one year's average institution in that High Court may be deemed as arrears—average being taken of the institutions during the years 1968, 1969 and 1970. Applying this test we find that the arrears in the different High Courts are as set out in Annexure XII. The arrears in each High Court in regard to certain important causes are as follows :—

	FIRST APPEAL	SECOND APPEAL	CIVIL REVI- SION PETI- TIONS	WRIT PETI- TIONS
1	2	3	4	5
ALLAHABAD	2549	12131	1282	3129
ANDHRA PRADESH	899	106	No arrears	No arrears
ASSAM & NAGALAND	609	372	88	705
BOMBAY	4704	4740	426	835
CALCUTTA	7417	10396	*20483	861
DELHI	2708	896	395	2835
GUJARAT	2766	1654	312	964

*include Writ Petitions

1	2	3	4	5
JAMMU & KASHMIR	27	33	No arrears	No arrears
KERALA	1446	1607	886	2538
MADHYA PRADESH	902	3888	No arrears	No arrears
MADRAS	4438	3340	909	983
MYSORE	881	2834	97	1649
ORISSA	1170	823	No arrears	288
PATNA	4574	1229	No arrears	No arrears
PUNJAB & HARYANA	3689	5171	No arrears	2894
RAJASTHAN	562	262	No arrears	944

CHAPTER IV

CAUSES FOR THE ARREARS

(1) Population Explosion

1. According to the census of 1951 the population of India was 36,12,45,400. It increased to 43,90,72,600 in 1961. The 1971 census shows that the total population of the country has increased to 54,69,56,000. It is natural that increase in the population would give rise to at least a proportionate increase in the number of disputes to be settled, civil claims to be decided and criminal cases to be tried and determined.

(2) Increase in Legislation activities

2. Another reason for the increase in the number of cases instituted in the various High Courts, is the tremendous increase in legislation—primary and subordinate. Annexure XIII shows the number of enactments passed by Parliament and the number of enactments passed by the various State Legislatures. Interpretation of the various provisions of these statutes and adjudicating upon the vires of these statutes occupy a great deal of the time of the High Courts. Further the increase in statutes has led to a corresponding increase in the subordinate Law making process by Orders, Rules, Bye-laws and Regulations which themselves call for interpretation. Again the competence of the authorities to make that subordinate legislation and to act thereunder is also chalked.

(3) Erosion in the value of the Rupee

3. The purchasing power of the rupee is now a small fraction of what it was a few decades ago. There has been on that account a corresponding increase in the value of properties and commodities. Disputes concerning transactions in immoveable properties and commodities are now brought before the High Courts by way of First Appeals which did not reach, in the earlier decades, the High Courts in the form of first appeals.

(4) Change in the pattern of litigation

4. In the present days there are comparatively speaking fewer institutions in the High Court of, causes arising from disputes relating to partition, adoptions, mortgage suits, money claims, rent suits and similar claims. The reason is not far to seek. Since the commencement of the Constitution, the pattern of legislation has fundamentally changed. With the reorientation in the concept of State functions, resulting in control on economic activity, restriction on money lending, agrarian reforms, control on industrial enterprise, legislation to improve condition of labour, industrial and agricultural, broad based tax legislation aimed at preventing

concentration of wealth, changes in the personal laws etc., causes of the traditional form of litigation, which occupied the time of the High Courts a few decades ago, are not much in evidence.

5. The State has now launched upon a vast programme of social and economic reforms which is sought to be achieved by legislative process in the Parliament and the State Legislature, and by the executive exercising delegated legislative powers by rules, regulations, orders and bye-laws. The result has been a tremendous increase in the output of laws often displaying inefficient draftsmanship. These laws prejudicially affect the rights of Corporations, individuals and groups of individuals. Execution of the laws is often challenged in the High Courts. The Constitution has also guaranteed certain fundamental rights by Part III and has made those rights enforceable by the aggrieved parties by petitions. In the enforcement of those rights complicated questions of validity of statutes, of permissible limits of delegation of legislative competence and of exercise of purely executive orders, arise.

6. The State (in the sense in which that expression is understood in Article 12) is now the most important single litigant before the High Courts and the State activities, legislative, executive, quasi-judicial are challenged in a large number of matters coming before the Courts by petitions for writs. The power of the High Courts and the Supreme Court to grant relief on the ground primarily of denial of equality or equal protection of the laws and infringement of the fundamental freedom under Art. 19 attracts a variety of causes. On a plea of infringement of rights fundamental and otherwise a vast crop of causes is instituted, in which the validity of rules, notifications, circulars and executive orders relating to promotions in public sectors is challenged. Adjustment of the existing rules, especially relating to service conditions, consequent upon Reorganisation of States, has been a fruitful source of causes. In some areas, nationalisation of the transport industry has been responsible for a large crop of litigation. Election to Panchayats, local bodies and Municipalities have also been responsible for the increase in litigation. Validity of action of taxing authorities and orders passed by the Customs and Excise Authorities also add to the number of causes which come before the High Courts either by petitions or appeals or revisions or references.

7. There has been a steep rise in the number of petitions for issue of writs in the High Courts. We may reiterate the view expressed by the Law Commission that no case is made out for restricting the jurisdiction of the Courts. With the entrustment of wide executive power affecting the citizens in the enjoyment of their right to property and person, citizens regard the High Courts as the only effective check on the exercise of powers illegally, *mala fide*, or arbitrarily and challenge, and in many cases with success, actions taken by the executive. Even legislative actions found to be unauthorised have been struck down.

(5) Investment of Special Jurisdiction

8. The amendments made in the Representation of the Peoples Act, 1951 by the Amendment Act, of 1966 has resulted in introducing on the file

of the High Courts a form of litigation which from its very nature requires long and elaborate enquiry. The former provision which invested the Election Tribunal with power to try the petitions with a right of appeal to the High Court to the aggrieved party had by and large worked satisfactorily. But the Act was amended in 1966 and a large number of petitions are filed after the elections to the Parliament and the State Legislatures for setting aside elections. They have to be tried by the High Courts as Courts of original jurisdiction. The High Courts constituted as they are at present, are ill-equipped for the trial of the large number of election petitions filed in the High Courts. In this form of litigation there is rarely a settlement; it is invariably fought out to the bitter end, each side tendering a mass of evidence oral and documentary. Investment of jurisdiction in the High Courts to try election petitions as Court of First instance and the statutory provision that the petition shall be disposed of within six months has placed, we were told, an intolerable burden upon the High Courts and have contributed in no small degree to the accumulation of arrears.

(6) Inadequacy of Judge strength

9. Inability of the High Courts to cope with the inflow and disposal of rising number of causes instituted is largely attributable to the denial of the necessary Judge strength to the High Courts at the appropriate time. A glance at the Annexures reveals that there has been a steep rise in the Court work, which the judge strength could not conceivably cope with. Our attention was drawn by the Chief Justices that even after there was a substantial increase in the institutions and sizeable arrears have accumulated there has been no readjustment of allotted Judge strength, and the High Courts were required to attend to a much larger quota of work than they were equipped to cope with. Annexure XIV shows the sanctioned strength and actual strength of Judges in the various High Courts at the end of 1971. Depletion of the normal strength of the High Courts, by deputing Judges to Commissions and Committees for holding judicial, quasi judicial and sometimes political enquiries and to various tribunals set up from time to time and the delay in filling vacancies in the High Court have contributed in no small measure to the accumulation of undisposed of causes. Before addition to the High Court strength is sanctioned many years lapse and by the time the additional personnel take a hand in attending to the file much larger volume has piled up necessitating further additions. Again, in filling up normal vacancies there is many times undue delay. We were told of occasions in which in some High Courts existing vacancies were not filled for more than two years because sometimes the Executive did not agree to the suitability for appointment of persons recommended by the Chief Justice.

10. In the working paper of the all India Law Seminar recently held statistics are published at page 30 stating the delay in appointments only in the course of one year.

The following vacancies of the High Court Judges had not been filled up till August 18, 1970 from the date noted against them :

Allahabad	2 Permanent	July 24, 1970	—1m. 25 days.
		July 1, 1970	—1m. 18 days.
Assam and Naga-land	1 Permanent	Jan. 31, 1970	—6m. 18 days.
Andhra Pradesh	1 Permanent 1 Additional	May 9, 1970	—3m. 9 days.
		Nov. 11, 1970	—9m. 7 days.
Bombay	2 Permanent 1 Additional	April 9, 1970	—3m. 20 days.
		May 28, 1970	—2m. 20 days.
Calcutta	2 Permanent	Jan. 14, 1970	—7m. 4 days.
		June 1, 1970	—2m. 17 days.
Madras	2 Permanent	Feb. 3, 1970	—6m. 15 days.
Madhya Pradesh	2 Additional	April 21, 1970	—3m. 27 days.
Patna	2 Additional	Nov. 11, 1969	—8m. 7 days.
		April 22, 1970	—4m. 27 days.

These are taken from the statement of the Minister of Home Affairs before the Rajya Sabha on August 18, 1970. The delays in 1970 are not exceptional : they conform to the normal pattern. Annexure XV shows the number of days lost in making appointment of Judges in the High Courts during the years 1965-1970. Illustrative of such delays are the following statements furnished by the Allahabad and Patna High Courts.

Statement showing the number of days lost in appointment of Judges in the High Court of Judicature at Allahabad during the years 1969 to 1971:

Year	Days lost in appointment
1969	142
1970	100
1971	285

Statement showing the delays in filling vacancies in the High Court of Judicature at Patna.

Date on which vacancy occurred	Date of appointment	Period for which there was no Judge
(1)	(2)	(3)
9-9-66	11-11-66	2 months 2 days
9-9-66	15-11-66	2 months 6 days
11-11-66	21-3-67	4 months 10 days
11-11-66	21-3-67	4 months 10 days
1-12-66	21-3-67	3 months 20 days
31-10-67	5-2-68	3 months 4 days
31-10-67	5-2-68	3 months 4 days
31-10-67	21-3-68	4 months 20 days
31-10-67	21-3-68	4 months 20 days
1-3-68	21-3-68	20 days
3-8-68	5-2-69	6 months 2 days
6-4-68	22-4-68	16 days
1-1-69	5-2-69	1 month 4 days
5-2-69	6-4-70	1 year 2 months 1 day
5-2-69	6-4-70	1 year 2 months 1 day
26-7-69 (Post for election cases)	Not filled up	2 years 5 months 5 days
6-9-69	7-11-69	2 months 1 day
7-11-69	6-4-70	4 months 29 days
12-4-70	22-4-70	10 days
22-4-70	24-5-71	1 year 1 month 2 days
5-9-70	19-4-71	7 months 14 days
15-9-70	19-4-71	7 months 4 days
11-11-70	19-4-71	5 months 8 days
12-1-71	19-4-71	3 months 7 days
19-4-71	24-5-71	1 month 5 days
19-4-71	24-5-71	1 month 5 days
19-4-71	24-5-71	1 month 5 days
19-4-71	Not filled up	8 months 12 days
16-10-71	8-11-71	22 days
8-11-71	Not filled up	1 month 23 days
17-11-71	Not filled up	1 month 14 days
	Total	13 Years 1 month 6 days

The Chief Justice of the Patna High Court has further furnished us with the following statements showing the number of days lost due to the absence of Judges on leave or on deputation:

Year	No. of days lost on account of Judges going on earned leave	No. of days lost on account of deputation of Judges on Commissions of Inquiry.
(1)	(2)	(3)
1966	261 days	117 days
1967	161 days	171 days
1968	117 days	163 days
1969	124 days	21 days
1970	157 days	5 days
1971	148 days	
Total	868 days	360 days

Annexure XVI shows the number of days lost on account of deputation of Judges on Commissions etc., during the years 1965 to 1970.

11. Two other factors which appear to have been left out of consideration in regard to the maintenance of adequate Judge strength in each of the High Courts are :

1. The fact that Judges have to go out for inspection of subordinate courts, once in a year or once in two years—each such inspection taking about a week's time.

2. Judges taking leave—(Annexure XVII shows the numbers of days lost on account of Judges going on leave during the years 1965 to 1970).

Another important factor which has not been borne in mind in the matter of maintenance of adequate Judge strength is the slowness of some of the Judges in the matter of disposal of cases.

(7) Unsatisfactory appointment of Judges

12. Effectiveness of the High Court turn over must ultimately depend upon the personnel manning the High Courts. There can be no doubt that the most important step in the direction of reducing the arrears in the High Courts is to attract the best talent available for manning the High Courts. For that purpose it is necessary to make the conditions of service attractive. We were told by the Chief Justice of the High Courts of Calcutta and Bombay that it is extremely difficult for them to persuade even junior members of the Bar to accept judgeship. Unwillingness of successful members at the Bar to accept judgeship is very acute in some places and less acute in others. But if the High Courts are to function satisfactorily, it is essential that able members of the Bar should be persuaded to take up judgeship.

13. The salaries of Judges till a few decades ago enabled them to live in reasonable comfort and dignity, maintaining isolation which was strictly necessary to be maintained to enable them to perform their duties impartially. With increasing taxes and gradual erosion in the value of the rupee, it is difficult for many Judges to live on the net pay received by them at the end of the month. In the Judge recruited from the Bar, there is often a sense of frustration when he feels that he has made a wrong choice in accepting judgeship when he is required year after year to draw upon his savings, made at the Bar. This necessarily affects judicial equanimity in quite a few Judges.

14. There is no other branch of public service which is performed in the fierce glare of publicity as the Judicial service. Sitting in Court for five hours and bringing to bear an unflagging concentration upon what is argued at the Bar, is not the lot of any other class of public servants. It is wrong therefore to attempt to equate the performance of judicial functions with the performance of duties by other branches of the civil service. If efficiency of the Judges of the superior courts is to be maintained, and there can be no two opinions that for a satisfactory functioning of our judicial administration, the efficiency must be maintained, conditions in which the Judges are required to live and perform their duties must be conducive to the maintenance of their traditions.

15. The Law Commission had observed that the important fact which had considerably aggravated the situation caused by the accumulation of arrears is the selection of unsatisfactory judicial personnel. Such selections having been induced by executive influence and appear to have been made out of considerations of political expediency or regional or communal sentiments. We entirely agree with the observation of the Law Commission.

16. The prevailing procedure in the matter of appointment of High Court Judges has led to appointments where merit was not borne in mind. According to Art. 217 of the Constitution, appointments of High Court Judges are to be made by the President after consultation with the Chief Justice of India, the Governor of the State and the Chief Justice of the High Court. In practice the procedure is that the Chief Justice sends his recommendation to the Chief Minister, who, if he agrees with the recommendation of the Chief Justice, forwards the recommendation with the consultation of the Governor to the Ministry of Home Affairs of the Government of India. But when the Chief Minister does not agree with recommendation of the Chief Justice, he sometimes makes his own recommendation and forwards the same to the Home Ministry. In some cases it is without even the knowledge of the Chief Justice and without an opportunity being given to the Chief Justice for making his own comment on the recommendation made by the the Chief Minister and then the Ministry of Home Affairs in consultation with the Chief Justice of India advises the President as to which of the two recommendations has to be accepted. In some cases the Chief Justices have to suffer the discomfiture of their recommendations having been rejected. This procedure by which the Chief Minister is enabled to have powerful voice in the matter had led to some unsatisfactory appointments of Judges.

17. In the selection of Judges, it is necessary to bear in mind that the pattern of work done in the High Courts is substantially different from the judicial work done in the subordinate courts. Important problems relating to the enforcement of Constitutional rights and obligations, questions relating to taxation, administration of labour laws, Company's Act, and other regulatory provisions like the Customs and Excise statutes seldom if at all arise in the subordinate Courts. Familiarity with litigation would undoubtedly make a Judge selected for appointment in the High Court, better equipped to deal with the causes in the High Court. Accent in the selection of Judges for manning the High Courts should be a broad based familiarity with the pattern of litigation in the High Courts. We have no desire to suggest that any avenue for recruiting Judges to the High Courts should be closed, but if the High Courts are to be made effective instruments of judicial administration in the spirit of the modern times so ably incorporated in the Constitution, it is necessary that for filling judicial office, not merely capacity to administer basic laws, but knowledge of the wider field of modern jurisprudence should be the test. Again in the administration of the traditional branches of the personal laws, laws of contract, and transfer and laws relating to land revenue, there has been a vast rethinking evidenced by important legislative measures based on new concepts of rights and obligations.

18. It is possible for any lawyer and we include in that expression persons who have been trained in the science of jurisprudence, as practitioners of law or as Judges, to familiarise with any branch of the law given the will and inclination. But a process of education while sitting in the Court room of the Highest Court in the State is not very edifying, and in any court it causes serious delays in the hearing and disposal of cases, and if the Judge enters the High Court when he is fairly advanced in age, by the time he has familiarised himself with the new horizon of unfamiliar laws and modern political philosophy he is due to retire.

(8) Filing of large number of Appeals from the decisions of Criminal Courts

19. There has been a substantial increase in Criminal appeals in the High Courts. A large number of the cases, both in the Courts of first instance and in appeals involve the unravelling of complex commercial transactions and conspiracies, resulting in the consumption of much judicial time. There has been large scale smuggling activity, especially in the coastal areas, and when detected investigation of the case to bring the offenders before the Courts and to establish the case has become a serious problem.

20. With increased legislative activity in the direction of securing to the people the benefit of a truly democratic form of society and attempts at improvement of the employer-employee relations in the Industrial and Agricultural sector, certain new norms of behaviour have been legislatively adopted. In disputes arising out of the problems from this form of legislation, Advocates seek inspiration from literature, legal and political concerning analogous problems in other countries e.g. U.S.A., Canada and Australia. Since the solution of problems often depends upon new concepts, the courts have to examine them on the context of the political philosophy of our Constitution and the every changing social consciousness. These cases require appreciably long time for hearing and disposal.

21. There has been a large crop of appeals by the State against orders of acquittal and the right given to the private parties to bring before the High Court judgements of acquittal in cases commenced by complaint, has been frequently exercised.

(9) Failure of the legislature to provide a forum of Appeal against orders and decisions which are made to the prejudice of a citizen by Executive and quasi-judicial authorities

22. Certain recent pieces of legislation like the Panchayat Act do not provide adequate machinery within the legislation for challenging adverse orders. The aggrieved parties move the High Courts in respect of disputes which though complex are of purely local and temporary significance. Disposal of these causes require much time which could be utilised for other purposes. The Chief Justice of the High Court of Bombay told us that a large slice out of the petitions for Writs consisted of cases in which election and other disputes relating to Panchayats arose and the High Court was required to decide those disputes sometimes years after the decision was rendered by the authority whose decision was challenged.

(10) Inadequacy of staff attached to the High Court and inadequately trained staff

23. Of all the delays, which hamper the administration of justice those caused by the inefficiency or the inadequacy of the staff attached to the High Courts, are the least tolerable. It was almost uniformly complained before us that the administrative staff is insufficient in number and inadequate and that the standard of efficiency of the staff such as it is, has deteriorated. That inefficiency seriously hampers the free movement of cases from section to section of the registry to make them ready for hearing. Complaints have been voiced before us that inordinate delays occur in registering and numbering appeals and petitions, in preparing and despatching notices and processes and then in the preparation of paper books, and taking other steps for the effective progress towards the hearing of causes. Delays in granting certified copies are said to be chronic. This unhealthy situation is partly attributed to the inefficiency of the staff and partly to its inadequacy. Inadequacy of the staff has contributed in a very large measure to the accumulation of arrears. We have noticed that even though the institution of causes in the High Courts has increased considerably after independence, there has been no corresponding increase in the staff of the High Courts, the increase in the staff is sometimes disproportionately small that it seriously contributes to the accumulation of work. The Chief Justices of all the High Courts complained about the insufficiency in number and inadequacy of staff and voiced before us the great difficulties experienced by them in getting the respective State Government to sanction additional staff to cope with the increased work thrown on the High Courts. It appears that requests made by the Chief Justices to their respective State Governments for additional staff are not infrequently turned down on the plea, of lack of finance.

(11) Failure to make optimum use of the Judge strength

24. There is occasionally failure to make optimum utilisation of the Judge strength. One factor which undoubtedly affects the turn over in some High Courts, is the non-utilisation of Judges having special aptitude and talent for a particular class of causes.

25. Frequent changes in the constitution of benches also result in reduction in the turn over. We have been told that in some Courts the rosters are so arranged that a Bench of Judges breaks up three times in the course of a day. This is responsible for cases remaining part-heard, to be taken as and when the same bench is available and may reassemble and if a fairly long period elapses as it does many times, the cause has to be argued again from its inception. We have also been told that in original trials of suits in a Court evidence of one witness is heard by one Judge, of another witness by another Judge, and not infrequently several Judges participate in the recording of evidence. Frequent breaks in the hearing of cases and swift changes in the constitution of Benches results in judicial time not being effectively utilised.

26. Having too many part heards also results in ineffective utilisation of the Court's time since such a practice makes it difficult for the Courts to have proper grip on the matters it has been hearing since such hearings had been piece-meal.

27. Complaints were voiced before us by the members of the Bar in certain places that Judges do not sit in Court in time. We were told that some of the Judge in one High Court used to sit after more than an hour of the scheduled court time and then leave the Bench earlier. Unless Judges sit in Court punctually and for at least five hours on every working day, it would not be possible to obtain the maximum turn over in the matter of disposal. This is one of the factors which certainly contributes to the accumulation of arrears.

28. As already observed in the earlier part of the report, even in the year 1967 the inadequacy of Judges was found to be the main cause for the accumulation of arrears in some of the High Courts and consequently the Government of India advised the Chief Ministers to increase the strength of the High Courts taking into account the disposal and the arrears to be cleared and accordingly the Judge strength of various High Court was augmented by the appointment of additional Judges. But the position did not improve much for the reason that such additional Judges instead of being utilised for clearing the back-log of heavy cases were utilised for disposing of the comparatively simple day to day work. This has but resulted in further accumulation of arrears and very old cases remained undisposed of while later cases were being taken up and disposed of.

(12) Other causes for arrears

(i) *Want of proper perspective of the scope of revisions under Section 115 C.P.C. and of Second Appeals*

29. *Revisions* : We note that in exercising revisional jurisdiction under Section 115 C.P.C. there is not a proper realisation of the limits of the

High Courts revisionary jurisdiction under section 115 C.P.C. We notice that a number of such revisions are against interlocutory orders by the lower courts. It has to be realised to a greater extent that the filing of a revision against an interlocutory order has the natural result of slowing the suits progress for at least a couple of years whether or not the entertainment of the revision petition is followed by a grant of an order of stay, for the records are automatically called for. We have come across many instances where a number of successive revisions were filed against successive interlocutory orders, thus holding up the suit for quite a number of year.

30. *Second Appeals* : We are constrained to observe that the laxity with which Second Appeals are admitted with the barest of scrutiny, has contributed to the large volume of Second Appeals, pending in the several High Courts. Mr. Justice Rampini observed in the year 1900, that in practice only such Second Appeals are dismissed under Order XLI Rule 11 of the C.P.C. "as clearly involve merely questions of fact, and appeals in which points of law good or bad arise, are admitted. The then Chief Justice of Bombay in his note supplied to the Civil Justice Committee of 1924-25 had observed that Second Appeals were being admitted whenever it appeared that a point of law was involved however, obvious it might be that the decision of the lower court was correct". We are constrained to say that the approach has not altered since. The Civil Justice Committee of 1924-25 had much to say in regard to this aspect of the problem and we cannot do better than to quote their observations. "We think that in practice, Order XLI Rule 11 of the C.P.C. is an insufficient protection to the respondent under a system which gives a Second Appeal on points of law in all cases not being of a small cause court nature and irrespectively of their values or importance. Before a Second Appeal is admitted and the respondent is put to substantial delay and expense for the third time, the High Court should be satisfied that the interests of justice require further investigation of the case. A small case of great importance should receive due consideration from this point of view. The position of the parties, the carefulness of the judgment the difficulty of the case, the concurrence or disagreement of the lower courts are elements to be regarded, in an ordinary case of small value if it appears that the parties have had a fair and careful trial, and that there is nothing *prima facie* erroneous in the judgment, a Second Appeal should not be allowed merely in order that the law of the case may be applied to the facts for a third time in a spirit of abundant caution." The Law Commission has observed that the real purpose of Rule 11 of Order XLI of the C.P.C. which had been enacted to enable the Court to dismiss second appeals, in cases of decisions based on findings of fact, which do not disclose a point of law such as is required by Section 100 C.P.C. and clothes the Court with power to dismiss an appeal *in limine* without notice to the respondent after hearing the appellant's pleader and sending for the records, if necessary in such cases, has not in practice been served. The Law Commission also pointed out that having regard to the terms of Section 100 C.P.C. an appeal should not be admitted merely because the appellant has shown that an arguable or a *prima facie* valid point of law arises in the appeal, but that the Court has further to be satisfied that the decision of the lower appellate court on a point of law is erroneous and that in order to do justice between the appellant and the respondent it is essential that a further hearing should be given to the parties.

(ii) *Long arguments and lengthy Judgments*

31. It has been generally felt that in some High Courts arguments are inordinately lengthy and are not commensurate with the nature or importance of the matter in dispute. The unrestricted citation of numerous authorities has grown into a pernicious habit and is responsible for expenditure of a lot of judicial time which may be better utilised. The proper place for precedent in our judicial system is not recognised by lawyers and sometimes by Judges as well.

32. Then again with regard to judgments also we have something to say. Sometimes judgements of Courts suffer from the same infirmities from which the arguments at the bar suffer. Some judgments are rambling, inordinately lengthy. Sometimes the zeal to make the judgement exhaustive has resulted in their being exhausting. Statement of facts in them sometimes are not proportionate to the area of the dispute. Some judgments bristle with unnecessary citation of authority.

(iii) *Lack of proper list and proper notice of ready cases and priority not being given to old cases*

33. This is also another factor which contributes to the accumulation of arrears.

(iv) *Failure to utilise grouping of cases*

34. In some High Courts grouping of cases involving determination of common question of law is not being utilised and this has also contributed to the piling up of arrears.

(v) *Failure to select and dispose of batch cases and cases covered by authorities*

35. This is also another reason why arrears have accumulated in some of the High Courts.

(vi) *Leave procedure which holds up disposals*

36. The hearing of an application for grant of a certificate under Art. 133 of the Constitution does consume an appreciable portion of the times of the High Court.

(vii) *Corrupt and improper practices in the Office which hold cases*

37. We have been told that in the office of the High Court manipulations, whereby cases could be held up from being disposed of, are being made with the result that older cases which could be disposed are held up and add to the back log.

(viii) *Adjournments*

38. Adjournments in the hearing of cases as such in our opinion do not perhaps contribute very much to the arrears though no doubt they add to the longevity of the appeal or revision. The cause lists in most of the High Courts are drawn up in such a manner that even if on that day certain cases are adjourned, there is sufficient work for the court for the day. Where it is so, such adjournments would not contribute in any appreciable extent to the arrears.

(ix) Procedural delays

39. In view of the fact that the back log in most of the High Courts is such that even where cases are ready for hearing they cannot be added to the ready list because of the existence of older cases which naturally should receive priority, procedural delays such as delays in (a) in the service of notice, (b) in bringing on record the legal representatives and (c) in the preparation of paper books; do not contribute to the arrears. But one of our tasks as we see it is also to suggest measures for preventing future accumulation of arrears. We would hereafter suggest measures which would obviate such procedural delays also.

(13) Inadequacy of Accommodation

40. It is curious but nevertheless it is true that insufficiency of accommodation in Court buildings has also contributed to the arrears in some High Courts. At Bombay, we were told that owing to lack of accommodation, Judges had to sit in benches, to dispose of cases which could be disposed of by single Judges, and that the requests of the Chief Justice to the State Government for provision of additional accommodation had not yet been acceded to. This problem of lack of accommodation which is met with in certain other High Courts also prevents augmentation of Judge strength in High Courts where such augmentation has become imperative. It is for the State Governments to take early steps, to solve this problem.

(14) Concentration of work in the hands of few lawyers

41. In some High Courts there is great concentration of work in the hand of a few lawyers and for their convenience the hearing of cases actually fixed has to stand over. The court generally acts upon an unwritten convention that if a lawyer who has filed his vakalatnama is busy in another court, his case will not be taken up until he is able to attend to the case. This causes great dislocation of work. Members of the Bar and Judges have complained that on account of this convention cases cannot be taken for hearing in the order in which they appear on the court roster and the judges cannot read the papers of the case to familiarise themselves with the facts in advance. Sometimes on account of the Advocate being required to attend on a single day to many cases, he is unable to fully prepare himself and court time is wasted, the lawyer familiarising himself with his clients case by reading the judgment appealed against.

CHAPTER V

MEASURES FOR REDUCING ARREARS

1. The present adjudicative resources have proved inadequate to manage the increased work load. This had resulted in great delays in disposal of causes and heavy accumulation of arrears. The situation already is very serious and in all probability will get worse as time passes unless effective measures are adopted.

2. We must however observe that concern with the delays must not blind us to the distinctive character of the judicial process in our social scheme. Administration of justice cannot be likened to the administration of business or even disposal of executive Government business. A court room is no place for trying new fangled notions of efficiency experts. A thorough and painstaking determination of facts relevant to the matter in dispute and application of the appropriate legal principles to the facts to achieve a just decision are the primary functions of the Court. Hurry and judicial behaviour go ill together. In the matter of hearing and deciding a case aiming to reach a just result there are two schools of thought which adopt apparently opposite postures. According to one school it is the duty of the Judge to concern himself with the case in hand, to sift the facts, to determine the true principles of law applicable and to do justice between the parties; the Judge need not feel obsessed or even be concerned with other causes pending before his Court or other Courts in the country; his attention must be concentrated upon the cause alone before him. There is another school of thought which advocates that administration of justice is a social obligation of every civilised community. The Judge entrusted to render service to the public must be an efficient instrument of that service and must ensure sufficient and early opportunity to all who seek entry to the Courts so that they may receive expeditions disposal of their cases. The first school concentrates upon the essential attributes of the exercise of judicial power; the other insists upon a pragmatic approach. The postures are not antagonistic. They are merely two views of the judicial process from different angles.

3. In suggesting measures for reducing the arrears and for minimising delays in dispensing justice according to law we cannot but balance the subtle values inherent in the judicial process and the necessity to make administration of justice reasonably swift and efficient, without losing sight of the ultimate objective.

4. We appreciate the concern expressed by a number of Judges, lawyers and public servants that the compelling necessity to solve the problem resolutely may lead to the adoption of methods, impairing the quality of justice in our Courts. We have taken the utmost care not to recommend any measure which may have that tendency.

5. The apparently simple remedy often suggested as the easiest to adopt for solving the problem of arrears is to increase and to go on increasing the number of Judges, in proportion to the addition in the file of pending cases. That is not in our opinion a practical solution to the problem. The field of selection is limited and recent trends indicate that it is extremely difficult to persuade successful members of the Bar to take up appointments as Judge of the High Courts. Appointment of a Judge demands a high level of ability, legal attainments and mental vigour necessary to maintain the prestige of the Courts, and at a given time a sufficient number possessing the qualities and willing to be appointed is rarely available. Increasing the number of Judges as a means of solving the problem of arrears may be commended only after other methods are tried and found ineffective. Our task, we apprehend, is not merely to suggest measure for clearing the present accumulations of arrears only but also to devise ways and means calculated to prevent accumulations in future.

6. We have given a good deal of thought to the problem. We have consulted the Chief Justices of the High Courts and a large number of Judges, lawyers and public servants and heard their views on the different remedies for ensuring reduction of the arrears in the High Courts. Annexure XX will show the persons interviewed by the Committee at various High Courts. We have attempted an analysis of the various trends which have contributed to the accumulation of arrears in the High Courts. We have examined the time taken at the various stages in the adjudicative process; and considered the inflow of the causes in the High Courts; the methods for diverting some unimportant causes from the High Courts, wherever it is feasible, so that the burden thrown on the High Courts by the accumulation of those causes may be lightened; we have also examined whether the Judge strength in the High Courts is adequate to clear up the existing arrears and to cope with the increase in the recurring work load, and have considered measures for optimum utilisation of Judge strength; and ways and means within the frame work of our laws and inherent values of the judicial process, for more expeditious disposal of causes in the High Courts.

7. The problem of arrears in the High Courts has to be considered within the framework of our judicial system primarily in three directions.

- (1) Reducing delays which occur before the proceeding is ready for hearing before the High Courts;
- (2) Feasibility of weeding out certain classes of causes which under the present system reach the High Courts, and making them triable by other Courts, or Tribunals.
- (3) Ensuring that the time taken up in the actual hearing of causes should, while giving parties full opportunity of presenting their respective cases, may be effectively reduced.

(i) Reducing delays which occur in making the proceeding ready for hearing:

This may be considered under the following broad heads:

- (a) Delays which occur in making available certified copies from the subordinate courts to enable an aggrieved litigant to file an appeal.
- (b) Delays which occur in—
 - (i) effecting service of notice upon the contesting party and other process for the progress of the proceedings;
 - (ii) bringing heirs on record of a party dying during the pendency of the appeal;
 - (iii) in the preparation of the requisite copies of the record for use before the Court at the hearing of the appeal;
- (c) Modification in the procedure by which Tax causes are brought before the High Courts.

9. The first in the sequence of stages which contributes to avoidable delays though this delay strictly speaking does not occur in the High Courts, is the pre-institutional stage, that is, between the pronouncement of the order or judgement by the lower court and the filing of the appeal or revision before the High Court. Inordinately long time is often taken by the Court of First instance, in the case of First Appeals, and the District Court in Second Appeals, in furnishing certified copies of the judgement and the decree to the parties. Delays exceeding six months are not uncommon. Delay at this stage is attributable to lax supervision, insufficiency of trained staff and lack of mechanical aids for copying.

10. A sustained effort is required to be made in the subordinate courts to ensure that certified copies of orders and judgements are supplied as expeditiously as possible normally within a week. Any delay beyond that in our opinion would ordinarily be regarded as unreasonable. Strict supervision over the turnover of the copying staff is necessary. It is for the State Government to consider a revision of the remuneration to the copying staff engaged in typing the orders and judgements. Shortage of typewriters in some of the subordinate Courts make it difficult for copies to be got ready. Inadequate personnel manning the department which deals with the copying of judgements and preparation of decrees also seriously hamper the early furnishing of copies. It would be advisable to devise a system of payment related to the turn over of work. That may furnish greater incentive to complete the work in hand expeditiously. In courts where the system of payment related to work is in vogue a revision of rates is also overdue. Adoption of modern mechanical means of copying may also be adopted.

11. We also recommend that whenever practicable a sufficiently large number of extra copies of the orders and judgements should be taken out at the time of the initial typing of those orders and judgements, and those extra copies may be certified at once on receipt of an application for a certified copy of the order or judgement and the time required for

preparing fresh copies may thus be saved. The rules of the High Courts may also be so amended as to enable appeals and revisions to be filed with true copies duly authenticated by a responsible officer of the subordinate Courts or certified by an Advocate as correct.

12. Between the presentation of the appeal, revision or petition to the High Court and registration of the appeal or revision application or petition, there is in our view considerable scope for reducing the time lag. The practice of returning to the Advocate or the party the Memorandum of Appeal, the petition or the revision application for rectification of defects, is responsible in some courts for considerable delays. But it is represented that it works efficiently in other courts. If the presentation of an appeal or petition is defective the matter should be notified in a special list intimating the party or the Advocate that the presentation is defective and requiring him to take steps for rectification within the time specified. Whenever default occurs in rectifying the defect the matter should be placed before a Judge for passing peremptory order. Rules should expressly provide that failure to comply may entail dismissal of the appeal or revision application.

13. After the appeal or petition is registered sometimes gross delays occur in serving notices on the respondent. There is often repeated default in paying process fee. The rules regarding the period during which the process fee is made payable are not enforced. It is in our view a misplaced indulgence to extend in favour of a party time frequently to enable him to pay the process fee. The process fee is generally not heavy, and a litigant who has paid the court fee on the memo of appeal or petition and engaged a lawyer is not so impecunious that he cannot pay the process fee. In many cases when the notice is sent the respondent is not found at the address given in the petition or memorandum of appeal and sometimes service of such notice cannot be effected because of evasion by the respondent. Some members of the Bar suggested that service of notice of appeal to the respondent may be effected by serving it on the Advocate who appeared for him in the lower court. Such a rule may be useful, but only in cases where the matter from which the revision petition or appeal arises is still pending disposal before the lower court. The rule may work hardship in cases where the matter had been disposed of by the lower court, for in such cases, it might well be that the party had taken back the papers from the Advocate who appeared for him before the lower Court and the Advocate would be required to get into touch with party and attempt to get instructions which may not be forthcoming. We recommend that in all cases where the matter is still pending final disposal in the lower court, notices of appeal or revision may be served on the Advocate who appeared for the respondent before the lower court. In cases where the matter has been finally disposed of by the lower court, such notice should be served directly on the respondent. We also recommend that in order to ensure that the place at which service may be effected on the respondent as disclosed in the appeal or revision application is correctly mentioned, the latest place of residence or business of the respondent should be incorporated in the decree of the decretal order as drafted by the lower court. An appropriate rule may be framed requiring the Advocate appearing

in the court of first instance or the District Court, according as it is a First Appeal or a Second Appeal to verify that the registered address disclosed, correctly represents the existing address and if any change has taken place to notify the correct address of the party or parties for whom he is appearing.

14. Time taken in serving notices is responsible for holding up the progress of a cause. Service in the ordinary way by the bailiffs or process servers has often been found unsatisfactory and dilatory. It has been stated before us almost unanimously by the Chief Justices and Judges of the High Courts that in their experience service by registered post of process and notice is more effective than service through the process serving agency. We recommend that notice in the first instance should always be sent by "Registered Post-Acknowledgement due", and personal service through the ordinary channel may be attempted only if specially ordered in addition to service by Registered post or on failure of postal service. We recommend that the Court may in appropriate cases order that notices may be issued simultaneously by registered post and for personal service through the process serving agency, and when service is effected by either method, service must be held sufficient. Amendment of the rules under the Civil Procedure Code may be made to give effect to these suggestions.

15. If a person impleaded as a party has not taken part in the proceeding in the subordinate court and has remained absent, on affidavit filed by the opposite side that such a party is either not interested in the ultimate result or that his interest is looked after by another party appearing through an Advocate the Court may be authorised to direct that no further process except the notice of appeal, petition or revision application be served upon him.

16. Preparation of notices in the registry of the High Courts for service upon the respondents is often attended with great delays. We are of opinion that the Advocate for the appellant or the appellant should by rules be required to file in court the requisite number of notices duly completed in the service. These forms may be sent for service after prescribed form for authentication by the Registrar. Not infrequently the office of the High Court is lax in preparing notices for service and notices are sometimes not made ready for despatch for months. This is often due to the absence of adequate trained staff. Increase in the staff as we have already observed has not kept pace with the increase in the number of cases coming before the Courts and adequate trained staff to attend to the multifarious specialised duties in the court office is rarely available.

17. It was also suggested that duty to bring himself on the record in a pending proceeding should be laid upon the heir of a person who is a party to a litigation and not of the person who is *dominus litis*. We have given careful thought to this suggestion. It is true that when the heir is not aware of the pendency of the litigation he may have to take proceedings to set aside a decree already passed, but the evil that the heirs of a party lie by and do not inform the court, solely with the object of securing an order of abatement is so rampant that it is necessary to risk in some rare cases decrees being made against the heirs without an opportunity of being heard. Possibility of injustice in such cases may be minimised by

affording an opportunity to the heirs to apply for permission to be heard if the Court is satisfied that the heir was not aware of the litigation or that he had not intentionally kept himself away from the court. The court may give an opportunity to the heir in the first instance to satisfy that if notice had been served, a different result may have been reached, and if so satisfied *prima facie*, to reopen the proceeding to the extent necessary to prevent injustice being done to the heir by the order of the Court.

18. We also recommend that duty should be imposed upon every Advocate appearing in a cause, who becomes aware of the death of a party to the litigation (whether he appeared for him or not) to give intimation to the Court about the death of that party and to the person who is *dominus litis*. A rule may be framed treating failure to do so as misconduct.

19. There is often great delay in certifying the record by the subordinate courts. We recommend the framing of rules on the following lines:

- (a) When no proceeding is pending in the cause in the subordinate Court the entire record must be despatched to the High Court within a specified time (to be fixed by Rules) from the date of intimation.
- (b) After the record is received the Registrar of the Court or an officer appointed in that behalf should call a meeting of the advocates or parties concerned and obtain from them lists of documents which they certify as necessary for inclusion in the paper book for use of the Court. If unnecessary documents are included, the Court may in appropriate cases direct the whole or part of the costs incurred to be paid personally by the Advocates concerned. The Registrar should fix the time within which the translation of the documents, if they are not in the court language should be filed in Court for use of the Court and the parties.
- (c) Unless the Court otherwise orders it should be the duty of the Advocates to file in Court copies of translations in the Court language of the documents to be relied upon by them. If a document is relied upon by more than one party it should be settled before the Registrar as to who shall include the document. Duplication should be avoided.
- (d) When the proceeding from which an appeal arises is not finally disposed of and is pending in the subordinate court unless ordered by the Court the record should not be summoned. Even when the record is called for care should be taken to ascertain from the Advocates of the parties concerned and summon only those documents which will be required before the High Court at the hearing. For that purpose the documents which the parties or their Advocates certify as being necessary for being referred to at the hearing in the appeal in the High Court, may be summoned. This rule should apply to revision petitions also.

- (e) It should be the duty of the Registrar of the High Court to maintain supervision on the certification of the record by the subordinate court and the preparation of the record in the High Court.

20. We also recommend that the record room in the District Courts should have two separate sections: one for the appellate records (inclusive of original record) and another for the record in which there is no appeal to the District Court so that the records to be sent to the High Court may be easily sorted out. Effective and strict supervision should be exercised by the District Courts' office to ensure that records called for by the High Court are sent without delay.

(ii) Printing of Records

21. The rules relating to printing of the records are not uniform. Ordinarily the record of a criminal trial where death sentence is imposed is printed in its entirety. This is a healthy practice. There is sometimes delay in the preparation of the record which is generally printed at the printing press of the State Government. Steps should be taken to adopt alternative methods for speedier preparation of the paper book for use of the court.

22. In Civil First Appeals generally the memo of appeal and the judgment under appeal are printed. In Second Appeals, the judgments of the two courts and the memoranda of appeals are printed. The parties generally supplement this record by filing typed copies of official translations or authorised translations of documents on which they rely. In some courts typed notes of evidence prepared by the Court of First instance and certified with the record are filed.

23. Printed matter is undoubtedly more convenient for use in the High Courts. But to expedite preparation of the record printing should be reduced to the minimum; for printing of records often leads to great delay. It is the invariable experience of all who have appeared before us that printing of court cases in Government printing press occupies the last place in the order of priorities and printing by private presses especially in smaller towns is sometimes shabby, full of mistakes and dilatory.

(iii) Stay Orders and Injunctions

24. Many an appeal or petition for writ is filed with the sole object of obtaining a stay order or an injunction restraining enforcement of the decree of the subordinate court or the order challenged. It is natural, therefore, that much ingenuity should be used in seeking to persuade the High Court to make an interim order. Sometimes the relevant facts are not fully disclosed to the court and cases are not wanting where parties make untrue statements or withhold important facts when applying for interim orders. It is accordingly necessary to devise a practice that unless the Court otherwise orders for special reasons to be recorded, no interim order for stay or injunction shall be asked for without filing evidence before the High Court that notice of the intention to move the Court at a specified time and for specified relief will be made. Necessity for evolving

such a practice is felt most in petitions under Art. 226 of the Constitution. Some High Courts have framed rules that before a petition for stay or injunction is moved against the State, the applicant shall serve upon the standing counsel or Government counsel notice of the party's intention. In other courts no such practice is in vogue. We are of the view that such a practice should be uniformly adopted with the further safeguard that copies of all documents filed in Court and intended to be relied upon in support of the application for interim relief shall be served upon the other side. Insistence upon compliance with this practice is likely to deter a litigant who is anxious to snatch an order from the Court by a garbled presentation of facts. Naturally a party securing a stay order in the High Court is not anxious to reach an early hearing of the case. It is necessary that all cases in which interim order of stay or injunction is granted should be treated as expedited and placed for hearing early.

(iv) Filing of Caveats

25. We also recommend that rules should be framed and if necessary the Civil Procedure Code be amended so as to enable the respondent to file before the preliminary hearing a caveat in the High Court that no order should be made in the appeal or petition or application for interim order without affording him an adequate opportunity of making a representation that in the appeal or the petition no *prima facie* case, for issuing notice or rule, or for making an interim order, is made out. This practice obtains in the Supreme Court and effectively prevents some cases from being admitted which without the assistance of the caveat may have been admitted.

(v) Writ Petitions

26. In analysing the causes for the inordinate delays in the disposal of petitions for writs we noticed that the two main factors which contribute to such delays are (1) the delays in serving Rule on the officials of the State Government or of local authority when the action of the official is challenged; (2) the delay in the filing of counter affidavits by such respondents. The prevailing practice in the matter of serving notices intended for the Government on the Secretary to the Government or on the officer of the Government or authority concerned, results in delays and is an outmoded practice in the context of the present situation. Such a practice served well at a time when legal actions against the Government or a Government officer were few. In the present times when the Government is the largest single litigant before the Courts, the practice leads to gross delays. The widely prevalent practice is that when the Secretary to the Government or the Officer of the Government is served with the rule and a copy of the writ petitions, the papers are transmitted to the Department concerned for what is called "parawise" remarks, and the petition with the "parawise" remarks, then comes back to the Secretary to the Government and are transmitted to the Law Secretary, who then gives the necessary instructions and assistance to the Advocate-General or the Government Pleader for preparing a draft of the counter affidavit and after such a draft is prepared in the office of the Advocate General or the Government Pleader the draft is sent to the Law Department for scrutiny and approval. At every stage delays occur: ordinarily it takes more

than six months and sometime even a year for the reply affidavit to be filed in Court. A majority of the members of the bar, Advocates General, Government Pleaders and the Law Secretaries of State Governments agreed that such delays could be minimised if the Advocate-General or the Government Pleader is constituted as agent of the Government and of the public servant whose action is challenged for receiving notices in petitions for writ and other civil process intended for the Government and for the officers of the Government and service of rule on the Advocate-General or the Government Pleader be deemed proper service on the State Government as well as on the officer whose action is challenged. Some Advocates General and Government Pleaders were apprehensive that unless they are provided with adequate staff such a measure would land them in great difficulty. There is good cause for that apprehension. We recommend that the Advocate General or the Government Pleader should be constituted, by a rule analogous to Order 27 Rule 4 Civil Procedure Code, an agent of the Government for receiving notices and rules addressed to the State Government and to officers of the Government whose official action is challenged. The Central Government should also be required to designate an Advocate to be an agent for receiving process on behalf of the Central Government and its officers who are impleaded in the writ petition whether relief is claimed against them or not. On receiving such rule or notice the Advocate General or the Government Pleader should directly contact the department or officer or local body concerned, obtain the necessary instructions for filing the reply affidavit and draft the reply affidavit, with the assistance of his juniors. In order to facilitate early attention being paid by the Government and the office concerned it should be made obligatory by rules for the petitioner to serve two copies of the petition and the documents filed with the petition. We further recommend that rules should be framed to the effect that the reply affidavits should be filed within a period fixed in that behalf by special order of the Court not longer than three months, and in case of default in filing the reply affidavit within the period specified, the Court should proceed to dispose of the petition as if the petition is undefended. Of course provision would have to be made authorising the court, if sufficient reason be shown by the respondent for his failure to file the reply affidavit within the period specified, to extend the time.

27. We have noticed that it is not the practice in many High Courts to require the petitioners to give intimation to the State or the local body likely to be affected by any specific direction of the Court, before the petition is entertained or even before passing an interlocutory order. This results in interlocutory orders being secured at the instance of the petitioners sometimes on misleading allegations.

28. To obviate that situation, we recommend that Rules of the High Courts may provide that unless otherwise ordered by the Court, in a petition for the issue of a writ, the petitioner moving the High Court for admitting the petition, shall give notice to the designated officer of the State or local body, likely to be affected by any specific direction which may be given by the Court by way of an interlocutory order, before the petition is entertained. We further recommend that in order to avoid appeals being filed against orders in petitions for writ, the trial of writ petitions should be by a Division Bench.

(vi) Printing of Paper Books in Civil Causes

27. We have noticed that printing of paper books in civil causes takes a very long time: since such printing is done in most States, by Government Presses, over which neither the High Court nor the legal department has control. Again those printing presses are heavily commissioned with other Government work claiming to receive higher priority. This results in inordinate delays in getting the cases ready for hearing. One solution for the problem would be to have a separate printing press attached to each High Court, to attend only to the printing of matters entrusted to it by the High Court. But then we do not at all feel the need for printing the records in all cases and consider it a considerable waste of time and money. We understand that even in the Court of Appeal in England, typed records are allowed to be filed. We recommend that in Revisional applications there is no necessity to print the record or any part thereof at all. Two or more typed copies of the papers required for the hearing would be sufficient. In a Second Appeal also the memorandum of appeal and the judgement may be typed or cyclostyled through the Court agency and any other document on which parties rely can be typed or cyclostyled and supplied to the Court and the opposite party by the party who wishes to use it. The Advocates of the parties should make available to the Court the relevant records, likely to be needed at the time of the hearing in the form of typed or cyclostyled matter and a machinery should be devised for consultation with the Advocates by the Registry of the Court for inclusion of the relevant documents likely to be referred at the time of the hearing of the appeal. We recommend that there should be no printing of any documents unless expressly so ordered by the Court.

(vii) Tax Cases

30. An important branch of litigation in which early disposal in the High Court is in the interest of the State and the litigant is the tax references under the Income Tax Act, Wealth Tax Act, Gift Tax Act, Sales Tax and Acts imposing other direct taxes.

31. Our tax legislation both substantive and procedural is incredibly complicated and often obscure. Legislative pattern of the tax statutes dealing with direct taxes levied by the Central Government is largely copied from statutes in the United Kingdom, without taking into account the important and basic differences in the administrative structure of the tax departments in the two countries. In all important Tax Acts in India a hierarchy of departmental officers is set up with a Tax Tribunal at the apex to deal with the assessment process. The Tribunal is invested power to decide all questions of fact finally. The opinion of the Tribunal on questions of law is subject to the advisory jurisdiction of the High Courts. If an aggrieved party so desires he may obtain the opinion of the High Court (and in certain exceptional cases of the Supreme Court) on a specific question of law raised and/or argued before the Tribunal. For that purpose the party aggrieved may, under the Income Tax Act—and the procedure in the other Acts *e.g.* the Gift Tax Act, the Wealth Tax Act, the Estate Duty Act and others is with minor variations the same,—within sixty days from the date of service of notice move the Tribunal to state a case. Not

unnaturally the Tribunal is loath to state a case except in the clearest cases. Then the High Court is moved to direct the Tribunal to state a case. The High Court issues a notice and after hearing the parties in quite a large number of cases directs a statement of case. It is also not uncommon that when the Tribunal has refused to state the case and the High Court has concurred with it, the Supreme Court is moved and occasionally the Supreme Court disagrees with the High Court.

32. At the direction of the High Court or the Supreme Court the Tribunal states a case. Before the Tribunal there is again a hearing. Not infrequently the members who decided the appeal are not the members who draw up the statement of case. The reference then reaches the High Court.

33. Accordingly if the Tribunal declines to refer the case the party aggrieved has an opportunity of applying to the High Court for an order directing the Tribunal to refer the case on the ground that a question of law arises ; if the High Court is not satisfied with the correctness of the decision of the Tribunal the High Court may require the Tribunal to state a case and thereafter the Tribunal shall refer a case. This procedure also obtains in the State Sales Tax Act (except in certain States) and applies to the Central Sales Tax cases arising in those States.

34. When the High Court calls for a supplementary statement of case the Tribunal must restrict itself to the materials on record and can in no circumstances take fresh evidence. *Keshav Mills Co. Ltd. V. Commissioner of Income Tax*, 56 I.T.R. 365.

35. Much ingenuity is exercised in framing the questions and occasionally a just claim is lost merely because the question has not been properly raised. All this is a futile waste of time, which does not conduce to effective administration of the tax laws.

36. This procedure is responsible for gross delays in cases which should in the interest of the State and the litigant, be disposed of with the least practicable delay. It is not uncommon for a tax reference, especially under the Income-Tax Act, in which tax liability for a particular assessment year is determined after a quarter of a century. The opinion of the High Court subject to appeal to the Supreme Court is binding upon the departmental authorities, and cases are not wanting in which taxes levied, assessed and collected are found to be unlawfully levied and the whole basis of assessment if found to be erroneous.

37. The procedure for reference of cases is as already stated borrowed from the English system of Tax administration. The reason for the procedure is in the peculiar constitution of the tax agencies in the United Kingdom. In the United Kingdom it was regarded as a constitutional guarantee that assessment of tax must be entrusted to local parties who have the confidence of their neighbours, and collection of taxes should not depend upon the will of the Government (*Vide* Speech of Sir Robert Peel in introducing the Income Tax Act of 1842). Accordingly income tax was assessed by General Commissioners named in the "naming Acts" by Parliament. They were members of the public who worked in honorary capacity.

Only in Schedule 'D' cases (relating to profession, vocation or business) the assessee had the option to be assessed by Additional or Special Commissioners who were paid civil servants.

38. By long tradition lay commissioners maintained no formal record of their proceedings. If the case was then to reach the High Court a disciplined presentation of facts was necessary before the High Court could deal with the dispute. An appeal by "statement of case" was a device to prevent a dispute about facts before the High Court.

39. Under our Income Tax Acts before 1918 the procedure for assessment was rudimentary. Computation of profits was governed by executive instructions and the Income Tax Act was administered by Land Revenue Officers with large powers of summary assessment. The other direct tax Acts were enacted much later.

40. In the Income Tax Act of 1918 an attempt was made for the first time to place the administration of the law on a more satisfactory basis, and the system of referring the case by the Commissioner of Income Tax to the High Court on questions of law was adopted.

41. Since then many refinements have been introduced. The Administration of the Act is now in the hands of Tax Officers trained in that branch of the law. Their decisions are subject to appeal. A tax Tribunal is set up which is independent of departmental control. The Officers have to maintain a formal record of their orders at all stages of the proceedings. The reason for "appeal by statement of case" has completely disappeared, but the procedure still obtains as an idle ritual.

42. While adopting the English practice, we have not enacted the rule that the application for reference should be declared immediately before the Commissioner who heard the appeal. *Halsbury's Laws of England* Vol. 20 1362 note (g).

43. This procedure under our administrative system is entirely archaic and is capable of being an instrument of great injustice. It would be wise to do away with all the complicated provisions relating to the application for stating a case either under the order of the Tribunal or the High Court or the Supreme Court and to confer upon the aggrieved litigant a right to appeal from the order of the Tribunal on questions of law, on points raised and/or argued before the Tribunal. It would be necessary to impose certain restrictions on the exercise of that right :—

- (a) that the appeal shall lie only on questions of law raised and/or argued before the Tribunal ; and
- (b) that absence of evidence to justify a finding or a perverse finding be deemed a question of law.

44. A rule enunciated by the Supreme Court in *K. S. Venkatraman & Co. Ltd. v. State of Madras* (1966) 60 I.T.R. 112 which changed a long standing practice deserves also to be specially mentioned in this context. It contributes to delays and increase in costs in tax cases. It was laid down by the Supreme Court in *K.S. Venkatraman's case* that an authority created by a statute cannot permit the vires of that statute or of any of the provisions

thereof whereunder it functions to be questioned and a suit will be competent to question the legality of an order made by the taxing authority on the plea that the statute or a part thereof is *ultra vires*. As a necessary corollary thereto the High Court which exercises advisory jurisdiction also cannot permit the question of vires of the statute to be raised in a reference. This was in direct conflict with what was decided by the Judicial Committee in *Raleigh Investment Co. Ltd. v. The Governor General in Council* (1947) L.R. 74 I.A. 50, and was consistently followed thereafter. *K. S. Venkataraman's* case arose under the Madras General Sales Tax Act, 1939 and its principle was adopted in a case under the Income Tax Act; *Commissioner of Income Tax v. Straw Products Ltd.* (1966) 60 I.T.R. 156.

45. There may be some logic in the rule that an authority or a tribunal which is the creature of a statute cannot permit the validity of the statute as a whole to be challenged but logic of the extension of the rule to cases where only a part of a statute not affecting its foundation is challenged is difficult to discern, and more so before the High Court which is not set up by the Taxing Act.

46. This rule has led to some increase in litigation. Objections to vires of the taxing statute are raised in substantive petitions under Article 226 of the Constitution. Merits of the tax dispute are adjudicated upon before the departmental authority, the Tribunal, the High Court and the plea of invalidity is raised by a petition in the High Court under Art. 226 of the Constitution or in a petition under Art. 32 of the Constitution. This leads to duplication of proceedings. The judicial Committee in *Raleigh Investment Co.* permitted the vires of a section of the Income Tax to be challenged and it was assumed that the High Court was under the Indian Income Tax Act competent to allow a challenge to be raised before them.

47. In the United Kingdom a rule analogous to the rule in *K. S. Venkataraman's* case does not prevail. Question as to validity of rates are permitted to be raised in the High Court. *Vide Overseers of the Poor of Wallsall v. The Directors & Co. of London and North Western Railway Companies* (1878-79) 4 A.C. 30. In that case the House of Lords held that any decision about the validity of a rate was not being rendered in exercise of consultative jurisdiction but ordinary jurisdiction, and an order made in exercise of that jurisdiction is appealable.

48. It is implicit in that judgement that even when invoking the consultative jurisdiction question as to the validity of a rate may be raised.

49. The State legislatures (except of certain states) have copied the scheme of the Income Tax Act and have made provision for reference of cases to the High Court in cases arising under the local Sales Tax Act. But even in Sales Tax cases brought before the High Court in exercise of revisional jurisdiction under the Act in force in the States of Tamil Nadu and others vires of the Act or any point thereof is not permitted to be challenged and the remedy of the aggrieved party is by a suit or a petition for a Writ. The High Court being incompetent to permit a plea as to the invalidity of a statutory provision to be canvassed, the tax payer sometimes resorts, with a view to hold up the collection of tax, to a petition in the High Court with sometimes a futile objection to the validity of the statute under which the tax is sought to be levied.

50. It is high time that the law be altered so that such a challenge in a proceeding under the Tax Act is permitted to be raised, in a reference or in an appeal or a revision application. If the procedure of reference is abolished and appeal against the order of the Tribunal is permitted in the High Court, such an object would be achieved.

51. The change in the pattern of litigation has often been responsible for search by Advocates for precedents in other jurisdictions and in the literature on matters legal and political on analogous matters from sources outside the Indian Legal literature. Before the Constitution, the Advocates restricted themselves to Indian authorities and judgements of the Courts in the United Kingdom. But because of enunciation of fundamental rights, freedom of commerce and distribution of legislative powers, Advocates and Judges have extended their researches to the American, Australian and Canadian legal literature; and decisions of Courts in those countries are freely cited to support arguments. Naturally this process requires the Courts to familiarise themselves with the basic constitutional and other laws in those countries and sometime time is spent in determining whether the authorities are of sufficiently persuasive character as to afford guidance in the development of our jurisprudence.

52. Again there has been a vast increase in labour disputes, and cases decided in that branch of the law do not follow any set pattern of principles or precedents. Literature on the role of labour in society and its relation with the employer is vast and new claims are almost everyday made relying upon political theses written in India and abroad. Hearing of disputes on claims arising from industrial disputes necessarily takes more time because of the very extensive canvass on which they are examined.

(viii) Preparation of Records

53. Certain methods for tightening up the preparation of the record to make the cases ready for hearing early are —

- (1) Filing of certified copies of judgment and decree of the Court whose decision is appealed against may be dispensed with. Even a copy which is certified by an Advocate or a Court Officer as a true copy would meet the ends of justice.
- (2) At the time of filing the appeal the appellant should be called upon to deposit with the Registrar the process fee. If the appeal is admitted the amount may be utilised for payment of the process fees, otherwise it may be refunded.
- (3) Weeding out certain classes of causes which may appropriately be left to be tried by other Courts or Tribunals.

(ix) First Appeals

54. First Appeals from civil suits constitute a very important slice of civil litigation in the High Courts. Annexure XVIII shows the percentage of First Appeals in the total pending file of each High Court at the end of June 1971. Appeals lie to the High Court under special Acts against decisions of the District Court e.g. Guardian & Wards Act, the Land Acquisition Act, the Companies Act the Trade Marks Act. An appeal also lies to the High Court against the decree of a District Court or a City Civil Court or a Subordinate Judge (a Civil Judge as he is sometimes

called) in a civil suit where the value of the subject matter exceeds a specified value. The value of the subject matter which determines the forum of appeal is not fixed by any Central Act; it is fixed by the State Acts and varies from State to State.

55. Under the Civil Courts Acts in force in different provinces prior to the Constitution ordinarily an appeal lay to the British Indian High Courts from the decree or an appellate order in a civil suit where the value of the subject matter as determined by the suits valuation Act exceeded Rs. 5000/-. After the commencement of the Constitution from time to time the value which is determinative of the jurisdiction has been raised. In some States it is now Rs. 20,000/-; in some, it is Rs. 10,000/- in others it remains at Rs. 5000/-. The gradual erosion in the purchasing power of the Rupee since the World War II has resulted in a corresponding increase in the value of property, and some State legislatures have enhanced the jurisdiction of the District Judge in the pecuniary limit of the jurisdiction for entertaining appeals, but even the maximum increase is not proportionate to the general rise in the value of property and commodities. Accordingly in raising the limit which determines the jurisdiction of the appeal court the reduction in the purchasing power of the rupee is not reflected. Many disputes relating to property are regarded as fit for being brought to the High Court which if the dispute had been raised two decades earlier may not have reached the High Court by way of a first appeal. Indisputably it is not in the interest of the State nor of the litigants that all disputes should be permitted to be tried in the highest Court. There must be a gradation of Courts the higher courts trying more important causes. There is one more important and well accepted principle that normally against the decision to the detriment of a person there should be a right of one appeal. A succession of appeals justified on the theoretical possibility that the first appellate Court may possibly go wrong is not in the interest of the State. Such a course encourages a litigious spirit and induces the citizen to seek resort to higher courts which may be found willing to entertain his appeal.

56. Our procedural laws provide for too many appeals. Paradoxically, there is scope for more appeals in cases where the dispute is relatively speaking a minor dispute. In a suit where the subject matter is cognizable by a Munsif or a subordinate Judge of the II Class there is an appeal to the District Court and a second Appeal to the High Court, which if heard by a single Judge, gives scope for an appeal under the Letters Patent (with leave of the Judge deciding the second appeal). There is finally the appeal to the Supreme Court, followed by the same sequence of appeals from orders in execution proceedings.

57. If the object of Court proceedings is the determination of the rights and obligations of the parties before it and enforcement of the right *i.e.* rendering a decision which may take effect with finally, it is implicit in the object that the final decision must be reached expeditiously. The party who approaches the Court with a grievance or is brought before the Courts is concerned primarily with the case he is concerned in. He desires an early end to the proceeding. But our procedural laws are often abused by making them instruments of delay in reaching the conclusion. Nearly all the evil consequences which follow from the delay in the disposal of cases in the trial Court are magnified manifold by a succession of appeals. It is

not in the interest of the State nor of the litigant that before a final decision is reached there should be a succession of intermediate and inconclusive decisions delivered during the progress of a litigation. Expense incurred in litigation of normal duration, uncertainty and opportunity of wearing out the weaker party, and the feeling of frustration which is engendered by the meandering of the cases in the course of litigation are unhealthy manifestations. The longer the final decision is postponed, there is greater likelihood of intermediate or incidental disputes arising which obstruct the progress towards the final decision. Parties dying, titles arising in persons who were initially not parties to the litigation and changes in circumstance raise opportunities for new disputes to arise as off shoots of the parent litigation.

58. Not only the cost of this process to the parties and the State is immense but it foments a belief that litigation is a gamble and its ultimate result is unpredictable.

59. The average litigant in our country is often not very much concerned with the real merit of his case. He is not willing to assume that to every case there is a right solution which the Judge with his training and experience makes his best effort to reach, and will in general reach. To him the object often born out of inveterate optimism or other cause, is of exhausting the remedies which the laws provide before the end is reached. This attitude of mind begets a speculative outlook. If the value of the subject matter is an adequate test for determining the forum of appeal it would be reasonable that if the High courts are to function effectively, their files should not be clogged with disputes of comparatively speaking minor importance which would but for the adventitious rise in the value of the property in consequence of the reduction in the purchasing power of the rupee not have reached that Court.

60. The large number of first appeals instituted in the High Courts accounts in a substantial measure for the congestion of cases in many of the High Courts. We deem it necessary to examine the feasibility of reducing the number of first appeals that are being instituted in the various High Courts every year.

61. It is suggested that the jurisdiction of the District Judge to hear appeals should be enlarged to Rs. 20,000/- and that an appeal should not lie to the High Court unless the subject matter of the suit in the Court of First instance exceeds Rs. 20,000/-

62. This measure of enlargement of the pecuniary appellate jurisdiction of District Judges is worthy of acceptance. Fixing the pecuniary limit of the Appellate jurisdiction of District Judges at a reasonable level having regard to the appreciation in the price level is generally accepted. Member of the Bar are generally not in favour of fixing the pecuniary limit at more than Rs. 10,000/- . Their objection to the raising of the limit to above Rs. 10,000/- is that the standard of the subordinate judiciary has deteriorated to such an extent that the litigating public have come to entertain an understandable desire to get a decision at all costs from the highest court in the State. We are unable to agree with the pessimistic view expressed by some of the members of the bar that administration of justice would suffer if there is an enlargement of the pecuniary appellate jurisdiction

of District Judges. The fact that the purchasing power of the rupee is considerably reduced and the market value of property has increased many times its original value since the monetary limits of the appellate powers of District Judges were fixed, would itself impel us to recommend an enlargement of the pecuniary appellate jurisdiction of District Judges. We are unable to subscribe to the view that there has been any appreciable deterioration in the standard of the subordinate judiciary making it hazardous to entrust District Judges with appellate powers to hear appeals up to the value of Rs. 20,000/-. There is a tendency in India for litigants to carry the matter to the highest Court through a succession of appeal whatever may be the justice of their cause or the merit of their case. Opportunity of carrying the litigation to the highest Courts through a succession of appeals encourages such a tendency. Even in the seventies of the last century, it was opined that "reform of present methods of dealing with the great volume of suits of small value in India should be based on a strengthening of the lower appellate Courts". We feel that the lower appellate Courts should be strengthened by enlarging their appellate powers. The High Courts Arrears Committee of 1949 also felt the need to recommend the investment of District Judges with jurisdiction to dispose of first appeals upto Rs. 10,000/- mainly on a consideration of the depreciation which had taken place in the market value of the rupee and the corresponding rise in the market value of property. The Law Commission has supported the implementation of that recommendation. We might also note here that in an editorial in the Indian Express New Delhi dated 3-6-1970 it has been suggested that the jurisdiction of District Judges to entertain appeals could be safely increased to Rs. 50,000/- We do not think that such a drastic change is justified at the present juncture.

63. After carefully considering the question in the context of different representations made and opinions expressed we recommend that the pecuniary appellate jurisdiction of District Judges could safely be fixed at Rs. 20,000/- and that such a limit may be uniformly prescribed over the entire country. The amendment in the laws prescribing the jurisdiction of the District Judges should have effect from the date on which they are enacted and first appeals in the High Court now pending arising from suits valued at and below Rs. 20,000/- may be transferred to the District Courts unless the hearing of the appeal has actually commenced.

64. We are not in favour of the suggestion contained in the report of the Uttar Pradesh Judicial Committee of 1950-51 and supported by some of the Judges interviewed by us that appeals of certain monetary value should be heard by a bench of two District Judges. The constitution of such benches would in its wake bring about various administrative problems and we feel that in the long run such a measure would not result in any actual benefit by way of expeditious disposals and may involve great inconvenience to the litigating public.

65. We may also recommend that first appeals from decrees in regular suits where the subject matter of the suit is between Rs. 20,000/- and Rs. 30,000/- may be heard and disposed of by single judges and appeals of higher valuation may be heard and disposed of by a Division Bench, it being permissible for the single Judge who hears an appeal to refer it to a Bench

when he thinks that it is fit to be disposed of by a Division Bench as for instance on the ground that an important question of law of general importance arises.

66. In the towns of Bombay, Calcutta, Madras, Ahmedabad and Hyderabad, city civil Courts have been set up and decisions rendered by those Courts are subject to appeal directly to the High Court within the respective jurisdiction in which they function. It is advisable to provide for internal appeals within the City Civil Courts in matters of small value and against appealable orders so that the High Court may not be called upon to deal with petty cases instituted in those Courts.

67. An appeal under the Letters Patent from the decision of single Judges trying a suit or other proceeding as Court of original jurisdiction though not called First Appeal is for all practical purposes an appeal of that character. There is no serious complaint in respect of this class of appeals requiring us to recommend any specific measures to reduce their inflow.

(x) Letters Patent Appeals From Appellate Decisions

68. In practically all High Courts, single Judges decide First appeals involving small claims. It has to be so having regard to the available judge strength in the several High Courts. But in quite a few cases decided by such single Judges, Letters Patent appeals are filed. These appeals requiring the attention of the bench twice, once under Order XLI Rule 11 and again at the final hearing, take up quite a good deal of time.

69. The provision of a Letters Patent Appeal against a single Judge deciding a Second Appeal which gives the option to a party to require a fourth hearing, has been already described by the Civil Justice Committee of 1924 as "in no degree short of absurdity." As observed by the Committee there must be an end to litigation at sometime, the question of the exact amount of litigation reasonably necessary seems to be a question of degree, to be settled with an eye to the respondent as well as to common sense. A mere restriction of the right of Letters Patent Appeals to cases certified by the single Judge as fit ones for appeal, under the Letters Patent will not as observed by the Law Commission suffice. There was near unanimity of opinion among the persons whom we interviewed that Letters Patent Appeals against Judgments of a single judge of the High Court, in a case heard in the exercise of appellate jurisdiction from a judgment and order of subordinate Court, whether under the C.P.C. or special jurisdiction should be abolished. We recommend accordingly the abolition of Letters Patent Appeal, except in the case of orders made in writ petitions and suits and proceedings in special jurisdiction tried on the original side of the High Court.

70. The Law Commission had also made such a recommendation. Of course, it should always be open to a single Judge of the High Court who is seized of an appeal to refer it to a Bench if he be of the view that the case is one of such difficulty or importance that a hearing by a Division Bench would conduce to justice.

(xi) Revision Petitions

71. Increase in the number of Revision Petitions to the High Courts is disturbing. Annexure XIX shows the increase in the file of Revision Petitions. In the case of revision petitions under section 115 C.P. Code, there is often not a proper realisation of the limits of the High Courts revisional jurisdiction under S. 115 C.P. Code. A number of such revision petitions are filed against interlocutory orders passed by the lower Court. Filing of a revision petition against an interlocutory order naturally results in obstructing the progress of the suit for a long time whether or not stay of proceedings is asked for and obtained, for, the record of the case is often called for by the High Court. We have been told of instances in which a number of successive revision applications were filed against successive interlocutory orders, thus holding up the suit for a number of years. Where the subject matter is open to appeal against the final disposal in the matter we are of the firm opinion that the right of revision to the High Court against interlocutory orders should be taken away. Correctness of an interlocutory order if it remains a live issue may be challenged in the appeal, which would follow the final disposal of the matter. Therefore, except in cases where the effect of allowing the revision petition, would be to dispose of the suit itself, no revision application should lie to the High Court.

72. There has of late been a singular misconception in some courts about the true dimensions of the power which the High Court may exercise when its power under Art. 227 is invoked. An impression has been created that the jurisdiction under Art. 227 of the Constitution is wider than the jurisdiction exercisable under Section 115 Civil Procedure Code and cases which could not attract the jurisdiction of the High Court under the latter provision may still be filed under Art. 227 of the Constitution. This is a clear fallacy. Jurisdiction exercisable under Art. 227 is if at all more restricted. If our recommendation about limiting the classes of cases which may be carried in revision to the High Courts is accepted, a practice should be evolved that jurisdiction of the High Court will not be exercised under Art. 227 in those cases.

73. Regarding revision applications under Section 25 of the Provincial Small Cause Courts Act, there was unanimity among the members of the Bar and the Judges that District Judges should be invested with revisional jurisdiction. We recommend, that the revisional powers of the High Court under section 25 of the Provincial Small Cause Courts Act be taken away and such revisional jurisdiction conferred on the District Judges by a suitable amendment of the Provincial Small Cause Courts Act. We might note here that the High Courts Arrears Committee of 1949 had made a similar recommendation. Implementation of this recommendation will undoubtedly relieve the High Courts, of an unnecessary burden placed on them and would consequently help to clear up the arrears and prevent to some extent accumulation of arrears.

74. Under Section 75 of the Provincial Insolvency Act a revision application lies against the order of the District Judge on questions of law. No serious complaint was made against the filing of such a revision application.

(xii) Appeals to The Supreme Court

75. We are of the opinion and a majority of the persons we interviewed agreed that sub-clauses (a) and (b) of Clause (1) of Article 133 of the Constitution and corresponding provisions of Sections 109 and 110 of the C.P. Code be deleted. By reason of the word "shall" occurring in clause (1) of Art. 133 an appeal lies as of right to the Supreme Court if the pecuniary and other conditions under sub-clauses (a) and (b) are satisfied. This results in a peculiar situation that even if the High Court finds that a petition is completely devoid of merit, it has to grant a certificate. Again a party in an appeal from a decree where the subject matter exceeds Rs. 20,000/- has no right to appeal as a matter of course if his appeal is dismissed but he gets a right to appeal if the decree is modified by the High Court in his favour. Hearing of an application for grant of such a certificate does take up some time of the High Courts. We recommend that sub-clauses (a) and (b) of clause (1) of Art. 133 of the Constitution may be deleted and only sub-clause (c) retained.

(xiii) Jurisdiction under the Indian Divorce Act, Parsi Marriages and Divorce Act, Representation of People Act.

76. Under the Indian Divorce Act, every decree for dissolution of marriage made by a District Judge is subject to confirmation by the High Court and Section 17 of the Act requires such cases for confirmation to be heard by a bench of three Judges, where the number of Judges of the High Court is three or upwards/or by a bench of two Judges where the number of Judges of the High Court is two. This provision, in our opinion requires to be deleted as an archaic survival of the British days. Under the Hindu Marriage Act even subordinate Judges can grant a decree for divorce and there is no cogent reason why in the case of persons governed by the Indian Divorce Act the matter should require the attention of three Judges of the High Court. We recommend that section 17 of the Indian Divorce Act may be deleted and District Judges empowered to grant decrees of divorce under that enactment without having to refer the matter to the High Court for confirmation.

77. Jurisdiction under the Parsi Marriages and Divorce Act, 1936 may also be made exercisable in the towns of Calcutta, Madras and Bombay by constituting the City Civil Courts in the respective places as the special Courts under Section 18 of the Act.

78. Under the amendment made in the Representation of the People Act, 1951 the High Court is constituted a Court of First instance to try and dispose of Election cases, and an appeal lies against the decision to the Supreme Court. With the number of Election cases filed in each High Court as an aftermath to every general election, the High Courts are required to make available Judges for trying these disputes for Election petitions have to be disposed of within six months. In every election dispute allegations of corrupt practices under many heads of Section 123 of the Act are made and voluminous evidence is led by the petitioner and the respondent. Trial of election petitions obstructs the disposal of other cases in the High Courts. Since the consequences flowing from an order finding a person guilty of corrupt practice are very serious, the petitions are fought out in Court without yielding or conceding any point and serious allegations and counter allegations are made.

79. Investment of this jurisdiction has resulted in slowing down other work in the High Courts. We recommend that the Election Tribunals should be revived and the High Court should be restored to their position as exercising appellate power. Some of the Chief Justices complained that soon after the elections general and mid-term they had to spare the services of two or three Judges to deal with Election cases which receive top priority and that led to a great set back in the attempt made by them to reduce the arrears in the various branches of civil and criminal business of the Court.

(xiv) Tax Cases

80. Earlier we have suggested the modification of the procedure for bringing tax disputes before the High Court.

81. During the last few years there has been a substantial increase in the number of tax cases coming before the High Court. In a majority of the High Courts there is great accumulation of tax cases. Frequent changes in the tax laws, and enactment of provisions for severe penalties, and increase of rates of taxes contribute to increase in Tax Cases. We do not propose to enter upon an analysis of the reasons which lead to the increase in Tax Cases before the Courts. That is not within the scope of our enquiry.

82. Apart from the modification in the procedure for bringing the cases before the High Court early it is necessary that priority should be given to the posting of these cases before the Court. The suggestion that there should be an Indian Tax Court which was mooted sometime ago is in our opinion ill-conceived. Decisions of tax cases require a grounding and experience of general laws and especially commercial laws and isolating the Judges doing tax cases from other cases relating to disputes not concerning personal and other laws especially commercial laws in the interest of Judicial administration would be ill-advised. It is common experience that tax cases remain pending in the High Courts even though the questions to be decided therein are not live issues because they have been decided in other cases by the Supreme Court or the High Court. There should be an attempt made by the Registrar of the High Court periodically to prepare lists of cases which do not raise any live questions and obtain orders from the Chief Justice for placing them for orders. In preparing this list, the Commissioner of Income tax and Sales tax may help the Registry.

83. There are several statutes which invest the High Courts with original jurisdiction.

Patents & Designs Act.

Succession Act.

Divorce Act.

84. Cases under these statutes should in our opinion be tried exclusively by the District Court and in the metropolitan towns where the High Courts exercise original jurisdiction by the City Civil Court and only a right of appeal should be empowered upon the High Court.

(xv) Service Cases coming before the High Court by Writ Petitions

85. A substantial percentage of the total number of petitions under Art. 226 filed before the High Courts relate to terms and conditions of service of promotions and of punishment. We were informed that in some courts as many as one third of the total number of writ petitions filed relates to "service matters". Many of those we interviewed recommended that these service matters now coming to the High Court by way of petitions for writs, should be diverted from the High Court by setting up an independent tribunal for service matters. Such a Tribunal will undoubtedly remain subject to the jurisdiction of the High Court under Article 226 of the Constitution. We recommend that suitable legislation may be undertaken to set up an independent Tribunal to be presided over by a sitting or a retired Judge of the High Court. The Tribunal so appointed should be given assistance of one or more experts conversant with service Rules and service matters. Such experts however would not participate in the decision of the Tribunal. It may be provided that the findings on facts of the Tribunal shall be final. All cases which involve the legality or propriety of departmental actions and questions of promotions, compliance with service rules, etc. should also be made cognizable by the Tribunal.

(xvi) Labour Disputes and Election to Panchayats

86. A substantial number of Writ petitions filed in the High Courts are against orders of Labour Tribunals. We recommend the revival of the Labour Appellate Tribunal which was abolished some years ago. The revival of an appellate Tribunal will sieve out certain labour disputes, from the High Courts and relieve to a certain extent the congestion in the High Courts.

87. In the matter of elections to Panchayats, provision should be made for appeals to the District Court from the orders of the District Munsif as Election Tribunal. In the absence of such a provision, often petty disputes relating to Panchayat elections are filed in the High Courts, disputes which may appropriately be finally disposed of by the District Court.

(xvii) Company Matters Jurisdiction under the Indian Lunacy Act; The Guardian and Wards Act ; The Insolvency Act

88. We recommend that matters like alteration of Memorandum of Association, excusing delay in filing returns with the Registrar or in registering charges where winding up has not supervened etc. may be dealt with by the Registrar of Companies instead of by the High Court. We refrain from giving a complete list of orders which the Registrar may make.

89. The High Courts of Calcutta, Madras and Bombay exercise jurisdiction under Part III Chapter IV of the Indian Lunacy Act. This jurisdiction may well be transferred to the Principal Judges of the City Civil Courts in those places. Likewise the jurisdiction exercised by the Original Side of the High Court under the Guardian and Wards Act and the Insolvency Act may also be made exercisable by the Principal Judge of the City Civil Court.

(xviii) Appeal against order of acquittal

90. Under the amendment made in 1956 in the Criminal Procedure Code a right of appeal is conferred upon a private complainant against an order of acquittal in a case filed on a complaint. We do not think that such a provision should remain on the statute book. It is resorted to invariably for persecuting an acquitted person out of grudge and in a spirit vindictiveness. It is a fundamental rule of criminal jurisprudence that a person acquitted of an offence should not be liable to be proceeded against in respect of the same offence for a second time. To minimise the possibility of miscarriage of justice in grave cases to the detriment of the public interest Section 417(1) enables the State to file an appeal against an order of acquittal. That should be a sufficient protection. To enlarge the scope of an appeal against an order of acquittal is in our opinion having regard to the fundamental concepts of our jurisprudence, impolitic. We therefore recommend deletion of Section 417(3). In making this recommendation we have a large measure of support from Judges interviewed by us.

(xix) Criminal References

91. The provision contained in Section 438 Criminal Procedure Code authorising the Sessions Judges or the District Magistrates to make a reference to the High Court in certain matters entails duplication of proceedings and avoidable waste of time. There is no reason why a Sessions Judge, who is competent to pass an order under Section 436 setting aside an order of discharge should not even though he is competent to come to the conclusion that an order of a subordinate authority is not sustainable in law should not be competent to make an effective order rectifying the proceeding. We therefore recommend appropriate amendment of Section 438. It need hardly be observed that in appropriate cases the jurisdiction of the High Court may be exercised under Section 439 where the Court of Session has been guilty of a grave error of law or facts.

(xx) Reducing the length of time in the actual hearing of cases

92. Before we deal with this topic we would like to make certain observations on related topics.

93. We were told that on the files of some of the High Courts, there are cases in which the parties are no longer interested, for example, cases compromised out of court, or cases rendered infructuous by reason of a decision rendered by the High Court or the Supreme Court in a similar case. There should be a periodical weeding out of such cases. We recommend that there should be a periodical examination of pending cases and their classification by the Registrar or some other officer specially designated for that purpose. These "dead cases" can be picked out in the course of such a scrutiny and notice given to the parties regarding them to state whether they wish to prosecute the matter or not. Some Officer of the High Court should exercise adequate supervision to ensure easy flow of ripe matters to be placed before the Court for disposal. There should also be a periodical check by the Chief Justice or a Judge nominated by the Chief Justice to examine why old cases remain to be placed before Court. The rule framed by some Courts requiring "Actual date notice", in our considered view,

gives to litigants opportunity to hold up proceedings by refusing to appear through counsel and hence that rule or practice may be abolished. The initial service on such person should be sufficient.

(xxi) Grouping and Classification of Cases

94. We recommend that there should be grouping and classification of cases, so that cases raising similar disputes or cases under specialised branches such as tax cases, cases under the Industrial Disputes Act, cases under the Land Acquisition Act, petitions for writs dealing with special statutes may be brought together. This would not only expedite disposal of cases but would also conduce to a uniformity of approach and decisions, with a progressive development of the law. The method of clubbing together and posting before the same Judge or Bench of Judges cases of the same nature, has in our opinion much to commend. This method need not be confined to petitions for writs alone, but may be adopted for all cases including first appeals.

95. In placing causes on the hearing roster priority should be given to cases which are required by law or by order of the Court to be disposed of within a prescribed time. Priority should next be given to specially expedited cases or cases fixed for particular day for hearing followed by expedited cases (cases in which stay is granted, or the appeal is against a preliminary decree or execution cases). Proceeding arising in Tax cases, Industrial disputes etc. should also receive priority.

96. In general it has been our experience which has been shared by many Judges that memoranda of appeals are drawn up without much thought. In many cases parties are guilty of filing memoranda containing grounds which it appears are never intended to be argued. Sometimes a memorandum of appeal runs into as many as 60 pages and contains quotations from evidence, arguments and citations from cases. It is imperative that the memorandum of appeal should succinctly set down the grounds, in such a manner that the points for decision are apparent at a cursory glance. In some cases arguments which are out of place in a memorandum of appeal are incorporated. The Registrar of the High Court subject to a right to approach the Court against an adverse decision should be invested with the power to refuse to register an appeal if argumentative or unduly prolix.

(xxii) Lengthy arguments

97. It is uniformly complained that lengthy arguments are addressed in many cases on matters which are only of incidental importance and there is no attempt to concentrate upon the essentials of the dispute between the parties to the litigation. Sometimes passages from evidence are read out in extenso, and decisions are read verbatim from the commencement to the final order. Citation of decisions from obscure sources is also a common occurrence. To obviate all this and to compel counsel of both sides, to concentrate upon the essentials of the dispute we recommend that unless otherwise ordered by the Court in every appeal or petition to be heard before the High Court, the Advocates for the parties should draw up a concise statement setting out briefly the facts giving rise to the dispute the points at issue, the propositions of law or fact to be canvassed and the authorities relief upon for each proposition, and the relief claimed. These statements should be exchanged between the Advocates and filed in Court well in advance of the

hearing and the Judges should not ordinarily permit the Advocates to travel outside such a statement or to cite authorities, not included therein. It may be noted here that the High Courts Arrears Committee of 1949 observed that a full statement of the case on law and fact should be filed by the appellant along with the Memorandum of appeal, in all Second Appeals and in all Civil Appeals to the High Court a concise statement of the case with relevant law and authority which will in all essential features be presented to the Court at the time of the final arguments should be exchanged between the parties and filed in Court, a short time before the hearing actually begins on the lines of the statement of the case in the Privy Council. The Law Commission did not recommend acceptance of that suggestion but merely recommended the exchange between counsel of lists of authorities they propose to cite in order to prevent surprise and to ensure speedy assistance to the Court. In our view if the statements are properly drawn up and the Advocates are not permitted to travel outside in except for compelling reasons the length of arguments would be considerably reduced.

98. We are averse to the suggestion made by some Judges and the Members of the Bar that a time limit should be set for arguments before the High Court, as is the practice in the Supreme Court of the United States of America. The Law Commission has in its report elaborately examined the system in vogue in the Supreme Court of the United States of America and has shown how it is unsuitable to the conditions here.

99. The procedure prevailing in the Supreme Court of the U.S.A. is entirely different from that in vogue in our High Courts. The practice adopted in the Supreme Court of the U.S.A. cannot be transplanted here. At the same time we are conscious of the fact that lengthy arguments waste a good deal of time of the Court.

(xxiii) Second Appeal

100. We feel concerned with the pendency of a disproportionately large number of Second Appeals in many of the High Courts. (Vide Annexure VIII). We have incidentally dealt with this question earlier. The primary cause of the accumulation is the laxity with which Second appeals are admitted without serious scrutiny in the light of the provisions of Section 100 C.P. Code. That has evidently contributed to the accumulation of heavy files in several High Courts.

101. A strict scrutiny of Second Appeals having regard to these principles would go a long way to reduce the inflow of Second appeals many of which eventually have to be dismissed as not falling within the four corners of Section 100 C.P. Code. A system may be devised by which all Second appeals, after they are registered by the High Court registry may be scrutinised by a single Judge of the High Court outside working hours for determining whether they should be admitted straight away and notice issued to respondent or whether the appeal should be posted for a preliminary hearing under Order XLI r. 11. Only those fit to be admitted should be admitted unless caveat has been filed straight away and those which require further consideration or appear to be unfit to be admitted, should be put down for hearing in Court under Order XLI r. 11. We may note here that the High Courts Arrears Committee of 1949 and the Law Commission had also made similar

recommendations. The Civil Procedure Code may be amended so as to require the Judge who admits a Second appeal, to state the point or points of law arising for consideration therein. Provision for limiting the admission of a Second appeal on specified points only may also be implemented, to ensure a better and stricter scrutiny of Second appeals.

102. There was unanimity of opinion among all the persons we interviewed that the pecuniary limit laid down under Section 102 C.P.C. should be raised in view of the depreciation of the value of money and we recommend that such pecuniary limit should be raised to Rs. 3,000/-.

103. A decree in a Civil suit does not put an end to the litigation. Execution proceedings are also a fruitful source of controversy, and an order under s. 47 of the Code being a decree, a first appeal on facts and a second appeal on question of law lie. There is accordingly more scope for filing appeals from orders in execution than from the order in the suit. Stricter vigilance in admitting Second appeals on questions of law is necessary.

104. Some persons whom we interviewed suggested that in all Second Appeals the appellant should deposit at least the costs awarded against him by the lower appellate Court if not also the respondents' costs of the second appeal. But we would not like to fetter the discretion of the Courts in regard to this by making any such inflexible rule, lest any poor appellant should be barred from filing a second appeal, because of his inability to fulfil such a requirement.

105. The practice of permitting the respondent to file a caveat so as to afford him an opportunity to be heard before an appeal is admitted is a salutary practice which may be adopted.

106. An impression which is firmly grounded that once an appeal is admitted every question raised and argued before the Court should be dealt with and decided is erroneous. If the decision of the Court may be reached on a single point, it is unnecessary for the court to consider other questions which have in the final analysis no bearing on the result of the appeal. An impression has also gained some footing that once an appeal is admitted, it must be disposed of by an elaborate judgment even if no question of law is made out. This is wholly erroneous. In an appropriate case the High Court may be justified in disposing of an appeal by merely observing after setting out the point raised in Second appeal that the High Court has no jurisdiction to differ from the conclusion recorded by the District Court or by stating that the question of law does not admit of another answer.

(xxiv) Stay Orders

107. It was generally agreed by the Members of the Bar and Judges whom we interviewed that many an appeal or revision is filed with the sole object of obtaining stay. Appeal arising from order in execution and revision applications against interlocutory orders, by judgment debtors, in a great majority of cases, are filed with the sole object of holding up the execution as long as possible. Stay of proceedings is not to be granted unless it is imperative to do so, and failure to do so will result in grave injustice. The Law Commission had felt, that it is necessary to make provisions limiting the

powers of the Court to grant stay, especially in revision applications. Such provisions as recommended by the Law Commission may be similar to those in Order XLI r.5 C.P.C. We are of the opinion that stay of execution of money decree should not be granted except on such terms that the successful party and the loser are protected by requiring the applicant to furnish adequate security and orders for restitution under s. 144 C.P.C. should never be stayed. Where for valid reasons stay is granted the main case should be separately noted and be posted expeditiously for quicker disposal.

(xxv) Remands

108. Inordinate delays sometimes occur in the disposal of cases remanded by the High Court. To obviate this a rule should be made making it obligatory for the Judge to fix a date in the order of remand itself for the parties to appear in the Court below on that date. We are of the opinion that remands should be made as far as possible only under Order XLI r. 27 C.P.C. and that remands under s. 151 C.P.C. are quite uncalled for. In cases not covered by Order XLI r. 27 C.P. Code where it is necessary to have enquiries made or evidence admitted the case should be retained on the file of the High Court and powers under 0.41 r. 25 C.P.C. should be exercised.

(xxvi) Criminal Appeals

109. In the matter of admission of criminal appeals, there is great difference in the practice prevailing in different High Courts. In some courts appeals against orders of conviction are admitted as a matter of course and the appellant is released on bail. In some courts even appeals involving imprisonment for life and involving questions which are reasonably arguable are dismissed summarily. It is necessary to strike a reasonable mean. There must be a careful scrutiny of the memorandum of appeal and the judgment appealed from and the Court must be satisfied that there is a reasonably arguable case which if decided in favour of the appellant will result in acquittal or reduction in sentence. Jury trial of criminal cases has for all practical purposes been abolished and the association of assessors in criminal trials before the Court of session has also been abolished. This has resulted in saving of time in the Court of First instance. But there is great congestion in the High Courts. In some Courts a criminal appeal does not reach hearing for five or six years after the appeal is admitted to the file. It is necessary that priority should be given to criminal appeals.

110. Filing of statement of case analogous to the statement of case in petitions for writs and civil appeals may not in all criminal appeals be appropriate. We have therefore not recommended its extension to criminal appeals. But in appropriate cases where the facts are many and the case requires citation of authorities the court may pass an order requiring the Advocates to file a statement with suitable variations.

(xxvii) Criminal Revisions

111. Quite an appreciable number of the Criminal Revisions filed before the High Courts in the Presidency Towns of Calcutta, Bombay and Madras are against convictions and sentences passed by the Presidency Magistrates. We see no cogent reason why there should be special provision

for a revision to the High Court against such convictions and sentences by Presidency Magistrates, while in the mofussil there prevails the system of appeals to the Sessions Judges, against convictions and sentences passed by District Magistrates, sub-Divisional and First class Magistrates. We recommend that the provision for criminal revision to the High Court against convictions and sentences passed by the Presidency Magistrates be abolished and instead provision be made by suitable amendments to the Cr. P.C. for appeals to be filed before the respective City Sessions Judges against such convictions and sentences.

112. Then again quite a good deal of the time of the High Court is taken in disposing of revisions against orders under Sections 107, 144, 145 and 488 Cr. P.C. etc. We feel that such revisions may be diverted from the High Court by conferring powers on the Sessions Judges to pass final order in revision against such orders. A majority of the persons connected with the administration of Criminal Justice whom we interviewed were in favour of such a measure.

(xxviii) Writ Petitions

113. It has to be recognised that Constitutional Writs which were intended to be a check on illegal, high handed, or arbitrary action of the executive and for ensuring that the legislature wing did not violate the Constitutional limitations have however not infrequently been utilised for thwarting legitimate executive action and legislative measures. Serious charges of *malu fide* action, non-application of mind and colourable exercise of powers, are lightly made in petitions for writs to obstruct exercise of lawful authority. The responsibility of the Bar in this behalf is not negligible.

114. Disputes which in truth are not civil disputes are sometimes sought to be brought before the High Courts under the guise of a claim for Constitutional protection. Again disputes which should normally be tried in a civil action are brought before the High Courts by Writ petitions and it has become fashionable to challenge the validity of every statute however innocuous it may be. The result of these tendencies is that normal civil litigation between citizens has had to take a back seat in view of the large influx of Constitutional Writs seeking to ventilate sometimes grievances in which the party approaching the High Court has no personal grievance. Petitions are often filed by parties without exhausting the other avenues provided by statutes for redressing their grievances. The files of the several High Courts are clogged with Writ matters and the pendency of the petitions for Writs accounts in a large measure for the arrears in the High Courts and a good deal of the time of the High Courts is taken up in the disposal of petitions for writ. The remedy lies mostly in a proper appreciation of the scope and object of Constitutional Writs on the part of the Bar and the public and in the exercise of greater vigilance by the High Courts at the admission stage. Lax and defective drafting of rules notifications and regulations have provided a fertile ground for petition for writs. The remedy for this lies with the Government. If the drafting of such rules, notifications and regulations, is attended to by a body of well trained and competent draftman, the burden thrown on the High Court, would be considerably lightened.

115. Another problem connected with the disposal of writ petitions relates to orders passed by many authorities and quasi-judicial tribunals. The orders passed by these Tribunals which are frequently sought to be quashed by petitions for writs are not speaking orders. The Tribunals and Officers do not generally set out in their order, the reasons for passing such an order and in the few cases where an attempt is made to give reasons, the affidavits filed in reply when an order is challenged display, lack of clarity, confused or faulty reasoning and non-application of the mind and an *ex post facto* attempt at justification. We are strongly of the view that such Tribunals and the Heads of departments should when exercising quasi-judicial powers be required to give some indication of the grounds on which the order is made.

116. Unduly prolix and argumentative petitions and affidavits in reply and in re-joinder contribute in no small measure to the delays in the hearing and disposal of petitions subject to the issue of constitutional writs. It is necessary that the High Courts should exercise the power to refuse to entertain petitions which do not set out succinctly the right to relief and the nature of the relief claimed.

117. We have dealt with the question of prolix arguments as contributing to arrears. In most cases, this is due to lack of adequate preparation of the case on the part of the counsel and due to unrestricted quotations from evidence and citation of numerous precedents, many of which are not relevant. To obviate the former, we wish to emphasise the necessity to have a thorough preparation of the case. The courts before permitting the Advocates to go into the details of the evidence in appeal and the citation of case law, must insist upon a statement of the facts which give rise to the dispute, the decision of the court or courts below, the grounds on which the decision is challenged and the point or points sought to be made out in support of the appeal. The same approach should be made with appropriate variations in petitions for writs. Even at the risk of repetition we want to observe that it is not unusual to come across citations of precedents in support of the simplest proposition: the Judge hears them cited and sometimes pays counsel the compliment of including them in the judgment. Simple propositions do not generally require citation of authorities. What is not realised is that the simpler the proposition the larger the number of precedents. Axioms, however, need not derive support from judicial opinions. They are self evident. Citation of authority is necessary only when there is a contest raised about the truth of a legal proposition. Precedents are of value only as repositories of principles and not as illustrations of cases decided on a similarity of facts. Cases cannot be decided by matching the colour of their facts. It has some time been regarded as a sign of erudition to cite numerous decisions through which the final decision of the highest court, which is deciding the cause is reached. Sometimes cases are cited merely for distinguishing them as inapplicable. These are idle exercises to the litigant and they are futile to the judge who has to decide the case. They are irksome. It is often forgotten that no case decided is an authority because the facts in that case are similar to the facts in the case before the Court. A precedent may be useful as a guide in determining a question of law when that precedent has decided that question. The unrestricted citation of authorities has grown into a regrettable habit and takes up much of judicial time which may be better utilised. The proper place for precedent in our judicial system

is not recognised. An argument in a case is not intended to be an exposition of a branch of the law with citation of precedents good, bad and indifferent. In an argument at the bar there must be an attempt to state a proposition of law and if the court feels doubt in accepting that proposition to support that proposition by the best precedent or set of precedents available and if therefore be precedents of different gradations of courts, of the highest court. If the question is *res integra* and complex then alone it would be necessary to enter upon an investigation of the basic principles and then to raise a structure upon that foundation of the true principle.

118. We have no desire to criticise any individual judge or any court. But we are pained to find that judgments are sometimes unduly prolix. Facts whether relevant or not to the matter in dispute in the appeal are set out in great detail followed by citation of many authorities. Often an attempt is made to trace the development of a principle through many authorities. This is generally an idle exercise which helps no one. Citation of an authority is justified only when the principle in support of the view is in the opinion of the Court in dispute. If the principle is well settled no citation is needed. If there is a binding authority long citations of passages from the judgment are not called for. Nor does citation of cases for distinguishing them serve any purpose. The Judge is certainly not obliged to refer in his judgment to every case cited at the Bar. We have come across cases in which judgments running into scores of pages are written, when the ultimate decision is that the second appeal raises no question of law or the revision application raises no question of jurisdiction.

119. An impression has gained ground if not in all but in some High Courts that the judges duty at the hearing is merely to hear the arguments and that he is not expected even to express what may appear to him to be his tentative or *prime facie* view on the argument advanced. This leads to interminable argument, the advocate not knowing how the Judge has reached to the argument insisted upon repeating the arguments.

120. A Judge hearing a case is not expected to interrupt the argument; he must permit the Advocate to have his say but that does not involve that he must observe complete silence and not disclose whether he is subject to what the other side says willing to accept the argument. Effectiveness of the judicial process does not involve that the judicial view should remain inarticulate till the movement of handing down the decision. The Bar we believe appreciate that the Judge should invite an argument on a facet of the argument which he is unable to accept. Reasonable discussion of the pros and cons of an argument is always useful. It is of course not expected of a Judge to enter into a debate with the Advocate nor to make an attempt to convince the Advocate that he is in the wrong but we think it is the duty of the Judge to disclose to the Advocate how for the moment he reacts to an argument and to bring to the notice of the Advocate what the Judge thinks is the weakness in his argument. Again it is the duty of the Judge to guide the argument so that it may be presented in a reasonable order.

(xxix) Enrolment of Senior Advocates

121. We have already referred to the concentration of work in the hands of a few lawyers in every Bar, and their insistence on personally attending to every case in which they are engaged to act, appear and plead, leads

to great delays. Often these Advocates are unable to attend to the cases in which they are engaged because the cases reach hearing before different Benches at the same time and they are unable also to give full attention to preparation of the cases. The practice of allowing cases to be passed over because the Advocate is busy before another Bench, leads to dislocation of court business. Again concentration of many cases in the hand of the Advocate on which he is unwilling to relax his hold makes it impossible for him to adequately prepare for the case. It is not uncommon to find an Advocate reading the case practically for the first time in Court when he rises to argue it. This results in avoidable waste of judicial time. But the solution of the problem is somewhat difficult. The Judge has always to look at the co-operation of the Bar to be able to do his work effectively. Without the co-operation of the Bar it would be extremely difficult to perform judicial function satisfactorily especially in an adversary system of judicial administration.

122. We recommend that the Chief Justice and Judges of the High Courts may invite busy lawyers at the Bar to be enrolled as Senior Advocates impressing upon them that enrolment as Senior Advocate would result in improving their professional status and what may be lost because they are unable to attend to certain type of work may be compensated for by the added professional status.

123. The Courts may adopt a convention that adjournments in cases set down for hearing should be asked for in advance preferably before roster is prepared in the evening previous to the date on which the case is placed on Board for hearing and that no request for adjournment on the ground that the Advocate is engaged in another Court will be considered.

124. There should be informal meetings between the members of the Bar and Judges where difficulties of the Bar and the Court Administration may be discussed; and media found for enabling the Court work to be carried on smoothly with the co-operation of the bar.

125. Suggestions have been made that at the time of the proceeding being decided in the Court against the decision of which an appeal is intended to be preferred the parties or their representatives shall be required to be present or shortly thereafter and must indicate whether the judgment is intended to be appealed against, and that notice of appeal given immediately and the parties should take steps to have the record prepared and be ready to argue the case on a date to be fixed. The suggestion involves a violent departure from the present practice and, may not be harmonised without a complete reorientation of the Procedure Codes. To mention only a few : the procedure of O.41 r.11 which enables weeding out appeals which are unsubstantial will have to be scrapped; again our Procedure Codes are framed on the hypothesis that the losing party shall have sufficient opportunity to consider whether he should or should not appeal and the losing party is deprived of that consideration, if the suggested procedure is accepted the Court fee will have to be paid immediately on the memo of appeal and no effective order may be made unless all the parties remain present before the Court whose decision is to be appealed against.

(xxx) Provision of Adequate Judge Strength

126. The immediate need is to refix the permanent strength of the High Courts making it commensurate with the recent rise in the volume of work in the several High Courts. This must be done by working out the additional judge strength necessary for clearing the present accumulations on the basis of the norms of disposal per judge as fixed from time to time at the Chief Justices' Conference and making the strength of the additional judges such that within a specified period of reasonably short duration the accumulated arrears could be cleared, by utilising the service of such additional or *ad hoc* judges only for clearing the arrears and not for attending to other court business. Even after the judge strength of High Courts is augmented according to the needs of each High Court in the manner stated there should be a periodical review of the strength so fixed as recommended by the Law Commission. Utilisation of retired judges of the High Courts who are in good health, mental and physical for employment as *ad hoc* judges would make available a body of experienced men who may be instrumental in reducing the arrears, and by making *ad hoc* appointments whenever judges are deputed for non-judicial work for more than 4 months, depletion of the judge strength may be obviated.

127. We may observe that in fixing the norms of disposal per judge and on that basis fixing the permanent strength of judges in a High Court, account should be taken of judges required for special work outside the High Court, such as for being appointed to head commissions or other enquiries and of days lost on account of leave and on account of trial of election petitions and inspections of subordinate courts. Accounts should also be taken, having regard to the special information which the Chief Justice of each High Court, has, of the capacity and talent of particular judges in his court for speedy disposals of cases. If the absence of a judge in the High Court exceeds a period of three or four months, on account of the abovementioned factors, it may be regarded as appropriate to make an appointment of an additional or *ad hoc* judge, so that the work of the High Court may not be hindered and fall into arrears.

128. We may refer to the statistics which we have quoted in relation to the delay in the appointment of judges. A perusal of the statement is disturbing. In each High Court, many judge-days were lost because of failure to appoint judges in time. In the old days, it was customary for recommendations to be made for appointment of judges well in advance of the date of retirement of the incumbent and appointment were invariably made so as to enable the new appointee judge to take office immediately on the retirement of the incumbent. It is unfortunate that this convention has fallen into disuse. This convention should again be resuscitated and appointments should be made by the Government so that there is no time-lag between the retirement of a judge and the new appointee taking office. For that purpose, it is necessary that the preliminaries to the appointment of judges should be cleared well in advance of the date on which the vacancies are likely to occur. We may recommend that the recommendation with regard to the appointment of a judge may be sent by the Chief Justice directly to the Governor of the State, and if within a time to be fixed by convention, say, not exceeding a month, no objection is raised to the

appointment, the Governor must be deemed to have accepted the recommendation, and the matter may be referred to the Central Government. The Central Government also should take expeditious steps to clear the steps for early appointment before the date on which the vacancy occurs. We may also state that the scheme of consultation with the Chief Justice of the High Court and the Chief Justice of India in appointment of judges of the High Court will function smoothly if the recommendation made by the Chief Justice of a High Court for appointment of a judge is treated as cleared by the Governor if no objection has been raised by him within a month from the date when the recommendation was received by him and the Central Government will be entitled to deal with the recommendation on that footing.

(xxxi) Provision of Adequate Staff for the High Courts

129. We have already referred to the inadequacy and insufficiency of the staff of the High Court. It appears that requests made by the Chief Justices to their respective State Governments for additional staff are not infrequently turned down on the plea of lack of finance. We have been told that in a large majority of States, the income realised by the judicial departments by way of court-fees, fines etc. exceed the expenditure incurred. Administration of justice is essentially a social service which it is the duty of every civilised State to provide; but this service is regarded as a source of revenue to be utilised for general administrative purposes. It is illogical to put forward the plea of lack of finance in justification for turning down the legitimate and every reasonable requests, made by Chief Justices for additional staff.

130. We may in this connection observe that at the Chief Justices Conference held in 1966 it was resolved as follows:--

“On a true construction of the provision of Article 229 of the Constitution, the Chief Justice of a State has the power to create posts and appoint officers to the said posts, subject to the rules made or to be made in accordance with the proviso to clause 2 of the said Article.”

The Chief Justices and Judges of all the High Courts were of the view that Art. 229 of the Constitution which empowers the Chief Justice of a High Court to appoint officers and servants of the High Court confers on him by necessary implication the power to create posts of such officers and servants required for Court administration; otherwise the provision empowering the Chief Justice to appoint officers and servants for his High Court would appear to be illusory. This view has apparently received approval by the judgment of the Supreme Court in *M. Cooromurthy v. Accountant-General, Nagaland* AIR (1971), S.C. 1850.

131. We may recommend as a practical measure the adoption of a convention that every High Court should work out its distinctive norms, in regard to the work turnover for different sections in the registry e.g. the Copyist section, process section etc. and determine the strength of the staff. The Chief Justice may then proceed to appoint the additional staff based on those norms and give intimation to the State Government in that behalf

for inclusion of provision in the budget as a charged item. Under Art. 229 the administrative expenses of a High Court including all salaries, allowance and pensions payable to or in respect of officers and servants of the court, being charged upon the consolidated fund of the State, there should be no difficulty in carrying out the above recommendation. Any objection raised by the State Government that the expenditure for the High Court is not part of "plan expenditure" is in view of the precise term of Art. 229 misconceived.

132. We are of the opinion that the following measures may improve the efficiency of the staff:—

- (a) increasing the emoluments of the officers and staff of the High Court, to bring them into line with the emoluments in the secretariat for analogous posts;
- (b) improving their service conditions;
- (c) recruiting and appointing better qualified persons;
- (d) setting up agencies or institutions for special training of the staff in court practice and procedure, and making it a condition of employment and continuance of employment that the members of the staff undergo the training and receive certificate of efficiency.

133. We were told that the emoluments of the officers and staff of the High Courts are in many States much lower than the emoluments of the secretariat staff performing even comparable functions. The work of the staff of the High Court is often specialised and more complex than that of the secretariat staff. We recommend that the least that should be done for the staff of the High Court is to bring their scales of pay and allowances on a par with the scale prevailing in the State Secretariats. Improvement in their service conditions and providing them with residential quarters especially in larger urban areas would go a long way to infuse in them, a greater zeal for work and a higher sense of responsibility besides minimising corruption. Recruitment of persons qualified in law to the higher ministerial posts in the High Courts is a measure that would afford considerable help in solving this problem.

134. We were also told about the great difficulty experienced in securing competent stenographers for employment in the High Courts, since the salary of the stenographers is much lower than the salary paid to stenographers in private employment or in non-Governmental service and the work more strenuous in Governmental service than in such private and non-Governmental employment. Stenographers attached to judges have to put in full time work in court and also to attend some times at the residences of judges to take dictation of judgments. It is therefore necessary that the terms and conditions of service of stenographers should be revised and made attractive to enable the courts to have efficient service. There is no doubt that the assistance of efficient stenographer will greatly contribute to accelerate disposal of cases. The age of retirement of stenographers may also be raised to 60 so that experienced stenographers may continue to remain available in the Courts.

(xxxii) Optimum Utilisation of the Judge Strength

135. There is occasionally failure to make optimum utilisation of the judge strength. One factor which undoubtedly affects the turn over in some High Courts, is the non-utilisation of judges having special aptitude and talent for a particular class of causes. It should not be difficult for the Chief Justice of the High Court to assess the special aptitude and talent of the judges in his court and to allocate as far as possible judicial work in such a manner that judges are called upon to attend to causes for which they have special experience aptitude or talent. It need hardly be emphasized that if judges with special acquaintance or competence or have specialised in certain branches of the law are allotted cause under that particular branch of the law, the time taken to decide those causes would be much shorter than the time taken by judges not familiar with the branch especially a specialised branch.

136. Frequent changes in the constitution of benches result in reduction in the turn over. We have been told that in some courts the rosters are so arranged that a bench of judges breaks up three times in the course of a day. This is responsible for cases remaining, part heard, to be taken as and when the bench is available, and if a fairly long period elapses as it does many times, the causes has to be argued again from its inception. We have also been told that in original trials of suits in a Court evidence of one witness is heard by one judge, of another witness by another judge, and not infrequently several judges participate in the recording of evidence. Frequent breaks in the hearing of cases and swift changes in the constitution of benches result in judicial time not being effectively utilised.

137. We feel that the working days in the High Courts should be 205 days in a year and it should be left to the High Court to fix the periods and lengths of vacations provided that the High Court works for 205 days in a year. We are strongly of the opinion that judges should not be required to sit in court on Saturdays, since in practice judges have to utilise Saturdays for studying the case, dictating reserved judgments and for attending to the administrative work entrusted to them. We endorse the view of the Law Commission that judges should sit in court and do judicial work for at least five hours on every working day.

138. To determine the average norm of disposals it is necessary that the statistics relating to the institution of causes and pendency and disposal should be prepared on a uniform basis all over the country. We find that in some courts petitions for interlocutory proceedings are included in the institutions disposals and the pending files. In other courts they are not reflected at any stage. The result in some courts is a completely distorted picture of institutions, pending causes and disposals. In our view the interlocutory applications should not be included in the statistics of institutions, pendency and disposals and the statistics of causes instituted disposed of and pending should be worked out without taking into account those applications. Estimated average performance per judge in the High Court should be worked out on that basis.

CHAPTER VI

OTHER MEASURES

1. We also recommend acceptance of the following methods for reducing the time taken up for hearing of cases in the High Courts:--

- (1) A Judge should be entitled to refer a point alone to a larger Bench without referring the entire case if in his view such a course is justified.
- (2) All questions in execution whether between the parties to the suit or between a party and a stranger and relating to execution, should be decided by a petition and not by a separate suit. If this is adopted enquiry which frequently entails institution of suits with the concomitant paraphernalia of appeals would be avoided and all enquiries would be completed in the course of the enquiry.
- (3) In appeals in execution proceedings from money and mortgage decrees, the jurisdiction of the Court of appeal should be governed by the amount in dispute and not the value of the subject matter in the suit.
- (4) Refund of half the court fee when an appeal is compromised before it is actually taken up for hearing before the High Court, may persuade parties to settle some of the disputes.
- (5) Administrative work should be done outside court hours. The practice in some courts of judges not sitting in court during court hours because they have to prepare judgments or to attend to social functions or administrative work should be severely discouraged.
- (6) It should be made permissible for a judge in the High Court in dismissing a revision application under Section 115 C.P. Code or a Second appeal to state the point raised and to record that in his view the point does not attract the jurisdiction of the High Court under Section 115 C.P. Code or Section 100 of the C.P. Code.

2. The High Courts of Calcutta, Madras, Bombay and Delhi exercise original jurisdiction in suits above a certain pecuniary limit. Varying degrees of efficiencies in the disposal of cases are exhibited in the different courts. It is however, accepted that in all courts there are heavy arrears of pending suits. Apart from the system of weeding out dead cases, it is necessary to adopt certain special procedural media for reducing the arrears.

3. Strict adherence to the rules relating to discovery, inspection, interrogations must be enforced. These processes should be completed well in advance of the actual hearing. Compulsory examination of parties or their representatives may except where the court for reasons to be recorded orders otherwise should be insisted upon.

4. Meeting before the judge, of the parties to ascertain whether the case is capable of settlement and settlement between counsel before the actual hearing of the case of the year points on which they propose to go to trial would reduce the trial time.

5. Filing of affidavits on matter non-controversial or sparingly controversial may also be encouraged, so that the dispute may be concentrated within the smallest possible periphery.

6. Service of summons and processes of suit by the accredited clerks of the Advocates, may also be usefully adopted to reduce the time taken up in serving the summons or processes.

7. Classification of suits into summary suits, short causes, commercial suits and long causes may be adopted and a suit should be assigned to the long cause only if it requires trial on evidence of complicated question of fact.

8. A running roster of cases should be adopted and a cause should not as far as possible be adjourned once it is placed on Board for hearing.

9. There is on scrutiny of statistics of the different High Courts great variation in the per capita disposal by judges. It is true that the statistics in all the High Courts are not prepared on the same basis, and there is no uniformity in the pattern of litigation in different regions. But even comparing the per capita turn-over for instance in First appeals, Second appeals, Revision applications and Writ petitions, disposal of cases widely varies. It is difficult to obtain a satisfactory answer to these variations.

10. We recommend that the Chief Justice of each High Court should periodically check up the turnover of individual Judges and Benches and ascertain whether it is due to inherent slowness of the Judges, or because of specially difficult or complicated litigation or for other causes, and he must try to attack the root cause which is responsible for a turnover per Judge which is less than the average norm which the Chief Justices' Conference has accepted. The normal disposal per Judge in each High Court should be about 650 substantive cases.

11. The back log in each High Court has to be cleared by immediate appointment of sufficient number of additional or adhoc Judges on that basis and by not allotting any other work to them until the arrears are wiped out. The permanent strength of each High Court should, we recommend, be reviewed and refixed from time to time on the basis of the file and disposal of 650 cases per Judge, not leaving out of consideration factors like Judges going out on Commissions, leave, deputations and a slowness of particular Judges.

Raising the pecuniary limits of the jurisdiction of the District Munsif or Junior Judges.

12. One other matter, which though it does not concern the arrears in the High Court has to be referred to, is the necessary to raise the limits of the pecuniary jurisdiction of District Munsifs or Junior Judges. At present in most of the States that jurisdiction is limited to suits of the value upto Rs. 5000/-. Having regard to the factors and reasons which impelled us to recommend the enhancement of the pecuniary appellate jurisdiction of District Judges to Rs. 20,000/- we recommend that the pecuniary limits of the jurisdiction of the District Munsif should be raised to Rs. 7,500/- if not Rs. 10,000/-.

CHAPTER VII

JUDGES OF THE HIGH COURT

1. Effectiveness of the High Court turnover must ultimately depend upon the personnel manning the High Courts. There can be no doubt that the most important steps in the direction of reducing the arrears in the High Courts is to attract the best talent at the Bar. For that purpose it is necessary to make the conditions of service attractive. We were told by the Chief Justices of the High Courts of Calcutta and Bombay that it is extremely difficult for them to persuade even junior members of the Bar to accept judgeship. Unwillingness of successful members of the Bar to accept judgeship is very acute in some places and less acute in other High Courts. But if the High Courts are to function satisfactorily it is essential that able members of the Bar should be persuaded to take up judgeship.

2. We may repeat that the salaries of judges till a few decades ago enabled them to live in reasonable comfort and dignity and maintain the isolation which is strictly necessary to enable them to perform their duties impartially. With increasing taxes and gradual erosion in the value of the rupee, it is difficult for many judges to live on the net pay received by them at the end of the month. In the judge recruited from the Bar there is often a sense of frustration when he feels that he has made a wrong choice in accepting judgeship when he has year after year to draw upon his savings, made at the Bar. This necessarily affects judicial equanimity in quite a few judges.

3. It is necessary that conditions of service should be improved. This should include salary increase, provision for suitable free furnished residence, better pension terms, family allowance in case of death during service or after retirement, special conveyance allowance etc.

4. If not the entire, a substantial section of the judicial strength of each High Court must be drawn from the Bar and the conditions in which the Judges are—required to perform the functions must be made sufficiently attractive to persuade leading members of the Bar to accept judicial appointment. We generally accept the recommendations made by the Law Commission in their report which has been summarised and we adopt items Nos. 1 to 17 as part of our recommendations.

CHAPTER VIII

CIRCUIT BENCHES

(1) In answer to the questionnaire issued by this Committee, certain persons advocated the constitution of Benches of the High Court at different places, apart from the principal seat of the High Court. We have carefully considered these suggestions and find ourselves unable to accept these suggestions.

(2) At present, there are circuit benches of the High Courts of Allahabad, Bombay and Madhya Pradesh, sitting respectively at Lucknow, Nagpur and Indore and Gwalior. The circuit bench at Lucknow was constituted by the United Provinces High Court Amalgamation Order, 1948. The Nagpur Bench was established under the Sec. 41 of the Bombay Re-organisation Act, 1960, and the Indore and Gwalior Benches were established under Section 51 of the States Re-organisation Act, 1956. There was one more bench of the Bombay High Court set up at Rajkot after the States Re-organisation Act. But, since the enactment of the Bombay Re-organisation Act, that bench has been abolished. The Delhi High Court was also sitting at Simla before the constitution of the State of Himachal Pradesh; after the constitution of the State of Himachal Pradesh a separate High Court has been set up at Simla. Before the High Court of Delhi was set up, the Punjab High Court used to have a circuit bench at Delhi. By the constitution of the Delhi High Court, that circuit bench has been converted into a High Court for the Union Territory of Delhi.

(3) The question of maintaining the circuit benches at places other than the normal situs of the High Court was considered by the Law Commission and they reported against the adoption of the principle of having such circuit benches. In their view, setting up such benches was fraught with serious danger. It marred the efficiency of administration of justice and could be justified only on grounds, political or sentimental. In the view of the Law Commission, to maintain the highest standards of justice and to preserve the character and quality of the work being done by the High Court, it is essential that the High Court should function at one place in the State and as a whole. The matter was again considered in their Fourteenth Report by the Law Commission and they observed that setting up circuit benches was a course which would lead to the impairment of the efficiency of the High Court, with the inevitable consequence of the lowering of the standards of administration of justice. We fully agree with the observations made by the Law Commission. We may also point out that, it is but proper that the High Court, being the highest court of appeal in the State and being invested with a variety of jurisdictions, requiring the determination of complex questions which have a profound effect on the rights of citizens, should have the assistance of the best legal talent available to the litigants in the area. Such assistance may be obtained only from members of the High Court Bar, and if the High Court Bar is divided, the assistance which the court may obtain is likely to suffer. There are also

considerations of finance, accommodation and convenience of the litigants. It will be difficult to maintain for the use of a circuit bench a well-equipped library, which is, in modern days, absolutely necessary for enabling judges and lawyers to perform their work satisfactorily. The problem of providing accommodation for the judges of the High Courts, who are required to move occasionally from the principal seat of the High Court to the place where the circuit benches are at present sitting, is acute, and if more benches are set up, it would become more difficult and the judges would be put to greater inconveniences. Again, the necessary staff, having the requisite calibre, qualification and experience, would not be available in comparatively smaller places, which are district headquarters, if circuit benches are to be located in such places. The setting up of circuit benches would be a measure which not only would not tend to effective disposal of cases, but would also greatly retard the disposal of cases and diminish the turnover. The Chief Justice of a High Court may not be able to exercise effective control over the administration and also supervise generally the work of the High Court unless he were to visit such circuit benches frequently. Such a course, if adopted would seriously hamper the work of the Chief Justice. In the case of High Courts, as they are existing at present, for maintaining the traditions already built up, it is necessary, in our opinion, that the courts should sit at one place and the judges should have frequent opportunities of discussing among themselves the problems arising before them. If circuit benches are set up, it would be difficult for the judges to have mutual consultations which the judges of the High Courts, as constituted at present, and working, do indulge in to the great advantage of the High Courts.

(4) We are, therefore, definitely against any move to set up any circuit benches of the High Courts. Whether the circuit benches actually existing should continue is not a matter on which we need express any opinion.

CHAPTER IX

RELATIONS OF CHIEF JUSTICE WITH PUISNE JUDGES

We may refer to the problem of the relation of a Chief Justice with the puisne judges, which is somewhat delicate. But, on that account, we do not think we would be justified in ignoring it.

The constitutional position of the Chief justice involves the principal responsibilities of :

- (a) maintaining the highest traditions and prestige of the High Court;
- (b) ensuring proper and effective administration of justice not only in the High Court but in all the courts subordinate to the High Court; and
- (c) ensuring maximum utilisation of the available judge strength of the High Court and in the subordinate courts.

On account of the investment of these responsibilities, there is an implied entrustment in him of powers of supervision over the entire work of the High Court, including the performance of individual judges and of benches and of the subordinate courts. Without such power, he cannot discharge his responsibilities effectively. He has to exercise certain amount of supervision over the performance of his brother judges. In the United States of America, each judge makes a weekly report of the number of hours he spent on the bench each court day, the number of cases and motions he has heard and disposed of, and of the number of cases and motions he has heard but not disposed of at the end of the week, with the reasons. With that information available, the Chief Justice is in a position to assign to the judges the work for which they are best fitted. The adoption of this practice with appropriate modifications may be usefully done in our High Courts. Care should be taken that the reports are not publicised, but kept exclusively for circulation among the judges. These reports will enable the Chief Justice to utilise to the maximum and in the best manner possible, the judge strength available, and a periodic review by the Chief Justice of the turnover of each judge, to whom a particular class of cases is entrusted, may enable him to ascertain the particular forte and talent of each judge attached to his court. Appreciation of the true relationship between the puisne judges and the Chief Justice and the responsibilities of the latter will, in our opinion, be conducive to the smooth working of the High Court and to greater turnover of work, and would prevent any embarrassing situations where the Chief Justice is required to advice a puisne judge in regard to his performance. It cannot be gainsaid that for continued and effective administration of justice in the State, the Chief Justice should have the fullest support and co-operation of every puisne judge in his court in the discharge of his onerous responsibilities and any step or mechanism which is calculated to ensure such support and co-operation would make the work of the High Court more effective, resulting in an increased turnover and exhibiting an improved administration and a true image of the High Court among the public.

CHAPTER X

CONCLUSIONS

At the end of our task, we would like to place on record our appreciation of the spontaneous co-operation received at the hands of all the Chief Justices, and many Puisne Judges of High Courts, Senior and Junior Members of the Bar, including those who were members of State Bar Councils, Law Secretaries, Commissioners of Income-tax, and the Law Minister as well as the Chief Secretary of the Government of Jammu and Kashmir. The Advocates-General of different States also placed before us all they could along with the respective Law Officers. We should like to thank them all. A word of appreciation is also due to the Secretaries of the Arrears Committee particularly Mr. C.J.R. Paul and the staff, of whom Mr. R.N. Saha has been very helpful in the preparation and compilation of the annexures with accuracy. Though the Committee was appointed in about October, 1969, in the circumstances it was somewhat difficult for us to quicken the process of interviews in almost all the High Courts more than what we have been able to do. We hope and trust that the suggestions that we have made in this Report, after very careful assessment, will be implemented at the earliest possible time. In the last analysis, it is obvious that it will depend entirely on the calibre and willing effort of individual Judges in the country not only to clear the back-log but keep down the file without unduly affecting the quality of justice. It is our firm belief that if proper care is taken in manning the superior Judiciary in the best possible way with men of ability and character, that will be the surest guarantee for achieving prompt and efficient administration of justice in our land.

(J. C. SHAH)

CHAIRMAN

(K. VEERASWAMI)

MEMBER

(C. J. R. PAUL)

Secretary

**REPORT
OF
THE HIGH COURTS ARREARS COMMITTEE, 1972
VOL. II**

LIST OF ANNEXURES APPENDED TO THE REPORT

- ANNEXURE I. Statement showing the Institutions, Disposals and Pendency of cases in various High Courts during the years 1956 and 1970.
- ANNEXURE II. Statement showing the number of various types of cases which was *instituted* in the various High Courts during the year 1956.
- ANNEXURE III. Statement showing the number of various types of cases *disposed of* by various High Courts during the year 1956.
- ANNEXURE IV. Statement showing the figures of various types of cases which *remained pending* in the various High Courts at the end of the year 1956.
- ANNEXURE V. Statement showing the number of various types of cases *instituted* in the various High Courts during the year 1970.
- ANNEXURE VI. Statement showing the number of various types of cases *disposed of* by various High Courts during the year 1970.
- ANNEXURE VII. Statement showing the figures of various types of cases which *remained pending* in the various High Courts at the end of 1970.
- ANNEXURE VIII. Statement showing the number of various types of cases which remained pending at the end of June 1971.
- ANNEXURE IX. Statement showing the number of Election Petitions filed in the various High Courts during the years 1967, 1968 and 1969 and the number of days devoted for their hearings.
- ANNEXURE X. Statement showing the number of Writ Petitions under Art, 226 and 227 of the Constitution, Writ Petitions challenging the validity of statutes, service cases by way of Writ, Petitions/Suits, Land Acquisition cases, Tax cases, Company cases cases involving litigation with Municipalities, Original Suits and Petitions, Letters patent appeals and number of suits filed and disposed of in the subordinate Courts (1956-1969) in the various High Courts during 1956 and 1969.
- ANNEXURE XI. Number of appeals against decisions of Election Tribunal filed in the High Courts and the number of days devoted to their hearing for the years 1964, 1965 and 1966.
- ANNEXURE XII. Statement showing the number of cases pending in each Court at the end of June 1971 which can be termed as arrears according to the test mentioned in paragraph 24 of Chapter III.
- ANNEXURE XIII. Number of Acts enacted by Parliament and various State Legislatures during the years 1955 to May, 1970.
- ANNEXURE XIV. Statement showing the Judge strength and vacancies in the High Courts (except Himachal Pradesh) as on 1-1-1972.
- ANNEXURE XV. Statement showing the number of days lost in making appointment of Judges in the High Courts during the years 1965 to 1970.

- ANNEXURE XVI.** Statement showing the number of days lost on account of deputation of judges on Commissions etc. during years 1965 to 1970.
- ANNEXURE XVII.** Statement showing the numbers of days lost on account of judges going on leave during the years 1965 to 1970.
- ANNEXURE XVIII.** Percentage of First appeals pending out of total pending main cases in each High Court at the end of June, 1971.
- ANNEXURE XIX.** Statement showing the increase in the filing of Revision petitions during the years 1956 to 1970.
- ANNEXURE XX.** List of persons interviewed by the Committee.

ANNEXURE

STATEMENT SHOWING THE INSTITUTIONS, DISPOSALS AND PENDENCY OF CASES IN VARIOUS HIGH COURTS DURING THE YEARS 1956 AND 1979

Sl. No.	Name of the High Court	Total Institutions		Total Disposals		Total pendency at the end of the year	
		1956	1970	1956	1970	1956	1970
1.	Allahabad	27140	40843	21277	39797	38168	64342
2.	Andhra Pradesh	15411	36899	11328	41083	23766	14813
3.	Assam & Nagaland	947	2140	695	1822	895	4631
4.	Bombay	14057	29938	14674	26563	13315	37067
5.	Calcutta	13593	25155	12223	21958	26639	75593
6.	Delhi (Fig. for 1967)*	17006*	16975	12912*	18094	15591*	14079
7.	Gujarat (Fig. for 1961)†	6743†	11527	4248†	13017	7112†	13983
8.	Jammu and Kashmir (Fig. for 1958)@.	1142@	1936	1055@	1790	582@	1368
9.	Kerala	10234	30190	8422	27180	6428	34392
10.	Madhya Pradesh	6081	9871	8247	8795	6442	14101
11.	Madras	25425	45503	26719	48978	15090	32864
12.	Mysore	5505	12759	2771	11347	6163	18662
13.	Orissa	2279	4521	2128	5079	2719	7221
14.	Patna	7886	13064	7786	9975	12488	15500
15.	Punjab (& Haryana)	13525	27149	9756	26205	11493	22910
16.	Rajasthan	3456	6166	3248	6796	5081	8067
TOTAL		170430	313636	147489	308479	191972	379593

ANNEXURE II

STATEMENT SHOWING THE NUMBER OF VARIOUS TYPES OF CASES WHICH WAS INSTITUTED IN THE VARIOUS HIGH COURTS DURING THE YEAR 1956

Types of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab	Rajasthan
ORIGINAL SIDE																
<i>A. Civil</i>																
Civil Suits	9	..	..	507	3600	807	..	38	..	..	122	..	1	4	..	..
Insolvency Cases . . . . .	..	..	..	135	35	..	..	..	..	..	96	..	3	..	..	..
Liquidation Cases.	53	4	..	12	389	147	2	..	10	..	78	..	1	2	136	..
Writ Petitions.	5025	1177	121	429	207	1882	830	164	679	635	1543	300	472	616	1069	471
Others	18	120	5	809	1	2831	167	4	31	..	3147	..	50	24	..	13
<i>B. Criminal</i>																
High Court Sessions . . . . .	..	..	..	..	62	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions.	3	..	..	6	..	86	..	16	..	4	..	2	..	99	40	..
Others. . . . .	..	..	..	..	25	9	..	12	..	..	..	..	11	..	..	..
APPELLATE SIDE																
<i>C. Civil</i>																
Original Side Appeal . . . . .	..	1	..	115	208	19	..	3	..	..	77	..	..	..	..	..
Letters Patent Appeals.	344	109	5	89	8	145	22	14	..	247	106	7	4	35	223	2

First Appeals.	900	550	32	799	345	253	820	98	1073	274	614	781	68	726	305	174
Second Appeals	3126	828	166	1573	1021	683	1041	132	1813	1249	1133	1516	335	1502	1373	649
Mis. First Appeals	427	402	37	205	315	412	70	53	296	272*	400	168	67	314	478	122
Mis. Sec. Appeals	13	109	14	..	105	512	..	9	36	..	104	7	36	121	155	..
Revision petitions	1899	1441	75	2057	3225	683	910	195	994	1181	1766	1052	284	1198	1202	561
Misc. Petitions	1920	7717	46	3625	1409	5749	1245	19	3725	..	11877	370	187	344	4428	218
Others	3998	301	4	71	18	430	..	8	116	365	609	11	131	159	..	..

D. Criminal

Criminal Appeals	2455	517	194	1651	708	313	771	95	219	542	834	336	205	654	861	388
Criminal Rev. Petns	2094	839	179	1691	1723	607	455	102	274	986	1163	496	283	1328	1912	435
Confirmation Cases	244	39	4	44	11	1	7	..	10	44	161	17	6	26	107	8
References	541	6	62	189	17	30	115	58	25	..	..	..	44	193	..	187
Crl. Misc. Petns.	4071	1251	3	50	159	1103	346	119	314	282	1587	442	91	541	1236	228
Others	..	..	..	..	2	304	42	3	619	..	..	..	..	..	..	..

TOTAL . 27140 15411 947 14057 13593 17006 6743 1142 10234 6081 25425 5505 2279 7886 13525 3456

*Include Mis. Second Appeals also.

ANNEXURE III

STATEMENT SHOWING THE NUMBER OF VARIOUS TYPES OF CASES DISPOSED OF BY VARIOUS HIGH COURTS DURING THE YEAR 1956

Types of Cases	Allahabad	Andhra Pradesh	Assam and Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab	Rajasthan	Remarks
ORIGINAL SIDE																	
<i>A. Civil</i>																	
Civil Suits	13	..	..	903	3570	243	..	135	..	..	155	..	3	249	..	..	..
Insolvency Cases . . . . .	..	..	..	131	14	..	..	..	..	..	154	..	3	..	..	..	..
Liquidation Cases	31	2	..	1	426	123	5	..	..	..	72	..	..	..	108	..	..
Writ Petitions	2277	497	72	406	146	1365	441	176	432	..	1267	291	582	468	631	423	..
Others	16	45	3	667	2	630	127	8	109	..	3423	..	67	22	..	12	..
<i>B. Criminal</i>																	
High Court Sessions . . . . .	..	..	..	..	54	..	..	3	..	..	..	..	..	..	..	..	..
Writ Petitions	3	..	..	6	..	96	..	16	..	..	..	..	..	62	29	..	..
Others . . . . .	..	..	..	..	30	4	..	11	..	..	..	..	..	..	..	..	..
APPELLATE SIDE																	
<i>C. Civil</i>																	
Original Side Appeals . . . . .	..	1	..	102	155	9	..	1	..	..	158	..	..	..	..	..	..
Letters Patent Appeals	300	91	1	94	10	158	7	6	..	143	121	..	1	35	143	3	..

First Appeals	478	306	24	1270	270	214	163	59	764	730	610	296	34	400	98	135
Second Appeals	2438	822	143	2031	765	265	391	138	1147	2610	1917	371	386	2289	537	557
Mis. First Appeals*	395	122	23	185	263	425	43	54	249	*386	357	71	31	329	260	59
Misc. Second Appeals	12	58	11	..	92	248	..	10	..	..	161	..	29	92	106	10
Revision Petitions	1601	974	64	2420	2690	600	623	209	657	1345	1538	435	216	961	793	434
Misc. Petitions	313	6444	30	2974	1409	6108	1085	23	3587	787	12564	276	120	324	..	221
Others	3650	262	3	58	17	433	..	8	75	405	625	1	52	145	..	..

D. Criminal

Criminal Appeals	3127	215	96	1394	509	113	666	69	207	478	733	105	168	503	729	432
CrI. Rev. Petitions	1931	290	174	1753	1617	373	350	85	246	1063	1126	455	280	1255	1596	529
Confirmation Cases	289	32	4	44	6	1	5	..	10	38	152	6	7	26	94	6
References	409	6	47	179	13	33	81	38	24	..	..	14	51	92	..	210
CrI. Misc. Petitions	3994	1161	..	56	164	1118	217	102	296	262	1586	449	90	534	4632	217
Others	..	..	..	..	1	253	44	4	618	..	..	1	..	..	..	..

TOTAL . . . 21277 11328 695 14674 12223 12912 4248 1055 8422 8247[@] 26719 2771 2128 7786 9756 3248

*Includes Misc. appeals also.

@ 3524 cases transferred to Bombay High Court.

ANNEXURE IV

STATEMENT SHOWING THE FIGURES OF VARIOUS TYPES OF CASES WHICH REMAINED PENDING IN THE VARIOUS HIGH COURTS AT THE END OF THE YEAR 1956

Types of cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Panjab	Rajasthan	Remarks
ORIGINAL SIDE																	
<i>A. Civil</i>																	
Civil Suits	21	1	1	1480	13768	1227	4	57	..	..	271	..	2	21	..	..	..
Insolvency Cases	..	..	..	803	409	..	..	..	..	..	230	..	3	..	..	..	..
Liquidation Cases	69	2	4	144	129	112	7	1	40	..	27	..	1	15	280	4	..
Writ Petitions	3294	1834	880	599	207	3140	976	59	535	..	1000	228	484	521	652	349	..
Others	21	95	9	456	12	2201	139	3	219	..	810	..	204	16	..	..	..
<i>B. Criminal</i>																	
High Court Sessions	..	..	..	..	53	..	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions	..	..	..	..	..	13	..	..	..	..	..	2	..	64	84	..	..
Others	..	..	..	..	6	5	..	4	..	..	..	..	8	..	..	..	..
APPELLATE SIDE																	
<i>C. Civil</i>																	
Original Side Appeals	..	4	..	76	457	10	..	8	..	..	244	..	..	..	..	..	..
Letters Patent Appeals	693	130	4	70	13	223	32	9	29	372	203	7	7	50	363	6	..

First Appeals	4463	3377	112	2634	1218	1292	1547	79	1223	825	2048	1179	277	3089	1606	637
Second Appeals	11485	3456	227	3158	4894	1515	1901	84	1963	2305	2167	2394	683	5189	3803	2241
Misc. First Appeals	1313	1531	78	257	408	925	122	46	175	*319	439	151	106	211	629	226
Misc. Second Appeals	16	332	16	..	175	856	..	10	36	..	140	7	40	276	98	14
Revision Petitions	5278	3577	32	1142	3667	1253	1090	78	526	816	1360	1310	100	220	989	936
Misc. Petitions	2656	7593	37	1429	..	934	660	7	1381	393	4852	271	129	70	..	109
Others	2271	386	5	23	23	648	..	1	112	463	661	13	..	..	..	..

D. Criminal

Criminal Appeals	3727	492	176	594	426	413	361	40	65	382	319	294	289	705	438	290
Crl. Rev. Petitions	2031	829	63	292	679	577	146	32	71	474	215	229	122	330	406	179
Confirmation Cases	70	16	1	10	5	..	2	..	2	14	40	13	1	2	13	5
References	531	16	47	148	7	8	52	25	5	..	..	18	18	131	..	36
Crl. Mis. Petns.	229	145	3	20	17	122	59	39	44	77	64	38	13	39	2132	46
Others	..	..	..	..	4	117	14	..	2	..	..	9	..	..	..	..

TOTAL	38168	23766	895	13315	26639	15591	7112	582	6428	6442	15090	6163	2719	12488	11493	5081
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*Both first & Second Appeals.

ANNEXURE V

STATEMENT SHOWING THE NUMBER OF VARIOUS TYPES OF CASES INSTITUTED IN THE VARIOUS HIGH COURTS DURING THE YEAR 1970

Types of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab & Haryana	Rajasthan	Remarks
ORIGINAL SIDE																	
<i>A. Civil</i>																	
Civil Suits	1	2	..	1013	665	413	3	118	..	..	148	..	..	1	..	1	
Insolvency Cases . . . . .	..	..	..	984	14	..	..	..	..	..	107	..	..	..	..	..
Liquidation Cases	2	..	..	64	912	101	5	5	228	..	33	30	3	6	76	13	
Writ Petitions	8107	6150	837	509	631	1537	..	268	6564	1056	4643	5286	1230	2085	4370	2264	
Others	93	432	53	5818	1112	2585	408	1	5	23	4507	8	286	21	1	2	
<i>B. Criminal</i>																	
High Court Sessions . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions . . . . .	..	..	189	..	..	31	..	..	17	..	..	..	..	77	39	17	
Others . . . . .	..	..	..	..	8	117	..	2	..	..	..	73	24	..	214	..	
APPELLATE SIDE																	
<i>C. Civil</i>																	
Original Side Appeals . . . . .	..	7	..	179	341	137	..	10	274	..	70	7	..	..	..	..
Letters Patent Appeals	1290	194	18	312	10	251	129	70	..	32	77	..	28	65	865	336	
First Appeals	279	664	68	852	666	787	828	66	616	193	875	159	266	1168	309	134	

Second Appeals . . .	3052	790	211	1727	1900	244	688	211	1136	1520	1769	1410	389	727	2063	498
Mis. First Appeals . . .	452	442	51	542	690	188	5149	72	161	274	445	595	155	303	319	135
Mis. Second Appeals . . .	22	81	16	..	65	312	..	16	..	152	134	144	33	86	155	32
Revision Petitions . . .	2191	2362	162	1432	9975	656	1394	270	1368	2092	2545	2171	473	1562	1179	604
Misc. Petitions . . .	10971	13868	3	10699	6073	6963	897	155	17638	..	21932	793	151	273	11995	17
Others . . .	1566	7909	58	108	9	488	4910	113	273	590	1197	48	140	266	316	161
<i>(D) Criminal</i>																
Criminal Appeals . . .	3148	915	145	2013	592	230	977	79	406	1472	1239	382	315	716	1464	826
Crl. Rev. Petitions . . .	2716	850	195	1604	1215	550	522	102	572	1438	1631	760	617	3041	1295	505
Confirmation Cases . . .	255	20	8	20	7	10	2	13	20	19	121	7	2	8	83	5
References . . .	738	..	102	162	1	..	71	148	11	..	13	..	172	49	..	290
Crl. Mis. Petitions . . .	5960	2213	24	410	264	1203	463	208	901	1010	4017	849	235	2610	1844	326
Others . . .	..	..	..	1490	5	172	81	9	..	..	..	37	2	..	562	..
TOTAL . . .	40843	36899	2140	29938	25155	16975	11527	1936	30190	9871	45503	12759	4521	13064	27149	6166

ANNEXURE VI

STATEMENT SHOWING THE NUMBER OF VARIOUS TYPES OF CASES DISPOSED OF BY VARIOUS HIGH COURTS DURING THE YEAR 1970

Types of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab & Haryana	Rajasthan	Remarks
ORIGINAL SIDE																	
(A) Civil																	
Civil Suits	5	..	..	695	2987	513	10	66	..	..	116	..	2	2	..	1	
Insolvency Cases . . . . .	..	..	..	897	6	..	..	..	..	..	98	..	..	..	..	..
Liquidation Cases	4	..	..	52	871	74	3	4	119	..	26	12	..	5	67	25	
Writ Petitions	7448	7109	451	278	440	1423	..	283	5665	906	4451	4776	818	1712	3550	2274	
Others	165	622	37	5381	213	2930	337	3	1	14	4604	9	454	21	1	2	
(B) Criminal																	
High Court Session . . . . .	..	..	..	..	8	..	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions . . . . .	..	..	337	..	..	26	..	..	27	1	..	..	..	65	41	19	
Others . . . . .	..	..	..	..	8	56	..	2	..	..	..	79	25	..	231	..	

APPELLATE SIDE

(C) *Civil*

Original Side Appeals	..	1	..	159	135	60	..	9	252	..	119	8	..	..	..	..
Letters Patent Appeals	1038	183	10	123	38	224	131	33	..	36	97	1	8	23	959	193
First Appeals	1319	1347	20	790	1096	292	1392	58	700	266	598	189	130	385	269	344
Second Appeals	3779	1168	329	1809	1829	381	1430	194	2293	1151	2434	1133	784	737	1541	677
Mis. First Appeals	464	568	29	590	478	298	164	48	172	237	525	494	292	232	366	93
Mis. Second Appeals	35	106	16	..	88	622	..	6	..	166	263	145	54	98	160	27
Revision Petitions	2157	2807	133	1434	5673	993	1150	287	1968	1887	2723	2102	607	1470*	1279	415
Mis. Petitions	9312	17024	2	9000	6073	7064	890	168	13797	..	24818	805	174	171	12140	16
Others	1127	6028	62	103	4	552	5075	69	138	580	824	19	262	225	444	116

(D) *Criminal*

Criminal Appeals	3949	881	100	1756	566	265	1205	58	428	1339	1051	230	192	501	1173	1302
Crl. Rev. Petitions	2626	796	190	1610	1153	774	593	106	681	1222	1317	468	817	1804	1496	523
Confirmation Cases	221	20	6	19	5	7	2	14	15	19	141	2	1	9	79	5
References	612	..	77	165	2	2	87	138	28	..	18	..	227	19	..	425
Crl. Mis. Petitions	5535	2423	23	373	279	1297	462	240	868	971	4755	849	230	2496	1789	339
Others	..	..	..	1329	6	241	86	4	28	..	..	26	2	..	620	..

TOTAL . 39797 41083 1822 26563 21958 18094 13017 1790 27180 8795 48978 11347 5079 9975 26205 6796

ANNEXURE VII

STATEMENT SHOWING THE FIGURES OF VARIOUS TYPES OF CASES WHICH REMAINED PENDING IN THE VARIOUS HIGH COURTS AT THE END OF 1970

Types of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patina	Punjab & Haryana	Rajasthan	Remarks
ORIGINAL SIDE																	
(A) Civil																	
Civil Suits	3	2	..	3275	14032	1017	6	196	..	..	494	..	..	15	117	100	..
Insolvency Cases	..	..	..	462	143	..	..	..	..	..	229	..	..	..	..	..	..
Liquidation Cases	114	..	4	76	1283	120	222	3	228	..	67	40	53	31	57	21	..
Writ Petitions	7560	4219	1997	1254	1446	4039	200	230	8354	1215	5621	9087	1667	1717	6008	2453	..
Others	84	137	89	4633	1951	1046	252	31	104	144	1466	243	566	39	1750	12	..
(B) Criminal																	
High Court Sessions	..	..	..	..	18	..	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions	..	..	..	..	..	12	..	..	..	..	..	..	..	..	26	23	..
Others	..	..	..	..	17	64	..	5	..	..	..	11	34	..	59	..	..
APPELLATE SIDE																	
(C) Civil																	
Original Side Appeals	..	24	..	302	801	168	..	8	259	..	255	9	..	..	..	..	..
Letters Patent Appeals	3447	272	21	280	38	336	114	70	..	81	267	..	31	124	539	355	..

First Appeals	2237	1677	530	5583	6129	2780	4236	87	2310	978	4738	368	1211	4138	3367	644
Second Appeals	15932	1214	687	6694	12018	1536	2500	154	3293	5400	5411	4198	1389	2033	6979	2153
Mis. First Appeals	1163	608	154	3348	3176	835	186	73	122	377	951	1052	286	638	966	239
Mis. Second Appeals	47	108	51	603	799	799	799	17	..	138	283	260	57	123	97	45
Revision Petitions	3568	1326	251	1896	30844	1069	1695	95	697	1415	3355	2301	312	1251	493	574
Mis. Petitions	17199	404	1	9086	..	531	185	52	18476	..	4493	226	76	493	927	2
Others	1930	3510	91	164	45	522	3915	96	337	518	2556	84	35	431	223	175
(D) Criminal																
Criminal Appeals	6663	742	331	1876	1792	408	621	80	116	2465	1095	467	641	1755	2114	1002
Crl. Rev. Petitions	2733	454	278	560	1166	507	142	55	71	1220	1294	515	855	2456	928	289
Confirmation Cases	152	2	11	3	15	3	..	11	5	3	57	6	1	1	19	4
References	536	..	133	82	..	..	10	52	3	..	15	..	25	43	..	78
Crl. Mis. Petitions	1074	114	2	115	72	158	93	76	114	247	213	14	30	186	105	31
Others	..	..	..	378	4	129	6	7	..	..	..	24	2	..	6	..
TOTAL	64342	14813	4631	37067	75593	14079	13983	1368	34392	14101	32864	18662	7221	15500	22910	8067

ANNEXURE VIII

STATEMENT SHOWING THE NUMBER OF VARIOUS TYPES OF CASES WHICH REMAINED PENDING AT THE END OF JUNE 1971

Types of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab & Haryana	Rajasthan	Remarks
ORIGINAL SIDE																	
<i>A. Civil</i>																	
Civil Suits	4	2	..	3413	13508	1100	3	207	..	..	517	..	..	15	..	..	..
Insolvency Cases	..	..	..	479	151	..	..	..	..	..	264	..	..	..	..	..	..
Liquidation Cases	14	..	5	66	1207	121	23	4	157	1317	28	40	3	31	65	23	..
Writ Petitions	9810	4547	1900	1274	1413	4228	..	267	8277	46	5437	7557	1671	1705	6778	2686	..
Others	103	17	117	4957	2199	1657	360	2	1	6	1458	8	593	44	7	2	..
<i>B. Criminal</i>																	
High Courts Sessions	..	..	..	..	15	..	..	..	..	..	..	..	..	..	..	..	..
Writ Petitions	..	..	2	..	..	11	..	..	1	..	..	..	..	37	21	4	..
Others	..	..	..	..	14	73	..	10	..	..	..	32	26	..	65	..	..
APPELLATE SIDE																	
<i>C. Civil</i>																	
Original Side Appeals	..	27	..	355	923	178	..	14	287	..	257	7	..	..	..	..	..

Letters Patent Appeals	3416	311	24	294	34	283	185	72	..	82	266	..	29	135	550	622
Fist Appeals	2209	1497	564	5837	5761	2856	3848	95	2157	979	4929	394	1248	4979	3458	539
Second Appeals	15590	817	579	6686	12117	1068	2422	215	2894	5455	4945	4095	1254	1939	7250	2137
Mis. First Appeals	1208	635	165	325	3354	708	194	82	107	429	830	1074	306	705	987	287
Mis. Second Appeals	47	83	47	582	623	..	..	14	..	170	220	217	50	137	99	46
Revision Petitions	3456	1528	213	1999	28397	971	1937	124	576	1601	2525	1530	360	1397	639	598
Mis. Petitions	18694	1205	1	9115	..	466	251	67	16461	..	8146	476	84	622	2116	4
Others	2190	..	78	174	45	508	4320	104	372	580	2739	73	73	347	237	200

D. Criminal

Criminal Appeals	7188	878	336	1922	1891	331	785	117	122	2541	1166	477	646	1896	2204	1099
CrI. Rev. Petitions :	2889	381	218	584	977	405	145	74	98	1180	936	149	648	3323	1172	268
Confirmation Cases	142	1	11	13	17	..	..	12	6	2	58	8	..	4	15	5
References	823	..	164	83	..	..	40	49	3	..	27	..	11	51	..	66
CrI. Mis. Petitions.	1510	217	4	125	257	110	63	66	106	252	216	10	37	321	110	28
Others . . . . .	..	..	..	320	4	99	20	10	..	..	..	11	2	..	10	..
TOTAL	69293	12146	4428	38021	72866	15796	14596	1605	31625	14640	34964	16158	7041	17688	25783	8614

ANNEXURE IX

STATEMENT SHOWING THE NUMBER OF ELECTION PETITIONS FILED IN THE VARIOUS HIGH COURTS DURING THE YEARS 1967, 1968 AND 1969 AND NUMBER OF DAYS DEVOTED FOR THEIR HEARINGS.

S. No.	Name of the High Court	Number of Election Petition filed			Number of days devoted for their hearings		
		1967	1968	1969	1967	1968	1969
1.	Allahabad	53	2	40	2040	124	1124
2.	Andhra Pradesh	20	1		475	2	
3.	Assam and Nagaland	5	-	2	121	-	40
4.	Bombay	26			482	-	
5.	Calcutta	9		11	299		250
6.	Delhi	14	-		*245	-	-
7.	Gujarat	27			14	122	57
8.	Jammu & Kashmir	60	1		1049	27	-
9.	Kerala	7			60	-	-
10.	Madhya Pradesh	50	1	1	835	18	17
11.	Madras	11	1	1	264	28	34
12.	Mysore	23	1		755	30	-
13.	Orissa	6			105		
14.	Patna	25	5	13	588	48	147@
15.	Punjab & Haryana	37	14	14	561	240	171
16.	Rajasthan	20	-	-	356	216	47

*Excluding one petition information in respect of which is not available.

@Number of days devoted for hearing of some of the Elections Petitions of 1969 could not be ascertained by the High Court as the records were in Supreme Court.

ANNEXURE X

STATEMENT SHOWING THE NUMBER OF WRIT PETITIONS UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION WRIT PETITIONS CHALLENGING THE VALIDITY OF STATUTES, SERVICE CASES BY WAY OF WRIT PETITIONS, SUITS LAND ACQUISITION CASES, TAX CASES, COMPANY CASES, CASES INVOLVING LITIGATIONS WITH MUNICIPALITIES, ORIGINAL SUITS AND PETITIONS, LETTERS PATENT APPEALS AND NUMBER OF SUITS FILED AND DISPOSED OF IN THE SUBORDINATE COURTS (1956 & 1969) IN THE VARIOUS HIGH COURTS DURING 1956 & 1969.

Nature of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab & Haryana	Rajasthan	Remarks
1. Total Number of Writ petitions filed during the year 1956	4984	1177	111	2172	1498	254 @860	122	679	762	1555	254	473	715	865	608	%	
1969	6157	4500	1992	4631	9714	1458	1752	356	5219	791	3826	7708	1141	1881	3334	1881	
2. Number of such petitions under Art. 226 of the Constitution:																	
1956	4968	1177	105	610	1189	254 @621	122	412	749	1555	243	439	N.A.	853	608		
1969	6143	4420	1992	1929	9450	1353	1093	348	4931	785	3826	6885	360	N.A.	3303	1843	
3. Number of such petitions under Art. 227 of the Constitution:																	
1956	16	..	6	149	309	.. @239	..	23	13	29	%11	34	N.A.	12	608		
1969	14	20	..	2702	264	105	659	8	122	6	50	823	12	N.A.	31	1843	
4. Number of Writ Petitions Challenging the validity of Statutes:																	
1956	543	16	2	37	762	N.A. @109	..	36	56	115	20	4	N.A.	59	72		
1969	37	142	645	85	5301	N.A.	280	11	939	29	95	2164	78	N.A.	182	452	

% Under Art. 226 read with Art. 227. In addition to those 30 in 1956 and 38 in 1969 filed exclusively under Art. 227.

ANNEXURE X—(contd.)

Nature of Cases	Allahabad	Andhra Pradesh	Assam & Nagaland	Bombay	Calcutta	Delhi	Gujarat	Jammu & Kashmir	Kerala	Madhya Pradesh	Madras	Mysore	Orissa	Patna	Punjab & Haryana	Rajasthan	Remarks
5. Service cases by way of Writ Petns:																	
1956	969	3	12	124	113	N.A.	@ 49	15	65	67	45	18	29	43	167	172	
1969	1052	673	229	316	819	98	203	115	1299	95	32	1888	377	556	489	389	
6. Service Cases by way of suits:																	
1956 . . . . .	..	..	..	5	75	..	..	..	21	..	..	..	..	12	..	..
1969 . . . . .	..	..	..	18	6	1	..	..	46	..	1	..	..	406	..	..
7. Land Acquisition Cases (Land Tenure & Inams etc) :																	
1956	67	4	..	*65	75	N.A.	@ 276	..	685	..	250	100	73	182	..	1	
1969	206	315	64	+579	786	761	812	18	990	..	650	398	158	321	..	8	
8. Tax Cases, Income Tax Sales Tax (Central & States Sales Taxes) Wealth Tax, Excise & Customs, Professional and other miscellaneous taxes):																	
1956	1728	79	4	131	164	N.A.	@ 89	..	60	38	649	105	49	69	29	85	
1969	713	500	42	320	481	115	96	18	188	94	1108	1580	91	62	34	176	

9. Company Cases 1956	54	10	11	..	391	N.A.	@67	..	40	6	80	8	..	21	121	5
1969	105	4	14	202	783	576	219	..	71	19	98	15	4	31	64	39
10. Number of cases involving litigation with Municipalities pending in the High Court at the end of :																
1956	416	N.A.	2	149	102	N.A.	488	..	17	98	N.A.	7	2	28	43	62
1969	2194	65	16	1240	1220	N.A.	378	3	40	259	†83	415	5	34	85	118
11. Number of original suits and number of original Petitions (separately pending in the High Court at the end of :																
1956 Suits	20	N.A.	..	1494	13768	..	4	19	..	..	299	..	..	21	..	..
1956 Petns.	19	N.A.	..	901	2668	..	1026	136	..	393	375	483	2	31	669	444
1969 Suits	9	..	112	2957	16354	1017	13	144	535	..	536	..	..	16	..	1
1969 Petns.	97	150	1633	2974	3757	..	2760	302	7468	1073	423	8747	..	69	5169	2499
12. Number of Letters Patent Appeals from Original suits and Petitions pending at the end of:																
1956	36	195	4	76	463	..	30	1	..	197	244	7	..	12	244	..
1969	35	329	13	282	612	16	116	33	..	7	304	1	..	9	435	212
13. Total number of suits filed and disposed of in the subordinate civil Courts in the years																
1956 Filed	145092	68286	10228	113355	135906	22494	48615	6709	49443	19693	134705	52482	12929	90531	51320	32715
1956 Disposed of	217550	69154	11457	117650	142195	21810	48892	6463	53093	22805	148251	51849	13914	103609	50553	31184
1969 Filed	91859	72730	*9307	93308	56036	31934	54297	7988	62894	50849	163436	43120	12485	42944	72142	28804
1969 Disposed of	121645	72300	*8334	84184	56478	27337	49710	8185	57586	47956	165201	44214	11987	43897	64598	27659

£Complete information not available.

†Complete information not available.

@ Figure of 1961

*Includes 769 Writs under Art 226 & 227

**Excluding hill areas

†Only writs.

ANNEXURE XI

NUMBER OF APPEALS AGAINST DECISIONS OF ELECTION TRIBUNAL FILED IN THE HIGH COURT AND NUMBER OF DAYS DEVOTED TO THEIR HEARING FOR THE YEARS 1964, 1965 AND 1966

Sl. No.	Name of the High Court	1964		1965		1966	
		No. of Appeals filed	No. of days devoted	No. of Appeals filed	No. of days devoted	No. of Appeals filed	No. of days devoted
1.	Allahabad	19	178	5	11	1	1
2.	Andhra Pradesh	N.A.	3	N.A.	3	N.A.	1
3.	Assam and Nagaland	1	1	-	6	-	-
4.	Bombay	1	2	1	2	-	-
5.	Calcutta	-	-	-	-	-	-
6.	Delhi	-	-	-	-	-	-
7.	Gujarat	-	-	-	-	-	-
8.	Jammu and Kashmir	4	46	1	17	-	-
9.	Kerala	-	-	1	2	-	-
10.	Madhya Pradesh	2	9	2	24	-	-
11.	Madras	2	9	2	5	-	-
12.	Mysore	2	5	1	15	-	-
13.	Orissa	-	-	-	-	-	-
14.	Patna	-	-	3	47	-	-
15.	Punjab and Haryana	13	42	1	4	-	-
16.	Rajsthan	4	28	-	-	1	8

ANNEXURE XII

STATEMENT SHOWING THE NUMBER OF CASES PENDING IN EACH HIGH COURT AT THE END OF JUNE 1971 WHICH CAN BE TERMED AS ARREARS ACCORDING TO THE TEST MENTIONED IN PARAGRAPH 24 OF CHAPTER III

Name of the High Courts	Average number of main cases instituted in one year taking the average of those instituted in the years 1968, 1969 and 1970	Number of main cases pending at the end of June 1971	Number of cases pending which can be termed as arrears
Allahabad	23321	49083	25768
Andhra Pradesh	12343	10724	No arrear
Assam and Nagaland	2356	4423	2067
Bombay	18214	28781	10567
Calcutta	21303	72609	51306
Delhi	9056	15220	6164
Gujarat	5776	14282	8506
Jammu and Kashmir	1469	1472	3
Kerala	10831	15058	4227
Madhya Pradesh	8730	14388	5658
Madras	9358	26602	16244
Mysore	12630	15672	3042
Orissa	3996	6920	2924
Patna	9211	16745	7534
Punjab and Haryana	12620	23557	10937
Rajasthan	5164	8582	3418

ANNEXURE XIII

NUMBER OF ACTS ENACTED BY PARLIAMENT AND VARIOUS STATE LEGISLATURE DURING THE YEARS 1955 TO MAY, 1970.

Total number of ACTS passed.

PARLIAMENTARY LEGISLATION.....959

STATE LEGISLATION

Sl. No.	Name of the State	Total Number of Acts passed
1.	Andhra Pradesh	413
2.	Assam	364
3.	Bihar	278
4.	Gujarat	313
5.	Haryana	68
6.	Jammu & Kashmir	354
7.	Kerala	357
8.	Madhya Pradesh	442
9.	Maharashtra	783
10.	Mysore	354
11.	Nagaland	24
12.	Orissa	397
13.	Punjab	466
14.	Rajasthan	453
15.	Tamil Nadu	471
16.	Uttar Pradesh	379
17.	West Bengal	442
	TOTAL	6358

ANNEXURE XIV

STATEMENT SHOWING THE STRENGTH AND VACANCIES IN THE HIGH COURTS (EXCEPT HIMACHAL PRADESH) AS ON 1-1-1972

Sl. No.	Name of the High Court	Sanctioned Strength		Actual strength		Vacancies	
		Pmt.	Addl.	Pmt.	Addl.	Pmt.	Addl.
1.	Allahabad	30	13	28	12	2	1
2.	Andhra Pradesh	18	3	16	2	2	1
3.	Assam and Nagaland	4	—	4	—	—	—
4.	Bombay	23	5	23	4	—	1
5.	Calcutta	33	6	32	4	1	2
6.	Delhi	13	4	12	4	1	—
7.	Gujarat	10	8	10	6	—	2
8.	Jammu & Kashmir	4	1	4	1	—	—
9.	Kerala	12	3	10	2	2	1
10.	Madhya Pradesh	14	4	13	2	1	2
11.	Madras	16	3	16	3	—	—
12.	Mysore	14	3	14	2	—	1
13.	Orissa	6	1	6	1	—	—
14.	Patna	16	6	16	2	—	4
15.	Punjab and Haryana	12	7	12	5	—	2
16.	Rajasthan	8	4	8	4	—	—
TOTAL		233	71	224	54	9	17

ANNEXURE XV

STATEMENT SHOWING THE NUMBER OF DAYS LOST IN MAKING APPOINTMENT OF JUDGES IN THE HIGH COURTS DURING THE YEAR 1965-70

Name of the High Court	1965	1966	1967	1968	1969	1970	Averages in six years
Allahabad		120	267	31	142	100	110
Andhra Pradesh	199	443	325	Nil	27	153	191
Assam & Nagaland	Nil	Nil	92	Nil	Nil	330	70
Bombay	368	214	958	254	127	807	454½
Calcutta	554	653	171	603	82	280	390½
Delhi	Nil	28	317	869	829	208	450*
Gujarat	Nil	65	9	Nil	101	38	35½
Jammu & Kashmir	Nil	Nil	Nil	129	Nil	Nil	21½
Kerala	100	76	350	366	106	61	176½
Madhya Pradesh	299	Nil	226	132	Nil	145	133½
Madras	75	220	169	51	144	569	204½
Mysore	74	42	16	Nil	89	235	76
Orissa	Nil	Nil	82	61	20	Nil	27
Patna	547	503	473	218	1256	901	649½
Punjab & Haryana	399	889	1491	621	915	478	799
Rajasthan	Nil	Nil	123	134	83	237	96

*Average for five years.

ANNEXURE XVI

STATEMENT SHOWING THE NUMBER OF DAYS LOST ON ACCOUNT OF DEPUTATION OF JUDGES ON COMMISSIONS ETC. DURING THE YEAR 1965-1970

Name of the High Court	1965	1966	1967	1968	1969	1970	Average in six years.
Allahabad . . .	58	163	115	..	7	2	57½
Andhra Pradesh . .	209	95	Nil	Nil	Nil	97	67
Assam and Nagaland .	Nil	Nil	190	83	Nil	Nil	45½
Bombay . . .	Nil	Nil	Nil	175	54	215	74
Calcutta . . .	Nil	Nil	108	Nil	30	Nil	23
Delhi . . .	Nil	Nil	67	366	20	Nil	90½*
Gujarat . . .	110	53	155	94	6	145½	94
Jammu and Kashmir .	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Kerala . . .	Nil	Nil	Nil	Nil	4	23	4½
Madhya Pradesh . .	11	71	330	415	60	139	171
Madras . . .	Nil	Nil	Nil	36	Nil	153	31½
Mysore . . .	Nil	Nil	Nil	383	Nil	Nil	64
Orissa. . .	105	96	Nil	172	66	Nil	73
Patna . . .	Nil	Nil	171	163	21	5	60
Punjab and Haryana .	Nil	Nil	81	152	26	23	47
Rajasthan . . .	Nil	Nil	245	366	31	45	114½

*Average for five years.

ANNEXURE XVII

STATEMENT SHOWING THE NUMBER OF DAYS LOST ON ACCOUNT OF JUDGES GOING ON LEAVE DURING THE YEAR 1965 to 1970

Name of the High Court	1965	1966	1967	1968	1969	1970	Average in six year.
Allahabad	210	237	332	399	440	431	341½
Andhra Pradesh	199	183½	86½	269½	341½	240	220
Assam & Nagaland . . . . .	..	39	..	..	..	..	6½
Bombay	59	133	20	214	210	124	126½
Calcutta	289	136	72	261	141	165	174
Delhi . . . . .	..	17	12	17	..	14	12*
Gujarat	165	110	132	107	188	74	129
Jammu and Kashmir . . . . .	..	..	62	..	..	13	12½
Kerala	141	195½	221	183½	235	176½	192
Madhya Pradesh	70	238	186	195	255	134	179½
Madras	19	65	104	73	78	74	54
Mysore	122	183	147	169	189	180	165
Orissa	21	62	54	1	66	64	44½
Patna	115	261	61	117	124	157	135
Punjab & Haryana	321	167	246	147	264	264½	235
Rajasthan	164	285	327	376	138	225	252½

*Average for five years.

ANNEXURE XVIII

PERCENTAGE OF FIRST APPEALS PENDING OUT OF TOTAL PENDING MAIN CASES IN EACH HIGH COURT AT THE END OF JUNE, 1971

Name of High Courts	Total of Main cases pending at the end of June, 1971	Total of First Appeals pending at the end of June, 1971	Percentage of First Appeals pending at the end of 1971
1. Allahabad	49089	3417	7% roughly
2. Andhra Pradesh	10724	2132	20% ..
3. Assam and Nagaland	4423	729	16.5% ..
4. Bombay	28781	6162	21.4% ..
5. Calcutta	72609	9115	12.6% ..
6. Delhi	15220	3564	23.4% ..
7. Gujarat.	14282	4042	28.3% ..
8. Jammu and Kashmir	1472	177	12% ..
9. Kerala	15058	2264	15% ..
10. Madhya Pradesh	14388	1408	9.8% ..
11. Madras	26612	5759	21.6% ..
12. Mysore	15672	1468	9.4% ..
13. Orissa	6920	1554	22.5% ..
14. Patna	16745	5684	34% ..
15. Punjab & Haryana	23557	4445	18.5% ..
16. Rajasthan	8582	826	9.5% ..

ANNEXURE XIX

STATEMENT SHOWING THE INCREASE IN THE FILLING OF REVISION PETITION DURING THE YEARS 1956 TO 1970

HIGH COURTS	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Allahabad	1899	1723	1379	1407	1397	1510	1438	1606	2192	2292	2208	2029	2404	2264	2191
Andhra Pradesh	415	2222	2067	2112	2229	2318	2174	2156	2592	2243	2121	2055	2451	2305	2362
Assam and Nagaland	76	71	54	124	133	93	110	97	128	156	123	133	147	196	162
Bombay	*	*	*	*	*	2338	2534	2525	2694	2340	1865	1692	1443	1535	1432
	@	@	@	@	@	@	@	@	@	@	@	@	@	@	@
Calcutta	2383	1967	2625	3256	3926	4451	4622	4114	4306	3732	5553	5094	10425	10887	7970
Delhi	527	661	701	590	722	629	657	511	559	674	657	683	721	645	656
Gujarat	..	..	..	..	550	910	1047	1160	1030	995	1324	1341	1410	1346	1394
Jammu and Kashmir	207	162	195	199	223	245	255	223	195	210	196	208	235	292	270
Kerala	..	823	1083	1094	1351	1120	1209	1312	1199	1523	1538	1771	1720	1660	1368
Madhya Pradesh	..	1292	1272	1417	1430	1373	1407	1728	1825	1983	1770	1795	1786	2035	2092
Madras	1787	1885	2211	2272	2736	2518	2386	2174	2684	2603	2695	2494	2283	2511	2545
Mysore	1574	1236	1311	1324	1583	1396	1512	1494	1340	1624	1580	1966	2161	2279	2171
Orissa	284	284	392	308	358	335	326	367	382	382	417	370	450	401	473
Patna	1198	1069	1196	1165	1240	1341	1415	1544	1392	1529	1778	1428	1696	1477	1562
Punjab and Haryana	1226	1317	1407	1409	1538	1488	1446	1371	1628	1909	1563	1028	1100	1035	1179
Rajasthan	561	571	578	540	572	467	505	426	595	549	619	517	739	774	604

*Figures for composite Bombay High Court not supplied.

@ includes writ petitions. Figures include those of circuit bench at Delhi. Gujarat High Court came into existence from 1-5-60.

ANNEXURE XX

LIST OF PERSONS INTERVIEWED BY THE COMMITTEE

27-2-1971

(Meeting held at the Delhi High Court)

Hon'ble Mr. Justice S. Rangarajan
Hon'ble Mr. Justice B.C. Misra
Hon'ble Mr. Justice D.K. Kapur
Deputy Commissioner, Municipal Corporation (Sri G.D. Bahri)
Secretary (Law and Judicial) (Sri Desh Deepak Delhi Admn.)
President, Delhi High Court Bar Association (Sri D.D. Chawla)
Chairman, Bar Council (Sri R.M. Lal)
Sri N.S. Dhir, Advocate
Sri C.P. Malhotra, Advocate
Commissioner, Sales Tax (Sri B.K. Sharma)
Commissioner of Income Tax (Sri Prem Nath)

28-2-1971

(Meeting held at the Punjab and Haryana High Court at Chandigarh)

District Attorney, Excise and Taxation Department, Punjab (Shri B.S. Nehra).
Excise and Taxation Commissioner, Haryana (Shri J.S. Sarohia)
Advocate-General, Punjab (Shri H.L. Sibal)
President, High Court Bar Association (Shri Karampal Singh)
Shri Anand Swroop, Advocate
Shri Pitam Singh Jain, Advocate
Shri R.B. Harparshad, Advocate
Shri Pratap Singh Daulta, Advocate
Shri Ram Lal Aggarwal, Advocate
Shri Gurbachan Singh, Advocate
Shri Joginder Singh Wasu, Advocate
Shri J.D. Gupta, Deputy Commissioner, Chandigarh
Union Territory Legal Remembrancer (Shri S.D. Bajaj)
Punjab Deputy Legal Remembrancer (Shri S. Mewa Singh)

13-3-1971

(Meeting held at the Bombay High Court)

Hon'ble Shri Justice Mody
Hon'ble Shri Justice Chandrachud
Hon'ble Shri Justice Vimadalal
Advocate-General, Maharashtra (Shri H.M. Seerwai)

Members of the Bar Association (O.S.)—

Shri P.K. Thakur, Secretary
 Shri Hemendra Sahah, Advocate
 Shri Ashok Vyas, Advocate
 Mrs. Sujata Manohar, Advocate

Shri Porus Mehta, Advocate
 Shri H.H. Sethna, Attorney-at-Law
 Shri V.H. Gumaste, Government Pleader
 Shri R.B. Kotwal, Advocate

Advocates' Association of Western India—

Shri M.V. Paranjape, President
 Shri S.C. Pratap, Vice President
 Shri Bhal D. Desai, Honorary Secretary
 Shri B.G. Thaker, Advocate Member
 Shri H.S. Shrikhande, Advocate Member
 Shri G.R. Dalvi, Advocate Member
 Shri J.T. Desai, President Bombay Incorporated Law Society.
 Shri D.D. Damdar, Secretary.
 Shri M.L. Bhakte Bhadelkar

Members of the Bar Council—

Shri D.R. Dhanka, Vice-Chairman
 Shri S.R. Swar, Secretary
 Shri L.G. Matai, Advocate—Member, Bar Council
 Commissioner of Income-Tax (Shri O.V. Khruvilla)
 Commissioner of Sales Tax (Shri H.B. Munshi)
 Shri G.N. Joshi, Advocate (Income Tax)
 Shri R.B. Bhadekar, Advocate, Sales Tax
 Shri R.J. Joshi, Advocate (Income Tax)
 Shri Nigudkar, Addl. Secy., Law and Judiciary Deptt.

2-7-1971

(Meeting held at the High Court of Kerala at Ernakulam)

The Hon'ble Judges of Kerala High Court—

Hon'ble Mr. Justice K.K. Mathew
 Hon'ble Mr. Justice V.P. Gopalan Nambiyar
 Hon'ble Mr. Justice T.S. Krishnamoorthy Iyer
 Hon'ble Mr. Justice K. Sadasivan
 Hon'ble Mr. Justice M. U. Isaac
 Hon'ble Mr. Justice V. Balakrishna Eradi
 Hon'ble Mr. Justice V.R. Krishna Iyer
 Hon'ble Mr. Justice P. Subramonian Poti
 Hon'ble Mr. Justice E.K. Moidu, and
 Hon'ble Mr. Justice P. Unnikrishna Kurup
 Law Secretary—Shri P. Gopalakrishna Warriar
 Advocate-General—Shri M.M. Abdul Khader
 Government Pleader—Shri V. Narayana Menon

Commissioner of Income-Tax — Shri S.N. Sethi
 Income-Tax Counsel — Shri P.K. Krishnankutty Menon
 Deputy Commissioner of Agricultural Income-Tax and Sales Tax, Ernakulam—Shri K.K. Vijayaraghavan.

Members of the Bar—

Shri S. Narayana Potti, President, Advocates Association, Ernakulam
 Shri T.N. Subramania Iyer
 Shri V.K.K. Menon
 Shri K. Kuttikrishna Menon
 Shri Kalathil Velayudhan Nair
 Shri K. Chandrasekharan
 Shri T.S. Venkiteswara Iyer
 Smt. Baby George, and
 Shri George Vadakkal—Central Govt. Pleader

3-7-1971

(Meeting held at the Mysore High Court at Bangalore)

Hon'ble Shri Justice G.K. Govinda Bhat
 President of the Advocates' Association (Shri V.K. Govindarajulu)
 Representatives of the Bar—
 Shri H.F.M. Reddy
 Shri M. Rama Jois
 Shri K.R. Karanth
 The Advocate-General
 The State Public Prosecutor
 Chairman, Bar Council,
 and representatives of the Bar Council—
 Shri Byrappa
 Shri C. Govindaraju, Law Secretary to the Government of Mysore
 The Commissioner of Income Tax
 Counsel for Income Tax
 Commissioner of Commercial Taxes
 Mr. M. Rajasekhara Murthy, Counsel for Income-tax

4-7-1971

(Meeting held at the Tamil Nadu High Court at Madras)

The Hon'ble Judges —
 Hon'ble Shri Justice K.S. Venkataraman
 Hon'ble Shri Justice K.S. Ramamurti
 Hon'ble Shri Justice T. Ramaprasada Rao
 Hon'ble Shri Justice Ismail
 Hon'ble Shri Justice Raghavan, and
 Hon'ble Shri Justice N. S. Ramaswami.
 The Advocate-General, Madras State.
 The Chairman of the Bar Council
 The President and Secretaries of the Advocates' Association, the Bar Association and
 the Law Association,

Shri M.R. Narayanaswamy, Advocate.
 Shri V.K. Tiruvenkatachari, Advocate
 Shri V.T. Rangaswami Aiyangar, Advocate
 Shri G. Gopaldaswami, Advocate
 Shri P. Narasimhachari, Advocate
 Shri A.C. Muthanna, Advocate
 Shri N.C. Raghavachari, Advocate
 Shri V.Vedanthachari, Advocate
 Shri D. Duraiswami of M/s. King and Patridge
 Shri S.A.P. Alvares of M/s. Pais & Alvares
 Shri B.R. Dolia of M/s. Aiyar and Dolia
 Law Secretary, Madras State - Shri R. Ramasubramaniam
 Commissioner of Income-Tax (R.V. Ramaswamy)
 Commissioner of Sales-Tax (Shri T.A.S. Balakrishna)
 Counsel for Income-Tax (Shri V. Balasubramaniam)
 Chief Presidency Magistrate, Madras (Shri S. Natarajan)

5-7-1971

(Meeting held at the Andhra Pradesh High Court at Hyderabad)

The Registrar, High Court of Andhra Pradesh
 The Public Prosecutor - Shri K. Jayachandra Reddy
 The Principal Govt. Pleader (Shri G. Venkatarama Sastry)
 Vice-Chairman of the Bar Council
 President and Secretaries of the Advocates' Association, Andhra Pradesh.

Members of the Bar—

Shri J.V. Suryanarayana
 Shri Anantha Babu
 Shri Krishna Reddy
 Shri P.A. Chaudary

The Law Secretary to the Govt. of Andhra Pradesh
 The Commissioner of Income-Tax
 The Commissioner of Sales Tax
 The Counsel for Income Tax
 The Chief Judge, City Civil Court
 The Chief City Magistrate

The Honourable Judges of the Andhra Pradesh High Court

24-7-1971

(Meeting held at the High Court of Jammu and Kashmir at Srinagar)

Law Minister—Shri G.L. Dogra
 Chief Secretary—Shri P.K. Dave
 Law Secretary—Shri Ghulam Sha

Divl. Commissioner and
 Financial Commissioner (Shri S.A.S. Qadiri)
 Inspector-General of Police—Shri Surinder Nath
 Advocate-General—Shri A.N. Raina
 President and Members of Bar Association
 Shri Ghulam Mohi-ud-din Qara
 Shri J.N. Bhan
 Shri R.N. Kaul
 Shri J.L. Chowdry
 Shri M.Y. Siddiqui
 Shri M.A. Qureshi
 Shri Samsar Chand.
 Deputy Registrar, High Court—Shri Mohammad Shaffi
 Deputy Advocate-General—Shri Mali Abdul Karim
 Income-tax Counsel—Shri Sheikh Ghulam Ahmed
 Dr. of Accounts and Treasuries, Jammu and Kashmir Government—Shri Ved Prakash
 President, Chamber of Commerce—Shri R.K. Sawhney
 Shri B.N. Pestonjee

3-9-1971

(Meeting held at the High Court of West Bengal at Calcutta)

Advocate-General (Shri B. Das, Bar-at-Law)
 Judicial Secretary, West Bengal (Shri S. Basu)
 Chief Presidency Magistrate, Calcutta (Shri H.N. Sen)
 Chairman, State Bar Council (Shri Hemendra Chandra Sen)
 President, High Court Bar Association (Shri Lala Hamenta Kumar)
 President, Incorporated Law Society (Shri P.D. Himatsingka)
 President, Bar Library Club, High Court (Shri Debi De)
 Secretary, Bar Council (Shri Gouranga Sunder Chatterjee)
 Secretary, Bar Association, High Court (Shri Birendra Kishore Roy Choudary)
 Secretary, Incorporated Law Society (Shri R.C. Kar)
 Government Pleader (Shri Sachindra Chandra Das Gupta)
 Legal Remembrancer (Mr. A. Banerjee)
 Mr. Ahit Kumar Dut, Senior Advocate
 Shri Ranadeb Chowdhury, Bar-at-law
 Shri B.K. Bagchi, Commissioner of Income Tax, West Bengal
 Shri B.L. Pal, Advocate

4-9-1971

(Meeting held at High Court of Orissa at Cuttack)

The Hon'ble Judges of the Orissa High Court
 Shri K.P. Mohapatra, Registrar, Orissa High Court
 Shri D.M. Misra, Superintendent of Police, C.I.D.
 Shri P.K. Mohanti, District Judge, Cuttack
 Shri B.K. Behera, Secretary to Govt., Law Department

The Advocate-General
 The Government-Advocate
 Chairman, Bar Council (Shri B. Mohapatra)
 Shri Srikanta Mohanty
 Shri Rajendra Chandra Mohanty
 Shri C.V. Murthy, Advocate
 President of the Bar Association (Shri M. Mohanty)
 Shri K.M. Swain, Advocate.
 Shri D. Mohanty, Advocate.
 Commissioner of Income-tax
 Commissioner of Sales Tax
 Member, Sales Tax Tribunal (Shri K.B. Panda)
 Standing Counsel, Income-tax
 Standing Counsel (Sales Tax)—Shri S.C. Mohapatra

23-11-1971 and 24-11-1971

(Meeting held at the High Court of Gujarat at Ahmedabad)

Senior Members of the Bar—

Shri I.M. Nanavati
 Shri B.K. Amin
 Shri K.N. Mankad
 Shri D.K. Shah
 Shri H.K. Thakore
 Shri B.D. Shukla
 Shri R.K. Shah

Commissioner of Income-tax (Shri Kailash Narain)
 Commissioner of Sales-Tax (Mr. K.V. Hari Har Das)
 Standing Counsel for Income-tax (Mr. K.H. Khaji)
 Secretary to Govt., Legal Deptt. (Mr. K.M. Satwani)
 Government Pleader (Mr. G.N. Desai)
 Mr. Haroobhai M. Mehta, Advocate.

Representatives of the High Court Bar Association and the Bar Council of Gujarat—

Shri H.K. Thakore
 Shri B.D. Shukla
 Shri V.J. Desai
 Shri J.P. Joshi
 Shri K.J. Shethna
 Shri P.V. Hathi
 Shri R.K. Abichandani and Shri M.F. Thakkar

25-11-1971

(Meeting held at the Rajasthan High Court at Jodhpur)

Hon'ble Judges of the Rajasthan High Court
 Chairman and Members of the Bar Council
 Advocate-General

Government Advocates
 Senior Members of the Bar
 President and Secy. of the Rajasthan High Court
 Bar Association and President and Secretary of the Rajasthan High Court Advocates' Association.
 Secretary to the Govt. of Rajasthan, Law Department
 Commissioner of Income-tax
 Commissioner of Sales Tax
 Standing Counsel for Income-tax
 Shri Rajendra Kapoor, Advocate, Jodhpur

7-2-1972

(Meeting held at the Allahabad High Court)

Hon'ble Shri Justice Satish Chandra

Hon'ble Shri Justice T.S. Misra

Retired Judges—

Shri M.L. Chaturvedi

Shri A.P. Srivastava

Shri Gangeshwar Prasad

Advocate-General (Shri S.N. Kacker)

Chief Standing Counsel (Shri K.C. Agarwal)

Administrator-General (Shri J.M. Pant)

Vice-Chairman, Bar Council (Shri Raja Ram Agarwal)

President, High Court Bar Association (Shri K.L. Misra)

Vice President, High Court Bar Association (Shri Rajeswari Prasad)

Secretary, High Court Bar Association.

Senior Members of the Bar—

Shri B.L. Gupta

Shri P.C. Chaturvedi

Shri S.C. Khare

Shri Shanti Bhushan

Shri C.S. Saran

Shri S.N. Mulla

Shri A. Banerji

Shri C.C. Dwivedi

Shri S.N. Verma

Shri G.P. Bhargava

Inspecting Asstt. Commissioner of Income-tax, Allahabad
 (Shri A.K. Chatak)

Standing Counsel, Income-tax Deptt. (Dr. Rishi Ram Misra)

Commissioner of Sales Tax, Lucknow

Standing Counsel for Income-tax.

Hon'ble Shri Justice R.S. Pathak

Hon'ble Shri Justice R.L. Gulati

8-2-1972

(Meeting held at Patna High Court)

Hon'ble Judges of the Patna High Court
Registrar of the Patna High Court
Advocate-General (Shri Lal Narayan Sinha)
Government-Advocate (Shri K.P. Verma)
Standing Counsel I—Shri Shreenath Singh
Government Pleader No. I—Shri R.P. Kartriar
Shri Ashwini Kumar Sinha, Standing Counsel, Govt. of India
Official Liquidator, Patna
Shri B.C. Ghose, Commissioner of Commercial Taxes
Shri J.C. Sinha, Advocate
Shri B.P. Sinha, Advocate
Shri Brajeshwar Pd. Sinha, Advocate
Law Secretary (Shri Durga Prasad Sinha)
Addl. Commissioner of Income-tax, Bihar (Shri S.N. Mathur)
Commissioner of Commercial Taxes, Bihar (Shri S.K. Ghose)
Chairman, Commercial Taxes, Appellate Tribunal, Bihar—Shri Rameshwar Prasad Sinha
Standing Counsel for Income-tax Deptt., Patna—(Shri Shambu Saran)

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