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RAJYA SABHA

DEBATE

ON

The Constitution (One Hundred and Twenty-First
Amendment) Bill, 2014

(13-14 August, 2014)



RAJYA SABHA SECRETARIAT
NEW DELHI

Web-site Address: <http://rajyasabha.nic.in>
<http://parliamentofindia.nic.in>
E-mail Address: rsedit-e@sansad.nic.in

EXTRACTS FROM THE RAJYA SABHA PROCEEDINGS
DATED 13TH AND 14TH AUGUST, 2014

Wednesday, the 13th August, 2014/22nd Sravana, 1936 (Saka)

MR. DEPUTY CHAIRMAN in the Chair.

***THE CONSTITUTION (ONE HUNDRED AND TWENTY-FIRST
AMENDMENT) BILL, 2014**

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY AND THE MINISTER OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD): Sir, I beg to move:

That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration.

Sir, I am grateful to you for having given me this opportunity to move the Constitutional Amendment Bill. Why is this amendment needed? It is not done in a hurry at all. It is the culmination of the efforts of the last twenty years. I want to make it very clear.

Sir, as we all know, under Article 124, there is a provision for appointment of Judges of the Supreme Court. Under Article 217, there is a provision for appointment of Judges of High Courts. The Constitution envisages very clearly and categorically that the President shall appoint a Judge in consultation with the Chief Justice of India and other Judges as he considers appropriate and in case of High Court the Chief Justice of the High Court.

From 26th January 1950, the same procedure continued till 1993. Then there was S.P. Gupta judgement in between in the 80s when the Supreme Court said that consultation does not mean concurrence and the Executive primacy is there. In 1993, the Supreme Court came with a collegium judgement where they said, "No, we shall appoint in consultation with the Government". That is the sum and substance of that judgement. They said that it would be the Chief Justice in consultation with two judges. The Government again sought a reference under Article 143 and then came the Second Judges Case. In the Second Judges Case, they said that instead of two judges, they would have four judges in the collegium headed by the Chief Justice and they would recommend for the Supreme

*The Debate continued on 14th August, 2014.

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Court and in the case of a High Court, apart from the Chief Justice, there would be two Judges.

Sir, the Government's role was quite reduced. The Government's only right was to seek a reconsideration and if the collegium reiterates the previous view, the Government has no right whatsoever. In effect, the Supreme Court re-wrote the Constitution. That was never the intention.

Sir, in my reply, I will elaborately explain it. Dr. Ambedkar in 1950 in a debate on Constitution formation rightly said, "There shall be no unbridled power to the President; there shall be no unbridled power to the Legislature; and there shall be no unbridled power to the Chief Justice". The Chief Justice, as a human being, also has the same failings as others. Hence, the consultation mechanism came about.

Sir, this whole re-writing of the Constitution and the resultant collegium system have been there for twenty years. But is the Government today making the only effort? No. Let me just tell the House very quickly and very briefly about the past efforts. There was the Constitution (Sixty Seventh Amendment) Bill, 1990. The Bill lapsed. Then there was the Constitution (Eighty Second Amendment) Bill, 1997. It could not be passed. Then there was the National Judicial Commission, 1998. Thereafter, there was the Constitution (Ninety Ninth Amendment) Bill, 2003 when Mr. Arun Jaitley, the present Leader of the House, was hon. Law Minister. Then there was the National Commission to Review the Working of the Constitution, 2003. Then there was the Second Administrative Reform Commission, 2007. And many other efforts were made. Then there was the Law Commission Report. I will reply to that. In 2013, the previous Government brought a Bill. Satish Misraji was right that they came with a single-line amendment in the Constitution and a view was taken that you have the architecture in the Constitution itself. The Standing Committee also said that. They brought the amendment in that House. Then the House lapsed.

Sir, I just want to convey this to the House that after this Government came to power, I held two levels of consultations. One, we called a meeting of all the eminent jurists known in the country. They include Mr. Fali Nariman, Mr. Parasaran, Mr. Venugopal, Mr. Shanti Bhushan, Mr. Anil Diwan and Mr. Tulsi who is also a Member of this House. I took the views

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of many Attorneys General. Shri Arun Jaitley as an eminent lawyer was there. Two former Chief Justices Shri V. N. Khare and Shri Ahmadi were there. Many Chief Justices wrote to me that though they were not able to come, they were fully supportive of it. Shri P. P. Rao, Shri Ashok Desai and others wrote to me that they could not come. But they were fully supportive of it. This was the first level of consultation at the jurist level.

Two, the Government wrote to 26 political parties. I personally wrote to them as Law Minister. They include Shrimati Sonia Gandhi, Shri Mulayam Singh Yadav, Shri Prakash Karat, Shri Sudhakar Reddy and Shri Sharad Yadav. Each one of them was included. I want to tell you that I received a letter from Shri Ram Gopal Yadav conveying their approval. I received a letter from Mayawati completely approving the proposal for National Judicial Commission. I received letters from Shri Prakash Karat, from Shri Sudhakar Reddy, from Shri Arvind Kejriwal, from Ms. Mamataji, hon. Chief Minister of West Bengal. Then I received a letter from the hon. Chief Minister of Tamil Nadu, Ms. Jayalalitha making certain suggestions, but in principle agreeing to replace the collegium system.

Even the Congress Party has conveyed to me that the party is in principle supportive of the Bill to replace the collegium system. Obviously they have moved the Bill earlier.

SHRI SITARAM YECHURY (West Bengal): We wanted a larger one.

SHRI RAVI SHANKAR PRASAD: I am coming back.

Therefore, the Government had the widest consultations possible, and just to allay the apprehension that something is being done in a hurry, I must say, no, it has been going on for the last 20 years. The former Chief Justice of India, Mr. Venkatachaliah who headed the National Commission on review of the working of the Constitution also recommended that. He has held the wide consultations. Similarly, the Law Commission had the widest consultations. Many other political processes also gave their feedback. Therefore, it is nothing new. पिछले बीस साल से यह काम चल रहा है, लेकिन कई कारणों से यह बिल नहीं बन सका। Therefore,

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this Government has taken cognizance of the efforts of 20 years by eminent jurists, leaders of all political parties, who have in principle stated that.

Sir, Shri Yechury is right that his party has suggested to make it a bigger one. That is a larger issue of the National Judicial Accountability Bill. But the Government took a conscious decision that first the existing structure has to be changed. We are equally committed to that aspect of yours. We will come back after holding wider consultations. But the first and foremost issue is to replace the existing system for which we have come with an amendment.

Sir, what is this architecture? The architecture is that the National Judicial Commission shall be headed by the Chief Justice of India. Two senior most Judges of the Supreme Court shall be Members. The Law Minister shall be a Member. Two eminent persons to be appointed by the Prime Minister, the Chief Justice of India, the Leader of the Opposition in the Lok Sabha, or, the leader of the largest political party shall sit together and select these two eminent persons, the highest level of authorities to appoint that. One of them shall be either a woman, or, an SC/ST, or, a minority, or, an OBC. Sir, I must clarify in their case it was by rotation. Why have we removed it? The reason is very simple. If we go by rotation, the number may come after 12 years. Suppose there is an eminent woman from minority community, there is an eminent woman from SC/ST community who can be taken into account. Suppose the Chief Justice of India is a distinguished woman, suppose the Law Minister of India is a distinguished person, therefore, if the flexibility is not given, maybe, the purpose to give diversity would not have been possible. Therefore, we have given that.

Sir, today, I have to appeal to this House, I will come to the Bill to be passed separately, and that the Government is firmly of the view that the Government has got the full legislative competence. As I said earlier, the right of the Government to bring the Bill is not conditioned upon the passage of this amendment. That summary exclusive right flow from Article 246 read with List 1, Entries 77 and 78 where the Parliament can pass any law, any day with regard to the Supreme Court of India, or, any High Court of the State. Therefore, it is not conditional. As far as this amendment is concerned, it is only an enabling one where the entire

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architecture of the Commission is coming into being as a part of the Constitution.

Sir, what is my last appeal to this House? My last appeal to this House is that for 20 years this Bill could not be passed...(*Interruptions*)... Hon. Leader of the House, Shri Arun Jaitley is right that we could not pass it for 24 years. We must realise that if there is a serious misgiving that the collegium system has not worked well, yes, there are issues undoubtedly. Let me categorically say that our Government is firmly committed to the independence of the Judiciary. Our Government is firmly committed to the integrity of the Judiciary. Today, I wish to say very clearly and categorically that we have fought for the independence of the Judiciary during the Emergency and JP Movement, including individual freedom. I am very proud to say led by the Prime Minister, many distinguished members of this Government are those who have fought for the sanctity and independence of the Judiciary. Shri Arun Jaitley, Shri Venkaiah Naidu and many others are sitting here, including me, small level workers and like that.

SHRI K.C. TYAGI (Bihar): Some of them are here also.

SHRI RAVI SHANKAR PRASAD: I really appreciate that. Yes, you are very right. Our commitment to independence of Judiciary is total and complete. That is one thing. There will not be any hurry at all. Thirdly, our Government fully respects the total jurisdiction, the constitutional right and the duty of the Judiciary. There is not even the slightest hint to interfere in that. But one thing I would like to highlight and then I would like to hear the views of my distinguished friends. The right of appointment is an executive act, the right of transfer is an executive act, and the Government has no intention at all to interfere, impede and transgress into the judicial right, obligation of the institution of Judiciary which we all hold in the highest respect. Therefore, what is my conclusion, today? Let the entire House say in one voice, let the entire House invoke the collective conscience of India's polity as reflected in this House today that this House is speaking in one voice that the National Judicial Commission must come into existence, the collegium system must cease to exist, and that voice must go. I am making this appeal to the House to kindly ensure that this Amendment Bill is passed. That is all.

The question was proposed.

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MR. DEPUTY CHAIRMAN: Before Shri Shantaram Naik starts, I want guidance of the House. The Bill has been moved. Now it is for the House to consider it. What do we do today? For how much time do we sit today? What is the suggestion of the Government?

THE MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING; THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI PRAKASH JAVADEKAR): As per practice, we have already made arrangement for food from 8.00 p.m. onwards. We can sit upto 9 o'clock.

MR. DEPUTY CHAIRMAN: What is the view of this side? What is your suggestion?

THE LEADER OF THE OPPOSITION (SHRI GHULAM NABI AZAD): It is okay.

MR. DEPUTY CHAIRMAN: Okay, the LoP agrees to it ...*(Interruptions)*...

SOME HON. MEMBERS: Sir, tomorrow.

SHRI DEREK O BRIEN (West Bengal): Sir, can we take it up tomorrow also? Instead of Question Hour, we start it at 11 o'clock, if everyone agrees. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: That I cannot decide now. That is something which the hon. Chairman has to decide.

THE MINISTER OF URBAN DEVELOPMENT; THE MINISTER OF HOUSING AND URBAN POVERTY ALLEVIATION AND THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI M. VENKAIAH NAIDU): Sir, my request is this. We have to decide whether we are sitting for some more days or we are going to adjourn tomorrow. That being the case, suppose, we are adjourning tomorrow, then unless we extend...

MR. DEPUTY CHAIRMAN: He has already suggested that let us sit upto 9 o' clock.

SHRI M. VENKAIAH NAIDU: No, no. That is for today. Second thing is, allowing some more time even during the Question Hour tomorrow, then only it could be possible. Why am I saying this? I am not for scrapping

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of the Question Hour at all. Sir, normally on the last day people would like to leave by 2 o' clock. Sir, it is a Constitutional Amendment. You need to have the required number also. That being the case, I would request that to the extent possible, let us sit up to 9.00 or 10.00 p.m. and then tomorrow slip the Question Hour and then complete the voting process before 1.00 p.m. That will be fine. Whatever the House decides, I have no problem. Otherwise, if you want long time, we can sit on 19th and 20th also.

MR. DEPUTY CHAIRMAN: The point is, doing away with the Question Hour tomorrow, it is for the hon. Chairman to decide. He will decide it tomorrow. Now the suggestion is to sit up to 9.00 p.m. ...*(Interruptions)*... Okay, at 9.00 p.m., I will put this question again. Now, Shri Shantaram Naik. ...*(Interruptions)*... We have to take one more decision. What is the total time for this Bill?

श्री नरेश अग्रवाल (उत्तर प्रदेश): सर, इसके लिए कितना टाइम अलॉट किया है?

MR. DEPUTY CHAIRMAN: Yes, what is the total time? Two hours? ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: The House has discussed it earlier also. That being the case, two hours should be sufficient ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Is it okay? ...*(Interruptions)*... Then what is your suggestion? ...*(Interruptions)*...

SHRI NARESH AGRAWAL: Sir, three hours.

MR. DEPUTY CHAIRMAN: Okay, three hours. The consensus is three hours.

SHRI SHANTARAM NAIK (Goa): Sir, I welcome the fundamentals of this historic Bill. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Silence in the House, please. Those who are in the passage, please go to your seats or go out. Those who are talking, including Ministers, please do not talk. Listen to the hon. Member who is speaking. It is such an important Bill.

SHRI SHANTARAM NAIK: Sir, I am repeating. I welcome the fundamentals of this historic Bill. I consider it as one of the steps towards the restoration of supremacy of Parliament. The supremacy of Parliament

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is being eroded by various Judgements pronounced by the Judiciary from time to time. Therefore, this is one step towards the restoration of supremacy of Parliament. It is unfortunate that as early as yesterday, the Chief Justice of India had said that the collegium system was the best one and that there was a conspiracy against the Judiciary. It is surprising that a highest level officer should pass such remarks when it is known that Parliament is enacting a Constitutional Amendment and also a normal legislation to establish the National Judicial Commission. If we see the history of the Constitutional provisions, Article 124(2), laid down the procedure for the purpose of appointment of Judges. It reads:

"Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty five years:

Provided that in the case of appointment of a Judge, other than the Chief Justice, the Chief Justice of India shall always be consulted."

Sir, this was the fundamental article which was incorporated in the Constitution of India framed by Dr. Bhimrao Ambedkar and others. Who has played with this article? It was a logical, normal, ordinary legislation which was played with.

[THE VICE-CHAIRMAN (SHRI V.P. SINGH BADNORE)
in the Chair.]

If you go to the Supreme Court or a High Court, if you play with any provisions of the law, then, that Act is struck down. If somebody plays with an ordinary legislation, that Act is not accepted. And here, the Supreme Court of India was playing with an article of the Constitution of India which is a sacred document for the country. How did they do it? They sidetracked this very precious article by passing a judgement which was called 'Collegium Judgement' and asserted the power of the Government of India, of the Executive, in their own hands by scrapping, virtually, a clear provision of the law. In most of the countries, the Executive has the Authority to appoint judicial officers by following a proper process of consultation.

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In most of the countries if you go and see, this procedure is followed and no where judges appoint themselves as judges. Therefore, this step of the Supreme Court of India to throw away Article 124 (2) into the dustbin and pass a judgement and grab the power of Parliament and of the Government was an act which I can say a judicial impropriety. But on account of various circumstances, which existed between this period of collegium judgement till today, the Government could not confront the Judiciary. Somehow in the Lok Sabha one party has got a considerable majority and we are also cooperating. Therefore, this could see the light of the day. Nobody should tell us. We are opposed to Judicial Commission. On the contrary, myself and many of my colleagues have always said that we have to control the actions of Judiciary in various fields which are going on. Therefore, this is one of the best steps that we have taken and we welcome it. Subsequently, why this collegium system has been criticized by various judicial luminaries, advocates and others? Collegium system is not perfect. It is a system which is rotten with nepotism and as everybody knows that judges among themselves, who have taken the power of Parliament and of the Government of India, recommend judicial officers. My brother, your sister, my brother-in-law, they try to adjust and if there is no unanimity on any of the relatives to be appointed to the judicial post, then, these vacancies remain. Some people are asking, Why vacancies are remaining? The major reasons for the vacancies remaining in various courts, in the post of Judicial Officer, are this: they are not able to settle who should be appointed, and therefore, this is one of the biggest hurdle in the appointment of judges in various courts. Secondly, I would like to make a fundamental point. Appointment of judges comes in the category of...(*Time-bell rings*).

THE VICE-CHAIRMAN (SHRI V.P. SINGH BADNORE): You have two minutes more.

SHRI SHANTARAM NAIK: Sir, I am the initiator of the debate. Let me tell you very frankly. I am initiating the debate. Please don't ring the bell.

उपसभाध्यक्ष (श्री वी०पी० सिंह बदनौर): आप बोलिए।

SHRI SHANTARAM NAIK: You should not ring the bell please, with due respect. The question is: what is this appointment of Judiciary? It comes in the category of basic structure of the Constitution. Will any

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authority in the country dare to change the basic structure of the Constitution? If the basic structure of the Constitution is changed, then, that action will be struck down by the court. Supreme Court will throw away that action because it goes against the fundamentals of the basic structure of the Constitution and there is no doubt that the appointment of judges is the basic structure of the Constitution. As the Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the Attorney General of India appeared before me and made a statement that appointment to higher Judiciary is a part of the basic structure of the Constitution as it was at its enactment in 1950, and that it had to be considered from the point of view of basic structure doctrine of the Constitution by interpreting the word 'consultation' to mean 'concurrence'. So, there is no doubt that this structure amounts to the basic structure of the Constitution. Can you imagine the Supreme Court of India changing the basic structure of the Constitution? For whom? For usurping power to themselves! To get the power of appointment of judges to themselves; by passing a judgement they changed the basic structure of the Constitution, which is not pardonable. As I said earlier, in no country - I am mentioning most of the countries - judges appoint themselves. There was always a major role given to the Executive, as in the U.K., South Africa, Russia, Canada, Sri Lanka, Japan and many other countries. They follow the procedure where the Executive takes priority.

What is this 1993 judgement? The 1993 judgement, in short, is a coup against the Parliamentary powers. Why am I saying 'coup'? It is because you are passing a judgement and taking away the powers. You say that there shall be a collegium consisting of these and these judges. No longer will the Government of India have a major role in the appointment of judges. This is contrary too. Therefore, I call it a coup.

Secondly, what are the roles, which are being played, at present, by the judges? I was told by a responsible Member of Parliament that one Supreme Court Judge used to send files recommending a particular person as a judge and thereafter he used to phone up the Prime Minister and say, "Do not appoint this man, he is so and so..."

Then, Sir, one of the judges who has taken oath on the Constitution of India - oath is to maintain secrecy - saying it publicly, "If I were a dictator

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of India, I would have prescribed Gita in various schools." Gita is known by everybody. It is a very precious document, a precious thing. But, can anybody, who has taken oath under the Constitution of India, say publicly in a meeting, "If I were a dictator of India..."? Is this how the judges should behave? ...(*Interruptions*)...

Sir, only auxiliary points I am mentioning. We have heard that in Madhya Pradesh, a High Court Judge - we have listened to this case when there was a Zero Hour mention by a luminary, Shri Tulsi, yesterday on how a lady Additional District Judge had to leave her job because she was asked to perform a dance in a particular place, and other things. That enquiry is being ordered by the Supreme Court Judge. Two members have been appointed. So, this is what is going on in certain places.

Now, Sir, another aspect is, law declared by the Supreme Court is a law which is applicable and binding on all courts. This is the Article 141, which is being used by the Judiciary not only to interpret but also for other purposes. If they only interpret vague provisions, ambiguous provision, it is welcome because that is their job. But in the guise of Article 141, what do they do? Today, they have taken the Departments of Government of India. There are Empowerment Committees appointed by the Supreme Court which are deciding matters which ought to have been decided by the respective Departments of the Government of India. You can imagine about it. I am only citing the case of the Ministry of Environment and Forests because I know about that. I don't know how much power Mr. Javadekar will be having after this. What is meant by 'law declared'? Does it mean that you can, just in the name of interpretation, lay down a new law? There are ample number of judgements; the Law Minister will be knowing that there are ample number of judgements, in which guidelines are laid down in various matters, as if they are Acts of Parliament. We have been following those guidelines as if they are Acts of Parliament, passed by Parliament.

Secondly, as it is said, ignorance of law is no excuse. If ignorance of law is no excuse, then, searching a law in a judgement is like searching a pin in a stack. If I want to know one proposition of a law, I have to read hundred pages or two hundred pages of a judgement to know what the proposition is. Therefore, judges themselves are not following or facilitating common men or even lawyers to understand the proposition of law.

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8.00 P.M.

Sir, another aspect is, supposing this Bill is violative of the Constitution, then, there are two criteria. One is that you have to go into the lists, namely, the Union List, the Concurrent List and the State List. That will decide whether the Parliament is competent or not to enact such a law. Second thing is violation of fundamental rights. Now, this is very vague. If you read the fundamental rights, you can stretch any fundamental right to strike down anything (*Time-bell rings*). So, these fundamental rights are very important. To interpret the fundamental rights in such a manner as it strikes down any normal legislation or normal Act of Parliament will be a superfluous thing.

Secondly, after the Judicial Commission is constituted, today we are showing our supremacy by passing this legislation, coupled with the ordinary legislation that we will pass, but while constituting the Commission, we have also to be transparent. We should not emulate the Supreme Court. Let that action of yours be transparent. You know what I mean. It should be transparent, and proper eminent persons of integrity should be made as members. I thank you for one thing that I made one recommendation in my Report and you have included that. In the recommendation, we said that one of the eminent persons should be from the SC, ST, OBC, minority, women, and you have accepted that. I welcome that. Therefore, I hope that you will implement this legislation as an ordinary legislation in the right spirit, in the overall interest of the Government of India and of Parliament, and take further steps, from time to time, to protect the interests of Parliament. Thank you very much, Sir.

SHRI SATISH CHANDRA MISRA (Uttar Pradesh): Thank you, Sir, for giving me this opportunity to make some observations on the Constitution (Amendment) Bill.

At the very outset, our party's view is that so far as the independence of the Judiciary is concerned, that has to be the first criterion to be kept in mind.

As I see, in this amendment, in the Constitution itself now the Judicial Commission has been included. It has been made a part of the Constitution itself. Therefore, at least, there cannot be any tinkering. I would not use the word 'tinkering' because the Legislature in its wisdom

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does it, but there may be a situation where if it is not in the Constitution, then there could have been changes today, tomorrow, thereafter again with regard to the constitution of the Commission which has to be the main body with respect to this.

We had made certain suggestions. Probably in the procedure part it is being taken care of that so far as the High Courts are concerned, it may be difficult for a Commission sitting in Delhi only to consider and find out the name from the High Court. In the procedure part, probably, some explanations have been given that how the High Court Judges would be appointed and the names initiated by the Chief Justice of the High Court. I would like the hon. Law Minister to definitely throw light on this because it may not be a system which may fail on account of this because today the vacancies as they are existing, it is known to all of us. If we take Uttar Pradesh itself, about 160 sanctioned strength is there. Out of this 160 strength which was sanctioned almost 12 years back, up to that extent, we have been able to fill up only 80 to 90 and reached maximum 90 Judges' appointment in the High Court of Uttar Pradesh in Allahabad which is for Uttar Pradesh. The result has been pendency of the cases in the High Court. It is voluminous. About 16 lakh cases are pending in the Allahabad High Court itself.

But my party's concern has always been that in the representation in the selection of the High Court Judges, who come later on to the hon. Supreme Court, there has always been a discriminatory attitude to the extent that so far as women are concerned, and especially, so far as Scheduled Caste persons are concerned, there has always been a discriminatory attitude. We do not find number of women judges in comparison to the male judges, even though there are a large number of willing lawyers from the women category. But still we have only one or two. The first woman judge in Allahabad High Court we got only 20 years back. By bringing in this procedure and making it a requirement under the Commission there will be a member, maybe, a woman, maybe, of the other category, especially the Scheduled Caste category. The 'Scheduled Caste' category has been completely excluded from consideration. They have been totally discriminated against even through the minorities, the backwards got the chances to come into it. The women have also got it. But so far as Scheduled Caste is concerned, the result has been very bad because we do not have judges belonging to this

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category. Therefore, there is a feeling throughout the country that there is no representative of them. A judge will act in an independent manner, but still, if in the entire judiciary there is no Scheduled Caste person. In Uttar Pradesh, the Law Minister will find out from the records, for the last several years, no appointment has been made from the Scheduled Caste as a High Court Judge. The result has been that there is a complete vacuum and a zero per cent representation of the Scheduled Castes in the Bench of the High Court. Naturally, from the High Court only they come to the hon. Supreme Court. Recently, we have been able to get two Judges directly from the Bar after a very, very long time to the hon. Supreme Court. Otherwise, they are coming from the High Courts. So, this aspect we have been throughout saying in the Parliament and outside. So, this has to be taken into consideration. I hope that this Judicial Commission which is now being constituted under the Constitution Amendment, even if there is no representative because it is not being done as by rotation or all the members necessarily will be there or not be there, it will be decided later, when the constitution of the Commission is done. Even if there is no representative because it has not been said 'by rotation', the Scheduled Caste members would be there or not be there, will be decided later on when Commission is constituted. But even if it is not there, I would definitely request - hon. Law Minister is also going to be a Member of the Commission - that this aspect may kindly be considered that the representatives, at least, from the Scheduled Castes are there, and out of 160 Judges or 90 sitting Judges, you can think of, at least, one Judge from this community. Do not exclude them completely and give an impression that they will not be allowed to come into the Bench of High Courts. Their representation should be in the percentage that is due to them. I have raised this issue again and again, on several occasions, in this House. I had raised it before the previous Law Minister also when the UPA Government was there. But, for whatever reasons, the names have not been sent. To my knowledge, the names were sent earlier, during the UPA Government's tenure, when Mayawatiiji was the Chief Minister. But, ultimately, when those names came to Delhi, some of them were dropped at the level of the Supreme Court and the rest were dropped at the Government's level. So, all these prejudices keep on adding in the minds of the particular community that they should not represent in the higher Judiciary and, therefore, they should be excluded.

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Therefore, we hope that this Commission will act independently and will get the best of the Judges, who will be appointed not on the basis of nomination, as is now being done. There are three members in the collegium and they decide among themselves. One agrees to one name, the other say that this is his name and the third says this is his name and if you don't agree to my name, I won't agree to your names. Therefore, the entire names are either gone or get stuck. That is why there are vacancies. That is why there are pendencies. And, then, we stand here and request the Government to do something so that the cases are disposed of. You cannot burn the files. You can only dispose of them, after being decided. In the High Court of Allahabad itself, where I have been practising for the last 39 years, the pendency is about 16 lakh. In Lucknow itself, the pendency is about 4 lakhs. So, all these things add to the difficulties of the public, the litigants, who come to the court with high hopes that their cases will be decided. In the capacity of Advocate General of U.P., when I was there, in the capacity of Chairman of the Bar Council of U.P., in the capacity of the Government when the BSP was in power there, on all these occasions, I had raised this matter. I don't know when I will die and nobody knows it. But, at least, when a Judge is appointed, the day he is appointed, it is known to every one that this is the date when he will retire. And, when the date of retirement is known in advance why we fail to get the appointments done? I have seen the other Bill. The other Bill, which provides the procedure, says that before the retirement, within this period, you will have to send the recommendations. It has to be considered and, hopefully, this will remove the anomaly of having a large number of vacancies. Recently, we heard that the strength will be increased in the High Courts. Once the strength of High Courts is increased by 25 per cent, it will go to 200 Judges in Uttar Pradesh. But what about 160? We have not been able to fill even 160. Rather, we have not been able to cross 100 in Uttar Pradesh because the procedure has failed. Therefore, the existing procedure - which was not provided originally in the Constitution, where the consultation was to be done with the Chief Justice by the President - has been reversed the other way. They will be informed that we are appointing so and so and if you don't agree I will reiterate and you will have to re-confirm that name. That procedure was not in the Constitution and it has miserably failed. Therefore, to have effective and honest Judges in the Bench, who decide the fate of 125 crore people and the litigants who come to the court, it is necessary that the amendment

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should be brought. We are in support of it. We are not going at length in mentioning the merits and demerits. This exercise was also done earlier when the UPA had brought the amendments. I had also spoken on that occasion for two hours. I do not want to reiterate all that. We support this except one thing on which the hon. Law Minister would, probably, come out tomorrow and explain when he brings forward the other Bill. Through Article 124C, by an amendment in the Constitution, you have brought the power of Parliament to make the law. This power of Parliament to make laws is being brought through Article 124C which is presently not in existence. Whether the other Bill which would be coming tomorrow can be made a law as on date or it has to wait till the amendment, that, of course, we would consider when the Bill comes tomorrow. With this, I support the Bill. Thank you.

श्री भुपेन्द्र यादव (राजस्थान): सम्माननीय उपसभाध्यक्ष महोदय, आज माननीय विधि मंत्री जी बधाई के पात्र हैं, क्योंकि वे देश के उच्चतम न्यायालय और उच्च न्यायालयों में न्यायाधीशों की नियुक्ति की व्यवस्था में सुधार हेतु संवैधानिक संशोधन लेकर आए हैं। हमने उच्चतम न्यायालय और उच्च न्यायालयों को लोगों की मौलिक रक्षा के अधिकार का दायित्व दिया है, लेकिन जहां इतनी बड़ी जिम्मेदारी हम लोगों ने तय की है, वहां यह विषय पिछले 24 सालों से चल रहा है कि जिन लोगों को वहां पर नियुक्त किया जा रहा है, उनकी नियुक्ति की कसौटी क्या है, उनकी नियुक्ति के मानक क्या हैं? कई बार यह कहा जाता है कि नियुक्ति की जो प्रक्रिया है, उसमें हमारे संविधान के निर्माताओं की मंशा क्या थी? हमारे संविधान के निर्माताओं की मंशा न्यायपालिका से परामर्श की थी, लेकिन यह परामर्श से सहमति की जो व्याख्या न्यायपालिका द्वारा की गई है, वह इस संविधान संशोधन का मूल आधार है। यह बहुत न्यायविदों का भी मानना है, न्यायिक क्षेत्र में काम करने वाले लोगों का भी मानना है और यह इस देश के लिए भी आवश्यक है कि परामर्श की प्रक्रिया के दो भाग अवश्य होने चाहिए। परामर्श जहां न्यायपालिका से होना चाहिए, वहां परामर्श सरकार से भी होना चाहिए, न्यायपालिका का एक क्षेत्र जो बार एसोसिएशन है, उनसे भी परामर्श होना चाहिए, विपक्षी पार्टियों की भी परामर्श में भूमिका होनी चाहिए और देश के जो एकेडेमिक लोग हैं, गणमान्य लोग हैं, उनकी भी परामर्श में व्यापक भूमिका होनी चाहिए। उसके साथ ही साथ नियुक्ति की जो प्रक्रिया है, इसमें पब्लिक सीक्रेसी नहीं होनी चाहिए, बल्कि इसके लिए बेहतरीन व्यवस्था, बेहतरीन डेटा, बैटर क्राइटीरिया और बैटर ऑफिस सेटअप की व्यवस्था होनी चाहिए। इस व्यवस्था में लोगों का विश्वास तभी कायम हो सकता है, वह विश्वास तभी बना रह सकता है, जब हम उन सारी प्रक्रियाओं को पारदर्शिता के साथ पूरा करने का प्रयत्न करें। हम अच्छे लोगों को न्यायपालिका में लाने के लिए,

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उनको प्रोत्साहन देने के लिए अच्छी व्यवस्था का निर्माण करें। जो संवैधानिक संशोधन माननीय विधि मंत्री जी लेकर आए हैं, मुझे लगता है कि संवैधानिक संशोधन और इसके बाद जो बिल आने वाला है, जिस न्यायिक आयोग की बात वे कह रहे हैं, उसको देखने के बाद ध्यान में आता है कि यह जो व्यवस्था बनेगी, इसमें न्यायिक नियुक्तियों की प्रक्रिया ज्यादा पारदर्शी होगी, मजबूत होगी। इसमें एक उचित प्रतिनिधित्व की व्यवस्था करने का प्रयत्न किया गया है, एक उत्तरदायी न्यायिक व्यवस्था बनाने का प्रयत्न किया गया है। विभिन्न सामाजिक वर्गों को नियुक्ति की प्रक्रिया में स्थान देकर उनके साथ समन्वय बनाने का प्रयत्न किया गया है और इसके साथ ही साथ, देश में स्वतंत्र और निष्पक्ष न्यायपालिका के लिए जिस आधारभूत ढांचे को आर्टिकल 368 में हमने कहा है, उसको मजबूत करने के लिए और देश का जो संघीय ढांचा है, उस संघीय ढांचे का भी समायोजन इस बिल के माध्यम से किया गया है। कई बार न्यायपालिका में नियुक्तियों के समय में यह विषय उठता है कि इसमें फर्स्ट जेनरेशन लॉयर कितने हैं? यह प्रश्न भी उठता है कि जिस अनुपात में महिलाएं लॉ की शिक्षा प्राप्त करके आ रही हैं, उस अनुपात में उनकी कितनी नियुक्तियां जजों के रूप में हो रही हैं? जैसा कि मेरे पूर्व वक्ताओं ने भी कहा है कि दुनिया के किसी भी देश में ऐसा प्रावधान नहीं है, जहां न्यायाधीश स्वयं अपनी नियुक्ति करे, अपनी नियुक्ति के लिए प्रक्रिया भी खुद ही तय करे और उसके लिए कानून का भी खुद ही निर्माण करे। हमें उस प्रक्रिया से बाहर आकर अपने संविधान निर्माताओं की मंशा के अनुरूप न्यायपालिका के परामर्श को प्राथमिकता देनी चाहिए, लेकिन समाज के बाकी वर्गों की भी इसमें सहभागिता होनी चाहिए। हमने कोलेजियम के स्थान पर न्यायिक आयोग की जो कल्पना की है या कोलेजियम के आधार पर हम जो यह न्यायिक आयोग बना रहे हैं, उसमें मेरा यह मानना है कि यह न्यायिक आयोग कार्यपालिका और न्यायपालिका की समान सक्रिय भागीदारी को निर्धारित करेगा। समान सक्रिय भागीदारी को निर्धारित करके कार्यपालिका और न्यायपालिका, दोनों की परस्पर सहयोगात्मक और सहभागिता के आधार पर निष्पक्ष नियुक्ति हो, उसके लिए इस न्यायिक आयोग के गठन की बात की गई है, इसलिए इसका उद्देश्य मुख्य रूप से न्यायपालिका की स्वतंत्रता और निष्पक्षता को बनाए रखना है।

अभी सतीश चन्द्र मिश्रा जी खुद ये आंकड़े दे रहे थे कि उत्तर प्रदेश में न्यायिक नियुक्तियों की जितनी संख्या है, उसके 50 प्रतिशत से ज्यादा कभी नियुक्ति नहीं हो पाई है। इस समय देश के उच्च न्यायालयों में न्यायाधीशों के 800 से ज्यादा पद हैं, लेकिन कभी भी 60 परसेंट और 70 परसेंट से ज्यादा पद नहीं भरे जाते। न्यायाधीशों की नियुक्ति की जो प्रक्रिया है, वह एक लम्बी प्रक्रिया है। इस लम्बी प्रक्रिया को पूरा करने के लिए हमें एक परमानेंट इंस्टीट्यूशन की आवश्यकता है। जब न्यायाधीश पूरे समय अपना निर्णय देते हैं, तो निर्णय देने के साथ-साथ अगर हम उनके समकक्ष न्यायिक आयोग के रूप में एक परमानेंट इंस्टीट्यूशन स्थापित करेंगे तो वे ज्यादा अच्छे तरीके से न्यायाधीशों की नियुक्ति करेंगे।

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सर, अगर हम इसके साथ के बिल का अध्ययन करेंगे, तो पाएंगे कि हम लोगों ने जिस न्यायिक आयोग की कल्पना की है और इस न्यायिक आयोग में जिन पांच सदस्यों की बात कही गई है, उनमें से तीन सदस्यों में खुद ज्यूडिशियरी के चीफ जस्टिस और उनके दो सदस्य रहने वाले हैं, विधि मंत्री इसके सदस्य रहने वाले हैं और इसके जो बाकी के दो सदस्य नियुक्त होने वाले हैं, वे प्रधान मंत्री तथा प्रतिपक्ष के नेता हैं। उस पर भी वे उच्च न्यायालय के मुख्य न्यायाधीश की सहमति के आधार पर करने वाले हैं। लेकिन, ऐसा करने की आवश्यकता क्यों है? ऐसा करने से देश में जो न्यायिक नियुक्ति है, उसमें किस विषय से मजबूती मिलेगी? अभी भी न्यायाधीशों की नियुक्ति के समय हिन्दुस्तान में हम जिस लोकतंत्र की कल्पना करते हैं, उसमें सभी सामाजिक वर्गों यानी पिछड़े वर्गों की, दलितों की, आदिवासियों की और महिलाओं की समान भागीदारी की बात हम करते हैं। अगर हम नियुक्ति प्रक्रिया को अपनाते समय कम से कम उनके दृष्टिकोण और उनकी व्यावहारिकता को इसमें स्थान देंगे तो उचित होगा। वह एक चयन के लिए है, वह किसी मानदंड के निर्धारण के लिए नहीं है। लेकिन, जैसा मैंने प्रारंभ में भी कहा है कि उस चयन को हमें ज्यादा अच्छे तरीके से, व्यापक विचार-विमर्श के आधार पर करना चाहिए।

हमने जिस न्यायिक आयोग की बात कही है, उसमें एक विषय और है। इसे उच्च न्यायालय और सर्वोच्च न्यायालय में वकालत करने वाले लोग भी जानते हैं कि उसके जो सेक्शन दो और तीन हैं, उनमें उच्च न्यायालय के मुख्य न्यायाधीश को तो नामों की संस्तुति करने का अधिकार है, लेकिन इसके साथ-साथ उसमें इस बात की व्यवस्था भी की गई है कि कमीशन के पास अगर ऐसा कोई नाम आता है, अगर कोई ऐसी प्रक्रिया तय की जाती है कि कोई व्यक्ति न्यायाधीश बनने के लिए पर्याप्त योग्यता रखता है, तो कमीशन को भी इस बात का अधिकार दिया गया है कि वह उसकी संस्तुति करे। सामान्यतः यह माना जाता है कि न्यायपालिका में किसी एक पृष्ठभूमि का नहीं, बल्कि जो भी व्यक्ति न्यायाधीश बनने की योग्यता रखता है, मतलब वह व्यक्ति कानून का जानकार है, वह व्यक्ति अपने आचरण में सत्यनिष्ठा का पालन करता है, वह व्यक्ति विश्वसनीय है, लेकिन अगर वह न्यायाधीशों की निगाह में नहीं भी आता है तो कमीशन के माध्यम से प्रक्रियागत रूप से उसका नाम संस्तुति के लिए दिया जा सकता है और उसके बाद भी कार्यपालिका के साथ-साथ इसमें जो आगे उन्होंने प्रक्रिया को तय किया है कि जो नाम कमीशन के पास भी आएगा वह भी चीफ जस्टिस को उनकी संस्तुति के लिए दिया जाएगा। उसमें जो एक अच्छी प्रक्रिया है कि चीफ जस्टिस अपने सहयोगी सीनियर साथियों के साथ और जो न्यायिक कमीशन बनाया है इसमें भी लिखा गया है और उसमें स्टैंडिंग कमेटी ने भी कहा है कि “उसके साथ-साथ वह जो नियुक्ति है, उसमें बार के वरिष्ठ वकीलों की भी सलाह ली जाएगी” न्यायिक कमीशन में उन्होंने सैक्शन-4 में प्रोविजन किया है। इसमें किसी भी नियुक्ति के समय अगर आपको पारदर्शिता लानी है, अगर व्यापक विचार-विमर्श करना है तो सभी

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संबंधित पक्षों की राय को जानने का आपको अधिकार होना चाहिए। मेरा यह मानना है कि हमारे देश में हमने संघीय ढांचे की कल्पना की है। संघीय ढांचे की हमने इसलिए कल्पना की है ताकि भारत में सभी विभिन्न विचारों, वर्गों को और सभी क्षेत्रीय आकांक्षाओं को स्थान मिले। इसलिए न्यायिक कमीशन जब इस निर्णय को बैठकर करेगा तो न्यायिक कमीशन के सामने संबंधित गवर्नर और मुख्यमंत्री की राय को भी कम से कम लिखित रूप में लिया जाएगा। आखिर नियुक्ति की प्रक्रिया में एक व्यापक विचार-विमर्श हो, उसकी कसौटियां और मानक तय हों, उसमें किसी प्रकार से सीक्रेसी नहीं हो, क्योंकि इसको करने के बाद ही हम ऐसे व्यक्तियों का चयन कर सकेंगे, जो स्वतंत्र न्यायपालिका के आधार पर कार्य कर सकें। हम जानते हैं कि यह न्यायपालिका और न्यायाधीश का जो पद है इसमें कानूनी जानकारी के साथ-साथ, विश्वसनीयता के साथ-साथ करुणा का पक्ष भी बहुत महत्वपूर्ण होता है। हम जानते हैं कि भूमि अधिग्रहण के किसानों के केसेज सर्वोच्च न्यायालय तक जाते-जाते 30 वर्षों तक भी नहीं सुलझ पाते हैं। मैंने बहुत से ऐसे केसेज को देखा है जिनमें 30 वर्षों के बाद लोगों को compensation मिला है, तो वे लोग बाद में rehabilitate भी नहीं हो पाए। इसलिए त्वरित गति से लोगों को किस प्रकार से न्याय मिले, इसमें अच्छे लोग किस प्रकार से आएँ, इस संस्था में लोगों का विश्वास पैदा करने के लिए, हम जिस नियुक्ति प्रक्रिया को चाहते हैं, उस नियुक्ति प्रक्रिया में पारदर्शिता के मानक कैसे हों, उसके लिए यह विधेयक लाने के ये सारे प्रयास किए गए हैं और इसके द्वारा एक संवैधानिक संशोधन करके हमारे संविधान निर्माताओं की जो आकांक्षा थी उसके अनुरूप परामर्श की प्रक्रिया को ज्यादा अच्छे तरीके से बनाया गया है। इसके लिए परामर्श की प्रक्रिया में समन्वय को स्थान दिया गया है, परामर्श की प्रक्रिया में जो समाज के उच्च आदर्श हैं, उन उच्च आदर्शों को कसौटी पर कसने के लिए एक पारदर्शी प्रक्रिया जो सबके प्रति जवाबदेह हो, जो सबके प्रति उत्तरदायी हो, उस प्रक्रिया को बनाने का प्रयास किया गया है। इसलिए माननीय उपसभाध्यक्ष महोदय, मेरा यह मानना है कि आज आजादी के 65 वर्षों के बाद इस देश की जो न्यायपालिका है, जिसके ऊपर करोड़ों लोगों का विश्वास है, जो लोगों के मौलिक अधिकारों की रक्षा करती है, उसके न्यायाधीशों की नियुक्ति के मानक, पार्लियामेंट की जो कमेटी है उस कमेटी ने भी पूरे तरीके से उसकी संस्तुति की है, जिसको सभी लोगों ने माना है। मेरा यह मानना है कि यह जो न्यायिक आयोग है और यह जो संविधान संशोधन है, यह देश में स्वतंत्र और निष्पक्ष न्यायपालिका बनाने के लिए, न्यायिक नियुक्तियों में पारदर्शिता के मानक लाने के लिए और संविधान निर्माताओं ने जिस व्यापक विचार-विमर्श की प्रक्रिया को कहा है, उस परामर्श की प्रक्रिया में न्यायपालिका के साथ-साथ सामाजिक वर्गों को स्थान देने के लिए जो प्रयास किया गया है, मुझे लगता है कि आने वाले समय में यह देश के संविधान के लिए एक मील का पत्थर साबित होगा।

[RAJYA SABHA]

THE VICE-CHAIRMAN (SHRI V.P. SINGH BADNORE): Thank you very much. Shri Sukhendu Sekhar Roy.

SHRI SUKHENDU SEKHAR ROY (West Bengal): Thank you, Sir.

While speaking on the 99th Constitution (Amendment) Bill, 2014, I would like to make it clear that my Party, the All India Trinamool Congress, and our leader, Ms. Mamata Bannerjee, always believe in the independence of Judiciary and the powers of judicial review. We don't believe in committed judiciary, as was propagated in the '70s. ... (*Interruptions*) ...

SHRI VAYALAR RAVI (Kerala): Please don't say such things.

SHRI SUKHENDU SEKHAR ROY: I have the right to speak. ... (*Interruptions*) ...

SHRI VAYALAR RAVI: We can debate that. At that time, it was your ... (*Interruptions*) ...

उपसभाध्यक्ष (श्री वी०पी० सिंह बदनौर): आप बैठिए। ... (व्यवधान)

SHRI SUKHENDU SEKHAR ROY: When your turn comes, you may speak. Being a senior Member, You know the rules of this House. ... (*Interruptions*) ... I have every right to speak. So we have seen in this country how the judiciary was made to measure in the mid-70s and what was the resultant effect on our body polity. Therefore, we are very much cautious. It is true that we have learnt by lessons; it is true that our Judiciary, particularly the High Courts and the Supreme Court, in plethora of cases, have given landmark judgements ensuring justice - social, political and economic-as enshrined in the Preamble to the Constitution of India. There is no doubt about it. But when we look at the process of selection of judges, we feel disturbed, as rightly pointed out by Shantaramji few minutes back, because in no democratic country of the world such a collegium system exists. He has mentioned a number of countries. I am giving the example of one country, that is, Switzerland. In Switzerland, the members of the Swiss Federal Assembly appoint the members of Swiss Federal Court. But, through this Amendment Bill or the other Bill, we are not seeking that power of Switzerland that the Members of Parliament will appoint the Judges of the Supreme Court. Rather we are trying to evolve a system. Why? Our hon. Law Minister, while introducing

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the Bill, has given a chronological account as to how we have dealt with this thing. We have been thinking of this for the past 24 years without arriving at any conclusion whatsoever. How long should we wait and why is it required, and why is it necessary? Everybody knows what is the effect of the Second Judges Case Judgement. The Supreme Court itself changed the basic structure of the Constitution by interpreting a particular article by importing a new interpretation. Although in several cases the Supreme Court has said that while interpreting a particular word, no interpretation other than the ordinary dictionary meaning should be imported. But in that case, the Supreme Court interpreted it in a manner which is prejudicial to the interest of functioning of the judiciary in this country. This is why I support it. And I think that this Bill is very much necessary. Sir, this balance has been upset by the Second Judges case and the original balance of power needs to be restored. We need to restore the *status quo ante*. Otherwise, the very purpose of the Constitution goal will be frustrated; what the Constitution makers thought, what they perceived and what they made while enacting the Constitution, that will also be frustrated, and it will be a disrespect to the framers of the Constitution, according to us. Sir, even the National Commission to Review the Working of the Indian Constitution said, "it would be worthwhile to have a participatory mode with the participation of both the Executive and the Judiciary in making such recommendations. The Commission proposes the composition of the collegium which gives due importance to and provides for the effective participation of both the Executive and the judicial wings of the State as an integrated scheme for the machinery for appointment of judges. The Commission, accordingly, recommends the establishment of a National Judicial Commission under the Constitution". Sir, this recommendation was of 2002 and we are in 2014 now, and still discussing it. I will conclude by quoting a remark of the very honourable Judge, who was one of the architects of the judgement of the Second Judges case, late Justice Verma. Kindly allow me to say two three lines because that is very vital. He even appeared before our Standing Committee and we had the opportunity to hear him. What he said in other areas, he said the same thing, and I am quoting from his remarks. Late Justice Verma, who was one of the authors of the Second Judges case, on a later reflection, observed, "My 1993 judgement has been both misunderstood and misused. Therefore, some kind of rethink is required on my judgement and the appointment process of High Court

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and Supreme Court Judges is basically a joint or participatory exercise between the Executive and the Judiciary, both taking part in it". But what happened in this Constitution (Amendment) Bill or the other Bill? When we will discuss that, we will discuss that also. Now, not only the Executive and the Judiciary have been empowered but even civil society has been included. Two eminent persons of civil society have been included in the process of selection. Then, what is the objection? Where lies the objection? I personally feel, I strongly feel, that the Government has tried to broaden and widen the scope of selection by way of introducing this Constitution (Amendment) Bill. I support this Bill on behalf of my Party.

प्रो० राम गोपाल यादव (उत्तर प्रदेश): श्रीमन्, प्रारंभ में ही मैं यह कह दूँ कि मैं इस संविधान (संशोधन) विधेयक के समर्थन में बोलने के लिए खड़ा हूँ। मुझे पोस्ट ग्रेजुएट क्लासेज के स्टुडेंट्स को कंस्टीट्यूशनल लॉ और वर्ल्ड कंस्टीट्यूशनल लॉ पढ़ाने का अवसर मिला है। जब मैं पढ़ाया करता था या पढ़ता था, तब एक सवाल सामने आता था कि भारत का संविधान वकीलों का स्वर्ग है। आज मैंने जब प्रारंभ में यहां चर्चा सुनी, तो मुझे लगा कि वह बिल्कुल सही बात है, क्योंकि किसी भी तरह से अपनी बात को अपने तरीके से रखने का, मनचाहे तरीके से भारतीय संविधान की व्याख्या करने का अवसर लोगों को मिलता है। हालांकि हमारा संविधान सबसे ज्यादा स्पष्ट है, दुनिया का सबसे बड़ा, सबसे क्लीयर, सबसे स्पष्ट संविधान हमारा है।

(श्री उपसभापति पीठासीन हुए।)

उपसभापति महोदय, यहां मैं इतना जरूर कहना चाहता हूँ कि यह जो कॉलेजियम सिस्टम है, जिसको हम बदलने जा रहे हैं, इसकी वजह से या यों कहिएगा कि दुनिया के किसी भी देश में जज स्वयं जज को अपॉइंट नहीं करते हैं। हमारा हिंदुस्तान अकेला ऐसा देश है, जिसमें जज स्वयं जज को अपॉइंट करते हैं, वरना एग्जीक्यूटिव अपॉइंट करती है, जैसा कहा गया कि स्विट्ज़रलैंड में लेजिस्लेचर अपॉइंट करती है और ब्रिटेन में तो जो अपील का सर्वोच्च न्यायालय है वह स्वयं अपर हाउस ही है, House of Lords है। यह बात अलग है कि जब वह अपील के सर्वोच्च न्यायालय के रूप में बैठता है, तब केवल Law Lords ही उसमें बैठते हैं, कोई और मेम्बर नहीं बैठता। हमारे यहां यह अजीब स्थिति पैदा कर दी थी, स्वयं जुडिशियरी के प्रति संविधान को डिस्टॉर्ट कर दिया गया था।

श्रीमन्, इस तरह का अमेंडमेंट क्यों लाना पड़ा? आप देखिए कि अपॉइंटमेंट्स किस तरह के होते हैं? एक व्यक्ति जज है, उसका लड़का जज है, उसका दामाद जज है, किसी का भतीजा जज है। आप देखिए, आधे अपॉइंटमेंट्स ऐसे होते हैं और हर बार इसी तरह के अपॉइंटमेंट्स होते हैं। उत्तर प्रदेश जैसे बड़े राज्य से इलाहाबाद हाईकोर्ट, जो सबसे बड़ा हाईकोर्ट है, उसका मिनिमम

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रिप्रेजेंटेशन सुप्रीम कोर्ट में है। संभवतः एक जज उसमें होगा, जबकि ऐसा पहले कभी नहीं होता था। कोलेजियम सिस्टम आने के बाद जिस तरह से मनमानी की गई, हमें याद आता है कि संभवतः यही परिस्थितियां रही होंगी, जब अमेरिका के राष्ट्रपति फ्रैंकलिन डी० रूज़वेल्ट को यह कहना पड़ा, जब उनके कानूनों को बार-बार फेडरल, सुप्रीम कोर्ट रद्द कर देता था कि अगर यही रवैया सुप्रीम कोर्ट के जजेज़ का रहा, फेडरल कोर्ट के जजेज़ का रहा, तो हम न्यायालय को अपने लोगों से पैक कर देंगे। यह बात अलग है कि सीनेट ने कहा कि हम पैक नहीं होने देंगे, लेकिन मान्यवर, उसका असर यह हुआ कि उसके बाद आज तक... यह 1936 की बात है, आज तक कभी भी अमेरिका के सुप्रीम कोर्ट ने इस तरह का कोई फैसला नहीं दिया, जो प्रैग्मेटिक न हो, जो जनता की भावना के अनुसार न हो या जो संसद की जो कलेक्टिव विल होती है, उसके खिलाफ हो। कभी नहीं दिया। इसकी जरूरत है और इसीलिए यह जो बिल लाया जा रहा है, यह बहुत आवश्यक है क्योंकि हमारे यहां न्यायपालिका मनमाने तरीके से फैसले करने लगी है। एक बार एक साहब कह रहे थे कि अगर न्यायपालिका का वक्त हो, वह सब फैसले करने ही लगेगी। जो चाहे फैसला कर दे, जैसे चाहे नीतिगत फैसला करने लगे! एक बड़े वकील ने एक बार हमसे कहा कि न्यायपालिका का बस चले तो यह फैसला कर सकती है कि किसी महिला को डिलीवरी होने को हो, तो उस पर भी स्टे कर दिया जाए। इस सीमा तक स्टे करने का और यह सब करने का... माननीय कानून मंत्री जी यहां बैठे हुए हैं, तो एक और बहुत बड़ी दिक्कत यह हो गई है कि ज्यूडिशियरी के बारे में यह कहा जाता है कि वह डिस्पैशनेट होकर सारा काम करेगी, लेकिन जब पोलिटिकल लोगों का मामला आता है, तो लोगों को ऐसा आभास हो गया है कि यदि राजनीतिक व्यक्ति का कोई मुकदमा है, तो वह राजनीतिक व्यक्ति के खिलाफ जाएगा, फैसला उसके पक्ष में नहीं होगा। यह धारणा अगर बन जाए, तो न्यायपालिका कि निष्पक्षता पर आंच आने लगती है और न्यायपालिका जो फैसले देती है, उस पर लोग उंगली उठाने लगते हैं। Contempt of Court की वजह से कोई कुछ कहता नहीं है, लेकिन चौराहे पर, बाजार में, सड़क पर न्यायपालिका के बारे में क्या-क्या बातें होती हैं, उनको न मैं यहां कह सकता हूं, न मैं कहना चाहता हूं, लेकिन आप भी सुनते होंगे, हम भी सुनते हैं और सारी जनता बोलती है। स्थिति इतनी खराब हो गई है। मान्यवर कानून मंत्री जी, आप तो बड़े वकील हैं और देश के कानून मंत्री हैं, अच्छा काम करने जा रहे हैं, तो आप यह देखिएगा। आज ऐसे तमाम लोग बाज़ार में घूमते हैं, जो अगर किसी का मुकदमा है, तो उसके पास जाते हैं कि यह जजमेंट आपको मिल जाएगा, इतने करोड़ रुपए दे दीजिए। “ओपन मैगज़ीन” में तो स्पष्ट रूप से एक जज का उल्लेख किया गया था और उसमें यह भी लिखा था कि वे जज दिल्ली हाई कोर्ट के जज थे और जो आदमी आया था, उसने कहा था कि यह जजमेंट आएगा और हूबहू वही जजमेंट दो महीने बाद डिलीवर हुआ, जो जजमेंट उस व्यक्ति को दिखाया गया था कि इतने पैसे दीजिए, तो यह जजमेंट आएगा। जब स्थिति यह हो जाए... आरोप यह लगता है कि पोलिटिशियन बहुत बेईमान हैं, लेकिन स्थिति जो

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हैं, वह अदरवाइज़ है। मैं किसी को ब्लेम नहीं करना चाहता हूँ, लेकिन यह सत्य है कि इस तरह की बातें हो रही हैं। इसलिए कोलेजियम सिस्टम को समाप्त करके संविधान संशोधन के माध्यम से आप जो यह काम करने जा रहे हैं, मैं यह समझता हूँ कि यह एक बहुत ही प्रशंसनीय कदम है। एक बात जो... (समय की घंटी)... मिश्रा जी ने कही थी, मैं आधा मिनट और लूंगा। मिश्रा जी ने जो बात कही थी, मैं उससे सहमत हूँ कि जो वंचित वर्ग के लोग हैं, बहुत इंटेलिजेंट वकील या जजेज़ होने के बाद भी उनका नंबर आ नहीं पाता है। उनका रिप्रेजेंटेशन होना चाहिए, यह ध्यान रखा जाना चाहिए। चूंकि अब आप अपॉइंटमेंट का कमिशन बना रहे हैं और उसमें आप एक आदमी को रखने भी जा रहे हैं, जो महिला, शेड्यूल्ड कास्ट, माइनॉरिटी या ओबीसी का होगा, तो यह अच्छी बात है और हो सकता है कि इसकी वजह से कुछ लोग आएँ... वरना nominal representation है, कहीं-कहीं बिल्कुल representation नहीं है। बहुत अच्छी बात यह है कि जो आप अप्वाइंटमेंट वाला बिल ला रहे हैं, उसमें 6 महीने पहले से ही, कौन कब रियर हो रहा है, कितनी वेकेंसीज़ क्रिएट हो रही हैं, उसके लिए तैयारी हो जाएगी और एक महीने के अंदर आप उन सबको फिल अप कर देंगे। अभी जो होता है कि जब चाहे, जितना विलम्ब होता रहता है, पहले से कोई तैयारी नहीं होती है, आधे हाई कोर्ट के जजेज़ की वैकेंसीज़ इलाहाबाद में लगातार खाली पड़ी हुई हैं। जब यह बिल पास हो जाएगा तो यह कमी भी दूर हो जाएगी। इन्हीं शब्दों के साथ, आपको बहुत बधाई देते हुए, कि आप एक प्रशंसनीय काम करने जा रहे हैं, जो unbridled judiciary है, उसको रास्ते पर लाने के लिए आप जो काम करने जा रहे हैं, इसके लिए मैं आपको बधाई देता हूँ और इन्हीं शब्दों के साथ इस विधेयक का समर्थन करते हुए मैं अपनी बात समाप्त करता हूँ। धन्यवाद।

MR. DEPUTY CHAIRMAN: Thank you, Prof. Ram Gopal Yadav. Now, Shri Majeed Memon. You have got only four minutes.

SHRI MAJEED MEMON (Maharashtra): Sir, I wish, this is a very important subject where I can throw light on most relevant aspects of the matter, Your Honour would excuse me for a couple of minutes more.

'Who will judge the Judges' is the question, in fact, and that precisely is at the backdrop of the entire discussion. People believe that the Judges, particularly of the higher Judiciary, must be like Caesar's wife, beyond doubt. I have been saying for years that when an allegation is made against a Judge, unlike our general system, where benefit of doubt is always extended to the accused, in the case of Judges, the benefit of doubt should not be extended to such Judge, but it be extended to the fair name of administration of justice and immediate steps must be taken

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to identify a black sheep and fast steps be taken to see that such people do not survive in our system. People in this country are losing faith in the past few years in political organizations, politicians and other institutions. They only feel that the last resort is the court of law. It is only the court where they believe that next to God, sanctity would be there, honesty would be there, integrity would be there, fairness would be there and they would go with some justice that they are seeking. Unfortunately, this faith is tottering. It is not the fear of contempt of court which should make a person respect a Judge, but it should be the respect that must flow from within every individual. A Judge must not feel that I am protected because there is a law like contempt of court that nobody can raise a finger on me. Public must respect a Judge and the Judge must command respect, and all this is possible if we have a good system in place and we have right people on the Bench. Now, the hon. Law Minister himself being an eminent lawyer and a friend of mine, I must say that one of the reasons why people are losing faith in the system is, of course, the great backlog, pendency, delay, etc. Therefore, the Commission will have a great job to speed up the matters of filling up vacancies immediately. Our friends have spoken before me and they said that when a Judge is appointed, immediately, on the date of his appointment itself, we know his date of superannuation by virtue of his age and, therefore, we need not wait till the last two months or three months, as you suggest. You can be in preparedness a year before. If there are 50 vacancies or 100 vacancies likely to fall in the next one year in various High Courts, why can't we keep people in stand-by, duly selected? All right, they would not change in two or three months. If you have tested their credentials and if they are through the test that you have laid for the purposes of elevation to the Bench, that would not change in a matter of three or four months. You can again on the day of his appointment have another verification. But the whole process begins after a Judge relinquishes his office and that is the reason why so many vacancies are existing.

Sir, we have 55,000 pending cases in the Supreme Court alone. We have got sixty million cases pending in courts all over the country. People have lost faith. The father takes up the litigation; the son fights the litigation; and the grandson gets the verdict and the fruit of litigation.

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MR. DEPUTY CHAIRMAN: Advocates are also responsible for that. Do not blame only Judges. Advocates are also responsible for that.

SHRI MAJEED MEMON: Lawyers and everybody ... (*Interruptions*)... but lack of Judges. Why are we not increasing the requisite strength of Judges? Why are we having deficiency in the number of Judges? Don't we have funds? Are we considering Judiciary as a non-money generating institution and therefore it should be considered a secondary thing? It is the primary institution. A country's civilisation can be best gauged by the effectiveness with which its justice system functions. And if we do not have our justice system upright and if we do not make the people happy and satisfied with regard to its operation, we would be called uncivilised in terms of that expression. I would only suggest that vacancies need to be filled up fast and transparency, as far as possible, should be there.

My friend, the Law Minister, has already spoken about the outline of the procedure that we are going to adopt through this Commission. The Supreme Court appointments are fewer in comparison. The Supreme Court appointments are more or less automatic in the sense that Chief Justices from various courts step in by virtue of their seniority. In exceptional cases, they are sidelined. There is no difficulty with regard to appointment of Supreme Court Judges. What matters more is the appointment at the level of High Courts. We have 24 High Courts and 906 Judges in our country. All these seats are never filled up. There are vacancies. If you look at the strength, probably the strength or the number has to be enhanced. Why should we not rush up to see that we can only restore the faith of the people and enhance the confidence of the common justice seeker if we have sufficient number of courts and sufficient number of judges who should command respect not out of the fear of contempt of court or law but by virtue of their integrity, by virtue of their ability and by virtue of their performance? Therefore, when we are judging the Judges, we will have to have a very careful scrutiny. I am sure that the Commission, which will come in place, will take care of all these things. Thank you very much, Sir.

SHRI K. PARASARAN (Nominated): Sir, I fully support this Bill. I congratulate the Law Minister for choosing the route of amending the Constitution instead of an ordinary legislation, as was done on the previous

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occasion, which we all debated. No one in this House is against the independence of the Judiciary. Every Member of this House is for the independence of the Judiciary. Independence of the Judiciary means institutional independence of the Judiciary and is not related to each individual Judge at the time of appointment. At the time of appointment, he can only be a prognosis as to whether he will be independent or not. There is a great error in the approach of many of the Judges and even some people who speak about it thinking if the Executive has the say, he will not be independent, but he will obey the Executive. This is a wrong conception. If this is true, if he owes his appointment to Judges, then he will not be independent of those Judges. Therefore, this is a wrong logic. The Constitution originally vested the power of appointment in the President on the advice of the Council of Ministers only after consulting the Judges of the Supreme Court as the President may deem fit and also Judges of the High Court and in case of puisne Judge, the Chief Justice of India shall always be consulted. The Supreme Court re-wrote Article 124 and substituted concurrence for consultation. They overlooked Article 233 of the Constitution while the founding fathers used two different words for the appointment of District Judges which is also part of the Judiciary. In Article 233 (1), they said consultation with regard to posting and promotion of District Judges. But in Article 233 (2), they said that the Government shall appoint on the recommendation of the High Court. Neither Article 124 nor Article 217 uses the word 'recommendation'. Now, the next aspect of the matter is there is clearly, already, an implementing order of the Supreme Court for going with an amendment to the Constitution. We must see that the Nine Bench judgement was consequent to a reference by a Bench of three Judges in Subhash Sharma's case. The Supreme Court said in 1991 "We are aware of the position. The need to set up the National Judicial Commission through a Constitutional Amendment is in contemplation. In the event of the amendment being carried and a National Judicial Commission being set up the characters of the ratio in S.P. Gupta's case on the status of the Chief Justice of India may not be necessary to be examined. In view of the fact that by the amendment of the Chief Justice of India would become the Chairman of the Commission. In case the Commission is not appointed, the two questions indicated above which are vital had to be decided by a larger Bench". Therefore, they say, if you have a Judicial Appointments Commission by the amendment of the Constitution, this

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entire exercise of the primacy and Chief Justice's powers become academic and infructuous. The learned Judges said, whatever we have decided by the three Judges, are all final, except two questions, namely, the position of the Chief Justice of India in relation to the primacy and justiciability of fixation of Judges. The nine Judges expanded their jurisdiction. I do not want to explain because my time is very limited.

The next is about the experience of the two Judges, each at different times as members of the collegium. Therefore, they are not outsiders but insiders who knew the working of the collegium of the Supreme Court. I am not referring to the unnecessary controversy raised by a learned Judge which has rightly caused anguish to the Chief Justice of India. One of them said in a memorial lecture in memory of the great jurist who practised in the Supreme Court, after he has retired as the Mumbai High Court Judge, he said and I quote, "Consensus within the collegium is sometimes resolved through a trade-off resulting in dubious appointments with disastrous consequences for the litigants and the credibility of the judicial system. Besides, institutional independence has also been compromised by growing sycophancy and 'lobbying' within the system". The sycophancy necessarily means the sycophancy to the members of the collegium to get appointed and lobbying. "Besides institutional independence has also been compromised".

MR. DEPUTY CHAIRMAN: Parasaranji, are you quoting?

SHRI K. PARASARAN: Yes, Sir. I am quoting.

MR DEPUTY CHAIRMAN: From where are you quoting?
...(Interruptions)... Even if it is a quotation...

SHRI K. PARASARAN: I am not discussing about the conduct of a Judge. I am not offending Article 212. This is in the context of the appointment of Judges. We are not adjudicating on their jurisdiction. I know that. It is by a sitting Judge and by a retired Judge. It is an open speech. If he can do it openly outside the House, I can do it inside the House.

MR. DEPUTY CHAIRMAN: What you are saying, or, what you are going to say will be part of the record of the House. Now, you are directly attacking the collegium and say that ...(Interruptions)...

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SHRI SUKHENDU SEKHAR ROY: He is referring to a remark of Justice Ruma Pal of the Supreme Court. It is not his words. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: My point is, even if he is referring to a judgement of x or y or z, if it is derogatory to a Judge, then, how can I allow? That is my point. ...*(Interruptions)*... You are on a Constitutional Amendment by which you want to enable the Government to bring another Bill. That is okay. You can justify that. Here the hon. Member is directly attacking the collegium and saying that collegium. ...*(Interruptions)*... That is the point.

SHRI P. RAJEEVE (Kerala): He is quoting. ...*(Interruptions)*...

SHRI D. RAJA (Tamil Nadu): He is quoting, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Even if it is a quotation. That is what I am saying. ...*(Interruptions)*...

SHRI ANAND SHARMA (Rajasthan): Sir, that is a psychic judgement. He is not saying anything wrong. As a Member, he has every right. This is in public domain. ...*(Interruptions)*...

SHRI P. RAJEEVE: Sir, this is in public domain. ...*(Interruptions)*...

SHRI JAIRAM RAMESH (Andhra Pradesh): Let him speak, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: See, all that is in the public domain, you cannot come and say here. ...*(Interruptions)*... Please ...*(Interruptions)*...

SHRI SUKHENDU SEKHAR ROY: It did not attract contempt of court. Why shouldn't he read it here? He is just quoting.

MR. DEPUTY CHAIRMAN: As long as it is a direct criticism of Judges, and as long as it is derogatory to the collegium, how can I allow? collegium is a group of Judges. Can I allow? ...*(Interruptions)*...

SHRI JAIRAM RAMESH: He has been a distinguished Attorney General. Let him speak. ...*(Interruptions)*...

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MR. DEPUTY CHAIRMAN: You are not to teach me that. ...*(Interruptions)*... That you cannot teach me. That is not the way.

DR. K. KESHAHA RAO (Andhra Pradesh): Sir, what he has said is this. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no ...*(Interruptions)*...

SHRI K. PARASARAN: Mr. Deputy Chairman, Sir, I leave it at that. I leave it at that and go to the next point. I have got too many good points. Please don't bother about this.

MR. DEPUTY CHAIRMAN: Okay, leave it at that and then proceed.

SHRI K. PARASARAN: Another judge, who has been a member of the collegium - I am not going to talk anything derogatory; it has appeared in today's newspaper - has said, "As the years passed, burgeoning criticisms that the present system did not remedy the drawbacks of the erstwhile mechanism have eventually become more strident. At least, in a few instances, unsuitable persons have found their way to seats of Judges in the High Courts. It is, of course, a matter of relief that the number of such persons has not swelled to alarming proportions". That was the need for this amendment so that it does not swell to alarming proportions. He further says, "At the same, it would not be true to say that no unsuitable person has reached the Supreme Court Bench through the collegium system". I am not casting aspersions on Judges. Here a Judge who has been a member of the collegium says, "It would not be true to say that no unsuitable person has reached the Supreme Court Bench through the collegium system. The lesson to learn is that however much improvement is sought to be achieved through changes to the appointments process, the efficacy of its working depends on the vision and dedication of the persons empowered to manage the system". This system, many judges, many members of the Bar, several other people have said, has failed. Therefore, the need for this amendment. What is more to say? Let us not go into this controversy whether I am criticising a judgement or not. But I am sure, I have worked at the case law, I am not attacking the conduct of a judge and that too in the discharge of his judicial functions. I am on a system of appointment, and it can never be said to be a derogation of a judge. But I will go to the next point. What is more? They not only appropriated the entire power of appointment in

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themselves, which was in the Executive, which is the collective responsibility of the House, because the principle is, ours is a democratic sovereign, so the three limbs have to function in such important matters, namely, the Judiciary...

MR. DEPUTY CHAIRMAN: You have taken much more time.

SHRI K. PARASARAN: Sir, I will take two minutes more. It is a very important issue. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Okay. ...*(Interruptions)*... No problem, I will reduce your time and give him more time. ...*(Interruptions)*...

SHRI K. PARASARAN: Sir, I will take only two minutes. Not only the power of appointment has been taken over...

MR. DEPUTY CHAIRMAN: I will reduce your time. ...*(Interruptions)*... Please don't get angry. I only said that I will reduce his time. Please continue, Mr. Parasaran.

SHRI K. PARASARAN: Sir, I always obey the Chair. The moment you say, 'sit down', I will sit down.

MR. DEPUTY CHAIRMAN: The whole House wants you to speak. Why should I stop you? The whole House wants you to speak.

SHRI K. PARASARAN: Not only the Supreme Court appropriated the power of appointment, many of us have not noted, they have appropriated to themselves the final say in the matter of removal of judges. All of us know, how the removal of a judge starts, through a notice by 100 MPs there or 50 MPs here. The Speaker or the Vice-President then makes a reference. The Chief Justice constitutes a Committee of a sitting Judge of the Supreme Court, a Chief Justice of a High Court and a jurist. If that Committee finds him guilty, he comes before that House or this House. This is after an Address by both the Houses, and that too, with a special majority right enshrined under the Constitution. Therefore, it is an exercise of the constituent power. The Supreme Court says, "He cannot come by a judicial review". That was the finding of the Committee. But, after both the Houses had the Address and the Judge is removed, we have the power of judicial review. Therefore, even the removal of judges, after Address by both the Houses, the Supreme Court can have a judicial review. To add a rider, but a narrow area - you know what that narrow area is - the power of appointment of

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9.00 P.M.

judges was taken over. The power of removal of judges, though with Parliament, has been taken over. This is the position in which we are. And the Supreme Court, today says, 'extensive jurisdiction'. Therefore, it is all the more necessary that there has to be a check and balance, and that check is given by this Amendment. Sir, if you give me permission, I can take two minutes more. Otherwise, I will sit down.

MR. DEPUTY CHAIRMAN: Everybody wants you to speak.

SHRI K. PARASARAN: I do not want to disobey the Chair. I have the discipline.

MR. DEPUTY CHAIRMAN: Please continue.

SHRI K. PARASARAN: Now, one thing is very important. It consists of the Chief Justice and two Judges of the Supreme Court. And the judgement of the Supreme Court said, "If the Chief Justice is the Chairman, then, that is a very good safeguard. His very presence, his personality, will be a control". These are the three from the Judiciary. Then, the next majority is the Law Ministry. That is, the Executive must have the say. And, correctly, the Law Minister is included. The next is, which is very often argued, that the Government are litigants before the court. This is a criticism. The fact that the Government is bound to be the litigant was known to the founding fathers of the Constitution. They gave fundamental rights under Part III and also gave Article 32. That is, a stay will violate our fundamental right. We are the guardians, sentinel to protect this right. And Article 32 is a very unique provision which is nowhere in the world. It is both a right and a remedy. And they knew it. Therefore, it is a wrong criticism to say that the Executive should not have the powers.

Now, Lord Simon said, "The power of the court is a referral to the people. The power of the people to decide has been delegated to the Judges". This is what he said. And, therefore, People also must have a say because citizens are also parties before the court. So, the Government, as a litigant, is represented by the Law Minister. People, who are litigants before the court, are represented by two eminent persons. And we all know how they are to be constituted; the Bill says so. Therefore, it consists of the Judiciary, the Executive, and citizens who are also litigants. There could not have been a better position than this.

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Even though I have a lot to say, I do not want to be mistaken that I am holding a docket. Somebody was remarking that I talk as if I am holding a docket. It was not my intention. I wanted to ensure that these amendments are not vulnerable to any attack by the court. That I reserve for the Bill. I thank you for the extended time.

MR. DEPUTY CHAIRMAN: Hon. Members, we had extended the time up to 9.00 p.m. I want to take the sense of the House ... (*Interruptions*)...

SHRI D. RAJA: We will continue tomorrow.

SHRI TAPAN KUMAR SEN (West Bengal): Let us continue tomorrow ... (*Interruptions*) ...

SHRI ANAND SHARMA: It was agreed only up till 9.00 p.m.

SHRI TIRUCHI SIVA (Tamil Nadu): The Government said that we should sit up to 9.00 p.m., and we agreed to that ... (*Interruptions*) ...

MR. DEPUTY CHAIRMAN: No, it is not three hours. Out of three hours, one and a-half hours are already over. What is the Government saying?

SHRI PRAKASH JAVADEKAR: Sir, we can continue.

SHRI ANAND SHARMA: It was agreed up to 9 o'clock and we accepted it.

AN HON. MEMBER: Nine o'clock means 9 o'clock.

MR. DEPUTY CHAIRMAN: The Government is not saying anything.

SHRI ANAND SHARMA: Initially, the LoP had said, 'eight'.

MR. DEPUTY CHAIRMAN: The Government is keeping quiet. That is why...

SHRI ANAND SHARMA: It was decided ... (*Interruptions*) ...

MR. DEPUTY CHAIRMAN: What does the Law Minister want to say?

SHRI TIRUCHI SIVA: Sir, we are very tired.

SHRI GHULAM NABI AZAD: Sir, we have decided to pass it tomorrow. Nobody is going to push it for the day after tomorrow. So we

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can start tomorrow, early morning and today we can have it upto 9.00 o'clock. It is enough now. Everybody is tired. Everybody is going to support this Bill. Where is the problem?

MR. DEPUTY CHAIRMAN: What does the Parliamentary Affairs Minister want to say?

SHRI M. VENKAIAH NAIDU: Sir, tomorrow is the last day. Then people will leave by 2 o'clock. What I am trying to suggest to the House is, normally on the last day, people leave in the afternoon. So if you are able to pass it before afternoon, we have no problem. Otherwise, extend the time now and then take the remaining time tomorrow. Either way, we have no problem.

MR. DEPUTY CHAIRMAN: The Government is acceptable to both suggestions, either tomorrow morning or now. In the forenoon it should be passed. If not, we have to sit further. If all of you agree, tomorrow morning it has to be passed. That means in the forenoon it has to be passed. ...*(Interruptions)*... All of you agree to that?

SOME HON. MEMBERS: Yes.

MR. DEPUTY CHAIRMAN: That is almost the decision of the House that tomorrow in the forenoon it has to be put to vote. It will be passed or not is up to you. But it will be put to vote. The Chair will see to it that it is put to vote in the forenoon itself. ...*(Interruptions)* ...

SHRI P. RAJEEVE: We can skip the lunch hour, and, if the Government and the Chairman agree, we can suspend the Question Hour also. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: How much time have we spent already on this Bill? I think we need only one hour more, I think. Let me check up from the Secretariat. How much time have we spent on this Bill? I will announce that also. We need only one hour and twenty-five minutes more, one hour and thirty-five minutes is already over. That means we can pass it in any case before 1.00 p.m. and the question will be put before 1.00 p.m. Voting will be there before 1.00 p.m. That is what I said. The House stands adjourned to meet on Thursday, the 14th August, 2014 at 1100 hours.

*The House then adjourned at seven minutes past
nine of the clock till eleven of the clock on
Thursday, the 14th August, 2014.*

[14 August, 2014]

THE CONSTITUTION (ONE HUNDRED AND TWENTY-FIRST AMENDMENT) BILL, 2014 — Contd.

श्री शरद यादव (बिहार): उपसभापति महोदय, मैं एक ही निवेदन करना चाहता हूँ कि आज़ादी के बाद की जो हालत है और जो लोग बिल के हक में बोले हैं, उसके बारे में मुझे कुछ नहीं कहना है, वह ठीक है। जो तरुवर है, जो वृक्ष है, उसके ऊपर की बातें काफी हो चुकी हैं और मैं उससे सहमत हूँ, मैं उससे असहमत नहीं हूँ, लेकिन मैं रवि शंकर प्रसाद जी से कहना चाहता हूँ कि यह देश जो है...आप जो National Judicial Appointments Commission Bill लाना चाहते हैं, उसके संबंध में मैं आपसे इतना ही कहना चाहता हूँ कि 1993 के पहले जो सिस्टम था और जो अब आप ला रहे हैं, उससे मैं असहमत नहीं हूँ, लेकिन मैं एक ही बात आपको बताना चाहता हूँ कि इस देश की 80 फीसदी, 85 फीसदी लोगों की इस पूरे सिस्टम में, जुडिशियल सिस्टम में भागीदारी कितनी है। अरुण जी, पंचायत तो बहुत दूर है...(व्यवधान)... मैं यह निवेदन करना चाहता हूँ कि 68 वर्ष में देश के जितने चीफ जस्टिस हुए हैं, वे 52 हैं। मैं बाकी लोगों का नाम नहीं लूंगा, लेकिन उनमें बैकवर्ड क्लास के जो जज हुए, वे एक को छोड़ कर ज़ीरो हैं। बैकवर्ड क्लास का मतलब है, किसानों का मतलब है दो-तिहाई लोग। एससी के सिर्फ दो हैं, एसटी के एक हैं और मुस्लिम पांच हैं। यह लगभग 80-85 फीसदी... अरुण जी, आपका दृष्टिकोण अब खुल गया है। यह हालत है। रवि शंकर जी तो हमारे बीच में पैदा हुए हैं। ये जानते हैं, लेकिन इनका हृदय आज तक प्रेम और मोहब्बत से... मैं उस आबादी का आदमी नहीं हूँ। मेरी त्रासदी यह है कि उसके हक में मुझे खड़ा होना पड़ता है। यानी भारत सरकार के 52 चीफ जस्टिस हुए, उनमें इनकी हाजिरी 80 फीसदी है, लेकिन चीफ जस्टिस के मामले में एक जगह भी इनको मुहैया नहीं हो पायी। यदि एक-आध को हो गई है, तो वह 32 दांतों के बीच में है। उसकी कोई हैसियत नहीं है। मान लीजिए, यदि कोई यूरोप चला जाएगा तो उनके जैसे ही उसे जीना पड़ेगा। अब मैं देश के सुप्रीम कोर्ट के फॉर्मर जजेज़ के किस्से बताता हूँ। ये टोटल 145 हैं। मेरे लिहाज से इनमें बीसी ज़ीरो हैं। यदि आपको कोई आंकड़ा मिल गया हो, कोई aberration में आ गया हो तो उसे आप मुझे बता देना। इसी तरह से, शेड्यूल्ड कास्ट भी ज़ीरो, एसटी भी शून्य और मुस्लिम 10 हैं। बाकी सब... बताइए, बताइए।

वित्त मंत्री, कॉर्पोरेट कार्य मंत्री तथा रक्षा मंत्री (श्री अरुण जेटली): आप चेक कर लीजिए, यह गलत है। कम है, लेकिन हुए हैं। ...(व्यवधान)...

श्री शरद यादव: कोई aberration होगा तो होगा, लेकिन उसका कोई मतलब नहीं है। मैं तो यह इसलिए कह रहा हूँ कि मैंने रात भर में इसको देखा है और यह हो सकता है कि कम्प्यूटर पर मैंने जो देखा है, वह गलत हो। इसीलिए मैंने रवि शंकर जी से कहा कि जो गलत हो गया हो,

[RAJYA SABHA]

उसे करैक्ट कर देना। मैं इस सारे सिस्टम को गहराई से देखने की बात कह रहा हूँ, क्योंकि यह एक जंजाल है और कहां-कहां कितनी जातियां हैं, यह ढूंढना मुश्किल है। जो हाई कोर्ट जजेज़ हैं, वे 146 हैं। बाकी जो बन गए हैं, वे तो हजारों सालों से राज कर रहे हैं, उनकी संख्या अगर मैं गिनाऊं तो कोई फायदा नहीं होगा। अगर मैं इसे गिनाता हूँ तो इससे फासला बढ़ता है और मन को चोट पहुंचती है। जो चला रहे हैं, उनके मन पर भी और जो बाहर हो गए हैं, उनके मन पर भी चोट पहुंचती है। हाई कोर्ट के जो फॉर्मर जजेज़ हैं, वे 146 हैं। उसमें भी हालत कमोबेश एक, ज़ीरो, यानी बैकवर्ड क्लास के ज़ीरो, एक या दो हैं, उन्हें मैं खुद जानता था, लेकिन बाकी एससीज़/एसटीज़ और मुस्लिम, मुझे लगता है कि उसमें नौ से ज्यादा हैं। टोटल 343 हैं। वीकर सेक्शन के जो टोटल लोग हैं, उनमें शेड्यूल्ड कास्ट के दो, बीसी ज़ीरो, मुस्लिम 24 और क्रिश्चियन चार हैं।...(समय की घंटी)... सर, क्या समय खत्म हो गया?

MR. DEPUTY CHAIRMAN: Take two more minutes.

श्री शरद यादव: इस सदन में आकर मैं बहुत तंग हो गया हूँ। इस वक्त की पाबंदी के चलते और चार-पांच लोग डंडा लेकर खड़े हो जाते हैं। मैं एक बात पूछना चाहता हूँ कि देश के जो ये लोग हैं, अगर इनकी मजबूती नहीं हुई तो यह देश कैसे मजबूत हो जाएगा? कैसे, यह आप मुझे बता दीजिए। जब यह आजादी आई, तो इसका यह मकसद था, जिस तरह से इंसान का संपूर्ण शरीर जब पूरा मजबूत होगा, तभी तो वह सड़क पर चलेगा। कोई कहे कि आंख गड़बड़ है तो चल जाएगा, पैर गड़बड़ है तो चल जाएगा, लेकिन वह नहीं चल सकता। यह विकलांग है, रवि शंकर जी। इसलिए मेरे कहने के बाद आपने कहा है कि इसमें जो एमिनेंट पर्सन्स लेंगे, उनमें एक महिला लेंगे और एक इन 80 फीसदी एससीज़, एसटीज़ और ओबीसी लोगों में से लेंगे। यानी, आप दो लोगों को लेंगे। उनमें से एक को तो आप माइनस कर ही दीजिए, क्योंकि आप एक महिला लेंगे। आपकी दृष्टि से, आपकी नहीं, बल्कि सिस्टम की दृष्टि से, इस व्यवस्था में हम सब लोग ऐसे जकड़े हुए हैं कि इसमें हम भी इतने दिनों से हैं, लेकिन इसको सुधार नहीं पाते हैं। जब महिलाओं का मामला आएगा, तो जो महिलाएं ऊंचे तबके की हैं, वे आगे रहेंगी। अगर आप सोचते हैं कि आदिवासी महिला उनके बराबर हो जाएगी, दलित महिला उनके बराबर हो जाएगी, बैकवर्ड क्लास की महिला उनके बराबर हो जाएगी, तो यह ठीक नहीं है। राम गोपाल जी की पत्नी से आप कहेंगे कि राम गोपाल जी जैसा बोल लो, तो कठिन हो जाएगा।...(व्यवधान)... दिक्कत है हमारी, ...(व्यवधान)... यानी इन लोगों की दिक्कत है।...(व्यवधान)...

एक माननीय सदस्य: इनसे अच्छा बोलती हैं।...(व्यवधान)...

श्री शरद यादव: आप जानते नहीं हैं इसलिए बोल रहे हैं, हम जानते हैं, वे कोई कम अक्ल की नहीं हैं।

[14 August, 2014]

श्री उपसभापति: शरद जी, आपका टाइम खत्म हो गया है।

श्री शरद यादव: क्यों हमें तंग कर रहे हैं? हम जो बात कह रहे हैं, वह नई बात कह रहे हैं। आप यह सिस्टम ला रहे हैं। 1993 के पहले एक सिस्टम था, फिर 1993 के बाद दूसरा सिस्टम आया। जस्टिस वर्मा और मैं, हम दोनों एक साथ जबलपुर गए थे। वे अपना माथा ठोकते थे कि मैंने क्या कर दिया, यह जो मेरा कॉलेजियम सिस्टम वाला है, वह तो और बेकार हो गया, पहले से भी बेकार हो गया। मैं आपके इस बिल के हक में हूँ। कांस्टीट्यूशनल अमेंडमेंट के हक में भी हूँ और यह जो आप नेशनल ज्युडिशियल एपाइंटमेंट्स कमीशन बनाना चाहते हो, उसके भी हक में हूँ। लेकिन इस हक के बाद अंधेरा है, यह आबादी इंसानों की है या नहीं है, यह जनता आपकी है या नहीं है, इससे वोट लेते हैं या नहीं लेते, यह लोकतंत्र जो है और इस सदन में मेरी बात सुनने वाले जो लोग हैं, जो पिछड़े हैं, दलित हैं, उनके हक वे खुद नहीं ले पाते। मुसलमान तो बोल लेते हैं, लेकिन उनकी आवाज जो है... मैं इस सैक्शन से नहीं हूँ, मैं इंजीनियरिंग कॉलेज में किसी रिजर्वेशन से नहीं, मेरे बाप-दादा भी नहीं, मेरे भाई भी नहीं, मैं तो आपकी जैसी जमात का आदमी हूँ। मधु लिमये चले गए, डा० लोहिया चले गए, अब अरुण जेटली भी समझते हैं लेकिन बोलते नहीं हैं।...(समय की घंटी)...

संचार और सूचना प्रौद्योगिकी तथा विधि और न्याय मंत्री (श्री रवि शंकर प्रसाद): मैं बोलता हूँ।

श्री शरद यादव: आप बोलते हैं मेरे पास अलग से, यहां आप भी नहीं बोलते, क्योंकि आप जकड़े हुए हो। डिप्टी चेयरमैन सर...(व्यवधान)

श्री उपसभापति: समाप्त कीजिए।

श्री शरद यादव: आप जो नेशनल ज्युडिशियल एपाइंटमेंट्स कमीशन बना रहे हो, इससे उनको कोई फर्क नहीं पड़ेगा, जिन लोगों के बारे में आपने चर्चा की है। उनके हक में आप इसमें छः सदस्य रख रहे हो, उसको आठ कर दो, क्या बिगड़ रहा है आपका? इतना बड़ा 120 करोड़ का देश है, इन लोगों को कब तक मारोगे और कब तक कहोगे? अभी आप कहेंगे कि नहीं, हम उनका ख्याल रखेंगे। उनका ख्याल तो 68 वर्ष में सब लोग, हम लोग रख रहे हैं। उनका कहां ख्याल हुआ? मैंने जो आपके सामने आंकड़े दिए, इसलिए मेरा आपसे निवेदन है कि इस देश में ये हजारों साल से सह रहे हैं, लेकिन इन्होंने आपके साथ कभी तकरार नहीं किया।...(व्यवधान)

श्री उपसभापति: बस, हो गया।

श्री शरद यादव: अरे, क्यों इनको, इस तरह से... अब इनमें होशबंद लोग हो गए हैं, काबिल लोग भी हो गए हैं। ये सारे छः सदस्य होंगे, एक सिस्टम से होंगे। मेरी विनती यह है कि

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आप इस मामले का कोई रास्ता निकालिए, तो फिर देश में ये दोनों सिस्टम फेल हुए हैं, कोई ऐसा सिस्टम आए कि सामाजिक विषमता के मामले को भी खयाल में रखें। आर्थिक विषमता और सामाजिक विषमता दोनों में कोई फर्क नहीं है। ये दोनों चीजें आप यदि साथ लेकर नहीं चलेंगे तो मुल्क नहीं बनता, यही मेरी आपसे विनती है और आप तो इस बात को समझने वाले मंत्री हैं। यदि आपके मन में यह बात आ गई, यह संकल्प हो गया तो बात दुरुस्त हो जाएगी। बहुत-बहुत शुक्रिया, बहुत-बहुत धन्यवाद।

SHRI A. NAVANEETHAKRISHNAN (Tamil Nadu): Thank you, Mr. Deputy Chairman, Sir. I deem it a great privilege to stand in this august House to speak on the Constitution (One Hundred and Twenty-first Amendment) Bill, 2014, Bill No. 97 of 2014, I thank the hon. Law Minister for referring to the letter written by hon. Chief Minister Amma regarding this Bill. No more collegium system, thanks to the Central Government. The collegium system for appointment of judges is against the concept of the rule of law. Hon. Chief Minister Amma recommended that Judicial Appointments Commission should function at two levels - at the national-level and at the State-level - which is contained in the letter written to the hon. Law Minister. The National Judicial Appointments Commission is for the Supreme Court Judges and the State Judicial Appointments Commission is for the High Court Judges.

Article 214 as well as Article 217 are amended by this Constitutional Amendment. Article 214 deals with the appointment of Supreme Court Judges and Article 217 deals with the appointment of High Court Judges. As per this Constitutional Amendment, the Central Government's role is protected because it was taken away by the collegium system. Now, my grievance is that the State Government role must be again restored by including an amendment to create the State-level Judicial Appointments Commission. Sir, that is my humble submission because that has been very vehemently recommended by our leader Amma in her letter to the hon. Law Minister. It is because the State Government is in a position to locate or find out the right candidates from the depressed classes, namely, minorities, women, backward classes, Scheduled Castes and Scheduled Tribes.

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Sir, in our State, the hon. Chief Minister Amma is implementing the 69 per cent Reservation Policy in the judicial appointments also. It is done through the State Public Service Commission, and also the District Judges are selected by the High Court. So, in all judicial appointments, 69 per cent reservation is being followed. Because of this reservation, Scheduled Caste, Scheduled Tribe, backward class and most backward class candidates are able to occupy judicial posts at the State Judiciary level. It is a well known fact that the High Court Judges' posts and Supreme Court Judges' posts are not available to the novice practitioners of law and also not available to the common man. Because of the effective implementation of the 69 per cent Reservation Policy by the hon. Chief Minister Amma, now the 69 per cent reserved community people are occupying the judicial posts in the State of Tamil Nadu. In the 24 High Courts, the total strength of posts of judges is 906. Out of these 906 posts, 1/3rd of the total strength of the posts is filled up by judicial officers, the officers who are in the subordinate judiciary. So, 1/3rd strength must be filled up by the subordinate judiciary. That guarantee must be given by the hon. Law Minister by way of amending the Constitution itself. If it is done, then, the already judicially trained people can occupy the posts of High Court Judges and also from the High Court, they can go to the Supreme Court.

Sir, the hon. Chief Minister Amma is very strictly following the Reservation Policy in order to uplift the downtrodden. That is why I am stressing it again and again at the risk of repetition. Sir, as per Article 217 of the Constitution, the consultation is only with the Chief Justice of India and the Governor. In this context, I would like to say that the hon. Law Minister knows it better than me that the Governor means the Council of Ministers. The advice offered by the Council of Ministers is to be forwarded by the Governor to the President. So, the role of the State Government must be protected. This is my humble request to the hon. Law Minister. I am doing it at the risk of repetition.

Sir, I had the privilege of assisting our hon. Chief Minister in one of

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the cases. Hence, I am taking the privilege, and again I am requesting him that the role of the State Government must be restored and preserved in the process of selection of High Court Judges. Sir, at the State level Judicial Appointments Commission, the hon. Chief Minister must be included as one of the members of this Commission, and the views of the Chief Minister must bind the Commission. So, it must be given due weightage. I am saying this because the State Government is accountable and answerable to the people. The State Government is in a better position to identify the right candidates. This is my humble request to the hon. Law Minister. If it is done, then, the downtrodden people can come to occupy the higher posts of the High Court Judges and Supreme Court Judges. This is my humble submission. (*Time-bell rings*)

MR. DEPUTY CHAIRMAN: Only one more minute.

SHRI A. NAVANEETHAKRISHNAN: Okay, Sir. Our hon. Chief Minister is more judicious in her action and thought. She is more judicious than any other judicial institution of our nation. Because of her, many lawyers from the rural areas are now practising in the High Court of Madras. She has given them appointment very liberally. That is why I request the hon. Law Minister to include it in the Constitution (Amendment) Bill for creation of State-level Judicial Appointments Commission. Thank you very much, Sir.

SHRI ARUN JAITLEY: Mr. Deputy Chairman, Sir, since yesterday we have been debating the Constitution Amendment to deal with the procedure for appointment of judges to the highest courts of the land, the Supreme Court and the High Courts. Intervening on behalf of the Government, let me at the very outset clarify that neither the Government, and I am sure, nor this House also, almost in one voice does not see this as a turf battle. It is not an issue as to who really has the power to appoint judges. We are concerned with the mechanism under which there are adequate checks and balances, and, therefore, we are able to resultantly appoint the best possible talent which is available as judges. I may clarify that there is no effort either on behalf of this House or the Government that we are going back to a system of Executive primacy. We have seen the Executive primacy in this matter and, therefore, whether it was supersession of judges in 1973, the transfer of judges during the Emergency in 1975, the supersession again in 1977 in the matter of the appointment of Chief Justice, we have seen that system. Therefore, there

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is no question of anybody supporting the idea of any form of Executive primacy in the matter of appointments. It is normally being argued and there is some substance in the argument that in the interest of independence of Judiciary, which is a part of the basic structure of the Constitution, there should be an element of primacy of the judicial institutions. If it was only linked to primacy, and an effective consultation with the Executive, probably, this amendment would not have been necessary. Why is that when this amendment was debated yesterday in the other House, in one voice the entire House spoke in favour of the amendment? Effectively what is today happening is that the procedure of judicial appointments is not through a procedure of judicial primacy with effective consultation with the Executive, it has virtually boiled down to a system of judicial exclusivity in the matter of appointments. The role of other institutions, which the Constitution envisages, is also negligible. Sir, let us just go back to Article 124 which deals with the appointment of Judges to the Supreme Court and Article 217 which deals with the appointment of the Judges of High Courts. Article 124 (2) - I may be pardoned for reading it - says that 'every Judge of the Supreme Court shall be appointed by the President by warrant...', so, it emphasises the words 'appointed by the President', which means appointed by the Government, '...under his hand and seal after consultation with Judges of the Supreme Court...', so, the President, that is, the Government will consult the Judges of the Supreme Court, '...and of the High Courts of the States as the President may deem necessary for the purpose and shall hold office until he attains the age of 65 years, provided that in the case of appointment of a judge other than a Chief Justice, the Chief Justice shall always be consulted'. Translated into simple English language, the provision was, the President, that is, the Government will appoint the judges. The Government will consult such Judges of the Supreme Court as also of the High Court and after that consultation appoints the Judges of the Supreme Court. Effectively when the Government sought, from 1950 onwards or as the Constitution came into force, the advice of the Supreme Court in the matter of the appointment of the Judges of the Supreme Court, invariably the Government accepted that advice. It was only in the 1970s that some difficulties arose. The judicial institution was the institution to be consulted. Due weightage was always given to that consultation. And, inevitably that consultation prevailed. The Government never replaced it by names of its own choice. Through the 1950s and 1960s, this system continued.

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Similarly, in the context of the High Court appointments, Article 217 says, "Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court...". So, in the case of a High Court appointment, the President will consult the Chief Justice of India. He will consult the Chief Justice of the High Court. He will also consult the Governor, which means on the aid and advice of the Council of Ministers; so, the Chief Minister of the State. And, after consulting all these people, he will appoint the judges. Here, again, whatever the judicial institution said was normally given primacy and that was accepted. Effectively, post 1993, how has this worked? The 1993 judgement changed the Constitution by re-writing it. The argument was that the larger interest is the independence of the Judiciary. So, in the context of independence of Judiciary, because that is the object, we read the two Articles - the President, that is, the Government will appoint such Judges as the Supreme Court will suggest. In case they have a contrary opinion, they can send their contrary opinion once. If the Supreme Court reiterates, they have no choice but to appoint them. This is the judgement of 1993. We have had the Congress Government, the UPA Government, the United Front Government and the NDA Government in the past. I am sure, the experience of all the Governments has been the same that in effect the way the judgement is working is not what Article 124 and Article 217 say. The basic structure of the Constitution is the original Constitution that the President will appoint, in consultation. Today, we re-wrote the Constitution by virtue of the judgements to say that the Judges will appoint Judges. They will, probably, take the views of the Executive, in the process. And, the way it has worked out, the Indian system is clear: judges appoint judges. There is a marginal role of 'consultation' with the Executive. There is hardly a role which a Governor or a Chief Minister has. A letter is written and their views are taken. But their views are very rarely put into any effective consideration. And, if the Executive has a contrarian view and there is a strong reason for that contrarian view and it conveys it to the judicial institution, it is supposed to be considered, under the judgement. But, effectively, the due regard, which should have been given to it, has normally not been given. I can quote umpteen examples. But, it is not fair. In this forum, I wish to observe inter-institutional courtesies. Therefore, I will not go into those examples.

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So, effectively, today judges appoint judges and there is a marginal role that the Executive has. The effort now is that we restore back what the spirit of the original Constitution was. And, in restoring back the spirit of the original Constitution, are we going to create Executive primacy? The answer is 'no'. Are we going to maintain, through this amendment, the judicial primacy, the answer is 'yes'. So, the amendment has the following: Out of the six members of the collegium - that was also the collegium which the earlier Law Minister, Mr. Sibal, had moved in this House. The composition of the collegium is identical. ... you have three senior-most judges of the Supreme Court. The Chief Justice of India will chair the collegium. There is no other group which is represented in this collegium which can match that strength. So, the predominant strength is of the judicial institution. The Executive is represented by only one person and that is the Law Minister. You have two eminent citizens. You have the Prime Minister, the Leader of the largest party in Opposition in the House of the People and the Chief Justice of India nominating these men of eminence. How these people will nominate and the manner in which such collegiums function has already been specified now in the CVC case by the Supreme Court. So, whatever are the guidelines laid down, there will be a procedure. So, in the nomination of these two eminent citizens also, the judicial institution has a vital role. So, the primacy is continuously maintained. But rather than merely an opinion being expressed and the opinion inevitably being overruled, you have some people who represent public interest, who will provide the necessary checks and balances and you have the Law Minister who can represent the Government's or the President's viewpoint that this is why some person should be appointed and such and such person should not be appointed. Let us, Sir, be clear that no power by anyone is absolute power. It has to be exercised for good reason. The appointment of judges, so far, is a power which is exercised in a non-transparent manner. There are no reasons given. So, even if the President were to refer a case back, he may not know the reasons also, why his objections have been overruled. Now, a system in which the Executive, two eminent citizens and three judges are present, the judicial primacy is maintained; if the Executive wants, it can never appoint a person. It can only provide its valuable inputs about a person. That is how this power is going to be exercised.

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Sir, this is the last point that I have to make. It is being said that the power exclusively belongs to the institution and they exercise it because it is in the larger interest of the independence of Judiciary. Independence of Judiciary is a part of the basic structure of the Constitution. It is true, it is a part of the basic structure, it must be maintained. But Article 124 is also a part of the basic structure. Article 217 is also a part of the basic structure. An elected Government is also a part of the basic structure. So, an elected Government at the Centre or in the State being completely kept outside the process, is that not an aberration of the basic structure. After all, democracy is the most basic of the basic structures of the Constitution. The Constitutional document is paramount. Therefore, the balancing act is that let this power be now exercised collectively, but in that collectivity, the primacy of the judicial institution be maintained so that we can have the best possible people who are appointed Judges. This is the rationale behind this amendment. I think with the overwhelming support it has, it conveys a very powerful message that we are restoring back the spirit of Articles 124 and 217 while maintaining the primacy of the judicial institutions in the matter of appointments.

SHRI P. RAJEEVE: Sir, we are enlightened by the views expressed by our eminent lawyer and the Finance Minister, Shri Arun Jaitley.

MR. DEPUTY CHAIRMAN: Nobody has any doubt about it.

SHRI P. RAJEEVE: I rise to support the Bill, Sir. This is the need of the day. My Party CPI (M) has a consistent stand on the issue of judicial reforms. We stand for a comprehensive judicial reform. The reform should not be confined to appointments only. We want a Judicial Commission which deals not only with the appointments but also ensures the standard and accountability of the Judiciary. Instead of the proposed Judicial Appointments Commission, we want a Judicial Commission.

Sir, I was attentively hearing the remarks of Jaitleyji who was an eminent lawyer and who became one of the youngest Additional Solicitors General of the country at the age of 37. I am keenly eager to know what Jaitley's stand on accountability issue is. When we were discussing the Bill mooted by UPA-II, Jaitleyji spoke on that Bill. I would like to quote here a few things from his speech which he made at that time. I quote, "I would personally like to see a National Judicial Commission which has not merely the appointment powers but to which there is some element

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of accountability of the judges itself". I again quote from Jaitley's speech. I quote, "Now should the National Judicial Commission only be an appointment body or should it also have some element of powers in relation to accountability or not? In my respectful submission, it must have powers of accountability". Sir, I want to know what your view on this issue is. This is your speech on the Bill mooted by the earlier Government. What is your view? This Commission has the powers only for appointments. I want to know why the learned Law Minister did not accept the respectful submission of an eminent lawyer of Jaitley's standing and what the reasons behind this change of position are. It is true that you are now in the Government. Earlier, you were in the Opposition. At that time, you had one stand but now you have changed your stand or diluted your position on the accountability of the Judiciary. I think, Jaitley, at that time, had appreciated the consistent stand of CPI(M) and the Left. At that time, Jaitley mentioned that 'we should have a comprehensive judicial appointments mechanism'. The country should know the reasons for the change of position of BJP that the accountability should be incorporated in the legislation which deals with the National Judicial Appointments Commission. Sir, I could not find any reason for that. There is no change in the situation. The situation remains the same as it was when the Bill was mooted by the UPA-II.

Sir, Jaitley correctly mentioned that before the 1970 era, we had a very good mechanism. Then, after 70s, the pendulum moved to one extreme in favour of the Executive. But after 1993, the pendulum went to the other extreme in favour of the Judiciary. We could not find a single word 'collegium' in the Constitution. But that is the rule of the day, Sir. That is the failure of the Legislature. Actually, we have failed to address that issue. Ravi Shankar Prasadji correctly stated that it is the culmination of the exercise of 20 years. But we failed to make it a fruitful exercise. However, this is a good move. I support this move.

Now, as per one report - I don't know whether it is true or not - 70 per cent judges of the Supreme Court is coming from 132 families only. A former Supreme Court Judge is regularly writing the blogs. He mentioned that this is 'uncle syndrome', which means uncles nominated their nephews. There is sometime 'father syndrome' but we could not

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see a 'mother syndrome' because the representation of women in the upper Judiciary is very minimal. Therefore, we could not find 'mother syndrome'. But 'uncle syndrome' is there, *i.e.*, 70 per cent of the Judges in the apex court is coming only from 132 families. It means that collegium A supports the proposal mooted by collegium B - earlier, you had mentioned this in the House - and there is an exercise, and this is the result.

Sir, we had waited several years to get a woman judge in the apex court. Now, after the retirement of one CJI of our country, there is no judge in the apex court who belongs to SC/ST community. I raised this issue several times by putting questions on it. But the answer from the Ministry always is that 'we don't have that statistics of SC & ST representation in the apex court'. We could not find a single Judge belonging to SC/ST in the apex court of our country. How can we get natural justice if they have no representation in the society? If it does not reflect the objective realities of the society, how can we get natural justice from the apex court? This issue needs to be addressed.

Sir, I now move on to the amendments. Out of the six members here, one should be a woman. There is a rotation mechanism in place, but out of these six members, there is no chance with the Chief Justice, but out of the judges, yes! But, otherwise, of these eminent personalities or even the Law Minister, one should be a woman.

MR. DEPUTY CHAIRMAN: You want the Law Minister to be a woman!

SHRI P. RAJEEVE: They can change it, if needed! ...*(Interruptions)*... So, one of them should be a woman.

Sir, I represent the State of Kerala. I live in the city of Kochi, where one of the great Judges of the country, Justice V.R. Krishna Iyer, lives. He would cross 100 years in November, 2015; he would be crossing a century in November, 2015! At this age, he is still arguing for reforms in the Judiciary. I quote: "There is no structure to hear the public in the process of selection, no principle is laid down, no investigation is made and a sort of anarchy has prevailed".

MR. DEPUTY CHAIRMAN: That is what we are doing now! We are saying that!

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SHRI P. RAJEEVE: Then, my question would be, is that sufficient to address these issues? We have a very good example, that of Britain. The UK system is considered as a model of participatory and transparent appointments. The Constitutional Reform Act (CRA) 2005, was recently amended by the Judicial Appointments Regulations, 2013. There are 15 members in the JAC and the Chairman is always a lay member, not a judicial member and not the Chief Justice. It is always a lay member (*Time-bell rings*). Sir, I would take two minutes.

The appointment of judges is not a concern of the Judiciary, the Legislature or the Executive; it is the concern of the public. Then, this Commission should be more participatory and should have representatives of professionals, jurists and other sections ... (*Time-bell rings*).

MR. DEPUTY CHAIRMAN: Now conclude.

SHRI P. RAJEEVE: Sir, there is a distinction between a new Judge and a senior Judge. The Supreme Court Judge should be elected by the collegium of all Judges and there should be a representation of High Court Chief Justice, elected by the collegium, including all High Courts' Chief Justices ...(*Time-bell rings*). Just one more minute, Sir.

There should be one representative from among them and one representative from the Bar Council. Then, Sir, we need to see whether it goes along with Article 14 of the Constitution. Article 14 of the Constitution is on equality before law. If it is there, there should be a notification, that is, notification for the vacancies. And, qualified lawyers must have the right to submit their application. Only then can you ensure transparency in the system.

Sir, my last point is, this should not be confined to the appointment of judges in the Supreme Court and the High Court. It should be applicable to the tribunals as well, State as well as national tribunals.

With these words, I support this Bill, Sir. Thank you.

MR. DEPUTY CHAIRMAN: Now, Shri Kalpataru Das. You have four minutes. ...(*Interruptions*)... Your time is four minutes. What can I do?

SHRI KALPATARU DAS (Odisha): Mr. Deputy Chairman, Sir, you have given me only four minutes.

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At the outset, I support the Bill moved by the hon. Law Minister, on my behalf and on behalf of the Biju Janata Dal. Sir, this is not the first time that this Bill has been brought to the Parliament. Even earlier, the UPA Government had brought in such a Bill, which was debated and referred to the Select Committee. And, it is on the basis of recommendations made by the Select Committee that these Bills have been prepared.

Sir, the hon. Law Minister, while introducing the Bill, it is amply clear, before preparing the Bill and its introduction, consulted eminent jurists of the country, almost all political parties and only then brought this Constitution (Amendment) Bill to the House.

Sir, yesterday, it was unanimously passed in the Lok Sabha. It means that all the political parties want such an amendment to the Constitution and the appointment of a National Judicial Commission. Everybody wants it. The problem is, as raised yesterday, it may be *ultra vires* of the Constitution. There are apprehensions that if both the Bills are passed simultaneously, it may be declared *ultra vires* of the Constitution. Hon. Minister has clarified this yesterday. Today hon. Minister of Finance has clarified that in a more vivid manner. It is now the need of the hour; it is not the question of Judicial supremacy or Executive supremacy. There should be a balance between them. Till 1993, there was no need of amendment of the Constitution. But for the last twenty years, there have been efforts for the amendment of the Constitution to replace this collegium system by a well-defined system by which judges can be appointed. Yes, accountability should also be there. Here also, the supremacy of the Judiciary is there because the Chief Justice of India will be the Chairman of the Commission, with two senior-most judges as members. The Chief Justice of India will also be a member in the selection of two eminent jurists who will also be members in that Commission. This Commission will be constituted and for that there is a necessity of amending Article 124 by way of some insertion. With this, I support the Bill. I also request all the Members of the House to support it to bring a check and balance between the Judiciary and the Executive. The independence of the Judiciary will continue but there will be accountability. As Mr. P. Rajeev was telling, all these Judges of the Supreme Court are from 132 families. This will not be repeated in future.

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MR. DEPUTY CHAIRMAN: Now, Shri D. Raja ...(*Interruptions*)...

SHRI TIRUCHI SIVA: Sir, my name is first actually. ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: You are for the Bill and the Bill is coming up ...(*Interruptions*)...

SHRI TIRUCHI SIVA: I gave it earlier ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: You gave it for the Bill.

SHRI TIRUCHI SIVA: Sir, the Amendment and the Bill are being discussed. I want to speak ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: No, that is coming after this. This will be over before 2 o'clock. The Bill is coming. You gave the name for that. ...(*Interruptions*)... Mr. Siva, you gave the name late ...(*Interruptions*)...

SHRI TIRUCHI SIVA: Sir, I want to speak on both ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: You gave the name late. Let me first dispose of the names given earlier, then I will call you. I have got the list of names which came late ...(*Interruptions*)...

SHRI TIRUCHI SIVA: I told them ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: I saw your letter; it is for the Bill. ...(*Interruptions*)... I cannot give chance to those who gave their names late leaving those who gave their names in time. That is my point. ...(*Interruptions*)... I have got the list of names which came in time. First, I will dispose of it, after that, according to time, I will accommodate everybody ...(*Interruptions*)...

SHRI TIRUCHI SIVA: Everybody is dicussing the same thing. I also want ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: I cannot go back ...(*Interruptions*)... The Bill is coming ...(*Interruptions*)...

SHRI TIRUCHI SIVA: Sir, I agree with you. But the problem is not with me. They just came and asked me if I wanted to speak on Judicial Bill. I said, 'Yes'. I have been waiting for long.

MR. DEPUTY CHAIRMAN: You are in the panel of Vice-Chairmen. I saw what you have written. You have written for the Bill. But if you want

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to speak on the amendment, I will include you, but after disposing of the names in the list. I will go by the procedure. Now, Shri D. Raja, Please speak.

SHRI D. RAJA: Sir, I rise to support this Bill, My Party has been consistently demanding the constitution of a National Judicial Commission. Way back in 2002, when late Mr. Jana Krishnamurthy was Law Minister, my Party wrote to the Government favouring the constitution of a National Judicial Commission. Now also, we support it when our good friend, Shri Ravi Shankar Prasad, is the Law Minister.

Sir, the Constitution is the fundamental law of the nation. Dr. Ambedkar, while framing the Constitution, raised the question that in concurrence with the Chief Justice of India, appointments ought to be made. There, Dr. Ambedkar discussed it in detail. Finally, Dr. Ambedkar concluded that a veto could not be given to the Chief Justice of India howsoever great integrity he might have. That is how he settled that issue.

Sir, I would like to address one serious question which my colleagues have raised, that is, how far the Judiciary represents the social diversity in the country. India is a country of tremendous diversities. We have caste diversity, social diversity, religious diversity, linguistic diversity and cultural diversity. So, the Judiciary cannot live in an abstract world, not taking into consideration the diversities of Indian society, Indian nation. Sir, even in countries like the U.K., we have this experience. Section 64 of the Constitutional Reforms Act, 2005, of the United Kingdom specifies the need for encouragement of diversity in Judiciary. That is an Act of the United Kingdom. Even the South African Constitution requires that persons appointed as judges must reflect the racial and gender composition of the country. This is the South African Constitution. We had a President, Shri Narayanan, who was one of the outstanding Presidents of India. Shri Narayanan pleaded for ensuring that Judiciary represented social diversity. Even the retired judge, Justice Sadasiva, also spoke about Judiciary representing social diversity because in a country like ours, if Judiciary does not have that social diversity properly represented, we cannot hope to get justice for ordinary people. I can go on quoting examples. What happened to the Tsundur case where *dalits* were massacred, but the guilty were all acquitted, and, *dalits* were massacred in Bihar by Ranveer Sena. Everybody knew, but all those accused were

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acquitted. Where is the justice for the people? It is a fact that *dalits* were massacred. They died. But all the accused, who killed them, were acquitted. No justice was done. That is where I find that Judiciary should have the representation of all deprived classes and sections in our society. Otherwise, people will not get the real justice. So, I think, this National Judicial Appointments Commission could have been the 'National Judicial Commission'. This Commission gives some kind of a very limited sense that it is concerned only with the appointment of some Judges in the Supreme Court and the High Courts. But, it should be a Judicial Commission so that it gives a comprehensive sense to the people and people should have great faith in our judicial system. There, I think, people are asking as to why there is not even a single Judge from SC/ST communities in the Supreme Court. Do you think that there is no efficient senior advocate or anybody to climb up to that position? It is not so. There is some kind of* mechanism in all these matters.

SHRI RAVI SHANKAR PRASAD: Sir, Mr. Raja is a great Speaker, but I request if* can be avoided.

MR. DEPUTY CHAIRMAN: I think, *is expunged.

SHRI D. RAJA: Sir, I am not a lawyer like my friend, Shri Ravi Shankar Prasad. I am a political activist. I speak straight from my heart. This Judiciary does not represent the social diversity in the country. It should be ensured and people belonging to deprived sections should feel that this Judiciary is also theirs. When they think that democracy is theirs and Parliament is theirs, they should think that Judiciary is also theirs. This Judicial Commission will have to function accordingly.

MR. DEPUTY CHAIRMAN: Now, Shri H.K. Dua. Please take only four minutes because time allotted for Nominated Members is already over.

SHRI H.K. DUA (Nominated): Sir, in our constitutional scheme of things, there is a clear demarcation between various institutions - namely, Parliament, Judiciary and the Executive. Whenever any organ of the State, any one of these three, exceeds its limits, the people sense danger. In the 1970s, there was a talk of committed judiciary. But, later, of the supersession of Judges, an eminent Judge, Justice H.R. Khanna, resigned

*Expunged as ordered by the Chair.

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on a matter of principle and conscience. There was turmoil and the people were concerned because the Executive, at that time, was crossing the limits prescribed for it. In 1993 Judgement, Judiciary had crossed the limits. The brother Judges went on to appoint the brother Judges. And, you know, when brother Judges appoint other brother Judges, nepotism creeps in, favouritism comes in, and, in a collegium, there have been instances where bargaining takes place between one Judge and another Judge, and the Chief Justice takes a better share.

Justice J.S. Verma was on the 1993 Bench, which set up the Collegium, a novel institution, which is not mentioned in the Constitution. He was for setting it up. Later on, he regretted this decision of the Supreme Court in public. I think, he appeared before the Parliamentary Committee and expressed this view, and in public statements, and in private conversations, he went on saying that a wrong decision was taken by the Bench in 1993, of which he was a member. His regret was that the Supreme Court approved of a collegium.

Sir, nowhere in the world the judges appoint themselves. Always, it is an Executive decision but there are checks on misuse of the Executive power. That aspect, I think, is taken care of by the Judicial Appointments Commission, which is being provided for. Sir, I won't take much time. But, I would say that there has been considerable lobbying with the Collegium members by judges from all over the States, the High Courts those who were aspiring to be Supreme Court Judges, don't leave any stone unturned to get to the Supreme Court. Here, they retire early and since they want to be in the Supreme Court. In the High Courts, they visit the houses of the collegium members, try to bring influences of all kinds. That kind of culture which prevails in the judiciary leads to malpractices, should be corrected. The quality of justice has declined in the country. I would like to cite two, three cases. For example, take the Jessica Lal case, or, Priyadarshini Mattoo case. Now, there was miscarriage of justice. Only after public concern and the media concern, ultimately, the courts had to intervene, the highest court had to intervene to provide justice. Also I can't understand as to how in the trial courts, and, at even High Court level, a BMW car became a truck along the way, and, the man, who killed 6 people on Lodhi Road in the capital of India got away very lightly. This is because the right kind of people are not being appointed in the Judiciary.

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Sir, the collegium has never laid down the criteria for appointment of judges to say, as to what kind of judges you need in the High Courts or in the Supreme Court. The Delhi High Court has come out with judgements which spell out criteria for admission to nursery schools. But the people do not know as to what criteria are there for getting admission into the High Court or the Supreme Court. (*Time-bell rings*) Just half-a-minute more Sir. That's all. Sir, I am a little worried when a recognized organ of the state exceeds its limit and when a recognized organ of the state thinks that whatever it says, is always right, I get worried about the individual who think they are always right, worried about the institution when they think they are always right. Now, this aberration, and which was wrong on the part of the Supreme Court to arrogate to itself the power to appoint judges is being set right in the Constitution, and that is why I support this Bill. Thank you very much, Mr. Deputy Chairman.

MR. DEPUTY CHAIRMAN: Thank you very much, Duaji. Now, Shri Tiruchi Siva. You have only five minutes.

SHRI TIRUCHI SIVA: Sir, on behalf of the DMK party, I rise to support the Constitution (One Hundred and Twenty-first Amendment) Bill, 2014. Sir, unlike what is interpreted outside, it is an innocuous Bill. Some people say that it is transgressing into the powers of the Judiciary and some are of the opinion in that it will impinge upon the future of the Judiciary of this country. We are neither encroaching upon the territory of the Judiciary nor are we transgressing into the powers of the Judiciary. It is actually only the Constitution Amendment in Article 124, which inserts Article 124 (a), (b) and (c). It only enables the Parliament to legislate and to constitute a National Judicial Appointments Commission. The imperative need for that has been felt in the past. We have to realize that this is not the first ever attempt. In the year 1990, the 67th Amendment was introduced in the Parliament, but it was not passed. In the year 2013, the Constitution Amendment 120th, which sought to bring in a National Judicial Appointments Commission, was brought, and now this 121st Amendment seeks the same thing, Sir. It is only to broad base the appointments of the Judges of the Supreme Court and the High Courts. It enables the participation of the Judiciary, the Executive and eminent persons in the society, and it ensures greater accountability, greater transparency and greater objectivity in appointments of the Judges. So,

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Sir, we realize this. What is the system adopted in other countries regarding the collegium which has been so far in charge of appointing of Judges? Sir, I recall the Impeachment Motion which was moved in this House to impeach a Calcutta High Court Judge, which was very, very sensational and the deposition of the Judge made us all feel that what he had done was right. Later, the then Leader of Opposition, now the hon. Finance Minister, the legal luminary, Mr. Arun Jaitley, spoke and refuted word by word and proved the need for the Judicial Accountability Bill, the Judicial Appointments Commission and we realized everything. So, I think this is a right move at the right time and the country needs this. Sir, in USA the Judges are appointed by the President and their appointment is approved by the Senate. At the same time, the Judges' professional lives and their political views are subjected to public scrutiny. Here, in our country, the selection of the collegium, the appointment of the Judges or their transfer, are not subjected to public scrutiny. Now, the Executive has got a role. Moreover, even in the constitution of the Commission, the Chief Justice becomes the Chairperson, two senior-most Judges of the Supreme Court, the Law Minister, two eminent persons, when these constitute, representatives from Court are more in number. Sir, I want a clarification from the hon. Law Minister with respect to the definition of 'eminent persons'. It should not just be some degree-holders or some people who are affluent in the society, who are well-known. In the United Kingdom, I would like to make a point of it, the Judicial Appointments Commission is a fifteen-member Commission and the Chairman is always a lay member. Of the fourteen other Commissioners, it is mandatory that five are judicial members, two are professional members and five are lay members. So, I would suggest to the hon. Law Minister to look into the definition of 'eminent persons'. *(Time-bell rings)* Sir, our Constitution has insulated the independence of the Judiciary. In our Constitution, the Executive, the Judiciary and the Legislature are independent. At the same time, they are interdependent. It is a system of check and balance. If the Parliament enacts a law, which is unconstitutional, the judiciary is entitled to strike it down. If the judiciary gives a judgement granting punishment, the President has the power to give pardon. So, in all respects, we are interlinked. The participation of the Executive and the eminent persons in the appointment of judges will enable the judicial system in our country very much... *(Time-bell rings)*...

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Sir, I would like to quote Justice Krishna Iyer here. He said this about the Judiciary. He said, " The great reputation, high impartiality, luminous competence and unbending independence of the Judiciary is of national import..." We realise that and this Constitution (Amendment) Bill and subsequent constitution of the National Judicial Appointments Commission are the need of the hour. I congratulate the hon. Law Minister on bringing these Bills. I request him to kindly try to implement Article 312 which insists on Indian Judicial Service which brings in judges. I again congratulate the hon. Law Minister on bringing these Bills. Thank you very much, Sir.

MR. DEPUTY CHAIRMAN: Hon. Members, I have a number of requests asking that voting should be held before 2.00 p.m. But I have before me four names. Two of them are from the category of 'Others'. They should take four minutes each. The Congress Party has got 24 minutes and it has two speakers. I request them to sacrifice a few minutes. If they take seven minutes each, I will be very grateful to them. Shri Rajeev Shukla.

SHRI RAJEEV SHUKLA (Maharashtra): Sir, we have already sacrificed enough. उपसभापति जी, मैं कानून मंत्री जी द्वारा लाए गए विधेयक के समर्थन में खड़ा हुआ हूँ।... (व्यवधान)...

श्री नरेश अग्रवाल: सर, ये फिल्मी सितारों के बारे में बोलेंगे, तो ठीक रहेगा, ये कानून के बारे में क्या बोलेंगे? ... (व्यवधान)...

श्री राजीव शुक्ल: रेखा जी के बारे में रोज आप बोल रहे हैं। जया जी, इस पर आप आपत्ति उठाइए, ये फिल्मी सितारों का मजाक बना रहे हैं। ... (व्यवधान)...

श्री रवि शंकर प्रसाद: नरेश जी ने जो बात कही है, वह बहुत गंभीर है, विचार करने योग्य है। ... (व्यवधान) ... ज्यूडिशियरी पर वे बोल रहे हैं ... (व्यवधान)...

श्री राजीव शुक्ल: जया जी, आप इस पर आपत्ति कीजिए न, आपकी पार्टी के सदस्य फिल्मी सितारों का मजाक बना रहे हैं। ... (व्यवधान)...

श्रीमती जया बच्चन: मजाक आप लोग बनाएं और आपत्ति मैं करूँ। (व्यवधान)...

श्री राजीव शुक्ल: इन्होंने मजाक बनाया है। (व्यवधान) ... सर, यह समय जोड़ा नहीं जाना चाहिए।

[RAJYA SABHA]

उपसभापति जी, मैं इस बिल के समर्थन में बोलने के लिए खड़ा हुआ हूँ, लेकिन एक बात की मुझे तकलीफ है। अगर यही काम करना था, तो छः महीने पहले यही काम करने के लिए हमने आपके सामने एक बिल रखा था। 99 परसेंट यही बिल था और उस समय अगर माननीय रवि शंकर प्रसाद जी उसका समर्थन कर देते, तो आज वे जुडिशियल अप्वाइंटमेंट कमीशन की बैठक में बैठ कर जज अप्वाइंट कर रहे होते। उन्होंने इसको छः महीने डिले कराया और उस समय मैंने कहा था कि बेवजह इसको मत टलवाइए इतिहास इसको याद करेगा, लेकिन उस समय ये हमारी बात नहीं माने। आज वही बात उन्हें करनी पड़ रही है। अगर तब हमारी बात को मान लेते, तो आज वे मीटिंग में बैठ कर जज तय कर रहे होते। कोई बात नहीं, देर आए, दुरुस्त आए, हमें इस पर कोई एतराज नहीं है।

उपसभापति महोदय, सबसे बड़ी बात यह है कि इसकी जरूरत क्यों पड़ी? 2003 में, उस समय अरुण जेटली जी ने इसका प्रस्ताव किया था कि इस तरह का कमीशन बनना चाहिए और इसमें कुछ न कुछ तब्दीली आनी चाहिए। सबने कहा और यह बात जगजाहिर है कि जस्टिस जे. एस. वर्मा ने स्वयं कहा कि मुझसे बहुत बड़ी गलती हो गई, कोलेजियम सिस्टम बिल्कुल काम नहीं कर रहा है और जजों की नियुक्ति तथा उनके तबादलों के लिए यह सिस्टम सही नहीं है। इसके बाद वेंकटचेलैया साहब, जो बहुत रेस्पेक्टेड हैं, उन्होंने भी यह बात कही। लगातार तमाम चीफ जस्टिस ने यह बात कही, लेकिन दुख इस बात का है कि सब रिययर होने के बाद यह बात कहते थे। जब वे स्वयं चीफ जस्टिस रहते थे, तब किसी ने इस बात के लिए कोई कोशिश नहीं की। आज 22 साल के बाद यह चीज रिव्यू होकर सामने आ रही है और आज बड़ा ऐतिहासिक दिन है कि आज हम उसको पारित करने जा रहे हैं।

सरकार ने अब जो बिल पेश किया है, उसमें बिल्कुल साफ-साफ है और मैं तो अरुण जेटली जी की बात को और आगे बढ़ाता हूँ कि संविधान में जो बेसिक प्रोविजन्स हैं, अभी सरकार ने इस बिल में उनको पूरी तरह से नहीं रखा है। उसमें तो सीधी-सीधी बात थी कि एक्जिज्युटिव तय करे कि सिर्फ जजेज़ को कंसल्ट करेंगे। इसमें तो फिर भी बहुत large-heartedness है। जो कपिल सिब्बल ने बिल तैयार किया था और जो बिल रवि शंकर प्रसाद जी भी लाए हैं, इसमें उसके बावजूद भी उनके लिए पूरे तीन स्थान हैं, चीफ जस्टिस हैं और सुप्रीम कोर्ट के दो जजेज़ हैं। इनके अलावा उसमें सिर्फ लॉ मिनिस्टर है। अगर आप पॉलिटिकल लीडरशिप से किसी को लीजिए, तो उसमें सिर्फ एक लॉ मिनिस्टर है। जो दूसरे लोग आएंगे, ऐसा नहीं है कि वे पॉलिटिशियंस आएंगे, वे people of eminence होंगे, मतलब वे बड़े-बड़े वकील हो सकते हैं या कुछ सामाजिक कार्यकर्ता हो सकते हैं। जब उसमें सिर्फ एक पॉलिटिकल आदमी है तो फिर इतना हो-हल्ला क्यों है? मतलब, पॉलिटिकल आदमी कही नहीं होना चाहिए।

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आज जो बिल लाए जाते हैं, उनमें यह चीज रखी जाती है कि no ex-MLA, no ex-Member of Parliament and no political person will be qualified to be the member of this Commission. उसमें यह पहले ही लिख दिया जाता है। आज यह चल रहा है कि राजनीतिक व्यक्ति खराब है, इसको हमेशा दूर रखो। हम लोगों को इस चीज को लेकर देश में एक लम्बी लड़ाई लड़नी पड़ेगी। इसमें तो केवल एक लॉ मिनिस्टर मेम्बर है, इसके बावजूद इस पर आपत्ति पर आपत्ति आ रही है, चीफ जस्टिस बयान पर बयान दिए चले जा रहे हैं कि कॉल्लिजियम सिस्टम चला जाएगा तो पता नहीं क्या हो जाएगा। उसमें तीन जजेज़ रहेंगे, सिर्फ एक लॉ मिनिस्टर रहेगा, दो people of eminence होंगे और उनको सेलेक्ट करने के लिए भी लीडर ऑफ अपोजिशन, प्राइम मिनिस्टर और चीफ जस्टिस होंगे। इस प्रकार, इसमें भी चीफ जस्टिस को इन्वॉल्व किया गया है, यानी जो लोग तय होंगे, उसमें भी ज्युडिशियरी की सलाह ली जाएगी। इस तरह इसमें दोनों बार ज्युडिशियरी की सलाह ली जा रही है, फिर इसमें कौन-सी आफत आ गई, इसमें ज्युडिशियरी का कौन सा dominance कम हो रहा है? इसमें उसके dominance का बराबर ख्याल रखा गया है, बल्कि एक middle path निकाला गया है और इस मिक्स से निकलकर जो जजेज़ आएँगे, वे बहुत अच्छे होंगे। मैं यह दावे के साथ कहता हूँ कि पॉलिटिकल सिस्टम से जो जजेज़ निकलकर आए, उन जजेज़ पर आज तक कोई उंगली नहीं उठा पाया। मोहम्मद करीम छागला से लेकर ऐसे कितने ही एक से बढ़कर एक लोग आए, लेकिन उन पर कोई भी उंगली नहीं उठा पाया और उनकी हमेशा तारीफ हुई। इनके बाद collegium system से जो जजेज़ निकलकर आए, उनके बारे में रोज उंगली उठती है। यह उंगली कौन उठाता है? यह उंगली हम नहीं उठाते, बल्कि फॉर्मर चीफ जस्टिसेज उठा रहे हैं। ऐसा जस्टिस वी० एन० खरे ने कहा। ऐसा किसने नहीं कहा? इसके बाद मार्कण्डेय काटजू जी अपने ब्लॉग पर जजेज़ के बारे में रोज एक कॉलम लिख रहे हैं। वे कौन हैं? ये सब लोग collegium system से आए हुए जजेज़ के बारे में बात कर रहे हैं। रिटायर होने के बाद सारे जजेज़ यह बात उठा रहे हैं कि अंदर क्या हुआ। वे चिढ़ा खोल रहे हैं। आज collegium system को लेकर जितने सवाल ज्युडिशियरी के लोग उठा रहे हैं, उससे लगता है कि कहीं न कहीं इस सिस्टम में कोई खराबी है। अगर इस खराबी को दुरुस्त करने के लिए कोई काम हो रहा है तो इस पर एतराज़ क्यों है? मैं यह समझता हूँ कि यह बहुत अच्छा काम हो रहा है। पिछली सरकार ने इसको शुरू किया, इस सरकार ने इसको एडॉप्ट किया और मुझे लगता है कि सब लोगों को इस पर अपनी सहमति देनी चाहिए।

ऐसे दो-तीन मुद्दे हैं, जिनको हमें ध्यान में रखना चाहिए। उनमें से एक pendency of cases है। आज जितने केसेज़ पेंडिंग हैं, अगर उनका निपटारा हो तो उसमें 323 साल लगेंगे। New York Times ने लिखा है, "It appears that the wheel of Judiciary has

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come to a standstill in India". उसने ऐसा क्यों लिखा? क्योंकि इतनी छुट्टियां होती हैं, इतनी डेट्स पर डेट्स पड़ती चली जाती हैं कि केंसों का निपटारा नहीं हो पाता। इसलिए ज्युडिशियरी की accountability भी फिक्स होनी चाहिए। उनको कितनी देर में कौन सा केस निपटारना है, इसके लिए भी आगे प्रोविजंस करने चाहिए, वरना लोगों को न्याय नहीं मिल पाएगा। इसलिए पेंडेंसी को देखना भी जरूरी है और छुट्टियों पर भी कंट्रोल लगाना चाहिए। अतुल्य घोष का केस 32 सालों में खत्म हुआ। दादा केस शुरू करता है और ग्रैंडसन के आने तक उसका निपटारा होता है, तो ज्युडिशियरी यह कौन से टाइम पर डिलीवरी कर रही है? इनका डिलीवरी सिस्टम भी गड़बड़ है, वह भी ठीक होना चाहिए।

अब इसमें करप्शन की बात आती है। करप्शन की बात हम पॉलिटिकल लोग नहीं उठा रहे हैं, बल्कि जितने जजेज़ हैं वही करप्शन की बात कह रहे हैं। कहीं किसी के घर के बाहर नोटों के बंडल मिलते हैं, कभी यह सुनने को मिलता है कि किसी ने एसी ले लिया, किसी ने कोई कार ले ली, कभी किसी के बारे में यह कहा जाता है कि यह land grabber है, किसी ने जमीन खरीद ली, किसी ने प्लॉट खरीद लिया, ये सारी बातें जज़ उठा रहे हैं, हम लोग नहीं बोल रहे हैं। मुझे लगता है कि अब खुद ज्युडिशियरी के introspection का वक्त आ गया है। मैं यह नहीं कहता कि ज्युडिशियरी में सारे लोग करप्ट हैं, उनमें 70-80 प्रतिशत लोग ऑनैस्ट हैं। हायर ज्युडिशियरी में यह संख्या बहुत ज्यादा है, लेकिन लोअर ज्युडिशियरी सबसे ज्यादा खतरे की चीज है। लोअर ज्युडिशियरी को ठीक करने की जिम्मेदारी हायर ज्युडिशियरी पर है और वे इस काम को नहीं करते हैं। आप किसी भी लोअर ज्युडिशियरी में जाइए, जिले की अदालत में तारीख बढ़ाने के पैसे पेशकार सबके सामने लेता है, लेकिन उसका कोई स्टिंग ऑपरेशन भी नहीं करता। वहां सबके सामने धड़ाधड़ पैसे लिए जा रहे हैं। जिसे visible corruption कहते हैं, वह लोअर ज्युडिशियरी में है। वह जिम्मेदारी हाई कोर्ट के चीफ जस्टिस, हाई कोर्ट के इन-चार्ज जज़ की होती है, लेकिन वे कुछ नहीं करते। वहां जाकर मजिस्ट्रेट से आप कोई भी हलफनामा साइन करा लीजिए। ऐसे कई हलफनामे हैं, जिनमें महात्मा गांधी को मुलजिम बना दिया गया, भारत के राष्ट्रपति, प्रधान मंत्री को मुलजिम बना दिया गया। उन्होंने देखा तक नहीं, केवल पैसे लगाए और मुहर लगाकर दस्तखत कर दिए। यह हाल लोअर ज्युडिशियरी का है और इस लोअर ज्युडिशियरी से आम आदमी प्रभावित होता है। माननीय मंत्री जी, लोअर ज्युडिशियरी के बारे में आप क्या कर रहे हैं और इस कमीशन में इस बारे में आप क्या प्रोविजन कर रहे हैं? यह स्टेट लेवल पर बहुत जरूरी है, क्योंकि लोअर ज्युडिशियरी में इतना करप्शन है कि आप सोच भी नहीं सकते। तीसरी बात है महंगा न्याय। महंगे न्याय का भी कुछ करना पड़ेगा। महंगा न्याय मैं इस सेंस में कह रहा हूँ कि सुप्रीम कोर्ट का रिटायर्ड जज भी सुप्रीम कोर्ट में मुकदमा नहीं लड़ सकता। वकीलों की जो फीस है, कोई भी वकीलों की उतनी फीस नहीं दे सकता। जो हालत है उसमें यह सस्ता न्याय कहां

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से मिलेगा, कैसे आम आदमी हायर ज्युडिशियरी में लड़ सकता है? एक-एक एपिरिऐंस के 25-25 लाख लगते हैं। यह सब ज्युडिशियरी की जिम्मेदारी है। क्योंकि वे क्या करते हैं कि जब कोई नामी-गिरामी वकील खड़ा हुआ है, लोगों के दिलों में यह परसेप्शन रहता है कि नामी-गिरामी वकील को खड़ा करोगे तभी आपके फेवर में जजमेंट होगा। उस चक्कर में जो नामी गिरामी वकील देश भर में हैं, उनको लोग पैसा देकर लाते हैं और यह होता है कि अगर कोई साधारण वकील अच्छा लीगल आरग्यूमेंट भी दे रहा है, तो शायद उसकी सुनी नहीं जाएगी। इस परसेप्शन की वजह से लोग लुटे जा रहे हैं। तो यह तो ज्युडिशियरी को ख्याल रखना होगा कि चाहे वह केवल महीने पुराना वकील हो, लेकिन अगर वह आरग्यूमेंट अच्छा दे रहा है तो उसको तरजीह देनी चाहिए, बड़े-बड़े वकीलों के ऊपर, और तभी जाकर सस्ता न्याय मिल सकेगा। ... (समय की घंटी)... अभी तो मेरे 24 मिनट नहीं हुए। ... (व्यवधान)...

श्री उपसभापति: इसमें देखो, कितने मिनट हो गए।

श्री राजीव शुक्ल: सर, मैं कह रहा हूँ कि घंटी बजाने की आदत थोड़ा कम कर दीजिए। ... (व्यवधान)...

MR. DEPUTY CHAIRMAN: You have to conclude. ... (Interruptions)...

श्री राजीव शुक्ल: तो यह जो लोगों को महंगा न्याय मिल रहा है, यह ठीक नहीं है। चौथी चीज, यह कि एक्जीक्यूटिव हमेशा गलत नहीं हैं। यह जो परसेप्शन देश में बना दिया गया है कि जो कोई भी चीज एक्जीक्यूटिव करेगी वह गलत है। इसलिए प्याज के दाम कितने हों वह भी हम तय करेंगे, ट्रेन कैसे चले यह भी हम तय करेंगे, नगरपालिका कैसे चले यह भी हम तय करेंगे, क्योंकि जो एक्जीक्यूटिव है वह सब बेकार है। फिर डेमोक्रेसी किस लिए है? फिर यह चुन-चुनकर इतने चुनाव क्यों होते हैं, क्यों लोग आते हैं? जब आप उनके हाथ में कोई पॉवर ही नहीं देना चाहते, एक्जीक्यूटिव खराब है तो फिर एक्जीक्यूटिव को इलेक्ट ही क्यों करते हो, फिर तो डेमोक्रेसी खत्म करिए। इसलिए यह बहुत जरूरी है कि इन चारों चीजों पर मंत्री जी जवाब दें कि आगे क्या प्रावधान कर रहे हैं। सदस्यों तक का तो यही कहना है कि इसको और कम्प्रहेंसिव बनाना चाहिए था और इस ज्युडिशियल कमीशन में यह चीज डालनी चाहिए थी कि करप्शन से कैसे डील करेंगे। इसमें वह प्रोविजन नहीं है। उनका कहना है कि पहले एक स्टेप चलो, फिर दूसरे स्टेप पर आएंगे। इसलिए उसका भी ध्यान रखें। बहुत-बहुत धन्यवाद।

MR. DEPUTY CHAIRMAN: Dr. Keshava Rao, only five minutes.

DR. K. KESHAVA RAO: Mr. Deputy Chairman, Sir, thank you. Today, I will not object to your time limit because I really want the House to pass

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the Bill. I was looking forward to the Bill being passed. As the Minister said, it is a culmination of 24 years of our thinking, our protests, our sufferings, sufferings in silence, although we wanted it. But it is not the reason. We had caved into the Judiciary for various reasons. We went for the committed Executive. We went for the Executive supremacy, or, whatever it is. But, Sir, whatever it is, the Bill is so well drafted. Yesterday, I was looking into it. So, tighter draft. Yet I have my own doubts, because whatever it is, after having enjoyed it for 24 years, the Judiciary might not leave us that free. Although all of us are asking for this Bill, I have my own doubt. It is for the Law Minister who is really firm. He is one of the strong Ministers, let him also take this into view. The very fact that the entire House, and the other House, have expressed a unanimous voice, the emphatic voice for a judicial reform. We have always been talking of reforms in terms of social reforms and economic reforms. But nobody has talked about judicial reforms which really uphold the very Constitutional democracy for us, and the lives of the people.

Hon. Member, Mr. Jethmalani is sitting here. He wrote an article. He has dealt very deeply with how they all become wards of the Supreme Court, or, any court. How the Judges become our guardians. Now that particular thing is crumbling. What do we do? Today, why did the Minister come with this Bill? Yesterday, the Minister's clarification in the other House, or, Mr. Jaitley's clarification has cleared it. Since all of us are on the same page, I do not think, I need to take much time of the House. But I would like to say why are we becoming diffident? Mr. Jaitley said that they are going to stand by the independence of the Judiciary, everybody wants it. Independence, or what is called, he used the word, impartiality. We would see to it that impartiality remains and so on. What I am saying is independence and impartiality are now judicial priorities. They are not private property of those people. It is the right of all the people, all of us want it. But what we want is, along with independence, there has to be accountability; otherwise, without accountability, independence is nothing. It would become a scam. So, that is what we are trying to do. Earlier, the system that we had for all these years, perhaps, went bad in a few cases where the Executive got its own supremacy. What I am saying is, today the Minister tried to balance the thing. What is the balance? He has factored in the Judiciary, about which we have been talking so much; he has

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factored in the Executive and he has factored in the civil society. He has factored in these three with a balance. As Shri Jaitley said, the Judiciary still keeps its supremacy. It is not there in this Bill. It is in the next Bill. The other Bill says that if two people differ you will not have your way. That means, it will certainly be the Judiciary which will have its last say, to which I might have my own reservations. But, nonetheless, it will be there because the people are asking for it. Sir, why we are asking for this is not because they did not have any criterion or this or that. But certainly, as time is short, I will jump to other points. The point is, what Shri D. Raja has brought in, what Shri Yadav has brought in and what others tried to bring in, is the sociology of law. We are saying this today because you are going to head the judicial system or jurisprudence as such. You are going to become a guide and a philosopher, as far as the very judicial reforms are concerned. We are not only worried about whom we are bringing as the Chief Justice and as a Judge of the High Court. What is there is also important, though we are not discussing it. That is not the agenda before us. But nonetheless, it is the true agenda, as far as our hearts are concerned. What Shri Yadav says is, when you see the entire country, in more than 800 judges, we are not having any OBC or any SC. They are hardly having anything. It hurts the people. Let the Minister...

MR. DEPUTY CHAIRMAN: Please conclude.

DR. K. KESHA RAO: Let the Minister, as the Chief Executive, look at this fact also, because there are issues like pending cases, infrastructure, fee, etc. All these are issues which have to be factored into these things. Shri Misra talked about fee. It is absolutely prohibitive, in a sense, it discourages... (*Time-bell rings*)... Actually, the Minister wrote a letter to our State. We did not reply to it, I understand. I feel sorry for it. But it was the same thing which I am saying. We are all with you. We are heartily with you as far as this Bill and this reform is concerned. Thank You.

DR. E. M. SUDARSANA NATCHIAPPAN (Tamil Nadu): Mr. Deputy Chairman, Sir, I congratulate the hon. Law Minister, Shri Ravi Shankar Prasad, for having this historical role of coming forward with such a law, which was initiated many years back by many Governments. From the 11th Lok Sabha, from 1991 onwards, till the 16th Lok Sabha, there were eight Governments and six Prime Ministers, Every time, they tried to

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work it out by bringing some sort of law to see that appointments are properly made instead of going by the 1993 - Judgement which stated that judges could elect themselves within their own fraternity. Sir, the Constitution-framers were very clear in saying that Parliament was supreme, when you compare with the Judiciary or the Executive. The powers which were given can easily be assessed by way of the Preamble of our Constitution which gives a very clear version as to how the Constitution thinks. I am reading out the Preamble: "We, the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to secure to all its citizens justice, - social, economic and political - liberty, equality and fraternity..." Now, justice in social, economic and political aspect is to be given by all the three wings of the Government. The State is having an executive power. The Executive is elected by the people. It reflects upon the people's feeling about what type of Government it wants for a particular period. This way the Lok Sabha is elected. Similarly, States are electing their own representatives to the Rajya Sabha to reflect the attitude of State Governments, local people, linguistic, ethnic and cultural groups. They decide what type of representation they want in the Senate, the Rajya Sabha. Therefore, this is the reflection of the people's mind, that is, the accountability of the representatives of the people. Therefore, it has to reflect. Whether it is the action of Judiciary, the Executive or the Legislature, the people's will has to come out. It has to be reflected in each and every action because the accountability is to the people by representatives who are elected by the people. Therefore, the executive power is nothing but the people's power which is given through Parliament, and Parliament is supreme according to the Constitution. If you read Article 124, it gives power in the first clause, which says, "Parliament, by law, prescribes the larger number of judges". The number of Judges of the Supreme Court can be done only by Parliament. Similarly, removal of judges can also be done only by Parliament. The procedure for removal is also to be done by Parliament. Salaries of particular judges, whether of the Supreme Court or High Courts, are also vested with Parliament under Article 124. Similarly, Article 145 says: "Subject to the provisions of any law made by Parliament, the Supreme Court may, from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court." Therefore, the entire thing, whether it pertains to salaries or appointments or procedure of working,

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etc., is vested with Parliament. Parliament has the supreme power to see that everything is properly done, be it the Legislature, the Judiciary or the Executive, because these are the organs which are answerable to the people; they are accountable to the people. If the Judiciary makes a particular aspect of the judgement, Parliament, that is, Members elected by the people, ask the Executive as to why this has been done. We started from the Jain diary where some initials were put up. Many of the top-level dignitaries of the political parties had to face trial. We never saw such a thing when the diary of an accused could be used as evidence against innocent people and, finally, we know what happened. We have examples of plenty of cases, right from 1993 till date, to see how innocent political leaders were brought in for the court procedure. This is because the Executive, that is, Parliament, was depending upon many of the coalition partners, and, therefore, they were not energetic enough to see to it that Judiciary was pinned down. But I congratulate the Government on taking this step, an early path. I say this because if they even wait for six months more, by then, they will also be facing certain cases against their own Ministers; many scams will be coming out, and they will have to look after those things rather than bringing in this type of legislation. Therefore, I feel that this is the correct time. But I request them that they have to bring a package. When Shri Jaitley was the Leader of the Opposition, he used to very often raise in the debate that we should have a comprehensive enactment on appointments, on taking action against judges, and also on how salaries and other things have to be fixed. Now the Judicial Accountability Bill is before Parliament. It ought to have come. But the same mechanism, which is now brought in by this Constitutional Amendment, need not be vested with the same powers because it is the appointing authority. Appointing authority cannot have the authority to take disciplinary action and also hold an inquiry. We have to bring about another body which is the Judicial Accountability Commission and this has to be brought in an appropriate time when the Government feels that it is proper. Similarly, Sir, I would like to rush through the two provisions. In this Constitutional Amendment we find that, more or less the Constitutional acceptance for the collegium is given. Three judges who called themselves as a collegium from 1993 judgement onwards are now accepted as a Constitutional body, provided the Executive is also reflected with the Judiciary's consent. Two more eminent jurists are also appointed. Who are they? Who is appointing? Is it the Prime Minister,

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the Chief Justice of India and the Leader of the Opposition or the largest group of Opposition in the Parliament? Therefore, here also, the Judiciary is having a say in appointing persons who are called eminent persons. Therefore, here also, the Judiciary is having a stronghold to see that proper persons are appointed. Similarly, Sir, if you take Article 222, there are two clauses. They are 124B which is now going to be inserted. Clause (b) says, 'recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court'; and Clause (c) says 'ensure that the person recommended is of ability and integrity.' I am sorry, Sir, more or less, the transfer is made only for punishment. Now-a-days, the Judiciary has started to usurp the power and is challenging the federal set-up of India. Sir, the person who was born and educated in a particular State, in a culture, in a linguistic manner, should be the Judge of the High Court of a particular State. He should be the Chief Justice of that particular State. He has to reflect the culture and the linguistic aspect of that particular State. Now, you are removing them to some other State and putting some other person as the Chief Justice of a High Court. And secondly, the senior-most judge is also from some other State. They are becoming a collegium to select the members. It is more or less, I feel, violation of federal set-up.

MR. DEPUTY CHAIRMAN: Please conclude.

DR. E.M. SUDARSANA NATCHIAPPAN: I am concluding. You have given me time. I will conclude within that time.

MR. DEPUTY CHAIRMAN: I know your party has got six more minutes but sacrifice five minutes!

DR. E.M. SUDARSANA NATCHIAPPAN: Sir, we are always sacrificing. Congress is always sacrificing everything.

MR. DEPUTY CHAIRMAN: Sacrifice is always good.

DR. E.M. SUDARSANA NATCHIAPPAN: Sir, I would like to conclude by saying that federal powers of the State should not be taken away. We, the people of India, have already followed the system of giving more powers to the Federal system. You have given a chance in the subsequent Bill to get the consent of the Chief Minister who is responsible

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for the local people, and also the Governor of the State. Sir, that State should also have the power to say that these were the people from our State, who should be represented (*Time-bell rings*) as a judge and also the Chief Justice of the High Court. Article 222 should not be taken up as a usual course. It should be an exceptional one in certain cases alone. Thank you.

श्री उपसभापति: श्री रामदास अठावले, आप सिर्फ चार या पांच मिनट लीजिएगा।

श्री रामदास अठावले (महाराष्ट्र): डिप्टी चेयरमैन सर, इस नई सरकार के कानून मंत्री जी बहुत ही क्रांतिकारी बिल लाए हैं। आप जानते हैं कि हमारे देश का संविधान बाबा साहेब अम्बेडकर जी ने लिखा था, वे ड्राफ्टिंग कमेटी के चेयरमैन थे। इस संविधान को बनाने में डा. राजेन्द्र प्रसाद जी के नेतृत्व में जिन-जिन लोगों ने भाग लिया, उन सबका इसमें बहुत इम्पोर्टेंट रोल रहा है, इसलिए मुझे लगता है कि यह जो संविधान है, कई लोग कहते हैं कि इस पर अंग्रेजों का प्रभाव है, लेकिन वह प्रभाव बिल्कुल नहीं है। अंग्रेजों पर हमारा प्रभाव था। अंग्रेजों का यहां कोई संबंध नहीं है। हर एक मेम्बर ने स्टडी करके कि कैसा कानून होना चाहिए, उसकी बात कही है। ज्यूडिशियरी का जो कानून है, वह कानून जब बनाया गया था, तो पहले जो अपॉइंटमेंट होते थे, उसमें राष्ट्रपति या सुप्रीम कोर्ट के चीफ जस्टिस अपॉइंटमेंट करते थे, तो लोगों को थोड़ी गलतफहमी होती थी, लेकिन इस सरकार के कानून मंत्री श्री रवि शंकर प्रसाद जी यह जो बिल लाए हैं, यह बहुत इम्पोर्टेंट बिल है। इसमें छः लोगों की कमेटी बनेगी, जिसमें सुप्रीम कोर्ट के चीफ जस्टिस भी रहेंगे, दो जजेज़ रहेंगे, दो एक्सपर्ट्स रहेंगे और लॉ मिनिस्टर भी उसमें रहेंगे, तो इस तरह छः मेम्बर्स की कमेटी बनेगी, लेकिन सर, मेरा सुझाव है कि इसमें एक शेड्यूलड कास्ट, शेड्यूलड ट्राइब का व्यक्ति भी होना चाहिए और एक महिला भी होनी चाहिए। छः मेम्बर्स में से ... (व्यवधान) ... जो दो मेम्बर्स लेने वाले हैं... (व्यवधान) ...

डा० अनिल कुमार साहनी (बिहार): ओबीसी का भी होना चाहिए।

श्री रामदास अठावले: ओबीसी की मांग आप करिए, मैं सब मांगें करूंगा तो वे मानेंगे नहीं। ... (व्यवधान) ... ठीक है, ओबीसी का भी होना चाहिए। ... (व्यवधान) ... 6 मेम्बर्स में ओबीसी का भी हो क्योंकि अगर देश में एससी, एसटी और ओबीसी की पापुलेशन देखी जाए तो वह 75 परसेंट है - 52 परसेंट ओबीसी की और एससी, एसटी की पापुलेशन 24.4 परसेंट है, इसलिए मुझे लगता है कि सभी जातियों को न्याय मिलना चाहिए, इसमें कोई जातिवाद का प्रश्न नहीं है। अगर आप मैरिट की चर्चा करते हैं तो मैं कहना चाहता हूँ कि दलित समाज में भी बहुत अधिक मैरिट है। बाबा साहेब अम्बेडकर में कितना मैरिट था! अगर मैरिट की बात करते हैं तो रास्ते में, झोंपड़-पट्टी में स्टडी करने वाला भी अगर 70 परसेंट, 80 परसेंट मार्क्स लाता है तो उसका मैरिट

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अच्छा होता है - मेरा भी मैरिट अच्छा है। मेरा मैरिट अच्छा है कहने से मेरा मतलब है कि हम लोग उस समाज से आए हैं। जो यह 121वां संशोधन है, आप कह रहे हैं कि आपकी सरकार इसको लायी थी, लेकिन आप आखिर में इसको लेकर आए। मैं पूछना चाहता हूँ कि इतने साल आप क्या कर रहे थे? आपको इसे पहले ही लाना चाहिए था। ठीक है, आप लाए या हम लेकर आए, लेकिन जो एप्वाइंटमेंट्स होने वाली हैं, इनसे किसी पर भी किसी तरह का आरोप नहीं लगेगा, जो अच्छा आदमी है, उसका एप्वाइंटमेंट होगा। मेरा अनुरोध है कि उसमें भी शेड्यूल्ड कास्ट, शेड्यूल्ड ट्राइब्स और ओबीसी के जजेज़ को एप्वाइंट करना चाहिए। माननीय रवि शंकर प्रसाद जी से मेरा अनुरोध है कि हमें यह करना चाहिए। दलितों ने हमें बहुत अच्छे वोट दिए हैं। हालांकि यह वोट का विषय नहीं है, लेकिन दलितों को न्याय देने के लिए, ट्राइबल्स को न्याय देने के लिए जजेज़ में हमारे जज भी होने चाहिए। अगर आपको अच्छा न्याय चाहिए तो हमारे समाज में से भी कुछ लोगों को एप्वाइंट करने की आवश्यकता है।... (समय की घंटी)... महोदय, मुझे लगता है कि आपकी बेल बज रही है। जब मैं खड़ा रहता हूँ तो बेल बजती है, वह बजनी भी चाहिए, अगर बेल नहीं बजेगी तो मैं तो बैठूंगा नहीं।... (समय की घंटी)... इसलिए जो सुझाव मैंने दिया है, जो 121वां अमेंडमेंट हो रहा है, The National Judicial Appointments Commission Bill, 2014 को मान्यता देने का जो 121वां कंस्टीट्यूशनल अमेंडमेंट बिल है, इसका मैं समर्थन करता हूँ और इतना ही कहना चाहता हूँ कि... (समय की घंटी)...

श्री उपसभापति: अठावले जी, अब समाप्त करिए।

श्री रामदास अठावले: यह संविधान इतना मजबूत है कि इसमें बदलाव करने की आवश्यकता नहीं है, जब भी चाहे हम इसमें अमेंडमेंट्स कर सकते हैं। इसीलिए मैं इस अमेंडमेंट बिल का पूरा समर्थन करता हूँ, पूरा देश इसको सपोर्ट करेगा। मेरा अनुरोध है कि आप अच्छे लोगों का एप्वाइंटमेंट कर दीजिए। धन्यवाद।

MR. DEPUTY CHAIRMAN: Shri Naresh Gujral. Please take 3-4 minutes and not more than that because we have to go for voting before 2.00 p.m.

SHRI NARESH GUJRAL (Punjab): Sir, after 67 years of Independence, there is an increasing cynicism against the three pillars of democracy. While the anger against the Legislature and the Executive is more intense, we now find that increasingly the Judiciary is also coming under attack. Sir, till the '70s, there was a time when the judges were considered almost as demi-gods. Their integrity and reputation was beyond question. But, unfortunately, the Judiciary refused to stand up to

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the Emergency and Mrs. Indira Gandhi. Thereafter, we saw the concept of committed Judiciary as against independent Judiciary. We all remember the role of a particular Law Minister who was pivotal in bringing the kind of people to Judiciary, who should not have been there. Cronies were brought in. People of less than high integrity were brought in and that is when the courts decided to step in in the early '90s.

Sir, today what we are witnessing is a huge backlog of cases in the country which is increasingly criminalizing our society, Yet, the backlog of judges is not filled up. So, obviously, this calls for some kind of a change and, I think, the collegium system which is not working perfectly needs some change, which the Government is proposing.

Sir, there have been allegations of promoting brother judges in the collegium and the process requires a relook. I will only narrate two cases to which I was a witness. In one case, the collegium recommended the case of a judge and the file itself said - I am saying it because my father was the Prime Minister then - that the particular person was abusive to the family. The file said that there were complaints against him from fellow judges on his behaviour. Yet, his name was being proposed. When this was brought to the attention of the then Chief Justice, the file was called back, and the name was withdrawn.

But more of horrific was a case when the Chief Justice of India had to be appointed. Normally, Mr. Law Minister would support my contention, the name comes to the Prime Minister one month before the Chief Justice has to retire. In that case, the name was withheld and it came only ten days before the Chief Justice was to retire. The Prime Minister looked at the file. There was unanimity on the recommendation, the senior-most judge was being appointed, and the file was sent to the President. Three or four days later, the Chief Justice calls the Prime Minister and says, 'there are allegations of corruption against this gentleman'. The then Prime Minister asked him, "Why did you send this name, if there were allegations?" He said, "My hands were tied; my fellow brothers wanted the name to be sent. So, I have sent the name". The said gentleman, against whom there were allegations of corruption, was promoted as the Chief Justice of India.

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Sir, I am narrating these instances just to show that the collegium system has not worked perfectly, and it is time now that we brought a change. (*Time-bell rings*) I will only take half-a-minute, Sir. I welcome the clause regarding the women being represented on JAC, because that will ensure that the existing boys' club is broken up. And, I also hope that this will address the increasing cases of sexual harassment in the Judiciary. Thank you very much, Sir.

MR. DEPUTY CHAIRMAN: Now, Km. Mayawati, two minutes.

सुश्री मायावती (उत्तर प्रदेश): माननीय उपसभापति जी, अपने देश में जजेज़ की नियुक्ति के लिए लगभग पिछले 20 वर्षों से जो व्यवस्था चली आ रही थी जिसमें काफी कुछ कमियां थीं और पिछली व्यवस्था के तहत लोग किस्म-किस्म की अंगुलियां उठाने लगे थे, तो उसे दूर करने के लिए वर्तमान सेंटर की सरकार ने जजेज़ की नियुक्ति के लिए जो नई व्यवस्था की है, उसको लेकर जो विधेयक लाया गया है, इसका हमारी पार्टी समर्थन करती है। इस संबंध में मेरा यह भी कहना है, खासतौर से जुडिशियरी को लेकर कि हमारे देश का संविधान लोकतंत्र के ऊपर आधारित है। माननीय न्यायपालिका को इसका एक मजबूत स्तम्भ माना जाता है।

परम पूज्य बाबा साहेब डा० भीमराव अम्बेडकर ने इस महत्वपूर्ण स्तम्भ के बारे में काफी कुछ कहा है। मैं उसके ज्यादा डीटेल में नहीं जाना चाहती हूं। परम पूज्य बाबा साहेब डा० भीमराव अम्बेडकर ने भारतीय संविधान में जो न्यायपालिका की व्यवस्था की, वह यह सोचकर की थी कि इस देश में समाज के सभी वर्गों को और सभी धर्मों के लोगों को जुडिशियरी के जरिए न्याय मिलेगा। यदि राज्य सरकारें किसी भी मामले में उनको न्याय नहीं देती हैं या सेंट्रल गवर्नमेंट उनको न्याय नहीं देती है, चाहे वे किसी भी धर्म के लोग हों, चाहे किसी भी जाति के लोग हों, तो उनके लिए माननीय अदालत के दरवाजे खुले हैं, वे वहां जाकर अपनी बात कह सकते हैं। हमें इस बात को भी ध्यान में रखकर चलना चाहिए कि बाबा साहेब डा० भीमराव अम्बेडकर ने जुडिशियरी के बारे में बहुत कुछ कहा है। बाबा साहेब डा० भीमराव अम्बेडकर ने इस बात को भी ध्यान में रखकर कहा था कि इस देश में जो अनुसूचित जाति, अनुसूचित जनजाति, ओबीसी और जो रिलिजियस माइनॉरिटीज़ के लोग हैं, खासतौर से एससी, एसटी और ओबीसी में से जो कन्वर्टेड माइनॉरिटीज़ के लोग हैं, उनकी तादाद बहुत ज्यादा है। बाबा साहेब डा० भीमराव अम्बेडकर को यह मालूम था कि समाज में जो गैर-बराबरी वाली सामाजिक व्यवस्था है, उसके तहत इनको जिंदगी के हर पहलू पर आगे बढ़ने से बरसों से रोका गया है। इस बात को देखते हुए बाबा साहेब डा० भीमराव अम्बेडकर ने भारतीय संविधान में व्यवस्था करते समय यह सोचा था कि केन्द्र में और राज्यों में जिन पार्टियों की सरकारें बनेंगी, वे इन वर्गों के लोगों को जिंदगी के हर पहलू पर आगे बढ़ने के

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लिए इनके हितों का ध्यान रखेंगी। यदि वे इनके हितों का ध्यान नहीं रखती हैं और इनकी उपेक्षा करती हैं, तो इन वर्गों के लोगों को माननीय अदालत में जाने का पूरा अधिकार है, ताकि वे अदालत में जाकर अपनी बात कह सकें। बड़े दुख की बात है कि हमारे देश को आज़ाद हुए बरसों बीत चुके हैं, लेकिन इन वर्गों के लोगों को जिन्दगी के हर पहलू में आगे बढ़ने के लिए न्याय नहीं मिल रहा है। राज्य सरकारें इनकी उपेक्षा कर रही हैं। ... (व्यवधान)... एक मिनट। राज्य सरकारें इनकी उपेक्षा कर रही हैं और केन्द्र की सरकारें भी अभी तक इनकी उपेक्षा कर रही हैं। जब ये लोग न्याय के लिए हाई कोर्ट में जाते हैं या फिर चाहे माननीय सुप्रीम कोर्ट में जाते हैं, पहली बात तो यह है इनकी आर्थिक स्थिति बहुत खराब होती है, जिसकी वजह से ये लोग अच्छे वकील नहीं कर पाते हैं। यदि जैसे-तैसे करके ये लोग वकील करते भी हैं, तो इनको न्याय मिलने में बरसों लग जाते हैं। न्याय पाने की आस में इनको दस-दस साल का समय लग जाता है और ज्यादातर केसों में इनको पूरा न्याय भी नहीं मिल पाता है।... (समय की घंटी)... बस दो-तीन मिनट।

MR. DEPUTY CHAIRMAN: No, no... (Interruptions)... One minute more.

सुश्री मायावती: मैं इस बिन्दु पर आना चाहती थी कि इनको न्याय नहीं मिल पाता है। जब इन दबे-कुचले लोगों को बरसों के बाद हाई कोर्ट में न्याय नहीं मिलता है, सुप्रीम कोर्ट में न्याय नहीं मिलता है, तब ये वीकर सेक्शन के लोग, खासतौर से शैड्यूल्ड कास्ट और शैड्यूल्ड ट्राइब्स के लोग, दुखी होकर कहते हैं कि हमारे जजेज़ नहीं हैं, इसलिए हमें न्याय नहीं मिल रहा है। जो इन लोगों की दुखी भावना है, उसकी ओर भी ध्यान देने की जरूरत है। जब ये लोग न्याय के लिए कोर्ट, कचहरी में जाते हैं, जब उनको न्याय नहीं मिलता है, तब वे इस किस्म की बातें सोचते हैं। मेरा सरकार से यह कहना है कि आप जजेज़ की नियुक्ति के लिए यह जो विधेयक लाए हैं, हम इसका वेलकम करते हैं। इसके लिए हमारी पार्टी का यह भी कहना है कि जब जजेज़ की नियुक्ति हो, वह चाहे हाई कोर्ट में हो या फिर सुप्रीम कोर्ट में हो, तो इन दबे-कुचले लोगों के हितों का भी ध्यान रखना चाहिए। हालांकि आपने यह तो कहा है कि नियुक्ति के लिए एक पैनल बनेगा और इनके हितों का भी ध्यान रखा जाएगा, लेकिन इससे काम नहीं चलेगा। मेरा सरकार से यह कहना है कि जब तक आप जुडिशियरी में ... (समय की घंटी)... एससी, एसटी, ओबीसी के लिए और रिलिजियस माइनॉरिटीज़ के जो लोग हैं, इनके लिए अलग से रिजर्वेशन की व्यवस्था नहीं करेंगे, आबादी के हिसाब से इनके लिए अलग से कानून नहीं बनाएंगे तब तक एससी, एसटी और माइनॉरिटीज़ के लोग जुडिशियरी में जज नहीं बन सकते।

श्री उपसभापति: ठीक है, अभी आप बैठिए।

[RAJYA SABHA]

2.00 P.M.

सुश्री मायावती: हम केवल इनके हितों का ध्यान रखेंगे, यह कह देने से काम नहीं चलेगा, क्योंकि जुडिशियरी में इनका रिजर्वेशन नहीं है। हमारी पार्टी इसके लिए लम्बे समय से संघर्ष करती आ रही है। इसलिए केन्द्र सरकार से मेरा यह कहना है कि केवल आश्वासन देने से काम नहीं चलेगा कि हम इनके हितों का ध्यान रखेंगे, आपको सख्त कदम उठाना होगा; ठोस कदम उठाना होगा। आपको इसके लिए न्यायपालिका के अंदर एससी, एसटी, ओबीसी और जो कन्वर्टेड माइनोंरिटीज़ के लोग हैं, उनके लिए रिजर्वेशन की व्यवस्था करनी होगी और कानून बनाना होगा।

श्री उपसभापति: मायावती जी, आप बैठिए।

सुश्री मायावती: यदि आप इस सत्र में कानून नहीं बना पाते हैं, तो अगले सत्र में आप जल्दी कानून बनाएं और इन वर्गों के लोगों को आबादी के हिसाब से प्रतिनिधित्व मिलना चाहिए, तभी इनको न्याय मिल पाएगा, ऐसी मेरी सरकार से पुरजोर अपील है।

MR. DEPUTY CHAIRMAN: Now, hon. Members, we decided even yesterday that before 2.00 p.m. it has to be put to vote. That was the decision. The Minister has not replied. I have requests from two legal luminaries, Mr. Ram Jethmalani and Shri K.T.S. Tulsī. But, I got the names very late. I do not know what to do. But I have got the names very late. I don't know what to do. ...*(Interruptions)*...

SOME HON. MEMBERS: Allow them. ...*(Interruptions)*...

SHRI RAM JETHMALANI (Rajasthan): Sir, even the representative of the party has written to you that they have also given their time to me. ...*(Interruptions)*...

SHRI K.T.S. TULSI (Nominated): I gave my name in the morning. ...*(Interruptions)*...

SOME HON. MEMBERS: Allow them. ...*(Interruptions)*... Allow them. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Both the names have come late. That is the problem. ... *(Interruptions)*... गुप्ता जी का लैटर लेट क्यों आया? ...*(Interruptions)*... If the House agrees, you can be given three minutes each. ...*(Interruptions)*... Okay. Please stick to three, three minutes. ...*(Interruptions)*... I am allowing you on that condition because everybody is sitting here without taking lunch. So, please stick to your time.

SHRI RAM JETHMALANI: Sir, it is impossible to comply with the

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three minutes' ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Then, please don't ...(*Interruptions*)...

SHRI RAM JETHMALANI: When the leader of a party has written to you that they have given their time to me ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: You are right. But that letter came late. ...(*Interruptions*)...

SHRI RAM JETHMALANI: All right, Sir, I will try to be as brief as I can. ...(*Interruptions*)... I must tell this House that I have been a supporter of the creation of a National Judicial Commission for the last nearly twenty years. I have written fortnight after fortnight about the creation of the National Judicial Commission. In fact, in the last week also I had written two articles about it. But, the National Judicial Commission of my dreams is widely different from the pale shadow of the National Judicial Commission, which has been created by this Amendment of the Constitution and the Bill that follows.

I wish the hon. Law Minister had taken care to study the Constitution of the National Judicial Commissions, which are operating in South Africa for the last twenty years; which have been operating in New Zealand and Australia for so many years. He would have realized that this pale shadow of the Judicial Commission that he has created is a slur on the whole institution of National Judicial Commission. It is a great betrayal of all the intellectuals in this country who has supported the creation of a National Judicial Commission.

Sir, when I support the National Judicial Commission, I must record that I have the highest respect for the Judiciary of this country. Though there are bad fish in that basket, yet, compared to other departments of our life, the judges are still angels. But that does not mean that they do not need reform. I don't think the hon. Law Minister has studied the constitution of any Judicial Commission, working in any part of the world, particularly in the South Africa, which is the oldest. Sir, that Law Minister is the most disqualified person to be a member of a Judicial Commission of this kind. First of all, by the exigencies of democratic life, the Law Minister may have to go back any time to earn his livelihood by practicing before a court. He cannot be trusted to have that kind of moral and professional courage that a Minister must have before he propounds a proposal that the Judiciary should be modified. That is my point number one. But that does not mean that the Government

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should not be represented. The Government must be represented by the Prime Minister, by the Home Minister, but not by any person who, today or tomorrow, has to go back to the court and practice before the Judiciary.

My point number two is this. All civilized countries have contemplated a National Judicial Commission in which, on the one side, the Government is represented by the Prime Minister or by any other Minister, other than a Minister who might have to practice in a court, but also the academic world, the Bar. The Bar is an institution which knows about the qualifications of judges. As aspiring judges, they know who is honest, who is corrupt and who could possibly bring grace and glory to this office. (*Time-bell rings*). So, if the members of the Bar are completely excluded from this, what is the objection? ...(*Interruptions*)... Then, Sir, there is a unanimity that the civil society must be represented in the National Judicial Commission. The civil society means, particularly, the labour force of the country, the workers who are the fulcrum and who are the foundation of our industrial society. (*Time-bell rings*)

MR. DEPUTY CHAIRMAN: Okay. All right. (*Time-bell rings*). Now, it is over.

SHRI RAM JETHMALANI: Sir, all. ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Please wind up. Your time is over. ...(*Interruptions*)...

SHRI RAM JETHMALANI: It is supposed to make recommendations. Recommendations are never binding ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Okay. Shri K.T.S. Tulsi. ...(*Interruptions*)...

SHRI RAM JETHMALANI: You must have a Judicial Commission which should have the power to appoint...(*Time-bell rings*).

MR. DEPUTY CHAIRMAN: Now, Shri K.T.S. Tulsi. Your time is over.

SHRI RAM JETHMALANI: Sir, this is not fair to me. This is not fair to the Party which has... (*Time-bell rings*).

MR. DEPUTY CHAIRMAN: Okay, Shri K.T.S. Tulsi.

SHRI RAM JETHMALANI: However, I am not going to take even a

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minute on the Bill itself, which comes. (*Time-bell rings*). Give me the time. Let me finish.

MR. DEPUTY CHAIRMAN: No, no. Your time is over. Now, Shri K.T.S Tulsi. (*Time-bell rings*). No more time. You have taken four minutes. I am sorry. Your name came very late; yet I allowed you. I am sorry. I have to put it to vote. Shri K.T.S. Tulsi, please.

SHRI RAM JETHMALANI: There has been a serious error and, perhaps, a deliberate error in ignoring my name.

MR. DEPUTY CHAIRMAN: Now, Shri K.T.S. Tulsi. You can take only three minutes.

SHRI K. T. S. TULSI: Sir, I hope it will not be considered disrespectful to my esteemed friend, entertaining, as I do, views quite different from his. In fact, I rise here in support of the Bill and I want to compliment the Law Minister for having taken upon the responsibility on his shoulders to undo the disturbance of balance in the Constitutional framework by the 1993 judgement. It has taken us 21 years to restore the balance. The system of judges appointing judges is just not contemplated in the Constitution. On the other hand, I would like to refresh the memory of this august House with the words of Dr. B.R. Ambedkar. This is what he said and I quote: "To allow the Chief Justice practically a veto upon the appointment of judges is really to transfer the authority to the Chief Justice which we are not prepared to vest in the President or the Government of the day". In spite of the fact that in the Constituent Assembly, this matter was debated, the question of the Chief Justice or the judges being able to appoint judges was squarely and roundly rejected. Yet, the judges took over the power from the Executive. I would like to say that it should not degenerate into a turf war. It is not a question as to who appoints and which person has the last word. The matter of utmost importance with regard to appointment of judges is the transparency in the manner in which they are appointed. Transparency will come if one day we are able to adopt the system, like the way the Parliamentary Committee would hear the objections against the nominees of the Commission and then a decision would be taken. There needs to be a Joint Committee of Parliament, which will entertain the objections, hear them publicly, given an opportunity and take a decision. Ultimately, the power of appointment of judges must vest in

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the Parliament and in the representatives of the people. Thank you very much.

MR. DEPUTY CHAIRMAN: Thank you very much. Now, hon. Minister please.

श्री रवि शंकर प्रसाद: उपसभापति जी, मैं सदन का बहुत ही कृतज्ञ हूँ कि उसने इस गम्भीर विषय पर एक सर्वानुमति दी है। हम न्यायपालिका की गरिमा का पूरा सम्मान करते हैं और न्यायपालिका की गरिमा के सम्मान का स्वर भी संसद की गरिमा के साथ गया है, इसके लिए मैं सब का अभिनन्दन करना चाहता हूँ। मैं किसी का नाम नहीं लूँगा, मैं समय की सीमा समझता हूँ, लेकिन मैं एक बात कहना चाहता हूँ कि जब मैंने कानून मंत्री बनने के बाद इस प्रयास की शुरुआत की थी, तो प्रधान मंत्री, नरेन्द्र मोदी जी का निर्देश लिया था। उन्होंने कहा था कि यह विषय बहुत दिनों से लम्बित है, इस पर सोचना चाहिए आप कार्रवाई करें। उसके बाद मैंने ज्यूरिस्ट्स की मीटिंग बुलाई और 26 पॉलिटिकल पार्टीज़ को पत्र लिखे। आज जब मैं सर्वानुमति देख रहा हूँ, तो मैं सोनिया जी का धन्यवाद करना चाहता हूँ, मैं मायावती जी का धन्यवाद करना चाहता हूँ, मैं शरद पवार जी, राम गोपाल यादव जी का धन्यवाद करना चाहता हूँ, मैं जयललिता जी, ममता बनर्जी जी, श्रीमान अरविन्द केजरीवाल जी, प्रकाश कारत जी, सुधाकर रेड्डी जी, शरद पवार जी का धन्यवाद करना चाहता हूँ। इन सबने पत्र लिख कर...(व्यवधान)...

श्री शरद यादव: आपने दोबारा शरद पवार बोल दिया।

श्री रवि शंकर प्रसाद: मैंने शरद यादव पहले ही बोल दिया, आपने सुना नहीं।
...(व्यवधान)...

एक माननीय सदस्य: आपने दूसरी बार भी शरद पवार बोल दिया।

श्री रवि शंकर प्रसाद: अच्छा, शरद यादव जी। मैं सब का बहुत ही हृदय से धन्यवाद करता हूँ। माननीय उपसभापति जी, मैं सदन के माध्यम से देश को दो बातें बताना चाहता हूँ। पहली बात यह है कि हम कोई भी काम हड़बड़ी में नहीं कर रहे हैं। मैं चाहता हूँ कि आज यह विषय रिकॉर्ड पर आना चाहिए कि 1990 में 67th Constitutional Amendment Bill आया, वह lapse किया, 1997 में 82nd Constitutional Amendment Bill आया, 2003 में 98th Constitutional Amendment Bill आया और फिर 2013 में 120th Constitutional Amendment Bill आया।

अब मैं आपको बताना चाहूँगा कि किस-किस कमीशन ने कहा कि तुमको collegium system खत्म करना चाहिए। 2002 में Venkatchaliah Commission, 2007 में Administrative Reforms Commission, 2008 में 214th Report of Law

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Commission of India, और उसके बाद 21st Report, 28th Report and 44th Report of the Parliamentary Standing Committee में यही बात कही गई। पिछले 22-24 वर्षों में इसके लिए विभिन्न समितियों की इतनी अधिक अनुशंसा हुई है, इसलिए किसी हड़बड़ी में हम यह कार्यवाही कर रहे हों, ऐसी बात बिल्कुल नहीं है।

दूसरी बात मुझे यह कहनी है कि संविधान के अंतर्गत संसद को अपनी शक्तियों पर संशय क्यों होता है? हमें कानून बनाने की पावर दी गई है, किसी को भी कोर्ट में जाने का अधिकार है, यह होना भी चाहिए। जब संसद देश की अपेक्षाओं, आशाओं और आकांक्षाओं का प्रतिनिधित्व करती है, तो संसद को संविधान के अंतर्गत विधेयक बनाने की अपनी शक्ति का एहसास भी तो होता है। अगर वह चैलेंज है, तो देखा जाएगा, हम उसका जवाब देंगे। लेकिन चैलेंज होगा, इसलिए हम विधेयक को पास करने से हिचकें, इसके लिए मैं सभी माननीय सदस्यों से बहुत नम्रता से कहना चाहूंगा, the Parliament must have full trust in the ability of the Parliament to pass the law. ...(*Interruptions*)...

सर, राजीव शुक्ल जी इस सदन के सम्मानित सदस्य हैं ...(*व्यवधान*)... उन्होंने एक बात यह कही कि आप छः महीने पहले ही मान गए होते। वह लिखते-पढ़ते तो अच्छे हैं, लेकिन होमवर्क नहीं करते। अब मैं उनको क्या बताऊँ? यह बिल आया था और राज्य सभा से हमने इसे पास किया था, फिर स्टैंडिंग कमेटी के पास ...(*व्यवधान*)...

श्री राजीव शुक्ल: आपने उस समय वॉकआउट किया था।

श्री रवि शंकर प्रसाद: आप जरा शांत होकर बैठिए। ...(*व्यवधान*)...कुछ दिन पहले आप केन्द्रीय मंत्री रह चुके हैं, इसलिए जब कोई केन्द्रीय मंत्री बोलते हैं, तो शांति से सुना जाता है। आप शांति से बैठिए। ...(*व्यवधान*)...

श्री नरेश अग्रवाल: आपको यह बात कैसे मालूम है कि ये होमवर्क नहीं कर पाते हैं। ...(*व्यवधान*)...

MR. DEPUTY CHAIRMAN: He can instruct him at home. ...(*Interruptions*)...

श्री रवि शंकर प्रसाद: सर, मैं बता रहा था कि वह बिल फिर स्टैंडिंग कमेटी के पास गया। स्टैंडिंग कमेटी ने कहा कि इसे कांस्टीट्यूशन में लाइए और आपने वहां induce किया, लेकिन वह lapse कर गया। इसलिए ऐसा कहना कि यह हमारी गलती से पास नहीं हुआ है, यह ठीक नहीं है। इसके लिए आप अपना होमवर्क ठीक करिए।...(*व्यवधान*)... अब आप शांत हो जाइए और शांति से सुनिए, मैंने अब आपको करेक्ट कर दिया है।

[RAJYA SABHA]

अब यहां पर जो इश्यू उठाए गए हैं, I would like to take them one-by-one. Sir, I am a very small political activist, and I am also a very small lawyer with limited experience. I am not a very eminent lawyer in spite of all the friends who have facts to say that.

MR. DEPUTY CHAIRMAN: You are the Law Minister of a great country like India.

SHRI RAVI SHANKAR PRASAD: Yes, I know that. But, Sir, to say that I have not studied the functioning of various Judicial Commissions is a great disrespect. I have studied the structure given by so many Commissions for the last more than 24 years. I had the widest consultation possible with so many eminent jurists, including Mr. Tulsi and Mr. Parasaran sitting here, and after that, we have come with a mechanism which has got the widest support here in this entire House. So, to say that I have not done my homework is a great disrespect, Sir. I have not to comment beyond anything that.

Now, Sir, quickly I will take the points. Many Members said, 'why only this Commission, what about accountability?' Mr. Rajeeve, Arun Jaitley's speech, I know. In principle, he supported the doctrine of accountability. But that should be a part of the same mechanism is a larger question. Let me tell you that Judicial Standards and Accountability Bill, you know, is already pending. What is the mechanism there? It is, for enquiry into complaint, declaration of assets and liabilities, judicial statement of values; everything is there. Therefore, if we load everything in the Appointments Commission, it will become too cumbersome, and, I think, my Government very rightly feels that as far as the issue of enquiry into complaint against judges is concerned, that must be dealt with by the Judiciary alone. Impeachment should not be the avenue for all the complaints. Therefore, all these things are there. The Government will move it appropriately, after consideration, and surely, you will have enough time to speak on that.

Sir, the second issue raised was that there must be State Commissions. The AIADMK Member, Mr. Navaneethakrishnan, rightly raised that issue. Now, under the Constitution, the power of appointment of the Judge of a High Court, or a Judge of the Supreme Court, vests with the President of India. And, in the accompanying Bill, which we shall debate subsequently, we have clearly given that the Chief Minister's role needs to be recognized as far as consultation is concerned. Therefore, if

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we go in for a State Commission, it may be constitutionally vulnerable. But we have duly factored in the concerns of the States in the subsequent Bill, which we are going to move thereafter.

Now, Sir, I come to the issue of eminent persons.

SHRI P. RAJEEVE: Sir, I demand that one High Court Chief Justice be there among them.

SHRI RAVI SHANKAR PRASAD: I would explain that in the Bill very elaborately. Your concerns would be addressed.

Sir, who would be appointing the eminent persons? They would be the Prime Minister of India, the Chief Justice of India, the Leader of the Opposition and the Leader of the largest Party in the Lok Sabha. They all are eminent people! They are governing the country! One is the head of Government, one is the head of the Judiciary and one is the Leader of the Opposition. Should we not trust their collective wisdom to select really eminent people? If they can govern the country well, I am sure, they can select eminent people well too.

That's how I see it.

SHRI TIRUCHI SIVA: What is the definition of 'eminent people'? ...*(Interruptions)*...

SHRI T.K. RANGARAJAN (Tamil Nadu): What happens if there is a difference of opinion between the three?...*(Interruptions)*....

SHRI RAVI SHANKAR PRASAD: Please allow me to complete. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Let him complete...*(Interruptions)*... Let him complete.

SHRI RAVI SHANKAR PRASAD: Sir, therefore, let us leave it to their collective wisdom. But the standards are available. Hon. Mr. Jaitley pointed out some of them. Others can come in the regulation. But, at least, for once, let me agree with Mr. Rajeev Shukla on one issue - why should we who are in politics not always trust our abilities to have the best selection possible? Trust us! Differences can be there; why not? But there is a mechanism to overcome those differences and, surely, that could be done.

[RAJYA SABHA]

Then, Sir, a question was raised as to why we have left the rotation part. Our issue is very simple. Suppose there is a woman Law Minister; maybe, the eminent people selection process can have a different one. Suppose there is an eminent minority woman, she can represent both the sections. Suppose there is an eminent Scheduled Caste woman selected, both the issues can be considered. Therefore, that flexibility ought to be there when we talk of eminent persons.

सर, एक विषय के बारे में शरद जी ने भी कहा और माननीय मायावती जी ने भी कहा। यह विषय बहुत गंभीर है। मैं स्वयं जेपी मूवमेंट का एक प्रॉडक्ट रहा हूँ। न्यायमूर्तियों की नियुक्ति में देश की विविधता का सम्मान होना चाहिए, आपकी यह बात बहुत सही है। आपने जो कहा कि अपने दलित वर्ग के, शैड्यूलड ट्राइब वर्ग के और पिछड़े वर्ग के न्यायाधीश कम आते हैं, यह चिंता की बात है। मैं देश में घूमता हूँ और जानता हूँ कि बहुत से अच्छे लोग हैं, योग्य लोग हैं। हम जो नया आर्किटेक्चर बना रहे हैं, मैं इस सदन को आश्वस्त करना चाहूँगा कि दोनों सदनों की यह जो कलेक्टिव विल है, इसको नेशनल ज्युडिशियल अप्वायंटमेंट कमिशन नोट करेगा और ऐसे लोगों को आना चाहिए, उसमें इसकी चिंता होगी।

उपसभापति जी, मेरे मन में एक कल्पना है, जिसे मैं हाउस के सामने शेयर करना चाहता हूँ कि यह जो ज्युडिशियल कमिशन बने, उसका डेटा बनना चाहिए।

श्री शरद यादव: मुझे मालूम है कि आपको समय का कंस्ट्रेंट है। मैं इतना ही निवेदन करूँगा कि 68 वर्ष में यह कहीं किसी जगह, जो नीयत हम बोलते हैं, वह जमीन पर नहीं आयी है। इसमें आपका दोष नहीं है, पूरे सिस्टम का दोष है। इसके बारे में आप किस रास्ते से इसमें मजबूती लाएंगे, यही मेरा प्रश्न है?

श्री रवि शंकर प्रसाद: मैं आपको बता रहा हूँ। जब दूसरा बिल आएगा, तो मैं इसकी और विस्तार से चर्चा करूँगा। लेकिन चूंकि आपने कहा, तो मेरे मन में क्या कल्पना है, जब मैं सोचता हूँ कि नेशनल ज्युडिशियल अप्वायंटमेंट कमिशन बन रहा है, इसका जो दफ्तर हो, उसमें एक डेटा बैंक होना चाहिए। इसकी चर्चा माननीय मायावती जी ने भी की। विभिन्न हाई कोर्ट्स में जो दलित वर्ग के, पिछड़े वर्ग के अच्छे वकील हैं, वे कैसे पर कैसे बहस कर रहे हैं? जजमेंट ... (व्यवधान) ... रिपोर्टेड कितने हैं और क्या चीजें हैं, हम इसकी पूरी कोशिश करेंगे। जब मैं दूसरा बिल लाऊँगा, तो बताऊँगा कि हाई कोर्ट से तो नाम शुरू होगा, लेकिन नेशनल ज्युडिशियल अप्वायंटमेंट कमिशन को भी अधिकार होगा कि हाई कोर्ट के बारे में वह नॉमिनेशन दे सके। उसमें हम इन चीजों की चिंता कर सकते हैं। मुझे लगता है कि अगर संकल्प हो तो रास्ता निकल सकता है और आज जब हम इस पूरी नियुक्ति की प्रक्रिया में इतना बड़ा बदलाव कर रहे हैं, तो वह इस देश की सामूहिक चिंता और बदलने के संकल्प का द्योतक है। मुझे लगता है कि इसी कार्यवाही में हम उसको पूरा कर पाएंगे।

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अब मैं आपको एक बात बताना चाहूंगा कि मैं अम्बेडकर जी का बहुत सम्मान करता हूँ, मैंने उनको बहुत पढ़ा है और अभी मैं अम्बेडकर जी का एक उद्धरण वोट करना चाहता था, जो तुलसी जी ने कर दिया। Sir, I always say, all the young Members of Parliament, please study Ambedkarji more. He really has done a great contribution in keeping that fine balance in the Indian Constitution. Let me elaborate what Shri Tulsi stated. What he said, "We don't want to give veto to the President of India for appointment of a judge; we don't want to give a veto to the Legislature in the appointment of a judge so that political consideration may not come about, and we don't want to give a veto power to the Chief Justice of India because, as a human being, he will also have the same failing and failures". What a fine balance he created! Therefore, this whole issue of empowerment, the whole issue of respecting the diversity of India which needs to be reflected in the Judiciary of India, is certainly an issue on which the entire polity is one today. हम उसकी पूरी कोशिश करेंगे। सर, मुझे अंत में एक बात कहनी है कि ज्यूडिशियरी की वर्किंग के बारे में बहुत सारे सवाल उठाए गए। उसमें एक लंबी बहस होगी, पेंडेंसी है, करप्शन है, कमजोरियाँ हैं। Mr. Rajeeve, I would like to ask you a question. Why the collegium system could not produce a Judge like V.R. Krishna Iyer? This country is entitled to ask this question today. And, Sir, do you know, he was seventh in the seniority list, yet he was brought to the Supreme Court because of his eminence and because of his calibre. I will reflect upon more when I speak on the Bill. But, today, the country wants the people of eminence to be there in the selection panel and people also want people of talent and promise to become judges. That is what this Commission envisages. Therefore, I will cut short my speech. It is time to vote and the time to give one clear message that this House respects the independence of Judiciary, the dignity of Judiciary and this House also respects the supremacy of Parliament. That is what I have to say.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration".

(MR. CHAIRMAN in the Chair)

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

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AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A. W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A.U. Singh
Deora, Shri Murli

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Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay

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Khabri, Shri Brijlal
Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shirmati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash

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Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi

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Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod

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Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

MR. CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill. In Clause 2, there is one Amendment (No. 1) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

Clause 2 - Amendment of Article 124

SHRI P. RAJEEVE: Sir, I press the amendment because it prevents the expansion of the Commission. So, for deleting the word "Appointments", I press the amendment. Sir, I move:

1. That at page 1, line 10, the word "Appointments" be *deleted*.

Amendment (No. 1) was negatived.

MR. CHAIRMAN: I shall now put Clause 2 to vote.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[RAJYA SABHA]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain

[14 August, 2014]

Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A.U. Singh
Deora, Shri Murl
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri

[RAJYA SABHA]

Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas

[14 August, 2014]

Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbhai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri

[RAJYA SABHA]

Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.

[14 August, 2014]

Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

[RAJYA SABHA]

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 2 was added to the Bill.

Clause 3 - Insertion of New Articles 124A, 124B and 124C

MR. CHAIRMAN: Now, we shall take up Clause 3. There are nine Amendments (Nos. 2 to 7 and 15 to 17) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, the Amendment Nos. 2, 5 and 6 are the same, which have been rejected by the House. So, I am not pressing them. But I am pressing the Amendment No. 3, that is, there is no distinction between a senior Judge and a fresh Judge as per the Constitution. So, I press the Amendment No. 3. I also press the Amendment No. 4 because in order to protect the federal structure of the Constitution, there should be a representation from the High Court, selected by a collegium of Chief Justices of all High Courts. I also press the Amendment No. 7 because this should be expanded to scrutinise, enquire the complaints against the Judges of the Supreme Court and recommend a disciplinary action, if required. I press my Amendments (Nos. 3, 4 and 7).

Sir, I move:

(3) That at page 2, *for* lines 9 and 10, the following be *substituted*, namely:—

"(b) one Judge of the Supreme Court, nominated by the collegium of all Judges of the Supreme Court".

(4) That at page 2, *after* line 20, the following be *inserted*, namely:—

"(e) Chief Justice of one of the High Courts, nominated by the collegium of Chief Justices of all High Courts; and

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(f) a nominee of the Bar Association of India".

(7) That at page 2, *after* line 31, the following be *inserted*, namely:—

"(d) scrutinize, enquire, the complaints against the Judges of Supreme Court and to recommend disciplinary action, if required".

Amendments (Nos. 3, 4 and 7) were negatived.

MR. CHAIRMAN: There are Amendments (Nos. 15-17) by Shri P. Rajeeve.

SHRI P. RAJEEVE: Sir, I am not moving Amendment No. 15. I am moving Amendment Nos. 16 and 17. Amendment No. 16 says that one member among the six members should be a woman. Amendment No. 17 says that the Judicial Members of the State Tribunals and the National Tribunal should come under the purview of the Judicial Commission.

Sir, I move:

16. That at page 2, *after* line 18, the following proviso be *inserted*, namely:—

"Provided further that out of the six members of the Commission one shall be a woman".

17. That at page 2, line 28, *after* the word "Courts", the words, "and Judicial Members of all National Tribunals and State Tribunals" be *inserted*.

Amendments (Nos. 16 and 17) were negatived.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[RAJYA SABHA]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru

[14 August, 2014]

Dave, Shri Anil Madhav
Deo, Shri A.U. Singh
Deora, Shri Murl
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat

[RAJYA SABHA]

Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah

[14 August, 2014]

Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.

[RAJYA SABHA]

Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish

[14 August, 2014]

Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh

[RAJYA SABHA]

Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 3 was added to the Bill.

Clause 4 - Amendment of Article 127

MR. CHAIRMAN: Now, we shall take up Clause 4. There is one Amendment (No. 8) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, since this has already been rejected by the Government, I am not moving it.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A.U. Singh

[RAJYA SABHA]

Deora, Shri Murli
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hasmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay

[14 August, 2014]

Khabri, Shri Brijlal
Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj

[RAJYA SABHA]

Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbhai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar

[14 August, 2014]

Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.

[RAJYA SABHA]

Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhair N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES-1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 4 was added to the Bill.

Clause 5 - Amendment of Article 128

MR. CHAIRMAN: Now, we shall take up Clause 5. There is one Amendment (No. 9) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, since the same amendment has been rejected by the Government, I am not moving my amendment.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh
Deora, Shri Murli

[RAJYA SABHA]

Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal

[14 August, 2014]

Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Kurien, Prof. P.J.
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj

[RAJYA SABHA]

Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbhai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar

[14 August, 2014]

Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A. K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod

[RAJYA SABHA]

Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Ram Kripal
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 5 was added to the Bill.

Clause 6 - Amendment of Article 217

MR. CHAIRMAN: Now, we shall take up Clause 6 of the Bill. There is one Amendment (No. 10) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, I am not moving.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri. P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh
Deora, Shri Murli

[RAJYA SABHA]

Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal

[14 August, 2014]

Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Kurien, Prof. P.J.
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O'Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash

[RAJYA SABHA]

Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar

[14 August, 2014]

Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok

[RAJYA SABHA]

Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadj
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Ram Kripal
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 6 was added to the Bill.

Clause 7 - Amendment of Article 222

MR. CHAIRMAN: Now, we shall take up Clause 7 of the Bill. There is one Amendment (No. 11) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, I am not moving.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M. P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K. N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y. S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh
Deora, Shri Murli
Desai, Shri Anil

[RAJYA SABHA]

Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali

[14 August, 2014]

Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Kurien, Prof. P.J.
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O'Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.

[RAJYA SABHA]

Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver

[14 August, 2014]

Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T. N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V. P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.

[RAJYA SABHA]

Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K.C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Ram Kripal
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 7 was added to the Bill.

Clause 8 - Amendment of Article 224

MR. CHAIRMAN: Now, we shall take up Clause 8 of the Bill. There are two Amendments (Nos. 12 and 13) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, I am not moving.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh
Deora, Shri Murli
Desai, Shri Anil

[RAJYA SABHA]

Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai

[14 August, 2014]

Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh

[RAJYA SABHA]

Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K.P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T.K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay

[14 August, 2014]

Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T.N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A.K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V.P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A.V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D.P.
Tulsi, Shri K.T.S.

[RAJYA SABHA]

Tundiya, Mahant Shambhuprasadji

Tyagi, Shri K.C.

Vadodia, Shri Lal Sinh

Varma, Shri Pavan Kumar

Vegad, Shri Shankarbhai N.

Vijila Sathyananth, Shrimati

Vora, Shri Motilal

Yadav, Shri Bhupender

Yadav, Shri Darshan Singh

Yadav, Prof. Ram Gopal

Yadav, Shri Sharad

Yechury, Shri Sitaram

Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 8 was added to the Bill.

Clause 9 - Amendment of Article 224A

MR. CHAIRMAN: Now, we shall take up Clause 9 of the Bill. There is one Amendment (No. 14) by Shri P. Rajeeve, Shri D. Raja and Shri K.N. Balagopal.

SHRI P. RAJEEVE: Sir, I am not moving.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M.P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A.K.
Arjunan, Shri K.R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K.N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y.S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh

[RAJYA SABHA]

Deora, Shri Murli
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H.K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B.K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali

[14 August, 2014]

Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C.P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O'Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.
Parida, Shri Baishnab

[RAJYA SABHA]

Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K. P.
Ramesh, Shri C.M.
Ramesh, Shri Jairam
Rangarajan, Shri T. K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver

[14 August, 2014]

Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T. N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A. K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V. P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A. V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C.P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod
Tlau, Shri Ronald Sapa
Tripathi, Shri D. P.

[RAJYA SABHA]

Tulsi, Shri K.T.S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K. C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 9 was added to the Bill.

Clause 10 - Amendment of Article 231

MR. CHAIRMAN: Now, we shall take up Clause 10.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M. P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A. K.
Arjunan, Shri K. R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K. N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y. S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh
Deora, Shri Murli

[RAJYA SABHA]

Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H. K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M. S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B. K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal
Khan, Shri Mohd. Ali

[14 August, 2014]

Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Kurien, Prof. P. J.
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C. P.
Natchiappan, Dr. E. M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O'Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.

[RAJYA SABHA]

Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K. P.
Ramesh, Shri C. M.
Ramesh, Shri Jairam
Rangarajan, Shri T. K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh

[14 August, 2014]

Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T. N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A. K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V. P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A. V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C. P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod

[RAJYA SABHA]

Tlau, Shri Ronald Sapa
Tripathi, Shri D. P.
Tulsi, Shri K. T. S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K. C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Ram Kripal
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Clause 10 was added to the Bill.

MR. CHAIRMAN: Now, we shall take up Clause 1, the Enacting Formula and the Title.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M. P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A. K.
Arjunan, Shri K. R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K. N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A. W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y. S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh

[RAJYA SABHA]

Deora, Shri Murli
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H. K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M. S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B. K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal

[14 August, 2014]

Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C. P.
Natchiappan, Dr. E.M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O'Brien, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.

[RAJYA SABHA]

Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K. P.
Ramesh, Shri C. M.
Ramesh, Shri Jairam
Rangarajan, Shri T. K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar
Saini, Shri Rajpal Singh

[14 August, 2014]

Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T. N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A. K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V. P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A. V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C. P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiware, Shri Alok
Tiware, Shri Pramod
Tlau, Shri Ronald Sapa

[RAJYA SABHA]

Tripathi, Shri D. P.
Tulsi, Shri K. T. S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K. C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

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

MR. CHAIRMAN: The question is:

That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration.

The House divided.

MR. CHAIRMAN: Ayes : 180

Noes : 1

[14 August, 2014]

AYES - 180

Abraham, Shri Joy
Achuthan, Shri M. P.
Adeeb, Shri Mohammed
Agrawal, Shri Naresh
Akhtar, Shri Javed
Ali, Shri Munquad
Ansari, Shri Salim
Antony, Shri A. K.
Arjunan, Shri K. R.
Ashk Ali Tak, Shri
Ashwani Kumar, Shri
Athawale, Shri Ramdas
Azad, Shri Ghulam Nabi
Bachchan, Shrimati Jaya
Baidya, Shrimati Jharna Das
Balagopal, Shri K. N.
Balyawi, Shri Gulam Rasool
Bandyopadhyay, Shri D.
Banerjee, Shri Ritabrata
Batra, Shri Shadi Lal
Bernard, Shri A.W. Rabi
Bhattacharya, Shri P.
Bora, Shri Pankaj
Budania, Shri Narendra
Chakraborty, Shri Mithun
Chandrasekhar, Shri Rajeev
Chavan, Shrimati Vandana
Chowdary, Shri Y. S.
Dalwai, Shri Husain
Das, Shri Kalpataru
Dave, Shri Anil Madhav
Deo, Shri A. U. Singh

[RAJYA SABHA]

Deora, Shri Murli
Desai, Shri Anil
Dhindsa, Sardar Sukhdev Singh
Dhoot, Shri Rajkumar
Dua, Shri H. K.
Dudi, Shri Ram Narain
Dwivedi, Shri Janardan
Faruque, Shrimati Naznin
Gehlot, Shri Thaawar Chand
Gill, Dr. M.S.
Goel, Shri Vijay
Gohel, Shri Chunibhai Kanjibhai
Goyal, Shri Piyush
Gujral, Shri Naresh
Gupta, Shri Prem Chand
Gupta, Shri Vivek
Haque, Shri Md. Nadimul
Hariprasad, Shri B. K.
Hashmi, Shri Parvez
Hembram, Shrimati Sarojini
Heptulla, Dr. Najma A.
Irani, Shrimati Smriti Zubin
Jaitley, Shri Arun
Jatiya, Dr. Satyanarayan
Javadekar, Shri Prakash
Jha, Shri Prabhat
Jugul Kishore, Shri
Kalita, Shri Bhubaneswar
Kanimozhi, Shrimati
Karan Singh, Dr.
Karimpuri, Shri Avtar Singh
Kashyap, Shri Narendra Kumar
Katiyar, Shri Vinay
Khabri, Shri Brijlal

[14 August, 2014]

Khan, Shri Mohd. Ali
Khanna, Shri Avinash Rai
Kidwai, Shrimati Mohsina
Kujur, Shri Santiuse
Lakshmanan, Dr. R.
Mahra, Shri Mahendra Singh
Maitreyan, Dr. V.
Mandaviya, Shri Mansukh L.
Manjunatha, Shri Aayanur
Mayawati, Km.
Memon, Shri Majeed
Misra, Shri Satish Chandra
Mistry, Shri Madhusudan
Mitra, Dr. Chandan
Mohanty, Shri Anubhav
Mohapatra, Shri Pyarimohan
Mungekar, Dr. Bhalchandra
Muthukaruppan, Shri S.
Nadda, Shri Jagat Prakash
Naidu, Shri M. Venkaiah
Naik, Shri Shantaram
Nanda, Shri Kiranmay
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri C. P.
Natchiappan, Dr. E. M. Sudarsana
Navaneethakrishnan, Shri A.
Nirmala Sitharaman, Shrimati
Nishad, Shri Vishambhar Prasad
O Brein, Shri Derek
Panchariya, Shri Narayan Lal
Pande, Shri Avinash
Pandian, Shri Paul Manoj
Parasaran, Shri K.

[RAJYA SABHA]

Parida, Shri Baishnab
Parjapati, Shri Ranbir Singh
Patel, Shri Ahmed
Patel, Shri Praful Manoharbhai
Pathak, Shri Brajesh
Patil, Shri Basawaraj
Patil, Shrimati Rajani
Perween, Shrimati Kahkashan
Pradhan, Shri Dharmendra
Prasad, Shri Ravi Shankar
Rai, Shrimati Kusum
Raja, Shri D.
Rajan, Shri Ambeth
Rajaram, Shri
Rajeeve, Shri P.
Ramalingam, Dr. K. P.
Ramesh, Shri C. M.
Ramesh, Shri Jairam
Rangarajan, Shri T. K.
Rangasayee Ramakrishna, Shri
Rao, Shri Garikapati Mohan
Rao, Dr. K. Keshava
Rapolu, Shri Ananda Bhaskar
Rashtrapal, Shri Praveen
Rathinavel, Shri T.
Ravi, Shri Vayalar
Reddy, Shri D. Kupendra
Reddy, Shri Palvai Govardhan
Roy, Shri Sukhendu Sekhar
Sadho, Dr. Vijaylaxmi
Sahani, Dr. Anil Kumar
Sai, Shri Nand Kumar

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Saini, Shri Rajpal Singh
Saleem, Chaudhary Munavver
Sancheti, Shri Ajay
Sasikala Pushpa, Shrimati
Seelam, Shri Jesudasu
Seema, Dr. T. N.
Seetharama Lakshmi, Shrimati Thota
Selvaraj, Shri A. K.
Sen, Shri Tapan Kumar
Shafi, Shri Mohammad
Sharma, Shri Satish
Shukla, Shri Rajeev
Singh, Shri Arvind Kumar
Singh, Shri Bhupinder
Singh, Shrimati Kanak Lata
Singh, Dr. Kanwar Deep
Singh, Dr. Manmohan
Singh, Shri Veer
Singh Badnore, Shri V. P.
Singhvi, Dr. Abhishek Manu
Siva, Shri Tiruchi
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Sudharani, Shrimati Gundu
Swamy, Shri A. V.
Syiem, Shrimati Wansuk
Tarun Vijay, Shri
Thakur, Dr. C. P.
Thakur, Shri Ram Nath
Thakur, Shrimati Viplove
Thangavelu, Shri S.
Tiwari, Shri Alok
Tiwari, Shri Pramod

[RAJYA SABHA]

Tlau, Shri Ronald Sapa
Tripathi, Shri D. P.
Tulsi, Shri K. T. S.
Tundiya, Mahant Shambhuprasadji
Tyagi, Shri K. C.
Vadodia, Shri Lal Sinh
Varma, Shri Pavan Kumar
Vegad, Shri Shankarbhai N.
Vijila Sathyananth, Shrimati
Vora, Shri Motilal
Yadav, Shri Bhupender
Yadav, Shri Darshan Singh
Yadav, Prof. Ram Gopal
Yadav, Shri Sharad
Yechury, Shri Sitaram
Zhimomi, Shri Khekiho

NOES - 1

Jethmalani, Shri Ram

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.