

LOK SABHA DEBATES (English Version)

**Fifteenth Lok Sabha
(Ninth Session)**



General & Debate, Election
Parliament Library - 1218
Room No. 12-923
Block 'D' 34
Acc. No. _____
Dated. 26.12.2016

(Vol. XXII contains Nos. 21 to 24)

**LOK SABHA SECRETARIAT
NEW DELHI**

Price : Rs. 80.00

EDITORIAL BOARD

Anoop Mishra
Secretary General
Lok Sabha

V.K. Mittal
Joint Secretary

Navin Chandra Khulbe
Director

Rakesh Kumar
Additional Director

Suman Rattan
Joint Director

Jyotsna Sehgal
Assistant Editor

@2011 Lok Sabha Secretariat

None of the material may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of Lok Sabha Secretariat. However, the material can be displayed, copied, distributed and downloaded for personal, non-commercial use only, provided the material is not modified and all copyright and other proprietary notices contained in the material are retained.

Original English proceedings included in English Versions will be treated as authoritative and not the English translation of the speeches made in Hindi and other languages included in it. For complete authoritative version please see Original Version of Lok Sabha Debates.

CONTENTS

Fifteenth Series, Vol. XXII, Ninth Session, 2011/1933 (Saka)

No. 23, Wednesday, December 28, 2011/Pausa 7, 1933 (Saka)

SUBJECTS	COLUMNS
PAPERS LAID ON THE TABLE	1-5
MESSAGES FROM RAJYA SABHA	5-6
COMMITTEE ON ESTIMATES	
13th Report	6
PUBLIC ACCOUNTS COMMITTEE	
47th to 51st Reports	6-7
JUDICIAL STANDARDS AND ACCOUNTABILITY BILL, 2010 AND CONSTITUTION (ONE HUNDRED AND FOURTEENTH AMENDMENT) BILL, 2010	
[Amendment of Articles 217 and 224]	
Motion to Consider	
Shri Salman Khursheed.....	8-13
Shri D.B. Chandre Gowda.....	13-23
Shri Manish Tewari	23-29
Shri Shailendra Kumar	29-33
Shri Vijay Bahadur Singh	33-42
Shri Arjun Roy	42-46
Shri Kalyan Banerjee	59-65
Shri R. Thamaraiselvan.....	65-67
Shri A. Sampath	67-73
Shri Pinaki Misra	73-78
Shri Chandrakant Khaire	78-81
Shri S. Semmalai	81-85
Dr. Sanjeev Ganesh Naik	85-86
Shri Nama Nageswara Rao	86-88
Shri Sanjay Singh Chauhan	88-90
Shri Ganesh Singh	90-93

Kumari Meenakshi Natrajan	93-97
Shri Prabodh Panda	97-99
Dr. Raghuvansh Prasad Singh	99-104
Dr. Mirza Mehboob Beg	104-105
Shri Narahari Mahato	106-107
Shri Mohammed E.T. Basheer.....	109

MATTERS UNDER RULE 377

(i) Need to ensure proper and judicious utilization of funds earmarked for various projects under Jawaharlal Nehru National Urban Renewal Mission in Nagpur	
Shri Vilas Muttemwar	47-48
(ii) Need to provide more land available adjacent to the existing memorial of Dr. B.R. Ambedkar in Mumbai, Maharashtra	
Shri Eknath Mahadeo Gaikwad	48-49
(iii) Need to release the fund earmarked for the welfare and debt relief for the people working in handloom sector in Kerala	
Shri K. P. Dhanapalan	49
(iv) Need to enhance the age of retirement of employees of Sambhar Salt and Hindustan Salt companies in Jaipur Rural Parliamentary Constituency, Rajasthan	
Shri Lalchand Kataria	50
(v) Need to appoint S.D.O. (Telecom) in Jeerapur Tehsil in Rajgarh district, Madhya Pradesh and also allot a separate STD code to the Tehsil	
Shri Narayan Singh Amlabe	50-51
(vi) Need to appoint a Special Officer to study the problems faced by the microscopic minorities in the country	
Shri Charles Dias	51
(vii) Need for shortage of cable and equipments at the office of BSNL in Indore, Madhya Pradesh and the need to improve telecom facilities there	
Shrimati Sumitra Mahajan	52-53
(viii) Need to increase civilian area in Jabalpur cantonment in proportion to increased population and rationalize the taxes imposed in cantonment area, Jabalpur, Madhya Pradesh	
Shri Rakesh Singh	53-54

(ix)	Need to provide wheat to bakery owners at concessional rates Shri Dilipkumar Mansukhlal Gandhi	54
(x)	Need to provide stoppage of Express and Superfast Trains at Damon in Madhya Pradesh Shri Shivraj Bhaiya	54
(xi)	Need to fix the minimum support price of potato Shrimati Usha Verma	54-55
(xii)	Need to accord approval to the proposal of Government of Uttar Pradesh for sanction of funds for the Kumbha Mela at Allahabad in 2012-13 Shri Kapil Muni Karwaria	55
(xiii)	Need to provide adequate number of air-conditioned coaches in Saptkranti Express (Train Nos. 12557/12558) between Mujaffarpur (Bihar) and Delhi Shri Baidyanath Prasad Mahato	55-56
(xiv)	Need to expedite setting up of proposed research centre of DRDO in Dharmapuri district, Tamil Nadu Shri R. Thamaraiselvan	56-57
(xv)	Need to develop Lonar crater lake in district Buldhana, Maharashtra as a tourist spot and provide adequate transport facilities for tourists visiting the lake site Shri Prataprao Ganpatrao Jadhao	57
(xvi)	Need to provide VPU coaches in place of SLR coaches in Mangalore Express (Train No. 6107) and Tea Garden Express (Train No. 6865) and provide a stoppage of Tea Garden Express at Uthukuli in Tiruppur district, Tamil Nadu Shri C. Sivasami	57-58
(xvii)	Need to establish a Railway pilot training facility centre at Kharagpur under South Eastern Railway Shri Prabodh Panda	58
(xviii)	Need to provide voting rights to primary school teachers in election of members of Legislative Councils in the States Dr. Raghuvansh Prasad Singh	58
(xix)	Need to provide adequate quantity of fertilizers and crop seeds to the farmers in Siwan Parliamentary Constituency, Bihar Shri Om Prakash Yadav	59

STATEMENT BY MINISTER

Reservation for minorities	
Shri Salman Khursheed	

OFFICERS OF LOK SABHA

The Speaker

Shrimati Meira Kumar

The Deputy Speaker

Shri Karia Munda

Panel of Chairmen

Shri Basu Deb Acharia

Shri P.C. Chacko

Shrimati Sumitra Mahajan

Shri Inder Singh Namdhari

Shri Francisco Cosme Sardinha

Shri Arjun Charan Sethi

Dr. Raghuvansh Prasad Singh

Dr. M. Thambidurai

Dr. Girija Vyas

Shri Satpal Maharaj

Secretary General

Shri T.K. Viswanathan

LOK SABHA DEBATES

LOK SABHA

Wednesday, December 28, 2011/Pausa 7, 1933 (Saka)

The Lok Sabha met at Eleven of the Clock

[MADAM SPEAKER in the Chair]

...(Interruptions)

PAPERS LAID ON THE TABLE

[English]

MADAM SPEAKER: Now, Papers to be laid on the Table.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI SUDIP B ANDYOPADHYAY): On behalf of Shri Ghulam Nabi Azad, I beg to lay on the Table:—

- (1) (i) A copy of the Annual Report (Hindi and English versions) of the Mahatma Gandhi Institute of Medical Sciences and Kasturba Hospital, Wardha, for the year 2010-2011, alongwith Audited Accounts,
(ii) A copy of the Review (Hindi and English versions) by the Government of the working of the Mahatma Gandhi Institute of Medical Sciences and Kasturba Hospital, Wardha, for the year 2010-2011.

[Placed in Library, See No. L.T. 6092/15/11]

- (2) (i) A copy of the Annual Report (Hindi and English versions) of the National Board of Examinations, New Delhi, for the year 2010-2011, alongwith Audited Accounts.
(ii) A copy of the Review (Hindi and English versions) by the Government of the working of the National Board of Examinations, New Delhi, for the year 2010-2011.

[Placed in Library, See No. L.T. 6093/15/11]

- (3) A copy each of the following Notifications (Hindi and English versions) under Section 31 of the Jawaharlal Institute of Post Graduate Medical Education and Research, Puducherry Act, 2008:—

- (i) The Jawaharlal Institute of Post Graduate Medical Education and Research (Amendment) Regulations, 2010 published in Notification No. 296 in Gazette of India dated 6th November, 2010.

- (ii) The Jawaharlal Institute of Post Graduate Medical Education and Research (Amendment) Regulations, 2011 published in Notification No. F. No. JIP/DDA/2011 in Gazette of India dated 3rd March, 2011.

- (4) Two statements (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (3) above.

[Placed in Library, See No. L.T. 6094/15/11]

- (5) A copy of the Notification S.O. 493(E) (Hindi and English versions) published in Gazette of India dated the 8th March, 2011, notifying that the appointment to the post of Director, Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry shall be outside the purview of the prohibition referred to in clause (i) of the sub-section (2) of Section 7B of the Citizenship Act, 1955, issued under the said Act.

- (6) Statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (5) above.

[Placed in Library, See No. L.T. 6095/15/11]

THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI MALLIKARJUN KHARGE): I beg to lay on the Table:—

- (1) A copy of the Annual Report (Hindi and English versions) of the Employees' State Insurance

Corporation, New Delhi, for the year 2010-2011.

- (2) A copy of the Annual Accounts (Hindi and English versions) of the Employees' State Insurance Corporation, New Delhi, for the year 2010-2011, together with Audit Report thereon.

[Placed in Library, See No. L.T. 6096/15/11]

THE MINISTER OF STATE OF THE MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (PROF. K.V. THOMAS): I beg to lay on the Table:—

- (1) A copy of the Annual Report (Hindi and English versions) of the Central Warehousing Corporation, New Delhi, for the year 2010-2011, alongwith Audited Accounts.
- (2) A copy of the Review (Hindi and English versions) by the Government of the working of the Central Warehousing Corporation, New Delhi, for the year 2010-2011.

[Placed in Library, See No. L.T. 6097/15/11]

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI JYOTIRADITYA M. SCINDIA): I beg to lay on the Table:—

- (1) (i) A copy of the Annual Report (Hindi and English versions) of the Export Inspection Council of India and Export Inspection Agencies, New Delhi, for the year 2010-2011, alongwith Audited Accounts, (ii) A copy of the Review (Hindi and English versions) by the Government of the working of the Export Inspection Council of India and Export Inspection Agencies, New Delhi, for the year 2010-2011.

[Placed in Library, See No. L.T. 6098/15/11]

- (2) (i) A copy of the Annual Report (Hindi and English versions) of the National Productivity Council, New Delhi, for the year 2010-2011, alongwith Audited Accounts.

- (ii) Statement regarding Review (Hindi and English versions) by the Government of the working of the National Productivity Council, New Delhi, for the year 2010-2011.

[Placed in Library, See No. L.T. 6099/15/11]

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRIMATI D. PURANDESWARI): I beg to lay on the Table:—

- (1) A copy of the Annual Report (Hindi and English versions) of the Indira Gandhi National Tribal University, Amarkantak, for the year 2010-2011.
- (2) A copy of the Review (Hindi and English versions) by the Government of the working of the Indira Gandhi National Tribal University, Amarkantak, for the year 2010-2011.

[Placed in Library, See No. L.T. 6100/15/11]

THE MINISTER OF STATE IN THE MINISTRY OF URBAN DEVELOPMENT (PROF. SAUGATA ROY): I beg to lay on the Table:—

- (1) (i) A copy of the Annual Report (Hindi and English versions) of the National Institute of Urban Affairs, New Delhi, for the year 2010-2011, alongwith Audited Accounts.
- (ii) Statement regarding Review (Hindi and English versions) by the Government of the working of the National Institute of Urban Affairs, New Delhi, for the year 2010-2011.

[Placed in Library, See No. L.T. 6101/15/11]

- (2) A copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619 A of the Companies Act, 1956:—

- (a) (i) Review by the Government of the working of the Kolkata Metro Rail Corporation Limited, Kolkata, for the year 2010-2011.
- (ii) Annual Report of the Kolkata Metro

Rail Corporation Limited, Kolkata, for the year 2010-2011, alongwith Audited Accounts and comments of the Comptroller and Auditor General thereon.

[Placed in Library, See No. L.T. 6102/15/11]

- (b) (i) Review by the Government of the working of the Delhi Metro Rail Corporation Limited, New Delhi, for the year 2010-2011.
- (ii) Annual Report of the Delhi Metro Rail Corporation Limited, New Delhi, for the year 2010-2011, alongwith Audited Accounts and comments of the Comptroller and Auditor General thereon.

[Placed in Library, See No. L.T. 6103/15/11]

THE MINISTER OF STATE IN THE MINISTRY OF POWER (SHRI K.C. VENUGOPAL): I beg to lay on the Table:—

- (1) A copy of the Annual Report (Hindi and English versions) of the Central Power Research Institute, Bangalore, for the year 2010-2011, alongwith Audited Accounts.
- (2) A copy of the Review (Hindi and English versions) by the Government of the working of the Central Power Research Institute, Bangalore, for the year 2010-2011.

[Placed in Library, See No. L.T. 6104/15/11]

11.02 hrs.

MESSAGES FROM RAJYA SABHA

[English]

SECRETARY-GENERAL: Madam Speaker, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

- (i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on the 27th December, 2011 agreed without any amendment to the Export-Import Bank of India (Amendment) Bill, 2011 which was passed by the Lok Sabha at its sitting held on the 21st December, 2011."
- (ii) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on the 27th December, 2011 agreed without any amendment to the Factoring Regulation Bill, 2011 which was passed by the Lok Sabha at its sitting held on the 21st December, 2011."

11.02 ½ hrs.

COMMITTEE ON ESTIMATES

13th Report

[English]

SHRI FRANCISCO COSME SARDINHA (South Goa): I beg to present the Thirteenth Report (Hindi and English versions) of the Committee on Estimates on the subject 'Power Generation—Demand and Supply' pertaining to the Ministries of Power, Coal and New & Renewable Energy.

11.02 ¾ hrs.

PUBLIC ACCOUNTS COMMITTEE

47th to 51st Reports

[Translation]

DR. MURLI MANOHAR JOSHI (Varanasi): Madam Speaker, I beg to present the following Reports (Hindi and English versions) of the Public Accounts Committee (2011-12):—

- (1) 47th Report on 'Supply Chain Management of Rations in Indian Army' relating to the Ministry of Defence.
- (2) 48th Report on 'Canteen Stores Department' relating to the Ministry of Defence.
- (3) 49th Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Fourteenth Report (Fifteenth Lok Sabha) on 'Administration of Universal Service Obligation(USO) Fund' relating to the Ministry of Communications & Information Technology, (Department of Telecommunications).
- (4) 50th Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Sixteenth Report (Fifteenth Lok Sabha) on 'Disaster Management and Land Management in Indian Railways' relating to the Ministry of Railways.
- (5) 51st Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Nineteenth Report (Fifteenth Lok Sabha) on 'Freight and Wagon Management on Indian Railways' relating to the Ministry of Railways.

[English]

MADAM SPEAKER: We will take up Matters under Rule 377 after a little while because they are not yet ready.

11.03 hrs.

JUDICIAL STANDARDS AND
ACCOUNTABILITY BILL, 2010
AND

CONSTITUTION (ONE HUNDRED AND
FOURTEENTH AMENDMENT) BILL, 2010

(Amendment of articles 217 and 224)

[English]

MADAM SPEAKER: Now, we will take up Items 12 and 13 together, that is, Judicial Standards and Accountability Bill, 2010 and Constitution (One Hundred

and Fourteenth Amendment) Bill, 2010 which amends articles 217 and 224.

Now, the hon. Minister.

[Translation]

...(Interruptions)

MADAM SPEAKER: What are you doing? Put it down.

...(Interruptions)

MADAM SPEAKER: No, you can not contempts the Parliament at this time.

...(Interruptions)

[English]

MADAM SPEAKER: Please do not insult this Chamber.

...(Interruptions)

DR. N. SIVAPRASAD (Chittoor): I have given notice
...(Interruptions)

[Translation]

MADAM SPEAKER: Please, speak after putting it down.

...(Interruptions)

[English]

MADAM SPEAKER: Nothing will go on record.

...(Interruptions)*

THE MINISTER OF LAW AND JUSTICE AND
MINISTER OF MINORITY AFFAIRS (SHRI SALMAN
KHURSHEED): Madam, I beg to move:—

"That the Bill to lay down judicial standards and provide for accountability of judges, and establish credible and expedient mechanism for investigating into individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or of a High Court and to regulate the procedure for such

*Not recorded.

investigation; and for the presentation of an address by Parliament to the President in relation to proceeding for removal of a judge and for matters connected therewith or incidental thereto, be taken into consideration."

"That the Bill further to amend the Constitution of India, be taken into consideration."

Madam, the Judicial Standards and Accountability Bill, 2010 aims to achieve the objective which is very dear to the hearts of all Members on both sides of the floor for inquiring into complaints against judges of the High Court and the Supreme Court and recommending of appropriate action, enabling declaration of assets and liabilities of judges and laying down judicial standards to be followed by hon. judges. This Bill seeks to replace the Judges (Inquiry) Act, 1968. While it retains its basic features, there are several significant improvements which the hon. Members would appreciate. The Bill was introduced in Lok Sabha on the 1st December, 2010 and referred to the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and Report. The Parliamentary Standing Committee held wide ranging consultations ...*(Interruptions)*

MADAM SPEAKER: Please, let us have some order in the House.

SHRI SALMAN KHURSHEED: It held discussion with Government officials, legal experts, eminent persons and non-governmental organisations before finalizing its Report, containing several recommendations. These were presented to Parliament on 30/08/2011. The recommendations of the Parliamentary Standing Committee have been considered with due respect and many of them have been incorporated by way of amendments that we are to move is the House.

The basic features of the Bill, as the hon. Members will note, are for the setting up of high-powered body called the National Judicial Oversight Committee, which will be responsible for dealing with complaints relating to

misbehaviour or incapacity of judges and a complaints scrutiny panel that will be constituted both in the Supreme Court as well as in all the High Courts. The Oversight Committee will be empowered to constitute investigation committees, wherever, after processing complaints, it is felt that such a process is necessary. All scrutiny, inquiry and investigation shall be completed in a time-bound manner ...*(Interruptions)*

[Translation]

MADAM SPEAKER: Please, put it down.

[English]

You are insulting this House.

[Translation]

Please put it down completely.

[English]

You are not listening to me. You are insulting every Member here. This is not the street; this the House. Keep this below.

[Translation]

Please sit down, both of you.

Do not insult me House. Hon. Minister may please proceed.

...*(Interruptions)*

SHRI SALMAN KHURSHEED: The Bill also provides for universally accepted values of judicial life, norms, guidelines and conventions that should be practised by a judge, mandatory declaration of assets and liabilities by judges, their spouses and dependent children. Visible transparency is the need of the hour. This will enable for filing of complaints against corruption in higher judiciary. Declaration of assets, liabilities by judges and the dependent children will be posted on the website for

[Shri Salman Khursheed]

purposes of transparency and public scrutiny. Parliament's supremacy will remain and in the ultimate analysis the Parliament has to remove judges under the Constitution.

The enactment of this Bill will address the growing concern about the standards of probity in public life without exception. Since we hold our judges in the courts in very high esteem, it is necessary that independence of judiciary is strengthened and further empowered through transparency and accountability. The accountability intrinsically is linked with the independence of judiciary. I believe that the House will share the view that transparency and independence are intrinsically linked. It is, therefore, felt that the proposed Bill will strengthen the institution of the judiciary in India by making it accountable and will increase the confidence that the public has in the institution of judiciary.

In addition, the constitutional amendment purports to raise the retirement age of judges of the High Courts from 62 to 65. As the House knows, the judges of the Supreme Court retire at the age of 65 whereas High Court judges retire at the age of 62. We have had to suffer in an endemic delay in appointment of High Court judges. Quite often, this has been attributed both to the complexity of this collegium system as indeed the paucity of good quality material available at the stage of appointment of High Court judges, who are appointed normally at the age of 44, which is a prime time for the young lawyers to show potential to be good judges. There is a large number of vacancies still in the High Courts. Particularly in the High Court of my State, Uttar Pradesh, it has been felt that increasing the age from 62 to 65 will give us during the next three years the very, very critical period in which we hope to cut down through a mission mode, the delays and the pending cases and arrears that have been mounting over the years and to reduce it to a period of about three to five years from as long as fifteen years.

Now, this would be a two-pronged strategy. Even as we work in the mission mode to reduce delays and

pendency of cases, we will have the availability of qualified experienced judges, who at the age of 62 still have a lot of judicial fire power left in them and we hope that this would encourage good people to look at judiciary as a career because by the time they are actually offered appointments on the Bench, they begin to calculate the number of years they would remain on the Bench and what they would do after superannuation.

Therefore, we believe that this is consensually accepted as a very beneficial step that we can take towards strengthening judicial system in our country.

Madam, I may point out that judges of the higher courts in the rest of the world retire at a much later age. In fact, the Supreme Court Judges in the United States of America have a life-tenure. In the United Kingdom, now the senior judges of the Supreme Court retire at the age of 75. Therefore, given that we have a greater longevity now and better medical services available and better health in those echelons of society from which we get successful lawyers, we believe that increasing the age from 62 to 65 would be beneficial.

Madam, with your permission, I seek unanimous support of the House to these two very beneficial pieces of legislation and request the House to take them for consideration.

MADAM SPEAKER: Motions moved:

"That the Bill to lay down judicial standards and provide for accountability of judges, and, establish credible and expedient mechanism for investigating into individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or of a High Court and to regulate the procedure for such investigation; and for the presentation of an address by Parliament to the President in relation to proceeding for removal of a judge and for matters connected therewith or incidental thereto, be taken into consideration."

"That the Bill further to amend the Constitution of India, be taken into consideration."

SHRI D.B. CHANDRE GOWDA (Bangalore North):

Madam, I am grateful to the House and especially to the Law Minister for having tabled this Bill- * for debate in this House. I think, it is the first of its kind in the history of democratic India that a legislation of the order of this type to bring within the purview of the legal ambit the judicial system and also the Judiciary, has been brought. Basically, this Bill, which is introduced today, is the Judicial Standards and Accountability Bill, 2010. Contrary to our expectation, the connected constitution amendments were not proposed.

There are umpteen number of questions to be addressed by the Members in both the Houses. The basic question is that the Constitution makes three wings as the pillars of democracy - the Executive, the Judiciary and, of course, the Legislature. All of them are governed by one law or the other to keep up the standards, to maintain them and also to ensure the internal sanctities in three different organs. The question came as to why this Bill has been brought. What is the responsibility of this Parliament? Was Judicial Inquiry Act, 1968 not sufficient? Was the Full Bench decision of 1997 to have an in-house arrangement to look into the conduct of the judges not enough? They were, but the only point for consideration was that they lacked the backing of the Legislature. Today, we are attempting to backup the opinion of the Supreme Court as well as the different High Courts in India.

My first point is this. This Bill, before presenting it to the House, was sent to the Committee for scrutiny. The recommendations are before us. The important committee, which this Bill refers to, is the National Judicial Oversight Committee. The National Judicial Oversight Committee has to find out as to how the judge behaves or how the independence of the judiciary or the independence of the House is kept up. Therefore, an independent statutory body called the National Judicial Oversight Committee is constituted.

There are three more Committees before a matter goes to the National Judicial Oversight Committee. One is basically the Inquiry Committee, which consists of only judges; the second committee is constituted to look into the details" of the complaints, namely, the Scrutiny Committee; and of course, the Investigation Committee. There are different parameters set for constituting these three Committees.

The National Judicial Oversight Committee must be given wider Constitutional powers including that of taking help from outside for the purpose of getting more information, and the idea of providing for judicial standards irrespective of their content is also to be kept in view. Of late, judges are called on or questioned by the general public, the Bar as well as the Bench, and their behaviour in the court is also attracting attention of the people and the litigants at large. The Bill should not act as a deterrent to these expressions or feelings. On the contrary, it would help them to come out with more facts and more details in performance of a single or Bench judge.

The composition of the Committee should be kept in view while providing a National Judicial Oversight Committee. It should not be a judicial body wherein no Legislature is included; no Bar is included; or unfortunately, even the greater jurists are taken into confidence before constituting this Committee. Therefore, I would urge upon the hon. Minister, through you, Madam, that these things should be kept in view.

We have so many Commissions like the Human Rights Commission and other Commissions too. Why do you not think of having Judicial Commission to pursue the complaints by persons? The complaints by institutions are different from that of complaints by persons. When we had enacted the Lokayukta legislation in the State Assembly, at that time I had the distinction of presiding over the Session as the Speaker of the Assembly. We knew that there were some constitutional hurdles. However, after reference to the Lokayukta, the truth came out. We spoke of total confidentiality in the Bill. On the contrary, the entire report of the Lokayukta came out before it was placed

[Shri D.B. Chandre Gowda]

before the authorities concerned. This raised the eyebrows of each and everyone. Secondly, the mandatory provision provided for looking into the aspect of natural justice, but it had been ignored. Such things should be the guide, friend and philosopher for the current Bill. I hope the hon. Minister with so much of experience in public life, besides being a Senior Counsel himself, would look into it.

Certain comments were made yesterday by the senior-most Supreme Court Counsel saying that the appointing authority in case of the Karnataka Lokayukta was the Chief Minister. He asserted that, and I was surprised to see a lawyer becoming a politician on the floor of this House. In spite of our repeated requests and any number of attempts made by us, we could not go on record because we could not draw your attention, Madam. What he said was not correct. The correct position is that there is a Collegium which comprised the Speaker, the Chairman, the Leaders of the Opposition, and, of course, the Chief Minister. Finally, after consultations among all of them, it goes to the Chief Justice of the High Court of the State. After taking his opinion, the Lokayukta is appointed.

What is happening in Karnataka today? I would like to bring to your kind notice that the recommendations are ignored by the constitutional authority by giving flimsy reasons. The constitutional authority being the Governor of the State, who is to work on the aid and advice of the Cabinet, refuses to accept them without giving proper reasons. Such things are in our experience in Karnataka. We had such things happening for quite a long time. Despite representations, the Government of India did not take notice of it at all.

Coming back to the composition of the Scrutiny Panel, the Oversight Committee, and the Investigation Committee, ultimately, these Committees particularly the Investigation Committee should keep in mind the judicial territory and judicial hierarchy. They cannot act according to their fancies. It should keep the dignity of both the judiciary and the judge in view.

A provision has been made enabling a private person to make a complaint. The Parliament, through the Speaker, can make a complaint, or a person can make a complaint. The difference between these two has to be carefully examined. If I have understood the Bill properly, I would request the hon. Minister to look into certain aspects, especially the Committees, as I said earlier.

The Committees work in tandem and the Committees consist of purely Judges but I am surprised to see that they do not involve eminent jurists. Every Member of Parliament or the Legislature before he contests the election has to declare his properties, his assets and liabilities before the concerned authorities. This was brought to the notice of the High Court and the Supreme Court. They took note of it and made a law, or I would say, the Judicial Inquiries Act. It was further reviewed, restated by the Full Bench Committee in 1997. This Committee adopted this aspect well within its purview. But there was no legal backing about it whether one gives the details about his family which includes further explanation about friends and relatives. The restrictions laid in this regard should be kept in view - one is prohibitory and the other is about certain activities of the Judge. The prohibition would require certain standards of conduct to be followed. Complaints against the Judges can be made on the grounds of non-compliance of these standards.

The other problems relate to certain activities such as corruption, wilful use of power or persistent failure to perform duties. The activities prohibited under the Bill are -- close association of an individual member of the Bar who is in the same Court; close association of a member of the Bar who practised in the same Court; allowing individual members of the Bar to come to the Judges' residence or professional work in the office; hearing and deciding the matter in which the members of the Judges' family or relatives or friends are involved; entering into the public debate - it is a very important matter - on political matters which the Judge is likely to decide; and engage in the trade, business or speculation.

Of late, every argument, every complaint, almost every observation of the Court is being noticed through media. The media is so active that every bit of details is furnished for the public service. Thanks to them but they should know that while bringing these matters, recently certain things happened in the High Court of Karnataka. I do not want to bring it to the notice of the hon. House but I can speak to the hon. Minister and convince him as to what is going on.

As I said earlier, the National Judicial Commission in 2006 has examined" the matter and recommended certain amendments. It sought to establish a National Judicial Council. However, the Bill has lapsed. Therefore, the urgency as of today is, we have certain key issues and analyses to be made. The key issue is whether the balance between the independence and accountability is maintained by the mechanism proposed in the Bill. The Oversight Committee has non-judicial members which might impinge on the independence of the Judiciary.

I would like to draw your attention to the fact that the Judiciary should not feel that their rights have been encroached upon by these Committees. The Bill penalises everyone who breaches the confidentiality of the complaint. What about the complaint against the institution itself? That has to be examined. The Scrutiny Panel has judges from the High Court. This is different from the house procedure of the Supreme Court. House procedure of the Supreme Court lays down other principles, and the Oversight Committee I feel should have non-judicial members also who are either retired judges of the Supreme Court or concurrently the retired judges or the Chief Justices.

The Bill does not mention whether after all these scrutinies if the matter is sent before the President after a resolution, it would be further examined by the Supreme Court by way of an appeal or a writ petition. This has to be made clear. President's order should not be questioned in the normal course in the court of law. But here, that bar has not been maintained. The Judges Act, 1968 currently has two cases before it. I think one is Soumitra Sen's

which has been disposed of by his own making. And the only matter pending before us is Justice Dinakaran's case who was the then judge of a High Court. The matter is still pending. Only one motion was moved to remove a judge, Justice Ramaswamy's famous case, which the Government failed to move and he came out clean.

A number of allegations of corruption against the members of the Judiciary have been made. The Supreme Court, therefore, adopted these procedures to be followed. Judges now have to be required to declare their assets and liabilities and also those of their spouses and children. That is very important and I certainly take note of it. The Bill is establishing the Judicial Oversight Committee, Complaints Panel, and Investigation Committee. Any investigation, any complaint against anybody for that matter, has to be done very carefully keeping the confidentiality in view, keeping the reputation of the person involved in view, keeping the dignity of the office he holds in view.

This Bill replaces of course the Judges Inquiry Act. Further it has to be strengthened by looking into article 124 as to how it applies. If that constitutionality has to be examined by the Minister, I would appeal to him to at least provide constitutional status to this so-called high-powered Committee because no appeal is provided and should not be provided. The allegations of corruption against the members of judiciary have been examined in detail in 1997.

About complaints of reference procedure, it says, "Members of Parliament, motion presented in either House or Judicial Standards and Accountability Bill, Members of Parliament or any other person." This is being replaced - 'Members of Parliament or any other person' in Judicial Standards and Accountability Bill. The Speaker of the Lok Sabha or the Chairman of the Rajya Sabha is in the Judges Inquiry Act, 1968, but here, it says, 'by Members of Parliament'.

On National Judicial Oversight Committee, it says, 'by person other than the Members of Parliament.' It says that the Committee will consist of one Judge from the

[Shri D.B. Chandre Gowda]

Supreme Court, one from among the Chief Justices of High Courts, and a distinguished jurist. Now, for the Oversight Committee, the complaint is made by the Parliament - the Speaker or the Chairman will refer the matter to the Oversight Committee. Who will constitute it? It is an Investigation Committee. It is further complicated. Who will do the oversight? The Oversight Committee refers the matters to the Scrutiny Panel within three months. You have another three months of extension. The Scrutiny Panel shall report to the Oversight Committee on whether sufficient grounds are there for proceeding against a Judge. The report would be submitted within three months; and if necessary, it can be extended by another three months - totally it is six months. So, if the Scrutiny Panel reports that there are sufficient grounds for proceeding against the Judge, the Oversight Committee shall set up an investigation. They are involved in the matter and referred by the Parliament. Then, inquiry has to be conducted in principle.

About the composition of the Committee, especially the Judicial Oversight bodies, I would appeal to the hon. Minister, through you, Madam, to have a re-look. It is because under the Judges Inquiry Act of 1968, there will be the Chief Justice of India, two senior-most Judges of the Supreme Court, two Chief Justices of the High Court. It is a Commission. The Standing Committee recommended a broad based Committee, with Members from the Executive and the Legislature, and also from the Bar who are to be included. Here was a Bill in 1968 - Inquiries Bill - which had only Judicial Committee; but now we have proposed in these recommendations, to establish a broad based Committee, consisting of legislature and the Bar.

The National Oversight Committee has members from the Judiciary and the Executive, with the Scrutiny Panel doing initial screening, which also is composed entirely of the Judges. The Composition of the Investigation Committee is completely not known. So, the basic features of some Judicial Oversight bodies are to be looked into and the Government should have a re-look into it.

With regard to the investigating body, I would like to say that investigation should come under a separate chapter. The complainant, the person who inquires into the complaint and the judiciary cannot work well under one roof. Coming to Karnataka again, I would like to draw your attention to the fact that the Lokayukta makes a complaint, inquires into the complaint and also gives the judgement. How could it happen? But it did happen. So many cases are pending before it. Many people have questioned its authority but they are yet to get relief.

The only way for Parliament to remove judges is through an Impeachment Motion. Except Justice Ramaswami's case, no other case has been discussed or debated in the Lok Sabha. In Rajya Sabha, Justice Soumitra Sen's case was discussed in detail but before it could reach Lok Sabha, realising his responsibility, he had submitted his resignation.

I would, therefore, appeal to the hon. Minister, through you, Madam that the judge, the prosecutor and the complainant should not be under one institution. The Oversight Committee now has to look into these complaints. So, I would say that the Bill which has been moved is inadequate and requires a re-look. The Minister should come up with a clean, strong and vibrant Bill. If these things are taken note of, I do not think we require any other measure.

Before I conclude, I would like to say that the Bill is not clean and is not acceptable to the House. The Judicial Commission is the utmost necessity of the day. The present Bill is highly ineffective and an opaque one. I have no other words to say. I would appeal to the Minister to re-draft it after taking a holistic view of the policy parameters and other requirements.

The most important thing is to consider an amendment to the Constitution of India so as to fit it into its framework. It should duly respect the basic structure of the Constitution of India. As was decided in Kesvananda Bharati's case, federal structure is the basic feature of the Constitution and that should be kept in view before the Bill is voted here. The common man demands that judges

should be accountable and his demand should be addressed by this august House. At the same time, privacy of judges also should be well respected.

With these words, Madam, through you, I would once again appeal to the Law Minister, who has mooted this Bill, to reconsider it. He should first formulate a Judicial Commission and then think about inserting amendments to the concerned Sections. Without giving it proper teeth let us not make a mockery of this law. I hope that the hon. Minister would consider certain points which I have raised and the delicacies which I have brought to his notice. I thank you Madam for giving me an opportunity to express my views on this Bill.

[Translation]

SHRI MANISH TEWARI (Ludhiana): Madam Speaker, thank you for giving me an opportunity to speak in this important topic.

Today, the attention of the Judiciary is focused on this house. Since hearing in the constitutional courts takes place in English and verdicts are also written in English. So, with your permission, I would also like to put my thought in English.

I was hearing the hon. Member from the Bharatiya Janata Party, who was speaking before me, with rapt attention. There is I think rare unanimity in this House about the need to have certain judicial standards and an architecture of accountability. It is not very often, Madam Speaker that we have a discussion on the functioning of the judiciary in this House. So, with your permission, I would like to widen the ambit of the discussion and take off from where my learned friend left off with regard to the independence of the judiciary being a basic feature of the Constitution.

He is absolutely correct that Kesavnanda Bharati's judgement interpreted and upheld that an independent judiciary is not only a part of the basic structure but it is imperative for a healthy democracy. But the question arises as to how independent that judiciary should be. Should that judiciary self-regulate itself? Should it be free from all constitutional checks and balances? And, those are the

important questions that we seek to address today. Before I go into these questions in detail, allow me to take a brief overview of the history of our constitutional courts.

They can broadly be divided into three categories. From 1952 till 1975, the constitutional courts in this country were broadly conservative. In fact, some of the senior Members in this House would recall that most of the constitutional amendments which were brought in the initial years of Independence were essentially aimed at overturning some of the judgements which have been passed by the Supreme Court of India. From 1975 till 1990 the Constitutional courts could broadly be classified as being progressive.

From 1990 till today they are known, what is colloquially called, as being judicially active. The question arises, is judicial activism good for the nation? The answer to that is yes because an active judiciary does keep a very recalcitrant Executive in check. But when activism transforms itself into judicial over-reach, it becomes a worrying phenomenon. It brings to mind a very old saying that power corrupts and absolute power corrupts absolutely. Does that mean Judiciary in this country is corrupt? Does it mean that in the judicially activist phase corruption in the Judiciary has increased? The answer to that again would be no because all said and done very fine men and women have manned our judicial institutions. Leaving aside an aberration or two, they have upheld the rule of law and the people in this country.

[Translation]

The faith of the citizens of this country is invested in the Judiciary but the question arises as to why the Government has brought this Bill?

[English]

Why did they bring the Judicial Standards and Accountability Bill? The answer to that is simple and straight. It is to restore the constitutional equilibrium.

[Translation]

To restore the balance of the Constitution, it was necessary to bring this Bill.

[Shri D.B. Chandre Gowda]

[English]

The Constitution of India rests on a fundamental doctrine and that doctrine is separation of powers - separation of powers between the Legislature, between the Executive and the Judiciary. But intrinsic to that entire constitutional doctrine is the entire philosophy of checks and balances.

[Translation]

One Constitutional body monitors the other Constitutional body and the system of checks and balances remained intact from 1941 or 1952 to 1993 but in the year 1993

[English]

the Supreme Court of India while deciding, what is popularly called, the Second Judges Case decided that the Judiciary will take for itself the power to appoint judges. They interpreted consultations to mean concurrence with the Chief Justice of India and a collegial system was evolved and the power to appoint judges went from the Executive into the hands of the Judiciary.

[Translation]

At that time also, serious concerns were expressed on this issue and in the year 1998, the hon. President of India Shri R.K. Narayan had made a special reference to the hon. Supreme Court and said that there were some lacunae in the verdict given by the hon. Supreme Court. Many questions arise from this judgement and there is a need for the Judiciary to discuss those questions again.

I am reiterating the history because it becomes necessary to do so in the backdrop of the Bill. [English] The Supreme Court of India, speaking through its then Chief Justice reiterated. ...*(Interruptions)*

[Translation]

SHRI HUKMADEO NARAYAN YADAV (Madhubani): You were speaking fluent Hindi a while ago ...*(Interruptions)*

SHRI MANISH TEWARI: The judiciary understands English and it is watching this House. Therefore, I am

speaking in English with the permission of the honourable Madam Speaker. I can also speak in Hindi although my mother tongue is Punjabi, but it is better to not get into the linguistics. ...*(Interruptions)* It is better to not get bogged down into the linguistics.

MADAM SPEAKER: OK. Please speak.

[English]

SHRI MANISH TEWARI: Madam Speaker, in 1998 the Supreme Court of India speaking through its then chief Justice reiterated the decision in the Advocates on Record case.

[Translation]

They said that they have reached a decision that whatever the Chief Justice advises, the Government is bound to follow it. At that time the legal fraternity welcomed it as there was a notion that at the time of the S.P. Gupta case in 1981, the appointments made in the courts during 1981 to 1993 were not totally transparent.

[English]

As time went by, a question started arising and one of the principal questions was that who will judge the judges.

[Translation]

Who will keep an eye on the judges, the torchbearers of the judiciary.

[English]

I would like to digress a little out here. This happened at a point in time when in Indian polity, there was a great power shift which was taking place.

[Translation]

A big power shift took place in the decade of 1990. Coalition governments came to the fore and the Union Government became less powerful. Alongwith that the role of the legislature i.e. the Parliament and the Legislative Assemblies was curtailed and the monopoly of Government over the economic policies loosened and the private players became significant in this regard. There are many

wise people in the judiciary. They identified this shift. First and foremost, they took the task of appointing the Judges in their hands. Now the things reached to such an extent that some NGOs started demand for formulation of laws on roads instead of in the Parliament. Therefore, the question that arises is that the Constitutional balance,

[English]

How can this Constitutional balance be restored?

[Translation]

There are two ways to do so. First of all, there should be some debate with regard to the power to appoint and transfer. Secondly, some sort of draft should be prepared to make the Judges and the Judiciary accountable. The Bill brought in the House by the hon. Minister of Law tries to address the second challenge. What are the contents of this Bill?

[English]

What does this Bill say? I do not want to reiterate that the Minister of Law has said but this Bill essentially does five things. It restates the values of judicial life.

[Translation]

How should a person who becomes a Judge lead his life? This was a big issue and subject for debate in this country, especially among the Judges. When the issue of disclosure of assets and liabilities and submission of details of the income by the judges was raised, it came to light that there is no legal framework to address this issue. This Bill provides a legal framework under which the judges of High Court and the Supreme Court can disclose the details of their assets. Madam Speaker, in addition to this, an extremely revolutionary steps has been taken in this Bill. Earlier the power of appointment lay with the Government and the power of impeachment was rested in the Parliament! In case of a complaint against any judge, around 100 Members of Parliament and as far as I know 50 Members of Rajya Sabha had to submit a written petition for taking action against the judge.

12.00 hrs.

This effectively meant that if 120 crore citizen of this

country had any complaint against the judiciary, they had no option to raise their concerns. This is for the first time that this Bill paves the way for any ordinary citizen of the country, from any part, be it Meghalaya, Kanyakumari or Ladakh to register his complaint against a judge. After that, there is a framework for disposing off such complaints in this Bill. Besides this, the Bill

[English]

It repeals the Judges Inquiry Act, 1968 but retains certain basic features of it especially those which pertain to impeachment by Members of Parliament.

[Translation]

What kind of framework does this Bill offer? If any citizen has any complaint, he can approach the National Judicial and Oversight Committee and register his complaint. This National Judicial Oversight Committee would comprise of the Chairman i.e. a former Chief Justice of India and four members. The complaint will be forwarded to a scrutiny committee. The issue of Scrutiny Committee was raised here. I would like to speak briefly in this regard.

[English]

Why is scrutiny important On a given day, a judge in the High Court or a Supreme Court decides about 60 matters which are there on his roster. Every day, before any judge, there are 60 people who are elated and 60 people who are aggrieved. Therefore, if everybody who has a grievance decides to complain against a judge on frivolous or extraneous reasons, then that judge needs to be given protection. There has to be a certain amount of comfort which has to be given to the judiciary so that it can function independently. If a frivolous complaint is made against them, if a complaint is made against them because he has not decided in a particular manner, then, there would be an in-house panel which would scrutinise that complaint.

[Translation]

Therefore, it has been said that the proceedings of the Scrutiny Committee would be recorded in camera. But there is a big question to be dealt with i.e. in view of the activist media today is it possible to keep these recordings

[Shri Manish Tewari]

away from the public domain? Still, those who drafted this Bill have tried to somehow safeguard and maintain the judicial independence and judicial comfort.

[English]

If the Scrutiny Committee finds that yes, *prima facie*, there is substance in the complaint against the judge, then it would refer it to the Investigation Committee.

[Translation]

Then it would be forwarded to an Inquiry Committee. That Inquiry Committee will carry out an investigation in this regard and give its recommendations to the National Judicial and Oversight Committee. Once the National Judicial and Oversight Committee receives the recommendations, it has four-five options to choose from.

Madam Speaker, any crime is a crime but every crime is not a grave crime. Same punishment cannot be given for every crime. Today, there is only one punishment for the judges found guilty in the judiciary and that is impeachment. As one of the Hon. Members said that only half impeachment has been done in the last 64 years and it was Justice Saumitra Sen against whom it was done recently in Rajya Sabha and before it could be discussed in Lok Sabha, he resigned.

[English]

So, in the last 64 years, there has only been half an impeachment in this country. Therefore, this Bill provides that between appointment and impeachment.

[Translation]

If any judge has committed any such deed against which it is necessary to take punitive action then the National Judicial Oversight Committee can recommend penalty against him. It can direct that the legal work of the court be withdrawn. It can advise the judge to not do it again as the step taken by him was not right and was not in keeping with to the guidelines laid down in the law, for a judge, with regard to leading his life. Please rectify the mistakes and become a better person. In case the crime is grave or serious, a civil suit can also be filed. If the

National Judicial and Oversight Committee finds removing the judge as the only appropriate action then it could recommend impeachment.

[English]

Then it is left to the wisdom of this House and the other House. If this House, the other House, and the Parliament collectively in their wisdom decide that the Judge needs to be impeached and removed, the judge can be impeached and an address is presented to the Parliament.

[Translation]

All these clauses in the Bill ensure that the Members of the Parliament continue to have the right to initiate impeachment proceedings against any judge.

MADM SPEAKER: Please do not talk amongst yourselves.

SHRI MANISH TEWARI: Madam Speaker, in the end, I would like to say only this that it is absolutely right that.

[English]

This Bill may not be a complete solution because a complete solution will only come when we are able to work out a *modus vivandi* on judicial appointments and transfers also. But this Bill provides a very important halfway house. The hallway house between appointment and impeachment.

[Translation]

This Bill has been able to work out a *modus vivandi* between appointment and impeachment where some sort of action can be taken against the judges and they can be held accountable. As I said earlier, history is witness that the whole House and the country has been able to carry out half impeachment in the last 64 years. Therefore, I urge the House to consider this revolutionary step taken by the Government. It has tried to make such a framework where the judiciary can be held accountable. So, rising above the party politics.

[English]

Rising above the partisan politics, I would like to

appeal to the entire House to support this revolutionary effort.

[Translation]

SHRI SHAILENDRA KUMAR (Kaushambi): Madam Speaker, I am grateful to you for allowing me to speak on 'The Judicial Standards and Account ability Bill, 2010' and on Constitution (114th Amendment) Bill, 2010. I listened to the senior Member hon. Gauda Ji patiently. He is a very learned person. He has been the Ex-Speaker in Karnataka. I listened to the speech of Shri Manish Tewari as well. This bill is concerned with the setting up of a reliable and expedient mechanism to inquire into the individual complaint against the malpractices or inefficiency of the higher judiciary or Chief Justices. This bill is regarding regulation of the process of investigation. I was listening to every Member speech patiently. Hon. Minister, Sir, it was laid down in the constitution at the time it was written, when laws were formulated, Sections of IPC were formulated that be it an influential person, a person from middle class, lower class or a poor person, timely and affordable justice should be accessible to all. But it is not so today. It has been seen that it is very difficult to get timely and affordable Justice. I think at present there are around 4-5 crore cases pending in the lower and higher courts ...*(Interruptions)*

SHRI ARJUN RAM MEGHWAL (Bikaner): 3 crore 27 lakh cases are pending ...*(Interruptions)*

SHRI SHAILENDRA KUMAR: Yes, there are around 3 crore 27 lakh cases pending. I talked about Naib Tehsildar and SDM upto Supreme Court. ...*(Interruptions)* This is the reason why the poor people are unable to get justice.

I would like to share an incident I am reminded of. My father was M.A, L.L.B. and practiced at Allahabad High Court. Salman Ji you might be knowing late Dharamveer Ji. He started practicing law by working as a junior to Shri Asgar Ahmad Naquvi for a few days. I think he practiced law for around ½ to 2 years. One day he called upon his whole family and said, 'I take an oath today to never practice law again'. He began to tell an anecdote about a poor Scheduled Caste person. He was asked three time to pay the fees. When he was unable to pay the fees, his date was advanced. Lawyers work for money. When my

father was returning, that person pleaded to my father and touched his feet while crying and said, Sir, I have sold my jewellery and land but am still unable to pay the required fees. This is the situation. My father said that tears welled in his eyes and he decided on that day that he will not practice law. The situation is still the same. Poor people do not get justice.

(DR. M THAMBIDURAI *in the Chair*)

Poor people are not able to knock at the door of Gram Sabha, Nyay Panchayats, High Court or Supreme Court. If they are not able to get justice from SDM, Quanango, Naib Tehsildar, Tehsildar, how can they have access to High Court and the Supreme Court. Just look at the state of affairs in the Hon. Supreme Court. An advocate in Supreme Court takes 5 lakh rupees for only taking up a case. Is it possible for a poor person to seek justice anywhere? ...*(Interruptions)* I have just mentioned the minimum fee of 5 lakh rupees, advocates charge higher fees too ...*(Interruptions)*

Mr. Chairman, Sir, this is the reason why I would like to congratulate the SC, ST, MPs forums through this Bill as Lokpal Bill has been passed yesterday. The Government had not included SC, ST, OBC and minorities in the Lokpal Committee. When the members of SC, ST forum staged a protest in front of the Bhimrao Ambedkar statue at gate no. 1, the Government wake up and promised to implement the people belonging to Schedule Tribes, Scheduled Castes, other backward classes and minorities would not have got due justice. They always remain neglected. This is the reason why the issue of reservation in the judiciary has always been raised. Till the time there is no reservation in the judiciary the people from weaker sections of society such as dalits, OBCs, poor people, minorities and exploited groups are not going to get justice. Therefore, today, I urge upon the Hon. Minster and the Government, through you, to give reservation in the judiciary as well. This is very important ...*(Interruptions)*

Just look at the status of vacant posts of Judges. From lower courts to the Supreme Court, the posts of judges are lying vacant. Nine to ten posts of judges are vacant in the Hon. Supreme Court. If I talk about the state of affairs in the High Court of only one state i.e. Allahabad High Court, sixty posts of judges are vacant there at present.

[Shri Shailendra Kumar]

Likewise, as per my estimates, the number of judges to be appointed in the lower courts across the country is in thousands and lakhs. This is the reason why cases are lying pending. The Government set up fast track courts. The Government set up all kinds of courts to expedite the process and dispose off cases but cases are still pending. Be it the Kasab case, Afzal Guru case, all such cases are pending for long time. They take advantage of such delays and there have been pleas from time to time to punish such people. There should be affordable and timely justice in the judiciary. I urge upon you to put in place such a system. As far as the second bill is concerned. I would like to speak on that later the Government has introduced a provision in this bill under which judges will be accountable and the common man would be able to file complaints. The Government has explained in detail about the place and manner as well as the system implemented for the poor people of file complaints but there is a need to create awareness in this regard. The Government will have to spread awareness about this provision in this Bill regarding the process of filing complaints by the common man, dispensing justice on village, block and Panchayat levels. It is only then that the objective of this Bill can be fulfilled.

Mr. Chairman, Sir, the issue of National Judicial Commission was raised just now. It was also said that judiciary should be brought under the purview of the Lokpal. But I welcome the members of Law and Justice Committee, which comprised of people from various parties. All of them were against the inclusion of judiciary in the Lokpal. They demanded for setting up of a separate National Judicial Commission of India for dealing with judiciary. All the Honourable Members in the House vociferously supported this view. I demand immediate setting up of the National Judicial Commission for quick disposal of all the cases. Please make an announcement in this regard.

Mr. Chairman, Sir, I have observed that there are a large number of cases of corruption in the judiciary. Salman Sir, I would like to tell you something about the High Court in my state. There was a time when the judge in the court was a resident of the same district. Everything was managed with the help of his brothers, nephews and

relatives practicing law in the court. When objections were raised in this regard and protests were staged, the judges were transferred to other states and provinces. The Government will have to make such arrangements that judges of one state are posted in other states. It is only then that imparting dispensing of justice can be ensured. Otherwise, it is not possible to curb corruption.

The second issue is that there are often irregularities in the selection process of the judges. The person who is able to, in Laluji's language do excessive buttering and setting becomes the judge. But there are many such lawyers who spend their entire life working honestly and still do not become judges. The Government needs to ensure that there should be transparency and honesty in the appointment of judges without any irregularities anywhere. The Government will have to make appropriate arrangements for the same.

The Government must consider the seniority of the candidates. Even today, there are a number of judges in the High Court who are disgruntled due to injustice meted out to them. They were not made Chief Justices. They were overlooked and someone else was appointed as the Chief Justice. A lot of such disgruntled judges are unable to work efficiently. The Government needs to give priority to the deserving judges who have delivered decisions in public interest and have a good track record in order to ensure that the objective of this Bill is achieved.

As far as the second bill is concerned, 'The Constitution (114th Amendment) Bill, 2010' has been taken up along with it. The Government has made a provision of extending the age of the judges from 62 to 65 years. It is true that there is discontentment among the junior advocates at present. They say that how will they get chance for elevation unless the existing judges retire. The Government has made such provision to benefit from the calibre and experience of a handful of judges. It is true that the Government would need to pay attention to both sides of the coin. Priority must be given to accommodate the junior advocates and their elevation. The junior advocates say that if the senior advocates are promoted then their seniority would be affected by two years. The Government needs to take a balanced approach.

Mr. Chairman, Sir, I do not oppose this Bill, but, I would like to conclude my speech while advocating for both the issues raised by me.

SHRI VIJAY BAHADUR SINGH (Hamirpur, U.P.): Mr. Chairman, Sir, I am grateful to you for allowing me to speak, first of all, I would like to speak on the Judicial Standard and Accountability Bill, 2010. After that, I would like to take up increase in the retirement age of the judges. At the outset, I would like to say that there is no doubt that judiciary should be independent but this independence should be kept in check. If its independence is not kept in check, it would disturb the balance and it is eventually misused. This is the law.

[English]

In 1890, it was written in the Halsbury's Laws of England that once the power is absolute, the corruption is absolute because there are no checks and balances.

[Translation]

Lord Denning has quoted it in his book. Whenever there is discussion on the autonomy of the judges, it is tried to be suppressed in the name of independence and primarily two groups take part in this. One group which comprise of firstly, professional advocates, such as my younger colleague Shri Manish Tewari and myself and secondly, those who are not advocates but have the relevant experience of the workings of judiciary. I have no qualms in saying that when the advocate expresses his views in the judiciary, he also keeps his career in mind. Therefore, he uses diplomatic language, no solution can be found by the Judicial Standard and Accountability Bill. This Bill cannot solve anything because there is nothing mentioned about the entry of Judges in the Bill. It is totally silent with regard to the selection process of judges and scrutiny to be done before the selection of judges, therefore, I would like to tell you a bit about the history. The Executive had the main role to play in the selection of the judges. At the time when the executive had the main role to play in the selection of the judges one of my long time friends, S. P. Gupta, a senior advocate from Allahabad filed a case here and a verdict was passed on 31 December 1981 in which the role of the executive in the selection process was watered down and it is since then that there has been

a fall in the quality of judges being appointed. After that another case was filed in the year 1994,

[English]

Supreme Court on Records Association Case,

[Translation]

Hon. Minister of Law is very well aware of this case as he is also an advocate. The role of the executive has been totally muted in the process.

[English]

Judges are appointing themselves as Judges.

[Translation]

If this is not enough to understand the gravity of the situation then one more example can be presented namely, a suo motu reference by the Hon. Supreme Court in the year 1998 and it is then that for the first time collegium system of selection was introduced. The provision, as per that system, was that, if the senior judges of three high courts recommend the name of advocates, then only the advocate against whose name the Chief Justice puts a tick mark will be appointed. From 1981 to 1998 the executive and legislature had absolutely no role to play in this selection. Civil Society is already excluded and today only

[English]

judges are appointing themselves as judges.

[Translation]

Today 70 per cent judges in the High Courts are either the favourite people of the Judges, their sons, relatives or from their chambers. Earlier when we started practicing law, there was hard work and case law in legal practice but judges these days say that

[English]

it is not the case law, it is the face law

[Translation]

I will not go very far, the sitting judge of the hon. Supreme Court has commented on the Allahabad High Court saying,

[Shri Vijay Bahadur Singh]

[English]

what is wrong in Allahabad High Court?

[Translation]

Now, why should I take any names, I am also a little disconcerted. Therefore, what is this Judicial Standard and Accountability Bill without the without the restriction on entry of judges, therefore

[English]

with all respect and command to the Chair

[Translation]

I would like to say that the name of Somitra Sen would not have been recommended in the first place. He had misappropriated an amount of rupees 30 lakhs at the time when he was an advocate, even before he was a judge. So, where was that accountability? Who were the judges and the collegium which recommended such a person? There are many such examples, as the hon. Minister, Shri Manish Tewari just said half impeachment. If I turn the pages of history, the Allahabad High Court is second to none in this regard. The first full impeachment was that of Mr. C. V. Sinha. He was removed through impeachment.

Therefore, I would like to ask, where is the accountability? The whole selection process is flawed. I would like to give a simple example. If you want to invite any person to dinner, for instance, inviting hon. Minister of Law to dinner and give a rotten potato to a good cook, it will still spoil the dish. Then, where is the accountability when all such things are happening at entry level.

My first point is this, that it is just a pretense as my colleague, Hon. Member of the Congress party just mentioned that this is a halfway attempt. I would like to question the rationale behind this halfway attempt. If attempt has to be made it should be a 100 per cent attempt or no attempt at all. I would like to cite my example. After practicing law for 40 years, I opted for politics in the evening of my career. I was an advocate for over half a dozen Allahabad Universities and Half a dozen big

government organisations. If I had become the judge in Allahabad High Court and registrars of those institutions had paid me lakhs of rupees, what would have I done in dealing with their case? Therefore, this human behaviour is not a weighing machine. There is reaction and inter reaction involved in human exchanges. If you travel three times in a train and the same TTI is there in the train you become acquainted and a bond is formed. There is a minimum requirement of practicing law for 15 years to become a judge. If he practices in the Allahabad High Court for 25 years then becomes a judge there. All of his career path is well planned and adjusted. If we are harsh to them it will amount to injustice. If we become acquainted, it leads to injustice. Therefore, what kind of accountability is this? This is not a mechanical behaviour within human interactions. Therefore, I urge upon the Government to relook into this matter ...*(Interruptions)* That will come later. There is accountability for judges in this Bill not for lawyers. Samajwadi Party members can say what they want.

I would like to make one more point. They have set up the scrutiny panel already. Who does this panel consist of? This panel consists of the judges mostly. As the Lokpal has been discussed just now so I would not like to go into its details but I would say that this scrutiny panel also is useless. The Government has appointed two attorney generals in the scrutiny panel and one more person has been appointed but this is not enough. As is said that 19-20 per cent but I do not want to go into the data. Why are the representatives of the SCs, the STs, women and the OBCs not there in the scrutiny panel? Why are the renowned intellectuals not included in it? Why are those renowned people of Bar, who have flawless record and are available everywhere, not kept in the scrutiny panel? If these are included, only then they will be able to scrutinise. Otherwise, it will happen that you help my children and I help your children and it will continue like this. Therefore, I do not agree with the hon. Member on the point that it is very good. What consolation is it? The objective of the Government for framing this Act is to clear the system.

The element of trust is the most potent factor. I would like to narrate the story of Allahabad. Once upon a time when encroachment took place, the idols of Hanumanji were installed on every road to prevent encroachment.

But, a congregation on Tuesday used to take place in the temple of Hanumanji there. Therefore, everything depends on faith and trust, if there is no faith and trust in the judiciary then, it will not work. Once upon a time, I have seen that the district judge who was conducting the murder trial, used to come on bicycle and nobody attacked him. Nobody used to speak in high tone before him. The students used to hide behind the buses when they saw our proctor, Shri Tiwari, who had an old Ford car at the Allahabad University when I was reading there. Now the proctor comes with the gunman having a revolver in his holster and still he is murdered. The Government will have to select the judges who have such good personalities that nobody can raise a finger on them. Otherwise, we would have to take resort to check and balances. If the Government has to appoint the judges in the North India then the judges of Allahabad should be appointed in Madhya Pradesh, or Patna and those of Patna at Allahabad. This will put in place at least some checks and balances. I would like to open a page of history. Shri Venkat Cheleyya Saheb was the hon. Chief Justice and we were also tired of some of judges of the Allahabad High Court. There are many shades of corruption.

[English]

Only accepting the bribe is not Brashtachar.

[Translation]

There are many shades of corruption. I, with due respect

[English]

without disrespect to the hon. Judges of the Supreme court

[Translation]

as there is immunity in the House would like to say that there was a judge saheb in the Supreme court, who was pro-tenant. Some old advocates might know him. Perhaps, Shri Salman Saheb also might know him. The landlord fought the case for twenty years and finally he knocked at the door of the Supreme court, the advocate of the Supreme court would say

[English]

"My Lord, I am a tenant, I am being dejected." Then, the stay order [English] he will vacate after three years [Translation] stay was issued by him automatically because his philosophy was pro-tenant. The philosophy of some judges happens to be pro-workers and some judges have pro-employers tilt. There should be no room for personal philosophy in the Judiciary. If somebody has a personal philosophy, then he should contest elections and come to the fore, then alone can be see things in the right perspective.

I want to say that there are many shades of corruption. The people in Delhi also say

[English]

from Coastal Judge, from South Judge, from North Judge and we select the team according to that Geographical values.

[Translation]

The work of Judges have become so sensitive and to such a sensitivity has come into the life that the Government should not allow any relaxation on it. If someone gets asleep on a bullock cart, it does not matter, but if any pilot gets asleep, then 200 people may lose their lives. Therefore, the Judiciary should not be taken so lightly.

Even after so much hue and cry, there is no reservation system in the judiciary. One cannot find any Judge belonging to the SCs and STs categories even after utmost effort. When Dr. Bhimrao Ambedkar can imagine the Constitution and he framed the article 29 and provided protection to the minority, and he also enacted Article 15 and 16 by explaining which the advocates are fighting the cases, then nobody of that community is capable of being a Judge. The reason behind it is that there is no fairness in the appointments. If there is no fairness in the appointment, there is trust deficit among the people ...*(Interruptions)*

SHRI SHAILENDRA KUMAR: They are T M people.

SHRI VIJAY BAHADUR SINGH: I do not want to say it. I want that there should be the provision of compulsory reservation in this Bill. I would like to narrate a good story

[Shri Vijay Bahadur Singh]

[English]

or why I am telling because of the immunity.

[Translation]

The law Minister knows that the meeting of collegium had taken place 10 times during the last three years but they did not agree with the list of one another and as a result of which not even a single Judge was recommended. I would like to ask why? Three Judges choose their favourite judges and the other judge also chooses their favourite judges and due to it, no consensus is made. Consequently, the appointment of 64 judges is pending. I would like to inform that I had filed an appeal of murder in the year 1970, the verdict has not been given till date and it is being delayed. ...*(Interruptions)* He went to the Patna High Court and he got disappointed there. You said that if there is any discrepancies, he will not be given work

[English]

So you think this is sufficient deterrents

[Translation]

If any hon. Judge is prohibited from the judicial work but he will get full salary, will have vehicle with red beacon and everything. I would like to narrate the story of Allahabad High Court. Ten year ago, the vehicles of the judges of the Allahabad High Court did not have red beacons. The Division Bench itself had issued order of filling the writ petition that

[English]

onwards we will have a red light.

[Translation]

I met the hon. Madam Speaker and said to her that the MPs should also get red beacon because the oath of MPs is similar to that of the PM.

[English]

We are eligible even up to the Prime Minister. ...*(Interruptions)* When hon. Shri Mulayam Singh Yadav ji was the Chief Minister, then the judges had said that he

did not provide them red beacons, when I came here and saw the hon. Supreme court has observed in a judgement that before anyone interferes in the red light verdict or our warrant of precedence even slightly, he should first of all consult us. [English] You are so much conscious. Is it a fact?

[Translation]

I would like to make one more point. The LTC which the judges had to get once a year, they got twice due to the typographical error. Now, they get LTC twice. The time by which the matter came to the notice of the Cabinet Secretary, one year had passed by and he thought that if he interferes with it, he may be charged with contempt.

Now I would like to discuss the matter related to MPs. I would like to say it with a sense of proud that when I met the then Chief Minister of Uttar Pradesh, Bahan Kumari Mayawati, I asked her that the MPs should be entitled for red light. I handed over a ten pages representation to her. She instantly ordered that the MPs from Uttar Pradesh will be provided red light. We started using red light but when we come to Noida we have to take off the red light. Have we to take a mechanic with us so that he may uninstall the red light while entering Noida and again install it while going back? I, through the hon. Speaker had raised this point before the Privilege committee. Harold Laski had said if respect is not given to people in constitutional system, the constitutional hierarchy will not be able to survive.

[English]

It is not a respect to Vijay Bahadur Singh and any colleague of mine, it is a respect to the institution, it is a respect to the 'Aasan' and 'Peeth' of the Speaker.

[Translation]

I saw and got surprised because the Supreme Court has observed that none of its protocol can be dealt without its permission. Judges were on the 21th number in the Warrant of Precedence and we were on 22nd number, then they were included under 18 number and we were included in number 17. What is this? Let me tell you that Lord Denning was the Chief Justice in England. He came to Allahabad after his retirement. At that time I was called

to the bar as a young advocate. I went to him, I saw that he himself was cleaning his car and he had such a repute that if he said anything, the House of Lords got silent. [English] Although he was travelling by the same train, in which we were travelling in London. [Translation] We have to show trust until there is motivation in the selection.

[English]

MR. CHAIRMAN: Please wind up.

[Translation]

SHRI VIJAY BAHADUR SINGH: I will conclude in two minutes. I suggest to constitute the National Judicial Appointment Commission. Through the said commission, the selection procedure should be made at par with the selection of ICS and IAS, Second, unless this commission is constituted, all the selections and appointments should be made separately. At least it will get some relief from this. My third point is that now you cannot ignore it anymore. The downtrodden, the dalits, the SCs/STs, the OBCs and women should be given representation. There is no representation from their side. I have gone through this Judicial Standard and Accountability Bill. The standing committee's 40 per cent recommendations are against the provisions made in this Bill. Appropriate changes should be made in this Bill. As far as the retirement age of judges is concerned, the retirement age of the judges of the hon. High Courts is 62 years whereas the Supreme Court judges have 65 years. As a result of which the judges of the hon. High Court hasten to become the judge of the Supreme Court so that they may get 3 more years of service benefits. What has been the result of this hastening? As per the Article 226 and 227 of the constitution the power of the writ of the High Court is more than that of the Supreme Court. [English] The High Court Judge is not subordinate to the Supreme Court. That is the Law of the Land. He knows it.

[Translation]

All the striking decisions with regard to the case of ADM of Jabalpur, [English] they are from the High Court.

[Translation]

There is no harm in giving parity in this regard. The

retirement age must be increased from 62 years to 65 years so that the complex and hastening of the High Court judges may be declined.

Now I would like to conclude. I have said that I have no [English] disrespect to the institution. Whatever Vijay Bahadur Singh is telling today, I was nominated a Senior Advocate way back in 1984. It has all reflected glory of the court but it requires an inbuilt mechanism otherwise the earlier mechanism has failed.

[Translation]

Recently he said that incomplete impeachment proceedings have been carried out be it against Ramaswami or Soumitra Sen or Dinakaran.

[English]

It requires a complete overhauling from bumper to bumper.

[Translation]

SHRI ARJUN ROY (Sitamarhi): Mr. Chairman, Sir, I would like to thank you for giving me an opportunity to speak on the Judicial Standards and Accountability Bill. I would like to suggest a few points to the Government. The Government has brought this Bill for judicial accountability and to streamline the judicial system, the Government has already publicised that it is determined to remove corruption in the judiciary, the legislature and the executive.

Mr. Chairman, Sir, yesterday the Government tried to inform the people by bringing the Lokpal Bill that the Government has brought an effective Bill against corruption. Yesterday, the senior Ministers of the Government were visible on T.V. channels. They were of the view that they have done a big task. They are ready to misuse the organisation named Lokpal in the manner they misused CBI in the past. Now the Government has brought the Judicial Standards and Accountability Bill to fix the accountability of the judges and judiciary. I got a copy of this Bill today morning only. I gave the Bill a rather cursory look, the procedure which the Government has adopted to fix the accountability of the judges is already in place. This includes a prohibition on hearing or deciding matters in which a member of the judge's family or relative or friend

[Shri Arjun Roy]

is concerned and involvement in such works which curtail the judicial procedure. These provisions already exist. But in any case if a judge is accused of corruption, involved in illegal affairs, the Government has made three provisions in this Bill. The Government has constituted a panel to fix the accountability of the judges, conduct of investigation against the complaint of corruption levelled against the judges. So, these are the three provision. Another provision is that the complaint of corruption against the judges of the Supreme court or Chief Justice or the justices of the High Court or the Chief Justice may be registered with the Complaint Review Panel. The Government has made the provision of inquiry committee in the Bill that when the said panel will have reviewed that the complaint is valid then it will be forwarded to inquiry committee which will initiate action through the investigation committee.

As you are an eminent lawyer and well versed with the law, I would like to ask you and the Government whether there would be any former Chief Justice and two judges nominated by the judges of the hon. Supreme Court in the review panel, consisting of three persons, formed by them. They have formed a panel in the same manner in the High Court also which would comprise of the former Chief Justice and two judges of the same court. I would like to ask the Hon. Minister, what kind of justice can we expect when the complaint is against a colleague and the judges of the same court are in the panel who have the task to review the complaint against their colleague. The state of affairs in the judiciary is such that there is no other person. Someone is a brother of the judge, someone is niece, a relative etc. The entire judiciary, especially the High Courts and hon. Supreme Court, in the country is plagued with nepotism. Hon. Minister, you can examine it as you already have the information in this regard. Does the hon. Minister think if there is any complaint filed in this panel against his kin or relatives, there could be any positive outcome of the same? The Standing Committee has also made recommendation to Hon. Minister and as per the recommendation of the Standing Committee no committee would be formed by including the judges of the same court to ensure that they do not face any hindrances while reviewing the complaints filed against their kin, friends and relatives. Therefore, the hon. Minister has disregarded

the recommendations of the Standing Committee and he should reform the review panel. This is my personal point of view. I am not a jurist but as a common citizen of this country and as a Member of this House, I would like to say that the judges of the same court should not be appointed in the review panel. The judges from other High Courts must be appointed in this panel. Secondly, the review panel reports to Investigation Committee and the panel formed in it comprises of people from only judiciary. In the Judicial Accountability Bill, the hon. Minister says that only people from judiciary should be in the panel. But I hold the same view as that of the report submitted by the Standing Committee which states that people from Executive, Legislature and Judiciary should be included in this panel to make judiciary more trustworthy and accountable. When it has come to the fore that there is corruption in the judiciary and it needs to be tackled, is not it the need of the hour, as per the report of the Standing Committee to include the experts from executive and legislature for investigation in this panel. I believe and recommend that the Investigation Committee against the corruption should be nominated by the President or through the process in vogue for appointing any person and the persons from legislature and executive well versed with the law should be nominated.

The Hon. Minister has formed a review panel which is going to submit its report to the Investigation Committee in the six years with regard to the framing of charges against a judge. The Court has set up a three member committee in this regard. Likewise, you can set up many such review panels, such as the committee mentioned above. I think that the Bill introduced by the Government does not explain anywhere about the eligibility of members to be included in the panel. Whether the members who would review the complaints would be from judiciary or outside it. I would like to ask if the member who is to be included in this panel has any experience regarding supervision of any sort. They are only aware of the law, legal angles and trained as an advocate or judge but at the time of investigation it is the people from CBI or other Commissions who are aware of the process of investigation and expert in finding out any sort of corruption and whether the filed complaint is genuine or not. Therefore, an expert mechanism should be put in place to hold the enquiry and

its supervision to ensure proper investigation and action after the investigation.

Further, the biggest factor is that in case the complaint is formed out to be false, there would be a five year sentence and a fine of rupees five lakhs against the complainant. This has been written in the Bill that there would be a five year sentence and a fine of rupees five lakhs against those who file cases to just embarrass or harass them. But if someone files a complaint against us and is found guilty for the same, he would be sentenced for one year and fine rupees one lakh. No one is going to file a complaint against the judge as there is a huge fear of judiciary amongst the people.

Secondly, I would like to inform the hon. Minister that there are Commissions for the Central services and State services through which an executive officer is appointed. There has been a demand in the judiciary for a very long time and the Standing Committee has also submitted its report for the setting up of a Commission for the appointment of the judge, which is being done through the panel at present. Without setting up a commission, how can the hon. Minister claim that the judges carry on their duties fairly and with integrity. This society is built on the foundation of caste and religion. I would like to sum up in one minute that there is reservation in every sector. The Lokpal Bill covers every sector and reservation was demanded by in Lokpal too but how can there be reservation in the judiciary? I would like to urge him to set up a Judicial Commission to make appointment in the judiciary and it should be done on the basis of reservation. There can be justice in the country when judges are appointed on the basis of reservation. There can be no justice if the judges are selected from amongst the family and kin.

I would like to make the last point. The munsif (the judge in a subordinate court) of the district court does not hear a case without taking money and the clerk does not present the case without taking money. What arrangement has the Government made for it? We want to know that when the staffs of group C and D categories are included, why any law not be enacted to check the corruption taking place by the district judge, the munsif, and clerk? The Government should enact the laws for

them also and work on it. In America, the judges never retire. In England, the Judges retire at the age of 75 years. In India, the judges retire at the age of 62 and 65 years. When these judges are appointed the Chairmen of various commissions after their retirement and given various responsibilities by the then Government, do they not work then? Does it not amount to political interference? I think that as in England and other countries, there is no provision of appointing the judges in other services, the similar system should be made here also so that any political party or any political authority does not try to oblige him.

Hon' Chairman, Sir, in addition to these points, I think that law should be equal for all people. If any judge is found indulged in corruption, his removal from the post should not be the last thing. As we know in the episode of Soumitra Sen, he had resigned from the post before the matter reached the Lok Sabha. I want to know whether any case was registered against him. Did he go to the court? Did he go to jail? When a case is registered against a common man, he is sent to jail just after the registration of the FIR and the investigation is done after that. But when a judge is caught involved in corruption, no one knows what actions have been taken against him.

Hon. Mr. Chairman Sir, through you, I would like to get reply for the government that if any judge is found indulged in corruption, should he be treated as like a common man in the similar situation? If the treatment will be the same, then what actions will be taken against the judge? What kind of laws will the Government enact so that he should not only be removed from his post, but also he is punished under the provisions which are applicable to the common man?

With these words, I show my gratitude to you for giving me time.

[English]

MR. CHAIRMAN: Mr. Kalyan Banerjee, you may start your speech at 2 o' clock. The House stands adjourned to meet again at 2 p.m.

12.57 hrs.

*The Lok Sabha then adjourned for
Lunch till Fourteen of the Clock.*

14.01 hrs.

The Lok Sabha re-assembled after Lunch at one minute past Fourteen of the Clock.

(MR. DEPUTY-SPEAKER *in the Chair*)

MATTERS UNDER RULE 377*

[English]

MR. DEPUTY-SPEAKER: The Matters under Rule 377 shall be laid on the Table of the House.

Hon. Members may personally hand over slips at the Table of the House immediately as per practice.

(i) Need to ensure proper and judicious utilization of funds earmarked for various projects under Jawaharlal Nehru National Urban Renewal Mission in Nagpur

SHRI VILAS MUTTEMWAR (Nagpur): In order to cope up with the massive problem emerging as a result of rapid urban growth, a coherent urbanization policy was felt to be necessary with a view to scientifically develop the cities with the provision of drinking water, construction of roads and bridges, provision of drainage system, sewerage and sanitation, rapid transport system, buses, houses for slum-dwellers.

To achieve these objectives, the earlier Central Government had conceived a very ambitious scheme viz. Jawaharlal Nehru National Urban Renewal Mission (JNNURM) with a provision of One lakh crore in 2005. The funds under this scheme were to be provided to the local bodies for implementation of various projects. While the 50% of the funds under this scheme was to be provided by the Central Government to the local bodies, 20% by the State Governments and the rest by the local bodies. The allocation of funds was done in proportion to the population of the city. As such, the actual implementation was to be taken care of and executed by the local bodies. But in the absence of any coordination and monitoring systems, the funds are not being used properly for intended purposes and as a result, the very purpose of this scheme is being defeated.

The instant example is Nagpur. JNNURM has given funds to the tune of Rs. 1348.86 crores - Rs. 1106.60 crores for drinking water projects and ' 242.26 crores for public transport system to the Nagpur Municipal Corporation (NMC). I demand that award of contracts should be transparent in every respect and representatives of Central and State Governments should be present at the time of awarding the contracts and irregularities, if any, should be checked. Besides, there should be proper method of controlling, coordination and monitoring of the funds allocated for these projects under JNNURM. Government should come forward with the facts as to whether any proper analysis has been made to find out various hassles and obstacles which have come in the way of achieving the intended purposes.

The essential services like water etc. are now being privatized and there is a lot of resentment amongst the people on this decision of the Nagpur Municipal Corporation. As a result thereof, the tariff has gone very high. People have now to pay 2000 as against' 200 therefore which they were paying earlier.

In view of the above, I would urge upon the Government to ensure proper and judicious utilization of funds allocated for various projects under JNNURM for Nagpur to avoid misuse.

(ii) Need to provide more land available adjacent to the existing memorial of Dr. B. R. Ambedkar in Mumbai, Maharashtra

[Translation]

SHRI EKNATH MAHADEO GAIKWAD (Mumbai South Central): Once again, I would like to draw the attention of the Government towards the national memorial, Chaitya Bhoomi of revered Dr. B. R. Ambedkar.

Dr. B. R. Ambedkar was a great leader of our country. He infused the sentiments of equality among various castes. At present, only a small part of the Dadar beach is adjacent to the memorial. Hon. Madam Speaker, lakhs of Baba Saheb's followers visit Chaitya Bhoomi daily. Due to the visit of such a large number of his followers daily, no proper arrangement becomes possible in the present space. In addition to it, the proposal with regard to the

*Treated as laid on the Table.

construction of an art gallery of the Dalit movement, auditorium, world class library and a Buddhist study centre etc. is pending. But its expansion and beautification is not possible in the present space.

The land of Indu Dye Works Mills which is under the National Textile Corporation and which is non in function, is adjacent to the Chaitya Bhoomi memorial.

Therefore, I request the Government to direct the Maharashtra administration to transfer the land of non-functional Indu Dye Works Mills free of cost to Chaitya Bhoomi for the revered Dr. B. K. Ambedkar memorial and the Central Government should immediately provide the assistance of Rs. 100 crore to Chaitya Bhoomi memorial for its expansion and beautification.

(iii) Need to release the fund earmarked for the welfare and debt relief for the people working in handloom sector in Kerala

[English]

SHRI K. P. DHANAPALAN (Chalaky): Handloom is an old form of weaving of Kerala in which thousands of people are working for their livelihood. Chendamangalam at Paravoor in Ernakulam District, Balaramapuram in Thiruvananthapuram and other parts of the country are famous for their hereditary Handloom clothes. Due to the widespread introduction of power looms, the Handloom sector is facing severe competition and struggle for its very existence. The people working in this sector are patiently waiting for the assistance of 3000 crores from the Government, which was included in the previous budget, mainly intended for the development of the handloom sector and for helping the people engaged in this sector. As the financial year is about to end after two three months, if the amount is not spent immediately, there is possibility of lapse of the amount meant for the welfare and debt relief of the people in this sector. It is understood that the proposal is before the Planning Commission for approval and after that the approval of the Cabinet Committee is also needed for the release of the amount. Hence, I request that the necessary procedures may be completed as early as possible so that the amount can be made available to each unit under the Handloom sector immediately.

(iv) Need to enhance the age of retirement of employees of Sambhar Salt and Hindustan Salt companies in Jaipur Rural Parliamentary Constituency, Rajasthan

[Translation]

SHRI LALCHAND KATARIA (Jaipur Rural): In my Parliamentary Constituency Jaipur (Rural), there are two salt companies situated named Sambhar Salt and Hindustan Salt in which almost 205 officers and staff are working and their retirement age is 58 years. It is very imperative that their retirement age is increased to 60 years because these companies had been running in great loss for the last many years but due to untiring effort and devotion to duty of the managers, these companies are now decreasing their loss and will be in position to report profit very soon.

From the economic and historical point of view, these companies are very important not only in Jaipur but also in the entire world.

Therefore, I request the Government of India to increase the retirement age of the officers and staff of these companies from 58 to 60 years.

(v) Need to appoint S.D.O. (Telecom) in Jeerapur Tehsil in Rajgarh district, Madhya Pradesh and also allot a separate STD code to the Tehsil.

[Translation]

SHRI NARAYAN SINGH AMLABE (Rajgarh): I would like to invite the attention of the hon. Minister of Communication and Information Technology towards my Parliamentary Constituency Rajgarh, Madhya Pradesh. Tehsil Jeerapur in district Rajgarh was carved around 30 years ago and my village falls under this tehsil. But the Department of Communication is not ready to recognize it as Tehsil Headquarter till date, therefore, the post of S.D.O. (Telecom) has not been sanctioned for this Tehsil Headquarter as a result of which the people of this tehsil have to travel a distance of 70 kilometers in order to register the complaints related to telephone and mobile facilities.

The current era is the era of internet. Communication facilities have become indispensable part of life. In view of this fact, the BSNL is also providing various types of facilities to its consumers. The department also pays attention to ensure minimum congestion. But my Parliamentary Constituency has not been provided separate S.T.D. code till date, whereas, other tehsils namely Khilchipur, Sarangpur, Rajgarh, Biaora, Narsingharh have already been allotted 07370, 07371, 07372, 07374, 07375, STD codes respectively. As per my knowledge 07373 code is available which perhaps has not been allotted to any area not only in the state but also in the country.

In this regard I urge upon the hon. Minister to give due orders to allot separate STD code 07373 and sanction the post of S.D.O. (Telecom) to Tehsil Jeerapur in my Rajgarh Parliamentary Constituency at the earliest.

(vi) Need to appoint a Special Officer to study the problems faced by the microscopic minorities in the country

[English]

SHRI CHARLES DIAS (Nominated): With India's population crossing more than 120 crores, the minorities in the country are feeling more and more insecure in some of the States. They have been neglected in matters of education, employment and welfare measures. In some States, they are even persecuted in the name of religion and caste. Even the Governments in some States are not bothered to protect the small minorities.

The Microscopic minorities like Anglo-Indians, Parsis, Jews etc. are struggling to survive in the country. The framers of our sacred Constitution has provided some protection to these kind of communities. But, they are still facing difficulties in competing with others and to survive. Even though, in the Prime Minister's 15 point Programme, it is mentioned to provide due consideration to the minorities in matters of certain appointments, it is still a matter of concern that adequate appointments and welfare measures are not reaching to these people. In view of this, I urge the Government to appoint a Special Officer to study the problems faced by the microscopic minorities in the country and get his report within six months.

(vii) Regarding shortage of cable and equipments at the office of BSNL in Indore, Madhya Pradesh and the need to improve telecom facilities there

[Translation]

SHRIMATI SUMITRA MAHAJAN (Indore): In the era of mobile phones, the landline connections, which had been the main strength of the BSNL, are being ignored. The BSNL has the shortage of cable and equipment in my Parliamentary Constituency as a result of which the department is unable to provide new connections and facing problems in maintaining the current number of connections. It has been come to my knowledge that legal notices are being sent to the landline consumers for non-payment of bills, whereas, as a matter of fact bills have already been paid as a consequence of which consumers are being mentally harassed. The payments made to legal advisor for sending legal notices have caused doubts which should also be investigated. As far as I think the landline phone has been used for domestic as well as business purposes and it is not appropriate from the end of the department to ignore this basic service.

The condition of the mobile service of the BSNL is no better than its landline service. Improper installation of B.T.S., call drop due to shortage of equipment, non-availability of network have caused inconvenience to the consumers as a result of which they are switching to other telecom service providers which are providing new facilities along with quality service.

I think, the companies which can provide good service at competitive prices can exist in this competitive era but in view of the pathetic condition of 2G services of BSNL, it is futile to expect much about its 3G and 4G services.

I urge upon the Government to enable BSNL to provide better services by eliminating the shortage of resources in my Parliamentary Constituency Indore. The shortage of Jumper wires, drop wires, BTS and other equipment is a hurdle in the way of development of this city. The reputed I.T. companies and pharmaceutical industries are likely to be set up in this area in future. In such a situation it is not appropriate to ignore the consumers when Bharat Sanchar Nigam Limited can

attract them and earn profit. I urge upon the hon. Minister of Communication and Information Technology to pay special attention towards BSNL so that the quality of the services of the BSNL may be improved.

(viii) Need to increase civilian area in Jabalpur cantonment in proportion to increased population and rationalize the taxes imposed in cantonment area, Jabalpur, Madhya Pradesh

SHRI RAKESH SINGH (Jabalpur): Since five large units of defence production and a major headquarters of the army are located in my Parliamentary Constituency right from the British period, it is a cantonment board and a large population resides in the area falling under it. The population has increased very rapidly during the last few years and in proportion to the population, the local problems have also increased. But the civil area in the cantonment area has not been expanded. There is provision in the Cantonment Act that there should be deliberation on the review and expansion of civil area with the increase in population every year. But no such review or deliberation has been done here as a result of which the common people have to face its repercussions. The residents of the cant area are not getting the benefits of many schemes of public interest and public welfare run by the State Government. As per the Cantonment Act, 2006, residents of this area are getting benefits to only some schemes of the Union Government. There is 324 acres of land of Madhya Pradesh Government in this area and as the land is under the possession of the Army, it is very painful for the local people. Therefore, it is necessary that concrete steps should be taken to provide relief to the people living there for generations by making amendments in this Act. Alongwith it, the local public representatives of the cantonment should be empowered and taxes imposed in cantonment area rationalised while expanding the civilian area as per the requirement so that the common people of this area can get rid of the problems faced by them daily. I urge upon the Government to issue necessary orders in this regard immediately.

(ix) Need to provide wheat to bakery owners at concessional rates

SHRI DILIP KUMAR MANSUKHLAL GANDHI (Ahmadnagar): I would like to speak on the law which has

been enacted by the Government to provide grains to poor families at the rate of Rs. 2 per kilogram that the bakery owners buy that grains from the poor families at lower rates to make bun, butter and bread. This encourages corruption. The grains should be given to the bakery owners directly by the Government so that corruption could be curbed and it will be a good attempt to provide the grains which are getting spoiled to the poor families. Besides, the grains could be saved from getting spoiled. Every poor family could be provided bread and bun at reasonable price.

(x) Need to provide stoppage of Express and Super Fast Trains at Damoh in Madhya Pradesh

SHRI SHIVRAJ BHAIYA (Damoh): I request the Government to direct the Ministry of Railways to provide stoppage to any Express and Superfast trains that pass through the district headquarters of any Parliamentary Constituency, there is no stoppage.

My Parliamentary Constituency, Damoh falls under the West-Central Railway, Jabalpur, Madhya Pradesh and despite being the district headquarters, there is no stoppage of the five express trains that pass through it. This Station is important even from commercial point of view. So, there should be provisions to ensure to provide stoppage of trains at district headquarters.

(xi) Need to fix the minimum support price of potato

SHRIMATI USHA VERMA (Hardoi): Potato is sold at throwaway prices in the country. The farmers are helpless and are yearning for help. Nearly 65 per cent of the people associated with various production sectors that contribute to the Gross Domestic Product are engaged in agricultural activities. Owing to the hard labour of the farmers, there has been a record production of potatoes in Punjab, Haryana, Bihar, Madhya Pradesh, West Bengal and Uttar Pradesh this year. With the bumper production, the farmers should have got huge income but the things are other way round. Today, Potato farmers are wandering here and there to sell their potatoes but there is no one to buy this potatoes and even if it is being sold, the farmers are unable to recover their cost price.

The production cost of potato is almost Rs. 3.5 per kilogram but the farmers are compelled to sell potatoes to the whole sale market at 2 to 3 rupees per kilogram which is lesser than the production cost. All the cold storages of the states are demanding very high price for storing potatoes due to the bumper production and they are houseful. Under such circumstances, the farmers are a distressed lot and are leaving behind potatoes in their fields only to get spoiled.

It is a matter of great pain that despite the knowledge of this bumper production, the Government has taken no action to protect the interest of potato farmers. I demand that considering the miserable condition of the potatoes farmers, the Government should announce the minimum support price. With the help of the Government agency like NAFED, the Government should procure potatoes at reasonable price so that the farmers get proper remuneration for their produce and the potato produce could be saved from getting spoiled.

- (xii) Need to accord approval to the proposal of Government of Uttar Pradesh for sanction of funds for the Kumbha Mela at Allahabad in 2012-13.**

[Translation]

SHRI KAPIL MUNI KARWARIA (Phoolpur): The next Kumbha Mela is to be organised at Allahabad (Prayag) next year 2012-13. The Government of Uttar Pradesh has forwarded a proposal of estimated funds likely to be incurred on the fair to the Government for sanction. But the Government has not accorded approval to the said proposal till date.

Hence, I urge upon the Government to accord approval to the proposal forward by the Government of Uttar Pradesh without further delay so as to provide adequate funds for the organisation of the fair.

- (xiii) Need to provide adequate number of air-conditioned coaches in Saptkranti Express (Train Nos -12557/12558) between Mujaffarpur (Bihar) and Delhi**

SHRI BAIDYANATH PRASAD MAHATO (Balmikinar): Train Nos 12557 UP and 12558 DN

Saptkranti Express runs daily between Mujaffarpur to Anand Vihar Terminal station via Gorakhpur-Bagha, Narkatiaganj, Bettaih, Motihari. This train lacks A.C. Coaches. It has one AC 2 tier coach which has been divided into two parts and tagged as AC 1st class and AC 2 Tier. The route through which Saptkranti Express runs, around 9-10 MPs of Lok Sabha and 5 MPs of Rajya Sabha of these areas travel by this train. Quite often it has been observed that the ticket of AC 1st class passengers is downgraded to AC 2Tier or AC 3 Tier as a result of which the hon. members as well as businessmen have to face a lot of problems.

Hence I urge upon the Government to add one AC 1st class and two coaches of AC 2Tier to Saptkranti Express trains so that the hon. Members of those areas and businessmen may get the said facility.

- (xiv) Need to expedite setting up of proposed research centre of DRDO in - Dharmapuri district, Tamil Nadu**

[English]

SHRI R. THAMARASELVAN (Dharmapuri): I would like to bring to the kind attention of the Government that an initiative was taken up by the Defence Research and Development Organisation last year to set up a Research Centre of national importance at Dharmapuri in Tamil Nadu. For this purpose, the State Government of Tamil Nadu had identified the land for allotment to Defence Research and Development Organisation. A team of DRDO has also inspected the site at Nekkundhi village in Dharmapuri. Dharmapuri is one of the most backward districts in the State of Tamil Nadu. This initiative was a golden opportunity to generate employment for nearly 15,000 people of this most backward district. The State Government and the district Administration had provided all the details required by the DRDO to set up this Research Centre at Dharmapuri. However, there has been no progress to establish this much awaited Research Centre at Dharmapuri by the Defence Research and Development Organisation. I, therefore, urge upon the Hon'ble Defence Minister to expedite the setting up of a Research centre of the DRDO at Dharmapuri so that people of this industrially backward district of Tamil Nadu can get employment and change the

face of Dharmapuri district from backward to a developed district.

- (xv) **Need to develop Lonar Crater lake in district Buldhana, Maharashtra as a tourist spot and provide adequate transport facilities for tourists visiting the lake site.**

[Translation]

SHRI PRATAPRAO GANPATRAO JADHAO (Buldhana): Lonar Crater is located in my Parliamentary Constituency Buldhana. Where a meteor had fallen and a lake was created by meteor impact. Lonar Crater has been declared as A grade tourist place due to this lake but I regret to say that this lake is surrounded by filth within 500 meter radius. People like to visit this spot but they are unable to access it due to absence of proper means of transportation to this place as a result of which they have to face so many problems. The Government should take appropriate steps to develop this place into a tourist spot.

I urge upon the Government to make proper arrangement of transport for this spot and develop this place into a tourist spot.

- (xvi) **Need to provide VPU coaches in place of SLR coaches in Mangalore Express (Train No. 6107) and Tea Garden Express (Train No. 6865) and provide a stoppage of Tea Garden Express at Uthukuli in Tiruppur district, Tamil Nadu**

[English]

SHRI C. SIVASAMI (Tiruppur): Uthukuli in Tiruppur district, Tamil Nadu is famous for production of Butter, Ghee and Curd. These items are being transported to Kerala and to other parts of the country by rail on a daily basis. The revenue earned by Railways is more than Rupees One Lakh per day. The present SLR coach attached to train No. 6107 (Mangalore Express) and 6865 (Tea Garden Express) are too small to accommodate these items from Uthukuli to other parts of the country. The producers of Butter, Ghee and Curd are demanding attachment of VPU coach in place of SLR coach in the above trains for easy transportation. Moreover, they are

requesting the stoppage of Train No. 6866 (Tea Garden Express) at Uthukuli. I, on behalf the people of my Parliamentary Constituency, appeal to the Minister of Railways to consider their demand.

- (xvii) **Need to establish a Railway pilot training facility centre at Kharagpur under South Eastern Railway**

SHRI PRABODH PANDA (Midnapore): The former Railway Minister had laid the foundation stone to establish a Railway pilot training facility centre at Kharagpur under South-Eastern Railway with a project cost of around Rs. 120.00 crores, but no progress has made for implementation of the project.

Even in the open public programme, assurances were given to people settled unauthorisedly on Railway land that they would be provided "Sukhi Griha" project for their permanent settlement and for this purpose Rs. 5.00 crores would be released immediately. But till date, no progress has taken place regarding this project also.

Therefore, I urge upon the Hon'ble Railway Minister to take adequate steps so that these projects are implemented without further delay.

- (xviii) **Need to provide voting rights to primary school teachers in election of members of Legislative Council in the States**

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali): As per the Section 171 of the Constitution, the college lecturers and higher secondary teachers have the right to vote for the election of 1/12 Members of Legislative Council whereas the primary teachers have been deprived of this right. This is not at all fair. In Bihar also primary teachers do not have the right to vote which has made them disappointed. The Primary Teacher association has demanded the voting rights for primary teachers in the states which have Legislative Council by making an appropriate amendment to the Constitution. I demand that the Government should provide the voting right to the primary teachers in the election of the members of legislative Council by making a suitable amendment to the Constitution.

(xix) Need to provide adequate quantity of fertilizers and crop seeds to the farmers in Siwan Parliamentary Constituency, Bihar

[Translation]

SHRI OM PRAKASH YADAV (Siwan): I would like to draw the attention of the Government towards a big problem being faced by the farmers in Siwan Parliamentary Constituency. Madam, I come from a farmer family and I know the importance of seeds and fertilizers for a farmer. Madam, the farmers in my Parliamentary Constituency are facing the dire shortage of said thing these days. The weather after the rain is appropriate for agriculture and if the farmers face the shortage of seeds and fertilizers at this time, they have to face the problems throughout the year.

Therefore, I urge upon the Government to provide adequate quantity of good quality crop seeds and fertilizers to the farmers in my Parliamentary Constituency and in addition to this the spurious fertilizers and seeds being sold in the market should be checked in an effective manner.

14.02 hrs.

JUDICIAL STANDARDS AND
ACCOUNTABILITY BILL, 2010
AND

CONSTITUTION (ONE HUNDRED AND
FOURTEENTH AMENDMENT) BILL, 2010

(Amendment of articles 217 and 224) —Contd.

[English]

MR. DEPUTY-SPEAKER: The House shall now again take up Items 12 and 13.

Shri Kalyan Banerjee to speak.

SHRI KALYAN BANERJEE (Sreerampur): Hon. Deputy Speaker, Sir, in support of the Bill, let me say that we are really proud of our Indian judiciary. Whatever criticism comes, we really feel proud of the judiciary.

In our country, most of the judges are honest. Of course, there are a few black sheep and some aberrations.

But only for that reason, we cannot blame our judiciary. Because of the contribution of our judiciary, democracy of our country has been strengthened. By reasons of the several interpretation of the Constitutional provisions, right from the cases of Keshavananda Bharati, Maneka Gandhi, Nandini Satpathy, All-India Judiciary case to S.P. Gupta's case, the people's rights have been acceded. In fact, sometimes when people remain in power, they criticize the judiciary on the ground of judicial activism. So long as one moves in the corridor of power, one really does not understand the existence of the judiciary. The day he is out of the corridor of power, he understands the existence of the judiciary of the country.

Here, we bring a Constitutional Amendment Bill to amend the provisions of the Constitution and to bring new amendments. But ultimately it is the judiciary of our country that becomes the custodian of the Constitution of our country. The real interpretation comes from the judiciary. People get protection from the judiciary.

In support of this Bill, I want to raise few questions to the hon. Law Minister. I appreciate this Bill. But, before appreciation, kindly tell us as to whether in our country, regarding the appointment of the Judges in the High Court, the most non-transparent system is available or not. There is no transparent system. There are no criteria laid down. Nobody knows as to who will be the judges; who will be made judges; who will not be made judges? Not only at the threshold, when it is in the case of the Supreme Court, what are the criteria for appointment of the Judges? Can the hon. Law Minister tell us as to what are the criteria of the appointment of the Supreme Court Judges? Is it on the basis of the seniority; or is it on the basis of a merit; or only on the basis of undisclosed quotas of the High Courts?

At Kolkata, a senior judge of 1996 batch has not yet become a Chief Justice of any High Court. But, from Guwahati, a person who has been appointed in 2001 as a judge of the High Court, has been appointed as a Chief Justice of a different High Court. What are the bases? Is there any quota on the basis of which the High Court Judges are appointed? If quotas are there, kindly disclose it to us. I do not understand it. From a High Court four judges are coming, but from another High Court even one judge does not come. Why? Is it on the basis of seniority

or merit? If it is decided on the basis of the merit, what are the criteria of merit? Only on the basis of collegium, everything is being appointed from the High Court Judges upto the Supreme Court Judges. What are the criteria before the collegium? Collegium does not sit at all. They do not agree with one another. Therefore, in support of the Judicial Standards and Accountability Bill, I will request through you to the hon. Law Minister to make transparent provisions for appointment of judges in the High Courts and also in the Supreme Court. Let the people know as to what are the criteria. Lay down them at least in the Supreme Court case. On what basis and on what criteria, a Judge would be appointed in the Supreme Court? People of this country want to know this.

Our Judges are having a lot of pressure. It is not correct that they do not want to discharge their duties. They are having a lot of work pressure. Today, the population has grown; cases have been piling, but the strength of the Judges is not being increased. The vacancies are there, the judges are there, even then the vacancies are not filled up year after year. One of my friends was telling me about the vacancies in the Allahabad High Court. In Allahabad High Court, nearly 14 vacancies are there. Therefore, these vacancies are required to be filled up immediately.

So far as the Judicial Standards and Accountability Bill is concerned, I appreciate it. I tell you about the news, which came the very first day in the Bengali daily newspaper in 2007 or 2008, I have forgotten the exact year, regarding the misconduct of Justice Soumitra Sen. I was the person, who through the President of the Bar, requested the then Chief Justice not to allow the Judge to function. He should not be allowed to function till he remains in the service. The then Chief Justice accepted our request and he was not allowed to function till the day he submitted his resignation letter.

Therefore, a very appropriate provision under section 33 has been incorporated under the Judicial Standards and Accountability Bill, 2010 - the direction of stoppage of assigning judicial work in certain cases. Essentially, it was needed and it should have been grafted earlier, but at last, it has come now.

I am a practising lawyer and the experience of the practising lawyers speaks that the judges are over-strained. I do not agree with the statement that all the judges are bad. I say it again that 95 per cent judges are honest. I have seen the condition of judges. I have seen a High Court judge moving in a mini bus after his retirement. I have seen how a judge, after his retirement, was maintaining his life and taking care of his wife suffering from cancer. I went to Patna once early in my practising life. I saw the living standard of Justice L.N. Sharma. It was unthinkable. There are such judges also and they have to be protected. Because of the judges, which are the black sheep of this country, aberrations are there and the Judicial Standards and Accountability Bill, 2010 is needed.

Sir, I would request through you to the Law Minister to bring about a proposal again for transfer of judges. It is needed. I support the idea of transfer of judges. You may fix whatever emoluments are required to be paid and whatever salaries are to be given to them. Then, whoever is ready to accept the post of a judge, let him become a judge with the condition of getting transferred to another court. If a lawyer practising in a particular High Court is elevated as a judge, he should be transferred to a High Court different from the one he was practising in. This is my reading of the things. From the experience I have gained from the profession, I think that if it is done, 50 per cent of corruption, which we are talking about, would stop. It does not mean that this would completely stop at that. We know even in the case of transfer what one or two judges are doing. I cannot tell that because this is not a proved fact. In order to ascertain whether a judge is honest or dishonest, you have to go to his court. The walls of the court will tell you whether a judge is honest or not. No evidence is required for that.

Apart from this, I would request the hon. Law Minister to set up a Circuit Bench of Supreme Court preferably in all the regions and at least in four regions. I know that he will not like this. My next statement is that since the Supreme Court is at Delhi, the lawyers of the Supreme Court are charging high fees for a case. For them, Rs. 8 lakh, Rs. 10 lakh, Rs. 15 lakh or Rs. 20 lakh is nothing. They are taking advantage of the fact that Supreme Court is at Delhi. Let the Circuit Benches of Supreme Court be set up in different regions. If the idea is that justice has to be reached at the

[Shri Kalyan Banerjee]

doors of the persons, then the Supreme Court must have Circuit Benches all over the country. Then only people will understand this. Here, lawyers are charging unthinkable fees. No one can imagine what they are charging. It is going up day by day. They are charging Rs. 8 lakh, Rs. 10 lakh, Rs. 15 lakh or Rs. 20 lakh. One cannot think of such high charges. One cannot simply expect what their fee is. I know that under Article 19, you cannot control their fees, but you can set up Circuit Benches of the Supreme Court.

I would request the hon. Law Minister to think something about us and about India. I know that all eminent lawyers are his friends and he himself is also an eminent lawyer, but he is a man who is a down trodden person. We know him. ... (Interruptions) I am not taking names, but his fees is not comparable to one of the persons who is in Rajya Sabha. Anyway, that is not the point. I would request him for setting up of Circuit Benches of Supreme Court in different regions.

Sir, another important point is this. Why not have reservation policies for the Scheduled Castes, Scheduled Tribes, women and minorities in the case of judiciary? Why is it for the High Court judges and the Supreme Court judges? It is there and nobody knows about it. Why would not one person be picked up from the Scheduled Castes or Scheduled Tribes? Nobody knows about it. Nobody knows who will be appointed.

Why would there be no reservation? There should be a policy of reservation in every level. Why should it not be from the Scheduled Castes; why should it not be from the Scheduled Tribes; why should it not be from among the women folks; and why should it not be from the minorities? When one points out as to why no women judges are there in the Kolkata High Court, immediately the Chief Justice runs for appointment of women judges in the High Court. Why is it so? There must be a basic principle for this, and this principle has to be implemented. It is there in each and every place.

Mr. Salman Khursheed, when you initiated this debate in the House, you had given the example of American judges. You had mentioned that they remain in office till their death, that is, for 14-16 years. I would just like to remind you that in those cases the judges are appointed

on the basis of the consent of the Senate. The President sends it to the Senate and if the Senate agrees, then only they are appointed. Thereafter, they discharge their functions from the time of their appointment till their death. Therefore, the age of the Supreme Court judges in those places is not comparable to that in our country.

I would like to give an illustration to Mr. Salman Khursheed through our Deputy-Speaker. I am a practising lawyer, and I can tell you that the judges who are coming from the higher judiciary to the High Court have only 3-4 years remaining. They only sit on the side, and there is no performance from their side. There are judges who only sleep. There are judges who sit at 11.30 or 12 o'clock. Therefore, nobody knows as to when they will sit and when they will rise.

Kindly do not increase the age of the judges. I would like to tell you that a few of the judges of the Kolkata High Court personally told me that: "We have to make a request to you. Kindly tell in the Parliament not to increase the age of the judges." Therefore, please do not compare this with America here. Only a few judges discharge their function, and they take the load of the work. There are some persons who do not discharge their functions after entering office. They do not discharge any function, and they only sleep.

We have introduced the tribunal system. If you go to a tribunal, then nobody knows when the tribunal will sit. Everybody is waiting over there. The lawyers are waiting as to when the judge will come. The judges come at 10.30, 11.00, 11.30 or 12 o'clock according to their choice and rise according to their choice. Therefore, through the hon. Chief Justice of India, I would like to request the hon. Law Minister to make it mandatory and tell every judge to sit at 10.30, and they have to discharge their functions till 4.30, that is, till the court is closed. Now, we do not know when they come and when they go. Therefore, a system has to be maintained and discipline must be enforced in every place and in every field. Nobody is above the rule of law and nobody is above discipline. Everybody is within the rule of law and everybody has to maintain discipline. Hence, a judge also has to maintain discipline.

The detailed data about numerous pending cases has been mentioned by our friends. Kindly increase the

strength of the judges. These cases will not be disposed of by having Lok Adalats, etc. No, it cannot be done like this. You have to increase the strength of the judges in every High Court if you want to dispose of the large number of pending cases.

MR. DEPUTY-SPEAKER: Please wind up your speech.

SHRI KALYAN BANERJEE: Sir, I am concluding, and I will not take much of your time. I am telling you the experience which I am having every day. I have got the opportunity to express my pain, which I am having for the last 30 years, in this House itself. Therefore, their strength has to be increased, and please do not increase the age as this measure will not give you any results.

You are saying that there would be no competition for going to the Supreme Court. Let the competition to go to the Supreme Court remain, otherwise, everybody will be casual. If I enter at the age of 44 years, then I will remain there up to the age of 65 years and nobody can stop it. Therefore, let there be competition for going to the Supreme Court. It is a good competition. We will find that good judges are coming there; we will find that at least some judges are giving time; we will find that some Judges are behaving properly; and we will find that some judges are giving meritorious judgments. There may be so many judgments, but a judgment which is really a meritorious judgment, a judgment where people will learn from, a judgment where a law will be decided, we will get such judgments from meritorious judges. Give this space for the persons. Do not increase the age from 62 to 65 years. Give the space for the persons who want to discharge their functions; give the space for the persons who want to lay down the law of the country; give the space for the persons who without any fear or without succumbing to any influence discharge their duty; and let such persons go to the Supreme Court, but not each and everyone.

With these words, I end my speech.

SHRI R. THAMARASELVAN (Dharamapuri): Thank you, Mr. Deputy-Speaker, Sir, for allowing me to take part in the discussion pertaining to the Judges of the Supreme Court and High Courts.

At the outset, I rise to support the Judicial Standards and Accountability Bill, 2010. I welcome this Bill in its entirety because it lays down judicial standards and provide for accountability of judges, and, establish credible and expedient mechanism for investigating into individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or of a High Court.

Sir, I take this opportunity to put forth certain suggestions in this august House. Firstly, clauses 17 and 18 of the Bill envisage the establishment of an Oversight Committee, namely, the National Judicial Oversight Committee. I also welcome the composition of the Committee which consists of eminent luminaries in it. The constitution of this Oversight Committee will help the legal fraternity in a big way because there is a general view in the minds of the legal fraternity that some judges decide the cases according to their whims and fancies, and that many of the cases are not decided on merits and in accordance with the legal provisions. So, I suggest to the hon. Minister that the reporting of such kinds of judgments by anyone to the Oversight Committee should be carefully looked into by the said Committee as a case of misconduct on the part of the judge who has delivered the judgment. This has to be taken care of.

Secondly, pertaining to clause 53 (1) of the Bill, I feel that the quantum of punishment provided under this clause for making frivolous and false complaints seems to be very high. This clause says,

"Any person who makes a complaint which is found, after following the procedure under this Act, to be frivolous or vexatious or made with an intent to scandalize or intimidate the judge against whom such complaint is filed, shall be punishable with rigorous imprisonment for a term which may extend to five years and also to fine which may extend to five lakh rupees."

Due to this huge punishment, no one will come forward to file a complaint against an erring judge. They will hesitate and thereby the very purpose of setting up of the Committee itself will be defeated. Therefore, I request the hon. Minister to make a suitable amendment to reduce the quantum of punishment provided under this clause.

[Shri R. Thamaraiselvan]

I would also like to reiterate the points raised by my friend, Shri Banerjee, in respect of appointments in the High Courts. While making appointments of judges of the High Courts, the rule of reservation insofar as it relates to SC/ST/OBC/Minorities people should be scrupulously followed. Apart from that, there are a lot of backlog vacancies, more particularly in the reserved categories meant for SC/ST/OBC/Minorities, which have not been filled up in the High Courts. These vacancies should be filled up without any delay so that we can reduce the volume of pendency of cases in the courts.

There should also be transparency in making appointments of High Court judges, as has been mentioned by my friend, Shri Banerjee. I would also reiterate on that point.

In some cases, the Judges are taking much time, that is to say, one year, two years, three years, five years or more than seven years in some cases for delivering the judgments. It is thereby rendering injustice to the litigants. It is said that justice delayed is justice denied. There should be stringent provision brought in this regard.

Finally, I would like to make one more point here. As all of us are aware, an impeachment proceeding was initiated against a Judge of the High Court, a few months back before this House. The Resolution was passed by the Upper House after an elaborate discussion to impeach him. Before it was taken up by this august House, he suddenly resigned from his post. Thereafter, the impeachment proceeding was also dropped. Because of this, the entire misconduct and misdeed committed by that Judge was not disclosed. It did not come to the light of the public at large. The valuable time of the Parliament was also lost which could have been productively utilised. So, in such cases, in future, even though a Judge resigns, the impeachment proceedings should be continued and appropriate action should be taken against the erring Judge by this Parliament.

With this, I conclude my speech and I support the Bill.

SHRI A. SAMPATH (Attingal): I thank you Mr. Deputy-Speaker, Sir. With much pride as well as with much pain, I would like to participate in this discussion.

This Bill may look very good. But this Bill is not even a paper tiger. It cannot even roar. We are giving more powers to the Judiciary. That is good. We are all proud of our Judiciary because we have an independent Judiciary.

Neither Judiciary, nor Parliament is Supreme. It is the Constitution which is supreme. The Constitution is made by the people, for the people and of the people. I would like to invite your attention to the long pressing demand for the National Judicial Commission. I could not understand as to why there is delay in this regard. Why is there a delay for the constitution of the All-India Judicial Service just like other civil services? Why do we not have a Directorate of Public Prosecution? We all agree that justice delayed is justice denied. But it is very unfortunate that our Judiciary has become a 'casino judiciary'. If you are rich, you may get justice; if you are poor, justice will be denied. This is what the people say. This is not my opinion.

I am coming from a State where a former Member of the Legislative Assembly was put behind the bars by the hon. High Court of Kerala. Under the provisions of the Contempt of Court Act, there is no provision for rigorous imprisonment. But unfortunately, I may repeat unfortunately, because for the last twenty years I am also a practicing lawyer. It is my daily bread. But I do not want to go to the Court even as a witness. I go to Court because I want to earn my income. But I was also ashamed when I heard the news that the Court declared that Judgment announcing rigorous imprisonment. There was no provision for rigorous imprisonment. Subsequently it was changed. That means the court also behaves prejudicially.

I would like to know why the major recommendations of the Parliamentary Standing Committee on Law and Justice were not taken into consideration while drafting the Bill. In paragraph 12.2 of its report the Committee says, "The Committee recommends that the Government should remain alert and willing to update the judicial standards as and when required in the future." In paragraph 12.6 it says, "The Committee is of the view that the expression 'close association' is very rare in nature and it may invite varying interpretations." The Committee instead suggested 'close social interactions'. But that expression is missing. The Bill comes before us with the expression 'close association'.

The Committee has made very important recommendations. On appointing the judges of the High Court, we are entrusting the judges to inquire into, to go through the complaints of their own colleagues. They are the judge, the jury and the executioners. They are the accused, the prosecutor and the judge. How can this be? Regarding the Contempt of Court Act my humble submission is that there should be an amendment to the Contempt of Court Act.

Where is the principle of social justice in the field of judiciary? We are all very proud that we have a woman as the Speaker of Lok Sabha, as the Leader of Opposition, as the Chairperson of the UPA, very eminent personalities, our colleague Members of Parliament here. But how many women are there as judges of the Supreme Court, in the High Courts or in the lower strata of the judiciary? Is there something wrong with the judiciary or is there something wrong with the women? Why is this so? This is a male dominated profession.

In my college days some rock bands used to sing, "Money, money, money. It's a rich man's world." Judicial process has become a kind of - 'money, money, money, it's a rich man's world'. What about the people? Is judiciary concerned about the people?

Declaration of assets is a very important part of this Bill. Everybody knows that some people declare their assets while becoming the judge of a High Court or the Supreme Court. But what are the total assets that they have earned during their tenures as a judge in a High Court or the judiciary? ... (Interruptions) I am not talking about those persons in the judiciary because they are very wise. They are wiser than every one of us. Those who want to amass wealth by unlawful means, know the way. If there is a will, there is a way. There will be benami transactions.

Why do we allow them to take up arbitration after their retirement? Why are we still allowing them to do that? There is an old saying on law. Either you have to marry the profession or inherit the profession. Many of the judges are coming from lawyers' homes which are engaged in conducting the suits of the corporate houses. So, are we going to have a corporate judiciary? Then the first thing that will be in peril will be social justice. Our judiciary

is the custodian of constitutional rights. You also very well know that the first Leader of this House, Shri A.K. Gopalan was put behind the bars, under the provisions of the Preventive Detention Act. At that time, the Supreme Court refused to intervene in that matter. According to the judgment of the Supreme Court, it said that it would not look into the matter, if the procedure established by law is fulfilled. The procedure established by law is not equivalent to the 'due process' clause of the Constitution of the US. But that attitude of the Supreme Court took more than 25 years to change and the reason is that one of the hon. Members of this House was along with us - Shrimati Maneka Gandhi. If the judiciary declares something wrong, that becomes the law of the land. I cannot agree with that.

They say that the advocates are the officers of the court. In 1975, when the office of the Bar Association of the Supreme Court was locked by a mere Station House Officer, it remained closed for more than two years. Not even a single advocate dared to open that. No judge gave any order to open the office of the Bar Association. That happened in this country.

I am not for encroaching upon the powers of the judiciary. Of course, we all believe in the separation of powers propounded by Montesquieu during the time of the French Revolution. But at the same time, it is a well accepted principle, the Jeremy Bentham principle, which says 'greatest utility for the greatest number of people'. It is the very basic foundation. Even our Constitution has accepted the principle of the greatest utility for the greatest number of people.

Many of my colleagues, learned friends, have raised some very important points. May I ask why our Supreme Court is still hesitant to sit outside Delhi.

Article 130 of the Constitution says that the Supreme Court can have Benches outside Delhi. But it would not move; it would not yield; it would not go to the people. If you want, you come here; we will sit here; we will hear you; we will dispose it, and that is the law. This is a very great nation!

At least we must take some examples of our colonial rulers, but not in the matter of addressing the court. Even now, if I go to a High Court and address the Court by

[Shri A. Sampath]

saying 'Sir', then quite naturally the Judge might ask and demand me saying that 'Address the Court properly'. That means, I have to address him by saying, 'My Lord'. The President of the Nation can be addressed by 'Rashtrapati'. But even a small Judge demands - 'Address me properly'. We have to address 'Your Honour', even if you are also a lawyer. We have to address like 'My Lord', 'Your Honour'. We are still having the stinging old age of the colonial rule. But this is a democratic nation! It is the largest democracy in the world having a multi-party democratic system! Why are we still carrying all these colonial baggages? We have all the colonial dresses. Even during summer seasons, advocates used to sweat; the judges would sweat; we have the gown and other such things in the court. They are all having the colonial dresses. Why are we not still ashamed of this? This is for the people. The judiciary should act for the people; it should function for the people. Of course, we are not perfect. But we are trying to get near perfection. Our aim is to have perfection.

With your permission, Sir, may I request the hon. Minister to make some humble and earnest efforts - even if legislation is necessary, by legislation also - let us start some circuit Benches of the High Courts and the Supreme Court. Let the Courts go to the people, receive complaints, dispose the cases.

MR. DEPUTY-SPEAKER: Please conclude.

SHRI A. SAMPATH: Yes. I am afraid, when some Members speak, the clock runs faster and it is not because of me!

I sometimes feel that our courts are interested only in the PILs, that is, matters relating to Public Interest Litigation cases. If you come with such a PIL they will dispose of the case immediately. The number of cases is increasing and the bundle of pending cases is growing. Are some of our judges running after publicity? It is not fair on the part of the judiciary to seek publicity. You scratch my back and I will scratch yours. It is not the duty of this federal legislature to scratch the back of the judiciary. I have some reservation to say like that but there is no other word to use. I hope it is not unparliamentary. Let us not scratch the back of the judiciary. Let us not give some

gifts to the judiciary. We do not need any scratch or pat from judiciary. Let them criticise the legislature and the executive. Let them have the judicial review. It is part and parcel of this holy book, the Constitution of India.

My request to the hon. Minister, through you, Sir is that the recommendations of the Standing Committee should be given proper weightage. There have been instances, even in this august House, of many Bills getting passed without any discussion. We had such an experience even yesterday. It is quite unfortunate. Three Bills were clubbed together yesterday. My learned friend, Shri Kirti Azad was present to speak on the Whistleblowers' Bill. Nobody has spoken on that Bill and that did not also go to the present Standing Committee.

We all stand for social equality, social justice and economic justice. May I know how many people belonging to the Scheduled Caste, Scheduled Tribe, OBC or Minorities are there in the judiciary? It is just like the women representation. Of course, we can talk about merit. Merit is there and it should be there but at the same time people from these categories must also feel that this field is for them also. They should feel that we are working for them, we are one of them, we are standing for them and we are doing our jobs for them. If social justice is not meted out to the down-trodden, how can we say that we stand for social equality?

We have the largest written Constitution in the world and we are proud of that. But at the same time, there are nations which do not have even a single piece of written paper as their Constitution but at least in some matters they are functioning much better. I am not saying that we are lagging behind but, Sir, we ought to do justice to the founding fathers of the Indian Constitution.

With regard to the retirement age, many of my learned friends have given very valid suggestions like increasing the age of retirement from 62 to 65. The reason behind this, according to them, is that we are not getting meritorious people, people with good merit, capacity and calibre. There are young aspirants who can be very good judges. They may function much better than those who are going to retire.

Many of the judges after their retirement 'seek for

some cushion, some comfort or some appointment. So, they always want to be in the good books of the political leaders. My humble suggestion is that for appointing the retired Judges to some commissions, inquiry commissions and quasi-judicial bodies, let there be some other mechanism like National Judicial Commission.

MR. CHAIRMAN: Please conclude.

SHRI A. SAMPATH: I am concluding. We do not want abcd Judges or xyz judges. There have been instances in various States. People say that some Judges belong to this party and some to that Party, they are in the good books of this Party and they are the puppets of that Party. We do not want such type of Judges.

They should have allegiance to the Constitution and before that to the people of India. My humble suggestion is that this Bill needs a thorough revamping. This is not even a paper tiger. This should be again sent back to the Standing Committee for reconsideration. Only after that it should be introduced in this House.

SHRI PINAKI MISRA (Puri): Mr. Deputy Speaker, Sir, there are some important pieces of legislation before us today, brought by the hon. Minister for Law and Justice.

Let me preface by first saying that the hon. Minister for Law and Justice is one of the few Ministers on the Treasury Benches, who I regard very highly. I feel that his integrity and intellect are both in the right places. As a result, I would normally have supported his legislation wholeheartedly. Unfortunately, I can support only one piece of legislation wholeheartedly. The other, I support a little half-heartedly. With regard to the one, I support wholeheartedly, I am at variance with some of my friends and colleagues here, including the esteemed Member from the Trinamool Congress, who made a passionate plea that the 114th Amendment should not go thorough.

I believe that the hon. Minister has done the right thing by correcting, what has been a historical error by the Constitution framers. I believe that our Constitution framers have been widely heralded as very wise men. That is an unexceptional proposition.

There have been very few errors discovered over the past 60-65 years. Some of these errors have required

constitutional amendments. I believe that this is one of those errors, which does require a constitutional amendment. Not entirely for the reason canvassed by the hon. Minister, when he said that there are too many vacancies in the High Courts and, therefore, if we raise the age, we might bring down pendency.

I do not believe that it is the only reason. I believe that there is a much more valid reason. The much more valid reason is that there is no reason that a High Court Judge ceases to have the capability to work at 62 years of age and the same Judge suddenly gets that capability if he is elevated to the Supreme Court to work till 65 years of age.

Shri Kalyan Banerjee has said that this is a very aspirational thing. It should be encouraged that High Court Judges must aspire to go to the Supreme Court on merit. I disagree with him violently. Our history has shown, since the collegium system has come into place and even before that when the Executive had the power to appoint Judges to the Supreme Court I must admit that Judges to the Supreme Court have mostly been appointed on merit. Judges to the Supreme Court however have also very often been appointed for all kinds of opaque and collateral reasons.

Unfortunately, in the past 12 to 15 years, since when the collegium system has come into play, we have seen the very unedifying prospects of High Court Judges hankering to go to the Supreme Court. It is because they get those extra three years of service to serve till the age of 65.

I am being very candid and honest here. This has emasculated the independence of the High Courts, as enshrined and envisaged in the Constitution. The High Court Judges, in order to be seen to be on the right side of the Supreme Court Judges, Collegium ensure that they tow a particular line. I say this with the deepest regret. To ensure that they are picked out to go to the Supreme Court they are willing to be completely subjugated. There is no system of seniority, which is followed. There is a system of pick and choose. I will not name individual examples but individual examples are in fact galore. There are examples after examples of people who have been picked to go to the Supreme Court without any regard to merit. While

[Shri Pinaki Misra]

those who have had merit had unfortunately not made it to the Supreme Court and have languished and retired in the High Court. I believe, if the age of the Judge is at par, High Court judges will prefer to serve with dignity, honour and fearlessness in the High Court rather than hanker to go to the Supreme Court to get those three extra years. Further, in any case, the power is beyond the pale of the Government and I will come to that, even the Supreme Court Collegium which appoints the Supreme Court judges would then, I think, feel free to appoint judges purely on merit rather than for any other consideration because High Court judges would prefer to, I think, remain senior judges in their own courts rather than go and languish in the outer courts in the Supreme Court. So, I believe, this is an idea whose time has come but unfortunately Government seems to have had very little luck with Constitutional amendments as we saw yesterday.

They brought a Lokpal Bill which seems to satisfy nobody, not even their own MPs who did not bother to turn up to vote for it. I think, today some Members from the BJP have expressed reservations about this Constitutional amendment because the only ground being given is that apparently there will be a great deal of disgruntlement amongst those who are waiting to become judges. Let me tell you that three years is no time at all in the history of a nation. Within three years everybody will be back at par. So, please do not stand in the way of what would be a correction of an historical error. I believe that the time has come when you give the High Courts their due dignity; you give the High Courts their independence.

Shri Kalyan Banerjee mentioned that the judges are going to sleep in the High Courts. That is another matter. That is a matter of filtration at the appointment level. I will come to that. It is a very important question - whether appointment system in our country is salutary or not. That is one of the things that I would like to bring to the attention of the hon. Minister. Speaker after speaker has talked about the National Judicial Council which should have been brought along with these two pieces of legislation. That could have then, I think, completed the trinity of legislation, as it were with regard to the Judiciary. The National Judicial Council is again an idea whose time is

very ripe. The collegium system has clearly failed us. In fact, retired Chief Justices of the Supreme Court who set the collegium system in place have now lamented at the tyranny of the collegium system and how it is not working to anybody's satisfaction. Therefore, time has come for this Government to take courage in its hands and wrest back the initiative of the appointment process by way of a National Judicial Council.

The only difficulty is that the entire system of judicial appointment was ceded control by the then Government headed by the late Narasimha Rao because it was a Government beset by scandals. Remember the havala days. That was a Government that was beset with so many scandals that the courts, I think, took over the power of appointment from the hands of a completely diffident Government. This Government unfortunately again is a Government beset by scandals. I am not sure that this Government again will have the courage and the capacity to do so though we have a very capable Minister who, I think, should make all out attempts to put this National Judicial Council into place because this is an idea again which is very germane today.

Having espoused the cause of the 114th Constitutional amendment which I urged this House to pass on a bipartisan basis, I will now come to the Judicial Accountability and Standards Bill. This is a very difficult time for the Judiciary. Hon. Members realise that. These are in fact dark days for the Judiciary. We had the prospect of politicians being bashed by the Anna Hazare camp; politicians have been bashed for the last 40 years and so we have a thick hide now. We do not have a problem if we are bashed some more. I think, we have got used to it. What is I think, very disconcerting is two Members of the Anna Hazare civil society camp, two very senior lawyers, have filed an affidavit in the Supreme Court of India stating that to their personal knowledge, eight out of the past 15 Supreme Court Chief Justices have been corrupt Chief Justices. I hope the House is aware of this. This is an affidavit which is on record today in the Supreme Court. There are contempt proceedings, which are pending before the Supreme Court against these two gentlemen. I have no hesitation in naming them because, I am sure, they would want to be named. Shri Shanti Bhushan who is now in his mid-80s has actually said that he is willing to go to

jail rather than apologise as he has spoken the truth, in defence of a robust, independent and honest judiciary. He has said that he is willing to go to jail but he will not apologise. The judges are beseeching them to withdraw the allegation but they are holding firm. These are very difficult times, Mr. Deputy-Speaker Sir.

Let me just add to what I have just said. The joke in the Supreme Court corridor is not that eight out of fifteen are corrupt but how is it that one or two of the others have been left out and that includes one very noteworthy person who has now been anointed by this Government in a very high constitutional post. The joke doing the rounds is that, not to mention that gentleman in the list of corrupt, that honourable retired Chief Justice is like staging Hamlet without the Prince of Denmark. That is how low things have sunk.

I would conclude in two to three minutes. We have also seen the Soumitra Sen impeachment proceedings. The Rajya Sabha heard with shock and horror the dark deals which were abounding in the corridors of the judiciary.

I am sorry that I have to support this Bill only half-heartedly. It only scratches the surface. It does nothing more than that. We have already seen the Judges Inquiry Act, 1968. It has been a very difficult Act to enforce.

All that the proposed Bill now does is to basically add the same filter under a different name. They also had a Screening Committee, they also had an Inquiry Committee. This Bill also now brings in an Oversight Committee. Ultimately, the impeachment process comes to Parliament. We have seen, over the last 60 years, that the impeachment process has been there, how difficult it has been to impeach anyone? Not a single judge has been impeached in this country over the last about 65 years.

With great respect, there are many other provisions in this Bill which do not even scratch the surface. I think every speaker has talked about judicial delays. The Government should have really given a lot of insight into how to prevent delays in courts. It can be done. For instance, the hon. Minister, who is a very eminent counsel himself, knows that by having brought in a simple amendment in the CPC of a time-bound provision as far

as filing a written statement is concerned, you can deal with delays in disposal of suits. ...*(Interruptions)*

MR. DEPUTY-SPEAKER: Please conclude now.

SHRI PINAKI MISRA: Sir, I am not wasting the time of the House. You may give me a couple of minutes more to speak.

Therefore, what this House should have really done is to debate the various provisions and amendments in the CPC and CrPC which would cut short the trial process. I urge the Minister who has been a very eminent counsel himself to kindly look into this aspect of the matter because this is what hurts the people at the cutting edge level.

Ultimately, dealing with the issue on which we are speaking today, I really believe that this Oversight Committee should have had the hon. Speaker and the hon. Chairman of Rajya Sabha. There is no reason to make this a completely overweight judicial body. There should have been some checks and balances in the system.

I urge the Minister once again to bring the National Judicial Council because we really need the National Judicial Council which will again have some checks and balances, where there will be enough numbers from the Executive as well as the Legislature to ensure that the judicial process, the appointment process, the filtration itself is a salutary one.

I again beseech all sections of the House including my friends of the BJP on this Bill. I wish that the Minister as well as the Govt's floor managers do a better job today than they have done yesterday. Please reach out to all sections of the House. Please request them to get the 114th Amendment passed because this would be a salutary amendment. It would give the dignity and independence back to the High Court which is very essential.

With these words, I thank you very much, Mr. Deputy-Speaker, for having given me this opportunity to speak.

[Translation]

SHRI CHANDRAKANT KHAIRE (Aurangabad): Mr. Chairman, Sir, I would like to thank you for giving me an opportunity to speak. On behalf of my party Shiv Sena, I

[Shri Chandrakant Khaire]

am on my legs to support Judicial Standards and Accountability Bill, 2011 and The Constitution (114th Amendment) Bill, 2010.

15.00 hrs.

Mr. Chairman, Sir, Judiciary is one of the four pillars of democracy. People have a lot of expectations from the Judiciary. People believe that they will get justice from there. In our country 3 crore 87 lakh cases are lying pending in the courts. People are not getting justice due to pendency of the cases. Particularly when people do not get justice in Lower Courts, they go to the High Courts and the Supreme Court. But the fees of the advocates in the Supreme Court and the High Courts runs in lakh of rupees. The poor people do not have money to pay their fees, then how will they get justice? This issue has cropped up before us.

Sir, since the appointments of judges is likely to be made by the Judicial Commission, I would like to support that the retirement age of the judges of the High Court should be raised from 62 years to 65 years. It is a good idea. The retirement age of the judges of the Supreme Courts is already 65 years. After the retirement (62 years) the Judges are appointed as the Chairman of any Commission under the State Government or they are appointed somewhere else. But the best part is that their retirement age should be raised from 62 years to 65 years. Therefore, I support this Bill.

15.03 hrs.

(SHRI P.C. CHACKO *in the Chair*)

People expect transparency in Judicial system and so do we. A number of allegations are being levelled. We have seen in the Parliament also as to what happened to Ramaswami case and Soumitra Sen case. We all had come prepared about what Soumitra Sen will reply and what questions should be asked to him. But he resigned from his post after the proceeding in the Rajya Sabha. But what happened thereafter nobody knows. If any investigation is carried out against any Chief Minister, that is made public. But what happened to Soumitra Sen? Whether he was punished? Whether any fine was imposed

on him? Whether everything come to an end after his resignation? All this should not happen. I would like to request the hon. Minister to inform us during his reply as to what happened to Soumitra Sen's case later on. Corruption charges were duly proved against him in the Rajya Sabha. I wish to know as to what action was taken against him subsequently. If no action has been taken, how will he be punished for his crime? If action will not be taken against him, it will create doubts on the decisions by him. Kalyan Banerjee ji said that 95 per cent judges are honest, I do agree with him rather cent per cent are honest. As Shanti Bhushan ji had levelled allegation saying that an inquiry should be carried out against nine judges of the Supreme Court because they have taken bribe. ...*(Interruptions)* He said he is even ready if he is charged with contempt of Court. If charges are being levelled like this, it does not augur well. Thus, how will you carry out investigation on the charges levelled by him? We think that transparency is a must and what action has been taken against them should be made public. I think, Judicial Commission will put a check on their activity and improve the system. How will you deal with the allegations levelled against them? Even today, we expect transparency. If it has transparency, what happened to the inquiry against them? I think Judicial Commission will also put a check on them to some extent. I think that Judicial Commission will also reform the Judicial system. Therefore, inquiry should be carried out against them. Hon. Hukmadeo ji also said. Our.....* is in some commission, some allegations have been levelled against him. This news appeared in the newspapers. One.....*, reports were published many times about him in the mid day paper, this news was published in newspaper many a time. Media revealed the details of his property. I would like to know as to what action has been taken against them. If action is initiated against an M.P., a former Minister, or a former Chief Minister, then why are they spared? Inquiry should be carried out against them. The appointment of judges is made by the Judicial Commission. Vijay Bahadur ji said that many persons who have been appointed as judges were advocates earlier. They were famous. But what was their property at that time? And what is their property after appointment. All these points have been touched upon in this Bill. Proper investigation. Even today, people have faith in judiciary and it will continue in future too. I would like to say that

a case came to light in Maharashtra. An advocate used to work in National Consumer Forum. She was the member of that forum also. She made a commitment to give the judgement in someone's favour, for this she took Rs. 30 lakh. She has been arrested.

Does he know, who was his father? These days certain people try to stay in touch with all the judges from district courts to High Courts and Supreme Court." These people who try to be close to the judges are the ones who are involved in corruption the most. They claim that they can get a specific judgement from the hon. Supreme Court. All of them hang around the judges. Judiciary should be vigilant against them and take some sort of action otherwise the reputation of the judiciary would be tainted. I support this Bill and I hold a clear view that there should be no reservation in the selection of judges in the High Court and Supreme Court, they should be selected only on the basis of their merit and experience.

Thirdly, we always get involved in agitation. At the time of agitation we are forced to go to courts. Police informs the court about the arrest and then case is filed. If we keep aside other tasks, even after the agitations and campaigns we are forced to go to court for ten times. There is not even damage worth 1000 rupees and still we have to visit the court there multiple times and leave the Parliament. An honourable Judge had said that it is irrelevant that the Parliament session is on, the court is as important as Parliament. There is a need to make a code of conduct to keep such people in check who disrespect the Parliament. How can they disrespect the Parliament? I would like to say through you that they should not say such things at least about the Parliament.

[English]

MR. CHAIRMAN: I am deleting some of the names from the record which you have mentioned in your speech.

SHRI S. SEMMALAI (Salem): Mr. Chairman, Sir, I thank you for giving me this opportunity to speak on these two Bills.

Today, the two Bills have been taken up for consideration. Before going into the details of the Bill, I would like to say a few words on the system of selection

and appointment of Judges. Many of our hon. Members, who have spoken earlier, also insisted on this. At present, the appointment of Judges through a Collegium is not free from defects. Like our hon. Member Shri Vijay Bahadur Singh stated earlier, Judges themselves appoint Judges. As our hon. Member Shri Kalyan Banerjee said, there is no criterion in the elevation also. At present, there is no transparency in the selection and appointment of Judges. So, there is a crying need to perfect the system as it suffers from infirmities at present.

Sir, the Judiciary is the last ray of hope of the people. The confidence and trust of the people in the Judiciary is still in tact. Before people lose their faith in the Judiciary because of the activities of a few black sheep, we have to initiate efforts to retain the faith of the people. The Law Commission and the people of right thinking suggest a transparent system of selection of Judges. A National Judicial Commission on the line of the Union Public Service Commission has to be set up for the selection and appointment of Judges. Such a body should be free from interference, pulls and pushes. The system, I think, will enable selection of right persons in the right place. Honesty, integrity, impartiality and legal acumen should be the guiding factors in the selection of Judges. By evolving such a system, we can ensure that the Judiciary remains accountable and free from taints. Let us hope that the collective opinion of the hon. Members of this august House will be heeded.

Next, I come to the Constitution (Amendment) Bill, 2010. This Bill, in the Statement of Objects and Reasons, has stated about increasing the age of retirement. The reason given for increasing the age of retirement is that the existing backlog in the vacancies would be cleared; this would have a clear impact on the reduction of pendency of cases in the High Courts. So, in the Statement of Objects and Reasons, the reason given for the increase of age cannot solve the problem. Increasing the strength of the High Court Judges is the need of the hour. At present, only 895 Judges are there. So, this number should at least be increased to 1000. Filling up of the existing 265 vacant posts is the immediate remedial measure.

Sir, the hon. Members mentioned about the vacancies in various Courts. Not only in Allahabad, Kolkata but also

[Shri S. Semmalai]

in the Madras High Court, there are a number of vacancies. What are the hurdles in filling up the vacancies? I do not understand it.

My next point is this. What is wrong in adopting reservation in the appointment of Judges to the High Courts and when they are elevated to the High Court from District Courts? In the direct appointment also, the Government can select talented persons among the women and among the Scheduled Caste and the Scheduled Tribe people. Then only the social justice could be maintained.

The Centre should focus more on alternative mechanism to reduce the cases pending, such as Lok Adalats for resolving disputes.

Another suggestion is to reduce the number of holidays. At present, courts have a long summer vacation which may be reduced to a minimal level. The highest litigant is only the Government at present. To avoid more filing of the cases, disputes should be resolved through consultation and discussion. This is for all litigants including the Governments.

I want to recall what Abraham Lincoln once said - discourage litigation, persuade your neighbour, whenever you can, point them out how the normal winner is often a loser in fees, cost and time.

Then, I come to the Bill - the Judicial Standards and Accountability Bill. As far as this Bill of 2010 is concerned, the proposed Bill would strengthen the institution of Judiciary by making it more accountable thereby increasing the confidence of the people in the institution.

The measures to be taken through this Bill will increase the accountability of the Judges of the High Courts and the Supreme Court.

Now, I would like to point out certain grey areas in the provisions of this Bill, which have to be carefully redrafted.

Let me take Section 2(j) deals with the misbehaviour. Sub-clause (j) specifies that giving false information wilfully is a misbehaviour. What I want to seek clarification from the hon. Minister is as to whether the Bill has any provision

of creating a mechanism to verify the authenticity or scrutinise the declaration made by the Judge and come to a conclusion that the declaration given by the Judge is false. I would request the hon. Minister to clarify this point. The Bill lacks such a mechanism.

Indian Judiciary is the second most powerful Judiciary in the world, next to the US. Still, there are a few black sheep. So, there is nothing wrong; nothing harm in allowing every citizen of the country to prepare a genuine complaint against the Judge with a justifiable cause.

The provision in Section 7 is a welcome feature. On constitution of scrutiny panel, the provision says that two Judges of the Supreme Court in the panel for the Supreme Court; and two judges of the High Court in the panel for the High Court. Judges from the same court, if appointed, what I apprehend is that they may show an affection towards the fellow Judges. So, while constituting of scrutiny panel, instead of appointing Judges from the same court, Judges from other courts may be nominated.

Section 19 - all complaints need not be sent to Scrutiny Panel as it will be over burdening it. I would suggest that on receipt of a complaint, Oversight Committee may make a preliminary assessment and if it is satisfied that a prima facie case is there, such complaints only may be forwarded to the Scrutiny Panel.

Section 26 says about ex-parte provision, on which, I would like to draw the attention of the hon. Minister. In Section 26, after the words 'proceed ex-parte', the words, 'after giving him or her sufficient and reasonable opportunity' may be added. The provision now simply says ex-parte', Sufficient and reasonable opportunity may be given to the parties.

The Oversight Committee as per the reading of the Bill does not have suo motu powers to refer a case to the Scrutiny Panel. So, I would suggest that Section 29 may be suitably amended to empower the Oversight Committee to take suo motu action against a Judge when it receives through its own sources any act of misbehaviour.

The attempt to bring a legislation to make the Judiciary accountable is laudable. I am sure, the Bill would bring about the needed reform in the Judiciary. But it depends on the implementation of the provisions.

With these words, I support the Bill.

MR. CHAIRMAN: We have 20 more Members, who want to participate in this discussion. Please avoid repetition and be brief.

[Translation]

DR. SANJEEV GANESH NAIK (Thane): Mr. Chairman, Sir, I am grateful to you for allowing me to speak. I would like to speak in support of the Government.

Today, an extremely important Bill has been brought in the House. It is said that our country is built on four pillars. We claim that we have elected houses, elected representatives houses, bureaucracy, all kinds of press and media and judiciary. Today, the Government is trying to empower them through this Bill. I would like to thank both the hon. Minister and the Government for this. I would like to speak on a few points.

First of all, there are almost more than three crore cases pending in our country. I would like to say to the hon. Minister that the population in our country is increasing. Therefore, we need to expedite the process of appointing the judges to all the vacant posts in the lower courts, High Court and Supreme Court. Then it will be possible to make the fast track courts functional which are to be launched very soon. We are using video conferencing in places like Mumbai and introducing separate provisions. I would like to urge the Government to consider this and take any appropriate action at the earliest to introduce such a provision in the law that the common man does not say again that he is not getting justice. If there is delay in the justice then it is said that justice is denied. Therefore I would like to say on behalf of the demand of the common man that, since the British era, court functions for 210 days out of 365 days. As I was discussing a few things with regard to the judiciary, they thought that we were infringing their rights. As the judiciary functions for only 210 days, the number of holidays should be decreased so that courts could operate for some more time to facilitate the fast disposal of the cases. I urge the hon. Minister to take note of this issue.

Secondly, the newspaper reports are stating that there is corruption everywhere be it lower courts, session

court, High Court, Supreme Court. The common man is saying that there is corruption everywhere. This is a strong Bill. I believe that be it treasury bench or opposition, there are efficient MPs on both sides who are practicing or have practiced law. I think that with their support we can bring a strong Bill in this House. I would not take more time and conclude while supporting this Bill and congratulate the Government.

[English]

SHRI NAMA NAGESHWARA RAO (Khammam): Thank you, Mr. Chairman, Sir, for giving me the opportunity to speak on Judicial Standards and Accountability Bill 2010 as well as on Constitution Amendment (114th Amendment) Bill.

[Translation]

Mr. Chairman, Sir, today, in the Indian democracy

[English]

courts are having a very big role.

[Translation]

If we look at the recent past

[English]

through courts several issues and several scams have been taken note of.

[Translation]

The common citizens have full faith in the courts. We are going to discuss the Bill brought in the House today.

[English]

When you see the present situation,

[Translation]

around two crore and seventy lakh cases are pending in the lower courts itself and around 40-45 lakh cases are pending in the High Courts. Likewise, around 50-60 thousand cases are pending in the Supreme Court. There are three crore twenty lakh cases pending from lower courts to the higher courts in the country. The percentage

[Shri Nama Nageswara Rao]

of cases is five per cent out of total voters. So many cases are pending. Cases remain pending for long durations. The common man is denied justice due to lack of infrastructure and system in the courts. We should develop the IT sector at present. The Government should consider this issue. Such a large number of cases are pending, [English] infrastructure development is one of the major issues.

[Translation]

Even the budgetary allocation made for the courts has not been spent. The common man faces of hurdles in approaching the lower courts at present. A common man gets no facilities there the whole day. The infrastructure in courts should be developed.

The IT systems should be developed in it before anything else. Accountability and transparency should follow. And as the Hon. Member was speaking, the appointment of the judges is pending in these courts. The Government should consider this issue. At present the maximum number of pending cases in India, which is 20 per cent, are in Uttar Pradesh courts. Likewise, cases are pending in courts in Maharashtra, Gujarat and other places. The Government should consider this issue as well. Not only the seniority but merit should also be considered at the time of appointment of judges. Judges should be appointed through honesty, integrity, transparency and consideration of their merit. Likewise, there should be provision for SC, ST, OBC, women and minorities in this Bill. The Government should see the merit in their inclusion also. They should also be given a chance, common citizens face a lot of hurdles while approaching the Supreme Court. They face a lot of difficulties in visiting the Supreme Court from Kerala or South India.

[English]

Why do we not have North, South, East and West Circle Courts?

What is the problem if there will four circle courts in the country? If we see in that way, Andhra Pradesh and Hyderabad are the best places for them. If there will be a circle court in that part of the country, it will be very good.

If I come to the second point, the hon. Minister spoke about retirement age referring to the USA in his speech. The judges work till the age of 75 years there. In our country the age of retirement of judges in the High Court's is about to be increased to 65 years from 62 years. But the Government should pay attention to one more thing regarding duality that on the one hand, they say that they need young leaders, on the other hand, the Government is increasing the retirement age which is against the interest of the youth. What is this? The condition of unemployment is very pathetic in the country. A huge number of people having law degrees are unemployed. The population in the country has reached the highest level. On the one hand, the Government advocates for the youth leaders but it is working against the youth. This is not right.

We should not put burden by increasing the retirement age from 62 years. Human resource is the biggest asset in India. Due to human resources, the country is getting foreign exchange as the people of the country go to foreign countries for work. There is a lot of potentiality with regard to the human resource. But, we oppose the provision of increasing the retirement age. This is very important. The Government should provide opportunity for the youth.

With regard to the matters discussed yesterday and the matters being discussed now, the opposition leaders have given constructive suggestions. The Government should introduce an accountability Bill with strong and effective amendments after considering all constructive suggestions given during the debate in this House. Only then, we will support it in going through the House.

SHRI SANJAY SINGH CHAUHAN (Bijnour): Mr. Chairman, Sir, I will speak in the support of the Bill. Through you, I would like to say to the Government and the hon. Minister that the society happens to be like a body. If our organ is not functioning properly, it makes the entire body dysfunctional. But, this Bill was a long awaited one and the people had many expectations from this Bill. Nobody knows that when the next amendment will be made in it. I want to say that the sentiment of the judiciary is hurt and the steps should be taken to revive the confidence. It has been said that the interest of the litigant is supreme. Hon. Minister is a very senior advocate but I have also been a

junior advocate. Our entire system is for the litigants but today, the condition of the litigants is the worst.

I hail from the West Uttar Pradesh, where the population is around seven crore. 25 districts of this area have been demanding a bench of the High Court for the last thirty years. There has been a strike going on continuously every Saturday in a week in 25 districts. But, the Government has not been able to set up a bench of High court in the Western Uttar Pradesh. It is unfortunate that the Lahore and Karachi High Courts in Pakistan and the High Courts of Punjab, Haryana and Rajasthan are near to these people but the High Court of their own state is at the distance of 800-900 kilometers. If anybody's case goes to the High Court, his destruction is certain. But the Government has not taken any decision till now.

One senior MP has expressed his thoughts before me here. Shri Vijay Bahadur Singh ji has been a very senior practising lawyer. The hon. Minister knows that a new culture of uncle judges has developed particularly in the High Courts and the Supreme Court. It is necessary to investigate into the number of the judges whose children are lawyers. These lawyers do not go to the courts where their fathers are the judges but go to the courts where their relatives are the judges and with the judges whom they had dinner in the last evening. This is the root of the problem and they are given the relaxation. With regard to the assets, it is right that the corporate houses are controlling half of the country but nothing has been done against them. The people can make property and assets in the name of Benami companies. I want to say that the attention should be focused on the root problems which the judiciary is facing. The sanctioned strength of Allahabad court is 150. But there are only 72 judges there today. I want to say that the problems which are apparent cannot be ignored. It is not right to make no provision by framing the Bill for the appointment of extra judges in the court where three crore cases are lying pending.

Mr. Chairman, Sir, through you, I would like to say there has been a procedure regarding the Higher Judicial Service in our country. If the Government cannot afford to appoint the permanent judges, then the senior advocates should be made judges for five or ten years and a time bound period should be fixed for the disposal of the

pending cases. It will do good for the country. We discussed the Lokpal Bill yesterday but I want to say again that until our infrastructure will not be strong, the number of hospitals will not be enough, the number of courts will not be enough, our road and railway service will not be good, we cannot curb corruption. Today, there is the sense of insecurity in all people of the country. I am not justifying the corruption but if anybody's child gets rich, then that person thinks that he/she should have a 5 lakh rupees in advance because the Government does not have any mechanism through which the treatment could be done free of cost. If any person seeks justice, he/she will have to spend money.

Mr. Chairman, Sir, I support the Bill. But the Government should bring the necessary amendments and the citizen of the country could get justice.

SHRI GANESH SINGH (Satna): Mr. Chairman, Sir, I rise to put forth my views with regard to 'The Judicial Standards and Accountability Bill'. This Bill provides for setting up of a mechanism for disposal of complaints filed against the judges of High Courts and the Supreme Court. Every citizen in the country respects the judiciary. Courts are looked up with a lot of respect. It is also true that this is the only pillar of democracy which still retains the faith of the common man. Even today, there are conscientious and honest judges. It is true that just as there have been perversions in all the fields, so is the judiciary witnessing a few minor perversions. In the last few days the cases of High Court judge, Shri Soumitra Sen, Sikkim High Court judge Shri Dinakaran and Shri Ramaswami came to light. Three to four such cases of impeachments came to light and were discussed in the Parliament. In any case, one or the other case of the courts keep getting exposed through the newspapers. I think the Government has presented this Bill keeping in mind the said details. I do not think that the provisions introduced in this Bill are strict provisions. To bring transparency in all the sectors a provision has been introduced according to which the salaried persons will have to disclose information regarding their assets. They would also need to disclose the assets of their family members. In addition, a provision for setting up a National Judicial Oversight Committee has been made. A complete scrutiny panel would also be formed.

[Shri Ganesh Singh]

Inquiry committee has also been set up. These steps are definitely in the right direction. In addition there are some prohibitory measures too such as, no person working in the courts would be called at residence by any judge. But such examples are not seen in the High Courts and the Supreme Court. Actually, the truth is that there is a need for cooperation from trial courts and district courts and there is a need for reform in these courts but nothing has been mentioned in the Bill in this regard. Today, it can be seen in the trial courts that a large number of cases are piled up in the courts where judges sit from dawn to dusk and hardly dispose one or two cases. In such a situation, the number of cases keeps on getting increased. There is neither appropriate sitting arrangement for the judges there nor sufficient staff. On the one hand, this is an age of Information Technology but there is no computer in the courts and files are at the mercy of chance. These may be found or may get stolen. This is also a big reason for increasing discontentment among the people. I think there is a need to include this factor too in this Bill. Some flaws have also been mentioned in this Bill. I would like to say that the Chief Justice of Supreme court Shri J. S. Verma had mentioned that such mechanism should be set up in the country which ensures that the honest judge does not get discouraged and gets full protection. We also need to look at this aspect that the honest and hard working judges get full protection and opportunity to work efficiently and that they are insulated against allegations and counter allegations. Recently, a former Delhi High judge, Shri A. P. Sahai said that this Bill violates the safety measures, vested by the constitution, in the judiciary. This is the allegation levelled on this Bill. Therefore, these factors should be taken into consideration with seriousness. Today, there is a big question of the appointment of the judges. Everyone feels that there is a certain system for appointment in place that puts a question mark on it. On the one hand, we set up a Union Public Service Commission for conducting examinations for IAS, IPS and IFS services but till date we have not been able to set up a Judicial Commission for appointment of the judges and appointments are being made through a system put in place the collegiums system. The Government has also been under the spotlight due to this and allegations have

been levelled against the Government regarding hope of the common man for getting justice under such a system. The second issue is that all the classes of society, especially the backward classes, have been given representation through special measures. We have provided them jobs and reservation in all the sectors but the judiciary has been left out, why? I think that in judiciary, there is no representation at all to SCs, STs, OBCs, the people from weaker sections of society and the farmers. There should be a provision to include such people as well in the judiciary. I think, it is required and all the hon. Members who spoke here have supported this point. Today, the pressing need of the hour is to determine the norms for the judges on the one hand and on the other we need to ascertain what the judiciary requires from the state governments and the union government and give emphasis to providing those facilities. One of the hon. Members was just saying that lakhs of cases are pending in the courts. The Supreme Court keeps on demanding for setting up of a special court for disposal of the pending cases. We need to pay attention to this as well. I have observed that a lot of tehsil courts, district courts are in a dilapidated condition although the Supreme Court and High Courts are in a slightly better condition.

But the condition in the subordinate courts and the special courts which have been set up are so pathetic that it becomes very difficult to sit there even for some time. Those courts run at such places. Therefore, the Government must improve the quality and construct new office equipped with new technology.

In the same way, look at the residence of the judges. On the one hand we say that nobody should be allowed to access the judge. If anyone accesses the judge, he can be under suspicion. But, there is a need to look into their lives as what kind of life, they and their family are spending. Even, the judges can be seen yearning before the engineers of the PWD that what is not coming in their houses. They have seepage problems in their houses or the roads are in dilapidated conditions. The Government should look into these things. The judiciary is the supreme and it is the responsibility of the Government to strengthen it and the Government should think over it.

The Speaker who spoke before me was saying that

there are many states which have vast area therefore there is a need to set up new Benches of the High Court there. Such demands are being raised time and again. Now, let's talk of Uttar Pradesh. As far as Agra is concerned, the Jaswant Singh Committee was constituted. It recommended that a Bench of the High Court should be set up immediately at Agra but I do not know why it has not been set up till now. The conditions are similar in Madhya Pradesh. The distance of High Court from Satna which is my Parliamentary Constituency is 200 kilometer and the means of transportation is also not available easily. Due to this reason, the demand for setting up a Bench of High Court in Satna has been raised a long time. Such demands keep raising from the North-Eastern states and mountainous states also. Therefore, keeping these things in mind, the Government should constitute a committee to study and which can give recommendation. Then, the Government should implement those recommendations.

There have been demands of setting up new courts at tehsil level in districts also but the High Court states that it has not got permission or, it does not have so much capacity. The Government should pay attention to this direction also. The Government should prepare any mechanism on the basis of population or other criteria so that new courts could be set up.

Mr. Chairman, Sir, with these words, I conclude and I support the Bill.

KUMARI MEENAKSHI NATRAJAN (Mandsaur): Mr. Chairman, Sir, First of all, I support the proposed Judicial Standards and Accountability Bill, 2010. I was the member of its standing Committee. During that time, we had discussed this Bill clause by clause in detail. The Standing Committee consisted of the member of the various parties and many of them are present here. They all have given very important suggestions on this Bill.

Before putting my thoughts clause by clause I would like to say that the introduction of this Bill has been put in the backdrop of United Nation's Convention against corruption.

[English]

United Nation's Convention against corruptions.

[Translation]

It had been stated in Article 11 that keeping the judicial independence intact in the judicial system, the need of purity, morality and accountability was felt and these components had been kept in it.

[English]

It is said in article 11: 'Without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among Members of the Judiciary including rules with respect to the conduct of Members of the Judiciary.'

[Translation]

Inspired from it, this Bill has come in the present form. After that, a meeting of the judicial group took place in Bangalore in the year, 2001 where, the matter of the cleanliness of judiciary was discussed. At the same conference, the then Chief Justice had acknowledged that there should be a code of conduct and the criterion should be discussed.

He added that the work in the entire judicial system should be done further on the basis of independence, impartiality, purity, propriety, equality and eligibility. This Bill has been presented on the basis of those points.

Now, I would like to talk about the statement of objects. After all, why was it needed? Now, I would like to speak on what objectives and causes have been incorporated in the Bill introduced by the Government and the hon. Minister.

The first need which was felt with regard to the Judicial Judges Inquiry Act 1968 which is related to the actions to be taken on the hon. Judges of High Courts and the Supreme Court in cases of any kind of incapability, ineligibility and misbehaviors. But the common man has not been given the right to file complaints against the incapability of the judges or any kind of their misbehaviors. There was no such procedure that a common man could file complaint against the judges anywhere. This Bill has been introduced to evolve the mechanism so that a process or procedure could be developed under the system.

The second point was that it was decided by the full Bench of the Supreme court on 7th May, 1997 and a

[Kuman Meenakshi Natrajan]

resolution regarding restatement of values of judicial life was put forth and adopted. The court said that the details of the property should be declared and it fixed some standards. But the point was that the proposal of restatement of values of judicial life was not obligatory. There was no legal provision along with this proposal. What happened thereafter? Shri Vijay Bahadur Singh ji was speaking from here, he has rightly said and I would like to add something to his point as to what is the rule of this Bill. The role of this Bill was that the Central Information Commission gave this decision under the RTI on 6 January 2009 and again the Delhi High Court passed an order in this regard. Central Information Commission wanted the judges of the High Court and the Supreme Court to declare their property whereon the Supreme Court filed a petition in the Delhi High Court and as per the petition number 288/09 the said judges will declare the details of their property when any Act will be duly passed by the Parliament. Then only the Court will take action in this regard. I would like to invite the attention of the House that while pronouncing the judgement they talk of morality and standards but when they are asked to declare the details of their property, they said they would do so only if any Act is duly passed by the Parliament. I do not want to remark on that but I am trying to put forth the crux of the point. This is the factor that compelled us to bring the Judicial Standards and Accountability Bill and that is why this Bill has been introduced in the recourse. This Bill has four important provisions. First, it fixes the standards. Second, it fixes the accountability of judges towards common man. Until now common man had no right to file a complaint against the judges. Now the people have got a procedure. Third point is that the Government has brought this Bill with four main provisions to fix the standards with regard to working of the judges and to fix their accountability. Now I would like to give my comments and opinion on the important clauses of this Bill.

First of all I would like to take up clause 3 (2). I welcome the amendment brought by the hon. Minister because the judgement should be fair enough. But in addition to judgement a number of non-obligatory comment may disappoint any organisation or person to a great extent and these may taint the image of any person.

Therefore, I welcome the amendment in the Bill. I would like to thank you for accepting the suggestions given with regard to Clause 3 (2) (B) by the Standing Committee because we had felt that the term "close association" given by you is not properly defined. It is quite vague and you added that along with 'social interaction', for that I would like to thank you.

After this, if we talk about Clause 11, it deals with scrutiny panel. As per the composition of the scrutiny panel, if any investigation is being conducted somewhere, the other judges of that court will carry out the investigation. It means the current in house procedure of the Supreme Court is below the procedure of the High Court because in the current in house procedure of the Supreme Court the judges of the high court are allowed to carry out scrutiny. It was the suggestion of the members of the standing committee which has not been accepted. Therefore, there must be a such sort of provision in future because it is quite possible that the other judges of the same court will be biased in a manner or other and even if they work with transparency, the questions will be raised on their integrity. There is a need to give a second thought to this point and I am putting forth the suggestions.

We have minutely observed the suggestion of standing committee with regard to clause 18. Only one member of executive has been appointed in the National Oversight Committee. Whereas, when we talk of England, we have adopted the West Minister Model. Judicial Appointment commission and Ombudsman are functioning in England and both are the members of the Oversight Committee. In addition to this, the power to impeach the judges is vested in the Legislature but the Ombudsman is also one of the members of it. In a number of countries, all the members of the Oversight Committee are not the members of legal fraternity.

For instance everyone is not the member of the legal fraternity in Germany and in Canada. It would have been better if this was given a thought.

Clause 22(2) is related to the investigation committee. We had suggested earlier also that if we do not fix eligibility criteria for the members of a committee before constituting the committee or the organisation, that may create problems. In the absence of clear cut eligibility criteria any

one may become the member. Therefore, it will be appropriate to fix the eligibility criteria for the members of the investigation committee. If the eligibility criteria is fixed, the members will be appointed on the basis of the said criteria. I would like to talk about clause 53(1) wherein the hon. Minister has given some relief. I appreciate him for bringing an amendment in the existing provisions with regard to the punishment for frivolous and vexatious complaints. But I would like to add that as per the recommendation of the law commission on Judges Inquiry Bill, 2006, punishment of a fine of Rs. 25,000 and 6 months imprisonment should be awarded. The hon. Minister has raised the amount of fine from Rs. 25,000 to Rs. 1 lakh. I think it will be difficult for any common person. Therefore, I would request him to give it a second thought. At the very outset he said that he would consider the suggestions of the hon. Members with regard to National Judicial Appointment Commission and formulate any action plan for the entry point in the judicial services.

16:00 hrs.

I think you will take action on it separately because this is a matter which is beyond the scope of this Bill. Therefore, that cannot be done through this bill. I hope that you will put forth a proposal for this separately. Without wasting the time of the House I associate myself with the hon. Members on the issue of social justice and empowerment.

My last point is that Shrimati Indira Gandhi ji said with regard to the Collegium system of appointment of judges that judges may be appointed in other states also. When there is a cadre system of IAS and they do not get home state, then why can this system not be introduced in the judiciary? At that time this idea was objected to but I think it is essential to implement this in future for ensuring transparency in the Judicial services. I, once again, support this Bill.

[English]

SHRI PRABODH PANDA (Midnapore): Mr. Chairman, Sir, yesterday we had discussed the Lokpal and Lokayuktas Bill and also the Whistleblower Bill. Though we did not discuss the Whistleblower Bill in detail, the subject is over. Now, we have come to the discussion on Judicial Standards

and Accountability Bill along with 114th Constitution Amendment Bill.

In all, it is known to everybody that in our democratic system, the Judiciary is one very important pivot out of the three important pillars. A belief still remains that anything can be corrupt, but the judiciary, particularly at the higher level, cannot.

16.02 hrs.

(DR. GIRIJA VYAS *in the Chair*)

It is believed more so in respect particularly of the members of judiciary in the higher courts, but in the recent years, a number of allegations of corruption against the members of high judiciary have been made. I do agree with the observations made by several Members that it is not that all the judges of High Courts or in different courts or in Supreme Court are corrupt. Most of them are still maintaining propriety, ethos and ethics.

Here, it is not the point of good or bad; the point is the system. The question comes whether any accountability is required or not, or they will be above any kind of accountability. If the judiciary fails to pass an impartial judgement, what will be the fate of democracy, what will be the fate of human rights? It simply is not the question only of their failing in wisdom and prudence. So, I welcome the effort made by this Government to address this issue at this juncture.

Madam, what happened to National Judiciary Commission, which had been proposed by the National Advisory Council in 2005? A comprehensive legislation is required. The Government should think about the proposal made by National Advisory Council and decide. Hon. Minister should respond and tell what happened to that.

This Bill requires the judges to follow certain standards of conduct and some kinds of activities are prohibited. The Bill proposes to establish a National Judiciary Oversight Committee with three bodies to investigate complaints against the judges. One is the Oversight Committee; the second is the Scrutiny Panel; and the third is the Investigation Committee. The motion for removal of a judge on grounds of misbehaviour can also be moved in the Parliament. But this point is not

[Kuman Meenakshi Natrajan]

understandable. Why such a motion will be referred for further inquiry to the Oversight Committee?

It is already mentioned and I do agree that there should be a balance between independence and accountability. But the key issue is this Is the balance between independence and accountability maintained by the proposed mechanism in this Bill? The Oversight Committee has non-judicial members, which might impinge on the independence of the judiciary. The Bill penalises anyone who breaches the confidentiality of complaints. It is questionable. Is a penalty needed for a frivolous complaint that remains confidential? Amendments have been moved by the Minister, and I welcome these amendments.

Now, I would like to talk about the 114th Amendment to the Constitution. The Government wants to standardise the judiciary, and accountability is required. But what is the relevance for extending the tenure of the judges? Will accountability be improved and standard be improved if you extend the tenure of the judges? I would suggest to please drop these things. A good number of vacancies still remain in the judiciary. Several Members have mentioned about this, and I do agree with them that not less than 3 crore cases are still pending in the courts. It is very correctly said that justice delayed is justice denied. So, without the recruitment of the judges you are now proposing to extend the tenure of the judges from 62 years to 65 years. Please drop this step.

I do agree to all the points made by my previous speaker, Ms. Meenakshi Natrajan. All these points should be considered properly. I believe that the judicial system cannot be taken up in a piecemeal manner. Therefore, I would request you to bring it in a comprehensive way and redraft this Bill for adoption in this House. Hence, I propose to please refer this Bill to the Standing Committee for consideration. Several suggestions have been put forth in this discussion. Please accept all these and refer it to the Standing Committee.

With these words, I conclude my speech.

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali):

Madam, this is the Judicial Standards and Accountability Bill. In this Bill, the Government has claimed that until now impeachment was the only provision to remove a judge of the Supreme Court and the High Courts. There was no provision to lodge a complaint against the said judges except the process of impeachment. The Government has claimed that they have brought the Bill, and a committee will be constituted and the people will be able to register their complaints against the judges and investigation will be carried out on the basis of the complaints. After investigation, action will be initiated against them. Some of the hon. Members were talking about the supremacy of the Parliament. So far the Parliament had the right to initiate action against the judges. Many argue that a number of motions of impeachment were initiated in the Parliament but everything got messed up and remained confined to the Rajya Sabha. Then, where is the Supremacy of the Parliament? The power which is given to the Parliament in this regard is getting eroded.

Madam, I would like to seek an answer from the Government. All the hon. Members have raised questions with regard to the system of appointments on higher posts in the High Courts and the Supreme Court. They argued that if the appointment procedure is faulty and not transparent, then how can it be justifiable and how can their accountability be fixed? If a person is not selected through a fair procedure, how will his judicial accountability be fixed? In the olden days, both the executive and the judiciary used to appoint the judges. But gradually as a result of the court orders the right to appointment of Judges was vested in the collegium. What is this collegium? They appoint the judges and now the accountability will be fixed by the Parliament. They make the appointment, will you fix the accountability? Therefore, my first question is whether the Government wants to bring National Judicial Appointment Commission or not and why the Government has not brought the long awaited law. Judiciary is one of the four pillars of democracy. People have great faith in Judiciary. Whenever people face any problem they knock at the door of the court. We also refer to the orders given by the High Courts and the Supreme Court. Everyone believes that people have faith in the judiciary. But certain complaints have come to light. People came to know about the reality when the Supreme court made an

observation, gave a verdict against the Allahabad High Court. Then people realized that corruption was rampant in the judiciary. Sampat Ji in his address was telling that out of faith people used to call them 'mylord' justice, judge. They were given the status of lord. They have the right to give death sentence. If fraudulent practices are being carried out there also, then what will happen to other places?

What would happen to this country if a pillar of democracy crumbles? Therefore, they say that they have brought the Judicial Accountability Bill. However, it remains to be seen as to when they will be able to put in place a judicious transparent system in the judiciary? These days nepotism plays a vital role and those having contacts in the judiciary get appointed whereas the meritorious people are kept at bay and there is nobody to listen to them. Therefore, such a mechanism and selection process should be put in place which lets through only impartial and qualified people. Accountability can be ensured only when this system is introduced. Otherwise accountability will only be a farce as the process of appointment would not be fair. Therefore, the Government should clarify this point. It is true that restoration of judicial values took place on 7th May, 1997. The judges themselves admitted that contempt of judicial values is rampant and moral fiber is becoming questionable. Therefore, these values should be restored. They fixed 16 points. They did not make a law but formulated a code of conduct but is it being followed by anyone? The relatives of judges practice in the same court - 'Jei Bhansia Sei Chatni' therefore, what kind of justice can be expected in such a scenario? It is because of this that we hear in villages that money has the power to influence court decisions. This hurts our sentiments as people have such strong faith in judiciary and such criticism and contemptuous remark about courts hurts us. Later, Chief Justices' Conference took place in 1999. And then, people of judiciary once again put their heads together in 2002. This is the background. An Hon. Member of the House was saying about eradicating corruption from every sector while giving reference of the UNO. Corruption should be done away within the judiciary as well. Therefore, all of these things have been well thought out and included in this Bill by the Government. But what about the protection of true, honest and competent persons? How is it possible

to make the honest person accountable without giving him protection? An honest judge is transferred for giving a judicious reasonable decision. I would like to know about the reasons behind it. An honest person should get protection everywhere and in every sector but the honest and able judges in the judiciary should also get protection. It is only then that they would be able to remain honest and able.

Madam, there is also the issue of age. A lot of people are in favour of employment of young people. The judges in Britain retire on attaining the age of 70-75 years. But in our country the retirement age is 60 in lower courts, 62 in High Courts and 65 in the Supreme Court. What is the logic behind this? Do the High Court judges remain mentally sound only till the age of 62 and the judges in Supreme Court till the age of 65. Whereas advocates are practicing law till the age of 80-85 and are minting money. A lot of senior advocates cannot even walk. They go to court with great difficulty but their arguments have big impact on the important decisions of the court. The age for practicing the law is 80-85 years while for delivering judgement it is merely 60, 62 or 65 years. Why are the posts of judges vacant? Please do not retire the judges till the time there is a system in place for their appointment. There is no retirement age of judges in America. Please ask for a report from America to ascertain the good or bad affect of this on disposing justice. It would help us to find ways to fix the judicial system and for dispensing justice to citizens of the country. I only urge the House and the Government to look at it from this angle and not only for employment purposes. The retirement age of High Court judges has been extended from 62 to 65 but there are lower courts in the country where crores of cases are pending. Around three crore and a few lakh cases are pending. There are thousands of pending cases in the Supreme Court, High Court and district courts. If all these cases are added, there would be around three to four lakh total pending cases. The judges in lower courts retire at the age of 60 only. This is a work which involves taxing of brain and not physical exercise. As far as they remain save and functional, they should be allowed to hold their posts because the man with more experience will work better. Therefore, provisions should be made to relax their retirement age. although, this falls under the purview of

[Dr. Raghuvansh Prasad Singh]

the State Governments but if the Union Government takes up this issue, it would influence the State Governments as well. The judges do the mental work and till the time their brains remains functional, they should not be retired. If the Government does not do this, the posts would remain vacant and the cases will remain pending. If the Government intends to improve the judicial system, it should improve the facilities, allowances and salaries of the judges and improve the infrastructure in courts. I visit a lot of lower courts and there is not even a place to sit there. Their court rooms are in even worse condition. Most of the hon. Member advocates have given their speeches. Advocate has a role in dispensing justice. But there is no cap of their fee. An eminent advocate charges 5 to 10 lakh rupees fee. Who can pay 5-10 lakh rupees? Smugglers or nefarious elements can pay such a fee. How can a common citizen pay such a hefty amount of 5-10 lakh rupees? I am not aware of the fee charged by Shri Salman ji and Shri Kapil Sibal. But it is seen that there is no limit to the fee charged by the advocates. If there is no limit to the fee charged by the advocate, how is it possible for a common man to avail the services of the advocate? No one wants to visit the court due to fear of big amount of fee. How many cases are pending till date? Therefore, the judicial system and procedure should be reformed. There are also lower level officers and employees in it. At present, when I go to court, hearing is not done. The judge has only partial information. Hearing is done only for giving a date and there is no end to dates.

Madam Chairman, let me talk about the legal process of Vedic Age and the Age of Buddha. The principle of 'Ashtkul' was followed at that time. In all kinds of philosophy there is 'Mimansa school of thought' i.e. the philosophy of reflection and investigation of truth, the school of universal justice, the school of Sankhya darshan etc. All kinds of schools of thought are included in this. The world has learnt the judicial philosophy from India. It is true that there was a time when we had become obsolete. The principle of 'Ashtkul' was prevalent in the 'Lichvi' democracy of Vaishali. There were eight judges at that time. Appeal was heard and then action was taken. The meritorious judges who are poor in the lower judiciary are suppressed and not allowed to progress. A lot of people say that

unemployment will be less if judges are reemployed. Therefore, meritorious, honest and able judges should be appointed and given protection. It is only then that the Accountability Bill would be useful and effective. Otherwise, this is just an half-hearted attempt.

Madam, I would like to say that the issue of reservation in the yet to be formed judicial commission would be raised. If I talk about only reservation of minorities, the B.J.P. will attack me viciously. Everyone should be represented. It is only then that I would agree that the judiciary has been reformed.

[English]

DR. MIRZA MEHBOOB BEG (Anantnag): Madam Chairman, since yesterday two important Bills have been brought before the House. One has been passed and the other - the Bill under consideration today - will be passed very soon. The two Bills are historically important. Both the Bills are connected with each other. Both the Bills want to take head on the greatest evil, the menace, the economic terrorist which is called corruption, which is eating into the vitals of the society. As far as taking on corruption is concerned, I think the two Bills are interconnected.

Yesterday's landmark Bill would have been incomplete, would not have yielded desired results, if this Bill had not been brought before this House. In judiciary our ranking globally is not very healthy. I think it is the second worst globally. If you leave it out of the gambit to take head on the menace called corruption, it would not have yielded the desired results. But the problem is that the cases are already piling up. The backlog is huge. That is why we have heard all the Members speaking almost in one voice about the problem of vacancies in the courts.

We have to immediately tackle this because unless we fill in the vacancies which had been created at the High Courts and the Supreme Court, the backlog will pile up and we would not be able to deliver, which the people expect the system to deliver.

I will quote two instances. So far as corruption is concerned, one person who is already struggling, and his case has been pending for the last 16 years, now has to go to the Supreme Court. In another case - the case which

I am referring to, is a murder case of a former Railway Minister of Bihar - 37 years have passed. Out of 22 witnesses, 21 witnesses had already passed away; they are dead. Still the judicial system is yet to deliver justice to the accused. Therefore, unless the judicial system delivers justice in such cases, we cannot expect the system to deliver so far as the corruption cases are concerned.

Hon. Law Minister must be knowing whether this legislation applies to the State of Jammu and Kashmir. But Jammu and Kashmir has been unfortunately in the news for wrong reasons. I want to put on record two good things which Jammu and Kashmir has already done. One was the concept of the federal system. Jammu and Kashmir was the only State in the country which has a 'Constitution within Constitution'. So far as reservation is concerned, to a large extent, Jammu and Kashmir has taken care of it. Way back in 1952, we have empowered poor farmers and peasants; we took a very revolutionary step, which is known as the 'land to the landless tiller'. We empowered poor landless people and made them the masters of their land; we abolished land-lordism and waived off huge debts which the farmers were suffering from. These are landmark judgments or landmark steps taken by the State of Jammu and Kashmir.

No Bill is perfect in the beginning. No Bill is final; we can go on improving with the passage of time. I am sure, the landmark Bills, for which we must congratulate the Government, which have been brought and passed yesterday and the Bill which will be passed today, will have far-reaching consequences. The people of the country are looking for a corruption free system; hopefully, if we go on improving upon these two Bills, a day will come when the people will see, if not corruption free, at least a less corrupt country.

[Translation]

SHRI LALU PRASAD (Saran): Madam, due to misinformation, the hon. Member said that the Chief Minister of Bihar was murdered. No Chief Minister had ever been murdered in Bihar. Former Railway Minister, Shri Lalit Babu was murdered in Bihar. The misinformation which has been included in the proceedings should be rectified. ...*(Interruptions)*

MADAM CHAIRMAN : It should be rectified.

SHRI LALU PRASAD : Please rectify is.

MADAM CHAIRMAN : Sir has been rectified recovered.

[English]

SHRI NARAHARI MAHATO (Purulia): Thank you very much. Today, we are discussing the Judicial Standards and Accountability Bill, 2010.

Many hon. Members who have vast experience and knowledge about judiciary have elaborately discussed the legacy, weakness and the demerits of the present situation.

Judiciary is the most important pillar in our democracy. After 64 years of Independence, what have we seen in our country? We have seen that from the lower level or the district level, up to the Supreme Court, crores of cases are pending.

For a long time cases are not getting cleared for want of judges. A lot of vacancies exist for the post of judges but the system is unable to fill up these vacancies. So, my humble submission to the hon. Minister, through you, Madam is that the Government should look into the matter and immediately fill up these vacancies so as to overcome the troubles of the people involved in such cases.

The Union Public Service Commission conducts examinations for IAS, IPS and IFS but not in the case of judges. With regard to National Judicial Commission, hon. Members of Parliament had a discussion with the Minister. So, my request to the Minister is that the National Judicial Commission should be formed immediately.

I had earlier also discussed and suggested that the appointment and selection of judges should be made through merit. Same should be the case with regard to the reservation of Scheduled Caste, Scheduled Tribe, OBC and minority community in the case of their appointment as judges.

The Government should make transparent provisions with regard to appointment of judges of High Court and Supreme Court. Discipline holds an important position in the judiciary. I would say that discipline should be maintained in every sphere of the judiciary. We are discussing about corruption in this House and I would say that it can elaborately be removed if the judiciary is made more disciplined and effective.

[Shri Narahari Mahato]

In my State of West Bengal, the distance from Cooch Behar to Kolkata is 800 kms. In 2000 a circuit bench of the High Court of Kolkata was sanctioned and approved in New Jalpaiguri. The infrastructure of the Bench has been completed in 40 bigha of land but due to lack of permission of the Central Government it has not been started. My humble submission to the hon. Minister, through you, Madam is that it should soon be started.

[Translation]

SHRIMATI SUSHMA SWARAJ (Vidisha): Madam, I am on a point of order. In the BAC, four hour have been allotted for discussion on this Bill. Today, the discussion has started at 15 minutes past eleven of the o' clock. Therefore, as per the rule, the voting should have taken place at 3 'o clock today.

MADAM CHAIRMAN: Under which rule are you raising this issue?

SHRIMATI SUSHMA SWARAJ: What is decided in the BAC should be implemented in the House. Madam, please let me complete what I am saying.

MADAM CHAIRMAN: Please continue.

SHRIMATI SUSHMA SWARAJ: You yourself are a member of the BAC. You are a witness to it. Why do we allot time on the BAC. This is a rule. The time allotted by the BAC is followed here. Four houses have been allotted on the BAC for discussion on this Bill. When the discussion started at 11 o' clock, then as per the rule, the voting should have taken place of 3 o' clock. ...*(Interruptions)*

ONE HON. MEMBER: Please extend the time. ...*(Interruptions)*

SHRIMATI SUSHMA SWARAJ: One minute please, yes, the time may be extended but for it we will have to take the 'sense of the House'. ...*(Interruptions)* Please, let us complete.

Madam, yesterday, a very important whistle blower Bill was introduced in the House. Only one Member from my party had stood up to speak on behalf of us. Only after 13 minute, the hon. Chairman said that his time was up

because, the total time allotted for discussion was over. Therefore, I would like to ask you as the voting was about to take place at 3 o'clock, the members of our party have been sitting since 3 'o clock. The members of the Treasury Benches have gone on vacation to celebrate the new year. Yesterday, they had to face defeat. Their constitutional amendment bill could not be passed in the House and they had to face defeat yesterday. Today also, they are going to lose, therefore, they keep on extending the discussion. There was not time of even one minute to discuss the Whistle Blower Bill. The period allotted for the discussion on the Whistle Blower Bill could not be extended even for a minute and the discussion on this Bill is getting longer and longer because the Government does not have sufficient numbers.

My point of order is as to whether the discussion can be extended by the Government to garner more numbers. The Government does not have sufficient numbers for making amendment in the constitution ...*(Interruptions)*

MADAM CHAIRMAN: The first thing I had asked you was under which rule you are raising the point of order?

...*(Interruptions)*

SHRIMATI SUSHMA SWARAJ: Please, ask the hon. Minister to give his reply and conduct voting. Our members are waiting to vote. ...*(Interruptions)*

MADAM CHAIRMAN: Under which rule are you on a point of order?

...*(Interruptions)*

MADAM CHAIRMAN: Please sit down.

...*(Interruptions)*

MADAM CHAIRMAN: Please, take your seat.

...*(Interruptions)*

MADAM CHAIRMAN: There was no time for voting.

...*(Interruptions)*

MADAM CHAIRMAN: Please sit down.

...*(Interruptions)*

SHRI LALU PRASAD: Please, get it passed. We are ready to pass it ...*(Interruptions)*

MADAM SPEAKER: The decision taken by the BAC is not the final decision.

...*(Interruptions)*

MADAM CHAIRMAN: Nothing will go on records.

...*(Interruptions)**

MADAM CHAIRMAN: As I have just told you that some moments or hours are fixed in the BAC but the House is Supreme. There are many Members who wish to speak on this important Bill in the House. Therefore, considering the intention of the House, it was never decided as to at what time the Bill shall be passed. The sense of the House is Supreme.

...*(Interruptions)*

[Translation]

MADAM CHAIRMAN: Shri Mohammed E.T. Basheer may speak now.

...*(Interruptions)*

[English]

SHRI MOHAMMED E.T. BASHEER (Ponnani): Madam, thank you for giving me this opportunity to take part in the discussion on this very important legislation ...*(Interruptions)*

[Translation]

MADAM CHAIRMAN: Please, sit down. All of you.

...*(Interruptions)*

MADAM CHAIRMAN: This is unconstitutional ...*(Interruptions)*

MADAM CHAIRMAN: All of you should follow the sense of the House.

...*(Interruptions)*

MADAM CHAIRMAN: The Bill has not ended yet.

[English]

Salman Khursheed may make a Statement on the reservation for minorities. This is part of the Supplementary Business.

* Not recorded

...*(Interruptions)*

[Translation]

MADAM CHAIRMAN: This is the Supplementary Business.

...*(Interruptions)*

MADAM CHAIRMAN: Nothing will go on record except what the hon. Minister says.

...*(Interruptions)**

16.42 hrs.

STATEMENT BY MINISTER

Reservation for Minorities

[English]

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF MINORITY AFFAIRS (SHRI SALMAN KHURSHEED): Madam, with your permission, I may be allowed to read the entire text as it is a very important statement ...*(Interruptions)* Based on the Report of the Second Backward Classes Commission, popularly known as Mandal Commission, the Government of India had made a notification on 13th August, 1990 reserving 27% of the vacancies in civil posts and services under the Government of India for Other Backward Classes. ...*(Interruptions)* Although the backward sections of minority population were included in the Central List of OBC, there has been a growing demand over the last two decades that a separate quota need to be provided for the minorities given the fact that major sections of the minorities are most backward in the country.

In order to assess the status of minority communities, the Government of India had notified on 29th October, 2004 to constitute a National Commission for Religious and Linguistic Minorities (NCRLM) and the same was constituted on 15th March, 2005 under the Chairmanship of Justice Ranganath Mishra. NCRLM was specifically constituted to suggest criteria for the identification and to recommend measures for the welfare of the socially and economically backward sections among the religious and

linguistic minorities, including reservation in education and government employment. ...*(Interruptions)* The Commission was also mandated to suggest necessary constitutional, legal and administrative modalities, as required for implementation of their recommendations. The Commission submitted its report to the Government on 10th May, 2007 which was placed in both Houses of Parliament on 18th December, 2009. The recommendations of the Commission, inter alia included the following with regard to reservation for minorities in education and Government employment.

NCRLM observed that since minorities - especially Muslims - are under-represented and sometimes wholly unrepresented, in Government employment, they recommended that they should be regarded as backward in this respect within the meaning of article 16(4) of the Constitution - notably without qualifying the word 'backward' with the words 'socially and educationally' - and that 15 per cent of posts in all cadres and grades under the Central and State Governments should be earmarked for them. Of the 15 per cent, NCRLM recommended that 10 per cent should be for Muslims and the remaining 5 per cent for other minorities.

NCRLM has further observed that the action recommended by them will have full sanction of article 16(4) of the Constitution. ...*(Interruptions)* Yet, should there be some insurmountable difficulty in implementing this recommendation, as an alternative they recommended that since according to the Mandal Commission Report, the minorities constitute 8.4 per cent of the total OBC population, in the 27 per cent OBC quota an 8.4 per cent sub-quota should be earmarked for the minorities with an internal break-up of 6 per cent for the Muslims (to commensurate with their 73 per cent share in the total minority population at the national level) and 2.4 per cent for the other minorities - with minor adjustments *inter se* in accordance with population of various minorities in various States and UTs. Going by this recommendation of NCRLM, percentage of reservation for Minorities on the basis of *pro-rata* population would have been 4.36 per cent from out of the 27 per cent of OBC quota.

With regard to reservation of seats for minorities in non-minority institutions, the Commission has further relied

on Article 46 of the Constitution which mentions about "weaker sections of the people" - notably without subjecting them to the condition of backwardness - and mandates the State to "promote with special care" the educational and economic interests of such sections. The Commission is of the view that in line with Article 46, it is possible to classify the entire minority communities as weaker section and reserve for them by law seats in non-minority educational institutions ...*(Interruptions)*

The Government had also constituted a High Level Committee under the Chairmanship of Justice Rajindar Sachar in 2005 (popularly known as Sachar Committee) for preparation of a report on social, economic and educational status of the Muslim community of India. The Committee was to consolidate, collate and analyse information with regard to Muslim community in India to identify areas of intervention by the Government to address relevant issues relating to social, economic and educational status of Muslim community. Sachar Committee submitted its report in November, 2006 which brought out the relative deprivation of the Muslims in India and emphasized the need for inclusive development of the community. The Sachar Committee made some specific recommendations regarding reservation.... *(Interruptions)*

They observed that by clubbing the arzals and the ajlafas among Muslims in an all encompassing OBC category, the Mandal Commission overlooked the disparity in the nature of deprivations that they faced. Being at the bottom of the social hierarchy, the arzals are the worst off and need to be handled separately. Sachar Committee mentioned that it would be most appropriate if they were absorbed in the SC list, or at least in a separate category, Most Backward Classes (MBCs) carved out of the OBCs.... *(Interruptions)*

Sachar Committee also added that Muslims in India, in terms of their social structure, consist of three groups - ashrafas, ajlafas and arzals. The three groups require different types of affirmative action. The second group, ajlafas/OBCs, need additional attention which could be similar to that of Hindu -OBCs. The third group, those with similar traditional occupation as that of the SCs, may be designated as Most Backward Classes (MBCs) as they need multifarious measures, including reservation, as they

are 'cumulatively oppressed'. Thus, Sachar Committee also had recommended for affirmative action for Muslims in India through separate reservation ...*(Interruptions)*

For several years, members of other backward classes belonging to religious minorities have been demanding that a separate quota should be earmarked for them out of the 27 per cent reserved for OBCs. The Sachar Committee has conclusively established that the Muslim community in India as one of the most backward communities in the country and thus deserve special attention.... *(Interruptions)* NCRLM in its report had recommended that within the reservation of 27 per cent for OBCs, a separate quota should be earmarked for religious minorities who are included in the list of OBCs currently in force. The Mandal Commission had estimated that the deprived population of OBCs was about 52 per cent of the total population consisting of Hindu castes/communities of about 43.7 per cent and non-Hindu castes and communities of about 8.4 per cent. Thus, the proportion of non-Hindu to Hindu caste/castes/communities among OBC is approximately 1:5. ...*(Interruptions)* The final figures of census of 2011 are not yet available. Moreover, there have been no updated caste census figures available. Therefore, the estimates of Mandal Commission extrapolated from the 1931 caste census data were still considered ...*(Interruptions)*

The Supreme Court in its judgement in Indira Sawhney and others Vs. Union of India and others had mentioned:

"We are of the opinion that there is no constitutional or legal bar to a State categorising backward classes as backward and more backward. We are not saying that it ought to be done. We are concerned with the question if a State makes such a categorisation, whether it would be invalid? We think not." ...*(Interruptions)*

Thus, it is apparent from the judgement of the Supreme Court in Indira Sawhney case that the Government is within its legitimate rights to make sub-categorisation amongst the OBCs which would lead to more equitable distribution of benefits of reservation amongst the castes/communities included in the broad category of the OBC. ... *(Interruptions)* While thirty States/ Union Territories have their own list of OBCs, as per information available, nine States have sub-categories of

castes/communities in the State list of OBCs. They include Andhra Pradesh, Bihar, Karnataka, Maharashtra, Tamil Nadu, West Bengal, Jammu and Kashmir, Kerala and Sikkim. ...*(Interruptions)*

The last caste census in India was held in 1931. The Mandal Commission has extrapolated the figures of 1931 caste census over four decades to state that the OBC population is approximately 52 per cent of which 43.60 per cent are Hindu OBCs and 8.40 per cent are non-Hindus. ...*(Interruptions)* The proportion between the two is currently approximately 1:5 because of the decadal growth of Muslims has been higher compared to Hindus. Therefore, the Government has fixed the sub-quota at 4.5 per cent. ...*(Interruptions)*

It may be clarified here that only backward sections of the minority communities can avail of the 4.5 per cent sub-quota. ...*(Interruptions)* Therefore, inclusion or exclusion in the Central OBC list will be strictly on the basis of backwardness of minorities which include Muslims, Sikhs, Christians, Bhddhists and Zoroastrians (Parsis), as has been provided under Section 2 (c) of the National Commission for Minorities (NCM) Act, 1992. ... *(Interruptions)* The reservation will be applicable to the Central Government jobs and services as per the Ministry of Personnel, Public Grievances & Pensions (DoPT) O.M. No. 41018/2/2011 -Estt.(Res), dated 22nd December, 2011 and also to admissions to the Central Government educational institutions as per the Notification of the Ministry of Human Resource Development (DHE) No. F1-1/2005-U.1 A/846 dated 22nd December, 2011. ...*(Interruptions)*

[Placed in Library, See No. L.T. 6105/15/11]

JUDICIAL STANDARDS AND
ACCOUNTABILITY BILL, 2010
AND

CONSTITUTION (ONE HUNDRED AND
FOURTEENTH AMENDMENT) BILL, 2010

(Amendment of articles 217 and 224) — *Contd.*

[English]

MADAM CHAIRMAN: Shri E.T. Mohammad Basheer to speak on the Bills.

...(Interruptions)

SHRI E.T. MOHAMMED BASHEER (Ponnani): Madam Chairman, thank you very much for allowing me to speak on this very important legislation. ...(Interruptions) I am quite happy to note that landmark legislation are coming one after the other as correctly pointed out by Shri Kapil Sibal yesterday. ...(Interruptions) Various legislation are coming up, like the Right to Information Act, Right to Education Act, etc. ...(Interruptions) Yesterday, the Lokpal Bill was enacted. ...(Interruptions) Today, the Judicial Accountability Bill is very much required for the nation. ...(Interruptions)

[Translation]

MADAM CHAIRMAN: Nothing will go on record except what Shri E.T. Mohammad Basheer says.

...(Interruptions)*

[English]

MADAM CHAIRMAN: Now, we are discussing the Bill. There is no Point of Order.

...(Interruptions)

MADAM CHAIRMAN: I will not allow you to raise the Point of Order unless you quote the rule.

...(Interruptions)

16.53 hrs.

At this stage Shri K.D. Deshmukh and some other hon. Members came and stood on the floor near the Table.

MADAM CHAIRMAN: Hon. Members, this is not proper.

...(Interruptions)

MADAM CHAIRMAN: The House stands adjourned to meet tomorrow, the 29th December, 2011 at 11.00 a.m.

16.54 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, December 29, 2011/
Pausa 8, 1933 (Saka).*

INTERNET

The original version of Lok Sabha proceedings is available on Parliament of India Website at the following address :

<http://www.parliamentofindia.nic.in>

LIVE TELECAST OF PROCEEDINGS OF LOK SABHA

Lok Sabha proceedings are being telecast live on Lok Sabha T.V. Channel. Live telecast begins at 11 A.M. everyday the Lok Sabha sits, till the adjournment of the House.

LOK SABHA DEBATES ON SALE

Printed copies of Lok Sabha Debates of Original version, English version, Hindi version and indices thereto, DRSCs reports and other Parliamentary Publications and Souvenir items with logo of Parliament are available for sale at the Sales Counter, Reception, Parliament House, (Tel. Nos. 23034726, 23034495, 23034496) New Delhi-110001. The information about all these publications and items is also available on the website mentioned above.

© 2011 By Lok Sabha Secretariat

Published under Rules 379 and 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Twelfth Edition) and Printed by Bengal Offset Works, 335 Khajoor Road, Karol Bagh, New Delhi-110005
