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Title : Disapproval of High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance and High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1998.(Resolution- withdrawn and Motion for consideration – adopted)

DR. T SUBBARAMI REDDY (Visakhapatnam) : I beg to move :

"That this House disapproves of the High Court and Supreme Court Judges(Conditions of Service) Amendment Ordinance, 1998 (Number 19 of 1998) promulgated by the President on 24 April, 1998."

The Bill provides for the revision of salary and other benefits to the judges of the High Courts and the Supreme Court. It is a welcome measure. We do agree that we have to ensure a comfortable life for the judges after their retirement and that they should not be denied any benefit because of the financial crunch. After retirement they should have a much more comfortable and sound life. I would like to give some very important suggestions in this regard.

SHRI A.C. JOS (Mukundapuram) : Who is in charge of this Bill?

MR. SPEAKER : Shri Jos, please take your seat. Shri Kumaramangalam is there.

THE MINISTER OF POWER (SHRI P.R. KUMARAMANGALAM) : I have been authorised, in writing, to deal with this Bill.

DR. T. SUBBARAMI REDDY : In the Amendment of the High Court Judges (Conditions of Service) Act, 1954, clause 13A(1) provides ;

"There shall be paid to the Chief Justice of a High Court, by way of salary, thirty thousand rupees per mensem."

I propose an amendment to make the amount as forty thousand rupees per mensem

Clause 13A (2) provides :

"There shall be paid to a Judge of a High Court, by way of salary, twenty-five thousand rupees per mensem." I propose that this should be raised to thirty-six thousand rupees per mensem

Similarly, in the Amendment of the Supreme Court Judges (Conditions of Service) Act, 1958, clause 12A (1) provides :

"There shall be paid to the Chief Justice of India, by way of salary, thirty-three thousand rupees per mensem"

I propose an amendment to make it as forty-three thousand rupees per mensem

Clause 12A (2) provides :

"There shall be paid to a Judge of the Supreme Court, by way of salary, thirty thousand rupees per mensem."

The amount should be made as forty thousand rupees per mensem

I feel, by raising Rs. 10,000 for judicial authority, the Government would not lose much, rather it would give much more strength to the institution. At the same time, on this occasion I would like to mention that the judicial authority should also remember that the Constitution of India provides for three wings, the Executive, the Judiciary and the Legislature. Only if these three independent authorities function independently, without interfering in each other's affairs, the Government could protect the values of democracy.

But, what do we find today? Some time back the judicial authority used to act consciously, cautiously and judiciously, but nowadays we do find people

intervening and working with a prejudiced mind. It is a very dangerous trend which I would like to bring to the notice of all present here. Another important point is, previously, if there was any corruption charge against any bureaucrat or against a political leader, an independent Inquiry of Commission used to be constituted.

There should be *prima facie* case. The executives must intimate the Government about it. A Commission of Inquiry must be appointed under the Chairmanship of a Judge of either the Supreme Court or the High Court, or some other judicial authority. If such an authority, after completion of such an inquiry, finds fault with a political leader or a bureaucrat, they must be proceeded against. What is happening now is that the courts are directly interfering in many cases and ordering inquiries into the affairs of political leaders and bureaucrats. It is a very dangerous trend for the democracy. This trend should immediately stop. All citizens should be given equal protection not only by judicial interference, but also by action and communication of every authority in the Government. The judiciary should deal with cases in which genuine interests of people are affected and intervene to protect them. There may be instances of bureaucrats or political leaders passing orders with dangerous consequences, which may result in injustice to the citizens of the country. The judiciary should interfere only in such cases.

Today, the practice is that the Chief Justice of a High Court, I do not want to take names, asks a Police Officer to inquire into the affairs of a bureaucrat or a political leader. Such things never happened before in the fifty years of India's Independence. This domination of judicial authorities should not continue. I do not say that all judicial authorities are bad. We have noble people in that field, people with commitment, people with conviction and people with great moral values. However, there may be some exceptions. They should be stopped from exercising their powers indiscriminately. In the name of Mahatma Gandhi, in the name of the God and divine power, the judicial authorities must protect the sovereignty of the country and safeguard the democratic principles of the country.

We expect the judicial authorities to function independently without the interference of the executive or the legislature. At the same time, there should be a role, in consultation with the Chief Justice, for the executive in the appointment of judges. If things are given totally to the judiciary, there are likely to be problems. The Government should bear in mind the interests of the people of India.

MR. CHAIRMAN : Dr. Reddy, you have the right of reply also. You reserve something for it.

DR. T. SUBBARAMI REDDY : Sir, I do not believe in giving lengthy speeches. I am putting forward the essence of this measure which is important for the entire nation.

I support the Bill with the amendments I propose. Shri Yashwant Sinha can afford to give some more money for judicial authorities. Paying Rs. 10,000 more for a judge is not much, perhaps, in the Budget of such a big country. We can encourage them. We respect them. We bow our heads in respect to the judicial authorities. They are the custodians of our law; they are the custodians of the Constitution of India; they are the custodians of the Republic of India. I fully agree with all this. But, at the same time, there should be a proper system of functioning. There is likely to be a human error in judgement. There could be a human misconduct also.

As on today, if a judge of the Supreme Court or the High Court is found to be guilty of a misconduct, the only way to remove him is by way of passing an impeachment motion in Parliament. I would like to take this opportunity to suggest that the Constitution should be amended to provide that if a judge is found guilty of misconduct, he must resign immediately. There should be an independent and impartial inquiry into the allegation of misconduct by another judicial authority. If the judge is found to be guilty, action should be taken against him. Then only the judicial authorities will be cautious in their functioning and will not be acting according to their own likes and dislikes.

In conclusion, once again, I would like to say that we should encourage the judicial authority and we should respect them. At the same time, I would like them to remember that the Constitution provides for the independent working of the Legislature, the Executive and the Judiciary for the administration of this country and also for building up this nation. The Judiciary should not interfere in this.

I would request the hon. Minister, Shri P.R. Kumaramangalam - he is of course dynamic not only in the Ministry of Power but also in the judiciary - to encourage the judicial people, give them more salary by revising their salary.

SHRI NADENDLA BHASKARA RAO (Khammam): Certain points were not brought out regarding a salary. (Interruptions)

MR. CHAIRMAN : He has moved his Statutory resolution and I have asked the hon. Minister to move the Bill .

(Interruptions)

SHRI SURESH KURUP (Kottayam) : Shri Thamizhurai is in the city but he is absent here. Has he given any reason for his

absence?...*(Interruptions)*

MR. CHAIRMAN : Your business is to speak here. Your name is here and I will call you. Shri Kumaramangalam.

(Interruptions)

SHRI SURESH KURUP : Is it a request? ...*(Interruptions)*

MR. CHAIRMAN : He has been permitted by the Chair, Shri Suresh Kurup.

PROF. P.J. KURIEN (Mavelikara) : He is only asking a clarification.

MR. CHAIRMAN : He has already asked it and I have also replied.

SHRI PR. KUMARAMANGALAM : With your permission, Mr. Chairman, Sir,...*(Interruptions)*

MR. CHAIRMAN : Shri Suresh Kurup, the Chair has already permitted him.

SHRI SURESH KURUP : We are rather not going into the legality or the technicality of it. This question is : Shri Thambi Durai is in city. Why is he absent to pilot the Bill? My question is not regarding laying of papers on the Table.

MR. CHAIRMAN : We are here not to find out the reasons for his absence. He has been duly authorized to deal with it.

[Translation]

SHRIMATI SUMITRA MAHAJAN (Indore) : Mr. Chairman sir, I would like to ask you something. For the past many days the Women of India are anxious to know about the fate of the Women Reservation Bill. The hon. Minister has given the details of all the agenda but there is no mention of the Women Reservation Bill. Has any date been fixed for its introduction? Let the Bill be introduced. Those who want to oppose it, let them oppose. But the hon. Minister should categorically say when the Bill is going to be introduced. That is what I want to ask?

THE MINISTER OF PARLIAMENTARY AFFAIRS AND TOURISM (SHRI MADAN LAL KHURANA) : Mr. Speaker Sir, if the House agrees, we are ready to bring the Bill on Monday...*(Interruptions)*

MR. CHAIRMAN : What is this? You are continuing Zero hour. We have taken up Statutory Resolution. I have allowed her, but you are starting the Zero hour again.

SHRIMATI SUMITRA MAHAJAN : This is not Zero hour. But he did not mention anything about it.

MR. CHAIRMAN : You are senior Member, please sit down.

SHRI SUSHIL KUMAR SHINDE (Sholapur) : This Bill which seeks to get justice for women. You are demanding justice. We fully support you.

MR. CHAIRMAN : There is no objection to that.

[English]

SHRI P.R. KUMARAMANGALAM : Mr. Chairman Sir, with your permission, on behalf of my colleague, the hon. Minister for Law, Shri Thambi Durai, I beg to move: "That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, be taken into consideration."

Sir, as you are aware, the salaries of the Judges of the High Court and the Supreme Court were last revised with effect from the 1st of April, 1986 when the pay scales of the Central Government employees were revised on the basis of the Fourth Central Pay Commission. The Fifth Central Pay Commission has

recommended the revision in the salaries and other allowances of the Central Government employees including members of the All-India Services. The Government has accepted the majority of the recommendations. The Notification revising the pay rules in the Central Government employees has also been issued. The revised pay rules are deemed to have come into force on the first day of January, 1996. Having considered all aspects of the matter, it became necessary to increase salaries of the Judges with effect from the 1st January, 1996.

Since, the Parliament was not in session, the President was pleased to promulgate the High Court and Supreme Court Judges (Conditions of Service) (Amendment) Ordinance of 1998 on the 24th of April, 1998 to give effect to the increase in salaries of the judges.

I hope the bill would be accepted by the House. This is a Bill to replace the above Ordinance. I am sure it will receive the wholehearted support of this House.

MR. CHAIRMAN : Motions moved :

"That this House disapproves of the High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance, 1998 (No. 11 of 1998) promulgated by the President on 24 April, 1998."

Moved with the recommendation of the President.

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958 be taken into consideration."

SHRI NADENDLA BHASKARA RAO : Sir, I would like to raise only one point before the discussion starts. The salary of a judge should be more than that of the salary of the Cabinet Secretary. The Cabinet Secretary used to get more salary than that of a High Court judge before the Constitution came into existence. Earlier the Cabinet Secretary was getting a salary of Rs. 3,500 per month and a judge of a High Court was getting Rs. 3,000 per month. Now, after the Fifth Pay Commission's Report the salary of the Cabinet Secretary is Rs. 30,000 and in this Bill the salary of a judge is put at Rs. 26,000. It is not fair. A High Court judge should be above the rank of the Cabinet Secretary and get a salary higher than that of the Cabinet Secretary. This anomaly may be kindly removed. That is my submission, sir.

MR. CHAIRMAN : The hon. Minister will clarify this point when he replies to this.

Now, hon. Members, we have allotted one hour for this Bill. So many Members have given their names to speak on this Bill. So, please be brief.

The first name on my list is of Prof. Kurien.

PROF. P.J. KURIEN (Mavelikara) : Sir, I will take only a few minutes. I am standing to support this Bill. I hope my friend on the other side would be happy to know this.

Of course, the judiciary should be independent and it is the responsibility of this House to ensure that we have an independent judiciary. Therefore, the judges should be given all facilities and they should not be under any constraint or any limitations.

Having said so, I would also like to say something about the judicial activism. I am not saying that judicial activism as such is not good, it has done some good things. But at the same time, there should be a balance between the Judiciary, the Executive and the Legislature. This delicate balance should be maintained. It is the responsibility of each of these important pillars of our system that one does not encroach upon the powers or authority of the other. Here the Parliament has a responsibility. If any democracy has to function properly, this delicate balance should be maintained.

Thirdly, I would like to submit that today in our country, in spite of the fact that we are having one

of the best judicial systems in the world, that our judiciary is independent and acting independently, we are not getting justice. The reason is that there is a saying that 'Justice delayed is Justice denied.' What is the pendency of cases in our courts? I know lakhs of cases are pending for years in our courts.

So, I would request the hon. Minister to please think about the agony of those people who have to go to the court everyday for their cases.

I am not an advocate but if we start from the lower courts, most of the cases will end up at the Supreme Court. Therefore, I am pleading with this Government to do something so that this long pendency of cases is being disposed of and this long delay in getting justice should be avoided. There should be some solution to this problem. I would request this Government to consider this point very seriously.

Sir, Delhi is our Capital. The Supreme Court is situated in Delhi. Please think about a person who is in Kerala or Tamil Nadu or North-East or West Bengal or Nagaland, and who wants to come and appeal to the Supreme Court. It is impossible for any ordinary person to do so. He has to spend a huge amount of money on travel. I know, Sir, you are from that far away place of Lakshadweep and Andaman and Nicobar Islands. It is not possible for those people of far away places to come to Delhi and approach the Supreme Court to get the ultimate justice. It is not possible for any ordinary man. Therefore, I would request the Government to consider this aspect. This is not the first time this question has been raised in this House. This has been raised umpteen number of times in this House. My suggestion is to please consider allowing more Benches of the Supreme Court. One Bench is for the South. It may be set up either in Bangalore or in Chennai or in Trivandrum or in Hyderabad. I have no objection in regard to Hyderabad. I like Hyderabad very much. I have no problem. Another Bench is for the North-East. As our hon. Member is suggesting, it may be set up in Guwanati. And one Bench is for the West. So, I would request that the Government should consider, in consultation with the Supreme Court of India, setting up three Benches of the Supreme Court — one for the South, one for the North-Eastern part and one for the West. This will go a long way in rendering justice to the ordinary people.

In addition to that, I would also like to submit that we have smaller and bigger States. Now-a-days, there is a clamour for more States and you have already announced creation of more States. Goa is also having a Bench of the High Court. Big States like Madhya Pradesh and Uttar Pradesh should have more Benches of the High Court also. Today, 35 per cent of the people in this country are living below the poverty line. None of them living below the poverty line gets justice. It is not because that the Judiciary is not rendering them justice. Judiciary is all right. But how can he approach the Courts? He has to approach the advocate. The advocate will charge an exorbitant fee. From the lower courts onwards, 35 or 40 per cent of these people who are living below the poverty line are denied justice because of our system.

My friend, Shri Kumaramangalam is only doing it for somebody else. I know why you are doing it for somebody else. Yes, there is a collective responsibility. But your friend, Shri Thambi Durai is in the city itself. He is not coming here. It is his baby. Anyhow, you do it. I have no objection. You can adopt somebody else's baby and do it. But the point is, please do consider my suggestion and impress upon the hon. Law Minister, Shri Thambi Durai to ensure that more Benches of High Courts are also opened in bigger States.

So, I would suggest that the judges in the country should get the highest salaries because even though we are the makers of laws, it is they who interpret the laws. Now-a-days, they are not only interpreting the laws, but they are also making laws. Of course, I do not agree with this aspect. But having said so much, I would say that I support the Bill to give better facilities and salaries to the judges and to keep up their honour and dignity.

With these words, I conclude my speech.

MR. CHAIRMAN : As the House has many urgent Bills to be taken, if the House agrees, we may dispense with the Lunch Hour. Is it the pleasure of the House?

SHRI SATYA PAL JAIN (Chandigarh) : Yes. DR. T. SUBBARAMI REDDY : No.

PROF. P.J. KURIEN : We can pass this Bill and then go for lunch.

MR. CHAIRMAN : We will pass this Bill and then go for lunch. So, the House will sit till the disposal of this Bill. This itself will take care of it.

MR. CHAIRMAN : Shri Satya Pal Jain, please be brief.

SHRI SATYA PAL JAIN : As an advocate, I will be only to the point. I will not go beyond that.

MR. CHAIRMAN : Advocates take a long time.

SHRI SATYA PAL JAIN : I rise to support the Ordinance. As a matter of fact, this Ordinance was referred to the Standing Committee on Home Affairs and today morning I have laid the Report of the Standing Committee on the Table of the House.

After 1950, for the first time in 1986, after a period of 35 years the salaries of Judges were revised.

SHRI SUSHIL KUMAR SHINDE (Solapur) : If you are a Member of the Standing Committee then you are not supposed to talk. That is the custom.

SHRI SATYA PAL JAIN : Why? I presented the Report today.

SHRI SUSHIL KUMAR SHINDE : That has been the custom of the House. Once one is a Member of a (official) Standing Committee, he is not authorised to speak on it because he had already taken part in that Committee and thereby he is not allowed to speak.

SHRI SATYA PAL JAIN : Under what rule is this?

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS, MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION (SHRI RAM NAIK) : There is no such guideline.

SHRI MADHUKAR SIRPOTDAR (Mumbai North-West) : You quote those guidelines.

MR. CHAIRMAN : Let me deal with it.

SHRI RAM NAIK : I need not go into the details, at the moment. This particular matter did not go before the Standing Committee for consideration.

SHRI SUSHIL KUMAR SHINDE : He mentioned it. Otherwise I was not objecting.

MR. CHAIRMAN : Let me clarify. As a Member of this House, the convention is, as he was a Member of the Standing Committee, normally he may not participate. As a Member, he can participate.

SHRI SATYA PAL JAIN (Chandigarh) : After 1950, for the first time in 1986 the salaries of the Judges were revised. As my hon. friend has just now pointed

out, in 1950 the salary of the Cabinet Secretary was less than that of the Judges. The Judges were getting more salary than the Cabinet Secretary. I am talking

of Judges of the High Courts and the Supreme Court.

What was done in 1965 was that the salary of the Cabinet Secretary was increased with reflecting a corresponding increase in the salaries of Judges of High Courts and the Supreme Court. Thus an anomaly came up. The Judges used to represent but nobody bothered.

Then in 1980 again the salaries of the Judges were also revised but their salary was not above that of the Cabinet Secretary. The All India Judges' Association had represented to the Government and to the Committee also. In its Report the Committee also recommended to the Government of India that they may consider increasing the representation of the All India Judges' Association.

They were asking for two things. One was, that the salaries of the Judges of the High Court as well as the Supreme Court should not be less than that of the Cabinet Secretary. The second thing which they mentioned — a valid point — was that normally they were not employees of the State. Of course, they hold a constitutional position like the legislators, the executive and MPs, who are not employees of the State Governments; similarly the Judges. They hold a constitutional position. They are not employees of the State Governments. Therefore, the attempt of the then Government was to equate them with an Additional Secretary or Joint Secretary or Secretary to the Government of India which was not desirable and proper, if not illegal.

I only submit two things. Let the Government, examine them and the Standing Committee in its Report has also requested the State Governments and the Central Government to examine the representations and take a decision at the earliest.

Secondly, the Report of the Fifth Pay Commission was accepted in September 1997. The expectation from State Governments was that they would bring Ordinances immediately so that the salaries were also enhanced. But they have taken more than six months. In other cases the Report was accepted. But the Report in the case of the High Court Judges and Supreme Court Judges was made applicable only in April 1998 by the present Government. Had the earlier Government brought this Ordinance this wastage of six months could have been avoided. I think that the Government should be careful in future.

I will mention only two small points about the lower judiciary also. This Ordinance talks of the salaries of the Judges of the High Courts and the Supreme Court. What about the District Judges? What about the Judicial Magistrates? What about the lower judiciary?

13.00 hrs.

They are also requesting it for the last so many years. The Commission has been constituted and nobody is bothering about them. I will request the present Government and especially the Ministry of Law, Justice and Company Affairs to take up the matter with the concerned authorities and revise their salaries also... (Interruptions).

MR. CHAIRMAN : Please come to the next point. You will have to confine within your time.

SHRI SATYA PAL JAIN : I come to the transfer policy and appointments. Now, as per the information available and as my hon. friend was pointing out, more than one crore cases are pending in different courts at the moment. In the Supreme Court alone about thirty thousand cases are pending and in the Allahabad High Court, perhaps, more than six lakh cases are pending. Out of a total sanctioned strength of about 450 judges, more than hundred vacancies are there. In the Supreme Court, there are three vacancies in five High Courts, one in each High Court; there are somewhere even forty per cent vacancies are there. My request is to make a system where the vacancy is filled up before the judge retires. The day a judge retires, the next judge should take over.

Secondly, the transfer policy has not been very successful. A number of Bar Associations have now started representing against this policy. So, please reexamine the transfer policy; frame a clear cut and definite transfer policy so that there is no question of any discrimination.

Therefore, I would request the Government to examine these issues. I also support the Bill.

MR. CHAIRMAN : The House has decided to sit till this Bill is disposed of.

SHRI SURESH KURUP (Kottayam) : Mr. Chairman, Sir, I welcome this Bill. There would not be two opinions that the salary of the judges of the Supreme Court and the High Court should be enhanced.

We want the best talents in the legal profession to come to the Bench. In many cases, those who have built up a successful practice are reluctant to come to the Bench due to the paltry amount which is given as salary to a judge of the Supreme Court or the High Court. Since the judiciary is vested with vast powers, it is most important that judges of the highest integrity and competence should be there. I genuinely hope that this Bill will help the people of the highest calibre to come to the Bench. How can it be ensured that people of eminence become judges of the High Court and the Supreme Court?

As we all know, it is the prerogative of the Chief Justice of the Supreme Court who should be appointed as a judge, and which judge should be transferred from one court to the other court, person being vested with such vast powers is again the spirit of democracy. That is what I want to stress. When this sort of vast powers are vested in a person, then there is every possibility of misusing them. So, we should find a way out. There are already suggestions about a Judicial Commission which can suggest names for appointment of judges. For this, we can emulate the example of South Korea where there is already a Judicial Commission and the President, in consultation with the Commission, appoints the judges there. Here also, we should find a formula to represent the representatives of the Judiciary, representatives of the Executive and a people representing the Bar. Some sort of a Commission should be there to suggest the names for appointment to the judiciary.

I would also like to mention about the matter which has been pointed out by my learned friend, that we should think about the subordinate judiciary also. Since this is in the Concurrent List, the Union Government can very well make a law in this regard. They are not getting proper salary. Most of them do not have quarters. They do not have vehicles. So, a local magistrate who has got vast powers, should be given a proper salary. Most of the State Governments are not concerned with the service conditions of the lower judiciary. This discrepancy has to be removed. So, what I would like to submit is that the Union Government should take initiative for enhancing the salary of the lower judicial officers.

Also, I would like to say that no judicial officer should be appointed to any Government post after his retirement. The High Court and the Supreme Court judges should not be after any Government job after their retirement. There should be a provision regarding that. The Government may enhance their salary, pension and everything, but should make it point that none of these judicial officers are given Government appointments after their retirement.

These are the most important things which you should take into consideration when we discuss about the independence of the Judiciary.

So, these are the points I wanted to make and I welcome this Bill.

SHRI AJIT KUMAR PANJA (Calcutta North-East) : Mr. Chairman, Sir, I support the Bill with some comments on it.

The whole system of Judiciary will succeed if it can deliver justice to the people at the village level and at the grass-root level. Unless that is done,

mere increase in salary of some judges will not do. We have our experience. If we visit a Munsif's court, it looks like a hell. Our Munsifs would be sitting there with all sorts of papers, full of dust and cobweb. There, the lawyers are not getting any accommodation even to argue. The Munsif has a lot of work to do. In my personal experience, I have found that a judge, a Munsif or a magistrate, while considering the bail application of the accused, has to travel in the same public bus along with the accused or his relation. The accused is sitting by his side. The judge has no car to go to the court. So, this is a poor condition. The accused are sitting by the side of the judges and the judges are feeling absolutely helpless. When I go to the court, I find red cloth only in front of me; rest is totally black because of cobweb. At the grass-root level is the Munsif, then the sub-judge, then the district judge, then the High Court judge and then the Supreme Court judge. If we impart justice from the top, it percolates down very slowly to the lowest level. A Munsif will not be a good Munsif if he does not get good salary, if he has no place to sit, if he has to roam about here and there for getting a rented house, which he does not get, if he has no car, and so on. Therefore, if disposal of cases is done at the level what is called in law the court of first instance, then justice will be imparted very quickly, then the cases will be disposed of nicely, we will get clean well educated boys and girls to come and fill up those posts at the young age and then automatically there will be less trouble and less pressure on the higher courts. So, my point are: (a) provide accommodation to judges to be appointed; and (b) provide some sort of a pool car to those who are dealing at least with criminal cases and even with civil cases so that they may have some seclusion.

It is no use talking about the separation of the Judiciary and the Executive when the Judiciary is not getting any prestige at all at the court of first instance, that is, at the grassroot level.

Sub-Judges are in a very pitiable condition. If we go to the Courts of the Sub-Judges, we would find that they are absolutely dirty. They have no chamber to sit in and read. They have no library in their courts.

Sir, the condition of the District Judge is equally bad. The condition of the High Courts is also poor. Some High Courts have improved the condition. But some of the High Courts are in a very bad condition. e.g. Calcutta High Court.

Sir, the emoluments of the Judges are required to be increased. In this connection, I would request the Government to look into the salary and emoluments of the Magistrate and Munsif. Otherwise, a wrong message will go. Then, there will be a total depression in their minds and there will be disparity within the Judges themselves.

Sir, the next point that I would like to make here is about the vacancies in various High Courts. There are hundreds of vacancies in the High Courts of our country. The Government must look into this matter. If the Minister wants more time, he may inform the House about the vacancies in the course of this Session. The vacancies are not being filled up. In the Calcutta High Court, 20 vacancies of Judges are there for the last three years, but nobody has been appointed so far. How are the Judges supposed to dispose of all the pending cases? If we enter any room of the Calcutta High Court, we will find

the Judge sitting there with hundreds of briefs on one side and hundreds of papers on the other side. There are no sufficient clerks or peons and there is no facility for the Judges. The Judges will be sitting with hundreds of briefs in front of them full of dust. This is the situation in the Calcutta High Court. The appointment of 20 Judges is pending and nothing is done. It is pending for a long time. This is just one example. So, I would request that similarly in all the other High Courts also the matter of vacancies of all Judges *Munsif* must be immediately looked into by the Government. I do not understand as to why the Government is not making the appointments. The appointment of Judges has been made very easy now, because the Chief Justice is given the powers. The *Chief Justices* and the Government has no business to interfere with the list sent by the Chief Justice. If it interferes, that will be against the Constitution because the separation of the Judiciary and the Executive is a mandate of our Constitution, must be implemented in India. So, the vacancies of the Judges must be filled up as quickly as possible.

Sir, now the salary of the Judges is being increased through this Bill and it is being increased now after 1986. So far as the Chief Justice of the High Court is concerned, can you imagine that he would be getting only Rs. 30,000/- per month? So far as the other puisne Judges are concerned, they would be getting only Rs. 26,000/- per month. At this stage in 1998, after delaying the increase for such a long time, is this the salary to be paid for them? What is the salary of the top executive now? If you want to give prestige, it is all right, but one of the considerations is economic prestige. So, I propose that the Government must concede, "because of the delay in the increase" and that the Chief Justices of the High Courts in our country Rs. 40,000/- per month and the puisne Judges must get Rs. 30,000/- per month and not Rs. 26,000/- per month as is proposed in the Bill. This salary must be paid to them. This increase be operative with retrospective effect, from the 1st January, 1996.

So far as the Judges of the Supreme Court are concerned, our Supreme Court Judges must be given the highest prestige. Can we imagine that we are giving them a salary of only Rs. 33,000/- per month after this increase? Can they not get Rs. 50,000/- per month? Is our country so poor? If the Supreme Court Judges get a salary Rs. 50,000/- per month, they get *residence*, they get some emoluments, a car and a good accommodation because it is our Capital. These judges must be above all executives.

Sir, as far as the accommodation of the Judges in the States are concerned, it is very poor. In Calcutta, they roam about here and there, asking the land-lords for giving them accommodation, because the transfer policy is operating. The worst thing is that they have to approach the State Government for the purpose of giving them accommodation. So, what is the use of this separation of the Judiciary and the Executive? A Judge, after being transferred from one state to Calcutta had to ring up thousand times to the PWD in the State for accommodation, is this the way our country should run? This is not the way. My very respectful submission to you and, through you, to the Minister is that this issue must be attended to immediately. When the Judges of the High Courts are transferred from one place to the other, the secretary of Chief Justice or the Registrar of the High Court should immediately ring up the concerned authorities to see that the transferred Judges are given accommodation and the Judges should not be made to ring up the PWD Minister or the State or any Minister. They should not be asked to ring up the Chief Minister for this purpose. That is what is happening in West Bengal and I do not want to say in what manner the judiciary is being affected there. Therefore, they must be given independence and real freedom.

So far as the emoluments are concerned, I propose that instead of Rs. 33,000, the Supreme Court Judges must be given Rs. 50,000 and the other judges of the Supreme Court should be given Rs. 40,000 instead of Rs. 30,000.

Sir, please see the clause relating to the transitory provisions. Have we become so poor that the arrears of the salaries of the judges shall have to be paid in instalments? What has happened? If any other country looks at it what would they think? This must be stopped. I am sure the Minister, being a very good *practical* lawyer himself will understand where the shoe pinches. So, this instalment clause should be deleted. Whatever be the salaries, the judges should be paid straightaway. The salaries of the judges cannot be paid in instalments.

Now, I come to the *pendency*; everywhere computers are being used. I am sure the Minister will look into it. I propose, let there be a central computer to find out the number of pending cases. It should not only find out the number of pending cases but also the reason for their pendency. We the lawyers are sometimes at fault. We give a-i sorts of excuses and plea before the judges for giving adjournments for months after months and sometimes year after year. Therefore, let the computer give us a feed back regarding not only the number of cases but also tell us why they are pending so that it could be sorted out by the Hon'ble (Jh-e' Justices as quickly as possible.

Now, I come to Circuit Benches of the Supreme Court. In fact, the High Court Circuit Benches to the Districts are also absolutely necessary. Suppose I am a citizen of Kavaratti in Lakshadweep and want to file a case in Supreme Court. I have to come by a boat to Cochin and then if I am a poor man, I have to buy a Railway ticket and wait for a month and come to a lawyer here. But I do not know anybody in Supreme Court. I loiter around the Supreme Court. Then my case is fixed and it is posted after one month. But where do I stay in Delhi? Can we think of Andaman and Nicobar Islands? Somebody wants to get justice. But justice is not being delivered. Being a practising lawyer myself, I am very sorry to say that it is poor state of affairs. The farmer's land is taken away by the powerful State illegally. But the farmer cannot afford to fight it. He goes to the *Munsif* Court. The poor *Munsif* has not got any books or library. He does not know the latest decisions. Whatever the lawyer says, he had to go by that. Then he goes to the Sub-Judges. But the poor Sub-Judge also has no good assistance. He cannot even buy a copy of C.P.D. Procedure Code and he delivers the judgement. After that the poor man appeals to the District Judge. But the District Judge is sitting with no assistance for? *Barâ* "no books" no library. He delivers the judgement. With no fault of his, the circumstances have made his intelligence absolutely slow. Then the poor farmer comes to High Court and loiter; there. Then he goes to the Supreme Court. But by that time the entire purpose is defeated. Justice delayed is justice denied. It has been suggested from some Members that the Circuit Benches should be three. But I suggest that it should be more: rotational. It should go statewise. There are six vacancies in the Supreme Court. Why could we

not be filled up? From our State, two judges retired one year ago. But these vacancies have not been filled up. They should be filled up because that is last place to get justice. We can make 226 applications for the poor peasants like Bargada who lost his land because of the atrocities of the State of West Bengal. Now, I can move to the Supreme Court circuit bench in Calcutta straightaway under Article 32 and get justice finally. I need not go from Court to Court and here to there. When a L & A about circuit bench came to us we replied it two years ago, it the Government is not moving at all. This must be done immediately. A lot of excuses are made by the State Government. But the Central Government must say that nothing doing. There are so many Central Government halls, circuit bench judges will go there for one month. They will stay there and dispose of the cases. That is the final judgement we get and move accordingly. Then there will be real justice.

There is no further appeal as the last thing will be to appeal Supreme Court. Similarly, the High Courts must have Circuit Benches. There is a need for a Circuit Bench in North Bengal, in Calcutta, the High Court decided to have a Circuit Bench for North Bengal because people from North Bengal have to perform one-and-a-half days journey and they do not get tickets also. Therefore, these Circuit Benches should be constituted in all the States so that they will deliver proper and real justice to all the people.

Last but not least the Government has mentioned in their Party's Manifesto that justice would be distributive justice, that it would be for the poor people and that justice would be done at the grass-root level. For allowing this, I insist that you may kindly bring in an amendment immediately, increase the salaries of all from the Judges, Supreme Court to *Munsif*/Magistrate to make arrangements for their accommodation and for giving them cars. The Ministers, officers, the Superintendents of Police and the Circle Inspectors are all and O.C. of P.S. getting cars, whereas the Judges are not getting the cars. Can you imagine that a Sub-Judge had to ring up the S.P. to hire his car for the purpose of going to the court because a triple murders' case was going on in one of the districts of West Bengal. Therefore, please look into these things.

With these words, I support this Bill and, I am sure, the Minister will concede some of the points that I have made.

[{Translation}]

SHRI MOHAN SINGH (Deoria) : Mr. Chairman, we are constrained to support this Bill. We welcome this Bill because unless the high officials and Judges get high salaries of Rs. 25,000 to Rs. 3,00,000, they would not be able to discharge their duties honestly. Only the MPs are the persons who discharge their duties honestly with a meagre Rs. 1500. Other categories of persons are not able to discharge their duties faithfully if they get less than Rs. 30,000. Therefore I support this Bill and also welcome it.

Mr. Chairman, Sir, I would like to give a few suggestions to the Government in this regard. In the name of Judicial Activism, new areas of intervention are being explored today and the provisions made by our Founding Fathers are being fiddled with. In 1964, there was a landmark case

known as Keshav Singh cases in which the full Bench of the Supreme Court reviewed the powers of the Judiciary and the Executive. But today in spite of this, directions are being issued by Courts as to how the proceedings of the Assemblies should be conducted by the hon. Speaker of those Assemblies. Besides there are directions to the Speaker of Lok Sabha about the recruitment, appointment and promotion of the staff posted there. We have to seriously think about this tendency and also try to find ways of doing away with this type of intervention.

Mr. Chairman Sir, throughout the world there was a practice of giving allurements to Judges and making them corrupt. But this was not happening in India. We had the high tradition in our Judiciary and our Judges never fell to allurements. But with the passage of time a new trend started. We had fixed upper age limit of High Court and Supreme Court Judges more than the other government officials because we believed that their expertise could be best utilised. Their retirement age was kept 4-5 years more than others. But now they are being appointed Governors after retirement. They are being nominated to the Rajya Sabha. An attempt is being made to give them allurements. Therefore, there is a need to check this practice by bringing forward a legislation in this regard.

Mr. Chairman, sir, from personal experience I can say that several retired Chief Justices and Judges of the Supreme Court are working in big companies as Consultants and they are being paid Rs. 1.25 Lakhs per month as salary. In this effort to curb corruption in the judiciary.

Court, impeachment proceedings were initiated against a Judge but due to certain reasons he was let scot free. Therefore the need of the hour is that we should try to provide enough Constitutional safeguards against the existing trend of corrupt practices. There is need to think in this direction seriously. I would also like to say a few words about the appointment of Judges. I had given notice of a Resolution to this effect, but as there was no sitting of the House yesterday it could not be taken up. The Resolution sought the Judiciary to take on the responsibility of applying the provisions of Constitution, particularly those like the Reservation for Dalits, which is a landmark piece of legislation for bringing about social change. This law has not been applied to the Higher Judicial service. A person belonging to Dalit Community can at best reach the level of District Judge. For reasons best known to the powers that be, his name is never recommended for the High Court Judge, even though he fulfills all the requisite qualifications. Why is it so? There is a need to think over it seriously. Today we are proud that the hon. Speaker of Lok Sabha belongs to a Dalit family. Similarly, we are also proud that a person belonging to the Dalit Community occupies the highest office in our country, that of the President of India. We must be proud and hold our head high because of this. We are also proud that the person who drafted the Constitution of India and thus made valuable contribution to it also belonged to the Dalit family. But it is unfortunate that the persons belonging to Dalit community cannot become High Court or Supreme Court Judge even after 50 years of our Independence. Is not our social system primarily responsible for this? We should bring forward a legislation and make necessary provisions for this community in the appointment of Judges. With these words I support this Bill and thank you for giving me an opportunity to speak.

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Sir, I would try to be brief. This proposal was mooted by the All India Judges Association. I support the proposal moved by the Government to revise the salaries of Judges w.e.f. 1.4.1996. It is a welcome step that their salaries should be raised to Rs. 30,000 but at the same time they should be provided other facilities like the chamber facility, computer, furniture, library and similar other facilities.

Sir, in the past, the Judges were inaccessible. One could meet God but one could not meet a Judge. This was so because Judges had restricted themselves socially. They generally did not attend marriages and other social functions. But now there is no such restrictions. Now when they meet and go

to social functions people feel that they have good influence and they would be able to get the hearing date changed and help in other court matters. There is little tandem between the Executive, Legislature and Judiciary these days. It is very essential. The Judges in Jaipur gave a judgement that the 'verandah' all over the Jaipur City should be vacated but the 'verandah' in front of the 'verandah' cannot be vacated. This was an impractical judgement. The State Government and the Municipal Corporation are worried, how this can be done. Therefore, the judges should think seriously about the pros and cons of the judgement in totality before delivering the judgement.

Similarly in another case in Jaipur recently the J. Judges gave a judgement that a Hanuman Temple in the city should be demolished. The entire society J and the people all over the city are agitated. Are the J. judges not aware of the religious sentiments of the J. people? The Ram Bagh in Jaipur has been closed for public because of a court order. This is not the work of the High Court and Supreme Court Judges. Therefore, it is essential that there should be tandem between the Executive, Judiciary and the Legislature.

I support the proposal to increase salaries and pension of the judges of High Court and Supreme Court but we should also consider this matter in regard to district judge and *munsif* magistrate also. I

Similarly, circuit banks should be opened. Our Government has said that we would give justice to the poor. We should also consider how to give justice to the poor at a cheaper cost.

A large number of cases are pending with High Courts and Supreme Courts for many years. Even after passage of decades and death of son or of grandson the pending case is not decided. So, while giving next date of hearing the judges should see that it is essential to decide a particular case within one or one and half year. You should consider this issue also.

The issue of raising salaries of judges is being discussed here but the hon. Members sitting here are probably getting salary of only Rs. Ten thousand and their P.A. gets Rs. four thousand... (Interruptions) Basic salary is Rs. one thousand and five hundred only but I am talking of total salary... (Interruptions) I submit that there is an urgent need of increasing salary of the hon. Members also. How Members' total of Rs. ten thousand and with this amount they cannot meet their expenses properly. This issue should also be considered.

Several vacancies of judges and others are lying vacant in High Courts and Supreme Court. Government should fill up these vacancies at the earliest. I think that when there is requirement of fifteen judges, then only five judges cannot dispense with justice properly. So the required number of vacancies of judges in High Courts and Supreme Court must be filled up.

In the end, I submit that transfer of judges should be undertaken in consultation with the Chief Justice. If a judge of Jaipur is transferred to Allahabad or somewhere else, then it causes resentment among judges. If transfer is effected in an unbiased manner and under a policy, then it would be the right way. I once again support the proposal of increasing the salary of High Court judges to Rs. 30,000 and I also support the proposal of increasing their pension. But so far as giving one instalment and then second instalment is concerned, I request the Minister to think over this issue. I think they should get the salary and the procedure of instalments should be discontinued.

I thank you for giving me an opportunity to speak.

SHRI SUSHIL KUMAR SHINDE (Sholapur) : Mr. Chairman, Sir, I support this Bill. After many years a Bill has been introduced for judicial institutions with good intention. If we want that judges should be capable of giving justice in true sense and they should not be attracted by any inducement, then we can make them capable only through this method. Today, you have accepted an essential element. The report of Judicial Commission is also with you and some work on it has also been done. When would you consider doing something for district judges and magistrates also? So far as allurement is concerned, unless you improve the base, the elementary system, poor people cannot get better justice. They will get cheap justice but this justice would be feeble, it can be sold.

You are practising in Supreme Court, so you are well aware and Bhabhiji is also practising. So you are well aware of it. Hon. Minister sometimes speaks for Labour Ministry, sometimes energy and today he is speaking for judicial institution. It is good, you are everywhere, you are omnipotent, all rounder.

Our colleague Shri Mohan Singh ji has raised a very important point, whether this Government would look into it that Supreme Court used to have two judges from Scheduled Caste, but now there is only one judge and he is also going to retire. In a country where Supreme Court has given directions

regarding reservation saying that reservation should not be more than 50 per cent, in the same institution, today there is no judge from reserved category. What is the reason for this lacuna? We are happy with the proposal to strengthen judges of Supreme Court giving them more facilities. They should be given

to social functions people feel that they have good

influence and they would be able to get the hearing date changed and help in other court matters. There is little tandem between the Executive, Legislature and Judiciary these days. It is very essential. The Judges in Jaipur gave a judgement that the 'verandah' all over the Jaipur City should be vacated but the 'verandah' in front of the 'verandah' cannot be vacated. This was an impractical judgement. The State Government and the Municipal Corporation are worried, how this can be done. Therefore, the judges should think seriously about the pros and cons of the judgement in totality before delivering the judgement.

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Several vacancies of judges and others are lying vacant in High Courts and Supreme Court. Government should fill up these vacancies at the

more facilities. Here, hearings were conducted against a judge regarding contempt. Keeping these things in view, we should consider the reasons for which we do not get judges from Scheduled Caste. Hon. Minister please tell me the present number of judges in all High Courts who belong to Scheduled Castes and Scheduled Tribes...*(Interruptions)* No, we do not have. I know that there were one or two High Court Judges in Uttar Pradesh who belonged to Scheduled Castes and we had presented their case before the Government many times for making them Supreme Court's judge, but your hands are also not free due to the provision of separation between judiciary and executive. When justice is dispensed with, the judicial institution should keep in mind the directions given in the Constitution of India, Fundamental Rights, Directive Principles. Can you not interpret it keeping these things in mind? I think that when we are considering to increase their salaries and facilities we should also convey them that reservation is not being maintained properly in their institution, many times it is said :

[English]

"Suitable Judges are not available"

[Translation]

High Court's judges are appointed from bar and persons having good practice of ten years, 15 years are appointed. Government should collect a list of High Court Bar and Supreme Court Bar to ascertain the number of SC, ST lawyers practising there, indicating the number of years of their practice. This list should be prepared compiling such lawyers and then you should make selections. I won't say that Prime Minister or Law Minister should do this. This work should be done by High Court and Supreme Court. Compile a list of SC, ST advocates practising for more than five years and also those who are practising for 15-20 years. Prepare a list and let it come before us also. The judicial institution and our Law Department can collect this list from Bar Association. There is no difficulty in this work. So, I suggest that from the Bar Association and District Court of each State...*(Interruptions)*

SHRI LALU PRASAD : He means Advocates' Congress.

SHRI SUSHIL KUMAR SHINDE : Laju ji is rightly saying, districts also have Congress of advocates. As I have spent my whole life in Congress, I utter Congress, not BJP or Shiv Sena. Congress is a party and we do not want to bring it in this matter. I would only say that when there is issue of judges' reservation before the Judiciary of India, the Government also would have to pay more attention to this issue.

I won't speak much. I would attract the attention of the House to one point only which is also a major programme of our party. We want justice for untouchables also. Just now, Members from the other side were talking of elites. Talks of separating Christians in Delhi were going on, but I am happy that Prime Minister has given correct reply on this point. So, it is the responsibility of judicial constitution that if it is to dispense with justice, it should start from itself and dalits and untouchables suffering injustice should be given justice. They would be given superiority and our objective would be fulfilled.

With these words, I support the amendments proposed by the Government in section 4 and 7.

SHRI LALU PRASAD (Madhepura) : Sir, I support the Bill so which we are going to give legal recognition. I support it because it is the Bill mooted by previous Government. It is not BJP Government's Bill. It is continuous process and we are only doing carry over work. If we do not support, these people will get defeated.

Sir, I want to raise certain points. Father of the Nation, Mahatma Gandhi had said that justice should be made easily available to the poor and down-trodden people. But today, the views of Bapu are only views they have not been implemented. Poor people are not getting justice in reality. There are many reasons for it. On the one hand there are prosperous people in the country and on the other hand, there are backward class people, minorities and tribal brethren in large number. People maintaining status quo, do not allow new entrants. So, the need of the hour is that we should not only talk about increasing their salary but also talk about participation of these backward people. While increasing the salaries of judges of judiciary, if income tax is deducted from their income and other deductions are also effected, then the amount of their salary indicated to us in the House would be much less. So judges under judiciary should not face any difficulty and they should dispense justice without any hindrance. You know India is next to China in respect of population. Our disputes, litigations are increasing in proportion to our population. I agree with hon. Member Panjaji that there is mismanagement about it because he has experience of it and he is a renowned advocate. I have passed LLB and that also while remaining in jail. I have not undertaken law practice but I have experience of it. Usually disrespect is expressed, towards Bihar but as compared to Calcutta, I want to tell the House that some judges from our State have been transferred to Calcutta High Court. I asked these judges: What is their condition there and how they feel living there? They told: they are living in flats which are very congested, I do not want to criticise the Government there. Hon. Members must be aware of conditions in Calcutta and they should agree with this statement.

I did LLB because I had the apprehension that we the people of the backward community, would not get a job in independent India. So, I thought it proper to become a lawyer. After doing all this how far would it be proper to blame the lawyers, it seems that the hon. Member, Mr. Jain practises in a lower court and it is a fact that there is much load in lower courts. All the cases are tried in the lower courts and thereafter a selective number comes for trial in High Court and at last in the Supreme Court, if required. We discuss here that the Government has done nothing for the judiciary. In the Supreme Court judges' conference it was decided not to sit idle depending on the Government.

SHRI SATYA PAL JAIN : Laju ji, I practise in the High Court and not in the Supreme Court.

SHRI LALU PRASAD : I wish, you should also practise in the Supreme Court. I feel that the Supreme Court had to take a decision that facilities like conveyance, residence, telephone and computer should be provided. In fact, the condition of the judiciary is worst. The condition of the new comers who join this field should also be taken care of. Once I visited the chamber of a High Court in the area from where our Finance Minister Shri Yashwant Sinha hails, there is no chair for lawyers to sit in the verandah of the court and some chairs were tied with a chain as elephants are tied so that others may not take away the chairs. This is the situation there and one has also to sit very carefully so that a mishap does not take place. In such a situation there is every possibility of a mishap taking place. The judiciary has to function in such a condition. That is why I want that the salary of the Chief Justice of the Supreme Court should be fixed at Rs. 60,000 instead of the present proposal Rs. 40,000 and the salary of the Judges of a High Court should be fixed at Rs. 50,000. The number of such judges is very less. So, it would not incur much expenditure. At the same time I would like to say that in the lower courts from district level to the lower level the staff strength should be increased. People think that their salary has been increased a lot. After income tax deduction how much salary do they get. Shri Yashwant ji can

give this information. I accept that about 40 lac cases are lying pending in my State. Keeping in view the number of pending cases, the number of judges should be increased. I would like to say that persons belonging to the Dalit community should be provided reservation in appointment in the Supreme Court and High Courts. The Government has to see how it could provide reservation to them in this regard. The Constitution makers and Baba Saheb Ambedkar had made a provision in this regard in the Constitution. According to the provision the appointments should be made by a Judicial Commission. Able person should be appointed, I am not saying this on caste line, but there should be a judicial commission in the country.

Sir, I would like to say one more thing. It is an irony that this Bill is going to be passed but the salary which we are going to fix for the judges is even less than the salary of the Cabinet Secretary. I hope that this Government would do justice to the judges. At the same time I would like to point out one more thing. I am not saying this to embarrass anyone. The lawyers are also responsible for the delay in dispensing justice. It so happens that the lawyers of both defence and prosecution sides connive each other and do not want that the cases are decided early so that the clients get out of their hands. In such a situation what the judges can do. There are a number of formalities like police diary and the public prosecutor, the S.P. and the judges will have to see a lot of things. Now Shri Bhargava, the Chairman of the Housing Committee has said something about Lord Hanuman. Lord Hanuman is our most revered God and we must worship him but the way he is being insulted we do not pay attention to that. People grab land by installing a statue of Lord Hanuman. Whenever one wants to grab land a statue of Lord Hanuman is installed. People do not worship him there. The statue remains amid dust and garbage. A Pundit comes in the evening worships and rings the bell. He makes some earning out of it. We must worship but at the same time efforts should be made to ensure that the pre-independence status of temples and mosques are maintained. If numbers are increasing day by day, I would like to say that the 40 lac cases pending in the courts should be disposed of quickly. Security and conveyance facility should be provided to the judges. I would like to tell the august House that there is no library for the judges so that they can consult reference books. When they do not get a proper place to sit naturally they will suffer some tension and it will also have its impact on their judgements. I would also like to suggest that the Prime Minister and Law Minister should discuss with the Chief Justice about P.L.-Public Interest Litigations. The Government will have to think about it. A lawyer who has very few cases in his pocket to make a good earning moves a Public Interest Litigation. In my view this writ is usually against the public interest and judges are involved in it. In the Public Interest Litigations the court gives directives. We think that the judiciary should not interfere in these things. There should not be any political interference but the Prime Minister should hold a meeting with the concerned people to avoid any tussle among the judiciary, the executive and the legislative. We the politicians fail to resolve a number of issues in the name of religion. We create problems and when we fail to solve the problems we hand it over to the Supreme Court to take a decision and solve the issue. For example, let us take the case of Babri Masjid, why did people go to demolish it? Now, when it has been demolished no one is ready to accept its responsibility. They say that they would accept the decision of the Supreme Court. Now at least no new problems should be created. We create these problems and they expect that the judiciary would solve them. Our judicial system is better as compared to other countries of the world. Everywhere there are good and bad people in the society. We the public servants are sitting here. All the MPs and MLAs are public servants. Our salary is Rs. 1500. Hundreds of people come to us. Some one says that he is going to his home but he has been pick pocketed so a railway ticket should be arranged for him. Where from we can provide them help. If we fail to provide them help, they say let

election come, WG will see then. This is the condition of a public servant. There should be a comparison between the salaries and pensions given to us and that are given to Cabinet Secretary, IAS and IPS officers. In every fresh election of Lok Sabha, half of the former MPs lose in the elections and new MPs come. What is their condition. Many people come to flatter us but when we do not remain an MP one does not ask us even for a cup of tea. They do not even like to come before us thinking that it is better to keep distance lest we may ask for some donation. All such blames are put on the politicians and people think that the politicians are the root cause of all ills. We are the law making body, we can make amendments in the Constitution. There are many shortcomings. In a democracy the representatives of people are vested with the powers to bring legislation and make laws. The Parliament is Supreme and no institution is superior to it. So, we should be firm. We want a socialistic pattern of society based on equality and wish that the country should move ahead and for this we shall certainly have to bring amendments in the laws and the constitution.

Telephone quota for MPs has been announced. It provides that an MP can recommend a telephone connection for a person who approaches him for this purpose so our role is restricted to that extent only. If someone sells a telephone connection, it is wrong. NOW, we have gas connection quota. No MP would

like to recommend for the same. If some one recommends and later on if it is proved to be wrong, the CBI will say ■ "you patronise", you have favoured the said person. Rajo Singh ji is sitting here. He said that the transfer of a particular officer be deferred. Then I told him that we have to run a coalition Government. Vajpayee ji knows this. The sword of Damocles always hangs over a person who runs a Government. To run a coalition Government is not a child's play. I have seven year's experience of running such a Government I ordered to postpone the transfer and from the other side a circular came that no order can be issued in this regard. We are in a fix. We have been entrapped in between. While one side asks for postponement, the other side makes a recommendation for the same. So, I would like to say that we should not make any recommendation because if something goes wrong we will be treated in the same manner as Jaswant Babu and Advanji were treated and tortured.

14.00 hrs.

Chaudhary Charan Singh ji had said that the total expenditure of election be given to MPs. The State should fund the election expenses but only Rs. 1500 is paid to us which is a very negligible amount. One has to consider that we also have a family to look after. The politicians are branded as corrupt. This P.C. act affects only we people. There should be uniformity in the country. I want that their salary should be fixed at Rs. 60,000. Our Government had also made a similar proposal. The salary of the Chief Justice should be fixed at Rs. 60,000 and no income tax should be levied on us. We should be given a free hand as the Parliament is the body to legislate laws. We make laws. I want to say that the persons engaged in legislation should also be given facility and no a u s t measures should be made applicable in this regard. If it is not done in this session, we may give a blow to the Government in the next session and get the bill passed. With these suggestions I conclude.

[English]

SHRI SHIVRAJ V. PATIL (Latur) : I just want to make five points on this Bill.

I support the proposal given in the Bill. Many hon. Members have suggested that if the Government is willing to increase the salaries of the Supreme Court and the High Court judges, they are willing to support even that proposal. One very important issue which has been thrown up by some hon. Members in the course of the discussion relates to the salaries of the members of the Judiciary and the salaries of the members of the Legislature. I am of the view that the salaries of the members of the Judiciary, members of the legislature and the members of the Executive "at least, the permanent Executive "should be commensurate with one another. If there is a lot of disparity between the salaries of the members of the Judiciary, the Executive and the Legislature, there would be a sort of asymmetry, which will not be conducive to the good governance of the country.

"The second point that I would like to make and which has been made by other hon. Members is that there are so many vacancies lying in the

Supreme Court and the High Courts. It would be in the interest of the Judiciary and in the interests of good governance that all these vacancies are filled.

It is of utmost importance that this issue should be very carefully examined. Why should we not appoint the judges when they should be appointed?

Why should there be vacancies?

There is no dearth of lawyers; there is no dearth of persons who can fill those posts. We shall have to take steps to see that those positions are filled up.

The third point is this. Is the number of judges that we have in the Supreme Court and the High Courts enough to cope up with the job which is to be done by the judiciary? The number of laws is increasing; the number of cases in the courts is increasing; the number of lawyers is increasing; and the decisions are becoming more complicated. Why should we not take a decision to increase the number of judges in the Supreme Court and the High Courts when we want to dispense justice expeditiously? What is it that is obstructing us from increasing the number of judges in the Supreme Court and the High Courts?

The fourth and the last point which I want to make is that the judiciary is not modernised. Modernisation is a must to cope up with the new problems that are being thrown up. If we consider the position in our country, the private industry is the most modernised section in the society. Then, the executive of the Government is modernised comparatively and to some extent, the legislature is modernised. But I am afraid, the judiciary is not modernised. They do want computers; they do want duplicating machines; they do want communication systems. If these are not made available to them, how do we expect them to dispose of the cases quickly and without any loss of time? What is it which is coming in the way of helping them to modernise? It is necessary for us to have a comprehensive plan for modernisation of the judiciary at the highest level and at the level of High Courts. But even the judiciary at the district level and at the lower levels should be modernised.

But as far as the salaries, modernisation and other provisions of district-level judiciary and lower-level judiciary are concerned, they are the responsibility, I think, not of the Union Government, but of the State Governments. But a message should go even to the State Governments that modernisation of the lower-level judiciary is also necessary. By modernising the judiciary, by filling up the posts which are vacant and by increasing the number of judges in the Supreme Court and in the High Courts, we can expect quick justice. The number of judges at the lower level has gone up. There are many district judges, additional sessions judges, additional district judges, civil judges and magistrates. While their number has gone up, the number of judges in the High Court and the Supreme Court has not gone up.

This is an issue which has to be very carefully examined. We have expressed these views while discussing this Bill because the Demands for Grants of the Ministry of Law are not likely to come up for discussion here. So, the hon. Members have taken this opportunity to express their views on this point while discussing the enhancement of the salaries of the judges of the Supreme Court and of the High Courts.

We do hope that the Government will benefit from the view expressed by the hon. Members and take necessary action, in consultation with and with the consensus of the hon. Members, would be taken.

SHRI S. MALLIKARJUNIAH (Tumkur) : Sir, I rise to support the Bill which is before the House.

The question now is that the conditions of the lower-level judges are not very good; the salaries that they are paid are very low; the accommodation in the courts is very bad; and the facilities provided to them are absolutely meagre.

At Bangalore, except the Principle Judge, the rest of the judges have to travel by buses. What a pitiable condition is this! These shall have to be changed. There is a demand from people of Karnataka that a Bench of the High Court shall have to be established in Northern Karnataka, either at Gulbarga or at Dharwad.

This is pending since very long time. Every Government assures and ultimately throws it into cold storage. Even in Andhra Pradesh, there was a demand to open a Bench at different places. They agitated for a fairly long time. It was also thrown into cold storage. The policy of the Government is to deliver justice at the doors. This is not commensurate with the saying of the Government. It is high time that the Government applies its mind in opening High Court Benches in different suitable places in States.

Secondly, a Supreme Court Bench shall have to be established in the South. Why should people go to Delhi from Kerala, Tamil Nadu and Karnataka? Why cannot a Supreme Court Bench be opened in the South which may be either at Tamil Nadu or Karnataka or at any other State in the South so that the litigant public would be benefitted to a very great extent.

Cases in a huge number are pending in the Supreme Court. Adjournments are given for four or five or six months. If the father starts a litigation, it passes to the son and then to the grandson and ultimately the father who started the litigation dies. He does not find justice delivered to him. This is really obnoxious and intolerable.

Vacancies are found in the Supreme Court and the High Courts. It is not that brilliant people are not there. Brilliant people are there but unfortunately, they do not belong to the caste of the Chief Minister or the Supreme Court judge. If this is the value and attitude of the people occupying high offices and if they stoop to such a mentality, can we expect justice at the hands of these people?

There are lady advocates who are having ten to fifteen juniors and have a very big establishment. They are ready to offer their services as judges. But we have been saying that ladies are not coming forward and have poor vocabulary. This is absolute fantastic nonsense. I know lady judges who are first class ethnologists. Why not such ladies be selected? The only point is that they do not enjoy the confidence of the Chief Minister or the High Court judge. This is really unfortunate.

Lastly, I once again appeal to the Government not to postpone the establishment of High Court Benches in different parts of the State for which there is a lot of agitation. I think Shri Bhaskara Rao, the former Chief Minister, knows it very well that in two places of Andhra Pradesh, judges and lawyers agitated for a long time. They agitated for more than six months. What was the ultimate result? The Benches could not be opened. In the same way, our friend from Dharward South, Shri Mensinkai is a practising advocate. They agitated for months together. Ultimately, false promises were given and they started a Commission; the Commission went round collecting some statistics. By that time, the agitation had cooled down; ultimately, the report was submitted and was thrown to cold storage. Should this be the attitude of the Government in modern days? I strongly urge upon the Government to apply its mind in opening the Benches, recruiting lady advocates as judges and providing sufficient facilities to the lower court judges, munsif court, additional munsif court, civil court judges and additional civil court judges. The facilities there are hopeless. It is very obnoxious and the atmosphere there is stinking. The Bar Associations are not well-equipped and many new lawyers do not find sufficient library books. Therefore, a new thought shall have to be given to provide facilities to the new lawyers and judges of the lower courts also.

Now, I will come to the distribution of work and transfer of judges. Why should a judge be transferred from one State to another? Do you doubt his integrity? If you doubt his integrity, then how can he enjoy the confidence of the people? Why would he be transferred nowadays, when judges are transferred, they resign their job because they are not prepared to leave the place.

The assumption is that they favour their own juniors or caste people. This is also too much to think about a judge who loses his character in this fashion. Therefore, these are some important points on which the Government shall have to apply its mind and appoint a Committee to go very deep into all these facts and deliver full justice to the people.

SHRI T.R. BAALU (Madras South) : Sir, I rise to support the Bill. Almost all the quarters of this House are very much aware of this Bill and are ready to support it. The only thing is that the Bill should have been brought by the Law Minister, Mr. M. Thambi Durai. But he is not here. He has not gone on any official tour nor he is indisposed. My dear friend, Mr. Kumaramangalam, acting as proxy to the Law Minister, has brought this Bill. The discussion

is being heard by him and he is going to reply for the same. Sir, the parliamentary democracy is belittled. The AIADMK Ministers in the BJP Government are showing scant respect to this august House. I condemn this attitude of irresponsibility and at the same time, we do not know whether the Minister, Mr. Thamby Durai is boycotting the House or is not going to come at all, along with ADMK Members.

A batch of writ petitions filed by Ms. J. Jayalitha and others in the Chennai High Court challenging the constitution of a special court to try the corruption charges have been heard. Exactly five months ago, on 4th February, the Bench had reserved its judgement. Suddenly a particular judge has been elevated and has gone on assignment to another court in Himachal Pradesh. I want to emphasise one point here. If there is any lapse on the part of the Government in a particular case, the High Court judge pulls up the Government and the bureaucrats. If there is any lapse on the part of the lower court judges who have not delivered a judgement or delayed a judgement, then the High Court judge pulls up the lower court judges for not delivering the judgement on time. At the same time, if there is any delay on the part of the judges of the High Court or the Supreme Court, nobody has got the authority to question that judge. Nobody can ask as to why he has not delivered the judgement on time.

Sir, the time has come to see as to what arrangement should be made, whether any bill should be brought before this august House, to ensure that a particular judgement, after hearing the cases, is not kept in abeyance and reservation endlessly; there should be a time-bound arrangement for pronouncing a judgement. The judges now can simply say that the judgement is reserved. The judgement regarding the constitution of a special court at Chennai, which was kept in reservation on February 4, has not been delivered till today as one of the judges in the Bench has been transferred. Is it fair to do so?

Sir, my demand is that the Law Minister—whether the actual Minister of Law or the proxy Law Minister, my friend, Mr. P.R. Kumaramangalam—should see that if the Government could bring a Bill before this august House to ensure that a particular judge or judges, who has reserved the judgement, delivers the judgement within a stipulated time and before they are relieved on any transfer, failing which, the particular judge would have to be made accountable. This is the point I wanted to make. I whole-heartedly support the Bill.

PROF. SAIFUDDIN SO2 (Baramulla) : Mr. Chairman, Sir, there is hardly scope for disagreement on this Bill. There is also hardly any scope for bringing any amendment to this Bill. The Chief Justice of the Supreme Court, the judges of the Supreme Court and the High Courts must get

salary and perks that are necessary to maintain the dignity of their high offices.

Sir, I would like to raise a very important question before this august House. But before I do that, I would like to extend my support to what Shri Panja said about paying of the arrears in instalments. The arrears should not be paid in instalments. That is in bad taste. The arrears would not be of a very sizeable amount and so, why should it be paid in instalments? Through you, Mr. Chairman, Sir, I would like to invite the attention of Shri P.R. Kumaramangalam to this fact. He should withdraw this clause that the arrears would be paid in instalments. The Government proposes to pay Rs. 5,000/-, then Rs. 10,000/- like that. I would like to request him to withdraw it.

Sir, there was a discussion in this House on judicial reforms and Shri Shivraj Patilji, the former Speaker, Lok Sabha, was in the Chair then. I also spoke on the subject. Maybe, somebody from amongst us will raise the subject here and we shall discuss the issue again. The whole system is crying for reforms. But this time when we have the discussion on the subject, in a limited sense but taken it has to be a deep and incisive debate so that we come to some conclusions.

This is what Shri Laooji also wanted to say that we are the law-givers and law-makers and they are the interpreters of law. He brought in the question of salary. While the House agreed with him and I too have no disagreement essentially, but I would like to submit, would you normally raise questions of salary of Members of Parliament here, especially when we have to discuss the salary of the judges? But Laooji had a hidden humour in that. At the Matriculation standard, in mathematics, there was a unitary method, what in Hindi we call the *Ekai ka kaida*, I do not know whether it is there now or not, which said that if you pay Rs. 60,000 per mensem to a judge of a Supreme Court or a High Court, then what would you pay to a law-giver? That is the unitary method. Any way we are not discussing our perks here. We should give respect and honour that the Judiciary deserves.

Sir, my point is that there is tremendous corruption in the Judiciary. I have several cases of judicial despotism in my mind. We got the chance of a life time to impeach a judge but we suffered because of the political inclination of a particular Party. There were areas of agreement and disagreement. But there was sufficient proof of the Judge having gone wrong.

Sir, whatever I am saying here is going on record and here I am reflecting on the working of the Lok Sabha. Sometimes, we discuss trivial issues here while the society, at large, discusses issues which are really relevant. We got a chance to impeach a judge and we lost it in order to show dignity to the High Courts and the Supreme Court. We have never raised the question that we are the people who gives laws and we are the people who makes laws. They are only to interpret the law. That is the question of dignity of the judiciary.

Sir, the real question is, what is the punishment when a judge goes wrong? I would also quote what Justice Verma, the former Chief Justice of India, said when he retired from services. There is also an instance of a judge of the Calcutta High Court. He made three sets of spectacles worth Rs. 40,000 for himself and for his children. His argument was that he was equal, in status, to the Cabinet Minister of the Union of India. We all wondered as to the perks that a Cabinet Minister of the Union enjoys. Infact, the Members of Parliament have 32 free air travels. But when I became a Cabinet Minister, I had only six free air travels for the spouse. Nobody told that judge that a Cabinet Minister of the Union had no right to make a spectacle for his children in that way. He ordered three sets of spectacle - two sets for his children and one for himself. He got away with that and there was no system to punish that judge.

Sir, I would not like to mention the areas from where they hail. But again there was a judge who used to go to his office every morning and on every Monday he used to claim TA/DA as he had spent weekend at home. This fact was known to the Supreme Court. There was another judge who had taken bribe and the hon. Chief Justice of the Supreme Court wanted to punish him but he could not do it. Therefore, I say here with a sense of responsibility that there is corruption in the Judiciary but there is no system of punishment and thus it makes it a very shameful thing for the whole nation.

Sir, I have tremendous regards for Justice Verma, the former Chief Justice of India, because apart from being a good judge, he also was an environmentalist. The first lecture that Justice Verma delivered after his superannuation was on the question of accountability. Kindly consider what Justice Verma said on this issue. It is on record and is available in our library. He said that what worried him as the Chief Justice of India was that there was no instrument to punish a corrupt judge. It is a tragedy that there is no system of self-discipline. The Chief Justices of the Supreme court during their services used to give in writing to those judges who went wrong and used to appeal to them to maintain self-discipline. But, those erring judges had never taken note of that. Therefore, the outgoing Chief Justice of Supreme Court has conveyed this to us, because we are the people who represent the masses. He said, since there is no system of self-discipline and since the instructions are not being honoured by the judges, there has to be an instrument to check it. So, we will have to enunciate a law to ensure judicial accountability. Through you, I would like to pose a question to this august House. What about the judicial accountability? How would these erring judges be punished? This is very important. We must eradicate corruption from the judicial system.

On the whole, I have no complaint. The hon. Supreme Court of India has maintained its dignity. One cannot raise a finger against all the judges. We cannot say that the Supreme Court has gone wrong. We cannot say that the Delhi High Court or for that matter any other High Court has gone wrong. But, the main question is that of the accountability of the judges and for that there has to be an instrument. We have to sit and give a serious thought to it so that we evolve that instrument. Thank you, Sir.

SHRI AJAY CHAKRABORTY (Basirhat) : Mr. Chairman, Sir, this Bill has been introduced in order to enhance the salary of the High Court and the Supreme Court Judges. We have no objection to that because of the fact that they are holding the highest post of the judicature of the concerned State as well as country. While participating in the discussion of this Bill, I would like to draw the attention of this august House to the serious problems that are there in the system.

One of the main problems is, the vacancy of the benches. There are so many vacancies in the benches of different High Courts of the country as well as in the Supreme Court also. The Government should come forward and take a suitable measure to fill up the vacancies in the different benches.

Another problem which has been agitated by several Members also is, the delay in disposal of the cases. We all know that delay defeats the purpose of law. Delay denies the justice. There are lakhs of cases pending in different High Courts and Supreme Court of our country, if any litigant public goes

to the High Court to file a suit, appeal, writ petition or any other application for redressal, he does not know when will he get the judgement, it is the usual practice that he will have to wait for his next generation or even the second-generation to get any order from the court. The usual practice in our country is that a person cannot obtain any order during his life time on a case filed by him in any of the courts. This is another serious problem in the country. We must have a system to ensure quick disposal of the cases.

My hon. colleague, Shri Shrivastava has already mentioned about the corruption and nepotism going on in different High Courts. Sons, nephews or other close relatives of the judges practise in the same court where their father, uncle or maternal uncle is a judge.

Hobnobbing of the lawyers with the judges is well known to us. It can be witnessed in the corridors of different High Courts in the country. A particular judge hobnobs with a particular lawyer or a group of lawyers. The particular lawyer or a group of lawyers appear before his court and is able to obtain injunction or any other favourable order. This corrupt practice is going on in different High Courts. It is known to all.

It is difficult for the common people to afford high fees of the lawyers. It is just not possible for a common man to pay his fees. Though there are panels of Government lawyers in our different courts, being a lawyer I regret to say that maximum number of lawyers on those panels are not serious about the cases. They are not interested in the cases. They are not serious in conducting the cases. They are not interested in those cases; they are not serious in conducting those cases. Some cases of dishonest practices have been filed against some lawyers also. The Government should think of the ways which would enable the common man to afford an efficient lawyer to contest his case.

I would like to draw the attention of this august House to the pathetic condition of the lower courts, the munsif courts, the sessions courts which are the backbone of the judicial system in the country. The Sessions Judges and the Additional Sessions Judges are adjudicating cases under Section 302, 304 and 376 of IPC which provide for death sentence and life imprisonment. The court rooms in which those judges sit are like cow sheds. Those judges travel in the same buses in which the accused travel. The condition of the munsif courts and magistrate courts is appalling. They are conducting their trials in cow sheds. During power cuts they are compelled to conduct trials in deep darkness. There is no arrangement of a generator. No accommodation is provided to them, no vehicle is given to them. The condition of the judicial system in our country is very much pathetic, particularly in the lower courts, the magistrate courts and the munsif

courts. The Government should look into the matter and deal with the matter seriously so that people can get speedy justice from the different courts.

I am sorry to say that the hon. Law Minister is absent while the House is discussing this important Bill. I do not know the reasons for his absence. Maybe he is engaged in some other Government business or, for the sake of humour, maybe he is engaged in toppling the BJP-led Government.

Lastly, I conclude by saying that I support the Bill.

SHRI B.M. MENSINKAI (Dharwad South) : I support the Bill for increasing the salary and pension for Supreme Court and High Court judges.

I would like to take this opportunity to speak about the huge number of cases pending in our courts. They run into lakhs not thousands. I am afraid

[his system of judiciary is not working in the country, does not seem to be conditioned to the requirements of the people. We have to change it. If

we do not change it, we cannot get any benefit from the judiciary.

The judiciary is very independent in India and it has created some good honour in the world judicial history. In spite of it, I am afraid, the system requires to be changed, if the common man has to get speedy justice.

As regards disposal of cases pending in lakhs, I would like to mention the case Dharwad in Karnataka. It has already been recommended by the Committee appointed earlier that a High Court Bench should be set up there. We have been trying our best to get a Bench set up in Dharwad, but the State Government with the support of the Central Government is postponing it saying that it should be set up at some other place like Belgaum or Gulbarga. By this suggestion of a change in the place, Dharwad is deprived of the benefit of having a High Court Bench.

There is already a recommendation of the earlier Committee: So, I suggest that on the basis of that recommendation, a High Court Bench of Karnataka should be opened at Dharwad only.

Secondly, as regards the point that hon. Member Shri Shivraj V. Patil made, I agree that the salaries of the judges and the legislators should be made commensurate with each other. After reading the hand-book, I come to know that we are getting Rs. 1500 per month as salary. The salary of an MP is Rs. 1500. I am ashamed to receive Rs. 1500 as salary. It is better if we change the name of the 'salary'. If the hon. House feels that Rs. 1500 is sufficient, then I want that this name should be changed. Instead of stating it as 'salary', it should be stated as 'honorarium'. So, either it should be increased in an honourable way or its name should be changed.

As regards, the appointment of judges, I would like to state that both the State and the Central Governments are appointing judges in consultation with the Chief Justices of the High Court and the Supreme Court. This method of appointing judges should be changed. I think that in respect of State Judiciary, the Chief Justice of High Court and in respect of the Supreme Court judges, the Chief Justice of the Supreme Court should be the proper authorities to appoint judges. So, appointment should be done in this way. Otherwise, the power of operation of judiciary gets misused.

As regards vacancies, I would like to say that in most of the courts, a number of vacancies are there. So, to cope with the pending cases, the vacancies should be filled up in such a way that before a vacancy occurs, the man should be in position. Some judges should be posted on a temporary basis where there are vacancies.

MR. CHAIRMAN : Please conclude.

SHRI B.M. MENSINKAI : I appreciate the increase in salaries as suggested by hon. Member, Shri Panja. It should be increased to the extent of Rs. 50,000 to the Supreme Court and to other High Court judges. In place of the amount already mentioned, that is, Rs. 33,000 and Rs. 26,000, a higher wage should be prescribed.

With these words, I support the Bill. [Translation]

SHRI PRABHUNATH SINGH (Maharajganj) : Mr. Chairman, Sir, the whole House is unanimous on the Bill which has been introduced here. I also rise to support this Bill. However, I would like to give a few suggestions in this regard. The functioning of judiciary from lower courts to Supreme Court looks somewhat strange. I am using the word 'strange' because the judiciary has a right to give judgements judiciously. Nobody can question or make comments on any judgement given by the judiciary. If an appeal is filed in a High Court against the judgement of a lower court and if the judgement of the lower court is not upheld by the High Court, there is no provision of any action against the lower court. In case, the Executive or the Legislature takes a decision of its own, the Judiciary sets aside such a decision and even impose a fine upto Rs. 50 lakh. I want to know whether the judiciary applies different discretion than the Executive or the Legislature. I feel that the decisions which are taken judiciously should not be subjected to any penalty or fine. We would like that the process of justice should be cheap and simple for all. However, when we talk of cheap justice, it is becoming more and more costlier. The process of investigation by the Executive goes along with the judicial inquiry.

Mr. Chairman, Sir, through you, I want to submit that there are many loopholes in the Cr. P.C. and I.P.C. I would like to tell the House that the police are the investigating agency in the States and in addition, they also take care of the law and order problem. Therefore, the process of investigation is not smooth. The prosecutor names fictitious witnesses but there is no provision in the judicial process under which action could be taken against such fake and fictitious witnesses. It is on the basis of court orders that people languish in jail for 2 to 4 and 5 years and when the trial is over, they are acquitted, but no legal action is taken against the person who files a false case. Unless a provision is made to punish such persons, I feel that people cannot get justice.

Mr. Chairman, Sir, the Judiciary is on a sticky wicket particularly in Bihar. There, the judiciary conducts the examinations. The Court orders the judges to conduct examinations and accordingly, the judges go to examination centres. The worst happens when the judiciary asks the Government to get a road constructed within 15 days or one month failing which the Engineer-in-Chief would be put behind bars. If there is filth scattered on the road, the judiciary orders the Government to get it cleaned.

MR. CHAIRMAN : Please be brief and confine to the subject only.

SHRI PRABHUNATH SINGH : Mr. Chairman, Sir, I would give very good suggestions because I have suffered a lot at the hands of judiciary.

MR. CHAIRMAN : It would be better if you stick to the subject only and do not go into detail.

SHRI PRABHUNATH SINGH : Mr. Chairman, Sir, Shri Lalu Prasad had just given a suggestion that appointments should be made in the judiciary on the basis of reservation. I would like to tell that during Lalu Government, a doctor had left the scissors and a towel in the stomach of the patient after conducting an operation. Thus, if appointments are made in the judiciary on the basis of reservation, then only God can save the judiciary. I am of the view that there should not be any reservation for clerical, administrative and judicial posts in the judiciary. Corruption is at its peak in the judiciary and nobody can deny this fact. I do not want to mention any name, but I would like to submit that if a judge gives a judgement in favour of a political leader, he is made a Member of Rajya Sabha. After all, what is this? If it is not corruption, then what is it?

Mr. Chairman, Sir, today the situation in the judiciary is alarming to the extent that a judge of the Calcutta High Court writes to the Hon'ble President that since he is not getting justice, he has decided to resign and perhaps, he will be proceeding on leave from the 15th of this month. If a judge holding such a higher position in the judiciary does not get justice, then who will get justice. There is a need to think over this point seriously. I feel that there should be a separate agency to monitor the functioning of the judiciary. In this way, if some lapses are found on the part of the judiciary, these can be checked by the particular agency.

MR. CHAIRMAN : Please conclude.

SHRI PRABHUNATH SINGH : Mr. Chairman, before concluding, I would like to submit one more point. Shri Lalu Prasad has given a good suggestion that the salary of judges should be raised. I want to know about the status of a Member of Parliament. We are given a salary of Rs. 1500/- whereas a peon of a Government office gets more than Rs. 1500/- per month. Under which status we have been put? An MP gets a total amount of Rs. 8,900/- and from this, about Rs. 2500/- to Rs. 3000/- are deducted towards electricity, water, furniture, carpet, cooler etc. Thus, an M.P. gets about Rs. 5000/- or Rs. 5,500/- only. What do you propose to make an M.P.? I am an M.P. and I do not want to insult an M.P. However, there can be no exaggeration if the people say that Members of Parliament make a living by indulging in thefts. Therefore, I would request that if you want to maintain a good image of the Members, they should be given the facilities of food, water and other amenities so that they could live their parliamentary life with unblemished image. Nobody would object to the hike in the salary of judges but this House must take steps to check corruption in the judiciary.

SHRI SURESH KURUP : Mr. Chairman, Sir, I want to say only one point.

Every High Court Judge is entitled to a free accommodation and those of Judges, who are not allowed to have a private car, are given a car. Rs. 2,500/- per month. This is roughly 30 per cent of the pre-revised salary, that is, Rs. 8,000/-. Now, with this salary revision, this should also be revised.

THE MINISTER OF POWER (SHRI P.R. KUMARAMANGALAM) : Mr. Chairman, Sir, I am extremely grateful to the hon. Members who have participated in this debate. While discussing the revision of salaries, though normally this would be almost automatically gone through, I am grateful that the attention has been paid to the whole subject, that is, the facilities, terms and conditions of the judiciary, etc. I would only like to point out that with regard to salary, there have been certain comments that the salary of the High Court judges' was originally equivalent to that of the Cabinet Secretary, but now it has come down. With the present revision, the High Court Judge and the Cabinet Secretary are at the same level. In fact, the Supreme Court Judges and the Chief Justice are at the higher level. But the Chief Justice of the High Court, the Supreme Court Judges and the Cabinet Secretary are at the same level. The Chief Justice of the Supreme Court gets Rs. 33,000/- and the Judges of the High Courts are getting Rs. 26,000/-. This is as per the present revision. I am not trying to submit to this House that this is totally sufficient or it is something which is extremely attractive. But in today's scheme of things, to keep in line with the Fifth Pay Commission, these are the terms and conditions which have been set up.

As far as the perquisites are concerned, let me tell you that all the perquisites have been increased. The most important thing most of us need to pay attention to is that the perquisites at the level of the Supreme Court may be available in terms of free accommodation, transport, etc. In the High Courts, the situation has improved vastly. There was a time when judges of the High Court did not get cars allotted to them. There was no pool car or other such type of things. Now there is some improvement in that. But I can say that the Supreme Court itself has been taking some special interest in these matters to ensure that the wages, terms and conditions, salaries and other things dealing with the courts of record, that is, the High Court and the Supreme Court, are settled quickly but they have also taken steps with regard to subordinate judiciary. As most of the hon. Members must be aware, under article 309, it is the State Governments that finally frame the rules that deal with the subordinate judiciary and their terms and conditions. But the Supreme Court has passed orders in this regard. Many of the States have responded and, in fact, terms are improving now. More than terms and conditions, what some Members have pointed out with regard to facilities, I think, is something that should be taken note of. Despite some of the orders that have been passed by the courts, advices that have been given by the 'Central Government and Law Ministers' Conferences, somehow when it comes to providing facilities for the Judiciary to function at what Shri Panja has referred to as the grass-root level of the judicial system, that is, the sub-judicial magistrate at the Sessions Court, the fact is that there is improvement and now, fortunately, plan allocation is being done, and because of the plan allocation being done, we are seeing courts come up at district level, which were not there earlier. Now new courts are being built and new facilities are coming in. The hon. Member, our former Speaker, quite justifiably pointed out about modernisation of the courts, I wish to inform him with pleasure that while he was the Speaker, in fact, most of the decisions with regard to modernisation of courts had started. In the year 1992, there was a Law Ministers' Conference where this was given preference and importance which it should have been given in the earlier past. But then over the years, in 1994, 1995, etc., every Conference has paid attention to the modernisation of facilities of the courts of record specially. At the moment, I am informed that computers have been provided in the Supreme Court and the High Courts and they are linked to the network in the NIC. In fact, you can now download, maybe today's list and take a print out of what are the cases coming even in any outpost in India as long as you can get to the network activity through a post office or a telecom printer. They are also being provided now all the facilities. In district courts it has started. Photocopiers and photocopy machines are being supplied and the NIC will be soon starting the process of computerisation of the district courts and putting them on to the network. For modernisation, NIC has been provided sufficient funds and they are on the job.

The Central Government is providing financial assistance to the State Governments to provide infrastructural facilities on a 50:50 basis, that is, the State Government in its Plan funds produces certain amounts and we produce a certain amount. The Grant in the year 1997-98 was about Rs. 232 crore. This year if the grants which come up before the Parliament during the second part of the Budget Session, are approved, it would be around the same level. I personally believe that we have made a good beginning though we need to push it a little faster.

With regard to Benches, I think most of the hon. Members are aware that Benches is a matter which is decided in consultation with the courts and often falls in the jurisdiction of the courts.

I very much agree with my good friend Prof. Kurien who has left, as well as, the Mover of the Statutory Resolution, Shri Reddy, that we would all from the South, love to have a Bench of the Supreme Court in any of the four places, namely, Bangalore, Hyderabad, Madras or even Trivandrum.

15.00 hrs.

But then, the fact is... (Interruptions) Now he wants a Bench of the Supreme Court in Meerut. Shri Sompai is spoiling the case. If I may submit, the truth is that this has been taken up more than once. The Registry of the Supreme Court has intimated that the Court had considered this. In fact, in their letter dated 26.4.97, it has been mentioned that the suggestion for establishment of Benches of Supreme Court outside Delhi has not been agreed to by the full court in a meeting presided over by the Chief Justice of India. Many demands have gone to them. I am informing you the latest negation of these demands. Under article 130, it is the Chief Justice and the Court which can decide this and not us or the Government.

SHRI AJIT KUMAR PANJA : This House may send its sentiments to the hon. Chief Justice of India. It was decided on 26.4.97 not to have a Circuit Bench. Please send our feelings that we here feel that the new Chief Justice should hold a meeting and make a Circuit Bench. We are suffering very much.

SHRI P.R. KUMARAMANGALAM : I assure the hon. Member that I shall definitely request the Law Minister to communicate the feelings of this House in this regard to the hon. Chief Justice of India.

With regard to establishment of Benches of other High Courts also, there were a lot of requests. Allahabad High Court is not in favour of establishing a

Bench at Agra. I can go ahead because I have a long list of places where Benches were sought for, whether it is the High Court of Madras, Madhya Pradesh, Karnataka, Kerala or Calcutta. But the situation is that the State Governments have to send the proposals to set up Benches of the High Courts in consultation with the Chief Justices of the High Courts. In most cases, the Chief Justices of the High Courts are opposing setting up Benches away from the principal seat of the High Court. At present, we have no proposal pending at our level. It is the State Governments which should send the proposals in consultation with the Chief Justices. They do not cross that level. It does not even come to us for consideration. But as soon as these matters come, I can assure the House that we will look at them with all urgency. We understand the situation and the feelings of the Members. Since* one hon. Member asked that the State Government of Karnataka had sent a proposal to set up a Bench at Hubli, Dharwar, I am reasonably certain that the Chief Justice of the High Court was opposed to that proposal. He has sought clarification from the Chief Minister on certain facilities to be provided etc. I am informing the hon. Member Shri Malikarjuniah that this is the position with regard to this.

With regard to the subordinate judiciary, I have already informed the Members that the Supreme Court had given certain directions in the All India Judges Association case way back in 1989. These directions are pertaining to provision of residence, working place, library, transport facility and increase in the retirement age from 58 to 60 years. All the State Governments are required to implement these directions and submit compliance report before the Supreme Court. Many State Governments have since made improvement in the service conditions and facilities and the State Governments are in the process of implementing the Supreme Court's directions. I think that I have been able to address most of the points which have generally been raised.

But I think that it is important for us to understand the position with regard to appointments and transfers. I think all the Members are aware that articles 124 and 217 cover this arena. After the nine-Judge Bench case, today we have a situation where the primacy is that of the view of the Chief Justice of India.

SHRI AJIT KUMAR PANJA : We are thankful to the Minister that he will convey the sentiments of the House to the Chief Justice of India.

I would request him kindly to consider two things. There are huge number of cases. It is not possible to appoint so many judges as suggested by one of the Members. Is it possible to appoint *ad hoc* judges in all the High Courts for a particular period of one year who will be entitled to practise in the same court? Then, all the arrears of the cases could be disposed of gradually and expeditiously.

Otherwise it is impossible to clear all the pending cases. The people are suffering because of the pendency of cases. So, *ad hoc* appointment of 10 Judges should be made in each High Court. Let them dispose of the old cases and then let them be allowed to practise in the same Court. Otherwise, they will never be disposed of because hundreds of new cases are being filed everyday in each High Court.

My second point is, the Advocate-General of West Bengal has been given the status of a Cabinet Minister, but the Judges of the Calcutta High Court have not been given that status. Why is this being done? Is it because that the State wants to dilute the position of our Judges? The hon. Minister should kindly consider this point. This is something which is to be stopped immediately. Our Judges in the Calcutta High Court should be given the status of "Cabinet Minister, but only the Advocate-General." West Bengal has been given the status of the Cabinet Minister, but not the Judges. This cannot go on.

SHRI NADENDLA BHASKARA RAO : Mr. Chairman, Sir, with your permission, I would like to raise one point. Hitherto, the Judges of the High Courts were getting Rs. 500/- above the Cabinet Secretary till 1965. But now, the Judges of the High Courts are given Rs. 26,000/- per month and the Cabinet Secretary is getting Rs. 30,000/-. So, there is a huge difference now.

SHRI P.R. KUMARAMANGALAM : Sir, I would like to go into a dispute with the hon. Member. But, I think, it is important for me to inform him, through you, Sir, that actually what was earlier equated was, what we today call, with the Chief Secretary and it was always equated with the Cabinet Secretary only for the Federal Courts. That is the real situation. But leaving that aside, I am willing to discuss this matter at any time outside this forum, because we have gone into it.

Sir, another very important issue which the hon. Members raised is about the instalment of arrears. I would like to inform them that it is in the Bill. But the payment of arrears has already been made, because it was in the Ordinance and this Bill is for replacing the Ordinance. The truth is, at the moment, the arrears for the Judges of the Supreme Court have been paid. With regard to the Judges of the High Courts, I think, the compliance will be coming to us soon from the States that they also should have paid up the arrears. I would get the compliance organised and I can assure the hon. Members that it is only an enabling provision for instalments. It does not mean that we have to pay the instalments. But we would get it done.

With regard to the issues of method of appointment of Judges and judicial accountability, I think, most of the hon. Members are aware that there is no official code of conduct for the Judges of the Supreme Court and the High Courts, the courts off record. A Committee was appointed in a Conference of Judges to prepare a code of conduct. But we are not aware exactly as to how far that has proceeded. We understand that it is proceeding quite fast. We understand that the matter has also been discussed in the Annual Conference of Chief Justices of the High Courts. With regard to the District Judges, let me say that the code of conduct and rules framed by the State Governments in consultation with the High Courts are in existence in many States and they are not in existence only in a very few States. That is the situation.

PROF. SAIFUDDIN SOZ : Who constituted this Committee? Was it constituted by the Chief Justice of India?

SHRI P.R. KUMARAMANGALAM : This Committee was constituted based on a Resolution in the Annual Conference of the Chief Justices of the High Courts where they authorised the Chief Justice of India to constitute it.

PROF. SAIFUDDIN SOZ : Could the Minister please announce the names of the Members of this Committee?

SHRI P.R. KUMARAMANGALAM : Sir, normally, the proceedings within the Conference of the Chief Justices of the High Courts are kept to themselves. We are not informed; we are not made aware of the proceedings.

PROF. SAIFUDDIN SOZ : Sir, I am asking about the Committee, I want to know about the constitution of the Committee.

SHRI SATYA PAL JAIN : As per my information, this Committee consists of five senior most Judges of the Supreme Court.

PROF. SAIFUDDIN SOZ : Thank you for this information.

SHRI P.R. KUMARAMANGALAM : Normally, the matter is understood to be "within their jurisdiction and so if we have information we submit only that much.

Sir, in the light of this, I request the mover of the Statutory Resolution to withdraw his Resolution.

DR. T. SUBBARAMI REDDY (Visakhapatnam) : Sir, the Minister did not fully justify all the points. When I gave the proposal for Rs. 10,000 enhancement to the Supreme Court and the High Court Judges... (Interruptions). I am going to fully agree with this Bill. All the Members have taken this opportunity to communicate their views on the judicial system which is the most important thing and everybody has unanimously expressed the respect for the judicial authorities. The judiciary plays the most important role in this country. They have played a very crucial role in protecting the interest of the democracy of this country. Therefore, there is no problem in giving them more money. Now, We cannot change it because the Ordinance is already there. But I just want to say that in future, the Government, on a suitable day must revise the salaries of the Supreme Court and the High Court Judges.

Sir, all the Members have said that lakhs of cases are pending. There appears to be an urgency to have a streamlined system. If the Benches are there, it will be great service to the poor people and there is also every possibility of clearing the cases. But the Minister has very tactfully replied that the Chief Justice is not agreeing. In a democratic country, the Chief Justice is not the final authority. The people, the Parliamentarians and the Legislators also have to play an important role. I said this while moving my Resolution. Therefore, the Government have to bear in mind, in future, to solve the problem whether by convincing the Chief Justice or by amending the law in such a way that we empower the State Governments to have these Benches.

Sir, we have been dreaming for years to have a Bench in Visakhapatnam as Hyderabad is far away from Visakhapatnam. It is one flag end of Andhra Pradesh. Therefore, I take this opportunity to bring to the notice of the Ministry of Law and Justice as also to the Government that they must keep in mind the States like Andhra Pradesh and others in the country. The pleas that the Chief Justice is not agreeing or that the State Government has sent the proposal will not solve the problem. Of course, had Shri Kumaramangalam been fully in-charge he would have solved the problem. I know his capacity. But since he is replying today, he must make it a point to see that as per the wishes of the hon. Members, more Benches should be raised.

Lastly, the Minister has not at all said anything about the vacancies. It is the most important matter. Many hon. Members have spoken about it including Shri Ajit Kumar Panja and myself. So many posts of judges are vacant. When the Chief Justice sends the request to Delhi, the Ministry of Law and Justice objects to it. Sometimes, they say that the file has gone back to the Supreme Court. There is a confusion in Andhra Pradesh. Some names of judges were sent some time back to Delhi. But till today they have not been filled up. We regret it very much. I am taking this opportunity to request the Government to solve this problem and see that these vacancies are filled. Why should there be vacancies in Andhra Pradesh or in West Bengal or in various places?

Therefore, you must see that these vacancies are filled up as early as possible. Secondly, the Supreme Court must have Benches in important cities all over the country. At least one Bench should be raised in one big State. The Government should note all these problems and take suitable action. Now, I accept this Bill *in toto* and I withdraw all my amendments and the Resolution.

MR. CHAIRMAN : Has the hon. Member leave:¹ the House to withdraw his Statutory Resolution?

SEVERAL HON. MEMBERS : Yes.

The Statutory Resolution was, by leave, withdrawn.

MR. CHAIRMAN : The question is :
"That the Bill further to amend the High Court Judges (Conditions of Service) Act 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958 be taken, into consideration."
The motion was adopted.

MR. CHAIRMAN : The House will now take up clause by clause consideration of the Bill.

Clauses 2 to 9
MR. CHAIRMAN : The question is :

., ■ "That clauses 2 to 9 stand part of the Bill."¹

The motion was adopted. Clauses 2 to 9 were added to the Bill. MR. CHAIRMAN : The question is :
"That clause 1, the Enacting Formula and the Long Title stand part of the Bill."
■ *The motion was adopted.*
Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI P.R. KUMARAMANGALAM : I beg to move:
"That the bill be passed." MR. CHAIRMAN : The question is :
"That the Bill be passed." *The motion was adopted.*

MR. CHAIRMAN : It is 3.15 p.m. now. Mr. -Parliamentary Affairs Minister, shall we go for lunch now?

SEVERAL HON. MEMBERS : No lunch, Sir.

THE MINISTER OF PARLIAMENTARY AFFAIRS & MINISTER OF TOURISM (SHRI MADAN LAL KHURANA) : Mr. Chairman, Sir, it is quarter past three and three Bills are yet to be taken up. If we take one and a half hour more, it will go upto 8 to 10 o'clock. It was agreed upon earlier that four Bills would be taken up. At that time, we had only one day i.e. today, as Tuesday was a holiday and we were to send them to Rajya Sabha. Now, I submit that one Bill can be deferred till Monday and we can take up three Bills today so that we could send them Rajya Sabha on Tuesday after getting them passed

in this House. Otherwise, we will have to sit upto 10 o'clock. However, we can go by the wish of the House.

SHRI MOTILAL VORA (Rajmangal) : Sir, the Government should get passed as many Bills as they can.

SHRI MADAN LAL KHURANA : If the Hon'ble Members wish to sit late night, I have no objection.

MR. CHAIRMAN : They are all cooperating.

15.16 hrs.

PRESENTATION OF PETITION

(English)

MR. CHAIRMAN : There is a petition to be moved Shri Chandrashekhar Sahu. Shri Sahu, please send your petition.