

That was why I was saying that we should avoid this from next week. Immediately the business of the next week is announced, I will convene a meeting of the Business Advisory Committee so that all these matters are discussed there. Now Shri Oraon is getting up. I will have to call him also since I have called others.

श्री रामावतार शास्त्री : अध्यक्ष महोदय, यू० पी० और बिहार में पुलिस जुल्म के बारे में भी विचार होना चाहिए ।

ME. SPEAKER: Three-fourths of the time I have given to the Opposition for this. Still he is not satisfied. I cannot allow this.

Let us not make a joke of this—everybody getting up and saying some funny things. I can understand one or two leaders getting up and suggesting something. I could have accepted them also. But from next week, if the House agrees, let us immediately have a meeting of the Business Advisory Committee to consider the business of the week where all these matters could be discussed.

SHRI HEM BARUA: Everybody is not a member of that Committee.

MR. SPEAKER : Every party is represented there, not every individual. The individual can go to his party representative and explain the need for it. If Shri Barua wants to have something included, he himself as Deputy Leader of his Party, can attend the Business Advisory Committee meeting or brief his representative.

As I said, no decision is taken there on majority-minority basis. If a suggestion is reasonable, everybody accepts it. We cannot obviously take up all the items suggested here just now for next week. Therefore, I shall convene a meeting of the Business Advisory Committee on next Tuesday to consider all these matters usefully and come to decisions.

SHRI NATH PAI: What about reply to the more important questions?

MR. SPEAKER: I do not know if he will be able to reply to all those.

SHRI NATH PAI: You are under-estimating him. We know he has the full capacity to do that.

DR. RAM SUBHAG SINGH: So far as the Kashmir matter is concerned, our position and attitude have always been clear.

So far as the Company donations Bill is concerned, the Bill is already on the anvil and time will be allotted for it.

AN HON. MEMBER : What about a defence debate?

DR. RAM SUBHAG SINGH: It is for the Business Advisory Committee.

MR. SPEAKER: The Kashmir discussion has been accepted and as regards the Company donations Bill, it is on the anvil and it can come up.

श्री हुकम चन्द कछवाय (उज्जैन) : अध्यक्ष महोदय, केन्द्रीय कमचारियों के बारे में भी विचार होना चाहिये ।

श्री मधु लिमये : कच्छ के मामले का क्या हुआ, वह तो पुरानी चोज है ।

12.54 hrs.

#### JUDGES (INQUIRY) BILL—contd.

MR. SPEAKER: we Shall now proceed with further consideration of the Judges (Inquiry) Bill. We have already spent more than an hour on this. I think every Party has supported the bill and commended the Bill. May I now ask the Minister to reply to the general debate?

SHRI S. M. BANERJEE (Kanpur): Why should he reply so soon?

MR. SPEAKER: Other Members can speak in the clause by clause stage. Every Member has welcomed the Bill. Shri Bhogendra Jha said it is a good Bill. All the others have said about the same thing.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN): Almost all the speakers who spoke yesterday have supported the Bill and all of them, with the exception of one Opposition Member, Shri V. Krishna-moorthi, have welcomed it as a good Bill.

One or two important points were made by Shri Bhandare and since he is a serious student of the constitution and law, I think he needs some reply. His main criticism was that by allowing

[SHRI Y. B. CHAVAN]

the formation of some sort of committee of inquiry we have taken the entire matter of the impeachment of Judges out of the hands of Parliament. That is, really speaking, his criticism. Then, he cited precedents in the U.S. Congress on the impeachment of Judges. His third point is that in case the Judge refuses to appear before a medical board, a provision is made that the committee, on such a report of the medical board, can presume, in the absence of his appearance, that the man is incapacitated. These are the three objections that he raised.

I would like to make the point, and emphasize this point again if I can, that the criticism is not valid. It is said that this Bill gives power to the Speaker to appoint a committee. The Constitution lays down that a Judge can be removed only on proved misbehaviour and incapacity, and for that matter, in clause (5) of article 124 the Constitution has mentioned the word "investigation". In order to prove misbehaviour or incapacity, there has to be investigation. I do not think it is expected or understood that the whole House would act as an investigating body, that this House itself should investigate and sit in judgment. That is not what you expect. If a proper investigation has to be made, it is very correct that some small body is entrusted with that work. Here, I would like to point out that when that committee sits, it does not sit as a tribunal. Even the Chief Justice of the Supreme Court may sit in the committee, but is does not sit as a tribunal, but as a committee of inquiry. In the original Bill the words "special tribunal" were mentioned, but advisedly the Joint Committee changed the nomenclature of that committee. It is not called a special tribunal, but is called a committee of inquiry. It is an investigating body, it does some sort of work of investigation. If I may say so, for the first time a body consisting of Judges is asked to do some sort of police work. They prepare a report.

There is one thing which, from the point of propriety, is very correct, that if that Committee comes to the conclusion that there are no charges against him as made out in the motion, then the motion

lapses. Only if the report says that the charges are proved, will the House proceed to consider the motion. So, basically matters are not taken out of the hands of Parliament. The committee of inquiry by its investigation is supposed to help. It is not supposed to decide positively; negatively it can. So, this argument that the matter is taken out of the hands of Parliament is not correct.

Secondly, about presumption he says that possibly the Judge for a hundred and one reasons may not be able to appear before the committee of inquiry. The wording is not that they shall presume, the wording is that they may. The committee of inquiry may come to the conclusion, it is a freedom given to them. They may also not come to that conclusion.

So, though the points raised by Shri Bhandare really indicate his very deep study of the Constitution and law, I personally think that the view taken by the Joint Committee is the only view that should be taken on grounds of propriety.

An hon. member from the opposition said that this is neither the appropriate time nor is it necessary because it was not found necessary for the last 17 years. In the life of a country and in the working of the constitution of a country, a history of 17 years is not enough. It was a very fortunate thing that we did not require it for 17 years.

It is certainly a matter of credit to the judiciary. But the Constitution has conceived of a position where there will be the necessity for removal of a judge. The only point is that we should not remove a judge light-heartedly; we should not remove a judge in a wrong way. That is understandable. To say that there should not be any legal procedure or provision to remove a judge is not a democratic stand to take. The hon. Member from the Opposition, Mr. Jha from Bihar, had very aptly replied to that point made by Mr. Krishnamurthy. It is a step in the right direction and it increases and strengthens the democratic functioning of our Constitution.

MR. SPEAKER : Mr. Jha raised the question why there should be two judges in that commission or committee of enquiry.

**SHRI Y. B. CHAVAN :** The original proposal was that all the three should be judges but now only two are judges. One of them represents the system of High Courts and the other represents the Supreme Court. The third is a distinguished jurist. The hon. Member here asked : why cannot the president of the bar council be there ? He can be there; he is not prohibited from coming. We have said : a jurist of distinction. If you mention it by the name of the office, I do not think that it is correct. It is the Speaker ultimately who has to choose; he is given a wide choice; he can choose from out of the Supreme Court judges including the Chief justice he can choose from out of the Chief Justices of the High Courts and he can choose any eminent jurist. This freedom is given to the hon. Speaker and the Chairman as the case may be. This is the authority given to them. I think there is some sense of propriety also in that matter.

13 hrs.

*The Lok Sabha adjourned for lunch till Fourteen hours of the Clock.*

*The Lok Sabha re-assembled after lunch at five minutes past Fourteen of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

JUDGES (INQUIRY) BILL—Contd.

**MR. DEPUTY-SPEAKER :** The question is :

“That Bill to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President and for matters connected therewith, be taken into consideration.”

*The motion was adopted*

**Clause 2—(Definitions)**

**MR. DEPUTY-SPEAKER :** Now clause by-clause consideration. Clause 2.

**SHRI BIBHUTI MISHRA (Motihari) :** I move my amendment.

**SHRI LOBO PRABHU (Udipi) :** I move may amendment.

**MR. DEPUTY-SPEAKER :** Shri Dhar is absent.

**SHRI BIBHUTI MISHRA :** I beg to move :

Page 2, lines 4 and 5,—

for “and the Chief Justice of a High Court”

substitute “,the Chief Justice of a High Court and the District Judge of any District Court”. (3)

**SHRI LOBO PRABHU :** I beg to move : Page 2,—

after line 5, insert—

“(ca) “misbehaviour”, includes corruption, communalism and perversity in judgement;” (36)

श्री विभूति मिश्र : उपाध्यक्ष महोदय, मैंने क्लॉज नम्बर 2 पर जो अपना नम्बर 1 अमेन्डमेन्ट दिया है उस के सम्बन्ध में मुझे गृह मंत्री जी से यह कहना है कि जहां उस में दी चीफ़ जस्टिस ऑफ़ ए हाईकोर्ट लिखा है वहां दी चीफ़ जस्टिस ऑफ़ ए हाई कोर्ट ऐंड दी डिस्ट्रिक्ट जज ऑफ़ ऐनी डिस्ट्रिक्ट कोर्ट सम्बन्धी च्यूट कर दिया जाय।

अब दरअसल सुप्रीम कोर्ट के जज या हाईकोर्ट के जजों के खिलाफ़ बहुत कम शिकायत सुनने को मिलती है अलबत्ता डिस्ट्रिक्ट जज के बारे में अक्सर शिकायत सुनी जाती है और इसीलिए मैं ने चाहा है कि डिस्ट्रिक्ट जज को भी उस में शामिल कर लिया जाय। हकीकत में जो भी गोलमाल होता है वह डिस्ट्रिक्ट जज के यहां होता है। यह हम लोगों का अनुभव है कि हाई कोर्ट के जो जज होते हैं या हाईकोर्ट के चीफ़ जस्टिस होते हैं उन को फुरसत ही नहीं होती है। इसी तरह से गवर्नमेन्ट जो रहती है उन को भी अपनी पार्टी पालिटिक्स से फुरसत नहीं रहती है और इसीलिए इस में यह डिस्ट्रिक्ट जज ऑफ़ ऐनी डिस्ट्रिक्ट कोर्ट को शामिल किया जाना जरूरी है।

SHRI Y. B. CHAVAN : About the removal of District Judge, there is no constitutional provision. He can be removed by other means. The Constitution has created a certain mechanism and put certain restrictions on the removal of the judges of the Supreme Court and High Courts, because they cannot be easily removed unless we follow this procedure of presenting an address to the President and before that hold an investigation to prove that they have misbehaved or are incapacitated. Therefore, this Bill has been brought forward. District Judges can be removed in the normal course after proper enquiry.

SHRI RANDHIR SINGH (Rohtak) : Suppose there is an enquiry against the Supreme Court Chief Justice. The panel includes only two puisne judges of the Supreme Court and the Chief Justice of a High Court. Will it not be embarrassing for them to give a finding against the Supreme Court Chief Justice, because they are junior to him ?

SHRI Y. B. CHAVAN : That situation is not possible because there will always be a third person who is an eminent jurist and who is not a judge of the Supreme Court or High Court. He will be a member of the committee.

MR. DEPUTY-SPEAKER : It is hypothetical.

SHRI Y. B. CHAVAN : Yes. Even then, we must have faith in our judiciary even if the Supreme Court Chief Justice is involved in a proceeding of removal like this. I wish such a situation will never arise.

SHRI LOBO PRABHU : I am very reluctant to disturb the Home Minister who is very pleased with himself and his Bill.

SHRI Y. B. CHAVAN : I invite you to disturb me.

SHRI LOBO PRABHU : I feel that anyone who has practised law must be aware that for every offence whether under the Penal Code or other Acts, there is a definition. We associate misbehaviour with children. When it comes to misbehaviour or a very high authority, it is

necessary that there should be a definition. There should be some indication at least for the guidance of the prosecution and the defence as to what is implied in misbehaviour. Therefore, I have suggested a definition which is not comprehensive. I have stressed three aspects corruption, communalism and perversity in judgment. I need not draw the attention of the House that even in the judiciary it is quite possible for this evil to make itself felt. It is possible that the Law Ministry may be able to find a better definition. I would suggest that the Bill may be amended to include a definition of "misbehaviour", which has been left out.

SHRI M. N. REDDY (Nizamabad) : In clause 2, there is no definition of the words "misbehaviour" and "incapacity". In article 124 also, in pursuance of which this bill has been brought, it is simply mentioned that on proved misbehaviour or incapacity of a judge, he can be removed after due investigation, etc. This has been taken apparently from the Australian Constitution in which the same words are used in contra-distinction to the words used in other Constitutions.

In my humble opinion, it is very important to define these two words, because the requirement is that at least there should be 100 members who would sign such a motion. Then only it would become admissible in a federal set up, when High Court Judges are also covered, naturally from each State, there would be less than 100 members. In order to convince the other members of the impropriety or certain other facts constituting misbehaviour and other things and to enable them to exercise their discretion properly, it is necessary for them to know what acts constitute misbehaviour or incapacity. Otherwise, it will be difficult. Even 20 years after the passing of the Constitution, we are not able to find a detailed provision for that purpose.

In regard to misbehaviour there are two types of definitions. When a motion is brought forward by some Members alleging certain acts of misbehaviour against a particular High Court judge in a particular State with which many of the Members may not be personally acquainted, there will be confusion. Allegations will be made.

When the Members sponsoring the motion canvass for such a motion with the other members, what are the acts that should be construed as constituting misbehaviour. It will be very difficult to imagine them unless they are defined. In the judicial dictionaries you will find that the word "misbehaviour" is defined in two different ways. One definition is :

"This covers definition of wanton acts, neglect of duty, gross misconduct, degrading the dignity of the court."

I would like to know whether these are the acts that would constitute acts of misbehaviour in respect of which there would be an investigation. Some other authorities have defined misbehaviour as :

"improper and unlawful conduct."

We should know whether it is in relation to the day-to-day performance of duty or it would also include other acts etc. This should be very clearly defined in clause 2. There are other words which are not very material and which can be easily understood even without a definition. The most important word on the basis of which there will be an investigation and then an address presented to the president, should be defined. I would therefore, appeal to the Hon. Home Minister to include the definition of these two very important words in this clause.

SHRI Y. B. CHAVAN : The definition of the word 'misbehaviour' is not included here advisedly. I would request hon. Members to see the scope of the Bill. That is the point that I have been making since yesterday. Under the Constitution, the purpose of this Bill is to regulate the procedure for presenting an Address to the President, and secondly to regulate the procedure for the proof of misbehaviour and incapacity. That is the only scope of the Bill which the Constitution has expected Parliament to pass. The framers of the Constitution have used the word 'misbehaviour'. If we try to interpret that word by our own definition, then possibly we might restrict the meaning of the word by that definition. As far as I could see, they have left the use of the word 'misbehaviour' in a very general ambit.

SHRI M. N. REDDY : How would the committee be guided in its investigation ?

SHRI Y. B. CHAVAN : If we define it, possibly we would be going against the Constitution and possibly we might be extending the scope of the Bill also. therefore, the omission of the definition of the word 'misbehaviour' is not merely an omission but it has advisedly not been included.

SHRI S. K. TAPURIAH (Pali) : May I ask whether the following would be tantamount to misbehaviour? We had the situation in West Bengal last year when the cases of gherao came. Government had issued instructions to the police not to interfere. At that time, it may be that Government wanted to influence the judges also. If this law were there and this term were not defined, would a judgment which went against gheraos be construed as a misbehaviour on the part of the judge ?

MR. DEPUTY-SPEAKER : So many hypothetical cases are being raised. At the present moment, there is picketing going on at the Calcutta High Court...

SHRI Y. B. CHAVAN : By defining the word 'misbehaviour' possibly we shall go outside the scope of the Constitution. That is the point that I have been making.

MR. DEPUTY-SPEAKER : I shall now put amendments Nos. 1 and 36 to vote.

*Amendments Nos. 1 and 36 were put and negatived.*

MR. DEPUTY-SPEAKER : The question is :

"That clause 2 stand part of the Bill".

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clause 3—(Investigation into misbehaviour or incapacity of Judge by committee.)*

MR. DEPUTY-SPEAKER : We shall now take up clause 3. There are a number of amendments to this clause. I would remind hon. Members that we have got to finish this Bill by 3 p. m. So, hon. Members should be very brief.

SHRI BIBHUTI MISHRA : I beg to move :

Page 2, line 12—

for "one hundred" substitute "twenty-five." (2)

Page 2, line 14,—

for "fifty" substitute "twelve". (3)

SHRI K. K. NAYAR (Bahraich) : I beg to move :

Page 2,—

after line 18, insert—

"Provided that no such motion may be refused or which the notice is signed by not less than half the members of the House concerned on the date of the notice." (4)

Page 2, line 21,—

after "as soon as may be", insert—  
"with the approval of the House concerned." (5)

Page 2, line 22,—

for "investigation" substitute "inquiry". (6)

SHRI BIBHUTI MISHRA : I beg to move :

Page 2, line 23,—

for "three" substitute "five". (7)

Page 2,—

for lines 24 to 29, substitute—

"(a) two shall be chosen from among the members of Lok Sabha and one from among the members of Rajya Sabha;

(b) one shall be a person who is, in the opinion of the Speaker or, as the case may be, the Chairman, a distinguished (jurist; and)

(c) one shall be a prominent Indian Judge of international fame who shall be elected by the members referred to in clauses (a) and (b) of this subsection and shall act as Chairman of the Committee :"

SHRI K. K. NAYAR : I beg to move :

Page 3, line 7,—

for "investigation" substitute "inquiry" (9)

Page 3, line 9,—

after "based" insert—

"and attested copies of such statements and documents as may be proposed to be used in evidence". (10)

SHRI BIBHUTI MISHRA : I beg to move :

Page 3, line 10,—

for "a reasonable" substitute "an" (11)

Page 3, lines 11 and 12,—

for "such time as may be specified in this behalf by the Committee" substitute "a period of two months". (12)

Page 3, line 35,—

for "a reasonable" substitute "an" (13)

Page 3, line 36,—

add at the end—

"within a period of two months". (14)

page 3, line 38,—

after "an" insert "eminent". (15)

SHRI K. K. NAYAR : I beg to move :

Page 3,—

after line 39, insert—

"(10) The Central Government may at any stage if required by the Speaker, the Chairman or both as the case may be or by the Committee of inquiry appoint investigators to collect evidence for presentation before the Committee of Inquiry." (16)

SHRI LOBO PRABHU : I beg to move :

Page 2,—

for lines 15 to 18, substitute—

"then, the Speaker or, as the case may be, the Chairman may, admit the same." (37)

page 2,—

for lines 26 and 27, substitute—

"(b) one shall be a person who is, in the opinion of the Speakers, or as the case may be, the Chairman, a distinguished medical authority; and" (38)

Page 3, line 39,—

add at the end—

"and if mental incapacity is alleged, and advocate may be appointed to defend the Judge." (39)

SHRI VIKRAM CHAND MAHAJAN  
 (Chamba) : I beg to move :

Page 2, line 12,—

for "one hundred" substitute—  
 "two third of total" (40)

SHRI BRIJ BHUSHAN LAL (Barcilly) :  
 I beg to move :

Page 2, line 12,—

for "one hundred" substitute—  
 "fifty" (41)

SHRI VIKRAM CHAND MAHAJAN :  
 I beg to move :

Page 2, line 14,—

for "fifty" substitute—  
 "two third of total" (42)

SHRI BRIJ BHUSHAN LAL : I Beg  
 to move :

Page 2, line 14,—

for "fifty" substitute—  
 "twenty-five" (43)

Page 2,—

for lines 24 to 27 substitute—

"(a) one shall be a person, who  
 would be the representative of the  
 Supreme Court Bar Association.  
 (b) one shall be a person who would  
 be a representative of a High Court;  
 and" (44)

SHRI VIKRAM CHAND MAHAJAN :  
 I beg to move :

Page 2, line 24,—

for "one" substitute—  
 "two" (45)

Page 2,—

omit lines 28 and 29 (46)

MR. DEPUTY-SPEAKER : These  
 amendments are now before the House.

श्री विष्णुसि मिश्र : यह जो बिल गृह  
 मंत्री जी लाए यह बहुत ही पवित्र बिल है  
 और बड़े मौके से वह इस बिल को लाए हैं।  
 देखो जो इस तरह के बिल की बहुत आवश्यकता

थी। लेकिन इस सम्बन्ध में मुझ को यह कहना  
 है कि जहां यह लिखा हुआ है कि।

"In the case of notice given in the House  
 of the People by not less than one hundred  
 Members".

इसी तरह जहां यह लिखा हुआ है :

"In the case of notice given in the Council  
 of states by not less than 50 Members.".

यह ठीक नहीं मालूम देता है। मेरा खयाल  
 है कि इतने मेम्बर मिलना मुश्किल हो जाएगा।  
 अगर कोई आदमी सोचता है कि फलां जज  
 जो कि हाई कोर्ट का या सुप्रीम कोर्ट का है वह  
 शारीरिक रूप से स्वस्थ नहीं है, काम नहीं  
 कर सकता है, उसका व्यवहार ठीक नहीं है,  
 तो ऐसे जज को हटाने के लिए सौ लोक सभा  
 के मेम्बर मिलना मुश्किल हो जाएगा। इसी  
 तरह से राज्य सभा में पचास मेम्बर मिलना  
 मुश्किल हो जाएगा।

आज कोई स्टेट ऐसी नहीं है जहां पर  
 हाई कोर्ट की जजिज कोर्ट न हो। हर स्टेट  
 में डिफ्रेंट पार्टीज हैं, यहां पर डिफ्रेंट पार्टीज  
 हैं। अगर कोई पार्टी कोई प्रस्ताव इस तरह  
 का लाना चाहे तो उसके लिए इस तरह का  
 प्रस्ताव लाना असम्भव है। बहुत सी विरोधी  
 पार्टियां ऐसी हैं जिनकी तादाद इतनी नहीं  
 है कि वे इस तरह का प्रस्ताव ला सकें। हमारी  
 पार्टी की तादाद भी कम हो गई है। हमारे  
 सामने क्या चारा है। हमें अगर कोई बात  
 कहनी होती है तो हम जा कर गृह मंत्री के  
 कान में कहेंगे कि फलां जज खराब है।  
 सत्तासूद्ध पार्टी होने के नाते हम जब तक  
 सरकार न चाहे कोई कार्रवाई भी नहीं कर  
 सकते हैं। दस्तखत बनवा कर अगर हम  
 सरकार के खिलाफ लायें तो वह हमारे ही  
 खिलाफ पड़ेगा। हम कैसे कोई प्रस्ताव ला  
 सकते हैं कि फलां जज ठीक काम नहीं कर रहा  
 है। इस तरह से जिस पार्टी की सरकार है  
 वह प्रस्ताव तब तक नहीं ला सकेगी जब तक  
 कि सरकार ने चाहे और विरोधी दल वाले अमरं  
 प्रस्ताव जाना चाहें तो वे भी नहीं ला सकेंगे।

### [श्री विभूति मिश्र]

क्योंकि उनकी तादाद पार्टी के लिहाज से कम पड़ती है और उनकी तादाद इतनी नहीं है कि वे ला सकें। इस वास्ते में आग्रह करूंगा कि अगर आप न्याय करना चाहते हैं तो आप ऐसी शर्त न लगायें कि न्याय ही न हो सके। ऐसा करके इच्छा रहते हुए भी आप न्याय नहीं कर सकेंगे। इसलिए मैं चाहता हूँ कि इसमें आप सुधार लायें और मैंने जो सुधार करना चाहा है उसको आप मान लें।

जहां तक सब क्लॉज 2 का सम्बन्ध है, ए बी सी का सम्बन्ध है मैंने इसके लिए एक सबस्टीच्यूट मोशन दी है जिस में मैंने कहा है कि तीन की जगह पांच कर दिया जाए। यानी यह जो कमेटी के मेम्बरों की संख्या है इसको बढ़ाकर पांच कर दिया जाए। एक लोक सभा से और एक राज्य सभा से मेम्बर इनक्वायरी कमेटी में बैठें। आप इस कमेटी में ऐसे आदमियों को रखिये जिसको कि आप ईमानदार समझते हैं। इतनी बड़ी यह सरकार है, क्या इको कोई ईमानदार आदमी नहीं मिल सकता है। अगर कोई ऐसा सोचता है तो मैं समझता हूँ कि वह गलतफहमी का शिकार है। इतना बड़ा राज आप चलाते हैं। तीस चालीस अरब का बजट हर साल होता है। इसको हमारे फाइनेन्स मिनिस्टर, होम मिनिस्टर, प्राइम मिनिस्टर, चलाते हैं, तो क्या हमें ईमानदार आदमी नहीं मिल सकते हैं। मैं कहता हूँ कि हमारी अपोजीशन में भी ऐसे आदमी हैं जो ईमानदार हैं। यह जो मैंने तादाद बढ़ाने की बात कही है इस में वे लोग भी लिये जाने चाहियें.....

श्री रणधीर सिंह : जो जुरिस्ट हों।

श्री विभूति मिश्र : जी नहीं मैं इस को नहीं मानता हूँ। जो जुरिस्ट न हों उनको लिया जाना चाहिये। इस में मेरा आप से डिफ़रेंस है। अयूब खां ने अपनी किताब

फ़ेडरल नाट मास्टर्ज म लिखा है कि जो ना कॉमिशन बहाल किया गया है उस में दूसरा प्वाइंट आफ व्यू भी आ सके, इस वास्ते नान-जुरिस्ट्स को भी उसमें बहाल किया गया है। कारण यह है कि जुरिस्ट जुरिस्ट इकट्ठे हो जाते हैं। जो क्लायंट हैं, जिनके ऊपर यह सारी बात पड़ती है, जिन को जजों से वास्ता पड़ता है, जिन को मालूम होता है कि कौन जज घूस लेता है, कौन नहीं लेता है, किस जज की अदालत में गड़बड़ी चलती है, उन में से लोगों को लिया जाना चाहिए। मैं चाहता हूँ कि लोक सभा और राज्य सभा में से ऐसे दो आदमियों को लिया जाए जिनका ताल्लुक कचहरियों से पड़ता है, जो मुक्किल हैं जो सकी कुछ जानकारी रखते हैं ताकि उनका जो प्वाइंट आफ व्यू है वह भी आपके सामने आ सके। आप देखें कि जुरी में ऐसे आदमी रखे जाते हैं जिन को लीगल नाजेज नहीं होता है, जो दुनिया को पहचानते हैं, जो बकीलों के चक्कर में नहीं पड़ते हैं। मैं चाहता हूँ कि यहां भी आप इस चीज को रखें।

एक और सुधार मैंने करना चाहा है। यह रिपोर्ट के बारे में है। मैंने चाहा है कि रिपोर्ट जो है वह दो महीने में आ जानी चाहिये।

दूसरे मेरे जो सुधार हैं वे तो छोटे मोटे सुधार हैं। लेकिन असल सुधार मेरा सी और पचास आदमियों के सम्बन्ध में है। मेरा कहना यह है कि गृह मंत्री चाहते तो हैं कि न्याय हो लेकिन जो शर्त उठाने रखी है उससे न्याय होना असम्भव है, ऐसा मेरा विचार है।

SHRI K. K. NAYAR : At the outset I submit, Sir, that your reduction of the time allotted to us should be in consideration of the importance of the matter. We cannot go out of the House and tell the people that we had no chance of making our views known.

MR. DEPUTY-SPEAKER : I am not precluding anybody..

SHRI K. K. NAYAR : What we have to say and what is essential to the subject must be said.

MR. DEPUTY-SPEAKER : I am not exceeding the time. It is not possible. At 3-00 we have got to take up Private Members' Business. I am also not curtailing the time. Only two hours were allotted and already one hour and a few minutes have been taken. I am only trying to conclude this by 3-00.

SHRI K. K. NAYAR : May I respectfully ask, Sir whether time will be found for the work or work will be cut down to suit the time?

My first amendment relates to the power given to the Speaker or the Chairman in the House to refuse a motion without assigning any reason, in his arbitrary will. We have understood that in a democracy the Speaker speaks for the House and he regulates the House along lines of propriety, law and rules. We have never come across an instance either in the rules or anywhere in which the Speaker can thwart the will of the House. In this case one hundred Members may demand any inquiry into the conduct of a judge and the Speaker may accept or refuse to accept it. He does not have to give any reason. If a motion of no-confidence is given and it is under the rules, by a smaller number of Members the Speaker has no power to reject it. Where do you find the justification for giving power to the Speaker to thwart the will of hundred Members of this House. One hundred Members of this House represent one hundred million people of this democracy which is as much as the population of Japan, which is bigger than the population of many of the European democracies, which is bigger than the population of Pakistan and which is bigger than the population of Indonesia. If the Speaker can thwart the will of hundred Members, if you allow him that power, a situation may arise in which though if finally the voting comes and half the combined strength of the two Houses may be willing and prepared to remove a judge the proceedings could be scrapped at the initial stage by the Chairman or the Speaker. Will you make the Speaker a representative of this democracy, a functionary of the democracy or an imperator and this House

his *imperium* where he will do what he likes? I think it is very unfair. And, though I find the Home Minister and the Party are in no mood to listen to any amendment or consider the reasons behind the amendments I would still like to make a suggestion in my first amendment which reads :

"Provided that no such motion may be refused of which the notice is signed by not less than half the members of the House concerned on the date of the notice."

The quantification of the power of the Speaker makes it higher than the power of hundred Members of the House. Let it at least not transcend the power which democracy gives to the Members of the House. If he is the bull of the House let him not overwhelm half the herd. I think you are now reducing the judiciary to vassals of the Speaker and the Chairmen. Any judge may misconduct himself in any manner. He may be certain that his dismissal would not be voted by Parliament if the Chairman or the Speaker is on his side even if the motion may be signed by all the Members of the House. I think this is very unfair. It is against parliamentary tradition and against the provisions in the Constitution which permit his removal in certain circumstances.

My second amendment is in relation to the Committee. I suggest that in this case the committee that he appoints should also be with the approval of the House concerned. If he names the members of the Committee the House should have a further chance of deciding whether that committee is a proper one. One or more members of the House may be in a position to suggest or move objection in respect of the personnel to the committee. Therefore, I would suggest that when the Speaker decides on the committee his will should not prevail, his imperiousness should not prevail and the matter should again come to the House. That is my second amendment.

My third amendment relates to a specific legal matter. In article 124 the provision is that Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge. In this Bill, in clause 4 and other

[Shri K. K. Nayar]

clauses, the word "investigation" is used for the function and work discharged by this committee. It is a very improper use of the word "investigation". The justification for it, I understand, is that in article 124 the word "investigation" is used. But there the word "investigation" is followed by the word "proof". There are two stages in any business of this kind. Investigation means collection of evidence. It is done in the absence of the accused person; it is done without any opportunity to the accused person to be heard. It is a one-sided process. Investigation means collecting the vestiges of a crime. This is usually done by police officers. They do not have to ask the subject to explain his conduct. They do not hear him and no right of cross-examination is given to him. The proof stage may be of the character of an inquiry or a trial. The trial will determine the findings specifically and award punishment. The inquiry may be determinative or recommendatory. In this case, the function which the committee will discharge will be that of a committee of inquiry. You have made a provision for the judge to be heard; you have given him a chance to prove his defence. But there is no procedure of that kind mentioned for investigation. Article 124 refers to investigation and proof. In your Bill there is a grave shortcoming. You have laid down no procedure for investigation but laid down one for inquiry and called it investigation.

A motion is moved in this House. Assuming that it is accepted, you appoint a committee and you call it a committee of investigation. I want to know whether this committee will go from party to party and collect evidence. You must make provision for that collection. I have made a further amendment in a subsequent clause, enabling the Central Government in such a situation to appoint investigators to go and collect evidence, which evidence shall thereafter be placed before the committee which is functioning as a committee of inquiry. To term the committee of inquiry as a committee of investigation is demeaning the functions of the committee and degrading its personnel. I do not know if the judge of a High Court or Supreme Court would like to be called as

an investigator. He would certainly be there sitting in a committee of inquiry. When the proceedings have all the trappings; all the characteristics, all the essentials, all the semblance of an inquiry why it should be called by this ignoble name of investigation I do not know. Now, you must have a separate provision for investigation. The Bill makes no provision for it. Who will investigate? Will Members of Parliament go and collect evidence? Which is the agency for collecting evidence? There is no agency. The judges are not investigators. They do not go and collect documents or witnesses. There must be a provision for it; I have mentioned it later, suggesting the appointment of investigators by the Central Government, who will go and collect evidence and put it before the committee.

These are my three amendments and I trust that merely because they come from a Member in the opposition they will not be rejected on the ground that any opposition amendment should be rejected.

SHRI LOBO PRABHU : I would continue from where my learned colleague has left it. I appeal to the Home Minister that this is not a question of confidence. We are trying to improve a piece of legislation and if we in some respect are improving on what his office has done, he may consider the amendments a little more sympathetically.

My first amendment is nearly the same as that of my learned colleague, who has also been a judge, that the speaker should not be allowed the power to decide for himself against the wishes of 100 Members of the House. Even in no confidence and other motions, he registers and does not, so to say, override the opinion of the House.

But I am not going as far as my learned colleague; I am only saying that there is a lot of procedure and verbiage that may be left out so that it will read "the Chairman may admit the same".

"May" implies also "may not" and it is an economy in the Bill if you give up these other words which are really redundant. These words are :—

"after consulting such persons, if any, as he thinks fit and after considering such

materials, if any, as may be available to him, either admit the motion or refuse it."

Please avoid all these redundant words and confine yourself only to "may" which also includes "may not".

My second amendment relates to the constitution of the tribunals. My hon. friend, Shri Randhir Singh, has been trying for a long time, at least more than once, to impress upon the Home Minister that it is incongruous for a Supreme Court Chief Justice or a Supreme Court Judge to be tried by a Judge or a Chief Justice of the High Court. It is a principle of the law, which has been asserted since the time of King Charles the Second, that one must be judged by one's peers. A Judge of the High Court is in many respects subordinate to a Judge of the Supreme Court and certainly to the Chief Justice, in case he is unhappily involved in these proceedings. I am trying to meet the same objection in better way in order to facilitate the Home Minister accepting it. Let us delete clause (2) (b). It is sufficient if we have one judicial authority. The second authority should be a medical authority. This is a case where not only misbehaviour but physical and mental inability are to be judged.

It may be argued that this could be a subject of evidence before the tribunal. But that is a different thing from being able to judge it. You want, therefore, a medical authority to be on the tribunal and I would suggest to the Home Minister that meeting both the objections of Shri Randhir Singh and mine, he may delete clause (2) (b), be content with one Judge of the Supreme Court and appoint a medical authority of the highest qualifications available in place of another Judge.

My third amendment seems to me to be more hopeful and, I think, at least in this respect I shall get the Minister to agree. There is a provision that the Speaker may appoint a counsel to present the case. What is also important, rather more important, is that there should be a provision to appoint a counsel to defend the Judge, particularly when he is mentally incapable. It is an ordinary principle of the law that where a party is not able to defend himself—and there can be no doubt that a Judge subject to mental infirmity is in no position

to defend himself—he should have a counsel. So, I propose this amendment that if mental incapacity is alleged, an advocate may also be appointed on behalf of the Judge.

I do hope that these three amendments of mine will have a better chance than previously.

**SHRI VIKRAM CHAND MAHAJAN :**  
Sir, this Bill has been sufficiently fair, to a certain extent, to the Judges, but there are a few amendments which I have suggested which may be considered. I may add, our Home Minister has been a great lawyer and has been very fair to the judiciary.

One of my amendments is that instead of "one hundred members" it should be "two-thirds of the House". I shall submit, why? When we bring forward a motion of no confidence the provision is for 50 and if it is a privilege issue, it is for 25. We often see that if a leader of a party moves a privilege motion or a no-confidence motion, the entire party stands up, whether they believe in it or not. I am not imputing any motives to anyone. What I am submitting is that the Judges of the Supreme Court and of the High Courts have to decide very difficult matters. They have to decide election petitions of Members of Parliament and of members of Legislatures. They have to decide whether the Speaker has acted fairly in the House or not as has happened in the case of Punjab. They have even to decide whether Parliament has the right to amend and how to amend the fundamental rights, as happened in Golaknath's case. These are difficult matters which raise a lot of controversy. The two cases which I have just now cited, the case relating to fundamental rights and the case relating to the Speaker of Punjab, have raised issues in this House and in the Rajya Sabha.

What I am submitting is that opinions can differ. Hundred Members of this House may, *bona fide*, believe that a decision of a court or of a judge is probably perverse and they may, thinking it to be wrong, make a motion. Ultimately, the Committee may decide that there is no perversity and there is no misbehaviour and the motion may be thrown out. What I am submitting is that once a motion is

[Vikram Chand Mahajan]

brought by hundred Members, the damage is done. The damage is done to the man in whom you have reposed confidence as a Judge. Subsequently, it may be thrown out. That is immaterial. So, it will be better that instead of hundred members it should be two-thirds of the membership of the House. Then, there is a lesser chance of error; there is a lesser chance of this House erring against Judges.

The very fact that you have given them the right to decide the election petitions shows that you have given them a job which it is not they who have asked for it but which you have given to them because you think that they have the capacity to deal with them. On the one hand, you are giving them the right to decide cases against you and, on the other hand, you are giving the right to a limited number of Members to bring a motion against them. What I submit is that this right can be misused. If the number of Members is raised, then the chance of misuse will be less. Therefore, I submit, instead of hundred Members of Lok Sabha, it should be two-thirds of Lok Sabha and, instead of fifty Members Rajya Sabha, it should be two-thirds of Rajya Sabha.

There is one more amendment which I have moved and that is that instead of one jurist it should be two judges, either of the Supreme Court or of the High Court. What I submit is that a good jurist need not be a very able judge. It is a matter of common knowledge that a very able lawyer need not be a very able judge. Therefore, I submit, when you have a trained class of people who are efficient in the knowledge of judging, who have the experience of giving judgments, why don't you leave the entire matter to them? If they can decide the cases of the entire country, I am sure, they can decide the cases of themselves also.

With these observations, I submit, these two amendments of mine may be accepted.

श्री बुद्ध भूषण लाल : उपाध्यक्ष महोदय, मेरे तीन अमेन्डमेन्ट्स हैं। एक नम्बर के के बारे में है। जहां पर कि 100 नम्बर दिया हुआ है लोक सभा के लिए और 50

दिया हुआ है राज्य सभा के लिए वहां उस की जगह मेरा अमेन्डमेन्ट है कि बजाय 100 के 50 हो और बजाय 50 के 25 मेम्बर्स हों। मैं मंत्री महोदय से यह जानना चाहूंगा कि आप ने यह नम्बर 100 का और 50 का किस बेसिस पर रखा है? मैं समझता हूँ कि कोई बेसिस इस का आपने नहीं बताया था। आपने अपने भाषण में जब इसकी सारी हिस्ट्री बतायी थी तो कोई बेसिस इसके लिए नहीं बताया था कि क्यों यह 100 और 50 की संख्या रख रहे हैं? बहरहाल, मैं जो अमेन्डमेन्ट पेश कर रहा हूँ उस की बेसिस यह है कि जिस तरीके से रूल्स आफ प्रोसीजर में रूल नम्बर 60 आप का है कि अगर कोई ऐडजर्नमेन्ट मूव करे तो उस वक्त ऐट लीस्ट 50 मेम्बर्स की जरूरत होती है तो उस बेसिस पर मैं चाहता हूँ कि कम से कम 50 आप रखें यह 50 की संख्या काफी है। वरना 100 रखने से बड़ी दिक्कत होगी। जैसा कि विभूति मिश्र जी ने बताया कि 100 मेम्बर किसी समय न मिल सकें तो अडचन पड़ सकती है। इसलिए 50 लोक सभा के लिए और 25 राज्य सभा के लिए रखें। मैं समझता हूँ कि इस अमेन्डमेन्ट को मंत्री महोदय मंजूर करेंगे। और दूसरे मेम्बर्स ने भी इस बारे में ऐसी ही राय प्रकट की है।

तीसरा अमेन्डमेन्ट मेरा कमेटी के फार्मेशन के बारे में है (ए) और (बी)। इस में एक आपने चीफ जस्टिस और दूसरे जजेज आफ दि सुप्रीम कोर्ट में से और दूसरा चीफ जस्टिस आफ दि हाई कोर्ट में से रखा है। मेरा अपना अमेन्डमेन्ट यह है कि इन दोनों में से कोई भी नहीं होना चाहिए क्योंकि फर्ज कर लीजिए कि सुप्रीम कोर्ट का एक जज है और उसके खिलाफ यह कमेटी आफ इनक्वायरी बनाने जा रहे ह तो चीफ जस्टिस किसी भी हाई कोर्ट का जो उस से सर्वाडिनेट समझा जाता है वह उस के ऊपर सिटिंग इन जजमेन्ट होगा जो कि फेयर नहीं होगा। इसी तरह से सुप्रीम कोर्ट का कोई जज भी

है तो वह भी सुप्रीम कोर्ट के जज के खिलाफ अगर इनक्वायरी में बैठता है तो इट बिल नाट वी फेयर । इसलिए यह दोनों जो (ए) और (बी) हैं इनको हटा कर एक जो वार एसोशिएशन है सुप्रीम कोर्ट का उसका रेप्रेजेन्टेटिव हो और दूसरा हाईकोर्ट का, यह मेरा अमेन्डमेन्ट है । इन शब्दों के साथ मैं अपने अमेन्डमेन्ट पेश करता हूँ ।

**SHRI Y. B. CHAVAN :** A very wide range of amendments contradictory to each other have been moved and argued also very well, I must say. One line of argument is that it should not be made too easy to move a motion and, therefore, increase the number from one hundred to two-third of the members of the House. The other is: reduce it from one hundred to fifty so as to make it easy. Again, some hon. members said that the right of refusal to admit the motion, which is given to the Speaker, should also not be there; once a motion is moved, it should be accepted. I am afraid, the entire constitutional scheme about this matter has not been taken into account. This is my main argument..

**SHRI LOBO PRABHU :** Constitution is not barring it.

**SHRI Y. B. CHAVAN :** Constitution is not barring it. I know. Please listen to me.

In articles 121 and 124 the intention of the Constitution is that the conduct of a Supreme Court judge or a High Court judge should not be discussed in Parliament except for presentation of an Address to the President. Therefore, the motion to discuss the conduct of a judge of the Supreme Court or High Court must be done after very very careful consideration. That is the spirit of the Constitution. If you just try to equate the motion about discussing the conduct of a Supreme Court judge or High Court judge with any other motion, then we have not understood the very spirit of the Constitution. This is my main argument. Here the word is 'proved'; that means, where there is at least a *prima facie* case, then the Speaker can admit it, and after going through the process of 39LSS/68

investigation by this Committee of Inquiry, then, if the charges are proved, the motion is to come before the House, and ultimately it is the House which makes the judgment.

One hon. Member gave a good lecture about 'investigation'. The word 'investigation'..

**SHRI K. K. NAYAR :** The suggestion which I made in respect of this has not been mentioned. He is now passing on to the next. He has already mentioned about the number and the motion. My amendment was in that context, but he has not discussed that.

**SHRI Y. B. CHAVAN :** I do not want to discuss any amendment in the way you want me to discuss it; I discuss in my own way... (*Interruptions*). I am trying to meet the arguments. It is not necessary for me to deal with each and every amendment.

The main point was about investigation. As I have understood it, the word 'investigation' used in the Constitution is not used in the sense in which it is used in the Criminal Procedure Code. That investigation is undertaken only by the Police. Here the word 'investigation' is used in a wider sense. Certainly, it is collecting facts. When a motion is made, certainly it will be made on certain specific charges; it will not just be a motion like that. So, all those facts will have to be looked into. Hon. Member, Shri Lobo Prabhu, said : how can a Supreme Court judge, if he is to be inquired about, be heard by some other persons like this ? If a Supreme Court judge does any ordinary offence, he may be judged by a First Class Magistrate also. If he says, 'I am a Supreme Court judge; it is an offence under the ordinary law; and I must be tried by a super judge', it cannot be done like that. Then again, the Committee of Inquiry is not a Tribunal, is not a Bench; it is not judging anybody .....

**SHRI M. N. REDDY :** Will they not be biased? Will it not be embarrassing?

**SHRI RANDHIR SINGH :** It will be very embarrassing.

**SHRI Y. B. CHAVAN :** But what is to be done ?

**SHRI RANDHIR SINGH :** The legal approach is quite valid but it will be embarrassing for a subordinate judge to give a finding against a superior judge.

**SHRI Y. B. CHAVAN :** What can be done? The final view is taken by this hon. House or by the other House.

**SHRI M. N. REDDY :** That will be only if they send it back to the House. If they say, 'no charges', then the House is not taking any view. There is this lacuna.

**SHRI Y. B. CHAVAN :** You can certainly argue that. You are entitled to hold your view in this matter.

Mr. Lobo Prabhu said that I was going by the advice of my officers, etc. No; it is not so. In this matter, I have studied the whole question and I find that the Joint Committee of Parliament, in its wisdom, has come to this view. I would certainly stand by that.

It is not a view of some group of officers.

It is not a view that I have taken in my sweet pleasure. I have not done it. But it is the collective view taken by a Joint Committee. I think there is some wisdom in it and I stand by it.

**SHRI K. K. NAYAR :** My amendment is that if a Motion is signed by half the number of the House, it should not be refused. Nothing has been said on that.

**SHRI Y. B. CHAVAN :** I said about that.

**SHRI K. K. NAYAR :** If something has been said, then the record should show it.

**SHRI Y. B. CHAVAN :** I did say that it is not an ordinary motion.

**SHRI K. K. NAYAR :** That means even if all the members of the House sign such a motion, it can be rejected by the Speaker in his discretion.

**SHRI Y. B. CHAVAN :** Yes. I think it can be rejected.

**SHRI K. K. NAYAR :** Then you are not nourishing parliamentary democracy in this country.

**SHRI Y. B. CHAVAN :** Parliamentary democracy has to work within the framework of the Constitution. The Constitution has laid down certain restrictions in the capacity of this hon. House.

**SHRI K. K. NAYAR :** He forgets that under the Constitution, after the word 'Investigation', the word 'proof' comes. I would like to know what in his view is the procedure laid down for that proof.

**SHRI Y. B. CHAVAN :** I do not want to enter into a discussion with him like this. He certainly has the right to hold to his view. I have said that in regard to a motion to discuss the conduct of a Judge of the Supreme Court or High Court, the Constitution has certainly laid down certain definite restrictions. This is the Constitution's mandate. What can I do ?

**SHRI LOBO PRABHU :** What about providing an advocate to the Judge ?

**SHRI Y. B. CHAVAN :** That can be provided under the rules.

**SHRI LOBO PRABHU :** But they have provided for an advocate for the prosecution, here in the Bill. That should not have been done. It should also have been done under the rules. That is where I said that his office has not guided him properly.

**SHRI Y. B. CHAVAN :** No, no.

श्री ओम प्रकाश त्यागी (मुरादाबाद) :  
उपाध्यक्ष महोदय, मैं जानना चाहता हूँ कि जब पचास बादमी गवर्नमेन्ट के खिलाफ सेन्सर ला सकते हैं, तो क्या जज गवर्नमेन्ट से भी ऊपर हैं, 100 की तादाद होने पर भी स्पीकर साहब पर छोड़ दिया गया है, वे चाहेंगे तो आयेगा, नहीं चाहेंगे तो नहीं आयेगा ।

**SHRI Y. B. CHAVAN :** Those two motions are at two completely different levels. Government can be criticised not only by 50 members, but even by one. This Government is responsible to this House. Its life depends upon this hon. House. That is a different position. But the motion to discuss the conduct of Judges of the High Court or the Supreme Court stands on a different level altogether.

**MR. DEPUTY-SPEAKER :** With the permission of the House, I shall put all the amendments to clause 3 together to vote.

*Amendments Nos. 2 to 16 and 37 to 46 were put and negatived.*

**MR. DEPUTY-SPEAKER :** The question is :

"That clause 3 stand part of the Bill".

*The motion was adopted.*

*Clause 3 was added to the Bill.*

*Clause 4—(Report of Committee)*

**SHRI K. K. NAYAR :** I beg to move :  
Page 4, line 3,— for "investigation" substitute "inquiry" (17)

Page 4, line 6,— for "investigation" substitute "inquiry". (18)

Just now I have heard the expert on the Constitution, Shri Chavan speak. Here also the word used is 'investigation'. I would like to draw his attention to the fact that in art. 124, the words used are investigation and proof of the misbehaviour etc. The whole procedure is that. In this investigation is again collection of evidence. This connotes nothing more than what is mentioned in other enactments, like the Criminal Procedure Code. Proof is the stage for which you are appointing a Committee. If the machinery which you have devised and which you propose to appoint is for investigation, I would like to know which is the corresponding machinery and procedure for the proof. It is the proof which the Committee will give in its findings as to whether the misbehaviour is proved or not, that will determine the matter. Merely because the word "investigation" has been used either by himself or by the advice of other persons, it would not be correct for the Minister not to keep an open mind about the matter. The defence that because the word is used in the Constitution it is used here, is not adequate and is not of avail. In the Constitution the words used are "investigation and proof". There are two different stages. The first is the collection of evidence for which there is no provision here. The second is the stage of proof for which you have appointed a committee, and therefore, I again submit that the word "investigation" is inaptly used in this context and the word should be "inquiry".

Secondly, in Clause 3 (4), the words used are "Such charges together with a statement of the grounds on which such charge is based". I suggest that after this, the following words should be added :

"and attested copies of such statements and documents as may be proposed to be used in evidence".

Merely telling the Judge that he is guilty of misbehaviour in that he did such and such a thing does not give him an adequate opportunity. It is not consistent with the working and administration of the Constitution with regard to the public services. The officers are invariably given side by side with the charge, attested copies of all the documents or statements on which the charge is based. It is true that later on you will be making rules under Clause 7(d) regarding the facilities which may be accorded to the Judge for defending himself, but this will not be covered by that because this is fundamental in character, namely that when the charges are given, he should also be acquainted simultaneously with the material on which the charges are based. I think that is vital and it belongs to the initial stage of the service of the charges. These rules refer to the subsequent stage when the committee start functioning and taking evidence. Therefore, I suggest that these words should be added.

**SHRI Y. B. CHAVAN :** I do not want to repeat the whole thing again, because the word "investigation" is advisedly used in the Constitution, and I think it is very correct to accommodate the same word in the Bill also. This is a matter which can be possibly considered at the stage of rule making.

**MR. DEPUTY-SPEAKER :** I put amendment Nos. 17 and 18 to the House.

*Amendments Nos. 17 and 18 were put and negatived.*

**MR. DEPUTY-SPEAKER :** The question is :

"That Clause 4 stand part of the Bill".

*The motion was adopted.*

*Clause 4 was added to the Bill.*

**Clause 5—(Powers of Committee)**

**SHRI K. K. NAYAR :** I beg to move :

page 4, line 17,—

for "investigation" substitute "inquiry"  
(19)

This is again about investigation. Since my learned friend's mind is resilient and irresponsible, it is no use my banging against it any further.

**MR. DEPUTY-SPEAKER :** I put Amendment No. 19 to the House.

*Amendment No. 19 was put and negatived.*

**MR. DEPUTY-SPEAKER :** The question is :

"That Clause 5 stand part of the Bill."  
*The motion was adopted.*

*Clause 5 was added to the Bill.*

**Clause 6—(Consideration of report and procedure for presentation of an address for removal of Judge)**

**SHRI OM PRAKASH TYAGI :** I beg to move :

Page 4, lines 28 and 29,—

for "finding that the Judge is not guilty of any misbehaviour"

substitute—

"majority finding that the Judge is not guilty of corruption, favouritism, misbehaviour" (31)

Page 4, lines 33 and 34,—

for "finding that the Judge is guilty of any" substitute.

"majority finding that the Judge is guilty of corruption, favouritism."  
(32)

Page 4,—

after line 37, insert—

"(2A) On the admission of the motion referred to in Section 3, the Judge shall be immediately suspended for the period of inquiry.

(2B) The rules for regulating the salary and allowances of a Judge during the inquiry shall be made by the Central Government in consultation with the Supreme Court."  
(33)

**SHRI SRINIBAS MISHRA (Cuttack) :**  
I beg to move :

page 4,—

omit lines 28 to 32. (34)

Page 4,—

for lines 33 to 37, substitute—

"(2) The report of the Committee together with the motion referred to in sub-section (1) of section 3 shall be taken up for consideration by the House or Houses of Parliament in which it is pending."  
(35)

**SHRI BRIJ BHUSHAN LAL :** I beg to move :

Page 4, line 29,—

after "misbehaviour"

insert "or bad reputation" (47)

Page 4, line 34,—

after "misbehaviour"

insert "or bad reputation" (48)

Page 5, line 4,—

after "misbehaviour" insert—

"or bad reputation" (49)

**श्री ओम प्रकाश त्यागी :** उपाध्यक्ष महोदय, मेरी अमेन्डमेन्ट यह है कि—

"finding that the Judge is not guilty of any misbehaviour" के स्थान पर "majority finding that the Judge is not guilty of corruption, favouritism, misbehaviour" होना चाहिये ।

उपाध्यक्ष महोदय, इसमें एक विशेष बात यह है कि मेरे अमेन्डमेन्ट को मान लेने से मैजोरिटी जो बात मालूम करेगी, उस की फार्मिडिंग के आधार पर ही . .

**MR. DEPUTY-SPEAKER :** The hon. Member may resume his speech on the next occasion. We take up Private Members' business now.

15.00 hrs.

**COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS  
THIRTY-FIFTH REPORT**

**SHRI BHALJIBHAI PARMAR (Dohad)**  
I move :

"That this House agrees with the Thirty-fifth Report of the Committee on Private