

14.25 hrs.

STATUTORY RESOLUTION RE : DISAPPROVAL
OF THE SUPREME COURT AND HIGH COURT
JUDGES (CONDITIONS OF SERVICE)
AMENDMENT THIRD ORDINANCE, 1996

AND

SUPREME COURT AND HIGH COURT JUDGES
(CONDITIONS OF SERVICE)
AMENDMENT BILL - CONTD.

MR. DEPUTY-SPEAKER : Now the House shall take up items nos. 5 and 6 together. I request Shri Satya Pal Jain to continue his peech

SHRI RAM NAIK (Mumbai North) : Mr. Deputy-Speaker, Sir, before that I am on a point of information. Yesterday's List of Business had indicated that after this Bill, some other Bill would be taken up. Now, in today's List of Business, that order has been changed. If the Office changes the order like this, it is very difficult for us to arrange the speakers. We have to given the list. We have to brief the members. There are many new Members. So, I would urge that at least the order of two or three Bills, which was shown in a particular order, should not be changed suddenly. It creates lot of problems not only for us but for other Members also. So, that order, at least for two to three next consequent Bills, should not be changed. (Interruptions)

SHRI RAMESH CHENNITHALA (Kottayam) : Sir, I think, you have to give a direction on this. According to yesterday's List of Business, we knew that one Bill would be taken up. But, in today's List of Business, we see that another Bill is coming. So, for preparation and other things, it is very difficult for our Members. (Interruptions)

MR. DEPUTY-SPEAKER : Does anybody from the Government side wish to say anything on this?

(Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI S R BALASUBRAMONIYAN) : Sir, the other item, which the hon. Member has mentioned, was taken out yesterday with the permission of the Chair. (Interruptions)

SHRI RAMESH CHENNITHALA : The Members were not informed about this. That is the problem. (Interruptions)

MR. DEPUTY-SPEAKER : Has it been dropped?

(Interruptions)

SHRI S R BALASUBRAMONIYAN : It has been taken out from today's list of Business. We will decide it in the BAC today. (Interruptions)

SHRI RAM NAIK : Sir, the order should not be changed like this... (Interruptions)

SHRI BANGARAPPA (Shimoga) : Mr. Deputy-Speaker, Sir, today morning I had submitted one matter under Rule 377 well within the time. (Interruptions)

MR. DEPUTY-SPEAKER : Your name is not there in the list approved by the hon. Speaker

SHRI S. BANGARAPPA : Sir, how can you miss my name?

MR. DEPUTY-SPEAKER : I have not missed your name. Your name is not there in the list approved by the hon. Speaker.

SHRI S. BANGARAPPA : Sir, will my matter under Rule 377 come for tomorrow?

MR. DEPUTY-SPEAKER : I think so

(Interruptions)

[Translation]

SHRI SATYA PAL JAIN (Chandigarh) : Mr. Deputy Speaker, Sir, an hon. Member had submitted a motion to close down the lottery but his name was not in the draw. Therefore the matter could not be taken up. It seems that same is the case with him also.

[English]

MR. DEPUTY SPEAKER : Shri Satya Pal Jain, you please resume your speech

[Translation]

SHRI SATYA PAL JAIN : Mr. Deputy Speaker, Sir, yesterday while speaking on this bill I urged that the service conditions of the judges of the Supreme Court and High Court alongwith the civil trial Magistrates, Judges, additional District judges of the district Court should be improved. They should also be given more salaries and allowances. Making clear that point yesterday, I also raised the point of reviewing the transfer policy. The transfer policy with regard to the judges should be reviewed. Some judges face the problem of language and residence after their transfer. Secondly, there is no clearcut policy regarding transfer of the judges of High courts. The judges who are transferred, in their personnel discussion raise the question that they have been transferred from such and such High Court whereas some judges who are senior to them and others who are junior to them and also, those who are from the Services, are still there. If they are from Bar, then the people of Bar are also there. In such a situation they fail to understand as to why have they been transferred? There is no clearcut policy in this regard. He has full respect for the Chief Justice of India and Chief Justice of any High court. The affected person has always a doubt in his mind that he has been exploited. In the absence of a clearcut policy and having

doubts in his mind when he will work in any High Court he will not perform his duties sincerely and with full attention. I would like to request you that a clearcut policy should be adopted with regard to the transfer of judges of the High Court.

As far as I know, in the previous transfer policy the condition was that the Chief Justice of a High Court will be transferred to another High Court. But a person appointed as an original judge of a High Court would be appointed as Chief Justice of another High Court. I have a request in this regard. As the Minister of Law is sitting here, who is very reasonable and logical, I would like to say to him that there is no Chief Justice in any High court of India from among the Original Judges of the Punjab and Haryana High court and no judge is there in the Supreme Court from there. This is the joint High Court of the High Courts of the three States Punjab, Haryana and Chandigarh. If we have the right under this policy then we should get that right that our judges should be transferred as Chief Justice in another High Courts. If there is alleviation in the High Court and the original judge of the High court belongs to that then he should be considered.

Mr. Deputy Speaker, Sir, yesterday there was a mention about selection of the judge. Today we are not getting judges in good number. Regarding the selection of judges, I would like to suggest that while selecting the judge the Chief Justice of the High Court, Chief Minister of the State, Union Law Minister, the Prime Minister and the President should consider that whenever there is a selection for the post of any judge then around 10 or 5 senior top talented advocates should also be involved for their views. Mr. Deputy Speaker, Sir, in many High courts posts of judges are vacant. Not only in the High Court of my State but also in many other High Courts. Cases are pending for the last 15 years. I joined as a lawyer in the High Court in the year 1980 and the cases filed at that time have not come for normal discussion upto now. It can take a year or two. Please imagine that what would be happening in the case of house. In the case of retirement, pension or gratuity if the people will have to wait for 15 years then how the decisions will be taken. Sometimes even after the decision there is possibility of remand. Therefore, the appointment of the judges should be made immediately. I shall request the Minister of Law.

SHRI K.D. SULTANPURI (Shimla) : Mr. Deputy Speaker, Sir, I would like to say that judges belonging to SC and ST are not there in the High Court, their selection should be done. The judges should join politics after their retirement.

SHRI SATYA PAL JAIN : I shall be happy if there are judges from Scheduled Castes and Scheduled Tribes. But suitable persons are not available. The Government should think over it. We agree with this. I would like to say to Shri Sultanpuri that there is not difference of opinion over this.

Secondly, there is a question of retirement of judges. When you come to know that a particular judge is retiring on a particular date, it would be better if the process to declare his successor is stated six months before his retirement so that immediately after retirement of a particular judge his successor may take over and there would be speedy disposal of the cases.

Mr. Deputy Speaker, Sir, had the Supreme Court or the High Court not intervened many a cases, corruption would not have seen the light of the day. We are grateful to them. It is due to the courts only that these cases have come to light. I do not want to go into the details as to who is guilty and who is not, but I would like to make a mention of a case in this regard. In 1984, some unfortunate incidents had taken place and excesses were committed to Sikhs. Riots took place. After that women who had been affected went to the court and told that their husbands, brothers or some members of their families were killed or burnt alive. Therefore, they should be paid compensation for that. Some cases have come to light in Punjab also where a compensation of Rs.20 to 40 thousand was given to those families whose members were killed by the terrorists. Now, the Delhi High Court also in one of its judgement has passed orders to pay Rs.3.5 lakhs to Smt. Bhajan Kaur, the head of whose family was killed during riots. Therefore, I would like to submit that the matter is under consideration in the Law Ministry. In this regard, the Government should issue instructions to the State Governments as well as to the Central Government so that every widow need not approach the court like Bhajan Kaur. Every woman whose husband was killed should be paid compensation. I would like to request the Government to issue instructions to the Delhi, Punjab and Haryana Governments where such incidents have taken place. The Government should pay a compensation to the tune of Rs.3.5 lakhs to the dependents of those who were killed in such incidents. Compensation should be paid to those families also whose members have been killed in riots or by terrorists, be it the case of Punjab, Haryana or Chandigarh. In this regard, I would like to request that this matter should be taken up by the Law Ministry.

MR. DEPUTY SPEAKER : Please conclude.

SHRI SATYA PAL JAIN : Mr Deputy Speaker, Sir, in this connection, I would like to tell the hon. Law Minister that I have given my amendments also. My submission is that the amendment proposed by the Government is not enough. Today the people of India have more faith in the judiciary than the Executive and the legislature. My request is that the Government should pay attention to service conditions, transfer policy and the problem of residential accommodation of judges. It would be better if the Government paid its attention to their problems as early as possible. If the people of India lose faith in the judiciary, it will create a very critical situation for us. We should avoid it. With these words, I conclude and thank you very much for listening to my point attentively.

14.36 hrs.

SHRI P.R. DASMUNSI (Howrah) : Mr. Deputy Speaker, Sir, while I support the amendments of the Bill, it is very important and significant that in the past sumptuary allowances are only to be increased keeping in view the price rise.

I was very keen yesterday to listen to the eminent jurist, now a distinguished Member of Parliament from the other side, Shri Lodha, with rapt attention and the manner in which he was defending the judiciary. We all respect the Judiciary because the highest echelons of the democracy are Parliament, that is, the Legislature, the Executive and the Judiciary. There is no denying the fact that in recent times the people of the country have been watching with great respect the performance of the judiciary and the manner in which they are handling the issues.

Sir, just now, Shri Satya Pal Jain concluded his speech by saying that these days people have the highest regard in the Judiciary and not that much regard in the Legislature. It does not convey a good message to all of us. I do not agree with him. I have all respect for judiciary, but I still consider, if I understood the Constitution and the dream of the forefathers of the nation, who fought for freedom and the makers of the Constitution like Dr. B.R. Ambedkar and Pandit Jawaharlal Nehru correctly, Parliament is supreme and the supremacy of Parliament cannot be just equated with that of any other organ of the Constitution. This was vindicated on many occasions in this country and no less than the late Shrimati Indira Gandhi, who very rightly in defence of the will of the people, the poorest of the poor of the nation, manifested the will of the people in 1969.

Shri Lodha Somehow found an objection in the style of functioning of Shrimati Indira Gandhi when the judiciary and some of the judges were suspended, I do not want to go into the merits of those things. I was a new Member of the Fifth Lok Sabha I remember well, how from those Benches, leaders like Shri Mohana Kumaramangalam, Babu Jagjivan Ram, Shri Y.B. Chavan and Shrimati Indira Gandhi spoke and from the Opposition Benches leaders, no less than Shri A.K. Gopalan of the CPI(M) have defended the right of the people in the past, the manner in which it was done and the manner in which the entire progress of the nation was strived to be throttled and halted by the same process of the judiciary.

The final message was conveyed by the people that they could act in a design that Parliament desires to do so and Parliament did act in that tone. Why has today the judicial activism come? It is because Parliament could not act in a manner that it should have acted. That is why judicial activism has come.

That is why the things have come to this stage. Why could the Parliament not act on the issue of Shri Justice Ramaswamy, the Judge of the Supreme Court who was

exposed right up to the hilt for his corruption? Parliament could have acted on that day. If Parliament had acted on that day, I tell you, today the Judges from the lower courts to the highest court could not point out fingers at every politician. May be, there are two or three black sheep. But they are making a show these days as if the judiciary, the people who are sitting in the Judicial Benches are sons of god and the rest of all of us, sitting here, are all devils. That is not the case. With all respect to the judiciary, I want to convey this message. This is not the correct position.

The other day comments were made by another Judge, Shri Dingra. Shri Chandra Shekhar and many Members of this House did react on it. It should not only be reaction but the Government should have taken stringent action on such Judges. What are they doing? What are you talking about judiciary? There is the case of former Chief Justice A.M. Bhattacharya who was removed from the Mumbai High Court Bench for violation of FERA and other fraudulent activities. I can cite many examples.

Mr. Deputy Speaker, Sir, being a Member of this House, I pleased with you to let this new Prime Minister who has come from a poor peasant's family establish an institution or an inquiry committee before which, within two years, let all the former Ministers for the last 15 years, including M.Ps., including myself, all the former Judges and all the former top executives of the Government be tried and found as to how much property and wealth have they amassed. Everybody should be tried and found out as to what was the salary they drew and how did they look after their children to be brought up in the U.S.A., Canada or London and how the expenditure on their education is being looked after. I know many cases. I do not like to mention the names.

A situation has been created right from Yagnavalkya Muni to Lord Ramakrishna who could not interpret what is *Hindutwa*. The Judges are finding the meaning of *Hindutwa*. Swami Vivekananda could not interpret what *Hindutwa* was. Two or three Judges are giving sermons about *Hindutwa*. With all respect to those judges I tell you that sometimes they are just over-reacting. They are crossing their limits and they are going out of their jurisdiction. This should not happen. They should know that they can catch hold of one or two people in the *Hawala* case and convict them if they find some evidence. But they should not treat all alike and make sweeping comments and remarks when they try cases and say that 'Parliament is so and so; M.Ps. are so and so and politicians are so and so'. One or two, who are black sheep, can tolerate. The rest of the politicians and other people should not tolerate this kind of things. What can they do? Can they send us to the gallows? But there is a limit about this thing. I know it.

What is happening? A man, who defied his own affidavit in the highest court of judiciary, for defying the affidavit amounting to contempt of court, which resulted

in colossal waste of the property of the country in Mumbai, Surat, Ahmedabad, Calcutta and where thousands and millions came to the streets and hundreds and thousand died, the punishment that the highest judiciary gives is a fine of Rs.2,000 and one hours' VIP treatment in Tihar Jail! It was to a former Chief Minister of Uttar Pradesh. Is this judiciary? Is this relief? Is this called natural justice? Is this called the essence of jurisprudence?

Shri Lodha, I appeal to you. I studied law under no less than a man than Shri Chittatosh Mukherjee who became the Chief Justice. He was my teacher. He said in the class when he used to teach us that if judges fail to understand the reality and the mind of the people within the periphery of law, they not only fail to act but fail to guide the destiny of the nation.

This is what had happened. For one affidavit, for one contempt of court, such thing had happened and the Judges interpreted it that way What is the contempt? You file an affidavit and do not comply with it. The penalty is a fine of only Rs.2,000. What happens was that the entire nation suffered. What has happened to this country? I do not approve of this kind of conduct. This is about increasing their salary. Competent people should come. Judiciary must be respected and must be honoured.

Shri Kalpanath Rai was narrating yesterday about the story of the manner in which he had been treated inside the court and about the comments made at him. Is it the way? Is it fair to treat a public representative in this manner? I do not like to go into the merits of that case. Let it be tried. The Judiciary did many good things. I want to convey my appreciation.

SHRI BANWARI LAL PUROHIT (Nagpur) : Sir, this is...

SHRI P.R. DASMUNSI : Shri Purohit, I am not yielding

SHRI BANWARI LAL PUROHIT : I am on a point of order

MR. DEPUTY SPEAKER : Okay

[Translation]

SHRI BANWARI LAL PUROHIT : Mr. Deputy Speaker, Sir, I am on a point of order that the hon'ble judge has given his verdict in the court. Therefore, it is not good to criticise it here... (Interruptions)

[English]

SHRI P.R. DASMUNSI : Mr. Deputy Speaker, Sir, in this very House Golaknath case was praised and then, the same judgement was criticised... (Interruptions)

SHRI SATYA PAL JAIN : I do not want to stop him. He has a right to criticise

SHRI ANIL BASU (Arambagh) : Your party had violated the solemn assurance given to the Supreme Court. Why are you not speaking about that?

SHRI SATYA PAL JAIN : Rule 352(v) says :

"A member while speaking shall not reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;

Explanation-The words 'persons in high authority' mean persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct..."

The judge of a high court can be impeached if my friend very strongly feels that he has given a wrong judgement. But it will be very unfortunate. Judges have given judgements on both the sides, somewhere in favour of one and somewhere in favour of other. I will only draw your attention to that. It will not be in good taste, it will not be proper on the part of the Members to criticise their judgements even on the punishment part. I think, today Mr. Narasimha Rao's application must have been rejected by the High Court. That is the reason, I think, my friend is speaking like that ... (Interruptions)

SHRI P.R. DASMUNSI : Mr Deputy Speaker I strongly object to that. I speak very frankly and openly. I do not hold a brief for anybody. I tell you very honestly ... (Interruptions)

MR. DEPUTY SPEAKER : There is no point of order. You please continue your speech.

SHRI P.R. DASMUNSI : I have only been trying to pursue the matter that we are not against the Judiciary not against the judges. On the contrary, I have said at the outset that the whole nation today is watching the proceedings of the courts with great attention, care and respect because some of them are revealing some things. But what I wanted to convey is that it is not correct to assume that the Judiciary is the only respected institution and the Legislature has gone to dogs. That does not appear to be correct and if he says it within the House, he does not deserve to be an MP because we got the mandate from the people and when the people have chosen us, they have chosen us rightly.

In the case of the Ayodhya matter, Parliament has referred the matter to the Supreme Court. I was not in the House then. I am sorry. I do not want to comment on any part the Opposition or the Government.

I do not know how Lord Rama could have given the message to Lord Budha as to where he was born. Even the Budha could not get it. Meera Bai, who praised every time Rama and Krishna, in her dreams did not get any dream as to where Lord Rama was born. I do

not know how Rama could give the message to one judge of the Supreme Court as to which part of the country. He was born in and to give judgement in that order. I do not know. It is not possible. Maybe some light will come up. I do not know how it is possible.

[Translation]

It will be decided by the Supreme Court.

[English]

SHRI BANWARI LAL PUROHIT I agree with you.

SHRI P.R. DASMUNSI This is not a correct approach. It is not correct to say that you know where he was born.

I tell you, Sir, I have seen Ramayana serial. I have seen Muslim *rickshawalas* abandoning their duty to watch the half-an-hour Ramayana serial with respect. What a great Rama! Those Muslims used to respect Rama and that very holy name has been tarnished, has been questioned, has been made a sign of a particular community by communal campaign and referred to a Bench of the Court to decide!

[Translation]

PROF. RASA SINGH RAWAT (Ajmer) Mr. Deputy Speaker, Sir, for hundreds of years crores of people have been assuming that Lord Rama was born in Ayodhya. (Interruptions)

[English]

SHRI P.R. DASMUNSI I would expect that some things would come out of that. It is the people of this country who will decide.

Sir, we are the law makers and they are the interpreters of law. Let us be very honest. The interpreters of law have the right to decide whether we are right or wrong. They can interpret the Constitution as to whether it is being protected or not. They can give judgement, but they cannot interfere with the very process of the functioning of the administration and its day-to-day business. That is none of their business. (Interruptions)

14.51 hrs.

(Shri Nitish Kumar in the Chair)

Sir, now it has become a fashion with a part of the Judiciary to talk about politicians. I can understand politicians talking about politics. But some members of the Judiciary have developed a new fashion which is dangerous for the future of the Judiciary and its neutrality. That fashion is, how to catch the headlines in the newspapers. When they try to catch the headline of the newspapers and television, then the neutrality of the judiciary gets eroded. They should not play that role.

[Translation]

MR. CHAIRMAN She is on a point of order. What is it?

SHRIMATI BHAGWATI DEVI (Gaya) My point of order is that discussion is going on here about Lord Rama. (Interruptions)

MR. CHAIRMAN Here, discussion is going on on the Bill not on Lord Rama.

[English]

SHRI P.R. DASMUNSI Sir, I request the hon. Minister of Law to please enquire as to in how many High Courts of India, the sons, daughters and sons-in-law of the judges are practising in the same court.

SHRI M.P. VEERENDRA KUMAR (Calicut) Sir, some of the judges are giving interviews on television so that they can be exposed as to how great they are.

[Translation]

MR. CHAIRMAN How does it relate to the Bill?

[English]

SHRI M.P. VEERENDRA KUMAR It has a connection, because that is what he is talking about.

SHRI P.R. DASMUNSI Sir, I only request the hon. Minister of Law to take note of the fact as to how many wives, sons, daughters and sons-in-law are practising in the same Court and how many judges, after retirement also, actively engage themselves in the same profession in the respective courts. This is very wrong, morally unethical and this should be banned by bringing a new legislation, if necessary.

So, Sir, with all respect to the Judiciary, I feel that reform is necessary in Judiciary, as reform is necessary in politics. In politics, from all parties we shall unite to fight corruption. In the Judiciary also, reform is necessary. Delay defeats equity. So bring competent people and see that judicial decisions are not delayed.

Sir, Shri Lodha was telling yesterday that good things are coming from the judiciary. I would only request Lodhaji to find out, with his long experience, for himself as to how the judicial process is delaying the decisions on women's cases. A number of cases of atrocities against women are lying and piling up in the High Courts and Magistrates Court. Thousands and thousands of cases are getting piled up everyday and no decision is being given quickly on those cases. Dates after dates are given.

Shri Lodha will bear me out on this point, because he was also a judge and he knows the position. On the first day when I appeared in the court, a judge had given me a message that the ruling would be written within three weeks. I thought that within three weeks I

can give relief to my client. But three weeks had gone to three years, three years became nine years and even then it never came! This is the situation.

[Translation]

MR. CHAIRMAN : Here, discussion is not going on on the Judiciary system.

It will be better if you speak on the Bill only.

[English]

SHRI P.R. DASMUNSI : Mr. Chairman, Sir, these are all necessary because we are discussing about their salaries and allowances. So, we should also discuss a little bit on their conduct. What is wrong in it? Parliament is sovereign.

With these words, I, once again, say with all the authority at my command that this Parliament is supreme and not the judiciary.

SHRI C. NARAYANA SWAMY (Bangalore North) : Sir, this august House is discussing the salaries and emoluments relating to the judges of the High Courts and the Supreme Court. In the process, the hon. Members have been expressing their views on the functioning of Judiciary in the country today. I have also been a member of the Bar and now a Member of this august House. It is also a fact now in our country when people go to the law courts for justice, there is so much delay in the administration of justice due to various factors. Probably, a common man is not in a position to get justice in time from the highest court of the land today. We are following democratic traditions in this country. We are functioning under the provisions of the Constitution and following the principle of rule of law. There is also separation of powers in the country. There is also separation of rights and responsibilities of the Judiciary, the Legislative and the Executive wings of the State. Each has a defined role for itself.

We are convinced that the members of the judiciary must be provided with all the facilities so as to enable them to discharge their duties without fear or favour. We also find that the facilities given to them in our country are not sufficient to enable them to discharge their duties and to function in a fearless manner without any prejudice. I have, while supporting the Bill, a feeling that lakhs of cases which are pending in the law courts in our country are very trivial in nature and those very cases have been consuming the time of the courts which should have been bestowing more attention to more important aspects of the litigation.

14.58 hrs.

(Shri P.M. Sayeed in the Chair)

Now, we have local bodies in the country, the panchayat raj institutions which have the Constitutional

status subsequent to the 73rd and 74th amendments to the Constitution. Now, there is also a reference to the setting up of Nyay Panchayats at the local levels in order to reduce the burden on the law courts. Trivial matters relating to civil and criminal cases and those matters requiring urgent attention and solution could be referred to these Nyay Panchayats. I feel it is time for us in the country to think in terms of a statutory provision for the establishment of Nyay Panchayats. Now that it is also a subject relating to the States, they will have to bring in enactments to provide for setting up of local bodies. I feel it is time for us to make it mandatory by means of Constitutional amendments or otherwise to make this concept statutorily binding throughout the length and breadth of the country.

15.00 hrs.

I very much appreciate the sentiments expressed by our hon. Members here on both the sides. There is a feeling in the country that people's representatives are unscrupulous, corrupt and self-seeking. This is very dangerous for the functioning of democracy. We are aware that all the three wings of the Government are not above board. There are black-sheep, as our learned hon. friend said. There are good and bad people in every field of activity. We should condemn and take action against corrupt practices in public life. We should support the independence and the action of the judiciary in expressing themselves in these matters. But it should not be a sweeping statement including all those who are exercising their responsibilities as legislators or representatives of people.

A question arises as to who is supreme the judicial, the legislative or the executive wings of the State. We being the people's representatives, tend to think that we have the unbridled powers. But the judiciary has also a role to play in interpreting the provisions of the Constitution and also the statute. Our hon. Members who spoke just now made certain relevant observations relating to the kith and kin of the members of the Bench practising in the law courts and in the courts chaired by them many a time. It is high time for us to think about these things and to see that these members in the judiciary also remain above board in all the activities in which they are involved. We have been seeing that there is a spate of public interest litigation in the country being filed in the High Courts and the Supreme Court. These litigations are very interesting. I feel they are necessary.

While playing its role that is expected of it, the executive wing sometimes exceeds its jurisdiction or omits to exercise its jurisdiction. But while exercising the power vested in them, there are instances where they try to exercise the powers of the legislature also and they try to exercise certain functions which are

exclusively within the domain of the Legislature. So, while we welcome the intervention of the law courts wherever there is miscarriage of justice, wherever there is a grievance and wherever the rule of law is not observed, it is also necessary for them to see that there is no interference in the affairs or activities or the realm of activity of the Legislature, be it the State Legislature or Parliament.

During the discussion on the amendment to the Bill, a reference was made to the three Ordinance that have been issued earlier. There is also a notice of amendment given by our senior hon. Member Shri George Fernandes. I have gone through that

He has also referred to the inclusion of a proviso after the section relating to the sumptuary allowance admissible for the members of the Judiciary. I think it is proper for us to incorporate the official amendments because it cannot be on the basis of the cost of living index. Sumptuary allowance is something that is decided from time to time. We can be very liberal in increasing the quantum of allowance. While doing so, they should not be at the mercy of the Legislature and they must get all the necessary facilities

With this I conclude

SHRI ANIL BASU Sir, I am on a point of information. Very shortly, the discussion on floods under Rule 193 would commence. Last week, the hon. Speaker observed that the preventive measure relating to floods should also be discussed in the House because, during the Question Hour, while a discussion on relief measures was going on, the question of prevention of floods arose. While discussing that, the hon. Speaker observed that this was a very important aspect and all sections of the House were unanimous and so while discussing the situation of floods, this aspect should also be discussed in the House

Now, Sir, during the discussion on floods, the Minister of Agriculture will participate. But the prevention of floods is the responsibility of the Minister of Water Resources. So, the Minister of Water Resources should also simultaneously participate in the discussion. That is my humble submission. As the hon. Speaker observed, the Minister of Water Resources should remain present during the discussion and participate in it

DR T SUBBARAMI REDDY (Visakhapatnam) Without the Minister of Water Resources, we will not be able to do justice to it.

MR CHAIRMAN Anyway, when it comes, let us decide about it

SHRI BALAI CHANDRA RAY (Burdwan) Mr Chairman, Sir, this is an amendment which is welcome and it is a step in the right direction. But it must be conceded that this is not enough. The Judiciary has no trade union. Nor can a member of the Judiciary go to

the Press and ventilate his grievances. It is the awareness of the Legislature and the Executive that alone can place the Judiciary in a position of firm security and guarantee that they would be able to perform their duties as the people expect them to perform. While we are considering the conditions of service of Judges of the Supreme Court and the High Court, we should have also taken into consideration the great deficiencies that remain in the grant of pension to some of the retiring Judges of the High Court

Sir, you will be surprised to hear that members of the Bar recruited to the High Court Judiciary, even if they serve for 12 years, do not get full pension. But the members, who are recruited from higher Judicial Service, even if they serve for a couple of years or four years only, get full pension. This is an anomaly which is disturbing quite a large number of High Court Judges and I would humbly request the hon. Minister in charge of Law and Justice to look into the matter because the source of recruitment of High Court Judges in Article 217 irrespective of the stream from which they are recruited - whether they are jurists or advocates or judges - experience of ten years in each field is necessary. Having the same experience, when they join the High Court and retire, they should not leave with different pensions. The practice creates obvious problems. It is also an invitation to those Judges to accept offices which better should have been avoided by them after retirement.

It has been said that we are amending conditions of service of judges. The basic norm for amending conditions of service of judges or maintaining proper conditions of service of judges should be such as not to adversely impinge upon their efficiency, integrity and independence. Keeping this in mind, this august House always will amend the conditions of service for the Supreme Court and the High Court Judges. It was appalling at one stage. You will be surprised to hear that as back as 1974 when the Chief Justice Shri Gajendragadkar was chairing the Law Commission, he had pointed out that the Chief Justice of each High Court has to go out with a beggar's bowl to second and third ranking members of the Bar, to invite them to join the Bench with very little success. The result had been extremely harmful and very bad for the entire nation.

One of my learned friends sitting here had accepted the office of a judge, found it unsuitable and again joined the Bar. That was the time in seventies when the standard of the judiciary in the High Court has become such as possibly the nation could not have expected better. Some improvement has no doubt been brought about the condition of service of judges. But that is not enough.

While I am speaking about the improvement of the conditions of service of this judges, it would not be

proper to ignore the recent functioning of the High Courts and the Supreme Court. No doubt we are unable to criticise the judges of the High Courts or the Judges of the Supreme Court nor do remotely intend that. We have the highest respect, the House has expressed its respect, all sides have expressed their respect. It is true that there is a lot of exposure of veiled activities of certain important persons by various orders of the Supreme Court and the High Courts. It is truly welcome. But the Press, the media has given wide publicity to all these. Quite often the Press is in the habit of trying cases before those are decided by courts. The trial by the Press is one of the evils that exist in every civilised society. We can hardly afford to tolerate that because our people do not have the education that could prevent creating lasting impression of the trial by the press. The result has been as my friend has pointed out, that this wider exposure of the judges' activities in the media even though has some good effects has ill effects too. The ill effects in the sense that judges are presumed to be equal, but all are not really equal. Tendencies are likely to develop in some Judges to tailor their judicial work that would have greater exposure in the media. A tendency would that be undesirable. The High Courts and the Supreme Court judges are self-disciplined institution as the Speaker of this august House is, the Speaker is at least accountable to this House but the Judges of the Supreme Court and the High Courts are not accountable to anybody, not to the people, not to this Parliament, certainly not to the Executive and should not be to the Executive. But this lack of accountability has possibly had a tangential effect on the judicial work of the judges even in the highest court; tangential effect for example, nobody knows when a judge of a High Court would sit in court. We start at 11 o'clock sharp but some of the judges come at 11.20 or 11.30 a.m. They are expected to come at 10.30 a.m. Who is to look after that?

Much has been said about spouses, sons and daughters practising in the home court a judge. Well, this is a vice which is well known. Greater vices also exist. Even by eliminating the spouses factor possibly you cannot get rid of the present day social weakness, which is perpetually existing in the judges. This House certainly has the plenary power of legislation. The question of sovereignty does not arise because the Constitution in our country is sovereign, no one else is sovereign. A time has come to devise an institution with the help and concurrence of the judiciary. That institution will certainly look into the discipline of the High Court and the Supreme Court judges. Lok Pal or someone else we do not know, but an institution is more than necessary. We are feeling that for several decades now

Is it believable that Impeachment should be the only remedy? We have found the fate of impeachment

We have seen Rs.30 lakh being seized from the house of an ex-Chief Justice of Andhra Pradesh High Court. Ramaswamy's case was debated in this House. Shri A.M. Bhattacharjee has been referred to by my friend. There are Veeraswamys, Ramaswamys and A.M. Bhattacharjee. Who is going to prevent them from further sully the judiciary itself? There must be an institution to prevent that. That institution has to be devised.

Can this House assume that during nearly 50 years of independent India not one single judge of a High Court or the Supreme Court has failed in his discipline, has not deviated from absolute integrity, has not failed to perform his duty properly? But we have to assume that because no action has been taken against any judge during all these many years, nor is there any provision to take action against any High Court or the Supreme Court judge. I do not say that the executive or even this august body directly take any action. Let the judiciary devise an institution of its own to look after itself. But an institution is more than necessary. Nobody, no organ of the State in this country can be unamenable to the will of the people of this country. The Legislature, the Parliament are accountable to the people, the executive is accountable to the people, the judiciary must also be made accountable to the people. The form in which it will have to be made accountable is for the judiciary and possibly for the Speaker of this august House and other dignitaries to find out.

With these words I thank the Law Minister for having brought this Bill. I support the amendment and the Bill.

SHRI SURESH PRABHU (Rajapur): Mr. Chairman, Sir, I stand here to welcome the Bill. It is supposed to replace the ordinance. But again unfortunately I have to say that an ordinance had to be issued to introduce a topic like this which is really necessary to be brought in the form of a law.

We have been having a debate on the subject since yesterday and I really wonder whether we are introducing a Bill for a judicial review commission. We have gone into the depth of the topic and found the various facets of judiciary including the conduct and performance of some of the judges while discharging their duties.

I do not think that there is any provision in the Constitution which enables anybody to really have a review of this nature. Probably that is why Members thought that Parliament is the forum to air such grievances. I am really wondering whether this type of an approach would help strengthen the judiciary in the long term.

As everybody has said, we have three very important pillars upon which our Constitution and our State really rest, the Executive, the Judiciary and the Legislature. The Executive is accountable to the

Legislature. The responsibility of the Judiciary starts the moment and Legislature finishes its task of making laws. The interpretation of laws and the interpretation of the actions of the Executive are things which come under Judicial review, many a time

We have found many people criticise the functioning of the Judiciary, as has been done here in this very House. We as parliamentarians look at Parliament as a sovereign body. We call it sovereign body because we are all accountable to the people and we derive our power from the people. The Judiciary which was so heavily criticised now by some Members here has really been the concern of the people at large. They really feel that the Judiciary is the last resort and their rights could be protected only by the Judiciary.

There are the quasi-Judicial functions performed by the Election Commission. We have an instance where the people feel the Chief Election Commissioner is the sole guardian of their interests. One person has become so popular despite the fact that there have been so many allegations of malfunctioning alleged to have been committed by some functionaries. Despite that, the Chief Election Commissioner is somebody who is worshipped as a hero by the people at large.

When we parliamentarians are accountable to the people, people themselves feel that the Judiciary is the only institution which can protect their rights. We should remember that we, being accountable to the people, should also respect the right of the people and respect the will of the people.

I would like to say that we should not forget one important factor that the people in our country have elected us because we are following a democratic set up in our country. One of the Fundamental principles of democracy which is enshrined in the Constitution is the Fundamental Rights which are enjoyed by all the people of India. These Fundamental Rights were introduced in the Constitution but there is no measure by which these Rights could have been exercised. Therefore these Rights have no meaning. There are several countries in the world which have given such rights in their constitutions but in the absence of a proper judicial structure these rights could not be exercised and democracy has become a mockery in those countries. What is more important is that we should not and never should we forget that the Judiciary is something which is necessary for the good functioning of a democracy, from which we derive all our powers. The Parliament, the Executive and the Judiciary have got their roles to perform.

The various judgements which have been mentioned here and which have been very heavily criticised were passed not against Parliament or parliamentarians but against the Executive. We should

not forget the fact that all the judgements have been delivered against persons who have been occupying public posts. These have been the subject matter of discussion in the House and Parliament as such, as an institution, or the Members of Parliament, as the people's representatives, have not been really coming into judicial scrutiny as has been alleged by some hon. Members here. So, I feel that we should really have a look and we should not forget, we should not overlook the fact that the Judiciary has a role to perform for the smooth functioning of the democracy.

However, I am really aware of the fact that I am not standing up to decide about the fate of what would be the chapter in the Constitution in which the Judiciary, the Executive and Parliament should function because that has already been stated in the Constitution but right now I am standing here just to intervene on this very limited point of the amendment which is sought to be brought in. This could be described as too little and too late. We should always remember that Constitution always thought that the Judges must be able to function independent of the interference of the Executive and that was reason why the service conditions were stipulated in the Constitution itself. That protection has been given to the Judiciary, the Judges that their rights, their privileges, their emoluments should be implemented by the Constitution so that nobody can tamper with it. So, it is natural that those rights, those privileges that they enjoy should undergo changes from time to time.

Thanks to the new economic policy, wealth has been created in the hands of millions of people of India. The same Judiciary is now supposed to try people who have committed economic offences which run into thousands of crores of rupees. So, the same Judiciary cannot be expected to perform, deliver and diligently work with the same service conditions which were prevailing about thirty or thirty five years back. That is why, I feel that there is really a crying need to give proper benefits, proper emoluments to the members of judiciary, the judges, so that they could discharge their responsibilities and could protect the Constitution without any interference and without any fear or favour.

We must have the highest regard for Judiciary. There is already a provision in the Constitution which allows for impeachment. I know that impeachment is a process which is very difficult to practise in the present form. That process may be reviewed. But there is no point in criticising the Judiciary lock, stock and barrel because of certain misdeeds committed by some members of Judiciary in some parts of the country. I would request the hon. Law Minister to also look into the possibility whereby the service conditions could be changed - the quantum increase in the amount of

emoluments that they receive during the passage of time. And we do not really have to wait for ten years or twelve years to introduce one single change. That is why I say that it is too little and too late.

We should also remember one thing. The objectives for which this Bill has been introduced, state that increase in the price of petrol has necessitated these amendments. This particular object is dated 21st June and on you have introduced a hefty price rise of thirty per cent on 3rd July. I would like to know from the hon. Law Minister whether he is also proposing an amendment to this so that the emoluments could be increased by thirty per cent more. In the amendment which is introduced the amount is not quoted in rupees. It is stated in terms of quantum of petrol. If this is what it is, then there is no need to state in the objects that the increase in the petrol prices has necessitated this amendment because this is the quantum increase in the consumption of petrol itself.

I would like to draw the attention of the hon. Minister of Law and Justice to a very important point. It has also been reiterated by some of the hon. Members earlier. The Judiciary is not only the High Court and Supreme Court Judges. The common man hardly reaches that stage to get his grievances redressed. Justice is really done to him at a very lower level such as district courts or even lower to that. The service conditions of the judges of these district courts needs to be improved. I am aware of the fact that in Sindhu Durga district and Ratnagiri district of Konkan, the Judiciary does not have even a proper accommodation. Probably, some constitutional measure should be brought about to ensure the independent functioning of the Judiciary. I would request the hon. Minister also to consider, as I said earlier whether there could be an enabling provision which allows the Judiciary to get their allowances increased in the passage of time due to increase in the cost of living and not to wait for the Executive to react. It is because, then probably there could be an unfortunate situation in which the Executive would say that you are passing too many judgements against us.

So we would not like to pass judgement on your demand. Let the Executive perform the role of the Executive and judgements be passed by the Judiciary. I would welcome this amendment and I would request the hon. Law Minister to reply to certain point that I have made.

[Translation]

SHR. GORGE FERNANDES (Nalanda): Mr. Chairman, Sir, it appears that it is because of the feeling of Executive towards judiciary that this Bill has been introduced in this House so late. Perhaps in 1958 a

legislation had been enacted in regard to the salaries and service conditions etc. of the judges. After that, I am observing that their case is considered once in every ten years period. This Bill seeks to increase the sumptuary allowance and travelling allowance of judges. Mr. Chairman, Sir, in both the case be it sumptuary or traveling allowance I find that the Executive has considered the case of the judiciary without taking the factual position into account. Earlier, a similar bill, in respect of judges had been brought ten years ago i.e. in 1986. Sir, you will be surprised to know that at that time the sumptuary allowance of Chief Justice of the Supreme Court was Rs.500 per month or Rs 17 per day. You can see that the year 1986 is not a matter of long past. It is almost the present. The prices of commodities in 1986 were not much low as compared the today. At that time, the sumptuary allowance of the Chief Justice of the Supreme Court and the High Court was Rs 17 and Rs 10 per day respectively. It appears that the Executive has same hatredness in their minds towards the judiciary otherwise it has no meaning. I would like to know the views of the hon'ble Law Minister in this regard.

At that time the Government increased the sumptuary allowance to the extent they deemed fit but if we think about today's prices, it appears that the amendment which has been brought for Chief Justice of the Supreme Court or High Court will not be much beneficial to them. Therefore, we have given an amendment that the Bill which has been introduced for increasing the allowances etc. should be linked with the cost of living index of this month by taking a decision so that they need not have to wait for the next 10 years. As soon as cost of living index increases, sumptuary allowance should also be increased accordingly, it should be just like the increase in the dearness allowance of the Government and private sector employees. Since the sumptuary allowance is meant for daily expenses, it will be appropriate to link it with the cost of living index. I hope that hon. Minister would consider my suggestion.

I was not surprised at all to here the debate on this Bill as great resentment has been expressed against judges here. But I am happy on some points because it has created some sort of fear in the minds of political leaders which is a welcome step. Besides politicians it has also created a fear in the minds of general people. Just now an hon. Member has said as to why judiciary is interfering our day to day work. I would like to cite two examples in this regard.

I would like to mention the judgement given by Delhi High Court on cleanliness at roads in Delhi. A few days before it a similar judgement was given by Patna High Court about the maintenance and

cleanliness of roads in Patna. Though several other judgements have been given by Patna High Court and I would not like to mention them all as it will require a full day debate I would like to cite these two examples where people moved to Courts to file a complaint against the negligence of politicians of ruling party who were responsible for maintenance and cleanliness of roads and then judges gave their judgement on these issues and interfered in these matters. The similar thing happened in case of Delhi. Secondly, in context of the activism of judges I would like to mention the 'Havala scam'. A journalist along with his two-three friends knocked at every door in order to unearth this scam. Letters were written to hon. Prime Minister by various persons and MPs and I was also one of them but except getting only one line reply nothing happened in this regard. A film was made on it but was promptly banned who banned it? The Executive has banned it? But for Mumbai High Court and later the Supreme Court this Havala scam could not have seen the light of the day. It includes officials of executives and politicians as well. They would have never permitted to come it into the light. Therefore we could well understand the reason behind their anger, their opposition to it and why this debate is going on this issue.

On hon. Member has said that whether judges do not commit mistakes. They do commit mistakes. One judge had made some undesirable comment and we condemned him in this House and said that it would not be tolerated. But what was the attitude and reaction of this House when an Impeachment Motion was moved against a Supreme Court judge, Justice Ramaswamy? At that time, the Members of ruling party who are now on the other side had successfully managed to change this falsehood into truth on the basis of majority and now you are preaching the people of this country and the world as to what should be the ideal conduct of judges. You should remember as to who conducted the inquiry before bringing that impeachment Motion, identified the mistakes committed by that judge and sent that document to the Speaker and other places. It was done by the judges of Punjab High Court and judges of Supreme Court who are addressed as brother judges in Courts. It was not done by politicians or journalists. It is not proper that while discussing the functioning, conduct and way of living of judges we forget that reality. We should comment on mistakes of a person or organisation. But at the same time justice should be done to the persons engaged in judiciary.

Just now Prabhuji was saying that this New Economic Policy has helped a special class of the country to prosper. As a result of it today students coming out of the Institute of Management after completing their courses are directly appointed by multinational companies which offer them Rs. 35 thousand, 50

thousand and in some cases Rs. one lakh as salary. So such condition is prevailing in the country.

Some Members have made complaints that disposal of cases is taking much time whether these are the cases pertaining to atrocities against women or labour dispute. The cases of labour disputes are lying pending in the Courts for last 25 years and no hearing is conducted for them. But we cannot blame judges for it. This House has also not thought about the shortage of judges and other staff in judiciary. Had this House thought that more appointments should be made there and they should be given reasonable salaries and facilities for their efficient functioning it would not have happened. In respect of lawyers I would like to mention that many Members of this House as well as belonging to State legislatures know this fact that hiring a Supreme Court lawyer for getting the case postponed for another date costs lakhs of rupees.

Is this not a known fact? I do not feel that there is any need to express anger on judges when we are trying to rectify the injustice done to them in the matter of raising their salaries. I consider that this situation would have not emerged if polity of the country had been honest and political parties had followed the path of democracy. Politics does not mean favouritism or earn money by hook and crook but it is a way of serving the public. Judges would not have been activist to that extent if we had done that we had been passive and polity was confined to the Courts of political leaders, in Mumbai, Patna, Madras and Bangalore. In such a situation when politics does not take up the issues of public interest then public is left only with one option and that is judiciary.

Mr. Chairman, sir, in my political career I have taken shelter of judiciary so many times. During the Prime Ministership of Indira Gandhi emergency was imposed and the whole House chimed in. All the rights, human rights and right to live were seized. The Attorney General has said in the Court that there is no right to live. When Defence Counsel asked as to what would happen then? Attorney-General replied that anyone who died during emergency could move to Court after upliftment of emergency. It meant that people who would die during emergency would move to Court after their death. Such a legislation was passed in this House unanimously. A number of Members belonging to opposition parties were in its favour and rest of them who opposed it were in prison at that time.

Mr. Chairman, Sir, dictatorship is imposed on countries and law like MISA and TADA are enacted illegally when Judiciary and legislative join hands together. In such situations judiciary protect us. Sir, in my 47-48 years political Career Judiciary has saved me on several occasions. Madhu Limayeji and Dr. Lohia

were Members of this House and I knew that on several such occasions Judiciary had freed them from the tyranny of executive. Therefore while speaking on this matter in the House we should keep in mind the history and overall situation in this situation in this regard.

Mr. Chairman, I conclude while saying that this initiative of Judiciary would change the polity of this country of politicians promise to work honestly for the progress of the nation. Mr. Chairman, sir, the same thing has happened in Italy. Forth last 40-45 years Italy was under the rule of mafia but today its two former Prime Ministers are in jails, one of them is suffering imprisonment for eight years and the other one for five years. The cases of both the former Prime Ministers of Italy are still going on in the Courts. It may happen that by the end of this year three former Prime Ministers of Italy would be in prisons.

Mr. Chairman, sir, we should not discuss the issues of others but I would like to mention that an American President had been dethroned for just telling a lie. He said that he was unaware of the fact that a theft had taken place in the office of Democratic Party. Later on journalist proved it and he had to go to jail for it. It is a different matter that Vice President forgave him and thus saved him from being imprisoned. I am not mentioning the names of other countries but same situation is in Japan and other countries. While concluding my speech I would like to mention the name of Italy again. Judges had sacrificed their lives in Italy while fighting against the mafia. The lawyers associated with them were also killed.

The police officers holding higher positions, always enjoy their life all over the world. They never lost their lives only the constables lost their lives. In Italy, hundreds of persons have been killed by Mafia. The Judicial Magistrates, Lawyers and Journalists were present there and were engaged in searching the Mafia. The police personnels had done their work honestly in arresting the thieves or Mafia's persons. I think that today, only judges are most active in India. Some lawyers are also active. I want that the police personnels may be encouraged and strengthened in this country.

Journalism should also be given encouragement so that with the present judicial activism, honesty can be revived in this country where our politics has been unsuccessful.

[English]

SHRI PRAMOTHES MUKHERJEE (Berhampore, WB) : Thank you, for giving me an opportunity to express my views on this important Bill. I have heard many valuable speeches on the subject. I will not take much of your time to finish my speech. On behalf of my party, RSP, I rise to support the Bill.

The purpose of the Bill is to replace an Ordinance which was promulgated in the month of January, 1996. The purpose of the promulgation of the Ordinance was to increase the sumptuary allowance of judges of the Supreme Court and High Courts and to improve the service conditions of the judges. Sir, the Ordinance was promulgated to enhance the sumptuary allowance of the judges. The demand is highly justified and so, I support the Bill.

Some of my friend spoke about the judicial activism. There is a radical difference between the judicial activism and the judicial despotism. I do not want to refer to the reasoning behind the judicial activism or judicial despotism. With your kind permission, I beg to mention here that it is not that only lawyers go to the courts. The politicians and the bureaucrats also go to the courts for getting judgement. There is a precedence that the heads of the Governments have gone to the Supreme Court for getting judgement, be it in respect of Ayodhya, river water distribution, or in respect of many inter-State related subjects of the Constitution. This is only because of the fact that the judiciary plays an important role in our public life. The Constitution of India stands upon three wings, namely, the legislature, the judiciary and the executive. Judiciary is the most important of them because it protects the rights and freedom of the people. It is the repository of people's faith and confidence. It is the only institution which can carry the good old traditions of 'Nyayshastra' of our country. So, we can enhance the sumptuary allowance of judges of the Supreme Court and High Courts. Their service conditions can be improved so as to create a situation in which they can render their services without fear and favour.

While supporting the Bill seeking to enhance the sumptuary allowance of the judges, with your kind permission, I beg to mention that there is another side of the coin also. The people of our country have been suffering from the economic stringency, from the economic hardship of the day. They are living below the poverty line. There is the vast problem of unemployment. Educated but unemployed boys and girls do not find any avenues for their earning. The problem of unemployment is grave. It cannot be compromised with other things. Naturally, it is my observation, that any suggestion or any proposal of the announcement of Sumptuary Allowance, any suggestion for the announcement of Pay and Dearness Allowance for the privileged class, casts a very damp dark shadow upon the minds of the unemployed youth in our country.

15.51 hrs.

(Shri Chitta Basu in the Chair)

In these circumstances, I would urge upon the Prime Minister and the Government to make some provisions

for employment generation for the unemployed youth. At the same time I would urge upon the Members of this august House to get the Bill passed. This is only because of the fact that the standards of the Judiciary should be maintained and that the values of the Judiciary should be maintained.

There is a question today that the intellectual product of the University goes elsewhere. There are different layers in the intellectuals of a University. The first layer of intellectuals in the Universities has a choice for the computer and Electronic Engineering courses. After finishing their courses, they fly over to Japan, America or European countries to earn huge amounts of money. There is a second layer of intellectuals in our Universities which seeks medical courses etc. to earn huge amounts of money. The brilliant product does not choose to go into the law course today. So, in order to attract today's brilliant product of the Universities towards the Service of Judges of the High court and the Supreme Court, this Bill should get passed. I Support the Bill only in order to attract the brilliant product of the University to this Service. At this stage the Judges, I think, should be given the security, should be given the comforts as far as practicable within this socio economic system. This is to protect our democracy, this is to protect our Constitution, this is to protect our tradition and heritage.

15.54 hrs.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Mr. Chairman, Sir, I have heard many speeches commenting against the judgements given by the judges. It hurt my feelings because the Bill has been brought here only for seeking enhancement the sumptuary allowance of hon. judges or to pay them the amount equal to the actual consumption of petrol. Whenever you go to the residence of a judge and sit in his Chamber, you are served with lassi, coffee, bread or L.M.B. sweet etc. Therefore, the Bill also provides to pay them sumptuary allowance to meet their expenses on account of this. As such you will get hospitality and their expenses on petrol will be compensated.

I think that in this era, after the God, people have faith in the judiciary. We say that the God will do justice but he does not come here. I have not seen the God. If anybody of them has seen him, please tell me. I do not know about him. (Interruptions) Please listen attentively, I am going to tell a very important thing. After going to that side your ideals have also changed. God is not present here, only a judge is there in place of the God. Earlier, meeting of judges with the people or visiting the public places were considered as a crime. Even today, I think that the Judiciary is the most powerful.

Dr. Ram Manohar had said that the Executive, the Legislative, the Judiciary and the Press were four pillars of India. If anyone of these pillars becomes weak, it can cause great loss to the democracy. Perhaps, hon. George Saheb is not here otherwise he would have supported my point.

[English]

MR. CHAIRMAN : Please address the Chair.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : I am addressing the Chair. He is asking that who was Ram Manohar Lohiya. I told him to go to the Central Hall to see him. His portrait has been installed there. According to Dr. Lohiya, out of these four pillars, the pillar of the Executive has become weak to some extent as a result of which judiciary has taken all these things in its own hands. That is why, people are feeling it unusual. Now-a-days when you watch your T.V. you see things going on as to what is today's judgements and whether this or that person has been granted bail or not. These petty things today particularly. (Interruptions)

AN. HON. MEMBER : What happened today?

SHRI GIRDHARI LAL BHARGAVA : I do not know as to what happened today but some persons were feeling uneasy. I do not know as to what judgement has been given about the case of the former Prime Minister. We will come to know on T.V. in the evening. I feel very sad, therefore, my whole. (Interruptions) It will be decided on 19th Nov. everybody is apprehensive about the outcome. At present, Judiciary is playing a very good role in this country.

In this connection my submission is that an All India Judicial Service should be formed and judges should be provided with the facilities of good accommodation, transport, good library and handsome salaries. Today, I was asking him as to whether he would accept the post of a judge if he was offered the post of a judge in the High Court? He told me that he would not like to be the judge of the High Court because he would get less salary there. If a person is paid handsome salary, he. (Interruptions)

SHRI RAMESH CHENNITHALA : You can ask Lodhaji as to whether he got handsome money.

SHRI GIRDHARI LAL BHARGAVA : A Member of Parliament gets Rs 5500 out of which he has to pay something to his party, and for electricity, water, telephone and rent for using a stool, if any. It means you get a very little amount. You are also experiencing financial hardship. Today the MP is getting what I am trying to open their heart. Now you have understood the situation because it involves money. Therefore, you have gone to that side otherwise you were enjoying better position here.

Therefore, what I mean to say is that judges should be paid handsome salaries and provided with good accommodation, transport and library facilities only then they can perform their duty honestly and properly otherwise, it will be very difficult for them to do their job properly...*(Interruptions)* Besides, security arrangements for them are necessary.

Shri Guman Mal Lodha who is an hon. judge, sitting before us in this House. He has been a judge in the High Court of Assam and Rajasthan. During his tenure he has given judgements assuming a post card as a petition and in some case, he has given judgements even on the basis of news items published in a newspaper.

16.00 hrs.

This is an example of a judge and the Judiciary against whom some hon. Members were passing remarks. I think that the Members of Parliament have no right to pass remarks on the functioning of judges. Whenever injustice has been committed against anybody in the country, Judiciary has done well. Therefore, I would like to request that an All India Judicial Service should be constituted. The situation of today is that, I have got a document according to which, there are many places in the country where the posts of judges are lying vacant. I do not want to waste the time of the House by reading out this document.

[English]

MR. CHAIRMAN : Would you kindly resume your seat? I think, at 4 o'clock, there is another subject to be taken up. You can continue tomorrow.

Now, hon. Minister Shri Maqbool Dar to make a statement of the incidents of death of pilgrims at Ujjain and Hardwar on 15th July, 1996.

16.01 hrs.

STATEMENT BY THE MINISTER

Incidents of death of Pilgrims at Ujjain and Hardwar

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI MOHD MAQBOOL DAR) : Sir, during the course of discussion in the Lok Sabha on July 16 the hon. Home Minister shared the concern of the hon. Members on the heavy loss of life which took place at Ujjain and Hardwar, and had promised to obtain information from both the State Governments.

The State Government of Madhya Pradesh has informed that on July 15 a large crowd of devotees had gathered at the Mahakaleshwar Temple, situated in Ujjain City, at around 5.30 a.m. There were about 3000 persons in the temple premises and another 6000 to

7000 persons at queue outside the temple. The stampede occurred at the feet of a staircase leading to the temple sanctum where the pilgrims rushed for worship. The immediate cause of stampede seems to have been some persons slipping on the wet marble floor. It was reported that 34 persons were declared dead on arrival at the Ujjain civil hospital. These included 23 males including one child and 11 females. 29 persons were admitted to hospital with injuries of whom seven were reported to be seriously injured. Six of the seriously injured have since been shifted to the medical college hospital at Indore for specialised medical treatment. The State Government of Madhya Pradesh has announced a high level administrative inquiry into the causes of this incident which will be conducted by a judicial official. The terms of reference of the inquiry include the causes of the tragedy, the adequacy of arrangements made by the district authorities, the promptness with which medical assistance was provided and steps to be taken in future to prevent recurrence of such incident. The State Government has announced ex-gratia payment of Rs 1 lakh to the dependents of each person killed in the stampede, Rs.25,000 to those who were seriously injured and Rs 10,000 to other injured persons. Their medical expenses will also be met by the State Government. While it is expected that the responsibility for administrative lapses will be fixed by the high level administrative inquiry, the State Government has, in the meantime, transferred the City Superintendent of Police, Ujjain, the Town Inspector in-charge of the temple area and the Executive Magistrate on duty.

In so far as the incident at Hardwar is concerned, the State Government of Uttar Pradesh had informed that 20 pilgrims died and six pilgrims were injured on July 15. It was expected that about 15 lakh pilgrims would gather on the occasion, but, in fact, about 25 lakh pilgrims had collected at Hardwar on the occasion of "Somwati Amavasya". In the past, pilgrims were using two bridges at the Harki Pauri, but on the two bridges was not in use as it had been damaged due to rains in the last year. The stampede occurred when a large number of pilgrims tried to push their way through one bridge at about 6.30 in the morning.

On receipt of the report of the incident, Shri D.K. Arya, Adviser to the Governor, DG (Police) and State DG of Health Services immediately rushed to the spot. The State Government had also decided to have a judicial inquiry in the matter. In the meanwhile, the State Government had announced an *ex gratia* payment of Rs. 1 lakh to the dependant of each person killed in the incident and Rs. 25,000 to those injured. The injured are being treated at Government Hospital. Further, a senior Sub-inspector of Police and one Naib Tehsildar, who were on duty near the bridge have been suspended.

As is evident from the reports of the two State Governments, the *prima facie* reasons for stampede