

will be benefited by the provisions of this Bill.

Madam, considering the Constitutional importance and the dignity of the office, I would appeal to all the Members to support this Amendment Bill.

SHRI SATYA PRAKASH MALAVIYA: Everybody has supported this Bill. No Member has opposed this.

SHRI S. JAIPAL REDDY: We are only pointing out the significant coincidence.

THE DEPUTY CHAIRMAN : The question is:

"That the Bill further to amend the Comptroller and Auditor General's (Duties, powers and Conditions of Service) Act, 1971, as passed by the Lok Sabha, be taken into consideration."

*The motion was adopted.*

THE DEPUTY CHAIRMAN: We shall now taken up clause-by-clause consideration of the Bill.

*Clauses 2 and 3 were added to the Bill.*

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

SHRI M.V. CHANDRASHEKHAR MURTHY: I beg to move:

"That the Bill be returned."

*The question was put and the motion was adopted.*

# THE SALARIES, ALLOWANCES, LEAVE AND PENSIONS OF THE OFFICERS AND SERVANTS OF THE DELHI HIGH COURT BILL, 1994

## AND

# THE SALARIES AND ALLOWANCES, LEAVE AND PENSIONS OF THE OFFICERS AND SERVANTS OF THE SUPREME COURT BILL, 1994

THE DEPUTY CHAIRMAN: Now we will take up the Salaries, Allowances, leave and Pensions of the Officers and Servants of the Delhi High Court Bill, 1994 and the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the supreme Court Bill, 1994 together.

## THE MINSITER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): I beg to move:

That the Bill to provide for the regulation of the salaries, allowances, leave and pensions of the officers and servants of the Delhi High Court and for matters connected therewith or incidental thereto, be taken into consideration.

I also beg to move:

That the Bill to provide for the regulation of the salaries allowances, leave and pension of the officers and servants of the Supreme Court of India and for matters connected therewith or incidental thereto, be taken into consideration.

Madam, serious anomalies have crept into the pay-scales of the employees of the Delhi High Court and of the Supreme Court of India on account of various judgements and orders passed by the Courts in writ petitions filed by the employees. These distortions and anomalies in the pay-structure of the staff of the Delhi High Court and that of the Supreme Court are likely to cause serious agitations amongst similarly placed Central Government staff and employees of the Delhi Adminsitration. This might ultimately lead to large scale distortions in the pay-structure of the Government employees leading to more consequential financial implication.

In February, 1989, a group of Minsiters was constituted to examine the implications of the emerging distortions in the pay-structure of the Court employees. The group of Minsters recommended that the only remedy available with the Government was to enact suitable legislations to rectify the situation. In May, 1991, a committee of secretaries again considered the developement and indicated that action should be taken to frame a suitable ligislation to govern the salary and

allowance structure of the employees of the High Court and the Supreme Court.

Madam, Article 229 (2) of the Constitution provides that Parliament can regulate the conditions of service of the officers and servants of the Delhi High Court through law-making. In the absence of a legislation by Parliament, the Chief Justice of the Delhi High Court can prescribe rules as per the provisions of article 229 (2) of the Constitution, but to the extent these rules involve financial implication with pay, allowances, leave and pension, such rules would need prior approval of the Lt. Governor. Thus, it would be in conformity with the basic scheme of the Constitution for Parliament to enact a law regulating the service conditions including those relating to pay, allowances, leave and pension, to ensure that no anomalies in respect of these matters are created as compared to the conditions of service of the corresponding levels of the Government servants.

Likewise, article 146 (2) of the Constitution provides that Parliament can regulate the conditions of service of officers and servants of the Supreme Court through law-making. In the absence of a legislation by Parliament, the Chief Justice of India can prescribe rules as per the provisions of article 146 (2) of the Constitution, but, to the extent these rules involve financial implications with pay, allowances, leave and pension, such rules would need prior approval of the President of India. Thus, it would also be in conformity with the basic scheme of the Constitution for Parliament to enact a law regulating the service conditions including those relating to pay, allowances, leave and pension, to ensure that no anomalies in respect of these matters are created as compared to the conditions of service of the corresponding levels of Government servants.

Madam, it is well-known

5.00 P.M. that the Fifth Pay Commission has been requested to go into the pay-scales of

Government employees and also the High Court and Supreme Court employees. One of the terms of reference of the Fifth Pay Commission is to examine and recommend scales of pay in respect of Officers and employees of the Supreme Court and the High Court. Before the Fifth Pay Commission considers this matter, it is necessary that the Commission must have before it the scales of pay, which the employees of the above courts have been entitled on the basis of the Fourth Pay Commission's recommendations. Therefore, I hope this will receive the whole-hearted support of this House so that we can present to the Fifth Pay Commission the recommendations based on the Fourth Pay Commission's recommendations regarding these employees.

THE DEPUTY CHAIRMAN: Mr. Ramachandran Pillai is opposing both the Bills. Two motions for reference of the Bills to the Joint Committee of Houses by Shri Ramachandran Pillai. Mr. Pillai, you please move both the motions. You need not make a speech now. I have got your name for making a speech. You just move.

SHRI RAMCHANDRAN PILLAI  
(Kerala): Madam, I move:

"That the Bill to provide for the regulation of the salaries, allowances, leave and pensions of the officers and servants of the Delhi High Court and for matters connected therewith or incidental thereto be referred to a Joint Committee of the Houses consisting of 30 members; 10 members from this House, namely: Shri Sikander Bakht, Shri S. Jaipal Reddy, Shri G. Swaminathan, Shri S. Viduthalai Virumbi, Shri Jagmohan, Shri V. Narayanasamy, Shri Madan Bhatia, Shri Gurudas Das Gupta, Shri Ram Jethmalani and Shri Ramachandran Pillai, and 20 members from the Lok Sabha;

That in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

That in order respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

That the Committee shall make a report to this House by the first day to the next session; and That this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

SHRI RAMACHANDRAN PILLAI:  
Madam, I move:

"That the Bill to provide for the regulation of the salaries, allowances, leave and pensions of the officers and servants of the Supreme Court of India and for matters connected therewith or incidental thereto be referred to a Joint Committee of the Houses consisting of 30 members; 10 members from this House, namely Shri Sikander Bakht, Shri. S. Jaipal Reddy, Shri G. Swaminathan, Shri S. Viduthalai Virumbi, Shri Jagmohan, Shri V. Narayanasamy, Shri Madam Batia, Shri Gurudas Das Gupta, Shri Ram Jethmalani and Shri Ramachandran Pillai, and 20 members from the Lok Sabha; That in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee; That in other respects, the Rules of Procedure of this House relating to select Committees shall apply with such variations

and modifications as the Chairman may make;

That the Committee shall make a report to this House by the first day of the next session; and That this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

*The questions were proposed.*

THE DEPUTY CHAIRMAN: Mr. Ram Nath Kovind from the BJP will speak first. I will not allow Mr. Pillai to initiate the discussion. उम्माय जी, आप आगे आ जाइए।

Mr. Pillai will speak when his party turn comes up. At the time of moving his amendment, he cannot speak. उम्माय जी, आप आगे से बोलिए। यह आपकी मेडन स्पीच है। 12 मिनट आपका टाईम है। आप 15 मिनट बोल दीजिए। कोई डिस्टर्ब नहीं करने का।

SHRI RAM NATH KOVIND (Uttar Pradesh): Madam Deputy Chairman, I rise to make my submission on the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Delhi High Court, Bill, 1994 and the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Supreme Court Bill, 1994. These two Bills are of vital importance as they are concerned with the independence of the judiciary. First of all, I would like to invite the attention of all the Members, through you, Madam, to the Statement of Objects and Reasons of both these Bills. The Statement says:

"Serious anomalies have crept into the pay scales of the employees of the High Court of Delhi on account of various judgements and orders passed by the Court in writ petitions filed by its employees. These distortions and anomalies in the pay-structure of the staff of Delhi High Court are likely to cause serious agitation amongst

similarly placed staff of the Central Government and the Government of the National Capital Territory of Delhi.

2. This might ultimately lead to large-scale distortions in the pay-structure of the employees of the Central Government and the Government of the National Capital Territory of Delhi with attendant serious consequential financial implications. The Government examined the implications of the emerging distortions in the pay-structure of Court employees and considered it appropriate to enact suitable legislation to rectify the situation as that was the only remedy available to the Government."

Madam, the same Statement of Objects and Reasons is also given in the second Bill, that is, the Salaries, Allowances, Leave and Pensions of the Officers and servants of the Supreme Court Bill, 1994. After the judgement of the court, the Government thought it appropriate to enact a legislation. But there is no specific mention about the relief sought before the court. What are the specific findings given by the court which led the Government to bring this legislation before this august House?

Madam, the language in both the Bills is the same which shows as if the judgements delivered by the Delhi High Court and the Supreme Court were passed simultaneously and the matter involved was also one and the same. Further, there is no mention as to how such anomalies have arisen. In the absence of specific and clear-cut objectives and reasons, there cannot be any useful debate on these two Bills.

Madam, I would like to draw your kind attention to the constitutional provisions which have been given for the purpose of fixation of the salaries and emoluments of the Supreme Court and High Court officers and their servants. The relevant

provisions with regard to the Supreme Court officers and servants are in article 146 of the Constitution of India. I beg to read out article 146 which says:

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Provided that the President may by rule required that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission."

Madam, the relevant provision is clause (2) which says:

"Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President."

Madam, a similar provision is article 229 which is concerned with the High Courts. Now, I come to the basic intention of this provision which specifically provides that the rules relating to the service conditions and emoluments of Court officers are to be made by the Chief Justice of India. The Constitution-makers were quite vigilant to give such sole authority to the Chief Justice of India with a view to keeping the Judiciary independent of the Executive. Madam, it would be worth pointing out some portions of the debates of the Constituent Assembly in this regard. While discussing article 146—at that time this article was article 122—I

would like to quote a few remarks of Mr. T.T. Krishnamachari. He said, "A matter like the employment of the staff by the Judges should be placed ordinarily outside the purview of the Executive which would, otherwise, have to take the initiative to include these items in the Budget, for the reason that the independence of the Judiciary should be maintained and that the Judiciary should not feel that they are subject to favours that the Executive might grant to them from time to time and which would naturally influence their decision in any matter they have to take up where the interest of the Executive of the time being happens to be concerned. At the same time, I think it should be made clear that it is not the intention of this House or of the framers of this Constitution that they want to create a specially favoured body which in themselves become an *imperium in imperio*, completely independent of the Executive and the Legislature and operating as a sort of superior body to the general body public." Mr. Krishnamachari further said, "It might happen that in the general services, there may be a reduction in salaries." This is quite relevant with the present Bills because the Government are going to reduce their salaries. "And, if the Chief Justice says, 'no', to the request of the Executive to fall in line on the ground what happens to the Executive Department is none of his concern....."

"...that as far as his Department is concerned, he will not permit a reduction of salaries meaning thereby that we are helping to keep this body apart from the general service."

Madam, I have quoted some of the portions from the Constituent Assembly debates only to emphasise my point that if the powers to frame the rules relating to the fixation of salaries, allowances and service conditions of the High Court officers and the Supreme Court officers are vested in the hands of the Government, then it may lead to serious problems. I say this because nowadays there is a lot of discussion among the

general public as well as in the Bar—I am associated with the Delhi High Court Bar and the Supreme Court Bar also; it is a common talk today among the lawyers—that nowadays the Judges are appointed not on the basis of merit, but solely on the basis of extraneous considerations. These extraneous considerations include political as well as monetary. This is a serious matter. I would like to urge upon the Government, through you, Madam, that they must rise above these considerations and act fairly as far as the appointment of Judges is concerned.

There are two Bills which we are discussing simultaneously. I have been told that the subject-matter of these two Bills has already been referred to the Fifth Pay Commission. I fail to understand why the same subject-matter, which has already been referred to the Fifth Pay Commission for its consideration, has been brought and introduced in this House. I myself have gone through the existing pay scales. I am restricting myself to the Delhi High Court and the proposed pay scales as per the present Bill. I find that the existing pay scale of the Assistant Registrar is Rs. 3,000—Rs. 4,500 and in the proposed pay structure the scale is being revised, that is, being lowered, to Rs. 2,375—Rs. 3,500. Similarly, there are other posts like Upper Division Clerk and Lower Division Clerk. Their scales are also being reduced. What I say is that if the Bill is allowed to be passed the Pay scales of the Delhi High Court officers and servants will be the lowest as compared to the other 17 High Courts. I further submit that this Bill has been specifically brought to bring down their scales on a par with the Central Government staff. My humble submission is that the staff of the High Courts and the Supreme Court have got specialised qualifications for appointment and the nature of their duties is also different from that of the Central Government employees. If the Bill is allowed to be passed, I feel it will lead to large-scale resentment among the

employees of the High Courts and the Supreme Court. Let us look into the problems of the judicial system from a wider perspective. How to mobilise the staff; how to give them the best training; how to eradicate tourism which is a common talk amongst litigants, how to prevent corruption and harassment to litigant public which they feel and how to eliminate delay in the disposal of cases which is there very much. These are some of the points which need the top attention of the Government. Instead, the Government is trying to bring in these Bills for the purpose of reducing their salaries.

Then there is the reservation policy with regard to the Scheduled Castes and the Scheduled Tribes. But, it is not being strictly followed in the appointments of the High Court officers and servants and also the Supreme Court officers and servants.

Madam, these two Bills are quite crucial for the purpose of the independence of the judiciary. We have read in the newspapers that the Delhi High Court employees and the Supreme Court employees have organised a march to Parliament today. It was there in the newspapers. That shows their concern. Even the High Court Judges and the Supreme Court Judges allowed them not implicitly but impliedly. That shows the concern of the Judges. Madam, this is a very serious matter. We must thoroughly deliberate upon it. My humble submission is that, as my learned friend has stated, these Bills should be referred to the Joint Select Committee. That would be a better proposition to thrash out various issues to make the two Bills more transparent and satisfactory to all concerned. Thank you.

SHRI V. NARAYANASAMY (Pondicherry): Madam Deputy Chairman, I rise to support the Bills moved by the hon. Minister. In the Statement of Objects and Reasons the hon. Minister has stated that there are several litigations in the High Courts and the Supreme Court by various employees' organisations for fixation of pay scales and it led to a lot of confusion. The

Government has revised the pay scales from time to time. Madam, since the employees were not satisfied with the pay scales fixed by the Government, they had to approach the Courts time and again for fixation of their pay scales. Their claim is that they have been receiving lower pay scales as compared to the Central Government employees. Therefore, to set right the anomaly, it was decided to fix the pay scales on a par with the pay scales of the Central Government employees who are occupying similar position in the Central Government offices. Therefore, the intention of the Government is to equate the employees of the Supreme Court and the Delhi High Court with the employees of the Central Government and given them the same pay scales and fringe benefits as are available to the Central Government employees. These things have been considered by the Government. That is why the hon. Minister has come forward with these Bills. There are three things for which the employees' unions have been agitating on this matter. They say that an officer who has been given Grade-A has to be brought to Grade-B, if he is brought to another category, from one category to another category. That amounts to demotion.

**[The Vice-Chairman (Shri Md. Salim) in the Chair]**

After the rationalisation of pay scales through this Bill, employees of pay scales through this Bill, employees of certain categories will get reduced scales of pay than what they are drawing at present. Being a Law Minister, he should be fully aware of the fact that the scales of pay, which they are getting now, should be protected after the rationalisation. A mention has been made in clause 4 of the Bill. But it has not been made very clear. The third thing is that the apprehensions of the employees seem to be partially correct when we go through article 146, under article 146, it has been mentioned that subject to the

provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge of the Court authorised by the Chief Justice of India to make rules for the purpose. The proviso to sub-clause 2 of article 146 provides that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President. Therefore, before we fix the pay scales, they have to be approved by the Chief Justice of the Supreme Court in relation to the employees of the Supreme Court and the Chief Justice of the Judicature of Delhi High Court in relation to the employees of the Judicature of Delhi High Court. I would like to know from the hon. Minister whether the pay scales which he is going to give to the employees of the Supreme Court and the High Court of Delhi had the approval of the Chief Justice of the Supreme Court and the Chief Justice of the Delhi High Court respectively because articles 146 and 229 have similar provisions. I want to know whether necessary approvals had been obtained from the Chief Justice of the Supreme Court and the Chief Justice of the Delhi High Court. When we say that the independence of the judiciary should be protected, the scales of pay of the employees should have the prior approval of the Chief Justice of the Supreme Court and the Chief Justice of the Delhi High Court. I want to know whether the necessary approval is taken in the present case. I find from the Bill that pay scales in respect of certain categories of employees are equivalent. As far as pay fixation is concerned, it is provided in the Schedule. But the apprehensions of the employees have to be taken care of because they are agitated over their pay scales. I know that they have submitted certain representations. I would like to know from the hon. Minister whether their demands have been considered by the

hon. Minister before bringing forward this Bill because these employees have been working very sincerely in the Supreme Court and the Delhi High Court. Not only this, due to pressure of work, they are doing overtime also. Therefore, these people have to be taken into confidence when you fix their scales of pay. With these points, I support the Bill. The Bill should not adversely affect the interests of the employees. When we say that we are for the welfare of the employees, any Bill that we bring forward should not affect the interests of the employees. Nowadays, a lot of reforms are taking place in the judiciary. Computerisation has taken place. To reduce pendency, Judges have been appointed. I would like to know from the hon. Minister what the position of pendency of the cases is over the last two years after the Judges have been appointed in the Supreme Court of India and the Delhi High Court. I want to know whether there is any improvement after the appointment of new Judges in the Supreme Court and the Delhi High Court. This is what I would like to know from the hon. Minister.

I want to know from the hon. Minister whether the landmark judgement relating to transfer of judges aimed at removing vested interests in the judiciary has been implemented in right earnest. As per this, 1/3rd of the judges of the High Courts have to be transferred. While supporting this Bill, I would like to know from the hon. Minister whether this has been implemented in right earnest. Once again, I urge upon the hon. Minister, if there is any anomaly, to call the employees' union, have a discussion with them, and try to solve this problem. With these words, I conclude.

SHRI S. JAIPAL REDDY (Andhra Pradesh): Mr. Vice-Chairman Sir, the Bill, in my view, is very sensitive. No doubt, under Article 146, the Parliament of India is competent to legislate in respect of the pay scales and service conditions of the servants of the Supreme

Court. But the background of this Bill is rather sizzling with many difficulties. Firstly, the Government seems to confuse the work transacted by the officers in the Government with the work that is done by the employees of courts, be it Supreme Court or Delhi High Court. In my considered view, there is a qualitative and fundamental difference in the nature of work done by the servants of courts and the servants of Government. The provisions of the Bill do not pay adequate regard to this fundamental fact. The Government also does not tell us as to the provocation for this Bill. I understand that the Delhi High Court officers got increased pay through a Delhi High Court order because their counterparts of the Punjab High Court were drawing higher pay. They were originally members of the same court. As a consequence of the rise in the pay scales of Delhi High Court servants, the Supreme Court officers were getting less than their counterparts in the Delhi High Court and this anomaly was rectified by the Supreme Court. While all this was happening, I learnt, the Chief Justice of India, way back in 1989 appointed a Committee of three hon. Supreme Court judges to look into the matter. This Committee of three hon. Supreme Court judges, appointed in 1989 for this purpose, submitted its report on 11.2.1993 and the Chief Justice considered this report, framed rules and forwarded the same to the President of India for approval way back on 16.3.1993. We are now in August, 1994. In the last one-and-a-half years, there has been no response to the recommendations made by the Chief Justice of the Supreme Court. I would like to know whether the Government exchanged notes with the Chief Justice in the matter. We should be very slow to precipitate any kind of encounter, much less a confrontation, with the Supreme Court. I can appreciate the fears of the Government in regard to the cascading effect on the pay scales elsewhere. But,

this issue needs to be dealt with delicately.

Sir, but Mr. Bhardwaj, our hon. Minister chose to deliver sledge hammer blows where the thrust of a rapier was required. I, therefore, appeal to him not to press with this Bill but conduct discussions with employees of the Supreme Court, with the employees of the Delhi High Court, who are tremendously agitated. We would not be knowing all these facts if someone did not approach us. We are not saying that the Government is absolutely wrong and the employees are absolutely right. This matter needs to be sorted out through mutual discussions and we are very particular that the Chief Justice of India should be taken into total confidence by the Government. The Law Minister has not enlightened the House whether the Chief Justice was taken into confidence on the issue. He has not told us as to what happened to the rules suggested by the Chief Justice and which were sent to the President of India way back on 16-3-1991.

I will revert to the very sensitive and delicate nature of the Bill and the genuine fears of the Government in regard to the adverse effect on the pay scales of the employees of the Government. I suggest and appeal that the matter be looked into in greater depth and in greater detail. I, therefore, feel that the Government should have no hesitation whatsoever in referring the bill to a Joint Committee of Parliament as suggested by Mr. Pillai. I think it is a wise suggestion.

We do not want to force our views on the Government. Let members of Parliament belonging to all sides put their heads together, come with unanimous recommendations. This Government is afraid of unanimous recommendations. I saw it in the case of JPC. I do not think there is something to fear about the unanimous recommendations on a question of this kind. It is a common cause and we



should apply our mind in that spirit. I hope the Government will respond positively.

**SHRI RAMACHANDRAN PILLAI:** Mr. Vice-Chairman, Sir, these Bills are meant for fixation of the pay scales of both Supreme Court and High Court staff in service. These are bad laws. I do not agree with the philosophy behind these. Now here in the world have pay scales been legislated upon except for Constitutional heads like President, Vice-President, Prime Minister, etc. This is the first time the Government has come forward with a legislation prescribing the pay scales of *Safai Karmacharis*, Peons and such other employees. Actually, the Government is trying to put the pay scales of these employees in a strait jacket under the legislative cover. So, this legislation is against the democratic rights of the employees, their bargaining capacity, their right to get more salaries through their organisation and their bargaining power. So this is against all democratic principles.

A mere reading of the Statement of Objects and Reasons of this bill will expose their intellectual bankruptcy, the arbitrariness, the narrow-mindedness, and also the servility towards bureaucracy, and its lack of firmness in tackling the jealousies and envies that vitiate the corridors of power.

Sir, I may be allowed to read the Statement of Objects and Reasons. The first sentence is this: "Serious anomalies have crept into the pay-scales of the employees of the Supreme Court of India on account of various judgments and orders passed by the Court in Writ Petitions filed by its employees." What does it mean? The Supreme Court judgments and the High Court judgments have created anomalies. It is an allegation against the Supreme Court. It is an attack against the decisions of the High Court. First the Government says, "serious anomalies." Then the Government says, "distortions and anomalies." It says: "These distortions

and anomalies in the pay-structure of the staff of Supreme Court are likely to cause serious agitation amongst similarly placed Central Government staff." What a curious logic? What a preposterous logic? The distortions and anomalies in the pay-scales of the High Court employees and the Supreme Court employees do not cause any agitation amongst those employees, but they cause agitation amongst the Central Government employees. So, what is the logic behind this argument? Then the third sentence is: "This might ultimately lead to large-scale distortions in the pay-structure of the Central Government employees with attendant serious financial implications." So, this will lead to large-scale distortions. The distortions in the High Court causes large-scale distortions in the Central Government. Who is responsible for this large-scale distortions? And then the Government comes before us saying, "The Government examined the implications of the emerging distortions in the pay-structures of Court employees and considered it appropriate to enact suitable legislation to remedy the situation as that was the only remedy available to the Government." So, that means, the Central Government is not capable to keep its house in order. So, what have they tried to do? They tried to make the house of the High Court in order. So, this is the way the Central Government is trying to do here. So, these are the reasons that they have stated in this Statement of Objects and Reasons. And also how cunningly have they put different sentences, and different words. First they start with 'anomalies'. Then they add another word 'distortions'. Then that 'anomalies' is taken out, and only 'distortions' is kept. Sir, there is a saying in Malayalam. I may be allowed to say it here. It is the trick of changing 'ocean' to 'urine'—"Samudram muthramakuka". That means, in Malayalam, 'Samudram' means ocean, and 'muthram' means urine. In the first change, 'samudram' is changed to

'samuthram'. And then that 'sa' is removed, and it is 'muthram'. Like that, it starts with anomalies. Then it becomes 'anomalies and distortions'. And in the last, it is 'distortions'. So, this is the Statement of Objects and Reasons. Sir, I disagree with the basic assumptions of these two Bills.

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** You have to conclude now.

**SHRI M.A. BABY (Kerala):** He is totally confining himself to the provisions of the Bills.

**THE VICE-CHAIRMAN (Shri Md. Salim):** He should confine himself to the time also.

**SHRI RAMACHANDRAN PILLAI:** One of the basic assumptions is that what all are prescribed for the Central Government employees are correct and true. The second assumption is that the Government alone is capable of taking a correct decision. And the third assumption is that the orders and judgments of the Supreme Court and the High Court are wrong and they create only anomalies and distortions. So this is an open attack against the judiciary, its position, status and its rights and responsibilities. These Bills are based on an object which is contrary to the spirit of the Constitution and its division of powers.

My hon. friend has just now mentioned that the duties and responsibilities of the various institutions differ according to the tasks of these institutions. So, the service conditions also vary. These Bills say that the service conditions of the Courts should be the same as in the Central Government. The hon. Minister has referred to articles 146 and 229 of the Constitution. Article 146 says:

"Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the

Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require that approval of the President."

Of course, the Legislature is empowered to do something, but the Legislature is not empowered to go into all. As per the provisions of these two Bills, the Chief Justice of the Supreme Court and the Chief Justice of the High Court are allowed to make only amendments to the Schedule. This is the funny part of this legislation. So, this is against the intention of the Constitution, the spirit of the Constitution.

My hon. friend has also asked whether the Government has had any purposeful dialogue with either the Chief Justice of India or the Chief Justice of the Delhi High Court. But nothing is mentioned. What is mentioned is only that all the decisions and all the orders of the Supreme Court and the High Court make anomalies and distortions. Also there is no light thrown on the pay scales of other high Courts. If there are anomalies, let the Supreme Court take the initiative. The Government is taking an arbitrary position on these things. If there are anomalies and distortions, let the Supreme Court look into all those things, let the High Court look into all those things. If you think that the Supreme Court and the High Court are incapable and can make only anomalies and distortions, I am helpless. Even God cannot help you, if there is a God. Only Satan can help you.

So I submit, Mr. Vice-Chairman, Sir, that serious issues are involved. There is serious criticism among the employees about the proposed pay scales. Therefore, all these things require a deep study. That is why I moved the motion

for referring this matter to a Joint Parliamentary Committee.

Thank You

**SHRI S. VIDUTHALAI VIRUMBI** (Tamil Nadu): Mr. Vice-Chairman, Sir, thank you very much for having given me this opportunity to say something on this Bill.

As my hon. friend, Mr. Ramachandran Pillai said, from the Statement of Objects and Reasons we can find out that the Government more or less wants to encroach upon the judicial arena also. My colleague has already referred to article 146 as well as article 229. I do not want to repeat it. I want to proceed in a different manner.

The Fourth Pay Commission was appointed eight years before. It gave its verdict. On the basis of the recommendations of that Pay Commission, we formed the salary structure of the Government servants in India. As far as the judiciary is concerned, the Chief Justice of the High Court as well as the Chief Justice of the Supreme Court have determined their salaries. After eight years, now the Government wants to fix their salaries. We have received a memorandum of the employees of the Delhi High Court. If the provisions of these Bills are given effect to, people in some posts will lose their salary by 50 per cent. I do not know whether they have been consulted by the Government.

I want to say one thing. Even the Fourth Pay Commission recommended that if the DA went beyond 51 per cent of the basic salary, the DA should be merged with the basic pay. That is what the Fourth pay Commission recommended, but it has not been merged with the basic pay. When the DA went up to 50 per cent of the basic pay, immediately another Pay Commission should have been appointed, but that has not been done. When it reached 100 per cent, the Pay Commission was appointed.

After the Pay Commission has been appointed, the Pay Commission has to go

through the thing. If the employees are having any grievance and if they don't want to go to the Supreme Court Chief Justice or the High Court Chief Justice, let them go to the Pay Commission. Why do you enter into it now? After eight years of the Fourth Pay Commission and after having appointed another Pay Commission, if you feel that it is not going to the Pay Commission, that the Pay Commission does not have the power to decide on this, let the Chief Justice decide on this. Why do you want to enter into this?

Why I say this is that this particular provision has been actually included in the Constitution. I would like to quote what the Constitution-makers thought about article 146. It was draft article 122. It is there in the debate. I will quote what they said. Mr. Krishnamachari said:

"The only thing about it is that the matter like the employment of staff by the Judges should be placed ordinarily outside the purview of the executive which would otherwise have to take the initiative to include these items in the budget for the reason that the independence of the judiciary should be maintained and that the judiciary should not feel that they are subject to favours that the executive might grant them from time to time and which would naturally influence their decision in any matter they have to take where the interests of the executive of that time happens to be concerned."

Suppose the executive will have a say over the judiciary, the independence of the judiciary will be reduced. This is what TTK felt.

After that, I say, Pt. Thakur Das Bhargava objected even approval of the President. That is the provision in that article. He objected even to that provision. He said, and I quote:

"We have just passed the Directive

Principles in which you have laid down that you want the separation of the judiciary and the executive. I want to ask of you how you can effect it if you do not allow the Chief Justice and his Department full liberty to spend. Do you want that for every petty post the Chief Justice will have to say that it is essential and then send the proposal to the President who, ultimately, means the Prime Minister and his Chief Secretary in the Ministry, and the Secretariat staff will comment as to whether the posts are necessary or not? Will it be proper that the Chief Justice should write for every post like this?"

These two comments, I think, will open the eyes of the Treasury Benches.

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** Please conclude.

**SHRI S. VIDUTHALAI VIRUMBI:** Yes, Sir, I am going to conclude.

Sir, number one, the DA has not been merged with the basic salary.

Number two, after the DA has gone up to 100 per cent, then only they have appointed the Pay Commission. After the Pay Commission was appointed, now you are thinking about the fixation of salaries of these employees. It is against ethics and morality. Even though you have got power to see that it is passed, because you have got a majority in the other House and you can do it here also, what I feel is that it is not proper as far as morality is concerned. You are more or less overstepping your field. In doing so you are spoiling the democratic institutions. It is not good for the future. With these words I conclude.

**श्री जलालुद्दीन अंसारी (बिहार):** उपाध्यक्ष महोदय, उच्चतम न्यायालय और दिल्ली उच्च न्यायालय अधिकारी और सेवक वेतन, भत्ता, छुट्टी और पेंशन संशोधन विधेयक, 1994 लाया गया है, उस संबंध में आप देखेंगे कि इन्होंने जो उद्देश्य रखा है, उसी से स्पष्ट

हो जाता है कि इस बिल को लाकर सुप्रीम कोर्ट और दिल्ली हाईकोर्ट के अधिकारियों और कर्मचारियों को जो सुविधाएं मिल रही हैं, उन सुविधाओं को इस नाम पर वे खत्म करना चाहते हैं इस बिल के माध्यम से उनके वेतन में और दूसरों के वेतन में असमानता पैदा हो गई है, एनोमेलीज हो गई है, डिस्टीरिटी हो गई है और हाईकोर्ट और सुप्रीम-कोर्ट के फैसले के मुताबिक बहुत सारी गड़बड़ियां पैदा हो गई हैं। मैं कहना चाहता हूँ अपनी ओर से कि सुप्रीम-कोर्ट और हाईकोर्ट की रूनिंग और फैसले को न मानकर ये चाहते हैं कि न्यायपालिका का जो स्वतंत्र अस्तित्व और स्वतंत्र अधिकार है, उसी को समाप्त कर दें। साथ ही साथ जो अधिकारी और कर्मचारी हैं, उनको अभी तक जो भी सुविधाएं मिली हैं, वेतन के रूप में भत्ते के रूप में, पेंशन के रूप में उनको वे खत्म करना चाहते हैं।

महोदय, संविधान में जो व्यवस्था है, जिसकी चर्चा हमारे साथियों ने यहां की है, उससे स्पष्ट है कि सुप्रीम-कोर्ट के चीफ-जस्टिस और दिल्ली हाईकोर्ट के चीफ-जस्टिस से इनको बिचार विमर्श करना चाहिये था। मैं यह जानना चाहता हूँ कि इन अधिकारियों और कर्मचारियों की सैलेरीज, एलाउमेंसेज, और पेंशन के बारे में यह बिल लाने से पहले, यह जो डिस्टीरिटी थी, एनोमेली थी, उसको दूर करने के लिये सुप्रीम-कोर्ट के चीफ-जस्टिस और दिल्ली हाईकोर्ट के चीफ-जस्टिस से सरकार ने राय क्यों नहीं ली? ये उनसे बात करते और ये जो एनोमेलीज हो गई थीं, उनको ठीक करने का रास्ता अपनाते। यह न करके संविधान की जो भावना है, उसके खिलाफ काम किया जा रहा है।

महोदय, मैं मानता हूँ कि संविधान में यह व्यवस्था है कि सरकार बिल लाकर उनके वेतन, भत्ते, पेंशन आदि में कटौती कर सकती है। लेकिन यह डिस्टीरिटी और एनोमेली को दूर करने के नाम पर लगभग 50 प्रतिशत वेतन या दूसरी तरह की सुविधाओं में ये कटौती करने जा रहे हैं। महोदय, जिस तरह से हमारे दूसरे मित्रों ने कहा है कि जो उनके काम है और दूसरे लोगों के काम हैं, उसमें भी अंतर है। मुझे ऐसा लगा था कि यह जो बिल ला रहे हैं उसमें वेतन, भत्ते आदि के अलावा सुप्रीम कोर्ट और दिल्ली हाईकोर्ट और दूसरी हाई कोर्ट्स में बहुत सारे मुकदमे लंबित हैं, जिसके कारण इस सदन में बार-बार सवाल उठाए गये हैं कि अमुक श्रेणी, अमुक वर्ग के लोगों पर इस तरह का उल्पीड़न हो रहा है, उनके

मुकदमे पड़े हुये हैं, वे समय पर 6.00 P.M. डिस्पोज-ऑफ नहीं होते हैं। चाहे वह भूमि के सुधार के केसेज हों या

दूसरी तरह या दूसरी तरह के केसेज हों सारे केसेज हिन्दुस्तान के उच्च न्यायालयों और सुप्रीम कोर्ट में पड़े हुये हैं। उसके लिये माननीय मंत्री महोदय और इस सरकार को फुर्सत नहीं है कि बिल लाकर के उन मुकदमों को डिस्पोज आफ करने के लिये और भी व्यवस्था करते। हमारे कुलिंग श्री रामचन्द्रन पिल्लै ने जो अमेंडमेंट रखा है, उसका मैं अपनी ओर से समर्थन करता हूँ कि जल्दबाजी में इस तरह के बिल को आप पास नहीं करें। इससे और भी गड़बड़ी पैदा होगी। इसलिए इसको आप जोइंट पार्लियामेन्ट्री कमेटी या सेलेक्ट कमेटी—प्रवर समिति जो इसी के लिए बनाई जाती है, उसमें भेजें। इस बिल के सारे पक्ष को, आर्येक्ट्स को आप सही तरीके से, ठंडे दिलों-दिमाग से उसका अध्ययन करें, मूल्यांकन करें और तब बिल को पास करें। (समय की घड़ी) इन्हीं संद शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

श्री जलाल الدین الضاری «بہار»:-  
اُپ ادھیکش ہو دے۔ اچتم نیالیہ اور  
دتی اچہ نیالیہ ادھیکاری اور سیوک و تین۔  
بھتہ چھٹی اور پنشن و دھے یک ۶۱۹۹۴  
جو یہاں لایا گیا ہے۔ اس سمینڈھ میں آپ  
دیکھیں گے۔ کہ انھوں نے جو آرڈینیشن رکھا  
ہے۔ اسی سے اسپینڈٹ ہو جاتا ہے کہ اس  
بل کو لاکر سپریم کورٹ اور دتی ہائی کورٹ  
کے ادھیکاریوں اور کرپٹریوں کو سویدھا نہیں  
مل رہی ہیں ان سویدھاؤں کو اس نام پر  
وہ ختم کرنا چاہتے ہیں اس بل کے مادھیم سے  
کہ اُن کے ویتن میں اور دوسروں کے ویتن  
میں اسمانتا پیدا ہو گئی ہے۔ اینو میگزینو گئی  
ہے۔ ڈسپیر سٹی ہو گئی ہے اور ہائی کورٹ  
اور سپریم کورٹ کے فاصلے کے مطابق بہت

بگڑ بڑیاں پیدا ہو گئی ہیں۔ میں کہنا چاہتا  
ہوں اپنی اور سے کہ سپریم کورٹ اور  
ہائی کورٹ کی روٹنگز اور فیصلے کو مان کر  
یہ چاہتے ہیں کہ نیا نیے پالیٹکاکا جو سوئتر  
آستو اور سوئتر ادھیکار ہے اسی کو حمایت  
کر دیں۔ ساتھ ہی ساتھ جو ادھیکار ٹی اور کرپٹری  
ہے اُن کو ابھی تک جو بھی سویدھا نہیں ملی  
ہیں ویتن کے روپ میں، بھتے کے روپ میں  
اُن کو ختم کرنا چاہتے ہیں۔

ہو دے۔ سنودھان کی جو ویو سٹھا  
ہے جس کی چرچا ہمارے نے یہاں پہاں  
کی ہے۔ اُس سے اسپینڈٹ ہے کہ سپریم کورٹ  
کے چیف جسٹس اور دتی ہائی کورٹ کے  
چیف جسٹس سے اُن کو وجہ و مرتب کرنا  
چاہئے۔ تو میں یہ جاننا چاہتا ہوں کہ ان  
ادھیکاریوں اور کرپٹریوں کی سلیکٹرز  
الائونسز اور پنشن کے بارے میں یہ بل  
لانے سے پہلے۔ یہ جو ڈسپیر سٹی تھی۔ اینو ملی  
تھی۔ اُس کو دور کرنے کے لئے سپریم کورٹ  
کے چیف جسٹس اور دتی ہائی کورٹ کے  
چیف جسٹس سے سرکار نے رائے کیوں نہیں  
لی۔ یہ اُن سے بات کرنے اور یہ جو اینو میلز  
ہو گئی تھیں۔ ان کو ٹھیک کرنے کا راستہ  
اپناتے۔ یہ نہ کر کے سنودھان کی جو بھاؤنا  
ہے اس کے خلاف کام کیا جا رہا ہے۔

ہو دے۔ میں ماننا ہوں کہ سندھان میں یہ ویو سٹھاپے کہ سرکار بل لا کر ان کے وٹن بھتے ہیٹھن آدی سے کٹوتی کر سکتی ہے۔ لیکن یہ ڈسپنٹری اور اینڈ ملی کو دور کرنے کے نا اہل۔ لگ بھگ ۵۰ پر تھت وٹن یاد دوسری طرح کی سویدھاؤں میں یہ کٹوتی کرنے جارہے ہیں۔

ہو دے۔ جس طرح سے ہمارے دوسرے مترول نے کہا ہے کہ جو ان کے کام ہیں اور دوسرے کے کام ہیں اور دوسرے لوگوں کے کام ہیں۔ ان میں بھی انتر ہے۔ مجھے تو ایسا لگتا ہے کہ یہ جو بل لائے ہیں، اس میں وٹن بھتے آدھے کے علاوہ جو سیریم کورٹ اور ری ہائی کورٹ اور دوسری ہائی کورٹس میں بہت سارے بھتے نعمت ہیں۔ جس کے کارن اس سدن میں بار بار سوال اٹھائے گئے ہیں۔ کہ امک ٹیری۔ امک ورگ کے لوگوں پر اس طرح کا اتیرن ہو رہا ہے۔ ان کے مقد سے پڑے ہوئے ہیں۔ وہ سے پر ڈسپوز آف نہیں ہوتے ہیں۔ چاہے وہ بھومی سدھار کے کیسز ہوں یا دوسرے طرح کے کیسز ہوں سارے کیسز ہندوستان کے اچ نیایوں اور سیریم کورٹ میں پڑے ہوئے ہیں۔ اس کے لئے ماننے منتری ہو د اور اس سرکار کو فرصت نہیں ہے کہ بل لا کر کے ان مقدموں کو ڈسپوز آف کرنے کے لئے اور بھی ویو سٹھا کرتے

تو ہمارے گلیگ شری رام چندرن پٹے نے جو انڈمنٹ رکھا ہے۔ اس کا میں اور سے سمرٹن کرتا ہوں کہ اس طرح کل کے بل کو آپ پاس نہیں کریں۔ اس سے اور بھی گڑبڑ پیدا ہوگی اس لئے اس کو آپ جو انڈمنٹ یا لیمنٹری کمیٹی یا سلیک کمیٹی یا پور ورسیمیٹی جو اسی کے لئے بنانی جاتی ہیں۔ ان کو بھیجیں۔ اس بل کے سارے پکش کو۔ اسپیکش کو آپ صحیح طریق سے ٹھنڈے دل و دماغ سے اس کا وٹن کریں۔ مولیانکن کریں اور تب بل کو پاس کریں۔۔۔ ”ٹھنڈی“۔ انہی چند شبدوں کے ساتھ میں اپنی بات سمایت کرتا ہوں۔

श्री ईश दत्त यादव (उत्तर प्रदेश): माननीय उपसभाध्यक्ष महोदय, भारत के उच्चतम न्यायालय और दिल्ली के उच्च न्यायालय के अधिकारियों और कर्मचारियों के वेतनमान में संशोधन करने के लिए यह विधेयक प्रस्तुत किया गया है। लेकिन अगर किसी दूसरे विभाग का विधेयक होता तो मुझे आश्चर्य और खिता नहीं होती। यह विधेयक विधि और न्याय मंत्री जी द्वारा पेश किया गया है। इसमें न विधि मुझे मालूम पड़ती है और न न्याय मालूम पड़ता है। न इसमें ला है और न जस्टिस है। कानून की भी अवहेलना की गई और न्याय को तो एकदम खाल कर दिया गया। मान्यवर, मेरी जहां तक जानकारी है, हो सकता है कि अपूरी जानकारी हो, लेकिन संसद में पहली बार कर्मचारियों के वेतनमान को संशोधित करने के लिए विधेयक प्रस्तुत किया गया है। मैं नहीं समझता कि विधि और न्याय मंत्री जी की इसमें मंशा क्या है? इसके लिए कानूनी बाधता क्या थी, जबकि संविधान में स्पष्ट व्यवस्था है। मान्यवर, संविधान के अनुच्छेद 146(2) और 229 में व्यवस्था है और मैं नहीं कहता कि हमारे विधि और न्याय मंत्री जी को इसकी जानकारी नहीं होगी। अगर इसमें यह व्यवस्था है कि उच्चतम न्यायालय और उच्च न्यायालय के अधिकारियों और कर्मचारियों के वेतनमान संशोधित किए जाएंगे या उनका

निर्धारण किया जाएगा तो उन न्यायालय के जजेज के जरिए, चीफ जस्टिस के जरिए तय किया जाएगा, यहां उसका उल्लेखन किया गया और मैं समझता हूं कि न्याय मंत्री जी ने इस बिल को प्रस्तुत करने से पहले उनसे कोई अनुमति भी नहीं ली, उनसे कोई परामर्श भी नहीं लिया। क्योंकि इससे एप्स और ऑब्जेक्टिविज जो हैं, इसमें स्पष्ट रूप से कहते कि इस तरह का उनसे कोई परामर्श ले लिया गया है। इसलिए मान्यवर, विसंगति को समाप्त करने के लिए न्याय मंत्री जी ने कहा है कि एनाउन्सी पैदा हो गई है न्यायालयों के निर्णयों से, तो विसंगति दूर करने के लिए इस विधेयक के द्वारा विसंगति पैदा करने का प्रयास किया है। इसलिए श्री रामचन्द्रन पिल्लै जी का जो संशोधन प्रस्ताव है सलेक्ट कमेटी के सुपूट करने के बारे में, मैं संमर्थन करता हूं।

मान्यवर, एक बात और कहना चाहता हूं। न्याय मंत्री जी को चूंकि काम करना था, यह आपकी जिम्मेदारी है और सरकार की जिम्मेदारी है कि जनता को सस्ता और सुलभ न्याय मिले। इस ओर सरकार ने ध्यान नहीं दिया। मैं बहुत विस्तार में नहीं जाना चाहता। सुप्रीम कोर्ट से लेकर तमाम हाई कोर्ट में इतने मुकदमों में पेंडिंग पड़े हुए हैं—दस साल, बीस साल और 35 साल से मुकदमों में पेंडिंग पड़े हुए हैं। आपने उनके निस्तारण की कोई व्यवस्था नहीं की। पिछले साल दिसम्बर महीने में प्रधान मंत्री की अध्यक्षता में मुख्यमंत्रियों की एक बैठक हुई उसमें यह निर्णय लिया गया था कि शीघ्र निर्णय के निस्तारण के लिए हाई कोर्ट और सुप्रीम कोर्ट में जज का कोई स्थान रिक्त नहीं रहेगा और अगर कोई स्थान रिक्त होने वाला होगा तो उसके चार महीने पहले उसके भले की प्रक्रिया शुरू कर दी जायेगी। लेकिन आपने उस ओर ध्यान नहीं दिया। उसकी ओर कोई प्रयास नहीं किया। मैं यह बात कह कर अपनी बात समाप्त कर रहा हूं कि 13 अप्रैल को देश के हाई कोर्ट के 50 जजेज का ट्रांसफर कर दिया। केरल के जज को उत्तर प्रदेश में, उत्तर प्रदेश के जज को असम में और असम के जज को पंजाब में। मेरे पास कम्प्लीट सूची है मैं पढ़कर सुनाना नहीं चाहता क्योंकि समय नहीं है।

श्री सतीश अग्रवाल (राजस्थान): सब को मालूम है।

श्री ईश दत्त यादव: सब को यह बात मालूम है इसलिए कह रहा हूं कि इस पर आपको गम्भीरता से विचार करना चाहिए। इससे एनाउन्सी पैदा हो रही है देश में। एक प्रदेश का जज दूसरे प्रदेश में जाता है तो उसके लिए भाषा की समस्या होती है, वहां की परम्परा की समस्या होती है। वहां के लोगों की स्थिति समझने

की समस्या होती है। वहां की मनःस्थिति समझने की समस्या होती है। इसके अलावा जो परिवार पर मुसीबत आती है वह अलग बात है। इसलिए मेरा अनुरोध है आपके माध्यम से सरकार से कि जजेज की ट्रांसफर आप करिये मुझे कोई एतराज नहीं अगर आप जायज समझते हैं।

श्री सतीश अग्रवाल: सरकार के हाथ में नहीं है ट्रांसफर आफ जजेज। चीफ जस्टिस करता है। पहले सरकार के हाथ में था। लार्जर बैच आफ द सुप्रीम कोर्ट के जजमेंट के बाद यह बदल गया है। पहले धांधली होती अब नहीं कर सकते।

श्री ईश दत्त यादव: मैं श्री अग्रवाल जी की बातों से सहमति व्यक्त करते हुए आपके माध्यम से न्याय मंत्री और सरकार से मांग करता हूं कि आप इस कानून में संशोधन करिये ताकि कम से कम ट्रांसफर किये जाएं, मास ट्रांसफर न किये जायें। इन ट्रांसफरों से बाधा पहुंच रही है। आपका बहुत-बहुत धन्यवाद।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): जिन सदस्यों का नाम था वे इस चर्चा में हिस्सा ले चुके हैं और मंत्री जी इस पर कल जवाब देंगे। अब हम विशेष उल्लेख लेते हैं। (व्यवधान)

SHRI M.A. BABY: What is the reason? (Interruptions). Sir, we are prepared to listen to the reply. Has the Minister to consult somebody? (Interruptions).

THE VICE-CHAIRMAN (SHRI MD. SALIM): One by one, please. Yes, Mr. Baby. (Interruptions)

SHRI M.A. BABY: May I have your attention, Sir? So far as my information goes, Bhardwajji is a very enlightened Minister, especially on issues related to jurisprudence. He need not have to consult anybody to give his reply in this House. (Interruptions).

SHRI JAGESH DESAI (Maharashtra): It is already 6.10 p.m. (Interruptions).

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr Baby, please sit down. You have made your point.

SHRI M.A. BABY: I have not completed, Sir.

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** Please listen to me. Then there will be no confusion. All of you said that the Bill should not be rushed through. जल्दबाजी न की जाए।

But you are not patient. (Interruptions). So many questions, legal questions and technical questions, are there.

**SHRI M.A. BABY:** Sir, the sense of the House should be taken. (Interruptions).

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** Yes, Mr. Jaipalji. (Interruptions). All of you cannot speak simultaneously. Mr. Jaipal Reddy.

**SHRI S. JAIPAL REDDY:** Mr. Vice-Chairman, we all appealed to the Minister to take another look at the Bill. We are happy that he is prepared to have another look at the Bill, judging from the decision of the Minister to reply tomorrow. We need not waste that much time of this House if he agrees to refer the Bill to the Standing Committee. The matter can be referred to the Standing Committee. Neither of us need stand on considerations of prestige. The matter can be referred to the Standing Committee. Members of all parties can put their heads together and arrive at a common approach.

**THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ):** Sir, I have listened to enlightening speeches and I want to reply in detail. After that, whatever the decision and order of the House may be, I will have to obey it. But I do owe a reply to each point. And there is no time to reply today.

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** Okay. (Interruptions). You cannot object to this. Now it is over. Special Mentions. (Interruptions).

**SHRI SATISH AGARWAL:** Mr. Vice-Chairman, Sir, that does not seem to be the reason for not replying to the debate today. Probably, the ruling party has sensed that there is going to be a division and we are going to support the amendment. (Interruptions).

**SYED SIBTEY RAZI** (Uttar Pradesh): Such a passing remark should not be made by such an hon. Member. We do really sit up to 6 o'clock and the allotted time for Special Mentions is 6 o'clock.

**THE VICE-CHAIRMAN (SHRI MD. SALIM):** The Chair has already announced that the Special Mentions would be taken up at 6 o'clock. (Interruptions)...

**SYED SIBTEY RAZI:** There are Special Mentions and Members are waiting for them. (Interruptions)...

श्री जगदीश प्रसाद याधुर (उत्तर प्रदेश): वह नहीं कहा, उन्होंने वह कहा था कि चाहे 8:00 बजे तक बैठना पड़े, जब बिजनेस खत्म करेंगे तब स्पेशल मेंशन लेंगे। मैं बार-बार कहा था टाइम फिक्स करने के लिए, उन्होंने टाइम फिक्स नहीं किया। दूसरे, कभी ऐसा नहीं हुआ कि बिल पर स्पीकर्स पूरे हो गए हों और उसके बाद आप दूसरा कुछ ले लेते हों। इसलिए यह आज होना चाहिए। ... (व्यवधान)...

उपसभाध्यक्ष (श्री मोहम्मद सलीम): याधुर जी, आप बरिष्ठ सदस्य हैं, ऐसा हुआ है कि बिल को बाद में दूसरे दिन फिर लिया गया है और स्पेशल मेंशन टेकअप कर लिए गए हैं। ... (व्यवधान)...

**DR. BIPLAB DASGUPTA** (West Bengal): There was a clear understanding earlier that we would try to finish this legislative business as quickly as possible. Tomorrow two other issues, the Railway Appropriation Bills, are coming up. The day after tomorrow the issue of sugar is going to be discussed. On Friday we have no business. I think these are not points which the Law Minister had not anticipated. What is it that stops him from taking up the issues now, giving his reply and getting the legislative business done? You cannot simply keep along the discussion because there is no time for this legislative business tomorrow. (Interruptions).... I request that the matter be taken up today.



विपक्ष के नेता : (श्री सिकन्दर बख्त) : सदर साहब, मुझे सिर्फ यह कहना है कि ऐसा हुआ होगा। कमी होता भी होगा कि वक्त की तंगी की वजह से दूसरे दिन मिनिस्टर साहब जवाब देते होंगे, लेकिन जब वक्त की कोई कमी नहीं है तो ... (व्यवधान) ...

नितारो रोवो वही "शरी सिकन्दर बख्त"  
صدر صاحب - مجھے صرف یہ کہنا ہے کہ ایسا  
ہوا یا ہوگا - کیسی ہوتا بھی ہوگا کہ وقت کسے  
تنگی کی وجہ سے دوسرے دن منسٹر صاحب  
جواب دیتے ہوں گے - لیکن جب وقت کی  
کوئی کمی نہیں ہے تو - .... "مداخلت"

श्री जगेश देसाई : आप तो हाउस में थे नहीं, मैं यहाँ सुबह से बैठा हूँ। We were discussing even during the lunch hour. We have skipped lunch hour also. (Interruptions)... I have been sitting here for seven hours. You were not here. (Interruptions)...

श्री सिकन्दर बख्त : देखिए, टाइम की तो कोई कमी नहीं है। आप मुझे माफ करेंगे, मैं वह बात नहीं कहना चाहता जो मेरे कुलीग ने कही है कि फेरानी दरअसल उस बात की है। इसके लिए दरम्यानी रास्ता तो बेहतर यही है करना तो इनसिस्टेंस है अपोजीशन का कि आप जेम्पी-सी की जो रिकमेंडेशन है, जो अमेडमेंट्स आए हैं, उनको मानें या दरम्यानी रास्ता यह है कि आप इसके लिए तैयार हों कि आप इसको स्टैंडिंग कमेटी को भेज दीजिए, जो जयपाल जी ने कहा है, लेकिन देखिए, ज़िद पर न रहिए मेहरबानी से, करना तो हम इसरार करना चाहते हैं आप इस किस्से को आज खतम कीजिए। कोई कोजेन्ट रीजन नहीं है। यह कोई बात नहीं हुई, मैं माफी चाहूंगा ला मिनिस्टर से, लेकिन यह कोई बात नहीं हुई कि आज मैंने बड़ी रोशनी देने वाली तकरीर सुनी है, उन रोशनी देने वाली तकरीरों के लिए तैयारी कल ही कर सकूंगा, यह कोई मुनासिब बात नहीं है। जो तैयारी आपने कर रखी है, उसके मातहत एक तकरीर करिए और तब होने दीजिए हाउस में जो भी है। यह तो मुनासिब नहीं है सदर साहब। ... (व्यवधान) ...

शरी सिकन्दर बख्त : دیکھئے - نامم کی  
تو کوئی کمی نہیں ہے - آپ مجھے معاف کریں  
گے - میں یہ بات نہیں کہنا چاہتا جو میرے

کلیک نے کہی ہے کہ پریشانی دراصل اس  
بات کی ہے - اس کے لئے درمیانی راستہ  
تو بہتر بھی ہے ورنہ تو انسٹینس ہے  
اپوزیشن کا - کہ آپ جے - پی - سی - کی جو  
ریکمینڈیشن ہوں جو امینڈمنٹ آتی ہے -  
اُن کو مانیں یا درمیانی راستہ یہ ہے کہ  
آپ اس کے لئے تیار ہوں - کہ آپ اس کو  
اسٹینڈنگ کمیٹی کو بھیج دیجئے - جو جے پال  
جی نے کہا ہے - لیکن دیکھئے - ضد پر نہ  
رہئے - مہربانی سے - ورنہ تو ہم اصرار کرنا  
چاہتے ہیں کہ آپ اس قصہ کو آج ختم کیجئے -  
کوئی کونزینٹ دیزن نہیں ہے - یہ کوئی  
بات نہیں ہوئی - میں معافی چاہوں گا  
لامنسٹر سے - لیکن یہ کوئی بات نہیں ہوئی  
کہ آج میں نے بہت روشنی دینے والی تقریریں  
سنیں ہیں - ان روشنی دینے والی تقریروں  
کے لئے تیاری کمال ہی کر سکوں گا - یہ کوئی  
مناسب بات نہیں ہے - جو تیاری آپ  
نے کر رکھی ہے - اُس کے ماتحت ایک  
تقریر کر دیجئے - اور طے ہونے دیجئے  
باؤس میں جو بھی ہے - یہ تو مناسب نہیں  
ہے - صدر صاحب - .. "مداخلت"

श्री सेयद सिन्ने रजी : सर, लीडर आफ दी अपोजीशन ने जो बात कही कि शायद किसी और वजह से ऑनरेबल मिनिस्टर जवाब नहीं देना चाहते हैं, ऐसी बात नहीं है। फिर अभी तक यह प्रेक्टिस रही है कि 6:00 बजे तक जो लेजिस्लेटिव बिजनेस होता है वह हाउस टेक-अप करता है, उसके बाद स्पेशल मेशन्स

لیا جاتا ہے۔ ماننیی مंत्री جی کو یہی یہاں تک ہے کہ  
جو باتوں پر رکھی گئی، بہت سے آؤٹوائس کیا  
گیا، بہت سے آؤٹوائس ایسے ہیں کہ جو اس میل سے  
ریٹریٹڈ ہی نہیں ہے لیکن یہ مंत्री کا بھی ہوا کرتا ہے  
کہ وہ ان باتوں پر جواب دے۔ 6:00 بجے تک ہونے  
والی مینٹننس ڈیسکٹ کر لیں، اب لیبلیٹو  
مینٹننس کے اٹلوا سپیشل مینٹننس ہیں، یہاں کہنا یہی  
ہے کہ وہ سپیشل مینٹننس لیے جانے چاہیے اور کل  
मंत्री جی جواب لے کر آئیں اور انکا کیا سٹڈ آگے  
ہوگا، وہ جو اب وہ جواب دے گا وہی رکھیں گے۔ آج آپ اس بات کو  
اسیے کہہ رہے ہیں کہ آج آپ یہ کہہ دیجئے  
... "مداخلت"۔

شری سید سبط رحی صاحب :- لیڈر  
آف دی اپوزیشن نے جوابات کہی کہ شاید  
کسی اور وجہ سے آؤٹوائس صاحب جواب  
نہیں دینا چاہتے ہیں۔ ایسی بات نہیں  
ہے۔ پھر ابھی تک یہ پریکٹس رہی ہے  
کہ چھ بجے تک جو مینٹننس برنس ہو تا ہے  
وہ ہاؤس ٹیک اپ کرتا ہے۔ اس کے بعد  
اسپیشل مینٹننس لئے جاتے ہیں۔ مانتے  
منتری جی کو بھی یہ حق ہے کہ جو باتیں یہاں  
پر رکھی گئی ہیں۔ بہت سارے آؤٹوائس  
کئے گئے۔ بہت سے آؤٹوائس ایسے ہیں  
جو اس بل سے ریٹریٹڈ ہی نہیں ہیں۔ لیکن  
یہ منتری کا بھی حق بنتا ہے کہ وہ ان باتوں  
پر جواب دے۔ چھ بجے تک ہم نے اپنی  
برنس ٹرانزیکٹ کر لی ہے۔ اب لیبلیٹو  
برنس کے علاوہ اسپیشل مینٹننس ہیں۔  
میرا کہنا یہی ہے کہ وہ اسپیشل مینٹننس لئے  
جانے چاہئے۔ اور کل منتری جی جواب

لے کر آئیں گے۔ اور ان کا گیا اسٹینڈ  
آؤٹ ہو گا وہ تو جب وہ جواب دیں گے  
تبھی رکھیں گے۔ آج آپ اس بات کو  
کیسے کہہ رہے ہیں کہ آج آپ یہ کہہ دیجئے  
... "مداخلت"۔

DR. BIPLAB DASGUPTA: We have  
never disputed this point.

THE VICE-CHAIRMAN (SHRI MD.  
SALIM): You have already made your  
point.

DR. BIPLAB DASGUPTA: It is true  
that we would always like to go home at  
6 o'clock. On the other hand, there are  
many occasions in the past, there are  
precedents, when the legislative business  
continued beyond 6 o'clock.  
(Interruptions)... If somebody is hungry,  
if Mr. Jagesh Desai is hungry, he can go  
out for 5 minutes and have his food.  
(Interruptions)...

SHRI JAGESH DESAI: I have been  
sitting here. They were not here. They  
are coming and going. (Interruptions)... I  
have been sitting for seven hours. I have  
not gone even for lunch also.  
(Interruptions)...

DR. BIPLAB DASGUPTA: Will you  
please allow me to continue?  
(Interruptions)...

THE VICE-CHAIRMAN (SHRI MD.  
SALIM): Mr. Fernandes, what do you  
want to say? (Interruptions)...

SHRI JOHN F. FERNANDES (Goa):  
Special Mentions have got some  
significance. (Interruptions)...

Sir, the Special Mentions have some  
significance. (Interruptions)...

DR. BIPLAB DASGUPTA: Sir,  
...(Interruptions)...

THE VICE-CHAIRMAN (SHRI MD.  
SALIM): Please sit down. (Interruptions).  
Mr. Biplob Dasgupta, please sit down.  
You have made your point. Mr. Baby,  
you have made your point. Please sit  
down.

SHRI M.A. BABY: Sir, take the sense of the House.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Shri John F. Fernandes.

SHRI JOHN F. FERNANDES: Sir, I was saying that the Special Mentions are very important because they are the latest issues. If they don't want to take up the Special Mentions, then you adjourn the House because beyond 6 o'clock we cannot discuss the Government business.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now, the Members are waiting to make their Special Mentions. They have given the notices and they have been permitted by the Chairman. Now, we have to take up the Special Mentions. We cannot defer them. Shrimati Anandiben Jethabhai Patel. (Interruptions).

DR. BIPLAB DASGUPTA: Sir, take the sense of the House.

SHRI JAGDISH PRASAD MATHUR: Sir, take the sense of the House (Interruptions).

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Dasgupta, this is the precedent. You cannot object to it. If the Minister wants to reply tomorrow, if he wants to have a second look at the proposals and suggestions made by you, if he wants to go back and apply his mind, what is your objection? Why are you objecting to it?

DR. BIPLAB DASGUPTA: Sir, the Minister is competent enough to reply to day.

(THE DEPUTY CHAIRMAN IN THE CHAIR)

SHRI M.A. BABY: Madam, the Minister has defected. (Interruptions).

THE DEPUTY CHAIRMAN: What is the problem? (Interruptions). Let me hear.

SHRI H.R. BHARDWAJ: Madam, I have seen practically the mood of the whole House. Many Leaders have said that this matter should be referred to the Joint Committee. There are certain other issues which the hon. Members have raised today. I have noted all of them. As far as its reference to the Standing Committee is concerned, I will have to take the instructions of the Government. Madam, they will appreciate... (Interruptions).

THE DEPUTY CHAIRMAN: Please listen to him. You cannot bar me from hearing it.

SHRI MD. SALIM: Madam, if the Government is not ready to refer it to the Select Committee, then it could be referred to the Standing Committee. The Leader of the Opposition has already made this point.

SHRI H.R. BHARDWAJ: Madam, I have talked to Shri Jaipal Reddy and Shri Sikander Bakht. I cannot ignore their suggestions. Madam, I will have to apply my mind on several issues. So, I may be allowed to reply tomorrow along with the suggestions which have been mooted. There is no personal motive involved.

THE DEPUTY CHAIRMAN: Mr. Biplab Dasgupta, what is your point? Let me listen to him. Then, I will give my ruling.

DR. BIPLAB DASGUPTA: Madam, if we don't finish the legislative business by this evening, then tomorrow two more issues will be there. There will be another two issues.

THE DEPUTY CHAIRMAN: I can understand it.

DR. BIPLAB DASGUPTA: The only thing which remains is the reply of the hon. Minister. He is a very astute and very wise Minister. He can anticipate all the points. He is competent enough to answer all the questions.

THE DEPUTY CHAIRMAN: I can understand your concern for the time of the House and the business which I observed from 12 O'clock to 1.30 p.m. I

know your concern about the time of the House. It is a very serious matter. This matter is concerned with the salaries and allowances of the officers and servants of the Delhi High Court and the Supreme Court. If the Minister feels that he would like to consult someone, his superiors — he is not the final authority — let him consult them. (Interruptions).

श्री सिकन्दर बख्त: सदर साहेबा, गवर्नमेंट जरा मुश्किल में है क्योंकि तैयारी करनी है कल बोलने की। क्योंकि इस किसम की मुश्किलें तो आती रहेंगी। उसका आज ही क्यों न सामना कर लिया जाए।

شری سکندر بخت :- صدر صاحبہ :-  
گورنمنٹ ذرا مشکل میں ہے۔ کیوں کہ تیاری  
کرتی ہے۔ کل بولنے کی۔ کیوں کہ اس قسم کی  
مشکلیں تو آتی رہیں گی۔ اس کا آج ہی کیوں  
نہ سامنا کر لیا جائے۔

श्री जगदीश प्रसाद माधुर: इनकी संख्या कम है  
(व्यवधान)

उपसभापति: माधुर साहब, ऐसी बात नहीं है  
(व्यवधान)

श्री जगदीश प्रसाद माधुर: आप बहाना क्यों बना  
रहे हैं? (व्यवधान)

SHRI JOHN F. FERNANDES:  
Madam, it is wise enough to give some  
time to the Minister so that he can  
consult his senior colleagues  
...(interruptions)...

DR. BIPLAB DASGUPTA: Madam,  
let him apply his mind tonight. Our only  
request to him is that after consulting his  
seniors, let him come out with a proposal  
that the Bill will be referred to the Select  
Committee ...(Interruptions)...

THE DEPUTY CHAIRMAN: No  
more arguments.

SHRI H. HANUMANTHAPPA  
(Karnataka): Madam, I want to make a  
point. I endorse what Mr. Sikander  
Bakht has said. The position is the same  
whether it is tomorrow or today. The  
position is the same. We don't dispute  
the position. When we are interested in

referring the Bills to the Parliamentary  
Standing Committee, we should not have  
started any discussion at all. We have  
discussed the Bills for nearly 2½ hours  
and when the question of voting came,  
when the question of the Minister's reply  
came, we raised this issue. I entirely  
agree with Shri Sikander Bakht. The  
position is the same whether it is  
tomorrow or today. This is the reality.  
Then why should we stand on that?...  
(interruptions)... Mr. Dasgupta, I have  
heard whatever you have said. Can you  
not show that courtesy to me? You try to  
show that courtesy to me also.

THE DEPUTY CHAIRMAN: I don't  
want to hear anything more. This chapter  
is closed. It is not for the first time that a  
Minister requested for time. The Minister  
has to consult his Cabinet colleague. The  
Bill has not been passed by the Lok  
Sabha. It has been initiated here. He  
cannot take a decision now. Mr.  
Minister, there is no reply in the morning  
because we have the Calling Attention  
and some other business. You give your  
reply in the evening.

श्री सिकन्दर बख्त: सदर साहेबा, मैं अर्ज कर रहा  
था कि आप आम तौर पर इस किसम की मुश्किल  
सिचुयेशन में सेंस आफ दी हाऊस लिया करती थीं।  
आज आपकी क्या राय है?

شری سکندر بخت :- صدر صاحبہ :-  
میں عرض کر رہا تھا کہ آپ عام طور پر اس  
قسم کی مشکل سچو ایشن میں سینس آف  
دی ہاؤس لیا کرتی تھی۔ آج آپ کی  
کیا رائے ہے۔

श्री विष्णु कान्त शास्त्री (उत्तर प्रदेश): इस विषय  
पर सदन का मत लिया जाए। (व्यवधान)

उपसभापति: मुश्किल मसलों में लेती हैं। यह तो  
मेरे लिए बड़ा आसान मसला है। मैंने परमिशन दे दी,  
इसमें मुश्किल क्या होगी। इसमें मुश्किल

[उपसभापति]

आती तो जरूर सेंस आफ दी हाऊस लेती। मुझे मुश्किल पड़ो ही नहीं जरा भी।

We will now continue the Special Mentions.

AN HON. MEMBER: We have not started the Special Mentions.

THE DEPUTY CHAIRMAN: Okay, we will now start the Special Mentions. The Special Mentions taken up today are final. If anybody does not want to make his or her Special Mention, it will lapse. The persons whom I call have to speak now itself. Otherwise, their Special Mentions will lapse.

[The Vice-Chairman (Shri V. Narayanasamy) In the Chair]

THE VICE-CHAIRMAN (Shri V. Narayanasamy): We will not take up the Special Mentions.

Shrimati Anandiben Jethabhai Patel—not present Shri Surjewala.

### SPECIAL MENTIONS

#### Delay in settlement of Pending issues between Punjab and Haryana

SHRI S.S. SURJEWALA (Haryana): Mr. Vice-Chairman, Sir, through this Special Mention, I want to draw the attention of this House to a very important issue about the inordinate delay in the settlement of pending issues between Punjab and Haryana which require urgent action. Sir, Haryana was created on the 1st November, 1966, and 28 years have passed and the State is not completely born as yet because Haryana is the only State of the Indian Union which does not have its own capital. Sir, as you know well, there cannot be a State or even a district or even a gram panchayat without having its own headquarters, without its own capital. Sir, the State of Maharashtra cannot be a full-fledged State if its capital is not Bombay. Similarly, all other States of the country have their own capitals. In the absence of its own capital, Haryana has been denied

the opportunity of the location of national and international level institutions of education, culture, sports, and all kinds of institutions. Haryana which continues to be socially and educationally every backward has no growth centre. There is no urban growth centre or large town or city in the State of Haryana. The capital could have been the only place where Haryana could have an urban growth, and from there all kinds of things, of education, culture, science, technology, art, etc. spread to all the corners of the State. Therefore, I would like to urge that Haryana which did not have its own High Court, which did not have its own capital, should be provided with a capital within its own capital, should be provided with a capital within its own territory. And as soon as possible, the Government of India should take all the steps in this direction. Chandigarh which is a joint capital of both Punjab and Haryana is essentially a Punjab town. Chandigarh did not have even a single institution of Haryana culture or Haryana background, and Chandigarh is essentially a Punjab town. Haryana is not interested in retaining Chandigarh as its own capital.

The second important issue which is pending is the completion of SYL canal in the Punjab territory. The construction of the SYL canal was started by the late leader Smt. Indira Gandhi in 1982 and it still continues to be incomplete even after 12 to 14 years. About Rs. 400 crores have been spent and about 95 per cent of the work of construction in Punjab territory is complete, but now it has become a jinxed project. And the people of Haryana whose land is parched and dry did not receive even a drop of water of their share from this canal which would be a carrier canal to carry the Haryana share of water from the Ravi-Beas rivers through the State of Haryana.

Sir, in conclusion, I would like to add that there are many more issues which are still unresolved—Haryana and Rajasthan, Haryana and Delhi, Haryana and Uttar Pradesh. And Haryana is the