

MR. DEPUTY CHAIRMAN: The House is adjourned for lunch to meet at 2 p.m.

The House then adjourned for lunch at one of the clock.

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The House re-assembled after lunch at two minutes past two of the clock,

THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair.

**The Commercial Division of High Courts Bill, 2010**

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, further consideration of the Commercial Division of High Courts Bill, 2010. Mr. Minister, would you like to say something?

THE MINISTER OF LAW AND JUSTICE (SHRI SALMAN KHURSHEED): I have already made a few important points. I have nothing more to say now.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, Shri Ravi Shankar Prasad.

SHRI RAVI SHANKAR PRASAD (Bihar): Mr. Vice-Chairman, Sir, I am grateful that you have given me a chance to initiate this debate on this important Bill, that is, the Commercial Division of High Courts Bill, 2010. At the outset, let me make some general observations. This Bill was passed by the other House without any discussion. When the matter came here, seeing the mood of the House, the matter had to be referred to the Select Committee. And, once the recommendations of the Select Committee came about, a lot of changes have been contemplated. Some may be conceded and some not accepted. Perhaps, it is an example for us to reflect that passing a Bill in a hurry may not always be the case of doing justice. And particularly, such a Bill, which seeks for commercial division, creation of Benches, in the High Courts, require a little more revision, even if there were pressing obligations on the Treasury Benches to ensure that Bills had to be passed anyhow. I only hope that, in future, this issue will be kept in mind.

Sir, what is the basic purpose of this Bill? As I see it, to win investors' confidence, we have to have Fast Track Courts on the commercial side; in one line, if I can say that. The Government has taken into account the Law Commission's Report and some of the experiences of other countries. Now, what is the experience of the Western countries, particularly, the U.S. and England? Two issues always arise. One is, forum non conveniens. If the plaintiff is an alien or an Indian seeking a relief against an American or a Westerner, then, immediately, the Indian system will be praised. In the Bhopal Gas Tragedy case, as you are aware, Mr. Vice-Chairman, Sir, a claim was filed there. The U.S. standards are liberal as far as the grant of liability clause is concerned. But, suddenly, the then Union Carbide moved, invoked the great tradition of Indian

judicial system. India being a big liberal democracy, Justice Keenan said, “India is a big power. I am sure Bhopal Gas Tragedy victims can get justice there. Let the proceedings in the US court in New York, therefore, terminate”. The forum for non-conveniens was not used as an alibi at all there. There are other lines of cases. I recall the Bhatnagar case in the US courts where because some of the claimants were Americans; they raised the plea of forum for non conveniens holding that the Indian judicial system has collapsed. Sir, I belong to the same profession as my good friend, the Law Minister, belongs to, as also many other eminent lawyers, who are here. I felt sorry when some lawyers from India went and gave affidavits in American courts saying that the judicial system in India had collapsed. There can be delays. There can be delays anywhere. When I found the former Chief Justice of India going abroad and deposing before them, saying that the Indian judicial system had collapsed, I really felt sorry. If this is what they have felt after retirement, one can very well ask the question as to what they were doing when they were in power as Chief Justices of India. Sir, these are occasions to reflect upon these issues.

Sir, I was just going through a very interesting write-up which the Law Commission has quoted, ‘Prof. J. Fawcett’s *Trial in England or Abroad; the Underlying Policy Considerations*’ (3.12.8). He wrote an article in the Oxford Journal of Legal Affairs. At page 205, the article states that none of the cases in which the House of Lords has granted stay of English proceedings is the plaintiff an English. That means, the moment a non English invokes the House of Lords seeking relief against, maybe, an Indian or a South African or an African or an Asian, they say, “Go to your original country”. But if an English or an American invokes the jurisdiction, they will urge the plea of forum for non conveniens; no part of cause of action has arisen in England or America as the case may be, but the case would be entertained. I think the first question which the hon. Law Minister needs to answer is: After this great commercial division, when the Bill becomes a reality, about which we have some reservations and which I will share with the House in the course of my observations, and I presume that the forum of non conveniens plea will be given a go by because it is very important in American and English courts. That is a very serious question, that such an important Bill ought to have been preceded by some statistical data of as to how many cases of big value/ticket litigations are pending in India, at what level, above five crores of rupees, above three crores, above four crores, above ten crores, above 100 crores and so on. I am sorry there is no statistical data at all because the law as it stands today, hardly six High Courts have original jurisdiction. Now, you are giving to all, if the valuation is above a particular pecuniary benchmark.

Sir, before I come to the nitty-gritty of the Bill, I have to raise a larger question. There is delay in the country in the judicial administration. What kind of signal are we giving to ordinary

litigant in the country? “Your case will wait in the turn; some cases are high priority cases; therefore, they will be taken out of turn not by a single judge but by a division bench.” Yes, I can understand if because of fast track some criminal cases have been expedited. But, appeals come to the High Court. We know that people are in jail, languishing for years together and they are told, ‘Wait in the queue.’ If certain cases become high profile, then they are taken out of turn because of variety of considerations. But, an ordinary convicted criminal by a trial court is waiting for his turn in the High Court! The same is about the civil cases—partition suit, first appeal, second appeal, etc. Hon. Law Minister, I would be really grateful if you tell the House on the number of first appeals pending in different High Courts of India. I will be really grateful for the data on partition suits, title suits, land alienation, etc.

Sir, we have to be alive to these questions of justice. While speaking on this Bill, I am reminded of a very interesting incident which remains in my memory, when I just began my practice in the Patna High Court in the early 80’s. It is a very telling comment on the quest for justice in India. Sir, I read in the Indian Nation that an under-trial prisoner Mohamadeen Mian was in jail for 49 years. I was amazed. The PIL was in its infancy. I drafted and the judges almost snubbed me, ‘What this nonsense, Mr. Prasad. Is this the way!’ I said, ‘Sir, there has to be a way out. This man is in jail for 49 years. Even if he is convicted, he cannot serve in jail beyond 20 years!’ After a great persuasion, a notice was issued to the Superintendent of that jail where he was supposed to be.

Mr. Deputy Chairman, Sir, this was reported in the media and I had a very emotional follow up of this. His nephew was looking for him because his father, while dying, had secured a promise from him that he would look for his younger brother who was in jail since 1940 in Hazaribagh. He was working in Assam. Then, the DM of Motihari, from where he hailed, sent him the notice saying, ‘This young lawyer is following your case, go and meet him.’ I got an order from the High Court enabling the nephew to meet him. He went to meet with an image that there was a big *massa* on his forehead. They met. I got him released. I got him a compensation of about Rs.25,000 by fighting with the High Court.

Sir, the reason why I am mentioning this case is that the destiny has been kind to me that I have got many assignments in the public life, the professional life. But, the smiling face of Mohamadeen Mian, when he came to meet me after release, would remain the biggest trophy of my life. I am sure, there are Mohamadeen Mians languishing in different jails of India. How will they feel about it? These are issues which have to be addressed. Maybe, you can discuss the technical issue of differentia; this can be a valid legislation under article 14; we lawyers can settle that in law courts. But, when we sit in Parliament, hon. Law Minister, we do not go by

technicalities alone because we represent also the soul of India in many ways, the concerns of India in many ways. The question we have to ask today is, when we are having a separate division for high-flying commercial cases to be fast-tracked, are we alive to the concerns of the poor common man who is languishing in jail or waiting for a title suit on the recovery of his house? These are issues to be considered. I would like the House to reflect on these. Sir, I regret to say that I do not find any kind of message about them.

Let us take another case. I would like to be enlightened, hon. Law Minister, as to what is the exact number of pendency of cases in the country. We hear 3 crores, we hear 4 crores, we hear 5 crores. ...*(Interruption)*... Is it 3.2 crores? Now, there is a debate about it. The Supreme Court's hon. Chief Justice said that some cases are five years old, only they are serious and the rest are not. Therefore, at least for the sake of clarity, inform this House today as to what is the exact number of pendency in different High Courts of India, in the civil courts of India and in the Supreme Court of India. How many cases are how much old? The reason why I am asking this question is, you have as much professional experience as I have, or even more in many cases; whenever we apply before the courts for any urgent matter, what they say? "Sorry, we are helpless, we are overloaded." Have you factored into the load of the High Court because of this new Commercial Division Benches that are being created? Everyday, we hear reports in the media, in the seminars, in the course of judicial proceedings, 'Sorry, we do not have time. We are over-loaded.' Therefore, this new legislation, namely, all the High Courts having been granted the original jurisdiction of a specified value in a Division Bench would create further load. Have you done some home work about the load concept? Are you going to have some additional judges? Are you thinking about it? These are very important issues. You cannot wish them away. It is all the more important that the appeal lies to the Supreme Court only. Under this Bill, or, as the Bill passed by the other House, the appeal lies only to the Supreme Court against a Division Bench order of two judges.

Mr. Vice-Chairman, Sir, of late, we have given statutory powers to the Supreme Court in many legislations, like the Gratuity Act of 2003 and other Acts. You know, an appeal is of right, if you are able to show your point. Now, in the Supreme Court, they ask a question, "We know that we are the appellate body, but we are over-loaded. Show your main point. Pay all the money. Then come". Therefore, because of the over-loading of the Supreme Court, the appellate remedy is also becoming ineffective in many ways, if not irrelevant altogether. Therefore, when you are giving this power of appeal to the Supreme Court, then, it is important that the work load of the Supreme Court should also be factored into. Sir, these are my important general observations, which I have to make, as far as the Bill is concerned. Now, I come to some of the specific nitty-gritty of this Bill.

Sir, as I see the Bill, you have made great changes, as far as this whole commercial dispute definition is concerned. Earlier, it was in Section 2, a detailed explanation, immovable property, movable property, a lot of things were there. Now, I see that in the light of the Select Committee's recommendations, you have changed the definition substantially. It says, "Commercial dispute means a dispute arising out of export or import of merchandise, joint-ventures agreement, capital markets, stocks or securities, as defined in clause (h) of Section 2 of the Securities Contract (Regulations) Act of 1956, intellectual property, software, hardware, network, internet, website, foreign direct investment..." Mr. Vice-Chairman, Sir, the foreign direct investment never leaves us. It keeps on appearing and appearing and appearing everywhere. No problem. It further states, "Agreements providing for international commercial arbitration". Now, hon. Law Minister, my question is this. Does a bank's debt or a debt of a financial institution come within the ambit of the commercial dispute or not, as the law you have proposed to be amended? It is because joint-venture agreements can have banking liabilities, whether it is software, hardware, website, intellectual property right. Therefore, may be, not in a strict sense, but, may be, if interpretation is there. Why I am asking this clarification is very important. If you see Section 8, it says, "The valuation being given by the plaintiff is sufficient to show that it is worth one crore or five crores, as the case may be". You have not changed Section 8. Sir, Section 8 says, "The specified value of the subject matter of the commercial dispute in a suit or appeal or application shall be determined in the following manner:- (a) where the relief is sought, then, whatever relief he seeks of money, interest, etc." Can a bank seek a proceeding against any debtor under the provisions of this Act or not? Let me tell you why it is important. There is The Recovery of Debts Due to Banks and Financial Institutions Act of 1993. If I can read this for you, Section 2 of this Act is very clear. It says, "This Act may be called Recovery of Debts Due to Banks and Financial Institutions". Now, bank means banking company, corresponding new banks and everything. Any banking company will come within its ambit. There is no bar of any Banking Regulation Act. It says, "Financial Institution means under 4(A) of the Companies Act or the securitization company or reconstruction company shall obtain a certificate of registration". Therefore, financial institutions have also been described in a liberal interpretation, banking companies and corporations are also described in a liberal interpretation. The reason why I am asking this question is, in this Section 18, 'bar of jurisdiction' of this Debt Recovery Act, '...or on from the appointed day no court or other authority shall have or entitled to exercise any jurisdiction, power of authority except the Supreme Court and High Court under article 226.' Therefore, it is an ousted clause, the Debt Recovery Act, whereunder if it is a bank's debt or it is a debt of financial institutions, then it will straightaway be covered by

this provision and all other clauses are ousted except by Supreme Court or the High Court re-jurisdiction. Now let me read the present Bill, here clause 8, sub-clause 4 says, ‘the manner of valuation and determination of the subject matter of commercial dispute in a suit, appeal or application under this Act shall override any provision for valuation of subject matter of any suit under any law for the time being in courts.’ Therefore, if any plaintiff, say, a bank or a financial institution determines the valuation and declares it in terms of 84, it becomes final. Under Section 18 of Debt Recovery Act that becomes final which will prevail. It is a grey area. We would like clarity on it. The reason why I am asking you this is, the first question is whether a bank debt comes within the ambit of this law or not because in the original one it was, but in the amendment you are silent. You have kept to yourself the right to notify any other services. But in the way whole thing has been described, joint venture, exportimport of merchandise, if bank is involved, the bank would come in the picture. It is a grey area where there is lack of clarity. The second issue is also equally important. What about the court fee? Will these big companies having thousands of crores of international operations pay peanuts as court fee? There is a proper Court Fee Act but there has to be certain clarity to be given either in the rules of the High Court or all these things. I think it is very important that there must be clarity about the court fee because you are giving them a special forum of two High Court Judges deciding in a particular timeframe, giving judgment in 30 days, if not given the judgment then reason is to be given. Therefore, everything is superfast track. Yet, they will not pay for it. You have to have more clarity on it. Sir, I have my serious reservation. I understand the need to have investment in the country; I understand the need that investors who come to India must have an assurance that if there is a dispute it will be fast tracked. Sir, I remember a very interesting story which I can share here. In the Government of Mr. Vajpayee when I was handling your portfolio for sometime, I was in New York and one day an investor in New York came to meet me. He had supplied something here in Haryana, I still remember. But he went for a litigation and he was confronted with an injunction in a court in Haryana. He said to me, “What should I do?” I said, “Go and face the litigation in India. You will have to face it.” I understand the need for that but the need should not be projected in a way that a common man’s thrust in our judicial process gets dented. That is what I would like to highlight. Therefore, the load of Judges, the need for fast-tracking of criminal cases of ordinary litigants, who are languishing in jails, the need for fast-tracking the civil case of a poor landlady or landholder, all those are equally important and plus the load on the Judges and on the High Court. I think these are issues which need proper clarity. Sir, with these words, I do not want to take long time, I am quite sure the hon. Minister in the course of his reply will add this as serious areas of concern which I have highlighted. Thank you, Sir, I am grateful to you.

SHRI SHANTARAM NAIK (Goa): Sir at the outset I would like to congratulate you..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Me? Why?

SHRI SHANTARAM NAIK: It is because as a Chairman of the Select Committee you have done a wonderful job of convincing all the Members who are towing a different line. Of course, they have given their dissent notes but they have given their dissent notes very decently, without any problem and therefore, all the credit goes to you. Therefore, I would like to congratulate you at the outset.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): But don't take more time.

SHRI SHANTARAM NAIK: Sir, we had almost thirty sittings and I was privileged to be the Member of that Committee. We had examined about 50 memorandums, considered the views of eminent lawyers, associations, businessmen, industrialists to arrive at a conclusion. Sir, the need for this arose and we are delayed a bit. After 1991, when we declared a new economic policy, free economy wants to have a play. If we want a free economy to play, then, we have to have a conducive atmosphere for entering into memorandums, MoUs and the consequent litigations. In today's world, every memorandum, every agreement is followed by litigation, whether one likes it or not. That is because you cannot express every intention, every intent in terms of words. Therefore, litigations are bound to be there. If you want to have investments in our country, free flow of money for whatever that is required, then, we should obviously create this atmosphere and Commercial Division of High Court is one such way. In fact, investment that will be coming, I think, a portion of that investment can be reserved for building infrastructure for the other courts which we require or even infrastructure of a High Court and Supreme Court. Unless money comes, it will be difficult for us to go ahead. One of the criticisms, which was made, specially by hon. Member, Shri D. Raja who was there, was that we are taking the side of higher litigants and we are not looking at the poor class. Shri Ravi Shankar Prasad also said this and we have never created this sort of a system anywhere in the past for weaker sections. It is not true. Since independence we have been creating special tribunal, tenancy courts, rent tribunal for all the weaker sections. Whatever issues related to weaker sections are there we have given special treatment and therefore, these are the courts and tribunals which you have been creating since independence. It is only today that we are dealing with elite class. It is not that anytime in the past weaker sections of the society have not been considered. Now, Sir, in this connection I would like to say that pending cases in other courts are there. Lakhs of cases are pending. This is the reality. Sometimes, I feel that judiciary also makes sweeping remarks saying that because legislature is not acting, because executive is not acting that is why they are acting. In fact, nobody can encroach upon each other's realm. Even if one organ is not working,

automatically power does not get transferred to the other organ. If that was logic, tomorrow Prime Minister of India can say, 'In Supreme Court and High Court lakhs of cases are pending and since you are not dealing with this I will pass the judgment.' Can Prime Minister of India say so? Judiciary says, 'since you are not legislating, we are legislating through judgments.' They are doing it. Can Prime Minister say so? Therefore, it is better that each one sticks to their respective organs, respective powers. As it is stated, there are only six High Courts where the original jurisdiction is there. In fact, we are on a stage to abolish original jurisdiction. That is a different item altogether. But, now, in this matter, if only six High Courts have got the Original Jurisdiction, what are we going to do with respect to other High Courts? Are we going to restrict this legislation with respect to only six High Courts? Or, are we going to convince the State Governments to have Original Jurisdiction, at least, in some major States. Maybe, smaller States may not require, because they may not have many commercial litigations. So, give exception to them. But, there may be other States, which are bigger States, where you do not have the Original Jurisdiction. If Original Jurisdiction is to be established there, again, infrastructure, more Judges are required. Sir, have you thought of implications of these, I would like to know.

Sir, number of Judges is a perennial problem. In this case, if number of Judges is not increased, then the Bill will remain only on paper. It is not just allotting two Judges separately and makes them sit as Commercial Division does not make any sense. You have to provide additional Judges in the respective High Court to deal with commercial litigations. Secondly, if case goes to the Supreme Court, the same problem will be there. I think, the time has come that in the Supreme Court too we may have to create another system or another division to deal with commercial cases. In any case, the increase in number of Judges is very essential and this has to be taken up on priority. We are not able to fill the vacancies. In these circumstances, I don't know how the hon. Minister is going to face the situation. Everything is not in his hands. The things are taken away by the Courts through judgments. They decide. The power, earlier, basically, was lying with the Government of India. But, one fine day, one judgment is passed and power is snatched away. We are not able to do anything because of the circumstances. Nobody should construe that we are interfering with judgments. But, when the power came to the Supreme Court, the situation remains the same. I ask: was it given or was it taken by consensus or was there any discussion between the Government and the Supreme Court? No. Sir, unilaterally, they pass judgment that from today onwards the power of appointment will rest with them. The meaning is same. Earlier we used to blame the Government of India for not filling up of vacancies. Is there any improvement after the powers have substantially been vested with the Supreme Court? No.



I come to the question of transfer of cases. It was discussed earlier. I would like know whether all commercial cases which are pending in various courts should be transferred. Then, more or less, a consensus now has arrived at that the cases which have reached to a final stage will continue, but all other cases will be transferred. This is more or less the consensus arrived at. I think appropriate amendments are moved by the hon. Minister in this regard.

Another aspect is the training of Judges. Commercial litigation is a very, very technical matter. It is very difficult for an average judicial officer to deal with commercial litigations, especially in the light of new developments that are taking place in various fields like IT, coupled with other commercial activities. If the Judge is not wellversed with these things, it is very difficult. Sir, training has to be provided. But, the question arises: who will give training? For normal Judges we have got our training institutions. We send them there for training relating to Cr.P.C., C.P.C., etc. They are normal laws. But, who will train our Judges as far as commercial litigations are concerned? I am not aware whether there is any institution in the country for this purpose. If not, we have to find a way out, because without giving training to Judges in these commercial litigations and asking them to pass judgments may not be that fruitful. Then, another question was raised by Shri Ravi Shankar Prasadji, rightly so, regarding the fees. According to me, the fees should be increased like anything. The fees should be on very, very higher side because the issues involve crores of rupees and a judgement worth crores of rupees should not be made available for just Rs. 300-400. I am not suggesting any quantum, but it should be on very, very higher side. I will even go to the extent of saying that ten per cent of the fees charged by a lawyer of any commercial litigation should be charged and allotted for the development of infrastructure of courts. I hope Shri Ravi Shankar Prasadji would agree with me that ten per cent of his fees is charged for the development of infrastructure of courts. I hope, all lawyers would also agree with me on this count.

Lastly, this Bill is the need of the hour and it should be passed at the earliest so that more investment comes in and we are able to encourage the foreign investors to invest in this country.

**श्री वीर सिंह** (उत्तर प्रदेश): उपसभाध्यक्ष महोदय, आपने मुझे उच्च न्यायालय वाणिज्यिक प्रभाग विधेयक, 2010 पर बोलने का अवसर दिया, इसके लिए मैं आपके प्रति आभार व्यक्त करता हूँ। महोदय, यह विधेयक वाणिज्यिक विवादों के न्याय निर्णय के लिए उच्च न्यायालयों में वाणिज्यिक प्रभाग स्थापित करने और उनसे संबंधित विषयों हेतु लाया गया है। यह विधेयक जटिल और महत्वपूर्ण है। लोक सभा द्वारा इस विधेयक को बिना किसी चर्चा के दिनांक 18.12.2009 को पारित कर दिया गया। राज्य सभा में दिनांक 22.12.2009 को इसे प्रवर समिति को जांच के लिए सौंपा गया था। समिति ने जांच के उपरान्त अपनी रिपोर्ट दिनांक 29 जुलाई, 2010 को राज्य सभा में प्रस्तुत कर दी थी। यह विधेयक विधि आयोग के 188वें प्रतिवेदन में की गयी सिफारिशों

पर आधारित है, जिसमें यूके, यूएसए और कतिपय अन्य देशों के उच्च न्यायालयों में वाणिज्यिक पद्धति पर भारत के उच्च न्यायालयों की समीक्षा की गई थी तथा प्रत्येक उच्च न्यायालय में उच्च तकनीकी सुविधाओं वाले वाणिज्यिक प्रभाग के सृजन की सिफारिश की गयी थी, जिससे कि वे त्वरित निपटान के आधार पर उच्च मूल्य के वाणिज्यिक मामलों पर कार्यवाही कर सकें। महोदय, मेरा मानना है कि विधि आयोग ने भारत के विभिन्न न्यायालयों में लम्बित वाणिज्यिक मामलों संबंधी किसी आंकड़े पर विचार किए बिना ही अपनी सिफारिश कर दी है। मैं जानना चाहूंगा कि विधेयक के प्रख्यापन से पहले सरकार ने क्या कोई अध्ययन किया है? उस अध्ययन के क्या कोई परिणाम सामने आए हैं? यदि नहीं, तो उसके कारण क्या हैं? कृपया इस संबंध में स्पष्टीकरण दें। इसके साथ-साथ इस विधेयक के उद्देश्यों और कारणों के कथनानुसार इसका अधिनियम उच्चपण वाले वाणिज्यिक विवादों के त्वरित और प्रभावी ढंग से समाधान हेतु तंत्र बनाकर वाणिज्य और व्यापार में निर्बाध प्रगति प्राप्त करने हेतु किया गया है। यह सरकार की वैश्वीकरण, निजीकरण और उदारीकरण की नीतियों को आगे बढ़ाने के लिए है। हमारी बहुजन समाज पार्टी वाणिज्य और व्यापार के विरुद्ध नहीं है परन्तु ऐसा आम आदमी की कीमत पर और उसे न्याय देने में विलम्ब करके या न्याय देने से वंचित करके नहीं किया जा सकता है। महोदय, भारतीय न्यायपालिका की प्रमुख समस्या न्याय देने में होने वाली देरी और लम्बित मामलों की बढ़ती संख्या है। मामलों का लम्बित होना, न्याय पाने वाले आम आदमी को सबसे ज्यादा प्रभावित करता है। गुणवत्ता युक्त कानूनी सहायता, सेवा काफी महंगी होती है और आम आदमी उसका खर्च नहीं उठा सकता है। चूंकि कुशल विधिक सेवा वाणिज्य वर्ग को उपलब्ध है, इसलिए उन्हें मामलों की सुनवाई और निबटान में वरीयता मिल सकती है। हमारी पार्टी का मानना है कि विधेयक में आम आदमी के मौलिक अधिकारों और रोजी-रोटी संबंधित मामलों का हनन हो सकता है और उसका सालों प्रतिक्षा के बाद भी किसी कीमत पर अधिकाधिक वाणिज्यिक विवादों के मामलों को शीघ्र निबटाने पर जोर है। इस विधेयक ने उच्च न्यायालयों को मूल अधिकारिता प्रदान करने के मुद्दे पर काफी ध्यान दिया गया है।

#### (श्री उपसभापति पीठासीन हुए)

दलितों व अन्य पिछड़े वर्गों के मूल अधिकारों से संबंधित सामान्य मामलों की सुनवाई के लिए उपलब्ध न्यायाधीशों की संख्या कम हो जाएगी। वैसे ही हमारे उच्च न्यायालयों में दलित अधिकारों, दहेज के मामलों व मजदूरों की क्षतिपूर्ति से संबंधित लाखों मामले दशकों से लम्बित हैं। अतः वाणिज्यिक प्रभाग का सृजन किए जाने से अन्य मामलों के लिए उपलब्ध संसाधन कम हो जाएंगे और उनके निबटान में विलम्ब होगा। अनेक उच्च न्यायालयों में बड़ी संख्या में न्यायाधीशों के पदों के खाली होने से यह स्थिति और भी गंभीर हो गई है। भविष्य में न्यायाधीशों की नियुक्ति शीघ्रातिशीघ्र की जानी चाहिए। मान्यवर, आज पूरे देश के उच्च न्यायालयों में लगभग 45 लाख मुकदमे लम्बित हैं, जिसमें केवल उत्तर प्रदेश में इलाहाबाद उच्च न्यायालय में 11 लाख मुकदमे लम्बित हैं। इसी प्रकार से देश के अन्य प्रदेशों के उच्च न्यायालयों में काफी लम्बित मुकदमे हैं। उसी प्रकार से जिला न्यायालयों व उनके अधीनस्थ न्यायालयों में 2009 के आंकड़ों के अनुसार पूरे देश में 2,72,75,953 मुकदमे लम्बित हैं, जिसमें उत्तर प्रदेश में 54,04,633 मुकदमे लम्बित हैं। अब तो 2011 में लम्बित मुकदमों की संख्या 75 से 80 लाख तक पहुंच गई होगी। मान्यवर, इस प्रकार महाराष्ट्र में 41,58,458, पश्चिम बंगाल में 25,97,655 और गुजरात में 21,62,599, कर्नाटक में 11,39,691, मध्य प्रदेश में 11,30,542, बिहार में 14,90,833, राजस्थान में 14,18,883 मुकदमे लम्बित हैं। इसी प्रकार देश के अन्य प्रदेशों की स्थिति यही होगी, जहां बड़ी मात्रा में मुकदमे लम्बित पड़े हुए हैं।

मान्यवर, आज पूरे देश में उच्च न्यायालयों में जजों की बहुत कमी है। उत्तर प्रदेश देश का सबसे बड़ा प्रदेश है, जहां पर वर्तमान में 160 जजों की नियुक्ति की गई है, जिसमें 68 जज ही कार्यरत हैं, शेष 92 जजों के पद रिक्त पड़े हुए हैं। उत्तर प्रदेश के इलाहाबाद उच्च न्यायालय में एक भी अनुसूचित जाति का जज नहीं है। मान्यवर, यू.पी.ए. सरकार जो कांग्रेस के नेतृत्व में चल रही है, एक तरफ तो दलितों की बात करती है, अनुसूचित जाति के लोगों के अधिकारों की बात करती है, लेकिन कितना गंभीर मामला है कि आज भी अनुसूचित जाति का एक भी जज उत्तर प्रदेश इलाहाबाद उच्च न्यायालय में नहीं है। ऐसा क्यों हो रहा है? क्यों अनुसूचित जाति के साथ अन्याय हो रहा है? क्या अनुसूचित जाति में पढ़े-लिखे लोग नहीं हैं? क्या अनुसूचित जाति में वकील लोग नहीं हैं? उत्तर प्रदेश के माननीय उच्च न्यायालय में एक भी जज अनुसूचित जाति का नहीं है और ऐसा क्यों हो रहा है? जैसे उत्तर प्रदेश की हालत है, इसी प्रकार से पूरे देश में भी यही हालत है। तो सरकार और माननीय मंत्री जी यह स्पष्ट करें कि क्यों नहीं आप उत्तर प्रदेश के अंदर और पूरे देश के अंदर अनुसूचित जाति के जजों की नियुक्ति नहीं कर पा रहे हैं? इसका क्या कारण है और इसका जवाब व स्पष्टीकरण अवश्य दें। यह बहुत गंभीर मामला है और इस कारण से पूरे देश में अनुसूचित जाति के साथ अन्याय हो रहा है। डा. भीमराव अम्बेडकर साहब ने भारतीय संविधान में जो आरक्षण दिया है, उस आरक्षण के आधार पर पूरे देश के अंदर अनुसूचित जाति के जजों की भी नियुक्ति होनी चाहिए, क्योंकि अनुसूचित जाति में बहुत-बहुत काबिल लोग पड़े हुए हैं और विद्वान भी हैं, लेकिन ऐसा जानबूझकर किया जा रहा है, यू.पी.ए. की सरकार ऐसा जानबूझकर कर रही है और खास कर उत्तर प्रदेश के साथ जो देश का सबसे बड़ा प्रदेश है।

मान्यवर, पूरे देश के रखरखाव के लिए केन्द्र सरकार के द्वारा 100 करोड़ रुपये से बढ़ाकर 500 करोड़ रुपये की व्यवस्था की गयी है, यह बहुत ही कम है। केन्द्र सरकार के द्वारा पूरे देश के उच्च न्यायालयों व जिला न्यायालयों को मॉडर्न बनाया जाये, उनको सुसज्जित किया जाये तथा जजों को पूर्ण सुविधा दी जाए और इसके साथ ही साथ जजों की संख्या बढ़ायी जाए। पूरे देश में उच्च न्यायालयों में जो जजों के पद रिक्त हैं उन्हें शीघ्र भरा जाए। पूरे देश में डा. भीमराव अम्बेडकर के द्वारा संविधान ने दिए गए अधिकारों के अनुसार आरक्षण कोटा पूरा किया जाए। तब हम पूरे देश में उच्च न्यायालयों व जिला न्यायालयों में भारी तादाद में लम्बित मुकदमों का निस्तारण कर सकेंगे।

मान्यवर, मेरा एक सुझाव और है। 21 नवम्बर, 2011 को उत्तर प्रदेश की मुख्य मंत्री, बहन कुमारी मायावती जी ने उत्तर प्रदेश को चार भागों में बांटकर अलग-अलग राज्यों का दर्जा देने का प्रस्ताव पास करके केन्द्र सरकार के पास भेज दिया है। यदि यह प्रस्ताव सदन में जल्दी स्वीकृत हो जाए और अलग-अलग राज्य स्थापित हो जाए तो अलग-अलग राज्यों में उच्च न्यायालय बनेंगे और इससे लोगों को न्याय पाने में सुविधा होगी।

मान्यवर, इसके साथ ही साथ मेरा यह कहना है कि भारतीय संविधान के अनुच्छेद 14 में सभी प्रकार के भेदभाव का विरोध किया गया है तथा इसका उद्देश्य सभी नागरिकों को समान अवसर प्रदान कर सामाजिक और आर्थिक असमानता को समाप्त करना है। भारत के संविधान प्रस्तावना और मूल अधिकारों तथा राज्य के नीति निर्देशक सिद्धांतों में विशेष रूप से अनुच्छेद 14, 15, 16, 21, 38, 39 और 46 में परिकल्पित सामाजिक और आर्थिक न्याय के अधिकार का उद्देश्य समाज के गरीब, पिछड़े और उपेक्षित नागरिकों के जीवन को सार्थक बनाना है। साथ ही साथ यह कानून के समक्ष समानता और कानून के संरक्षण की गारंटी देता है। इस विधान से वादियों के दो वर्ग बन जायेंगे, एक वह जिनके विवाद का मूल्य, आरम्भिक मूल्य अर्थात्

5 करोड़ रुपये से अधिक है जो सीधे उच्च न्यायालय जा सकता है और दूसरा वह जिसके विवाद का मूल्य विनिर्दिष्ट मूल्य से कम है और वह सिविल न्यायालय में ही जाएगा। हमारी बहुजन समाज पार्टी का सोचना है कि विधिक प्रणाली के प्रचालन से समान अवसर के आधार पर न्याय को बढ़ावा मिले और विशेष रूप से उपयुक्त विधान को सुनिश्चित करने के लिए निःशुल्क कानूनी सहायता उपलब्ध करायी जाए। ...**(समय की घंटी)**... जिससे कोई भी नागरिक आर्थिक या अन्य असमानताओं के कारण न्याय पाने के अवसरों से वंचित न हो सके। इस विधेयक के खंड 9 (5) के अनुसार वाणिज्यिक पीठ उसके पास आने वाले मामलों के संबंध में एक वर्ष के भीतर निर्णय सुनायेगी और बहस की समाप्ति के बाद 30 दिनों के भीतर न्याय प्रदान करेगी। अन्य मुकदमों के संबंध में ऐसा कोई प्रावधान नहीं है। अतः यह साफ तौर पर न्याय प्रदान करने की प्रक्रिया में भेदभाव का मामला है और मामलों को शीघ्र निपटान के मामले में देश के गरीब और दलित व पिछड़े वर्ग के लोगों के अधिकारों का हनन हो जाता है।

**श्री उपसभापति:** आप समाप्त कीजिए।

**श्री वीर सिंह:** इससे न्याय भी गम्भीर अवहेलना होगी क्योंकि देश में न्याय प्रणाली गरीबों के विरुद्ध है और सरकार संविधान के अनुसार अपने कर्तव्यों का निर्वहन नहीं कर पा रही है। इस विधेयक के प्रावधान गरीबों के न्याय मांगने के बचे हुए अवसर भी उनसे छीन लेंगे।

मान्यवर, हमारा मानना है कि यह विधेयक सर्वजन हिताय सर्वजन सुखाय के हितों के विपरीत है तथा अतर्कसंगत, असंवैधानिक और जनहित विरोधी है।...**(समय की घंटी)**... इस विधेयक को किसी भी तरह भारतीय विधिक प्रणाली में सुधार करने के लिए सरकार की ओर से किया गया संतुलित प्रयास नहीं माना जा सकता है, क्योंकि इससे मौजूदा खामियों जिनसे देश की न्याय प्रदान करने की प्रणाली ग्रस्त है, में और वृद्धि होगी।

**श्री उपसभापति:** वीर सिंह जी, आप समाप्त कीजिए।

**श्री वीर सिंह:** इस विधेयक में न्याय प्रदान करने में असमानता को स्थायी बना दिया है और डा. भीमराव अम्बेडकर द्वारा भारतीय संविधान में वर्णित समानता के सिद्धांतों का उल्लंघन किया गया है। यह कानून गरीब, शोषित, दलित आदमियों और धनाढ्य वर्ग, जो समान रूप से न्याय प्राप्त करने के लिए न्यायालयों में आते हैं, के बीच भेदभाव करता है तथा समानता के सिद्धान्तों के भी विरुद्ध है। समय की मांग है कि इस प्रकार के मामलों का शीघ्रता से निपटान करने हेतु सरकार एक नया “न्यायिक सुधार विधेयक” पुनः स्थापित करे। धन्यवाद।

SHRI T.K. RANGARAJAN (Tamil Nadu): Sir, the policies of the Government have changed radically since 1991, the year in which our economy was opened up to foreign investment in a big way. Privatization, liberalization and globalization have given a big boost to our economy. That may be true. To boost privatization, Government has opened up the defence industry, and now they want to open up retail trade. Their new guidelines say that corporate and non-banking finance companies could apply for licenses to set up banks. They have decided to amend the Banking Regulations Act. The Government is moving fast towards reform, but who has benefited? The rich became richer while the poor became poorer. It created two Indias, as correctly mentioned by our leader, Shri Sitaram Yechury, ‘Shining India’ and ‘Suffering India’.

This morning, there was a spirited reply by the Finance Minister. He wanted to mesmerize the entire House and spoke very well! I thought he would give some concessions to the poor and the needy. Hon. Member, Mr. Raja, referred to the SCs and STs. I thought the hon. Minister would give some concessions to the SCs and STs. Nothing of the sort happened and the Minister just concluded his speech.

Sir, the hon. Minister wants to extend the benefits and comforts of litigation to the 'shining India', the corporates and multi-nationals, through this Bill. This Bill has been brought to steal a march over the poor people of the country in the matter of early disposal of cases. This classification clearly discriminates the poor from the rich. The Bill goes against the Directive Principles of State Policy, as correctly mentioned by Shri Ravi Shankar Prasad. The Directive Principles say that equal opportunity to secure justice must be entitled to all. Let the Minister say how the Bill ensures equal opportunity to all. I say, this is not going to happen.

Sir, this Bill was passed in the Lok Sabha without discussion. We oppose this method. In a democracy, you must allow for a discussion. We oppose the Bill because it would create an unwarranted and uneven precedent. The rich may get justice but the ordinary citizens, the *am admi*, have to wait for a long time to get justice. It goes against the Directive Principles of the State, which say that equal opportunity must be given to all for securing justice. This Directive Principle has been given a go-by.

Sir, the Bill undermines and dilutes article 14 of the Constitution. Article 14 states, "the State shall not deny to any person equality before law". But, here they are constituting a separate court to deal with commercial disputes of five crores of rupees; where is the equality before law? In the Standing Committee, hon. Member, Mr. Rajeev of the Marxist Party, had submitted a detailed dissent note. There was a consensus that Rs. Five crores must be reduced to one crore. Even that was not accommodated. I would request the Minister to look into that. So, where is the equality? The spirit of Article 14 has been violated in this Bill.

Sir, according to me, the sole purpose of this Bill is to pave way for legal liberalization. It would give to the rich and the corporate a high-tech fast track commercial division in High Courts and high-tech facilities in each high court, so that they handle commercial cases of high threshold value on a fast track basis. So, what about the ordinary litigants? They have been waiting for 20 years and 30 years. Even in normal cases, it takes, at least, twelve years for a case to first go to the lower court, then the appellate court, and so on.

Sir, what this Bill will do is, it would take away even the existing judges who are dealing with ordinary cases. They will now deal with high-tech cases only. So, the ordinary litigant has to wait

for more than 30 years. Sir, what is happening today if courts do not give judgements in time? I can quote Tamil Nadu experience. Due to judicial delay, in Tamil Nadu, Katta Panchayat method is used. Katta Panchayat method is used for settling the dispute. It is a rustic mediation. No given rule, no norms, no logic. At least, tribal mediation has some logic. This Katta Panchayat has no logic. Only through rowdyism or with the help of local police things are settled. In other parts of the country, similar Katta Panchayats are prevailing. They may have different names. Sir, you are creating a jungle law which we cannot support. What is presently needed is more High Court benches. Today, there are even State capitals without High Court benches. Please create more High Court benches. Large number of vacancies are there in High Courts. Please fill up the vacancies immediately. By this way only you can solve the problem of delay in judiciary. You may show so many reasons for Commercial Courts. Karl Marx once said, "Reasons have always existed but not always in a reasonable form." About the lower courts less said the better. Hon'ble Minister is a lawyer, I am not a lawyer; Ravi Shankar is a lawyer. Common people approach the lower court to get their grievances redressed. But what are the conditions in lower courts. No basic infrastructure, overcrowded and very unhygienic. Nobody wants to enter the court. This is the situation. The perusal of the definition of 'Commercial Dispute' speaks that it is a dispute between the persons in creamy layer. Even though the Fast Track Courts have been established at district levels to dispose of the civil and criminal cases, their effectiveness has not been reviewed. Fast Track Court Judges are appointed on contract basis. They are not regular judges; they are appointed on contract basis. The effective functioning has not been taken into consideration. That should also be included. Sir, I would like to ask the Minister: Why don't you establish Supreme Court Bench in other parts of India? From Tamil Nadu there is a long-time demand to establish Supreme Court Bench in Chennai which naturally will benefit the southern States. The litigants need not travel up to Delhi. The Constitution of India allows setting up of Supreme Court benches. If establishing permanent bench may take time, I request the Minister why don't you establish circuit benches. Please think it over. Sir, in addition to my general opposition to the Bill, I will bring to the attention of the House some incongruities in the Bill. There is a Recovery of Debts Due to Banks and Financial Institution Act, 1993. There is also the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. These two Acts empower financial institutions to take over the immovable properties pledged to them as collateral security. The Court cannot stay the proceedings. But in the present Bill, under clause 2(1)(a) *Explanation*, it appears that such properties can also be litigated in the Commercial Division of High Court. I apprehend, there is going to be a serious confusion and unnecessary litigation regarding the jurisdiction of Debt Recovery Tribunal

3.00 P.M.

and Commercial Division of High Court. In Arbitration and Conciliation Act, 1996, International Commercial Arbitration and Domestic Arbitration, there will be overlapping. Sir, I would like to draw your attention to one more anomaly — the court fee. It was correctly pointed out by other hon. Members also. Sir, the courts are run with tax payers' money — tax paid by ordinary citizens. But, what is the court fee that the corporates are paying? It is merely Rs. 2,000. What is the value of a case of Rs. 5 crores? Litigants, filing cases of Rs.5 crores, are paying only Rs.2,000 as court fee. The court fee was determined in 1950, about 60 years back. There has been no revision of the court fee. The Law Ministry should take steps to revise this fee, at least, now. The Law Commission, in its 236th report, has recommended for revising the court fee. But, I do not know when it is going to be revised.

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI T.K. RANGARAJAN: Sir, according to me, about 50,000 cases are pending in the Supreme Court. The Supreme Court is working with 75 per cent less Judges than its total sanctioned strength. That is what I was told. Allahabad High Court is functioning with just 62 Judges, out of a total strength of 160. Gujarat High Court has 18 vacancies. Yesterday, I enquired about Punjab-Haryana High Court. They said that out of 68, only 46 Judges are available in the Punjab- Haryana High Court. Total number of posts in all the 21 High Courts in India is 895, and currently, only 610 posts are filled, thereby creating 285 vacancies.

Sir, if the court fee is low, it will be easy for corporates to approach the court even on trivial grounds. It will increase the vexation litigations. The Government is not coming forward to solve the problem.

Finally, Sir, we have 5-star and 7-star hotels. Here, you are going to establish a 7-star court. The name is 'Commercial Division of High Court'. You don't want to call it a 7-star Court. You are giving it a different name. Sorry, we don't agree to the Bill.

SHRI N.K. SINGH (Bihar): Sir, I think that very eminent lawyers have spoken on this Bill. Even more eminent lawyers are slated to speak on this Bill. So, as a student of Economics, there is a huge disadvantage for me to make any worthwhile significant contribution, particularly when the Bill is also being piloted by a very eminent lawyer. I will endeavour to make some very brief and some very general observations.

First, it is, no doubt, true, as my very good friend, Shri Ravi Shankar Prasad, has said that wherever we have travelled all over the world, India, as an investment destination, has always

been questioned by doubting investors saying that your legal system is, no doubt, outstanding; there is, no doubt, a question that eventually, the right thing will happen. Of course, it is not very clear whether it will happen in their lifetime, their children's lifetime, or, the lifetime of their grandchildren. So, there is no doubt that there is need to, obviously, expedite the process of delivery of justice. The question really is whether this is the right mode and this is the right approach to get that outcome. Many friends of mine have pointed to huge pendency in the High Courts. The figures vary. The figures, which are before me, point out that there were 254 vacancies out of 886 vacancies of Judges for High Courts in September, 2009. The number of cases pending in High Courts is over 40 lakhs. Therefore, this pendency, perhaps, was not taken into account when the 188th Law Commission had made a recommendation, without reference to the statistical data on the pendency, for the establishment of Commercial Division of High Courts. Therefore, the extent to which the establishment of these Commercial Divisions will mitigate the normal dispensation of justice is one aspect that the hon. Minister may wish to take into account.

My second point relates to domain knowledge. How many Judges have the domain knowledge to deal with commercial disputes? Sir, I will give you two critical examples where the issue of domain knowledge comes into play. The first, Sir, is an issue of how do you evaluate in today's international module, the embedded intellectual property rights. I had, Sir, the privilege of heading a Committee under the World Intellectual Property Rights Organization, which dealt with embedded intellectual property rights, and, the huge amount of prevarication which exists in the judicial verdicts all over the world on how do you evaluate properly to realize the embedded value of intellectual property rights in transactions of other kinds. I wonder, Sir, if there are enough people with domain knowledge who can really be assigned for commercial division.

Related to this, Sir, is this whole area of penumbra of uncertainty on the law of transfer pricing in India. This is one area, Mr. Minister, where our law on transfer pricing is exceedingly weak compared to what international benchmarking would be. How would the establishment, Sir, of Commercial Division be able to have people, which will establish norms both in regard to the evaluation of intellectual property rights and the evaluation of transfer pricing.

Sir, my third point is that the definition of 'commercial dispute' as contained in this Act seems to be exceedingly ambiguous. Please have a look, Mr. Minister, on what the definition of 'commercial dispute' is. It covers all kinds of disputes and this itself will really lead to ambiguous interpretation of various kinds. The scope, therefore, of 'commercial dispute', in my view, needs to be circumscribed and needs to be invested with a degree of clarity.



Sir, my next point really is, we know it and the Minister knows better than anybody else, that perhaps, in an average litigation, seventy per cent of cases, which reach a certain stage, Government is the principal litigant. The litigant role of the Government, therefore, is one of the very critical factors in regard to the level of pendency which has been reached. So, how does one really define 'commercial dispute' in a manner, which does not effect Government's right to become the principal litigant, or, would Government like to circumscribe the kind of cases in which it would like to play itself as the role of a litigant?

The issue relating to the ambiguity on Debt Recovery Tribunal and the conflict this may have with the working of Debt Recovery Tribunal is a point, which Mr. Rangarajan has raised, and, with which, I would really like to associate myself.

Finally, Sir, I think, my point is a moral point and the moral point is that you are creating a separate division to cover cases of Rs. 5 crore and above and assign Judges to do so. If you don't enlarge not only the pool of Judges but the domain knowledge of Judges, this would be at the grave expense of the administration of justice not only to the poor in normal cases but also the case of litigation and pendency is very large. By all means, Mr. Minister, do something to improve our image as an investment destination, improve our image that the dispensation of justice is time-bound, is quick, is efficacious and expeditious but we should not really do so in a manner which creates moral jeopardy of various kinds. Thank you, Sir.

DR. K.P. RAMALINGAM (Tamil Nadu): I thank the hon. Deputy Chairman for giving me the opportunity to speak on the Commercial Division of High Courts Bill, 2010. Sir, the idea mooted in August, 2009 is now in the form of a Bill within two years. This Bill is based on the recommendations of the Parliamentary Standing Committee on Law and Justice and also the Law Commission for high-tech fast track commercial division of High Courts. It has been reported that this is based on the models of UK, USA and some other countries.

Cost-effective and cost-efficient solution for companies is the motive behind this Bill. The obstacles in enforcing contracts in India and the capacity of our judicial system have been pointed out by the World Bank. The Law Ministry had also given an assurance in this regard. That is why this Bill is before us now.

In the age of liberalisation, privatisation, and globalisation (LPG), corporate sector gets more attention from the Government. Big moneyed business houses dictate terms. Some of them get justice easily, without any delay. The Bill aims at giving justice to corporates in cases worth Rs. five crore and more. That means those who have got cases less than that have to wait for many more years. In the Madras High Court alone, 4,06,958 cases are pending as on

May, 2007. In spite of arbitration bodies, it will still be more now. I want to urge upon the Minister that justice to the poor must also get your attention.

As you all know, agriculture is the backbone of our country. Some land disputes involving poor agricultural families are pending for 20 years, and in some cases even more than 30 years. Such agricultural land is not used for cultivation in some areas because of litigation. The failure of the judiciary affects our agro economy also. Justice delayed is justice denied.

The fate of civil disputes has wiped out many families in villages whereas our Government is running forward to help big corporate houses. The Government must be careful. We all know that corporate houses, big industrial houses, and trade houses contribute to corruption now. The very same people promote anti-corruption crusaders under the shadow of civil society. I repeat that the very same people promote anti-corruption crusaders under the shadow of civil society. They are like the mischievous mother who pinches her child and rocks the cradle too. So the Government must be balanced in its approach towards fast-track courts. Poor farmers and poor people in other sections of society are also waiting for justice for long in many of our civil courts all over the country. In their case also, justice must be fast-tracked.

Delay in disposing cases is caused because of non-availability of infrastructure, court buildings, sufficient number of judges, and also because of inadequate number of qualified lawyers. So we must open our eyes and provide all necessary facilities to our judicial system. There are more than 40 lakh cases pending before our High Courts all over the country. There are 254 vacancies out of 886 posts of judges in High Courts. With the passing of this Bill, when Commercial Division of High Courts are started, some of the existing judges will have to be spared to attend high profile cases of big corporates in the hi-tech fast track courts. This will further delay the justice for the poor. I would like to urge upon the Law Minister to introduce slab system for corporate cases, as has been stated by our elder Members. Different heavy fee structure must be there. From Rs. five crore onwards, for every additional crore, enormous fee must be fixed. A minimum of five per cent fee must be fixed. We know courts, the High Courts and the Supreme Court, are empowered to fix court fee. But the Government of India should give proper guidance for fixing court fee. That money must be used to compensate the poor farmers waiting for justice in our courts. This amount must be used to appoint more judges and set up special fast track courts for the poor. This money must be used to fund judiciary to appoint more judges and create arbitration bodies. This must be done in the Supreme Court also for high profile cases. Even labour disputes and cases relating to workmen must be settled fast. Creation of adequate mechanism to provide justice is a must. Our Government must not give an impression that corporate sector alone gets more patronage and protection. Our Government must not give an impression that corporate sector alone gets more patronage and protection.

We must collect more money from corporates who can pay more for speedy justice. That money must be used to reduce the backlog of pending cases involving the poorer sections of the society.

When we ensure that rich litigants need not wait, we must also ensure that poor litigants get justice within reasonable time. Cases involving workers, farmers, women and children must be handled with a spirit of social justice. All must be treated equal before law. Unfortunately, this Bill may create the need for more Judges to hear regular cases. That must be noted. We cannot allow our judicial system to help only the rich at the cost of the poor. It is said that laws kneel before rich and crush the poor. We must not allow that to happen. There is one good welcoming factor in this Bill, that is, only with necessary documents, trials will begin in the special Commercial Division. Similar method must be adopted in all cases. This will avoid the root cause of adjournments and delays. This highlight of the Bill is a welcoming factor. It is said that establishment of Commercial Courts in foreign countries is successful. We need success but we must also help our poor people to succeed ...(*Time-bell rings*)... especially the farmers who are the backbone of our agriculture. Anyhow, I appreciate the Government for considering, at least, the corporate sector's request. At the same time, some States have already constituted several special courts *suo motu*, without the knowledge of the Government of India, to take revenge against all the political opponents. But, sometime, the so-called law guarantors who constituted the special session courts, have been getting adjournments for 150 times in an illegal wealth case and not allowing the case to be tried for the past 15 years. This type of lacuna should not be raised in the commercial courts. This should be clarified.

MR. DEPUTY CHAIRMAN: Mr. Ramalingam, please conclude.

DR. K.P. RAMALINGAM: With these words of caution, I welcome the Bill and I conclude. Thank you.

SHRI SUKHENDU SEKHAR ROY (West Bengal): Sir, major areas of the Bill have already been travelled by distinguished Members who spoke before me. Even though I have certain observations to make. We all are aware about how the High Courts are over-burdened with cases. According to the figures that are made available on 5th December this year on the website, it appears that not only billions of cases are pending in different High Courts of the country but altogether, 268 vacancies are there in the High Courts out of the total approved strength of 895. This Commercial Division of High Courts is going to over-burden the High Courts even more. This Bill says that there shall be one or more Commercial Divisions in a High Court. I am just giving an example of our Calcutta High Court. Only 39 Judges are working. There are 19 vacancies. Out of 39 Judges, two Judges head the Circuit Bench at Port Blair on

rotation. There is a long-standing demand in the North Bengal region for establishment of a Circuit Bench of the High Court and after prolonged discussions and persuasions, the Central Government has approved for a Circuit Bench at Jalpaiguri in North Bengal. The State Government has provided all the infrastructure for court rooms and also for the residence of Judges. But, unfortunately, as I have come to know from the reply given by the hon. Minister for Law and Justice to one of my Unstarred Questions very recently that the Chief of the judiciary in our State has commented that, that infrastructure in North Bengal is not sufficient for running a Circuit Bench. Although the fact remains and we sincerely believe that no Judge wants to move from Kolkata to a distant place. That is the only reason. That is why the Circuit Bench has not yet started functioning. In this situation, when we are going to open another Commercial Division in a High Court like ours, this will actually cost the ordinary litigants. Therefore, my humble request to the hon. Law Minister would be that before giving effect to this Bill sufficient care should be taken so that the existing vacancies are filled up and the working strengths of various High Courts should be increased to a considerable extent keeping in view the growth of population, growth of court cases and the growth in the number of litigants.

My next point is as per provision of this Bill, the arbitration matters which are pending in High Courts shall be taken care of by the Commercial Division. It shows that these commercial disputes of high amount will get priority over all other matters which are pending in High Courts. Is it not discriminatory? Is it not greasing the oily heads?

Clause 5, sub-clause (8) of the Bill provides, *inter alia*, that cost will be ordered if any party to the dispute fails to file paper book within the time stipulated. On the other hand clause 9 sub-clause 5 of the Bill provides for commercial division, I am putting emphasis on the word 'shall', shall pronounce judgement within 30 days from the date of conclusion of arguments. Now, if the court does not pronounce judgement even after the expiry of 30 days from the date of conclusion of the arguments, what will be the consequence? The Bill is completely silent over that.

The next point is taking a cue from this provision; I am asking myself whether such provisions will be made in all cases, in all disputes, the pat comes the reply that there is no reply to my question. ...(*Time-bell rings*)... One minute, Sir.

Sir, the distinguished lawyer and former Speaker of the Lok Sabha, once commented "Justice is a purchasable commodity." Looking at this Bill, I pray to God that no Bill should turn to be a preferential Bill which is beneficial for the top echelons of the society, only for the richest who present the aircraft on the birthday of his wife, who build residences by spending Rs.5,000 crores for habitation of only four members of the family. This Bill should not be aimed for those

people. My submission is that there should be a proper equilibrium in justice rendering system.  
Thank you.

**श्री राजनीति प्रसाद (बिहार):** उपसभापति जी, बहुत-बहुत धन्यवाद। अभी जो माननीय सदस्य ने भाषण किया है, वह बहुत अच्छा भाषण किया है और बहुत अच्छा आर्गुमेंट दिया है कि यह जो कॉमर्शियल बेंच बनने जा रही है, इस कॉमर्शियल बेंच में पांच करोड़ से ऊपर के जितने लोग होंगे, उनका ही केस आएगा। इसका मतलब यह है कि जो कॉर्पोरेट बॉडी के लोग होंगे, उनका ही इसमें आएगा। वैसे तो मैं इस बिल का समर्थन कर रहा हूँ, लेकिन मेरा यह कहना है कि जो गरीब लोगों के केस हैं, जैसे एक साधारण सी जमीन के लिए जिनका सिविल केस है, या जो क्रिमिनल केस हैं, वर्षों से लंबित हैं, उनके लिए भी कोई अलग से कानून बनना चाहिए। अगर आप इसके लिए कानून नहीं बनाते हैं, तो वे केसेज 15 साल, 20 साल, 25 सालों तक चलते रहते हैं। आपका ध्यान 5 करोड़ से अधिक रकम वाले मामलों की तरफ गया है, इसके लिए आपको धन्यवाद, लेकिन गरीब लोगों का क्या होगा? गरीब लोगों के लिए भी कुछ होना चाहिए। आपको पता होगा कि यहां पर मौत की सज़ा देने के बाद भी 10 साल, 15 साल या 20 सालों तक भी वह केस pending रहता है। उसका execution होगा या नहीं? इसके लिए अलग से कानून बनाने की जरूरत है। यदि आपने कॉमर्शियल डिस्प्यूट के लिए यह कानून बना ही दिया है, तो उसमें एक इज़ाफा करिए कि 5 करोड़ रुपये से ज्यादा रकम के केसेज के लिए कोर्ट फीस तय करिए। उसकी कोर्ट फीस कितनी होगी? अगर वह उस रकम का 5 परसेंट, कोर्ट फीस के तौर पर देता है, तो इससे जो पैसा आएगा, उससे गरीबों को मदद मिलेगी।

मैं एक बात और कहना चाहता हूँ कि आपने फास्ट ट्रैक कोर्ट बनाया है, उसके लिए पैसा कहां से आएगा? अगर आप इन 5 करोड़ रुपये से ऊपर के दावों में कुछ कोर्ट फीस फिक्स करेंगे, तो आपको फास्ट ट्रैक कोर्ट को पैसा देने में सहूलियत होगी। मैं एक बात और जानना चाहता हूँ कि आप यह बताइए कि विभिन्न हाई कोर्टों में कितने जजों की पोस्ट्स खाली पड़ी हैं? यह जो additional Commercial Division आप बना रहे हैं, उनकी ट्रेनिंग कहां से होगी? अगर वकीलों को कॉमर्शियल मामलों की जानकारी नहीं है, अगर जजों को कॉमर्शियल मामलों की जानकारी नहीं है, तो आप कैसे उनका सेलेक्शन करेंगे? इसके बारे में आपको विचार करना पड़ेगा और विचार करना चाहिए। इसलिए मेरा निवेदन है कि आप इसके बारे में जरूर विचार करिए। उन्होंने एक बात और कही है कि 30 दिनों में यह मामला निपट जाना चाहिए। मैं यह कहना चाहता हूँ कि बहुत सारे कानून ऐसे हैं, जिनमें लिखा है कि आप 6 महीनों में यह केस conclude कर दीजिए, लेकिन वे केसेज 2 साल, 4 साल, 10 सालों तक चलते हैं, लेकिन लिखा हुआ है कि आपको 6 महीने में कंप्लीट कर देना है। इसलिए ऐसा कोई कानून होना चाहिए कि अगर एक महीने में फैसला नहीं हुआ, तो आप क्या करेंगे? इस बारे में यह कानून silent है।

आप आज यहां यह बिल लाए हैं, यह कानून आज यहां पास होने जा रहा है, इसलिए मैं आपसे निवेदन करना चाहूंगा कि इसके बारे में जरूर विचार करिए और यह तय करिए कि हाई कोर्ट में जो कॉमर्शियल डिवाइजन बनेगा, उसको कौन लोग चलाएंगे, कैसे उनकी ट्रेनिंग होगी, उस जज को आप कहां से लाएंगे, कैसे ये सब चीजें तय होंगी, क्योंकि अभी अलग से कॉमर्शियल डिवाइजन नहीं है। इन सारी बातों को कहते हुए मैं आपसे आग्रह करता हूँ कि जो बातें दूसरे लोगों ने कहीं और मैंने जो बातें कहीं, उन पर विचार करते हुए आप जरूर इस कानून में सुधार करिए। धन्यवाद।

MR. DEPUTY CHAIRMAN: Shri Rama Jois. You take seven or eight minutes because the LOP also wants to speak.

SHRI M. RAMA JOIS (Karnataka): Mr. Deputy Chairman, our Constitution came into force on 26th January, 1950. Six decades have already elapsed. Even after six decades a uniform law relating to High Courts organisation and constitution has not been enacted. The very object of entry 78 in the Union List was to have a uniform law relating to High Courts. In fact, as an advocate, I had made several representations to the Government of India to make a law relating to High Courts because some three or four High Courts are called Chartered High Courts. The Charter was issued by the British Crown. It is really shameful that some of the High Courts are even today continuing in the name of the British Crown which the Government has not undone. Therefore, the first thing that should have been done by the Government of India was to bring a uniform law relating to High Courts for the entire country under entry 78. The Government of India has been sleeping for 60 years. Rip Van Winkle slept only for 20 years. This Government of India was sleeping three times more than the period Rip Van Winkle slept, that is, 60 years. Therefore, my first objection is this piecemeal legislation is uncalled for. You should have brought a common High Court Act removing all the letters patent or charters issued by the British Crown. Now as far as the High Courts are concerned, there is no uniformity at all. There is another thing called intra-court appeal. It is no appeal at all. Still this is being practised. If a single judge of a High Court delivers a judgement, he is as much a High Court. There is no provision of the constitution that an appeal shall lie to two judges. Two judges do not form a superior court. What is an appeal? A.I.R. 1970 Supreme Court, page 1, says, "An appeal from a lower court to a higher court is an appeal". Here single judge is not a lower court. But still things are going on. 'Nothing succeeds like excess'. That is what is happening. I had been an advocate in the Karnataka High Court for 20 years and then I had been a judge for 15 years. Never a suit has been filled in the High Court. The Karnataka High Court has no jurisdiction. Thereafter, I became Chief Justice of the Punjab High Court. There is also no original jurisdiction. This aspect, whether there should be original jurisdiction or not in the High Courts has been considered by two Committees, one Satish Chandra Committee, three Chief Justices and the second Malimath Committee. The Satish Chandra Committee said that in the nature of things, High Court is a court of appeal and revision and extraordinary jurisdiction is under Article 226. In fact, that is the real power of the High Court. Under Article 226, the type of relief, the extent of relief given by the High Court during the 60 years is enormous. Students, who could not get seat in Medical Engineering, they have got the seat. Those who could not get appointment, have got it. All types of reliefs have been made available. In the Karnataka High Court, the writ petition

number per year is 20,000 to 25,000. In addition to that, they have got other jurisdiction. Now you are adding this civil jurisdiction. In order to solve these civil court cases, City Civil Courts have been established at Ahmadabad, Bangalore, Mumbai and other places only to handle civil court cases. Then the Satish Chandra Committee recommended that the original civil jurisdiction in the High Courts should be removed. Subsequently, the Malmath report — he was Chief Justice of Karnataka and Kerala — all the three Chief Justices have said that original civil jurisdiction should not be there in the High Court. Then this is the Government of India's decision. The Government of India, Ministry of Home Affairs, addressed a communication to the Registrar of High Courts, dated 5th October, enclosing a summary of recommendations of the Satish Chandra Committee, as accepted by the Government of India. Accordingly, the Government of India have accepted the following amongst other recommendations: that civil jurisdiction of the High Courts of Delhi, Himachal Pradesh and Jammu and Kashmir be abolished. This is a decision of the Government of India. That decision is there on the file. Subsequently, following that, Maharashtra passed Act 15 of 1987 abolishing the original jurisdiction of the Bombay High Court. When its constitutional validity was challenged before the Supreme Court, the Supreme Court upheld the constitutionality, that is, 2005 (2) SCC 591 N. Guzdar vs. State of Maharashtra and other. Here, neither in the Statement of Objects, nor in the Law Commission Report, which recommended for original jurisdiction, they have not even considered the earlier Satish Chandra Report or Malmath Report or the decision of the Central Government taken on that. In spite of that the original jurisdiction is being added. In fact, trial of a case originally or hearing a writ petition or a civil revision or an appeal in the High Court is entirely different. Original jurisdiction involves hearing the statement of witnesses, recording deposition, documents, etc. All these things can be done by the experienced civil judge who can sit only singly. Here I do not know whether two judges will sit or one judge will sit in the High Court because a trial of a case is not practicable with two judges. Only one judge should do it. In Bangalore, there were no city civil courts. Twenty five or thirty City Civil Courts in Bangalore to take the burden. Now you are transferring these cases to the High Court. Then, the burden on the High courts becomes unbearable. Secondly, you will be putting a reverse gear. Therefore, I would like to say that the entire legislation is a retrograde step, and instead of taking away the original jurisdiction of the existing six High Courts, they are conferring it on others. Moreover, it is left to the decision of the Chief Justice of the respective High Court. If the Chief Justice wants, he can have the original division; otherwise, not. The law must be applied to all the High Courts uniformly. But leaving this decision to Chief Justices and introducing this Commercial Division in some chosen High courts alone is not correct. Moreover, the value has been kept at Rs. 5

crores. There can be noncommercial cases involving more than Rs.5 crores. Then, why should these cases be treated differently? When the minimum limit for original jurisdiction is Rs.5 crores, then, what is the difference between a commercial case and a non-commercial case whose value is more than Rs.5 crores? Therefore, my submission is that the best thing for the Government is to enact a uniform law and bring in a legislation after a thorough debate. In this case, there was no debate, nothing. Recommendations of the Chief Justices Committee had been totally ignored, and a decision has been taken. Sir, my submission is that this Bill is a highly retrograde step, and therefore, I appeal to the hon. Minister to withdraw this Bill and bring in a uniform legislation for all the High Courts, and it is high time that such a law was brought. Thank you.

SHRI BHUBANESWAR KALITA (Assam): Sir, I agree with my esteemed colleague that this Bill is the need of the hour, with the change in economic policy, with globalisation of our economy and with multiplicity of cases that have been coming on commercial matters. Sir, this Bill has given powers to the States and their respective High Courts to constitute a Commercial Division. So, the power lies with the respective High Courts and State Governments. But what we are very much concerned is about the pendency of a large number of cases. As we all know, justice delayed is justice denied. So, we have to think about the pendency of these cases. Why I am mentioning this point here is that with the Commercial Division of the High Courts, it will have the original jurisdiction. So, a large number of cases from the District Courts and Lower Courts will be transferred to the High Courts. And, as you know, Sir, there are only six High Courts which have got the original jurisdiction; we have to think about that. Several Members have mentioned about vacancies of Judges in almost every High Court. So, dealing with this large number of cases and pendency of a huge number of cases is a challenge before us. Here, I would request the hon. Minister to consider a few points which I want to submit here in a brief manner. Already, a number of points have been made by Members and the Select Committee also has done a very good job by considering almost all the important points. So, I am not going to repeat them. But here, I want to mention about the filling up of vacancies of High Court Judges. I want to repeat a request which we have earlier made, that is, setting up of High Courts in every States, particularly, in the North-Eastern region, where there are only one. The Law Ministry has taken an initiative in certain cases, and I want to repeat that request. Also, the situation will be the same in the case of the Supreme Court, and there will be huge pendency of cases and a huge transfer of appeals to the Supreme Court in due course. And there are vacancies in the Supreme Court as well. So, I would request the hon. Minister to consider setting up of Benches of Supreme Court in different States. We have been demanding a Supreme Court Bench particularly at Guwahati for a long time. I hope the hon. Minister, while



considering this Bill, will also consider this request of setting up a Supreme Court Bench at Guwahati.

Sir, a lot has been said about the pecuniary jurisdiction of the Commercial Division, which is proposed at five crore rupees. The Select Committee has reduced it to one crore rupees; that is a good step. I appreciate that. Also, pendency in these cases can be avoided and we can have desired results only if we proceed through the fast-track method. Hence, I appreciate the Bill and support it wholeheartedly.

SHRI SHASHI BHUSHAN BEHERA (Odisha): Sir, this Bill has come to the House for the second time. Earlier, it had been sent to the Select Committee. From the Select Committee it has now come back to the House. Sir, a lot has been discussed so far as this Bill is concerned.

Sir, we are a country of more than 120 crores of population and more than 70 per cent of the people live in rural areas; many live below the poverty line; they need justice. Justice must be delivered at their doorsteps. Instead, through this Bill, Government has preferred to give relief to the corporate sector, the big investors and reduce their problems, problems relating to their commercial aspirations.

Sir, a lot has been discussed here. Mr. Rangarajan has rightly mentioned that the Government is seeking to give relief to the corporate sector at the cost of the tax-payer's money. On the other hand, as rightly pointed out by Mr. Ravi Shankar Prasad, a lot of cases are pending in the High Courts and the Supreme Court. More than three crore cases are pending. There is a huge backlog and there are many vacancies in the judiciary. In such a situation, we are not thinking of the poor people, especially those belonging to the Scheduled Castes and Tribes, women. These people are being denied timely justice. They are not able to get justice in time also because of their financial conditions. The Government needs to devise a mechanism for giving quick relief to the poor. Though a lot of steps have been taken in this regard, the implementation has been very poor. Sir, because of the new economic policy of privatisation, liberalisation and globalisation since 1991, the Government has been under pressure from the investors, especially the foreign investors, to sort out problems relating to commercial matters. It was in that regard that the Joint Conference of the Chief Ministers of the States and the Chief Justices of High Courts was held and the Conference had made certain recommendations alongwith the recommendation of the Law Commission to the Government. The Government, then, decided to bring forward this Bill. The Bill was referred to the Select Committee and the Committee, after deliberating on the provisions, has brought it back before the House. Now, I have doubt—with the prevailing situation of the country, with a huge pendency of cases in this

country, with a huge vacancy of judges—how this country can think of having new Commercial Division in all High Courts? When there is pressure in many States demanding for new benches of the High Court to cater to the litigants who are living in distant places, the remote areas—who need to travel more than 500 kms. to reach to the High Court, who are not getting justice in civil suits, in their own disputes—how can you think of creating new Commercial Divisions? How can we think of reforms in the law only for a Commercial Division for the corporate people?

Sir, I would not take much time. This Bill aims at reducing the problems related to the corporate people. Let this be experimented in the States like Maharashtra, Punjab, West Bengal and Tamil Nadu in the corporate cities where the commercial problems are more. On experimentation, if you find that it reduces the problems there, then it can be extended to the other High Courts. This will help in clearing the doubts and it would help in the judicial reforms also.

Sir, we have reached such a state where we are forced to think of judicial reforms, to give justice to the common people, to the poorer people, to the Scheduled Castes and the Scheduled Tribes, women and children. For this, we need reforms. Instead of that, we are blindly bringing in reforms only for the investors, for the outsiders, for the commerce people. It may be experimented in the corporate cities, the cosmopolitan cities and those High Courts. If it gives good results, then you can extend it to the other High Courts.

Sir, there is a demand for a new bench of High Court in many States, not just in Orissa. When we fail to meet such a demand, the reform, by setting up a Commercial Division will help only the commerce people.

With these words, I conclude my views on the Bill. Thank you.

[THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair]

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, the Leader of the Opposition.

THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY): Mr. Vice-Chairman, Sir, this is a Bill which the hon. Minister, Mr. Salman Khursheed, has inherited. I am not sure that if he had to initiate the drafting of this Bill, with his experience both in public affairs and law courts, he would have thought some of the provisions were at all required. Sir, this is a Bill which really has no political issues. Therefore, on the basis of political issues or ideologies or preferences, we cannot divide ourselves. It is a Bill which relates to the functioning of the judicial institution. What do we do about the commercial cases which are pending before the courts? Therefore, when we legislate, we must bear in mind that we do not bring about a legislation and pass it here; at the moment, it is notified, those on whom it will impact find that it is an unworkable piece of

legislation and you find that the recipients of this legislation start laughing at it. I would make good each one of these observations I am making.

This Bill is obviously motivated by one good desire that both the changing horizons of economy and technology have had a great impact, as far as the judicial institution is concerned. Litigation and the character of litigation has changed. People are looking at quicker disposals, people are looking at fairer jurisprudence, and people are looking for specialized courts. So, if you deal with Information Technology, you deal with intellectual property, you deal with joint-ventures, you deal with investment issues, you have specialized institutions which are able to expeditiously dispose of those cases, and, this perhaps may be the motivating desire of whoever conceived of this Bill and decided to go ahead with this Bill. Currently, Sir, this Bill intends to create in every High Court of the country a Commercial Division. The impact will be that there will be a separate division in every High Court of India which will deal with commercial cases. The kind of commercial cases in the original Bill, as approved by the Lok Sabha, was different. But the Select Committee has now narrowed it down, and, I am, therefore, only going to concern myself with what the Select Committee has done, with some of the amendments which the hon. Minister has accepted.

Currently, Sir, and Mr. Rama Jois just now mentioned, there was a Charter of the Presidency High Courts, which had an original side. The word 'original side' means that High Courts hear various kinds of cases — but civil disputes go by way of civil claims rather than appeals or revisions or constitutional claims or writ petitions, which are in the other jurisdiction of the court; though in the Bombay High Court, even writ petitions are considered on the original side — the original side of most High Courts already has in the original Presidency High Courts a Commercial Division, which was functioning. These were the Calcutta High Court, the Madras High Court and the Bombay High Court. The Delhi High Court which was created in the 1960s, after the division of the Punjab High Court, the original bench used to be in Shimla, the Punjab High Court did not have an original side. The Delhi High Court was given an original side, and because there was an off-shoot in Himachal Pradesh, when the State was created, that is the fifth High Court in the country which has an original side. I just heard Mr. Rama Jois said, probably, I am not sure, whether the Jammu and Kashmir High Court has one or not. But these are five High Courts which certainly have an original side which is functioning. Go to any practitioner on the original side; a judge or a lawyer or a litigant. The average life of a case when it goes to the city civil court could be two years, three years or four years at an outer limit. If the amended CPC is strictly applied, it could be finished within one year. If you go to the original sides of the High Courts, which are the functioning Commercial Divisions, the average life of a

case, in the first instance, is ten to fifteen to eighteen years. So, here is an amendment, conceived by somebody, to expedite important commercial cases, and the first limb of the amendment is, take it away from the fastest and the quickest layer of the judicial system and transfer it to the laziest layer of the judicial system. I am sure the hon. Minister is aware that on these original sides, when pleadings are completed and date for trial is given, you are lucky if you can get a date in the next two years. So, if in 2011, a date for trial is fixed, you will get a date in 2013, 2014. And if the trial does not conclude in 2014, your next hearing will be in 2017. So, the first thing that this law is going to do is, pick up all these cases of high commercial interests, because we want to be a very efficient economy, and cases of high commercial interests must be before a specialized court, the first thing that we have done is, we have placed these cases into the laziest and the slowest layer of the judicial system. Why do I say it is the slowest layer? If you look at the pendency of cases, the Supreme Court receives appeals from all over the country. The Minister will have the accurate figures. The pendency of cases before the Supreme Court at any given time is not more than 35, 40, 45,000. It is in that range. If you go to the civil courts in the country or the lower courts, civil and criminal courts and subordinate courts, where bulk of litigation is there and in two to three years a case gets over, you have close to about three crores cases pending. So, two-and-a-half crore to three crores are pending, two-and-a-half crores are filed every year. So, the filing is about two-and-a-half crore. Even that volume of cases which are filed, they are being disposed of. I remember when I was holding the responsibility which the hon. Minister is holding, at that time, I used to say that about thirty lakh cases are pending in the High Courts. That figure has gradually moved to fifty lakh. So, every High Court today has lakhs of cases which are pending and you can test it on the simple proposition, how many cases are filed in the subordinate civil courts, how many are disposed of, and the figure is broadly the same. So, they are maintaining the parity. How many are filed in the High Courts and how many are disposed of, you will find that the filing is much higher than the disposal. So, we are now transferring all commercial disputes to the slowest and the laziest layer of the Indian judicial system. That is the first defect that this Bill has. We are transferring it where the pendency is extremely high.

Thirdly, we are transferring it to a layer where the appointment process is the slowest. In every seminar you will find senior Judges saying that we must expedite and do something about the arrears. I know the Minister will not have a single file on his table with regard to judicial appointment and if a file does come to his table, it would not be there for more than 48 hours. The process of Judicial appointments in the High Courts is that the collegium of the High Court will initiate the name, it will go to the Ministry for processing, for collecting all information,

4.00 P.M.

through the Minister it goes to the Supreme Court, it will come back, from him it goes to the Prime Minister, then the President and then the appointment is notified or not notified. The biggest problem which Minister after Minister is facing is this. The High Courts which are supposed to initiate an appointment six months before the vacancy is created, because the date of birth of every Judge is known, so the date of his retirement is also known, so, it does not come to you as a surprise. If you know that, six months before his retirement start the appointment of his successor so that by the time he retires the successor is appointed. I do not recollect any case where the High Court has complied with this guideline and started this process six months before the retirement of a Judge. They do not follow this principle and the principal reason why thirty per cent vacancies are there in the High Court across the country, 268 out of 895, the figure was just now mentioned or 27 per cent, whatever is the percentage, because the process of appointments has not commenced. Within the pipeline of the appointment process only 60-70 cases would be pending. So, there would be over 200 cases where the first recommendation itself has not been made. Now you have a layer where there are vacancies, where there are delays. And I have one more objection and I say this out of experience because there was a decision that we took when we were in Government and please consider this. When these cases are decided in the districts, you will probably have litigants who belong to that district. Their spending capacity because of their earning capacity is limited. The moment this litigant finds his case transferred in the first instance to the High Court, from some district in Uttar Pradesh, some district in Karnataka or West Bengal, he has to travel to the city in which the High Court is located. The cost of travel, the cost of stay in that city, the cost of engaging a lawyer in that city who inevitably charges more than the lawyer in his district, at times is far beyond the paying capacity of this litigant. So, his litigation is going to become several times costlier. When three new States were created, Ranchi had a Bench. There was no difficulty. We created a High Court. In Chhattisgarh, the capital was Raipur. We put the High Court in Bilaspur for a balancing reason. In Uttarakhand, it was decided that since it is a hill State and the Capital is Dehradun, at least create an institution in the hills and therefore, in the Almora region, since the Capital was in Garhwal, we created in Nainital. Years later, when I happened to visit it, as an ordinary citizen and I met litigants there, some of them shared their experience and said, 'Sir, did you pick up the costliest city in our State because every time somebody has to reach the State, he has to travel 14 hours, he has to reach two days earlier. In Nainital, you have to stay in a hotel. The hotels are not like the plains in Roorkee or Haridwar. The hotels are costlier. So, the cost of approaching that High Court is several times more. So, what is your Bill

doing? You are now transferring all commercial cases to the slowest layer of Indian judicial system. You are transferring it in the name of early disposal to a layer which normally takes ten years to dispose of an original side case. You are transferring it to an institution where 30 per cent posts are always vacant and you are transferring it to a layer which is the costliest layer, amongst the costliest layers. The same principle applies to the Supreme Court and that is why my friend from Assam or my friend from Bhubaneswar were saying, 'Create a Benche in the North-East.' The Governments have repeatedly tried to create a Supreme Court Bench in the North-East. The Constitution provides for it. You can create but the Court does not agree. So, every time a litigant has to come from North-East to the Supreme Court, it costs. So, why are you transferring all these cases to an institution which is slow, an institution where there are vacancies and institutions which are costlier? Now, please look at what you have done. If you look at the provisions of this law, I am just referring to some provisions which at least I have found not very comprehensible. In your amendment that you have moved, in Clause 7 of the amendment, you have said, "at page 22 line 26 for the words, 'single judge', 'at least two judges'". Sir, this is the first time I have come across a proposition that commercial disputes will be heard by two judges. All over India at least in five High Courts you have an experience of commercial disputes of a certain value being heard by High Courts. These commercial disputes are uniformly heard by a single judge. Not only India, you see the international experience. You have the commercial courts functioning in the High Courts in England. It is headed by a single judge. Please name one jurisdiction anywhere that you can imagine which has our kind of a system where a commercial dispute is heard by a division bench of two judges. All over India it is one judge. What is the compulsion to say that we can't trust one judge? It must go before two judges. Now, the impact of two judges is that it delays it further. The impact is, now to get both those judges together, in any case there is inadequacy of judges in High Courts, you get two judges, the possibility of the two differing will also be there. Then, you will create a provision which will be referred to a third judge. I have at least in my limited experience never come across a precedent of original side of Commercial disputes being heard by the bench of two judges. There are appeals which are heard by two judges. Now what is the jurisprudential rationale that a commercial dispute should be heard by two judges and not by one judge? If at all, it will only delay further and create a possibility of conflict of opinion between two judges. You have two Judges hearing a commercial dispute. What are the kinds of disputes? If you take a practical view, 'commercial dispute' means, disputes relating to export/import, joint-venture, capital market, intellectual property, software, FDI, agreements providing international arbitrations, etc. Now, I have no doubt; you can work out percentage. But, overwhelmingly, a large percentage of

these cases are already between these four principal High Courts. Some of them may be in Bangalore or Hyderabad or Ahmedabad, because these are predominantly in areas where there is a greater economic activity. A number of these cases are such, and by its very character, that people prefer to file them in those High Courts which already have a Commercial Division or the original side. Now, take a case of intellectual property right. Over the last 20 years, you have flood of litigations on intellectual property rights. Now, this litigation, except a little bit in Bangalore and Ahmedabad, is essentially spread between Delhi, Mumbai and Chennai. I have no doubt that over 80 per cent to 90 per cent are already between the High Courts of these three States. So, what is the point in transferring cases of Bihar, Allahabad and UP and creating Commercial Divisions there? Joint-venture agreements will be where the economic activity is. In any case, in most joint-venture agreements, you have an arbitration clause. And, if you have an arbitration clause — inevitably that is the provision — and if it the international commercial arbitration, the venue may be outside India in most cases and in some cases it may be India. So, it again goes to these bigger metros. Capital markets and stocks would be mostly in Mumbai. And, as far as software and internet disputes are concerned, here the jurisdiction can be almost created, because wherever the computer head is located the jurisdiction would be there. So, litigants are going to prefer those areas where there is a Commercial Division. So, even if you do not have this Bill, bulk of these cases across the country, are already in those High Courts which have an original side. And, those High Courts have a great tradition of original side which has worked itself out. Now, you have, therefore, started, in the name of a problem, which does seriously exist, creating an original side in every High Court of the country itself.

Sir, you kindly see two other provisions. I find a lot which has to be desired in the drafting of this Bill. If the hon. Minister would kindly turn to Clause 9 of the original Bill which defines commonsense principles, besides defining the Code of Civil Procedure. How will a case work? It does not require the ingenuity of a lawyer. The case works when a litigant files a civil claim, the defendant files his reply, the judge will decide what are the disputed issues, ask the parties to file documents and lead evidence by Affidavit or otherwise. So, this is a simple procedure. It is not an ingenues process; it is a commonsense process. You have created a provision in 9(2) (a) which say that a plaintiff files a plaint. When the plaintiff files a plaint, he does not know what reply the other man is going to give. He does not know what are the contested issues, what the disputes are going to be raised by the other man. It is only on the contested issues that trial will go on. But, whoever has drafted this says, “...alongwith the plaint...” — in 9(2)(a) (iii) and (iv) — “...he will file an Affidavit of his Examination in Chief as his evidence...” What will he file

as evidence? He does not know what dispute the other man is going to raise. He will file an Affidavit giving statements of his entire witnesses. Now, the hon. Minister, Mr. Khursheed, has been a very experienced lawyer. I will sit down for a moment if the hon. Minister educate me whether it is possible in any jurisprudence for a person, alongwith the plaint to file detailed evidence for that reply has to come. He does not know what the contested issues are, what are the issues on which a person is at loggerheads. So, whoever has drafted it has to assume, must hallucinate what the other man is going to say and, in anticipation, file a reply to it. I can't understand how this Bill has been drafted. Similarly, please turn to clause 12(vi). What is the rationale behind saying that applications under article 226 and 227 of the Constitution, which deal with the orders of subordinate courts will be transferred to this commercial site? Ordinarily, the civil suits don't concern themselves with the writ petitions. A writ petition is really for the enforcement of a constitutional or an administrative right or against an injustice against a State. A writ petition has nothing to do with a commercial dispute between private businessmen. So, whoever has drafted this has done a hurried job. Similarly, if you see clause 19 on the last page of the original Bill, you have said that because there is a reference to the district courts and wherever there is a reference in the Arbitration Act to the district courts that should be taken as a reference to the Principal Civil Court; it should be taken as a reference to the High Courts. So, you are amending the Arbitration Act by this. There is no difficulty. But, then, by this Act, you are transferring all intellectual property disputes to the Commercial Division. Similarly, your Trade Mark Act, the Copyright Act, the Patent Act all have a reference to the district court, as a court of first instance where the cases are to be filed. So, if you only amend the Arbitration Act, you will leave out all the IPR Acts, and, then, you are going to have a situation where this Act says that go to the Commercial Division and the Trade Mark Act, the Patent Act and the Copyright Act will say that go to the city Civil Court. So, whoever has done it, has done it in a great hurry.

Sir, I conclude by just repeating what I said in the opening. Mr. Khursheed has inherited this Bill. It has come as a part of the legacy when he got this department. This Bill is, perhaps, a creation of a *bona fide* thought process: Let us transfer commercial cases to higher courts so that they are heard better. It is motivated by some kind of an enthusiasm, but it is completely misconceived, badly drafted and it is going to take from years to decades now, and would cost ten times more. I would urge upon the hon. Minister, and that's why I said that it is not a politically contentious issue, please pause over this Bill and think about it once again if you want to press this Bill, or, re-consider whether this Bill is at all required.



DR. E.M. SUDARSANA NATCHIAPPAN (Tamil Nadu): Sir, I fully support this Bill because this gives new view on the commercial disputes. I fully agree with the Leader of the Opposition on many of the factual things and also on legal procedures. But, at the same time, we are in a position of having a very strong hierarchical legal system. When we participated in one of the seminars in Germany, the people were discussing as to what the difference is between China and India, on the business aspect. One thing they said was that whatever the highest position or the lowest position decides to start an industry that will be done by the Chinese Government, but in India there will be many barriers at every level. The second thing they said was that the Judicial system is very perfect in India, but in China they are still at the architectural stage, and they could not come up to the expectations of the world standard. Therefore, India is having a very strong judicial system. I fully agree that there are a huge number of pending cases. About more than two crore cases are pending, and more so, every High Court is overburdened. The appointment of judges is delayed because of various reasons, because the system has been taken over by the Judiciary itself. Judiciary itself appoints their own judges. Therefore, a lot of delay takes place. These are all managerial things which should be looked into by way of perfect discussion between the Executive and the Judiciary. In due course, it can be looked after properly. On the other hand, as the Leader of the Opposition said, coming forward with such a legislation is a *bona fide* effort of the Government to have a speedy disposal of commercial disputes. Sir, already, the quasi judicial system is available. When there is a dispute on patent or copyright, they go to the Appellate Tribunal, chaired by a retired judge of the High Court. Some other retired judges are looking after this. Anyhow, we are, again and again falling into the system of judges, whether they are serving judges or retired judges. Even in arbitration, we are not following the international pattern. There, it is the professional groups who become the arbitrators. We are choosing only the retired judges. Nowadays, when we talk with retired judges, they say: "we are very happy after retirement." This is because, even after retirement, they are getting a lot of money for a sitting in arbitration. They charge even Rs.1 lakh for a sitting in arbitration. They even go to Singapore or Hong Kong to put a case. Since the company is a multinational company, they are ready to pay the money. Therefore, they are ready for that. Therefore, we should take into consideration the retired judges who have retired from the Supreme Court at the age of 65 or the judges who have retired from the High Court at the age of 62 — depending upon them — having their grand children around and playing with them in their own houses, they can put the arbitration cases also there. This can be stopped by way of perfecting the system with having more judges.

[Mr. DEPUTY CHAIRMAN in the Chair]

I am not saying that the present number is sufficient or the present infrastructure is sufficient; it is not sufficient. We have to look into it thoroughly. We have to come out with some remedy for that. For that, I would like to suggest that when you are creating a system of separate Benches, it should have some logic behind it. For example, even after the creation of this particular Commercial Bench, if the appeal goes to the Supreme Court, the stake may be of Rs.50,000 crores, but they will have to pay only Rs.250/-. How is it possible? An ordinary person has to wait for so many years at the doors of the Supreme Court to get a disposal on the death penalty or life imprisonment. They have to wait for the disposal of the cases which are now pending before the Commercial Benches. Therefore, we should have a separate system for the payment of court fee also. When they go for arbitration, they have to pay lakhs of rupees as arbitration fee for the Arbitrator and also the lawyers. At the same time, if it goes through the Court, they need not pay more than Rs.250/- as Court fee. It is much insufficient. Under article 145, the Government can request the Supreme Court to reframe their own system, and, if necessary, we can also come out with a procedural law, with the consent of both, the Supreme Court and the High Court, so that the Court fee is restructured according to that. We will be getting huge money on account of that. There is a recommendation in the Report of the Parliamentary Standing Committee on Law and Justice that separate levy should be given, court fee should be structured for the commercial disputes; so that, even the Supreme Court — at random, we can say that—earns per year more than Rs. 10,000 crores. Now, we are parting with more than Rs.90 crores per year for their expenditure. The income is only Rs.8 crores but the expenditure is more than that. If we allow the Commercial Dispute Benches to get the court fee on par with other expenditures, then, automatically, the Supreme Court will also have sufficient money. We can also appoint more judges in the Supreme Court and also in the High Courts. The surplus money can be circulated up to the level of the Judicial Magistrate or Munsif courts in villages. The infrastructure is starved of because of the scarcity of funds at the State level. All the mofussil courts, subordinate courts are starved of funds. There is no space even for a Judge to sit and decide the cases. There is lack of infrastructure in other ways also at all the State level courts. This problem can also be addressed if this particular Bill comes into force and if a proper approach is made towards that.

Regarding the procedural aspect, Sir, I feel that our Leader of Opposition is very right in saying as to why the Division Bench has to sit for these matters and the original suits should also be decided by the Division Bench. In certain chartered High Courts just like Chennai, etc., Sir,

there are some procedures where the evidence is taken by a Registrar or by a Single Judge if there is a dispute in admissibility of the evidence. The hon. Law Minister is also bringing in an amendment to this effect. If there is a dispute of admissibility of evidence, then that can be referred to the Division Bench. Therefore, referring it to the Division Bench means that the appeal is automatically going to the Supreme Court alone so that the matter is settled forever. We cannot have further proceedings. So, the years of dispute in pendency can be solved by way of this Division Bench. If there is a Single Bench, then it has first to go to the Division Bench; after that, it has to come to the same High Court and then it will go to the Supreme Court. It will take more time because of the hierarchy in the Judiciary. Therefore, I feel that when we would apply this particular enactment, which is a new enactment and which is a modern one, it needs a lot of inputs. We can work on the procedural aspects of it after having proper discussion with the Judiciary. They should not feel that we are trespassing into their field. There can be a forum in which both the Judiciary and Executive can sit together, and, under Article 145, it can formulate and come out with a procedure by which the commercial disputes can be settled very well. The number of Judges is to be increased and the infrastructure has to be upgraded. The financial aspect can be taken care of by the system itself. It can generate the money for looking after these issues.

With these observations, I feel, Sir, this is the right time when we are bringing in this Bill. When we would implement it, we may experience some teething trouble. But I think that can be addressed then and there and we can come out with certain remedies on those issues. Thank you, Sir.

SHRI D. RAJA (Tamil Nadu) Sir, I was a Member of the Select Committee which dealt with this Bill. I had given a dissent note also. I am not an eminent lawyer like Salman Khursheed or Arun Jaitley or Ravi Shankar Prasad. But as a political activist, how do I look at this Bill?

Sir, when this Bill came to public domain, it was opposed by none other than Justice Krishna Iyer. Justice Krishna Iyer has pointed out that this legislation is violative of Article 14 of the Constitution. It creates poor litigants and rich litigants, and this goes against the very spirit of the Directive Principles of the State Policy. So, this legislation is not a proper legislation but we discussed it. I do feel that this legislation is not in tune with the concept of justice we all believe in, trust in, and this creates two classes, *i.e.*, poor litigants and rich litigants. If you take Rs. 1 crore, which is the dispute benchmark, for a poor man, ten thousand rupees is a big money, but, for some rich people, even ten crores is a small money. It is relative. But justice must be common to all. That is why I think that even at this last minute, the hon. Law Minister, Shri Salman Khursheed, may think over taking it back. This Bill can be taken back and reconsidered

by the Government, without making it a prestige issue, because, there is nothing wrong in it. You are talking about consensus. That consensus cannot be a bipartite consensus. It can be the overall House consensus. You must try to build consensus. What we are saying is, try to find out whether there is any point in it or not. I agree with Mr. Arun Jaitley when he asks, where would we be taking up disputes on the Intellectual Property Rights or copyrights? I think, the time has come when you will have to strengthen judiciary and fill up all vacancies. Try to dispose of the pending cases that run into lakhs, try to build the infrastructure wherever it is necessary and expand the network of courts. For instance, the legislation on Gram Nyayalayas was passed. But, what about the functioning of the Gram Nyayalayas? We do not know where the Gram Nyayalayas are functioning and which are the States that are doing well in terms of the Gram Nyayalayas. So, we are trying to pass legislations, we are trying to create new courts, but on the ground the situation is very bad.

Therefore, I would request the hon. Minister to take the sense of the House, take the Bill back, take your time and come back to the House. We would consider it then, but right now, please do not try to push the Bill in a hurry and get the approval of the House. It is not fair. That is the final request I make to you. Please, take the Bill back.

SHRI SALMAN KHURSHEED: Hon. Deputy Chairman, Sir, I thank the hon. Leader of the Opposition and all the distinguished Members who have spoken with great passion and great involvement and commitment to the delivery of justice in this country. I also appreciate the words spoken from across the floor and by hon. Member, Mr. Raja, that there are certain aspects in this Bill that require perhaps further consideration and may be even some informal consultation before we move forward. I am very happy to consider that, but I do want to preface that first with a few very important points that I hope the Leader of the Opposition will keep in mind.

It is understandable that the purpose for which this Bill has been brought is shared by many Members in the House and some Members feel that, frankly, this is not a good purpose. I would want to refer to that in a moment.

The fact that I have inherited this Bill makes me feel proud that I have an inheritance from a very successful predecessor of mine, but certainly, if it is an inheritance, I must not only protect and preserve it, but I also should refine it, particularly, when we have such wonderful advice that is coming from across the floor from people who are vastly experienced in the field of law.

Sir, the essential issue is that we want to provide for a faster method and a simpler method of deciding commercial disputes in this country, and nobody should really object to that to the

extent that people feel that this is to be done at the cost of the average citizen, perhaps the marginalized poor citizens of our country. That is not true at all. The purpose is to move in tandem, just as we are concentrating on providing greater service to the common citizen, looking at how we can strengthen the National Legal Services Authority and the State Legal Services Authority, the footprint of legal aid, ensuring that we bring about the brightest minds that are working in some of our top legal institutions and universities of law that have brought about revolutions in the country in the last ten years, involve them more directly in the work of providing legal aid, educating people about legal rights and ensuring that when they get to the court, they have the confidence that they are not being taken for a ride, that they actually have the best possible assistance available to them. We are also totally committed to the enhancement of doorstep delivery of justice and, therefore, the Act that was passed for establishing Gram Nyayalayas is extremely important for us. We have provided funding for it. Of course, the States have taken a little bit of time. Some States have made a yeomen effort to move forward, but many of the States are lagging behind as far as the Gram Nyayalayas are concerned. There is also an issue and that, of course, is reflected in the learned Leader of the Opposition's speech as well, and that is an issue of quality of service and delivery of justice that is available at the lower level, at the subordinate court level and at the High Court level. A lot of people believe that the quality of service if it suffers at the subordinate court level it is largely because infrastructure is lacking. We have an extremely ambitious plan for providing infrastructure. We have an extremely important mission for justice delivery and for judicial reform — a mission that over the next five years will hopefully transform the entire landscape as far as justice delivery is concerned. And this mission is making, firstly, the most important effort which a lot of learned Members have mentioned. With the availability of specific statistics we can actually look at the impact that this or any other legislation will make. We have broad figures available. And those broad figures are available now on websites as well. I can give the latest figures that are available to us from the Supreme Court. But details are not available, the status of each case is not available, details regarding the kind of cases and sort of courts they are in are not available. Today we are providing computerization in all courts. In the next three years, we would be able to cover all the courts in this country and, therefore, would be able to keep real time actual track of what cases are being filed and what cases are being disposed of. And we would certainly be in a much better situation to be able to analyse the impact of any legislation of what would happen. For instance, when the legislation under the Negotiable Instruments Act was passed for bouncing of cheques, we all thought there was a beneficial legislation, but we also know now the Magistrate Courts are completely chocked with those cases. Therefore, on

the suggestion that we should have shifts courts — we should have courts for morning and evening shifts — we should have courts on holidays, lawyers have some reluctance and difficulty in accepting that proposition. In the north east, lawyers are willing to work on holidays, but I do know in my own State and in my friend's State, lawyers are not willing to work in the evening. They don't want to come back and work in the evening in the second shift. And certainly they don't countenance the idea that another set of lawyers can come and work in the evening because they would rather like to keep all the work themselves. So, the purpose here is not only to help the rich. The purpose is to ensure that the marginalized get justice; the purpose also is to ensure that the world looks upon us as an effective legal system where there is a quick delivery of justice. And it is not only for people who are coming from abroad to invest in this country, but also for the growing Indian economy, the volumes that are now involved and the kind of transactions that take place that we should have quick delivery. It is understandable that people feel that quick delivery should not come at the cost to someone else. The issue of court fee was raised. Can't we charge more court fees? That aesthetically looks worse that somebody who has money can buy justice but somebody who doesn't have money can't buy justice. A person who is prepared to pay higher court fees can get fast track court, but a person who doesn't pay higher court fees can't get a fast track court. So, we have to balance the statistics with the substantive justice provisions that we have before you. Sir, as far as the specific issues that have been raised, I would like to urge the Leader of the Opposition to look not at the Bill that was passed by the Lok Sabha, but the Bill that has been reported upon and the Bill that is before you with amendments that we have suggested in that Bill where some of the issues that have been raised have been addressed. But I don't want going by the words of learned Member, Mr. Raja. I don't want to 'push it upon you' today. If you feel that this requires more reflection and you think that after more consultation and reflection we can come back to you, we have no problem. I am offering you a carrot but alongwith the carrot I must get something in return. What I want the House to reflect very seriously upon is that you should be willing to consider the total purpose of this Bill. This Bill is not to create a divide between the rich and the poor. This Bill is to provide an effective remedy for one important part of our economy today. Now, of course, there was talk about 5-star and 7-star hotels and that we are not willing to call it a 5-star court or a 7-star court; so, we are calling it Commercial Division. Commerce is a reality in our country today, and commerce is a reality in our country that is feeding and giving jobs to thousands and thousands and millions of people. And, we will have to develop commercial institutions and we will have to protect them. But, once again, I repeat, commercial institutions will not be developed in a manner that will exploit those who are marginalised, those who are weak and

those who cannot stand on their feet in the marketplace. That is the whole idea of how the UPA Government has developed this entire approach that we have a very-very specific approach towards social justice, providing a network for those, providing a safety net for those who cannot sustain or cannot stand up to the competition that is in the marketplace and helping them both, with education and with other services. So, gradually, over the years, they would be able to stand in the marketplace with confidence and also in a manner in which it could be said that there is true equality in our country.

This is not a departure from article 14. This is an attempt to give article 14 real substance. There must be a growing economy for us to be able to make the dream of article 14 come true. So, Sir, through you, I am submitting to the House that I respond and respect the sense of the House. It is not to withdraw the Bill but to consult with you. We have got some amendments. We would be able to bring some more amendments, if it is found necessary, to the satisfaction of the House. And, I hope that when I come back, as soon as I can, the House will be good enough next week to support me and help me move forward.

I will say in the end that I also get a sense today that the House needs to discuss the legal system — what we are doing in the legal system, what is happening with appointment of Judges, what is happening with creation of new institutions, what is happening in the legal aid, what is happening with justice at the doorstep, what is happening with legal education. I do think that the House deserves an opportunity not only to discover what the Government is doing in this entire field but also to share with the Government their own ideas, creative ideas, on how we can take this story further. I think, at an appropriate stage, this discussion would be a very useful discussion in the House.

Sir, with your permission, I seek only little more time so that I can come back with more amendments — Next week possibly, if the time permits — and then, the House can finally put its seal of approval on this Bill. Thank you very much.

MR. DEPUTY CHAIRMAN: Consideration of the Commercial Division of High Courts Bill, 2010, is deferred.

MR. DEPUTY CHAIRMAN: Now, we shall take up the Copyright (Amendment) Bill, 2010.

SHRI M.V. MYSURA REDDY: Sir, I have a Point of Order.

**श्री शिवानन्द तिवारी (बिहार):** सर, मेरा एक प्वाइंट ऑफ ऑर्डर है।...(व्यवधान)...

MR. DEPUTY CHAIRMAN: One minute please...(*Interruptions*)... I have to hear to the Point of Order...(*Interruptions*).... क्या प्वाइंट ऑफ ऑर्डर है?...(*व्यवधान*)...

**श्री शिवानन्द तिवारी:** सर, मेरा प्वाइंट ऑफ ऑर्डर यह है कि मंत्री जी इस बिल को पेश नहीं कर सकते हैं, इसलिए कि इसमें इनका conflict of interest है। आपने देखा होगा, Ethics Committee की रिपोर्ट का 294 यह बताता है कि किसी भी मैम्बर का जिसमें conflict of interest हो, pecuniary interest ....

**श्री उपसभापति:** आप कौन से बिल के बारे में बोल रहे हैं?

**श्री शिवानन्द तिवारी:** सर, मैं कॉपीराइट बिल के बारे में बोल रहा हूँ।

**श्री उपसभापति:** अभी मंत्री जी नहीं बोले हैं... अभी तो बिल ही introduce नहीं हुआ।...(व्यवधान)...

**श्री शिवानन्द तिवारी:** ये introduce नहीं कर सकते हैं।...(व्यवधान)... मेरा कहना यह है कि ये कॉपीराइट बिल introduce नहीं कर सकते हैं क्योंकि इस मामले में इनका conflict of interest है। टी.सीरीज़ जिसका म्यूज़िक वर्ल्ड में 80 परसेंट business पर कंट्रोल है... इनका बेटा उसका वकील है। इनका आर्थिक हित इस बिल के साथ जुड़ा हुआ है।...(व्यवधान)... ये पहले खुद उसमें वकील थे।...(व्यवधान)... इसलिए ये इस बिल को इंद्रोड्यूस नहीं कर सकते।...(व्यवधान)...

**श्री उपसभापति:** नहीं, नहीं। यह कैसे।...(व्यवधान)...

**श्री शिवानन्द तिवारी:** हम यह कहना चाहेंगे कि एथिक्स कमेटी की जो रिपोर्ट है, उसमें 294 को देखा जाए।...(व्यवधान)... कृपया 294 को पढ़ा जाए।...(व्यवधान)... “Whenever a Member has a personal or specific pecuniary interest (direct or indirect) in a matter being considered by the Council or a Committee thereof...” ...*(Interruptions)*...

SHRI M.V. MYSURA REDDY: Sir, he is appearing on behalf of...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: See, Rule 294 is relating to Declaration of Interest.

**श्री शिवानन्द तिवारी:** वे डिक्लेयर करें।...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Rule 294 (1) says “whenever a Member has a personal or specific pecuniary interest, direct or indirect, in a matter being considered by the Council or a Committee thereof, he shall declare the nature of such interest notwithstanding any registration of his interests in the Register, and shall not participate in any debate taking place in the Council or its Committees before making such a declaration.” On this specific issue, if any Member has any interest, he has to declare, and, then only, he has to talk.

**श्री शिवानन्द तिवारी:** मिनिस्टर का ही है।...(व्यवधान)... हमने कहा है कि मिनिस्टर का इसमें pecuniary interest है।

**श्री उपसभापति:** कैसे है? आप बताइए।...(व्यवधान)...

**श्री शिवानन्द तिवारी:** इनका बेटा टी सीरीज़ का वकील है, जिसका म्यूज़िक इंडस्ट्री में 80 परसेंट शेयर है और वह मामला इस बिल में है।...(व्यवधान)... ये पहले खुद इसके वकील थे।...(व्यवधान)... आप स्पष्टीकरण दें कि वह वकील नहीं है।...(व्यवधान)...

MR. DEPUTY CHAIRMAN: The Minister of Parliamentary Affairs is here. Whatever you had to say, you have said. ...*(Interruptions)*...



**संसदीय कार्य मंत्री (श्री पवन कुमार बंसल):** सर, माननीय सदस्य...(व्यवधान)...

**श्री शिवानन्द तिवारी:** मिनिस्टर साहब इसका जवाब दें।...(व्यवधान)...

**श्री उपसभापति:** पार्लियामेंटरी अफेयर्स मिनिस्टर इंटरवीन कर रहे हैं।...(व्यवधान)...

**श्री शिवानन्द तिवारी:** ये कैसे देंगे?...(व्यवधान)... जवाब संबंधित मंत्री महोदय दें।...(व्यवधान)...

**श्री उपसभापति:** पार्लियामेंटरी अफेयर्स मिनिस्टर हैं...(व्यवधान)... One minute. ...*(Interruptions)*...

**श्री पवन कुमार बंसल:** सर, माननीय सदस्य...(व्यवधान)...

MR. DEPUTY CHAIRMAN: I will hear you also. ...*(Interruptions)*...

**श्री पवन कुमार बंसल:** सर, यह कोई तरीका नहीं है। वे बात ही नहीं करने दे रहे हैं।  
...(व्यवधान)...

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, first of all, the Members, who have raised objection, have to be heard. ...*(Interruptions)*...

**श्री शिवानन्द तिवारी:** जवाब माननीय मंत्री जी को देना चाहिए।...(व्यवधान)...

**श्री उपसभापति:** आप बैठिए।...(व्यवधान)... I have heard you. ...*(Interruptions)*... Tiwari ji, I have heard you. ...*(Interruptions)*...

**श्री शिवानन्द तिवारी:** इनका बेटा वकील है या नहीं?...(व्यवधान)... इनका बेटा टी सीरीज़ का वकील है या नहीं है...(व्यवधान)...

MR. DEPUTY CHAIRMAN: I have heard you. ...*(Interruptions)*... Let us hear Mr. Mysura Reddy.

SHRI M. VENKAIAH NAIDU: Sir, two three Members have raised objections. Please hear them. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: These are the two Members. ...*(Interruptions)*... Hon. Members, please. ...*(Interruptions)*... Yes, Mr. Mysura Reddy.

SHRI M.V. MYSURA REDDY (Andhra Pradesh): Sir, my submission is also relating to Rule 294. The Minister is piloting the Bill. One official amendment, that is, 31 D is there. There is a dispute between the TV broadcasters and the music companies. In this, T-Series has a prominent role, and, HT Media Limited filed a petition also. They went to court and the CCI also. They gave the judgement that it was a monopolistic tendency and they are investigating into the case also. For those seven, eight cases, I am having a record that his son is appearing on behalf of Super Cassettes Industries Limited. It is the name of the company. ...*(Interruptions)*... His son is appearing. ...*(Interruptions)*...

**श्री उपसभापति:** आप बैठिए।...(व्यवधान)...

**श्री शिवानन्द तिवारी:** टी सीरीज़ कम्पनी को\*

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\*Not recorded.

**श्री पवन कुमार बंसल:** सर, इस तरह से इल्जाम लगाना गलत है। यह बात सही नहीं है।...**(व्यवधान)**...

**श्री उपसभापति:** तिवारी जी, आप बैठिए।...**(व्यवधान)**... आप बात मत कीजिए।...**(व्यवधान)**...

**श्री पवन कुमार बंसल:** आपका कहना सही नहीं है। आपको बोलने का अधिकार है, इसका मतलब यह नहीं है कि जो आपके मन में आए, वह आप कहेंगे।...**(व्यवधान)**...

MR. DEPUTY CHAIRMAN: Nothing will go on record. ...**(Interruptions)**...

**श्री शिवानन्द तिवारी: \***

**श्री पवन कुमार बंसल:** आप क्या बात कह रहे हैं? आप जानते हैं कि 18 साल का लड़का भी अपने आप अलग हो जाता है।...**(व्यवधान)**...

SHRI M.V. MYSURA REDDY: \*

MR. DEPUTY CHAIRMAN: Nothing will go on record. ...**(Interruptions)**...

SHRI PAWAN KUMAR BANSAL: Sir, it is very unfair. ...**(Interruptions)**...

**श्री उपसभापति:** आपने प्वाइंट ऑफ आर्डर रज किया, तिवारी जी ने बोला और मैसूरा रेड्डी साहब बोल रहे हैं। बोलने के बाद I have to hear the other side also. ...**(Interruptions)**...

**श्री प्रकाश जावडेकर (महाराष्ट्र):** सर, हमारी भी साइड है।...**(व्यवधान)**...

MR. DEPUTY CHAIRMAN: You have not demanded that. प्वाइंट ऑफ आर्डर आपने डिमांड नहीं किया।...**(व्यवधान)**... ठीक है।...**(व्यवधान)**...

SHRI M.V. MYSURA REDDY: Sir, I was saying this. ...**(Interruptions)**...

MR. DEPUTY CHAIRMAN: Please sit down. ...**(Interruptions)**... You had said whatever you wanted to say. ...**(Interruptions)**...

SHRI M.V. MYSURA REDDY: Sir, you have to give your Ruling. ...**(Interruptions)**...

MR. DEPUTY CHAIRMAN: You have said that there is a case. I heard you. Now let the Parliamentary Affairs Minister say. ...**(Interruptions)**... After this if there is any clarification...**(Interruptions)**... तिवारी साहब, आप बैठिए। ...**(Interruptions)**... Don't make allegation. ...**(Interruptions)**... Unless you give a notice ...**(Interruptions)**... Don't make an allegation. ...**(Interruptions)**...

**श्री पवन कुमार बंसल:** तिवारी साहब, यह Parliamentary Affairs का ही मामला बनता है।...**(व्यवधान)**... आप रज कर रहे हैं।...**(व्यवधान)**...

MR. DEPUTY CHAIRMAN: Any Minister can intervene. ...**(Interruptions)**...

**श्री पवन कुमार बंसल:** आप मुझे बोलने का भी अधिकार नहीं देंगे?...**(व्यवधान)**...

**श्री उपसभापति:** बंसल जी, आप बोलिए।...**(व्यवधान)**...

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\*Not recorded.

श्री प्रकाश जावडेकर: सर, हमारा point भी तो सुनना चाहिए।...*(व्यवधान)*...

श्री उपसभापति: हां, सुनेंगे।...*(व्यवधान)*... पाणि जी, आप बैठिए,...*(व्यवधान)*... आप बोलिए।  
...*(व्यवधान)*... I heard you. ...*(Interruptions)*...

SHRI PRAKASH JAVADEKAR: Sir, give me only two minutes. ...*(Interruptions)*... मैं दो मिनट में नया प्वाइंट बतला रहा हूँ।...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: I have called the Minister. ...*(Interruptions)*... I will call you after the Minister. ...*(Interruptions)*... Don't make it an issue. ...*(Interruptions)*... आप बैठिए।...*(व्यवधान)*...

SHRI PRAKASH JAVADEKAR: Sir, I am not making it an issue. ...*(Interruptions)*... I have a point. ...*(Interruptions)*... Sir, I have new information. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I have called the Minister. First let us hear him, then you can speak. ...*(Interruptions)*... आप बैठिए।...*(व्यवधान)*...

SHRI M. VENKAIAH NAIDU: Sir, he is not a Member of the House. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I have to hear him. ...*(Interruptions)*... He is the Parliamentary Affairs Minister. ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Sir, this is about the proceedings of the House. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, he can participate. ...*(Interruptions)*... There are Rulings. He can participate, Mr. Venkaiah Naidu. ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Sir, this is about the proceedings of the House, not about the debate. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Even on clarification, he has the right to give clarification. ...*(Interruptions)*... He has got the right. ...*(Interruptions)*... There are Rulings. ...*(Interruptions)*...

SHRI PRAKASH JAVADEKAR: Sir, I have some information. ...*(Interruptions)*... After that the Minister can respond. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: What is there if he speaks? ...*(Interruptions)*...

SHRI PRAKASH JAVADEKAR: Sir, give me only one minute. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I can't understand why you are saying that you want to speak first. ...*(Interruptions)*... When a Minister intervenes, he will be given the preference. ...*(Interruptions)*... Why are you making this a big issue? ...*(Interruptions)*...

**श्री प्रकाश जावडेकर:** सर, मेरा प्वाइंट यह है कि मैं एच.आर.डी. कमेटी का मेम्बर हूँ, सर, इस बिल में...(व्यवधान)...

**श्री पवन कुमार बंसल:** सर, यह बिल बिल्कुल स्पष्ट है। माननीय सदस्य ने जिसने यह ऐतराज किया है उन्होंने यह नहीं कहा कि माननीय मंत्री के किसी डिपेंडेंट का...(व्यवधान)...

**श्री प्रकाश जावडेकर:** सर, मेरा प्वाइंट सुन तो लो, केवल एक मिनट की बात है।...(व्यवधान)...

**श्री पवन कुमार बंसल:** क्या जो माननीय नेता विपक्ष हैं, किसी न किसी के लिए कभी पेश नहीं हुए होंगे? क्या उसके बाद उनको यहां बोलने का मौका नहीं मिला होगा? क्यों उन्होंने उस पर यहां अपने विचार नहीं रखे होंगे? सवाल यह होता है कि मौके पर अगर आप किसी मंत्री पर इल्जाम लगा रहे हैं तो आपको भी अपने, अपने spouse और अपने डिपेंडेंट, चिल्ड्रन के बारे में यह स्पष्ट तौर पर बता देना चाहिए।...(व्यवधान) Sir, I am sure, we all understand that an advocate is a person who is on his own fee. ...*(Interruptions)*... He does not support the Minister. ...*(Interruptions)*...

**श्री शिवानन्द तिवारी:** बंसल जी, इसको पढ़िए।...(व्यवधान)...

**श्री पवन कुमार बंसल:** सर, यह इल्जाम सही नहीं है।...(व्यवधान) This is not in good taste. I would say that this is rather unparliamentary. This is not in good taste. ...*(Interruptions)*... आप पूछिए अपने नेता विपक्ष से कि वे किस-किस के लिए पेश हुए होंगे?...(व्यवधान) क्या किसी विषय पर बोलेंगे नहीं?...(व्यवधान) यह क्या बात है?...(व्यवधान) Sir, this decision is a decision of the Government of India. The decision is of the Cabinet. ...*(Interruptions)*... It's Cabinet's decision. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: The House is adjourned for fifteen minutes.

The House then adjourned at fifty-one minutes past four of the clock

The House re-assembled ten minutes past five of the clock,

MR. DEPUTY CHAIRMAN in the Chair.

**श्री प्रकाश जावडेकर:** सर, हमारा मुद्दा सुनिए, मेरा यह मुद्दा है, यह जो बात चल रही है कि क्या मिनिस्टर को बिल रखने से पहले डिक्लेयर करना चाहिए, यह सैक्शन 31 D, ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Will you allow me to speak for a minute? Please allow me. ...*(Interruptions)*... I have just called out ...*(Interruptions)*...

**श्री प्रकाश जावडेकर:** सर, रूलिंग देने से पहले...(व्यवधान)...

MR. DEPUTY CHAIRMAN: I am not giving any ruling. ...*(Interruptions)*... I am not giving any ruling. ...*(Interruptions)*... Please sit down. आप बैठिए। आप इतनी जल्दी क्यों करते हैं? ...*(व्यवधान)*... हमारे सामने यह सवाल है कि अभी बिल कंसीडरेशन के लिए लिया नहीं गया था, I have just called the Minister and the Minister has not yet got up also. At that time, objections were raised. So, there was no material before the Chair. On that subject there was no discussion whatsoever. We have not started the discussion at all. Before the Bill could be taken up for consideration you

have started raising objections. ...*(Interruptions)*... When I am talking ...*(Interruptions)*... जरा सुनिए...(व्यवधान)...

**श्री शिवानन्द तिवारी:** उपसभापति जी, यह प्वाइंट ऑफ ऑर्डर है...(व्यवधान)...

**श्री उपसभापति:** तिवारी जी...(व्यवधान)...

**श्री प्रकाश जावडेकर:** सर, एक मिनट...(व्यवधान)... Sir, give me one minute. ...*(Interruptions)*... Give me one minute. ...*(Interruptions)*...

**श्री उपसभापति:** मैं आपको टाइम दे रहा हूँ...(व्यवधान)... मैं आपको टाइम दे रहा हूँ, मगर...(व्यवधान)... It is my duty to clarify. ...*(Interruptions)*...

DR. V. MAITREYAN (Tamil Nadu): Sir, the Minister is going to discuss something else. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Maitreyan, don't you want to listen to me? ...*(Interruptions)*...

**श्री शिवानन्द तिवारी:** उपसभापति जी, मेरा प्वाइंट ऑफ ऑर्डर था...(व्यवधान)...

**श्री प्रकाश जावडेकर:** सिर्फ सुनने के लिए कह रहा हूँ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: You are raising so many objections. ...*(Interruptions)*... Mr. Maitreyan, I am in the Chair. ...*(Interruptions)*... Please. ...*(Interruptions)*... I have to hear both the parties. ...*(Interruptions)*... It is not that just because you shout I should listen to you. ...*(Interruptions)*... I have to listen to both the sides. ...*(Interruptions)*... My request to all the Members is not to ask the Chair that I should listen only to this or that. ...*(Interruptions)*... मैं बोलने देता हूँ, आप बैठिए...(व्यवधान)... मैं कह रहा हूँ...(व्यवधान)...

**श्री प्रकाश जावडेकर:** वन मिनट सर,...(व्यवधान)...

SHRI BALBIR PUNJ (Odisha): Sir, you give him two minutes. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: You don't be his advocate. He can directly talk to me. ...*(Interruptions)*...

**श्री प्रकाश जावडेकर:** वन मिनट सर,...(व्यवधान)... सर, जब यह बिल आया...(व्यवधान)...

**श्री शिवानन्द तिवारी:** सर, मेरा प्वाइंट ऑफ ऑर्डर था...(व्यवधान)... मेरा प्वाइंट ऑफ ऑर्डर था...(व्यवधान)... मिनिस्टर इस बिल को ले नहीं कर सकते हैं...(व्यवधान)...

SHRI PRAKASH JAVADEKAR: He is allowing me. What is your objection? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I am assuring him that I am going to listen to him. ...*(Interruptions)*... I assured him that I would listen to him. But in the meantime, you are not allowing me to speak also. ...*(Interruptions)*...

SHRI TIRUCHI SIVA (Tamil Nadu): It is overriding the Chair himself. ...*(Interruptions)*... It is not fair. ...*(Interruptions)*...

श्री उपसभापति: आप बैठिए, आप बैठिए...*(व्यवधान)*... आप सभी बैठिए...*(व्यवधान)*...

श्री सत्यव्रत चतुर्वेदी (उत्तराखंड): अगर उनको अलाऊ करते हैं तो हमको भी अलाऊ करिए...*(व्यवधान)*...

श्री उपसभापति: आप बैठिए, आप बैठिए...*(व्यवधान)*... आप सभी बैठिए...*(व्यवधान)*... प्लीज आप भी बैठिए...*(व्यवधान)*... मैं किसी को नहीं...*(व्यवधान)*... आप बैठिए...*(व्यवधान)*...

श्री प्रकाश जावडेकर: सर, बिल इंट्रोड्यूस हुआ है...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: I am just bringing to the notice of the House that if you have any objection, you have every right to raise a point of order. My point is that the Bill or whatever it is, I have just called out the Copyright (Amendment) Bill. ...*(Interruptions)*... Listen to me. ...*(Interruptions)*... Why do you talk? ...*(Interruptions)*... How can you listen to me? ...*(Interruptions)*...

श्री प्रकाश जावडेकर: यह बिल स्टैंडिंग कमेटी के पास गया...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: Don't you have patience, at least, to wait for some time? ...*(Interruptions)*... Why do you go on making a running commentary? ...*(Interruptions)*... Now, I have just called out the Copyright Bill. Suddenly you got up and said, "a point of order". I listened to you and I listened to Mr. Mysura Reddy. I didn't see that he raised his hand because I was only looking towards you. Now he has raised his hand. So, I will give him time. But the point is that you have raised rule 294. ...*(Interruptions)*... मैं रूलिंग नहीं दे रहा हूँ, मैं बोल रहा हूँ, आप सुनिए...*(व्यवधान)*... आपने रूल 294 उठाया। Both of us read Rule 294. Whatever I have to say, I will say. When you raised your objection, you did not allow the Minister to say anything. In the meantime, the House was adjourned.

श्री शिवानन्द तिवारी: मिनिस्टर कह ही नहीं सकते...*(व्यवधान)*...

श्री उपसभापति: तिवारी जी, यह ज्यादाती है। प्लीज, देखिए, यह हाउस है। Mr. Mysura Reddy, your point is under Rule 294! ...*(Interruptions)*...

श्री नरेश चन्द्र अग्रवाल (उत्तर प्रदेश): इनकी बात अभी सुनी नहीं गई।

SHRI M.V. MYSURA REDDY: Sir, Rule 294 says, "Whenever a Member has a personal or specific pecuniary interest, direct or indirect..." Here, it is indirect. The last line says, "Shall not participate in any debate taking place in the Council..."

MR. DEPUTY CHAIRMAN: Please read further.

SHRI M.V. MYSURA REDDY: "...or its Committees before making such a declaration." He did not declare it.

MR. DEPUTY CHAIRMAN: You did not allow him to do that. ...*(Interruptions)*...

SHRI M.V. MYSURA REDDY: How can he declare it now? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Let me make it clear. ...*(Interruptions)*...

**श्री प्रकाश जावडेकर:** सर, मंत्री महोदय ने पिछले सेशन में यह बिल introduce किया। जब उन्होंने इसे introduce किया, तब हमने objection नहीं किया था। अब objection करने के पीछे क्या बात हुई? तो बात यह हुई कि जब बिल introduce किया गया था, तो what was it saying?

**श्री उपसभापति:** देखिए, इसे गवर्नमेंट ने introduce किया है।...*(व्यवधान)*...

**श्री प्रकाश जावडेकर:** मैं वही बता रहा हूँ कि I am a Member of the Standing Committee. That Bill went to the Standing Committee. उसमें क्या लिखा था? Section 31 says....

**श्री उपसभापति:** आप इसे डिबेट में बोलिए न।...*(व्यवधान)*... Whatever you have to say, say it in the debate.

**श्री प्रकाश जावडेकर:** सर, यह लिखा था। अब क्या हो गया?

MR. DEPUTY CHAIRMAN: As far as Rule 294 is concerned, it only says that the Member who has interest, directly or indirectly, can participate in the debate but after declaring it. ...*(Interruptions)*...

The House is adjourned till 11 a.m. tomorrow.

The House then adjourned at seventeen minutes past five of the clock  
till eleven of the clock on Wednesday, the 14th December, 2011.

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