

SHRI MOHAMMED ADEEB: Sir, how can you give? ...*(Interruptions)*... No leave of absence. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no. ...*(Interruptions)*... Now, Legislative Business; Bill to be withdrawn. ...*(Interruptions)*... Sit down. ...*(Interruptions)*...

श्री सत्यव्रत चतुर्वेदी : अगर वे यहां आ नहीं सकते तो उनको सदस्यता स्वीकार ही नहीं करनी चाहिए थी। ...*(व्यवधान)*... उन्होंने सदस्यता स्वीकार क्यों की? ...*(व्यवधान)*...

श्री जगत प्रकाश नड्डा (हिमाचल प्रदेश) : आपकी सरकार ने उन्हें अप्वाइंट किया था। ...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: No, please. ...*(Interruptions)*... Now, I am taking up the Supplementary Business. ...*(Interruptions)*... There is a Bill to be withdrawn, that is, the Judicial Appointments Commission Bill, 2013, Shri Ravi Shankar Prasad.

GOVERNMENT BILL

The Judicial Appointments Commission Bill, 2013

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY AND THE MINISTER OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD): Sir, I beg to move for leave to withdraw the Judicial Appointments Commission Bill, 2013.

The question was proposed.

...*(Interruptions)*...

SHRI SHANTARAM NAIK (Goa): Sir, we are objecting to this. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: What? .

SHRI ANAND SHARMA (Rajasthan): Sir, we are objecting to this. ...*(Interruptions)*... We have reasons to object. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Let him move. ...*(Interruptions)*...

SHRI ANAND SHARMA: This Bill was introduced ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, I have put the question. ...*(Interruptions)*...

SHRI ANAND SHARMA: Sir, we are objecting. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: But he has not moved. ...*(Interruptions)*...

SHRI ANAND SHARMA: We are objecting at the stage of introduction. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: That is what I am saying.

SHRI ANAND SHARMA: Sir, we are objecting at this stage.

MR. DEPUTY CHAIRMAN: Not at this stage, after he speaks.

SHRI ANAND SHARMA: Sir, we are objecting at this stage.

MR. DEPUTY CHAIRMAN: At the time you are doing, he has not even said it!

SHRI ANAND SHARMA: Okay.

MR. DEPUTY CHAIRMAN: Let him say what he has to say. ...*(Interruptions)*...
No, please. ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: Sir, the reason as to why the Bill is being withdrawn is in the following circumstances. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please listen.

SHRI RAVI SHANKAR PRASAD: In the year 2013 August, the previous Government came with two Bills. One was the Constitutional Amendment Bill enabling the creation of a Commission for appointments. The other was the Judicial Appointments Bill, a non-constitutional Bill. The Rajya Sabha passed the Bill for amending the Constitution, and the Judicial Appointments Bill was sent to the Standing Committee. The Standing Committee came with a recommendation - when they were in power - stating that 'you please keep the entire composition in the Constitution itself. Don't keep it in the ordinary Bill'. Pursuant to that Standing Committee, the previous Government came - with an amendment in the Lok Sabha, which could not be passed, and the Lok Sabha was dissolved and the Bill has lapsed.

Now, Sir, the position is, the present Government proposes to bring a Bill for Judicial Appointments in the Constitutional framework, as recommended by the Standing Committee, along with other powers in a separate Bill. The present Bill which I am seeking to withdraw is a Bill which the Standing Committee has disapproved. They said, you please keep it ...

SHRI SHANTARAM NAIK: No, Sir, this is ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, please. Mr. Shantaram Naik, listen to the Minister. Let him complete. What are you doing? ...*(Interruptions)*... Sit down.

SHRI RAVI SHANKAR PRASAD: Sir, I have got the copy of the Bill. Everything is there. What I am telling the hon. House is this that the Judicial Appointments Bill, 2013 is going to be withdrawn. The Constitutional Bill, moved by the previous Government, has lapsed. The present Government proposes to move two Bills. One, the Constitutional Amendment Bill, containing the entire architecture of the National Judicial Commission as recommended by the Standing Committee, and the other, a separate Bill also improving upon in the light of recommendations of the Standing Committee. Therefore, the point is, unless this Bill is withdrawn, the other Bill cannot be introduced. Therefore, we are just withdrawing this Bill because this has no constitutional architecture for the Commission itself. ...*(Interruptions)*... It is a very simple thing. ...*(Interruptions)*...

SHRI SHANTARAM NAIK: He has given just five minutes. ...*(Interruptions)*... We would like to know in what circumstances you have.

MR. DEPUTY CHAIRMAN: He has explained. ...*(Interruptions)*... Mr. Shantaram Naik, please. ...*(Interruptions)*... No, no, he has explained. ...*(Interruptions)*... What is your objection? ...*(Interruptions)*... No, please. ...*(Interruptions)*...

SHRI MADHUSUDAN MISTRY (Gujarat): Sir, this is not fair. ...*(Interruptions)*... They can't just ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, I have given the floor to Shri Anand Sharma. ...*(Interruptions)*... Shri Anand Sharma.

SHRI ANAND SHARMA: Sir, there were two Bills, as the, Statement of the Minister says, which is true, which you have brought before this House, one the Constitutional Amendment Bill and the second was the Bill on the Judicial Appointments Commission.

As this House will recall, there was informed debate. The then Leader of the Opposition, now the Leader of the House, and hon. Leaders of other political parties - I will not take all the names - had made specific suggestions with regard to the appointments of the Judges and the need to bring about a change. Sir, there was near unanimity when it came to the appointments then. But, still, it was referred to the Standing Committee, and I do recall with clarity, as the hon. Leader of the House will recall and also the other Party leaders, as it was felt, let the Standing Committee have a good look at it so that it can be brought in. The need to change the present system definitely was felt very strongly and that's why the Bills were brought. The Standing Committee did examine the Bill. It's not a question of the Standing Committee disapproving it. The Standing Committee normally, as per practice, makes changes, makes recommendations and also amendments, and it is for the Government then to consider. The normal practice, in this

[Shri Anand Sharma]

House, has been that once a Bill is introduced, it becomes the property of the House, and then the Bill, after the scrutiny by the Standing Committee, can only be amended. We have no reservation if the Government were to bring amendments to the Bill, but we have objection to withdrawing the Bill and the hasty manner in which it is sought to be done, that we are given the notice just now and we have no time to examine! Also, Sir, I would like the records to be checked. My dear friend, Ravi Shankar Prasadji, has made the statement that the Standing Committee had disapproved it. We question that. Let the records establish the correctness of this particular statement that the Standing Committee had rejected the Bill or disapproved the Bill. ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: Sir, I am sorry, but I have to ...*(Interruptions)*...

SHRI ANAND SHARMA: And, the Chairman of the Standing Committee must be allowed to speak, as to what the Standing Committee ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: Sir, let me ...*(Interruptions)*...

SHRI ANAND SHARMA: Sir, the Chairman of the Standing Committee is a Member of this House. Let him ...*(Interruptions)*... I won't yield. ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: Sir, I had said that the Standing Committee said that the architecture of the Judicial Appointments Commission, instead of being a part of an ordinary Bill, should be a part of the Constitution itself. That is what I have said. ...*(Interruptions)*...

SHRI MADHUSUDAN MISTRY: You said that the Bill had been disapproved by the Standing Committee. ...*(Interruptions)*...

SHRI ANAND SHARMA: Sir, I heard Ravi Shankar Prasadji; that's right. No issues. This is not a subject where there can be any partisan divisions or partisan positions taken. That is why we specifically referred to the near unanimity among the Members when this issue was discussed and debated, and that was one of the finest debates, in my memory, for the last year. But, Sir, the Chairman of the Standing Committee is from this House and he is present in the House. The House must also hear the Chairman of the Standing Committee. Now, the Government has said that they want to withdraw the Bill and they have had consultations with jurists and others. So, the Government is taking a view on what should be the new architecture and on the Bill that they propose to bring as a new Bill for judicial appointments. Now, it is not the question whether on judicial appointments, as such, a departure is to be made from the collegium system to

the Appointments Commission. On the composition of the Appointments Commission and the manner in which the appointments will be made, there is need for a wide-ranging consultation and a prior consensus, in which all those parties who had given their views in this House, all those parties who were members of the Standing Committee, should be allowed to ...*(Interruptions)*... before the Bill is withdrawn. ...*(Interruptions)*...

SHRI SITARAM YECHURY (West Bengal): Sir, we must also be given a chance. ...*(Interruptions)*...

SHRI SATISH CHANDRA MISRA (Uttar Pradesh): Sir, we must also be given a chance. ...*(Interruptions)*...

श्री नरेश अग्रवाल (उत्तर प्रदेश) : माननीय उपसभापति जी, हम लोगों को भी बोलना है। ...*(व्यवधान)*... यह सदन सत्ता पक्ष और विपक्ष का नहीं है, ...*(व्यवधान)*... अपितु हम लोगों का भी है। ...*(व्यवधान)*... सदन में हमारी राय भी सुनी जाए। ...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: Okay. Now, Misraji. ...*(Interruptions)*... I will call you. ...*(Interruptions)*... But, be brief. Everybody must be brief. ...*(Interruptions)*... I will call you too. ...*(Interruptions)*...

SHRI SATISH CHANDRA MISRA: Sir, with great respect ...*(Interruptions)*... Sir, I will not take as much time as has been taken by the two Members who were allowed to speak before me. So far as consultations are concerned, the hon. Law Minister did have consultations with eminent jurists, but not only that, he also proceeded further to have consultations with the parties by writing personal letters to the Presidents of the Parties and the Party itself, and suggestions were given. But I do not agree when they say that it will be a * on the Constitution if the earlier Bill is withdrawn and a new Bill is brought. I cannot agree to that suggestion which is being given. ...*(Interruptions)*... When it is not a part of the Constitution, how can a * on the Constitution occur? It is still not a part of the Constitution. Under the present Bill, it is being made a part of the Constitution, so that there may not be any intermingling and other things later on by an ordinary legislation. Also, I think that it is because of this fight that once they are on this side they would oppose the other side when the Bill comes -- it has been coming for the last 20 years; this issue has been pending for the last 20 years -- it always gets pushed to the backburner. The idea is that because this time they are bringing up something, the Congress has to oppose it! Now, this should not be the trend. With all respect to my learned friends, we have to see to it that the object that my learned friend, my senior colleague and Deputy Leader of the Congress has mentioned, that it is the need of the hour that we bring in a Bill of this

* Expunged as ordered by the Chair.

[Shri Satish Chandra Misra]

kind, needs to be achieved. So, the earlier Bill should be allowed to be withdrawn. When the new Bill is introduced, we would welcome it.

MR. DEPUTY CHAIRMAN: All right. Shri Naresh Agrawal.

श्री नरेश अग्रवाल : माननीय, उपसभापति जी, जब राष्ट्रीय नीति बनती है, तो राजनीति नहीं देखी जाती है। माननीय लॉ मिनिस्टर जिस बिल को लाए हैं, हम सब लोग उनके साथ हैं, क्योंकि उन्होंने हमें फोन किया और हमसे लिखित राय ली है। मैं विपक्ष के लोगों से कहता हूँ कि जब ये सत्ता पक्ष में थे, तब तो इसके पक्ष में थे और आज जब ये विपक्ष में हैं, तो इसका विरोध कर रहे हैं। अगर ये केवल इसलिए विरोध कर रहे हैं कि हमको विरोध करना है, क्योंकि हमारे किसी नेता ने आदेश दे दिया कि हमें राज्य सभा में इसका विरोध करना है ...**(व्यवधान)**... हम लोग इसके पक्ष में नहीं हैं। ...**(व्यवधान)**... माननीय कानून मंत्री जी, आप इसको लाइए, हम सब आपके साथ हैं। ...**(व्यवधान)**... आप इस बिल को खुलकर लाइए। ...**(व्यवधान)**... हम लोग किसी के दबाव में नहीं हैं, ...**(व्यवधान)**... लेकिन जब भी राष्ट्रहित की बात आएगी, हम लोग आपके साथ खड़े होंगे।

SHRI SITARAM YECHURY: Sir, I have just one point. It is true, on record, that the Government and the hon. Law Minister had written to the chiefs of all the major political parties and elicited their opinions. That process has been done. Now, the explanation given here is, I am quoting, "Based on the recommendations of the Parliamentary Standing Committee, changes were made in the Judicial Appointments Bill, etc." That is what the hon. Minister has explained. But now, this Government feels that that is not sufficient to amend the Bill. So, they want to bring in a new Bill which is within the Constitutional framework. I hope I have understood the hon. Minister rightly. A mere amendment on the basis of the Standing Committee's recommendations is not sufficient according to them. So, they want a new Bill. But, Sir, I remember, being part of that discussion then, and the hon. Leader of the House will also adduce to what I am saying, that we have always argued that it is not only a question of judicial appointments. There should be a larger Judicial Commission, where acts of omission and commission against the Judiciary which come up and which is often a very contentious issue and an unnecessary blot on our Constitutional scheme of things, these matters also must come under the ambit of the new legislation. ...**(Interruptions)**... Therefore, Sir, I want to make my last point. Sir, in the last paragraph it says, "In view of the foregoing, the Government seeks to withdraw the Judicial Appointments Commission Bill, 2013, introduced in Rajya Sabha on 29th August, 2013, and replace it with the National Judicial Appointments Commission Bill, 2014, during the current Session of the Parliament." I want this to be the 'National Judicial Commission Bill', where the ambit will be larger as we have all discussed it in the past. I don't want to repeat those arguments. I think, that is in the interest of our country.

SHRI SUKHENDU SEKHAR ROY (West Bengal): Sir, from day one, we have been demanding judicial reforms. We have been demanding reforms in the electoral system as well as in the laws relating to media. When these two Bills were brought forward by the Congress Party in power, we supported them wholeheartedly. Now, in the same way, the new Government intends to introduce two Bills in view of the reasons given in this statement of the hon. Minister, and before that, the hon. Minister also sought views of all political parties by writing personal letters to each individual party. We also have expressed our opinion, in writing, to the Government supporting this endeavour because this is a part of the judicial reforms and we support this stand of the Government.

DR. V. MAITREYAN (Tamil Nadu): Sir, Judiciary – if I am allowed to use the word – suddenly usurped the power to appoint itself by an executive order. I think this needs to be corrected and the various lacunae of the collegium system have come into the forefront in the last few weeks due to the ways in which the Judges were appointed, how the former Supreme Court Judge made some revelations and other things. So, the proper thing will be to go for a Judicial Commission, and the only way to make it foolproof will be to make a Constitutional amendment.

MR. DEPUTY CHAIRMAN: Are you supporting it or opposing it?

DR. V. MAITREYAN: Therefore, I strongly support the view of the Government to bring a Constitutional amendment and cover the entire gamut. ...*(Interruptions)*...

श्री अली अनवर अंसारी (बिहार) : उपसभापति जी, हमारी पार्टी हमेशा से ज्यूडिशियल रिफॉर्म्स के पक्ष में रही है।

MR. DEPUTY CHAIRMAN: Are you supporting it or opposing it?

श्री अली अनवर अंसारी : एक बिल, जिसके बारे में ये कह रहे हैं, हम चाहेंगे कि ये उस बिल को फिर से लायें। हम उस बिल को गुण-दोष के आधार पर देखेंगे, लेकिन वह बिल आना चाहिए।

MR. DEPUTY CHAIRMAN: So, the question is that leave be granted to withdraw the Bill. ...*(Interruptions)*... I am putting the question. ...*(Interruptions)*...

SHRI SHANTARAM NAIK: Sir, I want to say something.

MR. DEPUTY CHAIRMAN: From your side, your Deputy Leader has spoken. ...*(Interruptions)*... Okay, what is your point?

SHRI SHANTARAM NAIK: Sir, I was Chairman of the Standing Committee. I would like to say that the Standing Committee had exhaustively consulted various judicial officers throughout the country, and nobody should say that they were not consulted.

MR. DEPUTY CHAIRMAN: No; only one question is allowed.

SHRI SHANTARAM NAIK: Sir, certainly, the Law Minister has to withdraw the statement that the Standing Committee had disapproved the Bill. That statement has to be withdrawn. I have no other objection as such.

SHRI RAVI SHANKAR PRASAD: Okay, Sir, I withdraw my statement regarding Standing Committee's disapproval of the Bill.

MR. DEPUTY CHAIRMAN: That is enough. It is withdrawn. That is a very immediate reaction. Mr. Raja, what do you wish to say? No statement, just say whether ...*(Interruptions)*... आप बोलिए।

SHRI D. RAJA (Tamil Nadu): No statement, Sir. On 17th July, 2014, the hon. Law Minister has written to all political parties including our Party and we replied to it.

MR. DEPUTY CHAIRMAN: That is repetition.

SHRI D. RAJA: This discussion is not new. Even in ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please help me with your opinion. ...*(Interruptions)*... Don't repeat what others have said.

SHRI D. RAJA: Sir, my point is that the statement mentions replacing it with the National Judicial Appointments Commission Bill, 2014 during the current session of Parliament. The current Session will be there for two or three days more. When are we going to bring that Bill? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Okay. This is your question. ...*(Interruptions)*... There is no time for this now. ...*(Interruptions)*... No, no. Not relevant. You only say whether you support it or oppose it. That is all. That is the simple question.

SHRI D. RAJA: Sir, while agreeing with the Government... ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Okay. Now, you sit down. That is enough. ...*(Interruptions)*... Now, Shrimati Kanimozhi, what do you wish to say? There is no scope of making a statement.

SHRIMATI KANIMOZHI (Tamil Nadu): Sir, we are supporting it.

MR. DEPUTY CHAIRMAN: That is enough. The question is:

“That leave be granted to withdraw the Bill”.

The motion was adopted.

The Bill was, by leave, withdrawn.

SHRI RAVI SHANKAR PRASAD: Sir, I am really grateful to the hon. Members.

MR. DEPUTY CHAIRMAN: Now, discussion on the working of the Ministry of Home Affairs. ...*(Interruptions)*...

RE. ISSUE RAISED ABOUT CONFERRING OF BHARAT RATNA

श्री नरेश अग्रवाल (उत्तर प्रदेश): सर, मेरा एक प्वाइंट ऑफ ऑर्डर है।

MR. DEPUTY CHAIRMAN: What is your point of order?

श्री नरेश अग्रवाल : श्रीमन्, इस सदन में पीठ से भी जो निर्देश दिए जाते हैं, हम सभी का कर्तव्य है कि उन निर्देशों का पालन करें। इस पीठ से कई बार ये निर्देश दिए गए कि जब सदन चल रहा हो और अगर सरकार कोई भी नीतिगत निर्णय ले या मंत्री कोई नीतिगत निर्णय ले, तो उसको सदन में सूचित करना पड़ेगा। श्रीमन्, इस सरकार ने 'भारत रत्न' देने का एक फैसला किया है। सारे अखबारों में उसने यह घोषणा कर दी कि हम किन-किन को 'भारत रत्न' देने जा रहे हैं। अगर उसे यह घोषणा करनी थी, तो इस पीठ के निर्देशों के तहत यह घोषणा अखबारों में नहीं होनी चाहिए थी, बल्कि यह घोषणा इस सदन में नेता सदन को या सम्बन्धित मंत्री को करनी चाहिए थी।

MR. DEPUTY CHAIRMAN : You give notice. ...*(Interruptions)*... You give proper notice.

श्री नरेश अग्रवाल : लेकिन 'भारत रत्न' का नाम लेकर ये जो राजनीति कर रहे हैं, हम लोगों ने इस पर आपत्ति की कि इसमें डा. राम मनोहर लोहिया, जय प्रकाश नारायण ...*(व्यवधान)*... आचार्य नरेन्द्र देव का नाम क्यों नहीं आया?

MR. DEPUTY CHAIRMAN : The Chair cannot react on the basis of ...*(Interruptions)*...

श्री नरेश अग्रवाल : मैं इस पर आपकी व्यवस्था चाहता हूँ। आप इस पर अपनी व्यवस्था दीजिए। मैंने जो बात पूछी है ...*(व्यवधान)*... कि क्या जो नाम दिए गए हैं, वे सही हैं या नहीं और इनमें डा. लोहिया का नाम लिया जाएगा या नहीं? मैं इस पर आपकी व्यवस्था चाहता हूँ।

MR. DEPUTY CHAIRMAN: You please give notice. ...*(Interruptions)*...

SHRI SITARAM YECHURY (West Bengal): Sir, I have a point on this. If you go back in history, I suggest the Government consider starting from Gautam Buddha. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I am not allowing this discussion. ...*(Interruptions)*...

SHRI SITARAM YECHURY: If you want to give Bharat Ratna...
...*(Interruptions)*...