

RESOLUTION OF THE 4TH CONVENTION ON JUDICIAL ACCOUNTABILITY

NEW DELHI, 7th SEPT. '96.

The Convention notes with serious concern that despite the demonstrated failure of the system of impeachment for holding judges accountable for their misbehaviour, and despite the recommendation of the previous Convention on Judicial Accountability and all other responsible observers of the judiciary that the system of impeachment be replaced by a more practical and easily workable system, nothing has been done to achieve this. On the other hand, the Supreme Court has frowned upon the Bar for raising questions about the integrity of judges. This is despite the fact that the so called 'in house' system of the judiciary for cleaning the mess within it has hardly worked at all. Any action against judges for their misbehaviour and lack of integrity so far, though it has been very rare, has been possible only because of the stand taken by the Bar against these judges. The result is that the judges still continue to remain largely unaccountable.

The Convention is of the firm view that we need an independent, high powered, multi-member National judicial commission which should be vested with the ultimate power of appointment, transfer and removal of judges. It should have an investigative machinery of its own and its functioning should be transparent. The Convention recommends that Parliament should immediately enact a Constitution Amendment Act to bring about these changes.

The Convention also notes that despite the 9 judges decision vesting the ultimate power of appointment of judges in the Supreme Court of India, the system of appointment of judges still remains unsatisfactory. In particular, the lack of transparency in the system of appointments has allowed the appointment of a number of undesirable persons in the recent past. The Convention is firmly of the view that the vesting of the ultimate power of appointments and transfers in a single person, even if he be the head of the judiciary, is unsatisfactory and is likely to lead to the exercise of this power on the basis of improper information and extraneous considerations.

The Convention constitutes a sub-committee of the following members of the Committee to finalize the draft of such a legislation and pursue it with Parliament:

The Convention also resolves to include the following persons in the Committee on Judicial Accountability and authorizes the newly constituted Committee to co-opt other members in the Committee: