LOK SABHA

# THE LOKPAL AND LOKAYUKTAS BILL, 1968

(Report of the Joint Committee)

[Presented on the 26th March, 1969]

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LOK SABHA SECRETARIAT NEW DELHI

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March, 1969/Chaitra, 1891 (Saka) Prics : Rs. 1.45 REPORTS OF THE JOIN SELECT COMMITTEES PRESENTED TO LOK SABHA DURING THE YEAR 7969.

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S1.No	• Name	Presented on	
1.	Contract Labour (Regulation and Abolition) Bill, 196/ -(Joint Committee report)	26 • 2 • 69	
2•	_/o- Evidence		
3•	Lokpaj and Lokayuktas Bill, 1968 (Joirt Committee report)	26•3•69	
4.	-do- Evidence		
5•	-do- Statement containing a gist of main points made by Witnesses in their Evidence before the Joint Committee.		
6.	Government (Liability in Tort) Bill, 1967 (Report of the Joint Committee)	25•3•69	
7•	-do- Evidence		
8•	Constitution (Twenty-Second) Amendment Bill, 1968 (Report of Join't Committee)	12•3•69	
9•	-do- Evidence		
10.	Indian Penal Code (Amendment) Bill, 1967 (Report of the Select Committee)	1.5.69	
	pheduled Castes and Schedules Tribes dere (Amendment) Bill, 1967 port of the Joint Committee)	17•11•69	
	o- Evidence		
	of the Appellate (Criminal) LOK SAL of the Supreme Court Bill, Mi Anand Narain Mulla,M.P. Select Committee) Marke	17.11.69	

# CORRIGENDA

TO. THE REPORT OF THE JOINT COMMITTEE ON THE LOKPAL AND LOKAYUKTAS BILL, 1968. Report of the Joint Committee 1. Page (viii), line 15, for 1850" read 1950". 2. Page (viii), line 23, for "Commitee" read "Committee". 3. Fage (ix), line 1, for "Clause II." read "Clause 11". 4. Fage (xi), line 2, for "tha" read "that". ŗ., Minutes of Dissent . 5. Page (xv), line 30, for "fro mthe" read "from the". 6. Page (xvii), line 2, for "by"read "be". 7. Page(xx), fine 35, for "i ntwo" read "in two". 8. Page (xxi), line 3, for "Publlic" 9. Page (xxii), line 36, for "obain" read "obtained". 10. Page (xxiii), line 29, for "execlusion" read "exclusion". 11. Page (xxiii), line 38, for "ttention" read "attention". 12. Page (xxvi), line 10, for "allegation" read "allegations". 13. Page (xxvii), line 8; <u>for</u> "contigencies" <u>read</u> "contingencies".

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- 14. Fage (xxvii), line 34, for "ommission" read "omission".
- 15. Page (xxvii), line 38, <u>for</u> "grieveances" <u>read</u> "grievances",
- 16. Page (xxviii), line 32, for "insert" read "inert".
- 17. Page (xxx), line 8, for "what" read "that".
- 18. Page (xxxi), line 5, <u>after</u> "was" <u>insert</u> "not".

Aprendix-III

- 19. Page 24, line 29, <u>for</u> "Vigilencel" <u>read</u> "Vigilence".
- Appendix-IV

. . .

20. Page 27, line 22, <u>for</u> "Fx-M.F." <u>read</u>"Ex-M.F.".

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Appendix-V

- 21. Page 40, line 30, <u>for</u> "Shri Awadeshwar Prasad Sinha" **Sere** "Shri Awadheshwar Frasad Sinha".
- 22. Fage 45, line 31, for "13. Shri Furnanand Chetia" read "15. Shri Sundar Singh Bhandari".
- 23. Page 71, line 28, for "Futher" read "Further".

24. Fage 72, line 13, after "after" insert "line".

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## JOINT COMMITTEE ON THE LOKPAL AND LOKAYUKTAS BILL, 1968

## COMPOSITION OF THE COMMITTEE

Shri M. B. Rana-Chairman.

## Members

#### Lok Sabha

2. Shri S. A. Agadi

3. Shri K. Anbazhagan

4. Shri Frank Anthony

5. Shrimati Jyotsna Chanda

6. H. H. Maharaja Pratap Keshari Deo

7. Shri C. C. Desai

8. Shri Shivajirao S. Deshmukh

9. Shri Gangacharan Dixit

10. Shri Samar Guha

11. Shri Kanwar Lal Gupta

12. Shri Gunanand Thakur

13. Shri Hem Raj

14. Dr. Karni Singh

15. Shri Kinder Lal

16. Shri Thandavan Kiruttinan

17. Shri Amiya Kumar Kisku

18. Shri Bhola Nath Master

19. Shri V. Viswanatha Menon

20. Shri G. S. Reddi

21. Shrimati Uma Roy

22. Shri Narayan Swaroop Sharma

23. Shri Yogendra Sharma

24. Shri Shashi Bhushan

25. Shri Vidya Charan Shukla

( <b>ii</b> )				
26 Shri Ramshekhar Prasad Singh				
27. Shri R. K. Sinha				
28. Shri S. Supakar				
29. Shri Tenneti Viswanatham				
30. Shri Y. B. Chavan				
Rajya Sabha				
31. Shri Gurmukh Singh Musafir				
*32. Shri Ram Niwas Mirdha				
33. Sardar Joginder Singh				
34. Pandit Sham Sunder Narain Tankha				
**35. Shri Ganeshi Lal Chaudhary				
36. Shri Purnanand Chetia				
37. Shri Akbar Ali Khan				
38. Shri K. S. Ramaswamy				
29. Shri V. T. Nagpure				
40. Shrimati Pushpaben Janardanrai Mehta				
41. Shri M. Ruthnaswamy				
42. Shri Sundar Singh Bhandari				
43. Shri Gaure Murahari				
44. Shri Balachandra Menon				
45. Shri A. D. Mani				
LEGISLATIVE COUNSEL				
1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.				

- 2. Shri R. V. S. Peri-Sastri, Addl. Legislative Counsel, Ministry of Law.
- 3, Shri G. N. Saxena, Assistant Draftsman, O.L. (Leg.) Commission, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.

<sup>\*</sup>Appointed w.e.f. 15th August, 1968 in the vacancy caused by the death of Shri Harish Chandra Mathur.

<sup>\*\*</sup>Appointed w.e.f. 29th August, 1968 in the vacancy caused by the resignation of Shri Awadheshwar Prasad Sinha.

- 2. Shri S. P. Mukherjee, Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 4. Shri S. P. Mukerji, Director, Department of Administrative Reforms, Ministry of Home Affairs.
- 5. Shri A. P. Veera Raghavan, Deputy Secretary, Ministry of Home Affairs.
- 6. Shri S. M. Chickermane, Deputy Secretary, Department of Administrative Reforms, Ministry of Home Affairs.

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#### Secretariat

Shri M. C. Chawla-Deputy Secretary.

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## **REPORT OF THE JOINT COMMITTEE**

I, the Chairman of the Joint Committee to which the Bill<sup>\*</sup> to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith was referred, having been authorised to submit the Report on their behalf, present their Report with the Bill, as amended by the Committee, annexed thereto

2. The Bill was introduced in Lok Sabha on the 9th May, 1968. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Vidya Charan Shukla, Minister of State in the Ministry of Home Affairs on the 10th May, 1968 which was discussed and adopted on the same day (See Appendix I).

3. Rajya Sabha discussed and concurred in the said motion on the 13th May, 1968 (See  $Ap_F^{-1}$  endix II).

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin Part II. dated the 16th May. 1968.

5. The Committee held 19 sittings in all.

6. The first sitting of the Committee was held on the 29th May, 1968 to draw up their future programme of work. The Committee at this sitting decided that a Press Communique be issued advising public bodies, trade unions, organisations, Associations/individuals, who were desirous of submitting their suggestions/views. to send written memoranda on the Bill for their consideration. The Committee also decided that the State Governments, Bar Councils of the Centre and the States, Bar Associations of the Supreme Court and High Courts and Chambers of Commerce and Industry be requested to forward their comments on the Bill for the benefit of the Committee. The Chairman was authorised to select parties, after the receipt of written memoranda from them, for oral evidence before the Committee.

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<sup>\*</sup>Published in the Gazette of India, Extraordi nary, Part II, Section 2, dated the 9th May, 1968.

7. 42 Memoranda/Representations etc. on the Bill were received by the Joint Committee from different Associations individuals mentioned in Appendix III.

8. At their 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 13th, and 14th sittings held on the 4th, 5th, 6th, 27th July, 3rd, 20th, 23rd, 24th, 31st August, 24th October and 7th December, 1968 respectively, the Committee heard the evidence given by eminent jurists, public men and other interested parties/organisations (See Appendix IV).

9. The Report of the Committee was to be presented by the first day of the next session *i.e.*, on the 22nd July, 1968. As this could not be done, the Committee decided to ask for extension of time for presentation of their Report upto the first day of the Winter Session (Sixth Session). Necessary motion was brought before the House and adopted on the 22nd July, 1968. At their thirteenth sitting held on the 24th October, 1968, the Committee decided to hear evidence of some more eminent jurists and hence asked for further extension of time upto the second day of the second week of the Budget Session which was granted by the House on the 11th November. 1968. Again at their sixteenth sitting held on the 24th January, 1969, the Committee decided to ask for further extension of time upto the 29th March, 1969 which was granted by the House on the 17th February, 1969.

10. The Committee have decided that the evidence given before them and the gist of main points of the evidence should be printed and laid on the Tables of both the Houses.

11. The Committee have also decided that the Memoranda/Representations etc. submitted by various associations|organisations|Government departments etc. should be laid on the Tables of both the Houses and a copy thereof be placed in Parliament Library for reference by the Members.

12. The Committee considered the Bill clause-by-clause at their 15th, 16th, 17th and 18th sittings held on the 23rd, 24th January, 1st and 13th March, 1969 respectively.

13. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

14. Clause 2.—(i) The Committee feel that the words "improper conduct", as existed in sub-clause (h) (iii) make the definition of allegation unmanageably wide and are capable of including matters

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of a minor nature. These words have, therefore, been deleted and the sub-clause amended accordingly.

(ii) The words "undue hardship" have been added in the definition of "grievance" to make the intention more clear and hence subclause (d) has been amended accordingly.

(iii) The words "(other than the Prime Minister)" have been inserted in the definition of "Minister" with a view to make it clear that the Prime Minister is excluded from the scope of the Bill. Subclause (h) has, therefore, been amended accordingly.

(iv) The amendment made in sub-clause (k) (iii) is of a drafting nature.

15. Clause 3(2) —The sub-clause in the Bill as introduced sought to dispense with the need for consulting the Lokpal in the case of the appointment of the first Lokavukta. The Committee feel that there is no necessity for the sub-clause. The sub-clause has, therefore, been deleted.

16. Clause 4.—The clause has been amended to make it clear that a person holding the office of the Loknel or a Lokavukta shall not hold any office of profit or carry on any business or practise any profession.

17. Clause 5.—(i) The Committee feel that from the point of view of ensuring the impartiality of the Lokpal and the Lokpaniktas, it is not desirable to permit a second form for the Lokpal or the Lokayuktas. Further, it involves the risk of a person being retained for a longer period even when more suitable and competent persons are available. The words "but shall be eligible for re-appointment for not more than one term" have, therefore, been deleted from subclause (1).

(ii) The Committee feel that the provision made in proviso (c) to sub-clause (1) might be misused by delaying the appointment of a successor and thereby enabling a particular Lokpal or a Lokevukta to continue in office beyond his tenure. The provise has therefore, been deleted.

(iii) Sub-clause (3) has been amended to debar the Loknal and the Lokaviktas from taking up any employment under a State Government and also to debar the Loknal and the Lokaviktas from being re-annointed or annointed as the Loknal or a Lokavikta or in any other canadity under the Government.

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(iv) Three new sub-clauses are being substituted for sub-clause (4) with a view to specify the salaries payable to the Lokpal and the Lokayuktas in the Bill itself and to make it clear that they are entitled to pension on their retirement.

18. Clause 6.—The Committee feel that it is more appropriate to provide that the inquiry to be held before removal of the Lokpal or a Lokyukta should be conducted only by a sitting or retired Judge of the Supreme Court of India. Proviso to sub-clause (1) of the clause has, therefore, been amended accordingly.

19. Clause 8.—(i) The amendment made in sub-clause (1) (a) is of a consequential nature.

(ii) The Committee feel that the jurisdiction of the Lokpal or the Lokayukta in respect of an action which has been referred for inquiry under the Commissions of Inquiry Act, 1952 or under the Public Servants (Inquiries) Act, 1850 should be excluded only when such inquiry under the said Acts is made with the prior concurrence of the Lokpal. Sub-clause (2) has, therefore, been amended accordingly.

(iii) New sub-clause (4) has been added with a view to debar the Lokpal or a Lokayukta from investigating any complaint which is excluded from his jurisdiction by virtue of a notification under the new clause 18, and is consequential in nature.

20. Clause 9.—(i) The Committee feel that when the complaint under sub-clause (2) is to be made in the proper form and is to be accompanied by affidavits, the complainant need not be burdened with producing other documents. The sub-clause has, therefore, been amended accordingly.

(ii) The amendments made in sub-clause (3) are of a drafting nature.

21. Clause 10.—The Committee feel that the Lokpal and the Lokavuktas should be authorised to make a preliminary inquiry, if they deem fit, before undertaking formal investigation of a complaint and that they should he entitled to make such orders as to the safe custody of the documents relevant to the investigation, as they deem fit. The Committee also feel that the Lokpal and the Lokavuktas should be conferred with a discretion to conduct an investigation in public in cases of definite public importance.

The clause has, therefore, been amended accordingly.

22. Clause II.—(i) The amendments made in sub-clauses (1) and (2) are of a consequential nature.

(ii) The Committee feel that the provision made in sub-clause (4) should be applicable to all persons covered by the definition of 'public servants'. The Committee also feel that the Government or the public servants should not, save as provided in sub-clause (5), be entitled to claim any privilege with regard to the production of documents or giving of evidence as is claimed in legal proceedings under any enactment or rule of law. The sub-clause has, therefore, been amended accordingly.

(iii) The Committee feel that the protection from disclosure provided in sub-clause (5) (b) should also be extended to cover the proceedings of the Cabinet of a Union Territory and the Executive Council of Delhi Administration and of Committees thereof.

The sub-clause has, therefore, been amended accordingly.

(iv) The amendment made in sub-clause (6) is of a drafting nature.

23. Clause 12.—(i) The amendments made in sub-clause (1) are of a consequential and drafting nature.

(ii) The amendment made in sub-clause (3) is of a drafting nature.

(iii) The Committee feel that when a case is finally closed by the Lokpal or the Lokayukta, he should inform the persons complained against and the competent authority. The Committee also feel that where the Lokpal or the Lokayukta makes a Special Report to the President in respect of any case, he should inform the complainant concerned also.

Sub-Clause (5) has, therefore, been amended accordingly.

(iv) The Committee recommend that Government may make suitable regulations to exclude from the purview of the Union Public Service Commission matters considered by the Lokpal/Lokayuktas. In any case the Committee feel that there is no necessity to retain the proviso to sub-clause (5). The proviso has, therefore, been deleted accordingly.

(v) The Committee feel that it should be left to the Lokpal/ Lokayuktas to present the Reports in such manner as they feel necessary. They should be relied upon to describe the individual eases in a fair manner and specific provision in relation thereto need not be made.

Sub-clause (7) has, therefore, been deleted.

24. Clause 13(3) — The sub-clause in the Bill, as introduced, requires the Lokpal and the Lokayuktas to obtain the consent of the Central Government for utilising the services of any officer or investigating agency of that Government in each and every case. The Committee feel that it should not be incumbent on the Lokpal or the Lokayukta to obtain such consent in each and every case and that general consent, if obtained, should enable the Lokpal or the Lokayukta to utilise the services of any officer or investigating agency for the purpose of conducting investigations under the proposed legislation.

The sub-clause has, therefore, been amended accordingly.

25. Clause 14.—(i) The amendment made in sub-clause (1) is of a consequential nature.

(ii) The Committee feel that the provisions made in sub-clauses (4), (5), and (6) in the Bill, as introduced, might contravene the fundamental right to freedom of speech and expression guaranteed under article 19 of the Constitution. The sub-clauses have, therefore, been deleted.

26. Clause 15.—(i) The Committee feel that the punishment for the insult etc. of the Lokpal or a Lokayukta should be on par with the corresponding provisions in the Contempt of Courts Bill.

Sub-clauses (1) and (2) have, therefore, been amended accordingly.

(ii) The Committee feel that the Lokpal/Lokayukta should be the best judge of any insult to them and they should be empowered to sanction prosecution for such offences. There is no need to have the previous sanction of the Government.

Sub-clause (3) has, therefore, been amended accordingly.

27. Clause 17.— (i) The Committee feel that in order not to overload the Lokpal with the work, it should be open to him to entrust a case referred to him by the President, to a Lokayukta, if the circumstances of the case are such that a Lokayukta could have investigated it otherwise also. A proviso to sub-clause (3), has, therefore, been added. (ii) A new sub-clause (4) has been added with a view to provide tha the procedure and powers of investigation and report applicable in the case of investigations made on a complaint would also apply in relation to the discharge of additional functions conferred by the President on the Lokpal or a Lokayukta under clause 17(1) and investigations under clause 17(3).

28. New Clause 18.—The Committee feel that with a view to enabling the Lokpal or the Lokayukta to concentrate on really important cases when the work becomes unmanageable, the Central Government should be empowered to exclude by notification, on the recommendation, of the Lokpal, complaints against public servants belonging to such class (not being public servants holding posts carrying a minimum monthly salary of one thousand rupees or more exclusive of allowances) as may be specified in the notification. This may become necessary particularly in the case of public servants in the lower grades of pay. The Committee feel that every such notification shall be laid before Parliament.

A new Clause 18, has, therefore, been added accordingly.

29. Clause 20 (Original Clause 19).—Amendments made in subclause (2) (b) and (c) are of a consequential nature.

30. Clause 21 (Original Clause 20).—(i) Sub-clause (a) and subclause (b) have been amended with a view to make it more clear that the entire judiciary and its establishment are excluded from the scope of the Bill.

(ii) The Committee note that the Members of Parliament, the Members of Legislative Assemblies of Union Territories and the Executive Councillors of the Metropolitan Council of Delhi have not been brought within the scope of the Bill. The Committee consider that in view of their peculiar position, the Secretariats of Parliament, Legislative Assemblies of Union Territories and Metropolitan Council of Delhi be also excluded from the purview of the Bill.

New Sub-clause (f) has, therefore, been added.

31. New Second Schedule.—The new Second Schedule has been added with a view to specify the salaries of the Lokpal and the Lokayuktas.

32. The Third Schedule (Original Second Schedule).—Amendment made in this Schedule is of a consequential nature. 33. Clause 1 and Enacting Formula.—Amendments made in these are of a formal character.

34. The Committee considered and adopted the Report on the 21st March, 1969.

35. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI; 21st March, 1969. Phalguna 30, 1890 (Saka). M. B. RANA, Chairman. Joint Committee I

The credit for initiating legislation to make provision for investigation into grievances or allegations against persons in high places, whether ministerial or secretarial, goes to my esteemed colleague and friend Dr. P. K. Deo who introduced a Bill on the subject in 1967, but withdrew it on the assurance from Government that a similar and more comprehensive Bill would be brought forward by Government during the life of the present Parliament. The Bill as introduced in Parliament has been considered in detail by the Joint Committee and improved in many respects, thanks to the conciliatory and cooperative attitude shown by Government and particularly by the Home Minister, Shri Y. B. Chavan.

2. There is only one important matter where all the opposition members disagreed with the Home Minister and where they would like a change to be made even at this late stage. That is in respect of bringing the office of the Prime Minister within the purview or jurisdiction of this enactment. The Bill as introduced did not specifically extend the jurisdiction of the Bill to the Prime Minister, but it certainly did so by implication. In clause 2(C)(i) read with clause 2 (H) the Prime Minister's office came within the definition. But in the Joint Committee, Government moved an amendment and excluded the Prime Minister from the scope of the Bill. I feel that this was done by Government more as a demonstration of their loyalty to the Prime Minister than out of conviction that the incumbent of the office of the Prime Minister can never be such a person as to fall within the mischief of this law. We have seen time and again Chief Ministers falling a prev either to corruption or to maladministration or to misconduct and their cases have been investigated by commissions of inquiry and they have been held guilty and they have been removed from office or subjected to other punishment or displeasure. Any one of these persons in the kind of democracy which operates in this country may become the Prime Minister and could fall a prey to similar temptations. It was argued on behalf of Government that if there was any complaint or allegation or grievance against the Prime Minister, the proper forum was Parliament where a vote of no-confidence could be brought against

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him. What the present Bill seeks is to investigate into complaints of improper conduct, undue pressure or corruption and the investigation has to be of a judicial or quasi-judicial character, whereas any vote of no-confidence in Parliament would automatically assume political complexion and would be treated as such in any discussion or decision on the floor of the House. If a Prime Minister loses confidence of a majority of the members of the House, the proper forum to take action against him is on the floor of the House. But that is very different from charges of corruption or allegations of improper conduct. Just as the Prime Minister is not exempt from the operation of the law of the land and it is never argued that if the Prime Minister breaks the law, action could be taken against him by a vote of no-confidence on the floor of the House, similarly if the Prime Minister is accused of corruption, mis-conduct or of causing undue hardship, the proper forum is not Parliament but a judicial or quasijudicial investigation by an independent agency like the Lokpal which this Bill seeks to create. We, therefore, make a special appeal to the Prime Minister not to submit to this crude attempt at flattery, but to rise to the occasion and to see that the office of the Prime Minister like that of any other Cabinet Minister, would also be brought within the ambit of the Lokpal Bill. If the office of the Deputy Prime Minister can be subjected to the jurisdiction of the Lokpal Bill, there is no reason and there is no logic why the office of the Prime Minister should not be subjected likewise. I would, therefore, press for the deletion of the amendment in clause 2 subclause (h) and  $\bullet$  a further amendment to clause 2 sub-clause (C)(1) to the effect that in the case of the Prime Minister, the competent authority should be the President acting in his individual discretion.

3. Some members of the Committee sought to include Members of Parliament within the jurisdiction of the Lokpal Bill, but the majority rightly rejected the proposal. In case an attempt is made to resurrect the proposal on the floor of the House, I wish to take this opportunity to point out that Members of Parliament are not officers of Government and are not invested with powers or authority to take decisions, to place contracts or to show favours in administration. Secondly, if they are accused of improper conduct, there is the forum of the Committee on Privileges where their action could be arraigned and if found guilty they could be dealt with by the House. Jurisdiction of the Lokpal Bill should be coterminous with authority or power to take decisions or to cause injustice or to show favours.

4. The Bill does not make adequate provision to ensure that the Lokpal and Lokayuktas shall constitute a common organisation with the Lokpal at the head. If there is more than one Lokayukta, the

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distribution of work among Lokayuktas should be governed by such rules, regulations or orders as the Lokpal may make in consultation with the Lokayuktas. I moved an amendment to provide for this to clause 3 sub-clause 4, but it did not find favour either with Government or with a majority of the members of the Joint Committee. As this is an important organisational matter, it would be better to make it clear in the Act itself. Similarly in clause 7 sub-clause 3, it would have been better if it had been made clear that notwithstanding anything contained in sub-section 2, the Lokpal may after consultation with the Lokayuktas and for reasons to be recorded in writing, investigate any action which may be investigated by a Lokayukta under that sub-section. If a particular case falls under the iurisdiction of a Lokayukta and if it is sought to transfer it to the Lokpal himself, the Lokpal should do so only after consultation with the Lokayukta so as to maintain the independence and integrity of Lokayukta who would be an officer of the status comparable to a judge of the Supreme Court.

5. No provision has been made for investigation into complaints or allegations made in anonymous letters. It is our experience that anonymous letters also often contain valuable material which on investigation, is found to be correct leading to action against people in high places. It is always open to a Lokpal to conduct a pre'iminary investigation and to decide whether further investigation should be made or not. But there should be provision for taking cognizance of anonymous applications or letters. I would suggest an amendment of Clause 8 after sub-clause 4 of proviso to the effect that the Lokpal or a Lokayukta may, for reasons to be recorded in writing, investigate or cause an investigation to be made into an allegation if the facts have come to his knowledge otherwise than on a formal complaint within 10 years fro mthe date on which the action forming the basis of the allegation is allged to have taken place. Generally I would look with disfavour upon anonymous applications; but to say that anonymous allegations should not justify even a preliminary investigation is to shut out an importance source of information regarding misconduct, injustice or favours on the part of people occupying high places.

6. Clause 19 makes provision for the making of rules by the President. But it does not say explicitly that the rules shall be framed only after consultation with the Lokpal. In the case of the Supreme Court, the Constitution provides that the Rules shall be made in consultation with the Supreme Court. If our intention is to equate the status and dignity of the institution of Lokpal with that of the

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Supreme Court as far as possible, we should adopt the same practice and make the same provision in regard to the power to make rules. When this amendment was moved in the Joint Committee, Government pointed out that this would be a normal practice and therefore there was really no necessity to say so in the Act itself. If this argument is accepted in its entirety, there should not have been such a provision in Article 145 of the constitution relating to the Supreme Court. I would prefer the Lokpal Bill laying it down clearly that the Ru'es shall be framed after consultation with the Lokpal. Some essential or preliminary Rules may be framed earlier, but rules regarding procedure and detailed working of the institution should be made only after the Lokpal has been appointed and he has been consulted in regard to the proposed Rules.

7. Once again I would like to record my thanks to both Mr. Chavan and Mr. V. C. Shukla for their attitude of cooperation with the opposition parties as a result of which they accepted a number of amendments moved by the members belonging to opposition parties. This also would not have been possible but for the encouragement given by the Chairman of the Joint Committee to the members, particularly belonging to the opposition parties.

New Delhi; March 21, 1969. Phalguna 30, 1890 (Saka). C. C. DESAI.

#### II

We are of opinion that Members of Parliament should be included under clause 2(k) in the category of public servants and brought within the jurisdiction of the Lokpal. As the Bill stands, the conduct of Ministers is within the jurisdiction of the Lokpal. Members of Parliament enjoy many privileges denied to the public and it would look strange, if Members of Parliament who discharge many public responsibilities and who are in a position to influence Ministers and Government generally, are kept out of the orbit of the Bill. Example is always better than precept and Members of Parliament would set a noble example if they subject themselves also to the scrutiny by the Lokpal. As framers of this legislation, it is the duty of Members of Parliament to do so. We are accordingly of the view that the Bill should be amended on the lines indicated in this note. The competent authority in respect of Members of Parliament should by Speaker in the case of Members of Lok Sabha and Chairman in the case of Members of Rajya Sabha.

NEW DELHI;

 March 21, 1969.
 AKBAR ALI KHAN

 Phalguna 30, 1890 (Saka).
 SHAM SUNDER NARAIN TANKHA

 S. A. AGADI
 BALACHANDRA MENON

 TENNETI VISWANATHAM
 A. D. MANI

 SUNDAR SINGH BHANDARI
 PUSHPABEN JANARDANRAI MEHTA

#### III

While efficiency of an administration is necessary, its integrity is the very essence of good government. So an endeavour to set up a supreme authority to whom the appeal can be made by individuals who suffer from injustice or hardship as a result of administrative action such as cannot be remedied otherwise is the growing need of the day. This is more so where one party government prevails. The Ombudsman in Scandinavia and elsewhere is a non-party man and is invested with wide powers of investigation and has access to official papers. He is an officer of very high status and acts on the complaint of every citizen who has a grievance and seeks justice. We in Swatantra Party have been crying for the establishment of this institution since March 1960 in our various conventions, meetings and election manifesto. At long last the Administrative Reforms Commission headed by no less a personage than Shri Morarji Desai, now the Deputy Prime Minister of India made a unanimous recommendation on October 20, 1966, for the establishment of this institution at the earliest. Elections came in. The same party was saddled in power. We thought that the Government would lose no time in accepting this unanimous recommendation of their Commission and ensure the highest standard of efficiency and integrity in public life. Though more than a year passed the Government slept over the matter. I gave notice for introduction of the same Lokpal Bill as suggested by the Administrative Reforms Commission. After the introduction, the Government scotched its consideration by not making available the President's recommendation for consideration as it involved financial commitments. Normally this is a formality which presents no difficulty but in this case strangely, the President declined to recommend, thus making the consideration of the Bill in

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Parliament impossible. However, the consideration was circumvented by another substitute motion of the mover for circulation for purposes of eliciting public opinion by a certain date and after some discussion the motion was put to vote. At the teeth of the opposition of the Government benches, it was carried by a majority of two votes. Parliamentary history was thus created for the first time with the defeat of the Government on a substitute motion of the opposition.

2. Then after a lapse of nineteen months on May 9, 1968, the Government brought another official bill called the Lokpal and Lokayuktas Bill 1968 which after some consideration was referred to a Joint Select Committee. The bill as it has emerged from the Joint Select Committee, has belied the expectation of everybody.

3. The original bill has been much watered down by the exclusion of the Prime Minister from the operation of this Bill. The argument advanced by the Government to exclude the Prime Minister is least convincing. "King can do no wrong" can apply, if necessary, to the head of the State and not to the head of the Government. The Prime Minister of a country whatever stature he may have is an elected person and is responsible to the people for all his action. His conduct should be under the scrutiny of the Lokpal and in this case the competent authority should be the President of India. The exclusion of the Prime Minister is the creation of a privileged class which is an anachronism on the constitution. Further, as this bill is likely to be a model bill, for the State legislatures, it may provide a plea to exclude the Chief Minister also from the purview of the respective bills. Serious allegations and grievances against the Chief Ministers have become the order of the day, as has been proved in the findings of eminent jurists and even under the Commission of Enquiry Act. No less a person than the present Chairman of the Administrative Reforms Commission the other day had brought a long list of such charges against the former Congress Chief Minister of Mysore. So we strongly plead in favour of the inclusion of the Prime Minister in the ambit of the Bill.

4. The action of the Governors, Lt. Governors and the Chief Commissioners in the exercise of their executive authority should also come under the operation of this Bill. At times such constitutional authorities act under the advice of the Ministry of Home Affairs and overdo things which go against the verdict of the electorate or in the installation of the minority governments. They being unimpeachable, these constitutional heads should be responsible to some popular authority and subject of scrutiny by the Lokpal. 5. The Government have extended their activities in public sector undertakings to such an extent—in trade, in commerce, in industry and transport etc., involving crores of rupees of the public money, that it will be improper to exclude them from the operation of the Lokpal and the Lokayukta. The plea taken by some that allegations and grievances of interested persons against their action in the working of public sector undertakings will hamper the growth of their business is not convincing. It will, on the other hand, promote the fortunes of the interested individuals at the cost of the public sector undertakings.

6. The institution of Lokpal and the Lokayukta, when set up, would really be both a sword and a shield. While passing a stricture it could protect the ministers and civil servants from calumny and character assassination. At the same time, it is necessary to ensure that the institution does not undermine the morale and the confidence of the civil servants and does not hamper or hamstring them in taking administrative decisions boldly and expeditiously. So the Lokpal and the Lokayukta should be men of the highest integrity and respect capable of inspiring confidence to all concerned.

7. The method of appointment of the Lokpal by the President after consultation with the Chief Justice of India and the leader of the opposition or if there be no such leader, a person elected in this behalf by the members of the opposition does not make it imperative on the part of the President to appoint a particular person. The President for his executive action will be guided by the Council of Ministers and the right type of person may not be appointed. So a suggestion that the President shall appoint the Lokpal in consultation with the Chief Justice of India and the Leader of the Opposition or if there be no leader, a person elected in this behalf by the members of the opposition would be more proper. Alternatively a sub-committee may be formed consisting of the Prime Minister, the Chief Justice and the leader of the Opposition or if there be no such leader, a person elected in this behalf by the members of the opposition should go into the question of selecting the Lokpal and recommend to the President for his appointment.

8. It is a good thing that the emoluments and other secretariat staff of the Lokpal and Lokayukta will be more or less like those of the Chief Justice of the Supreme Court and Chief Justice of High Courts respectively. But I fail to understand why the procedure for removal of the Lokpal and Lokayukta will be quite different from the procedure of removal of the Judges of the Supreme Court. In the last Lok Sabha when the Judges Enquiry Bill was introduced, it came under heavy fire from the opposition. As a result, the provision for presidential enquiry providing an impeachment motion in the House of Parliament was dropped in the Joint Select Committee. The Judges Enquiry Act is now on the Statute Book of our country. A similar procedure should be laid down for the removal of the Lokpal and Lokayukta from his office on grounds of misbehaviour or incapacity etc. The apprehension that the Council of Ministers may at one stage advise the President to initiate such a move for the removal of this dignitary who may not be to their liking, cannot be ruled out.

9. The bill envisages the utilisation of any person or agency of the Central Government after obtaining their consent for purposes of investigation. But it will lead to diarchy when the persons of the permanent cadres will for all purposes be under the administrative control of the various ministries and answerable to them for their career. So they cannot be supposed to act with independence of Judg nent that is needed to help the Lokpal or the Lokayukta for investigation in the discharge of his duty. So it is suggested that the Lokpal or the Lokayukta will employ his own agency for investigating which will be for all purposes answerable to him.

10. The Lokpal is an extended arm of the parliamentary apparatus in the cause of redressing public grievances. It will be submitting its annual and special reports for discussion in the Parliament and for such action as they deem proper. Even after rejecting many frivolous and malicious complaints of grievances and allegations after the preliminary hearing, we are sure there will be a large number of genuine cases which both Lokpal and Lokavukta will have to deal in a country with 500 and odd million population. So the annual report or the special report which will be submitted to the Parliament will be so voluminous that it will not be possible for the Parliament to do proper justice to these reports in view of our past experience when we find, that annual reports like the Indian Public Service Commission's report and the Scheduled Castes and Scheduled Tribes reports which are statutory reports get a chance to be discussed once i ntwo or three years. So it is suggested with all emphasis that the Parliament will appoint a Standing Committee of both the Houses of Parliament to be known as the Joint Committee for Petitions and Public Grievances which will be entrusted with the task of pursuing the implementation of the recommendations of the Lokpal and the Lokayukta as reported in their annual and special reports and also of examining the explanations of the Government, if any, in cases where the Government have not implemented those recommendations. (The relationship between the

Lokpal and the proposed Committee for Petitions and Public Grievances would be on the lines of the relationship between the Comptroller and Auditor General and the Public Accounts Committee.)

11. The success of the proposed institution and the extent to which it would command and inspire public confidence would depend largely on the capacity, competence and the personality of the Lokpal and Lokayukta. This would indeed be the decisive factor on which the future of this institution will hinge.

New Delhi; March 21, 1969. Phalguna 30, 1890 (Saka).

## H.H. MAHARAJA PRATAP KESHARI DEO

IV

Corruption and abuse of power in State apparatus have assumed menacing proportion. They have become rooted in our socioeconomic and political set up. A radical reorganisation of our socioeconomic and political structure is urgently called for in order to eradicate this cancerous evil.

2. However, in the given set-up, the proposed institution of Lokpal and Lokayuktas will be useful to the extent it attends to public grievances and allegations arising out of corruption and abuse of power.

3. It is our common knowledge that casteism and communalism have affected our political life. They threaten to undermine the secular character of our State. Many cases of corruption, favouritism and maladministration arise out of caste and communal considerations. It is regretted that the Joint Committee have not found it desirable to accept that casteism and communalism will also form matters of complaints to be entertained and investigated by the Lokpal and Lokayuktas.

4. The fate of this institution very much depends upon how and what appointments of Lokpal and Lokayuktas are made. We can look forward to the success of this proposed institution only if Lokpal and Lokayuktas are persons of highest integrity, undoubted impartiality and sterling character. Above all, they should be persons capable of inspiring maximum possible confidence of cross sections of our people. If this is not ensured, we are afraid the proposed institution may be misused for partisan ends as is our sad experience of the institution of Governorship. In order to ensure this the Lokpal should be appointed in consultation with the Chief Justice of India and the leaders of all the recognised Opposition groups in both Houses of Parliament.

5. A big source of maladministration and corruption is the growing trend of economic links between high government officials and big business. Very often high government officials go into the employment of big business houses after their retirement. Big business houses in their turn cultivate them for their own ends. Therefore it is necessary to debar the Lokpal and Lokayuktas from taking up any employment in big business concerns after their retirement. It is not enough to debar them from government employment.

## YOGENDRA SHARMA BALACHANDRA MENON

NEW DELHI;

The 21st March, 1969. Phalguna 30, 1890 (S).

v

Though the Bill as it has emerged from the Joint Committee is an improvement on the original draft, we regret we cannot endorse it chiefly because it continues to suffer from a very fundamental lacuna. We ardently wish the Parliament in its wisdom will remedy this.

The proposed law is aimed at eliminating corruption from public life, and specifically "to provide a statutory machinery to enquire into complaints based on actions of all Union Public servants, including Ministers". With its purpose defined thus in the Statement of Objects and Reasons appended to the Bill, we fail to understand why the Prime Minister has been excluded from the purview of the Bill. When we object to this, we are not at all alluding to the person of the Prime Minister; the present one or the past ones; we have in mind simply the institute of Prime Ministership, which in almost all parliamentary democracies including the U.K. has come to be invested with such a concentration of power and patronage that the potential for corruption and abuse of authority at this one point is comparable to the sum total misgovernment that may obain at all other prominent points in the political set up. There is no justification whatsoever, therefore for conferring on the Prime Minister an immunity, which very rightly we are not willing to concede to his other Ministerial colleagues.

Even more important in this context is yet another consideration. The law that we in Parliament enact with regard to public servants

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in the Union Government is likely to become the model for all the States. So if we decide to place the Prime Minister outside the ambit of this enactment, we would be virtually excluding not one, but sixteen dignitaries (our Prime Minister and fifteen Chief Ministers) from the wholesome restraints and checks provided by this, or such other State enactments. And when one recalls that during the last two decades, at least four Chief Ministers. Sarvashri Kairon, Patnaik, Bakshi and K. B. Sahay—have been involved in corruption cases serious enough to warrant Commissions of Inquiry, one would easily appreciate the gravity of this shortcoming in the Joint Committee's Report.

Also, we think that in the appointment of Lokpal and Lokayuktas the Chief Justice's Counsel should be a binding. So clause 3 should be suitably modified so as to provide for "consultation" with the Leader of the Opposition (as is at present) but for "advice" from the Chief Justice. In this context, we also feel that the provision for election by Members of the Opposition if there is no Leader of the Opposition is not quite called for. If there is no recognised Leader of the Opposition the function rightly belongs to the Leader of the largest single recognized group in the Opposition.

> KANWAR LAL GUPTA NARAYAN SWAROOP SHARMA SUNDAR SINGH BHANDARI

NEW DELHI;

March 24, 1969. Chaitra 3, 1891 (S).

#### VI

Under clause 3(a) of the Bill Members of the Opposition in the Rajya Sabha will not be consulted by Government in regard to the selection of the Lokpal. The execlusion is perhaps sought to be sustained by the argument that under the Constitution, the Government of India is responsible only to the Lok Sabha, but this argument will not stand scrutiny. Under clause 7 of the Bill, the Lokpal will investigate allegations in respect of abuse by a public servant, maladministration or abuse of official position by Ministers and other public servants. The Rajya Sabha is as much concerned as the Lok Sabha with this matter and it may be recalled that the Rajya Sabha has been playing an equal part with the Lok Sabha in focussing public ttention on maladministration. It may not be out of place to mention here that some of the principal exposures of maladministration viz. in the Kairon case, Biju Patnaik case, Jayanti Shipping and Birla case had all been made in the Rajya Sabha. Maladministration should not be confused with the constitutional theory of Government being responsible to the Lok Sabha. We are totally opposed to the Rajya Sabha Members being excluded in this manner and we are of opinion that in the interests of equity as well as maintenance of good relations between two Houses the Leader of the Opposition should be jointly elected by the Opposition Members of both Houses in such manner as the Chairman of the Rajya Sabha and Speaker of the Lok Sabha by consultation may determine.

We hope that before the Bill is enacted into law, Government would hold consultations with the leaders of Opposition and of all political groups in Rajya Sabha and Lok Sabha and reach an agreement on this question and get the Bill amended in this behalf, as mentioned by us in this note.

NEW DELHI;

March 24, 1969. Chaitra 3, 1891 (S). A. D. MANI

AKBAR ALI KHAN PUSHPABEN JANARDANRAI MEHTA SHAM SUNDER NARAIN TANKHA

#### VII

In paragraph 23(iv) the Committee has recommended:

"The Committee recommend that Government may make suitable regulations to exclude from the purview of the Union Public Service Commission matters considered by the Lokpal/Lokayuktas. In any case the Committee feel that there is no necessity to retain the proviso to subclause (5). The proviso has, therefore, been deleted accordingly."

With due respect to the Committee, I am not in favour of this recommendation or the deletion of proviso to sub-clause (5) of clause 12 of this Bill. Before I set out the reasons for disagreement, it is necessary for me to state what the present safeguards of a Government officer in respect of disciplinary proceedings are because unless that position is properly explained, the serious change in service conditions which the implementation of the recommendation seeks to make, may not be seen in the proper perspective.

The present position in respect of disciplinary proceedings against

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#### Government officers is as follows:

Whenever it is considered necessary by the Government to institute disciplinary proceedings against an officer, a statement of main allegations against the officer is prepared and sent to the officer concerned. After the despatch of the statement, an Inquiry Officer is appointed by the disciplinary authority to consider the reply given by the officer to the allegations made against him. The Inquiry Officer takes evidence from both sides and after the evidence is received, the Inquiry Officer prepares a report. At this stage, the disciplinary authority has to decide on the basis of the report submitted by the Inquiry Officer whether any action is to be taken against the officer. If the report happens to be adverse to him and if the disciplinary authority is of the opinion that action against the officer is necessary, a notice has to be issued by the Government to the officer concerned asking him to show cause why a certain punishment mentioned in the show-cause notice should not be meted out to him. After his reply has been received, the entire record with the start of the framing of the statement of the allegations until the receipt of the reply of the impugned officer is submitted to the Union Public Service Commission for advice.

It is here that the Union Public Service Commission fulfils an important role in disciplinary proceedings against the officer. The procedure that I have mentioned above is in respect of action taken against the officer in whose case the disciplinary authority or the appellate authority is the President of India. In other words, this procedure applies only to gazetted officers. Further, this procedure is also applicable in cases where a major punishment is to be inflicted. The rules and order governing disciplinary proceedings against Government officers are:

- 1. Central Civil Services (Classification, Control and Appeal) Rules, 1965.
- 2. Union Public Service Commission (Exemption from Consultation) Regulations, 1958.
- 3. All India Services (Discipline & Appeal) Rules, 1965.
- 4. Appendix II of the Ministry of Home Affairs Office Memorandum No. 18/18/48-Ests. dated 20th August, 1949.
- 5. Ministry of Home Affairs Office Memorandum No. F. 18/9/63-Ests.(B) dated 4th August, 1964.

Where, however, a minor penalty is decided to be imposed, it is not necessary for the Government to appoint any Inquiry Officer. Even in such cases, it is open to the President if he happens to be the disciplinary authority to make a reference to the Union Public Service Commission. The Inquiry Officer, who conducted the inquiry, may be a departmental officer or may be a judge of a High Court, depending upon the gravity of the offence and seniority of the officer against whom action is to be taken. As far as the Union Public Service Commission is concerned, it makes no difference whether the Inquiry Officer is a departmental officer or a Judge of a High Court. In all cases, the proceedings have to be submitted to the Union Public Service Commission for their advice unless they were otherwise not required to be so submitted. According to the concept of the Lokpal and Lokayukta as it emerges from the Bill, the Lokpal and the Lokayukta will be authorities created by Parliament to conduct inquiries into allegation, grievances and misuse of power. Their enquiries need not pursue the minutiae of trials by courts of law. The Lokpal or Lokayukta after assessment of evidence and after giving an opportunity to the accused party to state his case has to give a finding. This finding of the Lokpal or the Lokayukta will not be a judicial order in the sense in which a judgment of a court of law would be. As the position stands at present, the service conditions of a government officer are protected by an elaborate procedure, which may or may not be followed by the Lokpal or Lokayukta. How is it possible for the Government officer, deprived of the benefit of an intricate procedure, to regard the adverse report of a Lokpal or Lokayukta as the final word on the subject? Judges are likely to err and it is for this reason that under the existing procedure, even the findings of the Inquiry Officers are not regarded as final and cases are referred to the Union Public Service Commission for decision.

The Lokpal or Lokayukta need not be necessarily a judicially qualified person and in the light of this fact, it is not fair to expect the aggrieved party to accept the findings of the Lokpal or the Lokayukta as the last word on the subject. In my view, it would be unwise to equate the judgment of the Lokpal or Lokayukta with that of the Supreme Court, whose findings, under the Constitution, are regarded as the law of the land. It should not be understood that I have diminished respect for the Lokpal or the Lokayukta but it should be borne in mind that for the first time in the political history of India, an Ombudsman is being created in the country. We do not know and we cannot foresee how these offices will develop and what traditions would grow round them. When a new concept is being given a trial, it is necessary that the greatest care should be exercised before weakening the safeguards which now exist for the protection of the security of conditions of service of Government servants. The Union Public Service Commission is a creature of the Constitution and nothing should be done to weaken its position as the guardian of the conditions of service of Government servants, in order to strengthen the new offices of the Lokpal or Lokayukta.

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If the recommendation of the Committee is accepted, a situation would arise when the only action that Government can take if the Lokpal or Lokayukta gives an adverse finding against a government servant is action under article 311 of the Constitution. The Lokpel or Lokayukta would take the place of the Union Public Service Commission and this is a development we should avoid because any action taken by Government under article 311 may be challenged in a court of law. All these contigencies should be avoided in the interests of keeping the office of the Lokpal or Lokayuktas free from controversy.

In the history of the Union Public Service Commission there have been cases where the Union Public Service Commission has differed from certain findings of inquiries conducted by High Court Judges or Supreme Court Judges as for example, in the case of Shri H. M. Patel arising from the Mundhra Inquiry. It is well to emphasise that courts of inquiry remain courts of inquiry and cannot be put on a level with the ordinary courts of law.

I feel that what is being attempted by this recommendation of the Committee is to remove proper and desirable safeguard for the conditions of service of Government officers. Proviso to sub-clause (5) of clause 12 of the Bill reads "provided that no such special reports may be made in respect of any action taken in consultation with the Union Public Service Commission". In my opinion this should be reinserted in the Bill.

New Delhi; March 24, 1969. Chaitra 3, 1891 (Saka). A. D. MANI

#### VIII

I have read the report of the Committee and yet I append this minute of dissent.

This Bill has been introduced in Parliament in response to general public and parliamentary demand for the creation of an office like that of the Ombudsman of Scandinavian countries to redress the grievances of citizens against the acts of ommission or commission of officials, because parliamentary and other methods of redressing these grievances had been found to be not quick and thorough enough.

Not only grieveances of citizens against acts of administration ("mal-administration" in the Bill) but allegations of corruption ("alle-

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gations" as defined in the bill) are to be brought within the ambit of this bill. But as allegations of corruption are already looked after by Vigilance Commissioners, I do not think there is any need for "allegations" being brought within the jurisdiction of the Lokpal and the Lokayukta. Loading allegations on the top of grievances on the shoulders of these new officials will obstruct them from attending quickly and effectively to the redress of the more frequent acts of maladministration. Allegations together with grievances against maladministration require the appointment of two sets of officials (Lokpal and Lokayukta) provided for in the Bill.

These two sets of officials are required also on account of the prestigious burden thrown on the Lokpal. He is to look into allegations and grievances against Ministers, and that is why a Lokpal is to be appointed to have jurisdiction over the acts of Ministers beside those of a Secretary and officers of that ilk. If the Ministers were excluded from the jurisdiction of the Lokpal, one official would be found to be adequate to look after the acts of the Secretary and all other officials downwards.

I object to bringing Ministers within the jurisdiction of the Lokpal for the following reasons:

1. The Minister is a public servant no doubt, but he is political public servant.

2. As a political public servant he is subject to political checks and controls, the checks and controls of his constituency, of the legislature, of the Prime Minister and the Council of Ministers.

3. As a political public servant he is subject to political punishment—a vote of no confidence passed by legislature, dismissal by the Prime Minister, dismissal by his constituency at the end of his term of office or even during it if the constituency is alert and united enough to demand his resignation.

4. The liability of Ministers to the jurisdiction of the Lokpal would make all these judges of the acts of Ministers lazy and insert in the exercise of the duty of check, control, censure and punishment, especially, the Prime Minister because waiting for charges made by citizens and investigation and report by the Lokpal, the Prime Minister will be tempted to sit back and wait for others to take action and such proceedings against the Ministers would be set on foot only if and when charges of corruption or maladministration are brought to the notice of the Lokpal. Whereas in the case of Ministers minor cases of incompetence if they are frequent enough would induce the Prime Minister to ask for his resignation or dismissal. A Lokpal would take notice only of serious acts of maladministration or corruption, whereas compromising situations, a malodorous reputation, falling short, ever so short, of the high standards of conduct expected of a Minister should be taken note of by the Prime Minister. Waiting for the Lokpal to take action against the Minister would reduce the responsibility of the Prime Minister. Also, it would reduce the responsibility of Parliament to sit in judgment over and punish the offending Minister. It would reduce respect for the high office of Ministers reducing them to the status of government servants. A shorter, sharper and timelier method would be action by the Prime Minister. That the Prime Ministers have not acted so quickly and so effectively in our country is no argument against my suggestion. We hope that Indian Prime Ministers will grow in their responsibility. English Prime Ministers have acted quickly and effectively in the case of Ministers like Dalton, Thomas and Profumo forcing them to leave their offices on account of single acts unworthy of Ministers.

If Ministers were taken out of the jurisdiction of the Lokpal, a single officer like the Lokpal would be sufficient to deal with grlevances in regard to maladministration of the Secretary and permanent public servants of lower ranks. If allegations of corruption were left to Vigilance Commissioners the case could be made stronger for one single officer to deal with the grievances of citizens in regard to maladministration. Thus there would be no need for another officer known as the Lokayukta.

My suggestions are based on my conviction that one of the greatest administrative needs of the country is a public official who would be able to redress the grievances of citizens, of acts of omission and commission of the men "dressed in a little, brief authority" from which they suffer the most and the oftenest.

Charges of corruption could be left to the Vigilance Commissioners who have had already experience of more than five years and have already developed a technique in regard to this class of offences. Not only economy in finance but economy in work and therefore effectiveness in the redress of grievances would result from confining the Lokpal to investigation into the grievances of the citizens against officials from the Secretary downwards. To this end a Lokpal needs only local subordinate agents and not Lokayuktas as provided for in the Bill as amended by the Joint Select Committee.

M. RUTHNASWAMY

NEW DELHI; March 24, 1969. Chaitra 3, 1891 (Saka).

#### IX

It is well known that whenever a demand for any enquiry is made whether in Parliament or in any State Legislature or even outside, the demand invariably is that it should be a judicial enquiry presided over by a Judge of the Supreme Court or Judge of any In view of this and in order of the High Courts in the country. to inspire the greatest public confidence in the office of the Lokpal. I am of the definite view what the appointment of the Lokpal under the Act should be from amongst the acting or the retired judges of the Supreme Court or an eminent lawyer of integrity and standing and that of the Lokayukta from amongst the judges of the High Courts whether retired or in service and lawyers of integrity and sound knowledge who will bring to bear on the problems before them their wide judicial and legal experience and would examine all matters with impartiality and with a judicial mind. With this in view I had also suggested to the Joint Committee that the age of retirement of the Lokpal and the Lokavukta should be fixed at 70 years, since a Judge of the Supreme Court retires only at the age of 65 years and if he was given 5 years to work as Lokpal, his age for retirement from his office must necessarily continue till 70 years but I regret that the Joint Committee did not agree with any of these suggestions, which virtually comes to this that it has barred the appointment to these posts of retired judges of the Supreme Court and High Courts, which to my mind is most regrettable. Such appointments, at least for some years in the initial stages of this scheme should be filled by such persons and which will raise the status of the office in the public eye.

2. My second suggestion to the Committee referred to the manner of appointment of the Lokpal and Lokayukta. The Bill has provided for their appointment by the President in consultation with the Chief Justice of India and the Leader of Opposition in the Lok Sabha. It was my wish that since the Leader of the Opposition was to be consulted it was only proper that the Leader of the Group in power at the Centre. namely the Prime Minister should also be consulted. This suggestion too was not accepted by the Committee on the ground presumably that the appointment by the Precident virtually meant the appointment by the Prime Minister, but it may not be foregotten in this connection that the advice given to the President is not the advice of the Prime Minister alone but is the advice of the Cabinet in its collective wisdom, which makes quite a lot of difference between the two.

3. Under the Bill as it was introduced in the Lok Sabha the provision was that the Lokpal would have one term of 5 years, but would be eligible for reappointment for another term of 5 years. The Committee however did not favour the second term for the Lokpal. I, therefore, suggested that the initial term of office of the Lokpal be fixed at 6 or 7 years, instead of five in order to avail of his experience for the maximum period possible but this too was accepted by the Committee.

4. I, along with a . number of other members of the Joint Committee were of the view that the Leader of Opposition for purposes of consultation with the President in the matter of appointment of the Lokpal should be the Leader of Opposition who may be chosen for the purpose by the Opposition Members in both Houses of Parliament in such manner as they themselves may agree upon. This had been suggested so that the Opposition Members of both the Council of States and the House of the People may have the satisfaction that Members of Opposition in both Houses of Parliament had been associated in the selection of this important office. but this reasonable suggestion too was not accepted by the Select Committee.

5. It was again the wish of several of us in the Joint Committee that actions of Members of Parliament should also be open to scrutiny by the Lokpal, if he receives any complaint against any of them. The effect of this suggestion would have been that Members of Parliament for purposes of this Act would be deemed to be public servants under clause 2 (k) of the Bill and the competent authority in their case would be the Presiding Officer of the House to which the Member belonged, that is to say the Chairman of the Council of States in the case of Members of that House and the Speaker of the House of People for members who belonged to that House. It may be emphasized, that when Ministers, with the exception of the Prime Minister, were being brought under the Act, there does not appear any valid reason why the actions of Members of Parliament should be excluded from the jurisdiction of the Lokpal, but this proposal too was not accepted by the Joint Committee. I would therefore urge their inclusion as public servants under this Act.

In the end I will urge upon the Hon'ble Members of both Houses of Parliament to give thought to my above suggestions when the Bill, as recommended by the Joint Committee, is before them for their consideration and approval.

NEW DELHI;

SHAM SUNDER NARAIN TANKHA

24th March. 1969. Chaitra 3, 1891 (S). 3837(B) LS-5. 1. The Lokpal and Lokayukta should have the authority to deal with the Ministers and public servants, as the case may be, not only belonging to the Central Government and the Union Territories but of the State Governments also so that the scope of operation of such institutions may be uniformly applied to whole country and the Government at the Central, Union Territory and State levels without any discrimination.

2. The Governors of the States, Lt. Governors and Chief Commissioners are appointed public servants and as such should be brought under the jurisdiction of the institution of Lokpal which should deal with complaints and allegations against such public servants also.

3 'Allegations' described as 'undue harm or hardship' or 'improper motive' should have been more specifically defined.

4. Leader of Opposition or representation in their behalf should be jointly elected by the Members of Lok Sabha and Rajya Sabha both.

5. The Lokpal and Lokayukta at the time of appointment should be of an age not more than sixty or less than forty.

6. The Chief Justice of India being the highest representative of the judiciary of the country no reference should be made to him in regard to salary, pension and allowance payable to Lokpal, and instead, the amount should be stated as such and it should be less than that enjoyed by the Chief Justice.

7. Complaints related to commercial and industrial deals with any foreign or any international organisation should not be excluded from the jurisdiction of the institution of Lokpal.

8. The Lokpal should have the authority to ask for informations which relate to international relations of India with any foreign country, if he so desires, except in cases which may prejudice security and defence of the country. But in matters concerning deals with any foreign country regarding defence materials, authority of the Lokpal to ask for informations should not be denied.

9. Annual report received from the Lokpal by the President should be laid before the Parliament within two months.

10. No documents should be withheld from the Lokpal or Lokayukta on any vague plea that 'it would be contrary to public interest'.

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11. Section 18 of the Bill, which deals with 'Powers to exclude complaints against certain classes of public servants' is unnecessary as the Lokpal and Lokayukta are armed with sufficient authority to reject any allegations or complaint if *prima facie* justification for it is found lacking.

2. In ordinary course enquiries conducted by the Lokpal or the Lokayukta should not be done in public, unless otherwise he considers such step as necessary. However, after the completion of the enquiry a summary of the report should be made public and public should have access to the documents relating to such enquiry on specified terms.

NEW DELHI;

SUMAR GUHA

March 25, 1969. Chaitra 4, 1891 (Saka).

# THE LOKPAL AND LOKAYUKTAS BILL, 1968

(AS REPORTED BY THE JUINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

### A

### BILL

to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows: —

1. (1) This Act may be called the Lokpal and Lokayuktas Act, Short title, 1969. extent and

5 (2) It extends to the whole of India and applies also to public ment. servants outside India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Defi

Definitions

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(a) "action" means action taken by way of decision, recommendation or finding or in any other manner and includes failure to act and all other expressions connoting action shall be construed accordingly; (b) "allegation", in relation to a public servant, means any affirmation that such public servant,—

(i) has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person,

(*ii*) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives, or

(*iii*) is guilty of corruption, or lack of integrity \* \* \* in his capacity as such public servant; 10

(c) "competent authority", in relation to a public servant, means,---

- (i) in the case of a Minister the Prime Minister, or Secretary
- (ii) in the case of any other such authority as 15 public servant may be prescribed;

(d) "grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;

(e) "Lokpal" means a person appointed as the Lokpal under 20 section 3;

(f) "Lokayukta" means a person appointed as a Lokayukta under section 3;

(g) "maladministration" means action taken or purporting to have been taken in the exercise of administrative functions in 25 any case,—

(i) where such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or

(*ii*) where there has been negligence or undue delay in 30 taking such action, or the administrative procedure or practice governing such action involves undue delay;

(h) "Minister" means a member (other than the Prime Minister) of the Council of Ministers, by whatever name called, for the Union and includes a Deputy Minister;

(i) "officer" means a person appointed to a public service or post in connection with the affairs of the Union;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "public servant" denotes a person falling under any of the descriptions hereinafter following, namely:—

(i) every Minister referred to in clause (h),

(ii) every officer referred to in clause (i),

(*iii*) every member of the Council of Ministers in a Union territory, appointed under section 45 of the Government of Union Territories Act, 1963, and in the case of the Union territory of Delhi, every member of the Executive Council constituted under the Delhi Administration Act, 1966,

(iv) every person in the service or pay of,-

(a) any local authority in any Union territory, which is notified by the Central Government in this behalf in the Official Gazette,

(b) any corporation (not being a local authority) established by or under a Centra<sup>1</sup> Act and owned or controlled by the Central Government,

(c) any Government company within the meaning of section 617 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government, or any company which is a subsidiary of a company in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government,

(d) any society registered under the Societies Registration Act, 1860, which is subject to the control of the Central Government and which is notified by that Government in this behalf in the Official Gazette;

(1) "Secretary" means,—

(i) a Secretary, a Special Secretary, or an additional Secretary, to the Government of India in any Ministry or Department,

(ii) a Secretary, a Special Secretary, or an Additional Secretary, in the Cabinet Secretariat, Prime Minister's Secretariat or, as the case may be, the office of the Planning Commission,

and includes a Joint Secretary in independent charge of such Ministry, Department, Secretariat or, as the case may be, the office of the Planning Commission.

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Appointment of Lokpal and Lokayuktas. 3. (1) For the purpose of conducting investigations in accordance with the provisions of this Act, the President shall, by warrant under his hand and seal, appoint a person to be known as the Lokpal and one or more persons to be known as the Lokayukta or Lokayuktas:

Provided that,-

(a) the Lokpal shall be appointed after consultation with the Chief Justice of India and the Leader of the Opposition in the House of the People, or if there be no such Leader, a person elected in this behalf by the Members of the Opposition in that House in such manner as the Speaker may direct;

(b) the Lokayukta or Lokayuktas shall be appointed after consultation with the Lokpal.

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(2) Every person appointed as the Lokpal or a Lokayukta shall, before entering upon his office, make and subscribe, before the 15 President, or some person appointed in that behalf by the President, an oath or affirmation in the form set out for the purpose in the First Schedule.

(3) The Lokayuktas shall be subject to the administrative control of the Lokpal and, in particular, for the purpose of convenient 20 disposal of investigations under this Act, the Lokpal may issue such general or special directions as he may consider necessary to the Lokayuktas:

Provided that nothing in this sub-section shall be construed to authorise the Lokpal to question any finding, conclusion or recom- $_{25}$ mendation of a Lokayukta.

Lokpal or Lokayukta to hold no other office.

4. The Lokpal or a Lokayukta shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as the Lokpal or, as the case may be, a Lokayukta), or be connected with any political 30 party or carry on any business or practise any profession and accordingly before he enters upon his office, a person appointed as the Lokpal or, as the case may be, as a Lokayukta, shall,—

(a) if he is a member of Parliament or of the Legislature of any State resign such membership; or 35

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

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(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

5. (1) Every person appointed as the Lokpal or a Lokayukta shall Term of hold office for a term of five years from the date on which he enters office and other con-

Provided that,---

office and other conditions of service of Lokpal and Lokayukta.

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(a) the Lokpal or a Lokayukta may, by writing under his hand addressed to the President, resign his office;

(b) the Lokpal or a Lokayukta may be removed from office in the manner specified in section 6.

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(2) If the office of the Lokpal or a Lokayukta becomes vacant or if the Lokpal or a Lokayukta is, by reason of absence or for any other reason whatsoever, unable to perform the duties of his office, those duties shall, until some other person appointed under section 3 enters upon such office or, as the case may be, until the Lokpal or 20 such Lokayukta resumes his duties, be performed,---

(a) where the office of the Lokpal becomes vacant or where he is unable to perform the duties of his office, by the Lokayukta or if there are two or more Lokayuktas by such one of the Lokayuktas as the President may by order direct;

25 (b) where the office of a Lokayukta becomes vacant or where he is unable to perform the duties of his office, by the Lokpal himself, or if the Lokpal so directs by the other Lokayukta or, as the case may be, such one of the other Lokayuktas as may be specified in the direction.

(3) On ceasing to hold office, the Lokpal or a Lokayukta shall be ineligible for further employment (whether as the Lokpal or a Lokayukta or in any other capacity) under the Government of India or under the Government of a State or for any employment under, or office in, any such local authority, corporation, Govern-35 ment company or society as is preferred to in sub-clause (*iv*) of clause (k) of section 2.

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(4) There shall be paid to the Lokpal and the Lokayuktas such salaries as are specified in the Second Schedule.

(5) The Lokpal and every Lokayukta shall be entitled without payment of rent to the use of an official residence.

(6) The allowances and pension payable to, and other conditions 5 of service of, the Lokpal or a Lokayukta shall be such as may be prescribed:

Provided that,-

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(a) in prescribing the allowances and pension payable to, and other conditions of service of, the Lokpal, regard shall be had to the allowances and pension payable to, and other conditions of service of the Chief Justice of India;

(b) in prescribing the allowances and pension payable to, and other conditions of service of, the Lokayuktas, regard shall be had to the allowances and pension payable to, and other conditions of service of, a Judge of the Supreme Court of India:

Provided further that the allowances and pension payable to, and other conditions of service of, the Lokpal or a Lokayukta shall not be varied to his disadvantage after his appointment.

Removal of Lokpal or Lokayukta. 6. (1) Subject to the provisions of article 311 of the Constitution, 20 the Lokpal or a Lokayukta may be removed from his office by the President on the ground of misbehaviour or incapacity and on no other ground:

Provided that the inquiry required to be held under clause (2) of the said article before such removal shall be held by a person 25 appointed by the President, being a person who is or has been a Judge of the Supreme Court of India. \* \* \*

(2) The person appointed under the proviso to sub-section (1) shall submit the report of his inquiry to the President who shall, as soon as may be, cause it to be laid before each House of Parliament. 30

(3) Notwithstanding anything contained in sub-section (1), the President shall not remove the Lokpal or a Lokayukta unless an address by each House of Parliament supported by a majority of the total membership of that House and a majority of not less than twothirds of the members of that House present and voting has been 35 presented to the President in the same session for such removal.

7. (1) Subject to the provisions of this Act, the Lokpal may investigate any action which is taken by, or with the general or specific approval of,—

Matters which may be investigated by Lokpal or Lokayukta.

(i) a Minister or a Secretary; or

(ii) any other public servant being a public servant of a class or sub-class of public servants notified by the Central Government in consultation with the Lokpal in this behalf,

in any case where a complaint involving a grievance or an allega-5 tion is made in respect of such action or such action can be or could have been, in the opinion of the Lokpal, the subject of a grievance or an allegation.

(2) Subject to the provisions of this Act, a Lokayukta may investigate any action which is taken by, or with the general or specific 10 approval of, any public servant not being a Minister, Secretary or other public servant referred to in sub-section (1) in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokayukta, the subject of a grievance or an allega-15 tion.

(3) Notwithstanding anything contained in sub-section (2), the Lokpal may, for reasons to be recorded in writing, investigate any action which may be investigated by a Lokayukta under that subsection whether or not a complaint has been made to the Lokpal 20 in respect of such action.

(4) Where two or more Lokayuktas are appointed under this Act, the Lokpal may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by a Lokayukta under this 25 Act and no action taken or thing done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

8. (1) Except as hereinafter provided, the Lokpal or a Lokayukta Matters 30 shall not conduct any investigation under this Act in the case of a not subject to complaint involving a grievance in respect of any action,-

investi-

(a) if such action relates to any matter specified in the gation. Third Schedule; or

(b) if the complainant has or had any remedy by way of 35 proceedings before any tribunal or court of law:

Provided that the Lokpal or a Lokayukta may conduct an investigation notwithstanding that the complainant had or has such a remedy if the Lokpal or, as the case may be, the Lokayukta is satisfied that such person could not or cannot, for sufficient cause. 40 have recourse to such remedy.

2) The Lokpal or a Lokayukta shall not investigate any action-

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850, with the prior concurrence of the Lokpal; or

(b) in respect of a matter which has been referred for inquiry under the Commission of Inquiry Act, 1952, with the prior concurrence of the Lokpal.

(3) The Lokpal or a Lokayukta shall not investigate any complaint involving a grievance against a public servant referred to in sub-clause (iv) of clause (k) of section 2.

(4) The Lokpal or a Lokayukta shall not investigate any complaint which is excluded from his jurisdiction by virtue of a notification issued under section 18.

(5) The Lokpal or a Lokayukta shall not investigate,-

(a) any complaint involving a grievance, if the complaint 15 is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant;

(b) any complaint involving an allegation, if the complaint is made after the expiry of five years from the date on which the <sup>20</sup> action complained against is alleged to have taken place:

Provided that the Lokpal or a Lokayukta may entertain a complaint referred to in clause (a), if the complainant satisfies him that he had sufficient cause for not making the complaint within the period specified in that clause. 25

(6) In the case of any complaint involving a grievance, nothing in this Act shall be construed as empowering the Lokpal or a Lokayukta to question any administrative action involving the exercise of a discretion except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that 3° the discretion cannot be regarded as having been properly exercised.

9. (1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokpal or a Lokayukta,---

sions re- ma lating to complaints

(a) in the case of a grievance, by the person aggrieved;

(b) in the case of an allegation, by any person other than a 35 public servant:

Provided that, where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by



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any person who in law represents his estate or, as the case may be, by any person who is authorised by him in this behalf.

(2) Every complaint shall be made in such form and shall be accompanied by such affidavits \* \* \* as may be prescribed.

5 (3) Notwithstanding anything contained in any other enactment, any letter written to the Lokpal or a Lokayukta by a person in police custody, or in a gaol or in any asylum or other place for insane persons, shall be forwarded to the addressee unopened and without delay by the police officer or other person in charge of such <sup>10</sup> gaol, asylum or other place.

10. (1) Where the Lokpal or a Lokayukta proposes (after making Procedure such preliminary inquiry, as he deems fit) to conduct any investiga- in respect tion under this Act, he \*---

of investigations.

(a) shall forward a copy of the complaint or, in the case 15 of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor, to the public servant concerned and the competent authority concerned;

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(b) shall afford to the public servant concerned an opportunity to offer his comments on such complaint or statement; and

(c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit.

(2) Every such investigation shall be conducted in private and in <sup>25</sup> particular, the identity of the complainant and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation:

Provided that the Lokpal or a Lokayukta may conduct any investigation relating to a matter of definite public importance in pub-30 lic, if he, for reasons to be recorded in writing, thinks fit to do so.

(3) Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokpal or, as the case may be, the Lokayukta considers appropriate in the circumstances of the case.

(4) The Lokpal or a Lokayukta may, in his discretion, refuse to 35 investigate or cease to investigate any complaint involving a grievance or an allegation, if in his opinion-

(a) the complaint is frivolous or vexatious or is not made in good faith; or

(b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(5) In any case where the Lokpal or a Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

(5) The conduct of an investigation under this Act in respect of <sup>IO</sup> any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

Evidence. 11. (1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, 15 before such investigation) under this Act, the Lokpal or a Lokayukta may require any public servant or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

> (2) For the purpose of any such investigation (including the preliminary inquiry) the Lokpal or a Lokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

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(a) summoning and enforcing the attendance of any person  $^{25}$  and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any Court or office; 30

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

(3) Any proceeding before the Lokpal or a Lokayukta shall be
 deemed to be a judicial proceeding within the meaning of section 193 35
 of the Indian Penal Code.
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(4) Subject to the provisions of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of informa-

tion obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of any investigation under this Act and the Government or any public servant 5 shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings.

(5) No person shall be required or authorised by virtue of this
 10 Act to furnish any such information or answer any such question or produce so much of any document—

(a) as might prejudice the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union Government or any Committee of that Cabinet or of the Cabinet of the Government of any Union territory or of the Executive Council constituted under the Delhi Administration Act, 1966, or of any Committee of such Cabinet or Executive Council,

and for the purpose of this sub-section a certificate issued by a Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be 25 binding and conclusive.

(6) Subject to the provisions of sub-section (4), no person shall be compelled for the purposes of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a Court.

- 30 12. (1) If, after investigation of any action in respect of which Reports a complaint involving a grievance has been or can be or could have of Lokpal been made, the Lokpal or a Lokayukta is satisfied that such action and Lokahas resulted in injustice or undue hardship to the complainant or yuktas. any other person, the Lokpal or Lokayukta shall, by a report in 35 writing, recommend to the public servant and the competent autho-
- rity concerned that such injustice or undue hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

(2) The competent authority to whom a report is sent under sub-40 section (1) shall, within one month of the expiry of the term specified

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in the report, intimate or cause to be intimated to the Lokpal or, as the case may be, the Lokayukta, the action taken for compliance with the report.

(3) If, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have 5 been made, the Lokpal or a Lokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall by a report in writing communicate his findings and recommendations along with the relevant documents, materials and other evidence to the competent authority.

(4) The competent authority shall examine the report forwarded to it under sub-section (3) and intimate within three months of the date of receipt of the report, the Lokpal or, as the case may be, the Lokayukta, the action taken or proposed to be taken on the basis of the report.

(5) If the Lokpal or the Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3), he shall close the case under information to the complainant, the public servant and the competent authority concerned, but where he is not so satisfied 20 and if he considers that the case so deserves, he may make a special report upon the case to the President and \* also \* \* inform the complainant concerned.

\* \*

(6) The Lokpal and the Lokayuktas shall present annually **a** 25 consolidated report on the performance of their functions under this Act to the President.

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(7) On receipt of a special report under sub-section (5), or the annual report under sub-section (6), the President shall cause a copy 30 thereof together with an explanatory memorandum to be laid before each House of Parliament.

(8) Subject to the provisions of sub-section (2) of section 10, the Lokpal may at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him or by a 35 Lokayukta, which may appear to him to be of general public, academic or professional interest, in such manner and to such persons as he may deem appropriate.

13. (1) The Lokpal may appoint, or authorise a Lokayukta or any Staff of officer subordinate to the Lokpal or a Lokayukta to appoint, offi- Lokpal cers and other employees to assist the Lokpal and the Lokayuktas in and Lokathe discharge of their functions under this Act.

- (2) The categories of officers and employees who may be appoint-5 ed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokpal and Lokayuktas shall be such as may be prescribed after consultation with the Lokpal.
- 10 (3) Without prejudice to the provisions of sub-section (1), the Lokpal or a Lokayukta may, for the purpose of conducting investigations under this Act, utilize the services of,-

(i) any officer or investigation agency of the Central Government with the concurrence of that Government; or

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(ii) any other person or agency.

14. (1) Any information, obtained by the Lokpal or the Secrecy Lokayuktas or members of their staff in the course of, or for the of inpurposes of any investigation under this Act, and any evidence formation. recorded or collected in connection with such information, shall, subject to the provisions of the proviso to sub-section (2) of section 10, 20

be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall be entitled to compel the Lokpal or a Lokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or 25 collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars,-

(a) for purposes of the investigation or in any report to be made thereon or for any action or proceedings to be taken on such report; or

(b) for purposes of any proceedings for an offence under the Indian Official Secrets Act, 1923, or an offence of perjury or for purposes of any proceedings under section 15; or

(c) for such other purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may 35 give notice in writing to the Lokpal or a Lokayukta, as the case may be, with respect to any document or information specified in the notice or any class of documents so specified that in the opinion of the Central Government the disclosure of the documents or 40 information or of documents or information of that class would be

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contrary to public interest and where such a notice is given, nothing in this Act shall be construed as authorising or requiring the Lokpal, the Lokayukta or any member of their staff to communicate to any person any document or information specified in the notice or any document or information of a class so specified.

Intentional insult or interrup\_ tion to, or bringing into disrepute, Lokpal or Lokayukta,

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15. (1) Whoever intentionally offers any insult, or causes any interruption to the Lokpal or a Lokayukta, while the Lokpal or the Lokayukta is conducting any investigation under this Act, shall be punished with simple imprisonment for a term which may ex- 10 tend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokpal or a Lokayukta into disrepute, shall be punished with simple imprisonment for a term which may extend to six 15 months, or with fine, or with both.

(3) The provisions of section 198B of the Code of Criminal Procedure, 1898, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said section 198B, subject to the 20 modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction,—

(a) in the case of an offence against the Lokpal, of the Lokpal;

(b) in the case of an offence against a Lokayukta, of the 25 Lokayukta concerned.

Protection.

16. (1) No suit, prosecution, or other legal proceeding shall lie against the Lokpal or the Lokayuktas or any member of their staff and employees in respect of anything which is in good faith done or

intended to be done under this Act. (2) No proceedings of the Lokpal or the Lokayuktas shall be held bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokpal the or Lokayuktas shall be liable to be challenged, reviewed, quashed or called in question in any court. 35

Conferment of additional functions on Lokpal and Lokayuking, etc.

17. (1) The President may, by notification published in the Official Gazette and after consultation with the Lokpal, confer on the Lokpal or a Lokayukta, as the case may be, such additional functions in relation to the redress of grievances and eradication of corruption as may be specified in the notification.

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(2) The President may, by order in writing and after consultation with the Lokpal, confer on the Lokpal or a Lokayukta such powers of a supervisory nature over agencies, authorities or officers set up, constituted or appointed by the Central Government for the redress
 <sup>5</sup> of grievances and eradication of corruption.

(3) The President may, by order in writing and subject to such conditions and limitations as may be specified in the order, require the Lokpal to investigate any action (being action in respect of which a complaint may be made under this Act to the Lokpal or a Loka <sup>10</sup> yukta), and notwithstanding anything contained in this Act the Lok-

pal shall comply with such order:

Provided that the Lokpal may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act to a Lokayukta) to a Lokayukta.

(4) When any additional functions are conferred on the Lokpal or a Lokayukta under sub-section (1), or when the Lokpal or a Lokayukta is to investigate any action under sub-section (3), the Lokpal or Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving a grievance or an allegation, as the case may be,

and the provisions of this Act shall apply accordingly.

18. (1) The Central Government may on the recommendation of Power to the Lokpal and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the Official against Gazette, complaints, involving grievances or allegations or both against certain persons belonging to any class of public servants specified in the notice classes of fication, from the jurisdiction of the Lokpal or, as the case may be, public servants.

Provided that no such notification shall be issued in respect of 3° public servants holding posts carrying a minimum monthly salary (exclusive of allowances) of one thousand rupees or more.

(2) Every notification issued under sub-section (1) shall be laid as soon as may be after it is issued, before each House of Parliament while it is in session for a total period of thirty days which
35 may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only
40 in such modified form or be of no effect, as the case may be, so,

however, that any such modification or annulment shall be without

prejudice to the validity of anything previously done by virtue of that notification.

**Power** to **19.** The Lokpal or a Lokayukta may, by a general or special order delegate. in writing, direct that any powers conferred or duties imposed on 5 him by or under this Act (except the power to make reports to the President under section 12) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 13, as may be specified in the order.

Pow

rules.

29. (1) The President may, by notification in the Official Gazette, e make make rules for the purpose of carrying into effect the provisions of 10 this Act.

> (2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for-

(a) the authorities for the purpose required to be prescribed under sub-clause (ii) of clause (c) of section 2;

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(b) the allowances and pension payable to and other conditions of service of, the Lokpal and Lokayuktas;

(c) \* \* \* the form in which, complaints may be made \* \* \* and the fees, if any, which may be charged in respect thereof:

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(d) the powers of a civil court which may be exercised by the Lokpal or a Lokayukta;

(e) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the President 25 necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry 30 of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything pre- 35 viously done under that rule.

21. For the removal of doubts it is hereby declared that noth- Removal ing in this Act shall be construed to authorise the Lokpal or a Lokayukta to investigate any action which is taken by or with the approval of-

45 of 1860.

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(a) any Judge as defined in section 19 of the Indian Penal Code;

(b) any officer or servant of any court in India;

(c) the Comptroller and Auditor-General of India;

(d) the Chairman or a member of the Union Public Service<sup>10</sup> Commission;

(e) the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in article 324 of the Constitution;

(f) any member of the secretarial staff of either House of
 Parliament, or the Legislative Assembly of a Union territory or
 the Metropolitan Council of De'hi.

22. The provisions of this Act shall be in addition to the provisions Saving. of any other enactment or any rule of law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act in respect of any action, and nothing in this Act shall limit or affect the right of such person to avail of such remedy.

# THE FIRST SCHEDULE

[See section 3(2)]

Lokpal

do

25 I,...., having been appointed \_\_\_\_\_\_a Lokayukta

swear in the name of God solemnly affirm that I will bear true faith and allegiance

to the Constitution of India as by law established and I will duly 3° and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill. [See section 5(4)]

There shall be paid to the Lokpal and the Lokayuktas in respect of time spent on actual service, salary at the following rates per mensem, that is to say—

Lokpal	5,000 rupees
Lokayukta	4,000 rupees:

Provided that if the Lokpal or a Lokayukta at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the Lokpal or, as the case may be, a Lokayukta shall be reduced—

### (a) by the amount of that pension, and

(b) if he has, before such appointment, received in lieu of a portion of the pension due  $t_0$  him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

THE THIRD SCHEDULE

### [See section $\mathfrak{S}(1)(a)$ ]

(a) Action taken in a matter certified by a Secretary as affecting 25 the relations or dealings between the Government of India and any foreign Government or any international organisation of States or Government.

(b) Action taken under the Extradition Act, 1962, or the 31 of Foreigners' Act, 1946.

(c) Action taken for the purpose of investigating crime or protecting the security of the State including action taken with respect to passports and travel documents.

(d) Action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not. 34 of 1962. 31 of 1946.

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(e) Action taken in matters which arise out of the terms of  $\dot{a}$  contract governing purely commercial relations of the administration with customers or suppliers, except where the complaint alleges harassment or gross delay in meeting contractual obligations.

- 5 (f) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.
- 10 (g) Grant of honours and awards.

# **APPENDIX** I

### (Vide para 2 of the Report)

### Motion for reference of the Bill to Joint Committee

"That the Bill to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—

- (1) Shri S. A. Agadi
- (2) Shri K. Anbazhagan
- (3) Shri Frank Anthony
- (4) Shrimati Jyotsna Chanda
- (5) H. H. Maharaja Pratap Keshari Deo
- (6) Shri C. C. Desai
- (7) Shri Shivajirao S. Deshmukh
- (8) Shri Gangacharan Dixit
- (9) Shri Samar Guha
- (10) Shri Kanwar Lal Gupta
- (11) Shri Hem Raj
- (12) Shri Gunanand Thakur
- (13) Dr. Karni Singh
- (14) Shri Kinder Lal
- (15) Shri Thandavan Kiruttinan
- (16) Shri Amiya Kumar Kisku
- (17) Shri Bhola Nath Master
- (18) Shri V. Viswanatha Menon
- (19) Shri M. B. Rana
- (20) Shri G. S. Reddi
- (21) Shrimati Uma Roy
- (22) Shri Narayan Swaroop Sharma
- (23) Shri Yogendra Sharma
- (24) Shri Shashi Bhushan
- (25) Shri Vidya Charan Shukla
- (26) Shri Ramshekhar Prasad Singh
- (27) Shri R. K. Sinha
- (28) Shri S. Supakar
- (29) Shri Tenneti Viswanatham
- (30) Shri Y. B. Chavan, and

15 from Rajya Sabha;

**...**...

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

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

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## **APPENDIX II**

### (Vide para 3 of the Report)

### Motion in Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

- 1. Shri Gurmukh Singh Musafir
- 2. Shri Harish Chandra Mathur
- 3. Sardar Joginder Singh
- 4. Pandit Sham Sunder Narain Tankha
- 5. Shri Awadheshwar Prasad Sinha
- 6. Shri Purananand Chetia
- 7. Shri Akbar Ali Khan
- 8. Shri K. S. Ramaswamy
- 9. Shri V. T. Nagpure
- 10. Shrimati Pushpaben Janardanrai Mehta
- 11. Shri M. Ruthnaswamy
- 12. Shri Sundar Singh Bhandari
- 13. Shri Gaure Murahari
- 14. Shri Balachandra Menon
- 15. Shri A. D. Mani."



# APPENDIX III

# (Vide para 7 of the Report)

# Statement of memoranda, representations received by the Joint Committee

SI. No.	Nature of document	From whom received	Action taken
1.	Memorandum	Shri K. N. Wanchoo, Retd. Chief Justice of India	Circulated to member
3.	-do-	Shri R. N. Dayama, Jt. Civil, Judge (Jr. Div.) Chandrapur, Mysore	-do-
3.	Representation	Shri S. Gopalakrishnachar, Retd. Assistant Commissioner, Chitradurga, Mysore	-do-
4.	Memorandum	Adv ocate General, Haryana	-do-
5.	<b>-d</b> o-	Shri P.S. Contractor, Bombay	-do-
6.	-do-	Director, Citizens Advice Bureau, New Delhi	-do-
7.	-do-	Advocate General, Mysore	-do-
8.	-do-	Shri H. C. Sharma, New Delhi	-do-
9.	-do-	President, Kendriya Sanatan Dharam Mahasabha	-do-
10.	-do-	Bar Council of U.P.	-do-
II.	-do-	Dr. L. M. Singhvi, Ex-M.P.	-do-
12,	-do-	Ministry of Home Affairs	-do-
13.	-do-	Legal Remembrancer, Chandigarh Administration, Chandigarh	-do-
14.	-do-	Govt. of Manipur	- <b>do-</b>
15.	-do-	Shri R.N. Singh Dee, Chief Minister, Orissa	<b>-do-</b>

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SL No.	Nature of document	From whom received	Action taken
16.	Comments	Ministry of Finance	Circulated to Members
17.	Letter	Govt. of Gujarat	-do-
T <b>B</b> ,	Comments	Ministry of Industrial Development and Company Affairs	-do-
19	Memorandum	Govt. of Maharashtra	-do-
10.	-do-	Shri K. Santhanam, Ex-M.P.	-do-
21,	Letter	Southern Millowners' Association Coimbatore	-do-
32.	Memorandum	Prof. P. K. Tripathi, Dean, Faculty of Law, University of Delhi	-do-
23.	-do-	Delhi Administration, Delhi	-do-
24.	-do-	Bar Council of West Bengal	-do-
23.	-do-	Govt. of Madhya Pradesh	-do-
<b>26.</b>	-do-	Committee on Petitions, Lok Sabha	-do-
27.	Comments	Shri S. L. Silam, Lt. Governor of Pondicherry	-do-
28.	Memorandum	Govt. of Uttar Pradesh	-do-
29.	-do-	Govt, of Jammu and Kashmir	-do-
30.	-do-	Gujarat Chamber of Commerce and Industry	-do-
31.	Letter	Hon'b'e M. Hidayatullah, Chief Justice of India	-do-
32.	Note	Ministry of Home Affairs	-do-
33.	Note	Director General Vigilencel, Rly. Board	-do-
34-	Memorandum	Shri P. N. Sepru, Ex-M.P.	<b>-d</b> o-
35.	-do-	Shri S. Dutt, Vigilence, Commissioner of West Bengal	-do-
36.	Note	Ministry of Home Affairs	-do-

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<b>Şl</b> . No.	Nature of document	From whom received	Action taken
37.	Note	Shri A.N. Jha, Lt. Governor, Delhi	Circulated to Members
38.	Draft Amendment <sup>8</sup>	Dr. L. M. Singhvi, Ex-M.P.	-do-
39.	Note	Shri M. C. Setalvad, M.P.	-do-
<b>4</b> 0.	Note	Shri K. N. Nagarkatti, Chairman, Study Team on Policies re: Civil Servants, Administrative Reforms Commission	-do-
41.	Memorandum	Government of Tripura	-do-
42.	Note	Ministry of Home Affairs	-do-

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# APPENDIX IV

# (Vide para 8 of the Report)

List of parties/individuls who gave evidence before the Joint Committee

SL. No.	Name of witness	Date of hearing
1.	Shri D. D. Diwan, Director, Citizens' Advice Bureau, New Delhi.	4-7-1968
2.	Kendriya Sanatan Dharam Maha Sabha, Daryaganj, Delhi.	5-7-1968
	Spokesman :	
	<ol> <li>Shri Bhagwan Swarup Bhatnagar, President.</li> </ol>	
	2. Shri Chandu Lall Gupta, Viœ-President.	
	3. Shri Vidya Bhushan, Member.	
3.	Representatives of Ministries of Govern- ment of India—	6-7-1968
	<ul> <li>(i) Shri N. N. Wanchoo, Secretary,</li> <li>Ministry of Industrial Development and Company Affairs.</li> </ul>	
	(ii) Shri K. B. Lall, Secretary, Ministry of Commerce.	
	(iii) Shri P. Govindan Nair, Secretary, Ministry of Finance. Shri M. S. Nanjundiah, Director, Ministry of Finance.	
	(iv) Shri N. K. Mukacji, Joint Secretary, Ministry of Home Affairs (Department of Administrative Reforms).	
	(v) Shri N. Luther, Deputy Secretary, Ministry of Steel, Mines and Metals.	
4.	Shri K. Santhanam, Ex-M.P.	27-7-1968
5.	Dr. H. N. Kunzru, Es-M.P.	3-8-1968
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SI. No.	Name of Witness	Date of hearing
6.	Prof. P. K. Tripathi, Dean, Faculty of Law, University of Delhi.	3-8-1968
7.	Shri N. Sreenivasa Rau, Central Vigilance Commissioner.	20-8-1968
8.	Ministry of Railways (Railway Board)	20-8-1968
	Spokesmen :	
	(I) Shri G. D. Khandelwal, Chairman, Railway Board.	
	(2) Shri <sub>1</sub> B. C. Ganguli, Member (Staff), Railway Board.	
	(3) Shri S. W. Shiveshwarkar, Director General, Vigilance, Railway Board.	
9.	Shri P. N. Sapru, Ex-M.P.	23-8-1968
10.	Shri C. K. Daphtary, Attorney-General of India	<b>24-8-19</b> 68
11.	Shri M. C. Setalvad, M.P.	24-8-1968
12.	Shri S. Dutt, Vigilance, Commissioner, West Bengal	24-8-1968
13.	Dr. L. M. Singhvi, Fx-M.P.	2 <b>4-8-196</b> 8
14.	Shri A. N. Mulla, M. P.	31-8-1968
15.	Petitions Committee, Lok Sabha	24-10-1968
	Spokesmen :	
	1. Shri D. C. Sharma, Chairman.	
	2. Shri Prakash Vir Shastri, Member.	
	3. Shri Onkar Lal Berwa, Member.	
	4. Shri S. C. Samanta, Member.	
	5. Shri P. C. Adichan, Member.	
16.	Shri S. Mohan Kumaramangalam, Advocate, Madras.	7 <b>-12-1968</b>

# **ÅPPENDIX V**

# MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE LOKPAL AND LOKAYUKTAS BILL, 1968

# I

### First Sitting

The Committee sat on Wednesday, the 29th May, 1968 from 11.00 to 12.10 hours.

#### PRESENT

Shri M. B. Rana—Chairman

### Members

### Lok Sabha

2. Shri S. A. Agadi

3. Shri K. Anbazhagan

4. Shrimati Jyotsna Chanda

5. H. H. Maharaja Pratap Keshari Deo

6. Shri C. C. Desai

7. Shri Shivajirao S. Deshmukh

8. Shri Gangacharan Dixit

9. Shri Samar Guha

10. Shri Kanwar Lal Gupta

11. Dr. Karni Singh

12. Shri Kinder Lal

13. Shri Bhola Nath Master

14. Shri V. Viswanatha Menon

15. Shri G. S. Reddi

16. Shrimati Uma Roy

17. Shri Narayan Swaroop Sharma

18. Shri Yogendra Sharma

19. Shri Shashi Bhushan

20. Shri Ramshekhar Prasad Singh

21. Shri R. K. Sinha

22. Shri S. Supakar

23. Shri Tenneti Viswanatham

24. Shri Y. B. Chavan

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#### Rajya Sabha

- 25. Shri Gurmukh Singh Musafir
- 26. Shri Harish Chandra Mathur
- 27. Sardar Joginder Singh

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- 28. Pandit Sham Sunder Narain Tankha
- 29. Shri Awadheshwar Prasad Sinha
- 30. Shri Purnanand Chetia
- 31. Shri Akbar Ali Khan
- 32. Shri V. T. Nagpure
- 33. Shri Gaure Murahari
- 34 Shri A. D. Mani

### LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Deputy Legislative Counsel, Ministry of Law.

# REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms
- 2. Shri S. P. Mukherjee—Joint Secretary (V), Ministry of Home Affairs
- 3. Shri S. P. Mukerji-Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs

#### Secretariat

### Shri M. C. Chawla—Deputy Secretary

2. At the outset, the Chairman welcomed the members of the Committee and referred to the importance of the proposed legislative measure and the task before the Committee. He requested the Home Minister to explain to the members the background of the Bill before proceeding further with the business.

3. The Home Minister stated that the Administrative Reforms Commission, while examining the adequacy of the existing arrangements for the redress of grievances and the need for introduction of any new machinery for the purpose, had made an interim report in which it had noted that there existed a feeling among the people 3837 (B) LS-9 which found expression both in the Legislatures and the public plat forms that there was prevalence of corruption, widespread inefficiency and the unresponsiveness of the administration to popular needs. Therefore the Administrative Reforms Commission had recommended that a machinery to examine public complaints alleging corruption or injustice arising out of maladministration, should be instituted so that the administration's failures and achievements could be publicly viewed in their proper perspective. The Home Minister observed that the present Bill had been brought before Parliament to give effect to this recommendation of the Administrative Reforms Commission, in so far as it related to matters within the purview of the Union Government. The Home Minister hoped that the Bill would be expeditiously processed through the Joint Committee.

4. The Committee then considered whether or not to take the evidence on the Bill. After some discussion, it was decided to issue a Press Communique inviting memoranda on the Bill from public bodies, trade unions, organisations, associations, individuals by the 30th June, 1968. The Committee also decided that the State Governments, Bar Councils of the Centre and the States, Bar Associations of the Supreme Court and High Courts and Chambers of Commerce and Industry, might be requested to forward their comments, if any, on the provisions of the Bill for the benefit of the Committee. The Committee then approved the Press Communique (Annexure I) and the letters to be addressed to the Chief Secretaries of all the State Governments/Union Territories and other individuals/associations, etc. (Annexures II and III).

5. The Committee also decided that the Chief Justice of the Supreme Court might be requested by the Chairman to forward his comments on the various provisions of the Bill, especially clause 3, which related to the appointment of Lokpal and Lokayuktas, for the benefit of the Committee

6. The Committee authorised the Chairman to select parties after the receipt of written memoranda from them for oral evidence and to fix the time and date in each case.

7. The Committee also decided that the members of the Committee who wished to suggest names of individuals/associations for being called for oral evidence, might do so by the 25th June, 1968.

8. The Committee then decided to sit at 15.00 hrs. from Thurday, the 4th July, 1968 onwards daily to hear oral evidence and thereafter take up clause-by-clause consideration of the Bill. 9. The committee also decided that the members may, if they so desired, forward their amendments to the Bill by the 1st July, 1968. There was, however, no bar to the giving of amendments subsequently before the clause concerned was taken up for consideration.

The Committee then adjourned.

### ANNEXURE I

# LOK SABHA SECRETARIAT

# PRESS COMMUNIQUE

The Joint Committee of both Houses of Parliament on the Lokpal and Lokayuktas Bill, 1968 at their first sitting held today under the Chairmanship of Shri M. B. Rana, M.P. decided that State Governments, public bodies, organisations, Supreme Court and High Court Bar Associations and other associations desirous of submitting memoranda on the Bill for consideration of the Committee should send 60 copies of each memorandum so as to reach the Secretary, Lok Sabha Parliament House, New Delhi on or before the 30th June, 1968. The memoranda which might be submitted to the Committee would form part of the records of the Committee and should be treated as strictly confidential and not circulated to anyone, as such an act would constitute a breach of privilege of the Committee.

Those who are desirous of giving oral evidence before the Committee, besides sending memoranda, are requested to intimate to this effect to the Lok Sabha Secretariat for consideration of the Committee.

The Lokpal and Lokayuktas Bill, 1968, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 9th May, 1968.

The Committee will sit at New Delhi from the 4th July, 1968 onwards to hear oral evidence.

NEW DELHI; Dated the 29th May, 1968.

#### No. 16/4/CII/68.

Dated the 29th May, 1968.

Copy forwarded for information to the News Editor, All India Radio, New Delhi.

It is requested that this may please be broadcast from the A.I.R. on three successive days.

Sd/- M. C. CHAWLA, Deputy Secretary. .

# ANNEXURE 11

# Under Certificate of Posting

## LOK SABHA SECRETARIAT

Parliament House, New Delhi-1.

No. 16/4/CII/68

May 29, 1968/Jyaistha 8, 1890 (Saka).

From

Shri M. C. Chawla, Deputy Secretary.

To

The Chief Secretaries of all the State Governments/Union Territories.

1

SUBJECT: —Joint Committee on the Lokpal and Lokayuktas Bill, 1968.

Sir,

I am directed to state that the Joint Committee of both Houses of Parliament on the Lokpal and Lokayuktas Bill, 1968 at their sitting held today, decided that all State Governments/Union Territories be addressed to send their comments or suggestions, if they so desire, on the provisions of the Lokpal and Lokayuktas Bill, 1968 for the consideration of the Committee, so as to reach this Secretariat by the 30th June, 1968 at the latest.

2. The Lokpal and Lokayuktas Bill, 1968 as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 9th May, 1968.

**3** A copy of the Bill is, however, sent herewith for ready reference.

4. In case any comments or suggestions are sent, it is requested that 60 copies thereof may be furnished to this Secretariat for circulation to the Members of the Joint Committee.

> Yours faithfully. Deputy Secretary.

Encls: As above.

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## ANNEXURE III

Under Certificate of Posting

### LOK SABHA SECRETARIAT

### (COMMITTEE BRANCH II)

## Parliament House, New Delhi-1.

### No. 16/4/CII/68

May 29, 1968/Jyaistha 8, 1890 (Saka).

From

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Shri M. C. Chawla,

Deputy Secretary.

То

SUBJECT: Joint Committee on the Lokpal and Lokayuktas Bill, 1968. Sir,

I am directed to state that the Joint Committee of both Houses of Parliament on the Lokpal and Lokayuktas Bill, 1968 at their sitting held on the 29th May, 1968, decided that the Bar Councils of the Centre and the States and Bar Associations of the Supreme Court and High Courts, and Chambers of Commerce and Industry be addressed to send their comments or suggestions, if they so desire, on the provisions of the Lokpal and Lokayuktas Bill, 1968 for the consideration of the Committee so as to reach this Secretariat by the 30th June, 1968 at the latest.

2. The Committee further decided that they could also give oral evidence before the Committee, if they so desired.

3. The Committee will sit at New Delhi from Thursday, the 4th July, 1968 onwards to hear oral evidence

4. The Lokpal and Lokayuktas Bill, 1968, as introduced in Lok Sabha, was published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 9th May, 1968. A copy of the Bill is, however, sent herewith for ready reference.

5. In case any comments or suggestions are sent, it is requested that 60 copies thereof may be furnished to this Secretariat for circulation to the Members of the Joint Committee.

6. No travelling or daily allowance will be paid to your representatives for appearing before the Committee.

7. Please acknowledge receipt of this letter.

Yours faithfully, Deputy Secretary.

Encls: As above.

### Second Sitting

.. ..

The Committee sat on Thursday, the 4th July, 1966 from 15-00 to 16-45 hours.

PRESENT

## Shri M. B. Rana-Chairman

### MEMBERS

#### Lok Sabha

2. Shri S. A. Agadi

i.

3. Shri K. Anbazhagan

4. H. H. Maharaja Pratap Keshari Deo

5. Shri Shivajirao S. Deshmukh

6. Shri Gangacharan Dixit

7. Shri Samar Guha

- 8. Shri Gunanand Thakur
- 9. Shri Hem Raj
- 10. Shri Kinder Lal
- 11. Shri Thandavan Kiruttinan
- 12. Shri Bhola Nath Master
- 13. Shri V. Viswanatha Menon
- 14. Shri G. S. Reddi
- 15. Shri Narayan Swaroop Sharma
- 16. Shri Yogendra Sharma
- 17. Shri Shashi Bhushan
- 18. Shri Ramshekhar Prasad Singh
- 19. Shri R. K. Sinha
- 20. Shri Tenneti Viswanatham
- 21. Shri Y. B. Chavan

### Rajya Sabha

- 22. Shri Gurmukh Singh Musafir
- 23. Sardar Joginder Singh
- 24. Pandit Sham Sunder Narain Tankha
- 25. Shri Awadeshwar Prasad Sinha
- 26. Shri Purnanand Chetia
- 27. Shri Akbar Ali Khan
- 28. Shri K. S. Ramaswamy
- 29. Shrimati Pushpaben Janardanrai Mehta
- 30. Shri M. Ruthnaswamy
- 31. Shri Gaure Murahari
- 32. Shri Balachandra Menon
- 33. Shri A. D. Mani

#### LEGISLATIVE COUNSEL

- 1. Shri V. N. Bhatia—Secy., Legislative Deptt., Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri-Addl. Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms
- 2. Shri S. P. Mukherjee—Joint Secretary (V), Ministry of Home Affairs
- 3. Shri S. P. Mukerji-Director, Department of Administrative Reforms
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms

### SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

#### WITNESS

Shri D. D. Diwan—Director, Citizens' Advice Bureau, New Delhi.

2. The Chairman first moved the following Resolution condoling the death of Shri Harish Chandra Mathur, M.P. who was also a member of the Committee:

"The Joint Committee place on record their profound sense of sorrow on the sad passing away of Shri Harish Chandra Mathur, a sitting Member of Rajya Sabha, who dedicated his life to parliamentary work and was an able statesman."

The members then stood in silence for a short while.

**3.** The Chairman informed the members that in pursuance of the decision of the Joint Committee on the Lokpal and Lokayuktas Bill, 1968 taken at their first sitting held on the 29th May, 1968, a Press Communique inviting memoranda on the Bill from State Governments, public bodies, organisations, Bar Associations of Supreme

Court and High Courts etc. was issued and letters were also addressed to the Chief Justice of the Supreme Court, Chief Ministers, the Chief Secretaries of all the State Governments/Union Territories, Bar Councils of the Centre and the States, Bar Associations of the Supreme Court and the High Courts, Chambers of Commerce and Industry, Advocates General of State Governments and other eminent Jurists/public men requesting them to give their comments on the provisions of the Bill on or before the 30th June, 1968 and also to give oral evidence, if they so desired.

In response to the Press Communique and the letters, comments/ memoranda were received from the following organisations, individuals and circulated to the Members of the Joint Committee:

- (i) Shri K. N. Wanchoo, Retd. Chief Justice of India.
- (ii) Shri R. N. Dayama, Joint Civil Judge (Jr. Vid.), Chandrapur, District Chanda (Mysore State).
- (iii) Shri S. Gopalakrishnachar, Retd. Assistant Commissioner, Chitradurga (Mysore State).
- (iv) Advocate General, Haryana.
- (v) Shri P. S. Contractor, Bombay.
- (vi) Director, Citizen's Advice Bureau, New Delhi.
- (vii) Advocate General, Mysore.
- (viii) Shri H. C. Sharma, New Delhi.
- (ix) President, Kendriya Sanatan Dharma Maha Sabha, Delhi.
- (x) Bar Council of Uttar Pradesh.
- (xi) Ministry of Home Affairs.
- (xii) Legal Remembrancer, Chandigarh Administration, Chandigarh.
  - (xiii) Government of Manipur.
  - (xiv) Dr. L. M. Singhvi, Ex-Member of Parliament and Advocate, Supreme Court of India.

The following parties would now be appearing before the Joint Committee to give oral evidence on the dates indicated against them:

- (1) Director, Citizen's Advice Bureau, New Delhi. 4-7-1968
- (ii) Representatives of Kendriya Sanatan Dharma Maha Sabha, Delhi.
   5-7-1966

 (iii) Representatives of the Ministries of Commerce, Industrial Development and Company Affairs, Home Affairs, Finance and Steel, Mines & Metals.
 6-7-1968

4. The Chairman further stated that the following persons had also expressed their desire to give evidence before the Joint Committee provided they were paid T.A. D.A. etc. to meet the expenditure on account of their journey to Delhi and back:

- (i) Shri K. Santhanam, Ex-M.P.
- (ii) Shri P. B. Chakravartti, Retd. Chief Justice, Calcutta High Court.
- (iii) Shri R. N. Dayama Joint Civil Judge (Jr. Dn.), Chandrapur, District Chanda (Mysore State).

It was also pointed out that Sarvashri K. Santhanam and B. P. Chakravartti had not submitted any memoranda whereas the memorandum sent by Shri Dayama had been circulated to the members of the Joint Committee. It was now for consideration whether or not the above mentioned parties be paid T.A.; D.A. if they were called to appear before the Joint Committee.

After some discussion, it was decided to invite Shri K. Santhanam and Shri P. B. Chakravartti for oral evidence before the Joint Committee on the 27th July and 3rd August, 1968 respectively, and they may be paid T.A. and D.A.

5. The Committee further decided that the Attorney General should also be invited to give oral evidence on the 10th August, 1968.

6. The Committee also decided to invite Dr. H. N. Kunzru, Ex-M.P. to appear before the Committee for giving his opinion on the provisions of the Bill.

7. The Chairman pointed out that as the Committee would be hearing evidence of some more witnesses during the next session it would not be possible to present the Report on the first day of the next session as laid down in the motion of reference of the Bill to the Joint Committee. As such, the Committee would have to ask for an extension of time till the first day of the Winter Session of Parliament. The Committee authorised the Chairman to bring this to the notice of the Speaker also as envisaged in Direction 79(2) of the Directions by the Speaker. They also authorised the Chairman 3837 (B) LS-10. and in his absence, Shri Tenneti Viswanatham to move the motion for the extension of time in the House on the 1st day of the next session viz, 22nd July, 1968.

8. Shri D. D. Diwan, Director, Citizens' Advice Bureau, New Delhi then gave evidence before the Committee.

9. A verbatim record of evidence was kept.

10. The Committee then adjourned to meet again at 15-00 hours on Friday, the 5th July, 1968.

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# Third Sitting

The Committee sat on Friday, the 5th July, 1968 from 15-00 to 16-30 hours.

#### PRESENT

# Shri M. B. Rana-Chairman

#### MEMBERS

# Lok Sabha

- 2. Shri S. A. Agadi
- 3. Shri K. Anbazhagan
- 4. H. H. Maharaja Pratap Keshari Deo
- 5. Shri Shivajirao S. Deshmukh
- 6. Shri Gangacharan Dixit
- 7. Shri Samar Guha
- 8. Shri Gunanand Thakur
- 9. Shri Hem Raj
- 10. Shri Kinder Lal
- 11. Shri Thandavan Kiruttinan
- 12. Shri Bhola Nath Master
- 13. Shri V. Viswanatha Menon
- 14. Shri G. S. Reddi
- 15. Shri Narayan Swaroop Sharma
- 16. Shri Yogendra Sharma
- 17. Shri Ramshekhar Prasad Singh
- 18. Shri Tenneti Vishwanatham.

# Rajya Sabha

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19. Shri Gurmukh Singh Musafir 29. Pandit Sham Sunder Narain Tankha

- 21. Shri Awadheshwar Prasad Sinha
- 22. Shri Purnanand Chetta
- 23. Shri Akbar Ali Khan
- 24. Shri K. S. Ramaswamy
- 25. Shrimati Pushpaben Janardanrai Mehta
- 26. Shri M. Ruthnaswamy
- 27. Shri Gaure Murahari
- 28. Shri Balachandra Menon
- 29. Shri A. D. Mani

# LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Addl. Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINIETRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms.
- 2. Shri S. P. Mukherjee—Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

## Secretariat

### Shri M. C. Chawla—Deputy Secretary.

# WITNESSES

# Representatives of Kendriya Sanatan Dharam Maha Sabha Daryaganj, Delhi

- 1. Shri Bhagwan Swarup Bhatnagar-President.
- 2. Shri Chandu Lall Gupta-Vice-President.
- 3. Shri Vidya Bhushan-Member.

2. The Committee heard the evidence given by the representatives of Kendriya Sanatan Dharam Maha Sabha, Delhi.

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 10-00 hours on Saturday, the 6th July, 1963.

### Fourth Sitting

IV

The Committee sat on Saturday, the 6th July, 1968 from 10.00 to 12.35 hours.

#### PRESENT

Shri M. B. Rana—Chairman

#### MEMBERS

### Lok Sabha

2. Shri S. A. Agadi

- 3. Shri Frank Anthony
- 4. H. H. Maharaja Pratap Keshari Deo
- 5. Shri Shivajirao S. Deshmukh
- 6. Shri Gangacharan Dixit
- 7. Shri Samar Guha
- 8. Shri Gunanand Thakur
- 9. Shri Hem Raj
- 10. Shri Kinder Lal
- 11. Shri Thandavan Kiruttinan
- 12. Shri Bhola Nath Master
- 13. Shri G. S. Reddi
- 14. Shri Narayan Swaroop Sharma
- 15. Shri Yogendra Sharma
- 16. Shri Shashi Bhushan
- 17. Shri Ramshekhar Prasad Singh
- 18. Shri Tenneti Viswanatham
- 19. Shri Y. B. Chavan.

### Rajya Sabha

- 20. Shri Gurmukh Singh Musafir
- 21. Pandit Sham Sunder Narain Tankha
- 22. Shri Awadeshwar Prasad Sinha
- 23. Shri Purnanand Chetia
- 24. Shri Akbar Ali Khan
- 25. Shri K. S. Ramaswamy
- 26. Shrimati Pushpaben Janardanrai Mehta
- 27. Shri M. Ruthnaswamy
- 28. Shri Balachandra Menon
- 29. Shri A. D. Mani.

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#### LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Addl. Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri S. P. Mukherjee-Joint Secretary (V), Ministry of Home Affairs.
- 2. Shri S. P. Mukerji—Director, Department of Administrative reforms.
- 3. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 4. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### Secretariat

Shri M. C. Chawla—Deputy Secretary.

#### WITNESSES

REPRESENTATIVES OF MINISTRIES OF GOVERNMENT OF INDIA

- 1. Shri K. B. Lall-Secretary, Ministry of Commerce.
- 2. Shri N. N. Wanchoo—Secretary (Industrial Development), Ministry of Industrial Development and Company Affairs.
- 3. Shri N. K. Mukarji—Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.
- 4. Shri P. Govindan Nair—Secretary (Expenditure), Ministry of Finance.
- 5. Shri M . S. Nanjundiah—Director (Economic Affairs Department), Ministry of Finance.
- 6. Shri N. Luther—Deputy Secretary, Ministry of Steel, Mines and Metals.

2. The Committee heard the concence given by the representatives of the Ministries of Commerce, Industrial Development and Company Affairs, Home Affairs, Finance and Steel, Mines and Metals regarding the desirability of extending the scope of the provisions of the Bill to the Public Sector Undertakings and Government Companies.

3. A verbatim record of evidence was kept.

4. The Committee decided to invite Shri P. N. Sapru, ex-M.P. to hear him on the provisions of the Bill. They also decided to pay him T.A./D.A. as admissible under the rules on his appearance before the Committee.

5. The Committee then adjourned.

# Fifth Sitting

V

The Committee sat on Saturday, the 27th July, 1968 from 10.00 to 12.15 hours.

#### PRESENT

### Shri M. B. Rana-Chairman

### Members

# Lok Sabha

- 2. Shri K. Anbazhagan
- 3. Shri C. C. Desai
- 4. Shri Gangacharan Dixit
- 5. Shri Samar Guha
- 6. Shri Kanwar Lal Gupta
- 7. Shri Hem Raj
- 8. Shri Thandavan Kiruttinan
- 9. Shri Bhola Nath Master
- 10. Shri V. Viswanatha Menon
- 11. Shri G. S. Reddi
- 12. Shri Vidya Charan Shukla
- 13. Shri Ramshekhar Prasad Singh
- 14. Shri S. Supakar
- 15. Shri Tenneti Viswanatham.

# Rajya Sabha

- 16. Shri Gurmukh Singh Musafir
- 17. Pandit Sham Sunder Narain Tankha
- 18. Shri Purnanand Chetia
- 19. Shri Akbar Ali Khan
- 20. Shri K. S. Ramaswamy
- 21. Shri V. T. Nagpure
- 22. Shrimati Pushpaben Janardanrai Mehta
- 23. Shri Balachandra Menon
- 24. Shri A. D. Mani.

#### LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Additonal Legislative Counsel, Ministry of Law. REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Deptt. of Administrative Reforms, Ministry of Home Affairs.
- 2. Shri S. P. Mukherjee—Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji-Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

# WITNESS

# Shri K. Santhanam-Ex.-M.P.

2. The Chairman read out to the Committee the letter dated the 6th July, 1968 received from Shri D. C. H. Mathur son of late Harish Chandra Mathur (Ex-M.P. and Member of the Joint Committee) expressing his thanks to the Committee in response to the resolution passed by the Committee at their sitting held on the 4th July, 1968 condoling the death of his father.

3. The Chairman informed the Committee that further comments/ suggestions on the provisions of the Lokpal and Lokayuktas Bill, 1968 received from the following organisations/individuals were circulated to Members of the Joint Committee:

- (i) Government of Maharashtra
- (ii) Shri K. Santhanam
- (viii) Southern Millowners' Association, Coimbatore.
  - (iv) Professor P. K. Tripathi, Dean, Faculty of Law, Delhi University.
  - (v) Delhi Administration.
  - (vi) Bar Council of West Bengal.
- (vii) Government of Madhya Pradesh.

4. The Chairman mentioned that the following parties had since intimated that they had no comments to offer on the provisions of the Bill:

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(i) Government of Nagaland.

- (ii) Andhra Pradesh High Court.
- (iii) Advocate General, Nagaland.
- (iv) Advocate General, Madras.
- (v) Administrator, Laccadive, Minicoy and Amindivi Islands.
- (vi) Administrator, Dadra and Nagar Haveli.
- (vii) Gujarat High Court.
- (viii) Shri S. C. Lahiri, Ex-Chief Justice, Calcutta High Court.
- (ix) Rajasthan High Court.
- (x) Chief Commissioner, Andaman and Nicobar Islands.

The Chief Minister of Kerala had expressed his inability to offer comments on the provisions of the Bill. He had, however, stated that he was getting the matter examined in his department. These comments were still awaited.

The following individuals had expressed their inability to appear before the Committee for oral evidence and had also not sent their comments:

- (i) Dr. C. D. Deshmukh.
- (ii) Shri S. R. Das.
- (iii) Governor of West Bengal.
- (iv) Shri S. Dutt, Vigilance Commissioner, West Bengal.
- (v) Shri P. B. Gajendragadkar.
- (vi) Shri G. S. Pathak, Governor of Mysore.

5. The Chairman added that the following individuals had been invited for oral evidence on the dates indicated against their names:

- (i) Shri P. K. Tripathi-3.8.1968 at 15.00 hrs.
- (ii) Dr. H. N. Kunzru-3.8.1968 at 16.00 hrs.
- (iii) Shri C. K. Daphtary-24.8.1968 at 10.00 hrs.

Shri P. N. Sapru, who was requested to indicate his willingness to appear before the Committee, had not yet replied. He was being requested again to indicate if it would be possible for him to appear before the Committee either on the 23rd or 24th August. 1968.

Shri P. Chakravartti, Retd. Chief Justice, Calcutta High Court and Shri Y. S. Tambe, Retd. Chief Justice, Bombay High Court, who were invited for oral evidence, had expressed their inability to come and requested to drop their names from the list of witnesses. 6. The Chairman then referred to a memorandum on the provisions of the Bill which had been received by him from the Chairman, Committee on Petitions.

7. Shri K. Santhanam, ex-M.P. then gave evidence before the Committee.

8. A verbatim record of evidence was kept.

9. The Committee then adjourned to meet again at 15.00 hours on Saturday, the 3rd August, 1968.

#### VI

# Sixth Sitting

The Committee sat on Saturday, the 3rd August, 1968 from 15.00 to 18.15 hours.

PRESENT .

#### Shri M. B. Rana-Chairman.

#### Members

### Lok Sabha

2. Shri K. Anbazhagan.

3. Shri C. C. Desai.

4. Shri Shivajirao S. Deshmukh.

5. Shri Samar Guha.

6. Shri Kanwar Lal Gupta

7. Shri Bhola Nath Master

8. Shri G. S. Reddi-

9. Shri Ramshekhar Prasad Singh.

Rajya Sabha

10. Shri Gurmukh Singh Musafir.

11. Pandit Sham Sunder Narain Tankha.

12. Shri Awadheshwar Prasad Sinha-

13. Shri Purnanand Chetia .

14. Shri K. S. Ramaswamy.

13. Shri Purnanand Chetia

16. Shri A. D. Mani.

#### LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—Additional Legislative Counsel, Ministry of Law. REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji—Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.
- 2. Shri S. P. Mukherjee—Joint Secretary (V) Ministry of Home Affairs.
- 3. Shri S. P. Mukerji-Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

# SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

#### W1TNESSES

- 1. Dr. H. N. Kunzru-Ex-M.P.
- 2. Prof. P. K. Tripathi—Dean, Faculty of Law, University of Delhi.

2. The Committee heard the evidence given by Dr. H. N. Kunzru and Prof. P. K. Tripathi

3. A verbatim record of the evidence was kept.

4. The Chairman then announced that the following witnesses would be examined by them on Tuesday, the 20th August, 1968:

- (i) Central Vigilance Commissioner-16.00 hours.
- (ii) Director General, Vigilance (Railway Board)—to be accompanied by Member (Staff) and Chairman, Railway Board.—17.00 hours

5. The Committee also decided to take the evidence of Dr. L. M. Singhvi on one of the days during the current session.

6. The Committee then adjourned.

# VШ

# Seventh Sitting

The Committee sat on Tuesday, the 20th August, 1968 from 16.00 to 19.10 hours.

# PRESENT

# Shri M. B. Rana-Chairman

# Members

# Lok Sabha

2. Shrimati Jyotsna Chanda.

3. H. H. Maharaja Pratap Keshari Deo.

4. Shri C. C. Desai.

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5. Shri Shivajirao S. Deshmukh.

6. Shri Gangacharan Dixit.

7. Shri Kinder Lal.

8. Shri Bhola Nath Master.

9. Shri G. S. Reddi.

10. Shri Yogendra Sharma-

11. Shri Ramshekhar Prasad Singh.

#### Rajya Sabha

12. Shri Gurmukh Singh Musafir.

13. Pandit Sham Sunder Narain Tankha.

14. Shri Purnanand Chetia.

15. Shri Akbar Ali Khan-

16. Shri K. S. Ramaswamy.

17. Shri Sundar Singh Bhandari.

18. Shri A. D. Mani-

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.
- 2. Shri S. P. Mukherjee—Joint Secretary (V) Ministry of Home Affairs.
- 3. Shri S. P. Mukerji--Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghvan-Deputy Secretary, Ministry, of Home Affairs.

# 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### Secretariat

### Shri M. C. Chawla—Deputy Secretary.

2. Before the following witnesses proceeded to give evidence, the Chairman drew their attention to Direction 58:—

- I. Shri N. Sreenivasa Rau, Central Vigilance Commissioner (16.00 to 17.30 hrs.)
- II. (i) Shri G. D. Khandelwal, Chairman, Railway Board.
  - (ii) Shri B. C. Ganguli,
    - Member (Staff) Railway Board.
  - (iii) Shri S. W. Shiveshwarkar, Director General, Vigilance, Railway Board, (17.32 to 19.10 hrs.).
- 3. A verbatim record of the evidence was kept.

4. Earlier the Committee decided to sit for 3-4 days with effect from the 24th September, 1968 onwards to take up clause-by-clause consideration of the Bill. The Committee also decided that Members desirous of giving any amendments to the Bill might do so by the 16th September, 1968 at the latest.

5. The Committee then adjourned.

### VIII

# Eighth Sitting

The Committee sat on Friday, the 23rd August, 1968 from 17.00 to 18.00 hours.

#### PRESENT

#### Shri M. B. Rana-Chairman

#### MEMBERS

### Lok Sabha

- 2. Shri C. C. Desai.
- 3. Shri Gangacharan Dixit.
- 4. Shri Gunanand Thakur,
- 5. Shri Hem Raj.
- 6. Shri Thandavan Kiruttinan,
- 7. Shri Bhola Nath Master-
- 8. Shri V. Viswanatha Menon.
- 9. Shri G. S. Reddi.

- 10. Shri Yogendra Sharma.
- 11. Shri R. K. Sinha.
- 12. Shri S. Supakar.

### Rajya Sabha

- 13. Shri Gurmukh Singh Musafir.
- 14. Pandi<sup>+</sup> Sham Sunder Narain Tankha.
- 15. Shri Purnanand Chetia.

# LEGISLATIVE COUNCIL

Shri R. V. S. Peri-Sastri-Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.
- 2. Shri S. P. Mukherjee—. I int Secretary (V) Ministry of Home Affairs.
- 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### Secretariat

# Shri M. C. Chawla—Deputy Secretary.

2. Before the following witness proceeded to give evidence, his attention was drawn to Direction 58 of the Directions by the Speaker:—

Shri P. N. Sapru, Ex-M.P.

3. A verbatim record of evidence was kept.

4. The Committee then adjourned to meet again at 9.30 A.M. on Saturday, the 24th August, 1968.

### Ninth Sitting

IX

The Committee sat on Saturday, the 24th August, 1968 from 09.30 to 10.55 hours and again from 15.00 to 19.05 hours.

#### PRESENT

### Shri M. B. Rana-Chairman.

### MEMBERS

# Lok Sabha

- 2. Shri H. H. Maharaja Pratap Keshari Deo
- 3. Shri C. C. Desai
- 4. Shri Shivajirao S. Deshmukh
- 5. Shri Gangacharan Dixit
- 6. Shri Hem Raj
- 7. Shri Kinder Lal
- 8. Shri Thandavan Kiruttinan
- 9. Shri Bhola Nath Master
- 10. Shri Narayan Swaroop Sharma
- 11. Shri Vidya Charan Shukla
- 12. Shri R. K. Sinha
- 13. Shri S. Supakar

# Rajya Sabha

- 14. Shri Ram Niwas Mirdha
- 15 Pandit Sham Sunder Narain Tankha
- 16. Shri Purnanand Chetia
- 17. Shri Akbar Ali Khan
- 18. Shri K. S. Ramaswamy
- 19. Shrimati Pushpaben Janardhanrai Mehta
- 20 Shri Balachandra Menon

### LEGISLATIVE COUNSEL

- 1. Shri V. N. Bhatia—Secretary, Legislative Department, Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri—Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms, Ministry of Home Affairs.

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- 2. Shri S. P. Mukherjee—Joint Secretary (V), Ministry of Home Affairs.
  - 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
  - 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
  - 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### SECRETARIAT

# Shri M. C. Chawla—Deputy Secretary.

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2. The Committee heard the evidence of Shri C. K. Daphtary, Attorney-General of India after he had been apprised of the provisions of Direction 58 by the Chairman.

3. A verbatim record of evidence was kept. The Attorney-General of India promised to submit a memorandum also to the Joint Committee setting forth his detailed views on the salient features of the Bill.

4. The Committee then adjourned till 15.00 hours.

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5. Before the following witnesses preceded to give evidence, the Chairman drew their attention to Direction 58:---

(i) Shri M. C. Setalvad, M.P.- (15.00 to 16.05 hrs.).

Shri Setalvad promised to submit a memorandum setting forth his views about the exemption from consultation with the Union Public Service Commission in cases investigated by the Lokpal and on certain other points.

 (ii) Shri S. Dutt, Vigilance Commissioner, West Bengal- (16.07 to 17.07 hrs.)

The Committee adjourned for a short while.

6. The Committee re-assembled after the short break at 17.17 hours and heard the evidence of Dr. L.M. Singhvi, ex-M.P., Advocate, Supreme Court of India, New Delhi (17.17 to 19.05 hrs.).

At the outset, the Chairman mentioned to him the contents of Direction 58.

The Committee requested Dr. Singhvi to submit to them further material as also some specific draft amendments which he would like to suggest for their consideration.

7. A verbatim record of the evidence given by all these three witnesses was kept.

8. The Committee decided to sit at 10.00 hours daily on the 24th and 25th September, 1968 to consider the points arising out of the evidence tendered before them on the provisions of the Bill by the various witnesses and to take up clause-by-clause consideration of the Bill sometime during the second half of October, 1968. It was also decided that members might give notices of their amendments by the 16th September, 1968 at the latest.

9. The Committee then adjourned to meet again at 09.30 hours on Saturday, the 31st August, 1968.

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# Tenth Sitting

The Committee sat on Saturday, the 31st August, 1968 from 09.30 to 11.25 hours.

### PRESENT

Shri M. B. Rana-Chairman.

#### Members

#### Lok Sabha

2. Shri S. A. Agadi

3. Shri K. Anbazhagan

4. Shrimati Jyotsna Chanda

5. Shri C. C. Desai

6. Shri Gangacharan Dixit

7. Shri Hem Raj

8. Shri Kinder Lal

- 9. Shri Thandavan Kiruttinan.
- 10. Shri Amiya Kumar Kisku.
- 11. Shri Bhola Nath Master.
- 12. Shri G. S. Reddi.
- 13. Shrimati Uma Roy.
- 14. Shri S. Supakar.
- 15. Shri Tenneti Viswanatham.
- 15A. Shri Kanwar Lal Gupta.

### Rajya Sabha

- 16. Shri Gurmukh Singh Musafir.
- 17. Shri Ram Niwas Mirdha.
- 18. Pandit Sham Sunder Narain Tankha-
- 19. Shri Purnanand Chetia.
- 20. Shri Akbar Ali Khan.
- 21. Shri K. S. Ramaswamy.
- 22. Shri M. Ruthnaswamy.
- 23. Shri Balachandra Menon.

# LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Additional Legislative, Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 2. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 3. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

### SECRETARIAT

### Shri M. C. Chawla—Deputy Secretary.

2. Before Shri A. N. Mulla, M.P. proceeded to give evidence, the Chairman drew his attention to Direction 58 of the Directions by the Speaker.

3. A verbatim record of evidence was kept.

4. The Committee then adjourned till 10.00 hours on Tuesday, the 24th September, 1968.

# **Eleventh Sitting**

The Committee sat on Tuesday, the 24th September, 1968 from 10.00 to 13.00 hours.

#### PRESENT

# Shri M. B. Rana-Chairman

#### MEMBERS

### Lok Sabha

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2. Shri K. Anbazhagan.

3. Shrimati Jyotsna Chanda.

4. H. H. Maharaja Pratap Keshari Deo.

5. Shri C. C. Desai.

6. Shri Shivajirao S. Deshmukh.

7. Shri Kanwar Lal Gupta.

8. Shri Hem Raj.

9. Shri Kinder Lal.

10. Shri Amiya Kumar Kisku.

11. Shri Bhola Nath Master-

12. Shri V. Viswanatha Menon.

13. Shri G. S. Reddi.

14. Shri Gunanand Thakur.

15. Shri Yogendra Sharma.

16. Shri Narayan Swaroop Sharma.

17. Shri Shashi Bhushan.

18. Shri Vidya Charan Shukla.

19. Shri Ramshekhar Prasad Singh.

20. Shri R. K. Sinha.

21. Shri S. Supakar.

#### Rajya Sabha

22. Shri Gurmukh Singh Musafir.

23. Shri Ram Niwas Mirdha.

24. Pandit Sham Sunder Narain Tankha.

25. Shri Ganeshi Lal Chaudhary.

26. Shri Purnanand Chetia.

27. Shri Akbar Ali Khan.

28. Shri K. S. Ramaswamy.

29. Shri M. Ruthnaswamy.

30. Shri Gaure Murahari.

31. Shri Balachandra Menon.

32. Shri A. D. Mani-

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Addl. Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. N. Lalwani—Joint Secretary, (v) Ministry of Home Affairs.
- 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan—Deputy Secretary, Ministry of Home Affairs.
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### SECRETARIAT

### Shri M. C. Chawla—Deputy Secretary.

2. The Committee had general discussion on the points arising out of the evidence tendered before the Committee by the various witnesses on the provisions of the Bill. The following members participated in the discussion:—

- 1. Shri Akbar Ali Khan.
- 2. Shri Kanwar Lal Gupta.
- 3. Shri S. Supakar.
- 4. Shri Hem Raj.

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- 5. Shri Ram Niwas Mirdha.
- 6. Shri A. D. Mani.
- 7. Shri G. S. Reddi.
- 8. Shri M. Ruthnaswamy.
- 9. Shri Yogendra Sharma.
- 10. Shri Balachandra Menon.
- 11. Shri Ramshekhar Prasad Singh.
- 12. Shri Ganeshi Lal Chaudhary.
- 13. Shri Amiya Kumar Kisku.
- 14. Shri Vidya Charan Shukla (By way of intervention only).

3. The Committee then adjourned till 09.30 hours on Wednesday, the 25th September, 1968.

# XII Twelfth Sitting

The Committee sat on Wednesday, the 25th September, 1968 from 09.30 to 13.00 hours.

#### PRESENT

# Shri M. B. Rana-Chairman

### Members

### Lok Sabha

- 2. Shri S. A. Agadi
- 3. Shri K. Anbazhagan
- 4. Shrimati Jyotsna Chanda
- 5. H. H. Maharaja Pratap Keshari Deo
- 6. Shri C. C. Desai
- 7. Shri Shivajirao S. Deshmukh
- 8. Shri Gangacharan Dixit
- 9. Shri Samar Guha
- 10. Shri Gunanand Thakur
- 11. Shri Hem Raj
- 12. Shri Kinder Lal
- 13. Shri Amiya Kumar Kisku
- 14. Shri Bhola Nath Master
- 15. Shri V. Viswanatha Menon
- 16. Shri G. S. Reddi
- 17. Shrimati Uma Roy
- 18. Shri Narayan Swaroop Sharma
- 19. Shri Yogendra Sharma
- 20. Shri Shashi Bhushan
- 21. Shri Vidya Charan Shukla
- 22. Shri R. K. Sinha
- 23. Shri S. Supakar

#### Rajya Sabha

- 24. Shri Gurmukh Singh Musafir
- 25. Shri Ram Niwas Mirdha
- 26. Pandit Sham Sunder Narain Tankha
- 27. Shri Ganeshi Lal Chaudhary
- 28. Shri Purnanand Chetia
- 29. Shri Akbar Ali Khan
- 30. Shrimati Pushpaben Janardanrai Mehta
- 31. Shri M. Ruthnaswamy
- 32. Shri Sundar Singh Bhandari
- 33. Shri Balachandra Menon
- 34. Shri A. D. Mani.

# LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri-Addl. Legislative Counsel, Ministry of Law.

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- REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS
- 1. Shri N. K. Mukarji—Joint Secretary, Deptt. of Administrative Reforms.
- 2. Shri J. M. Lalwani—Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 4. Shri A. P. Veera Raghavan-Deputy Secretary, Ministry of Home Affairs.
- 5. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### Secretariat

# Shri M. C. Chawla—Deputy Secretary.

2. The Committee resumed general discussion on the points arising out of the evidence tendered before the Committee by the various witnesses on the provisions of the Bill. The following members participated in the discussion:

1. Shri R. K. Sinha

1-- ;

- 2. Shri Gunanand Thakur
- 3. H. H. Maharaja Pratap Keshari Deo
- 4. Shri K. Anbazhagan
- 5. Shri Bhola Nath Master
- 6. Shri C. C. Desai
- 7. Shri S. S. Deshmukh
- 8. Shri V. Viswanatha Menon
- 9. Shri Samar Guha
- 10. Shri Purnanand Chetia
- 11. Shri Sundar Singh Bhandari
- 12. Shri Shashi Bhushan
- 13. Pandit Sham Sunder Narain Tankha
- 14. Shri Vidya Charan Shukla

3. Thereafter, the following announcement was made by the Chairman:

"Now we adjourn and meet next at 09.30 hours on the 24th October, 1968 when we would hear the views of the Chairmen and some Memmbers of Petitions Committees of Lok Sabha and Rajya Sabha as to how best the new institution envisaged in the Bill can be worked in the scheme of Parliamentary democracy. Thereafter, we shall take up clause-by-clause consideration of the Bill. For this purpose, we may have to sit for 2-3 days. You are also requested kindly to send your amendments to the Bill, if any, by the 10th October, 1968 at the latest so that all these could be consolidated and circulated well in advance of the meeting."

4. The Committee then adjourned to meet at 09.30 hours on Thursday, the 24th October, 1968.

#### XIII

#### Thirteenth Sitting

The Committee sat on Thursday, the 24th October, 1968 from 09.30 to 11.20 hours.

#### PRESENT

### Shri Akbar Ali Khan-In the Chair.

# MEMBERS

#### Lok Sabha

- 2. Shrimati Jyotsna Chanda
- 3. H.H. Maharaja Pratap Keshari Deo
- 4 Shri C. C. Desai
- 5. Shri Kanwar Lal Gupta
- 6. Shri Gunanand Thakur
- 7. Shri Hem Raj
- 8. Shri Kinder Lal
- 9. Shri Amiya Kumar Kisku
- 10. Shri Bhola Nath Master
- 11. Shri G. S. Reddi
- 12. Shri Narayan Swaroop Sharma

- 13. Shri Yogendra Sharma
- 14. Shri Vidya Charan Shukla
- 15. Shri R. K. Sinha
- 16. Shri S. Supakar
- 17. Shri Tenneti Viswanatham
- 18. Shri Y. B. Chavan
- 19. Shri S. A. Agadi
- 20. Shri Shashi Bhushan

# Rajya Sabha

- 21. Shri Gurmukh Singh Musafir
- 22. Pandit Sham Sunder Narain Tankha
- 23. Shri Ganeshi Lal Chaudhary
- 24. Shri Purnanand Chetia
- 25. Shri V. T. Nagpure
- 26. Shrimati Pushpaben Janardanrai Mehta
- 27. Shri M. Ruthnaswamy
- 28. Shri Balachandra Menon
- 29. Shri A. D. Mani.

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LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—Addl. Legislative Counsel, Ministry of Law.

## REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji-Joint Secretary, Deptt. of Administrative Reforms.
- 2. Shri J. M. Lalwani—Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji—Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane—Under Secretary, Department of Administrative Reforms.

#### Secretariat

#### Shri M. C. Chawla—Deputy Secretary.

2. In the absence of the Chairman, Shri Akbar Ali Khan was chosen as Chairman for the sitting under sub-rule (3) of Rule 258 of the Rules of Procedure. 3. The Committee then proceeded to hear the views of the Chairman and following members of the Committee on Petitions, Lok Sabha as to how best the Institution of Lokpal and Lokayuktas envisaged in the Bill could be worked in the scheme of Parliamentary democratic set-up:-

(1) Shri D. C. Sharma-Chairman

#### Members

- (2) Shri Prakash Vir Shastri
- (3) Shri Onkar Lal Berwa
- (4) Shri S. C. Samanta
- (5) Shri P. C. Adichan.

4. A verbatim record of evidence was kept.

5. The Committee were informed that no reply had been received from the Chairman, Committee on Petitions, Rajya Sabha to a similar Communication addressed to him asking him to meet the Committee.

6. The Committee decided to hear the views of the following eminent jurists/legal experts on the provisions of the Bill:--

- (i) Shri P. V. Rajamannar, Retd. Chief Justice, Madras High Court.
- (ii) Shri Koka Subba Rao, Retd. Chief Justice of India.
- (iii) Shri Mohan Kumaramangalam, Senior Advocate, Supreme Court.

The Committee decided to sit during the next session to hear evidence of these persons.

The Committee further decided that no more evidence on the Bill should be heard. They should now proceed with the clause-byclause consideration of the Bill and sit for the purpose during the next inter-session period. The members were asked to send their amendments by the 15th December, 1968 at the latest.

7. The Committee also authorised the Chairman and in the absence Shri Kanwar Lai Gupta to move a motion for an extension of time in the House till the second day of the second week of the Budget Session for the presentation of their Report.

8. The Committee then adjourned.

# XIV

# Fourteenth Sitting

The Committee sat on Saturday, the 7th December, 1968 from 15.00 to 16.35 hours.

# PRESENT

# Shri M. B. Rana-Chairman.

# MEMBERS

# Lok Sabha

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2. H. H. Maharaja Pratap Keshari Deo

- 3. Shri C. C. Desai
- 4. Shri Gunanand Thakur

5. Shri Hem Raj

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6. Shri Thandavan Kiruttinan

7. Shri Amiya Kumar Kisku

8. Shri Bhola Nath Master

9. Shri G. S. Reddi

10. Shri Vidya Charan Shukla

11. Shri S. Supakar

12. Shri Tenneti Viswanatham.

### Rajya Sabha

13. Shri Ganeshi Lal Chaudhary

14. Pandit Sham Sunder Narain Tankha

- 15. Shri Purnanand Chetia
- 16. Shri Akbar Ali Khan
- 17. Shri K. S. Ramaswamy
- 18. Shri V. T. Nagpure
- 19. Shri Sundar Singh Bhandari.

### LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri, Addl. Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji, Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane, Under Secretary, Department of Administrative Reforms.

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#### SECRETARIAT

# Shri M. C. Chawla—Deputy Secretary.

# WITNESS

# Shri S. Mohan Kumaramangalam-Advocate, Madras.

2. The Committee heard the evidence of Shri S. Mohan Kumaramangalam, Advocate, Madras on the provisions of the Bill, after his attention, had been drawn to Direction 58 of the Directions by the Speaker.

The evidence lasted till 16.30 hours.

3. A verbatim record of evidence was kept.

4. The Committee tentatively decided to sit in the later half of January, 1969 for 2 days to take up Clause-by-clause consideration of the Bill. The Chairman was authorised to fix the dates in consultation with the Minister of Home Affairs.

5. The Committee then adjourned.

### XV

#### Fifteenth Sitting

The Committee sat on Thursday. the 23rd January, 1969 from 11.00 to 13.00 hours.

#### PRESENT

Shri M. B. Rana-Chairman.

#### MEMBERS

#### Lok Sabha

2. Shri S. A. Agadi

- 3. Shrimati Jyotsna Chanda
- 4. Shri H. H. Maharaja Pratap Keshari Deo
- 5. Shri C. C. Desai
- 6. Shri Shivajirao S. Deshmukh
- 7. Shri Gangacharan Dixit
- 8. Shri Kanwar Lal Gupta
- 9. Shri Hem Raj
- 10. Shri Bhola Nath Master
- 11. Shri V. Viswanatha Menon
- 12. Shri Narayan Swaroop Sharma
- 13. Shri Yogendra Sharma
- 14. Shri Vidva Charan Shukla
- 15. Shri S. Supakar
- 16. Shri Tenneti Viswanatham

- 17. Shri Y. B. Chavan.

### Rajya Sabha

- 18. Shri Ram Niwas Mirdha
- 19. Pandit Sham Sunder Narain Tankha
- 20. Shri Purnanand Chetia
- 21. Shri Akbar Ali Khan
- 22. Shri K. S. Ramaswamy
- 23. Shri V. T. Nagpure
- 24. Shri Sundar Singh Bhandari
- 25. Shri A. D. Mani.

# LEGISLATIVE COUNSEL

- 1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri, Add tional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 3. S. P. Mukerji, Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane, Deputy Secretary, Department of Administrative Reforms.

# Secretariat

### Shri M. C. Chawla—Deputy Secretary.

2. At the outset, the Chairman gave to the Committee a brief account\* of the meeting which he had with the Parliamentary Commissioner in U.K. during his last private visit to the country; the status, ro'e and functions of the Parliamentary Commissioner in the investigation of administrative action on behalf of the Crown and for purposes connected therewith.

3. The Committee then took up clause-by-clause consideration of the Bill.

4. Clause 2.—The following amendment was accepted:

Page 2, lines 9-10.

for "lack of integrity or improper conduct" substitute "or lack of integrity".

\*See Annexure.

Discussion on the Clause was not concluded.

5. The Committee then adjourned till 10.30 hours on Friday, the 24th January, 1969 to take up further clause-by-clause consideration of the Bill.

# ANNEXURE

(Vide para 2 of the Minutes of the Fifteenth Sitting held on the 23rd January, 1969.)

(Brief account of the meeting between the Chairman, Shri M. B. Rana and the Parliamentary Commissioner, United Kingdom).

On the 30th September, 1968, I met Mr. E. L. Sykes, Secretary to the Parliamentary Commissioner, U.K. and discussed with him our Lokpal and Lokayuktas Bill, 1968. Mr. Sykes has been to India and knew our problems. His idea was that we should make a small beginning and should not overwhelm the Lokpal with work. I told him that it is for this reason that we are restricting the jurisdiction of the Bill to Central Government servants only.

2. On the 1st October, 1968, I discussed the provisions of the Bill with the Secretary General, Indian Students' Union, Y.M.C.A., London, who welcomed the measure in general.

3. On the 2nd October, 1968, I discussed the Bill vis-a-vis Parliamentary Commissioner, U.K. with Barristers at the Middle Temple. They felt that powers of Parliamentary Commissioner were too restricted and he was difficult to approach.

4. On the 4th October, 1968 I had discussion with the Parliamentary Commissioner, U.K. During the course of discussion it was pointed out that the problem of corruption did not exist in the United Kingdom.

5. On the 5th October, 1968, Shri Shivajirao S. Deshmukh, M.P. and a member of the Joint Committee arrived in United Kingdom. As he was to visit Sweden, I gave him an introductory letter to the Ombudsman of Sweden whom he visited and discussed the Lokpal Bill with him. Hon. Ombudsman was pleased to present Shri Deshmukh with a copy of the book 'Ombudsman' for our Parliament. His Excellency the Swedish Ombudsman was of the view that in respect of Status as Chief-Justice of India, term of office and sphere of enquiry covering even Ministers of Government constituted an improvement on their Law relating to subject. I and Shri Deshmukh presented the book to the Hon. Speaker, on return to Delhi, who was pleased to keep it in the Parliament Library.

6. On the 7th and 11th October, 1968, I had further discussion with Mr. E. L. Sykes. I also met Mr. Grieves (African) the Liaison

Officer of the National Integration Council at Brixton, where 8,000 Indians live, to discuss the problem of integration.

7. I also called on the High Commissioner of India in U.K. Shri S. S. Dhavan and discussed with him the Lokpal and Lokayuktas Bill. His suggestion was that cases before the Lokpal should be transferable from the Lokpal to the Lokayuktas and vice versa.

8. On the 9th October, 1968 I called on Col. Styles, in-charge of N.C.C. in U.K. On the 10th October, 1968, I had discussion with Mr. J. Little, Secretary, Race Relation Board of U.K. regarding integration of Indians in U.K. I also discussed the Lokpal and Lokayuktas Bill with Miss Elizabeth Owen, Vice President of the Royal Commonwealth Society and with Mr. Guy Barmet, ex-Member of Parliament. I also visited the Commonwealth Institute at Kensington High Street and discussed the Lokpal and Lokayuktas Bill with its President, Sir Kenneth BRADY. I also discussed the Bill with the Officials of the Central Office of Information of U.K., Mrs. Mummery and Mr. Fitzgerald.

9. As a result of the discussions I had with various officials and non-officials in the United Kingdom, the following points have emerged:

- (i) The Parliamentary Commissioner in U.K. is appointed by her Majesty, the Queen by Letters Patent.
- (ii) The salary of the Parliamentary Commissioner is £8,600 a year while a Judge's salary is £10,000 a year. Hence the Parliamentary Commissioner is not equated with the Judges.
- (iii) In protocol, the Parliamentary Commissioner is equal to the Auditor General of U.K. or the First Secretaries.
- (iv) The complaints are made through the Members of Parliament to the Parliamentary Commissioner. In the beginning some Members of Parliament objected to the appointment of the Parliamentary Commissioner because they thought he was taking away a part of their privilege.
- (v) The general impression of the public in the United Kingdom is that the Parliamentary Commissioner has been given too little powers and that there are too many hurdles for an average man to approach the Parliamentary Commissioner. The Parliamentary Commissioner receives about 1,500 cases a year.

NEW DELHI; the 23rd January, 1969. M. B. RANA, Chairman, Joint Committee.

# Sixteenth Sitting

The Committee sat on Friday, the 24th January, 1969 from 10.30 to 13.00 hours.

#### PRESENT

#### Shri M. B. Rana-Chairman.

### Members

#### Lok Sabha

2. Shri S. A. Agadi

- 3. Shrimati Jyotsna Chanda
- 4. Shri H. H. Maharaja Pratap Keshari Deo

5. Shri C. C. Desai

6. Shri Shivajirao S. Deshmukh

7. Shri Gangacharan Dixit

8. Shri Kanwar Lal Gupta

9. Shri Hem Raj

10. Shri Bhola Nath Master

11. Shri V. Viswanatha Menon

12. Shri Narayan Swaroop Sharma

13. Shri Yogendra Sharma

14. Shri Shashi Bhushan

15. Shri Vidya Charan Shukla

16. Shri S. Supakar.

17. Shri Tenneti Viswanatham

18. Shri Y. B. Chavan.

### Rajya Sabha

19. Shri Ram Niwas Mirdha

20. Pandit Sham Sunder Narain Tankha

21. Shri Ganeshi Lal Chaudhary

22. Shri Purnanand Chetia

23. Shri Akbar Ali Khan.

24. Shri K. S. Ramaswamy

25. Shri V. T. Nagpure

26. Shri Gaure Murahari

27. Shri A. D. Mani.

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#### LEGISLATIVE COUNSEL

- 1. Shri V .N. Bhatia, Secretary, Legislative Deptt. Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri, Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 7. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri S. P. Mukerji, Director, Department of Administrative Reforms.
- 3. Shri S. M. Chikermane, Deputy Secretary, Department of Administrative Reforms.

### Secretariat

## Shri M. C. Chawla-Deputy Secretary.

2. At the outset, the Committee decided to ask for an extension of time for the presentation of their Report till the 29th March, 1969, as they felt that in view of the impending mid-term elections and the approaching Budget Session, it would not be possible for them to conclude consideration of the various stages of the Bill presently. The Committee authorised the Chairman and, in his absence, Shri Kanwar Lal Gupta to move a motion in the House for further extension of the time for the presentation of their Report.

3. The Committee then resumed clause-by-clause consideration of the Bill.

4. Clause 2.— (Vide para 4 of the Minutes dated the 23rd January, 1969). The following further amendments were accepted:—

(1) Page 2, line 19,

after "injustice" insert "or undue hardship".

(2) Page 2, line 33,

after "member" insert "(other than the Prime Minister)".

The Clause, as amended, was adopted.

5. Clause 3.—Discussion on the clause was not concluded.

6. The Committee decided to sit on Saturday, the 1st March, 1969 both in the forenoon and afternoon to take up further clause-byclause consideration of the Bill.

7. The Committee then adjourned till 10.00 hours on Saturday, the 1st March, 1969.

# XVII

#### Seventeenth Sitting

The Committee sat on Saturday, the 1st March, 1969 from 10.00 to 13.00 hours and again from 14.30 to 17.30 hours.

#### PRESENT

### Shri M. B. Rana-Chairman

#### MEMBERS

### Lok Sabha

- 2. Shrimati Jyotsna Chanda
- 3. H. H. Maharaja Pratap Keshari Deo
- 4. Shri C. C. Desai

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- 5. Shri Gangacharan Dixit
- 6. Shri Samar Guha
- 7. Shri Kanwar Lal Gupta
- 8. Shri Hem Raj
- 9. Dr. Karni Singh
- 10. Shri Kinder Lal
- 11. Shri Thandavan Kiruttinan
- 12. Shri Amiya Kumar Kisku
- 13. Shri Bhola Nath Master
- 14. Shri G. S. Reddi
- 15. Shrimati Uma Roy
- 16. Shri Yogendra Sharma
- 17. Shri Shashi Bhushan
- 18. Shri Vidya Charan Shukla
- 19. Shri R. K. Sinha
- 20. Shri S. Supakar
- 21. Shri Tenneti Viswanatham
- 22. Shri Y. B. Chavan

# Rajya Sabha

- 23. Shri Gurmukh Singh Musafir
- 24. Shri Ram Niwas Mirdha
- 25. Sardar Joginder Singh
- 26. Pandit Sham Sunder Narain Tankha
- 27. Shri Purnanand Chetia
- 28. Shri Akbar Ali Khan
- 29. Shri M. Ruthnaswamy
- 30. Shri Sundar Singh Bhandari
- 31. Shri A. D. Mani

#### LEGISLATIVE COUNCEL

- 1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri, Additional Legislative Counsel, Ministry of Law.
- 3. Shri G. N. Saxena, Assistant Draftsman, O.L. (Leg.) Commission, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFTAIRS

- 1. Shri N. K. Mukerji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji, Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane, Deputy Secretary, Department of Administrative Reforms.

### SECRETARIAT

T Contraction of the

Shri M. C. Chawla-Deputy Secretary.

2. The Committee resumed clause-by-clause consideration of the Bill.

**3.** Clause 3.— (Vide para 5 of the Minutes dated the 24th January, 1969). The following amendment was accepted:—

Page 4, omit lines 13-15.

The clause, as amended, was adopted.

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4. Clause 4.—The following amendment was accepted:—

Pages 4-5, for lines 29-39 and 1-5 respectively, substitute-

- "4. The Lokpal or a Lokayukta shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as the Lokpal or, as the case may be, a Lokayukta), or be connected with any political party or carry on any business or practise any profession and accordingly before he enters upon his office, a person appointed as the Lokpal or, as the case may be, as a Lokayukta, shall,...
  - (a) if he is a member of Parliament or of the Legislature of any State resign such membership; or

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- (b) if he holds any office of trust or profit, resign from such office; or
- (c) if he is connected with any political party, sever his connection with it; or
- (d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or
- (e) if he is practising any profession, cease to practise such profession."

The clause, as amended, was adopted.

- 5. Clause 5.—The following amendments were accepted:—
  - (1) Page 5, lines 8-9, *omit* "but shall be eligible for re-appointment for not more than one term".
  - (2) Page 5, omit lines 15-17.
  - (3) Pages 5-6, for lines 33-36 and 1-21 respectively, substitute-
    - "(3) On ceasing to hold office, the Lokpal or a Lokayukta shall be ineligible for further employment (whether as the Lokpal or a Lokayukta or in any other capacity) under the Government of India or under the Government of a State or for any employment under, or office in, any such local authority, corporation, Government company or society as is referred to in sub-clause (k) of section 2.
  - (4) There shall be paid to the Lokpal and the Lokayukta as such salaries as are specified in the Second Schedule.
  - (5) The Lokpal and every Lokayukta shall be entitled without payment of rent to the use of an official residence.
  - (6) The allowances and pension payable to, and other conditions of service of, the Lokpal or a Lokayukta shall be such as may be prescribed:

Provided that,---

- (a) in prescribing the allowances and pension payable to, and other conditions of service of, the Lokpal, regard shall be had to the allowances and pension, payable to, and other conditions of service of, the Chief Justice of India;
- (b) in prescribing the allowances and pension payable to, and other conditions of service of, the Lokayuktas, regard shall be had to the allowances and pension

payable to, and other conditions of service of, a Judge of the Supreme Court of India:

Provided further that the allowances and pension payable to, and other conditions of service of, the Lokpal or a Lokayukta shall not be varied to his disadvantage after his appointment."

The clause, as amended, was adopted.

6. Clause 6.—The following amendment was accepted:—

Page 6, lines 29-30, omit "or the Chief Justice of a High Court".

The clause, as amended, was adopted.

7. Clause 7.—The clause was adopted without any amendment.

The Committee then adjourned for Lunch at 13.00 hours.

8. The Committee re-assembled at 14.30 hours and resumed further clause-by-clause consideration of the Bill.

- 9. Clause 8.—The following amendments were accepted:
  - (1) Page 7, line 37, for "Second Schedule substitute "Third Schedule".
  - (2) Page 8, for lines 6-10, substitute-
    - "(2) The Lokpal or a Lokayukta shall not investigate any action—
      - (a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850, with the prior concurrence of the Lokpal; or
      - (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, with the prior concurrence of the Lokpal".

Futher consideration of the clause was held over.

- 10. Clause 9.—The following amendments were accepted:—
  - (1) Page 9, line 4, omit "and other documents".
  - (2) Page 9, lines 8 & 11, for "receptacle" wherever it occurs substitute "place".

The clause, as amended, was adopted:

37 of 1850

60 of 1952.

- (1) Page 9, line 12, after "proposes" insert "(after making such preliminary inquiry, as he deems fit)".
  - (2) Page 9, line 13, omit "shall".
  - (3) Page 9, line 14, after "(a)" insert "shall".
  - (4) Page 9, line 17, omit "and" occurring at the end.
  - (5) Page 9, line 18, after "(b)" insert "shall".
  - (6) Page 9, line 19, after "statement" insert "and".
  - (7) Page 9, after line 19, insert: ---
    - "(c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit."
  - (8) Page 9, after 23, add

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"Provided that the Lokpal or a Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so.".

The clause, as amended, was adopted.

- 12. Clause 11.—The following amendments were accepted:—
  - (1) Page 10, line 8, after "investigation", insert "(including the preliminary inquiry if any, before such investigation)".
  - (2) Page 10, line 13, after "investigation" insert "(including the preliminary inquiry)".
  - (3) Page 10, lines 31-32 for "persons in Government service substitute "any public servant".
  - (4) Page 10, line 34, after "Act" add "and the Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings."
  - (5) Page 11, lines 4-5, after "or any Committee of that Cabinet" insert "or of the Cabinet of the Government of any 19 of 1966. Union Territory or of the Executive Council constituted

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under the Delhi Administration Act, 1966, or of any Committee of such Cabinet or Executive Council,".

(6) Page 11, line 10, for "Without prejudice" substitute "Subject".

The clause, as amended, was adopted.

- 13. Clause 12.-The following amendments were accepted:-
  - (1) Page 11, lines 18 and 21 after "injustice" wherever it occurs insert "or undue hardship".
  - (2) Page 11, line 21, after "remedied" insert "or redressed.".
  - (3) Page 11. line 32, after "findings" insert "and recommendations".
  - (4) Page 12, line 9, after "complainant" insert "the public servant and the competent authority concerned".
  - (5) Page 12, lines 11-12, omit "may" and "at his discretion.".
  - (6) Page 12, omit lines 13-15.

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While discussing an amendment that U.P.S.C. should not be consulted in regard to a complaint involving an allegation on which the Lokpal or a Lokayukta has communicated his findings, the Committee desired that Government might by a suitable regulation exclude from the purview of the U.P.S.C. cases considered by the Lokpal.

The clause, as amended, was adopted.

14. The Committee then adjourned to sit next at 09.00 hours on Thursday, the 13th March, 1969.

# XVIII

#### **Eighteenth Sitting**

The Committee sat on Thursday, the 13th March, 1969 from 09.00 to 11.00 hours.

#### PRESENT

Shri M. B. Rana-Chairman.

### MEMBERS

Lok Sabha

2. Shri S. A. Agadi

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3. Shri K. Anbazhagan

4. Shri C. C. Dessi

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- 5. Shri Gunanand Thakur
- 6. Shri Hem Raj
- 7. Shri Thandavan Kiruttinan
- 8. Shri Bhola Nath Master
- 9. Shri G. S. Reddi
- 10. Shri Yogendra Sharma
- 11. Shri Vidya Charan Shukla
- 12. Shri S. Supakar
- 13. Shri Tenneti Viswanatham
- 14. Shri Y. B. Chavan.

### Rajya Sabha

- 15. Pandit Sham Sunder Narain Tankha
- 16. Shri Ganeshi Lal Chaudhary
- 17. Shri Purnanand Chetia
- 18. Shri Akbar Ali Khan
- 19. Shri K. S. Ramaswamy
- 20. Shri V. T. Nagpure
- 21. Shri M. Ruthnaswamy
- 22. Shri Sundar Singh Bhandari
- 23. Shri Balachandra Menon
- 24. Shri A. D. Mani-

#### LEGISLATIVE COUNSEL

- 1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.
- 2. Shri R. V. S. Peri-Sastri, Additional Legislative Counsel, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. P. Mukerji, Director, Department of Administrative Reforms.
- 4. Shri S. M. Chikermane, Deputy Secretary, Department of Administrative Reforms.

#### SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. The Committee resumed clause-by-clause consideration of the Bill.

3. Clause 12.—The Committee re-opened the discussion on the clause and further accepted the following amendment: ---

Page 12, omit lines 19-23.

The clause, as further amended, was adopted.

4. Clause 13.—The following amendment was accepted:—

Page 13, for lines 10-17, substitute-

- "(3) Without prejudice to the provisions of sub-section (1), the Lokpal or a Lokayukta may, for the purpose of conducting investigations under this Act, utilize the services of,—
  - (i) any officer or investigating agency of the Central Government with the concurrence of that Government: or
  - (ii) any other person or agency."

The clause, as amended, was adopted.

5. Clause 14.—The following amendment was accepted: -

Page 14, omit lines 10-21.

The clause, as amended, was adopted subject to consequential changes necessary in view of amendment of sub-clause (2) of clause 10.

- 6. Clause 15.—The following amendments were accepted:—
  - (1) Page 14, line 26,
  - for "two years" substitute "six months".
  - (2) Page 14, lines 30-31,
    - for "two years" substitute "six months".
  - (3) Page 14, for line 38, substitute-
    - "(a) in the case of an offence against the Lokpal, of the Lokpal;".
  - (4) Page 14, for line 39, substitute-
    - "(b) in the case of an offence against a Lokayukta, of the Lokayukta concerned."

The clause, as amended, was adopted.

- 7. Clause 16.—The clause was adopted without any amendment.

Page 15, after line 25, add-

"Provided that the Lokpal may entrust investigation of any such action (being action in respect of which a

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complaint may be made under this Act to a Lokeyukta) to a Lokayukta.

(4) When any additional functions are conferred on the Lokpal or a Lokayukta under sub-section (1), or when the Lokpal or a Lokayukta is to investigate any action under sub-section (3), the Lokpal or Lokayukta shall exercise the same powers and discharge the same functions, as he would in the case of any investigation made on a complaint involving a grievance or an allegation, as the case may be, and the provisions of this Act shall apply accordingly."

The clause, as amended, was adopted.

9. New clause 17A.—The following new clause was adopted:—

Power to ezclude complaints against certain classes of Public Servants.

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"17A. (1) The Central Government may on the recommendation of the Lokpal and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the official gazette, complaints, involving grievances or allegations or both against persons belonging to any class of public servants specified in the notification from the jurisdiction of the Lokpal or, as the case may be, Lokayukta:

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- Provided that on such notification shall be issued in respect of public servants holding posts carrying a minimum monthly salary (exclusive of allowances) of one thousand rupees or more.
- (2) Every notification issued under sub-section (1) shall be laid as soon as may be after it is issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if. before the expiry of session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however. that any such modification or annulment shall be without prejudice to the validity of anything previously done by virtue of that notification".

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10. Clause 8. (Vide para 9 of the minutes dated the 1st March, 1969). The following further amendment was accepted:----

Page 8, after line 13, add—

"(3A) The Lokpal or a Lokayukta shall not investigate any complaint which is excluded from his jurisdiction by virtue of a notification issued under section 17A."

The clause, as further amended, was adopted.

11. Clause 18.—The clause was adopted without any amendment.

12. Clause 19.-The following amendments were accepted:---

(1) Page 16, line 1,

for "salary, allowances" substitute-

"allowances and pension payable to".

(2) Page 16, line 3, omit "the time within which, and."

The clause, as amended, was adopted.

13. Clause 20.—The following amendments were accepted:—

(1) Page 16, for lines 28-33,

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substitute "(a) any Judge as defined in section 45 of 1860 19 of the Indian Penal code;

(b) any officer or servant of any court in India;".

- (2) Page 16, after line 39, add—
  - "(f) any member of the secretarial staff of either House of Parliament, or the Legislative Assembly of a Union Territory or the Metropolitan Council of Delhi."

The clause, as amended, was adopted.

14. Clause 21.—The clause was adopted without any amendment.

15. First Schedule.—The First Schedule was adopted without any amendment.

16. New Second Schedule.—The following New Schedule was adopted:—

Page 17, after line 15, add-

"The Second Schedule

[See Section 5(4)].

3837 (B) L. S.—15

Lokpal	5,000 rupees
Lokayukta	4,000 rupees:

Provided that if the Lokpal or a Lokayukta, at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India, or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the Lokpal or, as the case may be, a Lokayukta shall be reduced—

- (a) by the amount of that pension, and
- (b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and
- (e) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity."

17. Second Schedule.—The following amendment was accepted:—

Page 17, line 16,

for "Second" substitute "Third".

The Second Schedule, as amended, was adopted.

18. Clause 1.—The following amendment was accepted: — Page 1, line 4,

for "1968" substitute "1969".

The clause, as amended, was adopted.

19. Enacting Formula.—The following amendment was accepted:—

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Page 1, line 1, for "Nineteenth", substitute "Twentieth."

The Enacting Formula, as amended, was adopted.

20. Long Title.—The Long Title was adopted without amendment. 21. The Committee decided to make the following amendment in the penultimate sub-para of para 13 of the Minutes dated the 1st March, 1969:---

for "cases" substitute "matters".

22. On a suggestion made by Sarvashri Tenneti Vishwanatham, A. D. Mani and Sundar Singh Bhandari to re-open the question regarding the application of the proposed legislation to Members of Parliament, the Chairman decided not to re-open the question.

23. The Legislative Counsel was authorised to correct patent errors and to carry out amendments of consequential and drafting nature in the Bill and to submit attested copies thereof, as amended,

24. The Committee decided that the evidence given before them should be printed and laid on the Tables of both the Houses.

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The Committee also decided that the Gist of main points of the Evidence should be printed and laid on the Tables of both the Houses.

25. The Committee further decided that the Memoranda Representations received by them should be laid on the Tables of both the Houses and also be placed in the Parliament Library for reference by the Members.

26. The Committee decided to present their Report to the Lok Sabha and also to lay a copy thereof on the Table of Rajya Sabha on the 26th March, 1969.

27. The Chairman then drew the attention of the Committee to the provisions of Direction 87 of the Directions by the Speaker under the Rules of Procedure regarding Minutes of Dissent and also announced that the Members could give their Minutes of Dissent, if any, by 17.00 hours on the 24th March, 1969. 28. The Committee then decided to sit at 09.30 hours on Friday, the 21st March, 1969 to consider their draft Report.

# XIX

#### Ninetcenth Sitting

The Committee sat on Friday, the 21st March, 1969 from 09.30 to 10.15 hours.

#### PRESENT

Shri M. B. Rana-Chairman.

#### MEMBERS

### Lok Sabha

2. Shri S. A. Agadi

3. Shri C. C. Desai

4. Shri Gangacharan Dixit

5. Shri Samar Guha

6. Shri Hem Raj

7. Shri Kinder Lal

8. Shri Bhola Nath Master

9. Shri G. S. Reddi

10. Shri Yogendra Sharma

11. Shri Vidya Charan Shukla

12. Shri R. K. Sinha

13. Shri S. Supakar

14. Shri Tenneti Viswanatham

15. Shri Y. B. Chavan.

#### Rajya Sabha

16. Pandit Sham Sunder Narain Tankha

17. Shri Purnanand Chetia

18. Shri Akbar Ali Khan

19. Shri K. S. Ramaswamy

20. Shrimati Pushpaben Janardanrai Mehta

21. Shri Sundar Singh Bhandari

22. Shri A. D. Mani

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# LEGISLATIVE COUNSEL

1. Shri V. N. Bhatia, Secretary, Legislative Department, Ministry of Law.

2. Shri R. V. S. Peri-Sastri, Additional Legislative Counsel, Ministry of Law.

3. Shri G. N. Saxena, Assistant Draftsman, O.L. (Leg.) Commission, Ministry of Law.

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REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

- 1. Shri N. K. Mukarji, Joint Secretary, Department of Administrative Reforms.
- 2. Shri J. M. Lalwani, Joint Secretary (V), Ministry of Home Affairs.
- 3. Shri S. M. Chikermane, Deputy Secretary, Department of Administrative Reforms.

#### SECRETARIAT

Shri M. C. Chawla—Deputy Secretary.

2. The Committee considered and adopted the Bill as amended.

3. The Committee then considered the draft Report and adopted it without any amendment.

As earlier decided, the Committee fixed 5 P.M. for giving Minutes of Dissent on Monday, the 24th March, 1969.

4. The Committee decided to present the Report to the Lok Sabha and also to lay a copy of the Evidence, Gist of main points of the Evidence and Memoranda on the Table of the Lok Sabha/ Rajya Sabha on the 26th March, 1969.

5. The Committee authorised the Chairman and, in his absence, Shri Tenneti Viswanatham to present the Report to Lok Sabha and lay a copy of the Evidence, Gist of main points of the Evidence and Memoranda on the Table of the House.

6. The Committee also nominated Shri A. D. Mani and, in his absence, Shri Akbar Ali Khan to lay on the Table of the Rajya Sabha a copy of the Report, Evidence, Gist of main points of the Evidence and Memoranda.

7. The Committee placed on record their appreciation of the manner in which the Chairman conducted the proceedings.

8. The Chairman thanked the witnesses, who had appeared before the Committee, the Minister of Home Affairs, Minister of State in the Ministry of Home Affairs, Deputy Minister of Home Affairs and Members of the Committee for their valuable co-operation at all stages of consideration of the Bill by the Joint Committee. The Chairman also thanked the Legislative Counsel, Ministry of Law, Officers of the Ministry of Home Affairs and the Secretariat of the Committee, for the valuable assistance rendered by them to the Committee, in considering and passing the Bill.

9. The Minister of State in the Ministry of Home Affairs then thanked the Chairman for his patience and guiding ably the deliberations of the Committee. The Members associated themselves with the sentiments expressed by the Chairman and the Minister of State in the Ministry of Home Affairs.

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10. The Committee then adjourned.

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