

12.21 hrs.

**PREVENTION OF CORRUPTION BILL,
1987**

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) : I beg to move that the Bill to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith, be taken into consideration.

Sir, as the hon. House knows we have the Prevention of Corruption Act, 1947. Subsequently, we made the Criminal Law Amendment Act, 1952. There are several sections of the Indian Penal Code which deal with corruption among public servants. There is an old law which remained forgotten for quite some time, known as the Criminal Law Amendment Ordinance, 1944. What we have now tried to do is to bring before this hon. House a Bill to consolidate all these provisions in one enactment, to take note of recent pronouncements by the courts and also the experience that we have gained in the last 40 years in working the Prevention of Corruption Act.

Sir, as far as the Central Government is concerned, it has three major instruments to fight corruption. The first is the Government itself. In the former Ministry of Home Affairs, now the Ministry of Personnel, it has an administrative vigilance division which receives complaints and looks into them.

The second is the Central Vigilance Commission, which was set up as an independent authority, which receives a large number of complaints and works through Chief Vigilance Officers in Ministries, Departments and Public Sector Undertakings. It also conducts departmental enquiries against public servants.

The third instrument, which I would call the sword-arm of the Government, is the

Central Bureau of Investigation. Sir, we have activated these organisations in the last two and a half year. One of the first pronouncements which the Prime Minister made, after he assumed office, was that we are committed to a clean Government and we are committed to intensify the drive against corruption. Sir, our experience has shown that there are certain practical difficulties in this drive against corruption; difficulties which have arisen as a result of certain legal provisions and certain administrative constraints. Sir, we have looked into all these difficulties and constraints and we have come forward with this Bill.

Sir, the Conference of Officers of the CBI and the State Anti-Corruption Bureau was held in 1985. A Committee was constituted with the Additional Director CBI and the Directors General of Police and the Directors of Vigilance of some States to examine the provisions in the existing anti-corruption laws and to make recommendations. This Committee submitted a report.

Another Committee was appointed by the Government under the chairmanship of the Cabinet Secretary, consisting of Secretary, Home Secretary, Law Secretary and the Director of CBI to review the role and functions of the CBI and to suggest measures to tune up its working. The Committee headed by the Additional Director, CBI, as I said earlier, submitted a report and this report was also taken into consideration by the Committee headed by the Cabinet Secretary.

We have the reports of the two Committees. They agreed on a draft comprehensive Bill for anti-corruption laws and based on this draft Bill which was recommended by these two Committees, we have come forward with this Prevention of Corruption Bill. The salient features of this Bill are explained in the Statement of Objects and Reasons. We have also appended notes on clauses and these notes elaborate upon the important clauses of this Bill.

May I briefly highlight some of the features? Firstly, Sir, we are widening the definition of the expression "public servant". It

will now include office bearers of registered cooperative societies which receive or have received financial aid from the Centre or the State Governments; it will include officials and employees of universities and examiners appointed by universities or other public authorities for conducting examinations; and it will also include office bearers or employees of educational, scientific, social, cultural and other institutions established, funded or aided by the Central or State Governments.

Sir, we have taken this opportunity to empower the Central Government to appoint special judges. This is an area where we have serious administrative constraints. Today the pendency of cases is very high. In various States, the CBI have 687 cases which are pending trial for more than five years and 2003 cases which are pending trial for one to five years. These are figures as on the 30th of September 1986. There is reluctance on the part of State Governments to appoint or earmark more special judges. At the Chief Secretaries' Conference, I raised this question with the Chief Secretaries. They have broadly concurred with our proposal to introduce a provision in the Bill to take power to appoint special judges. They said that I should address the Chief Ministers. I have addressed the Chief Ministers. The response is encouraging. The only constraint, of course, is funds. But we have said that wherever we appoint special judges, where we ask the States to earmark additional courts of special judges and special magistrates, we will try to at least share the expenditure. But this is a matter for discussion with the State Governments.

So Sir, provision has been made to enable the Central Government also to appoint special judges. This is without derogation to the power of the State Governments to appoint special judges and we continue to hope that it is the special judges and special magistrates appointed by the State Government, who will do the bulk of the cases dealing with corruption.

Sir, we have taken this opportunity to amend the Criminal Law Amendment Ordinance,

1944 and concurrently make a provision here in this Bill to enable the special judge to exercise all the powers of a district judge under the Criminal Law Amendment Ordinance.

Sir, the Criminal Law (Amendment) Ordinance, 1944, I believe is a very powerful instrument to control corruption. It enables us to attach ill-gotten wealth and ill-gotten property. It enables us to freeze money, cash, property which we seize during searches and raids. We think that this power is necessary in order to effectively fight corruption.

As you know, Sir, there are provisions in the Indian Penal Code—Sections 161 to 165(A). When we think of a comprehensive consolidating law on corruption, these sections can be brought into this Bill. Since these provisions are being practically reproduced in this Bill, the only difference being that we are enhancing the minimum punishment we are taking this opportunity to repeal the provisions of the Indian Penal Code because corresponding provisions are being made in this Bill.

Hon. Members will be glad to know that we are finally defining the expression "known source of income". This has been a phrase which has given rise to all kinds of litigation. There is an offence today, that a person cannot possess assets disproportionate to his "known source of income".

What are the "known source of income"?

We have now said that "known source of income" would be the income which he obtains through lawful and legal means and which he has disclosed to the appropriate or competent authorities, under relevant laws, i.e. the Income Tax Act and the Wealth Tax Act. Therefore, in respect of the income which a person has not disclosed, he cannot later on plead that it is lawful income which he has obtained or legitimate income which he has obtained.

The question of sanctions for prosecution has been a vexed question. Many cases are tied down in Courts for a long number of

[Shri P. Chidambaram]

years because of a challenge to the sanction which was granted on the ground of some alleged technical lacuna in the sanction. They repeatedly take it up in revision and appeal against interlocutory orders. We have tightened up those provisions. We have said that the sanction order must be challenged, if at all, at the earliest opportunity. If a sanction order is not challenged before the trial court at the earliest opportunity, it would not be open to the accused to challenge the sanction order later in a higher court.

We have now made a specific provision that the trial of these cases shall be held on a day-to-day basis. To me the single factor which has come in the way of our fight against corruption is the delay. There is simply no purpose in trying to prosecute any person over a period of 20 years. Witnesses will die. Witnesses will forget what had happened. You cannot marshal the evidence. You cannot present a cogent case. Nevertheless, the CBI's record in prosecution has been very good and I will place some figures during the course of the debate. But we want these cases to be tried on a day-to-day basis. It does not matter that few people are acquitted. But what matters is that the guilty must be punished swiftly. I believe in swift and deterrent punishment. It is only swift and deterrent punishment which will clamp down corruption in this country. One of the measures that we are now proposing is that the trial shall be held on a day-to-day basis. We are also proposing that, excepting in two specific situations, the High Courts should not interfere against interlocutory orders. The two specific situations have been spelt out. But, then in no other cases should the High Court interfere against an interlocutory order. These broadly are the provisions of this Bill. I believe that the whole House will extend its support to this Bill.

I promise that once this Bill is enacted, the fight against corruption will be further intensified. During the course of this debate, I will place the figures before the House to show what we have achieved in the last year or two and I am sure the hon. Members will appreciate that these figures clearly support our

claim that we are carrying on a very intensive drive against corruption.

Sir, I commend this bill for the consideration of the House.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith, be taken into consideration".

Shri Dinesh Goswami. He is not here.

Shri Ayyappu Reddy. Are you moving your amendments?

SHRI E. AYYAPU REDDY (Kurnool) : Yes. I beg to move :

"That the Bill to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 22 members, 15 from this House, namely :

- (1) Shri P. Chidambaram
 - (2) Prof. Madhu Dandavate
 - (3) Shri Amal Datta
 - (4) Shri Sharad Dighe
 - (5) Shri Ranjitsingh Gaekwad
 - (6) Shri Dinesh Goswami
 - (7) Shri Indrajit Gupta
 - (8) Shri Jagan Nath Kaushal
 - (9) Shri P.R. Kumaramangalam
 - (10) Shri Rajmangal Pande
 - (11) Smt. Jayanti Patnaik
 - (12) Shri C. Madhav Reddy
 - (13) Shri A.K. Sen
 - (14) Shri Girdhari Lal Vyas
 - (15) Shri E. Ayyappu Reddy
- and 7 from Rajya Sabha:

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 31st July, 1987:

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 do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 7 members to be appointed by Rajya Sabha to the Joint Committee." (12)

MR. DEPUTY SPEAKER : Mr. Reddy, you may now initiate the discussion.

SHRI E. AYYAPU REDDY : I beg to begin the debate, by quoting from the Hindustan Times dated the 3rd May 1987. The heading given is "Wedding of a Collector's Daughter". It is there in a recent issue, i.e. 3.5.1987. It says :

"Forty years after the British left the Indian shores, quite a bit of the pomp and power that the Raj bestowed on its designated officers seems to be still staying in tact in some of the less developed parts of the country. Regrettable as this must be, it was most tellingly demonstrated at the wedding ceremony of the daughter of the District Collector of ** in Madhya Pradesh, about a week ago..."

MR. DEPUTY SPEAKER : Mr. Ayyapu Reddy, generally you can say it; but if you are mentioning about a particular Collector, even if the news is there in the paper, that cannot be allowed.

SHRI E. AYYAPU REDDY : I am not making any allegation against him; and I do not know who that gentleman is. I am merely

saying how effectively we are able to meet the situation. It is only for that purpose. I do not know who that gentleman is. It is anonymous.

MR. DEPUTY SPEAKER : You are telling about a particular Collector, a particular District Collector.

SHRI E. AYYAPU REDDY : This is what has happened.

MR. DEPUTY SPEAKER : If that is the case, then it cannot be allowed.

SHRI E. AYYAPU REDDY : It is only for the purpose of drawing the attention as to how...

(Interruptions)

SHRI AMAL DATTA (Diamond Harbour) : The name of the district...

MR. DEPUTY SPEAKER : That is what I am telling. Name of the district I cannot....

SHRI E. AYYAPU REDDY : It continues :

"This solemn occasion for private celebration was turned into something of a State event. The district administration virtually came to a standstill as the staff were deployed to work extra time to make the marriage party a grand affair. Over twenty thousand people were invited to the feast. And an estimated Rs. 50 lakhs were collected in cash and kind by way of gifts. So great was the anxiety of the local bigwigs and others to hand in their gifts that the host thoughtfully opened a separate counter to receive them. And what gifts! Among these were 20 colour TV sets with VCRs and 15 refrigerators...."

AN HON MEMBER : It is disgraceful.

SHRI E. AYYAPU REDDY : I read further :

"...several room coolers and a host of other household luxury items."

**Not recorded.

SHRI GIRDHARI LAL VYAS (Bhilwara) : Is it not a charge?

MR. DEPUTY SPEAKER : I have already said that the name of the district—that would not go on record.

[*Translation*]

SHRI E. AYYAPU REDDY : It has appeared in the Press; I do not know.

[*English*]

I continue :

“A Collector of the British Raj could have hardly produced anything to match this extravaganza.”

I am quoting this only for the purpose of stating this—the hon. Minister, at the outset, said that there were three agencies. Now let me complete this :

“...And yet, it is shameful that this should be happening at a time when lots of people in different parts of the country and the State, including ** have been facing much hardship due to the drought situation.

Nor is this the first time that this has happened. In the past few years, cases of marriage ceremonies held on the scale of royal weddings have been reported from Madhya Pradesh, Rajasthan and Maharashtra put up by people whose ostensible sources of income have either been government service or holding of a public offices.

Questions should naturally arise in public mind as to the economic means of a District Collector as also the services that a Collector must be capable of rendering so as to make the local 'barons' fall head over heels to record their participation with expensive gifts. That the wedding was also attended by

senior ministers of the Madhya Pradesh government is tantamount to putting a seal of approval on the manner and scale of this jamboree as exemplary conduct....”

[*Translation*]

SHRI JAI PRAKASH AGARWAL (Chandni Chowk) : Sir, I am on a point of order. What is the aim of reading something which is not connected with the Bill? Whatever he wants to say, either he may place it on the Table of the House or have it circulated. Word by word reading results in wastage of time. Whatever he had to say, he has already said that such and such amount had been spent. What is the aim of giving details which he is reading?

SHRI VIRDHI CHANDER JAIN (Barmer) : It is very necessary. Please do read.

(*Interruptions*)

SHRI JAI PRAKASH AGARWAL : What he is saying about corruption is true.

(*Interruptions*)

SHRI GIRDHARI LAL VYAS (Bhilwara) : If it is so, we will also bring in the name of the Chief Minister of Andhra Pradesh, if he indulges in such a mischief, then....

(*Interruptions*)

SHRI NAND LAL CHOUDHARY (Sagar) : The discussion which is now going on is related to my area and so far as I know there is a lot of exaggeration in the newspaper report.

(*Interruptions*)

[*English*]

SHRI E. AYYAPU REDDY : What I am anxious to bring to the notice of the hon. Minister is this. (*Interruptions*) I am not

** Expanded as ordered by the Chair.

interested in trying to malign any person.
(*Interruptions*)

MR. DEPUTY SPEAKER : I had made it clear in the beginning itself that the name of the district and the name of the Collector will not go on record.

(*Interruptions*)**

MR. DEPUTY SPEAKER : I told clearly that the name of the district will not go on record. That is all.

(*Interruptions*)**

[*Translation*]

SHRI NARAYAN CHOUBEY (Midnapure) : Why do you not make him keep quite.

SHRI JAI PRAKASH AGARWAL : If somebody invites someone to attend a marriage, there is no ban on going there.

(*Interruptions*)

SHRI VIRDHI CHANDER JAIN : All right, please do read.

SHRI JAI PRAKASH AGARWAL : It is not possible to know from the invitation card itself that somebody is corrupt or he indulges in corruption.

(*Interruptions*)

[*English*]

AN HON. MEMBER : Because of such instances, this Bill has come before the house.

(*Interruptions*)

MR. DEPUTY SPEAKER : You only tell about the substance of it and need not necessarily read word for word. You can say that such and such thing has happened

SHRI AMAL DATTA : How can you stop him from reading from a newspaper? He can quote from a newspaper.

MR. DEPUTY SPEAKER : Without getting prior permission, he cannot read the whole thing, the whole newspaper. He can quote certain points from there.

(*Interruptions*)

MR. DEPUTY SPEAKER : The rule is that if he wants to make an allegation, he has to get permission from the chairman. That you all know. Then what is there? He is telling about a specific person.

(*Interruptions*)

MR. DEPUTY SPEAKER : That is not the way of doing it.

(*Interruptions*)

SHRI E. AYYAPU REDDY : Why should it be deleted?

MR. DEPUTY SPEAKER : Now I cannot allow it. If you want to bring out any point, you can do it. I have no objection. But if you want to bring out the name of a particular district, then I will not allow it. You are not even telling the name of the Collector but going on reading it. How can I allow it? I cannot establish this kind of a precedent.

(*Interruptions*)

SHRI AMAL DATTA : You do not even allow the opposition to speak.

(*Interruptions*)

MR. DEPUTY SPEAKER : You are here to implement the rules. That is all I can say

SHRI AMAL DATTA : You do not want any of these matters to be aired in the Parliament.

MR. DEPUTY SPEAKER : If he is giving some substance of it, then nobody is objecting to that.

(*Interruptions*)

SHRI E. AYYAPU REDDY : Let them please understand why I am reading it.

MR. DEPUTY SPEAKER : You can quote from here and there, but you cannot read the whole newspaper. I will not allow you to do it.

(Interruptions)

SHRI E. AYYAPU REDDY : This appeared just on last Sunday (3rd May 1987) in one of our national dailies on the top.

(Interruptions)

MR. DEPUTY SPEAKER : There are so many things which appear in the newspapers. It does not mean that you go on reading everything.

(Interruptions)

SHRI P. CHIDAMBARAM : You go ahead with it and read it quickly.

(Interruptions)

SHRI E. AYYAPU REDDY : The point which I am trying to submit is this. In his opening speech, the hon. Minister says that they have strengthened investigating agencies, and he spoke about three agencies.

One of the important questions that has been considered by the Chairmen of Public Accounts Committees, who have been going into the various reports of misuse, misappropriation and wastage of public funds and one of the important recommendations was that this Act relating to revention of corruption and enforcement of accountability in the administration must have a self-contained enactment, a self-contained penal law. The areas which were found to be very weak with regard to corruption were about reporting corruption. Who will report corruption? The officers concerned will not report. Even if a co-officer knows about it, he is not likely to report it. Some of these things leak out. The Comptroller and Auditor General makes these reports, reporting

losses. Nobody studies all those reports. None of these vigilance agencies study all those report. They do not initiate any action. The present procedure is somebody must go and give a report in writing. Cognizance of these offences relating to corruption is not taken *suo motu* on the report of the Auditor General or on present reports. My only interest is not to speak about this Collector— I do not know who he is, I have nothing against him or against any officer. When such report appears is there anybody to investigate and find out whether this is true or not?

SHRI P. CHIDAMBARAM : Action has already been taken on that report.

SHRI ATAUR RAHMAN (Barpeta) : Not taken, initiated.

SHRI P. CHIDAMBARAM : Action is being initiated on that report.

SHRI ATAUR RAHMAN : That is better.

SHRI AMAL DATTA : You report to us when action has been taken.

SHRI GIRDHARI LAL VYAS : What about the rule ?

[Translation]

SHRI NARAYAN CHOUBEY (Midnapore) : Why are you showing the rule? There is much more in the rule.

[English]

AN HON. MEMBER : He is a rule Member.

SHRI E. AYYAPU REDDY : I may also be pardoned if I quote from Gunnar Myrdal, what he has written in "Asian Drama on Corruption its Causes and Effects", especially in South Asian countries. Of course, we may try to check his observations with some sort of prejudice. But what he had written more than a decade ago appears to be very much relevant. He throws light on the

subject. I quote; this is what he has written:

"The significance of corruption in Asia is highlighted by the fact that wherever a political regime has crumbled a major and often a decisive cause has been the prevalence of misconduct among politicians and administrators and the resulting spread of unlawful practices among businessmen and the general public. The problem is of vital concern to the Governments of South Asia, because the habitual practice of bribery and dishonesty paves the way for an authoritarian regime, which justifies itself by the disclosure of corruption and the punitive actions it takes against the offenders. Elimination of corruption has regularly been advanced as a main justification for military take-overs.

Yet corruption is almost taboo as a research topic. It is rarely mentioned in scholarly discussions of Government and planning.

Embarrassing questions are avoided by ignoring the problems of attitudes and institutions. South Asian social scientists are particularly inclined to take this easy road, whether they are conservatives or radicals. When this bias is challenged, it is rationalized by certain sweeping assertions that there is corruption in all countries; that corruption is natural in South Asian countries because of deeply ingrained institutions and attitudes carried over from colonial times; that corruption is needed to oil the intricate machinery...."

Then, Sir he goes on saying, how these problems are attempted to be tackled by passing laws, by saying administrative reforms, etc. and ultimately nothing comes out of it. I do not want to quote in extenso. I will quote one more para.

"In the parliamentary and official studies of corruption, particularly those in India, there has been a general silence on the role played by Western business interest competing for

markets in South Asia. Western business people, naturally, never discuss this publicly. But in private conversations with us, many have frankly admitted that they have had to bribe high officials and politicians to conclude their business deals. Just as often, they have had to bribe officials, both high and low, to keep their enterprises going without too many obstacles. These bribes, they say, constitute a considerable part of their total operating expenses in South Asia..."

Sir, the discretionary powers which were given to the Officers over private business and a number of controls and regulations to breed corruption, which of course was the subject matter of the investigation by the Santhanam Committee. The main point is, Sir, are we trying to combat this evil of corruption and with what respect? Now, the Hon. Minister was pleased to say that he will give the figures. We have also gone into this aspect. We have submitted a report to the Prime Minister on 27th Feb. 1987 as to 'Accountability in Administration'. There we have extracted the figures supplied by the Home Department itself. In the year 1983, the number cases registered was 1074, No. of cases decided by courts was 290 and No. of cases convicted was 137. In the year 1984, the No. of cases registered was 1057, No. of cases decided by courts was 308 and No. of cases convicted was 162. In the year 1985, the No. of cases registered was 1082, No. of cases decided by courts was 303 and No. of cases convicted was 176. Therefore, in no year, the No. of convicted officials exceeded 176. What is the machinery we have got and what is the cost of the machinery? Is it commensurate with the result produced by these people?

Now, what are the changes this Bill is trying to bring about? Sir, I may submit that this Bill has merely compiled the various provisions of the Indian Penal Code which were prevalent and the Prevention of Corruption Act and the Ordinance put together which, as I could see, there is no doubt an enlargement of the definition of a 'public servant'. I do not see what is the rationale behind this enlargement of the public servant. You were anxious to enlarge your jurisdic-

[Shri E. Ayyapu Reddy]
 diction. While the investigating agencies and the prosecuting agencies were not even able to meet the fringe of the problem with regard to the corruption that was prevalent among the public servants as defined previously under Section 21 of the Indian Penal Code, where was the necessity for you to expand it? Are you able to say that on account of this non-expansion, on account of the original definition which was prevailing previously, the agencies were prevented or were not able get at the roots of corruption. It is not your case at all. Now in the expanded definition you have included elected Presidents of cooperative societies. If I am not wrong, in this definition you have included also elected MLAs and MPs within the definition of public servant. You have not stated that elected MPs as well as MLAs also come within the meaning of this Bill. Is it your intention to include MLAs and MPs within the sphere of this Bill? Please make it clear because by reading the definition one gets the impression that if he is merely discharging his public duties whether he is appointed by a government or not, he will be deemed to be a public servant. The definition is very sweeping :

"Any person who holds an office by virtue of which he is authorised or required to perform any public duty."

Explanation I says:

"Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not."

There is another parallel enactment in almost all the States Lok Ayukata Act and Lok Pal Bill where elected representatives come within that.

You have also stated that under this provision previous sanction is necessary for prosecuting these persons, from the persons who are entitled to remove them. In the case of elected Presidents of cooperative societies as well as elected MPs and MLAs who is the person who is competent to remove them? In the case of cooperative societies, it is the

general body which can pass a no-confidence motion. If you are going to say that you cannot prosecute them without obtaining the permission of the general body, then it becomes infructuous. Similarly, in the case of MPs as well as MLAs, who is the person who is competent to remove them? Therefore, while expanding the definition of a public servant, enough thought has not been bestowed on the other provisions of the Bill.

You have, no doubt, increased the sentences. But by merely enhancing the sentence or by merely making the sentence more severe, no purpose is served. What is necessary is the question of reporting. Who will report? The major anxiety that had been expressed by the Chairmen of the State PACs in their Conference was that no cognisance is taken of the reported losses by any particular agency. Without that, taking stringent action by various authorities against unidentified and unidentifiable set of officials is resulting in chasing a crooked shadow in a never ending circle, if not a cry in the wilderness.

The two areas which are weak are with regard to reporting. No individual citizen will come and give report because he knows the implications of giving a report. Most often than not, he will render himself to be attacked by the persons against whom he reports. Moreover, in the government level and in the department level, what is called, departmental patriotism prevails. Therefore, any official coming here and finding irregularities, notices it and merely puts it under the carpet and makes his exit from it. So, the difficulty is about reporting the offences relating to corruption.

As regards the registering of cases and investigation, there are number of cases where investigation has been going on for years together and the usual excuses which are put forward by the investigating agencies are that all the documents are not available, that all the concerned files have not been examined, that the concerned officials are not making these documents and files available, their inability to go into the intricacies of audit and all that. Therefore, what we require is specific statutory provisions with

regard to the methodology of reporting. We also require specific statutory provisions with regard to the methodology of investigation. Investigation is now entrusted to some of our agencies which are not expert in auditing. They cannot detect these white-collared criminal offences. These are two arenas which are totally weak and the Bill does not have anything to say or does not cover these two arenas at all. They have merely covered all the things—extended the definition of a public servant and increased the penal action that can be taken—but nothing has been done to bring them out in clear contrast. What I have been stressing is that under the Ordinance of 1944, the Government is entitled to take out applications before the District Judge for attachment of properties of corrupt officials. May I know from the hon. Minister how many cases, how many applications have been taken out under the Ordinance during the last decade? That Ordinance has been on the Statute Book for the last 43 years.... (*Interruptions*)

SHRI P CHIDAMBARAM : I tell you, for the last one and a half year.

SHRI E. AYYAPU REDDY : Yes, For the last ten years or at least for the last one and a half year that enactment has been there but is snoring on the Statute Book. It is not being made use of. Merely passing a law will not serve the purpose. There are very many issues.... (*Interruptions*). True, I am not trying to defend any State Government or I am not trying to find fault with the Union Government. What I am trying to say is we do require a comprehensive legislation. It is a very complicated issue. It is a very difficult issue because we have got various agencies to go into all these things. As a matter of fact, one of our national weeklies published a guesstimate recently that about Rs. 20,000 crores of the Union Government is going down the drain, that is, practically one rupee out of every three rupees is being misused, misappropriated, or is rendered ineffective, or is wasted. That is the guess work.

Corruption is of two kinds. One is misuse and misappropriation of public funds and

allowing the funds to be misused and misappropriated, and the other thing is enrichment for doing, what is called, lawful things, that is, the squeezing. Of course, there are various other issues also connected with it. Myrdal in his book has said, "This requires a scientific approach and a scientific research and *vis-a-vis* the social factors which are prevailing in a particular country." Therefore, what I submit is that this Bill requires a thorough examination and I would press my amendment that This Bill be referred to a Joint Select Committee.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI SHEILA DIKSHIT) : Would the Members prefer to carry on?

MR. DEPUTY SPEAKER : Many Members may like to speak.

SHRIMATI SHEILA DIKSHIT : If there are many Members who would like to speak and if you have a long list of Opposition Members, I do not mind foregoing the Lunch Hour. It is up to the House to decide.

SOME HON. MEMBERS : Let there be Lunch Hour.

MR. DEPUTY SPEAKER : We know adjourn for lunch and will reassemble at 2.05 p.m.

13.05 hrs

The Lok Sabha adjourned for lunch till five minutes past Fourteen of the Clock.

The Lok Sabha re-assembled after lunch at eleven minutes past Fourteen of the Clock.

[MR. DEPUTY SPEAKER *in the chair*]

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1987—Contd.

[*English*]

MR. DEPUTY SPEAKER : Mr. Haroobhai Mehta may speak.

SHRI HAROOBHAI MEHTA (Ahmedabad) : Mr. Deputy-Speaker, Sir, I rise to welcome the Bill piloted by my good friend, Mr. Chidambaram. The Bill was much needed. The Bill seeks to put more teeth in the anti-corruption legislation in force in India and it seeks to make trials more smooth and investigations more effective. I have also seen some amendments moved by the Opposition, by some of the learned Opposition Members. Sir, I am no one to criticise the amendments. But I am not quite happy. On the one hand, Sir, the Opposition have been hammering on the point that the Government is not serious to combat corruption. When the Government brings before the House a comprehensive Bill to consolidate the law on anti-corruption, to make it more stringent, to make the trial and investigation more effective, the Opposition wants to have it referred to the Select Committee so that the passage of the Bill is ultimately delayed. That cannot be the motive, but the result would be that. It is said that all are combating corruption. It is only on such occasion when you can identify the Government's stand different from the Opposition.

Sir, in Sanskrit it is said :

*Kaka Krishna pika Krishna ko bhega Pika
Kakyo
Vasant kale samay-Prato kaka kaka pika
pika*

You cannot distinguish between the crow and the Cuckoo because both are black. But it is only at the beginning of the *Vasant season* that from the sound we can know that cuckoo is a cuckoo and crow is crow. Sir, it is only in this anti-corruption Bill from the serious efforts made that you can distinguish Government's stand as a serious, sincere move rather than the Opposition stand which is trying to put obstacles by suggesting that this Bill should be referred to the Select Committee etc. One Opposition Member even criticised one of the provisions which empowers the Central Government to appoint special judges. Our good friend, Mr. Chidambaram made it clear that sometimes the State Governments are not very quick in appointing special Judges or a number of

Judges are not available at the initiative of the State Government. The Central government wants to effectively intervene so that for want of special Judges corruption trials are not delayed or obstructed. Even this is criticised. So, Sir, here lies the differences. But Government's sincere efforts to clamp down corruption in all fields is very clear from the other side which wants to use corruption only as a means to attack and make character assassination and malign. Some of my good friends on the other side know that after all corruption is inherent in a society where money is a demi-god. If some extra wealth can buy some extra comforts, corruption cannot be avoided. In this society, despite the ancient wisdom reflected in the teaching viz.

Ten tyakten Bhujitha : Ma Gridha *kasya-chidadnam* And despite the teachings of Lord Mahavir that "*Aparigrah*" should be our right philosophy, despite that greed and avarice dominate the culture in India. Corruption is inherent in all societies where wealth is demi-god. Therefore, the allegations of corruption are readily believed and it is this phenomenon that was used by Fascists in the past to over-throw democratic Government or liberal government and bring their Government. Many of my friends in the Opposition also know and I have learnt from their Literature that it was in Germany in 1920s and 1930s that corruption in the liberal Government was utilised to malign it and to bring ultimately the Nazi rule headed by Hitler, with, of course, neutralistic approach adopted by some social democrats. This corruption is a phenomenon common to all societies wedded to wealth. But that does not absolve the Government from taking all steps necessary to root out corruption, especially from public field. Therefore, I congratulate the Government on bringing forward this Bill.

Sir, I would also specially mention the ingenious efforts made by the Government to define the known source of income. Unfortunately, courts were not very unkind towards the corrupt people and many corrupt people go scot free on account of interpretation by courts, with the result that

Parliament has to intervene by amending the law.

Another source of obstruction of trials in courts was the resort to the High Court with interlocutory application asking for stay of prosecutions. Sometimes courts readily give stay even when it concerns the social good. Here, it has been a good effort on the part of the Government to lay down the parameters for the courts about the circumstances in which stay or interim relief can be given so that normally the trial against corrupt people be proceeded without any obstruction or delay. But I may point out one thing and in that respect I should make the Minister alert. You have provided that courts shall not grant interim stay except in certain contingencies. But this will not take care of the power of the High Court under articles 226 and 227. This will only affect the statutory power of the High courts under the Criminal Procedure code. Why should not the Government also think in terms of amending articles 226 and 227 so that the Constitutional power is not abused in order to help the corrupt people or in order to delay the trial against any person accused of corruption.

One more thing that I must point out is that efforts have been made to ensure that trials go smooth and unobstructed by ensuring that trials should be on day-to-day basis. I know, as belonging to the class of lawyers, that we the lawyers have been some times instrumental in delaying the legal proceedings on many occasions. It is good, therefore, that the Bill provides that Certain grounds often raised by lawyers will not be taken into consideration in granting adjournments. Let the trial be day-to-day ground of inconvenience of lawyers and should not tie the hands of the court in proceeding further with the trial of the case. In the absence of the lawyers, the court can proceed with the trial. Even if the accused is not present, the court can proceed with the trial. That is the provision made here. This is really one of the very good provisions.

I have submitted that the law makes the punishment more stringent. Hither to imprisonment was not compulsory, obliga-

tory. In some cases, even fine was not a punishment provided under the Indian Penal Code. Now, it has been made obligatory. But please see that this provision is properly utilised.

One more thing must be pointed out. Some higher penalty should have been provided for those who are engaged in the duty of vigilance. Sometimes you find that people employed in Anti-corruption Bureau or Vigilance organisation are found to be corrupt and prevention of Corruption Act Sir, has to be resorted.

Anyā kshetre kritam Papam Dharma kshetre Vinashyati Dharma kshetre kritam Papam Vrajlepo Bhavishyati

When somebody who is entrusted with the duty of stamping out corruption himself becomes a victim to the temptation of greed and avarice and become corrupt, he should be dealt with seriously and severely. Therefore, a special punishment should be provided for them.

The hon. Minister is aware that under the Contempt of Court Act, 1971 truth is not a defence. Even if somebody makes an application to the chief justice that some Particular judge is corrupt, he will be hauled up for corruption. And if he says "I am prepared to prove the charge of corruption against the judge," even then Contempt of Court Act, 1971, will not absolve him. That is the law under the contempt of court Act. Why should we also not undertake the exercise of amending Contempt of Court Act so as to provide that truth can be a good defence? Otherwise, lawyers also cannot make allegations of corruption even if they are well-founded and courts are very serious in applying the contempt of court Act, 1971. In order to save their image, they are trying to discourage allegations of corruption against judges. This is one way we can help petitioners and innocent citizens in pointing out corruption among the judiciary also. After all, judiciary also represents the culture of this society. Therefore, it is not free of corruption. So many instances are there. I have seen

[Shri Haroobhai Mehta] in Gujarat, one Magistrate was recently prosecuted under Anti-corruption law.

While a very good effort has been made to enlarge the scope of the definition of public servants, to which one of my learned friends in the Opposition raised objection unnecessarily. Now public service is artificially defined in IPC. That was however Macaulay's definition. With the advent of Welfare state, public service have also got enlarged in its scope. Public utility should be really speaking equivalent to public service. Those who are not actually in Government service or in Public sector, can also exercise enormous powers over public. Take, for example, admission to schools or appointment of a teacher in a private school. There also bribe is taken. Unfortunately, those managing private schools were exempted hitherto. Now it has been taken care of that public servant/ also includes office bearers in schools and educational and social institutions which are receiving Grants-in-aid. They also exercise enormous powers. For admission of a child, there is long queue. In my State, people have to register their names when the children are still at the conception stage, before birth. In that situation, people have to give lot of illegal gratification to School Managements in order to get admission for their children even to KG Standard. I suggest that even unaided schools may Please be included.

Cooperative Societies are included under sub-clause 9. Why not public trusts? Public trusts also exercise lot of power in Public by means of several institutions. They should be treated on Par with cooperative societies so that our sweep of Prevention of Corruption Bill is sufficient to protect the citizens. The main source of corruption is not just Government service or public sector. Lot of corruption goes on in private sector. The present IPC and Prevention of Corruption law including the Bill which is today piloted, does not deal with corruption in private sector. Lot of money is taken in Private Sector. I read not enumerate before this learned assembly how corruption takes place in private sector. Therefore, we should also think in terms of providing some measure, in order to stamp out corruption from private sector.

Whether it is textile mills, whether it is any form of a company or private corporation, the Prevention of Act must be extended to all of them, corporations which are in the Private Sector also. Anybody who has a power to deal with any private citizen in whatever capacity, whether he is in the company or corporation, should be subject to the Anti-Corruption Law. That is how we can defeat corrupt motives. Our Government has tried to make the Anti-Corruption measure more stringent. One more thing can also be contemplated. I commend it to the House for consideration, though I am not moving a formal amendment, that atleast should keep the stream of public office clean from corruption. We should provide some measures for that. I think there is provision for disqualification if somebody is convicted for an offence and sentenced to more than two years. But it does not provide like this that anybody who has been convicted under the Prevention of Corruption Act should be disqualified from holding any public office, atleast an elective-office, in future. There should be an amendment moved to the Representation of People Act or the Prevention of Corruption Act so as to Provide that no person who is convicted for corruption can hold any public office or any elective-office in future. Representation of Peoples Act provides for dealing with economic offences just not this. The disqualifying sentence is more than two years. If anyone is found corrupt under the Prevention of Corruption Act, then, care should be taken to ensure such officers, persons or public servants who are convicted for corruption, under the Prevention of Corruption Act, should not be allowed to hold any Public office atleast any elective-office perpetually so that the stream of public life is cleaned of corruption. This Bill is one more effort to effectuate the assurance given to the Parliament and to the nation, that the Government is serious to stamp out corruption from public life. I, therefore welcome this Bill with a request, of course, that the Bill be made more stringent and let the area and horizon of the Bill be extended to private sector also.

SHRI AMAL DATTA (Diamond Harbour) : Sir, it is not only surprising that this

Bill is being brought at the end of this Session, a stormy Session in which the Government has been at the docks on various counts, but if I may say so, it is really mindboggling.

SHRI SAIFUDDIN CHOWDHARY :
Uncounted corruption ?

SHRI AMAL DATTA : I was surprised, astonished and what not, to see that the Government is trying to get this Bill through, at this time, at the fag end of this Session—I emphasise this Session, as I said that there has never been a session like this before. The Government has a lot to answer first to the nation on account of corruption itself and then they bring up a Bill for Prevention of Corruption Act. But I ask myself: is there any deeper scheme or calculation behind this and the answer presents itself that just like a drowning man catching at a last straw, this drowning Government is perhaps catching at the straw of this Bill to exonerate itself before the nation that : Look! We are hunters of corrupt people and this is our evidence that we have now got a Bill passed which is the Bill of all these Bills for dealing with anti-corruption and detection of corrupt people and punishing them. This is a wonderful piece of showmanship which the Government is trying to indulge in. When the Session will be over, people will be made to forget about the Fairfax, about the Submarine Deal, about the Bofors gun deal, the Swiss accounts and everything and day after day, the T.V. will be on, Parliament will not be in Session and through the T.V., Government will go on saying : “we have brought this Prevention of Corruption Act, a full-fledged Act and now nobody can be corrupt anymore.” It is wonderful.

MR. DEPUTY SPEAKER : In the month of July also, there is a Session.

SHRI AMAL DATTA : It is difficult to refurbish the image of this Government. The image of the Government has, I am afraid,

deteriorated beyond all repairs and it cannot be done by means of this Bill...*(Interruptions)* As I said, this is a straw of a Bill, which is going to be implemented—if at all—by men of straw, men who have got accounts on Swiss banks cannot possibly prevent the other people from being corrupt. Long before...

PROF. P.J. KURIEN (Idukki) : Are you talking of West Bengal ?

SHRI AMAL DATTA : Ask your people in West Bengal to say that in the West Bengal Assembly Do not shout here. *(Interruptions)* You should have known by this time what you can say in Parliament and what you cannot.

Long before, in 1964 or 1962, Parliament appointed a Committee, the Santhanam Committee, which came out with a report which was submitted to Parliament and in that...

PROF. P.J. KURIEN : How much money did you spend for election ?

SHRI AMAL DATTA : Sir, please have this disturbing element removed. *(Interruptions)* They want to cut down my time. I know their tactics. Then they will be very happy. If I speak less, they are very happy.

PROF. P.J. KURIEN : Can you substantiate ? You are making allegations without being able to substantiate. *(Interruptions)*

SHRI AMAL DATTA : **

(Interruptions)

PROF. P.J. KURIEN : I say, you are saying things without evidence. Can you give any evidence ?** Can you disprove ?

MR. DEPUTY—SPEAKER : This will not go on record.

** Expunged as ordered by the Chair.

*(Interruptions)***

MR. DEPUTY-SPEAKER . Order, please. Nothing will go on record.

*(Interruptions) ***

MR. DEPUTY-SPEAKER : No challenges. Order, please. Mr. Kurien, please take your seat.

SHRI P. CHIDAMBARAM : May I make this appeal to my hon. friend ? They have spent several days raising several issues which have been answered on the floor of Parliament. If he wants to make a reference to those issues again, it is his pleasure. But if he makes provocative statements, it will provoke people. I will humbly request him to confine himself to this Bill and tell me what is wrong in the Bill.

SHRI AMAL DATTA : You should control your Members. I was not making any provocative statement. I am only reciting the facts. I am only laying the foundation, giving the background, I am saying what had happened in the course of this Session. That is all. Nothing more. Even that you cannot tolerate. You have come to that stage.

(Interruptions)

PROF. P.J. KURIEN : You cannot produce a single proof. Are you not ashamed ?

MR. DEPUTY-SPEAKER : Mr. Kurien, it is enough.

SHRI AMAL DATTA : We are detectives! You go and find out from the Swiss Bank. *(Interruptions)*

SHRI HAROOBHAI MEHTA : They are not detectives. They are not defective but invective.

SHRI AMAL DATTA : Of course, Parliament is meant for that. *(Interruptions)*

This is a Bill which has been brought after a long time. In 1947, they had passed the

Prevention of Corruption Act first. Secondly, a big amendment came, I think in 1964 ; it is given here ; that was pursuant to a Committee Report, the Santhanam Committee Report, which was appointed by Shri Lal Bahadur Sastri, at that time the Minister for Home Affairs. That Committee gave a report in which it says—if I may read two or three lines from the Committee Report :

“There is a widespread impression that failure of integrity is not uncommon among Ministers and that some Ministers who have held office during the last 16 years have enriched themselves illegitimately having obtained good jobs for their sons and relations through nepotism and have reaped other advantages inconsistent with any notion of purity in public life.”

Again the general belief is that failure in integrity amongst Ministers is as damaging as actual failure. Sir, this was, at that time, a wide-spread impression only. This is now a wide-spread conviction. More than 20 years have passed since this Report was presented to Parliament by Santhanam Committee and there is now a wide-spread conviction among persons, of all strata of Indian society that Ministers are by and large corrupt. *(Interruptions)* I am speaking of Indian Union Not of West Bengal. The relevance of putting this in the Committee Report was, the Committee said, that it is necessary that there must be clean administration at the top. If the very top people of administration are corrupt there is no possibility of having a cleaning up of corruption from the other levels of administration. So, that is the reason why this particular opinion has been expressed by Santhanam Committee.

Sir, this is a Bill which perhaps cannot come alone by itself. It seeks to set a code of conduct only for employees. There must be an equal and more stringent code of conduct for those who direct the Government employees, their political bosses. For that a Bill is now with the Joint Select Committee, the Lok Pal Bill. Now this Bill should have

come along with that Lok Pal Bill. And also a very frequent reason given for collecting money in exchange of favours to business houses or getting kick backs from Defence deals and so on is that money is required for election. The requirement for election is often held out as big reason for collecting money. Persons say, I am helpless, elections are coming, we have to collect money for our party. Therefore, it is necessary also to amend the Representation of Peoples' Act to make it, first of all, realistic and then stringent and thirdly, if possible, following example of some other democracies of the world, the Government to bear the expenses of election. Then nobody can say that we need money for election or party purpose. Sir, this code of conduct is required for publicmen in general for elections in particular and Government servants also specifically like this one. For all those who are charged with public duty in any sphere of life, there should be scope of legislation, if the Government really wants to root out corruption. Just saying, in all the context, that our Prime Minister wants to root out corruption will not do. That is exactly how the present Minister started his introductory speech today. I do not know what has been the effect of the Prime Minister's effort to clean out corruption. Some figures were given in this House by my preceding speaker from the Opposition Shri Ayyapu Reddy and these figures are pathetic. 175 was the total number convicted in any one year. Even in one minute, more than 175 corruptions are taking place. In one year 175 corruptions have been convicted. This is how the Government has been implementing this Bill, this Act. Three Acts are going to be repealed to give place to this one consolidated Act with a widened scope. What will the widened scope do? I want the scope to be widened; but I want it to be implemented also. How are they going to implement this Act? By the same machinery, the same procedure which they have followed for so long? Let them not forget that forty years have passed since independence, since Pandit Jawaharlal Nehru said that he will hang the blackmarketeers from the next lamp-post. How many blackmarketeers have they hanged? Not a single one! Is there any dearth of lamp-posts or is there any

dearth of blackmarketeers in India? But the will has not been there right from 1947.

The Santhanam Committee Report—I am not going outside that—says that the widespread impression is that Ministers have been indulging in corruption as early as in 1962 when only fourteen years had gone by since independence. Even in 1948-49 some Ministers were prosecuted. Where is the Congress ideal gone? Who was talking about Congress ideal, about Mahatma Gandhi and all that? Where is it gone? Immediately after independence it seems to have evaporated, if not before independence.

We all know that Mahatma Gandhi was very much perturbed by the behaviour of Congress Minister even before independence. We all know it even from his own writings and I am sure I have Mr. Rangaji's support in that.

Things have worsened considerably, unimaginably since then. The whole policy of the nation is now being dictated at the behest and for the purpose of making gain for those people we don't care for national interest who call themselves nationalists, who call themselves patriots, who call themselves leaders of the nation and who then divert the national interests into such channels that I don't know whether the nation has got the power to defend itself. By buying substandard defence equipment, no nation can do so.

The Hon. Minister has said that courts are very dilatory. I will give one example in this regard. CBI takes more than four years to finish investigation in a case and that is under the direct control of the Central Government. Why does it do that? He has made a provision here that the court which takes up the case has to hear it day to day to finish the case. It is not the court which is dilatory. It is the investigating agency which is dilatory. It is the Government which is dilatory. It is the Government which does not give information.

Not to speak of this Prevention of Corruption Act, Mr. Ayyapu Reddy who was the PAC Chairman, quoted about his expe-

[Shri Amal Datta]

rience in PAC. I have also got a little experience. No queries are replied to in time by the responsible Government officers. The officers responsible for answering to PAC are the Secretaries. They don't care to reply to these queries in time.

There is only a negative aspect in it. There should be a positive aspect also. There should be a duty on the head of the department to ensure that corruption does not take place; otherwise he will himself be held responsible. Otherwise, we can never root out corruption. If the head of the department leaves things to his subordinated, leaves lacunae, leaves opportunities for them to delay, to harass those who come before them; then they will take advantage. They have taken advantage and they are taking advantage, everybody knows that.

It is by bringing to book those people who are ultimately responsible that you can have a semblance of integrity and probity in government. Otherwise not. Are they making them responsible—those who know about things which are against the Government, those who know about corrupt and malpractices of the Government? Have they not got a duty to come forward and disclose?

Sir, today an ex-Minister is going round saying that if he is further pushed to the wall then he will expose and all that. That means that Minister has got information with him by which he can expose corruption. He is not coming forward. I would say that a Bill like this must make it compulsory for those who have got information regarding corruption of Government officials or Ministers to bring forward that information. If he does not do so then he will also be punishable. *(Interruptions)*

I am not casting any reflection on anybody. I am just giving this example because I found it in the newspapers one or two days before. It is fresh in my mind. I am saying that this should be the approach. The approach should bestow or entrust a positive duty on everybody concerned with public affairs or even the general public who have to deal with the Government that any act of

corruption has to be brought to the notice of the appropriate authorities and that must not be made difficult by bureaucratic procedures. *(Interruptions)*

May be this Bill was being prepared before all those matters came up but I would have thought it more prudent for the Government to bring it not in this Session but in the next Session. However, they have done it and I have already made some positive suggestions. Even the Minister is nodding his head. So I would say that this requires the will to implement and that will has so far been not evident. Now let us hope that the clean Government will make it evident by not only making other people clean but also making themselves clean.

SHRI Y.S. MAHAJAN (Jalgaon): Mr. Deputy Speaker, Sir, the Prevention of Corruption Bill seeks to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith. One cannot but welcome this move on the part of the Government. In fact, it was overdue. Corruption in our society is all pervasive though it is not difficult to find individuals and public institutions who are free from this dreadful malady. Even such people in such a society have to pay for their probity and integrity.

Corruption is an age-old phenomenon and there is hardly any society which has not suffered from it some time or other. It has become rampant in India after the attainment for freedom because of increasing opportunities provided by the complexities of economic life. Secondly, corruption has increased because of the ever widening sphere of the Government's activities and authority. Thirdly, there is increasing temptation to acquire wealth by misuse of power and fourthly there is tremendous growth of population which has sharpened the struggle for existence. There are millions of educated people who are unemployed and even to get a humble job of a primary teacher they have to pay Rs. 5000/- to Rs. 10000/- There are banks where to get a clerical job people have paid Rs. 10000/- Hundreds of people have paid like that. So the struggle for

existence has become so acute that people are prepared to bribe those who have the power to select candidates.

Sir, increasing incidence of this malady prompted the Government to appoint 9 Committee to inquire into these matters. The Santhanam Committee has suggested some remedies. It had given its impressions to which the hon. Members of the Opposition have referred

The committee has reported the existence of widespread corruption.

Sir, political corruption is pervasive in character. It assumes multiplicity of forms which is astonishing. It is a syndrome and covers not only simple cases of bribery but also extends to misuse of political power for private gain, such as, nepotism, misappropriation, illegal appropriation of public resources and patronage which is often the basis of the formation of political groups dominated by individual politicians

Sir, this Bill is a determined attempt to deal with this hoary and apparently insoluble problem. It has three salient features which recommend it for acceptance. First of all, it widens the scope of the definition of 'public servant' to cover not only servants who are employed by the Central, State or Local Government authorities but also others, such as, employees of the public sector enterprises, then office-bearers of cooperative societies and vice-chancellors, professors and lecturers in educational institutions. Sir, everybody knows that losses in public sector undertakings are partly due to the corruption and misappropriation on the part of some of the officials who are in key positions. If we could deal with this corruption, then it would facilitate the solution of other types of corruption in these institutions. As for cooperatives, Sir, in spite of their high idealism, more often than not, they are the grazing ground for chairmen and other members of the board of directors. Unfortunately, much of their popularity with the politicians and leaders is due to the possibility they open out for corruption in this field.

As one who has been associated with education, I particularly welcome the widening of the definition of 'public servants' to include vice-chancellors, professors and lecturers in the universities and colleges receiving financial aid from government institutions and also persons who are office bearers or employees of educational, scientific, cultural or any other institutions which receive or have received public help.

Sir, running private coaching classes for students by teachers, who, as a result, neglect their duty in the institution to which they belong, and are tempted to allow students to resort to malpractices in the examinations, has become a common phenomenon. Sir, if this corruption continues in the educational field then in spite of heavy expenditure which the exchequer bears the educational reform will soon become like a cry in the wilderness.

Sir, the Santhanam Committee has reported that it is a matter of supreme importance that a university should adopt standards of integrity which will become an integral element of the intellectual and psychological outfit of every graduate. It is a matter of regret that in some universities, conditions are far from satisfactory for the admission of students, recruitment of professors and lecturers and the general management of university funds. I wonder, Sir, what that Committee would say about the present conditions.

A salient feature of this Bill is that it clarifies the definition of offences and penalties. The different clauses prescribe a minimum punishment of six months for various offences and one year in the case of criminal misconduct. In the case of criminal misconduct and habitual offences, the punishment is of one year. It also imposes a fine but not as an alternative punishment. While imposing a fine, the Bill says, the value of the property which has been obtained by the accused, should also be taken into consideration. This is a very important provision, if properly acted upon. It was there in the 1947 legislation also, but has not been followed. The corrupt people are known to say that they would prefer to be in jail for a few months if

[Shri Y.S. Mahajan]

that would keep their lakhs of rupees safe from the Government's clutches. The punishment should, therefore, consist of both imprisonment and fine.

Another feature of the Bill is that the offences under the Act shall be tried by a special judge and the judge, as far as practicable, shall hold the trial on a day to day basis. This is a provision of vital importance. It is usually the delay in prosecuting the culprits which results in the denial of justice. The longer the time taken for trial, the greater the scope and opportunity of tampering with evidence. Besides, from the point of view of the aggrieved person, justice delayed is justice denied. It is this crucial importance of procedure which made Sir Henry Maine say that justice is secreted in the intricacies of procedure.

Before I wind up, I would like to mention that in one district a judge was accused of corruption. The Bar Association passed a resolution saying that the judge was corrupt. They reported the matter to the High Court and refrained from attending the court, the Judge. For two months the strike went on, but the High Court took no notice of it. I believe there is something wrong with our procedure and machinery for taking cognizance of such offences.

Sir, this Bill is a determined attempt to deal with corruption in public life.

SHRI AMAL DATTA: Where do you find that attempt?

SHRI Y.S. MAHAJAN: You are not charitable, nor have you patience.

This Bill is an attempt on the part of the Government to stem the tide of corruption from public life and is likely to bear fruit provided there is a determination to enforce the Act ruthlessly without any fear or favour and provided further that we all strive to the best of our ability to create a social climate of honesty, probity and integrity, a climate in which a corrupt person would be looked upon with disapprobation and contempt by

members of the society. John Stuart Mill said that a drunkard person should be looked upon with contempt and disdain by the society, similarly a corrupt person should be looked upon by society in this manner. Unless we create such an atmosphere, I am afraid, mere legislation will not rooting out corruption.

SHRI THAMPAN THOMAS (Mavelikara): Mr Deputy-Speaker. Sir, I have heard the criticism that the opposition wants this Bill to be forestalled. I would like to say on my own behalf and on behalf of our party that we will support the Government in any attempt to prevent corruption. But unfortunately, this Bill is not intended for that purpose, and it is going only to touch the periphery of the problem.

We are in a situation today where the Government has lost its credibility. The rulers of this country have proved to the country that they are above law. In that case how are the people going to believe them? Unless we remove that impression and create credibility among the people, people are not going to see anything new in it. Such a legislation was there in 1947; the Criminal Procedure Code was there in 1944, the Indian Penal Code was there much earlier. In the present legislation, some of the provisions have been consolidated and some further expansion is given here and there. That is not enough.

15.00hrs.

As a whole, Sir, the belief is that if somebody wants to get his job done he has to do some extra payment. This is the experience of the commonman in this country. In every walk of life something extra has to be paid in addition to the regular payment in order to get a thing done. The question is that who are to control these political bosses. There is no rule, no law, no method to check them. There is a saying in our language, "CHANGALAKKU BRANTHV PITICHAL." It means that the chain which is supposed to tie the mad people is itself mad. So, what can be done. The same is the question here.

15.01 hours.

[SHRIMATI BASAVARAJESWARI *in the chair*]

PROF. P.J. KURIEN: Have some introspection.

SHRI THAMPAN THOMAS: You should have some introspection yourself because we have been asking so many questions for the last week but you have not given a single straight forward answer. (*Interruptions*).

Now, let us take the case of judges. Sir, the belief is that if any client wants any judgement in his favour he has to do something unlawful. The reason is that the very basis of appointment of judges is motivated.

PROF. P.J. KURIEN: Sir, the reason is that there are some advocates who collect money saying that they have to bribe the judges.

SHRI THAMPAN THOMAS: Thank you for supplementing my argument. You are claiming that through this Bill you are giving wider definition of a public servant. That is the only thing which is done in the present Bill. Neither the advocates, nor the private concerns for those areas where the corruption is taking place are covered in this Bill. It is because political bosses are their servants. The party offices who collect money for their private purposes, the agents, MLAs or MPs who go around and collect money and so on and so forth, they are not covered in this Bill. So, if we really want to do something effective all these people will have to be brought under the purview of this Bill otherwise they cannot be brought under to book.

For example, let us take educational institutions. For appointments in the schools run by religious institutions, they collect money in the name of deposits, donations, building funds, etc. Even if you want to admit your child in a school, you have to pay all these things. This is the centre of corrup-

tion. How are you going to check all this corruption?

In the offices, clerks, etc. also indulge in all these practices. All such practices cannot be checked unless an overall comprehensive approach is adopted.

I want the Minister to make it clear that which are the areas in which this Bill is proposed to be included? Whether it will include the MPs, MLAs, private factories, etc.? The private funds come through the private companies, banks and other institutions. It is not clear whether those private companies which take loans from public institutions will come under this definition or not. It will be good if such a wider definition is given to the relevant clause in this Bill so that all these provisions are made applicable to them too.

Secondly, I would like to mention one or two points with regard to the investigating process. How is the investigating process done? How many cases are attempted to be investigated on an average? The hon. member who preceded me said that only about 175 cases can be prosecuted in a year. If that is the case, how could an investigating body take cognizance of so many instances of corruption? How can they do it? If a news item about some corruption is published in a newspaper, is an officer competent to initiate action on that basis? Nothing in this regard is mentioned in this Bill. All that is stated in the Bill is that there is a machinery to investigate and the charging officer should not be below the rank of a DOSP. I want to know the whole procedure as to how it is done. What about the FIR? Who is to complain and in what manner one can conduct the whole thing? If you really want this problem of corruption to be tackled, without an effective mechanism how are you going to do it?

Another thing mentioned in this Bill is that if a person lives beyond his means of income, the officer has got jurisdiction to investigate and go into such questions *Suo motu*. But no powers are given. If an investigation is to be conducted against a person who is living a very affluent and luxurious

[Shri Thampan Thomas]

life and if he is living beyond his means, this suspicion itself is enough reason to pursue the investigation. If there is a suspicion that a person is indulging in corruption, the onus of proof should be on the accused, as is the case in Customs and other similar laws. Therefore, a person who is living beyond his means should prove that his income is coming through proper lines. Otherwise he is guilty. Is this Bill having such an approach in this matter? If the Government are really serious, my submission is that the approach in these matters should be on the lines of Customs Act or other similar Acts where the onus rests with the accused to prove his innocence. If this provision is not incorporated here, we all know as to what will happen. If a person receives one lakh rupees and is caught red-handed, even then he gets acquitted because the responsibility is that of the investigating officer to prove that the money came as a bribe. Unless he is able to prove it, the accused cannot be convicted. So, my submission is that the approach here should be different and the onus of proving his innocence should rest with the accused and not the investigating officer. I do not know whether it is possible to have such an approach...

SHRI SOMNATH RATH: The presumption is against the person...

SHRI P. CHIDAMBARAM: It is there already. I will explain when I reply.

SHRI THAMPAN THOMAS: I am submitting all this only to combat corruption effectively. Therefore, on the whole, I have to submit that...

SHRI P. CHIDAMBARAM: Do not oppose the Bill.

SHRI THAMPAN THOMAS: We are not opposing it. We only feel that it is a mere rewording of the previous Bill. This is insufficient and inadequate to tackle corruption. Moreover it is not going to create any confidence in the mind of the people that you are really doing something effective. It is creating more complications and it is rather diluting the provisions.

PROF. P.J. KURIEN: Why do you support it then?

PROF. MADHU DANDAVATE: A diluted Bill is better than none.

[*Translation*]

SHRI K.N. SINGH (Hapur): I rise to support and welcome this Bill. I had expected that the people from opposition, especially our marxist brethren will bring forward some scientific approach about this Bill in the House which will let the country know the root of corruption. It is, however, regretted that they have not done so and it appears that they are concentrating on the Fairfax. It is the Private Sector where black money is generated and corruption is indulged in. Our friends have not tried to highlight it. They should have supported this Bill and given a serious thought to the measures by which corruption could be eliminated. They should have adopted a constructive approach and not indulged in any sort of propaganda on this occasion.

I welcome this Bill and I know how corruption is indulged in and how the corrupt officer acts against a social worker. He adopts all measures to get the latter killed and to indulge in his character assassination. I want to bring to your notice one thing. I represent Ghaziabad which is very close to Delhi. The Private and Public Institutions functioning in Delhi openly take 30 to 40 thousand rupees and make recruitment. But we do not take note of it and all the institutions are working as usual. And the people of the entire Private Sector are working throughout the country. Efforts are made there to convert black money into white money. I want that there must be a provision in this Bill to check them from doing so. Not only this, we have also seen that during school examination days so many teachers are stabbed and humiliated. There are fixed rates for copying in the examination. Rs. 5,000/- for copying on the spot and Rs. 20,000/- for copying at home and Rs. 15,000/- for bringing more students for copying. We tried to stop this practice and we have succeeded in stopping it in some parts but it is still going on in some other parts. I

think, we should do something to stop this practice effectively. If such boys will come out from our schools, you can very well imagine the fate of our country. It is a very dangerous thing for the country.

DR. DATTA SAMANT: It is more than the annual salary of an MP.

SHRI K.N. SINGH: One more point which I would like to bring to the notice of Shri Chidambaram is that we wholeheartedly want to remove corruption. As also pointed out by Shri Mahajan, justice delayed is justice denied. In August 1986, I sent a case of corruption to Shri Chidambaram alongwith a proper chargesheet but till 1987, the concerned officer was still there. The local MLA has been exposing that officer even before 1983. Now when he has been transferred, he is not handing over his charge. When he got his transfer letter day before yesterday, he is trying to tamper with the files and distribute land. Therefore, I want to say that this delay can cause much damage. Such things have been going on there since 1983. I started my agitation against him in 1986. Nine months' period is too long during which much can be done. In nine months' period we can produce a new human being but have not been able to check corruption, therefore I doubt that the people who are holding the charge do justice to the people.

I want to give another instance which will be sufficient to prove my point. You know that the land in Delhi is becoming very costly. In Ghaziabad city which is situated at the outskirts of Delhi, the incharge officer had privately negotiated and sold some land to five construction companies at a rate of Rs. 7.50 per square metre. We objected to it and asked for auction of that land. In auction that land was sold at a rate of Rs. 10,000 to 12,000 per yard. You can imagine what a terrible conspiracy it was. We also observed that whenever any person or the press tried to raise a voice against him, he served them to silent them.

SHRI NARAYAN CHOUBEY (Midnapore): What service he rendered?

SHRI K.N. SINGH: You can yourself understand it. There is another newspaper which always speaks spitefully against us and finds corruption everywhere but that newspaper has been continuously supporting that officer from very beginning. Till now it has not written anything against this officer and instead of it, it says that the transfer of that officer is not right. All papers are opposing that officer but it is the only paper in India which has been openly supporting him from the very beginning.

One more case I would like to bring to your notice. The Chairman and M.D. of the Vegetable Oil Corporation, a public Undertaking, who is a mere graduate was charged with a heinous crime involving moral turpitude when he was in Kanpur. A.F.I.R. was lodged against him but no case was instituted against him for eight months. Despite these allegations against him, it is now heard that extension is being granted to him. I would like to know as to how and why such an officer is holding that post. His name was at serial No. 2 in the penal of Bureau of Public Enterprises. Instead of appointing the technocrat who was at serial No. 1, he was appointed. I would like to know that on whose recommendation and why he was appointed? The first person in the penal is a good man but instead of appointing him, a simple graduate has been appointed and now there is bungling of crores of rupees in the Corporation.

While supporting the Bill, I would like to say to Shri Chidambaram that this Bill will no doubt generate a force. But it becomes effective only when much time is not taken in deciding such cases. With these words I support the Bill.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh): Madam Chairperson, I rise to support to the Prevention of Corruption Bill, 1987. There are many welcome features in this Bill, brought forward by Mr. Chidam-

[Shri Sriballav Panigrahi]
baram, the hon. Minister of State in the
Ministry of Home Affairs.

Madam, this is not the first time that we are having such a Bill here. There was the Prevention of Corruption Act, 1947 which had been amended in the 'sixties in the light of the recommendations of the Sanathanam Committee which had gone into the episode of corruption in India in detail and thereafter also there had been some amendment and as the hon. Minister in his initial remarks observed, the law was lacking in many ways and out of their experience they are going to have a comprehensive law with provisions of different Acts or laws prevailing hitherto.

He has also explained the salient features of this Bill and I quite agree that it has got to be swift and deterrent punishment which could create an impact in this field of corruption, to fight out corruption.

And again, I am not going into the different features. They are quite welcome with provision of timely punishment, and punishment has also been enhanced. Not only punishment has been enhanced, the sources of income which is very important are included. Because, it is always this disproportionate income that has to be located. Clear cut definition in respect of source is thus very important.

Also, no matter whether sanction is there or not the cases will proceed as usual. So, there are several good features. Another good and significant feature is about the attachment of the property and ill got wealth etc.

I do not know why there should be any objection to the appointment of special judges by the Centre, when it has been agreed to in a Conference of Chief Secretaries of the States and naturally when the Centre is willingly coming forward also to share the expenditure incurred because of this Act, to some extent, I thought that there should be nothing to object.

So, all good features are being provided in one piece of legislation that we are going to

have and to intensify our fight or crusade against corruption. Why should there be two opinions about it, I do not understand.

I wonder, and just for the sake of opposition some hon. Members from the other side are opposing. I have nothing to say except this. Taking advantage of or seizing this opportunity they have gone beyond the scope of the Bill. They have brought in many extraneous considerations and they have tried to attack the party in power is their usual way.

In our country, Madam, there is a serious disease of contradictions. What is the disease of contradictions? Whenever we talk of things like corruption, we start speaking. We forget about ourselves. We forget our own party. I think it is time enough for all of us to have self-introspection. I do not like to name and dispoil the good atmosphere.

Which this Bill should be passed. Madam, is it not a fact that Mr. Lal Bahadur Sastri's name has been taken? In fact, it is he who announced the appointment of the Sanathanam Committee. When Mr. Lal Bahadur Sastri was the Prime Minister of India, he caused a CBI enquiry into the conduct of some top political people at that time and those people who were indicted and found guilty, had to quit the Congress. Have they not been invited by some other political parties? Are they not occupying top positions in other political parties today? Why they are forgetting all these. Madam, while speaking, I am quite conscious. This is a very serious problem. Corruption is a national disease. In as much as, if it is continued and not contained to a reasonable and remarkable extent, it will pose a threat to the democracy itself in this country. In India, we are proud to say that our democracy is the largest democracy of the world and all around us, democracy has dwindled, democracy has failed and only in India, this light is burning and quite ablaze. By saying this, I do not like to undermine the seriousness of this disease. Of course this is not a local phenomenon. This is a global phenomenon and also it is not of recent origin. It is an age old and dates back to the medieval period and much before

that. Here, I would like to quote Kautilya, a legendary, a diplomat and an economist of India for all times. Corruption among the public servants in India has a long history. In his 'Arthasasthra', Kautilya lists some thirty ways in which the public exchequer is defrauded by dishonest officials. Kautilya says: "Just as it is difficult to test the poisoned honey at the tip of the tongue, it is impossible for a Government servant not to eat up a bit of the King's revenue". He goes on to point out further that "Just as it is difficult to say whether a fish is drinking or not drinking the water, it is difficult to find out whether a Government official is taking bribes or not." How difficult this work is. As I told you, this is a global phenomenon and it exists in different countries, in different systems of administration political systems. Of course, a question of degree is there. In developing countries, the reasons are known to all of us. There are many reasons. We are just developing. Population is increasing at a fantastic rate. Opportunities are not commensurate to the growth of our population. Somebody earlier said, who does not have lust for wealth. Those who are rich and who have enough wealth parting a bit of it, they could purchase and comforts which is not due to them and sacrificing the interests of others. I suggest, it should be a joint responsibility of all political parties. Why is this difference? Naturally, Madam, whatever Bill Mr. Chidambaram might be placing here-with all sincerity and with all seriousness, who is going to implement it.

The hands of Central Government are quite limited in it. He named three agencies—CBI, some agency in Home Department and Vigilance Commission. But by and large, we all belong to the States. Naturally, our masses have to deal with different State Government agencies and organisations. They go to Tehsil office, Revenue Inspector's office, Registration office, schools, colleges, hospitals, etc. I may tell you how serious the menace of corruption is. The old age pension is given to whom? To the poorest of the poor in the country, who do not have anybody to fall back upon for their livelihood. Even in respect of such persons in order to give an

age certificate, the doctors, in many places, do not oblige them without any consideration. Even the relatives of those who are working in Registration office, do not do anything without payment. Earlier teachers as a community were known for their honesty, simplicity and sincerity. But today in the educational arena what is happening with regard to examinations? Is it not a fact that results of the examinations are being purchased at many places? I have my own experience. When I was editing a newspaper at my native place, I came across such an incident. A Principal of a training college, who was a member of the Syndicate and also a Dean of Education, was found writing down with his own hand at his residence the answer paper of one candidate. Naturally what was the price? Against consideration of a heavy amount I boldly wrote about it. He threatened me by sending batches of students. Ultimately he had to go to jail

Same is the position in other places. You take police. Hardly a complaint is registered in a Police station without payment. It may be a CPM State or Telugu Desam State or AIADMK state. In different offices of the state Governments, files in many cases, do not move unless there is some consideration, unless the palm of the concerned persons is greased sufficiently. This is the state of affairs. This is a national disease. We have to fight it out jointly not only in administration side but on political side also.

Somebody said that in democracy it is the political morality that should be quite high. We have to make self-introspection whether we have been able to maintain morality of political life very high. If not, we have to go for it. We love democracy. We like it to flourish. This is the largest democracy. We want it to be the best democracy in the world. How can we do it unless we get rid of corruption? Naturally in such cases something more has to be done. As I said, our Government headed by Shri Rajiv Gandhi is, in clear terms, committed to clean public life, clean administration, clean government. Whatever might be the allegations brought by the opposition recently—Shri Amal Datta referred to it—I do not understand

[Shri Sriballav Panigrahi]

with what they will be satisfied. Public, by and large, is satisfied. A Commission consisting of two Supreme Court judges has been appointed to go into the Fairfax matter. About the Bofors issue, the Swedish Under Secretary who was incharge of foreign trade has come out with a statement and thereby the Prime Minister's statement has been fully supported.

An inquiry has been ordered by the Swedish Government and so, commissions are working on it. But, again and again why they are referring to this issue of corruption, etc. It is just to confuse the people for their petty political gains. But, at the same time, we have to match our efforts with the speed, the rate at which corruption is expanding, is increasing, is mounting up. Of course, this Bill itself reflects the sincerity and seriousness on the part of the Central Government but, at the same time, we have to further intensify, our efforts, match our efforts. As I have told you, our efforts are far short of the requirements. So, we have to further intensify them. It is time for all of us to jointly think how we can match it, how we can fight this out. For that, the State Governments have a major role to play. This is something where we should cut across the party line, party affiliations.

There has been a reference to elections and black money. Naturally, these two things are very vitally linked with corruption and we are in the process of having some election reforms, etc. There is no denying the fact that we have to make it simple. We have to see how the elections can be made less expensive. To make it less expensive, the expenditure, to a great and reasonable extent, should be borne by the State itself so that the political people will not have to go for collections from different people or agencies, etc. because they also expect something in return from the political parties. It is a dangerous trend that the dignity, the respect that the political parties were commanding ten years before or twenty years before, is diminishing and we have to view it as a common concern, irrespective of the political parties. It is also a threat to our democracy that the respect, the reputation, the command of the social

workers, of the political parties is going down, is dwindling in the eyes of the people. How to improve it is to be seen. It is not a question of this party or, that party. There cannot be any partisan attitude. We have to unearth, we have to fight out the black money. With this huge black money, there is a parallel economy going on and this parallel economy is naturally breeding corruption. With these words, I would like to support the Bill wholeheartedly. This is a clear-cut evidence of sincerity on the part of the Central Government to bring cleanliness in our public life, in our administration, in our bureaucracy, but, at the same time, this corruption which is mounting up in different sectors—trade, commerce, politics, administration, public sector, private sector, everything—is a serious matter and, therefore, I would urge upon the Opposition also that since the very future of our democracy is involved, naturally. Different political parties are running the governments in different States. Nobody can boast that everything is going on well in their State administration and State politics. With these words, I support this Bill and I would request the Minister also to come forward with more vigorous efforts to fight out this national disease of corruption.

SHRI ATAUR RAHMAN (Barpeta) : Madam Chairperson, the Bill on anti-corruption is indeed a compilation of various Acts. They are by themselves, more or less, the same except for certain changes which have been rightly brought about by the Home Ministry. All existing were straight-jacketed and stiff-necked provisions. It was indeed very difficult for any anti-corruption officer to work on them or solve various problems. Mr. Chidambaram would have left imprints of his imaginative approach and would have lined through the pages of this new Bill. If he had brought in a few more aspects to make the proposed anti-corruption Act more comprehensive. There were a lot of innovations possible. But that has not been done and I don't know for what reason. Therefore, I thought that this Bill, as it is, would be a lopsided one and I would again say he could have brought in, as for

example, the question of Ombudsman Lok ayukt in the same sweep.

SHRI P. CHIDAMBARAM : There is another Bill, that is, Lokpal Bill.

SHRI ATAUR REHMAN : That is very good. Lokpal and Ombudsman could have been brought into this. The only there will be more hands, more teeth in a drive against anti-corruption. As it is it will remain with the Government and we have seen how the anti-corruption Act has been managed during the last 40 years. For all big corruptions, either there should have been a difference between the management of the anti-corruption cases under Lokpal and ordinary cases. All said and done there has been an unholy haste in bringing about this particular Bill.

SHRI P. CHIDAMBARAM : It has been there for two years now.

SHRI ATAUR REHMAN : But we have got this Bill just two months ago and it should have really gone to the Select Committee for more debate on it. That would have been better. Corruption is an old sin. If we can roll back the wheels of time backwards, we would go to the original sin committed by Adam and Eve—the forbidden tree and the origin of corruption was there. Through the ages, as my friend from Orissa has said, corruption was mentioned in Arth Shastra of Kautilya, Agnipurana and Ash-tadwaiyayan of Panini. Well, leave them aside and even in the recent history there was corruption in the time of Jehangir, even Shahjehan committed the greatest corruption by building the Taj Maha¹ for the sake of commemorating his love for his wife Mumtaz Mahal. That sort of corruption was there even at that time.

SHRI N. VENKATA RATNAM (Teh-nali) : Taj Mahal is the monument of corruption?

SHRI ATAUR REHMAN : Yes. Again our friend, Shri Ayyapu Reddy, has said about ancient wedding in Madhya Pradesh.

It is a very sad commentary on the part of the State Government and the Deputy Commissioner. They could have avoided this marriage extravaganza. I am glad to know that an enquiry has already been initiated by the Home Minister.

Now, corruption has been institutionalised in the country in so various forms. Corruption in high places and corruption in not high places is there. Corruption in high places would come in the guise of political corruption, social corruption, administration corruption, Industrial corruption and middlemen's corruption.

The other not so high places corruptions are, of course, the delay factor—the delay in putting off connected papers by various officers and Office Assistants. That is the beginning of corruption. Another form is the percentage system existing in various departments of our Government. Of course, PWD is very well known to all of us. I will come to that later. Then, the connivance on the part of the supervising officers who would not carry out their normal inspections. They would not write their Inspection Report. They would delay the submission of the Inspection Reports so that somebody would come and approach them and give them some money under the Table. Corruption starts with Senior Officers conniving with Junior Officers. Another example is when a Deputy Commissioner goes to the Sub-Division. When he should have normally had his lunch in the Circuit House by engaging his own cook or buying it from the shop. But he won't do it. Similarly, when the DIG visited his subordinate offices, we in our days made it a point to carry over our box which was the box of integrity. Here we carried the food, that is why the subordinates from whom we did not take any food were under control. Now, what has happened is, every senior officer nowadays expects that he should be fed by his junior officer. I would draw the attention of the Home Minister particularly to this point to see that in future, if you really meant business, you will take an account of the fact that the senior officers do not prey upon the junior officers either in the form of food or in any other manner.

[Shri Ataur Rehman]

Well, a corrupt government leads to corrupt society as we have known and seen; a corrupt government leads to corrupt administration, that we have seen, and conversely the other thing is also true. An honest government generates honest administration which we do not at the present moment. There has been decline in values as I have already said in the conduct of senior officers and senior political figures. The values have gone down, and what a fall, my countrymen! They have gone down the precipice taking the form of an avalanche which will sweep away the good name of the country that is India. How can you forget Mundhra deal? How can you forget the Jeeps scandal? How can you forget the Sirajuddin affair and how can you forget the petroleum deals? I should not forget to mention the licence permit raj which still holds sway in the country. What can we do about it? ✓

Now I would like to turn the spotlight to another type of corruption which is not covered by this present Act. As I have said already that there are delays committed by the clerks and officers in the day-to-day Administration. This goes on from 10 o'Clock to 4 o'Clock every day, every month, every year. There is a system of Confidential Character Roll on every officer and clerk. On the basis of these rolls a case for habitual misconduct can be framed. Can we not make better use of these confidential records for a case of misconduct and preventive detention? Delay that is caused by the clerks and officers, does not come as "misconduct". Another omission which has not been taken into account is, non-payment and concealment of income by doctors, lawyers and show business people. Can we not do something about it? I have already referred to the pompous show in marriages. Of course, the example of Madhya Pradesh is the latest one, fresh in our mind. But it happens almost everywhere.

Another thing which has not been taken into account is preventive detention in the matter of hoarding, concealment and diversion of stocks of cement, steel and foodstuff. This is normally committed by railway employees in league with the merchants who

deal in these articles. Another personality the redoubtable Patwari in the revenue affairs. What have we done about it? You go to the district and ask officers. They will say that this is one cancer which is eating into the vitals of administration. We have got the income-tax officers, PWD people, sales-tax officers, district industries officers and police officers. There are doctors who are giving false certificate; even lawyers are giving false certificate.

What about the kickbacks which the company people, company bosses take? There is another form of corruption which is indulged in by the public sector bosses. They either go on foreign tour themselves with the families or they send their favourite junior officers who go on foreign tour and missions, but without achieving anything for the purpose for which they were sent.

(Interruptions)

There are other administrative lacunae. The difficulty which an anti-corruption officer feels is, in the matter of investigation, particularly in the matter of seizure of documents. In, any crime connected with P & T, or railways or any Central Government Department, he finds himself helpless. If a police officer goes to the AG's office, the AG will not give him the necessary documents. In the mean time, the subordinate officers will leak out the information either the file is lost or Originals are not produced. The court will not place reliance on duplicate secondary evidence. These are some of the many difficulties which are being faced.

It will not be possible in such a short time to give various other instances., But I would cite one example. That is about, how people are suffering because of this. I know of a tea company which was paying the central cess regularly to the extent of Rs. 20 lakhs. What happened was that the bankers and the treasury clerks in collusion with each other, produced false treasury vouchers which after 7 or 10 Years AG's office had found that this money was not going to the Government coffers. The case was proved against them. But the Central Revenue Department forced

the tea garden authorities to pay Rs. 20 lakhs in addition to their loss of Rs. 20 lakhs already incurred. These are some of the facts which the Government should take note of and prevent injustice.

PROF. N.G. RANGA (Guntur) : This Bill goes a long way to deal with these things.

SHRI ATAUR RAHMAN : That is why, I said in the beginning that Shri P. Chidambaram has done two good things. One is this definition of the word 'Public utility' in which the Ministers could also be roped in and the Members of Parliament. I do not think we have Members of Parliament of that sort.

The second is the definition of 'Public servant' which has been amplified. It is considerable improvement on the Section 21 of the IPC.

PROF. N.G. RANGA : The third one is delays in the courts which are to be controlled. That is the most important thing.

SHRI ATAUR RAHMAN : Our whole system of court hearing should be changed. Every adjournment that is granted every day in the court by the Magistrate on the representation of our good lawyer friends, should be restricted and there should be a computer to record adjournments so that the magistrates and the judges have a feeling that somebody is watching their progress of work sitting in Delhi.

[*Translation*]

SHRI AZIZ QURESHI (Satna) : Madam Chairman, I rise to support the Bill. So many members have participated in this discussion and have expressed their views. I would like to point out to Shri Chidambaram that elimination of corruption based on money and material is not enough. The misuse of one's authority, position or status has also to be brought within the purview of corruption and steps have to be taken to check it also. Various things have been said about it.

The jeep scandal and Sirajuddin affair

have been referred to but it would have been better if they would have also talked about the fate of these cases. History knows that our Central Ministers had to resign as a result of these cases. The leadership of the Congress government has set unprecedented examples which can be seen in the pages of our history. Today we do not find such examples. It is unfortunate that corruption charges against politicians are discussed all over the country through the press and speeches but the corruption charges against high officers are not discussed at all. I would like to tell the hon. Minister that in Madhya Pradesh, an officer of Commissioner rank called a woman to his office, who was unfortunately a widow, and tried to rape her. On hearing her cry, people gathered there and saw all these things with their own eyes. All evidence was there. This news spread like a wild fire all over the State and created excitement among the people. Of course an enquiry of this case was also conducted by the bureaucrats. But he was acquitted as no allegation could be proved against him. He was simply removed from that post and was appointed a member of the Revenue Board. Whatever you may say now, you cannot satisfy the Indian citizens, whether they are the common people or the tax payers, unless you take stern action against such officers.

16.00 hrs.

Not only this, in Madhya Pradesh, there is also one other officer of secretary rank who is the first officer whose house and lockers were raided by the Central Government on the allegation that during 1977 to 1980 he went to Nepal with the then Chief Minister of Madhya Pradesh and deposited Rs. 60 crores in his account and it is also said that opium was also smuggled in that plane. But till now nothing has been done against him. He is the same officer whose name was also involved in the VIP land grab scandal which came up for discussion during the Fifth Lok Sabha. Not only this, after the constitution of Shah Commission, he enquired into the cases of Delhi and passed dirty strictures against late Shrimati Indira Gandhi which have now been comprehensively quoted by Shri Jagmohan in his book. But it is unfortu-

[Shri Aziz Qureshi]

nate that nothing has so far been done against him and he is still a Government officer. You have entrusted him the work of implementing those policies which he has been opposing. what kind of a fun you are making with the country ?

A call was given to boycott the Republic Day celebrations and not to hoist the national flag. In Madhya Pradesh, an IAS officer who is. M.D. of a corporation, did not allow to celebrate 26th January and hoist the flag saying that it would be against the economic measures. I would like to ask the hon. Minister as to what action is being taken against such officers ?

I would also like to tell the hon. Minister that the Government and the people of Madhya Pradesh established a chair in the University of Bhopal as a mark of respect and reverence to the memory of late Prof. K.N. Kaul But two IAS officers viz. the Secretary of the Department and the M.D. of a Corporation wrote to the University to remove the chair of Shri Kaul. I would like to ask why the Government is silent and why it does not take action against such officers who are poisoning the ideology, values and faith of the people ? why do not you take action against such IAS officers who are involved in corruption ? The present Bill will be totally useless if you do not take action against those who misuse their power and follow the ideology which is not acceptable to the people of our country. These people are opposing our ideology enshrined in our manifesto on the basis of which we fought election and came to power. Therefore, as long as you do not take stringent action against such officers, the people will continue to ask such questions from you and no legislation will prove useful for removing corruption from our country. With these words I support the Bill.

[English]

SHRI NARAYAN CHOUBEY (Midnapore) : Madam Chairman, I know that the hon. Minister, the Minister who has moved this Bill for consideration, is a very honest man. But then what is the use of keeping a

good flower in a bunch of bad flowers? He is a very good man and he has brought this Bill with very good intention. I say that the intention is good and you have some self-satisfaction also that, by bringing this Bill, you will be able to combat corruption. But you will not be able to. This much I can say. Despite all your good wishes, good intentions, despite all your self-satisfaction, you shall be failing. Why? Because all had been failing and you will also fail. Now, what is the main source of corruption? The main source of corruption is money power, black money, which is growing day by day. You have been here for a much longer period than I have been here. In the late Fifties, our late Prime Minister Pandit Jawaharlal Nehru had brought one professor from Cambridge, Prof. Kaldar, to assess the amount of black money in the country and at that time it was told that it might be to the tune of Rs. 12,000 to Rs. 14,000 crores Today what is the figure? When Shri V.P. Singh was here as a Minister, he said that, without taking many things into account, the amount of black money in this country would be to the tune of Rs. 38,000 to Rs. 40,000 crores. Shri Vasant Sathe has written many books and in one of the books he has stated that it is to the tune of Rs. 78,000 to Rs. 80,000 crores. It is his statement. I do not know.

16.06 hrs.

[SHRI SOMNATH RATH *in the Chair*]

Now, why are you failing ? Because you have failed to control money power. If you fail to control money power, with all your good intentions, you cannot control corruption. Of course, you have expanded the definition and you have brought in some more offices in the definition. I agree with you. Perhaps, it should be expanded further also, as some friends have demanded. What do you mean by 'public servant'. That also, you should explain.

So, such has been the corruption in this country ; corruption is rampant ; corruption is growing. One of our friends has said here how corruption abounds in courts. Mr. Minister, you are a practising lawyer, you prac-

tise in the south where corruption is not so much rampant. But in the north, it is said that even judges take money. Kindly make a study of what is happening in the Bihar courts. In my State also, it is there. It is really fantastic. Why is corruption growing so much? You have to ponder over this. Do not get annoyed when Mr. Amal Datta referred to Bofors, this and that. I am not referring to these things. Actually, Mr. V.P. Singh had to lose his job because he wanted to touch the big people...*(Interruptions)*

[*Translation*]

SHRI JAI PARKASH AGARWAL : Choubeyji, you are creating a confusion. What does it mean? It was not their policy, it was the policy of the Government....*(Interruptions)*

[*English*]

SHRI NARAYAN CHOUBEY : The philosophy has been this : "catch hold of small thieves, a large number of thieves, all should be small thieves, but do not touch the big thieves and such thieves who are mine "

[*Translation*]

Catch hold of small thieves, a large number of thieves but do not touch the big thieves and such thieves who are mine...*(Interruptions)* I do not know why mere talking about a thief pinches them. 'Kya chor Ki dadhi men tinka hai ?

SHRI JAI PRAKASH AGARWAL
They do not have *dadhi*.

SHRI NARAYAN CHOUBEY : *Dadhi* will be got fixed.

[*English*]

This is my submission. You know it is daily coming in the papers that Shri Bhure Lal who is still an officer under you in the Government of India, how he has been caught by CBI. Everyday and even today it came in the paper that Bhure Lal who is an officer in the Ministry of Finance with whose

help some of the big persons were being caught hold of and how Thapper was arrested. After the departure of Shri V.P. Singh, how is Bhure Lal being treated? I do not know Bhure Lal, I have never seen his face. I have never been there. It is daily coming in the papers. Why do you feel annoyed?

Sir, one thing is very much taking place in some sectors of employment. The unemployment problem has become another source of corruption. We have got lakhs and lakhs of unemployed youths. You can see what is happening in Service Commissions and employment exchanges. You kindly see to it. Suppose we have got 10 vacancies and 5000 or 10000 people apply, their money works. How do you fight it? It is my personal experience on the Railways. I do not know how are you going to fight this thing? How are you controlling these things?

I beg to submit another point that who will report on corruption. If he knows that I am corrupt person, I am a superintendent of police or an IAS officer or a big guy, he will never dare to make any charge against me to anybody. And moreover, in Govt. Offices, in workshops, in factories in depots, whosoever dares to make complaint, he is so badly dealt that either he is sacked or transferred. You make some provision that such persons shall be safeguarded, shall not be sacked. Otherwise, nobody will come forward. You reward them. But what happens is, suppose a man informs me on corruption regarding some officers, regarding corruption of big officers, to an MP and that MP writes, then the enquiry is made not on the corruption of the corrupt officer but enquiry is made wherefrom this MP got this information. This is practical. The enquiry is not made what corruption has been made by the corrupt officer or any Minister. But the enquiry is made wherefrom this poor MP or MLA who informed the high officer, Minister, wherefrom that man has got information? You kindly see that this is protected. Otherwise, there is no use telling all these things. I beg to submit one thing to you since you are more learned than I am. Your system breeds corruption. If you want

[Shri Narayan Choubey]

to fight this corruption, you have to encourage such people who fight this system. But you never do it. Being an honest man, being a good man, being a good Minister you are not supporting such persons who are fighting corruption, who are fighting unemployment. Rather you are supporting them who are terrorising workers, peasants, who fight corruption. This policy has to be changed. You have to change it. Otherwise what will happen is, as my friend was asking me to tell this thing :

*Angaram shatghoten
Malinetvam Namunachet,*

However, you may put soap on charcoal, charcoal will never change its colour. It is a good Bill and you may make it further good. But then the whole system is becoming such that—in Bengali there is a proverb—

Swang ghir chhe dade

Ki Kaurwe Man Ashirvade

When there is ringworm throughout the body, where shall we put the bomb ?....
(Interruptions)

MR. CHAIRMAN Please don't waste time, please proceed.

SHRI NARAYAN CHOUBEY : Don't you know these things Sir ?

MR. CHAIRMAN : Please finish. The Minister will reply at half past four and two other Members have to speak.

SHRI NARAYAN CHOUBEY : I will take only two minutes Sir.

Something good you have done. Your laws permit you to freeze money against whom case of corruption is there. Your law permits you not to allow a man to be above the State. Will you kindly tell me in how many cases in India have you done these things ? Your good intention is there ; but your good intention will not solve the problem. The path to the hell may be paved

with good intention of roses; but it will still remain. Hence, if you really want to fight corruption, fight the system also.

PROF. SAIFUDDIN SOZ (Baramulla)
Mr Chairman Sir: It is a very good measure. I have no hesitation in supporting the Bill. My friend Mr. Choubey was very correct when he said a few words about Mr. Chidambaram. He has raised some hope with us that something can be done. Mr. Chidambaram's intentions are very clear in the very first paragraph where he explained in the Statement of objects and Reasons that the Bill is intended to make the existing anti-corruption laws more effective by widening their coverage and by strengthening their provisions.

I have gone through the Bill rather cursorily. As it is I can support it ; but I want a comprehensive measure to fight corruption. I would make a plea to the Hon. Minister to kindly understand—he has understood the drama of corruption—the dimension of corruption. Member after Member have spoken here and explained the types of corruption in this country. While I heard my friends, I was reminded of some very good people who came from outside and tried to understand the scene in India. Perhaps, it is because we are caught in a vicious circle of poverty, ignorance and superstition. In this vicious circle in which our society finds itself, it may not be possible for people to know how to live on. It is the poor people—a vast chunk of population—who suffer because of corruption in the upper strata of society.

Gunar Myrdal—may be my friend, the Hon. Minister, has studied this book—in his book *Asian Drama*—a voluminous book of 2600 pages, about 700 pages having been devoted to India—was surprised to find and he explained that corruption in India is in our thinking, in our attitude, in our way of life. It is not only the money that goes into the pocket. You see the attitude. Gunar Myrdal was surprised to see in India how people try to keep their courtyard clean, collect the dust and dirt and throw it away to the road outside. That does not happen only in one State,

in Bihar. It happens in Jammu and Kashmir, in Uttar Pradesh. This is corruption. The road does not belong to you, it belongs to the Government. Only your courtyard belongs to you.

I know many of these officers—not only in J & K State because I cannot single out my State. If you see this drama happening, it will be happening everywhere. I am told that south is an exception. I wish it were true. But if you see what is happening in the north, the officers' toilets in their offices will be the dirtiest. But his toilet at home will be made of marble. It will have the best tiles. This drama was understood by the discerning eye of Gunar Myrdal who latter earned a noble prize. Mr. David selbourne also wrote a book called 'Eye to China' and then he wrote a book 'Eye to India'. He presented a story not on the kind of corruption you are discussing. Perhaps your interest is in curtailing the money corruption. It relates to the total attitude to life. Then Mr. V. S. Naipaul has written a book called 'India a wounded civilisation'. Some people say they are outsiders. No they are not outsiders. They have respect for Indian culture. They have respect of our heritage but they see this Drama happening in India and they are very sad.

Now, Sir, what I want to explain to the hon. Minister, who has generated some hope, that corruption in this country has been institutionalised. We can fight this corruption only when we improve the system. You please see the rules of various departments ; how you frame the rule and how you implement it. Now what about the delegation of authority. I am not giving the details. You frame a rule. I give you an example where within the rule corruption is institutionalised. There are so many scholarship schemes and the rule is that the District Magistrate or the Deputy Commissioner will issue the income certificate. Government of India lays down the specific date by which that scholarship form should be deposited with a particular Ministry. The rule is that Deputy Commissioner will issue the income certificate. No Member of Parliament or Legislative Assembly can issue this certifi-

cate. It is only the Deputy Commissioner who can issue this certificate.

Now the Deputy Commissioner is overburdened with work. In my State he is also the Collector and Development Commissioner. He has no time to meet the people. He has to issue the income certificate. The child's father visits his office. When the Deputy Commissioner gets time to initial that his 'Babu' will mark it through Tehsildar to the Patwari. The Patwari will put it up to the Deputy Commissioner but in the mean time the time for depositing the scholarship form has been lost. Now the Patwari has already earned the money because the delay is institutionalised. The system wants delay and delay causes corruption.

I have numerous examples in my mind where delay is institutionalised. You have not rule where you do not pre-suppose the system of causing delay. The Patwari gets the money because the Deputy Commissioner wants him to get the money.

Sir, once Lord Curzon got a file and he had an ICS Secretary. He marked the file to the ICS Secretary. The file came down through Deputy Secretary to one Mr. Lal Singh, the Assistant. Beyond this the file could not go. He wrote a note. So, he wrote a note. All officers initialled. This file came direct up the ladder to Lord Curzon. My information is that this is now in the National Archives. Lord Curzon wrote : "I agree with Lal Singh." Then, the ICS Officer, who was the Secretary, went to Lord Curzon's room and protested against him because he had agreed with Lal Singh. Lord Curzon also reacted very sharply after his orders This file goes to National Archives because the then Secretary—the ICS man—was responsible for causing a great delay

There should be desk system. Delay causes corruption. Rules cause corruption and there is no delegation of authority in my State and it may be in other States also. You pass the budget. Then there is a chief engineer in the field. He has the budget but he can't operate unless he sends the file back to

[Prof. Saifuddin Soz]

the Secretary who sits in the Secretariat. So, that causes delay. The money that has been earmarked for development is never fully spent. Various people have made some suggestions. I also make a suggestion. I would say that Government is very eager to eradicate corruption. Minister's are very honest. I agree. I support the Bill but I would request him to provide some more time. Let it go to the Joint Select Committee. There is some saying.

That was borrowed from Persian. Corruption is rampant in this country. Mr. Choubey wanted to say in Bengali ; I say in Persian :

Tan hama daagh daagh shud

Pamba Kuja Kuja Nahum.

The whole body is full of wounds. So, you want to have balm wherever you require. But there are so many wounds. therefore. It is all pervading situation- this corruption. I would plead very strongly for getting more time to study the dimensions of corruption and finding a lasting solution to it. It should go to a joint Select Committee. Thank you.

DR. DATTA SAMANT (Bombay South Central): Sir, I will not take much time. I will categorically ask the Minister: Let him give the name of any department in this country either it is Tehsildar's office, Sachivalaya, Mantralaya or it may be the Government Secretariat office, where corruption is not there. Let him name a simple office in this country. It is quite unfortunate to describe this. At the village level, a simple man has to go for the ration card to the Tehsildar or any such place. There are fixed rates and that is becoming the law of this so-called democratic country of India... (*Interruptions*)... There is maximum corruption. I have seen in the capital city.

Sir, even if you go to the big hotels, you can find a number of people—I know the names ; if you want, I will give it—sitting with the big bureaucratic people and lot of

transactions, discussions and parties are going on. You may not be knowing it. You may be honest. It is the top people who are not honest. We have got no right. I have also studied the thesis on 'office'. We should be honest. Let us start from our place. I don't think we will be able to correct all these laws, rules and regulations.

Sir, in Bombay,

**—is just near the sea at the Malabar Hills.

The Inspector (Excise)-in-charge, is bringing all the smuggled goods worth crores of rupees and sending it..

MR. CHAIRMAN : You can't name the person.

DR. DATTA SAMANT : **was arrested for that and conviction proceedings are going on. The **is bringing material worth crores of rupees and sending it out.

MR. CHAIRMAN : It will not go on record. You can say a case has been launched but you cannot refer like that.

DR. DATTA SAMANT: I am not referring to **but I am referring to the man in-charge. He is smuggling goods worth crores of rupees. Sir, **is not doing it. The man in-charge of Police, the officer who is posted to **is earning worth crores of rupees sending it by truck. That is a fact. The police case is there, Sir. He is arrested now under the National Security Act. Sir, since 1975 pistol orders given by your top officers, Secretary from your Home Department—if you want, I have got all the details—worth Rs. 21 crores.

Without taking into consideration any standard or any studies, the order was placed. Though the department refused to accept it, it was given in the 3rd September Report on V.I.P. security. In spite of this 8000 pistols were brought in this country. Sir, the papers and files are signed by the top officers, I demand that an enquiry should be made in such cases. It is really surprising that we go on discussing all these anti-corruption

laws and regulations in this House without any effect in the situation.

Sir, I will not take much time of the House. In brief I would like to make some suggestions. Foreigners give a lot of money to this country in the form of donations. These are all not covered under the provisions of Foreign Contribution Regulations Act, 1976. There are a number of such organisations of foreign communities, socio-economic, political, etc. and a lot of money is brought to this country in this way. Sir, if it is used for the good cause of the people I would not have minded. I would have appreciated it. But, I find that this money is being misused and your Act remains silent on this account. Therefore, I demand that this provision should be implemented.

In the public sector, you are always blaming the workers. I can quote a number of cases where your big bosses are involved in the contracts and sub-contracts. If the Minister will give me time, I can tell him what is happening in Mazagon Dock. Sir, I wonder from where the black money worth Rs. 36,000 crores is coming?

Sir, in the Bombay Police Station, if you go to lodge any complaint, they will ask for some money. Similarly, if somebody is going to be released on bail, they will raise money. Sir, if that type of corruption is going on there, I do not know to who should we complain and who is going to correct all these things.

Sir, in this law, you are going to give a lot of regulations, immediate procedure for your action, etc. but who is going to lodge complaint? Sir, in the country people are so much adjusted with this sort of corruption that they do not lodge any complaint. In this state of affair, I do not think that these provisions will be of any help.

Sir, I would like to mention here that the corruption has gone up to the level of Industrial Court, Sessions Court and the High Court. So, Sir, who should catch whom and who should punish whom? The complainant is not going to lodge the complaint. So, I

doubt that in these circumstances, the law which you are going to bring would be of any help.

We discuss a number of things like Child Labour (Abolition) Act, this act and that Act, but nothing is going to be abolished from this country. This has become the system of the country. If big bosses are not going to correct themselves, I do not think that these regulations will be of any effect on the contrary these will lead to further corruption. The number of raids that are being conducted prove the extent of corruption in our country.

In this way I can give you any number of examples. I will only say that all your rules and regulations are helping only to increase corruption. It is really very unfortunate. Either in the Customs Department or any other department, some of the honest officers are becoming more and more helpless. It is honest people who are always being thrown out. All this is happening because you have no machinery at all to check corruption. There may be one or two really honest people among you but, as we all know, for the last few days, so many scandals are being discussed in this very House. All your laws and Bills are not going to have any effect at all because the man who indulges in corrupt practices or who collects moneys cannot be brought to book and his property cannot be taken over. The money or the property is going to be in some other's name and you will never be able to catch hold of it. Therefore, what is the purpose of having this Bill? It is nothing but a mere academic discussion to be announced on radio, TV and in the press. As far as the implementation part of it is concerned, I do not think anything is really going to be achieved through this Bill?

SHRI K.S. RAO (Machilipatnam): Mr. Chairman Sir, I support this Bill and I appreciate Shri Chidambaram for the very fact that he thought of making the provisions with regard to anti-corruption more effective and stronger by widening the scope of the existing laws. I do feel that some more stringent measures should have been made. A lot

[Shri K.S. Rao]

of members have also expressed the same view.

Dr. Datta Samant was saying that many a time, this type of discussions were becoming only a matter of academic interest. I wish to bring it to the knowledge of my opposition friends that this matter is becoming a matter of academic discussion not only on the part of the members of the Ruling Benches but also on the part of the Opposition.

Some other member was telling that corruption was being institutionalised. True. I do not deny it. I say that it is not only being institutionalised, but it is also being absorbed by the society more and more. People have acquired or rather inculcated an attitude of tolerance towards corruption and they are accepting it without opposing or fighting corruption. The responsibility for this lies on the Opposition too and not on the Government alone. I can understand criticism from the Opposition, had they been the type of people who do not support corrupt people and always come forwards to support and protect honest people and men of integrity. But there are umpteen number of instances to prove that they do not do so. I can quote any number of cases by reading. Even in this very House, I have seen that responsible members from Opposition who speak for hours and hours together on corruption, on the failures of the Government, themselves do not stand the test when it comes to their functioning. I do not want to mention anybody by name.

I only want to say that unless the Opposition also takes it to their heart, things cannot be implemented. It is not the Act alone or the intentions of the Government alone that could bring a change in society. Change comes only when everybody tries to cooperate.

Many members spoke about judiciary and other institutions. We are all unanimous that judiciary, press, educational institutions, professions such as teaching and so on and so forth, should not be polluted with corruption. But unfortunately, every organisation

and every institution, rather every branch of society are being polluted. .

AN HON. MEMBER: What about trade unions?

SHRI K.S. RAO: Yes, trade unions also are corrupt. Without any exception, everything is being polluted.

The Chief Minister of Andhra Pradesh claims that he is an honest man. In case he is all for honesty I do not see any reason why he is fighting some people just because there are certain political differences. There are certain legislators in the opposition who are individuals of high integrity and honesty. They are thoroughly good people. Knowing fully well all these things, even then he tried to condemn them just because of certain differences on political ground. I say in this August House that it is the Chief Minister of Andhra Pradesh, who depending upon some false information given in the press written to the Prime Minister that a particular member had looted banks to the extent of certain crores of rupees. He did so without even inquiring into the facts. I bring it to the knowledge of the House. I request the Opposition that they should take it to heart that it is their duty to protect honest people and men of integrity. Corruption should be condemned. But please do not resort to methods such as blackmailing. Before trying to find fault with the Ruling Party, first try to raise your own standards. As regards corruption, about which you are speaking for hours and days together, I say that everyone of us is interested in cutting it to roots. I want to say one point in this regard. If we question ourselves and if we probe our own conscience whether we are honest, then the need to find fault with anybody does not arise. I do agree with it. In fact, I was thinking earlier, when I didn't come to the Parliament, as a child, as a student, when the Congress was in power and were ruling for years together, not only at the Centre but also in the States, when some people were finding fault with the Government. I thought may be the corruption has come into the society only because of Congress and its failures or

because of dishonest people in the Congress. But I have also seen it in the Opposition Parties which are ruling various States. I have also seen it when the Opposition were ruling at the Centre. They are interested only in making speeches and really not in practising what they speak. I did find the Opposition Parties which have come to power in various States and also at the Centre, they have become more rampant in corruption. I think, it is possibly because of confidence in the Congressmen that they can rule the country and they can rule the various States for quite long by virtue of their strength, by virtue of their policies and programmes; they must have some patience; they are corrupt to a lesser extent, and that is why they are voted back to power. But those Opposition Parties who perhaps felt that they cannot rule for long time thought that unless the quantum of corruption is increased by them, they cannot pull on with the Congress or the ruling party. It is a clear evidence. So, my dear Opposition Members, I do not find fault with you for criticising the Government. I do not find fault with you for giving good constructive suggestions to the Government on various matters, because these are all everybody's issues.

Similarly, I will come to the Press, now. Firstly, false allegations have been made by the responsible Pressmen. Day in day out, when it has been refuted in the House—in the Parliament—and also outside giving clear evidence in writing, they never bother to look into the facts. It is an unfortunate affair. The Press is the medium through which we can wipe off bad or evil things from the society. When it aids or abets or helps to increase these false things, who else has to be blamed? Is it the Government alone that has to be blamed every time? It is not difficult for the Opposition or the Press to rectify the mistakes, if the Government is committing them. If the Government is going on the wrong side, they should rectify the mistakes. If they are corrupt, they should rectify them. If they are clean in their minds or if they are clean in their actions, they should appreciate them. I would certainly support the Opposition and the Press who bring out certain bad things that are occurring. They also bring

out even the corrupt officers, corrupt public men, wherever they are working to the notice of the people to mould the public opinion and impress upon them that those people cannot flourish for long, in case they want to run the country on those lines. Everywhere, it is not the means that has been praised, it is only the end; it is only the material wealth; it is only the prosperity; it is only the position; it is only the power, that is being appreciated by one and all, including the Opposition Parties. Unless all of us join together and take a vow that, let us work only on impartial grounds, at least on these matters, it is not possible to root out corruption. Yes, you have your own policy; we have our own policy. You have your own programme; we have our own programme. Your convictions are different, our convictions are different. Our method of reaching the target is different and your method of reaching the target is different. But such things, where corruption is involved, where the values are getting deteriorated day in any day out, we are all one. That is all we want. We fight out the evils. We do not hesitate to fight. We do not hesitate to find fault with the Government ruled by our own Party. In such cases, we are with you. But convince the public you convince everyone that we are above party lines. We are not going to criticise only for the Party's sake. You come out with concrete suggestions. We are also with you.

I put corruption as the root cause for a many evils. I also request the hon. Minister to make it more stringent.

I also give some incentives to the people of integrity and honesty. Let not the men of honesty and integrity feel that it is only the corrupt people that can survive; it is only the corrupt people that will be benefited and patronised. If that impression was to be spread among the people, no corrupt man can dare to be corrupt for ever and no honest man need to think that he is superior and losing in the society.

By virtue of certain good people in the country we are here today in this fashion. It is he, the man of integrity, the man of honesty, who is suffering very badly because of corruption. If everybody was to be cor-

[Shri K.S. Rao]

rapt, we do not need to discuss this matter. We are losing very heavily by virtue of these corrupt people. All these problems are coming in because of those people.

You take anything inflation, equal distribution of wealth, disparity; it is only because of corruption. Then you take the case of getting time in the House from the Chair to speak by the members. All those members who abide by rules are given less time and ample time is given to those members who do not have any regard for the rules. Fortunately, I fall in the category where I normally abide by the rules; I am habituated to abide by the rules and take only whatever time has been given to me by the Chair.

I request the hon. Minister to open a new era not simply by bringing a legislation but also ensuring the proper implementation of the law. We always have a faith in the Minister and also in the person and in the government. So, I request him to effect a change in the coming future in taking action, in making it effective, in taking stringent measure we have not only incorporated in the Act but also suggested in the academic discussion and implement them effectively.

THE MINISTER OF STATE IN THE
MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS AND
MINISTER OF STATE IN THE MINIS-
TRY OF HOME AFFAIRS (SHRI P.
CHIDAMBARAM)

I listened with great respect and attention to the view expressed by the hon. members. I am grateful for the broad support that this Bill has received from all sections of the House.

The Prevention of Corruption Act 1947 as well as every other law which we have made in this behalf, although they are central laws, they are really administered by the States. Where does the common man feel the pinch of corruption? The common man feels the pinch of corruption at the cutting edge of the administration. Member after member spoke about, Patwari, Tehsildar, the ration clerk, the Police man, the bus conductor. In

every walk of life you will find that the small man is harassed and oppressed and exploited by the administration at the lowest level. If this Act has to be implemented in the manner in which the hon. members desire that it should be implemented, then we must reverse the bad experience that we have in the last 20, 30, 40 years. The Act must be implemented by the State Governments, by the police in the States who are obliged to protect the small man, the common man. Therefore, there is no points in pretending that since this Act has been passed by Parliament and this has been brought by the Central Government, the entire responsibility is that of the Central Government. On the contrary, under the scheme of our Constitution, the primary responsibility, rests with the State Governments. If the Prevention of Corruption Act 1947 has not been implemented in the manner in which we desired, if the Criminal Law Amendment Ordinance of 1944 has remained buried, collecting dust over the last 43 years, it is not because of the Central Government. It is because the State Governments did not summon the will to implement these laws. For example, look at the Criminal Law (Amendment) Ordinance, 1944. Under that Ordinance one must move the District Judge. But one can move the District Judge only with the permission of the State Government. Today, we are amending that provision by saying that in respect of offence investigated by the CBI, in respect of offences investigated by an agency of the Central Government, in respect of offences involving the Central Government employees it is possible to get the consent of the Central Government and move the Judge. Therefore, it is not as though it is only the Central Government which has been remiss in its duties, I would say that if corruption has become rampant and if our laws have not been enforced, it is because throughout the country, we have not paid to this item of business the kind of attention that is necessary.

Sir, there is a misconception that the Central Government can do whatever it likes in problems of crime and law and order. We cannot. The CBI gets its jurisdiction only because of the Delhi Special Police Establishment Act and under that Act we can

investigate an offence or crime only with the consent of the State Government concerned. Therefore, the primary responsibility is that of the State Government. We now want to ensure that there is, in the hands of the State Governments, in the hands of the Central agencies, a law which gets over certain legal difficulties and certain administrative constraints and we are able to fight this menace of Corruption together.

16.52 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Routine is the enemy of honesty and integrity. Formal institutions, routine systems and unwillingness to look into the kind of dead wood that has crept into our systems these breed corruption. Delay breeds corruption. Therefore, what we are doing now is, while we are engaged in an enormous exercise of administrative reforms, delegation of powers, decentralisation of authority, spinning off activities which no Government should be doing, much less a Central Government entrusting many activities to lower formations of Government what can be done by the Panchayat should be done by the Panchayat, what can be done by the municipality should be done by the municipality, what can be done by the State Governments should be done by the State Governments, and the Central Government should confine itself to essential activities at the same time, we have to launch a war on corruption. And this is exactly what we have done in the last eighteen months and I will place before you presently some figures.

Many Members have spoken about the inadequacy of this law. I appreciate the point, but I cannot accept it. This law is only a penal law, it creates offences. It specifies penalties. It does no more. It can do no more. This law is not intended to be a law which deals with every aspect of administration and corruption. This is a penal law, and a penal law can only do this much. A penal law can only create offences and specify penalties. There are other things which are on the anvil. For example, there is a Lokpal Bill which is now before the Select Committee and it is because of my experience in piloting

through a select committee a Bill that I felt... (*Interruptions*)

SHRI S. JAIPAL REDDY: Will that Lokpal Bill ever see the light of the day?

SHRI P. CHIDAMBARAM: It is because of the difficulty that we have been facing in piloting a Bill through the Select Committee, which by definition—not by definition perhaps but because of the process involved or the procedures involved—which will take a lot of time, that I plead with Members of the Opposition who have made a reference, that we should not refer to this to a select committee. On the contrary we should pass this Bill here and now, so that we can convert this Bill into an Act and we will have this instrument to fight corruption.

We have a Lokpal Bill. We have to reform our election laws, we have to amend the Representation of the People Act, we have to reform our Revenue and tax laws. There is a Direct Taxes Code which is under preparation. We have to amend the Contempt of Courts Act. We have to amend many other laws. So, while your suggestions are valuable that these laws must be looked into, the fact that we are not doing that in this Bill does not make this Bill any less important or any less adequate.

PROF. SAIFUDDIN SOZ (Baramulla): It should be comprehensive.

SHRI P. CHIDAMBARAM: You cannot do it in that manner. That kind of Code will take decades to pass. What we are trying to do is to make a penal law, a bill for a penal law which can only create offences and specify penalties and this Bill, I believe, does it. We have to supplement this with other laws. Sir, a number of questions have been raised about certain provisions of the Bill. Since Members by and large have accepted the provisions of the Bill, I do not want to dilate upon them. Let me point out one or two things. For example, a Minister is a public servant. Therefore, there is no doubt about the fact that a Minister would certainly be covered by this Bill. A question has been raised what is the position of a Member of

[Shri P Chidambaram]

Parliament or a Member of a Legislative Assembly? We have not done anything different or contrary to the law as it stands today. Under the law, as it stands today, the Supreme Court has held in Antulay's case that a Member of the Legislative Assembly is not a public servant within the meaning of Section 21 of the Indian Penal Code.

I personally think that it is very difficult to say when an MLA or an MP becomes a public servant. I believe that when an MP functions *qua-MP*, perhaps he is not a public servant and, therefore, we are not attempting a definition which will lead to difficulties. We think that there could be situations when an MP or an MLA does certain things which are really not part of his duties as an MP or an MLA. We think that an MP or an MLA could in certain circumstances hold an office where he will be discharging certain public duties. These two situations are covered by this Act. If an MP or an MLA does certain acts not *qua-MP* or *qua-MLA*, but as an individual, abusing his position, I am not using the word 'Office' I think he will be covered like any other individual under Sections 8, 9 and 12. When an MP or an MLA holds an office, and by virtue of that office he has to discharge certain public duties, I think he will be covered under Section 2 clause (b) read with Section 2 Clause (c) Sub-clause (viii). I think these two situations are quite adequate to take care of defaulting Members of Parliament and defaulting Members of the Legislative Assemblies. If any other situation arises future, we shall certainly consider amending the Act at a suitable time. We are trying to fit this in with the pronouncement of the Supreme Court and at the same time taking note of the felt needs of the situation.

Sir, a question has been asked who will be the competent authority to sanction such a prosecution. The question itself is wrongly addressed. Sanction for prosecution is required only in the case of public servant. In the case of a person other than a public servant and in the case of a person committing offences under Section 8 or Section 9 or Section 12, no sanction is necessary. If you will kindly see the section which requires

sanction, namely Section 19, it requires sanction only in respect of offences punishable under Section 7, 10, 11, 13 and 15 committed by a public servant. The question may not arise in the case of an MP or an MLA. Therefore, I do not think there is any problem.

May I briefly mention the major innovations that we have brought in this Bill? Under Section 2 Clause (b), for the first time we have defined a "public duty". I think the courts will interpret the public duties. There are a number of decisions which have interpreted "public duty", dealing with Article 226, dealing with Article 112 and dealing with other situations, they have interpreted what a "public duty" is. I think anyone who is called upon to discharge or perform a public duty must be deemed a public servant in this country. If he is discharging a public duty, he has to observe a code of conduct which is acceptable to the people of this country. We have to enforce a code of public morality. We are not talking about private morals. We are talking about the person's public morality where he is called upon to discharge a public duty. I would also commend to the Hon. Members Sub-clauses (viii) to (xii) of Section 2(C) which explains the definition of a public servant. We have not brought in a large number of categories where people are harassed and exploited by these people. Therefore, I think they should be brought under the net of public servant. We have now provided that the trial shall be on day-to-day basis. One of the most important sections is Section 19 Sub-section (3) where we have said except in two situations, the Court should not interfere in an interlocutory order.

17.00 hrs

I know that this will not bind the High Courts in exercising their jurisdiction under Article 226 and Article 227. But I can only hope and appeal that courts will not use the powers under Article 226 and Article 227 in a very liberal manner. They will resort to them very sparingly. They will allow the ordinary Criminal Procedure Code to govern such proceedings. And when the ordinary law viz. the Criminal Procedure Code governs such proceedings, we have made a provision...

MR. DEPUTY SPEAKER: How much time you will take?

SHRI P. CHIDAMBARAM: 2 more minutes.

MR. DEPUTY SPEAKER: Is it the pleasure of the House to extend the time till this Bill is passed?

SOME HON. MEMBERS: Yes.

SHRI. P. CHIDAMBARAM: The Code of Criminal Procedure will apply to such proceedings. And I can only hope and trust and appeal to the courts that they will use their powers under Article 226 and Article 227 sparingly. When the Code of Criminal Procedure applies to these proceedings, by virtue of section 19, sub section 3, except in two situations, the courts will not have the power to interfere in interlocutory order. I hope, this will considerably speed up trial of corruption cases.

We have enhanced the minimum punishment. Under the existing provisions of the Indian Penal Code there is no minimum punishment. The punishment is either imprisonment or fine. And where a minimum punishment has been prescribed in certain sections, a proviso is there saying that the court may, for reasons to be recorded, not award the minimum punishment. Now, we have changed the whole system. We have said that in every case of corruption, in every offence falling under sections 7 to 15, if there is a conviction, there shall be a minimum punishment of imprisonment and courts have no discretion to award a punishment other than the punishment of imprisonment. So, anybody who is found guilty of corruption would necessarily have to go to jail if this Bill becomes an Act.

SHRI ATAUR RAHMAN: You have provided for day to day trial. This was provided in the amendment to Cr. P.C. also but no day to day trial could take place because the number of magistrates and judges is so small that nothing can be done. You have provided 20 judges for the whole of India. So nothing will happen.

SHRI P. CHIDAMBARAM: We have not provided for day to day trial alone, we are also providing and we have taken powers to appoint special judges. And we intend to appoint special judges. When I say special judges, you may understand a special judge in two ways. A special judge is a judge appointed under the Criminal Law (Amendment) Act who will now be appointed under section 3 of this Act. But a special judge can either be a judge who is common to many kinds of cases or an exclusive judge. For example, in Bengal they have got 19 judges dealing with these matters. They do not deal exclusively with corruption cases. They deal with all kinds of cases. What we are trying to do now is, while we will appoint special judges under section 3 we will also make them exclusive for cases of corruption i.e. cases which are filed by the CBI and cases which are filed by the Anti Corruption Bureau of the State Governments alone will be tried in these courts. That way it is possible to have a day to day trial of corruption cases and a large number of corruption cases can be disposed of throughout the year.

SHRI SOM NATH RATH: You only want 20 judges. Will that be suffice?

SHRI P. CHIDAMBARAM: I will come to that.

The last provision to which I would like to refer is about the onus of proof. Mr. Thomas has raised this question. I think, if he carefully reads the Act, he will find that section 20 does raise a presumption. The word used is 'shall presume'. The court shall presume unless the contrary is proved. Therefore, the burden of proof is shifted to the Accused. Similarly under Section 13(e) which is assets disproportionate to known sources of income, kindly see the language:

"...in possession for which the public servant cannot satisfactorily account..."

Therefore, the burden of proof is shifted to him to account for his assets when it is shown that the assets are *prima facie* disproportionate to known sources of income. Coupled with the new explanation that we have added

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of "known sources of income". the burden is squarely upon the accused now to show that he had this income which is lawful income, which is disclosed to the competent authorities under the applicable law, and that the income bears a proportion to his assets. The burden is now squarely upon the accused and I think these provisions will take care of the difficulties pointed out by Mr. Thomas.

Finally, on the question of will, a number of statements were made that this Government does not have the will to fight corruption and implement this law. May I say with great humility that there has never been a period of eighteen months, save the last eighteen months, where we have used the CBI and other agencies to fight corruption at the levels that(Interruptions). You should have been here when your colleagues were speaking. This is the voice of dissent, Mr. Amal Datta.

MR. DEPUTY SPEAKER: No interruptions please.

SHRI P. CHIDAMBARAM: ...to fight at levels that we have never fought before—officers who are occupying exalted position who thought they were beyond the reach of law—to unearth accounts of wealth and income which have never been unearthed before, and the speed and skill that has never been witnessed except in the last eighteen months .. (Interruption). Kindly listen to me. We are not talking about anything else, we are only talking about what we have done.

SHRI S. JAIPAL REDDY: I am referring to what the CBI did not honest officials like Mr. Bhure Lal and Mr. Pande....(Interruptions).

SHRI P. CHIDAMBARAM: Kindly listen to me. During the period October, 1985 to June 1986—a period of nine months—in nine special drives, CBI registered 183 cases and in 131 we have completed investigation—that is, 71.5 per cent—24 cases have been sent of trial, 68 cases have been referred for major penalty proceedings,

21 cases have been referred for minor penalty proceedings. In October 1986 and November 1986—in a period of two months—we registered 45 cases in special drives. In the four months of January 1987 to April, 1987, we have already registered 66 cases in special drives. As far as our success ratio is concerned, I will give figures for five years alone—1982 to 1986 calendar years. The percentage of convictions that the CBI obtained in cases prosecuted by it in courts, is 70.3 per cent, 71 per cent, 75.1 per cent, 76.6 per cent and 73.5 per cent... (Interruption). I am giving the figures. You kindly be patient....(Interruptions) Why don't you be patient? Let the figures go on record. Even if you do not listen to me, the people will know.

DR. DATTA SAMANT: Absolute figures you give.

SHRI P. CHIDAMBARAM: I will give the figures. Wait. I am giving the figures. Where a CBI officer has been the Presenting Officer in departmental proceedings, regular departmental action, the rate of cases where we have succeeded in imposing a penalty is 83 per cent, 85 per cent, 83.8 per cent, 83.9 per cent and 86.5 per cent.

Now I come to the absolute numbers. CBI receives a large number of complaints/information. Members say that people do not come and complain. It is very wrong. A lot of people come and complain to us. A lot of people come to the Ministry, a lot of people come and meet the police officers. We develop our own sources. In fact, 90 per cent of our information is generated from our own sources—thousands of them. Now, there is an absolute limit to which any organisation can register cases. We obviously cannot register 10,000 cases. We would need five times our budget for that. You would have to vote five times the budget for that. There is a certain limit to which the police officer....(Interruptions). Kindly listen to me please. Personnel, money and time are severe constraints in registering cases. We have never been able to register and not even in those days of 1977-79, never has the CBI registered more than 1300 cases. It is an absolute limit. There are certain severe ceilings and limits. Now, in 1982, we started with

1201 cases. In 1986, we have brought it back to 1301 cases. We can register 10,000 cases if you like but multiplying the organisation by five times is not the way an organisation can grow in a period of one year. This organisation will grow. We have taken some positive decision. As the organisation grows the cases will grow. But what you should have asked as a question was not asked. You did not ask a question. But I will answer. What are the kinds of cases we are registering now? Who are we attacking now? Who are we fighting now? Who are we searching for now? These questions you should have asked me. But you did not ask. We have laid down a clear policy now. We will fight corruption at top levels. My philosophy is that if you fight at the level of the head of the Department, make sure that the head of the Department remains free from corruption, he will ensure that the level below is free from corruption and this will percolate down. (*Interruptions*)

Now, having agreed with me, kindly listen to me. Who are the people against whom we have taken action? What are the kinds of people against whom we have taken action in the last 18 months? I will just read some categories against whom we have taken action. We have taken action against a former Chairman of a Railway Service Commission, Zonal Managers and Regional Managers of Banks, General Manager of a State Mineral Development Corporation, a Regional Labour Commissioner, a Chief Regional Manager, a Chairman of a Bank, an Officer at the level of Secretary and Commissioner to a State Government, Officers of the level of General Managers and above. We have taken action against officers belonging to various services. I can give you more examples. We have taken action against a Manager of the Fertiliser Corporation, a Regional Manager of Food Corporation, a General Manager of State Trading Corporation, a former Director General of Police and a Commissioner of a Division in a State—I see one hon. Member smiling knowledgeable when I said former Director General of Police—a Divisional Railway Manager, a General Manager of a Major Hydro Electric Project, a Joint Chief Controller of Imports and Exports, a Chief Man-

ager of a major Nationalised Bank and I can go on. This is the kind of cases we register now.

DR. DATTA SAMANT: How many of them are convicted?

SHRI P. CHIDAMBARAM: With regard to conviction, we have never fallen below the ratio of 70%.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): Where do they go after conviction?

SHRI P. CHIDAMBARAM: Sir, as the Law Minister correctly pointed out I did not know until now that after conviction they can go anywhere except to the jail.

DR. DATTA SAMANT: People never go there. They are for the poor people and workers.

SHRI P. CHIDAMBARAM: Therefore, Sir, let us not tar everybody with the same brush. The whole philosophy has changed. We have now clearly laid down our parameters, goals. (*Interruptions*). A question was asked in how many cases.... (*Interruptions*). Mr. Samant, you must listen. Only listening will give you information, and information will give you knowledge.

DR. DATTA SAMANT: People will never be prosecuted. (*Interruptions*)

SHRI AMAL DATTA: Mr. Chidambaram, I can give you credit for all that you have said now. But what I am asking is this. The man who did all this has now gone. Nothing will happen now.

SHRI P. CHIDAMBARAM: But why don't you give me credit to what I have...

SHRI AMAL DATTA: Already the tax people are saying that nobody need worry any more.

SHRI P. CHIDAMBARAM: Mr. Amal Datta, you do not understand the business

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rules, this is done in the Ministry of personnel. (*Interruptions*). All this is done in the Ministry of Home Affairs, in the Ministry of Personnel. (*Interruptions*). Mr. Datta, please listen.

Sir, a question was asked: Where have you invoked the Criminal Law (Amendment) Ordinance? We have invoked the Criminal Law (Amendment) Ordinance in two cases. (*Interruptions*). Please sit down, I am not yielding. We have invoked the Criminal Law (Amendment) Ordinance against a Joint Secretary level officer and against a former Director-General of Police. We will file applications in two other cases invoking the Criminal Law (Amendment) Ordinance. Once this Bill is passed, we will have the power to grant the sanction. Today we have to get sanction from the State Government. Therefore, the will is there, we have the will. what I ask is: How many State Governments will summon an equal will to implement the Prevention of Corruption Act? That is the question. Show me any State Government which has done more in the last 18 months to match our record. Ten States are ruled by Opposition Parties. You must summon the will, you must summon the determination. You must summon the will to implement this Act.

I am grateful to the hon. Members for broadly supporting this Bill. I commend this Bill and I request the hon. Members to pass this Bill unanimously.

MR. DEPUTY SPEAKER: I shall now put amendment No. 12 moved by Shri Ayyapu Reddy to the vote of the House.

Amendment No. 12 was put and negatived.

MR. DEPUTY SPEAKER: I shall now put the motion for consideration of the Bill to the vote of the House.

The question is:

"That the Bill to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith, be taken into consideration."

The motion was adopted.

MR. DEPUTY SPEAKER: The House will now take up clause-by-clause consideration of the Bill.

MR. DEPUTY SPEAKER: There is an amendment by Mr. Ayyapu Reddy to clause 2. He is absent.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill

Clause 3 (Power to appoint special Judges)

Amendment made:

Page 3, line 19,—

for "under section 7 to 9, 11, 13 and 14"
substitute "under this Act" (23)
(Shri P. Chidambaram)

MR. DEPUTY SPEAKER: Mr. Ayyapu Reddy—Absent. Mr. Kunwar Ram—Absent.

The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

MR. DEPUTY SPEAKER: Clause 4 and 5 Shri Ayyapu Reddy—Absent.

The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

MR. DEPUTY-SPEAKER Clause 6.
Shri Ayyapu Reddy—Absent. The question is:

“That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

MR. DEPUTY SPEAKER: Clause 7.
Shri Kunwar Ram—Absent.

The question is:

“That clause 7 stand part of the Bill.”

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 to 11 were added to the Bill.

MR. DEPUTY SPEAKER · Now clause
12 Shri Ayyapu Reddy—Absent.

The question is:

“That clause 12 stand part of the Bill.”

The motion was adopted.

Clause 12 was added to the Bill.

MR. DEPUTY SPEAKER: Clause 13
Shri Kunwar Ram—Absent.

The question is:

“That clause 13 stand part of the Bill.”

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14, 15 and 16 were added to the Bill.

MR DEPUTY SPEAKER · Clause 17
Shri Ayyapu Reddy—Absent.

The question is:

“That clause 17 stand part of the Bill.”

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18 was added to the Bill.

*Clause 19 [Previous sanction ncessary for
prosecution]*

SHRI SHANTARAM NAIK: Sir, I
move:

Page 9,—

after line 17, insert—

“(2) The authorities referred to in sub-section (1) as the case may be, shall convey their decision as to the granting or withdrawal of the sanction, within 30 days from the date of the request in writing by the prospective complainant.”

“(3) In case the authorities referred to in sub-section (1), as the case may be, fail to convey the sanction under sub-sections (1) and (2) or refuse to grant sanction, the prospective complainant may apply to the special judge for grant of sanction under sub-section (1) and the special judge after hearing the concerned authority under sub-section (1), grant or refuse to grant the sanction requested for.”

“(4) A revision shall lie to the High Court against the order passed by the special judge under sub-section (3).”

Sir, my amendment is to provide for sanctions. Sometimes some governments do not grant sanctions for prosecuting under the Prevention of Corruption Act. If a person applies for sanction, sometimes he does not get it. Therefore, I have provided for a remedy here that within 30 days if the sanc-

[Shri Shantaram Naik]
 tion is not granted, he can straightaway apply to the Special Judge for granting sanction. Then, the Special Judge will have the power to call both the parties viz. the Government and the party concerned and if the judge thinks fit that in this case sanction is required to be given then the judge gives sanction. Again, the order of granting or refusing sanction will lie to the High Court. Therefore, my amendment is:

1. Page 9,—

after line 17, insert—

“(2) The authorities referred to in sub-section (1) as the case may be, shall convey their decision as to the granting or withdrawal of the sanction, within 30 days from the date of the request in writing by the prospective complainant.”

“(3) In case the authorities referred to in sub-section (1), as the case may be, fail to convey the sanction under sub-sections (1) and (2) or refuse to grant sanction, the prospective complainant may apply to the special judge for grant of sanction under sub-section (1) and the special judge after hearing the concerned authority under sub-section (1), grant or refuse to grant the sanction requested for.”

“(4) A revision shall lie to the High Court against the order passed by the special judge under sub-section (3)”.

SHRI P. CHIDAMBARAM: Sir, I appreciated the spirit of the amendment but I am afraid that this will go against the whole scheme. Sanction is provided to protect a public servant from harassment and from unfounded charges because he has to discharge certain public duties. The moment a person ceases to be a public servant, he can be prosecuted without a sanction. As long as we want to give a public servant, an honest public servant who is discharging his duties or any public servant, the protection of sanc-

tion viz. application of mind by the appointing authority. I think it would be unwise to take away this power and vest it with the Special Judge. Secondly, the Special Judge cannot pre-judge matters. The Special Judge has to try the case when it comes to him, and at the stage of sanction, I don't think the Special judge should come into the picture. I would request the hon. Member to withdraw his amendment.

SHRI SHANTARAM NAIK: Sir, I withdraw my amendment.

MR. DEPUTY SPEAKER: Has the hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes.

*Amendment No. 1 was, by leave,
 withdrawn*

MR. DEPUTY SPEAKER: The question is:

“That Clauses 19 to 31 stand part of the Bill.”

*The motion was adopted.
 Clauses 19 to 31 were added to the Bill.*

MR. DEPUTY SPEAKER: The question is:

“That Clause: I the Enacting Formula and Long Title stand part of the Bill.”

The motion was adopted.

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

MR. DEPUTY SPEAKER: The Minister may now move that the Bill, as amended, be passed.

SHRI P. CHIDAMBARAM: I beg to move:

“That the Bill, as amended, be passed”.

MR. DEPUTY SPEAKER: The question is:

"That the Bill, as amended be passed."

The motion was adopted.

MR. DEPUTY SPEAKER: Now, we will take up the next Item i.e. Item No. 9 on the Agenda....

(Interruptions)

MR. DEPUTY SPEAKER: Order, please. Please don't interrupt him.

SHRI P. KOLANDAIVELU (Gobichettipalayam): Sir, I want to know whether you are going to take up the Calling Attention to day.

MR. DEPUTY SPEAKER: I do not know, Sir...

SHRI P. KOLANDAIVELU I would like to know from the hon. Minister whether we are going to take up the Calling Attention today.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI SHEILA DIKSHIT) : Now, the time is 5 25 p m. Would you like to take it up tomorrow? I think, we can take it up tomorrow

MR. DEPUTY SPEAKER: We can take it up tomorrow.

SHRI P. KOLANDAIVELU: Yes, we can take it up tomorrow.

SHRI THAMPAN THOMAS (Mavelikara): Tomorrow, we have got the Private Members Bill.

SHRIMATI SHEILA DIKSHIT: We can take it up between 12 and 3...

MR. DEPUTY SPEAKER: Today, it is not possible...

SHRI THAMPAN THOMAS: That means, Monday we have to be here.

SHRIMATI SHEILA DIKSHIT: Yes, I feel so...

17.27 hrs.

DISCUSSION RE: FRAMING
GUIDELINES TO ENSURE SMOOTH
FUNCTIONING OF DEMOCRATIC
INSTITUTIONS-Contd.

[English]

SHRI S. JAIPAL REDDY (Mahbubnagar): Mr. Deputy Speaker, Sir, senior parliamentarians like Shri Bhagwat Jha Azad,

Shri Veerendra Patil and Shri Gadgil waxed eloquent the other day on the immense dangers of Character assassination. But, then, Sir, I regret to note that even while lecturing to us on such dangers Shri Azad and Shri Patil used this motion to indulge in character assassination. Their target was not Mr. Byre Gowda but Mr. Hedge. What was the sin committed by Mr. Hedge? He merely responded to the common demand or request of both Mr. Moily and Mr. Byre Gowda for a Commission of Inquiry. Did the Commission say anything anywhere in its Report on Mr. Hegde as such? No. Yet, virulent attacks were made on Mr. Hegde. Sir, we did not object, though we could have, under the Rules of Procedure, because we felt that Mr. Hedge would not deserve his reputation if it could not survive a discussion in this House. His reputation, I am sure, is not so fragile, not so brittle, as that of their leader— as not to survive a motivated onslaught in this House.

I do not want to sound pompous. It was Shakespeare who said:

"But thou as chaste as ice, as pure as snow, thou shall not escape calumny."

So, calumny is a thing which one cannot escape in public life in particular, but the reputation must be such as to survive the calumny. I would like to draw a distinction between 'character' and 'reputation'. There are lots of people in this country with great reputation but without a modicum of char-