

बारे छपी है कि पाकिस्तान हाई कमीशन के जरिये उनको चीनी से भारत से बाहर ले जाने की कोशिश हो रही है। आज मैंने एक ध्यानाकर्षण प्रस्ताव की सूचना दी है। आज ममाचार पत्रों में छापा है कि कल चीनी राजदूतावास के किसी ड्राइवर ने दूतावास से बाहर जो हमारी पुलिस का सिपाही पहरा दे रहा है उस को चाटा मारा। और चीनी दूतावास का ड्राइवर भारत की भूमि पर हमारी पुलिस के सिपाही को चाटा मारता है तो यह सदन चुप नहीं रह सकता। इस सरकार को बड़ी गम्भीरता से इस मामले को लेना पड़ेगा।

श्री मधु लिमये (मुंगेर) : यह सरकार ही नहीं रह पायेगी।

श्री अटल बिहारी वाजपेयी : पीकिंग में जो कुछ अपमान हुआ उसे तो यह सरकार भी गई लेकिन नयी दिल्ली में हमारे साथ जो अपमानजनक व्यवहार हुआ है इस के ऊपर भी सरकार की कोई प्रतिक्रिया है या नहीं यह मैं जानना चाहता हूँ।

श्री मधु लिमये : जो अटल जी ने कहा वही मैं भी कहना चाहता था।

Shri D. C. Sharma (Gurdaspur): I wanted to ask one thing. The way in which the Chinese are behaving in Peking and the way in which they are behaving here in the Chinese Embassy are very atrocious. I cannot put up with it. (Interruptions).

Mr. Speaker: Does he want to retaliate against the Chinese by having one more hour in this House?

Shri D. C. Sharma: I think, we should have a full-dress debate on this; a one-hour debate will not do. We want to discuss the whole question at length because we are very much agitated about it. For this developing situation, only one hour was given.

The Minister of Parliamentary Affairs and Communications (Dr. Ram Subhag Singh): This will be conveyed to the Minister of External Affairs and he will be requested to make a statement before the House before it adjourns today

12.23 hrs.

ANTI-CORRUPTION LAWS (AM-
ENDMENT) BILL—contd.

Mr. Speaker: Now we take up further consideration of the following motion moved by Shri Vidya Charan Shukla on the 14th June, 1967, namely:—

"That the Bill further to amend the anti-corruption laws, be taken into consideration."

Mr. Satya Narain Singh.

श्री रम्य नारायण सिंह (वाराणसी) : माननीय अध्यक्ष महोदय, कल से भ्रष्टाचार विरोधी विधेयक पर बहम हो रही है। इस विधेयक का विरोध करने का कोई प्रश्न

12.24 hrs

[MR. DEPUTY-SPEAKER in the Chair]

नहीं है। लेकिन हम एक बात कहना चाहते हैं आप के मार्फत कि जो भ्रष्टाचार की भाव स्थिति है उस स्थिति में इस बिल को हम इतना प्रभावकारी नहीं समझते जिससे कि भ्रष्टाचार के साथ निपटा जा सके। आज स्थिति यह है कि राष्ट्र का कोई भी घंग ऐसा बाकी नहीं रह गया है जहां कि भ्रष्टाचार नीचे से लेकर ऊपर तक व्याप्त न हो गया हो। हमारे राष्ट्र का कोई भी घंग ऐसा अच्छा नहीं रह गया जहां पर कि भ्रष्टाचार नासूर की तरह से न घुस गया हो और पूरे राष्ट्र के जीवन को भीतर से खोखला करने की यह कोशिश कर रहा है। हम इस बात को देखते हैं कि आज ऐसे विधेयक बर-बर आते रहते हैं हाउस के अन्दर लेकिन

[श्री सत्य नारायण सिंघ]

नतीजा यह होता है कि जितने बिल बनते जाते हैं भ्रष्टाचार उतनी ही तेजी के साथ भाज समाज में फैलता चला जा रहा है। भाज तालत यह है कि अगर आप हास्पिटल में चले जाये तो जनता के लिये जो कुछ भी मदद की जाती है दवाइयों आदि की, वह बाजारों में बिकती है। जब हमारे मुल्क पर बाहरी खतरे आये तब हमने देखा कि भ्रष्टाचार ने कितनी तेजी के साथ हमारी जिन्दगी पर प्रभाव डाला। बहुत सी गडकें जो कागज पर बनी हुई दिखावाई गई थीं मीके पर जब हमारे सिपाही पहुँचे तो वहाँ पर सडकें गायब थीं। हम इस बात को देखते हैं कि भाज कोई भी मरगार का भग नीचे से ऊपर तक देखे तो यह दिखाई पड़ता है भाज भ्रष्टाचार और मरगार की मशीन तथा पूरा शासन तंत्र मिलजुल के धोतधोत हो गया है और जब किमी राष्ट्र के जीवन में भ्रष्टाचार इस बगह पर पहुँच जाता है कि जब कि भ्रष्टाचार और शासन करने वाली मशीन के अन्दर कोई भेद न दिखाई पड़े तो यह ब्रह्मरी हो जाता है कि किमी ऐसे व्यापक और प्रभावशाली बिल को लजा जाय, ऐसे कदम का उठाया जाय जिस में कि भ्रष्टाचार की इन जड़ों को बाट कर राष्ट्र के जीवन में निकाला जा सके। आज जब इस इस बात को देखते हैं कि विकास की योजनाएँ जो करोड़ों करोड़ों की लागत में जाती हैं मदद की योजना में यह अन्दर भ्रष्टाचारियों, नीचे में ऊपर तक जाँचे हुए हैं और खास तौर में ऊपर के अधिकारी उन में जरूरत है, वह हमारी सारी दीखत उन भ्रष्टाचारियों के नाम चली जाती है और वह विकास में नहीं लगने पाती है। ऐसी स्थिति में हम यह समझते हैं कि अगर भ्रष्टाचार को मही जाने में राष्ट्र के जीवन से निर्मूल करना है तो आपको ऐसे कदम उठाने पड़ेंगे, केवल इस तरह के बिल उस में कारगर नहीं बाबिल होंगे, बल्कि बिल तरह से उन की

व्यापकता भाज सारे राष्ट्रीय जीवन में है उसको देखते हुए आप को व्यापक तरह से एक बड़ा कदम उठाना पड़ेगा जिस से कि उस को राष्ट्र के जीवन से काटा जा सके और उसको बखूबी कारगर तरीके से लागू किया जा सके। मैं समझता हूँ कि अब तक के अनुभवों से हमें सीखना चाहिए था, अब तक के जितने बिल आये उन का परिणाम हम ने क्या देखा? हम ने देखा कि बिल आते हैं, पास होते जाते हैं लेकिन हमारे जीवन में जहाँ भी आप नजर डालेंगे चाहे पुलिस विभाग हो, चाहे जेल हो, चाहे कचहरी हो, चाहे विकास विभाग हो, चाहे कोई भी मरकारी भग हों, उस में भाज पहले से ज्यादा तेजी के साथ भ्रष्टाचार बढ़ा है और भाज वह गिड की तरह से पूरे राष्ट्र के जीवन पर मडरा रहा है। क्या यह सच्चाई नहीं है कि जित राष्ट्र के अन्दर इनने व्यापक तरीके से भ्रष्टाचार फैल जाय, जीवन में व्याप्त हो जाय, वह राष्ट्र अन्दर से खोखला हो जाता है, कमजोर हो जाता है, निर्बल हो जाता है? ऐसे निर्बल राष्ट्र को क्या आप विदेशी किमी भी खतरे में बचाने के लिए मजबूती के साथ खड़ा कर सकते हैं? हम जब यहाँ खुदों के और बातें बड़े ऊँचे ऊँचे तरीके में होती है, जितनी बातें कही जाती है, उतनी मजबूती और मजबूती के साथ इस दुष्मन, राष्ट्रीय दुष्मन को जो राष्ट्र को अन्दर में खोखला बना रहा है निर्बल बना रहा है उसके नैतिक बल को गिरा रहा है, उस में लड़ने के लिए जो आज हमारे अन्दर एक रूढ़ मकल्प होना चाहिए, एक पक्का इरादा होना चाहिए और निर्ममता के साथ उस में निपटने के लिए आगे बढ़ना चाहिए, यह दिखाई नहीं पड़ता है। हम आपके जरिए यह बनाना चाहते हैं कि मजबूत अगर हमारी मरकारी संजीवनी के साथ भ्रष्टाचार को खत्म करना चाहती है, राष्ट्र को जिन्दगी से काट कर खत्मता चाहती है तो मैं जानता

चाहता हूँ कि पिछली बार जब मंचानम कमेटी बिठाई गई थी जिसमें उपाध्यक्ष महोदय खुद भी शरीक थे, उस में कुछ महत्वपूर्ण मुद्दाव पेश किये गये थे, सिफारिशों की गई थीं, उनको आज तक लागू नहीं किया गया क्या बात है ? हम देखते हैं कि आज बड़े बड़े अफसर और मंत्री तक के भी इस के अन्दर नाम आते हैं। अभी चन्द दिन पहले उम तरफ बैठे हुए हमारे जो माननीय सदस्य हैं उनकी पार्टी के एक सदस्य ने कुछ मंत्रियों के ऊपर इस तरह के आरोप लगाये और उसका जवाब देने के लिये प्रधान मंत्री ने इस मदन को विश्वास दिलाया था कि जल्दी से जल्दी इसकी रिपोर्ट नी जायगी और सदन को इसकी सूचना दी जायगी। लेकिन देखते क्या है कि यह सब चीजें टालमटोल की जाती हैं और अष्टाचार को ऊपर से काटने की कोशिश नहीं की जाती है। मैं आपके जगह से कहना चाहता हूँ, मंत्री महोदय से अपील करना चाहता हूँ कि अगर आप सबसे अष्टाचार को समाप्त करना चाहते हैं तो आपको पहले ऊपर से इसकी शुरुआत करनी चाहिए क्योंकि जब तक ऊपर से शुरुआत नहीं होगी, ऊपर से निर्ममता के साथ इफ्तें निपटेंगे नहीं तब तक अष्टाचार नीचे तक जो फैला हुआ है उससे कारगर तरीके से, प्रभावकारी तरीके से लड़ा नहीं जा सकता है। लेकिन हम देखते क्या है कि जब कोई भी इस तरह की शिकायत ऊपर के लोगों, बड़े अफसरों या मंत्रियों के खिलाफ आती है तो उसे दबाने की कोशिश की जाती है, उसे टालने की कोशिश की जाती है। क्या किया यह बताते नहीं हैं। आज हम अष्टाचार के खिलाफ लड़ने के काबिल आने को नहीं पाते हैं क्योंकि हमारे अन्दर तरह तरह के रिश्ते, दोस्ती के रिश्ते, रिश्तेदारी के रिश्ते, कुनबापरस्ती के रिश्ते, यह सभी चीतरफा दबाव जो आते हैं उन दबावों के अन्दर हमारे हाथ और पैर बंध जाते हैं और वहाँ जिस कड़ाई के साथ, जिस निर्वन्धता के साथ कार्यवाही की जानी चाहिये

वह नहीं की जाती है। उलटे छिटपुट छोटी मोटी घटनायें नीचे के साधारण जो कर्मचारी हैं उनको पकड़ कर के कुछ छोटे मोटे मुकदमे हम इधर उधर चला देते हैं। हम आपसे कहना चाहते हैं कि अब अष्टाचार और सरकार की पूरी मशीनरी मिल कर एक बन गये हैं, ऐसी स्थिति में अब आपके पास उन के खिलाफ लड़ने के लिए क्या कोई अपनी मशीन है ? 20 साल के अन्दर आपने अष्टाचार को खत्म करने के लिये क्या कोई अपने साधन, कोई अपना ढांचा, अपना कोई संगठन बनाया है जो इस पूरी मशीनरी के साथ, जो कि अष्टाचार से अंतर्गत है, संघर्ष कर सके या जो माली बाग का चोर है, उसको ही बाग का रखवाला बनाना चाहते हैं। आज अष्टाचार इस तरह से व्याप्त है कि उसका मुकाबला करने के लिये आपके पास कोई साधन नहीं है, कोई मशीनरी नहीं है। जीवन के 20 साल निकल चुके हैं, इस में आप कुछ नहीं कर सके। जब आप इस बिल को यहां पेश करते हैं, तो उस पर अमल करने वाली आपकी जो मशीन है, वह खुद उस को असफल करने के लिये, उस को नाकामयाब करने के लिये पूरी ताकत से जुट जाती है, जिसमें बहुत से मंत्री भी शरीक हो जाते हैं। ऐसी हालत में मैं कहना चाहता हूँ कि आज अष्टाचार की जो स्थिति है उससे लड़ने के लिये, उम की बड़ों को काटने के लिए जरूरी है कि आप इस पर गम्भीरता से सोचें और एक ऐसा ढांचा, एक ऐसा संगठन, एक ऐसी शक्ति का अलग से निर्माण करें, उसको इस तरह से शिला-दीक्षा दें उस को इतनी शक्ति दें कि वह ढंग से नीचे से ऊपर तक फैले हुए अष्टाचार के साथ ताकत के साथ लड़ सके, उसके अन्दर अरोना पैदा किया जा सके। मैं निवेदन करना चाहता हूँ कि आप इस विषय पर गम्भीरता से देखने की कोशिश करें।

कब जो बहस हुई कि विदेशी पैसा आता है जो राजनीतिक पार्टियों पर प्रभाव डालने की कोशिश करता है—कितना यह अष्टाचार

[श्री सत्यनारायण सिन्हा]

बढ़ चुका है कहां तक पहुंच चुका है किस तरह से हमारे जीवन को कलुषित करने की कोशिश कर रहा है। अगर सचमुच इसको गम्भीरता से नहीं लिया गया और इसके खिलाफ सजीदगी के साथ उठने के लिये सब का कोभापरेशन नहीं लिया गया तो आपको मरुतना नहीं मिलेगी। मैं आपसे कहना चाहता हूँ कि यह केवल सरकारी समस्या ही नहीं है बल्कि यह एक राष्ट्रीय समस्या बन गई है। इन्होंने इस पूरे सदन को चर्चे विराधी पक्ष हो या सरकारी पक्ष हो मन को मिन कर बैठ कर सजीदगी के साथ विचार करना चाहिये और ऐसी कोई योजना बनानी चाहिये व्यापक और शक्तिशाली योजना, जिनके जरिये से आज हम एक व्यापक आन्दोलन नीति से ऊपर तक राष्ट्र के जीवन में चाने की कोशिश करें जनता के अन्दर विश्वास पैदा करें उस के नैतिक बल को ऊंचा उठाने की कोशिश करें। अगर इन तरह से उनको एक मजबूत, प्रभावशाली और व्यापक रूप दिया जायेगा, तब ही इस व्यापक रूप में फैले हुए भ्रष्टाचार की जड़ों को खम किया जा सकेगा। इसकी मुरूप्रात पहले ऊपर से होनी चाहिये, मंत्रियों से फिर बड़े बड़े प्रक्रमों से, उसके बाद नीचे आना चाहिये। इन तरह से मैं समझता हूँ हम एक कारगर तरीके से इसके खिलाफ लड़ सकेंगे और एक लम्बे समय तक सफल करके इस भ्रष्टाचार को जड़ों को काट कर निकाल कर फेंक सकेंगे।

श्री - स - सिन्हा (मुंबई) : उपाध्यक्ष महोदय, मैं इन बहस को स्थगित रखने का प्रस्ताव रखना चाहता हूँ—नियम 109 के अन्दर। इसका कारण यह है। मेरे ख्याल में कन श्री लोकाप्रभू ने यह प्रस्ताव उठाया था कि यह जा विधेयक हमारे सामने है—क्या इसमें मंत्रियों का भी नाम होना है? हमारे अजीज दोस्त शर्मा साहब ने भी कहा था—

“Ministers should be included within the scope of the Bill. The

Ministers should not be excluded from the Anti-Corruption Laws (Amendment) Bill”.

इसके ऊपर हमारे विद्वान मित्र मुक्ला जी ने कहा था कि इसमें मंत्रियों का भी समावेश होता है। अब इनके ज्ञान और विद्वता के बारे में मैं कुछ नहीं कहना चाहता, लेकिन बूकि आक्षेप उठाया गया है कि विधेयक की जो परिभाषा है—सांभजनिक सेवक पब्लिक सर्वेंट की—उस में मंत्री नहीं आते, इस लिये मैं चाहता हूँ कि इस वक्त इस बहस को स्थगित रखा जाय। कानून मंत्री से हम लोग जानकारी हासिल करें और अगर यही इनकी मशा है तो यह बात साफ तौर से इस बिल में धा जाये। अगर वे खुद इनमें समावेश ले कर आये तो मुझे कोई आपत्ति नहीं है लेकिन इस समय मफाई के लिये इसको स्थगित रखा जाये।

Mr. Deputy-Speaker: Yesterday this point was raised.

श्री - स - सिन्हा : लेकिन इस पर आपका कोई निर्णय नहीं हुआ था।

Mr. Deputy-Speaker: As I had stated then, when Mr. Lobo Prabhu, Shri S. N. Dwivedy and some other members also raised it, let the Minister clarify his position, and then I will give my ruling. I have not missed that point. That is a very important point. As I also mentioned, the Santhanam Committee had taken note of all this. So, I am going to give my ruling after his reply.

Shri K. Narayana Rao (Bofiti): Yesterday I asked for two minutes.

Mr. Deputy-Speaker: It was ruled by the Speaker, and we extended it by half an hour. On the third reading I will give you a couple of minutes, not now.

The Minister of State in the Ministry of Home Affairs (Shri Vidy Charan Shukla): I am very thankful to hon. Members who took part in this debate. I have nothing much to answer as far as this particular Bill is concerned, because none of the spea-

kers have opposed the provisions of this amending Bill. Every single speaker who spoke in this debate has supported the provisions of this Bill, but while discussing this Bill, certain other important matters came up, and I would try to satisfy the House on those matters.

As you very rightly said, the first important thing that must be clarified here is whether the Ministers of the Government are included in the definition of public servants or not. As a matter of fact, when this amending Bill was brought before the House in 1964, this matter was raised and a clarification was given by the Government, and I might invite the attention of the hon. Members to the judgment of the Supreme Court which was also referred to by Mr. Kanwar Lal Gupta. I would read out the relevant portion of this judgment so that the members can also get the benefit of this opinion. It says:

“Clause 9 of section 21 of the Indian Penal Code says that every officer in the service or pay of the Crown for the performance of any public duty is a public servant. The decision of the Privy Council in *India vs. Banerjee* is decisive to show that a Minister under the Government of India Act is an officer subordinate to the Governor. On the same reasoning there can be no doubt that a Minister of Vindhya Pradesh would be an officer of the State of Vindhya Pradesh.”

And this ruling we have taken as decisive in this matter. That is why the Law Ministry, while this matter was under discussion in this House in 1964, gave an opinion which is in the record of our proceedings, and I will read the relevant portion again. It says:

“Sec. 2 of the Prevention of Corruption Act provides that for the purposes of this Act, public servant means a public servant as defined in sec. 21 of the Indian

Penal Code. The Prevention of Corruption Act is, therefore, applicable to the Ministers who are public servants as defined in sec. 21 and can be prosecuted for criminals misconduct as defined in sec. 5(1) of the Prevention of Corruption Act.”

This was the view and the stand taken by the Government when this amending Bill was first brought before the House in 1964, and as the hon. House knows, according to article 141, I think, of the Constitution, the law as defined by the Supreme Court of India will be the law for the rest of the country. These things taken together leave no doubt in my mind that the Ministers are included, whether there is a clear provision in the Act or not in the definition of public servant as provided in this Act. And if there was any doubt in our mind, we would have definitely brought in a specific provision in the Act. If we were to hold that public servant shall include Ministers, if we bring a provision now, it would mean as if we disregard the judgment of the Supreme Court which lays down that the Ministers are included in public servant. As long as the Supreme Court view holds good that public servant includes Ministers, it would not be appropriate to include another clause and say that Ministers are also included. We have said so in 1964 and I am saying it categorically now that the Ministers are included in public servant as defined in the Indian Penal Code. There should be no doubt in the minds of the hon. Members that the Government is trying to avoid this issue. Nothing of that kind. We are very keen ourselves that nobody who holds a public office or handles public finances or has any public authority should be excluded from the purview of this Bill. We are not keen at all on that. I may assure the hon. Members that we have satisfied ourselves that the Ministers are included in this Bill and that is why I made a categorical statement on the floor of the House.

Mr. Deputy-Speaker: There is the judgment of the Supreme Court. Unless it is incorporated in the Act, has it the force of an Act?

Shri Vidya Charan Shukla: Yes.

श्री मधु लिमये : मैं इतना ही पूछना चाहता हूँ कि जो सम्बन्धित धारा है उस के नीचे क्या यह कोई स्पष्टीकरण नहीं जोड़ सकते जैसा कि कई कानूनों में होता है कि इसमें पब्लिक सर्वेंट की परिभाषा में मंत्रियों का भी शुमार होगा? इतना अगर जोड़ देंगे तो काम ही जायगा।

Shri R. D. Bhandare (Bombay Central): The Supreme Court judgment was based on an ordinance issued in 1949. The Ordinance had not been made a law and the Penal Code had not also been amended. The judgment is there. The 1949 Ordinance said in so many words that a minister, whether of State or of any other position or standing, was a public servant. That Ordinance has not ripened into law. The Indian Penal Code had not been modified to say that the minister is a public servant. The definition in the Prevention of Corruption Act says in simple language that a public servant is a person who is defined as such in the Indian Penal Code but the Penal Code had not been amended so as to include a minister in that definition and the Ordinance has lapsed. Therefore, so long as there is a specific, clear provision, engrated and incorporated in the Penal Code, a minister cannot be a public servant amenable under the Anti-corruption Act. That is the position.

Mr. Deputy-Speaker: A certain judgment is there. According to the judgment, there is no enactment. Will it still be the law of the land?

Shri Vidya Charan Shukla: The question posed is whether the judgment of the Supreme Court delivered in 1949 does not constitute the law of the land? I would refer to article to article 141.

श्री मधु लिमये : यह उनका कहना नहीं है। भण्डारे साहब का यह कहना है कि सुप्रीम कोर्ट का फैसला किसी आर्डिनंस पर प्राधरित है। सुप्रीम कोर्ट के फैसले कानून तो है लेकिन इस कानून के मातहत नहीं है।

Shri Vidya Charan Shukla: The The judgment of the Supreme Court might have been based on anything. But as long it has not been revised or reviewed by the Supreme Court itself, that judgment is a law by itself as defined in article 141 which says that the law declared by the Supreme Court shall be binding on all courts within the territory of India . . .

Shri Madhu Limaye: In relation to that Ordinance.

Shri Vidya Charan Shukla: There is no proviso or saving clause that after the Ordinance had lapsed, the judgment would not be binding.

Shri Dattatraya Kunte (Kolaba): Sir, I want to raise a point of order. However useful and important the discussion might be on any other occasion, it is not relevant to the Bill under discussion now. Any Member might have raised any point of order here, whether a Minister is covered by the definition of a public servant under the Indian Penal Code or not, and whether the original Act which is being amended by this Bill does cover any action of a Minister or not. But at this stage, the discussion that is taking place is on an amending Bill which only wants to cover all those pending cases about which the Government is in doubt, because of a certain decision of the Punjab High Court, whether under section 6 of the other Act all these cases are covered or not. (Interruption).

श्री मधु लिमये : मैंने बहुत को स्पष्टित करने का प्रस्ताव रखा है।

Mr. Deputy-Speaker: When we are having a discussion on this—

श्री मधु लिंगम : अब वह माननीय सदस्य टैकिंगल क्यों हो रहे हैं ? प्रश्न का जवाब आया है ।

Shri Dattatraya Kunte: Let me make it clear. I would ask for a ruling from you and I will abide by your ruling. I do not want to short-circuit a thing. We must go by a proper procedure, because it does not help anyone to short-circuit things; when we are discussing a small amending Bill, the whole vista of corruption and other things should not have crept in at all, because, the principle of a Bill cannot be discussed, or rather the principle of an Act cannot be discussed in an amending Bill unless it is being so raised. Therefore, at this stage, all this discussion, however useful and valuable it might be and whatever else it might be, to my mind, is out of order.

Shri S. Kundu (Balasore): In the course of this point of order, the hon. Minister has made a statement. The hon. Minister has said that the definition includes a Minister. The hon. Minister observed that the Supreme Court judgment has said that the definition of the public servant covers Ministers. I agree entirely. But that is not the question. The question is that the definition of a public servant as it is in the Indian Penal Code is left to the interpretation of the judges. Please try to follow my point; I want your sympathetic consideration. Another Bench of the Supreme Court will say that the Ministers are not covered by the definition of a public servant. So, as long as this judgment of the Supreme Court is there, it is definitely the law of the land. I do not deny that. The Supreme Court has pronounced its judgment based on an ordinance, interpreting this definition of public servant. And taking into consideration the various judgments, these considerations demand that this should be completely amended and an exclusive, direct provision should be made wherein there should

be no scope for any court to dilate, discuss and interpret and say that the Ministers are covered under the definition of a public servant or are not covered under the definition. Therefore, it is necessary, that a categorical pronouncement should be made here by the hon. Minister. I hope the hon. Minister understands it, and that he has understood what I have said.

Shri R. D. Bhandare: I am on article 141 which says that "The law declared by the Supreme Court shall be binding on all courts within the territory of India." That is the point raised by the hon. Minister. The Supreme Court based its judgment on an ordinance. When an ordinance ceases to be an ordinance, it ceases to be the law of the land. An ordinance can ripen into law provided the necessary and consequential amendments are incorporated in the Penal Code. It has not been done. Therefore, the Supreme Court's judgment is not binding and, therefore, evaporates along with the ordinance when it has not ripened into law. That is the position. I can understand that the law made by the Supreme Court judgments is known as judge-made law. We follow the law made by the legislative bodies. We also follow the judgment law or the case law. The case law was based on the interpretation of an ordinance and not of an Act. I could have appreciated the position if it had been based on a law made by the legislature. When the ordinance ceases to be a law, the case-law based on that ordinance ceases to be a judge-made law and, therefore, not binding.

Shri J. B. Kripalani (Guna): The Supreme Court judgment lasts as long as it is not revised subsequently by another judgment. Further, the intentions of those who legislate have no relevance in the interpretation of law. It is the words that are used in the law that have to be interpreted. It may be the minister's intention that ministers be included in public servants. But it is not his words that

[Shri J. B. Kripalani]

the courts would give any credence to. They will see what is mentioned in the law and there it is definitely mentioned that it is as defined in the Penal Code.

Shri Vidya Charan Ghukla: In case the Supreme Court in its wisdom revises its judgment or it is held that because the judgment was based on an ordinance, it will have no bearing on the law of the land, the Government will be prepared to bring in a provision specifically mentioning ministers. I can give that assurance to the House without any hesitation. From the same judgment, may I read the sentence previous to the one which I had just quoted? It says:

"It is true that the Ordinance No. 20 and 20 of 1949 amended the Indian Penal Code by substituting for the previous first clause of section 21 thereof relating to the definition of "public servants" the phrase "Every Minister of State". But it does not follow that a Minister of State was not a public servant as defined in section 21 of the Indian Penal Code even before this amendment."

It is clearly said that even before the Penal Code was amended, it did not mean that Ministers of State were not public servants. This particular ordinance has no relevance as far as this question is concerned. This should set at rest all doubts. I have added my assurance also that in case the Supreme Court revises its judgment and declares that ministers are not included in the definition of public servants, we would be willing to come before the House to amend the legislation putting the matter beyond any judicial doubt. But as it is, the Law Ministry has clearly advised us that the definition of public servants includes ministers and it would be superfluous to add that provision here.

The House must appreciate that we had issued the ordinance so that the cases against the corrupt persons should not be prejudiced and they

should not take advantage of the lacuna and be let loose by the court. If there is delay in passing this legislation in Parliament and if the ordinance lapses, all those people against whom corruption cases are going on will take advantage of it. Therefore, I would request the House to take the assurance I have given and pass the Bill immediately.

Shri D. C. Sharma (Gurdaspur): Sir, the lady protests too much. If the minister thinks that the Supreme Court has said like this that ministers are included in the category of public servants as defined in the Indian penal Code, if it is so obvious, why should he not accept it?, instead of going round and round the mill? Has any Minister, Deputy Minister or State Minister been prosecuted during all these twenty years?

Shri A. B. Vajpayee (Balrampur): No, not a single minister.

Shri D. C. Sharma: Then they think they belong to a sacrosanct class. Thirdly, I want to say that this Bill, whether it is amending or any other variety of Bill, is brought forward here to produce confidence in the minds of fifty crores of persons. If the points that are raised on the floor of this House are not incorporated in the Bill, if they are not made a part of the Bill I think the Bill is not going to serve the purpose for which it is being brought.

Shri H. N. Mukerjee (Calcutta North East): Sir, the Minister's attitude confuses the matter and gives rise to some misgivings about the real intentions of Government. I am going to give credit to him for saying that he is positive that ministers do come under the definition of 'public servants'. But when there is this confusion, to which Shri Bhandare has pointedly drawn the attention of the House, it has got to be cleared up. There is no gain saying that it was necessary for some people to go to court after an ordinance for an interpretation of the ordinance to get the

view of the Supreme Court. And now the ordinance is not in the picture at all. This is an opportunity of putting the matter substantively into the body of the law and to put the matter entirely beyond controversy. A supreme court judgment in relation to a particular ordinance which is no longer in the picture can hardly be looked upon as giving a judge-made law of a sort which would clear up the issue as not to incorporate in this Bill. Therefore, if the Minister is serious, and I believe he is serious the way he puts it up if he is serious about the Government's idea that ministers do definitely come under the ambit of this definition, we must have an assurance made doubly sure, and that is why the suggestion which he has made has got to be considered very carefully. He can easily take two hours time and come to the House a little later with little amendment. The whole thing would then be clarified and everybody would be satisfied.

श्री अटल बिहारी वाजपेयी : उपाध्यक्ष महोदय, मंत्री जी की बात मेरी समझ में नहीं आती कि यदि मंत्रियों को इस विधेयक के अन्तर्गत लाया गया तो इस विधेयक को पास करने में देर हीगी। देर क्यों हीगी? कम से कम में इसी बात पर चर्चा हो रही है कि मंत्रियों का इसमें समावेश हो या नहीं। अगर उनका समावेश इसमें कर दें तो इस विधेयक को पास करने में कोई कठिनाई नहीं होगी। अब मंत्री महोदय के पास एक घंटे का समय है वह अपने मंत्री महोदय से विचार विनिमय करके दो बजे जब सदन की बैठक हो तब अपना निर्णय बतला सकते हैं। हम जल्दी से जल्दी इस विधेयक को पास करने के लिये तैयार हैं।

Shri Vidya Charan Shukla: Sir, it is not a question of my taking one or two hours. I have very carefully considered the matter. We are absolutely convinced that this definition includes ministers. Our opinion is clear on this point. We want to include ministers in it. It is absolute-

ly not essential, unnecessary, to amend the Bill that is before us. If we had even one per cent doubt that this provision does not include the ministers definitely I would have had no objection in accepting the unanimous wish of the House. I am not trying to come in the way of the wish of the House which, in my opinion and in the opinion of legal experts, is absolutely unnecessary. 'Public servants' is defined in the Indian Penal Code. We cannot alter that definition by amending this Bill. It has to be done by an amendment to that Act. I would, therefore, request the House to vote this Bill. Then we shall see.

13 hrs.

Shri Joytirmoy Basu: (Diamond Harbour): There have been numerous cases of corruption and misuse of powers by Ministers. But, has there been even one single case of prosecution in a court of law? No Why? Because they do not want to bring the Ministers to book by holding inquiries. By this method they want to keep a loophole for the lawyers and the courts so that they can always escape. We do not want that to happen.

Mr. Deputy-Speaker: We will take this up again at 2 O'clock and then I will give my ruling. Now we will adjourn for lunch.

13.01 hrs.

The Lok Sabha then adjourned for Lunch till Fourteen o. the Clock.

The Lok Sabha re-assembled after Lunch at Fourteen of the Clock.

[MR. DEPUTY SPEAKER in the Chair]

Shri K. M. Koushik (Chanda): Mr. Deputy-Speaker, there appears to be a little confusion in the mind of the hon. Minister. He is confusing between judge made law and statute law. Judge made law is quite good so long as it is not upset by a different Bench or a bigger Bench. Therefore it can-

[Shri K. M. Koushik]

not be taken for granted that judge made law is good for ever.

Therefore, my humble submission is that the ruling relied on, will not give us the desired result and it is necessary to incorporate in the definition of "public servant" this particular classification of ministers also. Secondly, hon. Minister was referring to Article 141 of the Constitution. Article 141 of the Constitution only says that the rulings of the Supreme Court are binding on the subordinate courts. He forgets that one ruling of the Supreme Court does not bind the subsequent Bench of the same Court. There is no such ruling and, in fact, the ruling is to the contrary that one ruling of the Supreme Court does not bind a subsequent decision of the Supreme Court. Therefore, my submission is that incorporation of the words is absolutely necessary. Really speaking, the way in which the government is fighting shy of making this point clear by an express amendment, makes us apprehensive as to what is transpiring in their mind, as to whether they want Ministers to come into it or they do not want Ministers to come into it. This confusion should be cleared and the definition of the word 'public servant' must be made explicit to include 'Ministers'.

Shri A. N. Mulla: (Lucknow): Sir, I want to take a few minutes to say something about the legal points that arise here.

The first point which my friend, on my right, made was that the ruling cited by the Minister was not enough to warrant the conclusion that Ministers would be described as public servants when the issue came before a court of law. I am of the opinion that his contention is well-founded. I do not know in what context the Supreme Court made that observation, whether it is an *obiter dicta* or it is an actual decision. If it is an *obiter dicta* it has no binding value and when the real issue comes before the court, it may take a different

view. Therefore, I do not see what is the hesitation, if the intention is there and the Government wants to include Ministers amongst public servants, in adding a rider to the Act itself to include 'Ministers' in the definition of 'public servant'.

An hon. Member: This Act is governed by the Indian Penal Code.

Shri A. N. Mulla: Even in this Act, they can put a rider. They can say that for the purpose of this Act, the word 'public servant' includes 'Ministers'.

There is another point which was made by Mr. Vishwanathan about which nothing has been said so far. He asked whether legally it would be possible to give this Act a retrospective effect. I am sure there is no bar to this law taking retrospective effect because it is a matter of procedure, not a matter of substantive law, which is being amended. It is a well-established rule of law that where a procedure is being changed, and here only the procedure is being changed, it will have retrospective effect. So, once this law is passed, it will surely be applicable to all the previous cases. These are the two points which I wanted to make. If you want, I can place before you, within half an hour, English cases as well as Indian cases in which retrospective effect was given when there was a change in the procedure only.

Shri E. K. Nayanar (Palghat): Sir, I feel the definition of public servant must include 'Ministers' also. The hon. Minister has given an assurance only. The Ministers come and go.

Mr. Deputy Speaker: The hon. Member should remember that he has reiterated an assurance given by Mr. Hathi, his predecessor.

Shri E. K. Nayanar: Assurances are many. Statistics can be compiled of all the assurances given in the Third Lok Sabha. Many assurances are not taken into account. These assurances

are not enough. We want that this must be incorporated in the Act itself. 'Ministers' must be included in the definition of 'public servant'. That is what we want.

Shri K. Narayana Rao: One fundamental issue has been raised by Mr. Viswanatham and Shri Mulla has given the correct conclusion, though. I do not quite agree with his reasoning as such because Article 20 does not confine itself merely to a question of procedure or substantive law. But even assuming that his version is correct, this Bill more or less has a substantive aspect. This Bill has a substantive aspect in the sense that the possession of property disproportionate to known sources of income is an offence, this itself is an offence. Therefore, that reasoning does not hold good. But the correct analysis appears to me to be this. What does Article 20 say? It does not use the expression 'retrospective operation'. What it says is that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. What we are doing today is with reference to certain acts which were really crimes at that time: at the time the particular offences had been committed, this particular law was there, subsequently it was taken away but again it was restored to its previous place. Therefore, there is no question of attraction of Art. 20.

Coming to the question whether a Minister comes within the purview of 'public servant' within the meaning of Prevention of Corruption Acts, we have been discussing this since yesterday. My difficulty about the whole thing is two-fold: one is whether the judgment of the Supreme Court given in a particular context is binding for the understanding of prevention of corruption laws. My friend has suggested that an ordinan-

ce is no law. He is mistaken. The ordinance, so long as it exists, is no doubt a law. Even though that particular judgment of the Supreme Court does not relate to the Prevention of Corruption Act and also to the Indian Penal Code, the interpretation given deserves every respect—the interpretation of identical expression used in different Acts would normally be uniform. Assuming even that, the fundamental issue is this. What does it matter if we include Ministers in the Prevention of Corruption Act. If you look at it from the historical point of view, you will find that this Act was passed in 1947; this was done in a particular context and the context was that immediately after the War, there was the necessity to introduce control and the Government was very apprehensive that in view of controls, there would be greater possibilities for corruption; so with that limited objective, the Government did that. Possibly the Supreme Court and the Law Ministry might be technically correct in giving an extensive meaning to it. But it does not fit into the historical aspect of it. Can it be said that a Minister is the servant of the Crown? It cannot be. Wherever the Crown is mentioned, the interpretation is to interpolate the President of India. Even then, it is not historically speaking, correct because this is a political office. The Anti-Corruption Act was not designed to govern situations like this. So, my interpretation is that it should not cover Ministers.

What is the position? Can we bring it in this Amendment Bill? There are two difficulties. In this Amendment Bill, we are dealing with a particular provision. Unless we amend the Anti-Corruption Act, unless we amend it to include Ministers as 'public servants' in the Anti-Corruption Act and also in the Indian Penal Code, we cannot amend this particular Bill to cover that area.

The second difficulty is this. Even assuming that we can do it, does it

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mean much? I can say that it is most unrealistic and against the facts of political life. I say this for this reason. If you bring Ministers within the purview of 'public servants', can the existing machinery be useful? It will be definitely ineffective. Can a police officer search and investigate the house of a Minister? If you read the provisions of the Prevention of Corruption Act, a police officer of the status of Dy. S P. has to investigate. Can he do it? Even for a proper prosecution, the consent of the Government is required. What is the consent required in regard to a public servant under the Central Government? The consent required is of the Central Government. Here again, the expression used is that for an officer to be removed, the consent of the Central Government is required. Is the Minister removed by the Central Government? There, we would be faced with a real problem. The Ministers are appointed by the President and they hold office during the pleasure of the President. Therefore, the machinery required to deal with Ministers would be naturally at a very high level and not at the level contemplated by this Act. Of course, artificially and forcibly you may bring in the Ministers also within the scope of that machinery, but this machinery cannot work in the case of the Ministers. For them, you require a more effective machinery. So, you should have a different machinery to deal with the misconduct of not only Ministers, but other public officers including Members of Parliament.

Shri Sradhakar Supakar (Sambalpur): This Bill has very narrow scope. It seeks to validate the prosecutions with retrospective effect in those cases which were pending and which were declared to be invalid by the judgment of the High Court. It might have been necessary to include Ministers also within the definition only if the cases that are pending and which are sought to be validated included some of the Ministers. But

that not being so, I think it is not proper to include Ministers also within the scope of the definition in this Bill which has after all a very narrow scope. If it is necessary in any particular case, I would submit that it would be advisable to bring forward another Bill. But as far as I understand the present law, the definition of the term 'public servant' does include Ministers as well.

Shri Gajraj Singh Rao (Mahendragarh): As regards this controversy, I would submit that so far as the law is concerned, whether it is a question of interpretation of an Ordinance or even of any civil court judgment, the Supreme Court has held that a public servant as definition in section 21 of the IPC, even in a case of damages, for instance, does include a Minister. (Interruptions) To say that the Ordinance has lapsed is a laughable thing. It is a more laughable thing to say that because the Ordinance has lapsed, therefore, the definition has lapsed and further the interpretation of the Supreme Court has lapsed. The Supreme Court has clearly held that section 21 of the IPC defines the term 'public servant' and it does include a Minister and a Minister is also a public servant. If we have to extend this category, then we have to add several appendices so as to include BDOs, DFOs and so on, so that there may be no element of doubt at all. According to me, however, the present definition is adequate.

As regards the procedure, when a Member of Parliament or a Minister of the Central Government or a Minister of a State Government has to be proceeded against, the sanction of the higher authority has to be taken before any prosecution could be launched. (Interruptions) My hon. friend can go and talk at the Bar and see what they would think of this interpretation. The main crux of the problem is whether the ordinance has lapsed or not, and whether the ordinance would have any retrospective effect. It has been provided in this Bill that it shall be deemed to have been always there. I would submit

that this provision is of doubtful validity and this Bill is likely to come to naught if someone takes it to a court, because you cannot say that it is just a procedural thing. In the context of the whole thing, it is not a procedural thing. There is a substantive right to the accused in a certain prosecution and when these words were not there, at a certain time, he has had those rights and he has obtained those rights at that time you cannot now seek to deprive him of those rights by saying that these things shall be deemed always to have been there and thus extend the provision with retrospective effect over a period of hundred years. Such extension would be of doubtful validity.

I think the better course would be to withdraw the prosecution with the permission of the court and file a fresh case with fresh facts. Under the existing law, such withdrawal can be done with the permission of the court and with permission to bring in a fresh prosecution. That would have been the right and simple thing to do instead of this attempt to circumvent the whole thing as is now sought to be done by this Bill. I am afraid that this Act may have to be brought up again before the House some time later because according to me, this is of doubtful validity. If we pass an enactment like this, I am afraid that it may bring this House into ridicule.

It would have a demoralising effect that the guilty or corrupt person was not punished. Therefore, let them go into the legal position and then they would see whether it can be sustained that all the time it has been there and this should be taken to have been there. These are things which have been done either in a hurry or done simply to help them. That is the conclusion any ordinary person would come to.

The Deputy Minister in the Ministry of Law (Shri D. R. Chavan): I am sorry I was taken by surprise

when I was in the Central Hall and was told that some point of order has been raised.

The point for consideration is whether an amendment to the definition could be brought in as an amendment at this stage. My opinion that that is beyond the scope of the present Bill. In support of this submission, I would cite to you two decisions that have been given by your predecessor set out in Decisions from the Chair 1951-57, Nos. 42 and 43.

So far as the substance of the amendment is concerned as to whether the definition of public servant should include Ministers, my hon. colleague has stated that there are two decisions, one of the Supreme Court and another of the Privy Council, where it has been explicitly stated that the definition of 'public servant' includes 'Minister'. The decision of the Supreme Court is a judicial pronouncement, is the law of the land and binds all the courts in the country, binds everybody in the country, till that decision is, in another case where the issue is raised, revised subsequently. So long as that is not done, the original decision is binding on all. Under the circumstances, I personally feel that there is no necessity of amending the definition as suggested.

श्री: मधु निरये : उपाध्यक्ष महोदय, आपके निर्णय देने से पहले मैं मंत्री महोदय से यह कहना चाहता हूँ कि अगर इस बिज में नहीं जा सकता है तो क्या वे सदन को यह आश्वासन देने के लिये तैयार हैं कि इस तरह का स्पष्टीकरण किसी दूसरी मन्त्र में प्राये । सभी एक मृतपूर्व जज ने भी इस बात की तारीफ की है उस को भी आपको बजान देना चाहिये ।

Shri D. R. Chavan: Let me finish. I have stated that the judgment of the Supreme Court is a judicial pronouncement, is the law of the land and binding on everybody. Under the

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circumstances, there is no necessity for giving any assurance because it is already there, therefore, the amendment suggested by the hon. Member that it should be brought in by Government is beyond the scope of the Bill.

Mr. Deputy-Speaker: We have discussed this point for nearly an hour and we have done it from all angles. The main contention in the point raised by several Members is that an amendment may be made in the Bill to make it clear that the expression 'public servant' in the Prevention of Corruption Act includes Ministers.

There are two aspects. I will come later to the point that has been raised, whether the Minister is prepared to give an assurance. But as regards the main contention, sec. 2 of the Prevention of Corruption Act, 1947 provides that for the purposes of that Act, 'public servant' means a public servant as defined in sec. 21 of the Indian Penal Code. In order to achieve the object which the members have in view, we have to amend either section 2 of the Prevention of Corruption Act, 1957, or in the alternative, amend section 21 of the Indian Penal Code. The Bill before the House does not make any textual amendment in the Prevention of Corruption Act, 1947. It has a very limited scope. It does not also make any amendment in the Indian Penal Code. Thus, the amendment will not satisfy the test as to the admissibility of amendments laid down in rule 81, section 1, namely that an amendment shall be within the scope of the Bill and be related to the subject matter of the clause to which it relates. I need not cite, there are previous decisions. This disposes of so far as the question of immediate amendment is concerned.

There is another issue, and the Minister has given an assurance based on the Supreme Court decision. It has been argued, and rightly argued, that the Supreme Court decision or the judicial decisions are always law or

binding so long as they are there, but they are liable to be revised or reviewed by that Court.

In this connection, I would like to point out that before the Committee on the Prevention of Corruption, of which I happened to be a member, there was specific term of reference. It reads like this.

"to suggest changes in the law which would ensure speedy trial of cases of bribery, corruption, criminal misconduct and make the law otherwise more effective."

I do not want to enter into details. We have examined the whole historical process and the present social climate. I do not want to go into all that.

"Here section 21 defines public servant. Twelve categories of public servants have been mentioned, but the present definition requires to be enlarged."

This is the finding of the committee, and they have made a specific recommendation.

"It should also be made clear that all Ministers, Ministers of State, Deputy Ministers, Parliamentary Secretaries and members of local authorities come under the definition of public servant."

This is the recommendation, and that then actually we made a substantive recommendation, what we wanted to do:

We, therefore, recommend that section 21 of the Indian Penal Code may be amended as stated below.....

In that we have stated first, I am not reading the whole thing:

"Every Minister, including Ministers of State, Deputy Ministers, Parliamentary Secretary holding such office in the Union or State Government...."

Another issue was raised yesterday by Mr. Lobo Prabhu, we have also taken note of it.

"...every person who is a President, Secretary or other office-bearer of a member of the managing committee of a registered co-operative society....."

We have suggested a very comprehensive amendment. What I suggest is that in view of the assurance given by his predecessor as well as by Mr. Shukla.....

Shri R. D. Bhandare: That recommendation has not been accepted, and the Indian Penal Code has not been amended.

Mr. Deputy-Speaker: I have not finished.

Therefore, what I suggest is that, keeping in view the feelings expressed in this House and the climate of opinion in the country, it is for the Government, because assurances of the Government are not the law of the land, therefore it would be better sooner, in view of this, they come forward and amend the Indian Penal Code in a suitable manner.

श्री अटल बिहारी वाजपेयी : इन से कहलवाइये कि वः इसे माने है या नही ।

Mr. Deputy-Speaker: It is for them to decide, it is not for me.

श्री अटल बिहारी वाजपेयी : हम लोग यह मांग कर रहे हैं ।

Shri Vidya Charan Shukla: I have already assured the House that whenever necessary, at the appropriate time, such an amendment could be brought. We are not against that kind of thing at all. I have already stated, even before your ruling, this could be done, but at the appropriate time, and whenever necessary this

can be considered, we are not against it at all. I am thankful to you for clarifying this matter beyond all doubts. As far as the present Bill is concerned, this amendment does not lie. I would not dwell upon this point any more and in a few minutes I will deal with the other points. We were asked how many recommendations of the Santhanam Committee had been accepted? We have accepted all but eight out of the 137 recommendations; ten recommendations are under consideration of the government. Some raise doubts whether it will cover the lacuna which it seeks to cover. This point was very carefully examined and it was felt that this revival of presumption will not offend the constitutional requirement.

An hon. Member: Why did not the Government go in appeal to the Supreme Court against the Delhi High Court because section 6 was ignored?

Shri Vidya Charan Shukla: We thought there would be no use in appeal and that it would be much better to adopt this course so that the pending cases could be decided; it was better to issue an Ordinance rather than go in appeal. That is why we have amended this particular Act to cover this lacuna. So that no accused is prejudicially affected, we have made a provision that the accused will have a right to claim de novo trial from the stage at which the case stood on 18-2-1964. I hope and trust that this lacuna is completely covered and there would be no trouble in carrying on with the case which we have launched against corrupt people who are facing trial in various courts.

Many things were said about the general corruption prevailing in the country. I would only say that general talk about corruption does more harm than good. It is much better to concentrate attention on specific cases and try to correct them rather than indulge in wild and loose talk about

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such things. It is not in the national interest to do so. There are not many other points which have to be replied to and I would commend this Bill to the consideration of the House and I hope it will be passed unanimously.

Shri K. Lakkappa (Tumkur): One clarification, Sir. Just to avoid de novo trial, the amendment has been introduced. If the de novo trial has to be abolished by way of an amendment, how does it take away the effect of the Criminal procedure Code for trial of offences?

Shri Vidya Charan Shukla: We do not want to take away any effect. In case an accused feels that he did not lead in evidence or did not cross-examine a particular witness because this particular thing was absent which we want to incorporate in the law by this amendment, he can claim that the trial should begin from the stage at which it was on that particular date when this clause was inadvertently omitted. That is the only provision.

Mr. Deputy-Speaker: The question is

That the Bill further to amend the anti-corruption laws be taken into consideration "

The motion was adopted

Mr. Deputy-Speaker: We take up clause 2. There are some amendments by Mr. V. Krishnamoorthy. Is he here? He is not here. So, they are not moved.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill "

The motion was adopted.

Clause 2 was added to the Bill.
Clause 3 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clause 1, the Enacting formula and the Title stand part of the Bill."

The motion was adopted

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

Shri Vidya Charan Shukla: I move:

"That the Bill be passed."

श्री भबू लिखड़े : उपायक्ष महोदय, इस विधेयक का उद्देश्य मंत्री महोदय ने अपने लिखित बयान में साफ किया है कि वह कारगर कार्रवाई छष्ट लोगों के खिलाफ करना चाहते हैं। उन्होंने कहा कि साधारण बात करने से कोई फायदा नहीं। मैं भी मानता हूँ कि कोई निश्चित आरोप हो, कोई टोम आरोप हो प्रौर उसकी जांच की जाये। मंत्री महोदय की जानकारी के लिये मैं दो मामले रखना चाहता हूँ। एक मसला है पूना के म्युनिमिपल ट्राम्पोट मैनेजर का....

श्री विद्याचरण शुक्ल : इस का इस विधेयक में क्या सम्बन्ध है ?

श्री भबू लिखड़े : इसी में प्रायेण कैसे नहीं प्रायेण ?

Mr. Deputy-Speaker: At the last stage of the Bill, this is not permissible. I do not think it is permissible.

श्री भबू लिखड़े मैं नियम के अनुसार बोल रहा हूँ। प्राय नियम 114 देख लीजिये। यह इस में बिल्कुल आ सकता है। मैं संक्षिप्त बोलूंगा। प्राय समय निर्धारित कर सकते हैं। मुझे कोई एंजराज नहीं है। इस के बारे में आरोप था कि जो विदेशी सामान मगाया गया था उस के लिये उन्हें विदेशी मुद्रा दी गई थी, लाइसेंस दिया गया था। सी० बी० आई० की इन के बारे में रिपोर्ट है। उस सी० बी० आई० की रिपोर्ट के बावजूद कि फोर्न एक्सचेंज रेगुलेशन एक्ट प्रौर कस्टम्स ऐक्ट का जल्मकन हुआ है फिर भी उन्होंने इस के बारे में कोई कार्रवाई नहीं की। महाराष्ट्र सरकार इस का विरोध कर रही है। (शुक्ल) विदेशी मुद्रा का

उत्संघन और कस्टम कानून यह महाराष्ट्र सरकार के मातहत नहीं आते हैं, केन्द्रीय सरकार के अधिकार क्षेत्र के अन्दर आते हैं। इसी प्रकार पश्चिम बंगाल की जो भूतपूर्व सरकार भी उस के तीन मंत्रियों के मामले जो उन्हीं कानूनों के मातहत थे मैं ने यहाँ पर छोड़े थे, और मुझे आश्वासन दिया गया था कि विजय सिंह नाहर, ईश्वरलाल जालान और ना. कर के बारे में जांच की जायेगी। यह सब समझें आ चुका है। मैं कोई नई बात नहीं कह रहा हूँ

Shri Vidya Charan Shukla: Sir, it cannot be mentioned like this.

Mr. Deputy-Speaker: This is beyond the scope of the discussion. Rule 34 says as follows:

"The discussion on a motion that the Bill or the Bill as amended, as the case may be, be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill."

श्री मधु लिमबे मैं तो समझें कर रहा हूँ। मैं कहा विरोध कर रहा हूँ ?

Mr. Deputy-Speaker: It goes on to say:

"In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character."

So, the hon. Member's points are extraneous.

श्री मधु लिमबे : मैं बिल्कुल तफसील में नहीं जा रहा हूँ। मैं बिल्कुल नियम के अनुसार बात कह रहा हूँ। मैं तो समझें कर रहा हूँ बिना क्या। महारहास मैं कराने ही जा रहा था।

तो इस के बारे में भी सेंट्रल ऑफिस इन्वेस्टिगेशन ने जांच की है। उस की रिपोर्ट पर कोई कार्रवाई नहीं हुई है। मैं मंत्री महोदय से जानना चाहता हूँ कि क्यों उस पर कार्रवाई नहीं हुई। यह बिल कारगर कार्रवाई करने के लिए है, इस लिये मैं इस का समर्थन करता हूँ, लेकिन यह विधेयक मंजूर होने के पश्चात क्या मंत्री महोदय इस बात का आश्वासन देंगे कि पूना के ट्रांसपोर्ट मैनेजर के खिलाफ और बंगाल के भूतपूर्व मंत्रियों के खिलाफ, जिन्होंने सारे कानून तोड़े हैं और भ्रष्टाचार करवाया है, कोई ठोस कार्रवाई वह करेंगे, और साथ ही साथ सन्तानम कमटी की जो सिफारिशें हैं मंत्रियों के बारे में उनको कार्यान्वित करेंगे ? कई मुख्य मंत्रियों के खिलाफ आरोप लगाये गये, लेकिन दास कमिशन के अलावा, यानी प्रताप सिंह कैरो के मामले के अलावा, किसी भी मुख्य मंत्री के खिलाफ कोई कार्रवाई नहीं हुई। क्या मंत्री महोदय इस बात का आश्वासन देंगे कि इन दो मंत्रियों के बारे में भी जांच कमिशन बिठला कर उचित, और मजबूती से, कार्रवाई करने के बारे में कदम उठाए जायेंगे ?

Shri Vidya Charan Shukla: Sir, I only want to make some general observations. I feel sorry hon. members flout the rules of procedure of this House. He has flouted rule 35B which lays down how allegations can be made in the House. There is a certain procedure that has to be followed.

श्री मधु लिमबे मैंने कौन से नियम को तोड़ा है ? ये पुराने मामले हैं। नए नहीं हैं। इन पर मवाल जवाब भी हो चुके हैं। लोक सभा की कार्रवाई में यह आ चुका है

Shri Vidya Charan Shukla: If the business of the House is to be conducted in this manner, if members take the liberty to say whatever they like

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at whatever time they like, it will not be possible to do any useful work here. I submit in all humility that hon. members should be very careful in raising such matters. We do not mind replying to these things or dealing with them. But it should be done strictly according to the rules made for this purpose. If any case comes to our notice, we take appropriate action. We are not interested in whitewashing anything or not dealing with any matter. There is not one case which has come to our notice which we have not dealt with in an appropriate manner. I deny these allegations.

श्री मधु लिमये . मेरा प्वाइट ग्राफ़ घाबर है । इन्होंने नियम 353 का उल्लेख किया है । आप नियम को देखिये ।

"No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply."

ये कोई नए मामले नहीं हैं । जो पुरानी कार्रवाई है उसका उल्लेख करने का मुझे अधिकार है । मैंने इसके ऊपर सवाल दिए थे और आपने जवाब दिलवाये थे । यह सब लोक नभा ब.द-विवाद में है । इनके ऊपर आपने कोई सख्त कार्रवाई नहीं की है । इसीलिए यही मौका है. यही अवसर है कि मैं इनको उठा सकूँ

श्री रजवर्त सिंह (रोहतक) : पब्लिक सर्वेंट है ?

श्री मधु लिमये . हाँ पब्लिक सर्वेंट है । इस में लिखा हुआ है कि इन्कितब कार्रवाई के लिए यह बिल है ।

Mr. Deputy-Speaker: The hon. member raised this issue in the third Lok Sabha, not in the present Lok Sabha. Therefore, the minister has every right to say so.

श्री मधु लिमये : तो खत्म हो गया क्योंकि यह ? खत्म नहीं हुआ है । मैं नियम के अनुसार बोल रहा हूँ ।

Mr. Deputy-Speaker: The question is:

"That the Bill be passed".

The motion was adopted.

14.43 hrs.

PASSPORTS BILL

The Minister of Parliamentary Affairs and Communications (Dr. Ram Subhag Singh): Sir, on behalf of Shri Chaglia, I beg to move*

"That the Bill to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto, as passed by Rajya Sabha, be taken into consideration."

Mr. Deputy-Speaker: The motion that the Bill be taken into consideration has been moved in the absence of the Minister of External Affairs. Now that he has come, if he thinks it would facilitate the debate, he might say something.

The Minister of External Affairs (Shri M. C. Chaglia): I am sorry, Sir. I will explain the position.

I hope the measure I am asking the House to consider and pass is a non-controversial measure. It has been necessitated by a recent judgment of the Supreme Court, which held that every citizen of India had the fundamental right to get a passport. This judgment was based on article 21 of

* Moved with the recommendation of the President.