

**SHRI RANDHIR SINGH** : He has not been able to understand the Constitution.

**MR. CHAIRMAN** : Then, I am going to allow him.

**MR. CHAIRMAN** : I am not called upon to give any ruling, because no point of order was raised. The hon. Member wanted to make a submission and he has made it. Does the Law Minister want to say anything ?

**श्री राम सेवक यादव** : आपने कहा कि अखबार की खबर है। तो मन्त्री जी यहां बैठे हैं आप उन से जानकारी कर लें अगर वही एक कारण है तो।

**THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON)** : The report to which he has referred is not a correct report. The Cabinet did not discuss anything but certain politicians who happen to be members of the Cabinet may have discussed something.

14.13 hrs.

**LOKPAL AND LOKAYUKTA  
 BILL—(Contd.)**

**MR. CHAIRMAN** : I am not called upon to give any ruling. There is no point of order raised in the House. The hon. Member made some submissions. Some report appeared in the morning.....

**SHRI N. SREEKANTAN NAIR (Quilon)** : This is a very important Bill but in the form in which it has come, I am sorry to say that it is a sham make believe hypocritical attempt at controlling or curbing the improper activities of officials and Ministers. You know, Sir, that a controversy is raging in Kerala to which Shri Umanath had referred yesterday.

**SHRI RANDHIR SINGH** : He wants that something should come in the papers. His purpose has been served. Kindly do not allow irrelevant things to be discussed here.

The fact that this Bill excludes the Prime Minister gives an opening to the State Ministries to exclude the Chief Ministers, and the fact that it excludes Members of Parliament gives room for excluding MLA's also.

**MR. CHAIRMAN** : If the matter was so important and the hon. Member was so very serious about it, he could have given proper notice of it in the morning itself and asked for some discussion or debate on the matter so that other Members can express their views if it is such an important constitutional matter. Any way, the Chair is not called upon to give any verdict on it. After all, it is a newspaper report.

The entire trouble throughout the working of the administration is due to the MP's and MLA's who raise questions concerning their constituencies and the issues that they make out of them so much so that every Minister is hampered and victimised and every officer is victimised by the MP's and MLA's. We in the Opposition can shirk some of the unreasonable demands but the Congress Members are forced to do certain things and at times they are bribed to do certain things and they sit tight on the head of the Ministers or the officers and due to a lot of pressure they will be forced to do something wrong. Then, who suffers ? It is the poor officer who suffers. The secretary will send it to the under-secretary and the latter in turn will send it to the supervisory head and that poor man will suffer. This is a very unjust attitude that Government are taking. I would, therefore, request Government to accept the amendment seeking to include the Prime Minister also within the scope of this Bill. You know the saying that Caesar's wife must be above reproach. So also,

**श्री जार्ज फरेनेन्डोज** : इन पर बहस की जाय। आप बहस के लिये समय मुकर्रर कीजिये।

**MR. CHAIRMAN** : I am not prepared to give any time for discussion now.

**SHRI RAM SEWAK YADAV rose.**

**MR. CHAIRMAN** : Does the hon. Member want to say something on the same subject or some other subject ?

**श्री राम सेवक यादव (बागबंकी)** : आप ने कहा कि अखबार की खबर है...

[Shri N. Sreekantan Nair]

our Chief Ministers must be above reproof. So, if we include the Prime Minister, the Chief Ministers would also automatically come in. Similarly, if we include the MP's, the MLA's would automatically come in.

The most important question is the question of the political parties. I challenge Government and the hon. Minister to say, whether but for this accidental affairs in the case of the presidential election, any Prime Minister will or can refute the directive given by the Congress president. My party is a very small party, but I cannot refute the directive of my party. Our Minister in Kerala cannot refute the dictates of my party secretariat.

And I say that the same must be the case in your party also. So, these political parties which exercise their influence on Ministers and officials and compel them to do certain things for which they are not answerable should also be brought within the jurisdiction of the Lokpal. The office-bearers of political parties whether at the Central or State level or in the municipal or local administrative bodies must also be brought in. Otherwise, this Bill will have no meaning, and even the moral power which the Lokpal and Lokayuktas are endowed with will be taken away, and this measure would remain merely a sham hypo-critical measure.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : I thank the hon. Members who took part in the debate and I think that the hon. Members who participated had welcomed this Bill. They have given concrete suggestions, and they have made certain criticisms about certain clauses.

The main criticism has been regarding the provision which specifically excludes the Prime Minister from the purview of the Lokpal. While moving the Bill for consideration, I had given the reasons why we thought that it would be wrong and improper to put the Prime Minister under the purview of the Lokpal as far as vigilance matters are concerned. I would like to elaborate these very arguments. I would like to assure hon. Members that there is no politics and there are no political or individual considerations behind this move by Government. We are only interested in safeguarding the prerogatives and the normal constitutional functioning of Parliament and, therefore, we want that the Prime Minister should be included within the purview of the Lokpal.

SHRI N. SREEKANTAN NAIR : What about Chief Ministers ?

SHRI VIDYA CHARAN SHUKLA : I am coming to that. Shri P. K. Deo said that this exclusion was probably on the principle that the king could do no wrong.

I think he is labouring under a misunderstanding. Government's position is not that the Prime Minister cannot do any wrong. Our point is that the Prime Minister may be doing something wrong here or there ; any Prime Minister can do that, but the Lokpal is not the proper forum before which to agitate this matter. The proper forum to agitate this matter is this House.

SHRI P. K. DEO (Kalahandi) : But the ordinary citizen cannot have the privilege of coming to this House and raising those matters.

SHRI VIDYA CHARAN SHUKLA : I shall answer that point. As far as this particular matter is concerned, we are all representatives of the ordinary citizens and we know what our constituents say and we know what they are feeling. It is not necessary for every ordinary citizen to come to this House and agitate those matters. We are the Members here who are meant to reflect their opinions here. I am quite sure that the hon. Member opposite reflects the views of the common citizen as validity as I do.

SHRI P. K. DEO : But individual grievances cannot be discussed here, specifically. No individual citizen can come here and discuss these things.

SHRI VIDYA CHARAN SHUKLA : Let me develop my argument. Changing the government is a constitutional and political process which is the close and exclusive prerogative of this House. If due to a stricture passed by the Lokpal in a case against the Prime Minister, the Prime Minister goes, then he goes along with the entire Government, and if the entire government is to, however, omit a person may be, the

Lokpal cannot be given that right that this House has to change the government. It is not that the Prime Minister has to be kept over and above the Ministers due to any specific considerations. The Ministers are within the purview of the Lokpal, because when a Minister goes, there is no change in government. This political process of changing the government is a privilege exclusively belonging to this House; only this House can accomplish it.

Therefore, it is not possible for us to agree to this demand.

I can also meet the other point that the hon. Members made, namely, as to what happens if the enquiry is instituted. The mere fact of instituting an enquiry against the Prime Minister does not mean that the Prime Minister will go and the Government will change. But we know that the Prime Minister occupies a pivotal and very important position in the country. The very fact that the Lokpal is inclined or the Lokpal decides to enquire into the conduct of the personal integrity of the Prime Minister would itself mean that the Government headed by the Prime Minister will go. No Government whose head is corrupt or is supposed to be corrupt, and when an enquiry is going on there, will be able to continue or effectively rule the country. Even though that particular party or the Prime Minister may have a good majority in the House, in spite of that majority, just merely the decision of the Lokpal to institute an enquiry against the Prime Minister, and even though the enquiry later on may prove him to be completely innocent and completely non-guilty, even then, it will set in the process which will be completely contrary to the constitution requirements and the constitutional processes that we have evolved for ourselves.

**SHRI NAMBIAR (Tiruchirappalli) :**  
Then the Chief Minister also is included.

**SHRI VIDYA CHARAN SHUKLA :**  
As far as this particular matter is concerned, it does not concern the Chief Minister or the State Government, and I think the Members of Parliament should be jealous and should be very careful before they propose to bring a thing like this, and if they propose a thing like this they should know that they are taking away a definite part of the power of this hon. House and they are going to keep

it in the hands of a person, a functionary, who is going to be appointed by the Government.

As far as the question of competent authority is concerned, again there is so much of difference of opinion. Whereas several Members who spoke agreed on the question that the Prime Minister should be included under the purview of the Lokpal, there has been no agreement at all among the Members regarding who should be the competent authority to look into it. Some Members suggested that the President should be the competent authority. If they suggest that the President should be the competent authority, then, there again they are trying to contravene the provisions of our Constitution, because, according to the Constitution, the President has to act under the aid and advice of the Council of Ministers and the Prime Minister. He cannot take an independent position and he cannot act as the competent authority unless you change the very concept of the Presidentship in our Union. If the concept of Presidentship of the Union is completely changed and if he is given some executive authority, independent of the Members who are elected by the people, then, unless that is done, the President shall not be able to act as competent authority in the case of the Prime Minister. Therefore, I do not think there is any point in insisting that the Prime Minister should be included in the purview of the Lokpal. The Lokpal is not a constitutional dignitary; he is not going to be any dignitary appointed by this House or any other House or the Supreme Court of India. The Lokpal is going to be appointed by the Government and to put the head of the Government under the purview of the functionary like Lokpal would, in my opinion, be completely wrong.

**SHRI S. KANDAPPAN (Mettur) :** Will you kindly clarify this? The Lokpal is not appointed by the Government as far as the provisions of this Bill are concerned. The appointment is made by the President of India in consultation with the Chief Justice of the Supreme Court of India and the Leader of the Opposition. How can you say otherwise?

**SHRI VIDYA CHARAN SHUKLA :**  
The position is, the Government appoints

[Shri Vidya Charan Shukla]

the Lokpal in consultation with, or after consultation with—

SHRI S. KANDAPPAN : Then, we would not have supported this Bill.

SHRI VIDYA CHARAN SHUKLA : Let me amplify the position. I want to amplify this position. When this question of appointing the Lokpal comes in, the Prime Minister shall consult the Leader of the Opposition or a person who is nominated—

SHRI S. KANDAPPAN : The Prime Minister does not come into picture at all. It is the President. (Interruption.)

SHRI UMANATH (Pudukkottai) : The President consults the Chief Justice of India and the Leader of the Opposition; not the Government.

SHRI VIDYA CHARAN SHUKLA : What I am saying is that the President shall appoint the Lokpal, but when it is said that the President shall appoint, he will appoint him with the aid and advice of the Government.

SHRI UMANATH : that is a different point.

SHRI VIDYA CHARAN SHUKLA : That is the provision. The Chief Justice of India and the Leader of the Opposition shall be consulted in this matter.

This is the position. The President shall not be exercising the authority to appoint the Lokpal independent of the executive government. That is quite plain, because the President has no right to appoint anybody like that, without the advice of the Council of Ministers.

SHRI PILOO MODY (Godhra) : Does the President have the right to appoint his own khidmatgar or not ?

SHRI VIDYA CHARAN SHUKLA : No.

SHRI PILOO MODY : Sir, according to him, the President has no right to appoint even his own khidmatgar. Please put that on record.

SHRI VIDYA CHARAN SHUKLA : That is right. It is going on the record. Shri Piloo Mody need not be so agitated about that... (Interruption). You can raise it when the particular clause comes up for consideration and I will clarify it then.

श्री श्रीम प्रकाश त्यागी (मुरादाबाद) : प्वाइंट ऑफ ऑर्डर । अभी मिनिस्टर महोदय ने यह बात कही है कि प्रेजीडेंट कैबिनेट और प्रधान मंत्री की सलाह से ही लोकपाल की नियुक्ति करेगा । लेकिन अभी इस प्रकार का बिल नहीं आया है और पास भी नहीं हुआ है कि उस का इंटरप्रिटेशन इस प्रकार में हो । इस विषयक में लिखा हुआ है कि प्रेजीडेंट चीफ जस्टिस आफ इंडिया और अपोजीशन लीडर की सलाह से लोकपाल की नियुक्ति करेगा और और कुछ नहीं है । मंत्री महोदय का इंटरप्रिटेशन यह है कि बिना सरकार की सलाह के नियुक्ति नहीं कर सकता । वह गलत इंटरप्रिटेशन कर रहे हैं ।

MR. CHAIRMAN : There is no point of order.

श्री श्रीम प्रकाश त्यागी : इस बिल में ऐसा नहीं है, तब मिनिस्टर महोदय कैसे कहते हैं ?

MR. CHAIRMAN : The hon. Member has himself said that that is the interpretation given by the Minister. I cannot prevent the Minister from giving an interpretation. There is no point in his point of order.

SHRI VIDYA CHARAN SHUKLA : Certain hon. Members suggested their own way what they think would be proper for appointing the Lokpal. Here also there is a lot of difference of opinion.

Hon. Member, Shri Yogendra Sharma, was pleased to say that the Government wants to divide the Opposition; that is why they have put in a provision here saying that they will elect a Leader of the Opposition who will be consulted for this particular matter. That is not our intention. We do not want to divide the Opposition; we only want the Opposition to have at least one

occasion when they can agree and nominate a person who could be consulted by the President or the Prime Minister while they are considering the question of appointing a Lokpal. If he thinks that the Opposition cannot even get together to appoint a nominee who could be consulted, it is his own look out. We have faith that the Opposition parties can sometimes get together and nominate a person who could be consulted in this particular matter... *(Interruption)*.

SHRI P. K. DEO : Even the Congress Party cannot agree on its nominee for the Presidential election.

SHRI VIDYA CHARAN SHUKLA : I can assure him that that is not our intention. But there is no other way because no Opposition party here has the strength which will entitle their leader to be called the Leader of the Opposition here... *(Interruption)*.

Another suggestion that was made was that a parliamentary committee should be appointed to consider the Lokpal's report. No provision is made here for such a purpose because we think that it will not serve any useful purpose if a parliamentary committee is appointed; but in case the Parliament decides when the Lokpal's report comes before the House that it should be gone through by a committee of Parliament, Parliament can always appoint a committee to go through it. It need not have a particular provision in this Act because that will be the exclusive right of Parliament to appoint a committee to go into any report that it gets from any functionary.

Some hon. friends wanted to find out if the Governors or the Lieutenant-Governors are included in the purview of the Lokpal. The Lieutenant-Governors definitely are included in the purview because they function in Union territories and the functions of the Lokpal are about matters related to the Union Government. Governors are not included in his purview because they are a part of the State administration and not of the Union administration.

There was another point raised by the hon. Member, Shri P. K. Deo, regarding the employees of the public sector undertakings to be brought under the purview of Bill. I may point out to the hon. Member that when he moved his own Bill of Lokpal

and Lokayuktas, he did not include the employees of the public sector undertakings in that...

SHRI P. K. DEO : If you had come with such an amendment, I would have accepted it.

SHRI VIDYA CHARAN SHUKLA : Now, when he is speaking on the Government Bill, he has been pleading that they should be included here. Although he did not include the employees of the public sector undertakings in his own Bill, we have included the employees of the public sector undertakings. As far as matters of allegations are concerned, the public sector employees will be included under the purview of the Lokpal. But as far as matters of grievances are concerned, they shall not be included under the purview of the Lokpal.

Then, some hon. Members particularly, Shri Umanath, wanted that the retired Lokpal and Lokayuktas should not be allowed to take up any job. We agree with the view point that they should not take up any job after they retire. But under article 19 of the Constitution, it is impossible to put a total ban on anybody accepting employment after retirement. Even the Comptroller and Auditor General of India or the Chief Justice of India or other big functionaries of this country cannot be completely barred. You can put some reasonable restrictions here and there.

SHRI UMANATH : You amend the Constitution.

SHRI VIDYA CHARAN SHUKLA : We examined this matter. We agree with the view that when the Lokpal retires, he should not take up any commercial appointment. There is no difference of opinion as far as this particular view is concerned. But whether we can force it by law is the question. We examined this question, whether we can force him or tell him not to accept any commercial employment after the retirement, and we found it cannot be done. We cannot put a total ban on his employment after the retirement.

Again, Shri P. K. Deo suggested that the service conditions of the Lokpal and Lokayuktas should be the same as those of the Chief Justice of India and the Supreme Court judges. He knows, as far as the Lokpal

[Shri Vidya Charan Shukla]

is concerned, he is equated with the Chief Justice of the Supreme Court. But they have got different kinds of service conditions. The Lokpal is being appointed in a different way altogether. For instance, in the case of the Chief Justice of India, there is no fixed tenure of office whereas the Lokpal will have a fixed tenure of five years. The Chief Justice of India and the Supreme Court Judges retire at a particular age. But there is no retirement age prescribed for the Lokpal. The pension and other benefits to the Supreme Court judges will depend on the length of the service. As far as the Lokpal is concerned, there is no such thing because he has a fixed tenure of five years. I do not think there is any point in equating them in every way with the Chief Justice of India or the Judges of the Supreme Court. As we know, in salary and other matters, they have been equated with them.

Another small point raised by the hon. Member was that the Lokpal and the Lokayuktas should have their own investigating staff. We have made the provision for that and they will have their own staff to make investigations.

Certain other points were raised by the hon. Members. A few hon. Members pleaded that the retired judges of the Supreme Court or some retired judicial functionaries should be made the Lokpal and the Lokayuktas. We have had the benefit of evidence before the Joint Committee of legal luminaries and of those people who are very much respected in the legal field and they were almost unanimous in their opinion that none of the retired judges should be considered for the post of the Lokpal. I do not think we should restrict in the Bill anywhere the choice for the Lokpal. I do not say that the retired judges of the Supreme Court or of the High Courts would be excluded from consideration. They could also be considered along with many other eminent persons in the field. Therefore, it is not necessary to include any provision in the Bill of this type.

There was a demand that the Bill should be made applicable to the States also. I do not think that will be a proper procedure. The States can pass a legislation and adopt a Bill, making this particular Bill applicable for their own purposes. We welcome that.

But I do not think by our own legislation, we shall make this Bill applicable to States.

The last point is regarding the question of eradication of corruption. As far as this particular matter is concerned, by itself this is not meant to eradicate corruption or do anything like that. It is only going to provide an independent machinery for an impartial investigation. It is an independent machinery for impartial investigation that is sought to be created by this Bill, and we hope that, given proper condition and given proper co-operation from all sides of the House and all shades of public opinion, the Lokpal and the Lokayuktas will be able to discharge the functions which we have envisaged for them in this Bill.

As far as the matter of political controversy is concerned, I would say that the efficacy and the proper functioning of these offices, Lokpal and Lokayuktas, will depend entirely on how non-controversial and non-political these offices are. If these offices become involved in political controversy, then their efficacy and impartiality will come under doubt and their impact on the public life and on the attempt to eradicate corruption would be reduced to that extent. I would request the hon. members not to consider the matter from political point of view or from any point of view of controversy. Let us see how best we can make it an effective media where we can have an impartial and completely independent inquiry into any allegation that might be made against ministers or senior civil servants and see that everybody gets proper justice at the hands of Lokpal and Lokayuktas.

SHRI S. M. BANERJEE (Kanpur) : There is no minimum qualification for Lokpal ?

MR. CHAIRMAN : There are three amendments. Shall I put them together to the vote of the House ?

SHRI B. P. MANDAL (Madhipura) : So far as my amendment is concerned, recommending it to the Joint Committee, there are some points which have not been covered by the hon. Minister in his reply. I would first like the hon. Minister to clarify those points and then I will be in a position to decide whether I should withdraw

it or should insist on the amendment being put to the vote of the House.

My point was regarding the appointment of the Lokpal. The Minister has said, and there is a provision in the Bill, that the Lokpal will be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. My point was that the Lokpal should be kept above any political influence, whatsoever, either by the Prime Minister or by the Leader of the Opposition, and for that purpose, I have specifically stated that there should be a panel of three names, one to be given by the Chief Justice of India, another by the Speaker and the third by the Comptroller and Auditor General. What I want to say is that if the Prime Minister and the Leader of the Opposition are consulted, everything will not be allright....

MR. CHAIRMAN : At this stage, the hon. Member cannot make a another speech.

SHRI B. P. MANDAL : I am not making another speech. I only want this clarification from the hon. Minister. ...

SHRI VIDYA CHARAN SHUKLA : I have got the hon. Member's point....

SHRI B. P. MANDAL : I will just finish. Some sort of under-current is passing from that side to this side... (*Interruptions*) On a number of things the members on this side and the Government are quite at one ...

MR. CHAIRMAN : Please resume your s at

SHRI B. P. MANDAL : I only want the Minister to consider this point that the office of Lokpal should be kept free from any type of political influence whatsoever.

SHRI VIDYA CHARAN SHUKLA : The suggestion of Mr. Mandal was that there should be a panel of three names, one suggested by the Chief Justice, another by the Speaker and the third by the Comptroller and Auditor General and from out of these three names, one name should be selected for functioning as Lokpal.

This kind of a panel could not help because the incumbent of this office is going to be for a fixed tenure of 5 years and it is

not desirable to have frequent changes. You can have a panel and you can select out of the panel but one man has to be selected and that man has to be selected in consultation with the Chief Justice and the Leader of the Opposition and, therefore, we thought that it should not be proper to go into the panel system for selection. I touched upon this subject and I did not specifically mention this point the hon. Member has mentioned. I do not think it will improve the present scheme which is envisaged in the Bill.

MR. CHAIRMAN : Now I will put the amendments 131, 136 and 137 to the vote of the House.

*Amendments Nos. 131, 136 and 137 were put and negatived.*

MR. CHAIRMAN : Now the question is :

"That the Bill to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith, as reported by the Joint Committee, be taken into consideration."

*The motion was adopted.*

*Clause 2—(Definitions)*

SHRI BENI SHANKER SHARMA (Banka) : I beg to move :

Page 2,—

*after line 16, insert—*

"(iii) in the case of the Prime Minister President of India". (19)

Page 3,—

*after line 4, insert—*

"(i) every member of both the Houses of Parliament". (23)

SHRI P. K. DEO : I beg to move :

Page 2,—

*for lines 9 and 10,—substitute—*

"(iii) (a) is guilty of misappropriating or causing misappropriation of the State Funds with the intention of securing personal gains in his favour or in favour of any person in whom he is interested ;

[Shri P. K. Deo]

- (b) is guilty of wasting or causing waste of public money deliberately in order to further his personal interests or interest or persons in whom he is interested ;
- (c) causes loss or suffering to any person deliberately for the purpose of securing gain to himself or to any body in whom he is interested pecuniary or otherwise ;
- (d) acts against the law and the established rules of procedure deliberately in order to secure benefits to himself or persons in whom he is interested pecuniary or otherwise ;
- (e) abuses the power and jurisdiction vested in him as a public servant deliberately for the purpose of securing benefits to himself or any person in whom he has interest pecuniary or otherwise ;

Provided that a *bona fide* exercise of jurisdiction or powers discretionary or otherwise shall not form part of an allegation." (28)

Page 2, line 35,—

after "includes" insert—  
"Prime Minister and" (31)

SHRI RAMAVATAR SHASTRI (Patna):  
I beg to move :

Page 2, line 9,—

after "corruption" insert—  
"casteism and communalism". (38)

SHRI OM PRAKASH TYAGI (Moradabad) : I beg to move :

Page 2,—

after line 16, insert—  
"(iii) in case of the Prime Minister a Parliamentary Committee nominated by the Speaker of Lok Sabha or the President of India." (42)

Page 3,—

after line 12. insert—  
"(iita) State Governors and Lieutenant Governors." (45)

Page 3,—

after line 30, insert—  
"(e) any institution social or educational whatsoever aided by the Central Government." (46)

SHRI BENI SHANKER SHARMA : I beg to move :

Page 2, line 9,—

after "corruption", insert—  
"favouritism, nepotism." (50)

SHRI LOBO PRABHU (Udipi) : I beg to move :

Page 2, line 3,—

for "abused" substitute "used". (62)

Page 2, line 4,—

for "favour" substitute "advantage". (63)

Page 2, line 9,—

for "is" substitute "was". (64)

SHRI N. SREEKANTAN NAIR (Quilon) : I beg to move :

Page 3,—

after line 12, insert—  
"(iia) the President, the Secretary and every other member of the Committee of any unit of any Political Party that is installed in the Government at the Centre or in the States or in the Union territories either by itself or in coalition with other Political Parties." (65)

SHRI N. K. P. SALVE (Betul) : I beg to move :

Page 2, line 4,—

omit "undue" (86)

Page 2, line 7,—

after "interest" insert "undue" (87)

Page 2,—

for lines 9 and 10, substitute—  
"(iii) is guilty of corruption or lack of integrity or deliberate and wilful neglect of duty or act of omission in his capacity as such public servant." (88)



SHRI A. SREEDHARAN (Badagara) :  
I beg to move :

Page 2,—

after line 12, insert—

- |   |   |
|---|---|
| (i) in the cases of the<br>Prime Minister         | President of<br>India                   |
| (ii) in the case of<br>members of Lok<br>Sabha    | Speaker of<br>Lok Sabha                 |
| (iii) in the case of<br>Members of Rajya<br>Sabha | Chairman of<br>the Rajya<br>Sabha" (91) |

Page 3,—

after line 12, insert—

"(iiia) Members of Parliament" (95)

SHRI N. SREEKANTAN NAIR : I beg  
to move :

Page 2, line 8,—

add at the end—

"Partisan interest or" (100)

SHRI MAHANT DIGVIJAI NATH  
(Gorakhpur) : I beg to move :

Page 2,—

after line 16, insert—

- |   |  |
|---|--|
| "(iii) in the case of<br>Prime Minister | A Parliamentary<br>Committee repre-<br>senting all the<br>political Parties<br>in Lok Sabha ;" |
|---|--|
- (101)

Page 2, line 35,—

after "includes" insert "Deputy Prime  
Minister or" (103)

SHRI N. SREEKANTAN NAIR : I beg  
to move :

Page 2, line 35,—

add at the end—

"and includes the Prime Minister of  
India" (104)

SHRI MAHANT DIGVIJAI NATH : I  
beg to move :

Page 2, line 35,—

add at the end—

"and Parliamentary Secretary". (105)

SHRI N. SREEKANTAN NAIR : I beg  
to move :

Page 2, line 37,—

add at the end—

"and includes office-bearers of Political parties which are associated with the administration of any territory or local authority or any society and Members of Parliament." (106)

श्री यशपाल सिंह (देहरादून) : मैं प्रस्ताव  
करता हूँ :

धारा 2(ग) (i) में "या सचिव" को  
निकाला जाये । (113)

धारा 2(ग) (ii) में "अन्य" शब्द को  
निकाला जाये । (114)

धारा 2(ज) में "उप-मंत्री आता है" के  
स्थान पर "उप-मंत्री, संसद सचिव तथा  
मुख्य और उप-मुख्य सरकारी सचैतक  
आते हैं" रखे जायें । (115)

SHRI B. P. MANDAL : I beg to move :

Page 2, line 7,—

after "improper or" insert—

"discriminatory or" (118)

Page 2,—

for lines 13 to 16, substitute—

- |  |  |
|--|--|
| "(i) in the case of<br>Prime Minister                | The President of<br>India                                  |
| (ii) in the case of<br>Minister                      | The Prime Minister<br>of India                             |
| (iii) in the case of<br>Secretary                    | The Minister of<br>the Department or<br>the Prime Minister |
| (iv) in the case of<br>any other pub-<br>lic servant | such authority as<br>may be prescri-<br>bed ;" (119)       |

SHRI J. MOHAMED IMAM (Chitradurga) : I beg to move :

Page 2,—

after line 12, add—

"(i) in the case of the  
Prime Minister India." (138)

SHRI S. M. JOSHI (Poona) : I beg to  
move :

Page 2, line 9,—

after "integrity" insert—

"or favouritism based on communa-  
lism, or casteism." (143)

**SHRI ABDUL GHANI DAR (Gurgaon):**  
I beg to move :

Page 2, line 9,—

after "integrity" insert—

"or favouritism based on communalism, casteism, territorialism, linguism or based on partisanship" (145)

**SHRI RAMAVATAR SHASTRI :** I beg to move :

Page 2,—

after line 16, insert—

"(iii) in case of the Lok Sabha ;" (146)  
Prime Minister

**SHRI KANWAR LAL GUPTA (Delhi Sadar) :** I beg to move :

Page 2,—

after line 16, insert—

(iii) in the case of the Chief Justice of India ;" (6)  
Prime Minister

Page 2, lines 33 and 34,—

omit "(other than the Prime Minister)" (7)

Page 2, line 34,—

after "Council of Ministers," insert—  
"including the Prime Minister" (8)

**SHRI ABDUL GHANI DAR :** I beg to move :

Page 2,—

after line 16, insert—

"(iii) in the case a Parliamentary Committee nominated by the Minister Deputy Speaker representing different shades and views". (18)

Page 2, lines 34,—

after "Ministers" insert—

"including the Parliamentary Committee" (21)

Page 2, line 9,—

after "corruption," insert—

"nepotism and favouritism" (49)

**SHRI SRINIBAS MISRA (Cuttack) :** I beg to move :

Page 3,—

after line 30, insert—

"(e) any other institution, whether established by a statute or not,

which is under the supervision of the Government of India or of authorities established by law by Parliament, and receiving grants from the Central Government ;" (51)

**SHRI S. M. BANERJEE :** May I submit one thing ? Please extend the time at least by one hour. Mr. Lobo Prabhu himself will take half an hour.

**SHRI P. K. DEO (Kalahandi) :** If you kindly go through the Statement of Objects and Reasons of the Lokpal and Lokayuktas Bill as introduced, you will find that the object was to make a provision of a machinery which would examine public complaints and sift the genuine from the false or the untenable so that the administration's failures and achievements could be publicly viewed in their correct perspective. Such an institution was regarded necessary even from the point of view of affording protection to the services. The Commission, therefore, recommended that there should be a statutory machinery to enquire into the complaints alleging corruption injustice arising out of maladministration,

You will quite agree that their would be such instances even against the Prime Minister and I would like to reiterate the same argument which I advanced in the House yesterday and I must respectfully beg to submit that such allegations should be discussed in a dispassionate way in a quasi-judicial atmosphere. We envisage to have a Lokpal who will have adequate legal knowledge and a man of outstanding legal ability and integrity and he can assess, take evidence and take recourse to the various methods of enquiry, employ his own agency and come to a dispassionate finding. This is not possible in Lok Sabha. As you know, in Lok Sabha even our friends in the Treasury Benches talk in a different language at the time of elections but they do just the opposite afterwards.

It is because of the party pressures, it is because of the various party whips that the Lok Sabha functions here. We want a Lokpal who should be properly insulated against all political pressures and otherwise and matters even against the Prime Minister would only be discussed and probed into in a dispassionate way only if there is a quasi-judicial atmosphere which would be lacking

in the Lok Sabha here. The Lokpal is more or less a citizen's court. The citizen will not have an easy access to the Lok Sabha. Neither could the citizens place their grievances here however able be the representatives that they may have in their various Members of Parliament. Even the hon. Members of the Rajya Sabha have not got the privilege of bringing no-confidence motion against the Prime Minister.

Therefore, Sir, taking into consideration all these facts, I want that there should not be another privileged class. We have been often told of anachronism against the constitution, and we are often told regarding the privileges and privileged class. A least my hon. friend, the hon. Member from Udhampur who is a Member of the Cabinet would agree with me that we should not add another privileged class.

SHRI VIDYA CHARAN SHUKLA :  
Who is coming from Udhampur ?

SHRI P. K. DEO : The hon. Member,  
Dr. Karan Singh.

SHRI VIDYA CHARAN SHUKLA :  
He is not coming from Udhampur. The name of his constituency is Doda.

THE MINISTER OF TOURISM AND  
CIVIL AVIATION (DR. KARAN SINGH) :  
My constituency is Udhampur.

SHRI S. K. TAPURIAH (Pali) : The  
Minister does not know even the consti-  
tuency of his own colleague.

SHRI P. K. DEO : The hon. Member  
from Udhampur will bear me out, that we  
should not like to add another privileged  
class to the already existing privileged classes  
and put the Prime Minister in the galaxy.

So, with all respect, I beg to submit that  
it would be very unfair. We are talking of  
equality of law, we are often told about the  
constitution and the preamble ; but it is  
most unfair to exclude the Prime Minister or  
any personality, however high he or she  
may be from the operation of this Bill. If  
we are going to do that, we are opening an  
avenue for a dictatorship in this country.  
These are certain aspects which I would like  
to stress. And, I would like to press my  
amendment No. 39 standing in my name. In  
that regard the Prime Minister should be

included. The President of India should  
be the competent authority to whom the  
Lokpal will submit his report on the conduct  
of the Prime Minister after due probe.

SHRI S. M. BANERJEE : (Kanpur) :  
I rise to support amendments No. 38 and  
No. 39 moved by Shri Yogendra Sharma.  
Amendment No. 38 says :

Page 2, line 9,—

after "corruption" insert  
"casteism and communalism"

May I submit that in this country com-  
munalism is increasing every day ? With all  
its powers in its hands, the Government has  
not been able to crush communalism. There  
are certain political parties which survive  
only because of communalism. Casteism  
and communalism should be eschewed from  
politics. But this Government, with all its  
power, could not suppress communalism or  
casteism. I come from a State where there  
is no provincialism. Otherwise they would  
not have elected a Bengalee thrice. So, I  
appeal that this aspect should be examined.

Then, in page 2, lines 33 and 34, we  
want the omission of the words 'other than  
Prime Minister'. We had argued this point  
yesterday, and as my hon. friend Shri  
Yogendra Sharma has said, even the Prime  
Minister should come within the purview of  
this particular Bill. The Prime Minister of  
India should be Caesar's wife above sus-  
picion. Naturally, we want that if she or he  
indulges in any corrupt practice or in  
corruption, then the Lokpal should have the  
right to inquire, and the Prime Minister  
should come within his jurisdiction.

I hope that these two reasonable amend-  
ments will be acceptable to the hon.  
Minister. With these words, I commend my  
amendments for the acceptance of the  
House.

SHRI N. K. P. SALVE (Betul) : Clause  
2 (b) determines the scope of the allegations  
which can be made against a public servant.  
Therefore, one expected that the scope of  
the allegation would be couched in language  
of adequate amplitude because if it is not  
of adequate amplitude, then some very  
important allegations may not come within  
the purview of the term 'allegation'.

[Shri N. K. P. Slave]

On a perusal of clause 2 (b) I find that the allegations can only come if they are against a public servant about his being either corrupt or having lack of integrity or having caused undue harm or hardship to persons. Firstly, I would like to ask what undue harm is. Can there be some such thing as due harm? Therefore, I submit that this word 'undue' should be removed. Suppose a public servant indulges in some dereliction of duty or he neglects to do his duty or fails to do his duty, and accidentally supposing it does not cause undue harm then he would be completely outside the purview of this measure. I, therefore, submit for the consideration of this House that my amendment No. 88 which provides *inter alia* that deliberate and wilful neglect of duty or act of omission should also provide adequate cause or occasion for making an allegation should be accepted.

श्री श्रीम प्रकाश त्यागी (मुरादाबाद) : सभापति महोदय, शुक्ला जी ने बड़े अच्छे शब्दों में प्रधान मन्त्री को इस विधेयक के बाहर रखने की बात कही। मैं इस बिल का स्वागत करते हुए एक विशेष बात यह कहना चाहता हूँ कि प्रधान मन्त्री जी को इस बिल में से निकाल देने से विधेयक का जो लक्ष्य है वही समाप्त हो जायेगा। अभी भी एक प्रश्न इस देश में आ रहा है बड़ी बेचैनी के साथ में कि जितने राजा लोग हैं उनके प्रिविलेज समाप्त कर दिये जायें। और वह ठीक भी है, मैं उससे सहमत हूँ, सभी जनता समान रूप से इस देश में रहे, किसी भी आदमी को जनता के अधिकारों से ऊपर न रखा जाये। यह ठीक है। लेकिन जो बात दूसरों के लिए सोचते हैं वही अपने ऊपर भी लागू करनी चाहिए। आप ने जिस आधार पर प्रधान मन्त्री को इस विधेयक से निकालने की बात की है वह आधार सर्वथा गलत है क्यों कि आप ने इस बिल के द्वारा आफिसर्स में जितनी बेईमानी है, करप्शन है, उस को रोकने के लिए बात की है, लेकिन करप्शन और बेईमानी नीचे से ऊपर को नहीं चलती हैं, ऊपर से नीचे को चलती है। अगर राजा बेईमान नहीं

है तो प्रजा कभी बेईमान नहीं हो सकती। इसलिए राजा का ईमानदार होना और उसका चरित्र सन्देह से ऊपर होना परम आवश्यक है। अन्यथा राजा को देख कर प्रजा अपना आचरण बनाती है। जो राजा और मिनिस्टर्स चरित्रहीन हैं और भ्रष्टाचारी हैं वह कभी भी देश में चरित्र को सही लाइन पर नहीं ला सकते, वह कभी भी भ्रष्टाचार को दूर नहीं कर सकते। आप चाहें या न चाहें जो प्रभावशाली व्यक्ति और नेता या राजा होते हैं उनका जनता के आचरण पर प्रभाव पड़ता ही है। एक साधारण सा उदाहरण देना चाहता हूँ। आज जनता सिनेमा देखने जाती है। सिनेमा के ऐक्टर्स हैं, हमारे लड़के और लड़कियाँ भट उनका अनुकरण कर लेती हैं, दूसरे दिन वही नये फैशन निकाल कर खड़े हो जाते हैं जो कि उन के देवता ऐक्टर्स और ऐक्ट्रेसज अपनाते हैं। इसी प्रकार से एक देश का राजा कैसा पहनता है, कैसे उठता है, कैसे बैठता है, कैसे हंसता है, उसका आचरण क्या है उसका अक्षर आप चाहें या न चाहें जनता पर पड़ता है। इसलिए प्रधान मन्त्री जी को छोड़ने के बाद इस बिल की कोई कीमत नहीं रह जाती है। आप अगर यह कहें कि उनका आचरण ऐसा नहीं होता तो बड़े दुख के साथ कहना पड़ता है आज स्वर्गीय डा० राम मनोहर लोहिया इस लोक सभा में नहीं हैं, उन्होंने बहुत बार इस लोक सभा में इशारा किया था। अध्यक्ष महोदय, एक प्रधान मन्त्री स्वयं आचरणहीन और भ्रष्टाचारी न होते हुए भी अगर भ्रष्टाचारी को आश्रय देता है तो वह भ्रष्टाचारी की लाइन में आकर खड़ा हो जाता है। इस देश में इस तरह के उदाहरण हैं—यहाँ प्रताप सिंह कैरो की बात आई, धर्म तेजा की बात आई, बीजू पटनायक की बात आई और प्रधान मन्त्री जी ठीक हैं, उनके ऊपर किसी ने भ्रष्टाचारी होने का आरोप नहीं लगाया लेकिन यह भी ठीक है कि उन्होंने भ्रष्टाचारी को आश्रय दिया, भ्रष्टाचारी को

न्याय के कटघरे में खड़े होने से रोका। उस के कारण बहुत से हो सकते हैं। लेकिन भ्रष्टाचारियों को, चोरों को और करप्ट लोगों को अगर इस तरह से बचाया जायेगा, ठीक नहीं है। लेकिन अगर प्रधान मन्त्री को रोका नहीं जायेगा और उनकी जांच करने का मौका नहीं दिया जायेगा तो यह विधेयक चलेगा नहीं। आप ने कहा कि अगर प्रधान मन्त्री भ्रष्टाचारी साबित हो गया तब तो सारी गवर्नमेंट ही फेल हो जायेगी। ऐसे भ्रष्टाचारी प्रधान मन्त्री के रहते हुए अगर गवर्नमेंट एक दिन में फेल होती है तो एक सेकेंड में फेल हो जानी चाहिए। ऐसी गवर्नमेंट तुरन्त खत्म होनी चाहिए। मैं समझता हूँ कि जिस प्रधान मन्त्री के ऊपर भ्रष्टाचार का आरोप लगे उस कानून में यह चीज रक्खिये कि पार्टी के लोगों को तुरन्त दूसरा नेता चुनना चाहिए तब तक के लिए जब तक कि वह उन केसेज से बरी न हो जाये। लेकिन इस ख्याल से कि गवर्नमेंट कहीं फेल न हो जाये इसलिए प्रधान मन्त्री की जांच नहीं करेंगे यह बात बिलकुल गलत है। आप ने दलील क्या दी है कि लोकपाल प्रधान मन्त्री की जांच कैसे कर सकता है और मंत्रियों की जांच कर सकता है, प्रधान मन्त्री की कैसे कर सकता है? लेकिन मैं कहना हूँ कि प्रधान मन्त्री की जांच प्रधान मन्त्री होने के नाते ही अवश्य होनी चाहिए। फिर यहां सब पार्लियामेंट के मेम्बर एक समान हैं, सब लोग चुनकर आये हैं, सब की स्थिति एक समान है। अगर एक पार्लियामेंट के मेम्बर की, एक मिनिस्टर की जांच हो सकती है तो प्रधान मन्त्री की भी हो सकती है। गवर्नर्स को भी इस विधेयक में से निकाल दिया है। मैं समझता हूँ कि प्रधान मन्त्री को आप ने निकाल दिया, गवर्नर्स को निकाल दिया, बस बेचारे चपरामियों की पिटाई कराइये, बलक को बरखास्त करिये, यही काम रह जायेगा। जो विंग गन्स है, मिनिस्टर, प्राइम मिनिस्टर, चाफ मिनिस्टर और गवर्नर्स उनको आप इसमें रखने के लिए तैयार नहीं हैं। इसी हाउस में कई बार प्रश्न आया है। मैं किसी का नाम

नहीं लेता हूँ। गवर्नर के प्राचरण पर यहां सन्देश किया गया है जिन्होंने कांस्टीट्यूशन को ताक पर रख कर प्राविसेज में गलत प्राचरण किया है। अगर गवर्नर किसी प्राक्सिस में पार्टी के आधार पर या जैसा अभी कहा गया कम्यून-लिज्म या कांस्टीज्म के आधार पर काम करते हैं तो वह बिलकुल गलत है। गवर्नर और कुछ ऐसे पद हैं जो पार्टी से ऊपर माने जाते हैं। आप का पद पार्टी से बहुत ऊपर की जगह है। जिस दिन स्पीकर का चुनाव हुआ पहले ही दिन उमने यह कहा कि मैं पार्टी से त्यागपत्र देता हूँ। अगर उस कुर्सी पर बैठ कर कोई पार्टी का ख्याल करके निर्णय दे तो न्याय कहीं रह जायेगा इस सदन में? इसी तरह अगर गवर्नर पार्टी की बेसिस पर काम करने लगे जैसे राजस्थान में बंगाल में और दूसरी स्टेट्स में हुआ तो उन के प्राचरणों को कौन देखेगा? उन के प्राचरणों की जांच करने वाला कौन है? इस विधेयक में तो उसके बारे में कुछ भी नहीं है। उसको निकाल दिया इस में से आप ने। यानी बीमारी की जो जड़ है उसको तो छोड़ दिया और पत्तों पर पानी छिड़कने की कोशिश की है। इस तरह से पेड़ हरा नहीं होगा। आपने यह दिया है कि कैसे कैम जांच करेंगे, उस में और सब चीज तो ठीक ठीक ले ली है लेकिन एक चीज को छोड़ा है वही जिस की तरफ मैंने इशारा किया। अध्यक्ष महोदय, आप जानते हैं कि जब आदमी चुनाव में हार जाता है और दुर्भाग्य से या सोभाग्य से उस की पार्टी पावर में आ गई और उसने गवर्नमेंट बना ली तो हारे हुए आदमी को गवर्नर, एम्बेडर बनाकर भेज देते हैं और एक और रूप होल है कि कोई संस्था बनाकर खड़ी कर दी जाती है जिस का नाम पर सरकार में, लाखों रुपया सहायता ले ली जाती है और फिर उसका घुटाना कर दिया जात है। इस प्रकार की इंस्टीट्यूशनस हैं, गवर्नमेंट का लाखों करोड़ों रुपया उन इंस्टीट्यूशनस को यहां से दिया जाता है, वे उसको डकार जाते हैं, हजम कर जाते हैं लेकिन उनकी जांच करने वाला कोई नहीं है। गवर्नमेंट का

[श्री श्याम प्रकाश त्यागी]

करोड़ों, लाखों रुपया इन संस्थाओं को जा रहा है जोकि गवर्नमेंट एडेड हैं, अगर उनकी जांच नहीं हो सकेगी तो यह एक बहुत बड़ा खूबहोल रह जायेगा और फिर उससे इस देश का कर-पान रुकेगा नहीं। करपान चाहे सरकारी क्षेत्र में हो, सामाजिक क्षेत्र में हो या किसी लेबिल पर हो, मिनिस्टर लेबिल पर, सभी जगह उसको रोकने की कोशिश करनी चाहिए। तो मेरा यह सुझाव है, मैं पुनः प्रार्थना करता हूँ कि प्रधान मन्त्री को भी इसमें लाइये, पार्लियामेंट के मेम्बर्स को लाइये, गवर्नर्स को लाइये और जो गवर्नमेंट की एडेड संस्थायें हैं जिसमें खास तौर से पड़यंत्र के साथ गवर्नमेंट के लाखों करोड़ों रुपये का दुरुपयोग किया जाता है, उनको भी इसके दायरे में लाकर खड़ा करिये ताकि लोकपाल उनकी भी जांच कर सके। इन शब्दों के साथ मैं अपने विचारों को विराम देता हूँ।

15.00 hrs.

SHRI UMANATH (Pudukkottai) : I support the amendment to include the office of the Prime Minister within the purview of this Bill. The latest argument against this amendment brought forward by the hon. Minister is that if charges are preferred to the Lokpal, though the Government has got a majority here, automatically though the Prime Minister need not step down, still the Government will have no moral authority to continue—so long as the charges are pending. In that case, the Government will go.

My point is this : let us work out the other alternative. They do not include the Prime Minister within the definition. But serious charges of corruption are brought on the floor of the House against the Prime Minister with certain evidence. A discussion is held on the floor of the House. All this gets through to the entire country through the press. Ultimately, the majority, the ruling party, vote it down and protect the Prime Minister. From the point of the parliamentary position, the Parliament has cleared the Prime Minister. But what all evidence is adduced here lingers in the mind of the people very deep. That means there will be a deep layer of dirt so far as the

Prime Minister is concerned, once, twice and thrice. Yet the Government will function. Is that a desirable state of affairs ?

So my argument is this : I do not say that the Government need step down if a charge is preferred to the Lokpal against the Prime Minister. But if the Government can function with moral authority despite charges being brought on the floor of the House against the Prime Minister, with all the dirt attaching to the Prime Minister, how is it not possible for him to continue if charges are preferred to the Lokpal ? I do not understand this argument at all. I am dealing with this on his own argument. So I hold that his argument, the latest one, does not stand the test of logic. Therefore, I lend my support to this amendment.

Secondly, the judiciary also must be brought within the purview of the Bill. The Santhanam Committee has made a very positive statement. They have stated that they got information from responsible officials of the Vigilance Commission as well as staff organisations that corruption has entered not only the lower ranks of the judiciary but even the higher strata. This has been stated by the Committee which went into the question. That being so, why should they be let off ? What is the sanctity about them ? Corruption is corruption, whether it relates to a judge or an ordinary civilian. As a matter of fact, if a judge is open to corruption, it is all the more serious as in his hands hangs the lives of so many people.

SHRI N. K. P. SALVE : There is the Judges Inquiry Act.

SHRI UMANATH : Why not here also ? If ordinary citizens can come under this, why should judges be excluded ?

We know the latest instance, of *ex-Chief Justice B. P. Sinha*. After his retirement, he got into the employ of Mundhras and from there he tried his level best to use his influence for helping Mundhras to get away with Rs. 1 crore tax which should have been paid.

That is what Mr. B. P. Sinha did and Justice Mukerjee has remarked on this.

SHRI LOBO PRABHU : This is objected to under rule 353. No notice has been given

to the Minister or the Speaker about a personal allegation.

**SHRI UMANATH :** I am referring to the observation made by Justice Mukerjee, a High Court Judge, that Mr. B. P. Sinha being in the employ of Mr. Mundhras used his good offices to see that Rs. 1 crore due to the Government was not paid... (*Interruptions*). If an *ex-Chief Justice* gets into the employment of big business group after his retirement, naturally even while in service he must be having an eye on some big business group for his future living after retirement. So, it is not only the finding of the Santhanam Committee. This instance makes it clear. This is a serious matter. There should be no exemption of the judiciary; they must also be brought within the purview of this Bill.

**SHRI LOBO PRABHU (Udipi) :** We must fashion an instrument which will be effective... (*Interruptions*). This Bill has been bodily lifted out of context of the British Parliamentary Commissioner's Bill. Sections after sections of that Act are reproduced. We have to enquire whether this Bill is going to secure expeditious disposal of complaints. I should like the House to note that the procedure is so protracted. It begins with a complaint to Lokpal. He sees it and sends for the reply of the accused public servant or the competent authority. They reply at their own choice; there is no time limit fixed. When it comes back he has to decide whether an investigation has to be made. After that he has to decide for himself what particular procedure should be adopted because no procedure has been prescribed. Having made the investigation he again proceeds to the second stage and when the replies of the concerned persons come within three months—three months period has been specified—he will again examine what action should be taken. He may make a reference to the President and the President will then prepare an explanatory memorandum and send the matter to Parliament. It says nothing as to what will happen in Parliament. In the British proceedings, in Parliament there is a Select Committee. It will take not less than three years for any single complaint to take its course through this procedure. Is it the intention of this House to bring the cat out

of the bag while everybody forgets the complaint and even Members of Parliament may have changed? Even in criminal cases the accused is present and is enabled to make his cross-examination.

So, I suggest that this procedure is entirely wrong. It is going to give shelter to the delinquent Ministers and the delinquent officers: a shelter of time that they will take, and everybody will forget in the course of three years what is going to happen. I would like the Minister to say where is this procedure going to lead to, except to protect these people.

The second thing, about secrecy.—Sir, may I have the attention of the Minister? It is not very good to indulge in conversation which can wait for sometime, when a Member is speaking. About the provision of secrecy—well, I would stop, till the Minister pays attention. Sir, you will have to call him to order.

**SHRI VIDYA CHARAN SHUKLA :** I am listening to him.

**SHRI RANDHIR SINGH (Rohtak) :** Sir, he is behaving like a teacher.

**SHRI LOBO PRABHU :** Who is he to say so? He is a courtier of the Minister. Let him take care of the Prime Minister. It is shameful. Courtier, sit down.

**SHRI P. K. DEO :** Is he a super-Speaker?

**SHRI RANDHIR SINGH :** Sir, that is too much. I respect the hon. Member, but he must behave.

**MR. CHAIRMAN :** Order, order. Please address the Chair.

**SHRI LOBO PRABHU :** I will address the Chair, but do not allow those people to interrupt the proceedings of the House. He is in the habit of interrupting. Some disciplinary action against him will probably increase the reputation of this House. I suggest you do it.

**SHRI RANDHIR SINGH :** That should be applicable to him also.

**MR. CHAIRMAN :** You are also sometimes in the habit of interrupting others.

**SHRI LOBO PRABHU :** I am not in the habit of interrupting others in this way. But I have every right to draw your attention to the point that the Minister has to pay attention to what is said by the Members in the House.

**MR. CHAIRMAN :** The Minister has heard your remarks.

**SHRI LOBO PRABHU :** He was not hearing me.

**MR. CHAIRMAN :** It is taken for granted that the Minister has heard everything that is said in the House.

**SHRI LOBO PRABHU :** One might hear with one ear and pass it away through the other ear. I hope the Minister does not do it.

**SHRI C. K. BHATTACHARYYA (Raiganj) :** Sir, in this particular case, the hon. Member interrupted himself; by transferring his attention from the chair to the Minister.

**SHRI LOBO PRABHU :** Coming from such a learned Member, these remarks must surprise him, more than they surprise me. Anybody can interrupt anything if that is his wisecrack.

**MR. CHAIRMAN :** Order, order. Please proceed; we have very little time at our disposal.

**SHRI LOBO PRABHU :** The question arises whether with this procedure we are going to reach anywhere. There is further this very grave defect in this procedure; that the President who represents the executive is made to be the final authority in this case of each complaint. He is to send the complaint with an explanatory memorandum; that complaint is not going to be prepared by the President but it is going to be prepared by the very department which has defended the delinquent Minister or the Secretary. The whole thing is a fraud; the whole thing is a farce. The Bill attempts only to divert a proper enquiry into the misdeeds of Ministers. We have been deluded because of the length of this Bill which no one has read. I think many have not attempted to read it. We have been deluded

that something is being done; we find that something is being done to give further protection to these dishonest Ministers and Secretaries. If you want anything to be done, declare a Minister as a public servant also under the Criminal Procedure Code. If he is declared a public servant under the Criminal Procedure Code, as the same Minister of State assured me two years ago, the Minister will face a proper probe at the instance of anyone who finds that he has committed an offence. That is the only thing that we want. We do not want this Lokpal, this procedure of freezing, of putting into cold storage the complaint against a Minister.

**SHRI K. LAKKAPPA (Tumkur) :** Sir, the Prime Minister, the Chief Ministers of all States, MPs and MLAs of all political parties should also come within the purview of this Bill; otherwise no purpose will be served by passing such a legislation in this august House. I come from a State where during the last 10 to 15 years corruption has entered the minds of people and also the administration of the country. If the Prime Minister is not included in it, the Chief Ministers who commit all mischief, corrupt practices, nepotism and favouritism, will not be brought within the purview of the Lokpal. You carry a charge-sheet from 2,500 miles to Delhi and the Prime Minister either will scuttle it or, if the Prime Minister wants to favour a particular Chief Minister, no inquiry will be held. There are specific instances and I would like to quote some. Thirty responsible legislators of Mysore State, including some Members of Parliament—10 Congress legislators were also there among them—submitted a memorandum.

**SHRI UMANATH :** Against whom?

**SHRI K. LAKKAPPA (Tumkur) :** I do not want to mention anybody's name. We brought forward a charge-sheet against the Chief Minister in the year 1962 and the present Chief Minister of Mysore State. The charge against the Chief Minister of Mysore State is that he and the President of the Congress have taken Rs. 4 crores from the CIA. (*Interruption.*)

**SHRI VIDYA CHARAN SHUKLA :** On a point of order, Sir. The hon. Member is trying to mention a charge against the



present Chief Minister of a State. There is a Legislature in that State and that Legislature is completely competent to go into the charges against the Chief Minister. In the Union Parliament such charges against a Chief Minister cannot be raised.

SHRI KANWAR LAL GUPTA : Why not ? We have been discussing it.

SHRI UMANATH : It can be raised.

SHRI VIDYA CHARAN SHUKLA : That is my point of order.

MR. CHAIRMAN : I request hon. Members not to go into the details of any allegations in this House as far as Chief Ministers and others in the States are concerned. Of course, one cannot be asked to refrain from making references like the one that a charge against a Chief Minister was made by Members or that a memorandum was presented to the President. Such a reference can be made. I am quite happy that Shri Lakkappa himself has said that he is not going to refer to specific names. That is very good.

SHRI VIDYA CHARAN SHUKLA : He said about the present Chief Minister of Mysore and all that. According to our Rules of Procedure, without notice such things cannot be raised.

MR. CHAIRMAN : He need not go into the details of the charges. We do not have the time for it ; nor is this the occasion for it. Proper notice also should be given. He may just refer to what had happened at some time.

SHRI K. LAKKAPPA : I submit to your ruling, Sir. Of course, the Home Minister is touchy about these things to shield corrupt Ministers. Anyhow, I do not want to raise the controversy further.

My hon. friend, Shri Umanath pointed out how the judiciary has passed a remark against the propriety of the Government of Mysore. It is clearly stated here. It says :

"It is rather surprising that the government acted so hastily and issued licences to respondent No. 4 on or about September 18. It is not quite clear how licences in respect of 1168 shops could be issued on a single day. The effect

of this precipitate action on the part of the government was that the appellant could not on the next day obtain a stay of the operation of the High Court's order. There is ground for suspecting that the government was favouring respondent No. 4."

This is about the writ petition filed in the Supreme Court where it is stated that the State Government, the present Chief Minister has favoured an excise contractor, taken money and all that, and all the shady deals have come to light... (*Interruption*)

SHRI VIDYA CHARAN SHUKLA : Again, he is violating your ruling, Sir.

SHRI K. LAKKAPPA : About the political corruption. (*Interruptions*)

SHRI VIDYA CHARAN SHUKLA : The nature of the charges, the details of the charges, should not be mentioned here.

SHRI UMANATH : Why not ? He has mentioned about the charges before the High Court and the judgment

SHRI VIDYA CHARAN SHUKLA : The High Court order does not say that the present Chief Minister took money and favoured anyone. He mentioned something about the High Court order and the Government of Mysore. But after completing the quotation, he started saying that the present Chief Minister has taken money and favoured an excise contractor and all that which is completely wrong and which is completely out of order. It cannot be mentioned here. Whatever the High Court has observed he can quote here. But the High Court has not observed that.

SHRI K. LAKKAPPA : I am not making any reference. This is the judgement signed by Justice S. M. Sikri, Justice R. S. Bachawat and Justice K. S. Hedge. (*Interruption.*)

SHRI UMANATH : It should be laid on the Table of the House.

MR. CHAIRMAN : Nobody objected to your reference to the High Court judgment. But please do not go beyond that.

SHRI K. LAKKAPPA : I will not go beyond that.

MR. CHAIRMAN : After saying that, you should not go beyond that.

SHRI K. LAKKAPPA : I emphasize the point that, both the Chief Ministers and the Prime Minister of the country should be included within the purview of this Bill. These things are going to happen.

I would like to quote another typical example where political corruption has been indulged in by the Chief Ministers of the States, where in Mysore State, the present Congress President who got elected.....  
(*Interruption.*)

SHRI VIDYA CHARAN SHUKLA : He is again repeating.

SHRI RANDHIR SINGH : Something is being said against the Congress President.. . .

SHRI N. K. P. SALVE : I rise on a point of order. He is saying something which is not directly germane or relevant for the purpose of the point he is canvassing. I submit this is outside the scope of the Bill. A reference is being made to the Congress President that he is indulging in corrupt practices. I submit this is completely extraneous to the entire scope of the Bill. I seek your ruling on the point as to whether a Member is entitled to make any specific points of allegations regarding corruption, fraud or anything which are outside the scope of the Bill. While speaking on the Bill, he should confine himself to general propositions.

MR. CHAIRMAN : He should confine himself to general propositions.

SHRI RANDHIR SINGH : On a point of order, Sir. I am taking shelter under your ruling. You directed him that he should not mention specific cases or make a reference to particular persons. He has made a reference to the Congress President. He is a man of very high stature. Nothing should be said about him. He has no right of defence here; he cannot repudiate whatever is said against him. The hon. Member should not go to the extent of exploiting the privileges that are available to us here.

SHRI UMANATH : He has not yet completed the sentence. At the very mention of the President, for them to intervene and say that he should not be allowed is wrong. You have to hear what he says and then give the ruling.

Secondly, what he has been talking now is quite germane to the discussion here so far as this Bill is concerned because his point was that if the Prime Minister was excluded as provided in this Bill, then the reaction would be that the Chief Ministers would also escape. That is what he says—the repercussion of the Government's Bill if it is passed. He was only arguing that if the Prime Minister was excluded, the Chief Ministers would be escaping, the leaders of political organisations would also be escaping. It is a germane point.

SHRI N. SREEKANTAN NAIR : I have included 'leaders of political parties' and he is supporting my point.

श्री कंवरलाल गुप्त जो कुछ श्री उमा नाथ ने कहा है वह बिल्कुल ठीक है। अगर प्राइम मिनिस्टर को अलग कर दिया गया तो चीफ मिनिस्टर्स को भी अलग करना पड़ेगा। चीफ मिनिस्टर्स के खिलाफ क्या-क्या ऐलिगेशंस हैं कोर्ट में और कोर्ट के बाहर, उन का रिफरेंस देना ठीक है, चाहे निजलिगप्पा हों या कोई और हो। जिसके खिलाफ ऐलिगेशंस लगाये गये हैं उनके बारे में रिफर करना गलत नहीं है। इसलिए डिस्कशन को स्कटल करना, पाबन्दो लगाना ठीक नहीं है। हां नये चार्जज नहीं लगाये जाने चाहिये।

MR. CHAIRMAN : I want to make this very clear. As far as I understood, the Member was trying to argue out a point that the Chief Ministers also might escape if the Prime Minister was excluded from this Bill, and to substantiate his argument, he wanted to go into the details of some experiences in the past. I cannot allow that because I cannot allow a member to go into the details of an allegation against somebody who is not in the House; I have already said that we cannot afford to discuss such details in this House. I would, therefore, request the hon. Member to avoid such controversial things.

But, at the same time, I would like to say this. If a Member just wants to make a statement of fact, that such and such allegations were there against a particular Chief Minister at one time, that there was a High Court reference or a Supreme Court order, the Chair cannot rule it out. Within this limit, the Member has to remain and proceed with his speech. (*Interruptions.*)

SHRI K. LAKKAPPA : My point was only to show how political corruption can be shielded by the Prime Minister when specific charges are made against a Chief Minister. I would like to bring to your notice the facts of the case.....

MR. CHAIRMAN : The hon. Member has to conclude.

SHRI K. LAKKAPPA : Mr. Shukla a very reasonable man and I hope that he will accept all the amendments moved by me and my friends. I will just say how political corruption will happen, how the Prime Minister and also the President and also the Home Minister will shield the Chief Ministers regarding corruption—political corruption to manoeuvre and get a constituency to stand for election and subsequent grant of illegal favours to make up for personal obligation. (*Interruptions.*) In 1962 the present Congress President was defeated. What happen was this. One MLC from Bagalkot was in the Mysore Legislative Council.....

MR. CHAIRMAN : You need not go into the details.

SHRI K. LAKKAPPA : These are facts.

MR. CHAIRMAN : It may be a fact, but this Parliament cannot sit in judgment over such matters at this stage. That is the difficulty.

SHRI K. LAKKAPPA : He wanted to become the Chief Minister of Mysore State and he get him resign and allowed.....

MR. CHAIRMAN : Now please conclude your speech.

SHRI K. LAKKAPPA : Mr. Chairman, Sir, will you kindly bear with me for a minute? I want that the Prime Minister

also should be brought within the purview of this Bill. In the year 14-2-1963 the Prime Minister.....

MR. CHAIRMAN : No please. I am sorry you are again going out of the scope of the discussion.

SHRI K. LAKKAPPA : The Prime Minister and the Chief Minister wanted to favour and also shield corrupt practices. They will have a 'Tulabaram' and immediately when the charge-sheet comes here, they will scuttle the whole charge-sheet. Therefore, I want the Chief Ministers and also the Prime Minister should be brought within the purview of this Bill.

MR. CHAIRMAN : Now the House will take up consideration of the Private Members' Business.

15.31 hrs.

#### COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

##### Fifty-Second Report

SHRI P. N. SOLANKI (Kaira) : I beg to move :

"That this House do agree with the Fifty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th August, 1969."

MR. CHAIRMAN : The question is :

"That this House do agree with the Fifty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th August, 1969."

*The motion was adopted.*

#### RESOLUTION RE : NATIONALISATION OF FOREIGN TRADE, GENERAL INSURANCE, ETC.—(contd.)

MR. CHAIRMAN : I hope the speech of Mrs. Tarkeshwari Sinha is taken as concluded. She is not present in the House at present. There are some amendments to the resolution.