

Shri Satya Narayan Sinha I am sure Government will seriously consider it. But I am not in a position to say definitely whether we will have an opportunity to discuss it. The hon. Members must remember that I have announced the business only for one week.

श्री प्रकाशवीर शास्त्री : वह विषय इसमें समाविष्ट नहीं है

अध्यक्ष महोदय : जी हां उसे भी देख लेंगे ।

Shri Nambiar: What about the food situation? It is deteriorating in other States. Will we get some time?

Mr. Speaker: How can I compel the Minister?

Shri Nambiar: He must give us some time to consider it.

Mr. Speaker: He can consider it.

Shri Satya Narayan Sinha: We have already had a discussion on food last week.

Shri Nambiar: That was about Kerala. We have asked for a full-scale debate and the Minister of Food and Agriculture has agreed to have a debate.

Shri Satya Narayan Sinha: The Foodgrains Corporation Bill is coming up before the House. You can discuss anything you like on food during that discussion.

12.45 hrs.

BUSINESS ADVISORY COMMITTEE

THIRTY-FIRST REPORT

The Minister of Communications and Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, I beg to move:—

“That this House agrees with Thirty-first Report of the Business

Advisory Committee presented to the House on the 18th November, 1964.”

Mr. Speaker: The question is:

“That this House agrees with Thirty-first Report of the Business Advisory Committee presented to the House on the 18th November, 1964.”

The motion was adopted.

ANTI-CORRUPTION LAWS (AMENDMENT) BILL—contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Jai Sukh Lal Hathi on the 17th November, 1964, namely:—

“That the Bill further to amend the Indian Penal Code, 1960, the Code of Criminal Procedure, 1898, the Criminal Law (Amendment) Ordinance, 1944, the Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1947, and the Criminal Law (Amendment) Act, 1952, be taken into consideration.”

The Minister of Communications and Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, for this item no time was allotted.

Mr. Speaker: The House wanted to have five hours for this. We have already spent 4 hours and 50 minutes over this. Now we must conclude as early as possible.

Shri S. M. Banerjee (Kanpur): Clause-by-clause consideration is there. Let it continue till 2.30 when we shall take up non-official business.

Mr. Speaker: I cannot say that. I propose to call the hon. Minister now. After that I shall allow some hon. Members, who are interested in speaking on this, during the second reading.

The hon. Minister.

The Minister of State in the Ministry of Home Affairs (Shri Hathi): Mr. Speaker, Sir, the Bill has been discussed for the whole day yesterday threadbare. Of course, hon. Members, who took part in the discussion, had their point of view to express. Some of the hon. Members supported the Bill and suggested certain amendments to the present Bill. Some of them, though not fully supporting the Bill and though they had criticized the Government for not accepting all the recommendations of the Santhanam Committee, ultimately welcomed the Bill in so far as it goes. The third category opposed the Bill forcefully, specially the hon. Member, Shri Dandekar, who demanded that the Bill should be withdrawn.

On the merits also some of the hon. Members have attacked the provisions of this Bill on the ground that they are against natural justice, that they are detrimental to the interest of the accused and that they are unnecessarily going to cause inconvenience and hardship to public servants. Most of the attack on the Bill has been from the Opposition which has challenged the sincerity of the Government in so far as the present Bill deals only with public servants and strives to implement those recommendations which are meant for public servants and others but not for Ministers, Deputy Ministers etc.

I shall deal with all the points raised by hon. Members and it shall be my duty to endeavour and endeavour to convince that there is no lack of sincerity on the part of Government to root out corruption and to consider the various points which have been raised during the course of the debate. I would, however, say that though we are bringing forward this measure, it is not the least intention of Government to condemn all the public servants as such or as a class. It is not the remotest idea of Government to say that everyone in the public services or in the Government machinery is dishonest or corrupt. There are a

number of officers who are honest, able and efficient. There may be only a few cases; but, there also, if there are a few cases, we have to deal with them.

I do not want, in the least, to give an impression that this measure is only meant for the public servants. It may be that a public servant may be involved when there may be one, who is not in the public services, who might have offered bribe. There is no question of demoralising the public servants at all. In fact, some of the officers whom I met said that after this various anonymous applications were coming and that they would be looked into by the Special Police Establishment. We have decided and instructed the Special Police Establishment that they should not take into consideration any such anonymous application. If it is only authenticated, it will go to the Department and then only the investigation will be made. Therefore, I want to make it clear that it is only for the purpose of bringing to book those who are involved in corruption that action will be taken. So far as the honest and able officers are concerned, they have nothing to fear and they can go ahead with the work as sincerely and enthusiastically as they have done hitherto. I, therefore, give this assurance to them.

Some of the Members have criticised that certain recommendations of the Santhanam Committee which are more strict have not been accepted. Others have complained that even the proposals to make the existing law stricter would cause hardship to the accused. For example, the hon. Member, Shri Surendranath Dwivedy has criticised for not accepting the recommendation to make abetment of an offence substantive offence and similarly the recommendation to make the offence non-bailable. According to that hon. Member, these should have been accepted. I do not know what would have been the reaction of Shri Dandekar if this also had been accepted. But we have carefully con-

[Shri Hathi]

sidered those recommendations. What I mean to convey is that it is after due consideration that certain recommendations have been accepted while certain others have not been accepted. So far as this recommendation about making the offence non-bailable is concerned, if this had been accepted, it would have been a great hardship to the accused. Generally speaking, an offence deserves to be made non-bailable if it is a major offence involving capital punishment or life imprisonment or long term imprisonment and there is a possibility that the accused may try to abscond or tamper with the evidence. In the case of offences relating to bribery and corruption, there is no likelihood of accused trying to abscond and if he does, action will be taken. It will certainly cause a hardship to a person if he is kept in jail and not released on bail. We have, therefore, taken these factors into consideration before accepting the recommendations of the Santhanam Committee and have not accepted this particular recommendation. I shall deal with other provisions later on.

Then, the hon. Member, Shri Bade, observed that of all the chapters which deal with a number of things, the Government have taken action only on chapter 7 and on none else. He said that there are various other measures which the Committee have recommended but the Government has only taken this particular set of recommendations. He observed that instead of simply accepting the recommendations of the chapter 7, it should have been better if the Government had brought forward a Bill after accepting all the recommendations. He said that there are 12 chapters and the Government has not brought forward any legislation for the recommendations contained in the other 11 chapters. He, therefore, doubted the sincerity of the Government. Moreover, he said that even in bringing forward this piece of legislation, the Government had delayed too much.

He said that the Committee was appointed in 1962, its report was submitted in 1963 and the Bill is brought forward in the House in 1964. May I correct the impression of the hon. Member? The Committee was appointed in 1962, the report was submitted not in 1963 but in March, 1964 and it is in September, 1964 that we introduced the Bill in this House. It is, therefore, not a question of delay. Thus, after the submission of the report, much time has not been lost.

I may also point out to the House that there are 12 sections of the Report out of which the first one deals with introductory remarks. There is no legislation involved there. The second section deals with the nature of the problem; the third deals with the extent of corruption; the fourth and fifth deal with the conduct rules and disciplinary rules. All these do not require legislation at all. Only section 7 deals with law and procedure relating to corruption. Again, section 8 is dealing with general recommendations; section 9 deals with Vigilance Organisation; section 10 deals with Special Police Establishment; section 11 deals with social climate and section 12 is on miscellaneous things.

I would like to submit to the House that so far as sections 4 and 5 are concerned, the recommendations have been accepted with regard to the revision of conduct and disciplinary rules applicable to Government servants and the revised rules are being prepared. The recommendation that a thorough review of laws, rules, procedures and practice should be undertaken for the purpose of listing the discretionary powers, levels at which such powers are exercised, the manner of the exercise of such powers, the control exercised within the hierarchy over the exercise of the powers, the points at which citizens come into contact with the Ministries and Departments and the purpose for which they do so and that a thorough study be made in respect of each Ministry

Department/Undertaking of the extent, the possible scope and modes of corruption, preventive and remedial measures prescribed, if any, and their effectiveness has been accepted. For the present, study teams have been set up in the Central Public Works Department, Import and Export Control Organisation, D.G.S. & D. and the Director General of Technical Development which deal mainly with the public in issuing of licences, giving contracts and all that. Each one of these working teams headed by the Member of Parliament is looking into the irregularities, the bottle-necks and delays and all that. As one hon. Member had suggested, the root cause of corruption, if not the sole cause, the major cause, is delay and if delay is eliminated and the efficiency is there, the chances of corruption are also less. Therefore, these working teams are working and they will find out what could be done. Then, he said, we have not accepted the recommendations . . .

Shri S. M. Banerjee: Who is that Member?

Shri Hathi: Shri H. C. Mathur.

I may mention here that out of 137 recommendations, as many as 51 have been accepted with or without change and already implemented. 37 recommendations have been accepted with or without changes and the implementation is under consideration. Only 49 recommendations out of 137 recommendations are under consideration. This will show that we are not slow in accepting and implementing the recommendations of the Santhanam Committee.

There are certain recommendations which relate to the judiciary, to the University Grants Commission, etc. These are being taken up with the Chief Justice of India and the other concerned Departments. It is, therefore, not correct to say that only this part has been accepted while the other recommendations have not been accepted by the Government and are not being implemented.

One of the important recommendations which the Committee has made is with regard to the setting up of the Central Vigilance Commission and the Vigilance Commissions in the States. I would not go into the details. But the House knows that the Central Vigilance Commission has been established and in several States also Vigilance Commissions have been set up and these organisations are functioning in those States.

As I have already stated in my remarks while making the motion for consideration, that certain recommendations, namely, with regard to Section 311 with regard to the amendment in the Public Servants (Inquiries) Act, 1850 have been considered separately. Some of the specific recommendations pertaining to some important departments with which public is greatly concerned relate to the four departments which I mentioned and these recommendations have been separately examined.

I had discussions with the officers of all these four departments in order to find out how far these recommendations could be accepted with a view to see that efficiency is increased, delays are eliminated, and ultimately we came to the conclusion that it would be better if a working team is appointed which makes a sample survey into these cases.

Regarding the social climate to which reference has been made. I am coming to the question of Ministers and public servants. I may say here, let a controversy not be created between public servants and Ministers and politicians and others. After all, we are all . . .

13 hrs.

Shri Nambiar (Tiruchirapalli): This is not for controversy but to see that some action is taken for the top-posts people.

Shri Hathi: I will try to clear all the doubts, and I hope to convince the House that there is no intention of

[Shri Hathi]

making any discrimination so far as this aspect is concerned. But let me be heard.

Then, about this code of conduct for Ministers, it has already been evolved and a copy of it has been laid on the Table of the House. Thus, Shri Bade's complaint that we have made unnecessary delay and half half-heartedly brought this measure before Parliament, I think, is not justified. I am, however, glad that on the whole he has welcomed the Bill.

I shall deal with the points regarding the definition of public servants later, because this has been referred to by almost all the Members.

Shri Banerjee has cited several instances of favouritism, nepotism, about the method of licensing, showing favours to certain parties and so on. I do not think I can deal with them individually. But so far as licensing is concerned, we are going into this, the procedure, the method, etc. It is the organisation of the Director-General of Technical Development which first scrutinises the applications and then processes them to the committee. Therefore, at that level, first, if there is any scope for any corrupt method, what could that be? One of these is people from the general public going and meeting the officers very often; and the greater the contact the greater are the chances of corruption. We do not want that an officer should not meet anybody. But we have in these four Departments set up information-cum-public reception offices. Whenever a person wants to find out where his case is, he contacts the officer and gets in touch with the officer there who gives him information. If that information is not available, he gives the person a date, and he notes that. But the direct contacts are therefore eliminated. But it may be that discussions may be necessary in some cases. There they register the name and then they go there. But it is not that any-

body could go and contact the officers or the lower staff and try to meddle or interfere with the work and thus get any information which he should not normally get.

Shri Nambiar: There is nothing to prevent people going and seeing the officers in the bungalows.

Shri S. M. Banerjee: According to the revised rules, nobody can see the Director-General of Supply direct, but they can . . .

Mr. Speaker: When one Member is on his legs, the other should sit.

Shri S. M. Banerjee: My question was that if there is any restriction, it is like this. What is corruption? Suppose people had free access up to the Deputy Director-General and Director-General. Nobody can see them now. But suppose the other Assistant Director or his subordinate expects something from a person to see that he sees the Director-General.

Shri Nambiar: There are a hundred and one ways.

Shri Hathi: The question is, we cannot possibly stop officers from meeting individuals. That we cannot do away with. But we have evolved a system whereby at least the contact with the officers in the offices would be restricted or would be mentioned in the book of visitors, where he goes, the nature of the work, the officer whom he meets. And the officer has to keep a diary. That is the only thing that we can do. We cannot stop people meeting them. But certainly, if there is any suspicion, the movements of the person could also be watched.

So far as licensing is concerned, we have already appointed a team under the chairmanship of Shri H. C. Mathur. The team is on the job. We have requested them to examine the causes,

of delays, bottlenecks in procedure, the focal points of corruption and such other things as the Committee may think necessary to go into in order to see that the procedure of issuing licences is amended wherever necessary and that delays do not occur.

I also mentioned the recommendation about the ban on the employment of public servants after retirement. This recommendation has been made by the Santhanam Committee that for two years after his retirement a public servant should not be permitted to accept employment in a commercial enterprise or business. That we have accepted in principle.

Shri Dwivedy has said that this law is imperfect and that it is a misnomer to call it as an anti-corruption Bill. He is not here unfortunately. He has attacked the Bill on the ground that the specific recommendation about the definition of public servant to include Ministers has not been accepted and included in this Bill. So many other Members from the opposition also have taken up that question. Ministers, I may say, are not only public servants but something more than that. They have a greater moral, social and political responsibility towards the people. As Shri Mukerjee said, they must be above suspicion. Their case has to be judged from a different standard. They need not be declared guilty by a court of law before action is taken or before they take action on their own. Have we not had instances where Ministers have resigned without being adjudged guilty by a court of law? On the very remote possibility, on the mere likelihood of something touching remotely even in the slightest manner upon the integrity of the Ministers, have they not resigned?

Shri D. C. Sharma (Gurdaspur): But all those Ministers have come back.

Shri Hathi: Why talk of any double standards. Even when a Minister was not the least connected and when

he feels that he has not faithfully discharged his duties, has he not voluntarily resigned? Hon. Members opposite may understand that Ministers are today working here not as mere public servants; we have some liability or responsibility greater than that. It is therefore that the Ministers should not be that way clubbed with public servants or with ordinary people. Suppose they are included in the category of public servants. What will be the result? First, before any prosecution is launched, sanction under section 197 is necessary.

Shri Nambiar: They will have to resign and face the proceedings.

Shri Hathi: At that stage, when the question of permission comes, then also it may be that the opposition may say that Government has withheld permission on political grounds. After the permission is granted it will come before a court of law. After that the facts constituting the offence have to be proved. In the case of the public servant after all these stages have been reached, then the question of motive comes; it is presumed that the motive was this.

Here what we are proposing to do or have proposed to do, or what the convention is, is that if there is a *prima facie* case, as the Prime Minister has said, the Minister would resign. But there must be a *prima facie* case. There is a distinction between allegations and *prima facie* case. Somebody has to decide that there is a *prima facie* case. Today in political life there may be allegations. But these allegations, merely because they are allegations, do not constitute a *prima facie* case. And unless it is decided that there is a *prima facie* case you cannot expect any Minister to surrender to the political pressures. That, I think, should be made very clear.

But I am sure hon. Members opposite would not like or appreciate this distinction or this explanation of mine.

[Shri Hathi]

They would ask, why have the Government not included that in the definition of 'public servants' in this very Bill when the Santhanam Committee has recommended it. Now, I say that though they are only not government servants, they are public servants and something more than public servants. But this would not go down their throat, I can understand.

I may, therefore, say that we thought of this, that is of incorporating this recommendation of the Santhanam Committee into the Bill, but we were advised that there is already the decision of the Supreme Court in the case of Rao Shiv Bahadur Singh (1953, Supreme Court Reporter, No. 1188) where Ministers have been held to be public servants. In view of the judgment of the Supreme Court, we are advised that this provision would be redundant. I think that this should clear all the doubts, all the allegations and all the criticisms that the Members have levelled inasmuch as they have said that we are making a distinction between public servants, and that we are going to create a rift between them. This is the explanation which I have to submit before the House.

Shri Nambiar: Are we to take it that this definition includes Ministers also, as per the Supreme Court's judgment?

Shri Hathi: Hon. Members have judged the Government only from a political angle, and, therefore, I know that my explanation is not going to be appreciated.

Shri N. Dandekar (Gonda): It is a very serious statement. So, I would like to know the facts of that particular case and the circumstances in which it was held by the Supreme Court that a Minister, for a particular purpose, was a public servant.

Shri Hathi: I say under the Prevention of Corruption Act. Minister is a Public Servant.

Shri Nambiar: Are we to take it that this definition includes Ministers also? And are we to proceed on that basis, as per the decision or the judgment of the Supreme Court which has been quoted now? Let the hon. Minister make that position clear.

Shri Hathi: This is the judgment of the Supreme Court. And this is the legal advice which Government have been given that the Supreme Court judgment, as has been mentioned by me a little while ago, has concluded this interpretation, and, therefore, any such further amendment would be redundant. This is the advice which we have been given.

Shri S. M. Banerjee: The Supreme Court might have given that judgment. But unless it is embodied in a Bill, how can it become valid? I am not a lawyer, and I find that this is something surprising.

Shri Nambiar: We are unable to understand this. You may kindly help us to understand what exactly the position is.

Mr. Speaker: There is a procedure laid down for public servants. The Supreme Court has held that Ministers are also public servants. So, whatever procedure has been prescribed for public servants would apply to the Ministers also.

Shri Nambiar: Are we to pass this Bill with that understanding? Let the hon. Minister make that quite clear.

Shri Hathi: That is what I am submitting.

Shri Nambiar: He can make it clear in the Bill itself.

Mr. Speaker: What further can he say? He has said once, twice and thrice.

Shri Nambiar: The wording of the Bill can be made to conform to that.

Mr. Speaker: Why should the wording of the Bill be made to conform to that? If the term 'public servant' has been put in there, and the hon. Minister says that the term 'public servant', according to the Supreme Court's judgment and according to the advice tendered to Government includes Ministers also, then it is clear that Ministers would be included in that definition.

Shri Hathi: I think I have made it very clear. There is the Supreme Court's decision already. That is what I have said. What further can I say? I think that now all the apprehensions in the minds of hon. Members should be dispelled.

Shri N. Dandekar: I am glad to hear this, but may I please ask him for one clarification? Would the hon. Minister make a solemn statement here that this Bill applies to Ministers, Ministers of State and Deputy Ministers?

Mr. Speaker: It is not for the hon. Minister to make that statement; it is for the courts to say so.

Shri N. Dandekar: He says that the court has so decided.

Mr. Speaker: Yes, the courts should say that this applies to the Ministers; it is not for the Minister to say it. If the Minister makes such a statement, then that would apply, though the courts might hold that it does not apply?

Shri N. Dandekar: I would accept with very great respect a Minister's statement that it does apply.

Shri S. M. Banerjee: I would invite your attention to the body of the Bill. Certain categories of public servants have now been included afresh, such as official liquidator, or receiver and so on, who had not been included previously. The Supreme Court has given a judgment in a particular case in 1953 that the term 'public servant' includes a Minister.

Supposing a case is filed in a court of law,—after all, the court will be concerned with the anti-corruption Act—unless there is a proviso clarifying the matter, how can the court presume like that? How could it be presumed by the court on the basis of only one judgment of the Supreme Court that a Minister is also a public servant?

Mr. Speaker: One Supreme Court judgment is not enough?

Shri S. M. Banerjee: Let it be embodied in the Bill.

Shri Hathi: I think I have made it absolutely clear.

Mr. Speaker: Now, the hon. Minister might pass on to the next point.

Shri Hathi: Shri Surendranath Dwivedy had said that the Santhanam Committee's recommendations regarding making abetment a substantive offence had not been accepted. The reasons are that the offering of a bribe or otherwise corrupting a public servant should be made a substantive offence and not merely as abetment of an offence.

Mr. Speaker: But Members have got one apprehension in this respect. Just at this moment there is a judgment of the Supreme Court that Ministers are included in the definition of 'public servant', and on that assumption Government are making a law. Tomorrow, the Supreme Court may reverse that judgment and hold that Ministers are not public servants; then, of course, this definition would not apply to them.

Shri Nambiar: It is always better to put it in the Bill itself.

Shri Hathi: I appreciate. I shall read out the relevant portion of the advice. It reads thus:

"Section 2 of the Prevention of Corruption Act provides that for the purposes of this Act, 'public

[Shri Hathi]

servant' means a public servant as defined in section 21 of the Indian Penal Code."

"The Prevention of Corruption Act is, therefore, applicable to the Ministers who are public servants as defined in section 21 and can be prosecuted for criminal misconduct as defined in section 5(1) of the Prevention of Corruption Act . . .".

I appreciate the point raised by the Chair. This point was also considered by the Law Ministry, and the advice was that Ministers were already public servants, as had been concluded by the Supreme Court. If we today add something and put it in the Bill, it might mean that they were not included before, and, therefore, we thought that we should not make this amendment.

Shri Oza (Surendranagar): By way of abundant caution, the position may be made clear.

Shri S. M. Banerjee: Doubt should be removed.

Shri Hathi: I want to clear this doubt. So far as Government are concerned, the idea and the intention is that they are public servants as defined in this Act. That is the only thing that I can say. I cannot go further than that. What more can I say? If this does not satisfy the hon. Members, what more can I say? I do not think that I can go further than that.

Shri S. M. Banerjee: It is not a question of giving satisfaction. My point was this. The court is not going to read the entire proceedings of the House; they will be concerned only with the Act that we pass.

Mr. Speaker: They will be taking notice of the Supreme Court's judgment.

Shri S. M. Banerjee: You have given him the lead, Sir.

Mr. Speaker: What am I here for? I must say what the actual position is. I have just said that that position can hold so long as the Supreme Court's judgment is there. If the Supreme Court judgment is reversed, then this position cannot hold.

Shri N. Dandekar: May I make one submission? Very often, in a number of statutes, Government have enacted a clause which begins thus:

"For the removal of doubts, it is hereby stated . . .".

Mr. Speaker: Let that be done afterwards. First, let this Bill be passed. That provision for the removal of doubts is enacted after some doubt has arisen.

Shri N. Dandekar: I think a doubt has arisen.

Mr. Speaker: Before this Bill is passed, how can doubts arise, because the Supreme Court's judgment is there? If doubts arise afterwards, then they can be corrected. They can be corrected only after they arise and not before. The hon. Member is making a suggestion that if afterwards doubts arise, then Government might come forward with a supplementary legislation, to remove the doubts.

Shri Hathi: Shri Surendranath Dwivedy had said that the Santhanam Committee's recommendations to make abetment a substantive offence had not been accepted. The reasons are that the offering of a bribe or otherwise corrupting a public servant should be made a substantive offence and should not merely constitute an abetment of an offence.

This question was specifically examined when the Criminal Law Amendment was under consideration and the existing section 165A was added to the Indian Penal Code. Under this section, offering of bribe can be punished as substantive offence and not merely as an abetment of an offence under section 161 read with

section 109 of the Indian Penal Code, and so, a further provision as recommended by the committee was thought to be redundant.

Then, coming to another point, Shri Oza said that so far as the prosecutions were concerned, a number of people were prosecuted, and cases were launched against them, but he would like to know how many cases had been taken up by the Special Police Establishment, in how many cases conviction had resulted, and he also wanted to know the number of gazetted officers out of the total number of public servants who had been proceeded against by the Special Police Establishment.

The figures are as follows: In 1961, the SPE brought 278 cases before the courts out of which 204 resulted in conviction, i.e. 83.3 per cent; in 1962, out of 288 cases, 242 resulted in conviction, that is, 82 per cent; in 1963, out of 313, 227 resulted in conviction i.e. 87.3 per cent; in 1964 (upto 31 October), there were 198 cases out of which there were 170 convictions—85.4 per cent.

Shri Oza: What is the number of gazetted officers?

Shri Hathi: Out of 278, the number of gazetted officers was 13.

Shri S. M. Banerjee: What is the number of other public servants, Ministers, according to the Minister?

Shri Hathi: Out of 278 cases against public servants, 13 were gazetted officers. I talk of cases taken up by the SPE and not throughout the country. Let there be no misunderstanding on that point.

Shri S. M. Banerjee: I am asking about Ministers.

Shri Hathi: I was answering the question of Shri Oza.

Shri S. M. Banerjee: Since he was looking at me, I thought he was answering my question.

Shri Hathi: I am addressing not the hon. Member, but the Chair.

Mr. Speaker: He should keep his face also towards me.

Shri S. M. Banerjee: My question is: Out of these cases of public servants, how many are those of ex-Ministers and Ministers?

Shri Hathi: Not in the courts. What I have given is figures of cases taken up by the SPE.

Shri Man Sinh P. Patel (Mahasana): Number of cases of acquittal and convictions as regards officers might also be mentioned.

Shri Hathi: In 1961, out of 13, there were 4 convictions; in 1962, out of 13, 10 convictions; in 1963, out of 19, 6 convictions. These figures will show that the investigations which have been taken up are cases taken up by the SPE and have resulted in conviction to a very large extent, 80—85 per cent. Therefore, the complaint that there would be unnecessary harassment and while there would be nothing against people still they will be put to trouble and so on does not seem to be justified.

Dr. M. S. Aney (Nagpur): So the existing law is good enough to deal with the situation and there is no necessity for a further amendment.

Shri Hathi: It is not so. Take, for example, the question of disproportionate assets. It is not covered in the existing Act. Therefore, we are including that. I am coming to that point raised by Shri Dandeker.

Regarding the suggestion about amendment of sec. 251A Cr.P.C., there are three such provisions about which various amendments have been tabled. Hon. Members have shown their concern in this respect. One of the provisions is that if the procedure for warrant cases, after the charge is framed the accused should be called upon to produce a list of

[Shri Hathi]

documents and of witnesses. There the observation made was that the accused should be given some time and should not be compelled at once to submit a list of documents and of witnesses. This might cause him some hardship. I have considered this argument; I feel there is some force in it. We do not want to give even an impression that the accused is being unnecessarily put to hardship. I am therefore giving consideration to this amendment that it might be proper to give some time. But this should be at the discretion of the court—this is what I feel—and not an arbitrary thing. Let the court decide. Otherwise, cases will be prolonged; documents are not being produced and delays will thus occur. Even then I feel this suggestion deserves consideration. I will consider this amendment.

The second thing was about trial proceeding in the absence of the accused. Here it is not that the trial will proceed when the accused is absent once, twice, thrice or more. It is not a regular procedure being laid down that the court can go ahead with the trial—No. There will be absolutely no harassment to the accused. If the court at any time is satisfied that the accused is unnecessarily delaying, he does not remain present in spite of opportunities, and there is thus unnecessary delay caused, the court can, at its discretion go ahead; but even then, it has to record reasons for doing so. It would not be an arbitrary decision.

The third was with regard to the question of holding the proceedings *in camera* if the parties so desire or if the court so decides. We gave ample consideration to this. We thought that in defamation cases, if the parties consider that the proceedings are such that the other party might have to answer so many questions in cross examination, which might damage one's reputation—ultimately the allegations may not be

substantiated, but the damage would have already been done—it would be in fairness to the public servants and to the accused and to everybody to agree to that. Because this is not only restricted to a public servant; there may be other people also who are not public servants who may, for example, be convicted or charged with abetment of the offence. To them also this protection should be given. Therefore it is that if either party wants or if the court decides, the proceedings should be *in camera*.

The other observation made was by Shri Dandekar. He said that if a man is in possession of disproportionate assets, that by itself would constitute an offence. It is not so. If a person is found to be in possession of assets disproportionate to his known sources of income, then he has to prove wherefrom he got it. If he cannot satisfactorily explain, then only it will be an offence, not simply because he is in possession of such wealth. Therefore, the impression that mere evidence of disproportionate assets will be converted into an offence is incorrect.

I think I have explained most of the points raised by Members. I move.

Mr. Speaker: The question is:

“That the Bill further to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1898, the Criminal Law (Amendment) Ordinance, 1944, The Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1947 and the Criminal Law (Amendment) Act, 1952, be taken into consideration”.

The motion was adopted.

Mr. Speaker: The question is:

“That clause 2 stand part of the Bill”.

The motion was adopted.

Clause 2 was added to the Bill.