

12.14½ hrs.

ANTI-CORRUPTION LAWS (AMENDMENT) BILL—*contd.*

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

"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."

Shri Banerjee may continue his speech.

Shri M. R. Masani (Rajkot): May we know how much time is left for further consideration of this Bill?

Mr. Speaker: There were three hours.

Shri S. M. Banerjee (Kanpur): It should be five hours.

Mr. Speaker: No time was allotted. A time of three hours has been suggested. We will see. But I would like hon. Members to be short.

Shri S. M. Banerjee: 20 minutes may be allowed. There are three amendments.

Mr. Speaker: 15 is all right. He may continue his speech.

Shri S. M. Banerjee: Mr. Speaker, Sir, this Bill has been brought after considering the recommendations of the Committee on Prevention of Corruption which was appointed in 1962. In 1964, the Committee submitted its report and as promised by the Government, after going through the various recommendations of this report, this legislation has been

brought. I welcome this piece of legislation which is meant to curb and minimise cases of corruption. It gives powers to some of the officials to deal with those who are corrupt people with a strong hand.

Sir, between 1962, the date on which this Corruption Committee was appointed, and 1964, the year in which this report was submitted, much water has flowed. Let us analyse the whole thing from various levels—political level, moral level and social level. Let me, first of all, say something about the politicians in the country against whom there are serious charges of corruption. I congratulate the hon. Minister, Shri Nanda, and other Ministers who are concerned with his Ministry, for doing their best, to uproot corruption which has almost become a cancer in our country which, according to doctors, is incurable. But still I wish him all the good luck.

The real problem has not been tackled. What is the main problem? What is the root cause of corruption? In this House we have been mentioning from time to time that all the political parties, including the ruling party, should stop taking political donations. It was defended by the then Minister for Commerce and Industry, Shri Lal Bahadur Shastri who, fortunately, today is the Prime Minister of our country. He said: "After all, what is wrong there? We can make charity. We can take donations. We do not force the employers or the industrialists to give us more donations. We can take what is given by them." What is the outcome of it? We have seen in the Mundra episode that Shri Mundra made it absolutely clear that he paid some handsome amounts to the ruling party or to the UPCC during the elections. He also said that because the UPCC wanted more money and he could not pay it, he had to face those trials. There are many cases to prove that people who want to pay or who have paid handsome amounts to the election funds of the ruling party have been saved from

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many troubles. Now a time has come when, if we want to uproot corruption from political level, if we want to keep politics free from corruption, we will have to accept this that the ruling party or any other political party should not accept political donations from the top people.

There are three or four cases which I must bring to the notice of the hon. Minister. The audit report of the New Asiatic and Ruby General Insurance Companies is there. You know better than me, Sir, that I and my friends have been pressing that this report should be laid on the Table of the House. This was never laid on the Table of the House. When every audit report is placed on the Table, when every other report whether secret or open report, whether it is the report of a high-powered commission or any other report, is placed on the Table of the House where business houses have been mentioned, how is it that this audit report where two companies belonging to Shri G. D. Birla are involved has not been placed on the Table? Because they belong to Shri Birla, I am afraid, this audit report has not yet been laid on the Table of the House.

Inspectors were appointed to investigate into the affairs of Sahu Jain and Company. I welcome that. Why was no inspector appointed to go into the affairs of the Birla house and to expose the Birla house mysteries? Is the Government too weak to say something about the Birlas, or is it that they want to hide something? How is it that this audit report has not yet been laid on the Table?

There was the case of Bell and Company. The previous Communications Minister dealt with it. The replies given by the then Communications Minister, Shri A. K. Sen. are far from truth. I am almost sure that senior officers belonging to the Posts and Telegraphs Department were involved in it. One engineer was involved in it. We wanted this matter to be sent

to the Vigilance Commission or other commissions appointed by the Government. Let it at least go to the Sadachar Samiti. It should be properly investigated as to how this Bell and Company which was accused of doing sabotage in Tunisia was given this contract. There is a story behind it, but as the time at my disposal is very short, I do not want to go into it. I only request that this should be investigated.

The other thing is about the grant of licence to Messrs. T. V. Sundaram and Company of Madras. It was strange, as you know, that our Finance Minister came out with a story that he was not directly connected with it. This licence was sanctioned by our beloved late Prime Minister, Shri Nehru, only because the present Finance Minister is friendly to Shri T. V. Sundaram. How is it that a particular licence was sanctioned by the Prime Minister? This deserves a thorough investigation. This is a fit case which should go to the highest body for investigation.

The recent case is that of Messrs. Bird and Company. As I said in this House, one bird has flown to England and another bird is here. The Bird and Company has been fined with a petty amount of Rs. 67,000 only and that is the end of it. I do not know whether there is a case pending against them with the Sea Customs Authorities. But for foreign exchange violations and other things the fine is only Rs. 67,000. We were apprehensive of this. That is why we demanded immediate action. They went in writ to the Calcutta High Court and the net result was a fine of Rs. 67,000. Nothing else is pending against them. These are a few cases which I would like the hon. Minister to investigate because he is very sincere about rooting out corruption.

Then comes the question of Orissa. After Punjab comes Orissa. After the Das Commission in Punjab we have

seen that even the appointment of the Das Commission enhanced the prestige of the ruling party. Whether it is Kairon or his son in Punjab—in Punjab it is Kairons and in Bombay it is *Bhais* who are responsible for so many things—it does not make any difference. What is the report that is given in the newspapers about Orissa? I am reading from *Times of India* dated 16th November, 1964:

“Explanations sought from Mitra, Patnaik—CIB Report based on ‘concrete evidence’—The Union Home Minister, Mr. Gulzarilal Nanda, has asked for explanations from the Orissa Chief Minister, Mr. Biren Mitra, and Mr. Biju Patnaik, former Chief Minister, who are believed to have been implicated in a preliminary inquiry conducted by the Central Investigation Bureau.”

Then it says:

“Mr. Mitra and Mr. Patnaik had individually protested to the Central leaders against the CIB investigation. Mr. Mitra was also understood to have written to Mr. Nanda saying that an inquiry by the CIB against Ministers was improper and derogatory.”

You can imagine the audacity of these Ministers. They did something wrong. They created their own empire known as Kalinga Empire. When there is some investigation, when a *prima facie* case has been established and the investigation is going on during which a report which runs into 250 pages has been submitted to the Home Ministry, they write a letter of this kind that this is something wrong and derogatory. Derogatory to whom? To whose prestige? Do you think the Chief Minister of Orissa has got any prestige left? I do not know. It is for this Government to decide. What is happening in Orissa today is the direct result of not only mismanagement but corruption. Otherwise, Orissa would not have become another Saigon.

Coming to the other cases, first of all, let me take up the case of Bakshi Ghulam Mohammad, ex-Prime Minister of Jammu and Kashmir. We are told that he has purchased six big palatial buildings in various parts of the country either in his name or in the name of his relatives. Therefore, I would suggest that if this Government is sincere about rooting out corruption, even before passing this legislation let it make a promise, let it make a bold announcement that no Minister or ex-Minister who has amassed wealth through corruption or in nefarious ways will be allowed to go scotfree.

I know that today in this country if I have got Rs. 50,000 in my pocket I can murder a man in broad daylight and yet be free. The prison is meant for the unsuccessful criminal. That is what the people say today. A successful criminal does not go to the prison. I want to know whether this is happening because the Government is powerless.

Mr. Speaker: I should appeal to Shri Banerjee not to give expression to such impressions. Every word that any hon. Member speaks here is given wide publicity. He can criticise and he is doing that by referring to cases but to give the impression that one can commit a murder and yet go unpunished . . .

Shri S. M. Banerjee: What is the objection, Sir?

Mr. Speaker: He is saying that anybody who has got Rs. 50,000 in his pocket can commit murder without being punished.

Shri S. M. Banerjee: That is the impression.

Mr. Speaker: It should not come from Shri Banerjee.

Shri S. M. Banerjee: All right. It was the impression. Now, I will change my impression.

Mr. Speaker: I have always found myself to be wrong when I have said anything to Shri Banerjee.

Shri S. M. Banerjee: I did not say so, Sir.

Mr. Speaker: I have always repented and regretted it.

Shri S. M. Banerjee: I have said that I will not say that now. But it was the general impression and people said so. Shri Bade has said that anybody who has got a *hundi* can have a *mundi* in the other hand.

I was referring to Bakshi Ghulam Mohammed. Then, there is Shri Shankar of Kerala. Will the simple dissolution of his Ministry make him innocent if he is corrupt? Then, what about the Chief Minister of Bihar? There were serious charges against him. There were serious charges against some of the Ministers of the Sukhadia Cabinet and the Home Minister said that those charges are not based on facts.

If this is the attitude that we adopt, I do not know how we can teach a lesson to those bureaucrats who are supposed to be corrupt. Actually, they get inspiration from such practices, such declarations. Let us not allow the wrong-doers to escape. If somebody is corrupt, even if he is highly placed, we should condemn him and there should be no place for him. Unless we do that, we cannot make politics clean and free from corruption.

Then, I come to the question of the services. What is happening there? All those officers who are holding important posts, whenever they resign or retire, are given decent jobs with handsome salaries in the private sector companies. This Government has taken no action so far to put a stop to such examples. Take the case of General B. M. Kaul, who miserably failed in his duties, who was the main cause for our disgrace during aggression by China. He was offered a decent job as Adviser by the Javanti Shipping Company in their Tokyo office on a fat salary of Rs. 10,000. What will be the morale of the peo-

ple in the armed forces when they see a General, who was the cause of humiliation for our country, who darkened the face of India, who fled from the scene of action when his presence was necessary and essential there by asking his Lieutenant to keep one aircraft ready for him to leave the place for New Delhi the next day, when such an officer is offered a job on a salary of Rs. 10,000 free of income-tax with all other amenities? The same thing has happened in the case of General Pathania. What is happening to those ICS officers who retire from service? They immediately take a good job in a company. It has to be changed. Let them be given good conditions of service, while they are in service; let them also be given good pensionary and retirement benefits so that they will have nice time after retirement. But they should not be allowed to take up appointments in big concerns, especially with those with which they had connections while they were in service. They should not be permitted to join concerns like Bird & Company. Even Ministers' sons are joining such firms. It is widely known that some Minister has said that Ministers' sons also have to take up appointments somewhere. That is perfectly true. Let them compete for IAS or some other competitive examination and not depend upon their father's ministership to get a salary of Rs. 5,000. These are some of the instances which are agitating our minds and they will continue to do so unless some bold steps are taken by Government.

When I am on services, I may mention that recently a big officer, one Deputy-Director General of Supplies and Disposals was dismissed from service for corruption. He had amassed wealth to the extent of Rs. 10 lakhs. Then, I have before me another news item which is much more disturbing and harmful to the nation. It has appeared in the *Statesman* of 16th November, 1964. It says:

"Calcutta police rescued a minor girl (16) from the residence of

a senior Central Government officer (50) in South Calcutta on Saturday.

The girl was restored to her parents in Pandua, Hooghly, where a case was immediately started. The police were said to have raided the officer's house on a complaint made by the girl's parents, it was learnt."

It is a slur on our services. So, it is seen that not only money but even girls are supplied to the officers and the parents of girls are forced to send their girls to such officers to get some favourable decisions. It is a pity that such officers are allowed to continue in service. In my view, they should be summarily dismissed whenever such instances come to the notice of Government.

Then, I will refer to another case. A note has been circulated to us by our friend, Shri Balraj Madhok, who was here with us for some time, which makes interesting and surprising reading. That case has appeared in some of the newspapers. One paper says:

"The more than three-months-old Delhi car theft case in which the sons of some VIPs are said to have been involved has taken a new turn. Home Minister Nanda is said to have ordered a fresh inquiry into the case."

What is the case? It is the case of a teen-aged girl who was interested in liquor and foreign imported cosmetics. Such girls, who are actually related to VIPs are being used as contacts for the theft of motor cycles and cars. I am told this case is being hushed up. Now, this note has been circulated by Shri Madhok. I am sure, many Members of Parliament have received this note. It does not matter whether it has appeared in *Observer*, *Current*, *Blitz* or some other newspaper; if there is some truth in

this news-item, there should be a proper investigation into the whole case.

Then I come to the Khadi Bhawan. There is a news-item in one paper:

"Khadi Bhawan Workers de-made enquiry into charges of misappropriation and mismanagement."

The whole case was brought to the notice of Shri Jaganatha Rao and other Ministers. There should be a proper enquiry into what is actually happening in the Khadi Bhawan. One ordinary clerk named Ram Babu Mehrotra reported this mismanagement and misappropriation at the highest quarters to the authorities. The net result was that he was given notice and was discharged. It is surprising that an employee should be discharged merely for reporting misappropriation to the proper authorities. I hope the hon. Minister will take necessary action in this matter.

One commission should be appointed to go into the working of big business houses. There should be a proper commission like the Das Commission to go into the working of various business houses like that of Birlas. The Birla mystery has to be exploded. Otherwise, industrialists will not function properly. Then, the licensing committee has to be changed. Now, one ICS officer is the Chairman of three committees. I will give an instance as to how licences are given. A special alloy steel licence was to be given to some industrialist in U.P. To whom was it given? It was given to one Shri Satya Narayan Bagla, who has only one jute mill employing 700 workers. To such a person a licence for a special alloy steel has been given. I was surprised to find it.

Mr. Speaker: Every time I point out something to Shri Banerjee I have to repent it. But there ought to be some limit. He has convicted certain officers. He wants certain people to be acquitted because they have been unjustly charged. Now, he is

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going after another person who has been given a licence. I cannot allow these individual cases to be referred to here and people discussed, condemned and maligned, some discharged, some acquitted and others convicted without getting enough facts on those cases. We cannot sit in judgment and give our decisions that this man ought to have been convicted or discharged or acquitted or punished.

Shri S. M. Banerjee: I do not think I have said that.

Mr. Speaker: In all the instances that he has given he has given his judgement on every individual case. That should not be done here.

Shri S. M. Banerjee: I say, Sir, that in such cases people should be convicted.

Mr. Speaker: It is on the evidence that the courts or the inquiry officers have to do this. Because he has got something from the report, he should be convicted?

Shri S. M. Banerjee: No. say. "How did he get the licence?" It is because he knows somebody in the Ministry.

Mr. Speaker: That is a different thing. So far as his knowledge or his contact is concerned, that might be why he has got it; but how do we know what the facts are?

Shri S. M. Banerjee: About the licences my paper says . . .

Mr. Speaker: Now he has to conclude. His 15 minutes are over.

Shri S. M. Banerjee: I would only request that there should be proper investigation into the grant of licences. The number of licences may be 1,400 and it may be said that the house of Birla and other houses have got only 14, 15 or 147. That may be the total number of licences with those houses, but what is the value of those

147 licences and what is the value of the 1,400 licences? That is to be seen. Udyog Bhavan is generally known as "kajal ki kothri"; that is what the people say. Anybody who has got the finance gets the licence.

With these words I will request the hon. Minister kindly to see that corruption is uprooted everywhere and before that, I think, politics should be free from corruption. That is my submission.

Mr. Speaker: Shri Dwivedy has written to me that he has to go and he might be allowed to speak earlier. I would have called Shri Kapur Singh. There ought not to be any reflection. Shri Dwivedy.

Shri Surendranath Dwivedy (Kendrapara): Thank you.

It will be a misnomer to call this Bill as the Anti-Corruption Bill. I think, with a design probably this title has been given to it. It will give a misleading impression to the country, as if by amending these laws the laws are made so perfect that there will be no room whatsoever, so far as the law is concerned, for anybody who indulges in corruption to go scotfree. I think, it has been done with a design because, as I find, this Bill has been brought here on the recommendations of the Santhanam Committee.

Mr. Speaker: Before I go I might just draw the attention of hon. Members to rule 353 of the Rules of Procedure which has been quoted here many a time before also. I have also drawn the attention of hon. Members to this. It says:—

"No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given previous intimation to the Speaker and also to the Minister concerned so that the Minister may be able to make an investiga-

tion into the matter for the purpose of a reply:

Provided that the Speaker may at any time prohibit any member from making any such allegation if he is of opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation."

Because this Bill is such that certain cases can be cited and hon. Members can bring them in, they ought to be careful that unnecessary allegations and such incriminatory remarks are not made.

Shri Surendranath Dwivedy: I do not make any such allegations.

Mr. Speaker: I am not talking of Shri Dwivedy. He should not take it that I read it only for him.

Shri P. R. Patel (Patan): In view of what you have said just now, may I submit that the remarks of Shri Banerjee may be removed?

Mr. Speaker: I shall look into it.

Shri S. M. Banerjee: How can it be removed? He is asking for their removal.

Mr. Speaker: Yes, he is asking for their removal.

Shri S. M. Banerjee: How?

Mr. Speaker: But why is he impatient? I have only said that I shall look into it. Have I not the right to look into it?

Shri S. M. Banerjee: Has it come from you?

Shri Kapur Singh (Ludhiana): No, no; he says that.

Shri S. M. Banerjee: He says many things.

Shri P. R. Patel: Yes; why not?

Mr. Speaker: Can he dictate to me also that I should not say that I shall look into it? What is the attitude that the hon. Member is taking? I have only said that I shall look into it. To that he takes objection. He ran from that seat. He has been offended by this.

Shri S. M. Banerjee: I heard something and I should know. After all, it is my duty and so I came to my seat.

Mr. Speaker: What did I say about it? I only said, when that objection was raised, that I shall look into it. That is all that I have said.

Shri Kapur Singh: Now he is clear in his mind.

Shri S. M. Banerjee: I came to my seat because I was going away.

Mr. Speaker: Shri Dwivedy might continue.

Shri Surendranath Dwivedy: This Bill, according to the statement of objects and reasons, is based on the recommendations of the Santhanam Committee. We have not discussed the report of the Santhanam Committee in this House, nor has the Government thought it proper to bring forward a formal motion for its discussion and then to decide on matters after hearing the Members of Parliament.

13.35 hrs.

[SHRI SONAVANE in the Chair]

They have taken some *ad-hoc* decisions and on the basis of that they are proceeding. They take decisions which are very convenient for their own purpose. Even in these amendments you will find that. They say that they are amending certain provisions in the Indian Penal Code. But if you will look at the recommendations of the Santhanam Committee, you will find that they clearly stated that "public

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servant" should include this-and-that category. Very vital things have been omitted purposely and intentionally. You will be accused like that. As I started by saying in the beginning, there is a design; there is a purpose. You do not want to go to the root of the problem of corruption, the fountainhead of corruption that lies in the top level of the administration, the Ministries.

The Santhanam Committee had stated that you bring in certain other mischief of the law. They had stated servant" is which will come under the mischief of the law. They had stated that it should be made clear that all Ministers, Ministers of State, Deputy Ministers, Parliamentary Secretaries and members of local authorities should come under the definition of "public servant". That has not been included in this amendment.

They had also stated because they knew where corruption lies today—it is in the knowledge of everybody today and we are sick of it—that President, Secretary or other office-bearers or a member of the managing committee of a registered Co-operative Society, office-bearers or employees of educational, social, religious and other institutions, in whatever manner established, which receive aid in any form from the Central or State Governments should be included here. Now, these three omissions are very significant. Everybody knows in this country today that some of these societies, these public men, who are in charge of large amounts of public funds, are misappropriating and they are misusing or abusing their authority. They have created a vicious atmosphere in the country as a result of which everyone in the administration of the country feels today that the real way of success is to indulge in corruption and malpractices. Therefore, this political aspect of the problem was given the most important

emphasis by the Santhanam Committee. And I am surprised that when they come forward with these Bills even this simple recommendation of the Santhanam Committee has not been included.

Further, they had recommended two things in Chapter IX. They had stated that there should be an additional provision in Chapter IX Instead of mere abetment; it should be the substantive offence so far as public servants and their relations are concerned. They had recommended the form in which the amendment should be brought forward, that is, a new section 161A. That also has been omitted. Further, they had stated that these offences committed by public servants or whoever they are should be made non-bailable. That was also one of their recommendations and they have not included that also here.

What does it show? Does it show a sincere, genuine desire of eradicating corruption either from the administration or from the political level? No, Sir. They want to give this misleading impression, as I said, by bringing forward this Bill that it is the anti-corruption law.

Shri Nanda had started well and we all wished him well. He had the support of the entire country when he started with a bold manner by saying that no matter whoever be the authority, he may be the highest, if he is accused of corruption and if cases are proved against him, the Government will not falter or hesitate to take the strongest possible action against him. But what has been the result? You cannot begin only with the menial servants here and there or some cases here and there. They have not tackled the main problem. Therefore, today what do we find? I am not going into the entire aspect of corruption as it exists today. There is a singular case before this House for the last two years. As I said to the hon. Speaker when he quoted the Rules, I can say with the

emphasis that I command that I have never made an allegation in this House which has not been proved by facts and by judicial inquiries. I have made this allegation, not today but two years back, that in Orissa there is a regular gang working in the name of Congress administration who are misusing the administration, who have abused the executive authority and who have made the entire Government machinery a mercantile corporation, a corporation to loot for the benefit of their own families, for their own benefits and for the benefit of a few exploiters. What do we find today? After great deliberations, in spite of the facts being brought before Parliament specifically and pointedly, the Government refused to do anything and ultimately it was for us to send a memorandum to the President saying, "You must act when the Government, knowing fully well, are shielding their own men." And it goes to the credit of the President that he advised the Ministry to go into this question. I am glad about it. There is the Punjab example where they wanted somehow or other to so shelve that matter. But ultimately when it came out to be true, they could not but under the circumstances make some inquiries. The results of inquiries are there for anyone to see.

Now, about Orissa, everybody knows—it is in the press—that the inquiry has been made by no less an authority than the Central Bureau of Investigation and it is also in the press that on as many as 150 points *prima facie* cases have been established against the Chief Minister of Orissa, ex-Chief Minister of Orissa, Mr. Patnaik, and others. How do they function? This was known much before. Nothing was done. It was stated in this House that if a *prima facie* case is established, the Minister has to tender his resignation. I will quote to you what the present Prime Minister said while replying to the No-Confidence Motion. This is what he said:

"...The Law is really not very effective in these matters. It is exceedingly difficult to prove a case or to prove the charge. Therefore, certain conventions have to be built up. In that regard, I would like to say that we, all the Ministers, will have to agree to this, that once the Prime Minister or the Chief Minister tells anyone of his colleagues that he feels there is a *prima facie* case or he feels that there is something which is not correct, the Minister should immediately tender his resignation."

And further he said:

"...I would like that the Chief Ministers should remain above board and there should be no finger pointed towards them".

These are the words of our present Prime Minister. He said these words on 18th September while replying to the No-Confidence Motion. What do we find here? These facts have been brought out and proved to the hilt. The Ministers do not want to resign. They resign for some other reason and then by some dubious means come back again. I say: Can you have any respect for the Congress Party? Please excuse me when I say this. I know you and many members of the Party who have nothing to do with these matters. But knowing fully well that the Chief Minister is almost involved in the matter of corruption and against whom inquiries are going on and cases against him have been proved as well, you want that man to continue in power. And here is the Central authority which want the support of the entire country under the leadership of Mr. Lal Bahadur Shastri. It hesitates and it does not ask this Ministry to go. It dilly dallies this question by saying whether they have the authority or whether they have not got the authority. What is the authority you want? How do you want to tackle this problem? If a gang of dacoits by

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taking recourse to constitutional methods form a majority and wants to subvert the Constitution in a most open and illegal manner, are the Central authority going to tolerate these things for ever or are they going to act?

Mr. Chairman: May I request the hon. Member that he will stick to the scope of the Bill?

Shri Surendranath Dwivedy: It is entirely within the scope of the Bill. Please tell me where it is not in the scope of the Bill. I have not taken up any individual case. It is entirely within the scope of the Bill. If you point out where it is not within the scope of the Bill, I shall certainly correct myself.

Mr. Chairman: The provisions of the Bill relate to the amendment of the various Acts. He should restrict himself to the scope of the Bill.

Shri Surendranath Dwivedy: The Bills are not discussed that way. I humbly submit to you that it is entirely within the scope of the Bill. It is an unnecessary interruption.

I must say that this political matter is the most important factor today. And you have omitted it in spite of the recommendations of the Santhanam Committee. You hesitate to take action. If you do not act at the proper time, then there is no grace left for laws like these or regulations like these.

Now, I have a fear and probably there may be reasons to believe that in this matter the Government of India is taking an altogether unusual attitude. Probably, the political pressure is so great that where facts are in their favour, to act promptly and immediately they refuse to act. Here is a statement made by Mr. Patnaik published in Oriya papers, after he met Mr. Nanda at Guntur, to say that this commission of inquiry, if it is at all coming, is not coming before six

months. He has made this blatant statement. When I put it to Mr. Nanda this morning that papers say that it may take months, he said, no, it may come sooner. When are you going to act? This has to be made perfectly clear. All the apprehensions must be removed from the public mind. It is said that Mr. Patnaik says that if he is accused and a commission of inquiry is appointed, he is going to expose men enjoying highest positions in the Congress and the Government.

Shri C. K. Bhattacharyya (Raiganj): Where does he say?

Shri Surendranath Dwivedy: That is why they are afraid of him.

Shri C. K. Bhattacharyya: Is that statement of Mr. Patnaik recorded anywhere?

Shri Surendranath Dwivedy: I say it now. You record it in your mind.

Shri C. K. Bhattacharyya: We cannot accept it from you unless he himself has said it. (*Interruption*).

Shri Surendranath Dwivedy: I do not want unnecessary interruptions. He has said it.

Mr. Chairman: The hon. Member should restrict himself to the scope of the Bill.

Shri Surendranath Dwivedy: He has said this before responsible persons. There is no doubt about that.

Shri Sham Lal Saraf (Nominated—Jammu and Kashmir): I seek your guidance, Sir.

Shri Surendranath Dwivedy: I am not yielding. If you want me to sit, I will sit down.

Shri Sham Lal Saraf: I seek your guidance on one point. Mr. Dwivedy is a very responsible leader of his Party. I have great respect and regard

for him. He has made such a statement. I do not agree with him in the way in which he expressed it. I would request you to ask him to refrain from making references like that.

Shri Surendranath Dwivedy: I know many like you may not agree. They do not agree at the beginning but ultimately it comes out to be true. If I had not that much of faith in the source and where it has been said, if it had not been from a very responsible authority, I would not have made this remark in the Parliament.

What I was pointing out is this. Here is the Home Ministry which declare that they have launched a campaign against corruption and within two years they are going to eradicate this corruption from this country. I would say most humbly—I would beg of Mr. Nanda—that our patience has a limit. Now the political pressure is there. Therefore they refuse to act. It has gone out in the country, it has gone out everywhere, it is the talk in everybody's mouth that if you appoint an enquiry commission against the Orissa Ministers, there are always against nine or ten Chief Ministers and State Ministers and you will have also to appoint enquiry commissions against all of them, and as a result the Congress will be finished. That is another reason why they refuse to act where they ought to act.

These are things which I wanted to bring to the notice of the House—and I want the Home Minister, either Shri Hathi who is piloting this Bill or his senior, to make it clear. Is it not a fact that the Central Intelligence report, the interim report, was received in October, and Shri Patnaik met him and he explained, and is it not a fact that you have changed because of these forebodings; and, as has been hinted in press releases you are thinking of dealing with this matter like the Malaviya matter, that is privately sending it to a judge? Why do you ask for explanations, a position which actually the enquiry commission should have taken? It was for the enquiry commission to ask for explanation and

their points of view. When we had made specific allegations with documentary proof, after which enquiries were made and a *prima facie* case was proved, what was the occasion for delaying and giving them months to explain? I find there is something going on that they will just refer it to some judge. I say, nothing like that. Let them be very clear in their minds and let them make it very clear in this House that they are going to appoint an enquiry commission. If they are true to their professions, if the Prime Minister Shri Lal Bahadur Shastri's words have any meaning, then without waiting for any explanations they should appoint an enquiry commission.

You have yourself heard in the morning, what is happening in that part of the country? Lawlessness, goondaism; there is no rule of law, no respect for authority; the democratic machinery is failing. When that is the situation in the country, are we here Members of Parliament just going to proceed on technicalities to find out how to get over the difficulties? Are we not affected by these things? Every one is affected.

My friends will be surprised to learn; there is an election petition—Mr. Chairman, it is a personal matter and I am just referring to it with your permission to show how things are going on—there is an election petition against me. The judgment will be delivered on the 23rd. The two lawyers who have been engaged by me and who have nothing much to do with active politics or with any political party, have been detained, so that if any adverse judgment is there they will not be able to file a case in the High Court. (*An Hon. Member:* Shame). That is the state of affairs which is going on there. I have told the Home Minister to find out whether this lawyer of mine belonged to any political party or actively worked for any political party. There is that sort of desperate authority. You know, a wounded tiger wants to kill everybody. Similarly, in a state of desperateness they do not know what they are going to do.

[Shri Surendranath Dwivedy]

If we tolerate this sort of atmosphere, these laws will have no meaning. The Prime Minister said that if there is a *prima facie* case they will tender their resignation. But they are not prepared. It is for the Home Minister now to act. Whatever explanations they may be giving, they will be considered later; immediately they should be asked to resign and get out of the administration. That is the minimum that has to be done if Shri Nanda is actually serious, if he wants to prove his genuineness. I feel and I believe he is a sincere man. Therefore I have some faith. But, after all, he is a part of a big machinery, the Congress Party which is not going to leave all its power and privilege and pelf in this manner.

Therefore, Mr. Chairman, I am not against this Bill as such. But I would again, most respectfully urge upon the Home Minister and his Ministry: do not mislead the people by such laws. If these laws are to be made perfect, the recommendations of the Santhanam Committee must be implemented fully. What objection have you got? I now find why they did not agree to the simple recommendation that if there is a petition by ten Members of the Legislatures or ten Members of Parliament then automatically an enquiry would be held about their affairs. Why? It is only because they know that most of their own men will fall a victim in such a case. Here this Bill again shows that they do not want to include Ministers, Parliamentary Secretaries and others, which was the specific recommendation made by the Santhanam Committee.

Mr. Chairman: Shri Oza.

श्री हुकम चन्व कृष्णाय (देवास) :
अध्यक्ष महोदय, मेरा एक व्यवस्था का सवाल है। सदन में जब ऐसे महत्वपूर्ण विषय पर बहस हो रही हो तो वह बगैर कोरम के चले इसे मैं कुछ उचित नहीं समझता।

Mr. Chairman: The Quorum Bell is being rung—Now there is quorum. Shri Oza.

Shri Oza (Surendranagar): Mr. Chairman, looking at the trends of the speeches of the last speakers from the opposition benches we could see that they have utilised this opportunity to give vent to their wrath—with which I have no quarrel—against corruption, but perhaps more against particular persons.

Shri C. K. Bhattacharyya: More against persons than against corruption.

Shri Oza: When Mr. Banerjee, who does not happen to be present now, participated in this debate, as usual, he brought out many cases before us. We do not know whether they can stand the test of proof. As was rightly pointed out by the hon. the Speaker, it was not fair on his part to make sweeping allegations against any person, however high or however humble he may be in this country.

I do not hold any brief for any person, more particularly for a person like Mr. Birla with whom I have not the remotest concern, but I would certainly say that every citizen of this country has a right to defend himself and his reputation. If we indulge in all sorts of allegations, sometimes very cheaply, I think we will make these allegations at the cost of some vital values which we cherish so much in this country. We all know that Shri Surendranath Dwivedy is obsessed very much with matters connected with Orissa, and more particularly with Shri Biju Patnaik against whom he seems to have been pitched in a battle royal. I do not hold any brief for Shri Patnaik; he can defend himself very much, and I know he can defend himself better than I can do. But I expected that when we were discussing the Anti-Corruption Laws

(Amendment) Bill, my hon. friend would make some more constructive suggestions so that the law courts and the executive can combat this evil more effectively. I expected that he would make some observations on the various clauses in this Bill which according to him might be short of his expectations. But I must admit that I was sorely disappointed.

14 hrs.

While speaking on a previous occasion, I had observed that corruption was a social evil. As such, I would submit that it has got to be tackled mostly or mainly on a social level. I do not want to exonerate either the executive or the Government from their functions; of course, they have also got to be vigilant. But when I say that it is a social evil, I want to point out to the Opposition Benches one thing very humbly. Is this corruption pervading only the Government departments? If we cast our eyes around in society, can we say confidently that our social institutions, whether they be educational institutions, or religious institutions, or institutions relating to health, which are run purely by registered societies, are free from corruption? I do not want to defend the failings of this Government. I am at one with my hon. friends in condemning . . .

Shri P. R. Patel: What does my hon. friend want? He wants no legislation?

Shri Oza: Let my hon. friend have patience and then he will know if he wants to learn more.

I say that we do want this legislation, but we should not forget that in this country we have accepted a Constitution which guarantees the rule of law to all the citizens. What are the rights and the obligations flowing from this rule of law? The Opposition Benches, in season and out of season, whenever the question of Fundamental Rights comes in, when-

ever we discuss even in the emergency a thing like the Defence of India Act, come out vehemently against the encroachments made by Government on the Fundamental Rights in various ways. I entirely appreciate their arguments. But when it comes to corruption, they forget that we are having a rule of law which gives protection to every citizen, namely that he cannot be punished or fined without being hauled up before an independent judiciary, without an opportunity being given to him to defend himself perfectly, and without bringing home the charge completely to him so that he may prove his innocence. Unless all these safeguards are properly observed, there will be an end to the rule of law. We have cast our Constitution in this fashion that let 99 criminals go scot-free, but let not one innocent person suffer if he is really innocent. Unless we safeguard those fundamental laws, I am afraid that in our over-enthusiasm to root out corruption, we shall be encroaching upon certain fields which will ultimately be to our woe and repentance.

So, I would submit that we have to strike a balance, a balance of convenience, between making the laws and the procedures more strict and going at the evil. I quite agree that we must root out the evils. I am absolutely at one with the proposition of the Opposition Benches that corruption is an evil that corrodes our social life and it should be wiped out as early as possible. But I would not concede that it must be at the cost of our Fundamental Rights. As regards Fundamental Rights, the judiciary should be the supreme authority; every citizen when he is hauled up before a court of law should be presumed to be innocent and every opportunity should be given to him to defend himself. If we allow those principles to be encroached upon even indirectly by this legislation because of our over-enthusiasm to wipe out corruption, we shall be doing something wrong. I think that that would

[Shri Oza]

militate against the very Constitution that we have accepted.

I shall now point out certain provisions of this Bill which will militate against those Fundamental Rights, and the tenets which we have enshrined in the Constitution by which we are swearing day in and day out. Therefore, I would request my hon. friends in the Opposition and also on this side of the House to always keep a proper perspective of the whole thing and to take a proportional view and decide whether we should at all put our foot on the Fundamental Rights and fundamental liberties while we are going at another evil. We have to strike a balance on the basis of how effectively we shall be able to wipe off these evils while encroaching upon those rights, and then only accept whatever amendments are consistent with our Fundamental Rights of having a supreme judiciary and the rule of law in this country.

I would like to know one thing from the hon. Minister in this connection. After the Prevention of Corruption Act, 1947 was passed, how many cases have been brought up before the law courts? And what is the percentage of conviction that has resulted? If he could provide us with any figures in that respect, even tentative figures, or approximate figures, we shall be able to put it in balance and then find out whether we can sacrifice our rights under the rule of law, in order to go at this evil. From what I have been able to gather, I find that the cases brought under the Prevention of Corruption Act are mainly against the small fry's like *talatis* etc. Therefore, it means that we want to sacrifice the rights of these poor individuals only, and we cannot go at persons who are high-ups. Of course, the law becomes ineffective in their cases. I am not in agreement if it is indirectly suggested that the high-ups are let free; that is not at all so. But the law as it is framed is not effective enough against the high-ups and against the

big fish as one might call them, but only the small fry's are brought before the law courts. Then, what has been the number of convictions? And what have we sacrificed in order to gain what? If the hon. Minister could provide us with those figures, I think that we shall be able to find out how many convictions we have been able to secure after amending the law in 1947. But as I was pointing out, we are sacrificing certain fundamental principles, particularly of criminal jurisprudence, in order to achieve an end which I doubt whether we shall be able to achieve effectively at all. In this connection, I would like to point out that I have tabled an amendment to clause 6, particularly to the proposed new section 7A of the Prevention of Corruption Act, wherein I have sought to provide that an accused is supposed to be innocent, and no procedure should come in the way of his complete defence. If you are going to jeopardise him in his full defence, if you are going to put him, under any pretext, in such a position as where he cannot defend himself properly at any stage, then I am afraid that you are going to do harm to the very principles of natural justice and criminal jurisprudence which we have adopted in our country. I am sure the hon. Minister will accept my amendment when we come to that clause.

There is also another principle which I am afraid he has sacrificed in the amendments that he has brought forward. At page 7, lines 29 to 35 we find:

"Notwithstanding anything contained in sub-section (1) or sub-section (2), the judge or magistrate may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader . . ."

I would submit that this is very wrong. I am very sorry that the hon.

Minister should have even thought of such a thing. The taking of evidence of every witness of the prosecution and everything else should be done in the presence of the accused. Only the accused can ask for an exemption from being present. But according to the proposed provision, the courts *suo motu* can go against that principle and can hold trial in the absence of the accused. It is a wonderful thing. I would remind my hon. friend that not only should justice be rendered but it should appear to be rendered. That is the principle that we have accepted in the Constitution and the laws that we have put on the statute-book. But, here, by this amendment, the accused shall have to face a music which went on in his absence. I think that that is not fair at all. I would request the hon. Minister to drop this. After all, one or two adjournments would not matter very much; suppose the accused cannot come, we can give him an adjournment. But for expediting a case, say, by a month or two, I do not think we should sacrifice such a principle that no criminal trial should be held in the absence of the accused. Here whether the accused is present or is not, the court, *suo motu*, can give an exemption. I think this is a very sad thing and am sure the hon. Minister will give a second thought to the whole thing.

Then the law presumes that every accused is innocent so long as not proved guilty. We are letting go that very sacred principle. We are raising several presumptions, I do not know to what effect. I am sure many innocent persons will suffer under this law. My hon. friends, Shri Banerjee and Shri Dwivedy may thunder and roar against Shri Patnaik and whoever they may have some grievances against, but I am sure that in their over-enthusiasm they are goading Government in a direction in which poor citizens who cannot go to a court of law and defend themselves properly by engaging eminent counsel will stand to suffer. Let us safeguard the

fundamental principles flowing from the rules of law that we have established in this country. Take a proper perspective. Do not take views out of all proportion and sacrifice things for gaining what—I do not know. That was why I was requesting the hon. Minister for statistics. I want to find out how many convictions have been brought home. I would again and again urge, particularly Opposition Members always to take a balanced view of the whole thing. We know that they are eager to safeguard fundamental rights because whenever an opportunity comes, whether we are discussing the DIR or emergency, they thunder. But when these things come, they in their over-enthusiasm condemn this Government, bringing out individual cases of corruption. Out of thousands and lakhs, they can point out only that number which can be counted on one's fingers. Therefore, let us not lose sight of perspective and sacrifice things which are very sacred to us.

At the amendment stage, I would seek another opportunity to move my amendment.

Shri Kapur Singh (Ludhiana): It is with a certain amount of diffidence, which has not altogether been removed after listening to the speeches of some of my hon. friends who have preceded me, that I rise to express my disapproval of the Bill before the House.

This Bill is the result of a certain amount of conditioning which has been going on in this country for the last 15-16 years. This conditioning has affected the moods of the ruling party, it seems to have affected the moods of those who have made the report, and those conditioned moods are amply reflected in the Bill we are now considering. Thus, not only have issues been obscured, but a great deal of objectivity has been taken out of a balanced judgment of the report. The Bill now before us has consequently been vitiated.

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In particular, I have in mind certain clauses of the Bill—cl. 2 which refers to sec. 21, IPC. cl. 6(7) (a) relating to sec. 7 of the Prevention of Corruption Act and sec. 251A of the Code of Criminal Procedure and cl. 6 (7) (d) relating to sec. 540 of the Code of Criminal Procedure—because these clauses are calculated to defeat the whole purpose of the Bill and to protect corrupt politicians and destroy the morale of public servants.

The problem of corruption is by common consensus a big problem. It has been exhaustively dealt with by the Report of the Committee on Prevention of Corruption which goes by the name of the "Santhanam Committee." We can best consider a problem of this kind, a problem which is basic to our social fabric, by employing the methodology which was taught to us by Gautam, the Buddha, when he was dealing with a basic axiom which he had enunciated as *sab dukh*. This he formulated by way of analysis of this proposition, as चतुरार्याणि सत्यम् (*Chatur-Aryaani Satyam*), the four noble truths. These four truths implicate and show a methodology which tells us that the first problem in such cases always is as to what is it that we have to consider. The second problem is always as to how what we have to consider has arisen. The third problem is as to how what we are considering is to be eradicated, if its eradication is desirable, and the fourth problem is its eradication.

We remember that *Chatur-Aryaani Satyam*, the Four Noble Truths, comprise of दुःख, संसृदाय, निरध, मार्ग । It is by this method of analysis that I would like to consider this Bill and the Report out of which this Bill arises. This Bill tells us that it is in implementation of the proposals and recommendations made by the Santhanam Committee. Out of these four problems which emerge before us by use of the methodology I have

referred to, about prevalence of corruption in public life and the desirability and possibility of its eradication, we are all agreed. So really speaking, only two problems remain—the causes of this corruption and the way to eradicate it. It is here that the Santhanam Committee Report comes before us. After conceding in para 2:3 that "corruption in one form or another has always existed", the Report lists about five major causes of the alarming growth of corruption in independent India. The first is maladjustment of social conscience with rapid economic growth; it is referred to in para 2:7 where they say:

"After independence, a conscious and deliberate effort is being made to change these conditions by undertaking reforms and reconstruction on all directions simultaneously, the emphasis, however, being on the economic sector. The attempt is to accelerate the pace of development in such a manner as to make good the loss of time, the loss having been spread over two centuries. The direction of change is modernisation. A society that goes for a purposively initiated process of a fast rate of change has to pay a social price, the price being higher where the pace of change excludes the possibility of leisurely adjustment which is possible only in societies where change is gradual".

The second cause of the prevalence of a large amount of corruption has been listed in para 2:9, where it says that it is the multiplication of the administrative processes which is responsible for it. The third cause is the unwillingness, as they say, to deal drastically with corrupt public servants and excessive legal protection enjoyed by public servants. I wish to dwell on this in some detail. It is given in para 2:12 where it says:

"We are of the opinion that two of the major contributory factors

for the growth of corruption are, firstly, the partially acknowledged unwillingness to deal drastically with corrupt and inefficient public servants, and secondly, the protection given to the services in India, which is greater than that available in the more advanced countries. It was distressing to hear heads of departments confess, that even where they were morally convinced that one of the officials working under them was corrupt, they were unable to do anything because of the difficulties in obtaining formal proof, finding or conviction. They could not even make an adverse entry in the confidential roll without their being required to justify such an entry with proof when it was challenged after its communication to the government servant concerned”.

“Article 311 of the Constitution as interpreted by our courts has made it very difficult to deal effectively with corrupt public servants. When the question of amendment of article 311 came up before Parliament the issue of corruption was altogether ignored and overwhelming stress was laid upon protection of the individual Government servant.”

The linguistic animal is most dangerous in Government reports. Government reports formulate policy and they give rise to institutions. Institutions arise out of the words of Government reports. It is for this reason that I want to analyse and examine this paragraph of the report to show how it is based on a particular attitude of mind which abhors objectivity and which substitutes sentiments, heresy and conditioned opinions for balanced judgment.

Firstly, they say “we are of the opinion”. Is this opinion based on evidence, heresy, or personal prejudice? The writer has not taken us into confidence, and he has sought to overwhelm us into acceptance by the royal “we”.

Further on, they say “partially acknowledged unwillingness to deal drastically with”. Acknowledged by whom? What causes this unwillingness, incompetence or corrupt influence? The report is completely silent on this. They leave us to guess, or leave us just in confusion so as to fall in line with the proposals and the recommendations that are to follow. Without making this point clear, the road has been cleared for proposing measures to make the life of self-respecting public servants more impossible than it already is.

Again, it is said “it was distressing to hear heads of departments confess that, even where they were morally convinced. . .” What is the difference between a ‘moral conviction’, would of any good evidence of proof, and a gross prejudice or personal vendetta? The report finds it unnecessary to go into this inconvenient question, though this is the basic question which should have been taken into consideration when writing a phrase of this kind.

Further on, they say—this is with regard to the heads of departments of the Government whose statements have distressed the makers of the report—“They could not even make an adverse entry in the confidential roll without their being required to justify such an entry.” Would the makers of this report or these heads of department who have distressed them, like to be condemned and put into jeopardy on the basis of ‘moral convictions’, or on any basis whatsoever that cannot be justified or that cannot be objectively enquired into by other than those who accuse them and who traduce them? If they themselves would not like this to happen to them, why is it that they suggest and they propose that this should happen to the permanent services of this country? This inconvenient question they have not gone into carefully. They have not cared to answer it, and they have merely presumed an answer to it which lies dormant in their minds owing to the conditioning to which everybody in this country has been subjected dur-

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ing the last 15 or 16 years in so far as the public services are concerned, and yet this observation of the report is being made the sole justification for the extraordinary and pernicious provisions of the Bill which we are now considering.

It is said that it is always a mark of a man of decision that life is less complex than it is, and of a man of authority that those subject to his authority are somehow less human than he is. If any proof in support of this remark was required, that proof is amply furnished by the makers of the report on corruption. They have made much about article 311. They say:

"Article 311 of the Constitution as interpreted by our courts has made it very difficult to deal effectively with corrupt public servants."

Does the report insinuate that our courts have somehow perversely interpreted the article? No other meaning can be attached to the qualifying phrase, "as interpreted by our courts".

I may refer to paragraph 5.4 of this report where they enumerate about 15 requirements of law which, according to our courts, must be complied with, if the provisions of article 311 are to be satisfied. I would not waste the time of the House by going through these 15 requirements verbatim, but I must make a cursory reference to them with a view to make the point which I propose to make.

The first requirement is:

"The opportunity provided can be considered reasonable only if it gives to the Government servant—

- (a) an opportunity to deny his guilt and establish his innocence;
- (b) an opportunity to defend himself;

(c) an opportunity to make representations as to why the proposed punishment should not be inflicted on him."

Again, the breach of rules of evidence in some cases may also amount to a non-compliance with the requirements of article 311.

Again, if a delinquent official is asked to defend himself before a person who is already biased against him or who has already prejudged the issue, article 311 must be deemed to have been contravened.

Further, if an enquiry officer puts on record his own evidence as against that of another witness, article 311 must be deemed to have been contravened.

Again, the enquiring officer should not prejudice the case of the accused by looking into unspecified documents.

Again, if the inquiring authority has the duty to come to a conclusion as to the guilt of the delinquent upon an evaluation or assessment of the evidence, then he should himself hear the evidence.

Further, the charge should not be vague.

Again, reasonable period should elapse between the date of the delivery of charges and the commencement of the inquiry.

Copies of the statements made by the witnesses prior to the regular inquiry should be furnished to the person who is being proceeded against.

Non-production of relevant documents asked for by the delinquent officials and non-examination of relevant witnesses called for, would amount to a denial of adequate opportunity.

Again, the statement of the witnesses must be recorded in the presence of the delinquent official.

Non-supply of inquiry officer's report when demanded by delinquent official would constitute denial of reasonable opportunity.

The show-cause notice should be in the name of the punishing authority, or with its authority, consent or approval.

Also, proper opportunity must be afforded to a Government servant at the stage of the inquiry after the charge is supplied to him.

Lastly, the disciplinary authority is entitled to take into consideration the record of the past service of a civil servant in order to determine the appropriate punishment but before taking this into consideration, the civil servant must be appraised of the record of his past service and of the fact that it would be taken into account to decide the question of punishment.

About this, the report complains that the interpretation of the courts of this article has made the task of the Ministers, the task of the Government, most difficult in dealing with those public servants who fall under their displeasure. I ask simply this: is a single one of these requirements such as shocks the human conscience? Is a single requirement which has been listed here, is such that it is opposed to natural justice? Is a single requirement which has been listed here on the authority of the interpretation of the law by our courts such which, leaving the rulers of this country apart and leaving the makers of this report apart, would be considered as unfair by the community of Indian citizens? If that is not so, what justification is there for making a grievance which is sought to be made against the courts that the rules of justice are being applied in the case of public servants also, when the rules of natural justice are still applicable to all the citizens of this country?

While still on article 311, I take this opportunity of putting the record

straight by showing and revealing to this House another facet of article 311 as it has been interpreted by our courts, about which a grievance has been made out in paragraph 5.4 of the report. This facet is completely out of concordance with the story which has been revealed in this report, on the basis of which story, not only this Bill has been brought forth, and on the basis of which all types of restrictive measures, all types of strangulating measures against public servants have been brought into existence during the last so many years. I refer to a paper back edition, the *Sikh Unrest*, authored by Sardar Gurnam Singh, B.A., Barrister-at-law, Judge of the Punjab High Court, (retired) but I would not read the whole story as he has given in this book, printed on pages 63 to 71. I will lay this book on the Table of the House so that the relevant portions of it become a part of speech. [Placed in Library. See No. LT-3454/64]. I must, however, read pages 68 to 70 where this learned retired judge of the High Court and now an eminent politician has given, on the basis of certain cases which have been decided in our Courts and which he has carefully examined, certain information. There he says that the Courts also lay down that under article 311 certain things can be done to the public servants of which no notice has been taken in this report and of which the Government and the public generally seem to be unaware. On page 68, he says:

"Let us take the following material propositions of law that are further extractable from this case. Interpreting the vital clause in the Article 311, "affording a reasonable opportunity of showing cause against action proposed", the Supreme Court in this case has proceeded on the following propositions.

1. The Government, which in practice means, the group of politicians in power, have a legal right. the free and uncontrolled

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exercise of which is also reasonable to handpick and choose at pleasure, a particular person to judge allegations of misconduct against a particular public servant, despite his written and plaintive protests that thus the dice is already loaded against him.

2. They have such a legal right to frame any charges of misconduct, the term 'misconduct' to mean any conduct *post factum* disapproved by the government in that particular case, even though such alleged conduct may be shown to contravene no already existing rule or directive, or any practice, established precedents or requirements of common sense, good conscience or of decorous behaviour.

3. They have such a legal right to inflict any punishment contemplated under the law for any 'misconduct' thus conceived, despite the requirements of statutory rules that all penalties must be reasonable and just in relation to the facts of the case. Whatever a government may choose to do, in their sweet will, in this matter the courts will not go into the reasonableness and justness of the penalty. This is the law.

4. They have such a legal right to obtain adverse findings through their own handpicked tribunals on the tacit presumption that by leading evidence on one ingredient only, out of the many ingredients that legally constitute a charge, all the necessary ingredients are, by some logico-mystical necessary implication, proved and established. The legal principle of this proposition obviously is that, a part includes the whole, on the analogy of the Hindu metaphysical postulate that all microcosms are, severally and in all respects, the same as the Macrocosm.

5. They have such a legal right to thus obtain findings on matters in addition to the charges formally inquired into, and there is, further, such a legal right vested in government not to allow the victim to defend himself against any of these wholly new accusations, understand this....

Mr. Chairman: The hon. Member should conclude now.

Shri Kapur Singh: We have more time at our disposal and I have already written to the hon. Speaker and the hon. Speaker gave me to understand this . . .

Mr. Chairman: You have taken 23 minutes; you may take two minutes.

Shri Kapur Singh: In two minutes, I will not conclude anything. It is a very important matter and this is the basic and central point of my whole attack against this Bill and I am making an attack which has not so far been made or understood. I shall try to hurry up. It continues:

"6. They have such a legal right to regard all such findings as final and irrevocably established, without affording any opportunity of appeal against them before an independent and impartial forum.

7. Where, however, such a legal right of appeal clearly exists as it did in the case of a particular officer, in view of his having been prosecuted before a judicial tribunal the highest court in the land may decline leave to appeal at the first stage on the ground that the report of the enquiry against him amounts, in law, merely to formulation of *prima facie* 'opinions' against which there can be no legal appeal, just as these opinions cannot form any legal basis for imposing a penalty, and at the final stage, when the party approaches the same highest court,

in referral to the same impugned statute, the respondents remaining the same, in the same case, on the same facts, that the penalty imposed on the basis of these mere 'opinion' may be declared as illegal, his prayer may be rejected by silently assuming that 'Opinions' means after all, the same, in law, as 'findings'. This is legal as well as reasonable.

8. They have such a legal right to prohibit, by fiat, a public servant to have any access to places and documents from where alone he can ascertain his likely defence.

9. They have such a legal right to refuse to produce any documentary material such as is in the possession of the government, even though it is shown to be necessary and vital for the case of the defence.

10. They have such a legal right to refuse to examine any items of the defence evidence as they please not to, even though the findings that would be eventually obtained, demonstrably derive their plausibility precisely from the fact of absence on record of this disallowed defence evidence.

11. They have such a legal right to prohibit the accused public servant from choosing the nature and form of his own defence and he may plead only such defence as meets with their prior approval.

12. They have such a legal right to refuse to allow any opportunity to the public servant to defend himself against the imputations of misconduct except through a written statement after the action is proposed against him.

13. They have such a legal right to refuse the public servant any personal hearing, even though he repeatedly begs for it, and has never been so heard at any stage by the authority concerned."

I trust that a perusal of this along with para 5.4 of the report might assuage the troubled feelings of those who are intent on digging in their knife deeper and deeper into the public services.

To proceed with the causes of corruption that have been set out in the report, the fourth cause which they have set out is given in para 2.14. It is named as industrial and commercial classes. This para concludes:

"If anti-corruption activities are to be successful, it must be recognised that it is as important to fight these unscrupulous agencies of corruption as to eliminate corruption in the public services. In fact they go together."

But there is no mention whatsoever in the whole of this big voluminous report of the New Class of publicmen and workers who have arisen in this country after 1947 who swell the ranks of corruptors.

The fifth cause given in this report says that Ministers and legislators as a possible element in the prevention of corruption might also be considered. But they do so with a reluctance and finesse which does much credit to the report-makers! It is given in para 2.16 and I will read out the words so that the House knows with what reluctance and circumspection and pain they are obliged to say so.

It says:

"We wish we could confidently and without reservation assert that at the political level, Ministers, Legislators, party officials were free from this malady."

Further on, in paras 11.1 and 11.2, however, the report somewhat warms up and becomes a little more communicative, wherein it is said:

"There is a large consensus of opinion that a new tradition of integrity can be established only

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if the example is set by those who have the ultimate responsibility for the governance of India, namely, the Ministers of the Central and State Governments. . . . There is a widespread impression that failure of integrity is not uncommon among Ministers and that—

Mark this indirect way of making a statement—

“some Ministers who have held office during the last 16 years have enriched themselves illegitimately, obtained good jobs for their sons and relations through nepotism, and have reaped other advantages inconsistent with any notion of purity in public life.”

Mr. Chairman: The hon. Member's time is up.

Shri Kapur Singh: So as not to be outdone in courtesy, I will simply skip over, particularly in view of the bell which you have rung, the story of the Das Commission, the ugly revelations being continuously made in all the States from Kashmir to Kerala and the current talk about Orissa. The House knows them so well that in any case it would be unnecessarily taking time to dwell upon the facts in detail. To counteract these five major causes of corruption, the report has proposed certain measures against public servants and against Ministers. But the proposals against public servants are accepted and they have resulted in the Bill which we are now considering, while the proposals against Ministers are not accepted and they are not in this Bill.

I can make no better comment on this except that made by Gautam, the Buddha, and Nanak the Fifth. In the Pali *Dhammapada*, Gautama the

Buddha is recorded to have said as follows:

“अतानम एवा पठमम् पतिरूपे निवेस्य ।
निवेस्य अथ अन्नम अनुशास्य न क्लेषय
पडितो ॥

“First, adopt the path of rectitude yourself, and then legislate for others: there is no other trouble-free path for a wise man.”

Then, in the *Guru Granth*, Nanak the Fifth says:

“अवर उदेशहि आप न करिहि
आवत जावत जन्महि मरिहि ॥

“To lay down a statute for others, without first coming upto it oneself, leads to recurrent confusion and frustration.”

In section 11 of the report, while discussing the social climate necessary for the eradication of corruption, the report observes: “Change in social outlook and traditions is necessarily slow and the more immediate measures cannot be neglected in its favour.” In this one sentence, there are present three premises; one is that this slow change is all right; the second is that immediate measures must be taken against public servants and the third is that similar measure need not be taken against the Ministers. All these three premises are basically misconceived and ill-conceived.

The Minister of State in the Ministry of Home Affairs (Shri Hathi): Is he quoting any paragraph from the report?

Shri Kapur Singh: No, Sir. When I am quoting, I will tell you.

Mr. Chairman: He is quoting himself!

Shri Nath Pai (Rajapur): It says that you cannot rectify malpractices on the part of civil servants unless you set right the Ministers.

Shri Kapur Singh: All these three premises are basically ill-conceived and misconceived. I assert that neither slow change in social climate and drastic measures against public servants can go together, nor double standards in respect of Ministers and public servants can go together. To fortify my arguments, I will quote with your permission from a very recent book entitled *Corruption in Developing Countries* by Ronald Wraith and Edgar Simpkins. At page 10, it begins by saying:

"Throughout the fabric of public life in newly independent States runs the scarlet thread of bribery and corruption. This is admitted by everybody; very little can ever be proved about it."

And then, it goes on to say:

"...financial buccaneering, even when the public sector is involved, is less soul-destroying in itself than in combination with the pervasive, petty corruption of the poor and the quiet, cynical corruption of the influential; both of which tend to be common, not remarkable, in newly independent countries."

The authors go on to say that "it is the boast of these countries that they are telescoping the centuries." Upon which he comments:

"...What Britain did in 500 years, Africans in particular are determined to do in fifty. This is legitimate: what is not legitimate is to be selective—to say that for certain purposes they will move at ten times the pace of her former guardians in education, the right to vote, parliamentary democracy and technological progress, but reserves the right to travel at a more convenient pace in public honesty."

The same book, which makes a rewarding reading on the subject of

this Bill, emphatically concludes that there are certain developments without which corruption cannot be removed, in the newly developing countries, at all. These conclusions are given at page 208. I will not read them but I will merely refer them to the Minister for going through them and if and when he does it, he will find that there are mentioned certain developments, without which corruption cannot be removed. The author does not mention protection to Ministers and strangulation of public servants as necessary steps for the eradication of corruption.

I now conclude by referring to the clauses to which I objected in the beginning of my speech. I object to them by raising some questions: Why the Ministers cannot be treated on par with public servants in the matter of eradication of corruption? Secondly, Why must a public servant disclose his defence evidence immediately and to the prosecution, as good reasons for not doing so exist: one is to protect against subversion of witnesses by prosecuting agency; the second is to allow for discovery and production of defence evidence as and when desired during the proceedings. Why is this salutary and just protection which is still enjoyed by all the other citizens of the country being denied to the public servants through this Bill.

Then third question is, Why must evidence ever be recorded in absence of the accused public servant when he is contesting the case? Is it known to any civilised judicial process? Lastly, What ethical justification is there to afford the Ministers the protection contemplated in section 198-B(1) of the Code of Criminal Procedure when the Bill omits to include them in section 21 of the Indian Penal Code? For the purpose of punishment, the Ministers are not deemed to be public servants, but for the purpose of protecting them against the people who may level

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charges against them they are deemed to be public servants. It seems that according to our rulers, the Ministers must have the cake and eat it too.

As far as the public servants are concerned, according to the famous saying, those who have, they shall be given more, and those who have not, from them even the little that they have shall be taken away.

Sir, I conclude by saying that this Bill is misnamed. It is a Bill for Perpetuating the Powers and Pleasures of the Ministers over the Public and the Public Servants.

Shri Himatsingka (Godda): Mr. Chairman, Sir, I heard the previous speakers who have dealt with this Bill and also with various other matters not connected with the Bill in spite of the Chair's admonition. This Anti-Corruption Laws (Amendment) Bill is an attempt by the Ministry to adopt some of the recommendations made by the Santhanam Committee. The hon. Minister, while moving the Bill, made it clear that this Bill deals with only some of the recommendations and other recommendations are being considered by the appropriate authorities to whom the matters have been referred. Therefore, to make any grievance that certain matters have not been included in this Bill does not appear to be justified. Some of the provisions that have been included in the Bill have been criticised very ably by my hon. friend, Shri Oza, when he pointed out that some of the provisions in the Bill go too far and should be considered afresh. After all, if we want to punish anybody, we must give that person the right and opportunity to defend himself properly; simply because there are certain allegations against a person, he should not be treated as a criminal from the very start. He should be given an opportunity as any other person is given an opportunity.

Certainly the provisions that have been made provide for speedy trial. That was absolutely necessary, because prolongation of trial in these cases sometimes affects the merits of the case and also gives an opportunity to the persons concerned to interfere with the process of justice. So, the provisions for speedy trial are welcome. At the same time, they should not be carried so far as to say that even evidence can be recorded in the absence of the accused, unless it appears that he is absconding. There is already provision in our penal codes that if a person is absconding, evidence can be gone into *in absentia*. But if an accused has justifiable grounds for not being able to be present on a particular day, the court should not be given the authority to proceed in his absence, because in that case, he may not be in a position to instruct his lawyers and to have his case properly presented.

While talking of corruption, I feel that we in this country are making too much noise. If we accept the allegations that are thrown about from time to time, almost without any interruption, then we have to come to the conclusion that the whole of India is corrupt. I have been to foreign countries recently and I may say that from enquiries made, what we call corruption in most of the cases is very much more prevalent in some of the Foreign countries and they never talk of corruption in the sense we do.

An Hon. Member: According to you what is existing is not enough!

Shri Shinkre (Marmagao): Why did the Government appoint the Santhanam Committee then?

Shri Himatsingka: Government appointed the committee to make enquiries and the report is there. I do not say there is no corruption. But to exaggerate it and go on talking

about corruption really creates an atmosphere which brings down the standard of morality. This kind of talk is having the effect of producing a kind of inferiority complex in a large number of persons. So, we should be careful in making these allegations.

Some Members of the House are allergic to certain names. One of them is Mr. Banerjee, who is not in the House at the moment. He is always allergic to certain names and he must bring forward those names somehow or other. He brought forward the name of a firm and said licences are being given to that firm and enquiries should be made. As my friend here says, he always does it at his convenience, without going into the facts or truth and ascertaining the reasonableness or otherwise of the remarks. He went on dragging in certain names, in spite of the wishes of the Speaker. But when a person stands to speak and wants to go on, it is rather difficult for the Chair to pull him up. He forgets conveniently that the name about which he was allergic was very welcome to the communist ministry when it was in power in Kerala. That Ministry cajoled that firm to start a factory in Kerala when the communists were in power. Now simply because a certain licence is given to that business house, he wants an enquiry to be made. That shows the kind of allegations we are prepared to make without any justification.

People outside make certain allegations against Members of Parliament and Members of State Legislatures. They say, certain members are on the pay roll of some firm to run down other firms whom they do not like. Should we accept those statements and make allegations against those Members? That kind of allegation is made though it is not proved. Certainly we should be careful in putting forward allegations of corruption against persons who cannot

defend themselves in this House. That is how we are exaggerating small matters into big stories of corruption. Therefore, what I feel is whenever we find there is corruption, we should put our foot against it and try to stop it. But it cannot be stopped unless there is co-operation from all sides. I might emphatically say that there is no co-operation from the side of the public or from MPs or MLAs. If we do our duty and try to bring these facts to the notice of the Government, I have no doubt that a lot of corruption can be stopped. In most cases, a large number of our friends are themselves parties in helping certain persons in getting something which they are not entitled to get.

Shri Umanath (Pudukkottai): You can bring such cases to the notice of Government.

Shri Himatsingka: Whenever such cases come to my knowledge, I do bring them to the notice of the Government. I wish my friend who has been interrupting will have the courage to do so. If he does it, he will see that a large number of corruption cases will stop, but he has not got the courage to do so.

As a matter of fact, I find that some of the officers also are allergic when you give them certain facts. I was in Churu very recently. When I heard certain persons alleged that certain inspectors of certain departments always give trouble and they have to pay money to them, I mentioned it to the magistrate in a meeting which I had the opportunity to address. But the magistrate grew furious. He said that I ought not to have mentioned it at a meeting. I asked, what is wrong? I simply wanted to draw his attention to what people have been saying here. I do not know whether the allegation is true or not, but if certain allegations are made against the officers by certain persons who have no axe to grind, why should the magistrate be not in a position to enquire when he

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is being requested to make enquiries? Therefore, officers also should not be allergic to any allegations being brought to their notice for enquiry.

If we co-operate with the authorities at the proper time and give them timely information, I have no doubt that a lot of these things can be curtailed. But the opposition members want only to speak in the House and not take any steps to stop these things. No action can be successful in this direction unless the public come forward to co-operate with the authorities. Laws alone will not be sufficient. The laws will be effective only if they are administered with the help of the people.

With these words, I support the Bill to the extent it goes and I also appeal to our friends to do their part of the job by bringing cases of corruption to the notice of the authorities in proper time and not exaggerate them and give a false picture to the outside world.

Shri K. L. More (Hatakanangle): Sir, I am grateful to you for giving me this opportunity. I welcome this measure and I congratulate the Minister on bringing in this measure before this august House.

15 hrs.

But, Sir, I have some observations to make with regard to some provisions. As you are aware, I have given notice of amendments to clauses 3 and 6 of the Bill. My first amendment relates to clause 3 of the Bill. Clause 3 of the Bill seeks to amend section 198B of the Code of Criminal Procedure, 1898. I am opposing this clause (3) entirely on certain grounds. Firstly, this clause does not fit in with the framework of the corruption laws. As we find, it is true that the clause relates to the amendment of procedures with regard to the offence of defamation. But in the Statement of Objects and

Reasons given in the Bill, the hon. Minister has not given any reason regarding the relevancy of bringing in this clause along with the clauses dealing with the corruption laws. The object of the recommendation of the Committee on Prevention of Corruption—the Santhanam Committee—with regard to Section 198B was only, as has been stated on page 64, para 7.29(a) “to create social climate” Secondly, the inclusion of defamation by spoken words will cover a very wide and unlimited field of activities and is likely to create unhealthy social atmosphere. The offence of defamation by spoken words is likely to encroach upon the domain of every private and public expression of thoughts. Who can guarantee that the offence of spoken words will restrict itself to defamatory statements made in public meetings as is envisaged by the Committee on Prevention of Corruption? There is nothing in the present clause to restrict its import to defamatory statements made in public meetings. My third reason for objecting to this clause (3) is because this clause seeks to dispense with the consent of the party defamed for instituting the complaint in the court. It is quiet strange that the public prosecutor is to file a defamatory case without ascertaining the wish of the person defamed and even without ascertaining the truth of the matter. Lastly, this clause is likely to create doubts that the Government is devising a way to shield ministers, which I do not like.

Now, with regard to clause 6(7), I am opposing this clause with all the power at my command. My object in opposing this clause is that the principle involved goes to the very root of the criminal law. This clause is going to take away entirely the fundamental privilege of the accused. This clause makes it obligatory for the accused to file a list of witnesses and documents he proposes to rely upon in his defence all at once. The

present clause does not recognise even the privilege recognised and recommended by the Santhanam Committee. The Committee has said:

"We have, however, no objection if he gives such a list at a subsequent stage provided it is done immediately on the closing of the evidence for the prosecution."

I am quoting from page 63, para 7.18. It is quite strange that prosecution desires to base its case on the defence evidence. At least this recommendation of the Committee should have been taken into consideration before this measure was brought in.

As regards the objection of the Bill I will say a word or two. In my humble opinion, the Bill will not go a long way in achieving the object of uprooting corruption in this country. As has been admitted by the hon. Minister, the present Bill is not a comprehensive Bill. No doubt, the Bill when passed into law will create fear in the minds of corrupt persons, but it will not achieve the desired effect.

In my humble view, there is a dire necessity of bringing in some sort of a measure which will curb the selfishness or greed of a man to acquire unlimited property. For this purpose, the Government must seriously think of bringing in a legislation to put a ceiling on man's property. If limitation has been put on agricultural land, why not there be a limitation on man's property, moveable as well as immovable. The very thing that there exists unlimited liberty to possess any amount of property and money is the cause which leads largely to breeding of corruption.

There is another root cause of corruption and that is, according to me, the fact that there is a lack of security of living for a man. Man's greed or selfishness will cause great misery.

Man tries to get money and property by hook or crook and provide for his family and his later life. If, therefore, conditions are created to give security of living to every individual, then I hope much of the greed or selfishness will vanish and there will be no tendency towards corruption. It appears that Government is not coming forward to bring a legislation in execution of the spirit of the Directive Principles to guarantee adequate means of livelihood.

Shri Nambiar (Tiruchirapalli): He is making very good proposals and they must be accepted.

Shri K. L. More: Thank you for the support.

The Santhanam Committee has made some observations and they are worthy of taking note. They are on page 5 and I do not want to take the time of the House by reading them.

Lastly, I do not agree with the hon. Member, Shri Oza who spoke before me. He pleaded for tackling the problem on merely social and moral grounds. These grounds are not quite enough. Therefore, I am not in agreement with him.

With these few remarks, Sir, I support the measure that is before us.

Shri Gauri Shankar Kakkar (Fatehpur): Mr. Chairman, while I stand to oppose the provisions of the Bill I am surprised to find that the object of the Bill as has been put is to incorporate certain recommendations made by the Santhanam Committee. I fail to understand how even at this stage the Home Ministry is reluctant to implement the report of the Santhanam Committee as a whole when after so much time and so much labour that report has come. I fail to understand why there has been this discrimination in treatment between Government servants on the one hand and Ministers and political figures on the other. It is manifest in this

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amendment. Political figures, Ministers, Deputy Ministers and Parliamentary Secretaries and ex-Ministers have not been brought within the scope of this Bill. When a Bill is brought forward for amending Section 21 of IPC for including certain category of persons under that section, I fail to understand why Ministers, ex-Ministers, Deputy Ministers, Parliamentary Secretaries and office-bearers of co-operative societies have not been included in that category, as recommended by the Santhanam Committee, to treat them on the same footing as public servants. This is really step-motherly treatment, because on one side you do not bring them on equal footing with Government servants and you do not treat them as public servants so that they may not run the risk of being hit by the provisions of this Act; by the same enactment you are giving them privileges. When you do not want to include them in section 21, why should you give them privileges in the case of defamatory statements, even in the case of spoken words, by specifically referring to Ministers, President and Vice-President. It is a clear and manifest case of giving step-motherly treatment or practising discrimination between politicians and government servants in this country.

I am very sorry to say that there is a feeling fast growing amongst Government servants in this country that sometimes they are being harassed for no fault of their own. I, of course, welcome all that has happened in Punjab State and the action taken on the Das Commission report. But I would like to ask the Home Ministry one question. When Shri Kairon was the Chief Minister, when he was at the helm of affairs, suppose the Government servants who were working under him did not comply with his mandate or command, they would have been sacked then and there; there

would have been the immediate risk of their services being terminated. Now those cases are being looked into and those who have complied with his orders are being punished. What does this show? This shows that a stage has come when the ruling party cannot deny that there is interference there is favouritism and nepotism at every stage, from the district level to the Secretariat by the privileged political figures. When there is so much of interference and nepotism and what not, you cannot imagine for a moment that the Government servants can still remain independent or discharge their functions without fear or favour. That is the basic reason for my suggestion that there should be a change of tactics. The political figures should be treated on par with Government servants. Without a strict code of conduct for Ministers and politicians you cannot think of rooting out corruption in this country.

The Minister of Rehabilitation (Shri Tyagi): Does my hon. friend want Ministers to be treated on par with public servants? In that case, the Ministers should have the right to continue in office so long as there are no charges proved against them.

Shri Gauri Shankar Kakkar: I am referring to the provisions of this Bill.

Shri Tyagi: If you want to treat them on par with Government servants, you should give them security of tenure.

Shri Gauri Shankar Kakkar: So, I want to bring them within the grip of this Bill.

Shri Tyagi: The reason for their non-inclusion is, in the case of Ministers by means of a political decision quick action could be taken to remove them without following any detailed procedure of show cause notices.

Shri Gauri Shankar Kakkar: But the law courts cannot touch them. I hope Shri Tyagi would appreciate my point without being technical. If you want to treat them on an equal footing in the matter of rooting out corruption, why should there be hesitation on the part of Home Ministry to include them in section 21 so that they may be brought within the grip of law courts?

Shri Bade (Kharagone): Then there will be an advertisement wanting Ministers!

Shri Gauri Shankar Kakkar: Then I come to my second objection. I agree with Shri Oza when he says that you cannot take a step which is a clear breach of the fundamental rights of the citizens, and a clear breach of the cardinal principles of criminal law and criminal jurisprudence. One cannot think for a moment how a trial can take place in the absence of the accused. There are clear provisions in the Code of Criminal Procedure on how to bring the accused before the court, what is to be done if he is absconding or he is not coming forth, how his property is to be attached and so on. Now it is said that in order to save time evidence can be recorded in the absence of the accused. This is a clear negation of the cardinal principles of justice and criminal jurisprudence.

Then, why should there be any presumption against the accused before he is actually convicted? So far we have read that the accused should be deemed to be innocent unless he is convicted. Here there is a clause which says that a certain thing will be presumed against the accused. This goes against the cardinal principles of criminal law.

Then, in clause 6 of the Bill it is stated that in the Prevention of Corruption Act the following shall be inserted as section 6A:

“Notwithstanding anything contained in the Code of Criminal Procedure, 1898, when an accused

is charged with an offence under clause (c) of sub-section (1) of section 5, it shall be sufficient to describe in the charge the property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates,”

There is a clear provision in the Code of Criminal Procedure that whenever an accused is brought before the court a specific charge will be framed against him. He has to defend himself on the basis of the specific charge brought against him. Now by this provision you say that it is enough to bring a general charge without details or even the dates. It is something very serious. As long as this provision is in the statute book you cannot expect to get justice for citizen or the fundamental rights guaranteed by the Constitution.

I fail to understand how you can root out corruption by resorting to these methods. I would have welcomed it if the Home Minister had brought forward a comprehensive piece of legislation, covering both public servants and political figures, as recommended by the Santhanam Committee in its report. They should have all been incorporated in a Bill which should have been brought before the House. Then that would have been some sort of an effective measure and would have gone a long way in rooting out corruption to a great extent.

Then, I object to another thing here and that is this. It has been laid down here that if property, money or anything has been acquired by any public servant which is dis-proportionate, there will be a presumption against him. I fail to understand why you do not legislate and bring it on the statute book that there will be such a presumption in the case of those political figures who are made ministers.

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deputy ministers, ministers of state, parliamentary secretaries and those who enjoy the sanctioning power and authority every day.

Shri Bade: 'Proportionate' is a vague word. It may be ten times; it may be 20 times.

Shri Gauri Shankar Kakkar: There should be universal and indiscriminate dealing with these two classes, the Government employees and the political figures. The Government should come forward with definite measures to be put on the statute book for a strict code of conduct and rules with regard to legislators and all those political figures who have got the reins of Government in their hands; otherwise, I submit that this will add further to their dis-satisfaction—there is already great dis-satisfaction amongst Government employees—and they would feel that there is definite discrimination and step-motherly treatment, as I have submitted earlier before you.

Then, there is a difference between criminal law and civil law. According to the cardinal principle of civil law, both the plaintiff and the defendant stand on equal footing and both have to disclose their cause, their documents, in their pleadings. But here there is a provision that when the accused is brought forward for trial, as soon as the charge-sheet is submitted, he has to give a list of his defence witnesses and all the documents on which he is going to place reliance. There is a very great danger if at the outset he is called upon to give the names of the witnesses whom he is going to examine or of the documents on which he is going to rely. There will be very great influence brought on behalf of the prosecution, the police and the executive authority to win over those witnesses and justice will not be meted out to the accused. That is why in the Cri-

iminal Procedure Code, the Indian Penal Code and the Evidence Act, it has been the established practice that the accused is required to disclose the names of defence witnesses or documents at the conclusion of the trial and when the prosecution has closed. But here you are going to introduce a new thing whereby the person who is hauled up or who is an accused has got to give the names of his defence witnesses earlier. In such cases, I assure you, no justice will be meted out if the accused is mandatorily required to do all that. It would not be a law court but it would be a farce and negation of justice given to such an accused.

In the end, in the name that there should be speedy disposal of cases of corruption against public servants, these measures are alleged to have been incorporated in this Bill. When you are going to introduce such strict measures in the case of Government employees, what about the political figures against whom, if *prima facie* cases have been established as a result of inquiries, the slightest and the primary thing of their removal or dismissal has not been resorted to? I do not call for any conviction according to the criminal law, but even that is not resorted to. Then, how can you have the courage to have such strict measures in the case of Government servants when you are not dealing in the same manner in the case of your own ministers and other political figures?

Mr. Chairman: I have no ministers.

Shri Gauri Shankar Kakkar: Whenever I say "You", I always mean "the Government". Please excuse me. I never mean the hon. Chairman; I mean the Government, the Home Ministry and the ruling party.

My submission is that you cannot have both the sides going together. If you are really strict in rooting out corruption, for God's sake, have a non-discriminatory and universal policy. The Government should resort to such legislation whereby justice may be shown to be meted out both to the Government servants and to the political figures in the country.

Shri Tyagi: If no minister is corrupt, how can you take action?

Shri H. N. Mukerjee: (Calcutta Central): Mr. Chairman, Sir, we are discussing a matter of great importance, but I have a suspicion that the listless way in which the House is dealing with it is some indication of the lack of genuine seriousness on the part of Government in tackling the problem of corruption. I have no grouse, particularly against anybody in the Ministry, but I have been noticing all day that except for Shri Hathi who, with conspicuous conscientiousness has been here almost throughout—he is out only for a short while: maybe, for very essential reason—the Treasury Benches have been completely empty except for the sudden emergence—I do not know for what reasons—of Shri Tyagi.

An. Hon. Member: He is the lone representative.

Shri H. N. Mukerjee: I would like to see him as often as possible; but that is another point. I do resent that Shri Nanda, who has made a name for himself as the paladin of the fight against corruption—and I believe in his sincerity; no doubt about it—even he has been kept away by heaven, knows what particular State occasion. I shall not mention any other name, not even of the Prime Minister, but, unfortunately, again perhaps for over-riding State reasons which we are not in the know about, he is hardly ever seen in the Lok Sabha these days.

An. Hon. Member: There is the Chief Ministers' Conference.

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Shri H. N. Mukerjee: I say this because Shri Nanda definitely has shown genuine signs of earnestness about this matter. He said the other day—I read it in the papers—that we cannot afford to fail and he has put before the country a kind of perspective. He says that in the next couple of years or so he is going to adopt such measures, as would really make a qualitative change in the situation. I do not see evidence, factual evidence, of any serious effort to deal effectively with the problem of corruption in a couple of years' time. I do hope that he was not merely playing to the gallery. I do hope that Shri Nanda will realise his responsibility to the country. I do hope that the esteem in which he is held in Parliament and the belief in his sincerity that we all share comes to be justified by results.

I do not wish to say, as perhaps some people do from time to time, that our country is seething with corruption. I think, we should be a little more careful about the use of words, specially in Parliament—when my hon. friend, Shri Prabhu Dayal Himatsingka, was talking he said that we should not talk too much about corruption—I feel, at the same time, that the problem of corruption is at least so serious and in recent times has assumed certain dimensions in such a way that we should apply our minds very carefully and take some drastic steps in order to stop the rot that appears to have emerged.

And that is why a great deal of seriousness is wanted.

Shri Himatsingka: If you have too many controls and too many laws, there will be more opportunities for that.

Shri H. N. Mukerjee: I do not want to pick a quarrel but I feel that it is better in the interest of the country that we do not exaggerate the extent of corruption and at the same time it is necessary that we try to tackle the

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problem which has appeared in rather extra-ordinary shape from time to time.

The appointment of the Santhanam Committee itself was evidence of the fact that something drastic had got to be done. It is a pity that the Government has thought fit not to follow up the report of the Santhanam Committee in the manner in which it should have been done. The Santhanam Committee has very correctly pointed out that the problem is essentially one of the entire system of moral values and of the socio-economic structure. This means that perhaps no basic change may be expected until the system of values and the structure of society are changed. But while fundamentally speaking that is so, there is not much point in our being fundamentalists in this matter. We should take whatever concrete steps we can adopt at the moment for the eradication of corruption from public life. Therefore, while we should keep the ideal of a change in the social structure which Mr. More was pointing out as the most important instrumentality for the eradication of corruption, at the same time short-term remedies have got to be adopted as quick as they are possible. Even from that point of view, however, the Government's Bill falls very short and the more significant aspects of the Santhanam Committee Report are left in the lurch. That is something against which we hope this House if left to itself, would certainly raise its voice. I say this because a point which has been made over and over again is that the definition of a public servant has not been expanded in the way in which the Santhanam Committee wanted it to be done, from Cabinet Ministers to Chairman of Cooperative Societies who are in the employ of the Government in some way or the other. The Santhanam Committee had recommended that they should come under the purview of legislation. When Mr. Hathi spoke yesterday he said that certain categories suggested by the Committee were not included as it

was feared that would make those people hesitant to bear their responsibilities. It is rather a very dubious and a dangerous proposition. Possibly the idea in the mind of Mr. Hathi—he is not here—was that when a man becomes a Minister or something else, he should be absolved of all anxiety on the score of attack on his integrity. I do not quite understand it. Like Caesar's wife, somebody who becomes a high dignitary in our Republic has got to be above suspicion. If he cannot be, he has no business to be on the Treasury Benches. It is no reason for the Government to imagine that there are people in this country who should adorn the Treasury Benches and should be absolved of all anxiety in regard to any accusations against them being put up. I do not understand this at all. I say this because it is a melancholy fact that it is particularly Ministers of the country at the highest level who have come in recently for adverse criticism, to put it very mildly, and very serious charges have been made against them, brought out publicly, bruited about noised about and agitated all over the place. I do not say that every charge brought against the Minister and published in some paper or other is a correct charge. I am not in a position to pronounce upon it. But the fact of the matter is that these charges against Ministers in the very highest position in our country in the Centre as well as in the States are noised about, talked about very freely. I was in Bombay only the other day and in the most reputable company, company of people who had no political axe to grind, of any sort who had no political convictions of a particular category, I heard open talk in regard to the corruption which is reported to have been practised very high up and the acquisition of properties by a person who was a son of a Cabinet Minister. We have been sent documents about the veracity of which I am not in a position to vouch in which it is stated that bodies of Congressmen have examined these charges against the son of a very important former Cabinet Minister in Bombay.

Everybody talks about it in Bombay. As a Member of the highest legislative body in the country—I am not going to mention the names even here—I am not in a position to know what is being done in regard to this matter. The charges appear in the papers. The Ministers themselves sometimes give statements to the newspapers which reflect upon their own conduct. But nothing is done regarding this kind of a thing.

Sir, during the last session, I had the occasion to refer to some instances of Ministers alleged to be misbehaving. I am not in a position to pronounce upon this aspect of the matter. But these things are thrown about and it is very unfair, on many occasions, to the persons concerned. Possibly, the charges are absolutely baseless; possibly they are malicious. There is no apparatus for examining those charges. And now, what is suggested is that the Prime Minister will look into the allegations against the conduct of Ministers at the highest level—here in Delhi. I do not know. I do not reflect on anybody. But I am not going to be satisfied with a provision that the Prime Minister is going to look into the allegations against any of his own colleagues. I say this because I recall what was said by a man for whom all of us have had the highest conceivable respect, the late Pandit Jawaharlal Nehru—he was here till the other day. When the charges against the former Chief Minister of Punjab accumulated, everybody was shouting about it. Reflection of that noise outside came inside the House also. It was the former Prime Minister who got up to tell us that he had examined that position and that he had given a clean bill of health to the former Chief Minister of Punjab. I cannot understand it. Even earlier, the former Chief Minister of Punjab was in trouble and the Congress appointed a committee under Shri Dhebar for whom we still have the greatest respect. He produced a report exonerating the former Chief Minister of Punjab. Naturally, if I have to deal with some allegations against a colleague of mine, there are certain pre-

suppositions, certain conceptions in my own mind which with the best will in the world I cannot get over.

Shri Kapur Singh: On a point of correction. He was not exonerated by Mr. Dhebar. Mr. Dhebar held that Shri Pratap Singh Kairon was constructively guilty.

Shri H. N. Mukerjee: The former Prime Minister had told us that he had examined the position and that he had given a clean bill of health. It was only later, when great pressure was put upon the Government that the Das Commission was appointed. My point is that when the examination of the charges against a Minister or a person in comparably exalted position is done by a colleague of his even in a superior position, it cannot be done properly. It has to be done on a different basis. A little over ago, Mr. Tyagi suggested that it would mean quick results. We do not want quick results if they are likely to be the wrong results. I want the ascertainment of facts and it is only fair to the person concerned against whom these charges are made. It is no pleasure for us to refer to charges made against our colleagues, whether on this side of the House or on that side of the House, because we meet here on terms of friendship, as much of intimacy as can grow between us, as between one man and another. It is no pleasure for us to refer to the charges having been made elsewhere. But these charges are always being made.

In regard to the province, the States, we have been told that the Chief Minister of the State would examine the allegations against other Ministers.

Now, what is happening in Orissa? The Siamese twins of Orissan politics have created a situation in the country which is a disgrace to the entire political structure of India. They are behaving in such a fashion, and everything appears in the papers. The present Chief Minister of Orissa sent out a circular for all the world to read that he and his wife could give over all their assets to anybody for the sum of one rupee. Is this kind of

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joke to be practised by people very high up in political life? And that kind of person who naturally renders himself liable to be considered to be either an insolvent or a criminal, that kind of person continues to be in power, and that kind of person is vested by the code of conduct suggested by Government with the power to examine allegations against his colleagues. This kind of thing goes on. It passes muster. I cannot understand it. I am not bringing allegations against anybody. I am not saying that X or Y is guilty. I am not in a position to say it. Even if I feel like saying it, I cannot say it, I will not say it; it is not right, it is not proper for me to say it. But this kind of thing is taking place. It is complete anarchy in morals. And why should this happen? Why should this kind of thing happen?

We find, for instance, Congress Party lawyers going about as an investigating team. They went to Bhubaneswar, they went to Cuttack, and God knows where else. We never heard of teams of the Labour Party or Conservative Party lawyers or other people going round to investigate charges against their colleagues and flinging their own certificates in the face of a clamorous public. What is the good of this kind of certificate? It is only fair that the Ministers concerned, against whom certain allegations are made, sometimes may be wrongly, it is only fair to them also that their cases are brought up properly and they are examined.

Now, the Santhanam Committee wanted section 21 to be amended so that Ministers could be brought in and described as 'public servants'. But this has not been done. Then again, the Santhanam Committee had recommended that if ten Members of Parliament or ten Members of a State Legislature could bring charges against certain Ministers in that case they would be examined by members of the National Panel to be appointed by the

President. But that also has not been incorporated here.

I do not understand. I say this because you cannot tackle the problem of corruption merely by landing small fry in your net and punishing a few inconsequential persons who might have behaved rather badly. You can fight corruption in two ways; but the two ways must go together. One is moral exhortation which the Sadachar Committee of Shri Nanda might very well carry on. But moral exhortation alone will not have any effect. Moral exhortation plus some concrete action, action which would show that even those who are in high positions would be touched, and touched effectively, if they have gone wrong, is required.

Therefore, you have to make an example of those people who are in positions of high authority and who have been proved after proper investigation to have done something which they ought not to have done. This is the only principle on the basis of which you can go ahead. But Government does not proceed in that fashion at all. Government brings legislation only to bring about some footling little change in procedure.

I do not say that this Bill is altogether bad. In so far as it goes ahead it is something which is good. But it does not go anywhere near far enough and does not tackle the basic aspects of the problem. And I am perfectly convinced from what I see, from what my experience has been, even in the time when Pandit Jawaharlal Nehru was Prime Minister I have seen how when people in high places are found to have done something which at least is doubtful and which requires investigation, the lapses or the alleged lapses have a tendency to be covered up because they are people in positions of high authority.

It gives me great sorrow to have to say this because I have sometimes felt, in this House, in the Lobby and

elsewhere, I have felt embarrassed in speaking about them, some member of Government or former member of Government with whom I have been quite friendly but about whom I have heard some allegations, about whom having heard those allegations I have tried to convey them to people higher up. But nothing happens. Mr. Santhanam wanted me to tell him something about my views and I gave him some details about that kind of thing. He also expressed his complete inability to do anything in the matter.

But I think it is a terribly intolerable situation, because, morally speaking, we meet here and we have to be sure about each other's bona fides at least to an extent which is absolutely essential. Sometimes we hear these complaints against people; as I told you in Bombay, when somebody asks, what can I say about this; somebody says "what do you think about so-and-so about whose son all these things are circulating?" And they have been printed in papers which have never been prosecuted so far. And why does this happen?

Then again, Sir, I feel that when these allegations are made and if they are pending investigation, the Ministers concerned should step down at once. In Orissa, for instance, how can the present Chief Minister continue for so long? Where is the morality about it? Where is the political ethics? Has it vanished altogether? What is the good of talking about *sadachar*? What is the good of punishing even a Deputy Director-General of Supplies or someone who was hauled up the other day? It was a good thing he was hauled up; but what is the good of doing that when the Chief Minister of a State who obviously has behaved wrongly is let off scot-free? Mr. Nanda told us this morning in answer to a question that the allegations in regard to the Orissa people run into many volumes. Here are people against whom allegations made apparently by respectable people run into many volumes; here are people against whom the Central Investigating Bureau and

the Special Police Establishment are busy ferreting out documents and finding out the truth about them; and they are still in positions of pomp and power and they occupy the position of head of government in a particular State.

What is the point in this? What is the point in talking about corruption? What is the good in saying that Government is really keen on eradicating corruption when you keep these things hanging fire, when all these reports are there and nothing is done about it? I am very sorry, Sir, that I have to speak in this strain. And I cannot go into details in regard to this matter, because I feel it is quite useless.

In so far as these little measures are concerned, they are all right. Mr. Hathji and Mr. Nanda are welcome to them; we do not mind at all. But this is not the way in which you should proceed in order to tackle the problem of corruption. Let *sadachar* be preached by any amount of moral exhortation, I am with them. We are always prepared to support Mr. Nanda, even against some of his colleagues who have been reported in the papers—rightly or wrongly, I do not know—to be rather against the idea of this crusade against corruption. We are ready to back every effort on the part of Government to root out corruption. But we are waiting and waiting and waiting to see what steps, concrete steps, courageous steps, are taken by Government in order to make an example of people in the highest places against whom these allegations are made. We are waiting to see those steps being taken. They have not been taken—ever since the day when the late Pandit Jawaharlal Nehru said that he would have the hoarders and profiteers hung up on the nearest lamp-post. Nothing was done about it. He was never stern enough to be the real leader of a movement which could have brought about a definite change in the socio-economic structure of our country. Ever since those days we hear this talk. But this talk

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is never implemented. Between conception and execution falls a dark shadow. That shadow is looming behind Mr. Nanda's exertions. Unless that shadow is removed, nothing will take place.

That is why I say that though I support the Bill as far as it goes, it does not go anywhere near far enough, and that is why it does not

श्रीमती तारकेश्वरी सिन्हा (बाढ़) : सभापति महोदय, मैं आज सुबह से यहाँ बैठी हूँ। सभी सदस्यों के मुख से जो बातें सुन रही हूँ, उन के यहाँ सुनने की इतनी जरूरत नहीं है। चर्चा इतना हुआ है। सवेरे उठ कर इस के अलावा दूसरा मंत्री न देखने को मिलता है, न सुनने को मिलता है। इस लिए सुना तो बहुत है—देखा कितना है, कह नहीं सकती (Interruptions). सुना बहुत है—सुनाती भी हूँ—लेकिन देखा कितना है, यह पता नहीं है। परन्तु एक नतीजे पर मैं जरूर पहुँची हूँ और वह यह है कि बचपन में एक कहानी हम ने पढ़ी थी एक मालिक की और उस के बहुत वफादार नौकर की। मालिक सो रहा था। दोपहर का वक्त था। नौकर से कहा कि जरा पहरा देना, कोई आ न जाये, नौकर बहुत वफादार था। पहरा देने लगा। और वह इतना वफादार था कि तलवार ले कर पहरा देने लगा। एक मक्खी आ कर नाक पर बैठी मालिक के। वफादार नौकर यह भूल गया कि मक्खी को मारने के लिए तलवार का इस्तेमाल नहीं होता और न होना चाहिये। अपनी वफादारी में उस ने तलवार चलाई। मक्खी तो उड़ गई लेकिन मालिक की नाक कट गई

श्री त्यागी : बड़ी प्यारी हिन्दी धोलती

श्रीमती तारकेश्वरी सिन्हा : मैं आप से एक सवाल पूछना चाहती हूँ और वही सवाल मैं आप के द्वारा इस सदन के माननीय सदस्यों से भी पूछना चाहती हूँ और मुल्क से भी पूछना चाहती हूँ। कानून बनाने से और कानून को किताबों में लिख कर रख देने से अगर सभी विवादों का फैसला हो जाया करता, सभी समस्याएँ हल हो जाया करतीं तो क्या वे सब सवाल जिन का जवाब नहीं मिलता है वे पैदा होते ? कभी नहीं होते। कानून बनते जाते हैं और सवाल भी बढ़ते जाते हैं, प्रश्न भी बढ़ते जाते हैं। मुझे एक शेर याद आता है। उर्लू के एक शायर ने कहा है :

तुम्हारी जुबान ने आबरू रख ली
न जाने कितने सवालों की।

इस बिल में जो कुछ लिखा गया है क्या उस से सभी सवालों का जवाब मिल जाता है, यह मैं पूछना चाहती हूँ ? बहुत से नए सवाल खड़े हो जाते हैं जिन का अभी जवाब सरकार को देना है। और यह जवाब उस को आज नहीं तो कल अवश्य देना पड़ेगा।

यह बिल आया है कुछ सुझावों को ले कर। संतानम कमेटी की रिपोर्ट वफादार नौकर की तरह इस्तेमाल की जा रही है जिस के हाथ में तलवार मक्खी उड़ाने के लिए भी है और मालिक की रक्षा करने के लिए भी। वह रक्षा मालिक की कर सकता है, इस में कोई शक नहीं है देश की इज्जत आबरू और अमानत की रक्षा कर सकता है, इस में कोई सन्देह नहीं। परन्तु तलवार जब इस्तेमाल नहीं करनी आती तो नाक पर बैठी हुई मक्खी को उड़ाने के लिए नाक को भी वह काट सकता है। इस कमेटी की सिफारिशों का परिणाम, इन का अंजाम कहीं यह न हो जाय, इस की सावधानी आप को बरतनी है। कमेटी की रिपोर्ट क्या है, इस को आप देखें। मुझे अखबारों में चन्द अपनी लाइनें लिखवानी हैं, इसलिए मैं बोलना

नहीं चाहती हूँ। लोगों में हिम्मत नहीं हो रही है कि लोगों की बात कहें, गंगा की धारा के खिलाफ उलटे मुंह खड़े हो कर चलने के लिए कोई भी तैयार नहीं होता है। कोई यह नहीं चाहता कि समुद्र के थपेड़ों को नाव में बैठ कर पार करे। सब यही चाहते हैं कि धारा अच्छी हो और सहूलियत से उसे ले जा कर के पार उतरा जाय। यही हालत आज हमारे देश में कुरूपण की बाबत हो रही है। हम इस कानून को बना कर के किताबों में रखना तो चाहते हैं परन्तु यह भूल जाते हैं कि दुनिया के इतिहास में न जाने कितना कुछ लिखा गया है, न जाने कितने कानून बने हैं किसी मकसद को ले कर के, लेकिन उन का अंजाम कुछ और ही हुआ है। एमीली जोला की एक बहुत बड़ी किताब है फ्रांस की। वहाँ की सरकार ने एक गरीब आदमी पर मुकदमा चलाया, गलत मुकदमा चलाया और मुकदमा चला कर के उस को तबाह और बरबाद कर दिया। कोई आदमी बोलने के लिए तैयार नहीं हुआ। आज की सरकार हमारे यहाँ तो प्रजातन्त्रीय सरकार है। लेकिन उस समय वहाँ की जो सरकार थी वह तानाशाही सरकार थी। वह सरकार उन लोगों की जबान खींच लिया करती थी जो लोग कि सरकार के खिलाफ बोलते थे या लिखते थे। परन्तु एक लेखक ऐसा हुआ जिस ने उस केस का ब्योरा जनता और देश के सामने रखा और वह ट्राइफस केस के नाम से बड़ा मशहूर हुआ। एमीली जोला की एक किताब है। उस को देखने से मालूम हुआ है कि फ्रांस में एक क्रान्ति मच गई थी, आन्दोलन मच गया था इस को ले कर कि एक गरीब, निरीह आदमी को इस तरह से फंसाया गया था, इस तरह से मारा गया था, इस तरह से तबाह और बरबाद किया गया था।

माननीय सदस्य कानून को दो तरह से देखते हैं। उन्हीं माननीय सदस्यों को जब कोई कानून बनता है, जिससे उन को चोट पहुँचती है उनके रास्ते में अड़चन पैदा होती

है, तो वह कानून अच्छा नहीं लगता है। परन्तु अगर कानून कोई बनता है जिस से उन को सरकार के ऊपर लकड़ी चलाने का मौका मिलता है, सरकार के ऊपर आसानी से उंगली उठाने का मौका मिलता है तो वह कानून उन को बड़ा अच्छा लगता है। दो जवानों और दो आँखों और हम इस्तेमाल करें तो सही तसवीर नहीं देख पायेंगे। प्रिवेंटिव डिटेंशन का कानून आया, मौजूद आया, जरूरत थी, इसलिए आया, मगर मैं समझती हूँ कि किसी भी विरोधी दल के माननीय सदस्य ने उसकी चर्चा करते समय यह नहीं समझा कि मुल्क को जरूरत है ऐसे कानून की इसलिए इस कानून को पास किया जाना चाहिये। किसी ने उन में से यह नहीं कहा कि यह जो कानून पास किया गया था अच्छा किया गया था। परन्तु आज मैं किसी के मुँह से विरोधी दल के माननीय सदस्य के इस तरह की बात नहीं सुनती हूँ। सरकार को लकड़ी मारने का एक बड़ा अच्छा मौका मिला है इस वास्ते जोर जोर से लकड़ी वे चलाते जाते हैं, उस के बाद अंजाम चाहे कुछ भी हो। वह जिम्मेवारी हमारी नहीं है। वह जिम्मेवारी तो आने वाले भविष्य की है, आप की नहीं है। इस वास्ते जितनी भी लकड़ी चला सकें, चलाते रहें और चलाते रहेंगे। सरकार न जाने चुप क्यों है। मैं पूछना चाहती हूँ सरकार से कि सवाल क्या आप ने पैदा किये हैं या नहीं किये हैं? आप देखें अच्छी तरह से उन बातों को। क्यों आप हिचकिचाते हैं? क्यों खामोश रह जाते हैं? लेकिन जवाब देने के लिए मैं जानती हूँ कुछ लोगों के बारे में कि . . .

Shri Nambiar: Will the hon. Member speak something about the Bill under discussion, or will she be speaking only in a general manner?

Shrimati Tarkeshwari Sinha: I am sorry. If my hon. friend would have been attentive to my Hindi speech, he would have understood.

Shri Nambiar: We are listening to the translation.

Shrimati Tarkeshwari Sinha: My hon. friend's interruption shows not lack of appreciation but lack of intelligence. I am sorry.

Shri Koya (Kozhikode): The hon. Member is too intelligent. She says that we have no intelligence. She should withdraw it.

श्रीमती तारकेश्वरी सिन्हा : जो प्रश्न इस बिल के साथ उठाये गये हैं, मैं समझती हूँ कि वे यहीं समाप्त नहीं हो जाते हैं, मामला यहीं खत्म नहीं हो जाता है। संतानम कमेटी की रिपोर्ट के बाद गृह मंत्री महोदय ने कहा कि हम बहुत सोच विचार कर के एक ऐसा कानून ला रहे हैं कि जितने मर्ज हैं उन सब का इलाज हो जायेगा, उन सब का इलाज होने की उम्मीद हो जायेगी। परन्तु हम देखते तो यह है कि ज्यों ज्यों दबा होती जाती है, मर्ज त्यों त्यों बढ़ता जाता है। आज जो देश में वातावरण है वह कल और परसों नहीं था। क्यों आज यह वातावरण पैदा हुआ है? क्या यह बात है कि एक दिन या एक रात या आधी रात के समय हम उठे और हम ने देखा कि मुल्क में करप्शन ही कुरप्शन है? अगर करप्शन है तो पहले भी थी। पहले थी तो इतने जोर से आवाज उठाते क्यों नहीं थे? आज ही इतने जोर की आवाज क्यों उठाने लग गये हैं? मैं कहती हूँ और मैं जानती हूँ इस बात को कि आज करप्शन कम नहीं हुई है बढ़ी है और जितनी भी हम आवाज उठाते जाते हैं उतनी ही बढ़ती जाती है और बढ़ती जायेगी।

सवाल यह उठता है कि आप किस के हाथ में हथियार दे रहे हैं? महां पर कहा गया है कि हम स्पेशल पुलिस एस्टेब्लिशमेंट के हाथ में अधिक अधिकार दे रहे हैं। साथ ही हम इंडियन पीनल कोड को बदलने की कोशिश कर रहे हैं और करप्शन के प्रिवेंशन के बारे में जो कानून बने हुए हैं उन को और अधिक अच्छा बना रहे हैं, और मौजूं बना

रहे हैं। मैं एक सवाल पूछना चाहती हूँ। जितने भी कानून हमारे मुल्क में आज तक करप्शन के खिलाफ बने हैं, उन के इस्तेमाल में जो लोग गलतियां करते हैं क्या उन को सजा देने की भी कोशिश की गई है, क्या यह देखने की भी कोशिश की गई है कि उन का सही इस्तेमाल हो? जितने भी कानून बनते हैं क्या उन का पूरा इस्तेमाल हुआ है कि हम को दिन-प्रति-दिन और कानून बनाने की जरूरत पड़ती जा रही है? अगर हम उन को अच्छी तरह से इस्तेमाल करते हैं, अच्छे और बुरे का खयाल करते हैं तब तो किसी को कोई आपत्ति नहीं हो सकती है। दूध को पानी से अलग कर के दूध का दूध बनाते हैं और पानी का पानी बनाते हैं तब यह कहा जा सकता है कि हमें और कानूनों की जरूरत नहीं है। परन्तु जिस तरह से कानून का प्रयोग होता है जिस तरह से कभी उन का उपयोग होता है और कभी दुष्टप्रयोग होता है, वैसी हालत में मैं कैसे कहूँ कि ये चन्द कानून अगर और बन जायेंगे तो हमारी समस्याओं का समाधान हो जायेगा।

मैं आपका ध्यान उत्तर प्रदेश की हाई कोर्ट के एक जज की एक जजमेंट की ओर दिलाना चाहती हूँ, श्री मुल्ला की जजमेंट की तरफ दिलाना चाहती हूँ जिसमें उन्होंने कहा था कि पुलिस ने ईमानदारी से काम नहीं किया और जांच पड़ताल में उस ने व्यक्तिगत प्रजुडिसिस का मौका दिया। मेरे पास वे शब्द नहीं हैं जिन का उन्होंने प्रयोग किया था। बहुतही खोरदार शब्दों में वह जजमेंट लि।। गया था। बहुत खोरदार शब्दों में कुछ हल्ला भी हुआ था कि हाई कोर्ट के जजकी हैसियत से उन्होंने पुलिस पर जो इस तरह का आरोप किया वह उनको नहीं करना चाहिये था। परन्तु उनके सामने यह खयाल नहीं था। वहां पर एक संस्था का सवाल था जिस के हाथ में अधिकार दिये गये हैं और उन अधिकारों के अख्त इस्तेमाल होने का सवाल उनके सामने

था। उन अधिकारों का गलत इस्तेमाल होना भी एक बहुत बड़ा कुरूपण है। कुरूपण सिर्फ यह नहीं है कि किसी ने दो हजार रुपये ले लिये या दो हजार रुपये दे दिये। जो हम बेईमानी करते हैं वह सब से बड़ा कुरूपण है, सब से बड़ा कुरूपण वह है जब दस भ्रादमियों में से फेडररिजिज्म की बात करते हैं। कुरूपण क्यों होता है, उसकी मां क्या है, बाप क्या है? कुरूपण इसलिए होता है कि जहां दस भ्रादमी हैं पाने की आकांक्षा रखने वाले वहां नौ को हम छोड़ देते हैं और एक को चुन लेते हैं और इसलिए चुन लेते हैं कि वह हमारा अजीब है, जिस को हम अंग्रेजी में नपोटिज्म कहते हैं। कुरूपण की बात वहां से शुरू होती। कुरूपण की बात शुरू होती है वहां से जहां देर होती है। केन्द्रीय सरकार के सम्पर्क में और राज्य सरकारों के सम्पर्क में लोग आते हैं। आज हमारे यहां कंट्रोल हैं, लाइसेंस लेने के लिए बे आते हैं, परमिट लेने के लिए आते हैं। वे यहां पर पैसे खर्च करके आते हैं, यहां रहते हैं तो उनको पैसा खर्च करना पड़ता है। मान लीजिये कि पैरवी न हो, हाथ गर्म न किया जाये, तो लोगों का काम नहीं होता है। इसलिए हाथ गर्म करने की जरूरत होती है, मुट्ठी गर्म करने की उनको जरूरत पड़ती है। वे पैरवी करते हैं और उस पैरवी में उनका काम हो जाता है। इसलिये कुरूपण की पैदाइश न संसद् में होती है न मिनिस्ट्रों के घरों में होती है। कुरूपण की पैदाइश होती है जो हमारी संस्था का ढांचा है उसके अन्दर। किसी की बातों को उड़ा देना बहुत आसान होता है, अगर उन बातों को थोड़ी सी अहमियत दी जाये तो मैं समझूंगी कि बहुत अच्छा होगा। श्री हिम्मतरसिंहका ने कहा कि जितने कानून बनते जा रहे हैं उतनी ही लालफीतसाही बढ़ती जा रही है और कुरूपण तो इस से होगा ही। आज हम गांवों में जाते हैं तो देखते हैं कि जब भामूली भ्रादमी का काम नहीं हो पाता तो आम तौर पर इतनी बात कही जाती है कि कौन इतनी मुसीबत उठायें, चलो दो रुपये उसे देंगे और काम हो जायेगा। कोई भ्रादमी

इस क; कुरूपण नहीं मानता। यह रोजमर्रा की जिन्दगी का हिसाब किताब हो गया है। कुरूपण की शुरुआत वास्तव में वहां से होती है। इसलिये मैं समझती हूं कि अगर कुरूपण को खत्म करना है तो पहले आप को अपने शासन के ढांचे को बदलना पड़ेगा।

16 hrs.

बहुत चर्चा की जाती है और रोज-रोज कहा जाता है कि शासन के ढांचे को बदला जायेगा। न जाने कितनी रिपोर्टें तैयार हो चुकी हैं, हिन्दुस्तान की सरकार की आर्काइव्स, जिन में ये रिपोर्टें रखी जाती हैं, रिपोर्टों से भर गये हैं। अगर उन पर कार्रवाई नहीं होती है। मैंने सुना अपेलबी साहब ने रिपोर्ट दी, उस के बाद न जाने कितने और लोगों ने रिपोर्टें दीं, उस के पहिले से भी रिपोर्टें आ रही हैं। क्या उन रिपोर्टों का अचार डाला गया। कहां हैं वह रिपोर्टें जिन में कहा गया था कि शासन में ऐसा-ऐसा सुधार होना चाहिये। उस पर कौन सी कार्रवाई हुई है। कहने में और करने में बड़ा अन्तर होता है। अगर कहना ही करना होता तो हमें कुछ करने की जरूरत नहीं थी, सिर्फ कहने की जरूरत थी। अगर हम शासन का ढांचा बदलने का प्रयत्न करें और गली गली कुछ कम कर के करें, तो बहुत ज्यादा इस मुल्क का फायदा आज भी होगा और आने वाले कल में भी होगा। इसलिये मैं सरकार से प्रार्थना करती हूं कि कुरूपण को हटाने के लिये सिर्फ कानून बना कर और जिक्रों में देश को नहीं कसें, बल्कि कुछ अपने शासन को भी ठीक करे।

शासन में आज नेप टिज्म होता है, अपने जो नजदीकी होते हैं, भाई-बन्द होते हैं, अपने गुट में होते हैं, उन को हमेशा तरजीह दी जाती है। मैं इस बात को जानती हूं, राजनीति में रहती हूं। राज्य सरकारों का जो बरताव है उसे भी जानती हूं और यहां जो होता है उसे भी जानती हूं और समझती हूं। मैं कहना चाहती हूं कि अगर गुटबन्दी के नाम पर

[श्रीमती तारकेश्वरी सिन्हा]

लोगों को प्रोत्साहित न किया जाये, अगर दोस्ताना बरताव के नाम पर लोगों को तरजीह न दी जाये, फेवरिज्म न किया जाये, नेपोटिज्म न किया जाये, तो करप्शन आप से आप दूर हो जायेगा। शासन में मैं देखती हूँ कि अगर कोई किसी विभाग का अध्यक्ष होता है, किसी विभाग में जाता है, किसी फौजरी में जाता है, उद्योग धन्धे में जाता है तो पहले अपने आदमियों को बटोरने की कोशिश करता है, सारे देश में जो उस के आदमी होते हैं उन को इकट्ठा करने की कोशिश करता है। अगर उस का भाई भतीजा न हो तो कम से कम दोस्त अवश्य होता है जो उसकी मदद करने वाला हो सकता है। वह कहता है कि वह उसे चाहता है। मैं पूछना चाहती हूँ कि अगर कोई आदमी एक विभाग में जाता है तो क्या उस विभाग में कहीं पर कोई ऐसा व्यक्ति नहीं होता जिससे वह अपना काम चला सके। क्यों जरूरत पड़ती है उस विभाग में जाते जाते कि उस आदमी की मर्जी के लोग वहां इकट्ठा किये जायें और दूसरे लोग सारी जिन्दगी काम करने के बाद भी बिल्कुल बेकार हो जाते हैं। दूसरे लोगों में हजारों अवगुण हो जाते हैं और सिर्फ वे जिन को अधिकारी चाहे सब गुणों के अवतार हो जाते हैं, इस बात को मैं मानने के लिये तैयार नहीं हूँ। इसलिये सब से बड़ी लड़ाई हम को व्यक्तियों को निगाह में रखते हुए भी इन बातों से करनी है। यह मैं नहीं कहती कि व्यक्तियों को निगाह में न रखा जाये लेकिन इन मौलिक बातों को हमें देखना चाहिये।

ठीक है, अगर करप्शन है तो आप उस को सामने लायें, सामने ला कर उसका पर्दा फाश करें, जिस ने इस तरह का काम किया है उसको आप सजा दें, परन्तु जिस तरह से आप किसी के सफेद कपड़ों पर दाग लगायें उसी तरह से उस के दाग को पोंछने का भी इन्तजाम करें।

मैं नहीं चाहती कि किसी व्यक्ति को पर्दे के आड़ में छिपाया जाये, पर्दा उठा कर जितनी कार्रवाई आप कर सकें उस को कीजिये और उस का पर्दा फाश कीजिये, लेकिन मैं कहना चाहती हूँ कि आज नेपोटिज्म और डिले के नाम पर जो करप्शन होता है उस को बन्द करने के लिये कानून को बदलने की जरूरत नहीं है, शासन पद्धति में ही आमूल परिवर्तन करने की जरूरत है।

दूसरी बात यह है कि पुलिस के हाथ में अधिकार दे कर आप एक ऐसी तलवार पुलिस को दे रहे हैं जिस का अंजाम बहुत बुरा होगा। मैं पूछना चाहती हूँ कि ब्रिटिश सल्तनत के जमाने को क्या हम भूल गये। ब्रिटिश सल्तनत के जमाने में अंग्रेज सिपाही, अंग्रेज डी० एस० पी०, अंग्रेज अफसर क्या-क्या खुराफात करते रहे हैं, हम उसे भूले नहीं हैं। गलत वारन्ट आते थे, गलत इल्जाम लगाये जाते थे, बेईमानी के इल्जाम लगाये जाते थे, चोरी के इल्जाम लगाये जाते थे, डकैती के इल्जाम लगाये जाते थे। आज भी हम देखते हैं तो पता चलता है कि गांवों में कभी-कभी ऐसा होता है। जब मैं मंत्रालय में थी तो मेरे एक अधिकारी के साथ क्या हुआ, यह मैं आप को बतलाना चाहती हूँ। गृह मंत्री के पास मेरे एक अधिकारी के नाम पर किसी आदमी का एक पत्र चला गया। हमारे यहां के लिये नोटिस जारी की गई कि इस मामले की छान बीन की जाये। खैर, मुझ तक तो यह बात आती नहीं थी, जो अधिकारी सम्बन्धित होते थे उन के पास तक आती थी। वह यू० पी० का मामला था। जांच की गई। अधिकारी ने कुछ नहीं पाया और उस ने रिपोर्ट भेज दी वित्त मंत्रालय को कि कुछ नहीं निकला। लेकिन तसल्ली नहीं हुई क्योंकि आम तौर पर जब बातें आ जाती हैं तो कलंक छूटता नहीं है, पर्दा सफेद नहीं हो पाता। जब इस मामले में तसल्ली नहीं हुई तो

एस० पी० ई० का एक आदमी गया। दो बार उस अफसर की तलाशी ली गई। वह ट्रान्सफर पर जा रहा था, उस का सामान ट्रक पर लदा हुआ था। वह सामान उतारा गया यह कह कर कि हम जांच पड़ताल करेंगे। सारे इलाके में शोर हुआ, उस की बहुत चर्चा हुई। लेकिन अधिकारी को कुछ नहीं मिला तलाशी में, लेकिन उस की बेइज्जती हुई। उस बेइज्जती की जिम्मेदार यह सरकार है। यह ठीक है कि वह उसे बेइज्जती से बरी कर सकती है, यह ठीक है कि कानून की दृष्टि में वह अधिकारी नहीं फंस सका, परन्तु जो उस की बेइज्जती हुई, जो उस पर छींटाकशी हुई, जो उस की मिट्टी पलीद हुई, जिस तरह से उस पर कीचड़ उछाला गया, सरकार इसकी जिम्मेदारी नहीं लेती है कि उसकी आस्तीन में जो दाग लग चुका है वह उसे धोकर बिल्कुल सफेद करे और उसे सामने लाये। यह बात हर सतह पर होती आई है।

मुझे ताज्जुब होता है यह देख कर कि आज सी० बी० आई० की रिपोर्ट को बिल्कुल बाइबिल की तरह माना जाने लगा है। रामायण की तरह पर माना जाने लगा है। जैसे रामायण के हर पन्ने पर लिखी हुई हर पंक्ति और हर शब्द हमारे लिये ब्रह्म वाक्य हैं उसी तरह से आज सी० बी० आई० की रिपोर्ट भी ब्रह्म वाक्य हो गई है और पुलिस को इतनी तरजीह देने का हिसाब किताब और एक नया सिलसिला शुरू हुआ है। इस में आमूल परिवर्तन करना पड़ेगा। श्री चटर्जी मेरी तरफ मुस्कराते हुए देख रहे हैं। उन्हें मालूम है कि पुलिस की डायरी को जज तरजीह नहीं देता है। एविडेंस में उसकी कदर नहीं की जाती है। अगर पुलिस की डायरी वकील साहब जज के सामने रखेंगे तो कानून से चटर्जी साहब मुकदमा जीत जायेंगे क्योंकि उस डायरी की कोई कीमत नहीं है। यह है पुलिस की डायरी का अंजाम। उसी पुलिस तबके को

हम इतनी मान्यता दे रहे हैं और बाइबिल की तरह वह रिपोर्ट कोट की जाती है। आप सबरे अखबार को उठा कर देखें सी० बी० आई० के अलावा और कोई चर्चा उसमें नहीं होती। आज राम नाम के बदले सी० बी० आई० चल रही है। पहले सुबह उठते थे तो राम, राम और हरे, हरे करते थे, लेकिन अब सुबह उठते हैं तो सी० बी० आई० के अलावा उसमें कोई चर्चा नहीं होती। आज आपने जिस तरह से उसको उठा कर सामने रख दिया है, मैं संसद् को तो नहीं लेकिन सरकार को इस बात के लिये चेतावनी देना चाहती हूँ कि कहीं मकार्थी का पन्ना यहां भी न उलट जाये। मकार्थी ने लड़ाई लड़ी। कम्युनिस्ट पार्टी के लोग यहां बैठे हैं उन को मालूम होगा कि कम्युनिस्टों से लड़ाई मोल लेने के लिये मकार्थी ने कानून में संशोधन करवाया। उसके संशोधन का असर यह हुआ कि मकार्थीज्म के नाम पर थूका जाने लगा अमरीका में और हालत यह हो गई कि अगर मकार्थी किसी आदमी को नापसन्द करते थे तो उसे लाकर शिकंजे में बांध देते थे। इतनी तबाही मच गई अमरीका में कि मकार्थी को छोड़ना पड़ा। मैं कहना चाहती हूँ कि कहीं हम फिर उन बातों को तरजीह न दें जिससे कि हमें वह जमाना देखना पड़ जाये कि जिसके मन में जो आये वह कह दे और उसकी बातों पर कार्रवाई हो जाये। इस तरह से हम यहां एक दलदल पदा करें जिसमें हम डूबते चले जायें और उससे निकलने की गुंजाइश न रहे।

मुझे याद है कि एक बार श्री माथुर का एक प्रस्ताव चर्चा का विषय था संसद् में। उन्होंने कहा कि किसी एक ऐसी संस्था को रचना होनी चाहिये जिसमें गृह मन्त्रालय का अधिकार न हो, जिस पर किसी आदमी का अधिकार न हो। जिस तरह से एलेक्शन कमीशन काम करता है, जिस तरह से और संस्थायें काम करती हैं, कंट्रोल एण्ड आडिटर जनरल की संस्था काम करती है अगर, हम करप्शन को दूर करने की बात करते हैं तो एक ऐसी

[श्रीमती ताराकेश्वरी सिन्हा]

संस्था को जन्म दें और उस संस्था के हाथ में अधिकार दें कि जहाँ पर वह करप्शन को देखे, उसकी जांच पड़ताल करे। कोई फैसला करे और फैसला दे। जब तक हम किसी ऐसी संस्था का प्रादुर्भाव नहीं करेंगे और पुलिस के द्वारा अपना काम करते रहेंगे, मैं इस बात पर विश्वास नहीं करती कि कभी भी करप्शन दूर हो सकेगा। आज तो यहाँ पर हालत यह हो गई है कि :

हम आह भी करते हैं,

तो हो जाते हैं बदनाम।

वह कल भी करते हैं,

तो चर्चा नहीं होती।।

Shri P. R. Patel: After the very able and spirited speech of the hon. young lady Member, my task has become very difficult, and I think I will not be able to attract the sympathy that she could.

I support the Bill. The Bill is an attempt on the part of Government to curb corruption. Is it a bad Bill that it should be criticised? After all, if it is not perfect enough, suggestions may be put forward, but what is the point in criticising the whole Bill?

Instead of making suggestions, my hon. friend Shri S. M. Banerjee thought fit to abuse some individuals and the private sector. He has got an allergy for the private sector, being a fellow traveller of the communist ideology. They do not want in this country prosperity contributed by the private sector, and they want to create trouble in the public sector, and thereby stop the progress of the country, and it is as per that move that he indulged in abuses against some individuals, and referred to the New Asiatic Insurance Co. Questions were put in this House and answers given. Then also, Government were good enough

to seek the opinion of the Solicitor-General, and gave out the opinion of the Solicitor-General, and yet he is not satisfied. Then, who is going to satisfy him? I think even God will not be able to satisfy him.

Then, Shri Surendranath Dwivedy, a good old friend of mine criticised the Bill, and he showed his allergy for Mr. Patnaik. Individual questions should be put aside when we discuss the Bill. The question before the country is whether corruption has or has not increased in the last 15 years, and what are the causes for the increase in corruption. These are the two important questions, and our attempt should be to curb the causes, then the disease will be cured.

It is a fact, an admitted fact, that corruption has increased in the last 15 years, whatever be the reasons. It has become omnipotent and omnipresent, like God, in all departments. I do admit that in the administration there are good honest servants, but the number of bad servants is more than the good, and my experience is that if there is an honest man, the bad elements of the department try to throw away that good man. I know of one case in my district. A PSI because of his honesty, was thrown out by a circle of dishonest PSIs, and the man had to suffer.

I have talked with honest Government servants, and they have this grievance. They say that honesty is a curse when one has to serve the Government, because most of the people in Government service are dishonest, and they do not tolerate an honest man.

We have to improve our administration. We should leave the Dhritrashtira mentality. He could see all the ills of the Pandavas, but even though the Kauravas were full of evils, he could not see a single one of them. So, if we want to improve the administration, those at the top, may be at the district level, the State level, or at the Central level, must see that there is

no nepotism. There are cases where corrupt servants are protected, and less corrupt persons are prosecuted. I have even got cases of dishonest corrupt workers of co-operative societies not being prosecuted but being protected, while a poor man who commits a mistake in accounts for Rs. 50 or Rs. 100 is prosecuted. So, unless the administration gives up the *Dhritarashtra* mentality, this problem is not going to be solved.

Secondly, our laws also contribute to corruption, encourage corruption. I give you one instance, the Tenancy law of Bombay. There, the compensation to be given to the land-owner is 20 to 200 times the assessment, and this is to be decided by a *Mamlatdar*, drawing round about hundred rupees. I have seen that it has benefited only the *Mamlatdars*, and has done no good to the landowner and the tenant. Are we not responsible for encouraging corruption because we pass such laws? You will find many laws like this. So, we have to curb such laws if we desire to curb corruption.

Thirdly, the report says on page 7:

"The immense war efforts during 1939 to 1945 which involved an annual expenditure of hundreds of crores of rupees over all kinds of war supplies and contracts created unprecedented opportunities for acquisition of wealth by doubtful means. The war time controls and scarcities provided ample opportunities for bribery, corruption, favouritism etc."

If we keep these things as they are, and add some more to them, shall we be able to control or curb corruption? Today we are spending on our plans—much more than they were spending in war time. Controls are much more than we had at that time, as also licences, permits and all these things, and we create opportunities to make money, and the Government servants do.

The report also says:

"Yet, various factors have operated to nullify in some measure the anti-corruption drive. The sudden extension of the economic activities of the Government with a large armoury of regulations, controls, licences and permits provided new and large opportunities."

So, large opportunities have been provided, and this is admitted in this report.

The report continues:

"The quest for political power at different levels made successful achievement of the objective more important than the means adopted. Complaints against the highly placed in public life were not dealt with in the manner that they should have been dealt with if public confidence had to be maintained. Weakness in this respect created cynicism and the growth of the belief that while Governments were against corruption they were not against corrupt individuals, if such individuals had the requisite amount of power, influence and protection."

In a democracy we have to go for votes, and those who are corrupt gather more votes than good persons, and these corrupt persons who collect votes are protected even by State Ministers. Are we going to curb corruption even by stricter laws than the present Bill? Let us look to the causes of the disease. Let us try to remove them. But we go on adding to the causes. What about the zonal system? We are crying hoarse but some Chief Ministers and Shri Swaran Singh did not hear us. We told him on the floor of the House that it had encouraged corruption and smuggling. Today we are helpless before some Chief Ministers of some States and we are unable to remove zones. So long as we do not remove the zones will there not be smuggling, corruption and profiteering? We say that black money is collecting and some people have got

[Shri P. R. Patel]

large unaccounted money. Perhaps it is so. But what made them to collect large amounts? There are agents in Delhi who get licences. There is a proverb in our language which says that behind the light there is darkness. Of course we use electric light. Corruption, in a much larger amount than could be imagined prevails in the Central Secretariat than anywhere else. Licences are given and then sold and seller gets double or treble the amount without investing a pie. Are these not ways which encourage corruption? So we must remove the causes of corruption.

In this connection, I am reminded of a story told me by Dr. Sumant Mehta when I was working under him. There was a rajah, and everybody was disgusted with him and his actions and his administration. The dearest to him was a dog. So, his wise minister advised him to cut off the tail of the dog. Instead of discussing or criticising the king's administration, people began to talk why the ruler cut off the tail of the dog. Nandaji is a wise-man. He cut the tail and he had Sadachar Samiti and Sadhu Samaj and people went on talking about the Samiti and the Samaj and all the other things were lost in that. This is not the way of curbing corruption. I support the Bill and I wish that Government should look deep into the causes of corruption rather than merely talking of removal of corruption.

Shri N. Dandekar (Gonda): Sir, I will not be very long. But I would like to say right at the outset that a Bill that only partially covers a subject such as this and in doing so selects only a certain section of those supposed to be corrupt and in regard to them chooses methods of attempting to stop corruption which are draconian would be worse than the disease it seeks to cure. Having read the newspapers and heard a number of speeches here, I do not think there can be any doubt whatever in the minds of anyone that there are two principal

reasons or rather principal focal points, of corruption. The first and most important focal point is the one about which a good deal has already been said, namely, the growing mass of regulatory legislation, a whole a jungle, as I described it on another occasion, of growing laws, rules, regulations and orders, coupled with multifarious controls regarding licences and quotas and permits,—in the midst of which the only way in which people can get through the jungle is by means of corruption. The breeding ground of corruption, the basic cause of corruption, the basic circumstance which almost necessitates corruption is this jungle of restrictive and regulatory laws and rules and regulation and their continual addition and amendment, but never any reduction.

The other principal cause and focal point of corruption is the leadership in the matter of corruption that is, most unfortunately provided by those very people in public life who ought to set an example of integrity and honesty. I do not want to name any particular ministers or indeed any particular State or Government. But I do not think, if one has a look at the newspapers over the last few months that there could be any doubt in the minds of either the Government or of the public or of the legislators here that a pretty low and all-persuasive standard in the matter of corruption has been set by many men in public life at the political level, and particularly at the governmental political level. The lead in the matter of exposing this was indeed given last year by Mr. Sanjivayya, now a minister but then the President of the Indian National Congress; he said at Indore I think that he was both astonished and horrified at the extent to which his colleagues in the party, who over the years had occupied various positions of influence and power either officially or in a non-official capacity had amassed wealth and there have been many specific cases brought to

light since then. I do not think there is need to specify or name them. From all of which, however, it is perfectly clear that the second focal point from which corruption emanates is the political leadership in the country. It is a sad thing to have to say, but it is necessary that we should say it, so that we can get down to the brass-tacks on a question like this.

Now with that background I am unable to understand at all why a particular manifestation of this evil of corruption, namely its manifestation in public services has been singled out for an attack of the most drastic kind in this Bill. In the first place I have no doubt whatever that there is considerable amount of propaganda purpose in this Bill. Secondly there is a good deal of anti-corruption legislation already on the statute book, thirdly there is a good deal of power already both with the police and with the governmental authority which should be adequate to root out most, if not all, of the corruption in the public services such as it exists. I do not therefore, think there is any call at all for legislation of this kind which sweepingly draws into its net another large categories of public services, which sweepingly puts aside all the elementary rights of an accused person, which sweepingly seems to imply a range and depth of corruption in public services that I certainly assert does not exist. I have been a public servant myself for very nearly twenty-two years and after that for nearly 12 years I have been on the other side of the table. During these last twelve years, I had occasion, on very important and large economic and commercial and industrial issues, to deal with public servants at all levels, and I would like to vouch for the fact that if there is corruption it is not as rampant nor as widespread as has been made out and as is implied by this extraordinary piece of legislation. I think the public servants in this country are being made the subject of attack propaganda-wise. They are reviled; they are abused; they are

ill-paid and they are overworked. They are also overloaded with responsibilities. They are exposed to great temptations but are exposed to be the paragons of virtues in an atmosphere in which virtue has been the first casualty.

Sir, I for my part cannot countenance legislation of this kind. There are provisions in this Bill which are odious. For instance, one of the provisions says, "if on information received or otherwise,"—in other words, if, for any reason whatever or even without reason—some one is suspected of corruption, the police can go all over his affairs and into his bank accounts. The lady Member who made a speech earlier graphically described what happened to an innocent person on mere suspicion and how he was subjected to what was virtually an assault of the kind she described. There is no remedy for restoring his reputation; there is no remedy available by which he could vindicate his honour. All that happens is, "on information received or otherwise," the police can go all over the affairs and search his baggages and look into his bank accounts and if they come to no conclusion at all, even if they find nothing against him they have not the decency, nor do the Government concerned have the decency to come out openly with an apology and say, "we are sorry; this public servant whom we have assaulted in the matter of his reputation was not guilty. We have found nothing against him." I think any Government that comes to a stage at which it desires virtually to assault its public servants, is a Government that is already facing a calamitous end.

I would urge the Government, with the utmost gravity, to consider the consequences of a one-sided legislation of this kind. I know that most self-respecting public servants, if only they have some little alternative means of existence would resign from this Government, if legislation of this kind were passed. Per-

[Shri N. Dandekar]

sonally had I been in the public service now and if this legislation were passed, I would not accept to serve one day longer, notwithstanding that I would lose my pension or any other rights. I think Government are making the life of self-respecting public servants impossible. I think they are adding to their armoury against public servants without cause. They are taking draconian powers for the police, for themselves, and for all sorts of special officers and special establishments; they are powers which are quite unwarranted.

They are making offences out of circumstances which are not offences but mere evidence. For instance, it may be good evidence upon which to presume that if a person has got unaccounted wealth he must have got it in some fashion that was not legitimate. But to convert that evidence itself into a criminal offence, the unaccounted wealth itself becoming an offence of corruption, is something I cannot understand. I am unable to understand how any evidence which may be adequate—even on a presumptive basis—for the inference that possibly that officer was corrupt, evidence which could perhaps afford adequate ground or a justifiable basis on which his services could be terminated—how that presumptive evidence could itself become a substantive criminal offence is something I do not understand. I have administered the law in the districts. I have administered the law in the customs; and I have administered the law in income-tax. But never have I come across a situation of this kind. If I had to administer this kind of thing myself, I would look upon it with horror.

There are various other obnoxious provisions; in particular, the provision that an accused can be tried in his absence. It shatters my confidence in

the whole judicial structure of this country, that we are going to introduce a provision of this kind for the first time; for once you introduce it in one law, believe me, this Government will not hesitate to introduce it in every other law. The necessity for the accused to be present when people are giving evidence against him is fundamental to the very concept of justice. I do not know Sir, whether you are aware—that it is a difficult business for a man to tell a lie against another while looking him in the face. It is easy for a man to tell lies against me, in my absence; but it is very difficult for him to look me in the eye and say: "He did this" or "he knows that I did this" or whatever he has got to say.

16.35 hrs.

[SHRI KHADILKAR *in the Chair*]

I have been a magistrate myself. I have been an Income-tax Commissioner. But never have I thought of taking judicial evidence of alleged crime in the absence of the person against whom that evidence is tendered, because I know for a fact that one of the things that prevents people from telling lies is to have to look at the other man in the eye and say whatever they wish to say. I think it is a most dreadful provision. I cannot possibly understand how anybody in his senses could think of a provision of this kind.

Then there is another extraordinary provision in this Bill. Immediately on the framing of a charge, the accused must disclose his witnesses, his documents and disclose his evidence! It is monstrous; with the enormous powers in the hands of the police and of the Government and in hundreds of officials and their unions—if a man has to disclose his defence at the earliest possible stage so that the evidence can be got at, the witnesses can be got at, and we know that they are got at—that is

an incredible mockery of justice. I do not understand how, in any civilised country, this could be done. I hope we are not trying to ape one of those African countries where the President or the Premier or whatever he is called, has taken the power to dismiss High Court judges if they do not decide a case in the way he wants them to decide it. But we are making a beginning with this; we are beginning with an organised, legalised assault on our public servants. I really think this is a most dreadful and uncivilised piece of legislation. There are enough powers already in the armoury of Government to tackle the problem of corruption if they only wish to tackle it in a spirit of public service.

However, if the Govt. wish to take such draconian powers, why do they make an exception? Why do they not, attack one of the main focal points of corruption? As I said earlier, since the last 18 months at any rate, there has never been any doubt in the mind of anyone in this country that there is a very strong focal point of corruption in certain political circles and at certain official political levels. Why are the master hands at corruption being ignored? Why do they want to tackle this problem one sidedly? Why this propagandist legislation? Why this deliberate assault only on public servants? Sir I submit that this whole thing is bad; it is bad *ab initio*. The Government would do wisely to think this whole thing over once again and then either drop it altogether or bring in a less obnoxious legislation covering everybody concerned in this business of corruption—Ministers and all legislators if you like. MPs and every one. If they think corruption can be stamped out by law let them bring in a more reasonably drafted legislation on the one hand and more comprehensive one, on the other.

It is a bad thought that this House should be considering with equanimity a piece of legislation which is going to make an assault also on fundamental rights. In this respect I agree with what the Member over there—

I cannot recall his name—said namely that we are in this way going to make a serious inroad in a quiet little way into fundamental rights. This Bill aims at the destruction of certain fundamental rights of public servants as citizens. Just as fundamental rights grow from precedent to precedent their destruction also proceeds from precedent to precedent. Once we begin in this particular way in the matter of alleged criminal offence by public servants what will happen? Where shall we end? I am not now talking about the procedure for departmental enquiries against public servants. I am not talking of what facts can be presumed and what procedure and evidence are necessary for the purpose of disciplinary action against officers even for their removal from service. I am not concerned with that. Indeed I would be willing, again drawing upon my experience, to go a considerable way with Government, when it is a matter of disciplinary action or departmental enquiry, to say that you could have a certain measure of extra judicial executive discretion. But when it comes to the trial of public servants for alleged criminal offences, when it comes to offences for which a man may be sent to jail, when it comes to offences for which a man and his family and everybody connected with him could be disgraced even if he is finally acquitted, this kind of monstrous law and procedure cannot be allowed. I would therefore, earnestly appeal to the Home Minister to re-think this legislation in terms of all the things that have been said here in this House in this regard.

I think the lady Member who spoke earlier about this,—who referred to the public servant whose baggage was taken out and searched while he was moving on transfer from one station to the other and nothing incriminating was found in it but to whom not one word of public apology was uttered—is quite right. What recompense can there ever be in a case of that kind? I know from my experience that there are hundreds of honest officers; hund-

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reds of decent public servants all over the country. No doubt the number of those who are corrupt is probably increasing; I believe it is. But there still remains a corps of public servants; but for whose hard work this country would not have got to where it has. Let me emphasise that point; when the transfer of power took place in 1947, and when in the following year I had the honour of serving in the States Ministry with the then Deputy Prime Minister Sardar Vallabhbhai Patel, he, above all, was greatly conscious of the fact that the Country's capacity to take the shock of the transfer of power, and to fulfil the hopes that the country then eagerly entertained for its future progress and development,—all these were dependent upon first-class administrative cadre with high morale in all branches of the civil services. I am not talking here of the administrative personnel only. I have in mind all the services in all branches—civil, police, engineering, medical, educational and others. Much of the progress of the country during the last 17 years has been dependent. I say with great respect, not upon Ministers, but upon the honest and hard-working civil servant; the man who has maintained and operated the framework of all branches of administration in this country. Please for Heaven's sake, do not destroy their morale. Do not dishearten them. If you so ahead with this legislation. I assure you, it would be the biggest morale destroying event that will have happened in the country so far as its Public Services are concerned. I beg of the Government, through you, Sir, to withdraw this Bill.

श्री प्रकाशवीर शास्त्री (बिजनौर) :
समाप्ति महोदय, द्वितीय महायुद्ध की समाप्ति पर भारत के सेक्रेटरी आफ स्टेट लार्ड एमरी के लड़के को फांसी दी गई थी और उसका कारण यह था कि लार्ड एमरी का लड़का जर्मनी की ओर से इंग्लैंड के खिलाफ बाइकस्ट द्वितीय महायुद्ध में किया करता था।

फांसी की सजा घोषित होने पर लार्ड एमरी के साथियों ने सोचा कि वृद्धावस्था में उनको पुत्र शोक का कष्ट होगा, इसलिए अच्छा यह है कि लार्ड एमरी अपनी ओर से क्षमा दान की अपील करें तो उनके लड़के को फांसी के बजाय आजीवन कारावास की सजा दे दी जाए। लार्ड एमरी के सामने जिस समय यह प्रस्ताव रखा गया तो उन्होंने बिना किसी हिचकिचाहट के यह उत्तर दिया कि लड़के से देश बड़ा होता है, अगर देश के गौरव की रक्षा के लिए मेरे लड़के को फांसी लगती है तो उसको लगनी चाहिये क्योंकि उसने देश के साथ विश्वासघात किया है। इस घटना को सुनाने का मेरा अभिप्राय केवलमात्र यह है कि जब आप किसी राष्ट्र को इतना ऊंचा उठा लेते हैं कि राष्ट्र के हित को सर्वोपरि मान कर व्यक्ति के हित को उससे नीचा समझते हैं तो वहां पर भ्रष्टाचार स्वतः समाप्त हो जाता है।

हमारे देश में भ्रष्टाचार बढ़ने का एक बहुत बड़ा कारण यह है कि जब भ्रष्टाचार छोटे स्तरों पर होता है तो चारों ओर वह दिखाई देने लगता है लेकिन वही भ्रष्टाचार जब बड़े बड़े व्यक्तियों में होता है, विशेष कर राजनीतियों में तो उसकी ओर से आंख फेर ली जाती है। मुझे अच्छी तरह से स्मरण है कि हमारे गृह मंत्री श्री नन्दा ने अब से ठीक एक वर्ष पहले दिल्ली में यह घोषणा की थी कि दो वर्ष में यदि भ्रष्टाचार को वह समाप्त नहीं कर देंगे तो वह राजनीतिक जीवन से सन्यास ले लेंगे। इसी नवम्बर महीने में पिछले साल उन्होंने यह घोषणा की थी। इस घोषणा को अब एक वर्ष समाप्त होने को आया है। पर कुछ दिन पहले जब भ्रष्टाचार सम्बन्धी इसी प्रकार का एक प्रसंग संसद् में आया था तो मैंने एक प्रश्न उनसे पूछा था कि क्या भ्रष्टाचार की समाप्ति के लिए अब आप जो निर्णय ले रहे हैं वह क्या अन्तिम पग है? गृह मंत्री जी ने कहा था कि अभी और भी बहुत सी बातें सोचनी होंगी। कुछ ही दिन पहले इसी सदन में एक और चर्चा उठी थी दिल्ली

के एक सेंट्रल कोऑपरेटिव स्टोर की जिसके सम्बन्ध में पार्लिमेंट के मੈम्बरों ने यह कहा था कि होम मिनिस्टर के लिए यह एक टैस्ट केस है, देखना यह है कि गृह मन्त्री जी इस केस के अन्दर कहां तक निष्पक्षता बरतते हैं। उस समय यह कह कर उस चीज को टाल दिया गया था कि अभी पुलिस इसकी जांच कर रही है और जांच होने के बाद ही कुछ किया जा सकता है। मैं अपनी निजी जानकारी के आधार पर आपको बतलाना चाहता हूँ कि क्योंकि उस कोऑप्रोेटिव स्टोर और उससे सम्बन्धित दूसरे स्टोरों से पार्लिमेंट के दो मੈम्बर सम्बन्धित हैं और पुलिस की जांच के बाद वे दोनों ही अपराधी भी पाये गये हैं लेकिन चूँकि वे एक दल विशेष से सम्बन्धित हैं, इसलिए उनको वहां से निकाला जा रहा है। अगर भ्रष्टाचार को देश से समाप्त करने के लिए यही उपाय बरता जाएगा तो मेरा अपना अनुमान है कि इस प्रकार के कानून जैसा कि हाथी साहब ने पेश किया है, अगर सौ भी पास हो जायें तब भी देश से भ्रष्टाचार समाप्त आप नहीं कर पायेंगे।

अभी कुछ दिन पहले इसी प्रकार की एक और घटना दिल्ली में घटी थी। गत मई महीने में एक मिलीटरी के बहुत बड़े अधिकाारी की एक गाड़ी चोरी गई थी जिसमें ज्वायंट सेक्रेटरी के एक लड़के का हाथ था और कुछ बड़े राजनीतिज्ञों के लड़के भी उसमें सम्मिलित थे। उस केस को दबा दिया गया। लेकिन बाद में जब समाचार पत्रों ने उस केस को उठाया तो फिर किसी तरह से सुरसराहट शुरू हुई। इतना होने के बाद भी अभी तक अपराधियों पर खुल कर हाथ नहीं डाला जा रहा है क्योंकि वे बड़े आदमियों के बच्चे हैं। अगर इसी तरह से आप देश से भ्रष्टाचार को समाप्त करना चाहते हैं तो आप कभी समाप्त नहीं कर सकेंगे।

कई बार प्रश्न उठता है कि भ्रष्टाचार की परिभाषा क्या है, क्या रिश्वत लेना

भ्रष्टाचार है, किसी की सिफारिश करना भ्रष्टाचार है, अपने आदमियों को नौकरी में रखना भ्रष्टाचार है ? मैं अपनी दृष्टि से भ्रष्टाचार की छोटे से शब्दों में इस तरह से परिभाषा किया करता हूँ। यमुना में स्नान करके पंडित जी जब अपने घर को लौट रहे थे तो चौराहे पर कहीं मरा हुआ गधा उनको दिखाई दिया। उन्होंने एक दम अपने हाथ की माला फेंक दी और कहा कि जिसने इस गधे की हत्या की है उसको नरक मिलेगा। पीछे से किसी समझदार आदमी ने कहा कि पंडितजी गधे को मारने वाला तो आपका ही पुत्र है। यह सुन कर उन्होंने झट से माला उठा ली और कहने लगे गये कि अगर ब्राह्मण पुत्र से गर्दभ हत्या हुई है तो स्वर्ग तो मिलेगा। इसका नाम है भ्रष्टाचार जिसमें दूसरों के दोष दिखाई देते हैं उस समय तो वह वह भ्रष्टाचार, भ्रष्टाचार है लेकिन जब अपनी पाटी वालों के, अपने सम्बन्धियों के, अपने रिश्तेदारों के, अपने परिवार वालों के दोष होते हैं, तब वह बुराई, भलाई दिखाई देने लग जाती है, यह भ्रष्टाचार है। छोटी छोटी मछलियों को तो पकड़ लिया जाता है और बड़े बड़े मगरमच्छ निकल भागते हैं। इस तरह से आप अगर आप भ्रष्टाचार को समाप्त करना चाहेंगे तो नहीं कर सकेंगे।

दूसरी बात भ्रष्टाचार को समाप्त करने के लिए यह जरूरी है कि जो बुराई राजनीतिक स्तर पर चल रही है, जैसा कि पहले भी एक बार मैं कह चुका हूँ, उसको पहले समाप्त किया जाए। इसके लिए सबसे पहला पग हमें यह उठाना पड़ेगा कि जो बड़े बड़े राजनीतिज्ञ हैं, मिनिस्टर हैं, विधान सभाओं और संसद् के सदस्य हैं, उनके स्तर पर पवित्रता को जब तक स्थापित नहीं किया जाता है, तब तक सरकारी मशीनरी को हम साँछित नहीं कर सकते हैं। इसलिए पहले पवित्रता उनमें अपेक्षित है। उनको चाहिये कि वे दूसरों के सामने आदर्श उपस्थित करें। अगर व आदर्श

[श्री प्रकाशवार शास्त्री]

उपस्थित कर सकें तो नीचे के स्तर पर मशीनरी अपने आप पवित्र होती हुई चली जाएगी।

जहाँ तक सरकारी मशीनरी का भ्रष्टाचार में फँसने का प्रश्न है, उसका एक बहुत बड़ा उदाहरण मैंने पीछे इसी सदन में इस विषय पर ही रही बहस में दिया था। जब यह प्रस्ताव यहाँ आया था, तब मैंने कहा था कि सरकारी अफसरों में से अगर भ्रष्टाचार को हम समाप्त करना चाहते हैं तो उसका एक उपाय यह किया जाए कि फाइलें जो महीनों महीनों तक मेजों पर पड़ी रहती हैं, अगर एक नियम बना दिया जाए कि तीन दिन से अधिक कोई फाइल किसी मेज पर नहीं रहेगी, तो मेरा अपना अनुमान है कि देश से भ्रष्टाचार की समाप्ति में बहुत बड़ी सहायता हम को मिल सकती है। एक फाइल एक मेज पर जब महीनों महीनों पड़ी रहती है, तब सम्बन्धित अधिकारी की उस व्यक्ति से बात होती है तो वह उसको बतला देता है कि फाइल यहाँ है, अब तक उस पर यह आर्डर हो चुका है, आगे इसको इस रूप में बढ़ाना है और तब यहाँ से नीचे में लेन देन की परम्परा शुरू हो जाती है।

भ्रष्टाचार को प्रोत्साहन देने का एक बहुत बड़ा कारण यह भी है कि स्वतन्त्रता के बाद से हमारे देश में दायित्व को अनुभव करने की प्रवृत्ति समाप्त होती चली जा रही है। मिनिस्टर साहब को शिकायत अगर कोई जाती है तो वह उसे सैक्रेटरी के पास भज देते हैं, सैक्रेटरी ज्वायंट सैक्रेटरी के पास भज देता है, वह डिप्टी सैक्रेटरी के पास भज देता है, वहाँ से वह अण्डर सैक्रेटरी के पास आती है और इस तरह से नीचे चलती जाती है। इसी तरह से उस पर रिपोर्ट होकर वह इन सब स्तरों से ही ऊपर जाती है। ऊपर से अगर कोई सवाल और पूछा जाएगा तो फिर वह नीचे इसी तरह से आती है। आप यह निर्धारित कर दें कि सैक्रेटरी के लेवल पर इस तरह के केसिस तय होंगे, ज्वायंट सैक्रेटरी के लेवल पर

इस तरह के केस तय होंगे, डिप्टी सैक्रेटरी के लेवल पर इस तरह के और अण्डर सैक्रेटरी के लेवल पर इस तरह के। एक दूसरे पर दायित्व फेंकने वाली जो आदत है यह भी हमारे देश में भ्रष्टाचार को बहुत बड़ा प्रोत्साहन दे रही है।

एक बड़ी बात जिसको मैं मुख्य रूप से कहना चाहता हूँ और बलवान बलवती भाषा के अन्दर कहना चाहता हूँ यह है कि हमारे देश में भ्रष्टाचार को प्रोत्साहन मिलने का एक बहुत बड़ा कारण यह है कि स्वतन्त्र होने के बाद से ईश्वर और धर्म से हमारी नई पीढ़ी की आस्था समाप्त की जा रही है। अब तक हमारे देश में भ्रष्टाचार की समाप्ति में जो बहुत बड़ा योग दिया था वह हमारी सामाजिक परम्पराओं ने, हमारी उन भावनाओं ने जो हमको पूर्वजों से वसीयत के रूप में मिली थी, दिया था। आज व्यक्ति के मस्तिष्क से ईश्वर का डर उठ गया है, धर्म का डर हट गया है। जब ईश्वर और धर्म का डर हट गया तो समाज और सोमाइटी का शासन का डर क्या रहना था। मैं चाहता हूँ कि गवर्नमेंट इस बात का दायित्व अपने कंधों पर ले और प्रयत्न करे कि हमारे स्कूलों और कालेजों में, सामाजिक संगठनों में धार्मिक परम्पराओं को समाप्त न होने दिया जाय। देखने में आ रहा है कि प्रगति के नाम पर, ईश्वर और धर्म से नाक भी सिकोड़ने की प्रवृत्ति नई पीढ़ी में ही नहीं बल्कि हमारे देश में बड़े लोगों में भी आरम्भ हो रही है। इसका परिणाम यह है कि नीचे के स्तर पर वह भावना समाप्त होती जा रही है। यह जो पीढ़ी अब चल रही है इसमें फिर भी कुछ थोड़े बहुत अंश में ईश्वर और धर्म में आस्था है। लेकिन अगर यही प्रवृत्ति चलती रही और गवर्नमेंट का यही रुख रहा तो मैं कहना चाहता हूँ कि आज से पन्द्रह वर्ष बाद का जो भारत होगा, वह ईश्वर और धर्म को भूल चुका होगा। उस समय

भारत में भ्रष्टाचार को गवर्नमेंट के डंडे से कभी नहीं रोका जा सकेगा। गवर्नमेंट का डंडा प्रत्यक्ष अपराध को तो रोक सकता है लेकिन अप्रत्यक्ष अपराध को कहीं कोई नहीं रोक सकता है। इसलिए हमारी सरकार को चाहिये कि शिक्षा में धर्म का स्थान अनिवार्य रूप से रखा जाये। श्री प्रकाश समिति ने अपने प्रतिवेदन में यह सुझाव दिया था कि शिक्षा में धर्म का स्थान अनिवार्य कर दिया जाय। सवाल पैदा होता है कि कौन से धर्म का स्थान अनिवार्य करे। सभापति महोदय, इस सम्बन्ध में पहली बात तो मैं यह कहना चाहता हूँ कि हमारे देश के नेताओं ने धर्म को जब से सम्प्रदाय और रिलीजन के साथ तोलना शुरू कर दिया है, तब से धर्म के साथ बहुत बड़ा अन्याय होने लग गया है। धर्म को सम्प्रदाय के साथ तराजू में रख कर तोला नहीं जा सकता है। धर्म के सिद्धान्त तो विश्व जनीन हैं जो सारे संसार के लिए एक जैसे हैं और सब पर समान रूप से लागू होते हैं। भारतवर्ष के पास इस प्रकार का धार्मिक साहित्य भी है जिस में किसी व्यक्ति अथवा दंग विशेष अथवा समूह को ही अपना मान कर चला नहीं जाता। उसको हमारी शिक्षा विधि में, पाठ्य विधि में रखा जा सकता है। फिर भी अगर किसी समुदाय विशेष को आपत्ति हो तो मुझे इससे स्वीकार करने में भी कोई आपत्ति नहीं है कि जिस तरह से हमारी नई पाठ्य विधियों में बहुत सी इस प्रकार की पुस्तकें हैं कि एक ही विषय पर भिन्न भिन्न पुस्तकों से परीक्षा होती है, उसी प्रकार से देश के बड़े बड़े धर्मों के सम्बन्ध में उन धर्मों के संचालकों से आप यह कहें कि आप अपने धर्म के अनुसार अच्छी एक पाठ्यविधि तैयार करके दें। फिर इसके सम्बन्ध में आप एक सम्मिलित कोर्स तैयार करे और उस पाठ्य विधि से विद्यार्थी वार्षिक परीक्षा दे। अगर मुसलमान बच्चा अपनी मुसलमान पाठ्य विधि से परीक्षा देना चाहे तो उस विधि से दे, हिन्दू बच्चा हिन्दू पाठ्य विधि से परीक्षा दे और

दूसरे भी अपनी पाठ्य विधि से चाहें तो परीक्षा दें। लेकिन धर्म और ईश्वर के नाम को हिन्दुस्तान से मिटा देना भारतीय परम्पराओं के साथ बहुत बड़ा अन्याय करना है। गवर्नमेंट के डंडे से केवल, आप भ्रष्टाचार को नहीं हटा सकेंगे। सामाजिक स्तर पर इस देश के धार्मिक रूप को और सांस्कृतिक रूप को, जो कि इस देश का पवित्र रूप है, स्थापित किया जाये। तभी आप इस देश से भ्रष्टाचार को समाप्त कर सकेंगे, ऐसा मेरा विश्वास है।

Shri K. C. Sharma (Sardhana): Mr. Chairman, Sir, I am sorry I have to say something very unpleasant about this subject. My respectful submission is that the problem that this country faces or, rather, the world faces, has not been properly understood. My hon. friend, Shri Prakash Vir Dasari, was talking about religion. I may inform him that nowadays religion, whether, it be Hindu religion, Muslim religion or Christianity as a dogma, has gone. There is such a thing as religion in science. If you read James Cared on *Introduction of Religion*, it does not deal with Hinduism or Christianity. It deals with the fundamentals of truth as they act on the human life and human development. This is the essence of every religion in the world. Those days of going to the temples or throwing flowers in Ganges water are gone. Now the man has grown in intelligence. He has got rationality behind him. From animal parenthood he has passed on to human evolution. Now there exists nothing superior to him. Now human being is the creator. There is no necessary God. The man creates God. Therefore those old days of religion and God are dead. Now are the days of man and his destiny.

What is the essential characteristic of a human being. It is his intelligence. Therefore, the fundamental problem before India, as it is before the whole world, is intelligence. The problem is

[Shri K. C. Sharma]

one of intelligence in the scientific aspects of questions, scientific procedure and creating new institutions. That will eliminate corruption. If you put there a man who believes in superstition, who believes in astrology, who believes in traditions, do you think he can carry on? Do you think in any revolutionary government a man who believes in astrology, in tradition and in superstition can sit on the Cabinet bench? This is the highest corruption, the highest crime against people.

Therefore, as I said, the fundamental question is that of intelligence. I would ask the Prime Minister to judge the intelligence of other ministers. Do you want the country to be ruled by cattle? Only intelligence will rule. The difference between a man and animal is that the man has got intelligence. The cattle has its own pedigree. When you go for a horse you consider its pedigree. For taking a man in the administrative service you do not ask who his father or mother was. You judge his intelligence. The same is the case in every walk of life and in every cadre of service. Whether it be a minister or a chaprasi you have to deal with intelligence. Where you fail in intelligence, you are corrupt.

You are responsible for corruption. You give equal right of citizenship, equal right of opportunity, equal right of freedom and other rights. You give a chaprasi Rs. 80. Do you want him to murder his children? It is human for him to help himself. It is a crime to say that a chaprasi is corrupt because he somehow manages to send his children to school. There is a saying in Rig Veda. The crow said to the eagle—Vishnu's chariot: "Strong is the pain of hunger." Now the hunger is not of starvation but the hunger is about the future of one's children. A chaprasi is as much entitled to see that his children come up as the Prime Minister or the President of India is entitled to see.

Therefore, if crime exists, it exists in the lack of scientific institutions to

guarantee the growth and development of every child in India. Till this problem is solved you cannot say that a chaprasi did this or a sub-inspector did that.

I shall put one question. In New York there were floods and lot of people died some years back. But have you seen a report that a policeman died while saving a beggar woman? In India two police constables sacrificed their lives to save a beggar woman and a child. Is it not a proof that the kernel of the service is good. Where is the man in the whole world who can give his life in order to save a citizen whom he does not know?

Therefore, if there is corruption it is the result of the environment, it is the result of circumstances, it is the result of conditions. The Government is responsible for it because we have failed to create new institutions to guarantee equal opportunity for the fullest growth of every child in India. Till you guarantee that there is no question of corruption, it exists not only in India but in the whole world.

I can say with confidence that barring perhaps the administration in the United Kingdom, India has the best administration in the world. Even small people in our administration work hard, work honestly and work with sincerity. There was one Tehsildar Singh, a head constable. He risked his life to save 4000 refugee Mahammadans. Shri Shastri was the Home Minister then in Uttar Pradesh. Some big officer reported to him that everything was done by him. But I went to Shri Shastri and told him that it was the poor head constable who did everything. With great difficulty he was rewarded for it.