

principles of international law and peaceful coexistence. Each nation has a right to choose its own political and socio-economic system. Whatever problems a country may have with any country, neighbouring or distant, solutions of such problems must be found through peaceful means. Nations must learn to respect each other's national sovereignty and territorial integrity. They must refrain from interfering in each other's internal affairs under any pretext whatsoever. They must settle their disputes peacefully and bilaterally. We were particularly concerned at the continuing tensions in South East Asia and West Asia.

In the field of bilateral relations all the countries I visited were keen to strengthen further their existing economic and commercial cooperation with India and discover new avenues for such collaboration. We on our part are prepared to do so.

On my way home I had a brief stop-over in Frankfurt during the course of which I had an hour long meeting with FRG Chancellor Herr Schmidt and also an informal meeting with the representatives of the German Chamber of Commerce and Industry, and other important business interests keen on promoting collaboration in India or in joint ventures abroad. I am happy to report that my discussions with the FRG Chancellor revealed a broad agreement on the few important issues we could discuss within the time available. In my discussions with the representatives of the business interests I found a meaningful attitude towards collaboration in various fields and a keen desire to visit India for the purpose.

I should like to conclude by saying that today, more than ever before, India's foreign policy is being understood and appreciated as a policy in favour of world peace, detente and stability. My visit has served to strengthen India's relations with these countries and opened new avenues for further cooperation to mutual benefit.

I would like to take this opportunity to place on record my thanks to President Brezhezv and Prime Minister Kosygin, to First Secretary Gierek and Prime Minister Jaroszewicz, to President Husak and Prime Minister Strougal, to President Tito and Prime Minister Djuranovic for the cordial welcome and hospitality extended to us during our stay in their countries. I would also like to express my thanks to Chancellor Schmidt for having found the time to come to Frankfurt for a very useful exchange of views.

SHRI K. P. UNNIKRISHNAN (Badagara): Sir, I demand a discussion on the international situation in this session itself. I hope you will help us by finding time when this statement could also be discussed.

SHRI P. VENKATASUBBAIAH (Nandyal): There should be a discussion on this.

MR. SPEAKER: I had already promised that to the House.

14.13 hrs.

LOKPAL BILL—Contd.

[MR. DEPUTY SPEAKER *in the Chair*]

SHRI P. VENKATASUBBAIAH: As I was saying before the House rose for lunch, the provisions and objectives of the Lok-Pal Bill run contrary to the concept of rooting out corruption from public life. This Bill, as it stands today, is neither fish nor fowl.

SHRI K. P. UNNIKRISHNAN: It is fishy.

SHRI P. VENKATASUBBAIAH: The Bill has been mutilated and brought to this stage where nothing could be achieved; they would not be able to eradicate corruption from places of power by this sort of a Bill. All the exercise that has been carried on for manufacturing this Bill—I will deliberately use the word 'manufacturing'—is to take vengeance retrospectively. The main purpose of this Bill is to bring into its purview offences that have been committed five years

[Shri P. Venkatasubhaiah]

back. This clearly indicates in what clumsy manner, the Janata Party Government wants to wreak its vengeance on its political opponents. This is one glaring and vindictive act of the Janata Party which they want to foist on the people of this country.

Secondly, this Bill has included the Members of Parliament and they have been termed as public servants in-charge of executive activities...

SHRI HARI VISHNU KAMATH
(Hoshangabad): Public men.

SHRI P. VENKATASUBBAIAH: And their misconduct is liable for punishment. I do not know what executive authority the Members of Parliament wield. Their only function is to serve and nurse their constituencies and to bring the grievances of the people to the attention of the Government. If you see the interpretation given to the word 'misconduct', the sky is the limit. Even if a Member of Parliament gives a letter to the Reservation Office in the Parliament House recommending a berth for a friend in a train, it can be taken as a misconduct, and abuse of power also. It has been stretched to a ridiculous extent, making the discharging of their functions by the MPs impossible. And they have left out the civil servants.

The entire complaint is that in a Government, however efficient it may be, if the bureaucracy is not in tune, if they are not committed to the policies and programmes of the Government, whatever the Government tries to implement, goes waste. The civil servants are ruling the country now, virtually. The Ministers are there. They have to administer and formulate certain policies. They have to implement the programmes of the party to which they belong. But the Ministers have been rendered useless, because if he is a new Minister, his position will be made so ridiculous and embarrassing that he will not be able to take any action on any matter, because the Secretariat prepares such a note as to make it impossible for him to pass an

order. That being the case, it is really most unfortunate that the MPs are brought within the purview of this Bill.

Secondly, about the competent authority. They have given the authority to a large number of persons. It looks as though it is confusion worse confounded. And it is being euphemistically called an Ombudsman. Not even one virtue of the Ombudsman I can see, in this Bill. It is only an Ombudsman in name, not in spirit.

Shri Morarji Desai was the chairman of the Administrative Reforms Commission. He made a certain very valid and very good suggestions. Even those recommendations are not being put into practice. This has been brought in a distorted manner. (*Interruptions*) That Commission's report was a unanimous one, as Mr. Kamath says. He was a member of that Commission. Even that report has been given a go-by.

There are several inconsistencies in the Bill, as evidenced by the large number of dissenting notes given to the report of the Joint Select Committee, where eminent members were there. I feel strongly that it is better that the Government withdraws the Bill at this stage and incorporates the valid and constructive suggestions made by the members of the Joint Select Committee who had given certain dissenting notes and also incorporates the views expressed by the hon. Members in this House and sees that the Bill does not create an impression that it is intended only to penalize the Members of Parliament for discharging their duties. Their effectiveness will then be gone. They will not be able to do anything. The concept of parliamentary democracy will suffer.

I once again say that this Bill, in this mutilated and distorted form, is going to do more harm than good. I appeal to the Government to see that the centres of power where corruption really starts, the centres of patronage where corruption really starts, the

centres of administrative delays where the delay causes all sorts of corruption and malpractices, are identified. They must be included; and proper action has to be taken. An impression must go round that this Bill is intended really to root out corruption, and to set up certain standards of ethics in public life. I am glad that the Prime Minister has also been brought within the purview of the Bill. At one time, there was a thinking that the Prime Minister must be excluded from the purview of this Bill, but it is not like that. I am glad that the highest man in the country is willing to subject himself to all sort of scrutiny; and when allegations are brought against him, he will also stand before the competent authority to face allegations and get himself out of them if he is not guilty.

With these few observations, I do not see any valid reason for getting this Bill passed in its present form. Of course, in various countries various types of such tribunals are existing. We have to take the best out of them and have a sort of comprehensive legislation so as to fulfil the idea underlying this Bill in order to set up a great standard of ethics in public life. I will only say that because of our public life, there will be many scandals spread out about public men who are doing public work; and this will only add to character assassination and also make it difficult for honest people to discharge their duties to their constituent and also to the public at large. With these observations I once again reiterate that it will be better if this Bill is withdrawn and a comprehensive Bill is brought forward.

SHRI NARENDRA P. NATHWANI (Junagadh): Mr. Deputy-Speaker, Sir, I rise to support the Bill as it has emerged from the Joint Select Committee. But in some respects, I differ with the majority and therefore I have annexed my note of dissent.

I will take up the first point regarding the scope of the Bill. There are material changes made by the Joint

Select Committee regarding the applicability of this Bill. The Joint Select Committee has deleted the Chief Minister from the category of public men. I feel that this deletion is not at all justified. The Joint Select Committee has given certain reasons. They say that the State Legislatures are competent to enact such a provision. They also say that they will also take a queue from the present Bill and enact a law to the effect that the Chief Minister is rendered responsible for his misconduct. In some States, there are existing laws and the Ministers are made responsible for their misconduct. In other States, there are no such laws. Now the suggestion is that where there is no such provision, they will improve it by adding the Chief Minister in the category of persons or where it will be undertaken, they would see that besides the Minister, the Chief Minister is also included in the list. But I do not see any necessity or any justification for avoiding its inclusion in the Bill by resorting to such an argument.

In the first instance it is not disputed that it is competent to this House to make a provision of this nature: it is competent to this legislature to include chief ministers. Nobody disputes that proposition. If it is so, why cannot we enact a law for this purpose? Secondly, it is said that there is already provision, namely, Commission of Enquiry Act of 1952 under which it is competent to the Central Government to direct an investigation into allegations against a chief minister. But this provision is not adequate. It has been repeatedly pointed out that under the Commissions of Enquiry Act there is not available to the deciding authority, the benefit of an independent machinery. If I may say so, the Grover Commission report has underscored this point and they have suggested certain amendments, even constitutional amendments, so that the authority i.e. commission, can enquire competently in a reasonably satisfactory manner into the allegations against chief ministers and other ministers of the State. Today we are legislating on this subject itself and instead of

[Shri Narendra P. Nathwani]

leaving it to such a legislative device in future, it is but proper that we should fill in any lacuna in this Act itself. I am glad to notice that the Government has come forward with an amendment including "chief minister" in the category of public persons.

Another important change that the committee has made is to differentiate between ministers if I may use the word, public men other than legislators and legislators. Persons who fall in category of public persons other than legislators are mainly ministers. Of course there are other categories also but they are of a miscellaneous nature. Question is whether this kind of different treatment between ministers and members of Parliament is justified. In my opinion there is an improvement made. The conduct is defined differently with respect to these two different categories of persons, i.e. public person other than legislators and legislators. In my opinion the distinction is valid. Ministers have got executive authority, power, but Members of Parliament have not got any power. In order to allay the apprehensions that it may be used vindictively or that members of parliament can be prevented or would be prevented by virtue of the provisions of this Bill from effectively discharging their duties this distinction is made. It is welcome and I support it. But in my opinion such a distinction need not or does not require definition of misconduct to be so narrowly laid down as has been done in the case of M.Ps. Kindly see clause (3). As regards ministers, it says, "if he abuses or allows his position to be abused for securing for himself or for any of his relatives or associates....his conduct would amount Misconduct." The expression to be noted here, is 'relatives or associates'. But when we come to M.Ps., it says "if he abuses his position." There is no reference to his relatives or associates. Why should this distinction be made? In the case of M.Ps., if he secures for himself any pecuniary advantage, then his conduct

would amount to misconduct and the definition will be attracted. I am fully alive that further words have been added, namely—"He secures for himself directly or indirectly". Those words are placed there. Of course 'directly' means himself. 'Indirectly' is vague word. Let me take an example. An M.P. has a grown up boy. He wants to do any business. He tries to get a licence for him. What will be the position? Will it not amount to securing advantage indirectly for himself. Perhaps you will be told; some lawyer will tell you—yes, it would amount to getting advantage pecuniary advantage for oneself or valuable thing for oneself provided the son stays with you. If a grown up son or daughter or any other relation stays separately from him, then he will not be covered by the clause as it stands. I, therefore, can ask my grown up son to go away from my House. I go on making applications on his behalf and try to get as many benefits as I can as an M.P. could get and still I would not be committing any act of misconduct. Do you want any such thing to be provided under this Bill? Therefore, I suggest that we should also include the words at least 'relatives' if not 'relatives and associates' in respect of M.Ps. also.

They have taken the definition of 'relative' from Sch. 1A to the Companies Act, 1956. If you see the list in the Bill you will find that word 'nephew' is excluded. I think nepotism has been derived from the word 'nephew'. Therefore, as an M.P. I can abuse my position without attracting any liability under this new clause (3). It is an important part which requires careful attention from the Members of this House whether we should not enlarge it by including first cousins. They are omitted. If we are members of a joint family, they are covered. If there is partition, I would not be attracting the liability or responsibility under this Bill, if I, as an M.P., get benefit for my nephew.

The last point that I would like to bring to your notice is the question of competent authority and particularly

in respect of the Prime Minister. I quite agree that it is a very difficult question to provide for a competent authority in respect of Prime Minister. Take any formula, any suggestion, any amendment and you will certainly find some difficulty. But in my humble opinion the provision in the Bill—that in respect of the Prime Minister the competent authority will be the Speaker of the House of the People, is certainly not a welcome feature of this Bill. Speaker's status, authority and dignity is likely to suffer because of this provision. What happens? When a Report is presented by the Lok Pal he has to send it to the Speaker and Speaker has to notify to the Lok Pal what action has been taken or what action is proposed to be taken. If Lok Pal is not satisfied he would make a special report. This Report will come before Parliament and it will be discussed in Parliament. Kindly see the position, the situation which is contemplated under the provisions of this Bill. Speaker suggests or proposes action. That action is liable to be reviewed by the Lok Pal. The Lok Pal will or may submit a special Report on that and that Report may be or is likely to be reviewed by Parliament.

I know other suggestions that are made or may be made in this behalf are liable to one or other kind of criticism. I have suggested that it should be the President even if the President in this context does not mean the President exercising his individual discretion, but means the President acting under the advice of the Council of Ministers. It is better to have him as a competent authority than to have the Speaker as provided in the Bill.

PROF. P. G. MAVALANKAR (Gandhinagar): The Prime Minister would be there in the Council of Ministers.

SHRI NARENDRA P. NATHWANI: The Prime Minister should not attend such a meeting of the Council of Ministers because allegations against him are to be considered. It is a

cardinal principle of natural justice that when a matter comes in which one is involved, he should not take part in the deliberations and should remain absent. Somebody suggested that it should be the Chief Justice of India. In that case, other considerations would militate against such a suggestion. Therefore, the proposal to have the President as the competent authority with respect to Prime Minister seems to be less objectionable even if he does not act in his individual discretion in such a case. So far as any matter which is referred to in the Constitution is concerned, he has to act under the advice of the Council of Ministers. But in other cases where an Act confers power or discretion on him in his individual capacity, it seems to be valid and he can exercise his individual discretion in such a case.

SHRI SOMNATH CHATTERJEE (Jadavpur): But the Government says that the Prime Minister should be the competent authority.

SHRI NARENDRA P. NATHWANI: May be there is a room for argument in such cases. The Prime Minister may be different from a Prime Minister whose misconduct is to be investigated but both may be the same in some cases in which case it is incongruous and invalid.

There are a few other small points which I will take up at the clause by clause stage.

SHRI HARI VISHNU KAMATH (Hoshangabad): On a point of order—cum—propriety. I dare say, you will agree and so will the House that this Bill is a very important landmark in the history of legislation in free India. On an occasion like this I find that there is no single Minister of Cabinet rank present. The Prime Minister and his two colleagues were there earlier, but they have vanished from the scene now. 12 amendments have been given notice of in the name of Shri H. M. Patel. He is supposed to pilot the Bill and listen to the

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debate before he replies. I know that the two Ministers of State would be taking very elaborate notes, interesting notes. But, Sir, I will request you that on an occasion like this, the Home Minister must be present. We do not know whether he is out of India or out of Delhi. Will you please throw some light on this, whether he has written to you about it, because in that case, we will have to willy nilly, more nilly than willy, agree to his absence. If, however, he is present in Delhi, he should come here. This Bill should not be given this sort of cavalier treatment at the hands of the Cabinet and the Government. They do not seem to have their heart and mind in it.

PROF. P. G. MAVALANKAR: Not even body!

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI S. D. PATIL): The hon. Minister of Home Affairs is busy answering the Calling attention Notice in the other House and it will take nearly an hour or so, because the number of members who have given the Calling Attention is nearly 30.

SHRI HARI VISHNU KAMATH: In the morning also he was absent.

SHRI S. D. PATIL: He was present in the other House thinking that the Calling Attention might be reached.

MR. DEPUTY-SPEAKER: In any case, I think some Cabinet Minister should have been present here.

SHRIMATI PARVATHI KRISHNAN (Coimbatore): The Minister of Energy was here some time ago. Suddenly he became energetic and walked out, I do not know why.

DR. V. A. SEYID MUHAMMAD (Calicut): Mr. Deputy-Speaker, to the extent this Bill attempts to curb

corruption at high places, though half-hearted the attempt is, I support the Bill. To the extent it is an attempt to provide a machinery, however unsatisfactory that machinery may be, I support the Bill. The rest I do not accept or support for the reasons which I will place before you presently.

The objection is fundamental, and not regarding particular clauses, a, b or c. There are certain fundamental objections, raised by as many as 15 or 16 members of the Joint Select Committee in certain cases. In certain cases, the whole Committee rejected the original provisions of the Bill, but I am surprised that they have come back; something which was unanimously rejected had come back by the Government amendments.

One of the fundamental and basic objections is that there is no provision for establishing an institution of Ombudsman or Grievanceman. Sir, as you are aware, this Bill has its genesis in the discussion in 1964 before this hon. House. Subsequently, the Administrative Reforms Commission made certain recommendations in 1966. They also recommended the establishment of the institution of Ombudsmen. The draft Bills of 1938 and 1971 also contained the same thing. No reason has been given for its rejection and not alternative institution has been even suggested in the Bill. That is a great drawback, mistake and omission because of which 15 members including myself regarded a dissenting note. I repeat those objections.

The second objection is to the introduction of retrospective operation of a penal provision by section 2(3) read with section 11(3). The effect of these two sections read together is that any offence committed five years before the coming into force of the Act will come within the purview of this Act and will be punishable. That violates the fundamental principle which has been accepted from the hoary past

and which has been incorporated in various Constitutions of the world and in article 20(1) of our Constitution, namely, that nobody shall be punished for an act which was not an offence when it was done.

Elaborate arguments were put forward before the Committee to which very lame and unsatisfactory answers are given, saying that no offence is created and there is no punishment. I shall immediately say that this argument is absolutely without any foundation whatsoever.

Without going into the details of the Sub-Section and the Section, the definition of misconduct is an inclusive one, namely, it shall include the offences contemplated in the Prevention of Corruption Act and also in the Penal Code provisions. Everybody is aware that when a definition is inclusive it includes more than what is specified, namely, what is mentioned in the Prevention of Corruption Act and in the Penal Code. That means, new offences which are not contemplated or contained in the Indian Penal Code or the Prevention of Corruption Act are contemplated by this Act. So, the argument that no new offence is contemplated to be established by the Act is meaningless. Secondly, there is punishment. In pursuance of the various actions contemplated in the Act, either he will be prosecuted or certain punishment in the sense of expulsion may follow. Even if no specific punishment in that sense is given, the very fact a Member of Parliament or anybody for that matter, even a Minister or somebody else, will be exposed to a censure or adverse comment itself is a sufficient punishment for a public man so that there is or there are new types of offences contemplated and there is also punishment contemplated. Therefore, it obviously follows that it violates a very fundamental principle and it is in violation of Article 21 of the Constitution that nobody shall be punished for an act

which was not an offence when it was committed, when the act was done. I object to the provision on this ground among others.

The third objection I have got is, the executive is altogether left scot free. In the Committee there was a serious discussion about it which led almost to a deadlock. The objection was so severe and the Minister at that time or subsequently did not satisfy the Members that the exclusion of the executive is justified. Even for a Minister or an M.P. to commit corruption effectively, they may do small things which are not very material, the executive's help has to be there. Unless the executive is a helper, abetter and an active promoter of corruption, the Minister cannot commit corruption why should then the members of the executive go scot free?

The fourth objection is to the inclusion of M.Ps. I am sorry to say, the Prime Minister made a statement in this House which has been referred to by Mr. Bhupesh Gupta in his Dissenting Note. I am taking exception to that statement. The Prime Minister is reported to have said that it is only the Members of the Committee who do not want the M.Ps. to be included. That is not correct. The Report is here, Mr. Bhupesh Gupta very ably has taken exceptions and objections to the statement. I repeat the objections. Sir, why are M.Ps. included? I have examined, most of the Members have examined and you may examine, but nowhere in the world in a legislation of this sort the Members of Parliament are included within its purview. It will give the impression that the M.Ps. in this country are a special category who are generally prone to commission of corruption. I take objection to that also. An M. P. as a citizen is subject to all the penal laws of the country, the prevention of Corruption Act, the Penal Code and whatever law is there. He is also subject to

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a greater tribunal the tribunal of public opinion, the tribunal of his constituency, the discipline of this House, the discipline as a Member of this House, the discipline of his party. So, compared to an ordinary citizen, an M.P. is subject to at least four or five tribunals. So, why should there be an additional tribunal to sit in judgement over him? I cannot understand it. In principle it is wrong.

Another point which was repeated *ad nauseum* at least in the Committee is that it will give a chance to the very influential vested interests and rich lobbies to exert indirect influence on an M.P. An M.P. who seriously raises certain questions in this hon. House against a monopoly house or other vested interest will be subject to the threat of that lobby and he can be exposed to an elaborate and lengthy inquisition so to say. Ultimately, even if he is acquitted, by that time his reputation will be finished. The monopoly houses have also got the press at their disposal. With the combination of the monopoly houses with the press in the country, once this Bill comes into force, an M.P. who challenges the operations of the monopoly houses, will be exposed to the combined force of money power and the press of this country. I do not recommend or support such a situation in which an M.P. will be left absolutely at the mercy of these monopolies and the press under them.

There is a minor point, whether there should be only one or more than one Lokpal. It is not a fundamental issue, but it was thought desirable to have more than one Lokpal. The idea was that since important people, who have a high standing in public life and society are subject to the provisions of this law, instead of one Lokpal sitting in judgement without an appeal and exposing an M.P. to a public examination of his conduct, instead of one Judge or ex-Judge constituting the tribunal, it is more desirable to

have more than one—two or three. That is not very fundamental, but that is very desirable.

Government proposes to move two amendments. One of them is amendment No. 4, by which the Chief Minister is to be brought within the purview of the Act. It is not desirable. It was highly objected to. In the original Bill the provision was there. The Joint Committee unanimously rejected it but again, without showing even the slightest respect to the unanimous recommendation of the Joint Committee, the Government has brought this amendment. One fails to understand why the Government is so insistent. The only possible reply is, in the political situation prevailing in this country today, the Central Government wants a sort of lever to twist the arms of the Chief Ministers. There is no other explanation except that. All party members, Janata Party Members, our party Members were there and they unanimously rejected the provision in the Bill. In spite of that, the Government is still cantankerously insisting on that provision. That should be rejected in toto.

Another provision to which I have objection is the amendment which the Government proposes to bring by amendment no. 6. It was recommended by the Committee that the competent authority as regards the Prime Minister must be the Speaker. There may be a difference of opinion that it should not be the Speaker, but the President. But nobody ever supported the idea of the Prime Minister himself being the competent authority. I do not know how, apart from the theory, it is right. For the last ten months we have been witnessing the agony and the struggle and the shameless protraction that was going on when the matter regarding the Prime Minister's son was raised in the Rajva Sabha. In such a situation, how can we imagine that when the competent authority is the Prime Minister, he will order an inquiry against himself? When his son's case is bre-

ough before the House, for nine or ten months, an epic struggle so to say, was going on in the Rajya Sabha. We cannot accept this principle of appeal from ceaser to ceaser. That is a provision which should be rejected and that should not find a place in this very important legislation.

I will not go into minor details and take the precious time of this hon. House. I request and pray that this hon. House should take into consideration the various points of view I have placed before it.

I also request the hon. Members to go through carefully the various dissenting notes, not only the one given by fifteen of us together but also that of Shri Bhupesh Gupta. His dissenting note is very important. Before the hon. Members make up their mind whether to support or oppose the Bill, I request that they may go through the weighty dissenting opinions.

श्री शम्भुनाथ चतुर्वेदी (आगरा) : मिन्टर डिप्टी स्पीकर, यह जो लोक पाल बिल सदन के सामने प्रस्तुत किया गया है, मैं उसका समर्थन करता हूँ। यद्यपि मेरे मन में भी इसके बारे में कई रिजर्वेशंस हैं। जो अम्बुड्जमैन का आइडिया था उसकी पूर्ति तो इसमें होती ही नहीं है। सब से बड़ा इसमें एक डिफिक्ट यही है कि इसमें एग्जैक्टिव की जो सत्रिमिम है रूनिंग मारवेटम उनको इसमें से एक्सक्लूड कर दिया गया है। पूर्व वक्तानों ने भी का है कि जिन के पास एग्जैक्टिव पावर हैं, आउटर करने की पावर हैं उनका जब तक इसमें कहीं न कहीं समाविष्ट नहीं होता है तब तक यह जो कुर्रणन में लड़ाई है यह आगे नहीं चल सकती है। यह सब में बड़ी कमी है। पहले जो बिल लाया गया था उसमें लोकियायुक्त की बात कही गई थी। मुझे नहीं मालूम किस कारण से लोकियायुक्त का तो इसमें नाम भी नहीं है।

15 hrs.

इसी तरह में एक कम्पिटेट आथोरिटी वाला मसला इसमें लाकर खड़ा कर दिया गया है। सन्तानम कमेटी ने रिक्वैस्ट किया था कि एक पैनल आपको बनाना चाहिये, प्रैजिडेंट को कंसल्ट करके पहले एक पैनल बना दिया जाना चाहिये और जब कभी भी दस लीजस्लेटर्ज या पार्लिमेंट के मेंबर किसी मिनिस्टर के खिलाफ कोई शिकायत करते हैं तो उस पैनल में से तीन आदमियों को लेकर के उनके सुपुर्द उम मामले को कर दिया जाना चाहिये और वे तीन आदमी देखें कि उस मिनिस्टर के खिलाफ

कोई प्राइम फेसाई कैसे बनता है या नहीं बनता है और अगर बनता है तो मिनिस्टर को इस्तीफा दे देना चाहिये। उसके बाद सी बी ग्राई या जिम किसी भी इनवैस्टीगैटिंग एजेंसी के सुपुर्द आप चाहें उम मामले को कर सकते हैं ताकि उसको जांच हो जाये, फिर चाहे कमिशन आफ इनक्वायरी हो या जो कौं भी है। उममें कम्पिटेट आथोरिटी की बात का झमेला नहीं था। यह झमेला नहीं था कि प्राइम मिनिस्टर के खिलाफ शिकायत हो तो कौन उसको डील करेगा और चीफ मिनिस्टर के खिलाफ हो तो कौन डील करेगा। ये इसमें बड़ी भारी कमियां हैं। मैं समझता हूँ कि इससे जो मकसद हमारे दिमाग में है वह पूरा नहीं होगा। एडमिनिस्ट्रेटिव इंजस्टिस के खिलाफ कोई रिड्यूस प्राण किया जा सकता है वह इसमें कहीं दिखाई नहीं पड़ता है। आज आप देखें कि जो बेरी बेल गवर्नर देश भी हैं, स्कैंडिनेवियन देश भी हैं, ब्रिटेन है, आस्ट्रेलिया है, कामनवेल्थ कन्ट्रीज हैं जहां अच्छी अच्छी गवर्नमेंट्स हैं, जो बेल एडमिनिस्टर्ड कन्ट्रीज हैं वहां भी जब अम्बुड्जमैन की जरूरत पड़ती है तो हमारे यहां इस देश में जहां कुर्रणन इतनी रैस्पेंड है, माधारण आदमी को कोई सुनवाई नहीं हो पाती है वहां पर जब तक एडमिनिस्ट्रेटिव इंजस्टिस को दूर करने के लिये कोई कारगर उपाय नहीं किया जाता है तब तक इस बिल का जो उद्देश्य है वह निष्फल होगा ऐसा मेरा ख्याल है। मैं समझता हूँ यह जो कमी है यह उम बिल को बहुत पंगु कर देती है।

संतानम कमेटी ने एक डायरेक्टर आफ पब्लिक कम्प्लेंट्स एण्ड ग्रीवेंस को नियुक्ति करने का सिफारिश की थी। उममें पटिकुलरली यही बात थी। अम्बुड्जमैन में तो और ही ज्यादा बड़ा स्कोप होता है। वहां पर तो पब्लिक इनक्वायरी होती है। और प्रैस भी उममें मौजूद रहता है और वह उतना बड़ा टैरर है कि जिसकी वजह से किसी की हिम्मत नहीं पड़ती कि कोई ऐसा गलत काम करे कि जिसकी इनक्वायरी भी शुरू हो जाय। लेकिन अगर प्रैस को न भी रखें तब भी अगर हम उम तरह की चीज रखते जिनमें डायरेक्टर आफ पब्लिक ग्रीवेंस और कम्प्लेंट्स होता तो कम से कम उसको यह अधिकार होता कि जहां से कोई शिकायत हो वहां पर वह पाउन्स अग्रान करके कागजात अपने अधिकार में लेले। यहां पर सवाल तो यह है कि एक व्यक्ति जो एक दूसरे से संबंधित है, जिनके दिन एक हैं और जिनके पास सब कागजात उनकी कस्टडी में हैं, जब तक ऐसा प्रोवीजन नहीं होता, उम अम्बुड्जमैन को या डायरेक्टर को यह अधिकार नहीं है कि वह जाकर किसी भी आफिस पर स्वरूप कर सकता है और जिन कागजात की जरूरत हो उनको निकालवा सकता है तब तो कोई इसका अमर होने वाला है। वरना और जो इनक्वायरी होने वाली है उममें माधारण आदमी को कोई भी राहत नहीं मिलने वाली है।

पार्लिमेंटल कुर्रणन जो है उसके बारे में जैसा मेरे पूर्व वक्ताने कहा और वह इलाज हो सकता है जो इसमें किया गया है, मुझे इसमें कोई परेशानी नहीं है। लेकिन मैं इसको अग्रप्राप्त समझता हूँ। पार्लियामेंट के सदस्यों का सवाल अवश्य है कि

[श्री शम्भु नाथ चतुर्वेदी]

उनका इसमें स्थान होना चाहिये या नहीं। अब अगर होता है, आज हमारी पुलिस में विद्रोह हुआ मोग कहते हैं कि पोलिटिकल लोगों का इंटरफीयरेंस भी इस विद्रोह का एक कारण है। इसलिये सरकार इस परिपेक्ष में देखे तो ठीक है। शिकायतें भी हुई हैं, लेकिन जो शिकायतें हुईं उनके लिये जैसा कि कहा गया, मैं समझता हूँ कि कानून में पर्याप्त गुंजायश थी कि उनके खिलाफ एक्शन लिया जा सकता था, फिर भी अगर यह जरूरी समझा गया है कि इनको नहीं ऐक्सक्लूड किया जाय एम० एल० एज० और एम० पी० का। तो मुझे कोई उसमें भी उलझन नहीं है। लेकिन जिम तरह की चीज हम चाहते थे और चाहते थे कि साधारण व्यक्ति को कोई राहत दे सकते और कर्रप्शन पर प्रहार कर सकते जिससे उसमें कमी आती और पब्लिक लाइफ ज्यादा शुद्ध होती, उस चीज को पाने में यह बिल कतई असफल होगा, ऐसा मैं समझता हूँ। एक प्रयास है, इसमें ज्यादा इसके बारे में और कुछ नहीं कह सकता हूँ।

कमपीटेड अधीरिटी के बारे में यह इजस्ट टम वजह से पैदा हुआ कि जो प्रोवीजन उसमें बनलाया गया था इसमें तो वह आटोमैटिक था, इसमें कोई सवाल नहीं पैदा होता था, एंडहाक पैनल के सामने वह शिकायत जाती ही जाती और किमी के बीच में उसमें हस्तक्षेप करने की जरूरत नहीं थी।

इन शब्दों के साथ मैं इसका समर्थन करता हूँ। पर मैं समझता हूँ कि जो बिल लाया गया है कहीं अच्छा होगा अगर इसमें हम सर्विसेज को भी साथ में रख दें क्योंकि जो एग्जीक्यूटिव आफिसर्स हैं, सैप्टेरीज वर्ग हैं, जिनको आर्डर देने का अधिकार है, लाइसेंस, परमिट या फेवर शो करने का अधिकार है, जग तक ऐसे अधिकारियों को इसमें नहीं लाने हैं तब तक हमारी आशा पूरी नहीं हो सकेगी।

SHRI VIJAYKUMAR N. PATIL (Dhulia): Mr. Deputy-Speaker, Sir, I rise to oppose this Bill as it is a half-hearted effort to root out corruption in this country, especially from public life because, in the first place, it is where there is authority, where there is power to sanction, where there is power to sign the cheque and give the money, that there are more chances of corruption, and MLAs and MPs do not have any such power, any such executive power, not even in distribution of cement. Of course, the MLAs are included in this, but not the MPs. The MPs cannot distribute even five bags of cement. This is a fact.

Secondly, if anybody approached a public man for genuine reason when there is injustice done by an officer and if something is told to that officer, then the officer asks his subordinate as to why he approached a public man. That is the case, and that is not taken cognizance of by Government, especially in Defence and Police Departments. In the other Departments also, some kind of punishment is given to the man by that officer. But if a person gives some consideration to an officer, say, Rs. 500 or Rs. 1000, then the person concerned is transferred to the place where he wants to go. And you are excluding those officers and are trying to include only MPs!

Take the example of Advisory Committees. It is mentioned in the functions of the Advisory Committees—whether it is the Advisory Committee at the State level or at the Central level—that they can only guide and suggest schemes in public works, but for appointment of staff and for transfers, the suggestions will not be entertained; it is mentioned there. These are the Advisory Committees which are represented by people including MLAs and MPs. What executive authority have you given to the MPs?

On the other hand, take the example of district level officers like Collector and DSP. Every day indirect corruption is going on at those levels. For every Collector there are four peons who work in his house without any payment from the Collector. It is the Government money that is spent there. It is Government that pays the Havildar who purchases vegetables for the DSP. I have seen some mean-minded officers sending their peons to hair-dressing saloons to accompany their children, and the payment there is made by the peon. And what does he get in return for that? A holiday for a day. At Government cost. Corruption starts from the lowest level. But you are excluding officials,

even from the Deputy Secretary onwards; I would suggest that Government makes a survey; let them take the MLAs and MPs who were there for 20 or 25 years and on the other officers, and then see how many bungalows have constructed at Bangalore, Poona, Ootacamund and other coveted places, how many belong to the officers and how many belong to the MLAs and MPs. You can make such a comparative study and see the position. Unfortunately you are excluding the bureaucrats from purview of this Bill

An officer getting Rs. 2,000 p.m. sends his sons and daughters to Panchgami or other Convent Schools where is required to spend Rs. 2500. From where is he getting this money? Why is this not being controlled and checked in this country? I do not understand this. On the face of things it is a corrupt practice—I am getting Rs. 2500 and I am spending every month Rs. 2500 on the education of my children. Where from am I getting this money? From my farm or from the factory? Or from donations from the public. This is not checked

DR. SUBRAMANIAM SWAMY:
All right, we will check it.

SHRI VIJAYKUMAR N. PATIL:
We have borrowed many things from the constitutions of the west. As one of our friends said, in England also there is no such legislation that MPs are subjected to such things....

SHRI C. N. VISVANATHAN (Tiruppattur): It is nowhere in the world.

SHRI VIJAYKUMAR N. PATIL: I am specially mentioning England because many examples are cited from that country....

SHRIMATI PARVATHI KRISHNAN: It is because of the woman Prime Minister.

SHRI VIJAYKUMAR N. PATIL: I was very much surprised to read the dissenting note of Mr. Gupta wherein he has mentioned that when there was an observation in the Parliament why this Bill is not being forwarded from the Select Committee, the Prime Minister is reported to have said, 'I would like to say it is only the Select Committee Members who do not want the MPs to be included?'. This is an indirect compulsion on the Members of the Committee or at least on the members of the ruling Party that there is an indication that they must include M.P.s in their recommendations although they are clear in their mind that M.P.s and M.L.A.s should not be included. This is very bad on the part of the Prime Minister to indirectly compel the members of the Committee which is a representative body of the Parliament. That means that so many members in the Parliament wish that M.P.s should not be included....

SHRI KANWAR LAL GUPTA:
Who is that Gupta you are referring to?

SHRI VIJAYKUMAR N. PATIL:
Mr. Bhupesh Gupta. I take it that others also are of the same mind.

As far as other things are concerned, in this country we have seen the electorate have become wiser and they have shown that they can exercise their franchise properly if they find any MP or MLA is corrupt and if he is after his personal aggrandisement. Then after the five years, he is to definitely go out. When people see that somebody is taking consideration or somebody is taking money, they will definitely remark to other people. 'Let the elections come, we will see that this man goes out of power'. But this is not the case, in case of bureaucracy not you have conveniently excluded them. You have not even given due consideration to the ARC recommendations and that is why I am opposing this Bill. I know on my

[Shri Vijay Kumar N. Patil]
opposition the Bill is not going to be dropped. It is going to be passed.

Then the second point is that I have some suggestions for amendments to the Bill in some sections. In section 23 you have mentioned that retrospective effect will be given to the Bill. This is not fair if the principles of natural justice and considerations from the law point are taken into account.

Regarding the Prime Minister, it is mentioned that the competent authority shall be the Speaker of the House of People. Here I would suggest that the competent authority should be the President.

Then with regard to definition of misconduct, "A public man, other than a legislator, commits misconduct—

(b) If he abuses, or attempts to abuse, or knowingly allows to be abused, his position...." That means one act of abuse which is allegedly committed by him is sufficient, while in case of public servants, the definition of misconduct is somewhat different.

It is like this:

"If he habitually accepts or obtains or agrees to accept or attempts to obtain any valuable thing", it is a habitual thing.

If you take the case of a public servant, public man or a man in political capacity, this a very vague definition of misconduct. It can impose many controls on the M.Ps. The power can be abused as I said not only by the monopoly houses but even by a person in power like the Prime Minister. He in his own ruling party, can tell the M.Ps, that he can have some enquiry made against him through the definition of misconduct. He can also threaten him. This may become an instrument for an evil end.

Then, in clause 6 also there is a provision for a Lokpal. I would say that the modern trend is to have a

quorum of judges. And if there are more than one judge provided in a particular case, then it is supposed that justice will be more fair. In the olden times we saw that whenever in a village some dispute was there, the high-people—old and wise—were chosen to give justice known as *Panch Parmeshwar*. So, if you are going to appoint a Lokpal, appoint Lokpals and, if there are more than three, that will be a better thing for giving a proper justice after proper investigation. An individual case can be subjected to certain things.

Then, in clause 23(1) it is mentioned that if a man gives a false complaint and, if it is proved then he can be punished with one year's imprisonment or with Rs. 3,000 as penalty. He can be punished for one year. But what happens to his false complaint? The M.P. or MLA's image is defamed in his public life and he cannot sue him for defamation because, according to your law, once a kind of punishment is accorded to a criminal or to a man who has committed an offence, the other punishment cannot be there. Can an aggrieved person go to a court of law to institute a suit for defamation against that person? What kind of provision is there? If you want, there can be a deterrent thing. My friend earlier has said about a monopoly house. If it is just an M.P.'s case in Parliament that he is going to talk something about the monopoly house or if he is going to expose certain things of a monopoly house, then it can definitely call a man, give Rs. 1,000 and lodge a complaint against him and again if it is proved, pay Rs. 3000 for the false complaint through that man. I therefore, say the fine should be Rs. 10,000 and the punishment should be for three years to act as strong deterrent.

I have told you that the definition should include 'defamation' also. For that one punishment is already sug-

gested. Mr. Deputy-Speaker, Sir, I am now repeating my first observation that I oppose this Bill and the Government should come out with a more comprehensive legislation by including many important suggestions that have been made.

SHRI SOMNATH CHATTERJEE (Jadavpur): Mr. Deputy-Speaker, Sir, this is a welcome measure though halting and half-hearted. Why I say it is a welcome measure is that—unfortunately whether for reasons justified or not—there is rampant in this country the impression that ministers, politicians, bureaucrats, executive authorities including legislators are presumed to be guilty of corruption until they are proved to be innocent.

Corruption in political level or political corruption is cancer in our body politic. Now, what are the causes of this corruption? Whether it has only been restricted to the politicians or whether it has been rampant also among the bureaucrats. Well, this is not the subject-matter today. But to allay the misgivings in the mind of the people it is necessary that this important institution like Parliament should concern itself with framing a legislation which provides the modus operandi to look into cases of corruption amongst the persons in the political circles.

Sir, I said that it was a half-hearted or halting step because it only deals with the fringe of the problem as the vast army of the executive authority has been completely left out of the ambit of this legislation. In the statement of objects and reasons which was appended to the Bill when it was introduced in the Lok Sabha before it was sent to the Joint Committee they tried to give a sort of an explanation as to why the bureaucracy has been left out of this Bill. But, Sir, if you kindly take the trouble of going through the statement of objects and reasons, hardly any reason has been given for keeping the bureaucrats out of this.

Sir, this measure has had a chequered history in this country. In 1966 we find the Administrative Reforms Commission had made certain recommendations with regard to the problem of citizens' grievances. The Administrative Reforms Commission itself had drafted a bill which was really not taken up in the form that was mooted. Then, Sir, a Bill came in 1968 which was given a decent burial by the dissolution of the House. Then, Sir very significant in 1971 another Bill was introduced but it could not be passed till 1977 and it got stuck up in the Joint Committee primarily because the previous administration did not have the requisite political will. Now, this Bill has been brought in a truncated form only to deal with what may be described compendiously as political corruption. In that sense this is a half-hearted measure.

So, Sir, the point is that in a democratic set up what I feel, not only the people's support but their faith in political and administrative incorruptibility is necessary because that sustains the system itself otherwise the people's faith in that is bound to be shaken. Favouritism, nepotism, corruption and diverse forms of mis-conduct have eroded and continue to erode the credibility of the entire system of administration in this country. Therefore, it was fit and proper that some genuine attempt was made.

SHRI HARI VISHNU KAMATH: Mr. Deputy Speaker, Sir, you gave a ruling earlier on a point of order raised by me that there must be present in the House a Minister of Cabinet rank. They are flouting your directive.

AN HON. MEMBER: This is a very important Bill.

MR. DEPUTY-SPEAKER: Some Cabinet Minister should be called. Let us give them ten minutes or fifteen minutes.

SHRI HARI VISHNU KAMATH:
It is almost a question of breach of privilege also. Your directive should not be flouted.

MR. DEPUTY-SPEAKER: Mr. Chatterjee, you may please continue with your speech. Meanwhile I will give them ten minutes.

SHRI HARI VISHNU KAMATH:
Sir, I raised this point at about 2-15. Now it is 3-30. More than one hour time has elapsed. They are somnolent.

MR. DEPUTY-SPEAKER: I have given them ten minutes. Mr. Chatterjee, you may please continue your speech.

SHRI HARI VISHNU KAMATH:
You have given them a long rope to hang themselves with.

SHRI SOMNATH CHATTERJEE:
Sir, I welcome interruption by a very respected hon Member of the House, Shri Hari Vishnu Kamath. Sir, it is quite true that it requires some political will—genuine political will really—to consider a proposal like this, to make it a real and an effective law and to implement the same. As I was saying, this law is bound to have its effect in the democratic set-up of this country.

DR. SUBRAMANIAM SWAMY:
In which you have no faith at all.

SHRI SOMNATH CHATTERJEE:
Truth is not one of the virtues of my hon. friend or exatitute even! Authoritarianism should have no place at all in this country. I was saying, authoritarianism is another manifestation of political corruption in this country which was laid bare in its most crude and ugly form in the dark 19 months which this country passed through. Our apprehension is whether this Bill will meet with the requirements of the situation. We have got some very grave doubts about it. There are some obvious weaknesses in this Bill. One is this. You have left out the entire army of

extcutive officers and bureaucrats from its purview. The second one is the question of competent authority.

SHRIMATI PARVATHI KRISHNAN: The hon. Minister is not listening to Mr. Chatterjee.

SHRI SOMNATH CHATTERJEE:
Not only is he not listening but he is talking to a reactionary!

MR. DEPUTY-SPEAKER: Mr. Subramaniam Swamy, why don't you be kind enough to spare him.

SHRI SOMNATH CHATTERJEE:
Sir, kindly see clause 17 of the Bill. There is a great weakness in this Bill which I pointed out earlier in the Joint Committee. Clause 17 provides for submission of a report by the Lok Pal. If he exonerates the person, it is all right.

If he finds that the man is guilty, then what he has to do is this;

“...he shall, by report in writing, communicate his findings and recommendations to the competent authority concerned.”

Then sub-clause (2) of Clause 17 reads like this:

“17(2). The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.”

Now, you kindly come to the list of the competent authorities. Now, the list envisages the competent authority who will take steps. But let us take up the follow-up action, the administrative steps, on the report of the Lokpal. Now I do not know what action the Speaker of the House of People or the Chairman of the Council of States or any other authority for that matter can take administratively or in an executive manner or even the judiciary for the purpose of giving effect to the Lokpal's report. Suppose 'X' is

found guilty by the Lokpal of having indulged in corruption and a legislator is found guilty and the report is made to the Speaker, what the Speaker will do? Will the Speaker file an F.I.R. or will the Speaker nominate somebody to file an F.I.R. against the Member who has been found guilty? Sir, no other authority for that matter the Chairman of the Council of State can do that. Will he do that? Or will the Prime Minister...? Sir, these are the competent authorities, not because they are holding a particular office, but they have been designated as competent authority. Now they are *persona designate*. Therefore it is for them to take the follow-up action. Here the Prime Minister does not represent the Prime Minister in the Council of Ministers as such. This is the greatest lacuna in this Bill. The follow-up action or the consequence of a report may be adverse against a particular person. The form of the report, the form of the action is nowhere indicated in this Bill.

Then the question is about the implementation part of the follow-up action of an adverse report. It is nowhere indicated in the Bill. You will kindly see. Sir, what is provided in Clause 17(3):

"17(3). If the Lokpal is satisfied with the action taken or proposed to be taken on the basis of his report...."

This had to be communicated to him. Then further it says:

"...but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the President and also inform the complainant concerned."

Does it mean that the Parliament will take action? This is a matter which requires to be looked into. Otherwise it will be a still-born law. If the intention is to make a legislation just to include in the statute book and try to proclaim to the people "we are so great believers in po-

litical honesty, we have to root out corruption", that is all right. But if the intention is to try to tackle the problem which I am not denying, then really, honestly, sincerely and comprehensively some such provision should have been incorporated in the Bill. There are two or three things. (*Interruptions*).

AN HON. MEMBER: Now, a Cabinet Minister is coming.

SHRIMATI PARVATHI KRISHNAN: He is really the Minister for "running commentary".

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): I object to the remark.

SHRI SOMNATH CHATTERJEE: Let us hope that we do not get steely response to our suggestion.

SHRIMATI PARVATHI KRISHNAN: Anyhow you don't object to it.

(*Interruptions*)

SHRI SOMNATH CHATTERJEE: Sir, there are three or four matters which have been raised by the hon. Members who are participating in this debate. One is the question of inclusion of the legislators within the ambit of this Bill. I am in full agreement of this proposal and, as a matter of fact, my submission is that there are certain special provisions which have been made in this Bill in favour of the legislators, which should not find a place here. Because the impression has been created that legislators should not be open to the same treatment as even a Minister who is to come under this Bill. There is special definition of the word 'misconduct' for the legislators. If you will kindly look into it, there is a very narrow definition of this word 'misconduct'. As it has been pointed out already, if a Member of Parliament secures something for his son openly, that may not and will not come within the definition of misconduct. From the distinction between the two definitions of

[Shri Somnath Chatterjee]

misconduct—one is applicable to the legislators and one is not. It will be clear that if a legislator secures any benefit for somebody else, then it will not be a misconduct under this Act. Our amendments in this respect were negated in the Joint Select Committee, but I have given my note of dissent.

Secondly, there is a provision of special hearing in camera. I do not know if any other public men in this country can face an enquiry by the Lokpal openly, why a legislator should not be able to face it openly. I do not want a special favour or treatment so far as legislators are concerned; Members of Parliament are concerned, in respect of the mode of enquiry, definition of misconduct and other provision which have been made. We should not create an impression that we are keen to avoid an enquiry or an open enquiry, against ourselves. Such special provisions for the Members of Parliament or other legislators will do a greater harm to the image and will give an impression that it will give undue protection to the Members of Parliament. It is much likely to be misunderstood. The special treatment for the Members of Parliament or Members of the State Assemblies or Union Territories should not find a place in this Bill.

Then, I come to the question of inclusion of State Chief Ministers in this Bill. When the Bill was introduced in the House, the Chief Ministers were brought within its ambit. So far as the discussion that took place in the Joint Committee is concerned,—I am not divulging into discussion as such—there was unanimity on this aspect. I had taken a particular view and had given my amendment also; even the Minister was a party to it, the ruling party Members were a party to it the consensus was that the Chief Ministers should be excluded from the Bill. That is what emerged from this Joint Committee. Is it showing

proper respect to the Joint Committee. The Members of the ruling party were there in the Committee and they had given their consent. It was excluded from the purview of the Bill, now it is being brought in by an amendment of the Government. Does this reflect a proper attitude to a parliamentary functioning. The Joint Committee had gone into the matter in greater depth; in its recommendations are given a complete go-by and this is being brought in again by a Government amendment. This is showing scant respect to the report of the Joint Committee. On behalf of our Party, our submission was, and we had given our amendments also that so far as Chief Ministers are concerned, there should be some provision, we never wanted his exclusion. On the other hand, we had recommended and proposed amendments before the Joint Committee that Members of the Legislative Assemblies and Council should be brought into it; even Mayors of Corporations of different cities should be brought into it, it will not be done through the Center, let us have our Lok Ayukats and other officials in the different States under appropriate laws. We wanted that we should provide that in the Central law because many of the States may not frame appropriate and adequate laws concerning their Chief Ministers, therefore, there should be a Central law, but its implementation should be through the State agencies like here under the Central law. We did not really press for that because the attitude that was taken up was that the Chief Ministers should be kept out of the Central law and a wish was expressed a hope was expressed that the different State legislatures will take up their matter and will frame their own laws. Again, the Chief Minister is being brought in this fashion. This is a breach of faith with the Joint Committee. That is my submission. They are trying to utilise the majority here for the

purpose of putting the Chief Minister here, is not proper. It is highly irregular and improper. (*Interruptions*).

The other point is very important. It is about the recent idea, ridiculous idea which has now dawned on the Government in the matter of proposing that the Prime Minister will be his own competent authority. I do not know in what way the Government's mind works. Of course, I am assuming that the Government has a mind. The question came up squarely before the Joint Select Committee. At page (vii) of its report it says:

"The Committee note that under the proposed provisions, the Prime Minister has himself been made the 'competent authority' in his own case."

Then, after certain remarks have been made, it says further:

"... it may even be embarrassing to the Prime Minister if he is made to act as the judge of action in his own case. The Committee are, therefore, of the opinion that since the Council of Ministers including the Prime Minister, is primarily responsible to the House of the People, the Speaker may be made as the 'competent authority' in the case of the Prime Minister."

This unanimous report is thrown to the winds, and the Government comes forward with a proposal. I do not know whether there was a discussion with the present Prime Minister, and whether he himself has taken up the responsibility to decide, where the report of the Lokpal is against him whether to call for a report or not. This is the view point of the Government which has aroused the greatest suspicion in our minds, as to the intention of the Government to implement this Bill, or the law that will come out of this Bill.

The Chief Ministers are made the 'competent authority' for the Chief Ministers and the Prime Minister is made the 'competent authority' for the Prime Minister which was the original proposal which was expressly deleted from this Bill; and it has again been proposed by the Government. That is why we have our suspicion as to whether Government really means business. There are many faults here. There are many defects in this Bill; but even with these deficiencies. I hope this Bill will be passed and there will be a sincere attempt to pass it, and implement it sincerely, honestly and not in a vindictive manner.

श्री लक्ष्मी नारायण नायक (बज्रहाथ) : माननीय उपाध्यक्ष जी, प्रवर समिति द्वारा जो लोकपाल विधेयक यहाँ आया है, मैं उसका हृदय से समर्थन करता हूँ। इस विधेयक में प्रवर समिति ने कई ऐसे विचार और प्रावधान रखे हैं जिससे मैं यह मानता हूँ कि यह एक अच्छा विधेयक बन गया है।

इसमें जो हमें ज़रूर कहना चाहता हूँ। इसमें जो कहा गया है कि लोकपाल की नियुक्ति राष्ट्रपति, राज्य-सभा के सभापति व लोक-सभा के अध्यक्ष की राय से करेंगे, इसमें यह भी जोड़ दिया गया है कि सभापति, राज्य-सभा और लोक-सभा के अध्यक्ष सभी दृष्टियों और विरोधी पक्ष के लोगों से राय लेगे और उस राय से वह अपनी सहमति देंगे, इसमें यह बात भी जोड़ी गई है। इस विधेयक में कई ऐसे प्रावधान जोड़े गये हैं, जिससे यह बहुत अच्छा बन गया है। प्रवर समिति की रिपोर्ट में मुख्य मंत्री को इस विधेयक की परख में शामिल नहीं किया गया था। अब शासन द्वारा मुख्य मंत्री को फिर शामिल कर लिया गया है—करना चाहिए, उसे छोड़ना नहीं चाहिए, ताकि यह विधेयक और अच्छा बन जाये।

जहाँ तक इस प्रश्न का सम्बन्ध है कि कौन सा व्यक्ति लोकपाल नियुक्त किया जाये, आप जानते हैं कि आज हर व्यक्ति में राजनीति की बूझाती है और हर पक्ष चाहता है कि हमारा आदमी, हमारे विचारों का आदमी, लोकपाल नियुक्त हो। मैं कहना चाहता हूँ कि लोकपाल की नियुक्ति विधानसभानियों से होनी चाहिए। वह किसी भी पार्टी से प्रेरित न हो, बल्कि एक निष्पक्ष आदमी हो और अपनी राय और अपने कानून से एक निष्पक्ष तरीके से दे, ताकि लोगों को न्याय मिल सके। आज सारे देश में जहाँ-जहाँ अन्धकार की चर्च होती है। चाहे कोई व्यक्ति

[श्री लक्ष्मी नारायण नायक]

निर्दोष हो, भले ही वह शासकीय कर्मचारी हो या जन-नेता हो, हर एक व्यक्ति यह भारों लगाना है कि वह भ्रष्टाचार से सम्बन्धित है। इस देश में भ्रष्टाचार कैसे दूर हो और उसकी छान-बीन कैसे हो, इसी बात को लेकर वह विधेयक प्रस्तुत किया गया है। हम चाहते हैं कि पारित होने के बाद यह विधेयक बिलकुल निष्पक्ष तरीके से लागू होना चाहिए, ताकि देश की जनता में विश्वास उत्पन्न हो सके।

जहां तक इस बात का सम्बन्ध है कि प्रधान मंत्री के लिए सक्षम अधिकारी कौन हो, कई माननीय सदस्यों ने कहा है कि लोक सभा का अध्यक्ष न हो कर राष्ट्रपति हो। मेरा सुझाव है कि प्रधान मंत्री के विषय में देश का मुख्य न्यायाधीश सक्षम अधिकारी हो, ताकि देश के किसी भी व्यक्ति को इस बारे में झंका करने की गुंजायश न रहे। ऐसी व्यवस्था करने पर ही हम कह सकते हैं कि यह एक मजबूत और प्रभावी विधेयक है।

15.55 hrs.

[MR. SPEAKER in the Chair]

इस विधेयक को जल्दी से जल्दी लागू करना चाहिए। ताकि हमारे देश में भ्रष्टाचार का कुछ ज्यादा वानावरण जो फैल रहा है उस पर कुछ रोक लग सके। हम चाहते हैं कि वह चाहे प्रधान मंत्री हों, मुख्य मंत्री हों या संसद सदस्य हों या विधायक हों उन के ऊपर इस तरह से रोक लगनी चाहिए ताकि हमारे देश की जनता कह सके कि जिन को हम चुनते हैं, जिन को गद्दी पर बठाते हैं या जिन के हाथ में शक्ति देते हैं वह अपनी शक्ति का दुरुपयोग नहीं करते। बल्कि वह जन-हितैषी बन कर हमारे हित की बातें करते हैं और हमारे हित के लिए अच्छे काम करने के लिए अच्छे प्रेरणादायक सुझाव देते हैं, उन के द्वारा हमारे हित के काम मब होते हैं।

पहले इस में केवल संसद् सदस्य, विधायक या मंत्री के लिए प्रावधान किया गया था, प्रवर समिति ने और भी आगे जा कर उन के परिवारों को भी इस में जोड़ा है। मैं इस का स्वागत करना हूँ क्योंकि परिवार वाले ही प्रभार मिल कर ऐसा करते हैं। कई जगह ऐसी शिकायत आती है कि मंत्री तो भ्रष्टाचार से दूर रहते हैं लेकिन चाहे वह उन की श्रीमती जी हों, या दूसरे लोग हों, वे उस में जुट जाते हैं और सारा सामान तैयार कर लेते हैं। वे ऐसे लोगों से बातचीत कर के सब तय कर लेते हैं और काम करवाने के लिए कह देते हैं कि यह काम होना चाहिए। मंत्री जी कर देते हैं और इस तरह से भ्रष्टाचार पनपता है। तो प्रवर समिति ने पुत्र, पुत्रा, नाती वगैरह सभी को इस में जोड़ दिया है, वह बहुत ही अच्छी बात हुई है। मैं समझता

हूँ कि अपने तरीके से यह चीज ठीक होगी और इस से भ्रष्टाचार के रूकावट में काफी सहायता मिलेगी।

अन्त में मैं ज्यादा न कह कर यही कहना चाहता हूँ कि इस विधेयक को जल्दी से जल्दी लागू करना चाहिए ताकि हमारे देश की जनता जो चाहती है कि जो भ्रष्टाचार करने वाले और अपनी शक्ति का दुरुपयोग करने वाले हैं उन के ऊपर रोक लगायी जा सके, वह रोक जल्दी से जल्दी लग सके। इसलिए जल्दी से जल्दी इस को पाम करना चाहिए। मैं इस विधेयक का समर्थन करता हूँ।

श्री यमुना प्रसाद शास्त्री (रीवा) : अध्यक्ष महोदय, आज जो यह विधेयक संसद् के सामने प्रस्तुत है, मैं ऐसा मानता हूँ कि हमारे देश के संसदीय इतिहास में यह बहुत ही उज्ज्वल दिन है जब कि हम इस प्रकार का कानून बनाने जा रहे हैं जिस से सचमुच हम अपने देश के सार्वजनिक जीवन को निर्मल बना सकें। बहुत दिनों से, बल्कि देश के स्वतंत्र होने के थोड़े दिनों बाद देश में भ्रष्टाचार का बीजबाला हो गया और यह निरन्तर, उत्तरोत्तर इनका बढ़ना चला गया कि समूचे देश में राजनीतिक जीवन बीनाने वालों के प्रति एक शंका का वातावरण बन गया। यह बड़ी दुःखद स्थिति है कि यहाँ महात्मा गांधी के नेतृत्व में इस देश में राजनीतिक कार्यकर्ताओं को श्रीमती प्यार मिलता था, श्रद्धा मिलती थी,

विश्वास मिलता था वहाँ आज घृणा की दृष्टि से राजनीतिक कार्यकर्ता देखे जाने लगे। जिन के हाथ में शासन सूत्र आना है उन को लोग शंका की दृष्टि से ही नहीं, बल्कि एक अपमान की दृष्टि से देखते हैं, तरह तरह की बातें होती हैं, कहा जाता है कि बड़ी बड़ी कौटियां बन गईं, बहुत बड़ी सम्पत्ति इकट्ठा कर ली गई। ये सारी बातें हमारे देश में जब चलती हैं तो मैं समझता हूँ कि न केवल सार्वजनिक जीवन के लिए बल्कि लोकतंत्र के लिए भी यह एक बहुत बड़ा खतरा है। अगर हम लोकतांत्रिक पद्धति में इस भ्रष्टाचार का निर्मूलन नहीं कर पायेंगे तो लोकतंत्र के प्रति भी लोगों को अविश्वास होगा और लोकतंत्र खतरे में पड़ेगा। इसलिए यह बहुत आवश्यक था कि इस प्रकार का कानून बनाया जाये। और यह प्रमत्ता की बात है कि जनता पार्टी के शासन में यह कानून संसद् के सामने आया। . . .

MR. SPEAKER: He can continue later.