[Shri Ahmed Hussain]

wary, is yet another illegal act that has come to our notice.

June 4 was fixed as the last date for submitting application for correction of Voter Lists in Mongaldai Parliamentary Constituency. There is a legal procedure for correction of such lists either by addition or by exclusion of the names in the Voter List. Now without following such procedures Government have deployed the police to get the names of the voters excluded from the voter list in a planned manner. It is gathered, the Home Department asked for 50 thousand objection forms. The Election Department could not supply the full quantity and only 10 thousand could be supplied from Dispur. Another 40 thousand forms were printed locally at Mongaldai for the police at the instance of the State Government. This shows how the police has been involved in this matter and has been working for the exclusion of the names of the bonafide voters in a planned way with a particular motive. The forms were taken in bulk in hundreds and thousands to a Police Station or to Inspection Bungalows. The Gaon Buras, Secretaries of VDPs or such other persons were called there. They were asked to sign the blank forms. In some cases who, the person concerned objected to sign, they were either allured or threatened to sign such blank forms which were subsequently filled up by the Police and submitted by tht Police in Bulk to the Election Office.

This is obviously a gross violation of democracy and administrative procedures. We objected to such arbitary and unauthorised action of the Police which amounts to extortion and fabrication of false documents. The Police thus were committing criminal offences. In a Democracy the right to vote is a most important fundamental right. If that right to vote can be nullified so easily by a police officer where does the Democracy stands? When we are all earnestly asking for the prompt action by the Government to deport all the foreign nationals from our State to a man, but at the same time we urge upon the Government not to victimise any Indian National either for deportation or for depriving him of the right to vote.

Recently, as it appeared in a Section of Press that the Government and ruling party in Assam, have been, persuing the Centre to remove the foreign Nationals in the name of inflatrators; but in the actual field the innocent Citizens are deprived of all their fundamental right as per the circumstances I mentioned earlier. I am continuously raising the issue of inflatrators who in gangs are crossing the Indian Territory and committing criminal offences. Thefts on the innocent Indian Citizens but no concreate action has so far been taken to protect them. Instead they are being harassed and are most likely to be deported by the Police since their names have been excluded from the Voters List.

I urge upon the Home Minister and the Election Commission through this House to enquire into this matter immediately to refuse the tension which has already been created by the Police among the Minority Communities of Assam.

14.15 hrs.

LOKPAL BILL—*Contd.*

MR. DEPUTY-SPEAKER: We continue discussion on the Lok Pal Bill.

श्री बसुना प्रसाद शास्त्री (रीवा) : माननीय उपाध्यक्ष महोदय, मैं कल निवेदन कर रहा था कि सार्वजनिक जीवन को निष्कलंक बनाने के लिए सरकार ने एक बड़ा ही सराहनीय कदम उठाया है । इस देश के इतिहास में यह पहला अवसर है जबकि हमारे देश की सर्वोच्च सत्ता ने अपने आप को एक निष्पक्ष और स्वतन्त्र सत्ता के सामने जांच के लिए सुपुर्द कर दिया है । हमारे देश का इतिहास हमेशा स्मरण रखेगा इस सरकार को जिस ने सार्वजनिक जीवन से भ्रष्टाचार को समाप्त करने के लिए यह प्रभावकारी कदम उठाया है । वस्तुतः लोकनायक जयप्रकाश जी के आन्दोलन का यह प्रमुख मुद्दा रहा है कि सार्वजनिक जीवन के

सर्वोच्च स्तर से भ्रष्टाचार को समाप्त किया जाए और उन के स्वप्न को साकार करने के लिए यह विधेयक आज प्रस्तुत किया गया है । भ्रष्टाचार का कोढ़ आज इतना व्याप्त हो गया है कि देश के जीवन में चप्पे चप्पे से इसकी दुर्गन्ध आ रही है, जिस को समाप्त करने के लिए यह जरूरी है कि सब से पहले सर्वोच्च स्तर पर जो भ्रष्टाचार है, उस को समाप्त किया जाए ।

यहां पर कुछ सदस्यों ने यह आलोचना की है कि इस की परिधि से बड़े-बड़े अधिकारियों को क्यों बाहर रखा गया है और केवल मंत्रियों, प्रधान मंत्री और मुख्य मंत्रियों को और समद सदस्यों को ही क्यों इस में शामिल किया गया है । जो बड़े बड़े अधिकारी हैं, जैसे सेक्रेटरीज हैं, डिप्टी सेक्रेटरीज हैं या डायरेक्टर्स हैं, इन लोगों को इस की परिधि से बाहर क्यों रखा गया है । मैं समझता हूं कि यह उचित ही है क्योंकि वस्तुत भ्रष्टाचार का उद्गम सर्वोच्च स्तर पर ही होता है । यही अगर इस का उन्मूलन हो जाए तो मुझे विश्वास है कि ये जो अधिकारी हैं उन पर भी इस का प्रभाव पड़ेगा और भ्रष्टाचार को हम समाप्त कर सकेंगे । उन के लिए और भी अनेक कानून हैं विभिन्न एन्टी-करप्शन एक्ट हैं, जिन के अन्तर्गत उन की जांच होती है और उन के विरुद्ध कार्यवाही हो सकती है लेकिन वे प्रभावकारी सिद्ध नहीं होते, वे सारे कानून बिल्कुल निष्प्रयोजन और निष्फल हो जाते हैं केवल इस कारण से कि सर्वोच्च स्तर जो है, वह निर्मल ही है । इसलिए सर्वोच्च सत्ता को निर्मल करना आवश्यक है और इस के सम्बन्ध में आज से नहीं बल्कि बहुत पहले से यह धारणा रही है

यद्यदाचरित श्रेष्ठस्तत्तदेवो नरो जना

स यत् प्रमाणम् कुरुते, लोकस्तदनुवर्तते ।।

श्रेष्ठ जो आचरण करता है, उस का अनुकरण निचले लोग भी करते हैं । इसलिए श्रेष्ठ लोगों की जांच आवश्यक है । अगर वे सुधर जाएं तो जो निचले स्तर का भ्रष्टाचार है, उस को समाप्त करने में कोई कठिनाई नहीं होगी ।

श्रीमन्, कुछ माननीय सदस्यों ने यह भी कहा कि मुख्य मंत्रियों को इस की परिधि में क्यों लाया गया क्योंकि प्रवर समिति ने तो कह दिया था कि मुख्य मंत्रियों को इस की परिधि में नहीं लाना चाहिए और सरकार की ओर से यह संशोधन क्यों लाया गया है कि मुख्य मंत्रियों को इस की परिधि में रखना चाहिए । इस के लिए तर्क यह दिया गया है कि मुख्य मंत्री तो विधान मण्डल के प्रति उत्तरदायी होता है अथवा उस के खिलाफ जांच आयोग गठित किया जा सकता है कमीशन आफ इंक्वायरी एक्ट के अन्तर्गत, लेकिन मैं कहना चाहता हूं कि ऐसा होते हुए भी क्या मुख्य मंत्री के विरुद्ध भ्रष्टाचार के आरोपों में कमी आई है? इस बात की क्या गारन्टी है कि तमाम राज्यों की विधान सभाएं लोकायुक्त की नियुक्ति का कानून बनाएंगी । आज तक तो बहुत कम राज्यों ने लोकायुक्त का कानून बनाया है । तो यह क्या आवश्यक है कि राज्यों पर अगर यह छोड़ दिया जाएगा तो राज्य विधान सभायें कानून बना कर भ्रष्टाचार के उन्मूलन के लिए प्रभावी कदम उठाएंगी । आशा थी कि वे ऐसा कानून बनाएं । मगर सब ने ऐसा कानून नहीं बनाया और जहां कहीं लोकायुक्त की नियुक्ति का कानून बना भी है, वहां पर मुख्य मंत्री का उस की परिधि से बाहर रखा गया है । जो पिछली सरकार थी, उस ने तो एडमिनिस्ट्रेटिव रिफार्मस कमीशन की रिपोर्ट को बालाये-ताक रख कर यह तय किया कि मुख्य मंत्री और प्रधान मंत्री को लोकपाल और लोकायुक्त की जांच की परिधि से बाहर रखा जाए । वे कहते थे कि इन की जांच होनी ही नहीं चाहिए । उसी विचारधारा से प्रभावित हो कर आज कुछ लोग कहते हैं कि मुख्य मंत्री का इस की परिधि के अन्तर्गत नहीं रखना चाहिये । लेकिन जो यह संशोधन सरकार की तरफ से आया है कि मुख्य मंत्रियों की भी जांच लोकपाल कर सके, उनके बारे में भी जांच करने का अधिकार लोकपाल को होना चाहिए, मैं इसका समर्थन करता हूं ।

श्रीमन् एक बात यहां पर बड़े जोरों से कही गयी कि संसद सदस्यों को इस लोकपाल बिल की परिधि में नहीं रखना चाहिए । कुछ लोगों ने कहा कि संसद् सदस्य तो निर्दोष प्राणी है, उसके पास तो कोई पावर नहीं है फिर उनको क्यों लोकपाल की परिधि में लाया जाना चाहिए ? लेकिन श्रीमन् मैं समझता हूं कि जब हम लोग निर्दोष प्राणी हैं जब हम लोगों के पास कोई अधिकार नहीं हैं तो फिर हमें इस बारे में आपत्ति नहीं करनी चाहिए । जब हमारे पास भ्रष्टाचार के अवसर ही नहीं हैं तो फिर हमें आपत्ति क्यों ? वैसे ऐसे उदाहरण इस देश में हैं जब संसद् सदस्यों पर भी इस तरह के आरोप लगे हैं । मुदगल और तुलाराम संसद् सदस्य थे जिनके विरुद्ध बिना एक्जीक्युटिव पावर के भी गम्भीर आरोप लगे । इसलिए आवश्यक है कि संसद् सदस्यों को भी लोकपाल बिल की परिधि के अन्तर्गत लाया जाए । हम लोगों को भी सहर्ष इस बात का समर्थन करना चाहिए । जब हम लोगों का जीवन खुली किताब है तो फिर क्यों किसी को भी हम लोगों के विरुद्ध उंगली उठाने का हम मौका दें ? इस तरह से तो देश में संसद् सदस्यों की प्रतिष्ठा बढ़ेगी और लोगों को संसद् सदस्यों के विरुद्ध कुछ कहने का मौका ही नहीं मिलेगा । इसलिए मैं इस संशोधन का स्वागत करता हूं और कहता हूं कि संसद् सदस्यों को भी लोकपाल की परिधि में रहना चाहिए ।

संसद् सदस्य अपने लिये नहीं होता है। उसका तो काम ही यह है कि वह देश के अन्दर

[श्री यमुना प्रसाद शास्त्री]

ऐसा वातावरण तैयार करे जिससे सदाचरण पैदा हो और भ्रष्टाचार समाप्त हो । वह अपने लिये कुछ नही करता है । वह तो देश के लिए, समाज के लिए समर्पित है । ससद् सदस्यो का जीवन उसी तरह का होना चाहिए जिस तरह से किसी ने लिखा है—

पिबति नद्य स्वयमेव नाम्ब

नदियां अपना पानी अपने आप नही पीती है । उसी तरह से जो अधिकार हमें मिले हुए हैं उनका उपयोग भी हम अपने व्यक्तिगत जीवन के, अपनी व्यक्तिगत सम्पत्ति के लिए नही करते हैं । उनका उपयोग तो हम समाज के लिए करते है । उसी तरह से श्रीमन्—

न चन्दनो जिघ्रति सौरभ स्वय

स्वय न खादति फलानि वृक्षा,

परोपकाराय सताप विभूतय ।।

वृक्ष अपने फल खुद नही खाते हैं, चन्दन अपनी सुगन्ध को स्वयं नही सूघता है । वह सारे समाज के लिए होती है । इसलिए श्रीमन् ससद् सदस्यो को इसकी परिधि मे जो लाया गया है, इस लोकपाल के अधिकार क्षेत्र में लाया गया है वह एक सराहनीय कदम है और इसका चारो ओर से और सभी सदस्यो की ओर से स्वागत किया जाना चाहिए ।

श्रीमन् हमको एक बात पर जरूर आश्चर्य है । इस विधेयक मे इस बात का प्रावधान किया गया है कि जब से यह विधेयक पारित किया जाएगा, जब से यह कानून या अधिनियम बन जाएगा उसके पाच वर्ष के पूर्व के जो भ्रष्टाचार के आरोप होगे उन्ही की लोकपाल जाच कर सकेगा । श्रीमन्, मेरी समझ मे नही आया कि यह पाच वर्ष की अवधि ही क्यो रखी गयी है ? इसका तर्कसगत आधार मेरी समझ में नही आया । क्यो नही आप 15 अगस्त, 1947 के बाद के सारे प्रकरण को इसके अन्तर्गत लाते ? मेरी राय है कि अगर इस अवधि के बाद का कोई भ्रष्टाचार का प्रकरण है और उसके बारे में प्रमाण है तो उसके बारे में भी लोकपाल को अधिकार मिलना चाहिए कि वह जांच कर सके । 15 अगस्त, 1947 के बाद से जितने लोग कुर्सी पर रहे हैं और जिनके विरुद्ध यदि कोई शिकायत है तो वह लोकपाल के सामने भेजी जा सके और लोकपाल उस पर जांच कर सके, ऐसा प्रावधान इसमें होना चाहिए । यह मेरा सुझाव है और मैं चाहता हू कि सरकार इस पर विचार करेगी । यह सीमा पाच वर्ष की ही क्यो रखी गयी है, यह मेरी समझ में नही आ रहा है । अगर आप यह सीमा रखते हैं तो लोगों को भ्रष्टाचार दूर करने की आपकी नीयत और मशा पर कुछ कहने का अवसर मिलता है : मैं समझता हू कि यदि हमें लोकपाल कानून के द्वारा इस देश के सार्वजनिक जीवन की रक्षा करनी है तो इस कानून को 1947 के 15 अगस्त के बाद के सारे प्रकरणो पर लागू किया जाना चाहिए ।

श्रीमन् दूसरी बात मुझे यह कहनी है कि यह सारे कानून को बनाने के बाद जो लोकपाल नियुक्त किये जाएगे वे बहुत कमजोर हो जाएंगे। इनको जो काम सौंपा गया है वह बहुत ऊचा है, इनको जो अधिकार दिये गये हैं वे भी ऊचे हैं । उनकी बहुत निष्पक्ष नियुक्ति का प्रावधान किया गया है । कहा यह गया है कि जो हमारे लोक सभा के अध्यक्ष या हमारी राज्य सभा के चेयरमेन होगे वे लोक सभा और राज्य सभा के विभिन्न दलो के नेताओ से परामर्श करके लोकपाल नियुक्त करेंगे ।

इसमे कोई सन्देह नही है कि एक निष्पक्ष व्यक्ति की तलाश होगी जिस पर सब का विश्वास हो उस तरह के व्यक्ति को लोकपाल नियुक्त किया जाएगा । स्पष्ट है कि कोई अपने मन पसन्द आदमी को नही कर सकेगा बल्कि जिस पर सब का विश्वास होगा, जिसकी ईमानदारी और निष्पक्षता पर सब का विश्वास होगा, जिस की ईमानदारी और आचरण पर किसी को कतई सन्देह नही होगा उस प्रकार के व्यक्ति को ही लोकपाल नियुक्त किया जाएगा । अब जब ऐसे व्यक्ति को आप लोकपाल बनाने हैं तो आप उसको क्या अधिकार देते हैं यह भी आप देखे । आपने कहा है कि उनके पास कोई शिकायत करेगा तो उसकी जाच वह कर लेगे और जाच करने के बाद अपनी रिपोर्ट सक्षम अधिकारी के पास भेज देंगे । अब क्या केवल रिपोर्ट देने के लिए ही आप लोकपाल की नियुक्ति कर रहे है और उनको और कुछ अधिकार नही देना चाहते हैं । यह तो उसी तरह की बात होगी जिस तरह से शाह आयोग या कोई अन्य आयोग आप ने बना दिये थे । उन्होने भी इसी प्रकार से अपनी रिपोर्ट दे दी थी । यद्यपि आपने इस मे कहा है कि उस पर जल्दी कार्रवाई होगी और समय सीमा भी आपने बाधी है कि नब्बे दिन के अन्दर अन्दर अगर कार्रवाई नही होती है तो सदन के अन्दर और उसके सामने उस को रख दिया जाएगा । मै समझता हू कि लोकपाल का काम केवल रिपोर्ट देना नही होना चाहिये । आप जब उनको उच्च सत्ता प्राप्त अधिकारी के रूप मे नियुक्त करने जा रहे हैं, लोकपाल की सस्था बनाने जा रहे हैं तो उनको आपको अधिकार भी देने चाहियें, सजा देने के अधिकार भी देने चाहियें । जब वह किसी व्यक्ति को दोषी पाते हैं तो सक्षम अधिकारी के पास ही रिपोर्ट को क्यो भेजें ? अब सक्षम अधिकारी कौन होगा ? पहले तो ज्यादह सिलेक्ट कमेटी मे कहा था प्रधान मत्री के मामले में कि लोक सभा के अध्यक्ष होगें, स्पीकर साहब होगे लेकिन अब सरकार की तरफ से संशोधन आया है कि नहीं प्रधान मत्री ही होंगे । यह बड़ी अजीब सी स्थिति बन गयी है । अगर प्रधान मंत्री के ही

विरुद्ध आरोप है और लोकपाल जांच करता है तो जांच करने के बाद प्रधान मंत्री जी के पास ही रिपोर्ट भेजे और प्रधान मंत्री ही उस पर कार्रवाई करें तो वह एक बड़ी अजीब और परेशानी और उलझन में डालने वाली स्थिति होगी । ऐसा करके मैं नहीं समझता हूं कि आप प्रधान मंत्री के साथ भी न्याय कर रहे हैं । यह उनको भी परेशानी में और झमेले में डालने वाली बात होगी कि वह स्वयं अपने बारे में निर्णय करें । अगर लोकपाल प्रधान मंत्री द्वारा प्रेषित रिपोर्ट से सन्तुष्ट न हो तो फिर वह उसको ससद् में रखेंगे । अब ससद् में प्रधान मंत्री तो वही होता है जिस के दल का बहुमत होता है । अब संसद् में वह आ जाएगी तो भी ऐसा हो सकता है कि उस में कुछ निकल न सके और कोई कुछ कहने वाला न हो । इस वास्ते मेरा सुझाव है कि लोकपाल को स्वय सक्षम अधिकारी होना चाहिये जो सजा दे सके । अगर कोई भ्रष्टाचार का दोषी पाया जाता है चाहे मंत्री हो और चाहे प्रधान मंत्री या ससद सदस्य हो तो लोकपाल को स्वय उसको सजा देने का अधिकार होना चाहिये, उसको केवल रिपोर्ट देने का अधिकार आप न दें । वैसे मैं इस पक्ष में नहीं हूं कि किसी को आप सिवाय लोकपाल के सक्षम अधिकार बनाए सजा देने के मामले में और मैं नहीं चाहता हूं कि लोकपाल के निष्कर्षों के ऊपर कोई जजमेंट देने के लिए बैठे लेकिन अगर आपको बनाना ही है तो मैं समझता हूं कि भारत के उच्चतम न्यायालय के मुख्य न्यायाधीश को सक्षम अधिकारी बनाए जिससे कोई शका की गुजाइश न रहे । लोक सभा के स्पीकर के बारे में तो फिर भी कहा जा सकता है कि उनकी मर्जी से ही उनको बनाया गया था, उनकी पार्टी के ही थे और अगर वह नहीं चाहते तो नहीं बनते और उनके विरुद्ध वह अपना निर्णय कैसे देंगे लेकिन मुख्य न्यायाधीश के बारे में ऐसी कोई बात नहीं कही जा सकती है और उनको सक्षम अधिकारी बनाया जाना चाहिये ।

अगर किसी को भ्रष्टाचार का दोषी पाया जाता है तो उसको सजा क्या होगी यह निश्चित नहीं है । अभी तक जो सजायें दी जाती रही हैं वे बिल्कुल अपर्याप्त रही हैं, डिटरेंट साबित नहीं हुई हैं । ऐसी सजा का प्रावधान होना चाहिये जिससे फिर दुबारा भ्रष्टाचार करने की किसी को हिम्मत ही न हो । सार्वजनिक जीवन में काम करने वाले व्यक्ति अगर भ्रष्टाचार के दोषी पाए जाते हैं तो उनको इस प्रकार की सजा मिलनी चाहिये जो दूसरों के लिए उदाहरण साबित हो सके ताकि कोई फिर भ्रष्टाचार में लिप्त होने की हिम्मत ही न कर सके । अगर लोकपाल किसी को भ्रष्टाचार का दोषी पाते हैं तो उसकी सारी सम्पत्ति जब्त हो जानी चाहिये, गलत तरीके से अर्जित की गई सम्पत्ति सारी की सारी जब्त की जानी चाहिये । सम्पत्ति का अधिकार अब तो मौलिक अधिकारों की सूची से निकाल दिया गया है इसलिए अगर इस प्रकार का प्रावधान किया जाता है तो कोई कठिनाई नहीं होगी, उसको सुप्रीम कोर्ट भी रद्द नहीं कर सकेगा । इस वास्ते ऐसा प्रावधान भी आपको करना चाहिये ।

आपने इस में प्रावधान किया है कि अगर कोई व्यक्ति शिकायत करता है वह एक हजार रुपया जमा करेगा तभी लोकपाल जांच करेंगे । हम कहते हैं कि केवल शिकायत करने पर ही क्यों जाच करे लोकपाल ? आखिर उनके पास अपना तंत्र होगा, इसमें प्रावधान है कि अपने अधिकारी होंगे, सूचना के स्रोत होंगे, वह स्वयं बहुत से कर्मचारियों की नियुक्ति करेंगे, तो जब लोकपाल के पास अपना तंत्र होगा तो बिना किसी के शिकायत पाये हुए भी अगर लोकपाल को कहीं से जानकारी मिलती है कि सार्वजनिक जीवन में काम करने वाले ससद सदस्य, मंत्री या प्रधान मंत्री के पास इतनी सम्पत्ति है कि जो उसके ज्ञोन सोर्सेज आफ इन्कम से ज्यादा है तो उसकी जाच वह स्वय करा सके, उस पर वह कार्यवाही करा सके, इस प्रकार का अधिकार लोकपाल को होना चाहिये । अगर इस तरह के संशोधनों को स्वीकार कर के इस बिल को पास किया गया तो मैं समझता हूं कि हमारी सरकार, आज का शासन इतिहास में हमेशा स्मरण किया जाता रहेगा कि इसने सचमुच में भ्रष्टाचार को समाप्त करने के लिये एक प्रभावकारी कदम उठाया जिससे देश के सार्वजनिक जीवन को निष्कलंक और निर्मल बनाया जा सका ।

इतना कह कर मैं इस विधेयक का समर्थन करता हूं ।

SHRI V. ARUNACHALAM *Alias* 'ALADI ARUNA' (Tirunelveli): Mr. Deputy-Speaker, I welcome this Lokpal Bill, subject to my proposals for amendment The long-cherished aspirations of our people, who were repeatedly and consistently requesting the Government to establish an institution to enquire about corruption and misconduct of public men, is going to be fulfilled after 30 years

Though it is delayed, I am happy that at least it has not been denied. The deeply rooted poisonous plant in the soil of evil mind is corruption The turgid growth of this virus affects all aspects of a welfare State. Its history started with the forbidden fruit. Therefore, the eradication of corruption is not an easy task in this sinister world. Whether a Government succeeds or not, the paramount responsibility of the Government is to take steps towards clean administration.

[Shri V. Arunachalam *alias* 'Aladi Aruna']

The welfare of a nation and happiness of its people mostly depend not upon the form of Government they have, or the political system they adopt, but mostly upon the clean, impartial, fair and just administration. Sometimes even a capitalist Government with clean administration will deliver the goods to the country. At the same time, a corrupt socialist Government may fail to show any development. Therefore, a clean administration is a crystallised way for the pursuit of the happiness of life.

During the period of freedom struggle, the Congress stalwarts harangued against corruption, abuse of power, malpractice and misconduct. Sir, the resounding speech of Nehru immediately after his release from the jail of Almora in 1945 is still ringing in the ears of political thinkers and freedom fighters. But, after the dawn of freedom and taking charge of the Government, the leaders who once ignited against corruption and misconduct of public men, started referring to the maximum "Men are in public life as in private, some good, some evil".

Within a few years, most of the public men in charge of ministerial responsibility fell down into the unfathomable ditch of corruption. Therefore, to save the nation, as well as to fight against corruption, our beloved leader, Jayaprakash Narain, asked the Government to establish the institution namely corruption tribunal. He was the first man who raised his voice for the creation of an institution to enquire into the charges of corruption. Unfortunately, the party in power in the past refused to accept this demand to create a corruption tribunal.

Mahatma Gandhi asked the Congress leaders to dissolve the organisation only because of the rising tide of corruption on all sides. Apart from the Father of the Nation, our beloved leader, Jayaprakash Narain, some of the elders of the Congress Party, like Shri Rajendra Prasad used their good offices to form an institution like Ombudsman of Scandinavian countries to eradicate corruption.

A surprising fact is reported in the book *From Curzon to Nehru and after* written by an eminent journalist, Mr. Durga Das. He writes "the role of Nehru on corruption was perhaps the strongest 'Prasad' over penned. "Corruption" he said "will verily prove a nail in the coffin of the Congress". Prasad strongly supported the proposal of Mr. C. D. Deshmukh to create a tribunal which would be under the control of the President or would act as an independent body. But his proposal was not accepted by Panditji. It is known to the world that Panditji was not in favour of creating an institution to inquire into corruption or malpractices of public men. It has been further disclosed in the Interim Report of the Administrative Reforms Commission (ARC) on the problem of redress of citizens' grievances, as follows:

> "The late Prime Minister, Shri Jawaharlal Nehru, speaking to the All India Congress Committee at Jaipur on 3rd November, 1963, said that the system of Ombudsman fascinated him, for the Ombudsman had overall authority to deal with charges even against the Prime Minister and commanded respect and confidence of all. He felt, however that in a big country like India the introduction of such a system was beset with difficulties."

So even though most of the leaders and men of ministerial responsibility were prevaricating on the problem the prevalence of corruption the existence of widespread inefficiency and unresponsiveness of administration pressurise the Government to do something for the creation of such institutions.

In fact the ARC (Administrative Reforms Commission) has realise the

urgent public importance of this problem. Therefore is opined:

> "We have no doubt that an urgent solution of this problem will strengthen the hands of Government in administering the laws of the land, its policies "without fear or favour, affection or ill-will" and enable it to gain public faith and confidence without which special and economic progress would be impossible."

In spite of all these things, unfortunately the party in power failed to create an institution in the past. Twice the Lok Pal Bill was introduced in this House, but it was deliberately allowed to lapse.

This House is aware of the fact that in respect of following certain principle, the Bill proposed before this House followed neither the guidelines given by the Administrative Reforms Commission nor the principle adopted in the Bill introduced in 1968.

Sir, I have moved some amendments which I honestly feel that they are quite necessary to wipe out the corruption in our administration. In my amendment I have requested the Government to substitute the word 'office of Governor'. In our political system Governor is enjoying all the privileges and rights. He is free from fear of any scrutiny. Sir, we have the right to impeach the President, we have a right to take action against the Chief Justice of Supreme Court, but the office of Governor is free from all scrutiny. "The king can do no wrong" is applicable in our political system only to the office of the Governor and not to others. The Indian Penal Code which is elaborately dealing with the taking of action against public servants under Section 21 did not touch the office of Governor.

Neither the Prevention of Corruption Act, 1947 and further amendments nor the Commission of Inquiry Act 1952 have been armed with any power to take action against the office of the Governor. We are not able to understand the logic for this imunity. We are not able to understand the justification for this position. Therefore, Governors should be brought under the purview of this Act. We know how the Governors in the past behaved, how they were illegally helpful to raise the fund for the Party in power in the States and in the Centre. Such Governors are appointed by the President. They hold the office during the pleasure of the President. Therefore, since it is a central Act, Governors must be brought under the purview of this Act.

Sir, I am very happy to note that the Joint Committee had omited the institution of Chief Minister. In principle, I am not against taking any action or to bring the Chief Minister under the fire of any scrutiny. But as far as this Bill is concerned, I appose the inclusion since the Chief Minister is the Head of a State. The Joint Committee has conveniently omitted the inclusion of Chief Minister. The reason mentioned by the Committee is quite convincing and acceptable. But the Home Minister has introduced an amendment to bring the Chief Minister within the purview of this Bill. It is purely politically motivated to blackmail the Chief Ministers of the other political parties and place them under the threat of presure from the Centre. That is why they have included the Chief Minister in this Bill.

I am not, as I menfioned earlier, against taking action against the Chief Minister, but what is the opinion of the Administrative Reforms Commission? The question of the inclusion of the Chief Minister within the purview of the Bill was duly examined by them. They did not rule out the possibility of amending the Constitution, but they clearly said that without amending the Constitution, the Central Government has no right to include the Chief Minister within the purview of this Bill, but our Minister has deliberately done it only to blackmail the Chief Ministers of other political parties.

[Shri Arunachalam *Alias* 'Aladi Aruna']

The Bill introduced in 1968 did not bring the Chief Minister within its purview. It exclusively dealt with persons who were directly within the jurisdiction of the State. The present Bill is not applicable to the Ministers of the States, the MLAs and MLCs. Why? Because they are within the jurisdiction of the State.

SHRI HARI VISHNU KAMATH (Hoshangabad): I am sorry to interrupt. When my friend, Mr. Arunachalam is making an interesting speech, there should be a quorum in the House.

MR. DEPUTY-SPEAKER: Let the quorum bell be rung.. Now there is quorum.

SHRI V. ARUNACHALAM *Alias* "ALADI ARUNA": They have not been brought within the purview of the Bill because they are within the jurisdiction of the State. Simularly, the Chief Minister is also within the Jurisdiction of the State, but he has been included in this Bill. An amendment has been proposed by the Home Minister with political motives.

The ARC has suggested for our consideration a method which is adopted in Canada. It says:

> "In Canada, where there is a federal government and a number of provincial governments, it was realised that if an Ombudsman were created under the federal law, he would not have jurisdiction over the provinces, and the provinces would have to establish their own Ombudsman."

Similarly, this Government should ask the State Governments to have their own Lokpals, and the Chief Minister may be brought under his purview, but including the Chief Minister here is unconstitutional and undemocratic.

As I mentioned earlier, in the 1968 Bill, the Chief Minister was not included as it is contrary to the canons of the federal principle. This Government, by bringing the Chief Minister within the purview of this Bill, is attempting to transgress into the jurisdiction of the State. Your Lok Nayak Jayaprakash Narayan reminds you that the next task of the Janata Party is implementation of decentralisation of powers, but the elite at the Centre exploit every opportunity to extend the powers of the Centre.

I remind you that a party with a glorious history of 90 years was wiped out from power because of 19 months of undemocratic and despotic attitude. Your party which does not have a single sheet of glorious history behind it, will not survive for a long period if it follows an undemocratic and unconstitutional attitude against the States. With this note of warning, I conclude my speech.

श्री गोविन्द राम मिरी : (मारंगढ) · उपाध्यक्ष महोदय, लोकपाल विधेयक के उद्देश्य तथा कारणों में बताया गया है कि इस विधेयक के द्वारा देश से भ्रष्टाचार को मिटाना है । इस विधेयक का आशय बहुत ही प्रशसनीय है । परन्तु इसको इतना तोड मरोड दिया गया है जिससे ऐसा आभास होता है कि देश और समाज में भ्रष्टाचार के लिए जो वास्तव में दोषी है, जिम्मेदार है, उनको छोड दिया गया है । आज देश के शासन की बागडोर सरकारी कर्मचारियों के हाथ में है । जो हमारी मंत्रि-परिषद् है तथा देश में जो ब्युरोक्रैट्स हैं उनका आपस में चोली दामन का सम्बन्ध है । बिना उनकी मदद के कोई भी भ्रष्टाचार नही कर सकता है । ऐसी स्थिति में जो उच्च पदस्थ ब्युरोक्रैट्स है उनको इस विधेयक की परिधि से बाहर रखना न्यायसंगत नही है । इसका उदाहरण हमने 19 महीने की इमर्जेन्सी के समय में देखा कि किस प्रकार से राजनीतिज्ञो ने उच्च पदस्थ अधिकारियों से साठ-गांठ करके देश में अत्याचार और अन्याय किए । इसलिए मेरा मत है कि जो सेक्रेटरीज हैं, संचालक हैं या इस प्रकार के जितने बड़े बड़े अधिकारी है उनको भी इस विधेयक की परिधि में लाया जाना चाहिए ।

दूसरी बात यह है कि राजनीतिज्ञ केवल पांच साल के लिए होते हैं और उसके बाद उन्हें पुन: चुनाव का सामना करना पड़ता है लेकिन जो बड़े अधिकारी हैं वे परमानेन्ट होते हैं । उनको मालूम होता है कि कहां पर किस प्रकार से क्या करना है । मेरा अनुभव है कि प्रशासन की बागडोर वास्तव में अधिकारियों के हाथ में रहती है, मंत्री तो नाम-मात्र के होते हैं । इस बिल के

द्वारा आप उनकी दो प्रकार से मदद कर रहे हैं। एक तो आप उनको भ्रष्टाचार करने की खुली छूट दे रहे हैं क्योंकि वे इस विधेयक की परिधि से बाहर हैं। दूसरी ओर जो मंत्री लोग भ्रष्टाचार करते हैं वे बिना इनकी मदद के नहीं कर सकते हैं। इसलिए उनको इस विधेयक की परिधि में लाना आवश्यक है।

लोकपाल विधेयक की परिधि में समत्सदस्यों को लाया गया है। इस सम्बन्ध में मैं कहना चाहता हूं कि ससत्सदस्यों को किसी प्रकार की की कार्यपालना शक्ति नहीं होती है इसलिए उनको इसकी परिधि से बाहर रखना चाहिए। उनके लिए और फोरम हो सकते हैं जैसे कि जिस सदन के वे सदस्य हों उसी के बहुमत पर छोड़ दिया जाना चाहिएकि जो भी ससत्सदस्य भ्रष्टाचार करते हैं उनके बारे में विचार करके उनको दण्डित किया जाए। वरना संविधान की धारा 105 में जो व्यवस्था है उसका उल्लंघन होगा क्योंकि भ्रष्टाचार का पर्दाफाश करने वाले जो ससत्सदस्य हैं उनको भयभीत करने के लिए समाज में तमाम प्रकार के गलत लोग हैं वे सामने आयेंगे और खासकर कमजोर वर्ग के जो ससत्सदस्य हैं वे उनके शिकार होंगे। इसलिए मेरा मत है कि संसत्सदस्य जिनके हाथ में कोई कार्यपालना शक्ति नहीं है, उनको इस विधेयक की परिधि से अलग रखा जाए।

साथ ही साथ मेरी यह कतई मंशा नहीं है कि ससत्सदस्यों को भ्रष्टाचार करने की खुली छूट दे दी जाए बल्कि जैसा मैंने पहले कहा, उनके लिए दूसरे फोरम हो सकते हैं।

तीसरी बात यह है कि जब यह विधेयक कानून बन जायेगा तो पांच साल पहले से लागू होगा। अभी शास्त्री जी कह रहे थे कि सन् 47 के बाद इसको लाग होना चाहिए लेकिन मेरा मत है कि पांच साल का समय कम है, इसको बढ़ाकर दस साल कर देना चाहिए। इस में एक व्यवस्था यह की गई है कि लोक सभा के सदस्य के बारे में सक्षम अधिकारी लोक सभा के अध्यक्ष रहेंगे, और यदि लोक सभा के अध्यक्ष के बारे में कोई विवाद है तो सक्षम अधिकारी उपाध्यक्ष होंगे। लेकिन राज्य सभा के पीठासीन अधिकारी के विरुद्ध यदि कोई विवाद होता है, उस में सक्षम अधिकारी कौन होगा, इस के बारे में इस विधेयक में व्यवस्था नहीं है। मैं चाहता हूं कि इस के बारे में भी विधेयक में उपबन्ध होना चाहिये।

इसी तरह से प्रधान मंत्री के विरुद्ध सक्षम अधिकारी प्रधान मंत्री होंगे, यह भी बड़ी हास्यास्पद बात है। यह तो जो भी प्रधान मंत्री होगा उसे भ्रष्टाचार करने की खुली छूट का प्रावधान है। इस लिये मेरा सुझाव है कि प्रधान मंत्री के लिये सक्षम अधिकारी मुख्य न्यायाधीश होना चाहिये।

जो लोग लोकपाल नियुक्त होंगे उन की एक सिफारिशी-बाडी बनाने का प्रयास किया गया है, मेरी दृष्टि में यह गलत है। मैं यह चाहता हूं कि उन की रिकमेन्डेशन्स बाइन्डिंग होनी चाहिये या उन को अन्दर स्वयं सजा देने का अधिकार निहित होना चाहिये तब ही वे सफल हो सकेंगे अन्यथा यह ढाक-के-तीन-पात जैसी बात बन कर रह जायगी।

इस में उपबन्ध है कि हर वर्ष लोकपाल राष्ट्रपति जी को अपना प्रतिवेदन देंगे और राष्ट्रपति महोदय उसे इस सभा के पटल पर रखने के लिये भेज देंगे। जिन मामलों में लोक सभा के अध्यक्ष या उपाध्यक्ष या राज्य सभा के सभापति को सक्षम अधिकारी बनाया गया है, यदि वे मामले इस सभा में बहस के लिये आयेंगे तो इस से अध्यक्ष पद की गरिमा को लाछन लग सकता है। इस लिये मेरा निवेदन है कि इस बारे में हमें ऐसा प्रावधान करना चाहिये जिस से अध्यक्ष, उपाध्यक्ष या सभापति पद की गरिमा नष्ट न हो।

अभी हमारे शास्त्री जी ने कहा कि केवल कम्पलेंट के आधार पर ही कार्यवाही नहीं होनी चाहिये बल्कि लोकपाल को स्वयं कार्यवाही करने का भी अधिकार होना चाहिये। यह बात मुझे उचित प्रतीत होती है। इस में कम्पलेंट के लिये 1 हजार रुपया जमा कराने का प्रावधान किया गया है, मेरी दृष्टि में यह प्रावधान भी उचित नहीं है। ऐसे बहुत से लोग होंगे जो जानते होंगे कि अमुक आदमी भ्रष्ट है, लेकिन उन के पास एक हजार रुपया नहीं होगा तो वे कैसे कम्पलेंट कर सकेंगे। इस का परिणाम यह होगा कि उन को किसी बड़े आदमी, किसी इण्डस्ट्रीयलिस्ट के पास जाना पड़ेगा जो सम्भव है स्वयं भी भ्रष्टाचार में लिप्त हो और उस कम्पलेंट से लाभ उठाना चाहता हो। इस लिये प्रवर समिति ने जो सिफारिश की है कि कुछ मामलों में इस प्रावधान को शिथिल किया जाना चाहिये, मैं भी उस का समर्थन करता हूं।

अभी हमारे एक माननीय सदस्य ने कहा कि राज्यपाल को भी इस विधेयक की परिधि में लाना चाहिये। मुझे भी यह सुझाव उचित प्रतीत होता है और मैं सदन से निवेदन करता हूं कि वह इस सुझाव पर भी गम्भीरता से विचार करे।

इन शब्दों के साथ मैं इस लोकपाल विधेयक का समर्थन करता हूं।

SHRI M N GOVINDAN NAIR (Trivandrum): Mr Deputy-Speaker, Sir, this Bill has a history of its own It started in 1966 with the ARC Report But my hon friend sitting here, near me, claims that 20

[Shri M. N. Govindan Nair]

years ago, he started moving a non-official Bill to stop corruption at higher places. So, when I go into the history and the present fate of this Bill, I am reminded of a story in Panchtantra.

A thief who tried to get into a house by digging a hole in the wall got died because the wall was wet, it was a newly built wall. So, the wife of that thief went to the seat of justice and said that the house-owner was responsible for the death of her husband because it was while trying to enter into that house that her husband lost his life. So the house-owner was caught. The house owner said that he was not responsible because the wall was newly made and it was done by so and so. The mason was caught. The mason said that he was not responsible because the gentleman who mixed the cement was responsible. That person was sent for. The others were let off. When he came, he said that he was not responsible because the pot in which he was carrying the water had a biger mouth and, therefore, it was the potter who was responsible. He was let off and the potter was caught. The potter said that, while he was making that pot, a beautiful girl passed by....

AN HON. MEMBER: From Kerala?

SHRI M. N. GOVINDAN NAIR: Of course, we have beautiful girls in Kerala.

The potter said that, because he was enjoying seeing that beautiful girl, the mouth of the pot became bigger. Finally, that damsel was caught and she was punished.

That is the story.

My hon. friend, Shri Patel, after going through all these has found that the source of corruption is M.Ps. I know that the records of some of the MPs are not clean. There are stories. I do not deny. Here, the ARC report has clearly and categorically said as to who are the persons who are actlally involved in this, namely, high officials and Ministers. And what was the reason behind it? Because they are the people who have executive power. People without executive power also, by scratching or something, may get some benefit. That is another matter. But the real culprits are the Ministers and their officers. But the officers are excluded from this and the MPs are brought in. That is why, I have narrated this story. The real culprits, the officers, who connive with Ministers in corrupt practices, are left out. That is a very serious omission, and I think that Mr. Patel, who has experience both as a Minister and as an officer, will understand the weight of my argument and accept the amendment which we are moving

Another point is this. The Joint Committee has decided to leave out the Chief Ministers, not because they should not be brought under the ambit of similar Acts, but considering the federal nature of our set-up, it was thought better that the Chief Ministers and their co-Ministers should be brought under similar Lokpal Bills in their respective States Not that they should be allowed to escape. That was the recommendation of the Joint Committee and why is it that you have now found it necessary to bring it again as against the recommendation of the Joint Committee. That also I cannot understand.

15 hrs.

Then there is another thing. When you make a provision and pass an Act, how are these things to be implemented? What is the machinery for that and what is the amount of work that they have to handle? All these things should become part of our consideration here. You know from experience how many Central Ministers are there. And a 'Minister'

means himself But, in our country sons and sons-in-law have become a problem If great ladies like Dr Sushila Nayar are in the Ministry, without any encumbrances there will be no problem.

SHRI VAYALAR RAVI (Chirayin kil) Even Jyoti Bosu is a problem

SHRI M N GOVINDAN NAIR Nowadays it is not like that Every son is a problem to a father who is a Minister

AN HON MEMBER So Lokpal should include sons also?

SHRI M N GOVINDAN NAIR Oh, Yes Whether they stay in the same house or separately is no problem So they and all these Minissons and sons in-law are a problem So they and all the Ministers and if you bring in the Chief Ministers—they also have sons and sons-in-law—then it will be something quite unmanageable So leave out the Chief Ministers and his co-Ministers and have a Lokal Bill at the State level (*Interruptions*)

AN HON MEMBER Our Deputy Speaker has no encumbrances

SHRI M N GOVINDAN NAIR Yes you are fit to be the Prime Minister because absolutely you have no encumbrances He is a national figure He does not know from which part of the country he comes He knows all the languages But, unfortunately, they may not oblige

Now, coming back, we are discussing the Lokpal Bill Then, there is another anomaly Finally the Prime Minister is the competent authority to decide whether he or his colleagues have committed an offence of corruption. How is it? Our Home Minister for the last 2 years was actively functioning in this House and the other House I do not want to name the people. But what did happen in the other House?

About someone's son they had a Resolution In spite of that, you want the Prime Minister to be the competent authority You will only be embarrassing him by doing that So, my suggestion is that it should be the President

The Speaker should be the person That suggestion is also there But, he will also be in a very embarrassing position So, the one person who can be considered above all is the President And at the same time it is he who is to reckon with the opinion of the Council of Ministers And, if such a person is put as a competent authority, that would be much more appropriate than the present arrangement

Finally, I would say that the MPs should be left out of this But, then the ghosts of Shri Tul Mohan Ram and Shri Mudgal are there Therefore I think the M Ps should be left out of this Bill but some other mechanism should be found to try such cases I am not suggesting what that mechanism should be But by bringing in the M Ps within the ambit and leaving out the officers will only create a very embarrassing situation whereby the functioning of a Member of Parliament will become difficult I stress this aspect and I want to bring in an appropriate amendment by which even though the M Ps are left out of this, their misdeeds are at least examined and appropriate punishment is given to them also This is my suggestion

SHRI YASHWANT BOROLE (Jalgaon) Mr Deputy-Speaker, Sir, as the Bill emerges after the Joint Select Committee's report, its rigour has been reduced The expectation is that this is the best type of measure which should be adopted to root out the corruption This can never be fulfilled by such a type of Bill

Sir, since 1966, there had been a thought going on in this country to provide for an institution like

[Shri Yashwant Borole]

budsman in order that the grievances of the people may be adequately redressed. Grievances are not only relating to the corruption but they are plenty. We will find that the natuure of the grievances is such that they only provide a ground for committing the corruption.

We are thinking to root out the corruption but we are concentrating on the actual act of corruption when it has been completed. But the stage which leads to corruption has to be reduced and the stage which will come when we take an action that will reduce the corruption manifold times and that was the real intention. What the Administrative Reforms Commission has observed is that a Lokpal and a Lokayukt have to be appointed in order to go into grievances of the people which could not be ventilated by either of the means which are available. One is that one has to proceed in a court of law against any officer who must have done injustice to him. The other procedure is provided within the hierarchy of the administration itself by way of an appeal and revision to the higher authority in order to get the grievances redressed and the third, as we take it, in a democracy is by way of representation through the representative of the people and to ventilate it in Parliament. All these three methods which have been provided are found to be highly inadequate in order to meet the growing needs. The expansion in the activities of the Government are so much so that the previous limited field has increased manifolds and it is humanly impossible for any minister or any one individual to have a good control over it howsoever intelligent and honest he may be.

Therefore, Mr. Deputy Speaker, Sir, the intention which was underlying the Administrative Reforms Commission's report has been completely done away with by this Bill. I will just point it out by reading para 3 of the Statement of Objects and Reasons for this Bill:

> "The matter has been re-examined having regarding to the recommendations of the Administrative Reforms Commission and provisions of 1971 Bill and other laws on the subject enacted in the various States from time to itme and experience of functroning of such institutions in the States where they have been set-up. In the light of this re-examination it is proposed to alter the schemes of Lokpal."

Now, let us see. The ARC recommendations are there. Some States like Rajasthan, Maharashtra, Bihar, and Orissa have their own enactments for Lokayukt and Up Lokayukt. Now, the working of these particular enactments by the States and the recommendations of the ARC and the previous two bills which have been tabled are considered and this para has been written down. This is a complete fraud on us. This is a deception. It is nowhere stated that the working and the functioning of the Lokpal and Lokayukt would not be physically possible. It is nowhere stated by any Report that the Lokayukt and the Lokpal would not be a successful institution or would not be an adequate remedy also. However, this para observes quite contrary to it and this is because the intelligent buureaucracy has by itself incorporated very fine words here also. Corruption at higher levels, the word 'political' has been introduced solely by saying that 'higher political level corruption' comes within the purview of this Bill.

I do not know why it is not possible to bring in the bureaucracy, working and functioning in this country, within the purview of this Act.

Therefore, I would submit to the House that they must see the reason why the bureaucracy has been taken out of the purview of this Bill. What are the reasons? In fact, the decision-making power lies with the bureaucracy more than with the Minis-

ter even. This is the position. I am making this statement because it is the bureaucracy which is well-versed with the rules and regulations and they are constantly there whereas the Ministers are coming and going. The bureaucracy knows very well where a certain matter stands and what is to be done. In the bureaucratic act lies the whole origin of corruption. The Minister is enabled to commit an act of corruption only with the aid of the bureaucracy. No act of corruption can be accomplished without the connivance of the bureaucracy. So, kindly examine this. All the matters of corruption are accomplished only with the aid of the bureaucracy. Take the case of Mr. Pratap Singh Kairon. Could it have been done without the concurrence of the bureaucracy? Therefore, there lies the role of the bureaucracy. Of course, it is the Minister who is held responsible and he should be held responsible and there is no doubt about it. But what I wish to say is that the bureaucracy is the only instrument which the Minister will have at his command to commit any type of corruption. Are there any cases of corruption indulged in by the Minister without the aid of the bureaucracy? There are no such cases. Hardly there may be one or two such cases. The margin of jurisdiction of a Minister and that of a Secretary is very thin. One cannot say really where one's jurisdiction bagan and where the other's jurisdiction ended. It is extremely difficult to demarcate it. Even in the case of Mr. Pratap Singh Kairon, the order was passed by the bureaucracy. It is always considered that the act is done by the Minister himself although various actions were taken by the bureaucracy Consequently these two, that is the Bureaucracy and the Minister, heading this bureaucracy, are necessarily inseparate entities If we try to separate them the consequential result would be that they will escape, they will have an acquittal, at the hands of any judge. Therefore, what I would urge upon the hon. House is that the inclusion of buraucracy is a must. This is an important point which must be pressed by us, as I think that without this provision being included, this enactment as a whole will be highly ineffective to book the offenders to book. One cannot understand why the M.Ps. are included but the bureaucracy is excluded. The M.P. has no executive role to play. The bureaucratic officer who has this executive role to play, has been excluded. It is impossible for a Minister to commit any act of corruption without the aid of a bureaucracy.

But the bureaucracy which appoints which has com to play havoc, has been excluded, has been safely excluded. This is what has happened with this particular Bill. Therefore, the first important thing would be that the bureaucracy must be brought within the purview of this particular enactment, if at all we want to succeed. (*Interruptions*) What we are saying it that we should think from the aspect of the effectiveness of a particular enactment for which we all want certain desired results. If the desired results are to follow, it is for one and all to consider in a very cogent manner and to find out whether this will be an effective weapon or whether this will have no effect whatsoever and will be a good statute left in the statute book without any result whatsoever.

Therefore, Mr. Deputy-Speaker, Sir, I would like to submit that if we go through the reports of the various commissions which have been appointed—Khanna Commission, Sarjoo Prasad Commission, Mitter Commission, Sarkaria Commission, Shah Commission, Grover Commission and Vimadalal Commission—we will find that if at all we do sincerely desire to combat the evil of corruption, it is absolutely necessary to bring within the purview of any particular Act, all the persons concerned and those who cannot be detected at least those who are inter-linked must be taken together. Otherwise, the responsibilities would be shifted and one can escape and the other will also simultaneously escape and, therefore, it is

[Shri Yashwant Borde]

necessary that the officers must be brought within the purview of this enactment. Therefore, in the case of Secretaries, Joint Secretaries and the Deputy Secretaries who are functionaries, who are more well-versed than the Ministers themselves at times, there is a need to bring them under the purview of this enactment. I would like to conclude with a request to the House that the Bill which has been in this modified form, after it has emerged out of the canopy, needs to be reconsidered by this House at great length so that it can be an effective weapon really for the purpose for which we are enacting, and, therefore, it is absolutely necessary that along with the Ministers concerned, the high top-ranking officials in the Secretariats must be brought within the purview of this enactment. Otherwise, the Minister would also escape as the Secretary has already escaped

SHRI O. V. ALAGESAN (Arkonam): Mr. Deputy-Speaker, Sir, the Joint Committee which went into this question, laboured for a long time. But what it produced is not commensurate with its long-laboured effect. Sir, this is a case where it looks as though the dissenting minutes can be more properly called the main report and the main report may be the dissenting minute In many matters, it looks as though the Committee had to act against its better judgement. It looks as though it was under some compulsion, some form of coercion; that it was not a free agent. I very much sympathise with the Committee for the predicament in which it found itself in dealing with this Bill.

I do not pretend to be original, much of the ground that has to be covered has already been very ably covered by the speakers who preceded me. I spoke on this Bill earlier when it was referred to the Joint Committee and I had said that several improvements would have to be made and the Joint Committee would look into them. The Committee certainly looked into some aspects and incorporated certain things. And even some good things that the Committee wanted to do are being sought to be undone by Government by its present amendments.

As far as the history and background of the Bill goes, here Shri Kamath sits and my friend who claim to be the father of this Bill is Shri P K. Deb. Though it is not his exact product, he was the father of the idea, the concept. This is how it started.

SHRI HARI VISHNU KAMATH: Foster father.

SHRI O. V. ALAGESAN: Let us take the question of the competent authority with regard to the Prime Minister. I said when I spoke earlier that the Prime Minister cannot be the competent authority to consider a report against the Prime Minister himself by the Lokpal. That was there in the original Bill and that was really a strange thing. I suggested even then that the competent authority in the case of the Prime Minister can either be the Speaker or the House. Now the Committee in its wisdom thought that the competent authority in the case of the Prime Minister should be the Speaker. In this one respect, I accept what the Government has said. The Government by an amendment is going to have this House, the Lok Sabha as a whole, as the competent authority with regard to the Prime Minister They have given cogent reasons. They do not want to involve the chair; they have said that the chair should be above these things; it should be apart from the Government machinery etc These are all very valid reasons. Perhaps this is the only good thing which the Government by its amendment is going to do.

I am also against the Chief Ministers of States being included in the scope of the Bill. There is a contradiction in the Bill itself with regard to the treatment that is being meted

out to the Prime Minister and the treatment proposed to be meted out to the Chief Ministers It would be very natural to say that the competent authority in the case of the Chief Ministers of various States would be the legislative assemblies, if it is Parliament in the case of the Prime Minister Instead we find that the Chief Minister himself will be the competent authority with regard to the Chief Minister if he is a sitting Chief Minister If he is not in office or for some reason there is no Chief Minister in the State, then it will be the Governor who will be the competent authority It should be very natural that the Government brings an amendment and makes the legislative assemblies of the various States to be nominated as the competent authority with regard to the Chief Ministers of the States.

Similarly Mr Deputy-Speaker, you have to go through this embarrassment; earlier also you were in the chair Who is the competent authority with regard to Speaker The Deputy-Speaker has been made the competent authority I think, it is an embarrassment which should be avoided, as far as the Deputy-Speaker is concerned

There should be nothing wrong It will be very proper if the House is again made the competent authority with reference to the Speaker, because there should be none else who should sit in judgement over the Speaker, except the House itself

Now I come to the question of including the Chief Ministers of States within the scope of this Bill When I spoke earlier, I pleaded very much against it, and said that Chief Ministers should not be brought within the scope of the Bill And I gave my reasons also The Committee agreed with them. They omitted the Chief Ministers from the scope of the Bill, and even to-day, it was said that it was illegal, unconstitutional etc. that Parliament should legislate with reference to Chief Ministers But then, Mr Patel has relied on the verdict pronounced by the Chief Justice of India and said that it is all legal May be I am not a legal expert myself This is how he has quoted the Chief Justice. I have taken it from his speech The Chief Justice said·

> "I have come to the conclusion that no such principle of federalism could be found there, which could implicitly cut down expressly conferred powers on Parliament to legislate with regard to enquiries of every type, including enquiries against Ministers of the State Governments in respect of wrongs alleged to have been committed in the exercise of Government powers"

Perhaps he has relied on this Why perhaps—he has relied on this pronouncement of the Chief Justice; and so he says he is including the Chief Ministers within the scope of this Bill

As the report of the Joint Committee has disclosed, the Attorney General—I do not say he is a bigger authority than the Chief Justice—has opined that it would be better to leave out the Chief Ministers from the Mischief or spoke of this Bill Apart from legal and constitutional questions, I would like to ask whether it would be wise to include Chief Ministers. What is the present scenario? It is not the same party as before There was a time when the Congress Party ruled at the Centre and in all the States but now different parties are the ruling parties in various States In my own Sate it is the AIADMK, in Kerala it is a coalition ministry In Karnataka it is the Congress ministry (*Interruptions*) It is the Karnataka Congress Ministry At any rate it is not a Congress(I) Ministry Then there are various States It is the Akali ministry in Punjab Various States have different parties as their ruling parties Under the circumstances, I would again appeal to the Gov-

[Shri O. V. Alagesan]

ernment not to press this issue and include Chief Ministers, because it may lead to people accusing this Government of political malice. You would do well to leave the Chief Ministers out of this Bill. This is what the Committee, in its report, says:

> "The Committee are further of the opinion that when an example is set by the Centre, it would automatically be followed by the States, under the pressure of public opinion."

It would be good to rely on the pressure of public opinion on the various State Governments to enact a similar legislation which can very well bring the Chief Ministers under its scope.

I now come to the most vicious part of this Bill, namely, the inclusion of MPs and non-inclusion of administrative officials. This is the most vicious part of the Bill. Mr. Venkatasubbaiah went so far as to say—and I entirely agree with him—that this Bill should be withdrawn or taken back for some time, there should be fuller thinking of this Bill, I do not wants to spend any time on this. Even now we can introduce the amendments. I think this is the most vicious part of the Bill;and I pleased /very strongly that MPs should be excluded and the higher officials should be brought within the scope of the Bill. But then the Minister while commending the Joint Select Committee's Report to the House had said that if only Ministers are going to be looked after by the Lokpal, then there may not be enough cannon fodder. He did not use the word 'cannon-fodder'. He said that there may not be many people. The Lokpal may have to waste his time. So, you include as many as possible so that the Lokpal may be fed. This was the strange argument which our Home Minister had put forward while commending this particular aspect of the Bill. With regard to this matter, I cannot express myself more forcefully than what had been said by my friend, Shri Bhupesh Gupta in his dissenting note. He is a veteran parliamentarian and has used all his skill in marshalling all the arguments against inclusion of MPs and against exclusion of the officials. In fact, one disturbing thing he said in his dissenting note is this. It is very disturbing. He has quoted the Prime Minister, and I think it should have been properly quoted. He has quoted the Prime Minister as saying: "I would like to say that it is only the Select Committee Members who do not want the MPs to be included." Perhaps it is this sort of pressure that was put on the Committee which made it go against its own judgment.

Now the bureaucracy should be the happiest of the lot. They should be thinking that here the MPs tried to spread a net to catch them. Now they are seeing to it that they—that M.Ps—are caught in their own net that they spread for others and the bureaucrats have cleverly escaped from being caught in this net. This should be the happiest thought crossing their mind. And here I cannot put it more effectively than my predecessor Mr. Borole had put that when you proceed against a Minister you proceed only against one half. Have we got any case of corruption or experience of corruption where it has been committed only by the Minister without the aid of his own officials. They are an inseparable thing. The corruption results as a result of chemicals union of the Minister and his own official aides. Is it possible that you catch hold of one and leave the others scot free?

Now the Committee is very much concerned about this. It finds itself in a very helpless situation. They are not able to do anything. But I had said even earlier that it is not the MPs that should be brought within the scope of the Bill but such MPs or such legislators who occupy posts of Chairmen or the Managing Directors of various public undertakings Now the Committee on Public Undertakings have made a recommendation that Members of Parliament and not officials should be made Chairmen of the various public undertakings. I do not know whether government will accept it or not. I myself was not personally for it. But that recommendation has been made.

In various States, we find that several legislators and MLAs are occupying the posts of Chairmen of various public undertakings. It is more than the Ministership, because you are not so directly answerable to the legislature. You can do anything. You can do as you please in the particular empire that has been carved out for you. So it is sought after more eagerly by legislators than even ministership. I have no objection if you bring in such MPs and MLAs who preside over public sector undertakings within the mischief of this Bill because they will have powers to dispense contracts, to do various purchasing and selling transactions. Such people can be brought. But if you are going to bring ordinary M.Ps under the mischief of this Bill you will be crippling the freedom of the Members of Parliament and cramping their style of working As has been pointed out in many dissenting minutes, the Democles' sword will be having over the heads of parliamentarians and they will certainly be cramped in their style, they will not be able to discharge their duties as one would like them to do.

In this connection I should like again to refer to the report of the committee. It is almost a swan song of the joint committee, it is said that it is not able to exclude the M.Ps, or include the officials, in the last para it says: "However the Committee are of the opinion that government in the light of the experience gained during the working of the present provisions of the proposed legislation after its enactment might examine if it was necessary in the interest of the main object of the Bill to bring forward an amending Bill at a later stage to cover such civil servants." In fact they regret that they have not been able to do it themselves. Why? perhaps because of that one sentence which was uttered by the Prime Minister. They almost regret it that they are not able to achieve this in their own right, when the opportunity was before them. The positive mischief of bringing in the M.Ps. into the scope of the Bill and the negative mischief of excluding the civil servants, bureaucracy from the scope of this Bill should be removed. This is the most vicious part of the Bill. I think Mr. Patel the Home Minister is both a public man and an ex bureaucrat; he combines both these roles and he will understand my plea and I hope he will himself bring forward an amendment to this Bill. This point was stressed by many Members and I also strees it. There is a saying in Tamil that in the hustle and bustle of marriage the bridegroom forgot to tie the thali, that is mangala sutra, around the neck of the bride, that is the most important thing, he forgot to do that Similarly, the most important thing, the ombudsman, the grievancemean has been given a go by in this Bill. everybody has forgotten him. That was the main purpose of this measure and that had been left out. The main purpose was grievance machinery for redressal of grievances. In fact it is entwined with corruption. I am not pleading the case of corrupt ministers. But it is from the lower officials that people suffer, the impact is more. Mr. Pabitra Mohan Pradhan said that when he was minister for eradication of corruption he was able to attain 50-60 per cent success. I congratulate him if it is true because to eradicate corruption to the extent of 50-60 per cent is almost cent per cent. He should be a bold man, he has made the claim on the floor of the House. It is a very good thing that I heard. Ombudsman or some machinery for redressal of grievance has been devised and other countries are having it. We have completely forgotten it. So, the ordinary man should have some recourse when administrative justice has not been meted out to him. He should go somewhere and state his grievances and get them redressed. That is most important. I do not say that corruption matter is not an important thing. What I say is—there is a saying,—'the better should not be the enemy of the good'. I am going to eradicate corruption from public life, but I am not going to leave this question untouched—that is, the question of redressal of grievances. Every lit-

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tle man or small man is concerned with it. That has been entirely forgotten. It has been given a go by. This lacuna, I think, should be filled.

One more point and then I close. I spoke about this also—the retrospective effect being given to the Bill for five years. I said this is more done with the political motive. Let not this Government at his stage in its career expose itself to the charge that it is doing things with a political motive. If you want it on the ground that no new offence has been created, then give effect from the date when the Constitution began, that is, from 26h January, 1950. Nobody will object to it. Let it be a free for all. Let it take effect from the day when Constitution began or let it be prospective.

One non-Congress Chief Minister said in Tamilnadu that they would go through the records of the earlier Congress Government and they would take Congressmen to court if they had done anything wrong in the previous five years. Shri Bhakthavathsalam the earlier Congress Chief Minister said—not only five years, you take the entire record as we have been from 1946. You can take that. We are ready to face any scrutiny or enquiry. That is what I said—you want to give retrospective effect for five years on the ground that no offence has been created.

SHRI KANWAR LAL GUPTA (Delhi Sadar): You have an amendment.

SHRI O. V. ALAGESAN: Thank you for the advice.

They want to give retrospective effect on the basis that no new offence has been created under the Act. If that is so, let it be from the date when the Constitution began. If you have a doubt in your mind that you have new offences under the Act and people cannot be punished for an offence that did not exist under the Act, then you make the Act prospectively. That is all. I have done.

SHRI HARI VISHNU KAMATH (Hosshangabad): Mr. Deputy-Speaker, this essential piece of legislation, much-needed piece of legislation, the first of its kind in free India has had a curious, sad and chequered history. The genesis of this Bill or the legislation goes back to the Third Lok Sabha, in many ways a notable Lok Sabha. The Third Lok Sabha saw three Prime Ministers and three wars. Three Prime Ministers began with Pandit Jawaharlal Nehru. Then came Shri Lal Bahadur Shastri and in the last year of its tenure or term Shrimati Indira Gandhi was inducted

DR SUSHILA NAYAR (Jhansi): What about Shri Gulzari Lal Nanda?

SHRI HARI VISHNU KAMATH. I am not talking of acting Prime Ministers. In that Lok Sabha, the idea was first mooted in April, 1963, during the last declining year of the then Prime Minister, when he was steeply on his physical and mental decline. The idea was first mooted during the budget debate in 1963. The then Law Minister—

I believe it was Shri A. K. Sen at that time—replying to the debate on the demands of the Law Ministry, when the idea was first mooted, said that it may be necessary to have a constitutional provision for this purpose. Then later in the same year on the 3rd November 1963 at Jaipur, the then Prime Minister, Shri Jawaharlal Nehru, referred to this in explicit terms and said:

> "The sytem of Ombudsman fescinates me, for the Ombudsman have overall authority to deal with charges even against the Prime Minister and commands the respect and confidence of all."

But—there comes the snag—Shri Nehru felt that "in a big country like India, the introduction of such a system is beset with difficulties." Therefore, he was allergic to the establishment of this institution. As a matter of fact,

it is a curious coincidence, a tragic coincidence in some ways that just before Shri Lal Bahadur Shastri passed away at Tashkent on the midnight of 10-11, January, 1966, five days before that, the Gazette Notification was issued. But the decision had been taken earlier before he left for Tashkent, because he had invited me to his chamber to discuss the matter with him. He suggested that I should agree to join the Commission—the Administrative Reforms Commission. I asked him, "Why of all persons do you ask me? I have been a vehement critic of your Government and previous Government also", as Mr. Alagesan knows very well. "Why do you want me to join this Commission?" He said with a disarming smile, "That is exactly, Mr. Kamath, why I want you to join this Commission, because you have been a vehement critic." That disarmed me and I said, "Yes". Then before he left, Shri Gulzari Lal Nanda, the then Home Minister, was asked to draw up the terms of reference, the notification and all that. Mr. Nanda showed this to me after Shri Lal Bahadur Shastri had left for Tashkent. Therefore, it occurs to me—I may be wrong in my presumption—that if the notification had been delayed and had not been issued on 5th January, 1966—that was the day on which it was issued—if it had been delayed by a week, there would have been no Lokpal. There would have been no Administrative Reforms Commission appointed at all, because the daughter of Shri Jawaharlal Nehru was totally antithetical, totally opposed to such a commission, as her subsequent acts showed. She put on an appearance of wanting to put down corruption, but having been in more ways than one the fountain head of corruption, she had no mind, no heart really to have that institution in India. That is why the Lokpal Bill, in pursuance of the unanimous recommendations of the Administrative Reforms Commission headed by the present Prime Minister, Shri Morarji Desai, was introduced once in 1968 in the Fourth Lok Sabha. I was not there in that Lok Sabha. It was adopted with certain amendments, very vicious amendments—I would use the word which Shri Alagesan used—excluding the Prime Minister from the jurisdiction of the Lokpal. Curious arguments were advanced by the then Home Minister, Shri Vidya Charan Shukla. Anyway, with the majority, they passed that demanded, mutilated Bill, truncated Bill and then it was sent to the Rajya Sabha. There it was lying in cold storage till the dissolution of the Lok Sabha in 1970. Nothing happened till then. It was not taken up for consideration at all by the Government of the day and it lapsed on the dissolution of the Lok Sabha. It was reintroduced. You Mr. Deputy Speaker, were there, perhaps, in the Rajya Sabha then, I am not sure. You might be knowing the inside story of that episode. I do not know about that. I leave it to you to judge as to what happened then.

Then in 1971 after the 'Garibi Hatao' election were they had got reportedly or propagatedly massive mandate, not in terms of votes but in terms of seats all right—votes were less than what Shri Jawaharlal Nehru had got in his time in 1962—anyway, they had got two-third majority in the Lok Sabha, the Bill was re-introduced in the Lok Sabha in 1971. There it suffered a worse fate than in the Fourth Lok Sabha. In the Fifth Lok Sabha it was never taken up for consideration. I do not know whether a Joint Committee was appointed then or earlier in the Fourth Lok Saabha. Anyway, for six years, it was lying in cold storage, it was almost in a mortuary so to say. And finally, on the dissolution of Fifth Lok Sabha, it again lapsed. That clearly proved, if at all proof was needed, the malafides of the then Prime Minister whom the country had the misfortune of having for eleven long years from 1966 to 1977. Twice the Bill was introduced and twice it was massacred, slaughtered. Nothing had happened. Now, the Janata Government, I am glad to say has introduced the Bill within a short time. That means, one year the Joint Committee deliberated upon it and now the Bill is before the Lok Sabha. I hope and pray that this

[Shri Hari Vishnu Kamath]

Bill will become law, will get the President's assent before the end of this year.

SHRI P. VENKATASUBBAIAH (Nandyal): Before you get out of power.

SHRI HARI VISHNU KAMATH: You may rest assured about that, there will be no change (*Interruptions*).

There is lot of letting off steam and all that but nothing will happen.

I hope and pray and I am sure, you will also be at one with me that by the end of 1979 this Bill becomes law and the first Lokpal will begin functioning on the Republic Day of 1980 so that the '80s of this century will begin with the institution of Ombudsman because this is an institution which has been tried and tried with effect and success in several countries, in Scandinavian countries. The first Lokpal was appointed in Sweden. It was not Lokpal there. It is our Hindi word which we in the ARC after some deliberation, devised and coined. We have an Article in the Constitution about Rajyapal. So, we wanted to have a good word, a proper word So, we coined the word 'Lokpal'. It has been accepted and commended by the whole House and the Nation that Lokpal is a good word.

The first Lokpal, Ombudsman, was appointed in the Scandinavian countries, in Sweden, as far back as 1805 or so, more than 170 years ago Sweden had the first Ombudsmen, and then it was followed by Norway, Denmark and Finland in the last century. In this century similar institutions were established in the United Kingdom, Australia, New Zealand, Canada and also, I believe, in some States of the United States, not at the Centre, at the federal level, but at the State level, so that this institution has been gathering momentum, gathering popularity, and it was high time that our country also had this institution.

The Administrative Reforms Commission was appointed with the following ten terms of reference. I do not wish to read the entire Notification, but the terms of reference of the ARC were as follows:

"The Commission will give consideration to the need for establishing the highest standards of efficiency and integrity in the public services and administration and for making public administration a fit instrument for carrying out the social and economic policies of the Government and achieving the social and economic goals of development as also one which is responsive to the people. In particular, the Commission will consider the following:—

(1) the machinery of the Government of India and its procedures of work;

(2) the machinery for planning at all levels;

(3) Centre-State relationships;

(4) Financial administration,

(5) Personnel administration;

(6) Economic administaration;

(7) Administration at the State level;

(8) District Administration;

(9) Agricultural Administration; and

(10) Problems of redress of citizens' grievances."

The Commission gave top-most priority, the highest priority, to item No. 10, the last item, the last became the first. I am glad to say that the then Chairman of the Commission, Shri Morarji Desai, now Prime Minister, decided at the very first meeting that this should be taken up first, and rightly so, and we submitted our report in October 1966. But the October Report, as I said earlier, had a very curious and chequered history, it had a long gestation period, and ultimately today in 1979 it is well within the reach of final enactment.

When the first report on "problems of redress of citizens' grievances" was presented to the then Prime Minister, by the Chairman of the ARC, while forwarding the report it was made clear that there would be two institutions to be designated as the Lokpal and the Lokayukta. The Lok-

pal will look into complaints against administartive lapses of Ministers and Secretaries to the Government at the Centre and in the States (this letter was signed by Shri Morarji Desai) and a Lokayukt is to be appointed in each State and one at the Centre for the Union Territories, too look into complaints against administartive acts of authorities below the level of Secretaries. This was the scheme envisaged and incorporated in this slim report of the ARC in October 1966.

[SHRI N. K. SHEJWALKAR *in the Chair*]

16.05 hrs.

Now it is strange that the Bill, as it has emerged out of the Joint Committee, makes a wide departure from the recommendations of the ARC, which were unanimous. In the ARC, there were five members, four of the Congress Party, then ruling party, and I was the only member from the opposition. We were all unanimous with regard to the recommendations made in the Report. Now the Joint Committee of the two Houses of Parliament has made some very vital changes, radical changes I would say, which perhaps were not very necessary

First I would take up the provision about "competent authority." Competent authority—is it really necessary? Is not the Lokpal of such a calibre, of such a status, of such competence himself that he cannot decide whether a particular complaint should be inquired into or not? Why should it go to a competent authority for preliminary examination or investigation, preliminary probing, because that will make cumbrous the entire machinery

[MR. SPEAKER *in the Chair*]

16.06 hrs.

MR. SPEAKER: Mr Kamath, will you permit me to disturb you just for a minute, just for an announcement?

16.06 1/2 hrs.

ANNOUNCEMENT RE. LEADER OF OPPOSITION IN LOK SABHA

MR. SPEAKER: There has been a request for change of official Leader of the Opposition, and in view of the changed circumstances, I have consulted Shri Stephen, he has no objection to my designating Shri Y. B. Chavan as the Leader of the Opposition. I accordingly designate Shri Y. B. Chavan as the Leader of the Opposition.

[SHRI N. K. SHEJWALKAR *in the Chair*]

SHRI KANWAR LAL GUPTA (Delhi Sadar): We want to congratulate Mr. Chavan.

16.07 hrs.

(Interruptions)

SHRI R. VENKATARAMAN (Madras South): It is a domestic arrangement.

MR. CHAIRMAN: Mr. Kamath, you can continue.

SHRI HARI VISHNU KAMATH: Mr. Chairman, this has been an important and pleasant diversion because it evoked both sympathies and congratulations, sympathies verging on condolence.

SHRI A. BALA PAJANOR (Pondicherry): I take objection to this. It is a musical chair. So, anybody can go and occupy and rotate also.

MR. CHAIRMAN: What is the objection there?

SHRI HARI VISHNU KAMATH: You want to harp on music? I have no objection.

SHRI A. BALA PAJANOR: Mr. Kamath said, condolence for Stephen. I said, it is not like that.

SHRI HARI VISHNU KAMATH: Sympathy verging on condolence.