

[Shri Mohammad Elias]

due to this delay. There should be legislation to avoid this delay. In the Industrial Disputes Act there is a clause that within 15 days Government should come to a decision but it takes often three months. We welcome one or two clauses in this Bill which improves the position but all the causes which underlie the disputes must be removed and labour legislation should aim at that.

Shri D. Sanjivayya: If the present procedure of deciding which union has majority following is not satisfactory it can again be taken up in the Indian Labour Conference or the Standing Labour Committee and if the tripartite body decides in favour of an alternative method, I have no objection. My hon. friend Mr. Elias referred to Bhopal Heavy Electrical Union and unfortunately the union he referred to was unable to produce records for verification purposes.

श्री हुकम चन्द कछवाय : मध्य प्रदेश में इन्टक की तानाशाही चल रही है ।

Shri D. Sanjivayya: In my earlier reference I said that cases are being referred for adjudication in accordance with the principle laid down by the Indian Labour Conference. The hon. Member can send the representative on behalf of the AITUC to the Indian Labour Conference or the labour standing committee who can certainly put forward his views and if any change in the policy, is agreed to, that policy change would be certainly followed up.

Shri Mohammad Elias: The hon. Minister said that they could not produce papers for verification. That is also our experience in many places. Even after producing papers and other things our union is treated as a minority in many places. I can challenge the Minister to come with me to the Bhopal factory and call all

the workers and just ask them to raise their hands as to which union they want and by this easy method he will immediately understand the position. (Interruptions.)

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

15.07 hrs.

ANTI-CORRUPTION LAWS
(AMENDMENT) BILL

The Minister of State in the Ministry of Home Affairs (Shri Hathi):
Sir, I beg to move:

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

15.07½ hrs.

[SHRI SONAVANE in the Chair]

Sir, the House knows that in 1962 a Committee on the Prevention of Corruption, known as the Santhanam Committee was appointed to review the problem of corruption and suggest measures to combat it. The committee has made various suggestions and I would like to pay a tribute to the members of the Committee for the hard work they have put in and the valuable suggestions they have made in this regard. The present Bill is to implement those of the recommendations which have been accepted by the Government. Most of them have been accepted. Section 7 of that report deals with this subject. I do not make a tall claim that

the Government is bringing a very exhaustive measure to change the entire criminal law. The Committee has suggested, and as is our experience, that though the main Act, the Indian Penal Code, drafted more than a hundred years ago, is a comprehensive Act and deals with almost all the offences, but with the change of time, especially during the last seven years, with the economic development, there are various other offences which we can conveniently call social offences. The Committee has suggested in this section that the law should be so amended and made comprehensive so as to include these social offences also. They have recommended that this should be referred to the Law Commission. We have referred this matter to the Law Commission. For the remaining suggestions which the Committee have made,—there are, in all, 29 paragraphs in this section—I shall try to relate the clauses of the Act with the recommendations of the Committee so that it may be more convenient for the House to appreciate and understand the theme of the measure and also the sincerity with which the Government deals with the subject. I will therefore correlate the Committee's report with the clauses of the present Bill.

There are 29 paragraphs in section 7. Out of this 7.1, 7.2, 7.3 and 7.4 relate to the suggestions about the social offences. Paragraphs 7.25 to 7.29 deal with other subjects which are not included in the present Bill. Paragraphs 7.25 and 7.26 relate to amendments to Imports and Exports (Control) Act and the Essential Commodities Act. These have been referred to the Commerce Ministry which is the administrative Ministry concerned. Paragraph 7.27 deal with the Constitutional amendment which we are dealing with subsequently, separately. Then, paragraph 7.28 refers to the power to summon witnesses and power for the production of documents. It is proposed to replace the Public Servants (In-

quiries) Act, 1850. Wherein these provisions will be made. Paragraph 29 refers to the Central Excise and Salt Act which is being examined by the Finance Ministry. The remaining paragraphs will be paragraphs 7.5 to 7.24. This Bill deals with these paragraphs.

I shall now broadly mention the changes that have been proposed to be made in the existing laws. The laws that are being amended under this Bill are: the Indian Penal Code, the Criminal Procedure Code, the Prevention of Corruption Act, the Criminal Law Amendment Ordinance, 1944, the Delhi Special Police Establishment Act, 1946 and the Criminal Law Amendment Act, 1952. These are the Acts which are sought to be amended by this measure. Clause 2 of the Bill deals with the amendment to the Indian Penal Code. The Committee has suggested two amendments: one in section 21 and the other in sections 161 to 163. Section 21 deals with the definitions of a public servant. When we are dealing with the eradication of corruption or amendment of the corruption law, the question of the public servant is the most important question, and it has been rightly suggested by the Committee that the definition should be expanded to cover different categories. Clause 2 deals with the amendment of section 21 where, firstly, we have thought of expanding the definition. Instead of the words, "every judge", we have said, as is recommended by the Committee, "Every judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;" instead of restricting definition of a public servant, to only a judge, we are expanding it to all persons who are discharging adjudicatory functions.

Then, in clause 2 (i) (ii) in clause Fourth, after the words "officer of a Court of Justice", we are also including the words, "including a liquidator,

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receiver or commissioner appointed by courts," so that these people also will be included in the category of public servants.

Then, the ninth provision in the original Act read thus: "Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government," etc.; and the twelfth provision read thus: "Every officer in the service or pay of a local authority or of a corporation engaged in any trade or industry which is established by a Central, Provincial or State Act..." etc. Then there was an explanation to the effect that "The expression 'corporation engaged in any trade or industry' includes a banking, insurance or financial corporation, a river valley corporation" etc. We have expanded this definition to include, or, so as to cover the public servants in the service or pay of any statutory corporation which is not engaged in trade or industry. That also is covered now. Therefore, we have accepted the definitions as suggested by the Santhanam Committee.

I will not deal with those recommendations which we have not accepted; I shall not deal with them for want of time at present. I shall explain them later, if any point is raised, but I may mention here that if we have not accepted any of the other categories, it is because we thought that at present it will not serve any very useful purpose; rather it will cause inconvenience. For example, the Committee has recommended that all honorary office-bearers of all educational, social religious and other institutions receiving some aid from the Government should also be included in the definition of public servant. Many of the people become honorary office-bearers in this sort of activity such as religious, social and all sorts of institutions. If they are also taken up in the category of public servants, perhaps the people might shirk to bear

such responsibilities and to do useful work. Therefore, for the present, we have thought that it is better first to tighten the belt so far as the other categories are concerned and leave out the social and educational institutions where there may be very good social workers. For instance, take the Adivasi institutions where the institutions may be receiving grants, but very devoted social workers are in charge of them. If they are also included in the definition of public servants, perhaps they might not like to be associated with those bodies as office-bearers and work would suffer. It is for that reason only that we have not taken up such categories; I have explained the reason.

By sub-clause (2), we are amending sections 161, 162 and 163 where the words were only "the Legislature of any State". Now we are including local authority, corporation, Government company, etc. This is only a consequential change. These are the two amendments recommended by the Santhanam Committee so far as Indian Panel Code is concerned.

In the Cr. P.C., we are amending sections 198B, 222, 492, 495, 251A, 344, 435 and 540A. The important amendment is in clause 3, namely, amendment of section 198B. At present, the public prosecutors are empowered under certain circumstances to file complaints in respect of offences of defamation other than by spoken words against the President, the Vice-President, Ministers and other public servants in respect of their conduct in discharge of their public functions. It is proposed to amend section 198B so as to enable proceedings being taken thereunder, even in respect of offences of defamation by spoken words. It also provides that trial under this section may be held *in camera*. This was not recommended by the Santhanam Committee, but Government have

added it on their own. We thought in cases of defamation, very often the complainant is put to harassment by publication of various things and so we have thought it fit to provide that if either party to the proceedings so desires or if the court so desires, the proceedings should be held *in camera*.

As recommended by the committee, we have said that the consent of the person defamed will not be necessary. Very often it happens that in the view of the Government it is necessary that certain allegations be cleared and it is proved to the country outside that the allegations are false. If it is obligatory that the consent of the person defamed should be obtained and if he does not give the consent, then the Government cannot charge him in a court of law, though departmentally it can do anything. So, we have accepted this amendment recommended by the committee.

Another important amendment contained in clause 3(2) is amendment of section 222 of the Cr. P.C. After the existing words "dishonest, misappropriation of money", we have also proposed to add "or other movable property". Section 222 provides only for sums of money misappropriated. There is no provision so far as movable property is concerned. So, it does not come within the purview of the Prevention of Corruption Act. So, we have accepted the recommendation of the committee in this regard and we have added the words,

"it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property".

The other amendment in the same clause is a consequential one. Under the present Act, the Central Government had no power to appoint a public prosecutor. That is sought to be amended by clauses 3(3) and 3(4).

The other provisions which are to be amended are in clause 6. They relate to the question of supplying of

the list of documents by the accused also. Under the Cr.P.C. when a warrant case is instituted on a police report, it contains necessary provisions to ensure that the accused is supplied with important documents referred to in section 173 of that Code, on which the prosecution wants to rely. The reason is that the accused should not be taken by surprise and he should be able to know what he has to defend. But the section does not, however, cast a similar obligation on the accused to furnish the prosecution with a list of witnesses and documents on which he proposes to rely for his defence. Very often delays are caused because of this. We want speedy disposal of corruption cases. So, we have suggested that the accused also should give a list of documents and witnesses.

Shri Shivaji Rao S. Deshmukh (Parbhani): Would it not adversely affect fair trial?

Shri Hathi: The prosecution will give him all the chances. During the course of the trial, the accused will know what case he has to meet. He should be ready with the list of witnesses he has to examine. Very often there is delay because the documents are not produced or the names of witnesses are not given. In the name of fair trial, the person who is alleged to have committed corrupt practices takes two or three years. Therefore, it loses all the charm. Therefore, the Santhanam Committee thought that this amendment should be made. After due consideration whether it will mean any unfairness or it will in any way cause inconvenience to the accused, we have accepted this amendment. There are various provisions where we have departed from the normal practice. For example, in the prevention of Corruption Act, the burden of proof lies on the accused. In certain offences under section 161 or 165 of IPC, certain ingredients are proved and the motive is presumed. In other criminal cases, the motive has to be proved. This House itself accepted this in the Prevention of Corruption Act, because otherwise it is very difficult to prove that he

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accepted the bribe with a view to do something. I shall deal with the points that may be raised when I reply to the debate.

Then, provision is also being made to avoid adjournment or postponement of trials or inquiries merely on the ground that an application under section 435 is pending. Very often it happens that from the lower court the party goes to the higher court and asks for a stay order. Till that is decided, the lower court cannot move. This is one of the main causes of delay. Perhaps the learned advocates who are Members of this House will appreciate whether this happens in actual practice or not. Our experience is that this happens very often. So, we have proposed that this amendment may be made.

The other amendment is with regard to calling of records. Often it happens that the higher court calls for the records from the lower court and naturally the trial stops. By this amendment, we are providing that ordinarily the records should not be called. But if they are to be called a notice should be issued to the other party that the records are to be called. Then the party should be heard and if the court finds that it is necessary and it cannot be done otherwise, then that should be done. This is only with a view to expediting the proceedings of the trials.

The other amendment is to section 540. To avoid delay occasioned by the absence of the accused it is proposed to provide that the court may, in its discretion, proceed with the trial or inquiry and record the evidence even in the absence of the accused, while suitably protecting the right of the accused regarding cross-examination of the witnesses.

Another amendment is with regard to the Criminal Law Amendment Ordinance, 1944. There one more item in the Schedule is added—"An offence punishable under Section 5 of

the Prevention of Corruption Act, 1947". The object of this is that under this Criminal Law Amendment Ordinance, for the offences included in its Schedule provision is made for the attachment of money or other property believed to have been obtained by the commission of offences in the Schedule thereto. But this offence is not included in that Schedule. We are, therefore, including this offence also—offences under the Prevention of Corruption Act—in this Schedule. Therefore, any offence committed or connected under this will also come within the purview of this. The court will then be in a position to order the attachment of money or property. To facilitate similar action in relation to the offences under the Prevention of Corruption Act it is proposed to include those offences also in the Schedule.

So far as clause 5 is concerned it deals with giving powers to the Delhi Special Police Establishment for investigations. The sub-inspectors of police can exercise the powers of police officers.

Then comes clause 6. The House will find that under this, Section 4 of the Prevention of Corruption Act is sought to be amended. It provides at present that on proof of certain facts constituting an offence under Section 161, 165 or 165A, of the Indian Penal Code, when certain ingredients are proved, then the motive implicit under this offence will be presumed and it will be for the accused to prove that it was not his motive to accept a reward or something like that. But the new offence we are now proposing and the other offences referred to in (a) and (b) of subsection 1 of section 5 of the Act are not included there. Therefore, we are also amending section 4 of the Act. Then comes sub-clause (2) of clause 6. It covers offences of criminal mis-conduct by public servants as defined under the Prevention of Corruption Act. Here the proposal is

to delete the words "in the discharge of his official duty". I shall read the relevant section so as to give a clear idea. It reads as under:

"A public servant is said to commit an offence of criminal mis-conduct in the discharge of his duty . . ."

It may be that a public servant may be doing an act which may not be actually in the discharge of his public duty. For example, a candidate may want an employment. The employing authority may be a public servant. A third public servant who is not the employing authority may influence the other public servant and get the employment to the candidate. The intermediary who approached the other public servant does not act in the discharge of his public duty. Therefore, that case would not be covered under this definition. Similarly, an officer who knows an official in the office of the Chief Controller of Imports and Exports may ask him for certain favours to be done to another man. The public servant who tells him to do this is not doing this act in the discharge of his public duty. But all the same he is a public servant. Therefore, this lacuna which did not cover the cases of public servants who were not actually doing the work in the discharge of public duty even though they were public servants is sought to be removed by this.

The second thing that this clause seeks to do is to make possession of assets by public servants disproportionate to the known sources of his income for which he cannot satisfactorily account for a substantive offence. For example, if his salary is Rs. 1000 and it is shown that he is in possession of Rs. 5 lakhs or a building worth Rs. 25 lakhs, then it is disproportionate. So, this offence will also be covered and it will be for him to prove how he got the money and it will not be for the prosecution to show that he did not get it through known sources.

The other recommendation which the committee made was that habitual commitment of offences under section 162, 163 and 165A of the Indian Penal Code should be made substantive offences. That has been accepted. Then it was recommended that an attempt to commit an offence of criminal mis-conduct should also be an offence. That also has been accepted in this.

Clause 6(3) gives certain powers to the Delhi Special Police Establishment for the purpose of investigation.

Clause 7 deals with the cases where these new offences which are sought to be made will be triable by special judges. There are certain offences which are being tried by special judges. Under this Act, as I mentioned just now, we are creating these three or four acts of omission and commission as offences. They will also be tried by special judges.

Therefore, the theme mainly is that we are amending the Indian Penal Code. We are amending the Criminal Procedure Code. Where complaints for defamation against public servants can be filed by the public prosecutor without the consent of the person, for the purposes of safeguarding the complainant we are making a provision that it should be held *in camera*. We are also making certain changes for the speedy disposal of cases. We are also giving certain powers to the Delhi Special Police Establishment officers and also to other officers. For instance, under clause 6 we are giving them power to inspect bank accounts and to get certified copies thereof because they require them and these should not be delayed. We are also creating three or four new offences where the presumption will be that there was a motive if other ingredients are proved and it will be for the accused to disprove this.

On the whole, therefore, this measure deals with almost all the recommendations except recommen-

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dations Nos. 1 to 4 and 25 to 29. I have explained some of these. For example, we have not accepted the definition of "public servant". I know that this is a measure which deals with the amendment of certain laws where the trials and procedures regarding corruption cases are involved. I also understand and appreciate that hon. Members would like to deal at length on the question of corruption. I may however tell hon. Members that we are dealing with an Act, we are dealing with a measure, we are dealing with provisions that amend some of the existing Acts and we are not dealing with corruption as such.

Shri Bade (Khargone): With the object of checking corruption.

Shri Hathi: It is with the object of checking corruption. But I may submit to the House that I shall be most grateful if suggestions are made as to how we can tighten the provisions of the law still further. If the hon. Members have any suggestions to offer to amend the existing law so that under the process of law we could check corruption, let them do so. We have tried to accept almost all the recommendations made by that Committee, which consisted of so many Members of Parliament. What I want to impress upon the House and the hon. Members is, that this is not the time or place for discussing corruption as such. It would not be within the scope of this amendment or Bill.

Shri Koya (Kozhikode): Why this hair-splitting?

Shri Umanath (Pudukkottai): Why are you afraid of discussing corruption?

Shri Hathi: It is not a question of being afraid of discussing corruption. I am bold enough and competent enough to reply to all the points that

might be raised. At the same time, I am humble enough to accept any suggestion that they might make. But what I say is that we have to utilize this time of the House for giving concrete suggestions whereby we can tighten the existing law. I am prepared to accept all practicable suggestions. Hon. Members may kindly make those suggestions which they feel are necessary to tighten the laws and to expedite the disposal of cases and to bring corrupt people to book. I am not afraid of discussing corruption. Hon. Members are free to discuss this subject and make any suggestions they like.

Mr. Chairman: Motion moved:

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

श्री बड़े : सभापति महोदय, अभी मंत्री महोदय ने अपने भाषण के अंत में जो एक सुझाव दिया है कि इस एंटी-कॉरप्शन लाज (अमेंडमेंट) बिल पर साधारण रूप से कॉरप्शन अथवा भ्रष्टाचार पर भाषण न देते हुए उन्हें इस बिल के सम्बन्ध में ही अपने, अपने सुझाव देने चाहिए। लेकिन मेरा कहना यह है कि जब सुझाव दिये जाते हैं तो सुझावों के वक्त में कुछ उदाहरण भी देने पड़ते हैं और उन उदाहरणों से सुझाव भी स्पष्ट हो जाते हैं। यह जो बिल हाउस के सामने आया है उस बिल में भी यह लिखा हुआ है। स्टेटमेंट ऑफ ओब्जेक्ट्स एंड रीजन्स में दिया हुआ है कि कमिटी ऑन प्रीविजन ऑफ कॉरप्शन सन् 1962 में मुकरर की गई थी। उस कमिटी ने कुछ सुझाव दिये थे, सिफारिशें की थीं

और यह मौजूदा अमेंडिंग बिल उसी का परिणाम है। सन् 1962 में कमेटी नियुक्त हो गई और सन् 63 में रिपोर्ट आई। सन् 1964 में अमेंडिंग बिल आ रहा है। अब इस अमेंडमेंट में भी कमेटी ने जितनी सिफारिशें की हैं, शासन अभी नहीं लाई है। वह एक चैंप्टर 7 है। उसके बाद कानून में संशोधन करने के वास्ते उन्होंने सिफारिश की है। इतनी उन्होंने ले ली है; बाकी 11 चैंप्टर हैं वह छोड़ दिये हैं। 11 सैक्शन में जितनी सिफारिशें सन्धानम कमेटी ने की हैं उतनी सिफारिशें शासन कानून के अन्दर अभी तक नहीं लाया है। उनको शासन ने अभी तक स्वीकृत नहीं किया है। उन के बारे में हम कुछ संशय में पड़े हुए हैं। इस के लिये मेरा यह कहना है कि अगर कानून को टाईटन करने से भ्रष्टाचार बंद किया जा सकता है तो जरूर कानून को सरकार टाईटन करे। अगर सरकार वाकई महज कानून को टाईटन करके भ्रष्टाचार बंद कर सकती है तो जितना चाहे सख्त कानून वह बना सकती थी लेकिन चीज दरअसल यह है कि सरकार स्वयं भी अपने दिल में यह मानती है कि केवल कानून कठोर बनाने से भ्रष्टाचार बंद नहीं हो सकता है। कमेटी ने सैक्शन 11, पेज 101 में यह कहा है कि देश में इस के लिये सोशल क्लाइमेट जब तक उत्पन्न नहीं करेंगे तब तक भ्रष्टाचार बंद नहीं हो सकता है। इस सोशल क्लाइमेट या सामाजिक वायुमंडल उत्पन्न करने के वास्ते उन्होंने एक सुझाव दिया है :

"There is a widespread impression that failure of integrity is not uncommon among Ministers and that some Ministers who have held office during the last 16 years have enriched themselves illegitimately, obtained good jobs for their sons and relations through nepotism, and have reaped other advantages inconsistent with any

notion of purity in public life. The general belief about failure of integrity amongst Ministers is as damaging as actual failure. That these Ministers have held office in the name of the Indian National Congress which had evolved the highest notions of personal integrity and service under the inspiration of Mahatma Gandhi has given rise to an exaggerated view of their failure to maintain high standards of integrity."

इस से साफ जाहिर हो जाता है कि कमेटी ने फेल्योर ऑफ इंटीग्रिटी के लिए मिनिस्टर्स को भी जिम्मेदार ठहराया है और अखबारों में आये दिन हमें इसका सबूत भी मिलता रहता है। कमेटी के इस तरह से साफ साफ रिपोर्ट करने के इतने दिन के बाद बहुत देर से मिनिस्टर्स के वास्ते एक कोड ऑफ कंडक्ट तैयार किया गया है। समाचार पत्रों में हमें यह चीज पढ़ने को मिली है।

आज किस तरह से भ्रष्टाचार और भाई भतीजावाद का बोलवाला है और मिनिस्टर्स किस तरह से उस में शामिल हैं उस के मैं आप को कुछ उदाहरण बतलाता हूँ। दूर क्यों जाते हैं। यहीं आपके दल के अच्छे कार्यकर्ता हैं, दिल्ली कांग्रेस के एक बड़े लीडर हैं, कांग्रेसी गांधी टोपी पहनते हैं। क्या यह तथ्य नहीं है कि उन्हीं चौधरी ब्रह्म प्रकाश के खिलाफ इस हाउस में कितनी दफे आवाज लगाई गई है कि उन्हीं को आपरेटिव स्टोर्स के मामले में गुड़ इस्पात आदि के बारे में कितना गड़बड़ घुटाला किया है ? क्या आप ने उनको शील्ड नहीं किया ? क्या शासन ने उनको आश्रय नहीं दिया ? मैं पूछना चाहूंगा कि आपका कोड ऑफ कंडक्ट कहां चला गया और कहां आपका कानून और नीति चली गई ? कहां आपकी बुद्धिमत्ता चली गई ? इस नीति के बतलें आप का मंबरान को यह

[श्री बड़े]

सुझाव और एडवाइस देना कहां तक दुरुस्त और जायज है कि इस बिल के अवसर पर मंत्रारान को ग्रामतौर से करप्शन के ऊपर नहीं बोलना चाहिये। दूसरे मैं आपको बतलाता हूँ कि बीजू पटनायक और बीरैन मित्र के बारे में हर कोई जानता है कि गड़-बड़ घुटाला चल रहा है। दरअसल उड़ीसा में इन के वहां इतना भ्रष्टाचार फैला हुआ है कि वहां पर जितने सफेद गांधी टोपी पहने निकलेंगे उतने ही आपको उन के अंदर काले धब्बे देखने को मिलेंगे.....

Mr. Chairman: Let the hon. Member refrain from mentioning names of persons who are not members of this House.

श्री बड़े: उड़ीसा में गड़बड़ और भ्रष्टाचार के बारे में अखबार में आया है और उनके नाम भी अखबार में आये हैं इसलिये मैं कोई नये नाम तो ले नहीं रहा हूँ। रह गये चौधरी बहा प्रकाश तो वह तो इसी हाउस के एक मेम्बर हैं।

सुखाड़िया मंत्रिमंडल में अभी एक मंत्रीजी हैं जिन्होंने गुड़ का गोबर कर दिया। उत्तर प्रदेश से गुड़ ले गये, लाखों रुपये कमा लिये। यह करतूत राजस्थान के एक मंत्री जी की है जिन्होंने गुड़ को लेकर लाखों रुपये कमा लिये और गुड़ को गोबर कर दिया। उन के खिलाफ तार दिया गया, समाचार पत्रों में छपा लेकिन उन पर यह करप्शन का कानून लागू नहीं किया गया। क्या भ्रष्टाचार निवारण का कानून सूत्रियों के लिए नहीं है? मैं जानना चाहता हूँ कि शासन का कानून कहां चला गया था? क्या सरकार के कानून गरीबों के ही वास्ते हैं क्या श्रीमंत के वास्ते वह नहीं हैं? सरकार की इस नीति के

कारण आज ग्राम जनता में यह धारणा घर करती जा रही है कि सरकार के जितने भी कानून हैं वे केवल उन गरीबों के लिए ही हैं, मंत्रियों और श्रीमंतों के लिए नहीं हैं। इसका कुपरिणाम आज यह देखने को मिल रहा है कि जो भी ब्लैक मार्केटर्स होते हैं वे अपने ऐब को ढकने के लिए ढाई आने का गांधी रूपी टोपी का ढक्कन पहन लेते हैं। ऐसे लोगों की काली करतूतों के कारण आज गांधी टोपी जनता में हर जगह बदनाम हो चुकी है। गांधी टोपी जिस का कि नाम महात्मा गांधी जी के नाम के साथ जुड़ा हुआ है, वह काफ़ी बदनाम हो चुकी है। शासनको समय रहते चेतना चाहिये और इस गांधी टोपी की इज्जत को बचाना चाहिये। क्या मिनिस्टर्स ने गांधी टोपी की इज्जत को कायम रक्खा है? क्या इस शासन के इल्म में ऐसे केसेज नहीं आये हैं जहां कि मिनिस्टर्स ने गांधी टोपी को बदनाम और बेइज्जत किया है? उन्हें अपने दिल पर हाथ रखकर पूछना चाहिये कि क्या बाकई उन्होंने गांधी टोपी की इज्जत कायम रखने का प्रयत्न किया है?

जस्टिस कृष्णन् ने अभी थोड़े दिन ही हुए खादीवाला चादरवाला केस के बारे में अपना जजमेंट दिया है। उन्होंने अपने जजमेंट में साफ लिखा है कि चादर में अनेकों काले धब्बे हैं। उस जजमेंट में सफेद गांधी टोपी पहनने वालों की काली करतूतों की चर्चा की गई है।

Shri Radhelal Vyas (Ujain): Sir, on a point of order. When this case is still pending before the Supreme Court, can it be referred to here?

Shri Bade: It may be pending. I am referring to the case. He may go in appeal and it may be decided in his favour. I shall be glad if it is decided in his favour, because he is from my state.

जस्टिस कृष्णनून ने जो जजमेंट दिया है वह जजमेंट अभी तक कायम है और वह सैट ऐसाइड नहीं हुआ है और जब तक वह कायम रहता है तब तक मैं उस को रैफर कर सकता हूँ ।

मेरा कहना यह है कि मिनिस्टर्स के बास्ते कोड ऑफ कंडक्ट है तो लेकिन उसका पालन कहाँ किया जाता है ? दूसरे इसी रिपोर्ट में लेजिस्लेटर्स के बास्ते लिखा गया है कि वह मिनिस्टर्स पर दबाव डालने की कोशिश करते हैं और फिर वह ऐश में रहते हैं । तो यह देखा जाय तो वह इस तरह का मिनिस्टर्स पर दबाव न डालें और जरूरत है कि उन के बास्ते भी एक कोड ऑफ कंडक्ट होना चाहिए ।

कमेटी को इस विषय में शंका होगी कि लैजिस्लेटर्स में डाटा, बिड़ला और अन्य बड़े बड़े पूंजीपतियों के आदमी रहते हैं और उन्होंने वहाँ पर अपनी लाबीज बना रखी है । इसलिए कमेटी ने अपनी रिपोर्ट के पेज 104 पर लिखा है :

"It may be that some legislators are in the employment of private undertakings for legitimate work. In such cases it is desirable that such employment should be open and well known and should be declared by the legislators concerned. It should be a positive rule of conduct that such legislators should not approach Ministers or officials in connection with the work of their employers and they should refrain from participating in the discussion or voting on demands or proposals in which their firms or undertakings are interested. Other legislators, who are not such *bonafide* employees, should on no account undertake, for any valuable consideration or other personal advantage, to promote the interests of or obtain favours for any private party either in the legislature or with Government."

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मैं पूछना चाहता हूँ कि इस विषय में सरकार ने क्या किया है । कमेटी ने सिफारिश की है कि लैजिस्लेटर्स के लिए एक कोड ऑफ कंडक्ट होना चाहिए, परन्तु शासन ने उस की ओर कोई ध्यान नहीं दिया है ।

सरकार ने इस बारे में भी कोई कानून या नियम नहीं बनाया है कि किस व्यक्ति को कन्ट्रैक्ट देना चाहिये । आज हमारे समाज में कन्ट्रैक्टर्स की एक अलग क्लास तैयार हो गई है । आज सब भ्रष्टाचार कन्ट्रैक्टर्स करते हैं । कमेटी ने कन्ट्रैक्टर्स के बारे में जो रिकमेंडेशन की है, सरकार ने उस की तरफ भी कोई ध्यान नहीं दिया है ।

कमेटी ने कम्पनीज के बारे में पेज 105 पर कहा है

"We consider that, in Indian conditions, companies should not be allowed to participate in politics through their donations. It is true that this matter was debated at length during the discussion on the Companies (Amendment) Act of 1960 and it was decided to permit such donations subject to restrictions of amount and condition of publication. We do not think that this is sufficient and feel that nothing but a total ban on all donations by incorporated bodies to political parties and purposes will clear the atmosphere."

क्या शासन ने कम्पनीज के द्वारा दिये जाने वाले डोनेशन्ज को बँन किया है ? यदि शासन उन डोनेशन्ज को बँन कर देगा, तो कांग्रेस गवर्नमेंट खत्म हो जायेगी । कांग्रेस पार्टी के पास उस अवस्था में पैसे नहीं होंगे और उस को आपोजीशन में बैठना पड़ेगा । चूँकि कांग्रेस पार्टी केवल पैसों के बल पर जीत सकती है, इस लिए शासन ने कम्पनीज को पैसा देने की छूट दी है ।

प्रश्न यह है कि सरकार कमेटी की सब रिकमेंडेशन्ज को कानून का रूप देने

[श्री बड़े]

के लिए इस सदन के सामने क्यों नहीं आई है। इस बिल के द्वारा तो उस ने केवल थोड़ी सी रीकमेंडेशन को कार्यान्वित करने का प्रस्ताव किया है।

भ्रष्टाचार का मूल कारण क्या है ? पहले भूतपूर्व स्टेट्स में इतना भ्रष्टाचार नहीं था, परन्तु अब वह क्यों बढ़ गया है ? किसी ने कहा है कि "पावर मेक्स ए मैन करन्ट"। आज सरकार ने सब उत्पादन के साधन (मीन्ड आफ़ प्राडक्शन) अपने हाथ में ले लिए हैं। लोगों को क्वोटा, परमिट और लाइसेंस देने का अधिकार उसने अपने हाथ में रखा है। चूकि सरकार के मंत्रियों और अधिकारियों के हाथ में इतने व्यापक अधिकार हैं, इस लिए भ्रष्टाचार बढ़ रहा है। अगर किसी जंगली पशु को पिंजरे में रखा जाये और उस को रोज थोड़ी थोड़ी रोटी दी जाये, तो कुछ समय के बाद वह पालतू बन जायेगा और रोटी देने वाले की आज्ञा मानने लग जायेगा। आज आई०ए०एस० और आई०सी०एस० अफसरों के हाथ में मीन्ड आफ़ प्राडक्शन हैं। मिनिस्टर भी अपने सेक्रेटरीज के हाथ में हैं और उन की हर एक बात को मानते हैं। सेक्रेटरीज के नीचे एसिस्टेंट सेक्रेटरीज और अन्य छोटे अधिकारी हैं, जिन के हाथ में सब मीन्ड आफ़ प्राडक्शन हैं। इस अवस्था में भ्रष्टाचार क्यों नहीं बढ़ेगा ?

पहले साधारण समाज में कहा जाता था, "इफ यू वाण्ट टु डेव वर्क इन इन डेल्टी, यू शुड गो टु ए मद्रासी आर ए चपरासी"। उस का कारण क्या है ? मध्य प्रदेश से यहां पर लोग आते हैं और आठ आठ रोब पड़े रहते हैं। उन को कुछ पता नहीं चलता है कि उन के मामले से सम्बन्धित पैपर्स कहां पड़े हुए हैं। कोई भी उन को जवाब देने के लिए तैयार नहीं होता है। एन्क्वायरी आफिस में उन को

कहा जाता है कि वे पहले एन्वायंटमेंट ले लें, इन्टरव्यू मांग लें, वे कल आयें फिर आयें, आदि। इस प्रकार उन लोगों को बहुत कष्ट उठाना पड़ता है और फिर भी उनका काम नहीं होता है। तब वे लोग मजबूर हो कर कुछ पैसा देकर अपना काम कराना चाहते हैं। लाल फीते शाही समाप्त करनी चाहिए।

इसलिए जब तक यह लाल फीते शाही, रैड-टेपिज्म बन्द नहीं होता है, तब तक हमारे देश में भ्रष्टाचार खत्म नहीं होगा। आज आवश्यकता इस बात की है कि समाज में यह भावना उत्पन्न हो कि यह शासन हमारा है और यदि इसमें भ्रष्टाचार होगा तो उससे हमारी ही हानि होगी। आज हमारे समाज में यह भावना नहीं है। बल्कि आज-कल समाज में यह कल्पना है कि यह सरकार हमारी नहीं है, यह सरकार कांग्रेस की है, जिस में बड़े बड़े पूंजीपति लोग हैं, जिस के द्वारा अपने कृपापात्रों को ही क्वोटा, परमिट, लाइसेंस और नौकरियां मिलती हैं। इस कारण लोगों में असंतोष पैदा होता है और वे हर उपाय से पैसा कमाने का यत्न करते हैं।

जहां तक नौकरियों का सम्बन्ध है, मैं आप को बताना चाहता हूँ कि पब्लिक सर्विस कमिशन के सामने दो दो, तीन तीन हजार एप्लिकेशन आती हैं। लोग सात आठ रुपये दे कर अपनी अपनी एप्लिकेशन देते हैं। लेकिन होता यह है कि अगर पहले किसी मिनिस्टर या अन्य बड़े आदमी का उम्मीदवार चुन कर नहीं आता है, तो तारीख बढ़ा दी जाती है। पब्लिक सर्विस कमिशन को टेलिफोन किया जाता है और उस पर दबाव डाला जाता है कि अमुक व्यक्ति को चुना जाए। इस का परिणाम

यह है कि केवल मंत्रियों और बड़े लोगों के कृपा पात्रों को नौकरियां मिलती हैं और पब्लिक सर्विस कमिशन अपने काम में असफल हो जाता है ।

अगर भ्रष्टाचार बन्द करना है, तो लोगों में यह कल्पना पैदा करनी चाहिये कि यह शासन तुम्हारा है, यदि शासन में भ्रष्टाचार करोगे, तो शासन खराब हो जायेगा और उस में अनीतियां उत्पन्न हो जायेंगी ।

भ्रष्टाचार का एक और कारण महंगाई है । महंगाई की वजह से लोगों को न खाने को अन्न मिलता है और न पहनने को वस्त्र । इसलिए वे अनुचित रूप से पैसा कमा कर अपनी आय बढ़ाने का प्रयत्न करते हैं । यदि हम किसी दफ्तर में जायें, तो हम से कहा जाता है कि यह तुम्हारा कागज रखा हुआ है, यह उड़ जायेगा, नहीं तो इस पर वजन रखो । अगर हम आठ आने रखते हैं, तो कहते हैं कि यह हल्का वजन है, एक रुपया रखो । मध्य प्रदेश में एक ट्रैफिक पोस्ट है, जहां पर पुलिस के आदमी को पांच रुपये दिये बिना कोई माल ट्रक महाराष्ट्र आ जा नहीं सकता है ! क्या आप समझते हैं कि पांच पांच रुपये करके जो इतना रुपया लिया जाता है, क्या उस को केवल हैड कांस्टेबल और सब-इंस्पेक्टर खा लेते हैं ? वह रुपया अवश्य ऊपर तक जाता होगा ।

सरकार के लिये यह आवश्यक है कि कमेटी ने जितनी रोकमेंडेशन की हैं, उन सब को इम्प्लीमेंट किया जाये । इस प्रकार पीसमील लेजिस्लेशन करने से काम नहीं चलेगा । सरकार ने केवल सेबन्थ चेप्टर ले लिया है और यह व्यवस्था कर दी है कि अगर आरोपी हाज़िर नहीं होगा, तो भी इन्वॉयरी होगी और अगर वकील हाज़िर नहीं होगा, तो भी ट्रायल चलेगी । मैं

निवेदन करना चाहता हूँ कि इस तरह के अन्यायी कानून से भ्रष्टाचार ज्यादा बढ़ेगा । जितने कानून ज्यादा होंगे, भ्रष्टाचार उतना ही बढ़ेगा । किसी ने मज्जाक में कहा है कि "ला इज ए बिग एस", अर्थात् ला एक बड़ा गधा है, जो बड़े जोर से लात मारता है और बड़े जोर से चिल्लाता है । इसलिये ऐसा कानून नहीं बनाना चाहिये, जिस से लोगों को तकलीफ हो जाये और फिर भी भ्रष्टाचार बन्द न हो ।

अगर किसी बड़ी डिजीज (बीमारी) का उपचार करना हो, तो उस का मूल कारण दूर करना चाहिये । कुछ फोड़ों की मरहम-पट्टी करने से वह डिजीज (बीमारी) ठीक नहीं होगी । भ्रष्टाचार भी एक बड़ी डिजीज (बीमारी) है । इसलिये उस के मूल कारण का पता लगा कर उस को दूर करना चाहिये । सरकार ये जो छोटे छोटे कानून ला रही है, वे फोड़ों पर मरहम-पट्टी के समान हैं । इन से भ्रष्टाचार बन्द नहीं होगा । भ्रष्टाचार तब बन्द होगा, जब लोगों को यह विश्वास होगा कि शासन हमारा है और महात्मा गांधी के नाम का नारा लगाने वाले मिनिस्टर सादगी में रहते हैं, पैसा नहीं खाते हैं ।

मैं आप को बताना चाहता हूँ कि मध्य प्रदेश के लोग जब यहां पर मिनिस्ट्रों के बंगलों, सोफा-सेट्स और शानो-शौकत को देखते हैं, तो उनको बड़ा आश्चर्य होता है । वे देखते हैं कि महात्मा गांधी के आदर्शों की बात करने वालों में इस प्रकार की अग्र्याशी चल रही है । वे कहते हैं कि हम ने कभी सपने में भी नहीं सोचा था कि ये लोग इस प्रकार अग्र्याशी में रहेंगे ।

जब कांग्रेस के मिनिस्टर सादगी का जीवन व्यतीत करेंगे, जब उन लोगों को मालूम होगा कि कांग्रेस का शासन हमारा है,

[श्री बड़े]

जब लोगों को खाने को घन्न पहने को वस्त्र मिलेगा, जब लोगों को नौकरियां मिलेंगी, जब सरकार की धोर से उत्पादन के साधनों (मोल्ड फ्राफ़ प्राडक्शन) में इंटर-फ़ीयरेंस नहीं होगा, जब लोगों को छोटे से धंधे के लिये भी ब्वोटा, परमिट और लाइसेंस के पीछे भटकना नहीं पड़ेगा, तब भ्रष्टाचार खत्म होगा।

मैं इस बिल का समर्थन करता हूँ, लेकिन केवल सेवन्य चेप्टर की रीकमेंडेशन्ज को एक्सेप्ट करने के बजाये सब रीकमेंडेशन्ज को स्वीकार कर के अगर सरकार कोई कानून लाती तो अच्छा होता। मैंने मंत्री महोदय के सामने भ्रष्टाचार के उदाहरण रखे हैं। कितने बड़े बड़े गुनाह शसन ने हज्म कर लिये हैं। उड़ीसा का गुनाह, जस्टिस कृष्णन् का जजमेंट, सुखाड़िया मंत्रिमंडल की कार्यवाहियां—इन सब पर शासन ने कोई ध्यान नहीं दिया है। इस के अतिरिक्त मंत्री महोदय ने खुद ही जजमेंट दे दिया है कि बिहार के मंत्रियों ने कोई भ्रष्टाचार नहीं किया है। मैं निवेदन करना चाहता हूँ कि इस तरह लोगों का विश्वास शासन पर से उठता जा रहा है और इसी लिए भ्रष्टाचार बढ़ रहा है।

Mr. Chairman: We will continue with this Bill on the next day.

16 hrs.

[MR. SPEAKER in the Chair]

MINERAL OILS (ADDITIONAL DUTIES OF EXCISE AND CUSTOMS) AMENDMENT BILL*, 1964

The Minister of Finance (Shri T. T. Krishnamachari): Sir, I beg to move for leave to introduce a Bill further to amend the Mineral Oils

(Additional Duties of Excise and Customs) Act, 1958.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Mineral Oils (Additional Duties of Excise and Customs) Act, 1958."

The motion was adopted.

Shri T. T. Krishnamachari: I introduce† the Bill.

16.01 hrs.

MOTION FOR ADJOURNMENT—contd.

FAILURE OF GOVERNMENT TO ENSURE MINIMUM SUPPLY OF RICE TO KERALA

Mr. Speaker: We now take up the Adjournment Motion. Shri H. N. Mukerjee.

Shri H. N. Mukerjee (Calcutta Central): Mr. Speaker, Sir, I move:

"That the House do now adjourn."

Sir, it has fallen on me through this Adjournment Motion to give expression to the massive agony of our people everywhere specially as it has been reflected in the eyes of the people of Kerala on whom the burden of suffering has fallen in pre-eminent measure in recent weeks. Over food, the Government's recent record is dreadful, beyond words, though from time to time we are regaled by the Food Minister's accustomed assurances and even such things as the Prime Minister's rather factuous forecast which he made on the 12th November in Allahabad that the food crisis will end in a few days. I wish it does end in a few days. But the signs are nowhere

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†Introduced with the recommendations of the President.