

are not subject to the discipline of that State, because they are serving outside its jurisdiction. It may be argued that they are not subject to the jurisdiction of the Armed Constabularies' Acts of the States in which they are serving because they are not members of the forces to which those Acts apply. In order to obviate those difficulties—as you were pleased to remark, it is not a question of functions or powers or privileges, but what has been made clear is with regard to discipline and liabilities particularly—it is proposed that they will be subject to the rigours of their own laws, and punishable accordingly, if they commit any offences or in any way disobey the State laws. The only question is, who will be the officer who will hold a jurisdiction over them? I respectfully submit that it is a very plain-sailing thing which is not likely to cause any difficulty in working. And no constabulary (armed) can go across from one State to another, unless it is requisitioned by that neighbouring State; therefore it will go there with its concurrence. Therefore I do not foresee any special difficulty in any shape or form in the working of this Bill, which was really proposed in order to obviate any possible legal difficulties that may arise in future.

**Dr. S. P. Mookerjee:** Have the State Governments been consulted, and if so, have they agreed to this Bill being passed?

**Dr. Katju:** This Bill has been under consideration for a long time. If I am not mistaken, I think every State has very likely consented to it. The Bill was framed last year, and so is it not a product of this year. Therefore, let not the hon. Member put it on me.

**Mr. Speaker:** I think practically it appears to me at least that, the view I was holding from the very beginning has been more than confirmed by what the hon. the Home Minister has said. But it seems that some Members of the Opposition are not yet able to clear up their doubts.

**Dr. S. P. Mookerjee:** The hon. the Home Minister was not very clear as to whether the Police Act of 1888 applies to these forces or not. I could have understood if the Bill had said that the Police Act of 1888 would not apply at all to these forces. But it refers only to Section 3 of that Act, which means that other Sections of the Police Act 1888 may apply.

**Mr. Speaker:** Order, order. I have got one suggestion to make. It appears to me that this kind of contro-

versy will take up more time of the House. So, we may just postpone the consideration of this Bill at this stage, in order that the hon. the Home Minister may also, if he so likes, re-examine any legal niceties, and the Opposition also may go into legal niceties. We shall take up this Bill tomorrow.

Meanwhile, we may proceed with the other Bills. In a way, we have to devote our time to one measure or the other. From what I have heard, I feel that this Bill is more or less a formal one, which does not require much of discussion. However, in order that it can be said to be formal, it is necessary that the doubts raised which have finally been reduced to legal doubts now are cleared. Therefore, I am suggesting this course, that we take up this Bill for consideration tomorrow, if the hon. the Home Minister is agreeable.

**Dr. Katju:** I am agreeable, Sir.

**Mr. Speaker:** So, we shall now proceed with the further legislative business.

#### CRIMINAL LAW AMENDMENT BILL

**The Minister of Home Affairs and States (Dr. Katju):** I beg to move:

“That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences, be taken into consideration.”

I hope this measure will find general acceptance in this House because it deals with a matter about which we hear a great deal, namely, the checking of corruption. Under the present law, a bribe-taker is punished because he is guilty of a substantive offence. The bribe-giver is punished because he is considered to be an abettor. But an abetment means that the main offence should be punished. If he offered a bribe which was not accepted, then it was open to argument whether the intending bribe-giver had committed any offence at all, and then there was the question of speedy trials. All this subject was examined by a very competent Committee which was presided over by an eminent Judge of the Lahore High Court who was a Member of the last Parliament. This Committee is known as the Bakhshi Tek Chand Committee. This Committee went into all these matters at very great

[Dr. Katju]

length and it made certain recommendations and it is in the light of those recommendations that this Bill has been framed. It goes a little farther than the recommendations there. Now the House will notice that we propose under this Bill to enact a new Section in the Indian Penal Code called Section 165A and that Section is intended to punish the bribe-giver, whether he succeeds in his design or does not succeed, whether he succeeds in actually passing on the bribe or whether he fails in that object. This question of bribe-giving and bribe-taking has assumed new importance. Years ago, or rather in the past the idea associated with bribe was that of extortion, namely, the public officer concerned was abusing his authority and was trying to make money by exercise of oppression and tyrannical conduct. The case that we very often heard of was that of a police officer extorting a bribe. There is a murder committed, there is a dacoity committed in a particular village or a particular locality; the officer is not an honest officer, he wants to make money, he goes into the village and he tries to spread his net far and wide and he attempts whether he cannot make some money. His agents give it out that a certain moneyed person or somebody who could pay is being named by witnesses and might be indicted in the offence, and by threats he is able to extort money. The consequence of that was that while for the time being to save his honour, his life and his property under fear the bribe was paid, as soon as the bribe was paid the bribe-giver was most indignant and was always willing to come forward and to give evidence against the man who had exercised his oppressive behaviour towards him and who had extorted the bribe out of him.

10 A.M.

Then comes another class of bribes which is the result not so much of extortion, but, if I may use that expression, which is the result of 'seduction', namely, the bribe-giver wants to make money. Take an ordinary case. Across one province Gur is selling at Rs. 17 a maund. Across this side of the border in the United Provinces Gur is selling at Rs. eight a maund and there is an inter-State barrier. The Gur dealers are most anxious to take their Gur across into the other State where they can sell it at Rs. 17 a maund and make 100 per cent. profit. Now they are most

willing and ready, if they must, to share the profit 50 per cent. with lots of officers at outposts, check-posts and the police stations. I am speaking from knowledge. Cases have come into the courts where these people have thrown out a bait to these officers, weak in their disposition, and tried to seduce them from the straight course of their duty. And the result is this: when once an officer who may be influenced and gets on to this slippery path and falls from rectitude and gets into the habit of making easy money, he becomes accustomed to it and falls into the pit again and again. It is very difficult to say who is more to blame in such cases—the seducer or the seduced, the bribe-giver or the bribe-taker—and in many cases the sums are very large. Thousands of rupees, and even lakhs of rupees. I am speaking from some experience in this class of transaction,

Now the Bakhshi Tek Chand Committee reported that the little indulgence which seems to have been shown in the past to bribe-givers by the framers of the Penal Code should now be withdrawn and bribe-giving should be made specifically a substantive offence. For that purpose, Section 165A is now sought to be added to the Penal Code. That is one part of the Bill.

The other part of the Bill deals with another matter. The House may be aware that pardons are sometimes given in order to secure evidence. But under the Criminal Procedure Code this pardon-giving power is restricted to very serious offences—murders, dacoities, robberies—and cases in which it is desirable that one guilty man—maybe of a lesser degree—may get off by having a pardon given to him, but with the aid and assistance of his evidence other people who are guilty of offences of a more heinous character may be punished. The other provision in the Criminal Procedure Code is that whenever there is a case in which a pardon has been given, that case cannot be tried—whatever its nature—by a Magistrate, but must be referred to a Sessions Judge. The moment you give a pardon, that case becomes a sessions case. Thirdly, we notice that before Magistrates these corruption cases sometimes take months and months. You see Magistrates are occupied with lots of other duties, executive duties, administrative duties and there are postponements and adjournments. It occurred, therefore, to Government that they might accept the recommendation of the Bakhshi Tek Chand Committee

that there should be a regular provision empowering Magistrates to offer pardons in these corruptions. You may give a pardon—it all depends upon the circumstances of each case—either to the bribe-taker or the bribe-giver or to his agent or to his subordinate who may be guilty of abetment, and thus secure evidence, and thereupon when pardon is given it will become a Sessions case. Under the existing procedure, a Sessions case means, the House knows, commitment proceedings. They take a lot of time. Then the Magistrate commits the case and it goes before the Sessions Court and the Sessions Judge tries the case. In this Bill the procedure is this. In the first place, we provide that pardon might be given, by a suitable amendment of the Criminal Procedure Code, in these bribery cases. Secondly, we provide in clause 6 and in later provisions that these cases should be triable only by Special Judges and these Special Judges should be only officers of the rank of Sessions Judges and Additional Sessions Judges. I notice that an amendment is sought to be moved that it may also cover an Assistant Sessions Judge who is always a very senior officer with sometimes twenty years service as a Subordinate Judge, and who is an officer who can be depended upon to deal firmly with these cases. Now, this will not be a Sessions trial at all. The police investigates and immediately commits this case as a warrant case to a Sessions Judge or to an Additional Sessions Judge or to an Assistant Sessions Judge who will be notified by the Government as a Special Judge within the meaning of this Act, and thereupon the Special Judge shall forthwith take cognizance of the case and try it as a warrant case and, I do hope, with the utmost expedition. The Sessions Judges, the Additional Sessions Judges and the Assistant Sessions Judges are not accustomed to move leisurely and work leisurely in the manner of a Magistrate; they work six hours a day and we do hope that they will try these cases in an expeditious fashion.

Lastly there is a provision that the quantum of punishment should also be raised. At present the punishment is two years. In the Bill it is proposed that it should be raised to three years and of course there is a provision about fine, namely, unlimited fine. When this case goes before a Special Judge who is of the status of a Sessions Judge or Assistant Sessions Judge, then the fine which may be imposed may be Rs. five or Rs. five lakhs—there is no limit. There is no

limit by which a Magistrate of the first class is bound.

Finally, we provide that there would be an appeal to the High Court. There would be no revision petition to the High Court because it is a straightforward matter and the High Court could dispose of it. I repeat once again, the object is, firstly, to make bribe-giving a substantive offence, secondly, to allow Magistrates to give pardon or to offer pardon in suitable cases, thirdly, to have these cases tried by very senior officers, and, fourthly, and above all, to have these trials in a very expeditious manner so that the guilty people may not escape. I need not say that, but in these bribery cases really time is of the essence of the situation because the greater the delay the lesser is the deterrent effect. What we want is that if there is a bribery case it should be tried and disposed of as quickly as possible so that other people dishonestly inclined may be deterred from continuing in their nefarious course. That is the long and short of the Bill. I hope the Bill will find general concurrence.

**Mr. Speaker:** Motion moved:

“That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences, be taken into consideration.”

I have just received an amendment tabled this morning by Mr. M. S. Gurupadaswamy. His amendment wishes to refer the Bill to a Select Committee. I have already once—casually, of course,—told the House that I shall be prepared to waive notice in respect of amendments received the same day only if the amendment is a substantially agreed one. The Bill has been on the agenda for a long time and I do not know why the hon. Member could not table his amendment earlier than today. I am sorry I cannot waive notice. He will have an opportunity of speaking on the Bill and saying whatever he wishes to say. Now the motion for consideration is before the House.

**Shri M. S. Gurupadaswamy (Mysore):** Sir, this Bill is a very important one. It implies so many things and I felt, lately of course, that it may be referred to a Select Committee; as it has got some far-reaching provisions. I thought it would be better if a Select Committee sits on it and discusses it.

**Mr. Speaker:** I am not finding fault with his line of thought. If the

[Mr. Speaker]

House so feels, certainly the Bill could go to a Select Committee. My only point is that unless I have an indication of substantial agreement of the House, I should not waive notice in this respect. Is the hon. Minister agreeable to the amendment?

**Dr. Katju:** No, Sir, because it is a short Bill and I think it should be disposed of as quickly as possible.

**Mr. Speaker:** So I am unable to waive notice.

**Shri M. S. Gurupadaswamy** rose—

**Mr. Speaker:** Yes, he may speak.

**Shri M. S. Gurupadaswamy:** I fundamentally agree with some of the views expressed by the hon. Home Minister with regard to this Bill. He said the Bill contemplates to deal with corrupt practices in both the administration and in public life more drastically so that the morale of administration as well as of public life might improve. All the Members of this House agree on this point—there is no difference of opinion. We all want that all corrupt practices, practices involving bribery and corruption should be eliminated in all walks of life including the administration.

[MR. DEPUTY-SPEAKER in the Chair]

But it is a very serious matter, a very important one. It is a matter which concerns the very life of the community, the entire administration. Therefore, in dealing with this matter we must exercise the greatest deliberation in devising the ways and means for eradicating this disease of corruption from the body-politic. The report submitted by the Special Police Establishment Enquiry Committee is a very important one. It has made many recommendations some of which have been included in this Bill. But while including these recommendations in the Bill no substantial care has been bestowed upon the amendments that have been proposed. According to one of the amendments suggested—I refer to the additional section proposed, that is section 165A—the Bill contemplates to put the giver of the bribe in the same position as the taker. That is, the Bill proposes that the offer of the bribe and the bribe-taker should be treated alike, that there should be no difference between the two individuals. Till today, the Act made a difference between the offerer of a bribe and the taker of a bribe, and that difference was based on certain reasonable grounds. As hon. Members are aware, it is the man who cannot get

things done in the Government by influence or otherwise who usually offers a bribe. Often, the common people who are not economically well-off go to the officers for getting things done and they find that they cannot get things done without offering a bribe. Therefore, the existence of bribery is due to the existence of corrupt officials. Simply because a common man offers a bribe, you cannot call him a culpable individual and try him and punish him. That is a highly retrograde step. It is injurious to the community itself. Although the Bill has a very laudable idea behind it, the result will be the victimisation of the common man. As I said before, the common man has got the impression that without paying something to the officials he cannot get anything done. That impression should be eliminated. For that purpose, you have to take proper action against the officials, not against those who offer bribes.

The Special Committee has drawn a distinction between the classes of people who offer bribes out of compulsion and who offer bribes just to make easy money. If I may put it frankly, you have the class of merchants and industrialists who want to induce the official class to obtain import and export licences. This latter category of bribers should stand on a different footing and should be treated drastically. They are the real culprits. But I do not blame them so much either because it is the existence of the corrupt official class that is responsible for this type of crime that is going on. I attach great importance to the corruption practised by the official class. The hon. Minister should consider this aspect of the question, and try to root out the basic cause of corruption, namely, the official class which is corrupt. The Committee clearly says that there cannot be much honesty among the official class unless there is proper top control over it.

While dealing with the Special Police Establishment in Delhi, the Committee points out that that Department is not doing the work of investigation and enquiry properly, because many of the police officers have been recruited in all sorts of ways. Refugees who were employed in Pakistan till the other day in various Departments have been taken in the S. P. E., as also some superannuated officials who had retired. I ask you humbly: what can these superannuated officials do in the matter of enquiry? Can we expect anything good from men who

have retired from service? According to the latest official statistics published in Mysore, the efficiency of retired men is far less than that of new recruits. This is a very unhealthy practice. I would rather wish that the hon. Minister recruits from the open market on the basis of merit. Then alone efficiency will increase and corruption can be weeded out.

The Report mentions that the work of the S. P. E. has increased. I differ from this view. The statistics show that the number of cases enquired into and disposed of is very few. In 1950, 496 cases were registered and 175 cases out of them are still pending. I am sure you will agree with me that by registering a few cases,—and corrupt officials are to be found in thousands—it is not possible for us to weed out corruption from the administration. What is the use of maintaining the S. P. E. if it does not take steps to register all possible cases of corruption? As the hon. Members are aware the number of corruption cases is increasing phenomenally every day. Therefore, I feel that the Report is rather incorrect in this respect. I request the hon. the Home Minister to take into consideration this aspect and see that all possible cases of corruption are registered and proper action is taken against officers who make money in this way.

My next submission is that the appointment of Special Judges is highly objectionable. After all, dealing with cases of bribery and corruption is an ordinary criminal matter which should be placed within the jurisdiction of ordinary magisterial courts. I do not see how special courts are necessary and how Special Judges are needed. Of course, I understand the desire of the hon. the Home Minister that these cases should be disposed of quickly. But for this purpose if a time-limit is fixed for every case of corruption the ordinary Magistrate or Sessions Judge will dispose of the case more expeditiously and satisfy the desire of the executive. By appointing Special Judges, the Government's expenditure will increase. Therefore, I feel that this portion should be deleted.

Now, a word about the giving of pardons to people who can be taken as approvers. Of course, in murder and such other serious cases, people may be taken as approvers and given pardon. But is such a thing necessary at all here? Should a petty crime of this type be made a sufficient reason for taking people as approvers? Cannot the courts collect evidence by other means. Why should you exempt

a man merely because he volunteers to give evidence against somebody else? I feel that this portion also must be deleted. I oppose it.

In the end let me repeat that this Criminal Law Amendment Bill which has been moved today is not an innocuous or simple measure, as my hon. friend the Home Minister said.

It has got far-reaching implications. Once again I submit that we must always draw a distinction between the bribe-giver and the bribe-taker. That is necessary in the interest of the community. I feel that if only we take proper steps to appoint officials with high integrity and character, corruption which is so rampant in Government Departments will die down soon and the community will be free from corruption. So it is very necessary to treat the bribe-givers in a separate category and give them a less punishment. The original act contemplates giving them a punishment of nine month's imprisonment to such people. That is sufficient, I feel.

पंडित ए० आर० शास्त्री (जिला  
आजमगढ़—पूर्व व जिला बलिया—पश्चिम) :

उपाध्यक्ष महोदय, यह जो संशोधन की विधि हमारे सामने उपस्थित है इस के पीछे जो भावना है उसका तो मैं आदर करता हूँ, किन्तु जैसा अभी मेरे से पहले बोलने वाले भाई ने कहा, यह समस्या का समाधान नहीं है। हमने यह समझ कर कि हमारे सार्वजनिक जीवन से कर्प्शन (corruption) और अनाचार मिटे, हमने यह चेष्टा की है कि घूस लेने वालों के बराबर ही घूस देने वालों को दंड दिया जाय ताकि घूस देने लेने की प्रथा नष्ट हो जाय। मैं नहीं समझता कि इस से हम जो कुछ नतीजा हासिल करना चाहते हैं वह हमें मिल सकता है। मैं इधर यह देख रहा हूँ कि हमारी सरकार जो एक वेलफेयर स्टेट (Welfare State) के रूप में काम करने का लक्ष्य रखती है, जिसका ध्येय यह है कि वह जनता की महान से महान सेवा कर सके वह केवल परिस्थितियों के कारण ही विवश हो रही है कि ऐसे प्रस्ताव हमारे सामने लावे, ऐसी विधियाँ हमारे सामने लावे कि जिनसे उस को अधिक से

## [पंक्ति ९० आर० शास्त्री]

अधिक अधिकार मिलें, वह अधिकार जो कि यहां की विदेशी सरकार को भी प्राप्त नहीं थे। जिन विधियों के बगैर वह भी काम चला सकती थी आज उस प्रकार की विधियों की हमको आवश्यकता पड़ रही है।

यह तो मैं मानता हूँ कि इस नयी नयी आई हुई स्वतन्त्रता में कुछ लोग निरंकुश हो गये हैं और वह जन सेवा के आदर्श को भूल कर जनता में उत्तेजना फैलाने और उसी तरह की बातें करने की प्रेरणा देते हैं जैसे कि विदेशी सरकार के जमाने में स्वराज्य चाहने वाले और स्वराज्य की लड़ाई लड़ने वाले करते थे। अभी कुछ दिन पहले मेरे भाई मोरे साहब ने यहां कहा कि हम उन तमाम बातों को भूल गये हैं जो सन् १९४२ में हमारे ऊपर हुआ करती थीं, जो फायरिंग वगैरह हुआ करती थीं वह सब हम भूल गये हैं, जो जुल्म होते थे वह सब हम भूल गये हैं। आज हम उसी प्रकार से अधिकार लेना चाहते हैं तो उनको आश्चर्य होता है कि हम ऐसा क्यों कर रहे हैं। तो मैं यह तो जानता हूँ कि यदि इन अधिकारों को लेने की विदेशी सरकार को ही नहीं बल्कि इस स्वदेशी सरकार को भी ज़रूरत पड़ गयी है तो यह केवल परिस्थितियों के कारण ही है। परिस्थितियों के कारण ही डिक्टेटर ( Dictator ) पैदा होते हैं और परिस्थितियों के कारण ही देश में बड़े बड़े विनयशील महानुभाव पैदा होते हैं। समाज में उत्तेजना फैलाने वाले लोग होंगे तो उनसे समाज को बचाने के लिये इस तरह की बातें करनी पड़ेंगी कि जो देखने में बिल्कुल कोअरसिव (coercive) मालूम होती है, जिन में बेनीवोलेंस (benevolence) का नाम तक नहीं है और जनता की

सेवा की भावना का जिन में लेसमान अंश भी दिखाई नहीं पड़ता। यदि समाज में उच्छृंखलता फैलाने वाले लोग होंगे तो उन से समाज को बचाने के लिये यह सब कार्रवाई करनी पड़ेगी।

“प्रजा अनूशंसं नूशंसं वा रक्षण-  
कार्यत् कर्त्तव्यं रक्षता सदा।”

राज्य-भार नियुक्तानां एष धर्मः सनातनः।”

चाहे ठीक हो चाहे अनुचित हो, वह सब करना ही पड़ेगा। यदि राज्य शासन चलाना है तो उसमें इस तरह की कड़ी कार्रवाई करनी ही पड़ती है।

किन्तु मैं सरकार के सामने उसका भी लक्ष्य रखना चाहता हूँ कि वह देखे कि उसका लक्ष्य क्या है। उम का लक्ष्य यह है कि वह जन सेवक सरकार है, वेलफेयर स्टेट है और उसकी अधिक से अधिक कार्रवाइयां उसी दिशा में होनी चाहिये। मैं विरोधी दल के भाइयों से कहना चाहूंगा कि यह जो स्वदेशीय सरकार है उस में और जो विदेश सरकार थी उस में अन्तर को देखें। जिस डंडे से उस सरकार को हांकना चाहते थे उसी से इस सरकार को नहीं हांका जा सकता। तो मैं उन से भी निवेदन करना चाहता हूँ कि वह अपनी उच्छृंखलता फैलाने वाली बातों को रोकें। यदि वह इस सरकार के सामने विषाक्त वातावरण पैदा करेंगे और यदि वह डार डार चलेंगे तो इस सरकार के बुद्धिमान लोग पाठ पाठ चलने से बाध नहीं आवेंगे और वे उनकी सारी उच्छृंखल योजनाओं को विफल कर देंगे।

इस बात को मानते हुए भी मैं इस प्रस्तुत संशोधन विधि से उस मानी में सहमति

नहीं हूँ कि जिस तरह इसको पास करके हम समाज में एक ऊंचा आदर्श स्थापित करने की कामना करते हैं और मेरे मित्र श्री गुरुपादस्वामी ने जो बात कही उससे मैं बहुत अंश तक सहमत हूँ कि इस के द्वारा वह आदर्श सिद्ध नहीं होगा। इस संशोधन के द्वारा आप करने क्या जा रहे हैं? घूस देने और घूस लेने की परिपाटी हमारे समाज में है। घूस देना और घूस लेना ठीक उसी प्रकार से है जैसे कि स्पाइनोजा की फिलानफ्री में फार्म गिविंग और फार्म रिसीविंग (form giving & form receiving) एक ही तत्व के दो पहलू हैं। तत्व एक ही होता है और फार्म गिविंग और फार्म रिसीविंग उसके दो भाग होते हैं। जैसे कि प्रद्वनोपनिषद् में हम पढ़ते हैं कि रथ और प्राण के समुच्चय से यह विद्युत् बना है। तो एक ही वस्तु है, उसी में शेप (shape) देने की ताकत है और उसी में शेप लेने की ताकत है। हम देखते हैं कि कुम्हार मिट्टी को घड़े की शकल देने की ताकत रखता है और मिट्टी में घड़े की शेप लेने की ताकत है। यदि इन दोनों ताकतों का समुच्चय न हो, यदि दोनों एक दूसरे के प्रति उदारता न बरतें, यानी जब तक कुम्हार में यह लियाक़त न हो कि वह शकल दे सके और मिट्टी में यह ताक़त न हो कि वह शकल ले सके, तब तक घड़ा नहीं बन सकता। तो इस में सन्देह नहीं कि दोनों हाथ से ताली बजती है, एक से नहीं। यदि घूस देने वाला न हो तो घूस लेने वाला कहां से आवे और यदि घूस लेने वाला न हो तो घूस देने वाला कहां से आवे। तब इस चीज़ को देख कर दोनों को इस में (इस प्रस्तुत संशोधन विधि में) ऐट पार (at par) रखने की चेष्टा की गई है। मैं नहीं समझता कि शकल देने वाली और शकल लेने वाली

ताक़तें एक समान होती हैं जो ऐक्टिव फ़ोर्स (active force) है उस में वही ताक़त है जो पैसेिव फ़ोर्स (passive force) में है। मैं नहीं समझता कि जो कुम्हार ऐक्टिव फ़ोर्स है उस में वही ताक़त है, वही लियाक़त है और वही शक्ति है जो कि उस मिट्टी में है जो कुम्हार के हाथ में पड़ कर घड़े का रूप धारण कर लेती है, निस्सन्देह एक ऐक्टिव फ़ोर्स है जिस में प्राण शक्ति है, और दूसरा पैसेिव फ़ोर्स है जिस की रायि शक्ति कहते हैं। फार्म लेने वाली डैड (dead) शक्ति है। उस मरें हुए निष्प्राण रा मैटीरियल (raw-material) को ले कर लेबर (labour) शक्ति, श्रम शक्ति, उसे एक दूसरा रूप दे देती है और उसी लेबर शक्ति की, श्रम शक्ति की महिमा गाई गयी है। उसी की महिमा "कैपिटल" में कार्ल मार्क्स ने फेटीशिज़्म आफ़ क्मोडिटी के अध्याय में गाई है, वह मेरे इन मित्रों के सामने भी होगी और इस हाउस के प्रत्येक माननीय सदस्य के सामने होगी। तो श्रम शक्ति के मुक़ाबले में वह रा मैटीरियल कुछ नहीं कर सकता। वह एक डैड बाडी (dead body) है। उस डैड, स्लीपिंग, डीप स्लम्बर (dead, sleeping, deep slumber) में पड़े हुए मैटर (matter) को क्मोडिटी (commodity) की शकल में कौन कर देता है? श्रम शक्ति कर देती है, लेबर कर देता है।

तो यह जो हम समझ बैठे हैं कि वह बेचारा घूस देने वाला यों ही चला जाता है, उसकी जेब में पैसे खटक रहे हैं और वह जा कर उनको दे देता है। ऐसा नहीं है। वह विवश है और अपनी विवशता में परेशान हो कर वह यह काम करता है।

[पंडित ए० आर० शास्त्री]

में अपनी सरकार को आगाह कर देता हूँ, सचेत कर देना चाहता हूँ, मुतनबबह कर देना चाहता हूँ—परन्तु हिन्दी नहीं समझने वाले दोस्तों के लिये मैं ने मुतनबबह का प्रयोग किया है और इससे मैं उन को खैरम इम हिन्दी में अपना विचार दे रहा हूँ—मैं यह चेतावनी अपनी सरकार को देना चाहता हूँ कि आप यह समझ कर इन दोनों को एक दूसरे के बराबर नहीं रख सकते। यह जो घूस लेने वाली शक्ति है वह बड़ी विशाल शक्ति है। वह ऐग्जिक्यूटिव (executive) के लोग हैं, एक सिलैक्शन बोर्ड (Selection Board) के जरिये से बड़े बड़े पदों पर वह आरूढ़ हो जाते हैं। फिर अपनी कुर्सियों पर बैठ कर वह जो जो चाहे वैसा बरताव करते हैं और हमारे जैसे हजारों श्राकसार उन दरबार में जाते हैं परन्तु कोई सवाल हमारा हल नहीं होता और किस प्रकार की विवगता में आ कर हमें अपना काम निकालना पड़ता है यह हमें जानते हैं कि दो बोरी सीमेंट चाहिये, छत फ़टी पड़ी है, लेकिन कोई सुनवाई नहीं होती। तो फिर उम क्लर्क को दो रुपये दे कर हम दो बोरी सीमेंट ले आते हैं। इस प्रकार की विवगता है। वपों से यह पद्धति चली आती है। (करप्शन सब जगह फैला हुआ है, इसी दिल्ली में हमारे यहां देख लीजिये।

“ बायज शराब पीने दे मस्जिद में बैठ कर,

या वह जगह बता कि जहां पर खुदा न हो ! !

मिनिस्ट्री में बैठ कर या ऊंचे पद पर बैठ कर आप यह न समझें कि यह करप्शन का खुदा

नहीं है जहां करप्शन का खुदा न हो। यह तो सब जगह मौजूद है। अगर सैकिड क्लास में जगह नहीं है और आप को जाना है तो आप कुछ रुपया दे कर फ़स्ट क्लास में चले जा सकते हैं। गाड़ी की हालत कैसी है कि १५ - १५. २० - २०, २५ - २५ आदमी घुस जाते हैं और उम का कोई इलाज नहीं होता। लोग चिल्लाते हैं लेकिन कोई नहीं मुनता। लाउड स्पीकर है, पर कोई मुनने वाला नहीं। तो इस तरह से हमारे जीवन के हर अंग में करप्शन दिखाई पड़ता है और उसका कारण यह है कि जिस किसी को करप्शन रोकने का चाख दिया गया वही उस म सामीदार बन गया। जो उस से हिफ़ाजत करने के लिये खड़ा किया गया वही मिल गया तो यह कुफ़ भला कब रकने वाला है।

“ चामे का वेरहा, कुकरकु रखवार ” तो हम चाहते हैं कि कम से कम जनता तो ऐसी हो जाय कि वह करप्शन में न पड़े, वह घूस न दे। यह बिल्कुल सही बात है, जनता को करप्शन में नहीं जाना चाहिये। लेकिन जनता के जाने के लिये वही देबसी कारण होती है। हर माने में घूस इसी कारण देनी पड़ती है। चार पांच दस रुपये दे दिये तो काम ठीक हो गया। पंद्रह बीन रुपये थानेदार को दे दिये तो मामला बन गया वरना थानेदार कब छोड़ने वाले हैं। तो इस तरह सरकारी कर्मचारी लालच में पड़े हैं और जनता देबसी में पड़ी हुई है। इन दोनों को हमें बराबरी में नहीं डालना चाहिये। फिर मैजिस्ट्रेट छोड़ देता है उस को माफी देने का अस्तियार हासिल है। फिर स्पेशल जज के यहाँ अपील है। इस सम्बन्ध में मैं यह तो नहीं कहता कि मैं बिल्कुल सही कह रहा हूँ किन्तु मुझे माननीय मिनिस्टर के एक ब्याख्यान



की घुंघली सी स्मृति है जिस में उन्होंने कहा था कि तनख्वाहें बढ़ा देने से करप्शन सरविसेज में रुक जाय यह बात नहीं है। और अपने बड़े भारी तजुबों के आधार पर उन्होंने यह बात कही थी। उन के व्याख्यान की, जैसा मैं ने कहा, एक घुंघली स्मृति मुझे है। उन्होंने अपने तजुबों से बताया कि कुछ ऐसे लोग पकड़े गये हैं कि जिनकी तनख्वाहें बड़ी बड़ी होती हैं, लेकिन फिर भी वह करप्ट (corrupt) होते हैं। तो सवाल यह है कि हमारी पबलिक लाइफ़ (public life) में करप्शन का जो केन्द्र बिन्दु है वह हमारी सेवाएं हैं, हमारी सर-विसेज (services) हैं।

हर छठे महीने फ्रांस की मिनिस्ट्री प्रायः बदलती रहती है। पार्टियों के झगड़े होते हैं और गवर्नमेंट बदल जाती है। मगर फ्रांस एक महान शक्ति है। मैं वहां गया तो नहीं पर मैं ने सुना है कि वह इतनी बड़ी शक्ति इसलिये है कि वहां की सरविसेज जो हैं वह इनकरप्टिबिल (incorruptible) हैं। वह इस बड़े शासन को चलाती हैं। लोग बदलते रहते हैं पर सरविसेज बराबर काम करती रहती हैं। मैं ने मे कम एंड मैं ने गो बट आई गो आन फार एवर (men may come and men may go but I go on for ever) तो वहां शासन सत्ता शान के साथ चलती रहती है। कारण कि वहां जो ऐग्जीक्यूटिव (executive) है वह इनकरप्टिबिल है। वह अपना यह कर्तव्य समझती है कि अपने शासनतंत्र को ठीक तरह से चलाये। मैं ने यह बात कहानी के तौर पर सुनी है, मेरी डाइरेक्ट नालिज (direct knowledge) तो नहीं है। मिनिस्ट्री बदलती है मगर शासन सत्ता प्रबल गति से चलती रहती है जिस के पीछे सरविसेज का बल

होता है। यही सरविसेज वहां जनता के चरित्र को मोल्ड (mould) करती है। विधान बनने के बाद सारी शक्ति ऐग्जीक्यूटिव के पास चली जाती है। अगर ऐग्जीक्यूटिव ऐसी हो कि हमारे ऐक्ट को ठीक तरह से ऐक्शन में ट्रांसलेट (translate) कर दे तब तो पब्लिक लाइफ़ इनकरप्टिबिल हो सकती है, न कोई उनसे नाजायज फ़ायदा उठा सकता है और न वह किसी से नाजायज फ़ायदा उठाते हैं। अगर ऐग्जीक्यूटिव न्याय पर अबलम्बित हों तो उनको करप्ट नहीं किया जा सकता—पत्थर पर को मारिवो चोखो तीर नसाय—उन पर इस तरह प्रलोभन का असर नहीं हो सकता जैसे कि पत्थर पर तीर का असर नहीं होता। अब दिक्कत क्या पैदा होती है। अब जो घूस दी जायेगी वह इस तरह तो दी नहीं जायगी कि आप हुजूम के साथ जायें, वह तो तखलिये में दी जायगी। फिर आपने अधिकार यह दिया है कि देने वाले को वही सजा मिलेगी जो कि लेने वाले को मिलती है। तो अगर वह देखेंगे कि डिटेक्ट (detect) हो गये तो उस को जब मैं ले कर भी उसको खजाने में दाखिल कर लेंगे और घूस देने वाले का चालान कर देंगे। ऐसे केसेज (cases) मेरी नालिज में हैं। मेरे निर्वाचन क्षेत्र में ही ऐसी घटना घटी थी। दोहरी घाट का एक थाना है। पटेश्वरी राय वहां अमिला के कांग्रेस मंडल के मंत्री थे। उनको मालूम हुआ कि थानेदार ने एक आदमी को पकड़ा है और घूस ले कर उसको छोड़ने पर रज़ामन्द है। डिस्ट्रिक्ट मजिस्ट्रेट से उन्होंने जा कर कहा कि इस तरह घूस ले कर थानेदार आदमी को छोड़ने को तैयार है। डिस्ट्रिक्ट मजिस्ट्रेट ने कहा कि आप जाइये हम यहां से किसी को भँजेंगे। लेकिन खेद है कि एक तरफ़ तो बात यह होती है

[ अंकित ए० आर० शास्त्री ]

धीरे दूसरी तरफ उस थानेदार को आगाह कर दिया जाता है कि इस तरह तुमको घूस लेने में पकड़बाये जाने की व्यवस्था की जा रही है—में इसी तरह इससे पहले एक प्राज्ञीकृत टिव इंस्पेक्टर (Prosecutive Inspector) को पकड़वा चुका था और उसको नौ महीने की सजा और दो सौ रुपया जुर्माना हो गया था—तो उस थानेदार को यह मालूम हो गया। उसके बाद जब यह घूस दी गई तो उसने घूस को अपने हाथ में लिया और उसको खजाने में दाखिल कर दिया और घूस देने वाले का चालान करवा दिया। तो इससे यही होगा। कि अगर तद्विधि में टी गई घूस ठीक हुई तो उसमें अधिकारी की जेब गर्म हो जायेगी और अगर उसमें जग भी सन्देह होगा तो वह घूस देने वाले का चालान कर देगा। इससे करप्शन घटेगा नहीं। मर्ज बढ़ता ही जायेगा। हाल यह होगा कि "मर्ज बढ़ता गया ज्यों ज्यों दवा की" !!

डॉक्टर काटजू : तो दवा क्या की जाय।

श्री अंकित ए० आर० शास्त्री : मैं ने कहा कि जैसे अगर दिल्ली के स्टेशन पर आप आसानी के लिये एक लाउड स्पीकर लगा दें और ट्रेन के टाइम पर कुछ पुलिस के आदमी वहाँ घूमते रहें तो यह सब कुछ नहीं होने वाला है फिर बिना टिकट कोई पहले या दूसरे दर्जे के डिब्बों में नहीं घुसेगा इस के अलावा अपने आदमियों के रिक्रूटमेंट (recruitment) में आपको सावधानी बरतनी चाहिये और उनके सामने ऊंचा आदर्श रखना चाहिये चाहे वह छोटे दर्जे के हों या बड़े दर्जे के। बड़ा दुःख है कि हमारी पब्लिक लाइफ (public life) में इस तरह का करप्शन है। असल में

मन्त्री तो शहद पर बैठती ही है। कौटिल्य ने अपने अर्थशास्त्र में कहा है कि राज्याय और जनता का धन शहद के सभान है और कर्मचारी, जिसके मानी एग्जीक्यूटिव आफिसर्स के हैं, जो हैं वह मन्त्री के समान हैं और उस शहद को चाट जाना चाहते हैं। इसम शहद का दोष तो है नहीं क्योंकि उसकी तो लाइफ (life) ही पैसिव (passive) है क्योंकि उसको तो कोई न कोई चाटेगा ही। जिसको पैसा दिया जाता है उसको कोई काट नहीं होता क्योंकि पैसा मिलने में तो लाभ ही है। काट तो देने वाले को होता है। अब अपने पैसिव कंडीशन (Passive condition) में पड़े हुए आदमी को घूस लेने वाले के ऐट पार (at par) कर दिया है। मेरे भ्रयाल में यह ठीक नहीं है। इस विधि में यह एक भयंकर दोष है। इसका व्यवहार करके क्या आप पब्लिक लाइफ को पूरी तरह ऊंचा उठा सकेगे इस ओर मैं आपका ध्यान दिलाना चाहता हूँ। यह तो मैं एग्जास्टिवली (exhaustively) नहीं बनला सकता कि किस किस तरह हम पब्लिक लाइफ को आज की अपेक्षा ऊंचा उठा सकते हैं। लेकिन मैं यह निवेदन कर सकता हूँ कि हमारे गृह मन्त्री जैसे विधिविधान के जानने वाले व्यक्ति के लिये कोई रास्ता निकालना कठिन नहीं होगा कि यह अनाचार कैसे मिटे। इसके मिटे बिना समाज मजबूत नहीं हो सकता, करप्शन अंग्रेजों के आने से पहले भी जब हमारा अपना राज्य था मौजूद था और जब अंग्रेज यहाँ आये और उनका राज्य रहा तब भी यह मौजूद रहा और अगर अब हमारे आजाद हो जाने के बाद भी यह करप्शन नहीं मिटता है और हमारी जनता का जीवन-स्तर ईमानदारी की दृष्टि से ऊंचा नहीं होता, तो निस्संदेह यह स्वराज्य के दिन के लिए रहने वाला है ?

में इस बिल के पीछे जो भावना व्यक्त की गई है, उसका आदर करता हूँ, लेकिन उस भावना को चरितार्थ करने के लिये जो साधन निकाले गये हैं, वह बिल्कुल अपर्याप्त हैं और सदोष हैं, और इन से काम नहीं चल सकता। मैं अधिक समय न लेते हुए सिर्फ यह सुझाना चाहता हूँ कि मौलिक दोष इसमें यह दिखाई देता है कि जीवन के समुच्चित रूप में एक-जी-क्यूटिव अथॉरिटी जो कि एक ऐक्टिव फोर्स (active force) है और एक तरफ जनता की विवशता का जीवन है जो एक पेंसिव जीवन है, इन दोनों को अपराधियों की एक ही कोटि में रक्खा गया है, मैं इस बात को ग़लत समझता हूँ और इससे तो लालची अफसरों को एक बड़ा भारी लाभ यह पहुंचेगा कि उनके घूस लेते हुए पकड़े जाने की सम्भावना ही मिट जायगी। जो छिपी हुई घूस होगी, वह तो डिटेक्ट नहीं हो सकती और जिसमें तनिक भी पकड़े जाने की उस अफसर को सम्भावना होगी, उसमें उस बेचारे ग़रीब विवश आदमी का उल्टे चालान होगा और वह रिश्तखोर और करप्ट अफसर अपने सर्विस बुक के रेकार्ड में यह पा जायगा कि वह निहायत ईमानदार अफसर है, हालांकि वह निहायत दर्जे का बेईमान और करप्ट अफसर है। इस कानून का नतीजा होगा यह कि गुनाह करेगा वह अफसर और मत्थे जायेगा दूसरे के। इसलिये जो यह त्रुटि इसमें है उसको आप हटायें और इस खराबी को दूर करने के लिये कोई बात सोची जा सके तो अच्छा है। मैं तो उत्सुक हूँ कि हमारी सरकार जनता की सेवा करने वाली सरकार सिद्ध हो और एक वेलफेयर स्टेट यहां सच्चे मानों में बन जाये। वह कोहरसिव मेजर्स (coercive measures) से नहीं बन सकती है, उसके लिये तो परसूएसिव मेजर्स (persuasive measures) की जरूरत है और वह जनता का हृदय परिवर्तन करके ही बनायी जा सकती

है, स्वयं गांधी जी भी इस हृदय परिवर्तन पर जोर दिया करते थे, डंडे के जोर से यह परिवर्तन नहीं हो सकता और जब तक एक स्टेट की जो कोहरसिव फोर्स है, उसकी कोहरसिवनेस (coerciveness) बिदर अवे (wither away) और नष्ट नहीं होती तब तक वह स्टेट सच्चे मानों में एक स्टेट वर्थ दी नेम (state worth the name) नहीं बनती। वर्थ दी नेम स्टेट में उस स्टेट को समझता हूँ जो अपने कोहरसिव मेजर्स को त्याग दे और परसूएसिव मेजर्स में विश्वास करे, सच्चे मानों में वही वेलफेयर स्टेट हो सकती है और ऐसी वेलफेयर स्टेट कोहरसिव मेजर्स से नहीं बन सकती है, वह तो परसूएसिव मेजर्स से बनेगी और उसके लिय हमें प्रयत्नशील होना चाहिये।

**Dr. Jaisoorya (Medak):** I have not got very much to say on this Bill. I see a lot of difficulties, because, if you get yourself involved in that thought, one becomes desperate because it is like cleaning the Augean stables. I asked a very big administrator once, what is to be done. He said, 'My dear fellow, we will have to begin from very high up; that is the trouble'. That leads you from one thing to another and it becomes complicated.

There are various ways of corruption. Everyday, it is happening. It begins with three annas or four annas called *mamool*. *Mamool* means "the usual thing". You cannot see a Minister or a high official without giving four annas to his chaprassi. Otherwise, he will not take your visiting card.

**Dr. Katju:** That is tipping.

**Some Hon. Members:** Four annas is too little.

**Dr. Jaisoorya:** Eight annas is the minimum; I know since I have had to deal for several years with private transport. You cannot pass a policeman without giving him four annas.

[Dr. Jaisoorya]

Otherwise he hauls you up allegedly for over-loading, or that the colour of your bus is not correct. These things are happening everyday. The whole trouble is, little rats get caught, the big fish do not get caught. Another trouble is that when you give a bribe, no stamped receipts are given. We know things are happening. I know a Sub-Inspector's pay is Rs. 100/-. They own a cow, a motor car, a motor cycle, two houses, two wives, three mistresses and four sons at college. All in Rs. 100/-. I have wondered very often what a miracle is happening there.

**Mr. Deputy-Speaker:** Is that practice widespread?

**Dr. Jaisoorya:** Very widespread.

Then, another thing happens. A man does not take bribes alone. It is very equitably distributed in arithmetical proportion among a number of officials. A chaprassi gets rupees two; the man higher up a few hundreds. They all protect each other. These are practical difficulties. In Bombay, we had an Anti-corruption League which co-operated with the police. To a certain extent it did very good work. But, then, when it started exposing certain very unsavoury things about persons in high position, and very influential people, suddenly the files disappeared. These are the things that we have to face.

Another thing, I do not agree that the bribe-giver should be penalised, because, then, he would not come forward to give evidence. I do not agree that everyone who whistles at a woman should be penalised. Every overture is not necessarily a crime. We expect people in Government service to be very virginal in their outlook. We expect them not to succumb to seduction. If they do, they should not be in Government service. Before the First War, the German official, and the entire cadre was almost incorruptible. In India, it has just been the reverse. Of course that system of corruption has been coming on through the ages as a privilege. I remember, when my father was to have been promoted, a certain Minister called him and said, "Doctor, unless there is a gold paper weight on the paper, the paper is liable to fly away". In fact, I am giving out no secret that for honours done even by Princes, we have been asked to give large sums as *nazarana*. There are various ways of corrupting a person. It is not necessarily through money.

I know some people are not corruptible by money; but you can corrupt them by understanding their psychology. Sometimes, a cup of tea and dinner can corrupt a man more than money. In the olden days when leaders went to the Viceregal Lodge and drank a cup of tea—I do not know what was in that cup of tea, but they turned a somersault. So, the problem is not easy. The problem is that as long as there are corruptible people, there will be people corrupting them for certain purposes. I will give you an example. Here in Delhi, a person applied for a telephone. For six months he did not receive. He received it through a little donation.

**Shri Nambiar (Mayuram):** Donation?

**Dr. Jaisoorya:** We call it donation. I know people charged with black-marketing giving large donations to political parties as a form of washing away their sins. How then are you going to solve the problem unless it is this, that the standard of behaviour of those who are serving the people is the only thing to fall back upon? You cannot corrupt a man if he is incorruptible. That is the axiom. I tell you mistakes do happen. I know cases where people have alleged that they have given a bribe because a certain official had to be removed, they did not want him there because he was strict. I know whole petitions that went to the Government saying that the man was corrupt. The reverse can happen. Also if you make that the giver or the alleged giver is also liable to punishment, you can blackmail a man. The official, or the policeman can blackmail a man saying that he offered him a bribe, and that he was so good as to refuse it. Therefore, there is only one solution. I will give another example, and the whole difficulty lies not in the term of imprisonment that my friend wants to raise magnificently from two years to three years. In France and other places the punishment is much more drastic. You have to publicly whip such people and throw them into jail for longer periods. Otherwise, there is nothing going to happen.

I can give another case, and this I can prove. An honest Police Officer from the C. I. D. Department was asked to investigate complaints against a certain high official, and he did his duty and he supplied the material, and he was told: "We should not go against this official; withdraw the results of those investigations". He said: "I cannot do it, because they

are facts. You asked me to do it and I have done it." That man was demoted.

**An Hon. Member:** Who is that?

**Dr. Jaisoorya:** I will tell you afterwards. These are the difficulties we are having. You have got to encourage people to come forward and help the Government in exposing corrupt officials, but up till now, I regret to tell you that people have become frustrated and desperate because after giving their material, higher protection has saved and kept these villains. I know cases where they have been transferred, promoted on transfer.

**An Hon. Member:** That is our tradition.

**Dr. Jaisoorya:** These are the things. Therefore, there is only one way: which is ruthlessness. Even if you suspect an official, suspend him and do not try to protect him. There is no old school to loyalty here. These are the things. That is why I find it very difficult—I do not agree with my friend here that you should not have special tribunals. I think you should have, with very wide powers. Magistrates or Sessions Judges should have extreme powers to make the sentence as drastic as possible. Then only there is some hope. It is going to take us a long time to get over the idea that through bribing somebody we can get things done. But the fact remains there is so much red tape in this country that it is easier—peasants have told me it is far cheaper to buy iron and steel implements in the black market than with permits at controlled prices. People come and stay for weeks here trying to get permits and to get things done legally. They can get things done only through bribes. There is so much red-tapism, so much waste of time. You should keep a strict watch on your officials. One look from you should make them tremble. As long as he feels "I have got somebody higher up with whom I can pull strings", you cannot abolish corruption. Everybody must be made to feel that he can get no protection if a case is against him, and that ruthlessly we shall remove such men. Then only the fear of God will come into them.

II A. M

श्री टी० इ० सिंह (बिला बनारस पूर्व) :  
उपाध्यक्ष महोदय, इस विधि पर अब तक जो

वहसे हुई हैं मेरी समझ में वे इस की परिधि के कुछ बाहर हैं। यह विधि जो दो या तीन संशोधन और आने वाले हैं उनका एक हिस्सा है। ऐसी हालत में जैसा कि मंत्री महोदय ने शुरू में ही कहा टेक चन्द कमेटी की रिपोर्ट के आधार पर कुछ संशोधन आवश्यक प्रतीत होते हैं, लेकिन यह एक सिर्फ आंशिक विधि है इस में जो धारा कर्प्शन (corruption) या ब्राइब (bribe) की है वह बहुत दूर तक नहीं जाती। हां, इस समस्या को हल करने के लिए हम को थोड़ा बहुत उन भागों पर भी विचार करना होगा जो इस विधि के दायरे में नहीं आते हैं। इस विधि में सिर्फ एक नया संकशन मिलाया गया है और वह यह है कि जो बूस बेता है वह भी उसी तरह से जुर्म करता है जैसे बूस लेने वाला। वह एक सिद्धान्त की बात मालूम होती है, मेरी समझ में इस में सिद्धान्ततः किसी को कोई विशेष आपत्ति नहीं हो सकती है। हां, हमारे अन्य सदस्यों ने जो कहा है उस से मुझे भी थोड़ी बहुत सहानुभूति है। इस का कारण यह है कि यह एक असाधारण समय है। इस में हमें और आप को बिना किसी मतभेद के यह जो विष हमारे समाज में हमारी सविसेज (services) में चल रहा है उसकी रोकना चाहिये। मैं यह मानता हूँ कि युद्ध के बाद यह विष बड़े जोरों से फैला है। तो फिर अगर हमें इस को किसी तरह से दूर करना है तो इसके लिये असाधारण नियम भी लाने होंगे। मेरी समझ में इस नियम को भी हमारे मंत्री महोदय किसी अंश में असाधारण समझते हैं। किन्तु पांचवें संकशन में यह जो सब संकशन (sub-section) एक है वह सिर्फ दो साल के लिये लागू रहेगा। तो मेरा कहना यह है कि अगर आप इस को संकुचित दृष्टि से लागू करेंगे तो शायद हम किसी नतीजे पर न पहुंचेंगे। बहुत से मुकदमें जो चलेंगे, बहुत सी बातें जो कही जायेंगी, जो जांच पड़ताल की जायगी, उस में काफी समय लग सकता है और दो वर्ष में इस पूरे

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एक्ट को फिर से किसी न किसी रूप में लाना होगा, चास तौर पर जो सब जज का प्राविधान (provision) है, उस को फिर लागू करना होगा, ऐसा मेरा अन्दाज है ।

**Dr. Katju:** May I just intervene here and just say a few words? The restriction of two years referred to in sub-clause (2) of clause 5 is restricted to the provision relating to giving pardon in bribery cases. Up till now, under the Criminal Procedure Code, inasmuch as a bribe-giving offence or a bribe-taking offence is not supposed to be very serious, no pardon can be given under Section 337. The Tek Chand Committee has reported that this power should be given. So, as an experiment, they suggested that this should be restricted for two years in the first instance, at the end of which a review of its working may be made. If it is found to work well, then it might be made a permanent feature of the Statute. Otherwise, that power may be withdrawn.

Secondly, I should like to make it clear that under the Penal Code, bribe-giving is already an offence under Section 114; if a bribe is given and is not accepted, then that is also an offence, with the only restriction that the punishment will be one-fourth that for the original crime. The Tek Chand Committee reported that that restriction should be withdrawn, and that it should be made a substantive offence, whether the bribe is accepted or refused, and that there should be proper punishment.

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I would like to say a few words in English, on this point. In sub-clause (2) of clause 5, it is stated that the amendments made by sub-section (1) shall remain in force for a period of two years. I would like to know whether the sub-section (1) referred to here refers only to sub-clause 1(a) of clause 5, or whether it refers to both parts (a) and (b) of sub-clause (1) of clause 5. Sub-clause (1) of clause 5 makes certain amendments in respect of two parts (a) and (b). In sub-clause (2) of clause 5 we find the words 'sub-section (1)'. Do these words apply only to part (a)? Does sub-clause (2) apply to sub-clause (b) or not? What is the interpretation of the hon. the Minister?

**Dr. Katju:** This amendment in clause 5 is to Section 337, Act V of 1898, of the Criminal Procedure Code. That Section deals with pardon-giving powers. The amendment now proposed says that pardon can be given under Section 337 to offences relating to or falling under Sections 161, 165, and 165A of the Indian Penal Code (Act XLV of 1860) also.

**Mr. Deputy-Speaker:** The hon. Member's difficulty is this. In this Bill, clause 5 is for amending Section 337 of the Criminal Procedure Code, where the general right to pardon is given under the existing provisions. It is proposed to extend the pardon to offences falling under Sections 161, 165 and 165A of the Indian Penal Code. As an experimental measure, this provision will be in operation only for a period of two years. The hon. Member wants to know whether sub-clause (2) of clause 5 refers to part (a) of sub-clause (1) only or to part (b) of sub-clause (1) of clause 5 also.

**Shri Venkataraman (Tanjore):** The words 'sub-section' in sub-clause (2) of clause 5 should be 'sub-clause'. In a Bill we refer to Sections as clauses and to sub-sections as sub-clauses.

**Pandit Thakur Das Bhargava (Gurgaon):** The new sub-section 2B will come after the sub-section 2A. So, if 2A goes away, 2B also will automatically go away.

**Mr. Deputy-Speaker:** True, it may be consequential as Pandit Thakurdas Bhargava says. Notwithstanding the fact that any pardon could be given for offences under sections 161, 165 or 165A, we shall assume for the sake of argument that at the end of two years, if it is found that it is not desirable or that it is unnecessary to tender pardon, and that this section has not proved beneficial, then sub-section (1) would not cease to be in operation, because the new sub-section 2B will be there. The point is whether this 2B also should go, if the sub-section (1) referred to in sub-clause (2) of clause 5 disappears after a period of two years. In that case, the hon. the Minister evidently means that it is sub-clause (1) in sub-clause (2) of Clause 5, in which case, the words 'sub-section' ought not to have been used.

**Dr. Katju:** It is a question of drafting, Sir, and I shall look into that.

**Shri T. N. Singh:** I would urge a further consideration of the problem. I hope the hon. Minister will consider it further and clear up the point that I have raised.

अस्तु, फिर मुझे आपके सामने अब दो एक बातें सिद्धान्त की कहनी हैं। मेरी समझ में हमारे यहां यह एक रोग सिर्फ कानिक ही नहीं बल्कि.....

**Shri Vallatharas** (Pudukkottai): Sir, this is a very important part of the legislative business. There are lawyers here who do not know Hindi, but who are still learning it. And it will take some time before we could understand the speeches in Hindi on legal implications. The desire is there to understand them. When we want to speak, we do not want to be giving redundant points. Therefore, I would suggest that such of those Members as know English may be pleased to speak in English and not in Hindi simply as a matter of dignity or some such thing, suddenly depriving us of a very valuable assistance. I would request you, Sir, that you may kindly ask the hon. Member to speak in English...

**Mr. Deputy-Speaker:** The Chair is colourless, and will allow any hon. Member to speak in any language. Only if hon. Members are anxious that others who do not know Hindi should also follow them, they may choose to speak in English.

**Shri T. N. Singh:** I accede to the wishes of my hon. friends here. I do not want to speak in such a way that others will not understand. At the same time, I would expect that they would also help us and co-operate with us, in popularising the national language.

I say that this corruption and bribery are not merely chronic diseases, but they have almost become like an epidemic. As such, I feel that emergency measures will have to be taken. For that reason, the ordinary laws and the ordinary ideas of laws also will have to be modified considerably. Our conception of criminal law in view of the epidemic nature of corruption and bribery that are rampant in the country today needs reorientation. The ordinary law as it exists today is such that it prefers to allow nine guilty men to escape punishment, while one innocent man is punished. May I be permitted to enunciate the principle that it is better that nine corrupt officers may be punished, and along with them one who is innocent is also punished, rather than allow the nine guilty men to escape? If this pro-

position were to be accepted and if we were to make an approach to the whole problem from this angle, I think we shall be able to deal with this question in the manner of a real emergency which it is today. And that will bring a new concept of law, a new approach to the whole problem. I feel in that case even our friends who are always afraid of arming the executive with more powers, will not hesitate to support it, because that will be the acid test of their real wish to fight corruption. If the executive gets more powers in this matter of suppression of bribery and corruption, I wish our Opposition Members would specifically support them in the enforcement of such a principle. Because, after all, it is an emergency and a national emergency too. We must tackle it boldly, strongly and drastically. If the concept which I have enunciated were accepted, we would be able to proceed much farther. Unfortunately, we have been listening, and I have been listening, with pain day after day to objections on small technical points, not concerned actually with the main objective. Are we going to achieve the object of making our country strong, our National Government strong, and our National State functioning actively day after day? If that is the objective and if we approach it on that basis, then all our problems can be solved. But here today we are wrangling on small points; we are wrangling whether this power should be given or not. After all, it is our people's Government. We are here as the elected representatives of the people and the Government is selected by the majority of the people. Therefore, if we have faith in the Government and in our people who have elected us, then let us go ahead and march forward—whatever our individual notions may be and which may even conflict with the accepted notions of law, of jurisprudence and all that. If that approach were made once, I think this problem of corruption and bribery can really be solved. Therefore, while I do not mind this small measure that is brought forward, I do hope that a more drastic measure will receive the support of Opposition members.

After all, this is nothing. Ultimately, the solution of the problem of corruption and bribery lies in a general raising of the moral standards of our people. The question that the bribe-giver should also be punished by law is only an extension of the principle that the general moral standard of the people should be raised and to that extent I welcome it. But at the same time, I would not like too

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much emphasis to be put on this aspect of the question. After all, many officials have earned a bad name in the mind of the public. We should not be upset about it. Some are bound to get a good name, and some a bad name. This will occur. Therefore, if for some reason or another the people feel that corruption is rampant—as a matter of fact, our Election Manifesto itself lays emphasis on purifying the services and purifying the general tone of our people and everything—then there is nothing wrong in saying or nothing derogatory to anybody if we say that we have to clean up the Augean stables. For that reason I would certainly welcome the first aspect. But I would also advocate that the officials—the official class who take bribes—may be put under the law not only on a par both with the bribe-giver, I am convinced that the official who takes bribe is the more guilty person and that principle has to be accepted. I do accept it very willingly and I think Government also knows it and will accept it.

In the application of that problem, the real problem then arises: how are we going to prevent officials from taking bribes? Here the official machinery as today built up is just a hierarchy of officials one above the other. We have got the ordinary peon or Mate Chowkidar, then we have got another Mate, then further up we have got a supervisor, then Superintendent and so on it goes up. The hierarchy goes on and as we have gone on keeping one check after another, that very check has led to corruption. That is the tragedy of the situation. If we put a man, a supervisor, he also unfortunately becomes a victim of this tendency to take bribes and the result is that we have to put somebody else above him to check his corruption and bribery. So step by step the checks increase and so does corruption and bribery. It goes on increasing. That is the real problem. How to tackle it? I feel that in that regard the theory that I enunciated, that is, it is better that one innocent man may also be convicted than nine guilty persons should escape, should be accepted. If we are courageous enough—it is a national emergency and in my opinion it does not upset the law of jurisprudence—to accept that approach, I think probably we may be able to make real progress. I know there will be cases where innocent officials will be victimised, but in an emergency we have to take that risk. And once we take that risk, I think we shall be able to proceed farther. I am sure our Home Minister who is too much of

a lawyer and who will never accept this approach.....

**Dr. Katju:** What does he mean by 'too much of a lawyer'?

**Shri T. N. Singh:** I mean to say, Sir, that his approach may be too legalistic.

**Dr. Katju:** Not at all.

**Shri T. N. Singh:** If not, Sir, then I hope it will be possible for him to look at this approach which I have suggested more sympathetically.

**Dr. Katju:** Sympathy from whom?

**Shri T. N. Singh:** From you, Sir.

**Dr. Katju:** To the bribe-giver?

**Shri T. N. Singh:** So, anyway, Sir, proceeding further, I would refer.....

**Mr. Deputy-Speaker:** A number of hon. Members are anxious to speak. I would only appeal to hon. Members to make suggestions as to how not only by law, but otherwise also corruption can be put down. Everybody knows corruption is there. Therefore, giving instances may not be necessary.

**Shri T. N. Singh:** I will conclude in a very short time. I will only refer to this question of Special Judges whom it is sought to appoint under this law. As I raised that point in regard to clause 5 of this Bill, I would not refer to that. I would refer to another aspect. I think even the procedure by Special Judges will have to be modified in the light of experience, because even where special tribunals have been appointed to deal with such cases a long time has elapsed before they come to a decision. That is our experience. We have had in the provinces sometimes Special Judges dealing with certain cases, specifically of corruption or bribery, and even there the time taken has been too long. So the real problem, I think, which this Bill tries to tackle is expeditious disposal of cases by Special Judges and for that I would submit, probably it may be desirable to consider whether the procedure can be simplified further and whether what is stated in the Bill alone will meet the needs of the situation. I would humbly urge that this aspect of the problem should be further examined because I have a feeling that mere appointment of Special Judges and certain special procedural changes suggested will not meet the needs of the situation, and probably we will have to modify the application of the Criminal Procedure to trial of such cases still further.



**Pandit Thakur Das Bhargava:** This Bill does not specifically deal with corruption or bribery as such. As a matter of fact, the terms of reference of the Bakhshi Tek Chand Committee were very restricted and the recommendations made by this Committee are sought to be given effect to in certain particulars of this Bill. I was a member of this Committee and therefore I can certainly submit that in regard to certain points which have just been made out, I can give a definite reply.

Now, I will refer to the first page of this Committee's report in which the terms of reference are given:

"The Committee was not required to hold a general enquiry into what may be described as the problem of corruption in the public services or among people who have financial dealings with the Central Government and to suggest methods for the eradication of such corruption. Such an enquiry would have been of a very comprehensive character, whereas the task that was actually entrusted to us was of a much more specific and concrete nature within well-defined limitations".

Therefore, I would humbly submit that in judging about the recommendations of this Committee, we should not look at the report of the Committee from the broad angle whether this Committee has been able to make any recommendations so far as the question of eradication of corruption is concerned. In the terms of reference some specific points were referred to them and they submitted their recommendations in regard to them only. So far as this Bill is concerned, I will only attempt to make a reply to certain objections that have been raised in regard to certain sections. I will not go into the broader question of whether so far as the eradication of corruption is concerned this Bill will be sufficient or not for that purpose because the Bill does not aim to be sufficient for that purpose—it only deals with certain aspects of the legal procedure and it would not be right to expect anything very substantial if this measure is implemented. After all, it deals with procedure only and in addition with one more aspect of substantiating the offence of bribe-giving. But, in fact, the offence already exists. So far as the question of those persons is concerned who give bribes, even under the existing law, that is even if this Bill is not passed, they are guilty and can be brought to book. What this Bill aims at is to make the offence appear in a concrete form in the shape of a

new section and at the same time enhance the punishment. That is the only purpose of clause 3. Otherwise it does not seek to make any change whatsoever. As regards the broad question of whether the bribe-giver should be punished or not, I think we should not go into it more deeply here. As a matter of fact, even today the bribe-giver is an offender and can be brought to book. It is quite true that as long as there are persons who will take bribes there will be found persons who will give bribes, but it is equally true that as long as there are persons who give bribes there will be found persons who will be seduced by them. At the same time it is quite true and I quite realise the force of the objections of my friends who said that in the public estimate, as well as otherwise I should say, people do consider that in the present circumstances those who give bribes do so more because they are forced to do so, and in a lesser measure because they want to seduce people to get certain advantages. At the same time I have also got an experience of more than 42 years of practice...

**An Hon. Member:** Of what?

**Pandit Thakur Das Bhargava:** Of detecting and bringing to book certain classes of people, of detecting them and as also of seeing how bribery is practised. And with that experience I can submit that this conception among the people that it is always the official who compels the bribe-giver to give the bribe is not very correct. People want to take undue advantages, they want to escape from the consequences of their offences, and they want to seduce the officials so that they may get some advantage.

**Dr. P. S. Deshmukh (Amravati East):** Are not there any people waiting to be seduced?

**Pandit Thakur Das Bhargava:** On page five of the report you find that this is recognised:

"We are fully aware that in at least some instances the offering or giving of the bribe to a public servant is due more or less to compulsion; for example where a public servant declines to do his normal duty unless he received a gratification for himself. Such cases are little different from extortion, and we have every sympathy for the view that in an instance of this nature the man who is forced to pay a bribe should not be considered equally culpable with the public servant concerned. But we cannot ignore

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the other class of cases—which are perhaps not less numerous and which possibly involve corruption on a larger scale—where a person seduces or attempts to seduce a public servant from his duty for the purpose of achieving a gain to which he is not entitled."

My humble submission is that those who take bribes and those who give bribes are equally guilty because the person who gives the bribe is also doing something for getting some illicit gain for himself and the person who takes the bribe in cases where it is not taken by way of extortion also does the same thing with a view to secure a similar end to himself, namely to get some illicit gain. In some cases a person gives the bribe for getting a licit gain, a legitimate gain—there, of course, our sympathy should be with that person, but in cases where people want to get these kinds of advantages I think the law should be strong enough to punish them.

In most cases of these corruption charges the evidence usually produced is of persons who arrange a bribe or sometimes of persons who give a bribe. The weight to be attached to the evidence of a person who gives a bribe may be small, or may be great, it depends upon the circumstances. I know of cases in which police officers have been brought to book on account of the evidence of those from whom bribes were extorted and whose evidence was believed. I do not think that our law of evidence is so defective that such a person who gives the bribe may not at all be believed. Therefore, what this Bill effects is only this, that we do not want that there should be delay in the trial and as such we recommended that Special Judges should be appointed. I am one of those who do not want the appointment of any special judges unless there is an emergency. I want the law of the land should be enforced in regard to every offence in a normal way, but I do feel that in a case of this nature unless and until you have got Special Judges it will be very difficult to bring the offenders to book expeditiously. Therefore, this system of Special Judges was absolutely necessary. Secondly, when a pardon is given the present law lays it down that the case must be committed. If the case is committed it is likely to be prolonged to a great length of time. At first the Commitment proceedings take place and then the case goes to sessions. That has been dispensed with. It has been brought to our notice that in all these cases dealt with by the sessions courts long delays

have occurred; even years rolled by and the person was not brought to book. With a view to eliminate such delays these recommendations have been made. At the same time may I submit that this Committee was appointed to go into the question of the Delhi Special Police Establishment and therefore we were only concerned with how they were acting, how they got their cases, what their difficulties were, and we wanted to have a solution for their difficulties and in that respect only, we recommended this solution. Therefore, though this Bill is a general one it must be borne in mind that for the special circumstances which were brought to our notice we recommended these changes and I believe that these changes are of such a salutary character that they will certainly expedite the disposal of cases.

I want to make one specific point to which I want to invite the attention of the hon. Home Minister and of this House. I have seen that with a view to see that the delinquent is brought to book the police people, and the Special Police Establishment people also, have recourse to a very objectionable kind of tactics, that is the trap system. I very humbly beg to suggest to this House and to the Home Minister that this trap system should be abolished. As long as this trap system exists there is no doubt that in particular cases people can be got at, caught and punished, but at the same time it is a very vicious system. In the course of my practice I have seen that most vicious people were employed to lay the trap; they are absolutely unscrupulous and are engaged by the Government or by the Police for the purpose. They go to the person concerned and their sole attempt is to put the money before him; as soon as he puts the money in his pocket the Police and the Magistrate come and get hold of that man. I can understand that in some true cases this system proves useful, but at the same time it may so happen that a person in whose case it is the first occasion may also be caught. It is not that the offender is entrapped, but an honest man who commits the offence for the first time may be caught. After all, law is not a barometer which is used for finding out if a man is honest in his dealings or not. A person who is absolutely innocent may just yield to some sort of temptation and may receive some money, or the money may be so planted in his hands that he may be caught. For instance, notes signed by a certain officer may be arranged to be put before him and

he may be caught. No defence is open when such a thing happens. He will be convicted.

Again, I doubt whether the trap system is legal. In cloth sale cases, usually you send a man with a signed Rs. 100 note. He goes to the market, asks the people to sell cloth at black market rates. The money is given to the seller. The Police, the Magistrate and everybody is there and they capture the man. Legally, unless there is a contract to buy and sell, the offence is not complete. There cannot be any contract for selling or buying in the case I mentioned. Thus, trap system is practised even in cases where legally the offence is not committed. This is a bad system. It does not seek to capture only the person who is guilty, but even an innocent person may be involved and he would be unable to unmesh himself.

**Shri S. S. More (Sholapur):** Supposing an officer A wants to take some bribe from a person B. B will be liable for the offence. B goes to a police officer and says, "That man is asking for a bribe. What can I do?" and if some signed notes are given to B which are handed over to the other man who is out to be corrupt, then will that be objectionable from my hon. friend's point of view?

**Mr. Deputy-Speaker:** He is saying evidently that there are not such cases in large numbers. He is asking whether, when there is an allegation against an officer and for the first time he succumbs to temptation and takes the signed notes, that should be made an occasion for prosecuting him.

**Pandit Thakur Das Bhargava:** I do not say that good cases cannot be caught by this system. My submission is that in a very large number of cases the trap system is working like an engine of oppression and absolutely innocent people are caught. I have seen in many cases that the worst people are employed. Those unscrupulous persons will be able to make any statement whatsoever. If the money is planted in a man's hand somehow and if he is asked to take it, he may be charged and no defence is open to him. After all, unless and until I and the other man who wants to trap me agree to a buying and selling contract, the offence is not complete. The other chap is not willing to enter into a contract and he knows that the transaction is not complete and yet the thing is regarded as legal. The Madras High Court in one case described the trap system in great detail and condemned it in unequivocal terms. I do not want to say more about it. Respectfully and humbly I submit that the Home

Minister should see that the trap system is abolished; and if it is not abolished, he should see that it is so minimised in its operation that only rare and good cases are brought under it. To use it as a general rule for all people is not justifiable.

**Mr. Deputy-Speaker:** Can this not be used at least for departmental and administrative punishments?

**Pandit Thakur Das Bhargava:** I have known cases where in departmental cases also, whenever a higher officer gets a clue that his subordinate is a dishonest man, he sends a signed note through somebody and it sometimes happens that even an innocent man who has incurred the displeasure of his superior officer or against whom some complaints are made by somebody else is made to suffer by adopting this practice. It is not always that this system is employed in respect of dishonest people. Some evidence was brought before us in regard to such departmental cases and the practice which is now developing in most of the States like Madras, U.P. etc. is that they appoint some Judges and they hear the departmental cases and in bad cases either they ask the man to resign or without giving him any option they dismiss him. That is a very salutary rule. But in judicial cases all the corrupt officials cannot be brought to book. Many dishonest people are acquitted. Therefore, it would be much better if selected cases only are sent up to courts and in all such cases conviction follows.

I know of a case in which a *thana-dar* who was a very big bribe-taker got channaled for ten cases. When the case went to the court, the Magistrate knew he was a bad man and wanted to convict him, but the *thana-dar* was so clever that in all those cases where the bribe-giver had alleged that the bribe had been given at a particular place he cooked up alibis that he was actually at a place fifty miles away on that particular day. His presence was proved to have been in such a village as was physically inaccessible from the place where the money was alleged to have been given, and ultimately he was acquitted. Nothing was done to him. Bribery is committed so very nicely and the officials combine together and take their respective shares. Once, the Chief Justice of undivided Punjab came to our District Bar Association and asked the lawyers for their views about corruption, bribery etc. and I pointed to him that in one of the *thanas* Rs. 21,000 were taken by the Police in one month and asked him what he was going to do in regard

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to the police officer concerned. I told him that the S.P., who was a European, was also corrupt and was taking some portion of the bribes which the *thanadar* was getting. But then the Chief Justice was helpless. He only wanted to look into Rs. two and Rs. three taken by *chaprasis* and *nasirs*. He could do absolutely nothing in regard to that major case I pointed out. The Sessions Judge, the Deputy Commissioner and several others were there. I gave my views openly before them. My humble submission therefore is that corruption cannot be rooted out by judicial cases alone. It is utterly impossible to do so. Government should recruit good people.

**Dr. P. S. Deshmukh:** But where are the good people?

**Pandit Thakur Das Bhargava:** In this country there are very good people. But there are far too many bad people. We know that even the highest officers when recruiting men give jobs to their friends and relations and are guilty of nepotism and favouritism. When the whole recruitment takes place on that basis, why are you worrying about bribery? Bribery is one sort of corruption and our attempt should be to root out the entire corruption. We should take courage in both hands at the highest levels the virtues which we ask others to practice. I am very hopeful. Before the war, corruption was not so rampant. During wartime it began. Every European was corrupt. Even those who had never taken bribes became corrupt during war-time. Our young men who are now recruited to the Indian Administrative Service and other Services are much better, and with their coming I am hopeful that corruption will die out. During these four or five years, people were under the impression that under the National Government corruption will disappear, but today when we go to the villages people say to our face that corruption is as rampant as before. As a matter of fact, till now we were not taking stock and were reconciled to all bad things as if they were inevitably in store for us. Now everything wrong evokes criticism. That is as it ought to be. Now if you go to the villages.

**Shri Kelappan (Ponnani):** Why do you go to the villages. It is more rampant here—in the capital.

**Pandit Thakur Das Bhargava:** Am I to understand that the hon. Member feels that there was no corruption at any time here. I am only submitting that it is less than what it was before and that things are improving. Our young men who are getting into the services are much better than

before. If you say that corruption is rampant, I say that you and I are responsible for it. The Judges cannot do anything. Unless the general standard of the people is improved, how can you root out corruption?

**An Hon. Member:** Then, what is the remedy?

**Pandit Thakur Das Bhargava:** So far as Government is concerned, its duty is quite clear. Every Government servant should be honest. Unless we raise the morality of the people; unless we ourselves become non-corrupt there is no remedy. As some hon. Member pointed out Section 302, IPC, has been on the Statute Book for a very long time. But has it prevented murders being committed. So corruption will go on until and unless we raise our standard of morality.

So far as this Bill is concerned, it only aims at eliminating some delay and also to bring to the public mind that bribe giving is as much an offence as bribe-taking. I do not think that this Bill touches the main question and it is hardly necessary to expatiate and discuss the broad question at this stage.

**Shri Nambiar:** With regard to this Bill I have my own apprehensions, because it embodies a new idea. For the first time a person who offers bribe is going to be treated an offender, as much as a person who accepts the bribe. Formerly it was not so. The Statement of Objects and Reasons says: "They seek to make the offering of bribe a substantive offence by itself instead of, as at present, a mere abatement." Whatever the intentions of the hon. the Home Minister may be, and however much anxious he might be to root out corruption, if the person who offers bribe is going to be treated an offender, how will bribery come to light? If a person who offers a bribe is going to be threatened that he will be booked and punished with imprisonment, why should he disclose that he offered a bribe? What is the need for him to come into the open and make a disclosure? When he gives the bribe, he might get what he wants. He will never come out and confess that he offered a bribe. By making the bribe-giver an offender and making him subject to such serious punishment, which may go up to three years, the hon. the Home Minister knowingly or unknowingly tries to defend a corrupt official. I, therefore, suggest honestly and in all humility, that this drastic measure which he is suggesting will not help us; on the other hand, it will only hinder us.

I would in this connection like to take the hon. the Home Minister into the basic root, or basic reasons, for corruption which is rampant today.

Even in the original Act there is provision to punish a person who receives bribe; but that has not put an end to prevalence of corruption. It has on the other hand increased. If the hon. Minister thinks that by this amendment, he could decrease it, I must tell him that he is mistaken.

Unless and until you improve the lot of the underdog, you cannot root out corruption. Take for instance the case of a clerk in a Government office. I have no sympathy for corrupt officials. Imagine the plight of a man who gets a pay of Rs. 45 per month in the City of Madras with a dearness allowance of Rs. 20. With Rs. 65 he has to live in the City of Madras. How is it physically or humanly possible?

**An Hon. Member:** So, he can take bribes?

**Sbri Nambiar:** As I have already said I have no soft corner for the bribe-taker. But why do you not see the reality of the situation and try to remedy the root cause of it? Unless the present Government improves the living conditions of persons in the lower rungs on whom important responsibilities rest, I am afraid the social evil of corruption cannot be rooted out.

Take for instance a person who offers a bribe. A few months back a person came to me with an idea of digging wells with governmental assistance. I thought that it was a very good proposition for which help could be easily obtained. But when I went into the matter I could see that there were some 500 to 600 applications. So in the ordinary course he could not get any help. He was inclined to spend some money but I discouraged him to do it. At last I came to the conclusion that he will never get any assistance unless he spent the money. I was not myself feeling morally courageous to ask him to pay the bribe. This is the position in the villages.

Much is talked about corruption on the railways. I agree there is corruption in the goods branch, in the traffic branch, etc. There again look at the condition of the railway worker, or the station master on whom so much of responsibility is placed. We go and ask the station master that he should not behave like that. Agreed. He is as anxious as ourselves that he should not accept bribe. But look at his home and his children. He stands between the devil and the deep sea. As the hon. Member who preceded me said, the youngsters who come into the services are conducting themselves better. I know of a case where a book-keeping clerk who refused to take bribe

was taken to task by his higher official. There a section of people were receiving the bribe and this particular official, a bad element, did not join them. Therefore, he was transferred. Therefore unless you tackle the problem at its root by improving the living standard of the underdog, you cannot root out corruption.

Now I come to the bribe-giver. There are certain blackmarketeers, some big sharks, who thrive and live only on bribe-giving. If there is any provision here to distinguish such elements from the rest, I would certainly have supported this measure. But this is an omnibus measure. As my hon. friend Dr. Jaisooriya just now said, it is wide enough to cover the case of a person who gives four annas to a policeman. What I say is that this provision is so ambiguous and omnibus a provision that anybody and everybody can be brought in. The position is then quite different because it does not serve the purpose.

For instance there may be a case in the railways and a railway servant may not be liked. A person may come forward and say that he offered him a bribe to do a certain thing and he may be punished. Where is the defence for that poor man who is undernourished and half-starved? He cannot go to court, engage lawyers and defend himself. It will be a very difficult proposition for the railway servant who may be accused.

Therefore, when we bring in a sort of legislation like this we should consider all sides. After all this is not a new legislation. There is already a law in force. When you amend or extend that law you must satisfy us why you are extending it. It has not been done. Even in the hon. Minister's speech he did not attempt to say why this extension is sought. He said there is an increase in corruption. He ought to have given statistics that in such and such department or section we find considerable increase in corruption, due to so many reasons, therefore by bringing this amendment we seek to reduce it to such and such extent, so as to convince the House and the people that this is an extension which will satisfy the needs. But they just bring in an amending Bill and there it is said that the fellow who gives bribe is also to be booked, and in one paragraph they dispose it of. This is not the way the House or the people should be treated.

Whenever a law is sought to be extended—this is a substantially important measure which is to be enacted—when such a measure is brought, the people must be told in what way

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an improvement in the existing law is sought to be attained. In that way also it is not serving the purpose, because we are not told how far we are going to improve or what is the state of affairs in which we already are. Of course the hon. Minister can say that he is not worried about all these things and that he only wants to get the Bill passed. Then we have nothing to say because he can get it done. I do not dispute its possibility or his capacity to do it, because he can bring any Bill and get it passed. But that should not be the spirit with which he should approach the issue. That is my humble submission.

Coming to certain criticisms made about the trap system, I do not want any trap to be set up for any person. But there are certain officials whom it is very difficult to book. How can they be booked? Therefore some sort of an arrangement is needed. I do not approve of the actions of the police officials who in many cases trap a person in season and out of season for some other purposes. If the police officer had any grudge against a particular person, that fellow will be trapped. Of course that margin or possibility is there. But in respect of certain officials whom it will otherwise be impossible to book, there may be a genuine attempt from certain quarters to trap—not exactly trap—but to book them, for which signed notes will have to be issued. I know of certain cases on the railways, particularly of one P.W.D. Inspector who is in receipt of so much bribes, which can be exposed, but he went up to the High Court and got out that he was innocent—and he is still in service. I know that particular man, because that particular man it is very difficult to book. I fought on that matter, the railway workers have been complaining, we took photos of all his doings, we took photos of his movements with certain others, and we brought everything out. Still the man has come out successful in the court. Therefore there are certain elements where we have no other go but to book them like that.

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Then there is the question of legality, and the learned lawyer Member said that there is no completed contract, and when there is no completed contract will it be legal. That means that the man who takes and the man who offers, both must agree, there must be an agreed act, and then only it becomes legal. I think that is going too deep into the legal quibblings of the question. Let us see it on its merits.

Whether it is legal or illegal, or whether the High Court will take it as a completed agreement or not—I do not want that we should go into those matters so deeply. I say let us look at the merits of the issue.

The final point I want to make is that there are methods by which this corruption can be fought out. For instance when I was in China—I had been there and the hon. lady Member, Shrimati Vijayalakshmi Pandit had also been there—I could see that there was a big anti-three movement there. The three things are corruption, bureaucracy and malpractice or wastage. These three items are there where the entire people are asked to fight against these three evils. When they catch hold of a corrupt official and if there is evidence against him he is punished, whoever he may be, even if he is a person with high responsibility. I can say that even certain elements there who had a history of Communist leanings and sympathy with Communism etc. were convicted. Anybody, whether he is a Communist or not, whether he is in power or not, if the people could give evidence against him, he is thoroughly punished. But here I have no knowledge of any Congressman being convicted. Of course the Congressmen are in power here. I am not casting aspersions on Congressmen as such, but there is that soft corner and feeling and if he is a Congressman with a white cap, though his heart may be black, he is allowed to go free.

**Pandit K. C. Sharma** (Meerut Distt.—South): Sir, on a point of order. Is this within the scope of the Bill?

**Shri Nambiar:** Why not?

**Mr. Deputy-Speaker:** Order, order. If the hon. Member has any particular case where a Congressman or a person belonging to any particular section of politics has been guilty but the Government have refused to take action against him, then that is a point which can be referred to. Merely to satisfy the hon. Member and to follow the example of China, if a Congressman has to be booked I think it will not be right. The hon. Member must have an instance where merely because he was a Congressman, although he was guilty, he was let off. There are now groups and groups and points of difference and misunderstandings arise on various grounds. Why should he add one more cause for misunderstanding?

**Shri Nambiar:** That is why, Sir, I started with the preamble that I am saying this without any bad reflection to any particular Member or party. I will be more precise in saying that a very very responsible Congress leader in my district, namely Trichinopoly, who had once been even a Minister, evaded giving paddy which he had stocked, the Collector had occasion to put it up, and the Collector got dismissed.

**Mr. Deputy-Speaker:** Order, order. I have no objection. But it is good to refer only to cases which have appeared before the court and some evidence is there on which reliance can be placed. Otherwise, charges can be made and counter-charges can also be made. And the other person, whether, a Minister or otherwise, even an ordinary citizen outside, is not here to defend himself. Personal references of that character may therefore be avoided. Now, it is easy for any hon. Member to say against any other person in an important position or otherwise...

**Shri Nambiar:** But, Sir, I did not mention his name, in the first place. Secondly what has happened there is in record, in the Madras Government, in the correspondence between the Collector and the Ministry. It is there and a reference can be made.

**Mr. Deputy-Speaker:** It is not possible for us. It is not a court where a particular person is accused and he has a right to defend himself. If there is a case let it be referred to—so and so was convicted or something else. In the absence of any such case let not hon. Members refer to particular persons here. One can see who a Minister is in a particular place. It is not every man who belongs to a place who is a Minister. Therefore...

**Shri Namdhari (Fazilka-Sirsa):** My point of order is different. My submission is that the hon. Member has to speak on this Corruption Bill. In this place he is trying to exploit the railway people and draw our sympathy. These are graduates of the fox university and we must be very careful with them. (*Interruptions*).

**Shri B. C. Das (Ganjam South):** Is the expression 'Fox' university parliamentary, Sir?

**Mr. Deputy-Speaker:** I understood the hon. Member to mean FOLKs university, that is the peoples' University: not 'Fox'.

**Shri Nambiar:** I am sorry; my intention here is not against any particular group or persons.

**Mr. Deputy-Speaker:** Personal references may be avoided.

**Shri Nambiar:** My point is that we must have all our forces mobilized to root out corruption. You must use the law courts; you must use the platforms; you must use your private influence to see that corruption is rooted out. I am one with the hon. Home Minister if he is at all for fighting corruption; because I find he says so, but his action does not show that. That is my difficulty. I am one who wants to root it out lock, stock and barrel from its inception to the final stage. That is why I say we must improve the social conditions in the country, we must improve the economic conditions in the country and we must improve the morale of the staff, from the point of view of standard of living—at the point that they are instigated to be unpatriotic. Legally, if any individual commits a crime, he must be punished severely. In all these respects, I am one with others who want to fight corruption. I am sorry that this Bill does not lead to that state of affairs. So, I would request the hon. Minister to reconsider the points and the basis on which I and the other hon. Members have spoken here. I say, by introducing such drastic punishments on the offerer of bribes, he will satisfy the purpose. I would ask him to re-think and come to conclusions.

**Shri Joachim Alva (Kanara):** I would like first of all to deal with the psychological background of corruption. Corruption has been rampant in our body politic for some time now and it is a great shame that the fighters for freedom, who flung everything into the melting pot of freedom-fight, have to face, when they are in seats of authority, this problem.

There is a very innocuous sentence on page 15 of the Report on the Bakshi Tekchand Committee's Special Police Department which says that the Ministry of Home Affairs have under consideration two proposals to deal with this problem and that the first is the compulsory retirement of officers who have qualified for full pension and who are suspected on any grounds to be corrupt, even though there may not be sufficient formal evidence for a judicial enquiry or a departmental proceedings. So far so good! The Government of India has come to a good decision on this matter that when officers are suspected to be corrupt they retire them compulsorily. You cannot hide corruption from the face of the man. Psychologically, corruption may not be set apart from a man's nature. In the law of nature it is so

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written that sooner or later the evil deeds of man will be found out. The reputation of the evil deeds of a man goes abroad much sooner than the law courts can get hold of him. In this connection we have some very good principles laid down by the British Ministers, some golden principles that are enshrined in the British House of Commons. During the last 25 years, we have had the case of Mr. Thomas, who, when he was the Chancellor of the Exchequer was known to have made some profits out of having given away some secrets and the result was that he had to retire from public life. We have had the fine example of Hugh Dalton, who only a few minutes before he was to deliver his Budget speech and on his way to occupy his seat, mentioned about the Budget; it was considered improper and he had to leave the post of Chancellor of the Exchequer and seek temporary retirement. (Some Hon. Members: Not retirement). Two or three years ago, we had the example of an officer—I am unable to mention the name of the officer—in England, who perhaps for having taken a few drinks and for accepting harmless presents, was proceeded against and he had to quit office. We have to put right the top, and begin right from the bottom. Right from the bottom in the sense that in the case of the lower-scaled officers and lower-scaled clerks, we have to watch the cost of living index and see that their salaries are in keeping with the rise in the cost of living, and that they are not given salaries by which they are tempted to take bribe this way or that. Take the Railway administration. We have in our Railways the largest corporation, the largest nationalised industry in the world. Yet, we have numerous instances when, either for buying tickets or booking a passage or for obtaining priority for despatch of goods, money had to be parted with. Thus the reputation of the administration goes to pieces. The law is an ass and it has no remedy against these evil doers.

I should like to quote the instance of Bombay. I come from the city of Bombay and I shall say something to its credit and reputation. We had a Chief Minister there who has just retired and we have now a Chief Minister who is known to stamp out corruption. We have had a Chief Secretary Mr. Bhatt, who is known for his integrity and character. We have not heard of any case against the top officials. Why is it so? The Chief Minister had been probing into those cases;

the Chief Secretary has a grip over the I.C.S. officers and even where they had put in 15 or 20 years service, they were demoted, if something went wrong. Perhaps, I may humbly suggest as a layman, untrained in the arts of Government that it is high time for the Government of India to have a Chief Secretary. Not Secretary General, who merely dabbles in External Affairs, but a Chief Secretary, a person with the highest patriotism, integrity and honesty, who will have the right in conjunction with the head of Government to go into and enquire into the conduct of I.C.S. officers, however high they may be, who have been known to swank about. They should be demoted or sent away to the provinces from which they came, where perhaps they had had no chance of being promoted as Secretaries, but who are Secretaries here. I say that the reputation of two or three officers at the Government of India has been banded about the country, officers whom even the Prime Minister has not been able to remove from one place to another. We have a Prime Minister whose reputation and integrity are known round the world over. We have a few officers in the Government of India whom we are unable either to remove or transfer owing to various technicalities. I suggest we start with a Chief Secretary to the Government of India who can deal with these officers and control their destinies whenever they go wrong in the matter of demotion, promotion, transfer, etc. If he is an I.C.S. officer, who has his own clique or coterie to back him and thus becomes strong that sometimes even national interests cannot weigh against him! We have done a great tragedy in this matter. In 1947 we had a good chance of recruiting to the services 2,000 young men who had been behind jail walls, who had flung away everything and their careers, and who had only honest character and patriotism plus ability. If we had perhaps put them in offices, in the States and in the Government of India, we may not have had this onslaught of corruption in this country. This is a psychological problem as I said.

There is also the economic side. We have to watch the cost of living index. There is a clerk whose salary is Rs 100. His cost of living comes to Rs. 200. He cannot purchase a seer of milk, nor fruits for his children. These are problems which have to be tackled from the economic side.

Another point that I suggest is this. Corruption cannot be completely



stamped out from this country unless we change the basis of this society. I say this with all the seriousness at my command. A few people in this country, 2,000, 4,000 or 5,000 have lots of money and an unquenchable passion for amassing more money. They have any number of bank accounts and offering a bribe of Rs. 10,000 is not at all difficult for them. As long as we have this basis of society, unless we change this basis and give unto every man his due, we shall not be able to root out corruption. Even if you lock them up or as they do in China, flog them in the streets, the position will not change. In China they had a redistribution of wealth, and the basis of society was changed. Every man got what he needed; every man got his required bowl of rice. As I said, if 5,000 people have lots of money in their hands, they will naturally try to fling that money to create influence in their favour. I may cite the instance of a police officer in Bombay who refused to take a bribe of a lakh of rupees. With the result he was trebly promoted; from a Sub-Inspector, he became straightaway a District Superintendent of Police in three years which is a high rank indeed and the Government went out of its way and promoted him. Merely Bills of this type we are now discussing will not do anything. We have known cases of corruption in the Bombay High Court where the Judges of the Appellate Court have flung away cases on mere technical grounds. A man has taken bribe. He is put up for trial. He goes through the process of trial and convicted. Then the case comes before the High Court and the High Court just throws it away on technical grounds just because the offender says that the money was planted. On the slightest technical grounds perhaps, seven out of ten cases have gone off, and three only remain to be booked. That is why I say, Sir, let us not merely take the legal side. We will not be able to achieve much. We have to take a very serious view of the situation. We have to watch the living index and promote men and officers of ability and upright character. Unless we do these things, we will not be able to root out corruption. We have about or more than 500 Ministers in this country, have we known of one Minister resigning or being forced to resign for corruption. At least my memory is very short, and I do not remember any Minister having resigned or having been forced to resign on a matter of corruption. If perhaps a Minister is upright, straight, you can as well look at the man, into his face and say "his hands are clean, his career is known". Some Ministers

perhaps have feet of clay, because they have either wrongly used their influence or perhaps they do not dispose of cases purely on merits. That is why we are today faced with this problem. This has become a gargantuan problem. We are not able to solve it. With the best minds we are not able to solve it because we have not got strong public opinion about this point. We have not got people to say thus far and no further. Unless we are able to put this right, we shall be unable to reach our goal.

As I said, thank God that at last the people have risen to consciousness. They have taken a serious view. The Government appointed the Tek Chand Committee. As I said, the Government of India is able to deal with the officers only at the end of the retirement period. Why should not Government take up the cases of people who have been acquitted by the Court, hold departmental enquiries and then ask them to go and look elsewhere for jobs? Unless we do this, Parliament cannot do anything. Parliament is an ineffective body so far as corruption is concerned unless we are backed by strong public opinion. Unless the whole basis of society is changed, all the legality, all the devices to fight corruption will not succeed and the weapons in our armoury will not be effective. We must take a leaf from the British public life where a Minister, if there is the least breath of scandal against him, has to depart from his office. Unless we are able to put that respect into our own public life, we shall not reach our goal. It is no use asking the people downstairs to be upright when people upstairs have got a breath of suspicion around their person. Unless people in all walks of life are able to arrive at a common standard of life, a common behaviour and decency, we shall not be able to check the prevalence of corruption.

The war brought fat salaries, the war brought huge profits and bulging bank accounts, and that state demoralised the vitals of our public life. The vitals of our public life are damaged to such an extent that we are not able to get out of that condition. The huge cobra has strangled our national life, and we are unable to stem the tide, nor are we able to kill it, because we have not got the strength of public opinion. The machinery is so slack. The Judges of the Appellate Court on mere technical grounds throw out a whole case, and the offender goes scot-free, goes home smiling. These are

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cases which should be watched by the Department concerned.

**Dr. P. S. Deshmukh:** On a point of order, Sir. In the course of his speech, the hon. Member who has just sat down, I think, said that High Courts throw out cases on frivolous grounds.

**Shri Joachim Alva:** I said technical grounds.

**Dr. P. S. Deshmukh:** Previously, the word used was "flimsy". I do not know how far it is correct, and whether it would not amount to even contempt of Court.

**Mr. Deputy-Speaker:** I infer that there was no aspersion against any Judge or any Court, but he only wanted to say that on technical grounds cases are thrown out. The word "flimsy" was used. I shall have it corrected to "technical grounds".

**Shri Venkataraman:** I shall confine my remarks to the several provisions of this Bill without straying into an elaborate argument over the corruption prevalent in the country or alleged to be so prevalent.

The hon. Members who started discussing this Bill said that a new offence is being created under this Bill. They said that the offering of a bribe is for the first time made an offence, and on that premise, they built up arguments for and against, and my hon. friend Dr. Jaisoorya said that people are compelled to offer small "mamools" so that they may get their things done, and asked Government whether they propose to penalise even those small people who are compelled to give "mamools" owing to the existing system and so on. To my mind, we are not creating any new offence at all. Already, there is provision in the Penal Code for punishment of persons who offer bribes. If the bribe is given and the offence is complete, then, the provision of Sec. 109 would be attracted which means that the person who offers bribe would be punishable with same sentence as the person who receives it, and in a case in which bribe is offered, but it is not accepted, it would be falling under Sec. 116, and under Sec. 116 the punishment is just one quarter of what the punishment for the main offence would be. Therefore, it is not that we are creating for the first time an offence punishable under this statute, but, on the contrary, we are enhancing the punishment that would be inflicted on the person if the bribe is offered, but not accepted. The offerer

of the bribe and the man who accepts the bribe stand on the same footing and in a moral sense, both are delinquents. It is no consolation for society to be told that they are compelled to give. If a person resorts to this expedient argument and says that by the force of circumstances he has been compelled to offer a bribe, the other argument would be equally available, that by the force of circumstances, of expediency, he was compelled to accept the bribe, in which case bribery need not be an offence at all. Both the man who offers and the man who accepts may go scot-free. But, if society should improve, if the moral standards should be maintained, it is very necessary that the offenders, whether they are the offerers of bribe or those who accept bribe, should be put on the same footing and be punished on the same footing. What this Act seeks to do is to enhance the punishment for those persons who offer the bribe to the same extent as for those who accept the bribe. Therefore, the argument based on the theory that a new offence is being created, and that even small persons who are compelled to give 'mamools' are brought within the clutches of this new law, and that some unheard of or serious offence is being created, and that some serious punishment is going to be heaped on the people, is not at all warranted by this Section.

I want to draw the attention of the hon. Minister to one or two lacunae in this legislation. In respect of the first one, I have myself given notice of an amendment. If the Sessions Judge and the Additional Sessions Judges alone are to be appointed as Special Judges, I submit that many of the districts in India would be crowded with so many cases that the normal functions of the District and Sessions Judge, namely, trying cases of murder or cases of a higher magnitude, would be almost relegated to a corner. In fact, they will not be able to attend to all the cases which will go before them for disposal under the ordinary process of law. Therefore, it is necessary that some person equally high up in the judicial hierarchy should be allowed to hear these cases. And an Assistant Sessions Judge, so far as my own province of Madras is concerned, is a senior Subordinate Judge of more than 17 to 18 years standing, and they are the persons who are the most competent to hear and dispose of cases under this Act. It is good that the Government have thought that the trials of such serious cases should not be left

to the lower magistracy, but should be dealt with by the higher officers of the judiciary, and I am sure the House as also the country would welcome this move.

Then what is to happen to those cases which are pending. Today I am told that there are over 200 cases all over India, which are pending before several Magistrates. If the new law is enacted, then, the Magistrates will become incompetent to try these cases, as they will lose their jurisdiction over the matter. Therefore I think some provision is necessary, which ought to be provided in this Bill by way of abundant caution namely that cases which are pending before Magistrates should be transferred to the special Judge in whose jurisdiction these cases have arisen.

The other question raised is whether or not pardon should be given in cases of bribery or corruption. I do not think that this is a matter which may be disposed of on any principle. There may be cases in which only one or two may be involved, and in such cases, the offer of pardon to one will certainly adversely affect the other person involved in the case. But there may be conspiracies to commit bribery in which hundreds or tens of persons may be involved. In those cases, unless we tender pardon to one of them, the connecting link or the missing link in evidence may not be forthcoming. The House would accept, as also the people that in such cases, it is right to offer pardon. This is a matter which shall not be determined by any executive authority, but will be determined by the Judge before whom the case comes up. The discretion of offering pardon will be vested with that Judge who alone is to decide in every case whether pardon should be given or not, on the merits of the case. I think that if you want to bring in conspiracies of a major kind where a number of people are involved in an attempt to corrupt the officials or to offer bribes, it is necessary that at least one of the persons who formed a link in that conspiracy should be tendered pardon, so that his evidence may be forthcoming. Your experience itself will show that in most cases of conspiracy, pardon has to be granted either to one or other accused so that the necessary evidence may be brought before the Court. Therefore I submit that there is nothing wrong in the provision for offering pardons to those involved in cases of corruption and bribery.

With these few words I warmly support the Bill before the House.

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**Mr. Deputy-Speaker:** I think I can conveniently adopt the following procedure now. As a matter of fact, there is no new law that is being introduced. The punishment for abetment of an offence, which is already an offence, though the Act is not committed is now sought to be raised to the same level as that for the major offence. And then a Special Judge is appointed to consider or try these cases. The provision for a pardon also is included, because it is felt under the Tek Chand Committee's Report that without such a provision it will not be easy to get evidence. I find that hon. Members are making a number of suggestions, not for the improvement of law, but with respect to other matters, namely, the administrative steps that may be taken in this behalf. They have even gone to the extent of saying that unless the economic condition of the people is improved, it is not possible to root out corruption.

In these circumstances, I feel that there has been sufficient discussion over this matter. I shall bear in mind the names of hon. Members who have not had an opportunity to talk at this stage. When we come to the discussion of the clauses, I shall call upon them to speak, and try as far as possible to give opportunities to all other Members who have not taken part in the discussion so far.

So, I shall now call upon the hon. the Home Minister to reply, and close this stage. When we come to the consideration of the clauses some more time can be given to hon. Members who would like to take part in the debate.

**Shri Vallatharas:** Some of us on this side feel that we have not got any chances at all to speak. We have only been listening, and there is a one-way traffic only. I have the greatest grievance that I am not getting a chance. As a lawyer, if I do not get any chances to speak in these Bills, then what is the use of my sitting in this Parliament? We must also be given opportunities to talk.

**Shri D. D. Pant** (Almora Dist.—North East): I am also a lawyer. I have also not got opportunities to talk as yet.

**Mr. Deputy-Speaker:** Let there be no discussion on this. I shall call upon all hon. Members who want to speak and who want others to hear them speak, when we come to the clauses.

**Babu Ramnarayan Singh** (Hazari-bagh West): What you have said, Sir,

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is perfectly desirable. There is no doubt about that. But the matter is of so very grave importance, that each one of us should be allowed to talk, and that there should be no hurry in this matter.

**Mr. Deputy-Speaker:** There is no hurry. I shall call upon all hon. Members to talk.

**Shri S. S. More:** Supposing, we are called on to speak, during the second reading, our remarks will necessarily have to be restricted to the particular clause under discussion.

**Mr. Deputy-Speaker:** Clause 3 is sufficiently wide enough, that hon. Members can speak on that clause whatever they want to. I shall now call upon the hon. the Home Minister.

**Dr. Katju:** I am indebted to my hon. friend who has just preceded me, for a very careful dissection of the various clauses of the Bill. But speaking without any offence and with all respect, I am really rather surprised at the tenderness shown to the bribe-givers. I quite realise that in petty cases or cases which may be considered to be cases of extortion, the bribe-giver is entitled to every sympathy, as in these petty cases of 'mamool' etc. But during the last five or ten years, there have been cases where the bribes have been given simply for the purpose of making profit to such an enormous extent that if the House knew of the cases which I know personally, it will be astonished. For instance, I shall give just one case.

In the Uttar Pradesh, there was a ban on the export of *gur* from the 1st April in a particular year, from that place to Punjab. The *gur* prices in the U.P. were near about Rs. eight a maund, while in the Punjab it ranged near about Rs. 17 or 18. Licenses were already granted for export, and they were to expire on the 31st March, and so there was a tremendous rush on the part of every license-holder to transfer or to put across his own stuff into the Punjab. They also came along the border near Moradabad, and Meerut and every one of them tried his best to seduce the Station Master, and the Railway Staff—not the Rs. 45 lower staff, but the higher staff—to give them wagons.

I know of one case in which in 14 days the Station Master concerned—very likely of his own ingenuity or of the ingenuity or with the assistance of higher officers—somehow or other diverted 52 wagons and the price

the man was Rs. 500. In 14 days, Rs. 26,000 were cleared up. He got two years from the High Court. But then he should not have taken a single penny. I quite realise that. The fellow ought to be condemned. He was condemned. But what is the moral guilt of the man who went to him and said: "Here is Rs. 500"? Or take another case. The export is stopped of *sarees* or textiles and railway trucks are sent from the mill premises down to the country. In the olden days, about four years back, of course you had to pass through different police stations and you could not make 100 per cent. profit. Therefore, in order to distribute the 'sugar', so to say, you just paid eight annas here and eight annas there and instead of making, let us say, Rs. 50,000, you said you were quite satisfied with Rs. 25,000 and you distributed Rs. 25,000 among ten officials. Now, this is what the Bakshi Tek Chand Committee has called seduction. It is not a case of catching the smaller people; it is a case of catching the bigger people who in these days want to corrupt officials. Here in this Bill, as was pointed out, what is there? The sentence of imprisonment is two years for the bribe-taker. The Bakshi Tek Chand Committee says it is too low, it ought to be raised. It has been raised to three years. If the bribe is not accepted, then today the maximum imprisonment is only six months. The Bakshi Tek Chand Committee says, "make it a substantive offence with the same punishment, make it three years" 'In order to expedite trials, appoint Special Judges' because in the case of Magistrates, I know it takes months and months and the case drags on. In Calcutta four years were taken in a certain case. We want them to be disposed of, and by senior Judges.

This is the object of the Bill and here is my friend, the hon. Mr. Nambiar, who spoke about the low paid staff of the railway for whom his heart is weeping. So is my heart, but it has nothing to do with the present situation. Then the question comes, the question of giving pardons. Now we give pardon in order to secure evidence. And then somebody talked about trap. A trap is always laid not for the purpose of corrupting a man; a trap is always laid for a man who is known to be corrupt. And generally when traps are laid—please remember this—in 95 per cent. of cases, what happens is this. The officer concerned wants a bribe and the man from whom the bribe is demanded, is a rather stiff man, so he consults some friends and says 'Why should I

pay anything? Let me go to the District Magistrate and report'. Therefore this is not a trap. Information is given of the demand made right from the start to the District Magistrate or the Senior Superintendent of Police and the trap is laid in that way. I think there may be three or four persons' cases in which police officials have the strongest suspicion or information that a man is definitely making money; then they say: "Very well, we shall try to catch him". But these are all administrative matters.

You may say that a trap should not be put into the way or path of innocent officers. I quite realise that. It is not a question of low paid staff or high paid staff. When I started practice, I tell you, in the Civil Court at Kanpur there was a Reader who was known to be utterly honest, getting a salary of Rs. 50 or Rs. 60. People said that he was of the unusual variety. He was a Muslim gentleman, he had gone to Mecca and he had taken a vow that he would not touch a single pice of improper money and he stuck to it. There may be people who may get Rs. 500 or Rs. 600. There is an English proverb: "Every man has got his price". Supposing a man is getting a thousand rupees and someone goes and puts before him a lakh. That is the moral degradation which began during war-time. A lakh of rupees is very hard for him to resist. He is getting a thousand rupees and probably he has never seen a lakh of rupees in his life. Easy money easily available. Now, who is to blame? I tell you, according to my opinion, the man who offers the lakh of rupees deserves horse-whipping and seven years and the man who takes that lakh of rupees may also get seven years. The Biblical prayer is, "Lead us not into temptation". The man who leads to temptation is a very wicked man. We are not talking here of the police. Somebody there painted a bad picture of the Delhi Station. Take this very case. The second-class compartment is fully occupied. I want to go to Allahabad. When I go there, the man says, "There is no room". I say:

बाबू साहब कुछ तो कर दो ।

and then take out Rs. ten. He takes it. Now whose guilt is that? If the Babu Saheb has got any authority, I will not go and tell him that.

I can understand the case of a police officer who goes into a village. Somebody has been murdered and then the policeman sends a message: "Oh, tell that Thakur to take care of himself. Witnesses are implicating him" or "a

woman has been killed". She was a widow. The suggestion is that the father-in-law gave poison. Unless he pays Rs. 10,000, he will be implicated. And the man for the dread of his life pays. Please remember one thing,— I may tell you from experience again—wherever a bribe is paid by way of extortion, the method of getting hold of that corrupt bribe-taker is very easy, because the man who pays gets angry and comes and gives evidence. But where a bribe is paid for the purpose of making profits not only on one occasion, but continuously year after year, then evidence is not forthcoming. Because the bribe-taker will not give evidence and the bribe-giver wants the profits and he wants to keep in service every single officer in charge of the police station, every officer in charge of the Supplies department, every officer in charge of the licensing department. That is the condition

Now, this was a very—I am afraid I am tired of saying it so many times and the House may say 'always that is the word'—simple affair. It is an innocuous thing, and in my support I have got the recommendations of a very important Committee and I thought I would be receiving some congratulations. But here it is said that I am showing solicitude on all sides for the bribe-givers. It never struck my mind.

I hope the House will take this Bill into consideration and pass it within ten minutes.

**Mr. Deputy-Speaker:** The question is:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences, be taken into consideration."

The motion was adopted.

**Clause 2.—(Amendment of section 165)**

**Mr. Deputy-Speaker:** Are there any amendments to this clause?

**Shri Jhulan Sinha (Saran North):** Sir, my amendments to clause 2 are Nos. 1 and 3. Amendment No. 1 reads as follows: In page 1, line 7, after "years" insert "or with fine or with both."

To make myself clear I would invite a reference to section 165 of the Indian Penal Code and to the amendment sought to be carried out in the Bill. The section in the Penal Code says

[Shri Jhulan Sinha]

that the offender will be liable to punishment for a term which may extend to two years or with fine or with both, and the amendment in the Bill makes the offender liable to punishment for a term of three years or fine or both. My amendment seeks to make punishment extending up to three years and fine. I do not want to leave the court any discretion to let the offender go away with a fine. It has been aptly said that this is a social offence and any provision made to check that offence must have a psychological effect also. The Bill seeks to enhance the imprisonment from two to three years and obviously the intention is to create terror in the mind of the offender and to have a deterrent effect upon those who intend to commit the offence in the future. My experience is that those who commit such offences are not very much afraid of paying fines and if the court is left with the discretion to impose fines only I think the main purpose underlying the Bill may not be served. I have therefore suggested that the discretion to impose fines in lieu of imprisonment should be taken away and the offence should be punishable with imprisonment and fine. I need hardly give the ground upon which my amendment is based. Those of us who have to deal with men and things have found that during the last few years the numbers of bribe-givers and bribe-takers have increased enormously. The vice has become very rampant and widespread so that it will be very difficult to find persons absolutely free from corruption in any shape or form. The malady has become so deep-rooted that drastic action has to be taken. I quite agree that law cannot impose things on society, but then law givers cannot afford to sit with folded hands and allow the society to do anything. Therefore, while entirely agreeing with the statement of objects and reasons of the Bill and its provisions, I beg to suggest that the discretion vesting in the courts to impose fines in lieu of punishment should be taken away. The offender on conviction should be made to undergo imprisonment and fine so that he may not have the consolation of believing that in future he may be let off with fine only. This is what I wanted to bring to the notice of the hon. Home Minister. I hope he agrees with my views and I hope that he will accept my amendment.

**Mr. Deputy-Speaker:** But that is not his amendment?

**Shri Jhulan Sinha:** If I am allowed to read my amendments Nos. 1 and 3 together my purpose will be clear.

**Mr. Deputy-Speaker:** Is it an alternative amendment?

**An Hon. Member:** The wording in the amendment is found in the section itself.

**Mr. Deputy-Speaker:** Does he want to press his amendment?

**Shri Jhulan Sinha:** The conviction has been raised from two to three years and instead of "or with fine" I want to make it "and fine".

**Mr. Deputy-Speaker:** But this amendment does not mention it.

**Shri Jhulan Sinha:** I may be permitted to read my amendments Nos. 1 and 3 together.

**Mr. Deputy-Speaker:** No, I will not permit him. Amendment No. 1 is out of order because the wording is already there in the Act.

**Shri Jhulan Sinha:** I would invite a reference to the original amendment tabled by me. It is quite clear that there is a mistake in print and I am not responsible for that.

**Mr. Deputy-Speaker:** All right, we will come to No. 3 later on.

Then Pandit Munishwar Upadhyay— he is not present. Shri Sinhasan Singh, amendment No. 16.

**Shri Sinhasan Singh** (Gorakhpur Dist.—South): Sir, my amendment reads as follows:

In page 1, line 8, for "three" substitute "seven".

The punishment at present laid down under the law for bribe-givers and bribe-takers is not very hard. The result has been that the bribe-givers have been very indifferent to the law itself. Therefore, in changing the very law we must be very hard towards the offenders. The hon. Minister has pointed out that he has enhanced the term of imprisonment from two years to three years. He also wants to make the punishment for givers as well as takers of bribes on a par with each other. I would suggest that the man who takes the bribe should be given seven years imprisonment and the man who offers the bribe should also be given seven years. This will meet those cases of big bribe-givers who corrupt the officials. It is not as if the officials go

and ask for bribes. At least in bigger cases we find the big merchants go and offer bribes and by offering Rs. 1,000 they try to make Rs. 10,000. Such persons should be punished drastically. I have also put in another amendment to a later clause. The scope of my present amendment is to enhance the period of imprisonment so that it may prove to be a deterrent.

**Mr. Deputy-Speaker:** Is the hon. Minister accepting it?

**Dr. Katju:** My position is this. I followed in the Bill the recommendation of the Tek Chand Committee. That Committee recommended that in place of two years we should make it three years, and the same punishment should be awarded to the abettor. So far as "or with fine or both" is concerned, speaking as a lawyer I may tell you there are two aspects to be considered. In the first place, we are now providing that all these offences should be tried by Special Judges who will be very senior Judges and they will duly consider the measure of the culpability of each offence. Secondly, if there is a statutory obligation to impose a sentence of imprisonment then all of us know the device of sentencing a man to a day's imprisonment which means that he just walks out of the court. And if a Judge is inclined to hold that the case before him does not really deserve a sentence of imprisonment and yet the statute says it must be "with imprisonment" then he imposes one day's imprisonment and nothing happens. Therefore, my own feeling is that three years is quite all right, but if there is a general feeling in the House that from three years we may raise it to five years, I would have no objection. Let us also have the words "or fine or with both", and let us leave it to the discretion of the Sessions Judge or the Additional Sessions Judge or the Assistant Sessions Judge, because so far as the quantum of punishment is concerned it is left to them. Only the maximum is prescribed by us. A Judge may award one month or three years. If the House thinks that we should raise the maximum to five years, and if that commands a large support, I am willing to accept five years. So far as the obligatory fine is concerned, I would rather leave it alone. That is my personal opinion.

**Shri S. V. Ramaswamy (Salem):** There is my amendment with regard to this clause raising the period to five years.

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**The Minister of Parliamentary Affairs (Shri Satyanarayan Sinha):** Five years seems to be the general sense.

**Mr. Deputy-Speaker:** If the hon. Minister is accepting it, I shall pass over the rest of the amendments.

**Shri N. Somana (Coorg):** I have got an objection to the acceptance of this amendment. The main section 161 states that the punishment shall be only three years imprisonment or fine or both. If we now substitute five years here, it would be technically wrong.

**Dr. Katju:** I am very grateful to my hon. friend. Let it be three. After all, the Committee considered the whole position and came to their conclusion.

**Mr. Deputy-Speaker:** So, none of the amendments are moved. Mr. Valatharas.

**Shri Jhulan Sinha:** What about my amendment No. 3? Has it been taken as moved?

**Mr. Deputy-Speaker:** Is he insisting on moving it? I thought that after the hon. Minister's reply, the hon. Member agreed to allow the position to remain as it is.

**Shri Jhulan Sinha:** If I move my amendment, the position will become clearer. I beg to move:

In page 1, line 8, after "three years" insert "and fine".

I do not want the position about fine to be left to the courts. I have no suspicion about the intentions of the court. I know that the Judges will be senior officers and they will look to the quantum of offence before awarding the sentence. But seeing the gravity of the situation with regard to corruption and the rate at which it is spreading, I want to give the impression to everybody that along with the imprisonment there will be fine also. If at all a fine is to be imposed, let it be imposed compulsorily and not in an alternative way. I hope the Home Minister will reconsider his position.

**Mr. Deputy-Speaker:** The fine may be only one rupee.

**Shri Jhulan Sinha:** Let us have the fine and let us leave it to the court to consider what fine each case deserves.

**Mr. Deputy-Speaker:** I do not like this. The hon. Minister has stated that he is not prepared to accept the amendment and after he has concluded the hon. Member gives further arguments.

**Shri Jhulan Sinha:** Sir, I beg leave to withdraw my amendment.

**Mr. Deputy-Speaker:** Why should he move his amendment after the hon. Minister has replied and then immediately, almost the next minute, withdraw it? Is the time of the House to be wasted like this? I will not allow him to withdraw it. I will place it before the House and let it be defeated.

**Some Hon. Members:** Let him go this time.

**Mr. Deputy-Speaker:** Very well. Has the hon. Member the leave of the House to withdraw his amendment?

The amendment was, by leave, withdrawn.

**Mr. Deputy-Speaker:** Hereafter hon. Members will take care before moving their amendments. Now, I shall put clause 2 to the House.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

*The House then adjourned till a Quarter Past Eight of the Clock on Tuesday, the 15th July, 1952.*