

KERALA APPROPRIATION (VOTE
ON ACCOUNT) BILL,* 1957

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move for leave to introduce a Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the service of a part of the financial year, 1957-58.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the service of a part of the financial year 1957-58."

The motion was adopted.

Shri A. C. Guha: Sir, I beg to introduce** the Bill.

Shri A. C. Guha: I beg to move:***

"That the Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the service of a part of the financial year 1957-58, be taken into consideration.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the service of a part of the financial year 1957-58, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 1 and 3, the Scheduled, the Enacting Formula and the title of the Bill were added to the Bill.

Shri A. C. Guha: Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

PREVENTION OF CORRUPTION
(AMENDMENT) BILL*

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

"That the Bill further to amend the Prevention of Corruption Act, 1947, as passed by Rajya Sabha, be taken into consideration."

This is a matter which deals with the question of corruption and for this purpose we have been having criticism in the Parliament on a number of occasions. This was taken up some years ago and in 1947 an Act was passed known as the Prevention of Corruption Act. The object of that Act was twofold.

One was to make a new offence known as 'criminal misconduct'. It was a particular offence under which an officer or a Government servant might be habitually indulging in receiving illegal gratifications to do or not to do a certain act in his official capacity. It was considered that, in addition to certain offences which we have in the Indian Penal Code, namely, receiving illegal gratification—now we have also got giving illegal gratification—and offences connected therewith—it would be better to have a new Act known as the Prevention of Corruption Act. As I said, as new offence was created known as the 'criminal misconduct'.

Secondly, by way of rule of evidence, a presumption could be drawn according to which, under certain circumstances, if a Government servant for instance, is found in possession of certain property which could not

*Published in the Gazette of India Extraordinary Part II—Section 2 dated 28th March 1957, pp. 39-43.

**Introduced with the recommendation of the President.

***Moved with the recommendation of the President.

[Shri Datar]

prima facie, be accountable from the sources of his income, a presumption could be drawn. The court will presume, unless the contrary is proved by the other party, that the particular property has been acquired by means other than legitimate. That is a very important presumption. If a man is found in possession of property which is disproportionate to his means, then certain presumptions could be made under certain circumstances. This presumption has helped the Government in rooting out corruption to a certain extent. As the House is aware, Government is very anxious that the purity of administration should be maintained by the Government servants. They should work in a spirit of service and duty and not out of considerations other than those to which they are entitled to either by way of pay or by way of allowances. Apart from this, while a person is in Government service, he could not take undue advantage of his position. He could not exercise his influence in other than legitimate ways. If he does, naturally, it is a matter which should bring him within the criminal law.

For this purpose, this Act was passed. Government had a machinery. The Central and the State Governments have been taking advantage of these new provisions and, to a certain extent, this corruption has been brought under control. Subsequently, the provisional Parliament considered this question of corruption and a committee was appointed to find out to what extent this law has been effective, and whether any legislative changes are necessary; if so, on what lines. Their report was received by Parliament, and whatever they had stated was accepted to a large extent by Government as a result of which certain changes were made.

When this Act was passed in 1947, the period of this particular new offence remaining in force was first put at three years. Section 5 was the

important provision which dealt with the new offence, namely, criminal misconduct. Then it was stated that that section should be in operation for a period of three years. Afterwards, on the recommendation of the Tek Chand Committee, if I mistake not, the period was extended from time to time until early this month when the Parliament was not in session and the period was to have expired. As I have already stated, the provision regarding the offence as also the provision regarding the prosecution were very important. Therefore, as the Parliament was not in session an Ordinance was issued by the President and now, as the Parliament is meeting, this Bill has been brought forward.

The object of this Bill would be to make this a permanent feature of this Act. It is not sufficient if it remains on the statute-book for three or five years. During the last ten years, it has helped the Government to a very large extent in checking crime, because the circumstances under which this offence can be committed have been laid down and it has been stated that it will amount to criminal misconduct; not merely ordinary misconduct, civil misconduct or retort, but criminal misconduct. Therefore, it has to be properly punished and this has had a very salutary effect.

During the last ten years there has been recourse to the provisions of this Act on a number of occasions, and I find that on the whole these provisions have been of great use. Therefore, it is considered that these provisions, Section 5, should continue for all time to come, so long as this Act, namely, the Prevention of Corruption Act is there. This is the purpose for which this Bill has been brought forward, and if this Bill is passed into law the Prevention of Corruption (Amendment) Ordinance would naturally be repealed.

Sir, I have explained the provisions and I am confident that the hon. Members would accept the provisions that

are already on the statute-book. I am sure they would agree that, if corruption has to be eradicated then the Government must have a machinery, must have certain powers for the purpose of proving in a court of law that a certain officer has committed criminal misconduct.

There are also other steps that the Government have already taken. Whenever it is found that in a particular case the matter cannot be proved or the prosecution cannot be sustained, there are other ways in which the conduct of the Government officer is taken into account; that is by means of departmental proceedings. If the case is strong enough for conviction in a court of law *prima facie*, the matter is taken to a court; otherwise, if it is found that there is an element of moral turpitude, though according to the strict technical interpretation of sections it cannot be proved to amount to an offence, it would be a wrong and then, naturally, the other machinery is used by the Government. The Government in that case avails themselves of the departmental proceedings. As the House is aware the House has already taken a number of steps in that direction. The Government have appointed a new division known as the Administrative Vigilance Division.

श्री सिहासन सिंह (जिला गोरखपुर, दक्षिण) : जब से यह डिवीजन कायम होता है तब से करपान के कितने केसेज चले हैं।

Shri Datar: I would invite the hon. Member's attention the report that was placed on the Table of the House. So far as this Administrative Vigilance Division is concerned, it deals not only with the question of punishment or detection of crime, it also deals with the prevention of circumstances under which such crimes can be committed. The environments are taken into account, and Government are taking very strong action so far as vigilance is concerned. Therefore, the House will agree that Government are extremely keen on the complete

removal or eradication of corruption, to the extent that they can do, by such Acts and also by means of the general rules that they have issued so far as departmental proceedings or other actions, are concerned. I am confident, Sir, that this Bill will commend itself to the approval of the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Prevention of Corruption Act, 1947, are passed by Rajya Sabha, be taken into consideration."

Mr. Deputy-Speaker: Hon. Members must be aware that the House got only one hour as the limit within which the Bill has to be passed.

Pandit Thakur Das Bhargava (Gurgaon): I am aware of it, and it, and it is only because the time is very inadequate that I have Tabled the first motion. It is the result of my decision that the time allowed for this motion is very inadequate. Since we are adjourning today, there is not enough time to deliberate upon this Bill.

Mr. Deputy-Speaker: It is not only that we are adjourning today, but it is impossible to extend it even by a few minutes. There is another motion by Shri Kamath. That is also, perhaps, very important and of interest to the Members. That has to be discussed for at least half an hour. Then the hon. Speaker wants to make certain observations at 16.30 hours before we part. Therefore, we have to finish this by at least four o'clock.

Pandit Thakur Das Bhargava: That means, instead of one hour we will have only half an hour.

Mr. Deputy-Speaker: The time taken by the Minister must also be included against this Bill.

Pandit Thakur Das Bhargava: So far as I am concerned, I will try my very best to give all the reasons that I can to see that this motion is not taken up today. If the hon.

[Pandit Thakur Das Bhargava]

Minister agrees, I think all other business can very smoothly pass through.

Mr. Deputy-Speaker: If that is the object of the amendment, then I shall have to rule that it is dilatory.

Pandit Thakur Das Bhargava: It is not dilatory.

Mr. Deputy-Speaker: I have not ruled it out, but the hon. Member said that he will give all the reasons so that the motion is not taken up today.

Pandit Thakur Das Bhargava: Because the time is short; if the time was there I would not have brought such a motion. As the hon. Minister himself said, it is an important measure, and the importance of the measure entitles me to appeal to the House that it should consider the Bill fully and on merits. My difficulty is, half an hour is absolutely insufficient for me even to make out a case for full deliberation being bestowed on on such a Bill. As a matter of fact, this should be postponed. I am saying this very seriously. I have gone through the proceedings of Rajya Sabha on this Bill and I find that it was not properly considered there. I am very sorry to say that it was passed in a rather hasty way there, and I do not want that this may be said about this House also.

I leave it to you, Sir. I will give all the reasons. If you are satisfied that there is a case then you may allow me to proceed with the other arguments; otherwise you may rule it as dilatory.

Mr. Deputy-Speaker: I am not inclined to rule it out as dilatory, but my difficulty is, how will this motion be made adequately and in a lawful manner when these Members cease to be Members at all. As far as I am aware there will be no Members on the 4th. How will they work on the Select Committee?

Pandit Thakur Das Bhargava: Today they are Members. The House is not going to be dissolved for several days. We have changed our rule and we can certainly go on when the House is not dissolved.

Mr. Deputy-Speaker: That is prorogation and not dissolution. Now the House is going to be dissolved.

Pandit Thakur Das Bhargava: The House will be dissolved after four days. The Select Committee can meet for a day in between and finish the job.

Mr. Deputy-Speaker: Where is the report to be made?

Pandit Thakur Das Bhargava: The report can be made subsequently.

Mr. Deputy-Speaker: By whom?

Pandit Thakur Das Bhargava: My humble submission is that I am really concerned by the action of the Government. The Government have made it impossible for me to move this motion. Therefore, this is another ground on which this Bill should be postponed. It comes to this. This motion cannot be made which is lawful under the law. This, in plain English, means that it is impossible for me to move it. Therefore, there is no other course except to see that this Bill is postponed.

Mr. Deputy-Speaker: That is an argument which the Minister could consider.

Shri Datar: May I point out that Government are considering the general question of having further amendments in the Prevention of Corruption Act. The Government are now actually considering that question. They are preparing a Bill so as to incorporate the other amendments that the Government have in view. They have to consult the State Governments and after considering their views, the Government will place it before the new Parliament. That will be a full and comprehensive Bill.

Mr. Deputy-Speaker: That is quite a distinct and different thing. The objection taken is that the Government are bringing forward a Bill to be considered and passed by this House. There are options for the Members to move certain amendments or motions under this Bill, but the Members find that it is not possible to make them, because we are adjourning today *sine die* and so far as we know, the House is being dissolved. The hon. Member's objection is that it is lawful for him to move that the Bill be referred to a Select Committee and that it is allowed by our Rules of Procedure. It is impossible for him now to make that motion because, as I pointed out to him, there would be no Select Committee for, there would be no Members of Parliament. He says that he is handicapped to make a motion, which is allowed by law and procedure, that this Bill should not be proceeded with. The Minister should consider this point. I think I have made clear what the objection of the hon. Member is.

Shri Datar: All that the hon. Member has in view in that there should be a Select Committee which should go into the merits of such Bills including the present Bill. So far as the general principles laid down in the Prevention of Corruption Act are concerned, I have stated just now that Government are considering amendments and they would bring forward a Bill. When that Bill comes and is placed before Parliament, then, it may be considered by the Select Committee; if my hon. friend desires that it should be considered by a Committee of both the Houses, it could also be done then.

So far as section of the Act is concerned, I submit that if, for example, this Bill is not passed into law, naturally certain difficulties will be created. There are cases pending, and the difficulties will be there, and a presumption cannot be drawn in certain cases by the courts. Therefore, a number of difficulties arise. All that

we desire at present is that section 5 should continue to be a provision in this Act. This is the only thing that we want. I believe that the hon. Member can have full opportunities for considering other amendments including, if necessary, a provision like the present one, and the Select Committee can go through them.

Pandit Thakur Das Bhargava: May I submit a reply? I am quite conscious that the hon. Minister himself is conscious of the fact that this Bill is very defective.

Shri Datar: I have not said so.

Pandit Thakur Das Bhargava: That is the reason why a new Bill is being brought. I have been in the House for a sufficiently long period, and I know it.

Mr. Deputy-Speaker: The hon. Minister has advanced this argument that section 5 is already there. If we do not pass this Bill now we cannot extend its existence and that provision is necessary.

Pandit Thakur Das Bhargava: I am also conscious that so far as section 5 is concerned it may be continued for sometime.

Shri Sinhasan Singh: On a point of order. The hon. Member says that he wants a particular section to continue. An ordinance had been passed and it will lapse, and so a measure was brought into the House to override that difficulty. Now, what is the intention of my hon. friend? Does he want that section to continue or not?

Pandit Thakur Das Bhargava: He only wants to know my intention. It is not a point of order. When an ordinance is there, it continues. Suppose, this Bill is not passed, what happens? The ordinance itself continues. It shall continue for six months. The ordinance does not lapse.

Shri Sinhasan Singh: It lapses.

Pandit Thakur Das Bhargava: No. According to the Constitution, the ordinance shall continue for sometime.

Mr. Deputy-Speaker: If we do not meet and if it expires, then it goes. If the Parliament does not meet, then the ordinance would have gone.

Pandit Thakur Das Bhargava: The ordinance can be made again. What is the difficulty? They have got the powers to make an ordinance again. The Minister has expressed the difficulty that there are some cases which will be affected adversely if this provision in the Act is not allowed to continue. Suppose, some new cases are brought in—

Mr. Deputy-Speaker: I would bring to the notice of the hon. Member one fact. If he agrees to a new ordinance being enacted, then why not he give up his position? Suppose that ordinance is passed or extended and this clause is continued for another period of six months, or whatever he likes, then, perhaps the hon. Minister feels that there is no harm in passing this Bill for the present, and having the continuance of the particular section. Then, he is bringing a comprehensive Bill when all these and other matters can be considered by this House.

Pandit Thakur Das Bhargava: Where is the guarantee that it will be brought within six months or one year? I was a Member of the Committee—the Tek Chand Committee. I am the person who got this amendment made which is the subject matter of this discussion.

Mr. Deputy-Speaker: If the non Member gets a sufficient guarantee, then, is he prepared to agree?

Pandit Thakur Das Bhargava: I believe that the Minister says that he will bring a new Bill as soon as possible—perhaps in May or June—during the coming session. But, after all, I do not want that such cases which have to be decided should be decided adversely by the High Court or the Supreme Court on the basis that this law does not exist. I do not want that. If the Minister says that he will bring the new Bill in May or June, I shall not oppose this measure. But, suppose, after a year, he brings in the Bill—

Shri Datar: I am prepared to confine it to months, and not a year. We shall have to consult the State Governments and it will take some time. But I am prepared to give a promise to my hon. friend that at the earliest opportunity, I shall bring the Bill—not early but earliest.

Pandit Thakur Das Bhargava: By 'earliest', I mean May or June, or in the next session.

Shri Datar: I mean it in terms of months and not years.

Pandit Thakur Das Bhargava: In the next session, I mean. If he brings it during the next session, there is no harm. I am agreeable. You may bring the measure in the next session. I shall have no objection.

Shri Datar: I shall try my best to see if we can bring it.

Mr. Deputy-Speaker: Let us leave it now. I would request the hon. Member to have that much guarantee and leave it to the House.

Pandit Thakur Das Bhargava: If the hon. Minister says that he will do his best to bring the new Bill in the next session, I shall accept it. I take it that he will bring it during the next session. Under these circumstances, I do not want to press my amendment.

Pandit S. C. Mishra (Monghy North-East): At least on one occasion, we find ourselves in consonance with the Government, though it be on the last day.

Mr. Deputy-Speaker: It is very unfortunate that it so happens on the last day of the term.

Pandit S. C. Mishra: This is the last day of our existence in this Parliament and my own term here. Therefore, I am glad to support the Government on their introducing this Bill. I was saying that at least on one occasion, Government would take the right decision and we fully appreciate that they have taken this measure.

Mr. Deputy-Speaker: All's well that ends well.

Parmit S. C. Mishra: At least on this point we support the Government, and we hope that Government will take adequate steps in this regard. But I think that even with this law as it stands Government is not taking adequate steps. This law empowers the Government and gives them enough opportunities and powers to haul up all corrupt officers, but even then, the action that the Government takes under the existing law is always lukewarm. They could have checked corruption to a large extent. I do not say that I support this measure fully, but I would impress upon the Government that they should be more energetic towards taking action under this law. With these words, I support the Bill.

श्री नंद लाल शर्मा (सीकर):

नमोऽस्तु रामाय सलक्षणाय
देव्यं च तस्यं जनकात्मजाय ।
नमोऽस्तु रुद्रेद्येमानिलेष्यो
नमोऽस्तु इन्द्राक्षमरुदगणेश्यो ॥
म ननीय उपाध्यक्ष महोदय, . . .

Mr. Deputy-Speaker: I may tell the hon. Member that he will have very little time, only 4 or 5 minutes.

Shri Nand Lal Sharma: I shall try to finish within 5 minutes.

Mr. Deputy-Speaker: Otherwise I will have to try.

श्री नंद लाल शर्मा: माननीय उपाध्यक्ष महोदय, भ्रष्टाचार निरोध के सम्बन्ध में यह संशोधन अधिनियम स्वागत का विषय है, इसमें कोई सन्देह नहीं है। हमारी सरकार ने इस भ्रष्टाचार कुक्ष अधिक कदम उठाये हैं मारतोय दंड विधान की धारा १६१ और १६५ के अतिरिक्त यह जो धारा बनाई गई कि सरकारी कर्मचारियों के द्वारा भ्रष्टाचार करने पर उनके विशद कोई कदम उठाया जा सके और उसे भ्रष्टाचार नियम के साथ नियमित रूप देने का जो प्रयत्न किया जा रहा है, मैं समझता हूँ कि यह भी अधिक उचित है। किन्तु साथ ही जब यह अधिनियम स्वीकृत

किया गया था उस समय भी ये शब्द कहे गये थे और भ्रष्ट भी वही शब्द कहे गए हैं कि जो धारा ६ है जिस का हैडिंग है: Previous sanction necessary for prosecution.

जिसमें केन्द्रीय सरकार अथवा प्रादेशिक सरकारों में अनमित लेकर ही उस पर केवल चलाया जा सकेगा, यह बन्धन जो रखा गया है, मैं समझता हूँ इसके द्वारा एक तो किसे व्यक्ति की हिम्मत भी नहीं होगी कि वह यह काम करे और अगर हिम्मत हो भी गई तो उसे ताफ्तब भी प्राप्त नहीं होगा और बहुत सारे सरकारी कर्मचारी इसी सुरक्षा द्वारा सुरक्षित रह जायेंगे। इतना ही नहीं हम यह भी समझते हैं कि केवल पाश्चात्य इंग से बूँस लेना पाप है इतना कह देने से या सरकार द्वारा प्रचार मात्र कर देने से या कार्यालयों में लिख देने से भ्रष्टाचार समाप्त हो जायेगा, यदि प्राप का ऐसा विचार है, तो मैं समझता हूँ कि आप भूल करते हैं और आप सकल नहीं हो सकेंगे। हमारे प्रधान मंत्री जिन का बार बार यह कहता है कि राज्य का धर्म से कोई सम्बन्ध न होगा, उन की सरकार एक संक्षुल्ल सरकार होगी, उन का ईश्वर से सम्बन्ध न होगा, मैं समझता हूँ भ्रष्टाचार को रोकते में ये सब से बड़ी वाधायें हैं और आप कोई भी कानून बना लें, कोई भी संशोधन ले आयें, आप इस में सकलता प्राप्त नहीं कर सकते। सब से बड़ा प्रभाव ईश्वर और सदाचार का होता है। इन दो भावनाओं का प्रजा पर अच्छा असर पड़ सकता था जिन को भ्रष्ट हटा दिया गया है। धीरे, धीरे, इस के परिणाम-स्वरूप, हम कांग्रेसिज्म से कानूनिज्म की ओर लिंसक रहे हैं। दक्षिण से हम ने लाल भंडे को आमंत्रित कर लिया है और धर्म शब्द से अभिप्राय मेरा धर्म, या मेरे धर का धर्म या किसा व्यक्ति का धर्म नहीं है। धर्म का अर्थ व्यापक है, धर्म का अभिप्राय वर्लोक भावना से है जहां बुरे और अच्छे कर्म के फल मनुष्य भोगता है, मरने के बाद किसी कर्म का कर्म भोगने की भावना जानता

[भी नंद लाल शर्मा]

है और यही उस के अन्दर विद्यमान रहता है। यदि यह भावना विद्यमान नहीं तो भ्रष्टाचार हट सकता है नहीं तो नहीं। हांगर गुना सी० आई० ई० बड़ाने पर भी आप इस भ्रष्टाचार को रोक नहीं सकेंगे और आज भी रोक नहीं पा रहे हैं। अभी हाल ही में मुझे एक अनुभव हुआ है। ज्ञानों के दिनों से एक मिसिस्टर ने को किसी प्रादेशिक सरकार के मिस्टर थे, अपने एक विरोधी कैडेट को ६,००० रुपये देने की स्वीकृति दे दी और यह इस्पात दे दिया। उसने लिखा: कर दे दिया कि मैं ने ६,००० रुपया लिया है। और यह लिखा हुआ हमारे पास भौजूद है। उसने कहा है कि मुझे ६,०००रुपया दे कर के दिला दिया गया है; और उस कॉस्टिट्यूशनी के सोनोंने उसे कहा कि यदि कहाँजहाँ लैंडेगा तो उसे कल्प कर दिया जायेगा। अगर हृष्वर का भय होता, यदि कोई सदाचार का भय होता, धर्म का भय होता, तब इस तरह की बात नहीं हो सकती थी और सब बातें चल सकती थीं, परिवर्ता आ सकता थी। इस लिये केवल कानून बना देने से नियम बना देने से अब किस का कौन सा समझ है ऐसा सिद्ध करना सम्भव नहीं है। मैं समझता हूँ कि इस के बारे में भी कानूनी कायंवाही होगी और वह आप के सामने आ जायेगी। भाज हमारे सामने यह लिख कर रख दिया जाता है कि बूश्लोरी करना पाप है लेकिन हम सब देखते हैं कि मैजिस्ट्रेट की नाक के नीचे उस का जो रीडर होता है वह कहता है मेरा हक लाओ।

यह हाल सभी धोत्रों में मैं ने देखा है। भिलाई स्टील प्राजेंक्ट में १११ करोड़ रुपया लंबं करने का प्रावीजन आप ने रखा था जिसे अब बड़ा कर १७० करोड़ रुपया कर दिया गया है। वहाँ पर आप एक रुपये के चार चार इस्पात कांट्रैक्टर्स को देने के लिये भी तैयार हैं लेकिन कोई भी कानूनीकरण कांट्रैक्ट लेने को तैयार नहीं है। वे कहते हैं कि वहाँ एक एक रुपये के दस दस रुपये देने की बात होती है। तो

बार गुना पर कौन कानून करे। हमारे यह सभी महोदय ने कहा है कि भ्रष्टाचार को दूर करने के लिये उचित संशोधन वह लाये हैं। मैं आप को बताना चाहता हूँ कि

एथर्ववेदतो राजा सर्वस्य हृषि संस्थितः
तेन बेदिविदावस्ते या गंगा भाकुरुन गमः ॥

तुम्हारे हृष्य के अन्दर यह राजा बैठा हृषा है। अगर तुम्हारा उस के साथ कोई अगड़ा नहीं है, तो तुम गंगा और कुहज्जेन्न जा कर बधा करोगे, वहाँ तुम्हारा कोई काम नहीं है। मैजिस्ट्रेट के सामने जब आप सत्य बोलने की बात रखते हैं तो बाधा उत्पन्न होती है। आज सत्य की भावना नहीं है। जब मैजिस्ट्रेट में धर्म की भावना नहीं होगी तो लोगों को कोई में विवाह नहीं होगा और जब ऐसा होगा तो कौन सी बात सत्य है और कौन सी असत्य, इस निर्णय पर आप कैसे पहुँचेंगे। मेरा निवेदन है कि धारा ६ जब विद्यमान है तो धारा ५ का कोई मूल्य नहीं है और धारा ५ से जो आशा की जा रही है कि इस को हम परमानेंट बना देंगे तो इस का इतना ही प्रार्थ है कि हम बड़े बड़े कर्मजारियों को कुछ न कुछ लाभ पहुँचा सकें। इस बास्ते मेरा गह मंत्री महोदय से यह निवेदन है कि यदि वह सचमुच यह चाहते हों कि भ्रष्टाचार भारत में से हटे तो उनको धारा ६ के अन्दर वाम्नविक मंशोधन करना चाहिये। यहाँ तो उस को हटा देना चाहिये और अगर ऐसा नहीं हो सकता तो वास्तविक मंशोधन करना चाहिये। भारतीय राजनीति का एक भाष्य दृष्टिकोण सारे विश्व का कल्पाण है। यह दृष्टिकोण आज ही नहीं बना है बल्कि आज से पहले भी रहा है और आगे के लिये भी होना चाहिये। इस बात को मैं केवल इस लिये नहीं कह रहा हूँ कि कांगेस के द्वाये हमारा मतभेद है और इस लिये हम उस को मूठा कहते हैं। ऐसी कोई भावना नहीं है। हम चाहते हैं कि कांगेसी शासन भी यदि वह धर्मनुकूल शासन होगा, यदि सदाचारना से घोतप्रोत होगा तो प्रबल कानून

कल्याण करेगा। और यदि ऐसा न हुआ और हम कम्पनियों की ओर किसी गये तो उह प्रभाना भी सर्वनाश करेगी, भारत को भी हानि पहुँचेगी और विश्व को शांति नहीं पहुँच सकेगी।

इसलिये मेरी इच्छा से प्रार्थना है कि वह हमारे नेताओं को सदबुद्धि प्रदान करे और हमारे नेतागण इच्छीय मानवाना से प्रेरित हो कर के इस भ्रष्टाकार को रोकने का प्रयत्न करें।

राजभासा कमलमुमति शाह (जिला गढ़वाल-परिचम व जिला टिहरी गढ़वाल व जिला बिजनार-उत्तर): उपचायक महोदय, सबसे पहले तो मैं आप को बहुत बहुत धन्यवाद देती हूँ कि इतना थोड़ा समय होते हुए भी आपने मुझे बोलने का अवसर प्रदान किया।

मुझे बहुत थोड़ा इस के बारे में कहना है: पहली बात तो मैं यह कहना चाहती हूँ कि यह जो आप ने कानून बनाया-कि धूम देने वाला और लेने वाला दोनों ही अपराधी हैं और दोनों को ही सजा मिलें यह बहुत गलत आत आप ने की है। इम का नतीजा यह निकल रहा है कि जो धूम देने वाला है उस की बहुत ज्यादा बाधा थोड़ा का सामना करना पड़ रहा है और वह यह नहीं बता सकता है कि धूम किस ने ली है और वह क्यों ली है। मैं आप को कई दृष्टान्त दे सकती हूँ कि जहाँ पर जो धूम देने वाला है वह कुछ भी न दी कर सका है और उस भी जबरदस्ती धूम ली गई है। यह जो चीज़ आप ने की है यह बहुत ही गलत चीज़ की है। मैं चाहती हूँ कि पर्म देने वाले को कोई सजा नहीं दी जाए चाहिये। मैं समझती हूँ कि अगर धूम देने वाले को कोई सजा न हो तब जो कर वह धूम लेने वाले को पकड़वाने में सफल हो सता है और धूम लेने वाला पकड़ा जा सकता है।

मैं भी अनी चुनावों के समय मैं ने देखा है कि बहुत ज्यादा भ्रष्टाकार हुआ है।

गांधी में बोर्टर्स लिस्ट में से बोर्टर्स के नाम ही उड़ा दिये गये हैं। इस से बहुत ज्यादा मुश्किल का सामना करना पड़ा है। वहाँ पर बोर्टर्स का धूस दी गई है। इलैक्शन में सरकारी कर्मचारियोंने, बच्चों ने तथा प्रव्यापकों ने भाग लिया है। वह सब बातों को भी मैं सरकार के सामने लाना चाहती थी। परन्तु जो मैं मुझसे: सरकार को बतलाना चाहती हूँ वह यह है कि जो धूम देने वाला है उस को सजा न हो और जो लेने वाला है उस को ही सजा हो। जब ऐसा भाषप करेंगे तभी भाषप धूसलोटी को रोकने में सफल हो सकेंगे अन्यथा नहीं।

Shri Sadhan Gupta (Calcutta—South-East): Mr. Deputy-Speaker, while I undoubtedly support this Bill without much reservation, I have something to remark about certain fundamental aspects of this matter. No one would refuse to support the Bill because corruption is so rampant in the country that it needs to be checked with a firm hand, and the extraordinary provisions of the Prevention of Corruption Act are undoubtedly necessary for this purpose. But, to what I want to draw the attention of the House more is the more fundamental problem of putting down corruption through improving the social atmosphere, particularly through improving the tone of the bureaucracy by certain measures. It is undoubtedly true that corruption is rampant. But not very much will be affected by merely enacting penal laws, by merely providing for presumptions or things of this kind. What is necessary today is a radically outlook by which corruption will be eradicated and stamped out wherever it exists. Of course, the best way to do it is to encourage honest officials to come forward with information about corrupt officers, whether they are their inferiors, or let me remind the Government, whether they are their superiors. I emphasise the word superior because by a strange continuance of the bureaucratic heritage which we had inherited from our erstwhile British masters, we think it a crime that an

[Shri Sadhan Gupta]

inferior government servant should report against a superior, however corrupt the superior may be. A very sensational case took place in my State just after Independence, when one gentleman, one officer reported against his immediate superior to the Minister with unimpeachable proof of corruption and he was dismissed on the ground that he did not go through the proper channel. The proper channel was the officer against whom the allegation was made. These things are absurd. I believe this thing still goes on. There is no encouragement given to officers to bring forward or expose the corruption of their superiors. It is quite patent, it is well known that the whole bunch of government officials is not dishonest. There are quite a few honest officers who do not dare to speak out, dare to reveal the corruption because the consequences will be hard on them.

I know in the police service there is a veritable organisation by which all money received by way of bribes is distributed according to a certain proportion. If, in this organisation, an honest officer happens to come in by way of transfer or by way of recruitment, life becomes very difficult for him, because he is suspected by every one interested in making money, gradually, what happens is, false reports are made against him concertedly and he finds it very difficult to continue in service. If he happens to report against any of his superiors, it would go ill against him from the highest to the lowest. Every one would persecute him. That has to be ended. This bureaucratic mentality has to be ended if corruption is to be stamped out. No amount of punishment will stamp out corruption, because if the corrupt officers are protected from disclosures by their underlings who are best able to detect their corruption, however many penal laws you may enact, they may easily be evaded. That is one thing to be kept in mind.

The other thing to be kept in mind is that the Government must take

care that honest officers are not persecuted by their corrupt colleagues in order to secure their corruption. I have drawn attention to many cases where *prima facie* appeared, in the Customs for example, that certain officers were reported against, their promotions stopped and all that, because they refused to fall in line with their corrupt colleagues, to accept bribes themselves and to facilitate acceptance of bribes or illegal gratification by their superiors. I have made representation in some cases and the reply has been uniform that the case has been carefully considered and after due enquiries it is being found that he was guilty of such and such an offence. Undoubtedly, if you enquire from his superiors all the charges against him would be borne out. But, that is not the way to proceed. Some device must be invented, must be put afoot by which there would be some machinery to investigate corruption cases independently of the officers who are accused of being guilty of corruption. That is very necessary. Unless these things are done, it is useless to enact laws regarding prevention of corruption. It is useless to raise presumptions because corruption itself will not be proved and presumptions will be useless. It is very urgent, it is very necessary that real effort should be made for stamping out corruption because corruption is eating into the vitals of our administration whether at the Centre or in the States. I do not know what amount of money is responsible for wasting. The poor tax-payer today pays Rs. 23 per head in taxes, at least in Bengal. This is an unbearable burden and it revolts against one's spirit to think that all that money is going to waste. Much of that money is being misappropriated by certain officers or by certain contractors or others, through corruption. To check it, no honest effort is being made. Therefore, I would once again appeal to the Government to undertake and persuade the State Government to undertake radical measures by which the ex-

posure of corruption is encouraged at every level. We need not be afraid of spoiling discipline in the officers corps. Corruption is so widespread that we must encourage honest officers to expose corruption, without fear of any loss of discipline. That is the thing I would ask the Government to keep in mind.

Pandit Thakur Das Bhargava rose.

Mr. Deputy-Speaker: I apologise to hon. Members; I hope they would appreciate my difficulty.

Pandit Thakur Das Bhargava: After all, we are finishing at Five. Shri Kamath will only take half an hour.

Mr. Deputy-Speaker: From 4 to 4-30 Shri Kamath will take and from half past four to Five, the hon. Speaker.

Shri Datar: Two points have been raised which require an answer: one by Shri Nand Lal Sharma, who made reference to section 6 of the Prevention of Corruption Act. His contention appears to be that there shall be no sanction of the Government at all. That is one view. The other view also has to be taken into account. Oftentimes allegations are made with a view to blackmail. Oftentimes, if, for example, an immediate action has been taken and prosecution started, it is quite likely that an officer would be subjected to uncalled for or unmerited harassment. That is the reason why even in the Code of Criminal Procedure, as you are aware, we have got section 197 which deals with the need for sanction in respect of certain offences. Similarly also here we are dealing with offences of corruption or criminal misconduct. In such cases, oftentimes, when charges are made without properly having them substantiated or when on *mala fide* grounds, with a view to harass an officer, with a view to prosecute an officer, certain charges or allegations are made it would not be proper to have the matter taken immediately before a court of law. That is the

reason why the preliminary enquiry is there always

Shri Nand Lal Sharma: Section 7 will help him in that respect.

Shri Sinhasan Singh: May I know whether Government have got with them any data to show that false and frivolous prosecution have been launched by individuals against Government servants?

16 hrs.

Shri Datar: Not only are there data, but there are very sufficient data. In a number of cases, we received complaints, and in a large number of these cases, the complaints were unfounded. That is the reason why a preliminary enquiry is always made, when certain allegations are received by Government. I would point out that in all such cases, the enquiry is carried on through an independent agency. If it is found that there is a *prima facie* case for launching a prosecution, then sanction is granted. That is what I would say so far as the first point is concerned.

Shri Sadhan Gupta pointed out that there ought to be a radical outlook in regard to this matter. Government have already got a radical outlook. Government are dealing with this question not only from the point of view of cure but also from the point of view of prevention.

Babu Ramnarayan Singh: (Hazaribagh West): Doubtful.

Shri Datar: That is the reason why we have got the Administrative Vigilance Division which has been doing very good work for the purpose of preventing all possibilities of corruption; the object is to remove all temptations and to keep up an environment in which it would not be possible for a man to indulge in corruption. That radical outlook is there in Government.

Babu Ramnarayan Singh: No.

Shri Datar: And we are having good results.

I am happy that on the whole this Bill has received the general consensus of opinion in its favour. I am happy also that Pandit Thakur Das Bhargava has agreed not to press his motion for reference to a Select Committee.

Shri Sadhan Gupta: May I ask whether the subordinates may report about the corruption of the superiors without having to go through those superiors?

Mr. Deputy-Speaker: That question might be better answered if we consult the rules and other things.

Now, I shall put the motion before the House.

The question is:

"That the Bill further to amend the Prevention of Corruption Act, 1947, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments to the Bill.

The question is:

"That clauses 1 to 3, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1 to 3, the Enacting Formula and the Title were added to the Bill.

Shri Datar: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DISCUSSION RE: ELECTION OF
PRESIDENT AND CONSTITU-
TION OF NEW LOK SABHA
ETC.

Mr. Deputy-Speaker: The House will now take up the half-an-hour discussion to be raised by Shri Kamath.

Shri Kamath (Hoshangabad): Is it only for half an hour?

Mr. Deputy-Speaker: We have not got more time than that.

The hon. Member may raise the discussion now.

Shri Kamath: I believe I am not guilty of an exaggeration or overstatement when I say that it is in the fitness of things that the last subject to be discussed by this Parliament should be one which is intimately related to Parliament itself, and to the precedents to be set up by this Parliament.

This, as the House is well aware, is the first Parliament elected under the Constitution. Therefore, at the very outset, let me make it clear that anything that was done in connection with the Provincial Parliament will not have correct bearing on the question before us.

The question before us, as has been stated in the notice of the discussion is the proposed election of the President and the constitution of the new Lok Sabha before the general elections have been completed in the country. I am aware that there is a third aspect of the matter also, namely the dissolution of the present Lok Sabha. But I am going to concentrate, for the sake of driving home my argument, on the ~~first~~ two aspects of the matter, that is, the election of the President and the constitution of the new Lok Sabha before the general elections have been completed in the country. But because all these three are links in a chain, the third aspect, namely the dissolution of the new Lok Sabha cannot escape out notice. Therefore, it inevitably forms the third link in