

Mr. Speaker: I will now put Shri Pattabhi Raman's amendment to vote. The object of this amendment is not to make it permanent but to extend the life for a period of six years.

Shri K. C. Reddy: I have just a word to say. In the course of my speech I said that when amendments are moved to extend the life of the Act to particular periods of time, I will give my thought to the matter and say what the Government's opinion is. In view of the fact that a large volume of opinion has been expressed by hon. Members that the Bill may not be made permanent but may be extended by a particular period of time, I am prepared to accept this amendment to substitute 'six' by 'twelve'.

Mr. Speaker: Now, I will put Shri Pattabhi Raman's amendment to vote.

The question is:

Page 1, line 6,

for "sub-section (3) shall be omitted", substitute "in sub-section (3) for the word 'six', the word 'twelve' shall be substituted."

The amendment was adopted.

Mr. Speaker: Shri Bharucha's amendment is now barred.

Shri Naushir Bharucha: It is making it semi-permanent.

Mr. Speaker: The question is:

"That clause 2, as amended, stand part of the Bill"

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Amendments made:

(i) Page 1, line 1,—for "Eighth Year" substitute "Ninth Year".

(ii) Page 1, line 4,—for "1957" substitute "1958".

[Shri Anil K. Chanda]

Mr. Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Mr. Speaker: What I find is that hon. Members from a particular party want to support an amendment. But nobody says so. I expect, the hon. Minister for Parliamentary Affairs and his other whips to be ready to support or oppose any amendment and not put me in a dilemma as to what I have to declare.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Very sorry for your dilemma.

Mr. Speaker: The question is:

"That the Enacting Formula, as amended, and the Title stand part of the Bill"

The motion was adopted.

The Enacting Formula, as amended, and the Title were added to the Bill.

Shri Anil K. Chanda: Sir, I move:

"That the Bill as amended, be passed"

Mr. Speaker: The question is:

"That the Bill as amended, be passed."

The motion was adopted.

CRIMINAL LAW AMENDMENT BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): Sir, I beg to move that the Bill further to amend the Indian Penal Code, the Prevention of Corruption Act, 1947, and the Criminal Law Amendment Act, 1952, be taken into consideration.

The object of this amending Bill is to tighten the law regarding the prevention of corruption amongst government servants and others. So far as the present Bill is concerned, Government have got some experience of the working of the Prevention of Corruption Act and also the Indian

Penal Code to the extent that it bears on corruption. Now, it is found that there are certain lacunae as a result of which those who are otherwise corrupt or those who are liable sometimes escape. That is the reason why this amending Bill has been brought forward.

It deals with the amendment of three Acts; one is the Indian Penal Code; the other is the Prevention of Corruption Act and the third is the Criminal Law Amendment Act. So far as the Indian Penal Code is concerned, the House is aware that there is a section dealing with the definition of public servants in general. Recently, as the House is aware, this Government as also the State Governments have had numerous industrial and other concerns. There are companies and statutory bodies and the question of corruption arises in respect of officers or employees of these bodies as well. But, in view of the fact that the words 'public servant' did not include all these persons, it was likely that these persons might escape from the punishment due to them under the law. That is the reason why in this amending Bill an addition has been made to section 21 of the Indian Penal Code. There are definitions of 'public servants' in the various clauses up to eleven. Now, a sub-clause has to be added for the purpose of extending the definition to those who are working under a local body or under these industrial concerns which are carried on or managed or worked either by the State Government or by the Central Government. If this amendment is accepted by the House, the definition would be wide enough to include all such persons. They would be 'public servants' and therefore proper action can be taken against them and they are bound by certain obligations inasmuch as they are 'public servants'.

Secondly, they have to carry on their work in a proper manner. In case any dishonest act is done by them, any act of the nature of corruption is done by them, then, naturally, they would be answerable. So, you

will find this particular lacuna. It is therefore necessary to have the definition widened so as to include all such persons or categories of persons.

16 hrs.

There is also another very important point which deals with certain other offences committed under the Prevention of Corruption Act. During the last 8 or 9 years, it is often found that whenever an officer is prosecuted or convicted, he is not given the punishment which is due to him under a false sense of leniency or some such reason. He escapes with a very light punishment. We have a number of such instances. So, Government considers it necessary that this law relating to the imposition of punishment ought to be tightened up. For this purpose a departure from the ordinary law is made. It is essential that when a Government servant has committed such an offence, the punishment should be adequate. A nominal or lenient punishment would not serve the purpose that the law has in view, namely, of not only punishing the particular man whose misconduct has been proved but also acting as a deterrent to prevent other persons from acting in a similar manner.

Taking all the circumstances into account, Government has come forward with a proposal that the minimum punishment ought to be provided. In certain cases, it is essential that a minimum punishment ought to be provided because the offence is so great. In certain instances, Parliament has agreed to the imposition of a minimum punishment. We have got the Food Adulteration Act. In the case of a first offence, the punishment was left to the Court. If the offence is repeated, a larger punishment has to be awarded both in imprisonment and fine. If the offence is committed again, still larger punishment is prescribed. Parliament also recently passed the Suppression of Immoral Traffic Act. There also, the offence is very heinous and therefore, a minimum punishment of one year has been prescribed. This is the third instance where the Government has come

[Shri Datar]

before the House with a proposal that there ought to be a minimum punishment. The maximum punishment has to be left to the Court.

In all such cases, the offender whose guilt has been established should not escape either with a small amount of fine or with a small measure of imprisonment. So, it is proposed here that where the offence has been held to be proved, the minimum punishment that a magistrate can pass is one year's imprisonment. Naturally, these are matters which deal with judicial discretion. Normally the punishment should not be less than one year. In exceptional circumstances there may be some extenuating considerations where the Judge may conclude that the punishment ought not to be one year. In that case it has been laid down that the court ought to give reasons why it desires that in a particular case the punishment ought to be less than one year. So, the normal punishment, it will be found, is one year or above. But for special reasons, the court can give a less punishment and in such case the reasons are to be given. The court will impose a lesser punishment only when there are stronger reasons. Otherwise, the court would have to follow the ordinary law.

There is another provision also. In addition to the imprisonment it is open to the court to fine the accused if found guilty. Often the fine is absolutely nominal or extremely modest and errs on the side of leniency. That is not at all good. I have a number of cases before me where the fine bears no proportion at all to the amount involved. In all such cases we have laid down in our proposals that it must bear a proportion to the money with the accused or his financial resources. That is why it has been laid down, as I shall point out shortly, that the fine ought to be adequate. It should be proportionate to his financial resources and the circumstances that I have pointed. This is the next amendment that we are going to move.

There is also another point. An officer who received a bribe was committing an offence under the Indian Penal Code under the I.P.C. as it originally was. Till recently, it was not considered advisable to make a man who gave the bribe an offender. But the Parliamentary Committee which was appointed says in its report that the bribe giver should also be considered an offender. In other words, both ought to be punished. So, as you are aware, there was an amendment to section 161(a) providing for the offence of bribe giving as well as taking, under the Indian Penal Code.

It is quite correct that both ought to be equally liable before the law. But there has been one effect of this particular proposition. What happens is this. Whenever a bribe giver gives some information, he is often harassed by the other party. Besides, there are also certain cases known as trap cases. A certain officer may be found guilty of being habitually corrupt. Then, as you may have been aware, under the provisions of the Prevention of Corruption Act, a new offence has been evolved, known as the offence of criminal misconduct. In such cases, oftentimes, it became necessary, and it is always difficult to get evidence to establish a case of corruption. Therefore, it was considered necessary that sometimes trap should be laid for the particular person and then, when a trap has been laid, somebody must go and somebody must offer money to the man, this offer being for the purpose of catching the other man because he is accustomed to take bribes. Under these circumstances, sometimes, when such a trap has been laid out, and when the particular person who is only nominally a bribe-giver, is concerned, attempts are always made on behalf of the other party that inasmuch as he also has admitted that he has given the bribe, he ought to be also an accused in respect of this transaction where a certain amount of money has passed from one person, namely, the bribe-giver, to the other person, namely, the bribe-taker.

This has a very discouraging effect so far as the bribe-givers are concerned. The object is that the administration ought to be absolutely pure and for that purpose it is our desire that there ought to be no corruption so far as government employees or public servants are concerned. That is the reason why the law has been made so strict. But, if the object of the law is likely to be defeated, then no evidence would be forthcoming, and therefore, a certain amount of protection is absolutely essential so far as this bribe-giver is concerned.

That is the reason why we have stated that he should be given protection in proper cases, because he is helping the prosecution for the purpose of establishing corruption so far as the government employee or a public servant is concerned. Hence, an amendment has been proposed in this regard.

Then, oftentimes, as you are aware, we have got cases under the Criminal Law Amendment Act. According to this Act, when the question of corruption was followed very closely with a view to have it completely rooted out from our administration, it was considered necessary that instead of having the cases being taken up either before a magistrate or before the sessions Judge,—it was considered advisable by Parliament—that there ought to be a special Judge or a special court.

Shri V. P. Nayar (Quilon): How do you define corruption?

Shri Datar: The hon. Member knows corruption more than I, because he is a lawyer of long standing. Corruption is such an insidious thing that attempts have been made to define in the Indian Penal Code and elsewhere as also in the Prevention of Corruption Act but these persons who are corrupt are also extremely clever. Therefore, they try to get out of the clutches of the law. My friend, and all of us have to co-operate in tightening the law and making it as strict as possible. Therefore, as I was pointing out, when the case has to come before a special Judge, certain diffi-

culties are felt. This special judge is held to be something like the sessions court or the sessions judge but not like a magistrate.

Assuming for example that there is a case pending before a magistrate, then that case will go on. It will not necessarily be heard *de novo* or re-heard in a particular manner. The case can go on especially in view of the recent amendment to the Criminal Procedure Code. For example, if the magistrate dies or retires or is transferred from one place to another, in such cases, on the footing that he was a magistrate, it is easy to carry on the case and to pursue the matter before his successor.

Now, certain high courts held, on account of the technical nature of the word used, that the special Judge would not be or would not have this particular power or that these rules would not apply to a case pending before a special Judge. Therefore, the whole thing will have to be gone through again. That aspect had the effect of procrastination. Therefore, it is laid down that in this regard, he should be deemed to be a magistrate. These are the amendments that have been brought forward. Now, I would make a very brief reference to the wordings of this amending Bill.

It will be found that in clause 2, a new sub-clause has to be added, known as the 12th clause which reads:

“Every officer in the service or pay of a local authority”—

the words “local authority” are known and therefore, I need not describe it any further—

“or of a trading corporation established by a central, provincial or State Act or of a Government company as defined in Section 617 of the Companies Act,”—

Then comes the explanation as to what is a trading corporation. It includes banking, insurance or financial corporation, a river valley corporation and a corporation for the supply of power, light or water to the public.

Shri Tyagi (Dehra Dun): Not an industrial corporation.

Shri Datar: It does. Then, I have already explained the reason why a minimum punishment has to be provided for. It is stated here that in section 5, for sub-section 2, the following sub-section shall be substituted:

"Any public servant who commits criminal misconduct in the discharge of his duty shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years."

So, you will find that the highest penalty is up to seven years so far as this offence is concerned. He shall also be liable to fine. Naturally, in view of the need to give the court proper discretionary powers, so far as the question of punishment is concerned, it has been rated in the proviso that the court may for any special reasons, not ordinary reasons, for the purpose of giving less sentence, in writing, refrain from imposing a sentence of imprisonment or impose a sentence of imprisonment of less than one year.

So far as the question of fine is concerned, the whole matter has been made absolutely clear by the addition of a new sub-section to the section in the Prevention of Corruption Act and is known as clause 2-A.

"Where a sentence of fine is imposed under sub-section (2), the court in fixing the amount of fine shall take into consideration the amount or value of the property which the accused person has obtained by committing the offence of criminal misconduct or where the conviction is based on the presumption under sub-section (3), the pecuniary resources or property referred to in that sub-section for which the accused person is liable to account satisfactorily..."

Then there is an addition of a new section known as section 8:

"Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an

offence under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 165A of the said Code."

Then, the procedural difficulty has been removed by clause 4.

"In particular, and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of Section 35 of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to the proceedings before a Special Judge, and for the purposes of the said provisions a Special Judge shall be deemed to be a magistrate."

These are the main provisions. Certain amendments have been brought forward, the object of some of which is that the minimum sentence should be two years. It is considered that one year is a fairly adequate punishment. It is open to the magistrate or the court to give a greater measure of punishment. The minimum ought to be one year, and two years is likely to be considered as vindictive. That is the reason why the two amendments on this point cannot be accepted.

My friend, Shri Kasliwal, has brought forward an amendment saying that the words "refrain from imposing a sentence of imprisonment or" ought to be removed altogether. There may be certain special circumstances where in the exercise of judicial discretion, the magistrate or the court might consider that he should follow a particular course, matters like what that particular course is, what is the extent of the punishment either of fine or of imprisonment, etc. being left to judicial discretion. The Legislature can lay down certain minimum requirements, because this minimum requirement is necessary in view of the experience that we have of officers of proved guilt escaping with a light punishment.

Shri Raghbir Sahai (Budaun): Is the hon. Minister dealing with particular amendments now?

Shri Datar: I am not dealing with them particularly now; I am dealing with them only in a general manner. Hon. Members will have full opportunity to deal with them separately. I am just pointing out my general approach. Therefore, I submit that we should as far as possible leave the matter, subject to the minimum requirement of the legislature, to judicial discretion itself.

There are some other very interesting amendments. Government have two formal amendments; there is nothing about them. It has been suggested by one Member that there ought to be a confiscation of property. That objective might be achieved in the indirect manner of raising the fine to the most adequate amount.

Lastly, my friend, Mr. Bharucha, possibly not here now....

Shri Naushir Bharucha (East Khadesh): I am here.

Shri Datar: I am glad. Recently we had a meeting of the Joint Committee on the Probation of Offenders Act. Possibly he desires that such offenders should not have the benefit of any action under section 562 or corresponding action dealing with admonition or similar matters. I would point out that the offence is so grave and serious that the magistrate or the judge would deal with them in the proper way and it may not be that the magistrate would release them after admonition. It is not a matter for admonition at all; it is a serious matter. Corruption is one of the most heinous offences under the I.P.C. and the Prevention of Corruption Act. Therefore, I can imagine that the fear he has in his mind might be illfounded. All the same, it is open to him to move the amendment.

These are the general matters on which I have based a case for passing this particular Bill before the House. If any other points are raised, I shall be very happy to reply to them.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Penal Code, the prevention of Corruption Act, 1947, and the Criminal Law Amendment Act, 1952, be taken into consideration."

Hon. Members have got only two hours and therefore they may be brief and effective at the same time. I shall call Mr. Nayar, Mr. Tangamani, Mr. Mohamed Imam, Mr. Bharucha and Mr. Raghbir Sahai.

Shri Kasliwal (Kotah): I have also got an amendment.

Mr. Speaker: I will call him also. Now that I find a number of hon. Members wanting to speak, let them be brief.

Shri V. P. Nayar: As I heard the hon. Minister speaking at length on this short Bill, I thought that the real malady lay not in the actual working of the Government machinery, but in the absence of adequate laws. There have been many references in this House about cases of corruption and we know the attitude of Government on such matters. I am not going to describe them here again.

What is the real trouble we have? If you go through the Statement of Objects and Reasons, you find that "the experience gained from the efforts made by the Government to deal with the evil of corruption in the public services has revealed the need for some amendments of the criminal law." Why is it that we are not told the number of cases for which these amendments were necessary? Are we to take it that in order to bring the employees of the Government corporations and other undertakings there is no law at present enabling the Government to do it? Why is it that we are not given figures of the number of cases of corruption which have been brought to the notice of the Government and for which applications have

[Shri V. P. Nayar]

been made for sanction of Government, which is necessary under the Prevention of Corruption Act? In the absence of this vital information, we cannot apply our mind to this amendment and it is not very simple as the hon. Minister seems to think.

I for one always welcome any legislation which is intended and which has as its real purpose the eradication of any evil in our country. But to my mind it appears that it is not because of the absence of laws that we are proceeding in the way in which we are. What is the co-operation of the public in such matters? We know that in several cases, when the subordinate officers find it possible to point out the cases of corruption against their superiors, those very superiors are appointed as enquiry officers and those who point out the corruption of the superiors themselves have to face the trial. Recently there was a case of corruption in the Howrah station in the transport of goods and one of the subordinates, by name Shri R. K. Majumdar, who had occasion to send up a comprehensive note about cases of corruption, is today out of service. He has been suspended and it appears that an enquiry is being made against him by the same officers against whom he alleged corruption. I can point out several cases of corruption like this.

In this House a few years ago, I had pointed out a case of one of our former diplomats holding charge of a Government undertaking as managing director giving an order for architectural work in the same undertaking to a firm in Delhi, the undertaking being in Bangalore and the sole proprietor of the architectural firm being his own son. Is it not corruption which requires to be rooted out? It is not as if we do not have laws. I would again request the hon. Minister to tell us if he is really sincere about the purpose of this Bill. We do not know the number of cases of corruption for which sanctions have been applied for, the number of cases in

which sanction has been given at least at the level of the Central Government, etc. It is idle for us to think that the law is not adequate to meet the situation.

I heard the hon. Minister saying that the Government undertakings, apart from the so-called Government offices, do not come within the ambit of the existing legislation. All of us know that there is a rule by which every Government servant is obliged to send reports about the acquisition of new property. I believe that that is being enforced. But I understand that the statements are very seldom made and even when they are made, they are filed in some corner of an office, never being looked into. The hon. Minister was charitable enough to say, then I interrupted him when he was speaking about the definition of corruption, that I know more of the cases of corruption perhaps than the hon. Minister. I can give him many instances.

In the Penal Code, we have provisions by which, if the provisions were applied in right earnest, we can prevent amassing of wealth by secret means. For example, there is the section in the Indian Penal Code which establishes possession. Section 27 says:

"When property is in possession of a person's wife, clerk or servant on account of that person, it is in that person's possession within the meaning of this Code".

I wonder whether the Government have investigated at all the amassing of wealth in the names of servants, uncles, wives and other relations. You find that all these Government servants, when they are corrupt, amass wealth in the names of other persons, and when an enquiry is made, none will be touched. Is it because we do not have law in order to establish the possession of property, which was amassed by illegal gratification or some other means by the officer concerned? We have heard of several

cases; some of them have come to the Supreme Court also. Some of them ended in conviction. But has any effort been made by the Government, at least in the case of the top officials, whose cases can be found out, provided a proper enquiry was made, to find out what bank balances they had in the names of their wives, in the names of their uncles or servants. We know cases where wives of corrupt officers, who did not own one plot of property even in the villages, owning mansions in Delhi, Calcutta, Poona and Bangalore. What is it that the Government have done? Is it because we do not have a law? Is it because our laws were not adequate to bring to book these offenders for amassing wealth in the names of others?

I believe it is not merely because of the law, not because of the lacuna we had in our legislation, but because primarily of the approach of our Government in respect of these corrupt officers which has been basically wrong. Government had a soft corner for these officers. Very often we find that the more corrupt an officer is, the more higher is the posts to which he shoots up. It happens even today. It has become a habit for some officers. Their smiles can be sold for thousands of rupees. Even today in Delhi it happens. What is it that Government have done?

16.32 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Shri Harish Chandra Mathur (Pali): I thought it would apply only to film stars.

Shri V. P. Nayar: If a film star smiles, she may get a few hundreds. In the case of a higher official, it runs into several thousands, because of the benefits which they are capable of giving. That is the position today. Let us not get away from the fact that some officers are using their position and their power for that. In this context, Government comes and says "Look here, we are for avoiding corruption, we are for preventing it."

Shri Wodeyar (Shimoga): Any special instance? You are referring to officers.

Shri Tyagi: Officers smiling?

Shri V. P. Nayar: I would request the hon. Member, who is very enthusiastic, to come round with me and see for himself with his own eyes how this is happening even in the capital.

Mr. Deputy-Speaker: If smiles bring fabulous prices, what about frowns?

Shri V. P. Nayar: Frowns can ruin people. That is why smiles are costly. So, I am not for a moment prepared to agree with the hon. Minister that it is because of lacuna in the law that we have no ways and means to bring these offenders to book. We have laws. Even those laws which we have now have not been properly used in the matter of fighting corruption. If Government were sincere in the application of the existing law, as it is, I think the Government would not have had any hesitation to come and tell us "this is the number of cases of corruption which we have sent for sanction by Government; this is the number of cases on which we have made preliminary enquiries". Why is it that we should at all have sanction in the case of prosecution for corruption?

Shri Tyagi: They have been publicised a number of times.

Shri V. P. Nayar: They are publicised only when they go to courts. We do not know what percentage of cases have really gone to the court. Secondly, we know that not even a fraction of cases of corruption are covered. That is just because, as I submitted earlier, there is no co-operation to the extent necessary from the public. For example, there is the All India Radio. Why is it that Government finds it impossible to broadcast to the nation the names of corrupt officers? Why is it that when we ask questions of corruption by Government officers, Government spokesmen have to claim "in view of the public

[Shri V. P. Nayar]

interest, we cannot disclose the information" It has happened several times in this House.

I am not for a moment saying that these provisions are not welcome to me. They are certainly welcome. But if these provisions remain, as they have remained in several other laws in the country, and Government continue in their attitude to come forward and say "Look here, this is the thing which we want in order to eradicate corruption", I submit that it will lead us nowhere. It is not panacea to meet the circumstances.

I do not want to go into the legal aspect, because I find my friend Pandit Thakur Das Bhargava, who is very much more competent to deal with that, will go into it. I want to go into the theory of punishment as is contemplated in some of the amendments. I would earnestly urge upon the Minister to consider whether it is not time, especially in view of our Five Year Plan, in view of the developing economy, in view of our ambitious programmes, that we enlist more of public co-operation. We find even when responsible Members of Parliament making statements in the House with a full sense of their responsibility, such statements are not acted upon by the Government. Such statements are not given any weight and officers about whom references are made get away without any sort of even a formal enquiry.

This attitude of the Government must change, and unless it is changed, no amount of legislative reforms will bring us any relief from this corruption. I am sorry to say that when I say we have corruption in our midst in the administration, it is not confined to Government services alone; it extends to public undertakings also. I was wondering whether this amendment was at all necessary to bring within the ambit of our law the employees working in Government corporations, because, as you know, these corporations have been set up by authority of the Government. These

are not undertakings over which Government have no control at all. All these public undertakings and private limited companies, which are owned by Government, have been set up under authority of Government. Naturally, therefore, employment under them will be under some authority of Government. If that were so, I don't think there is even a single test case of any employee of such corporations being proceeded against. It is open to the hon. Minister to tell the House whether any such case has arisen. I do not know of any such cases.

Mr. Deputy-Speaker: Why should we take the risk?

Shri V. P. Nayar: It is not as if we are taking a risk.

Mr. Deputy-Speaker: Whether he will escape or not is not known.

Shri V. P. Nayar: I was only trying to point out that it is not as if it is the defect in the existing legislation which has made it impossible to proceed against them. For example, I would very respectfully refer you to section 14 of the Penal Code. What does it say? It says:

" 'servant of the Government' denote any officer or servant, continued, appointed or employed in India by or under the authority of the Government."

I submit that these corporations have been set up by some authority or other under the Government. Their employees, therefore, must naturally come within the authority of the Government. It is not as if in such cases they should necessarily have resorted to this provision. But at this time to come and say that a large range of employees, who are construed as Government employees, have been left out would very idle, unless we know that this has been the view which the highest courts of our country have held.

I certainly welcome the Bill and the provisions, especially the provisions which enhance the punishment. But I have a feeling that these provisions will remain only in the book, and they are not going to be applied with the rigour which would be necessary to clean our administration of its evil and corrupt influences. I do not want to tire the House by referring again to corruption. But I would say that a very large number of our officers do not deserve the places which they are in. As very rightly pointed out corruption is not defined.

It is not acceptance of illegal gratification alone. It is one form of corruption. Unfortunately, our Penal Code also has not defined corruption as the hon. Minister seemed to think that the Penal Code has a definition of corruption. It does not have. None of our penal laws has a definition of corruption. There is nepotism, there is favouritism, there is graft. Would they come within this? It would appear that only acceptance of illegal gratification and things of that kind will come.

Shri Tyagi: That may be true.

Shri V. P. Nayar: To my mind, it appears, in the scheme of things and also in view of the provisions of the Penal Code, especially sections 162, 196, 198, 200 and 220, etc., where the word corruptly is used, it refers to money or the production of some false document or something. I say that they are not merely the forms of corruption which we have. In fact, the forms of corruption are more varied as we have it today than the variations in the voice of the hon. Minister who supported this Bill. There is no doubt about it. Therefore, I say that this view should also be taken when we enact a law and we are trying to prevent certain things which we know for certain as evils. In tackling this situation, when we suspect that so many, some of the officers at least—I would not risk by saying so many—some of the officers are corrupt, when we think of cor-

ruption and eradicating corruption, I submit, the Government should have thought very seriously about preventing other forms of corruption, the more notorious forms of corruption, venality and graft. Without this I submit, merely passing this legislation, mere addition of a provision here or there, will not serve any useful purpose although I am forced to welcome the provisions that the hon. Minister has now brought forward. Because, any such provisions will find welcome from us if we know that at least in letter if not in spirit they will give us an idea that the Government are thinking in terms of eradicating some existing evil.

With these words I have pleasure in supporting the Bill. I would urge upon the hon. Minister once again to consider how a very comprehensive legislation can be brought forward which will cover all known cases of corruption. Human ingenuity may have no limit. But, the hon. Minister may have the ingenuity to defeat the ingenuity of all others to the extent of cent per cent.

Shri Raghbir Sahai: Mr. Deputy-Speaker, I extend my wholehearted support to this Bill because it has been brought forward with very laudable objectives. As the hon. Minister in his opening speech said, it has been brought forward with a view to widen the scope of the anti-corruption law. With that end in view, the definition of public servant has been expanded so as to include various other categories of servants. It has also been brought forward to ensure that adequate punishment is awarded in such cases and to see that the prosecution in such cases may be decided in an expeditious manner. With that end in view, a minimum punishment of one year has been laid down in this Bill. Also there is a provision that the bribe giver may also not be prosecuted, for instance, when he comes forward to give a clue to the whole thing and also to appear in that case against the accused. These are all very laudable provisions that have

[Shri Raghbir Sahai]

been made in this Bill and there can certainly be no difference of opinion with regard to that.

I entirely agree with my hon. friend Shri V. P. Nayar when he says that along with this Bill, the Government should have provided us with all the cases that had been brought against the corrupt officers under the Prevention of Corruption Act and the Criminal Law Amendment Act with their amendments from time to time so that we might be able to form some idea as to how far corruption has been controlled by the Government. It is not a new thing for the Government. So far as their intentions are concerned, they are quite clear. They are actuated with the best of motives. I do not agree with Shri V. P. Nayar when he recounted so many cases of corruption as if to show that the Government were conniving at them. Nothing like that. Despite Government's wish, corruption is there. In the case of the Preventive Detention Act, the procedure adopted by the Government has been to bring forward before this hon. House statements from year to year and despite opposition with regard to that Act here and there, a large majority of the Members of this House as well as people, outside are convinced that the Preventive Detention Act was being operated in a proper and salutary manner. Why can't the Government produce all these facts and figures of the number of cases that were brought under these two Acts? I think that was certainly a lacuna on the part of the Government and I hope the Government would consider the feasibility of putting all these facts and figures before this House.

Shri Datar: All that information is contained in the report of the Vigilance Organisation. Every year, the report is placed on the Table of the House.

Shri Raghbir Sahai: That is all right. Along with that, there is also a feeling in the country that corrup-

tion despite these two salutary Acts is increasing. That feeling may be right or that feeling may be wrong. But, we shall have to take note of it that there is a feeling that corruption is on the increase.

Sometimes, whenever there is a talk about corruption, people, and I think, responsible people are prone to say that this corruption cannot be removed root and branch until and unless the public also becomes pure, meaning thereby that it is the public who come forward and encourage officials or government servants to take illegal gratification and become corrupt. It may be partly true. But, here, we are dealing with a Bill which deals with public servants. I am not in the least prepared to condone the acts of the public. The public ought to be educated and it should be made to act in a responsible way and wherever it commits a lapse, let it run the risk. In so far as this Bill is concerned, we are dealing with public servants. We ought to see that public servants behave in an irreproachable manner. These two Acts, as I have said, are very salutary Acts and along with these amendments, the Acts will become more efficacious. But the provisions of these two Acts can only be applied when the offence is proved. The proving of the offence is the greatest hurdle. How is the offence to be proved? We know from our experience that proving the offence of corruption is very difficult. Either the provided for sanction is not there, or if the sanction has been given, it is defective, or the ingredients of criminal misconduct have not been complied with. So, my contention as well as my submission is that proving the offence of corruption is very difficult.

Then in this Bill we are going to introduce a new change, i.e., section 350 of the Criminal Procedure Code is also to be made applicable. It is certainly true that if this section is made applicable, the *de novo* trials

would be obviated, but I do not think that delay in the disposal of cases would be obviated at all.

With your permission, I may say that an ICS officer was removed from service in 1953. The Government appointed a commission of enquiry for the matter to be enquired into by a Judge of the Calcutta High Court. That was done in 1953, but I think it was only a few weeks back that he finally surrendered bail and went to jail. In this way, five years did elapse between the instituting of a formal enquiry and his going to jail actually. I ask the Government whether corruption is going to be controlled in that leisurely manner, and whether an offender of that type would take so many pleas and would waste so much time and would go to jail only after five years. Something should be done so that these cases, where the offence can be proved, are decided more expeditiously; otherwise, the entire effect of this efficacious law is bound to disappear.

From these observations I think it is clear that though the two Acts meant to control corruption are very good, and the provisions now being introduced are also good, the entire problem of corruption is not going to be finally decided with these two Acts alone; corruption is not going to be controlled by them alone.

There may be a difference of opinion whether corruption is present to a greater or a lesser extent, but everybody recognises that corruption is there and that it ought to be controlled. So, it appears that the remedy for corruption lies elsewhere.

In my humble opinion, the first remedy is that the topmost officers should be made responsible to see that corruption does not exist below their very noses, that the rank and file working under them do not indulge in corruption at all. They should be made personally responsi-

ble. My own feeling is that most of this corruption in various departments of Government exists because of the active connivance of the top-level officers. If the top-level officers are made responsible for the rooting out of corruption, then most of this would disappear.

The second remedy that I would like to suggest is that we have to start giving education to people entering Government service. There are so many cadres—the IAS, PCS, IPS etc. From the very beginning they should be taught that not only they should be incorruptable, but they should see that the rank and file working under them is also pure and incorruptable. Moreover, every officer who enters Government service should be asked to give a guarantee in writing that he will remain incorruptable and the moment it comes to the knowledge of Government that he has done something violating the provisions of these Acts, he should be dismissed. Some such type of education is very necessary.

Everybody will agree that it is better that we try to prevent rather than cure corruption, and prevention of corruption can only be achieved by these two methods. Unless and until these two things are done, corruption will remain as it is.

I support the Bill.

Shri Ajit Singh Sarhadi (Ludhiana): I do not think there are any two opinions about the Bill, but it is the situation as it prevails that we have got to see.

Shri Nayar rightly pointed out that corruption is of different kinds. It is not only illegal gratification that constitutes corruption. Corruption has got a wider meaning. The Bill in effect only deals with illegal gratification and does not meet the situation that prevails in the country. As **Shri Nayar** said, favouritism and nepotism are also forms of corruption, but we have got to see whether they can be met by legislation. I personally feel

[Shri Ajit Singh Sarhadi]

that it is very difficult to meet corruption of the kind that he has in mind. Only creation of public opinion can eradicate corruption of that kind.

Coming to the Bill as it is, I have to draw the attention of the hon. Minister to two things. I concede that the Government's activities have enlarged to a very great extent. Government has undertaken now commercial and industrial enterprises and as such the definition under section 21 of the Indian Penal Code calls for an amendment, and as such clause 12 of

the Bill has been rightly brought forward.

17 hrs.

Mr. Deputy-Speaker: I am sure the hon. Member has much to say yet.

Shri Ajit Singh Sarhadi: I have much more to say. I shall continue tomorrow.

Mr. Deputy-Speaker: The hon. Member may continue tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 12th February, 1958.