

General's (Duties, Powers and Conditions of Service) Amendment Bill, 1994. Can it be passed without any further debate? Mr. Chaturvedi, if you want to speak, You can speak.

**THE COMPTROLLER AND AUDITOR
GENERAL'S (DUTIES, POWERS AND
CONDITIONS OF SERVICE)
AMENDMENT BILL, 1994.**

**THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI M.V.
CHANDRASHEKHAR MURTHY):** I
beg to move:

"That the Bill to further amend the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 as passed by the Lok Sabha, be taken into consideration."

The last amendment to the Act in 1987 raised the pension of the C&AG to the level of the pension of a Judge of the Supreme Court. This benefit is, however, not admissible to two ex-C&AG who retired before the amendment came into effect in December, 1987. In the case of Judges of the Supreme Court/High Court, the same pension is admissible regardless of the date of retirement. On that analogy, it is proposed to amend the C&AG's Act to allow this benefit to two former C&AGs.

Under Section 3 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, the C&AG's pay and salary is equal to that of the Judge of the Supreme Court. However, if a person who immediately before assuming office as the C&AG was in receipt of a pension (other than disability or wound pension) in respect of any previous service under the Government, an amount of pension equivalent to gratuity would be reduced from his salary. It is proposed to amend the C&AG's (Duties, Powers and Conditions of Service) Act, 1971 that the element of pension equivalent to gratuity is not required to be deducted from the

salary of the C&AG on or after 27th March, 1990. This would be in conformity with the orders on the subject which are applicable to other reemployed pensioners including the Chief Election Commissioner.

Considering the Constitutional importance of the office of the C&AG and the need to maintain its dignity, I am sure that the provisions of the Bill will received-support from all sections of the House.

The question was proposed.

(Interruptions)

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): Yes, Shri T.N. Chaturvedi. I cannot stop any honourable Member from speaking.

SHRI TRILOKI NATH CHATURVEDI (Uttar Pradesh): I am grateful to Shri V. Narayanasamy....

SHRI V. NARAYANASAMY (Pondicherry): We are all supporting the Bill.

SHRI TRILOKI NATH CHATURVEDI: I am grateful for the concern and the sympathy that you have shown to me but, perhaps, you are not aware that so far as I am concerned, I retired in March 1990. I am already drawing the stipulated pension and I think if you had cared to listen to the remarks or the explanation of the honourable Minister for Finance, the position would have been clear. That is why I thought that Mr. Murthy has been kind enough to mention the importance of the office of CAG.

SHRI VAYALAR RAVI: Sir, if any Member has any pecuniary interest in a subject before the House, is he entitled to speak?

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): He has no interest. He does not get any benefit out of it.

SHRI VAYALAR RAVI: Then it is all right.

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): He has no financial interest in the Bill.

SHRI TRILOKI NATH CHATURVEDI: Sir, once upon a time, I was interested in the Government. Mr. Ravi was also a Minister somewhere. I was the Home Secretary with the Government of India. This did not prevent me from expressing views. All that I can say is that I do not draw any pension for the period of 34 years or so that I was in the Government, and even as Secretary to the Government of more than one Department. But, in any case the purpose of the Bill is clear. So far as Mr. Ravi is concerned, because he is very ethically-based concern, I greatly appreciate it.

Sir, Mr. Murthy mentioned about the importance of the high office of the C.A.G. and since there is a lot of misunderstanding about the functions and the duties of this office, I am not myself sure as to how many persons are clear even after Mr. Murthy's explanation or observations about the rationale of this amendment. It is a very limited amendment. And without going into the details, I would like to mention so far as one part is concerned, which is Section 2 of the present Act. And in clause (b), the word 'and' shall be omitted. This is the only consequential arrangement because, if you delete part (c) or clause (c), obviously the word 'and' is not necessary. As Mr. Murthy himself explained, so far as this clause (c) is concerned of the 1971 Act I think, it was redundant. Frankly, it could have been omitted at the time when the Amendment in 1987 was brought and was discussed. This (c) is redundant because another clause (c) which had been added in 1987 takes care of the reduction in gratuity pension, etc. These are the technical details and I do not want to go into them. But the only thing which is worth while to stress is that in a way, it is a very belated amendment. The Government had been moved as long back as almost six years that with any amendment where as an individual

order used to be issued about the retired Auditor General. That should form part of the Act itself, and if any change takes place in the pension or the other privileges of the retired Supreme Court Judges, that should automatically apply to the retired Auditor General. As I retired in March 1990, so far as I am concerned, my pension is beyond its purview. So, this amendment which is added is very important, and Mr. Murthy rightly said that this should be welcomed. After 6(c), 6(d) has to be obviously added so that it becomes retrospective in the case of the two Auditors General retiring before Dec. 1987. Unfortunately, one of them who was an hon. Member of this Rajya Sabha is no more with us. But for a particular period, the family might draw some benefit. The other Auditor General is happily very much with us, and it is in the fitness of things that he gets the benefit of this particular amendment. But, Sir, as I said, I would certainly take a few minutes of this House. It is not just a question of paying a lip homage by saying that CAG is a very high office. Even when Mr. Venkataraman was the Vice-president, in abook on the Constitution of India, edited by Mr. Chief Justice Hidayatullah, he contributed an article on the position of the CAG. Not only that, he also quoted Dr. Ambedkar, about signification of the office and there was a lot of discussion in the Constituent Assembly about the office of the CAG. But it is not a question of just one person, one individual, but it is a question of an office, how to strengthen that office, how to respond to the requirements of that particular office. That is what is important because since he fulfils the purposes of the Constitution as envisaged, it is not a question of self-aggrandisement or just the benefits to a particular individual. That is why, Sir, it becomes very important that a few things are to be further taken care of because this only affirms a principle, asserts a principle. Mr. Murthy also mentioned about high office like C.A.G. and

the Chief Election Commissioner, and he says it very rightly about equities accordingly.

Now there are certain things 4.00 P.M. which flow from it. I do not want to go into many of the details, but there are a few things which, I think, it is very necessary for me to mention, since the present Chief Election Commissioner approximately raised this issue of protocol. So far as the C & AG is concerned, at the moment he figures along with a few others in clause 11 under the protocol, of course, higher than that of a Deputy Minister or Minister in State Govt. and so on. But that is not the point. Once you recognize him and give him all the privileges of a Supreme Court Judge, there is no reason why the Chief Election Commissioner should be denied them. The reason given was that the C & AG has been denied this when requested. Fortunately, the other day I read in the press that the Government is rethinking on this issue and probably they may bring him into the same clause or another qualifying clause -9B or some such thing. But the C & AG never made a song and dance about this particular issue. What is appropriate and what is right, I think, should automatically have come from the Government much earlier that it is coming or is expected to come now. That is why I said that it is very unfortunate that they swallow the camel but strain at the gnat. Once you give him CEC and CAG, the similar conditions and privileges, whatever a retired Supreme Court Judge gets should automatically flow to the retired C & AG and CEC. But so far as this particular question of protocol is concerned, I think it is being denied not in a very happy manner, and I hope Mr. Murthy will look into it for early rectification. I do not want to go into the details, because if it is not a Question of the Chief Election Commissioner or the C & AG as individuals but as democratic institutions.

The other thing I would like to

mention is that in this period of economic liberalization, the role of the C & AG is not getting circumscribed. On the other hand, from the view-point of effectiveness, economy and efficiency, and when the Government is talking of Zero budgeting, performance, accountability and so on, his tasks are increasing and I think this fact must be taken into account. This has also been brought out by the report of the Joint Parliamentary Committee. I think, about the non-performing assets the Government would have been wiser much earlier than it became, if this audit of banks had been with the C & AG. This point has also been made at different times in this House and elsewhere. Therefore, I would like to suggest that the role of the C & AG in the present climate of economic liberalization has to be properly reviewed and recognized so that the effectiveness of public money is really ensured.

The other thing I would like to mention is that the C & AG audits both the accounts of the State Governments and of the Union Government. But, unfortunately, while there has been a separation of accounts so far as the Union Government is concerned, in the States there is no full separation yet and there is a kind of anomalous position in that while one officer of C & AG certifies the accounts, another officer audits the accounts. Maintenance of accounts is the function of management. The Government itself had worked out this particular scheme of separation. When the last Finance Commission was working, I met the then Finance Minister and also wrote to all the Chief Ministers that this matter might be taken up with the Finance Commission because the state Governments on their own cannot undertake the responsibility and they have to be given the necessary finances for it. Now there is another Finance Commission, and it is in the fitness of things---good for the states, good for the

about speedy and proper maintenance of accounts--that the states take over this responsibility, but the finances for that should be provided by the Union Government. There is a very detailed letter, making out a case in this regard, written to the earlier finance Commission. Sir, I will like to mention that so far as the CAG is concerned, he has a very unique position for the particular reason that he can get the Government records, whether it is from the State Governments or from the Ministries or from the public sector undertakings. When there is a horizontal audit, sometimes the Union Government blames the state Governments that is they who are not conforming to some requirement. Many a time it has been found that is was the other way round and that the delays occurred elsewhere. Similar has been the position in the public sector. There is this kind of horizontal audit of many schemes relating to irrigation, agriculture, etc. These are the things for which the Government of India might provide funds and might make policies, but they have to be implemented in the filed in the states. That is why the states have to be properly financed speedily and according to local, specific requirements.

As you have mentioned it, I think it is high time that needless criticism against the CAG, the person and his motives, was avoided I do not want to go into this. this has happened not only in the past but, unfortunately, it has happened very recently also. In the House the matter was raised in connection with a report which related to a State Government, not even to the Union Government, when a Minister of state of the Union Government had made a certain remark. The people were not knowing about even the correct procedure of finalisation of reports by CAG. A particular Chief Minister also said that in the report he got earlier, the words were slightly different. The people are not even aware of the fact that reports have to be approved and signed by the Comptroller

and Auditor-General of India. Before that, a provisional or a draft report is sent to the concerned agencies of the Government to see if they have anything more to say or any other viewpoint to be furnished. That is why the needless criticism of the motives of the person, I think, is something which ought to be eschewed if you want to maintain the dignity of that particular office.

There is another requirement. When Mr. Rajiv Gandhi was the Prime Minister, he addressed a conference of the Chairmen of PACs of all the States, presided over by the then hon. Speaker. The Chairmen of the various PACs were there. He used the famous phrase, that we should try to catch the crook. That means that he emphasised that reports of the CAG should receive proper attention, but the response, unfortunately, is very dilatory, lackadaisical, dismissive and ritualistic.

It is not only a question of the CAG reports. Why are you spending crores and crores of rupees for maintaining his offices throughout the length and breadth of this country unless you pay heed to his reports, take lessons from them and try to rectify things well in time? Unfortunately, the CAG is somehow or other looked upon as some kind of a narrow, restrictive, regulatory agency though his role is promotional. Not only that, the very concept of audit has also been broadened from time to time. It is a question of comprehensive audit. The words have been used by the Members on the Treasury Benches themselves. Only this morning it was said that comprehensive audit is a question of value-for-money audit, performance audit and so on. These are the areas in which the CAG has diverse roles. This is only with a view to helping the Government and ensuring, ultimately, the accountability of the administration to Parliament. The CAG is only an instrument to ensure the accountability of the administration and the Government to you, ladies and

gentlemen, and to the people of this country in general. He is not *suo motu* something on his own, just trying to laud his own virtues and so on. He is really a tool which you can properly use for ensuring the accountability and for rectifying the things well in time.

The Minister of State for Food, the other day had mentioned and talked of the earlier CAG Report and the PAC Report about the sugar problem in 1989 and so on. If proper lessons had been taken from that, the recurrence of this kind of difficulty of major imports which arose later on, would not have arisen. I am not going into all those problems. Nor am I referring to the interviews of the hon. Minister because that is not my purpose. It is only in the constructive way that we have to look at this particular problem of CAG reports.

I would like to mention that so far as the CAG's Office in India is concerned, it has had different names, but even in the British times, persons like Shri Satyamurti and others lauded the work that was done even in those difficult times. That is why I say what he is supposed to do is in the public interest and it is according to the oath of office that is administered to him.

I would also like to mention that it is not only the oldest audit office. This office is held in great respect in the international world of audit, by the International Organisation of Supreme Audit Institutions and the Asian Organisation of Supreme Audit Institutions. The kind of training programme that this office is imparting not only to its own officers, but also to the officers drawn from Latin America, Africa and many other Asian countries through the Ministry of External Affairs will testify to the quality and the utility of training. That, I think, brings prestige to the Government of India and to the nation and the country as a whole. Not only that, The Chinese Auditor General had met me earlier. He visited our

country recently. He borrowed our officers to bring out the audit manuals etc. in his own country and our officers had to stay in China in order to speak to the officers in their programmes. I would like that the kind of standing and the position that the CAG Office has established in the international sphere is responsible for the development to which very few hon. Members may be knowing. Today the Indian Auditor General has been placed on the panel of the UN Auditors. He is auditing the international organisations all over the world. I think that does bring credit. This is because of the fact that over the years the ethos that has been developed, the conventions that have been built up, the kind of experimentations that have been done, the kind of revenue audit that India has developed the kind of atomic energy audit that the CAG Office in India has developed or the report on the National Debt and the like are the things that have helped in establishing the position of the CAG's Office throughout the world. Very often a reference is made to this office in a casual manner. So far as I am concerned, I would say every dog has its day. I have had my day so far as that particular Office is concerned but its basic importance should be appreciated. Somehow the reports of the CAG should receive the proper attention. The hands of the CAG should be strengthened as regards the control of his Office. I do not want to go into the details, but it is very important. Dr. John Mathai, when he was the Finance Minister wrote a note in his Office saying that no proposal of the CAG would be dismissed or would be rejected to by any person other than the Finance Minister himself, and if need be, after a proper discussion with CAG. I do not want to go into what has happened from time to time in this regard. This was the kind of the respect that was even envisaged at the earlier stages and should be ensured now.

I will make only two more suggestions. Wherever substantial funds of the Government are invested in any authority or body, after specifying a particular

amount, if we want to preserve the sense of continuity, and also the better performance, then the audit should be entrusted to the Controller and Auditor General, who also maintains his contacts with the professional body of auditors in the country.

The last thing that I would like to say is also important. Under the CAG, there are two officers in the rank of Secretary to the Government. They are designated as Deputy Comptroller and Auditor Generals. They are there to assist the CAG. But a large number of things which are supposed to be done by the Government are left to the Judge of the High Court or to the Judge of the Supreme Court as regards judiciary. I know at what level those matters are dealt with in the Ministry or in the Government. I do not want to mention it. I had also been a Secretary to the Government of India. But I fail to understand why those powers for his own office cannot be given to the Comptroller and Auditor General himself. Since 1987, an unfortunate thing has happened. The parity that was agreed in 1984, with regard to the pay and conditions of the staff of the CAG with those of the staff of the Central Secretariat has been disturbed in the recent past through many changes that have been effected by people nearer to the throne, nearer to the corridors of power. Now, I think it is high time we restored that kind of parity, taking into account the work done by the staff of the CAG. The CAG is an institution under the Constitution. You cannot play havoc with him, the way you tried to do with the CEC by having three Election Commissioners with equivalent powers. Unfortunately or fortunately, the Constitution says, "There shall be a CAG of India" not just a Commission. Probably, you will have to do many more things if you temper with the institution. I have no doubt in my mind that the Government doesn't want to do any kind of tampering. That is why when it is provided in the constitution that there shall be a CAG of India, obviously, it

means that he has to be properly reinforced and strengthened and the persons who are working with him are treated in a major way by the Government. They are also supervised by him according to his own authority and so motivated that they are able to serve the purpose for which this office had been established. Thank you.

उप-सभाध्यक्ष (श्री सतीश अग्रवाल): आपका समय सात मिनट है चन्द्रकला पांडेय जी।

श्रीमती चन्द्रकला पांडेय (पश्चिमी बंगाल): माननीय उपसभाध्यक्ष जी। अभी हमारे सामने जो बिल लाया गया और श्री चन्द्रशेखर मूर्ति जी ने प्रस्ताव रखा—नियंत्रक महालेखा परीक्षक (कर्तव्य, शक्तियाँ तथा सेवा की शर्तें) — इस पर अभी माननीय सांसद चतुर्वेदी जी ने विस्तारपूर्वक अपनी बातें रखी हैं वह स्वयं सी० ए० जी० रह चुके हैं। मैं यह कहना चाहती हूँ कि भारत के कम्प्ट्रोल एंड ऑडिटर जनरल का संवैधानिक कार्यकारिणी में एक महत्वपूर्ण स्थान है। यह प्रजातंत्र का एक महत्वपूर्ण भाग है। इसे पूरी स्वतंत्रता मिलनी चाहिये और आदर मिलना चाहिये। एक्जीक्यूटिव का जो प्रेशर होता है वह प्रेशर न हो। आज जब कि हमारे सामने आर्थिक नीति बड़ी उदारता के साथ आई है और उसने भारत के जन-जन को झकझोर कर रख दिया तो ऐसी स्थिति में सी ए जी वित्तीय विभाग के संरक्षक के रूप में महत्वपूर्ण भूमिका निभा सकता है। इसे पूरी स्वतंत्रता मिले, अहमियत मिले। इसकी रिपोर्टों पर गंभीरता से ध्यान दिया जाए। वित्त को लेकर जिस प्रकार की रिपोर्ट सी० ए० जी० से मिल रही है वह बहुत ही अहमियत रखती है। हमें यह सोचना चाहिये कि प्रजातंत्र की रक्षा में यह बहुत ही महत्वपूर्ण भूमिका निभा सकती है। यूनियन टेरेटरी के वित्तीय मामलों पर भी यह अपनी रिपोर्टें देती है और विविध राज्यों के वित्तीय मामलों पर भी रिपोर्टें देती है। समय-समय पर यह देखने में आया है कि कैंग ने जो अपनी अच्छी रिपोर्टें दी हैं उस पर गंभीरता से अमल नहीं किया जाता। यह अच्छी बात नहीं है। देशी और विदेशी बैंक के वित्तीय मामलों में यदि कैंग का इस्तेमाल किया जाए तो यह अच्छी बात होगी।

जहां तक पेंशन देने की बात है, पेंशन और सेलरी जरूर बढ़नी चाहिये क्योंकि 1971 के बाद यह संशोधन 1994 में जो आ रहा है, इस बीच काफी बदलाव आया है। इन्फ्लेशन बढ़ा है। ऐसी स्थिति में महालेखा परीक्षक

की सेवा की शर्तें और उनकी शक्तियों को बढ़ाने पर हमें विचार करना चाहिये। मैं इस बिल का समर्थन करती हूँ इस पर गहराई से विचार करना इसलिए जरूरी है कि हमें यह नहीं पता कि कल क्या होगा। पर आज तो हमारे सामने विभिन्न प्रकार के बोटालों की गहन रखा ही पड़ रही हैं। ऐसी स्थिति में सी० ए० जी० एक महत्वपूर्ण कार्य कर सकता है और हमें उसके हाथों को बढ़ाना है, शक्तियों को बढ़ाना है और जो लोग इससे संबंधित हैं, उनको पूरा सम्मान देना है, इसके साथ मैं अपनी बात समाप्त करती हूँ।

उपसभाध्यक्ष (श्री सतीश अग्रवाल): मालवीय जी आपका नाम भी है और ईश दास यादव जी का भी है। इसमें दो-दो मिनट का समय लिखा है। मुझे बड़ा संकोच हो रहा है कि आप जैसे सीनियर आदमी को कम समय देना पड़ रहा है। श्री सत्य प्रकाश मालवीय जी, आप बोलिए।

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश): माननीय उप सभाध्यक्ष जी मैं इस विधेयक का समर्थन करता हूँ। केवल दो-तीन बातों की तरफ ध्यान आकर्षित करना चाहता हूँ। एक तो यह कि अभी हाल में एक अवकाश प्राप्त जो निर्वन्तक महालेखा परीक्षक हैं, उनको किसी इन्कवायरी कमेटी का सदस्य बनाया गया था और यह कहा गया था कि एक महीने के अंदर वह अपनी रिपोर्ट प्रस्तुत करेंगे। मेरी राय यह है कि कंट्रोलर एवं ऑडिटर जनरल का जो पद है, वह एक संवैधानिक पद है, इतना ऊंचा पद है कि इनको इस प्रकार का कोई भी काम देने की कोई आवश्यकता वर्तमान केन्द्रीय सरकार को नहीं है। हो सकता है कि हमारे संविधान में इस तरीके का कोई प्रावधान न हो लेकिन जो संविधान निर्माताओं की मंशा थी। इसी के 148 क्लॉज 4 में लिखा हुआ है। "The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office."

दूसरे संविधान निर्माताओं की मंशा इतनी निश्चित रूप में थी कि एक बार इस पर जो व्यक्ति बैठता हुआ है, जब वह अवकाश प्राप्त कर ले तो भविष्य में भारत सरकार के अंतर्गत या किसी राज्य के अंतर्गत इनको किसी सेवा के कार्य में न लिया जाए लेकिन जो इसकी मूल भावना है, मैं समझता हूँ कि उसको

देखते हुए किसी भी अवकाश प्राप्त कंट्रोलर एवं ऑडिटर जनरल को इस प्रकार का काम भारत सरकार को नहीं देना चाहिए।

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): The Constitution prohibits employment under the State, not holding any inquiries... (Interruptions). That does not amount to employment.

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh): I myself submitted that the Constitution-makers only made a provision that they would not hold any office either under the Central Government or under any State Government.

लेकिन जो उनकी भावना थी, उस ओर मैं ध्यान आकर्षित करना चाहता हूँ। यह चीज उनके खाल में नहीं आयी होगी कि आज 40-45 वर्ष के बाद कोई ऐसा मौका आएगा कि किसी अवकाश प्राप्त कंट्रोलर एवं ऑडिटर जनरल को हम इन्कवायरी के काम देंगे। दूसरे कंट्रोलर एवं ऑडिटर जनरल के अतिरिक्त एक और बड़ी कंस्टीट्यूशनल अथॉरिटी है, भारत के चुनाव आयोग की मैं यह कहना चाहता हूँ कि जिस तरीके का प्रावधान इनके लिए है कि जब इनकी नियुक्ति होगी तो उनकी नियुक्ति का जो वारंट है, वह राष्ट्रपति जारी करेगा। दूसरे अपने पद का भार प्रहण करने के पूर्व कंट्रोलर एवं ऑडिटर जनरल को शपथ भी लेनी पड़ती है। मैं यह सुझाव देना चाहता हूँ कि भविष्य में इस तरह के प्रावधान इलेक्शन कमीशन ऑफ इंडिया के लिए भी करने चाहिए।

श्री ईश दास यादव (उत्तर प्रदेश): मान्यवर उप-सभाध्यक्ष जी, निर्वन्तक महालेखा परीक्षक संवैधानिक संस्था है और यह हमारे संविधान के अनुसार दूसरे देशों से भिन्न संस्था है। इस मामले में भिन्न है कि जहाँ के निर्वन्तक और महालेखा परीक्षक के जो अधिकार संविधान में हैं, जो सम्मान है, जो स्वतंत्रता है, संभवतया और किसी देश में नहीं है। निर्वन्तक महालेखा परीक्षक को अधिकार जितने दिए जाएं, सुविधाएँ जितनी दी जाएं, जितनी बढ़ायी जाएं, इसमें मुझे कोई आपत्ति नहीं है। 16 दिसम्बर, 1987 के पूर्व जो निवर्तमान हुए हैं, इस पद से, उनकी सुविधा बढ़ाने के लिये यह बिल लाया गया है। मान्यवर, इस बिल के द्वारा केवल एक व्यक्ति को लाभ होने वाला है और वे हैं

श्री ज्ञान प्रकाश जी, जो भारत के नियंत्रक महालेखा परीक्षक थे। मैं सम्मत्ता था कि इस सदन के आदरणीय सदस्य श्री टी० एन० चतुर्वेदी को भी इसका लाभ होगा लेकिन उन्होंने कहा कि वह इसके बाद निर्वर्तमान हुए है। 16 दिसम्बर, 1987 के पूर्व निर्वर्तमान जीवित लोगों में से केवल एक ज्ञान प्रकाश जी बचे हैं और इसके द्वारा उनकी सुविधायें बढ़ायी जा रही हैं। इनकी ओर सुप्रीम कोर्ट के न्यायाधीशों की पेंशन आदि सारी सुविधायें बढ़ायी जायें, इसमें मुझे कोई आपत्ति नहीं है। लेकिन मान्यवर, मेरी जो आपत्ति है वह यह है कि यह बिल ऐसे समय में प्रस्तुत किया गया है जब श्री ज्ञान प्रकाश जी को एक घोटाले की जांच के लिये नियुक्त किया गया है। उनकी ईमानदारी में, उनकी निष्ठा में मुझे कोई संदेह नहीं है। मेरा पूरा विश्वास है कि वे जो इस देश के नियंत्रक महालेखा परीक्षक रहे हैं, योग हैं, ईमानदार हैं, निष्ठावान हैं, इसमें कोई संदेह नहीं है। एक ओर तो उनकी नियुक्ति हो रही है और दूसरी तरफ यह बिल प्रस्तुत किया जा रहा है और इस बिल का, इस विधेयक का लाभ केवल उन्हीं को मिलने वाला है। इसलिये मान्यवर, मेरे मन में संदेह है। मैं नहीं कहता कि जिस घोटाले की जांच कर रहे हैं वह घोटाला सही है, गलत है, उसमें क्या तथ्य हैं, इसके बारे में मेरे पास कोई प्रमाण नहीं है। उनकी जांच का क्या परिणाम रहेगा यह भविष्य की बात है। लेकिन मेरे मन में शंका पैदा हो रही है और मैं सम्मत्ता हूँ कि देश के करोड़ों लोगों के मन में इस तरह की भावना होगी जो इन परिस्थितियों में यह बिल प्रस्तुत किया गया है।

मान्यवर, नियंत्रक महालेखा परीक्षक की सुविधायें बढ़ाई जायें, इसका तो मैं समर्थन करता हूँ, इसका मैं कोई विरोध नहीं करता। लेकिन मैं आपके माध्यम से सरकार से कहता हूँ और मांग करता हूँ कि जब तक वह प्रकरण ज्ञान प्रकाश जी के पास है तब तक इसको वापस लिया जाये दूसरी मेरी मांग है कि यदि सरकार चाहती है कि यह विधेयक पास हो जाये तो मैं भारत सरकार और देश के प्रधानमंत्री जी से मांग करूँगा कि श्री ज्ञान प्रकाश जी को इस जांच से हटाकर किसी दूसरी व्यक्ति को जांच का काम दिया जाये, मेरे यही दो निवेदन हैं।

SHRI M.V. CHANDRASHEKHAR MURTHY: Sir, first, I would like to thank all those Members who have participated in this discussion, specially, the hon. Member, Mr. Chaturvedi, who once held this post. He has given

valuable suggestions. I would like to tell the hon. Members that we have come with this Bill before the House for a very limited purpose. Number one is that this Act was amended in 1987 in order to raise the pension of C & AG to the level of that of a Supreme Court Judge. This benefit was, however, not admissible to ex-C&AGs who retired before the amendment which came into effect in 1987; hence, with this amendment we are proposing to allow this benefit to the ex-C&AGs.

Sir, while participating in the discussion hon. Member, Shri Ish. Dutt Yadav, mentioned that this amendment was brought in only to help two C & AGs. I would like to tell the hon. Member that this is not the intention of the Government. We should look at the office of the C&AG, the highest office, which is constituted by the Constitution. We want to equate this high office with that of the Supreme Court judges and nothing beyond that.

SHRI V. NARAYANASAMY: Sir, after the retirement they come to public life. The Minister is giving them all the benefits. After the retirement they come to public life. They head the inquiry committees. They become Members of Parliament. There should be some restriction on that. (Interruptions).

SHRI TRILOKI NATH CHATURVEDI: Mr. Kamraj invited Mr. Ranaganathan to become a Member of Parliament.

SHRI V. NARAYANASAMY: Sir, I am talking about the policy. (Interruptions).

SHRI S. JAIPAL REDDY (Andhra Pradesh): Sir, Mr. Narayanasamy was not fair. The embargo envisaged under the Constitution relates to the offices which are to be nominated, not to the offices which are to be filled up by elections. He was right when he said that no ex-C&AG should be allowed to head any inquiry committee. But he was not right when he said that no ex-C&AG should become a Member of Parliament.

SHRI V. NARAYANASAMY: Sir, they lead public life. They should not enter public life because they know all the activities of the Government as the C&AGs. Sir, the hon. Member is sitting here. I don't want to quote him. He would reveal all the information to the House which has to be kept confidential. Sir, this will lead to serious consequences.

[The Deputy Chairman in the Chair]

SHRI TRILOKI NATH CHATURVEDI: Madam, I have never referred to any confidential thing.

SHRI V. NARAYANASAMY: I am just giving an example. When they retire, they should lead the retired life. They should not come to active political life or any active public life. Mr. Jaipal Reddy should not quote him tomorrow. That is why I am saying this today.

SHRI DIGVIJAY SINGH (Bihar): Madam, for the first time, Mr. Narayanasamy has made a good point.

SHRI S. JAIPAL REDDY: Madam, I consider Mr. Narayanasamy's point partially in the sense that ex-C&AGs or retired C&AGs should not be allowed to head any inquiry committees or commissions. Under article 148 (4) the embargo is in regard to offices that are filled up through nominations, not in regard to offices that are filled up through elections. The fundamental right to get elected to an Assembly or to the Parliament is not denied. That is not the intention of the Constitutional provisions. The intention of the Constitutional provision is to prevent the C&AG from heading an inquiry committee. This Government, for the first time, has asked a retired C&AG to inquire into something which in my view, spiritually, in spirit, is tantamount to sell-out.

SHRI JAGESH DESAI (Maharashtra): Madam, I totally disagree with Shri Jaipal Reddy. They are very knowledgeable persons. The C&AGs are having very vast knowledge. They audit

the accounts of the public sector undertakings. They minutely see all the papers. They are the best civil persons who can give this kind of an advice. I feel that an auditor like me also can do some good work in this regard. But the C&AG...(Interruptions).

SHRI S. JAIPAL REDDY: Madam, I have more faith in Shri Jagesh Desai than Mr. Gyan Prakash. Let me protest and go on record.

SHRI JAGESH DESAI: The C&AG is more capable because he audits the accounts of the public sector undertaking and of the State Trading Corporation and others. I feel that such technical jobs should be given to...(Interruptions).

SHRI S. JAIPAL REDDY: That is not the intention of the Constitution.

श्री दिग्विजय सिंह: अडिटिंग का काम तो जागेश जी सब से अच्छा जानते हैं। (व्यवधान)

श्री जगेश देसाई: आडिट का काम नहीं। उसके एक्सपेरियेंस की बात है (व्यवधान)

श्री जगदीश प्रसाद माथुर: (उत्तर प्रदेश): जबकि बिल आ रहा है, केवल उनको ही लाभ होने वाला है और वह इन्क्वायरी कर रहे हैं। उनको खुद चाहिये अपने आपको इस इन्क्वायरी से वापिस ले लें आज की पृष्ठभूमि में। यह बिलकुल गलत है। He is the only man who will be benefited. इससे गलत सिमल जा रहा है। उनको खुद हट जाना चाहिये।

SHRI VAYALAR RAVI: Madam, I have a point to make. Mr. Jaipal Reddy says all this from his own experience. He has never said about the cooling period. When a retired Judge can head an Enquiry Commission, even according to the definition of 'State' in the Constitution, it includes the Government and the Parliament. Therefore, any office in the Government can include the Parliament also. But his experience...(Interruptions)...Let me finish.

SHRI S. JAIPAL REDDY: No.

SHRI VAYALAR RAVI: Let me finish. I am quoting from an M.P. High Court judgement. This is a High Court

judgement and we can differ on a High Court judgement. Once upon a time, his people were gracious enough to offer certain posts to certain people. He must be speaking from his own experience. Mr. Jaipal Reddy is equating this Bill with his party's offer to a former C&AG some post.

SHRI S. JAIPAL REDDY: Our party has never made any such offer. Mr. Vayalar Ravi came back to Parliament after a long gap. He is trying to fill up this gap with his fertile imagination.

SHRI VAYALAR RAVI: It is the B.J.P. and not your party.

SHRI S. JAIPAL REDDY: The point remains that a person who retires as a C&AG cannot be given any job by either the Central Government or a State Government. How is a retired Supreme Court Judge given a job? There is no embargo on a retired Chief Justice. There is no such embargo on a retired Supreme Court Judge. But there is such an embargo on a retired C&AG. This embargo should have been kept in view by the Government. But the Government deliberately turned a Nelson's eye. Now it brings forward an amendment, which is welcome in principle but whose beneficiary is Mr. Gian Prakash ... *(Interruptions)*...

SHRI VAYALAR RAVI: Madam, I disagree with him. Under clause 4 of article 148 under Chapter V, it is said that the Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office. Heading an Enquiry Commission is not an office. This is not an office.

SHRI S. JAIPAL REDDY: If it is not an office, what is it then? When the retired Chief Justice, Mr. Shah, headed a Commission following the ending of Emergency during the Janata Party Government, he held an office. He held an office. He could hold that office because there is no Constitutional

embargo on retired Chief Justices while there is a specific, explicit Constitutional embargo in regard to retired C&AGs.

THE DEPUTY CHAIRMAN: Now the arguments are over. Mr. Bhatia, would you like to say something?

SHRI MADAN BHATIA (Nominated): Madam, I respectfully submit that I have already expressed my views on this when Mr. Jaipal Reddy raised this question for the first time. I would like to reiterate that Mr. Gian prakash has not been appointed as a Commission of Enquiry at all.

SHRI S. JAIPAL REDDY: Then what?

SHRI MADAN BHATIA: This is a purely an informal offer which the Government made to him to go through the records and, for the purpose of the information of the Prime Minister, after having scrutinised the records, place the correct position before him. This is not a matter in which any statute is involved, any office is involved or any appointment is involved. It must be clarified. This is not true.

SHRI S. JAIPAL REDDY: When he is not holding an office, how can he advise the Government?...*(Interruptions)*...

SHRI MADAN BHATIA: This is not a matter...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Please...*(Interruptions)*...One minute. When a Member is trying to explain his view-point, please listen to him. If you have any counter argument, you can make it. But let him first finish. He has a right to speak.

SHRI MADAN BHATIA: Madam, the hon. Prime Minister in his wisdom, as I had stated on that very day, could ask a Member of Parliament of this House to please go into this record and let him know what the correct position is. The hon. Prime Minister could ask Mr. Jaipal Reddy and if Mr. Jaipal Reddy had been asked by the Prime Minister he would

not have become a Commissioner of Enquiry. This is exactly the position which has happened in this case. Because of his experience and because of the confidence which the hon. Prime Minister had in the ability and independence of Mr. Gian Prakash, the retired CAG, he asked him to go through the official records and let him know the correct position. And here he says that the Constitution has been infringed. I do not understand to what extent the facts are being distorted to mislead this hon. House.

THE DEPUTY CHAIRMAN: O.K. let me hear; then I can finish this thing and...(Interruptions)...

SHRI S. JAIPAL REDDY: Madam, I am grateful to Mr. Madan Bhatia who said that Mr. Gian Prakash would have full access to Government records. Under what law of the land such records would be made available to him when he is not holding any office?

SHRI MADAN BHATIA: Informal. Under what law of the land can the Prime Minister be prevented from asking a particular individual to look into...(Interruptions)...

SHRI S. JAIPAL REDDY: The point is under the Official Secrets Act no record is made available to anybody...(Interruptions)...

SHRI MADAN BHATIA: This is totally wrong. The Official Secrets Act says that if any person in his official capacity has come into the possession of any information relating to the Government from the official records, he will not divulge that information. This is the Official Secrets Act...(Interruptions)...

AN HON. MEMBER: He has failed to identify the law and the papers have been handed over to Mr. Gian Prakash.

DR. BIPLAB DASGUPTA (West Bengal): Madam, I hope that the position that has been stated by Mr. Bhatia is not

the official position. Because if this is the official position then the Prime Minister has to give a lot of explanation to this. Now, it can only be either of the two: Either Mr. Gian Prakash is an individual, a private citizen or he is holding an office. If he is a private citizen, then there are some rules, certain restrictions relating to his access to official records because many of such records are secret records. How can he, being a private individual, have access to such records which are secret records? On the other hand, if he is not holding an office, then the other point which Mr. Reddy has raised is how the CAG, having retired, could hold an office which is debarred by our Constitution(Interruptions)....

SHRI V. NARAYANASAMY: Madam, that subject is coming tomorrow.(Interruptions)....

THE DEPUTY CHAIRMAN: What is coming ...(Interruptions)....

DR. BIPLAB DASGUPTA: Madam I hope, this is not the position which the Prime Minister is holding. If the Prime is holding this position, then he will have to give a lot of explanation ...(Interruptions)...

SHRI V. NARAYANASAMY: He has access to the Government documents. That is my point...(Interruptions)...

THE DEPUTY CHAIRMAN: Please sit down. Everybody has made his point. I think, it is very clear. (Interruptions)...

DR. BIPLAB DASGUPTA: Madam, just one point.

THE DEPUTY CHAIRMAN: You made quite a lot of points.

DR. BIPLAB DASGUPTA: Madam, Mr. Bhatia has made a number of interesting points. One interesting point he has made is that the Prime Minister has given this job to him because the Prime Minister has confidence in him, and he knows that he is independent. I think, these two things are contradictory. What I am saying is this. If the Prime

Minister wanted an impartial enquiry, he should not have given it to a friend of his, and he could not have given him the confidential notes and got a secret private opinion. If he wanted to be fair to himself and to the country....

THE DEPUTY CHAIRMAN: Now, let us not get into all that. This is not relevant.

(Interruptions)

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): The hon. Member was saying that the hon. Prime Minister can have over the papers to anybody. That is not fair.

(Interruptions)

SHRI DEPUTY CHAIRMAN: I would see to it that next time Mr. Narayanasamy is in the Chair.

(Interruptions)

SHRI MADAN BHATIA: On the important point raised by Mr. Narayanasamy, Madam, I seek your kind permission just to speak for half a minute. The point is whether high Constitutional authorities, who in the course of their duties are required to be above politics and independent of any political leanings, should be allowed after they demit that office to get mixed up with politics and get themselves aligned with one political party or the other. That is the question. That is the point which has been raised by Mr. Narayanasamy. That is a very important point.

(Interruptions) let us discuss it.

(Interruptions) Let us have a discussion on it.

SHRI V. NARAYANASAMY: I am on a point of policy. (Interruptions)

THE DEPUTY CHAIRMAN: Please sit down. (Interruptions) Mr. Jaipal Reddy, I think, we should pass the Bill now.

SHRI S. JAIPAL REDDY: Madam, the point Mr. Bhatia just now referred to has more to do with desirability and propriety rather than with legality and constitutionality. The constitutional position is unambiguously clear. As for moral questions, I have my own views. But the point is that one sitting Supreme

Court Judge resigned and contested on the Congress(I) ticket and became a Member of this House... (Interruption) from Assam. Therefore, it should not lie in the mouth of Mr. Madan Bhatia to deliver sermons on this question from this forum. (Interruptions)

THE DEPUTY CHAIRMAN: Now, I think, this is over.

SHRI MADAN BHATIA: Madam, just one sentence. I respectfully submit that I do not say that it is already provided in the Constitution that he cannot enter politics after demitting the office. But the question is whether the Constitution does not require an amendment to make this provision that such persons who hold such important offices should be above politics, should be debarred from contesting elections, and getting themselves aligned with any political party and entering the political arena. That is the question. (Interruption)

THE DEPUTY CHAIRMAN: I think, we have had enough.

SHRI MADAN BHATIA: And the question whether the Election Commissioners should not be debarred from contesting any election....

THE DEPUTY CHAIRMAN: I am not allowing any more. Bhatiaji, please sit down. Don't make things more complicated. It is a very simple matter. Mr. Minister, have you replied? Okay, he is replying.

श्री जगदीश प्रसाद माथुर: मैडम, यहां तक प्रश्न कानून और कायदे का है, उस पर बहस हो चुकी है, लेकिन यह सवाल आज मौजूदा स्थिति में उठा है कि इस बिल से उनको फायदा हो रहा है। मझे यह लगता है कि जब उनको नियुक्त किया गया होगा, भारद्वाज जी ने यह कानून पहले देखा होगा। लेकिन, शायद प्रधान मंत्री जी को यह मालूम नहीं होगा कि यह जो बिल इस समय आ रहा है, इस बिल से केवल ज्ञान प्रकाश जी को फायदा होगा। यह बात साफ नहीं होगी। अगर प्रधान मंत्री जी को यह मालूम होता कि यह होगा, शायद वह उन्हें नियुक्त नहीं करते। इसलिए आज की परिस्थिति में उचित तो यही है कि प्रथम तो ज्ञान प्रकाश जी स्वयं अपने को इससे बाहर कर ले, नहीं तो सरकार उनसे विनती करे कि

भाई, आज चूंकि ऐसा बिल आ गया है, आप इसके साथ जुड़ गए हैं इससे प्रधान मंत्री की, सरकार की, दोनों की स्थिति ऐसी हो गई है अतः आप हट जाएं।

THE DEPUTY CHAIRMAN: I think enough has been said. Let the Minister answer.... (Interruptions).... Enough Constitutional arguments we have had in the House. I have had enough of it.(Interruptions)..... We had moral, Constitutional, unconstitutional, all kinds of discussion! Let the Minister answer now.

SHRI M.V. CHANDRASHEKHAR MURTHY: Madam, I would like to confine myself only to the provisions of this Bill and nothing outside the Bill.

SHRI S. JAIPAL REDDY: You refer to the coincidence.

SHRI M.V. CHANDRASHEKHAR MURTHY: No, I never said it.

SHRI S. JAIPAL REDDY: You refer to the coincidence that Mr. Gian Prakash is the sole beneficiary of this highly welcome amendment(Interruptions).....

THE DEPUTY CHAIRMAN: At some point of time, somebody is going to benefit by something at least. Sometimes we pass a Bill and we become beneficiaries of that. So, let us go about in that spirit.

...(Interruption)...

श्री दिग्विजय सिंह: मैट्रम, एक आमी को फायदा हो रहा है, वह आपकी इन्क्वायरी कमीशन का चेयरमैन है। अब इसमें भी बहस होगी कि उनके फायदा मिल रहा है या नहीं मिल रहा है? ... (व्यवधान) ... क्या बात करते हैं? आप भी और हम लोग भी संसद में हैं। हमारी भी कुछ जिम्मेदारी है सही बात कहने की और यह पूरे संसद सदस्यों की जिम्मेदारी है। इससे एक आदमी को फायदा हो रहा है। हम यह नहीं कह रहे हैं कि इसमें कोई मोटिव है, लेकिन आज स्थिति ऐसी है कि फायदा सिर्फ एक आदमी को हो रहा है, जो एक इन्क्वायरी कमीशन के चेयरमैन है। अब इस बात को इतना लाइटली मत लीजिए। ... (व्यवधान) ... आज आप यह बिल पास कर रहे हैं, अब आप बताइए कि क्यों बिल

पास कर रहे हैं? आज की हालत में तो एक ही आदमी को फायदा हो रहा है, न? कल को किसको फायदा होगा, हम नहीं कह सकते, लेकिन आज तो एक ही आदमी को फायदा हो रहा है। हम आपके मोटिव की बात नहीं कर रहे, लेकिन हकीकत तो यही है।
... (व्यवधान) ...

श्री जगदीश प्रसाद माथुर: क्या उस आदमी के बराबर कोई दूसरा नहीं है, जो इन्क्वायरी का यह काम कर सकता हो। क्योंकि उनके ऊपर इतने संदेह पैदा हो रहे हैं तो क्या इसके लिए कुछ किया नहीं जा सकता?
... (व्यवधान) ...

SHRI VAYALAR RAVI: Madam, the amendment has not been made just for one person. The argument is not correct that. Earlier also, in 1987, an amendment has been made equating it with Supreme Court Judges. Then also it benefited only two persons. They are only one or two ex-C & AGs.

SHRI DIGVIJAY SINGH: Today the man is heading an inquiry commission.

SHRI JAGESH DESAI: Not commission.

SHRI DIGVIJAY SINGH: Whatever it is. Let us say, inquiry.

THE DEPUTY CHAIRMAN: Now that matter is over. Let the Minister reply ... (Interruptions) ... Whether it is an inquiry committee or a commission or appointment or whatever it is, let the Minister speak.

SHRI M.V. CHANDRASHEKHAR MURTHY: Madam. Some of the Members have mentioned that with these provisions of the Bill only one person is going to be benefited. It is not true, Madam. One is the late Shri Ranganathan, ex-C & AG, another is Shri Gian Prakash, ex-C & AG, and also the present C & AG, Shri Somaiya, who

will be benefited by the provisions of this Bill.

Madam, considering the Constitutional importance and the dignity of the office, I would appeal to all the Members to support this Amendment Bill.

SHRI SATYA PRAKASH MALAVIYA: Everybody has supported this Bill. No Member has opposed this.

SHRI S. JAIPAL REDDY: We are only pointing out the significant coincidence.

THE DEPUTY CHAIRMAN : The question is:

"That the Bill further to amend the Comptroller and Auditor General's (Duties, powers and Conditions of Service) Act, 1971, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now taken up clause-by-clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

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

SHRI M.V. CHANDRASHEKHAR MURTHY: I beg to move:

"That the Bill be returned."

The question was put and the motion was adopted.

THE SALARIES, ALLOWANCES, LEAVE AND PENSIONS OF THE OFFICERS AND SERVANTS OF THE DELHI HIGH COURT BILL, 1994

AND

THE SALARIES AND ALLOWANCES, LEAVE AND PENSIONS OF THE OFFICERS AND SERVANTS OF THE SUPREME COURT BILL, 1994

THE DEPUTY CHAIRMAN: Now we will take up the Salaries, Allowances, leave and Pensions of the Officers and Servants of the Delhi High Court Bill, 1994 and the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the supreme Court Bill, 1994 together.

THE MINSITER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): I beg to move:

That the Bill to provide for the regulation of the salaries, allowances, leave and pensions of the officers and servants of the Delhi High Court and for matters connected therewith or incidental thereto, be taken into consideration.

I also beg to move:

That the Bill to provide for the regulation of the salaries allowances, leave and pension of the officers and servants of the Supreme Court of India and for matters connected therewith or incidental thereto, be taken into consideration.

Madam, serious anomalies have crept into the pay-scales of the employees of the Delhi High Court and of the Supreme Court of India on account of various judgements and orders passed by the Courts in writ petitions filed by the employees. These distortions and anomalies in the pay-structure of the staff of the Delhi High Court and that of the Supreme Court are likely to cause serious agitations amongst similarly placed Central Government staff and employees of the Delhi Adminsitration. This might ultimately lead to large scale distortions in the pay-structure of the Government employees leading to more consequential financial implication.

In February, 1989, a group of Minsiters was constituted to examine the implications of the emerging distortions in the pay-structure of the Court employees. The group of Minsters recommended that the only remedy available with the Government was to enact suitable legislations to rectify the situation. In May, 1991, a committee of secretaries again considered the developement and indicated that action should be taken to frame a suitable ligislation to govern the salary and