

2. I am, therefore, to return herewith the said Bill in accordance with the provisions of Rule 121 of the Rules of Procedure and Conduct of Business of Lok Sabha with the request that the concurrence of Rajya Sabha to the said amendments be communicated to Lok Sabha."

Sir, I lay the Bill on the Table of the House.

THE CRIMINAL LAW AMENDMENT  
BILL, 1958—continued

**श्री देवकीनन्दन नारायण :** उपसभापति जी, मैं यह कहा रहा था कि पी० डब्ल्यू० डी० में जो रिश्वत चलती है वह रिश्वत नहीं कहलाती, वह तो एक दस्तूरी बन गई है, यानी वहां का तो रवैया ही अलग है, वहां तो यह एक प्रथा बन गई है। तो मैं माननीय मंत्री जी से यह कह रहा था कि इस डिपार्टमेंट पर, जिसको कि सब जानते हैं और जहां की बातों से भी सब वाकिफ हैं, खास कर अधिक विजिलेंस रखी जाय।

**पंडित अलगू राय शास्त्री (उत्तर प्रदेश) :** उस पर रहम कीजिये आप।

**श्री देवकीनन्दन नारायण :** इतना ही नहीं कि उस पर विजिलेंस रखी जाय बल्कि उसके कांटेक्टर्स के ऊपर भी विजिलेंस रखी जाय। आपने लोहे के ऊपर, फौलाद के ऊपर, सीमेंट के ऊपर कंट्रोल कर रखा है और आपने देखा होगा कि बाजार में, काले बाजार में, यदि कहीं से आपको लोहा, स्टील या सीमेंट मिलता है तो वह इन कांटेक्टर्स के जीरिये से ही या इन कांटेक्टर्स के घर से ही मिलता है क्योंकि इनको पी० डब्ल्यू० डी० डिपार्टमेंट की ओर से जितना चाहें सीमेंट मिल जाता है, लोहा मिल जाता है जिसका कि उस काम के लिये उपयोग नहीं करते हैं जिस काम के लिये कि उनको करना चाहिये और मिला

हुआ होता है। तो यह पी० डब्ल्यू० डी० और उसके कांटेक्टर्स ऐसी हवा पैदा करते हैं जो कि बाहर से करप्शन नहीं भी कहलाता हो या कहलाता भी हो तो समझ में नहीं आता हो परन्तु करप्शन की बहुत कुछ जिम्मेदारी इनके ऊपर है।

**श्री कै० बि० लाल (बिहार) :** लेकिन मेम्बर साहब को मालूम होना चाहिये, हम लोगों का ये लोग बड़ा काम चला देते हैं। हम लोगों को इन कांटेक्टर्स का कृतक होना चाहिये। हां, यह गवर्नमेंट को देखना है, समझना है कि ऐसा क्यों होता है ?

**श्री देवकीनन्दन नारायण :** गरीब जिस वक्त अपने काम की जरूरत के कारण या लाचारी के कारण रिश्वत देता है तो उस क्षण वह यह जरूर समझता है कि सरकारी ओहदेदार ने उनका काम कर दिया है और वह उनका बड़ा अहसान कर रहा है। इस बात को तो आप भी मान सकते हैं, आप भी इन कांटेक्टर्स का अहसान ले सकते हैं। यदि इस तरह के अहसान की भावना और दूसरे का बुरा न करने की भावना हमारे गरीबों में न होती तो यह रिश्वतखोरी इतनी न बढ़ती। हम लोग खुद सहना जानते हैं लेकिन दूसरों को सताना नहीं जानते और इसी वजह से हमारे गरीब भाई लाचारी के कारण रिश्वत दे कर भी उसे कहने के लिये आगे नहीं आते हैं क्योंकि वे किसी का बुरा करना नहीं जानते हैं। यह उनकी कमजोरी है जिसको कि दुर्बल सज्जनता कहते हैं। आज जो यह करप्शन इतना बढ़ा हुआ है तो ऐसा क्यों है ? इसका कारण यह है कि हमारी जनता में दुर्बल सज्जनता बहुत बढ़ी हुई है। जो भी हो कोई किसी का बुरा नहीं करना चाहता, भले ही सामने वाला रिश्वत लेकर दुनिया का बुरा करे परन्तु वह यह नहीं चाहता कि मैं किसी का बुरा करने का जिम्मेदार बनूं। तो करप्शन की बहुत कुछ जिम्मेदारी जहां

[श्री देवकीनन्दन नारायण]  
सरकारी ओहदेदारों पर है वहां उससे कम  
इन दुर्बल सज्जनों पर नहीं है।

श्री कै० बि० लाल : आपकी नज़र में  
यह सरकार की नीति है...

MR. DEPUTY CHAIRMAN: Order,  
order.

श्री देवकीनन्दन नारायण : इसके बाद  
आप और डिपार्टमेंटों को ले लीजिये।

MR. DEPUTY CHAIRMAN:  
Mr. Deokinandan Narayan, the scope of this  
Bill is very limited. Where-ever there is  
corruption, it should be prevented. That is the  
objective of the Government also but there are  
some difficulties in the law which are tried to  
be removed by this amending Bill. It is only  
about that you have to speak. You cannot go  
on department by department.

SHRI DEOKINANDAN NARAYAN: I am  
coming to the point.

MR. DEPUTY CHAIRMAN: So far you have  
not.

SHRI NEOKINANDAN NARAYAN: Upto  
now, corruption was discussed here by every  
speaker.

श्री उपसभापति : यह ठीक है, लेकिन  
इस बिल का सीमा बहुत लिमिटेड है।

SHRI DEOKINANDAN NARAYAN: I was  
listening to so many speeches yesterday. My  
friend, Mr. Bhupesh "Gupta spoke nothing but  
this.

MR. DEPUTY CHAIRMAN: Yes, but that is  
no reason whatever why you should indulge in  
it.

SHRI DEOKINANDAN NARAYAN: I want  
to reply to him.

MR. DEPUTY CHAIRMAN: It is all right.  
Please finish soon.

श्री देवकीनन्दन नारायण : तो मैं  
यह कह रहा था कि कर्प्शन की जिम्मेदारी  
हालांकि लेने वाले पर है लेकिन थोड़ी  
बहुत देने वाले पर भी है और उन पर भी  
है जो कि अपनी आंखों के सामने कर्प्शन  
को होते हुए देखते हैं परन्तु कुछ कहते नहीं  
हैं, उसको रोकने की कोशिश नहीं करते  
हैं। यहां डिमॉरेलाइजेशन की बात की गई,  
कि जो अफसर रिजर्वत लेते हैं  
वे डिमॉरेलाइजेशन पैदा करते हैं लेकिन मैं  
यह कहता हूं कि सिर्फ अफसर ही  
डिमॉरेलाइजेशन पैदा नहीं करते बल्कि  
हमारे जैसे आदमी भी पैदा करते हैं जो  
कि इसको रोकने के लिये अपने को जिम्मेदार  
नहीं समझते हैं।

इसके बाद अब, इस विधेयक में जो सब  
से बड़ी बात कही गई है वह यह है कि सज़ा  
को बढ़ा दिया जाय, यानी एक साल से सात  
साल तक की सज़ा दी जाये। यह बहुत अच्छी  
बात है। डिट्रेंट पनिशमेंट से शायद मामला  
सुधर जाय परन्तु मैं सज़ा को इतना डिट्रेंट  
नहीं मानता जितना कि मनुष्य की खुद की  
आत्मा को मानता हूं। फिर भी इस डिट्रेंट  
पनिशमेंट का उपयोग होना जरूरी है और मैं  
इस का स्वागत करता हूं। पर साथ ही साथ  
मैं यह कहना चाहता हूं और यहां पर मैं श्री  
भूपेश गुप्त के साथ सहमत हूं कि जब कभी  
इस तरह के मामले कोर्ट में पेश हों तब उनको  
खूब जोरों की पबलिसिटी दी जाय क्योंकि  
हमने यह देखा है कि कर्प्शन के मामलों की  
जितनी पबलिसिटी देनी चाहिये उतनी नहीं  
दी जाती है क्योंकि उसके बहुत से कारण  
होते हैं। तो गवर्नमेंट की ओर से ऐसे मामलों  
को काफी पबलिसिटी दी जानी चाहिये।

इस में धारा ३ में जो प्राविज्ञो हैं :

"Provided that the court may, for  
any special reasons recorded in  
writing, impose a sentence of  
imprisonment of less than one  
year."

इसको मैं समझता हूँ कि यहां से निकाल दिया जाय। रिश्वत के मामले में दया की कोई भावना नहीं दिखलाई देनी चाहिये। क्योंकि जब आप रिश्वत लेने वालों के साथ कड़ाई के साथ पेश आना चाहते हैं तो मैं यह योग्य नहीं समझता कि किसी तरह से भी कोर्ट को यह अस्तिधार दिया जाय कि वह दया दिखाये। दया के वे योग्य नहीं हैं।

**डा० डब्ल्यू० एस० बार्लगे :** दया का कोई सवाल नहीं है।

**श्री देवकीनन्दन नारायण :** और नहीं तो क्या है? मैं तो कानूनदा हूँ नहीं।

**पं० अलगू राय शास्त्री :** आप तो बहुत हैं।

**श्री देवकीनन्दन नारायण :** लेकिन मैं मानता हूँ कि इस प्राविजों को यहां से निकाल दिया जाय—इसकी कोई खास जरूरत नहीं है।

साथ साथ, मेरा यह सुझाव है और मंत्री महाशय से प्रार्थना है कि जिस वक्त ये करप्शन के मामले चलते हैं, वे किस तरह से चलते हैं, कितने दिनों तक चलते हैं, उनमें कौन कौन सी दिक्कतें पेश होती हैं, इन तमाम बातों को सामने देखते हुए, समरी ट्रायल होना चाहिये। स्पेशल जज तो होगा ही, साथ साथ समरी ट्रायल भी हो। उससे पहले मैं यह भी कहूंगा कि जिनके ऊपर करप्शन का मुकदमा चलाया जाय उनको बेल न दिया जाय। No bail should be given to one who is being prosecuted for corruption. उसका कारण यह है कि मैंने यह देखा है कि प्रोसीक्यूशन जिस वक्त दाखिल होता है, उस दिन से लेकर मुकदमा शुरू होने तक यह रिश्वतखोर महाशय इतनी जबर्दस्त कार्यवाही करते हैं, गवाहों के साथ और उनके साथ जो कि अफसरान होते हैं, और तीसरे डिपार्टमेंट के भाई बन्दों के साथ कि न तो

गवाही ठीक हो पाती है और न कुछ और काम हो पाता है। इसलिये मैं यह कहूंगा कि No bail should be given to one who is being prosecuted for corruption. फिर, आप समरी ट्रायल करियेगा क्योंकि यह अक्सर देखा गया है—यह हमारे देश का दुर्भाग्य है—कि यहां गवाही मोल मिल जाती है, गवाही पैसा देने से बदल जाती है और बहुत सी बातें हो जाती हैं। इसलिये आपको यह चाहिये कि समरी ट्रायल जल्दी से जल्दी हो जाये जिससे उसको किसी को बिगाड़ने का, किसी का पैसा दे कर बहकाने का, और भी बहुत सी बातें करने का मौका न मिले। इसलिये मैं कहूंगा कि साथ साथ इसमें बेल न देने की भी तजवीज रखी जाय।

इसके बाद एक बात मुझे यह कहनी है सुझाव के तौर पर कि जिस जगह पर रिश्वत का मामला हुआ हो उसी जगह पर मुकदमा न चलाया जाय, जैसे कि एक जिले में या तहसील में रिश्वत ली हो तो उस जिले में या तहसील में मुकदमा न चलाया जाय तो अच्छा है। उसके बगल के जिले में चले। कारण उसका यह है कि रिश्वत लेने वाला अकेला नहीं होता है, उसके बहुत से साथी होते हैं और बहुत से उसके सम्बन्धी होते हैं और वहां एक ऐसी हवा उसके लिये पैदा की जाती है ताकि विटनेसेज जितने सामने आने चाहिये उतने आते नहीं हैं, एक तरह से आने में डरते हैं। इसलिये मैं तो यह चाहूंगा कि जहां उसने रिश्वत ली हो, उस जगह पर या उस जिले में उसका मुकदमा न चलाया जाय।

तीसरी बात यह है कि यह भी स्पष्ट कह देना चाहिये कि किसी तरह की भी डाइलेटरी टैक्टिक्स नहीं चलने देने चाहिये क्योंकि अक्सर करप्शन के केसेज में मैंने देखा, मेरे यहां एक इनकम टैक्स आफिसर के खिलाफ मुकदमा चला था, दो हजार रुपये लेने के बारे में, वह दो वर्ष तक चलता रहा, यानी बेचारा गवाह कहां तक याद रखे कि उसने क्या देखा था क्या नहीं देखा था। ऐसी हालत

[श्री देवकीनन्दन नारायण]

में यह डाइलेटरी टैक्टिक्स दोनों तरफ से चलती हैं—गुनहगारों की तरफ से और वकीलों की तरफ से। इसलिये ऐसी तजवीज हो जानी चाहिये कि डाइलेटरी टैक्टिक्स न चले और निर्धारित दिनों में मुकदमा खत्म हो जाना चाहिये, यानी मियाद रख देनी चाहिये। मियाद के सिवा यह काम और तरह से ठीक होने वाला नहीं है।

रिश्त की एक और बात कह कर मैं खत्म करूंगा। मैंने अपने राज्य में देखा है कि जैसा मैंने पी० डब्ल्यू० डी० के बारे में कहा, कि रिश्त लेने की एक आदत सी हो गई है। इसी तरह से एक बन्दोबस्त शब्द है, यानी अफसरों का बन्दोबस्त करना होता है। आफिसरों, डिस्ट्रिक्ट आफिसरों और डिवाजनल आफिसरों जो देहातों में जाते हैं, उनका बन्दोबस्त रखना होता है और उस बन्दोबस्त में गरीब जनता का जितना पैसा खर्च होता है, जितना उसमें करप्शन होता है उतना शायद गरीबों के और किसी काम में नहीं होता है। इसलिये बन्दोबस्त की जो यह आम प्रथा है, यह बिल्कुल बन्द हो जानी चाहिये और इसको रखने में सरकार को किसी तरह से भी मदद नहीं करनी चाहिये।

डा० डब्ल्यू० एस० बालिगे : बन्दोबस्त का बन्दोबस्त हो जाना चाहिये।

श्री देवकीनन्दन नारायण : बन्दोबस्त का बन्दोबस्त हो जाना चाहिये। मैं मानता हूँ अपने भाई के शब्द मुझे पता है, एक हमारे डी० एस० पी० साहब थे, जिनका यह रिवाज था कि उनके लिये जो मुर्गी रोजाना लगती थी उसके लिये सब इंस्पेक्टर से उन्होंने कह रखा था कि उसे रोज पहुंचा दिया करे। जहां कहीं वे जाते थे, पहले खबर करते थे कि मेरे लिये इन इन चीजों की जरूरत है जो मेरे बंगले में पहुंच जाय। इस तरह से यह जो बन्दोबस्त है, इसको कौन करता है? सब इंस्पेक्टर इसको

अपने खीसे से तो करता नहीं है, वह बेचारी गरीब जनता को तंग करता है और गरीब जनता से साहब बहादुर के लिये बन्दोबस्त करता है और इसमें सैकड़ों हजारों रुपया खर्च होता है। इसलिये मेरी यह दूसरी प्रार्थना है कि जैसे मैंने कहा कि पी० डब्ल्यू० डी० से दस्तूर बन्द हो जायें, उसी तरह से पुलिस के अफसरों का या अन्य जिला अफसरों का बन्दोबस्त भी बन्द हो जाय।

श्री व्यंकट कृष्ण ढुगे : मुर्गी पर ही मामला खत्म हो जाता है ?

श्री देवकीनन्दन नारायण : नहीं मुर्गी के साथ, और भी बहुत सी बातें आती हैं। यह जो बात आपने सेक्शन ८ में कही है कि जो गवाही देने आयेगा और जिसने खुद रिश्त के पैसे दिये हैं, उसके ऊपर कोई कार्यवाही नहीं की जायेगी यदि वह कोर्ट के सामने आ कर स्टेटमेंट करे। आज की हालात में यह बात ठीक हो सकती है, हालांकि देने वाला भी एक तरह से गुनहगार होता है और नीति की निगाह से देखा जाय तो देने वाले को कुछ कम गुनहगार नहीं समझना चाहिये। आजकल यह अवश्य है कि हर एक मनुष्य डरता है सच कहने में। इसलिये कोर्ट में आकर सच बात कहने के लिये कुछ विशेष अख्तियार देना चाहिये जिससे उसको दहशत से मुक्ति मिल जाये। परन्तु साथ ही मैं यह कहना चाहता हूँ कि आपने यह कहा है :

A statement made by a person in any proceedings against a public servant

यह स्टेटमेंट अगर कोर्ट की निगाह में झूठ निकल जाये तब भी उसके ऊपर कार्यवाही हो सकती है या नहीं ?

डा० डब्ल्यू० एस० बालिगे : नहीं हो सकती।

श्री देवकीनन्दन नारायण : यदि नहीं हो सकेगी तो यह गैर बात है। यदि कोर्ट को यह

मालूम हो जाये कि उसने जो स्टेटमेंट किया है कि "मैंने इसे रिस्वत दी थी, इतनी दी थी, इस तरह से दी थी", वह झूठी बात है तो उस के ऊपर कार्यवाही होनी चाहिये, उस कार्यवाही से उसको बचाना नहीं चाहिये। यह मेरी आपसे खास प्रार्थना है, नहीं तो ऐसे भी बहुत से मिल जायेंगे जो हमारे अफसरान को नाहक तंग करने के लिये झूठी गवाही देने आगे आ जायेंगे क्योंकि हिन्दुस्तान में गवाही देना बहुत सस्ती बात है, मंहगी बात नहीं है। इसमें मैं कोई आफिसरों का पक्ष लै रहा हूँ, ऐसी बात नहीं है। परन्तु यह बात आवश्यक है कि यदि वह झूठी गवाही साबित हो जाय तो उसके ऊपर कार्यवाही होनी ही चाहिये।

इतना कह कर मैं इस बिल का समर्थन करता हूँ और यह प्रार्थना करता हूँ कि सिर्फ कानून से करप्शन दूर होने वाला नहीं है। हमें पब्लिक ओपीनियन जागृत करनी चाहिये और जिम्मेदारी के साथ खुद में और अपनी जनता में जो दुर्बलता है उसको निकालना चाहिये और खुद भी अपने अन्तः-करण को टटोलना चाहिये कि हम कहां तक डाइरेक्टली या इन्डाइरेक्टली करप्शन के जिम्मेदार हैं।

श्री शोलभद्र याज्ञा (बिहार) : माननीय उपाध्यक्ष महोदय अभी हमारे गृह मंत्री जी ने अष्टाचार निवारण के हेतु क्रिमिनल ला एमेंडिंग ऐक्ट में सुधार लाने के लिये जो विधेयक पेश किया है मैं उसका समर्थन करता हूँ। इसी के साथ साथ हमारे माननीय सदस्य श्री पी० एन० सप्रू ने जो एक सुझाव गृह मंत्री के सामने रखा है कि इसका दायरा यूनिवर्सिटी बोर्ड आफ एग्जामिनेशन और दूसरी ऐसी संस्थाओं पर जो कि गवर्नमेंट के नीचे आती हैं लागू किया जाय, मैं समझता हूँ उस पर भी गृह मंत्री जी को ध्यान देने की जरूरत है।

110 R.S.D.—4.

इस बिल पर जब बहस हो रही थी तो हमारे एक माननीय साथी भूपेश गुप्त ने जो कि इस सदन के जवाबदेह सदस्य हैं उन्होंने बात करते करते सारी गवर्नमेंट से ले कर मंत्री से ले कर के सभी स्थानों के बारे में यह बताया कि वे सब घूस में, ब्राइबरी में, अष्टाचार में हिस्सा लेते हैं। उन्होंने यह भी कहा कि हमारी बात चाहे वह मुंदरा के बारे में हो या किसी और के बारे में, गवर्नमेंट सुनती नहीं है। गवर्नमेंट और मंत्री क्यों सुनने लगे जब माननीय सदस्य उनको भी नहीं छोड़ते हैं। इसी तरह से यह बात भी हो सकती है कि आफिशियल्स के खिलाफ जो कुछ वे बोलते हैं वह गलत हो। इसलिये उनको बोलने के पहले सोच समझकर बातें कहनी चाहियें। जब वे मंत्री पर दोषारोपण करते हैं और मंत्री महोदय यह समझते हैं कि माननीय सदस्य जिस प्रकार का दोषारोपण कर रहे हैं वह गलत है उसी तरह से मंत्री महोदय यह समझते हैं कि आफिसर्स पर जो दोषारोपण किये जाते हैं वे भी गलत होंगे। जब माननीय सदस्य इस तरह की बातें करते हैं और यह समझते हैं कि उनकी बातों पर मंत्री महोदय तबज्जो दें तो उसमें दिक्कत होती है। इसलिये किसी बिल पर बहस करते हुए माननीय सदस्यों को गम्भीरता-पूर्वक बातें करनी चाहियें।

जो कानून सदन के सम्मुख लाया गया है उसमें तरमीम लाकर सजा देने की जो अवधि बनाई गई है वह सही है। लेकिन जिस तरह से समाज और मुहकमों के अन्दर अष्टाचार को रोकने की बात सदन में हो रही है उसको मैं दोहराना नहीं चाहता हूँ। लेकिन गृह मंत्री जी से मैं एक बात के लिये गुजारिश करूंगा कि कोई भी कर्मचारी चाहे वह सेक्टरियेट में काम करने वाला हो, चाहे पुलिस में काम करने वाला हो, चाहे रेलवे विभाग में काम करने वाला हो या किसी मुहकमे में हो जब तक उसकी वेतन मजदूरी मंहगाई का भत्ता नहीं बढ़ाया जायेगा

— [श्री शीलभद्र याजी]

तब तक आप इस बीमारी को दूर नहीं कर सकते हैं। इसका कारण यह है कि चीजों के दाम साढ़े तीन गुने बढ़ गये हैं लेकिन मंहगाई भत्ते और मजदूरी उस हिसाब से नहीं बढ़ाई गई हैं। इसके बाद भी आप यह उम्मीद करते हैं कि आपके लेक्चरों से आपके कानूनों से उन लोगों का पेट भर जायेगा और भ्रष्टाचार नहीं होगा? इस भ्रष्टाचार के विरुद्ध बड़े बड़े नेताओं और बड़े बड़े मंत्रियों के भाषण होते हैं और सरकार के १४ मूहकमों में विजिलेंस कमेटीज भी बनी हुई हैं लेकिन मैं समझता हूँ कि हमें इस चीज की जड़ में जाने की जरूरत है। जैसा कि अभी सदन में एक माननीय सदस्य ने कहा कि घूस देने में वृद्धि हो गई है उसका बाजार गरम हो गया है। लेकिन मेरा कहना यह है कि हमारे जो कर्मचारी हैं उनकी आर्थिक हालत चाहे वे सरकारी हों या गैर-सरकारी जब तक ऊंची नहीं उठाई जायेगी तब तक यह चीज नहीं जा सकती है। इस का कारण यह है कि जो चीज पहले बाजार में एक रुपये में मिलती थी उसके दाम आज साढ़े तीन गुने हो गये हैं, उन लोगों का डियरनेस एलाउन्स उतना ही है। जब माननीय सदस्य कहते हैं कि साढ़े तीन गुना घूस बढ़ गई है तो मेरा कहना यह है कि बाजारों में चीजों की रकम इतनी गुनी ज्यादा बढ़ गई है कि घूस की रकम भी पहले से साढ़े तीन गुना बढ़ गई है।

यह बात सही है कि सरकार के पास इतना पैसा नहीं है कि वह अपने सब कर्मचारियों को तनख्वाह या मंहगाई का भत्ता इतना बढ़ा दे। मैं सरकार को यह सुझाव देना चाहता हूँ कि देश में जितने भी विदेशी कंसर्न्स हैं जिनमें अरबों की सम्पत्ति लगी हुई है उस को अपने आर्बान कर ले। इन कंसर्न्स में उन लोगों को काफ़ी आमदनी होती है अबेर सरकार ने यह कदम उठाया तो वह

अपने कर्मचारियों को उस पैसे से मंहगाई भत्ता या डियरनेस एलाउन्स दे सकेगी।

इंग्लैंड में जब कोई आदमी पुलिस के पास नालिश करने के लिये जाता है तो पुलिस वाले उसको चाय पिलाते हैं। लेकिन हमारे देश में जब कोई आदमी पुलिस के पास नालिश करने जाता है तो पुलिस वाले यह देखते हैं कि वह कुछ लाया है या नहीं। वे लोग यह देखते रहते हैं कि वह आदमी अपनी पाकेट में १०, ५० या १०० रुपये लाया है या नहीं। क्या इसी तरह से आप उम्मीद करते हैं कि देश से यह बीमारी दूर हो जायेगी। क्या आप यह समझते हैं कि इस तरह का कानून बनाकर वे लोग ईमानदार हो जायेंगे; इस तरह के कानून बनाने से यह बीमारी जाने वाली नहीं है। इसलिये मेरा सुझाव यह है कि जिस प्रकार से आज चीजें मंहगी हो गई हैं उसी हिसाब से आप मिनिमम वेजेंज में भी वृद्धि करें। आप इस बात का ख्याल न करें कि वह डिपार्टमेंट सरकारी है या गैर सरकारी जब तक आप इस तरह को वृद्धि नहीं करेंगे तब तक देश में घूस लेने की प्रथा बन्द नहीं हो सकती है। अतः इस चीज को पहले करने के लिये यह आवश्यक है कि आप कर्म-चारियों की आर्थिक स्थिति को सुधारें।

दूसरी चीज जो मैं कहना चाहता हूँ कि वह यह है कि जिस तरह से चीन वालों ने इस प्रथा को अपने देश से हटा दिया है खत्म कर दिया है उसी तरह से आपको भी करना चाहिये। एक या दो केस इस तरह के लिये जाने चाहियें जिनमें घूस के अपराध में वह आदमी फँसा हो। आपको देश के सामने इस तरह के एक या दो एग्जाम्पलरी पनिशमेंट देने चाहियें, सजा देने की जरूरत है जिससे इस घूसखोरी और भ्रष्टाचार की बीमारी में रुकावट हो सके।

इसके साथ ही साथ मैं यह भी कहना चाहूँगा कि देश में जितने आर्गनाइजेशन हैं, पार्टीज हैं उनका यह फर्ज हो जाता है कि अपनी

अपनी पार्टी की ओर से इस बीमारी के विरुद्ध इस तरह की आबोहवा, इस तरह की फिजा, इस तरह का वायु-मंडल तैयार करें कि यह बीमारी हमारे देश से जल्द से जल्द चली जाय। इस आइबरी के खिलाफ, धूमखोरी के खिलाफ इस बात का लिहाज नहीं रखा जाना चाहिये कि वह किसी डिपार्टमेंट, किसी मुहकमे में ज्यादा है या कम है, बल्कि हमें इस तरह की हवा तैयार करनी चाहिये कि वह हमारे देश से समूल नष्ट हो जाय। इस चीज को जल्दी तो नहीं कुछ दिनों के बाद अवश्य रोका जा सकता है।

अभी हमारे माननीय सदस्य श्री देवकी-नन्दन जी ने यह सुझाव दिया था कि जो घूस देता है, गवाही देता है यदि यह साबित हो कि उसने वह कार्य नहीं किया है तो उसको भी सजा होनी चाहिये। मेरा कहना यह है कि ऐसी बात नहीं होनी चाहिये अन्यथा आप जानते हैं कि बहुत बड़े आफिशियल्स जो प्रभावशाली और इनफ्लुएण्शल होते हैं वे डर के मारे मुकदमा करने को तैयार नहीं होते हैं। वे प्रभाव डालकर घूस देने वाले को झूठा कर देते हैं और साफ बच जाते हैं। इन बड़े आदमियों के पास सब तरह के साधन होते हैं और वे इतने प्रभावशाली होते हैं कि जब साधनों का प्रयोग करके उस आदमी को झूठा बना देते हैं। इसलिये मेरी गृह मंत्री जी से प्रार्थना है कि वे उनके इस सुझाव को न मानें अन्यथा चोरी पकड़ना अबड़ा मुश्किल हो जायेगा।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ। लेकिन इसके साथ ही साथ मैं यह कहना चाहता हूँ कि इस चीज को हम कानून द्वारा दूर नहीं कर सकते। जब तक हम इस घूस लेने की प्रथा के विरुद्ध देश में वायुमंडल तैयार नहीं करेंगे तब तक यह चीज जाने वाली नहीं है। यहां पर लेक्चर देने से यह बीमारी बंद नहीं हो सकती है। जब तक हम लोगों की आर्थिक और गरीबी की

हालत को नहीं सुधारेंगे तब तक इस बीमारी को देश से दूर नहीं कर सकते हैं। चीन और रूस ने इस बीमारी को अपने देश से खत्म कर दिया है। हमारे देश ने समाजवादी पद्धति अपना ली है इस चीज को दूर करने की काफी गुंजायश है। इसी तरह से हम कर्प्शन और भ्रष्टाचार को बन्द कर सकते हैं। इन शब्दों के साथ मैं फिर इस बिल का समर्थन करता हूँ।

SHRI D. A. MIRZA (Madras): Mr. Deputy Chairman, the whole House is one on this issue that corruption must go. Corruption has become common in day to day affairs of the country, especially in the Administration.

AN HON. MEMBER: Not at all.

SHRI D. A. MIRZA: I am not making a general statement, Sir, but in particular cases, you have to admit with all your patriotism, that there is corruption in certain departments. I am not here to make any long speech, because the Bill before us, we all agree, requires the support of all parties and it has to be put through in order to make the administration of our country a success. But when this Bill is passed, I want that it should not remain only on paper, but it should be put on the wheels. Also it should not be confined to class IV or class III officers only. We must make the world understand that the hand of law is long enough to reach the highest in the State. I do not want petty officials for taking a few rupees, say Rs. 10 or Rs. 100, to be booked and hanged, but those officers who are at the helm of affairs, who are swollen like dead walruses to be booked and brought to trial and convicted. Sir, here in the proposed section 8, it is stated:

"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 subsection (2) of section 5 of this Act,



[Shri D. A. Mirza.]  
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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."

Sir, if a man dies, we require four persons to take him to the grave and bury him. But for a living man to be buried, here you require only two persons, one a complainant and the other a witness. Sir, taking the present set-up into consideration, is it not dangerous to go and book an officer on an undertaking or an affidavit from a man? Suppose that man happens to be one with bad antecedents, or one of bad repute, simply because his purpose was not served by that officer, simply because that officer had not obliged him on a certain matter, this man might write to the authorities concerned swearing on affidavit "Here, I gave this officer a bribe and he has not done my 3 P.M.- job." I want the hon. the Home Minister to look into the matter. It will be a great injustice if this remains in law. So, what I suggest is that the giver of the money, the bribe, should have two respectable persons to swear an affidavit that this heinous crime was committed by the officer concerned. Till then I do not think that we will be right in having such a thing in law. I am sure the Home Minister will accept my suggestion and place it before the House.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I have nothing to say as regards the object of the Bill. It is a very good thing, but we must see to it that while dealing with one kind of evil, we are not creating other evils. The only clause that I would particularly draw the attention of the hon. the Home Minister to is clause 3(b), incorporating section 8—"Notwithstanding anything contained in any law for the time being in force, etc." I think this is too wide. The wording is "a statement **made by a person** in any proceeding against a public servant for an offence under

section 161 ..... that he offered or agreed to offer any gratification.... shall not subject such person to a prosecution under section 165A of the said Code." My submission is this. Even a complaint may include a statement. What is particularly intended is the statement of a man who comes forward as a witness, because suppose a statement is found later on to be wrong. Therefore, the wording should be "a statement made as a witness by any person.....". That is what is required.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): The words *ate* there 'in any proceeding'.

DR. P. V. KANE: The complaint can be made by one person . . .

SHRI D. A. MIRZA: Does it mean that the complainant becomes a witness also?

DR. P. V. KANE: The complainant, may be one man and the witness another. Therefore, what I want to say is this: We want the morale of our officers to be high and we also want that that morale should not be declining on account of fear that anybody might go and make a statement against him. Therefore, I would say that it must be added "provided that the court dealing with the offence finds that witness as a perjured witness". That must be clearly added. There must be a proviso Suppose the court says that the evidence is doubtful, does not go to the extent required. That is not sufficient. The court must find that that particular person is a perjured witness. Then only you can proceed against him. Some such rule must be there. Suppose a complaint is made against an officer 'X', and the court finds that the statement is rather doubtful and therefore it acquits him. Will that man be liable or not? That is the point.

SHRI JASPAT ROY KAPOOR: Liable to what?

{ DR. P. V. KANE: Liable to prosecution.



SHRI KISHEN CHAND (Andhra Pradesh): Under the Anti-Corruption Act, the man giving the bribe could be hauled up. Only an exemption is being given in a particular case.

DR. P. V. KANE: I approve of the object of the Bill but only it must be made clear that the statement is a statement made by a person as a witness. That at least is necessary. | That is all.

SHRI B. N. DATAR: Mr. Deputy Chairman, before I reply to the various points raised by hon. Members, I should like to correct a slight inaccuracy that crept into my speech yesterday, wherein in place of a special judge, a magistrate has been wrongly referred to. Under the Corruption Act, it is only a special judge who can try. Therefore, I would suggest that where the word 'magistrate' has been wrongly used, the words 'special judge' may be put in, in all such cases, as I pointed out to Mr. Rajah, a special judge has full powers. He is not in any way confined or restricted by the limit of jurisdiction or punishment that has been laid down in the Code of Criminal Procedure.

Then, a number of hon. Members have raised certain points, and some Members opposite, especially my friend, Mr. Bhupesh Gupta, indulged in his usual tirade against the Government. He brought in Ministers, he brought in officers and he was needlessly and unwarrantedly fulminating against the Congress. Now, all these are matters to which we are fully accustomed, though almost to the full extent they are entirely irrelevant, absolutely undignified. Therefore, I would first deal with the relevant points that the hon. Members have raised before I answer him to the extent that it is at all necessary.

I may point out to the hon. Members that even Mr. Bhupesh Gupta had to concede that there was need for a Bill of the type that I have placed before the House. In the circumstances, we are all agreed that so far as the main provisions of this Bill are con-

cerned, they are necessary for the purpose of removing all the lacunae that exist in the law against corruption. Therefore, in respect of the main points, the main objective of the Bill, there cannot be any dispute at all, and to that extent, I must express my obligation to all the Members, especially to those members who have made appreciative references to the intentions of the Government and who have also answered certain points. Mr Bisht for example, Mr. Deokinandan Narayan and a number of other hon. Members pointed out to the House the purpose of the Bill, and secondly they made it clear that it would be entirely wrong in fact to go on stating here or elsewhere that corruption has increased.

My friend, Mr. Kishen Chand, wanted to know the extent of corruption. You will find that it is extremely small. It is not 50 per cent, as Prof. Malkani or some other Member had suggested. There might be corruption here and there; I am not going to dispute it, but the extent of corruption is extremely small and even that; small extent we are anxious to root out completely. I am going to give figures and from those figures, my hon. friend Mr. Kishen Chand, would be satisfied that it is not so much as sometimes we think.

SHRI KISHEN CHAND: I suggested that it would be 20 per cent. I would be glad if the hon. Minister could give it on a percentage basis. Then, we will get some idea.

SHRI B. N. DATAR: I will give the total number of Government servants both at the Centre and in the States and in a few minutes I would remove the idea that corruption has been increasing. Oftentimes we speak in a rather vague manner. Many hon. Members, with all due deference to them, stated that corruption has been increasing. Corruption has not been increasing at all, since 1947 at least, when the first law after the Indian Penal Code was passed by us. Corruption has been brought under control and corruption has decreased to a

[Shri B. N. Datar.] remarkable or appreciable extent. Under these circumstances why then are we making complaints about corruption? What happens is this, Sir, that, especially after independence, we are receiving volumes of complaints, even when all these complaints are not fully sustained or cannot be based upon reliable material. Yesterday, Sir, Shri Bhupesh Gupta complained that when Members of Parliament make certain complaints, they are not looked into. That is a charge which I entirely repudiate. Now in all cases, Sir, whenever we receive any complaints from hon. Members and whenever complaints are received in the States from Members of the local Legislatures or even from others from among the public, they are looked into, and in a number of cases proper action is taken so far as that particular thing is concerned, but I would like to point out that in all these cases, even those who receive some complaints, should not immediately believe that everything is true. In fact that is my experience, Sir, in a number of cases which had been brought to my attention. I have had enquiries made through independent channels and in a large number of cases they have been found to be unfounded. All the same, whenever there is a complaint, then naturally to the extent that it is legitimate, to the extent that it is *prima facie*, it is our duty to enquire into it, and I would request all the hon. Members not to be swayed by the wrong notion or general assumption that corruption has been increasing or that corruption in India is far larger. In fact Shri Bisht was perfectly right in pointing out how India in this respect was one of those twelve countries where corruption has been brought under control. Now our difficulty, as I pointed out, is that we want to follow democratic methods; we want to follow refined methods as well. Now it is perfectly possible **that**, if, for example, the House is going to clothe us with complete powers, with dictatorial powers, it is not unlikely that corruption will be rooted out completely. Even on suspicion if it is possible for us to act,

then naturally, Sir, it will be a source of the greatest deterrence so far as this offence is concerned. But, just as we have to be careful about the ideal, we have also to be careful about the means. That is one of the reasons—or you can call it one of the difficulties that often the Government have to face. The Constitution also has made certain provisions so far as our dealings with our officers are concerned and we are bound to give them an opportunity whenever there is a charge.

Under these circumstances I would point out, Sir, that all this rather loose-talk of corruption being rampant, should not be there and such expressions I always regret especially when they come from hon. Members whose intentions are good but unfortunately who are swayed by all sorts of rumours.

Secondly, Sir, I may also point out that the number of detections is larger, not that corruption is larger, but the number of discoveries or detections after investigation is also larger. Therefore let us be very careful so far as the general question which is often raised is concerned, namely, that corruption is rampant. All such expressions unfortunately are entirely unwarranted. They needlessly create a<sup>1</sup> feeling or feed a feeling in the public life that corruption is large, and that is the reason why I am particularly anxious, Sir, that our hon. Members would always speak with a certain amount of restraint and would not merely rely upon rumours or insinuations or whatever they might be. I would not deal further with this question but I would assure the hon. Members that Government will always act vigilantly and sternly and whenever cases come before us, then all proper action will be taken, and I might point out to Shri Deokinandan Narayan that Government do not say that merely because the law has been amended the position would improve. Government have to take action on all fronts. As I stated yesterday, Government have to be vigilant and Government must avoid all chances of or temptations to corruption.

**That**

is what we are doing and in case it is found that there is corruption, the matter has to be enquired into, and either a departmental proceeding has to be started or, in serious cases, a prosecution has to be started. That is the policy that the Government have been following and therefore I would submit, Sir, that so far as this policy is concerned, it is a correct policy and this evil of corruption is bound to be uprooted, earlier perhaps than what we imagine.

Then, before I come to the specific points, Sir, I would give some figures. Yesterday some hon. Member suggested that the figures had not been given. In fact, Sir, I would invite the attention of the hon. House to the two reports that we have placed on the Table of the House, copies whereof have been supplied to the hon. Members, so far as the work of the Administrative Vigilance Division is concerned. Now, Sir, that Division was started in 1955 with the purpose of preventing corruption, checking corruption and naturally investigating into and punishing corruption. Therefore in the two volumes, in the two reports that have been produced before this hon. House, full figures have been given. My difficulty is, unfortunately hon. Members do not read the whole material that we have supplied, and so far as the terminology, so far as the words used in those cases are concerned, if they are followed, if their limited and technical expression is understood, then naturally, Sir, some of the objections that the hon. Members have raised would have been answered by themselves. All the same I would like to give you the figures.

Now so far as the work for the earlier years is concerned, figures have been given in the two reports that we have produced. Then, Sir, for the year 1957 I should like to point out that there were as many as 360 preliminary enquiries. Now a preliminary enquiry is this. When any complaint has been received, then immediately, unless it is found to be absolutely frivolous, that complaint is gone into as a preliminary measure before actually a regular case

for investigation is registered. Now out of the 360 cases we found that about 81 cases were absolutely unsubstantial and therefore in the 299 regular cases there was registration and then they were fully enquired into. The officers concerned, in respect of whom we had received the complaints, were 1037 persons.

Now I might point out to my hon. friend that there are 16 to 17 lakhs, if not more, roughly we can say, about 17 lakhs of persons who are Government employees under the Central Government. We have got almost a similar number so far as all the States put together are concerned. It would be found that the Railway Ministry alone, my friend's Ministry, has about 9 lakhs of Government employees.

THE DEPUTY MINISTER OF RAILWAYS  
(SHRI SHAH NAWAZ KHAN) : 11 lakhs.

SHRI B. N. DATAR: They have got 11 lakhs, and Posts and Telegraphs have about 6 or 7 lakhs, and we have got a number of other Government employees under the different Ministries. In these circumstances, Sir, taking into account this totality of the . . .

SHRI KISHEN CHAND: May I know from the hon. Minister, leaving Railways and Posts and Telegraphs, what is the number of Central Government employees by categories, like Class IV, Class III, Class II and Class I?

SHRI B. N. DATAR: I have not got the figures like that.

SHRI KISHEN CHAND: You are giving the total figure.

SHRI B. N. DATAR: Why should the Railways and Posts and Telegraphs be excluded at all? There can be no exclusion; there is no reason to do so, and that is the reason why I am giving the broad figures so far as the total employees under the Government of India are concerned, and they are about 17 lakhs. Now, he can just take away 11 lakhs and another six or

[Shri B. N. Datar.] seven lakhs. In any case I would I submit . . .

SHRI KISHEN CHAND: If you add 1 up eleven and six, it becomes 17.

SHRI B. N. DATAR: That is the reason why I put the figure at seventeen on the basis that in the Railway Ministry there were nine lakhs of employees. But my friend corrects me and says that there are eleven lakhs. In these circumstances even assuming for the sake of satisfying my friend that railway employees and posts and telegraphs employees are excluded, I would point out broadly that the number would not be less than five lakhs. I am putting it broadly, Sir. Under the circumstances even taking that figure into account, will he kindly understand that cases were registered against 1,000 persons? What is the proportion? Let us be very clear; let us not go with a notion—an absolutely unwarranted and vague notion—that corruption is rampant. I take strong exception to that idea which is an entire misconception. I would, however, point out that in addition to these, there were certain enquiries in connection with the import export laws by the Enforcement Wing of the Special Police Establishment. There we had 218 cases which were registered and out of those 218 preliminary enquiries 184 were regular cases involving 545 people. They were also not necessarily against Government servants but they included businessmen and others also. So in this case there were a large number of persons who are not Government employees. Now I would point out that in the 1 course of the year 1957 after enquiry and investigation the total number of persons who were involved was 180 gazetted officers and 694 non-gazetted officers. These were the persons against whom enquiries were made and now I shall give you the result of the action taken by the Government either in a departmental proceeding or before a court of law. As a result of cases sent up to court for trial, six gazetted officers and 78 non-gazetted officers were convicted by the courts. You know whenever a matter is

put up before courts, we have to lead evidence and we have to convince the Judge and only after convincing the courts or the Judges there will be a conviction and these were the cases in which there was conviction. Other Government servants were punished departmentally. Of these eight gazetted officers and 34 non-gazetted officers were either dismissed or removed from service. As I stated, the extreme punishment is dismissal and just below it we have got removal from service. Then there are several other kinds of punishments also but I may point out that eight gazetted officers and 34 non-gazetted officers were either dismissed or removed from service and other punishments given in the cast of 18 gazetted officers and 187 non-gazetted officers. Thus, you will find that if all these figures are taken into account, it would not be a case of 50 per cent, corruption, it would not be a case of 20 per cent, corruption, but it would be a case of something below one per cent. Under the circumstances I would again request the House, after the information that I have supplied to this hon. House, to note that corruption is not so prevalent. I refuse to accept the expression 'rampant' because 'rampant' means prevalent to a dangerous degree. That is not the case here at all. So I would request hon. Members to be careful either in making any such observation or in relying upon such observations or allegations which are generally made. They are part of rumours and unless there is some basis they have to be scotched completely.

Then, Sir, certain points were raised. One point that was raised by my hon. friend, Shri Sapru, was as to whether the words that we have used in the twelfth clause which is proposed to be added, 'local authority' include a university or not. So far as universities are concerned, they cannot be considered either as Government or as a local authority because the expression 'local authority' has been defined in the General Clauses Act itself. There it has been said that a local authority shall mean a municipal committee, a district board, a body of Port

Commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or a local fund. Then we have the definition of 'local fund' also. Therefore, normally an employee of a university would not come under this definition of a public servant and you would agree that this omission which has been purposely made has a laudable object behind it. Generally, universities, as you are aware, are autonomous bodies; their administration is in their own hands and most of them are under an Act or a Statute passed by Parliament or by the State Legislatures. Therefore their internal administration ordinarily ought to be in their own hands. Then my hon. friend Mr. Sapru spoke about the examiners. If for example an examiner—the examiner is paid at a certain rate—receives some gratification, naturally illegal gratification, from a student for passing him when he is not entitled to pass, then that would be an offence not under this Act but it has to be considered whether it would come within the mischief of any of the offences prescribed in the Indian Penal Code. And if, as he said, this offence is rampant, then naturally it is open to the university itself to take proper action by amending the University Act concerned by putting in penal provisions if it is so minded. It is entirely a matter for the universities to consider whether within the orbit of a particular university this particular evil that has been pointed out is so rampant as to necessitate the introduction of certain penal clauses in the University Acts. But so far as we are concerned, advisedly we have got it out of the definition, out of even the extensive definition that we want to have, of a public servant.

Then some hon. Members referred to the question of fine. So far as fine is concerned, till now as the House is aware, the question or the quantum of the fine was entirely left to the discretion of the court or the magistrate. Naturally under the general principles of law, such discretion has to be exercised in a judicial manner, in a proper (manner, and it was felt that inasmuch

as there was no specific direction given by the legislature in this respect, it would be as well to give such a direction here for the purpose of making it possible for the Judge to understand the principles or the criteria on the basis of which he is to assess the evidence for the purpose of levying a fine. A fine ought not to be absolutely nominal; it ought not to be a trifle. The fine is part of the punishment and, as I stated yesterday, it must bear some proportion to the property that he has made in a way other than legitimate. I also pointed out another point. For example a man takes an illegal gratification of, say, about Rs. 50,000. Then this amount should be taken into account and he should not be let off with a small nominal fine of a few rupees, or even a few hundreds of rupees. There is yet another point which is more important. Where a man cannot properly account for the property that he has acquired, when it is disproportionate to the sources of his income, then naturally he has to explain. There will be a presumption against him; the court will presume and in a proper case the court can found a conviction only on the basis of this presumption. As the House is aware, there was recently a case that went up before the Supreme Court, and in that case it was proved that the man had certain property. It was further proved that the property was disproportionate to his means. Then, on the basis of this, when a case was filed for the offence of criminal misconduct, the Supreme Court held—this may kindly be noted—that on the basis of this presumption it was perfectly open to a Special Judge to convict the man as no other evidence was necessary at all, because the offence was wide enough. It was not an ordinary misconduct such as a tort under a civil law or a wrong action or irregularity under the departmental rules. That is the reason why this provision has been specially made and the fine has to be proportionate.

Then something was stated by some hon. Members about minimum punishment. Prof. Malkani and others stated that the punishment need not be light,

[Shri B. N. Datar.] though conviction ought to be there. I would point out that in this case Government have taken the only proper course that is necessary for giving adequate punishment. It is not merely a nominal punishment, it is not merely a punishment for satisfying the terms of certain sections. Every loss of freedom which is involved in a man being sent to prison is itself a very great punishment. That aspect of the question should also be taken into account. But normally some minimum has to be laid down in connection with certain Acts that have been passed by Parliament—for example, offences under the Act to prevent adulteration of food, offences under the Act for the prevention of immoral traffic in women, etc. Under these circumstances there should be the minimum punishment. Minimum means that there must be some adequate punishment. Government have come across a number of cases where the punishment was rather light. Punishment should not be light. I understand that punishment should not be heavy but punishment should not also be light. After all we have to take into account the interests of society, and therefore if a man has committed a crime—and corruption is one of the most heinous crimes—that is the attitude which the hon. Members have rightly taken—what has been provided for is that there ought to be a punishment by way of imprisonment in all cases of proved corruption or criminal misconduct. That is the point. We accepted a particular amendment in the other House where it was stated that it ought to be open to a Judge to refrain from passing a sentence of imprisonment. In order to tighten the law, in order to make the law more stern than what it was, we accepted an amendment according to which in all cases of proved criminal misconduct there ought to be some sentence of imprisonment. Ordinarily the minimum sentence ought to be one year, and in all the Acts that I have referred to the minimum punishment is one year. It is neither very heavy nor very light. That is the reason why this minimum punishment is the normal rule. There might be some techni-

cal cases where the court might consider that even the minimum punishment should not be one year. Under these circumstances we have left it to the judicial discretion of the court subject to this direction by the Parliament. In the proviso we have stated that in a proper case for special reasons to be recorded in writing—not ordinary reasons, mind you; this is a point where the Legislature has to step in for the purpose of giving proper directions to the Special Judge—the court may impose a lesser sentence of imprisonment, not merely a sentence of fine, as it has been made clear in sub-clause (2).

Then, I would come to clause 3(b). So far as this protection to the bribe giver is concerned, that matter has been misunderstood by a number of hon. Members of this HOUSE including some lawyers as well. One hon. friend suggested that the word "true" should be put in. I would explain that also. Almost all hon. Members who referred to this particular sub-clause stated that thereby we would be leaving loopholes for the purpose of harassment of a Government servant by any person, for harassment or blackmail. All that has been done should be very clearly understood. If, for example, a man makes a statement against a Government officer or a public servant, naturally in the absence of the amendment that we propose to introduce he himself will be liable under section 165A of the Penal Code. Therefore, he is protected only in respect of a prosecution under section 165A, nothing more. Let hon. Members clearly understand that, namely that he will not be prosecuted under this for giving that statement. That is the only purpose of this clause. If, for example the man makes a false statement, he is guilty of perjury. Then there are other sections of the Indian Penal Code under which he will be liable. He can be proceeded against for making a false statement, but he has been protected from a prosecution under 165A only.

SHRI D. A. MIRZA: How is one to know that he has made a false statement?

DR. W. S. BARLINGAY: I am grateful to the hon. Minister for the clarification, and that clarification is perfectly correct. But so far as perjury-is concerned I would like to ask the hon. Minister how many persons have been prosecuted for perjury whenever those perjured statements are made before a court of law. As a matter of fact I wish to point out . . .

MR. DEPUTY CHAIRMAN: No speeches at this stage.

SHRI B. N. DATAR: I understand the hon. Member's point. Now assuming that it is open to the court, as according to both of us it is open, to proceed against him for perjury, how many persons are involved in such cases I cannot say offhand. But I would point out that the provisions of the criminal law in respect of perjury have been tightened up recently by the amendment of the Criminal Procedure Code, by which, the hon. Member would remember, if in the course of evidence the Judge or the court finds that the man has given a palpably false statement, immediately proceedings can be started against him without going through the cumbrous procedure that was formerly there. Therefore, all that I would point out at this stage is that he is given what you can call a limited protection only so far as his escape or protection from section 165A is concerned.

DR. W. S. BARLINGAY: Suppose a false statement is made. Is it the case that he would not be proceeded against under section 165A, but only for perjury? Could we conceive of cases—normally I am talking; theoretically you can conceive of anything—normally could we conceive of cases where a man would be prosecuted for a false statement not under 165A but only for perjury, without being proceeded against under 165A?

SHRI B. N. DATAR: I would not like to go into a general discussion of that, but I may point out that, supposing he makes a false statement, supposing his statement that he gave bribe to the officer is false, the result will be that the

case against the officer entirely falls. Now we have given him protection for the purpose of eliciting information from him. It is extremely difficult to get evidence, because he might be an accomplice, possibly he might be a co-accused. Under the circumstances with a view to facilitating the getting of information and the placing of it before the court this particular form has been used. If he makes a statement which he knows to be false, in that case it would be a statement before a court, and there are provisions for dealing with that.

DR. W. S. BARLINGAY: What is the objection to putting the word "true"?

SHRI B. N. DATAR: If we put that, then we might not get what we want. If he tells falsehood, he can be proceeded against because he has told something before a court which he knows to be false.

SHRI D. A. MIRZA: In law the burden of proving oneself innocent lies on the accused, not on the complainant. So what is . . .

SHRI B. N. DATAR: The hon. Member is confusing himself.

MR. DEPUTY CHAIRMAN: Yes, you are telling the reverse of law.

SHRI D. A. MIRZA: I want the hon. Minister to see the writing on the wall. Suppose . . .

SHRI B. N. DATAR: Anyway, Sir, let us not see the writing on the wall. Let us first see the writing before us. (*Interruption.*) Therefore I would submit that the protection that we have given is of entirely a limited character — protection from an offence under section 165A. That is the offence of giving illegal gratification. Beyond that there is no protection. There would be a prosecution in a proper case for perjury, because here he has abused the members of the court and has told something which is absolutely false before a duly constituted court. However, I would not like to go into that question. But I can assure my hon.



[Shri B. N. Datar.] friend that he has not been given any protection which according to him is unwarranted.

Then some hon. Member raised the question whether, when finding out the extent of the property with such an offender who is a public servant, we can proceed against the property, say, ■ of his wife or of his child, or as some other Members put it, of his father-in-law or of his mother-in-law or some distant in-law. Now in this connection, had the hon. Member seen the section as we have put it, the whole thing would have been very clear. I would invite the hon. Member's attention in this respect to section 5(3) of the Prevention of Corruption Act. The words used there are "In any trial of an offence punishable under subsection (2) the fact that the accused person or any other person on his behalf . . ." So it is any other person on his behalf. We have put in all persons in the world, because as I have stated, the 1 persons who commit such offences are extremely clever persons and they want to avoid the clutches of law to : the fullest extent. Therefore they would not commit the folly of making the property in the name of their wives or their children, but it might be in the name of a distant relative or a near relative or a convenient friend as well. Therefore we have used the words "the accused person or any other person on his behalf". If these words are taken into account, I am confident, Sir, that this House will agree that the law that we have made or the law that we have tried to make is only for the purpose of catching all such persons and leaving no scope for this ingenuity to work. Therefore you will agree that so far as that point is concerned, there is no difficulty at all.

There is one point before I sit down. In fact, it is not necessary to take notice of all that my friend, Shri Bhupesh Gupta, has stated. Now his is generally, if not always, a speech which is a tirade against Government because it is a Government of the people who are chosen on the Congress ticket, and naturally he is always up

against these people. Therefore he casts aside all canons of relevancy or propriety, so far as all such questions are concerned. He has brought in Ministers. Is he aware of any case, Sir, except of one Minister of the former State of Vindhya Pradesh who was hauled up for certain offences in connection with corruption? That case has been reported and that case went up to the Supreme Court. I believe in the High Court he was convicted and the Supreme Court confirmed that conviction. Under these circumstances, Sir, it is absolutely undignified and unrelated to facts to go on talking in a loose manner about our Ministers in general. Has he got any other case in view? Has he got any suspicion against the so many Ministers that we have in the Centre and in the States? It is perfectly open to him to criticise Government, but it is absolutely below the belt to bring in the name of Ministers. Here the hon. Member has an absolute privilege. Let him make a statement outside Parliament and let us see what he does. Therefore let not such statements be made. And then with regard to officers also, his attitude, it might be found, was of a prevaricating nature. Now his party has been associated with Government employees or labour to a certain extent, and so far as they are concerned, he has a soft word. So far as the higher officers are concerned, naturally he has no access to them and therefore he makes these allegations in an absolutely uncalled for manner and in a haphazard manner that corruption starts at the top. As Shri Deokinandan Narayan has rightly pointed out, it does **not** start at the top nor at the bottom, because it is a matter confined to certain persons. And even so far as they are concerned, whenever there are such instances, we have taken them to the court, and the highest court has only recently confirmed the conviction and sentence against one of the highest officers under the Government of India. Now may I point out, as I stated in the other House also, that we are **not** respecters of any persons at **all**, however high or tall they might be, **pro-**

■vided they have acted in a wrong or wrongful manner? Under these circumstances the argument of my friend also has absolutely no bearing. And I would not like to refer to all other irrelevant and undignified points that he raised because they are absolutely irrelevant and far from truth. So, Sir, confining myself only to the four corners of the Bill, I have explained the provisions and even he had to concede that he had nothing to say so far as these provisions were concerned. And then, Sir, the hon. Member, Shri Bisht, admitted that the large number of Government employees are free from corruption. It is quite correct. I would only add that a very small number is liable to corruption, and even there we are anxious that all these persons should be duly brought to book and should be adequately punished. Under these circumstances we have brought in this amendment for the purpose of tightening up the law, and I am very happy that so far as the provisions of this Bill are concerned, they have received the approval of all the sections of this hon. House.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Indian Penal Code, the Prevention of corruption Act, 1947, and the Criminal Law Amendment Act, 1952, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. There are no amendments to clauses 2 to 4.

Clauses 2 to 4 were added to the Bill.

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

SHRI B. N. DATAR; Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved: I

"That the Bill be passed.

SHRI KISHEN CHAND: Mr. Deputy Chairman, Sir . . .

MR. DEPUTY CHAIRMAN: Do you want to make another speech?

SHRI KISHEN CHAND: Sir, certain statements have been made by the hon. Minister in criticising us and they must be answered. I want to speak only for a few minutes.

SHRI B. N. DATAR: The third reading stage should not be made use of for making certain new points.

SHRI KISHEN CHAND: Certain statements were made . . .

MR. DEPUTY CHAIRMAN: No purpose will be served . . .

SHRI KISHEN CHAND: You are in the Chair and if you say that I have no right to speak. I cannot speak.

MR. DEPUTY CHAIRMAN: Are you opposing the Bill?

SHRI KISHEN CHAND: I am supporting the Bill but . . .

MR. DEPUTY CHAIRMAN: Then I will put the motion to the House. We have already taken too much time on this.

SHRI KISHEN CHAND: There is *no* question of time. There is no limitation of time on a Bill.

MR. DEPUTY CHAIRMAN: All right, but do not repeat yourself.

SHRI KISHEN CHAND: I will not repeat a single point.

MR. DEPUTY CHAIRMAN: It is not from any intention of securing a debating point that I am speaking now I am just trying to point out that the hon. Minister has accused the Members of the Opposition of blaming the Government and

[Mr. Deputy Chairman] saying that corruption is rampant. None of the Opposition Members said that corruption is rampant. That word, if at all, was used by Congress Member.

MR. DEPUTY CHAIRMAN: Some sweeping remarks were made yesterday and they must be replied to

SHRI KISHEN CHAND: Did we use "the word 'rampant'? Did we say that among government servants corruption is rampant? No Opposition Member said that corruption is rampant. This word was, as a matter of fact, used by a Congressman.

The second thing is about facts and 'figures'. The Hon. Minister, in trying to prove that the number of corruption cases is very small, included all the employees of the railways amounting to nearly 12 lakhs, all the employees of the Posts and Telegraphs Department, all the employees of the Central P.W.D. who are daily labourers and cannot possibly indulge in any corruption. He said that there are 18 lakh government employees but only 1000 have been proceeded against. I beg to submit that out of these 18 lakhs, barely 70 to 75 thousand are Central Government employees who are directly in charge of administrative work. Even out of these 70,000 employees, according to the hon. Minister, 1000 have been proceeded against, and he must realise that this does not represent all the corruption cases. If the number of corrupt officers was 5000 out of 70,000, it is a substantial figure. The hon. Minister should not think that it is only a matter of debate. If he is satisfied that corruption does not 'exist, let him assert that there is no corruption and we will be very happy, but just for the sake of debate twisting facts and figure? and giving irrelevant numbers . . .

MR. DEPUTY CHAIRMAN: Why do you say that he twisted facts and figures? You should not say it.

SHRI KISHEN CHAND: The Sindri Fertiliser Factory is a Government factory; the Perambur Factory is a Government factory . . .

MR. DEPUTY CHAIRMAN: Everybody who comes under the term 'public servant' can be included.

SHRI KISHEN CHAND: I submit that this is not a debating point. Our idea is that we should try to root out corruption. If irrelevant numbers of employees, of Government servants, who really cannot come under corruption charges are included in the figure . . .

MR. DEPUTY CHAIRMAN: According to the figures given by you, it is roughly 20 per cent. According to figures given by the hon. Minister, it comes to 0006 per cent.

SHRI KISHEN CHAND: The hon. Minister by bringing in irrelevant Government servants who cannot come under that category . . .

MR. DEPUTY CHAIRMAN: It is a question of opinion. He says that your figures are irrelevant and you say that his figures are irrelevant.

SHRI KISHEN CHAND: I am placing certain facts before the hon. Members of this House. If hon. Members are satisfied. I am quite satisfied.

SHRI N. C. SEKHAR (Kerala): I welcome the passage of this measure, since it aims at tightening of the law against corruption.

MR. DEPUTY CHAIRMAN: Your leader has said all that.

SHRI N. C. SEKHAR: I have got a right to speak on the third reading. I should like to request the hon. Minister to deny that corruption is **not** rampant among Government servants.

I am asking him through you whether he is prepared to change the law of evidence to enable people to give evidence before a court to prove that «o and JO or such and such an officer or such and such Minister is corrupt. I am ready to prove hundreds of cases before any court that such and such forest officer, such and such conservator or such and such Minister is corrupt, but I cannot do that. I will •cite an instance One forest officer sold recently rosewood timber for Rs. 3000.

MR. DEPUTY CHAIRMAN: You can write to the Kerala Government about it.

SHRI N. C. SEKHAR: The difficulty is that I cannot prove it before a court of law that in a particular case timber was sold by one forest officer for Rs. 3000 which in the next stage was sold for Rs. 28,000, because under the forest law no outsider is permitted inside the forests, and if I give evidence, then I will be prosecuted for trespassing into forest areas.

SHRI B. N. DATAR: Has he men-Honed this to the Kerala Government?

SHRI N. C. SEKHAR: There are so mrny cases on the railways, there are so many cases . . .

MR. DEPUTY CHAIRMAN: There is no use making these allegations.

SHRI N. C. SEKHAR: So, I say that the hon. Minister need not assert that there is no corruption. If there is no corruption, then this amendment will not be necessary to be brought before the House.

MR. DEPUTY CHAIRMAN: You write to the Kerala Government.

SHRI N. C. SEKHAR: But let the law be certainly passed and tightened up and corruption rooted out.

SHRI B. N. DATAR: No reply is necessary.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion

was adopted.

# THE BUDGET (RAILWAS), 1958-59— GENERAL DISCUSSION

SHRI AMOLAKH CHAND (Uttar Pradesh); Mr. Deputy Chairman, I congratulate the hon. the Railway Minister for presenting a surplus Budget and I also congratulate him tor supplying a Hindi set to the Members of Parliament. I am glad to know that the use of Hindi is increasing day by day in the Railway Ministry. In spite of various handicaps the Railway Minister has been able to run the railways on sound lines. The track may be slippery here and there, that might have caused accidents here and there or there might nave been something lacking on the part of a particular officer serving the railways, but on the whole the picture that has been presented to us by Vol. I on Indian Railways is correct and is to a large extent a fair picture of the progress that has been made by the nationalised railways of India during the last year. I know that hon. Alembers are aware of the handicaps that the Railways have had to face. We know that there have been ?even major railway accidents; we know that railway officials have been murdered on the railways and some civilians have al\*o been murdered here and there; we know that passengers have complained of thefts both while travelling and boarding the trains and on the platforms. We know that about 2,26,242 days man labour was not available <sup>PM</sup> to the Railways during the current year because of some strikes which were illegal. We know about the begger nuisance, we know that about 17,834 cases of non-settlement of claims are yet pending. We know that over-aged locomotives to the tune of 30-74 on broad gauge, 23-13 on metre-gauge and 35-81