

[Shri H. D. Rajah.]
ever been. Sir, this is a matter which affects the lives of one crore citizens of this country. I would therefore request you, Sir, to set up a half-hour for discussing this question.

MR. CHAIRMAN : You give notice and we will consider it.

ELECTION TO THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH

THE MINISTER FOR RAILWAYS AND TRANSPORT (SHRI LAL BAHADUR) : Sir, I beg to move :

That in pursuance of Rule 2 (6) of the Rules of the Indian Council of Agricultural Research, this Council do proceed to elect, in such manner as the Chairman may prescribe, two members from amongst themselves to be members of the Indian Council of Agricultural Research. ■

MR. CHAIRMAN : Motion moved :

That in pursuance of Rule 2 (6) of the Rules of the Indian Council of Agricultural Research, this Council do proceed to elect, in such manner as the Chairman may prescribe, two members from amongst themselves to be members of the Indian Council of Agricultural Research.

MR. CHAIRMAN : The question is :

That the motion be adopted.

The motion was adopted.

MR. CHAIRMAN : So, I may inform the Members that 26th July 1952 is fixed as the last date for receiving nominations, and 30th July 1952 for holding elections, if necessary, to the Indian Council of Agricultural Research. Nominations will be received in the Council Notice Office up to 12 noon on the date mentioned. The election which will be conducted in accordance with the system of proportional representation by means of the single transferable vote will be held in the Secretary's Room No. 29, Ground Floor, between the hours of 10.30 a.m. and 1 p.m. on the 30th.

THE NATIONAL CADET CORPS (AMENDMENT) BILL, 1952

THE MINISTER FOR RAILWAYS AND TRANSPORT (SHRI LAL BAHADUR) : Sir, I beg to move for leave to introduce a Bill further to amend the National Cadet Corps Act, 1948.

MR. CHAIRMAN : The question is :

That leave be granted to introduce a Bill further to amend the National Cadet Corps Act, 1948.

The motion was adopted.

9 a.m.

SHRI LAL BAHADUR : Sir, I introduce the Bill.

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) AMENDMENT BILL, 1952

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI) : Sir, I beg to move for leave to introduce a Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

MR. CHAIRMAN : The question is :

That leave be granted to introduce a Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

The motion was adopted.

SHRI T. T. KRISHNAMACHARI : Sir, I introduce the Bill.

THE CRIMINAL LAW AMENDMENT BILL, 1952

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : Sir, on behalf of the hon. Dr. Katju who is in the other House, I beg to move :

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

Sir, as hon. Members must have seen from the copy of the Bill which has been circulated, this measure falls into two parts. The first part deals with certain provisions of the Indian Penal Code which it seeks to amend, and the other deals with certain provisions of the Code of Criminal Procedure dealing with the procedural aspect in connection with the trial of these offences which are sought to be dealt with in the first part. Sir, the main object of this measure is this : At present there are certain provisions in the Indian Penal Code regarding the conduct of public servants and it is provided that whoever being a public servant accepts a gratification for doing an official act will be punished, and it is further provided that, if instead of accepting a gratification he obtains any valuable thing without consideration, in that case too he will be punished, but with a lesser sentence.

Now, Sir, a Committee was appointed called the Tek Chand Committee which went into the question of corruption and bribery among public servants in connection with the working of the Special Police Establishment and they made certain recommendations for the improvement of the law relating to bribery and corruption. They made their recommendations after very careful consideration of the whole question and the present Bill seeks to give effect to some of these recommendations. You will find that the section which it is proposed to amend in the first part of this Bill is section 165 of the Indian Penal Code. The Bill also seeks to insert a new section, section 165 A. The object of the first amendment is only to equalise the penalty provided for the second category of offence, to which I have referred, with that provided for the first category. Under section 161 of the Indian Penal Code as it now stands, any public servant taking gratification other than his legal remuneration in respect of an official act is liable to imprisonment for a term which may extend to three years, or with fine, or with both, whereas under section 165 the penalty pro-

vided for obtaining a valuable thing without consideration from persons concerned in any business transacted by a public servant is simple imprisonment for a term which may extend to two years, or with fine, or with both.

What the Tek Chand Committee suggested was that the punishment should be equal in both cases. That is why we provide in clause 2 of the Bill that in section 165 for the words "simple imprisonment for a term which may extend to two years" the words "imprisonment of either description for a term which may extend to three years" shall be substituted.

Then the next amendment is under clause 3 by which a new section 165 A is proposed to be inserted. Section 165, as I have already pointed out, deals with obtaining, by a public servant, of a valuable thing not gratification. The new section 165 A which is suggested is that if anyone abets an offence punishable under section 161 or section 165 whether or not that offence is committed in consequence of the abetment, he shall also be liable to punishment as if it were a substantive offence, and shall be punished for a term which may extend to 3 years or more or with fine or with both. Now there is a Chapter dealing with abetment in the Indian Penal Code, and it is there provided that if an offence is abetted and the offence is committed, then the abettor is liable to punishment in the same way and to the same extent as the person who commits the offence. But where the offence is not committed, there is some punishment for the abettor, but of a lesser degree. Now the question is where the offence is not committed at all and the offence is either acceptance of illegal gratification or acceptance of a valuable thing without consideration, as laid down in section 161 or section 165 whether in such a case the person who abets should be dealt with leniently

[Shri C. C. Biswas.]

as now, or he should be treated on the same footing as if the offence was committed. The principle which was stressed by the Tek Chand Committee was that if we are to deal effectively with bribery or corruption in the case of public servants, those who offer the bribe should be held equally guilty with those who accept the bribe.

PROF. G. RANGA (Madras) : Why? Is there any reason?

SHRI C. C. BISWAS : That is exactly the point which was discussed in the other House.

SHRI H. D. RAJAH (Madras) : Let us discuss here too.

SHRI C. C. BISWAS : When you raise the points, I shall try my best to answer them.

PROF. G. RANGA : My hon. friend is expected to give us a justification for the introduction of these things and not just to say that such and such things are being introduced. Then it is for us to offer our criticisms and then he would have an opportunity of giving the reply.

SHRI C. C. BISWAS : I am asking that the Bill as passed by the House of the People should be taken into consideration and in this connection I believe it is my duty to place the salient features of the Bill and if there are any points which.....

SHRI H. D. RAJAH : And also the reasons.

SHRI C. C. BISWAS : If my hon. friend is patient and if at the end of my speech he finds that I have left out any points, then he can legitimately raise them. Sir, I am explaining what the provisions are. I am pointing out what the recommendations of the Tek Chand Committee are on the basis of which this Bill has been framed. That Committee said that the offering of a

bribe, whether the bribe is accepted or refused, should be made a substantive offence, and be dealt with in the same way as the acceptance of a bribe by a public servant. The whole idea was to tighten the provisions for regulating the conduct of public servants, and it was felt that in many cases, unless the bribe-giver was dealt with in the same way as the bribe-taker, the object would fail. My hon. friend is anxious to know why these two categories of persons should be dealt with on the same basis. You may argue that the man who accepts the bribe is a much more heinous offender than the man who offers the bribe. On the other hand if the bribe is not offered, there will be no question of acceptance of the bribe. Who tempts whom? There may be cases where the tempter is more to blame, and in other cases the man who succumbs to the temptation may be to blame. But the maximum punishment provided for is to be the same in both cases. The courts will be there and they will go into the facts and if having regard to the actual facts in a particular case the Court finds that the person who offers the bribe was not so much to blame as the other party, he will be dealt with in a lenient way compared to the other man.

SHRI K. B. LALL (Bihar) : What is the position if the bribe is demanded?

SHRI C. C. BISWAS : Many of us know what happens when people come to a court because they have some business to do. I have been an eye-witness in many district courts and I have found that as soon as the sitting commences, heaps of petitions are thrown in and the Peshkar just throws them about on the floor. Supposing there is a petition for an adjournment, and the pleader who files the petition wants the adjournment very early. He just pays a little tip, and then the paper is picked up at once and placed before the Court and order is passed. Sometimes even a four-anna piece is helpful. There-

fore people do sometimes find themselves obliged to pay and get things done rather than have to wait for long hours to get the wheels of administration move. That does happen, not that these persons are actuated by a dishonest motive. They want simply to get away as quickly as possible after finishing their work so that they may attend to other business. I quite appreciate that there may be cases in which the giver of the bribe is almost forced to pay it, not that he is out to corrupt the official concerned. On the other hand, there may be cases of a different kind, where there is or is not a demand express or implied. There may be other cases too where the person goes to the officer—the officer for aught he knows, is an honest man—but he thinks that if he could somehow get round him, he could make a huge profit. He takes the risk, goes there and tempts the officer, and there are various ways in which this is done. I am speaking from experience of certain cases I have dealt with. Quite casually he leaves a thousand-rupee note on the table. If the officer is honest, as soon as he finds it out he takes up the matter at once and hands over the man to the Police. Otherwise somehow the note slips into the officer's desk and the trick is done. These are the ways that are resorted to. Either side may be to blame. Which side is to blame in a larger measure depends on the facts.

There is the corrupter, and there is the corrupted. Therefore it will not do if you lay it down as a principle that the man who offers the bribe is innocent, and only the person who accepts it is guilty. This particular Chapter of the Indian Penal Code deals with offences relating to public servants. That does not, of course, mean that the public servant is the only person who is liable to be punished. The person who seeks to corrupt the public servant *may* be equally to blame. There is some lacuna in this respect in the existing law, and that is sought to be filled by the proposed amendment.

I reserve my further remarks till I am called upon to reply to criticisms that may be offered by hon. Members.

Now I come to the procedural part of the Bill. This part seeks to amend certain provisions of the Criminal Procedure Code.

Section 164 deals with the power to record statements and confessions, and it is proposed that after the words "under this Chapter" the words "or under any other law for the time being in force" shall be inserted. This has been introduced in consequence of a certain ruling by a High Court, as has been explained in the Statement of Objects and Reasons. The applicability of section 164 as it stands, to the Presidency Towns has been challenged, and it is with a view to remove this doubt that this amendment has been introduced. The Bombay High Court says that the section is not applicable to a Presidency Town. The Tek Chand Committee recommended that this anomaly should be cleared. It is now made clear and so the section would now apply to the three Presidency Towns of Madras, Bombay and Calcutta. This amendment has the approval of all the State Governments. This is a minor amendment. The more important amendment relates to section 337 of the Criminal Procedure Code. This provides for the granting of pardon to accomplices. The section as it stands now allows the tendering of pardon to accomplices only in respect of certain offences which are specified therein, i.e., sections 216A, 369, 401, 435 and 477A of the Indian Penal Code. To this list are now to be added the two offences of offering and accepting of bribes to and by public servants. So in respect of these two offences also pardon can be granted. The idea is that in many cases you may require the evidence of one of the parties to the transaction to establish the offence against the other, and then you may have to have recourse to this procedure. It is sometimes impossible to get any other evidence. Even if you cannot punish both, it is worth while punishing one; and in order that that result may be achieved, you may

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have to grant pardon to one of the parties. Therefore these two offences are added to the list which is already there in section 337.

SHRI P. V. NARAYANA (Madras) : That means that one of them will be taken as approver ?

SHRI C. C. BISWAS : Yes, he becomes approver.

DR. P. C. MITRA (Bihar) : It may happen that the bribe-taker gets the pardon.

SHRI C. C. BISWAS : It all depends on the Magistrate. He will decide to whom the pardon is to be granted in any particular case. These cases of acceptance of bribes or the offering of bribes cannot be classified into watertight categories. You cannot say that in one class of cases such and such a person must be the worse offender and in every other case the other man is the more culpable offender. If it is a case of a high official accepting a bribe it is of course most important to secure his conviction because there the fountain-head is poisoned and here it is more important to punish the bribe-taker than to punish the bribe-giver. On the other hand, there may be a case in which the public servant is a most upright officer and the bribe giver, with a view to make undue profit for himself, offers him a bribe. In such a case the bribe-giver deserves to be punished, and not the other. Where both the parties are guilty, nothing would be better than if we could get the conviction of both. But sometimes as I said for want of evidence this may not be possible. In such cases it would be better if we could secure evidence to prosecute at least one of the parties. Whether this provision will work properly or not, is another matter. Of course, every law, however perfect it may be, may be abused ; but that is no reason why the law should be deleted from the Statute Book.

I now come to the next point of procedure. As the law now stands, there is to be an investigation, then an

enquiry, then committal by the Magistrate to the Sessions Court and so on. All this takes time and the object of the Bill is to expedite the trial and conviction of this class of offenders. That is one of the main objects on which the Tek Chand Committee laid stress. That being so, this preliminary enquiry by a Magistrate is proposed to be done away with and it is provided that the Magistrate shall, without making any enquiry, be empowered to send the case for trial to a court.

One of the objects of the Bill, as I said, is to secure speedy trial. Now the ordinary procedure is for the Sessions Judge or an Additional Judge or Assistant Sessions Judge to deal with such cases after there is a committal order made by the Magistrate. What is proposed is that there should be a certain category of Judges who will be called Special Judges. They will be recruited from amongst Sessions Judges, Additional Sessions Judges or Assistant Judges and so on ; they will be a special class by themselves and all such cases shall be sent to them forthwith by the Magistrate without committal proceedings. The Judges will then be in a position to dispose of them quite expeditiously, and they will be vested with all the powers which are now vested in the Judges who try these cases.

Sir, that is the object of this other amendment in the procedural part of the Bill. There was an amendment which was moved in the other House and accepted by Government and which was to the effect that pending cases, which have not yet been disposed of, should also be transferred to the court of Special Judges. It was felt that since those cases would not have been finished, the benefit of the new provision of trial by Special Judges should be extended to them. So it is provided that all cases triable by Special Judges under Section 7 which immediately before the commencement of the Act were pending before any Magistrate shall, on such commencement,

be forwarded for trial by Special Judges having jurisdiction over such areas. Sir, these are mainly the objects of this Bill and, I think, I have said enough for the purpose of asking that the Bill be taken into consideration.

MR. CHAIRMAN: Motion moved:

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

It is now open for discussion.

SHRI H. N. KUNZRU (Uttar Pradesh): Mr. Chairman, I have listened with great attention to what fell from the lips of the hon. Member, the Law Minister. As pointed out by him, this Bill is the outcome of the Report of the Tek Chand Committee, the object of which was to go into all matters connected with corruption in the public services. Now, we all desire that corruption should be put to an end as soon as possible and that all corrupt officers should be dealt with without avoidable delay. I am free to concede that the bribe-giver ought not to escape the consequences of his act. There is a proverb, though not an Indian proverb, which says that both the bribe-giver and the bribe-taker will go to hell. It is obvious that the bribe-giver cannot entirely excuse himself for his action by putting the responsibility for it on the bribe-taker. Nevertheless, as the Tek Chand Committee pointed out and as the Law Minister admitted, there is, in fact, a distinction to be drawn between two cases of bribe-givers. In certain cases, for instance in the law courts with which my friend is thoroughly familiar, a man may find himself almost compelled to offer a bribe before he can get a copy of a document or get a decree executed unless he can afford to wait for a very long time.

KHWAJA INAIT ULLAH (Bihar) : Sometimes for ever.

SHRI H. N. KUNZRU: It is obvious that he must have recourse to extra-legal methods in order to see that justice is done to him or to reap the

fruits of justice, so that the man against whom the decree has been given may not, by taking undue advantage in the delay in the execution of the decree, virtually be in a position to evade its execution. Businessmen are also familiar with this kind of cases. We all know of instances in which a man, unless he wishes to see his business ruined, had no option but to grease the palms of somebody or other. It is very regrettable that this should be done. It is indeed desirable that people should undergo any hardship rather than do anything that is morally undesirable. But, in this imperfect world, we cannot expect perfection only amongst litigants and businessmen. It is obviously necessary, therefore, for practical reasons, as the Tek Chand Committee has pointed out, to distinguish between this class of cases and the other class which concerns men who try to corrupt honest officers.

Now, it may not be possible legally to distinguish between these two classes. But, would it be possible for Government to make its policy in these matters known? I doubt whether the Law Minister would have dwelt on this point but for the interruption of my friend, Mr. Ranga. The matter, however, is of such importance that I think it is necessary that the policy of the Government should be clearly laid down and publicly expressed in such a manner as to leave no doubt about its intentions. A court may not be bound to pay any heed to the wishes of the Government. But, since the penal law is going to be altered and special judges are going to be appointed in pursuance of an experienced difficulty, I think it is reasonable to suppose that the special judges will take account of the policy of the Government and realise that they have been appointed for a very definite purpose, for the purpose of dealing with a state of things brought about by the war. I think, therefore, that a clear enunciation of the policy of the Government in this matter will be distinctly useful. Unless this is done we shall have to depend completely on the discretion of the courts. I recognise that the discretion

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cannot be fettered in any case, but, as I have already said, I hope that in the special circumstances in which special judges will be appointed, a statement of Government policy will be helpful. Before I pass on, Sir, from this subject, I should like my friend and the Government to consider the possible result of the introduction of a new section, section 165A in the Penal Code.

Theoretically, I do not think anything can be said against this amendment of the penal law, particularly as the change in the Criminal Procedure Code proposed in section 5 will enable Government to pardon a person who has been guilty of giving bribe in order to get evidence to secure the conviction of an official who has been untrue to the confidence reposed in him by Government. But we are really altering the penal law in order to deal with erring officials. We are not realistic. If we are at all acquainted with the circumstances in which bribery has assumed large proportions, we must acknowledge that it is the ability of the officials to delay the disposal of urgent cases or to deny justice altogether that is responsible for the present evil. I am therefore afraid lest the change in the penal law should divert not merely public but official attention from the real evil and make the Government and the Special Police Establishment think more of the bribe-giver than of the bribe-taker. It is a question, Sir, of emphasis and I think that most laymen will be afraid lest the emphasis that is now laid on the apprehension and conviction of the dishonest official should be weakened, and that corrupt officials may, on finding that their guilt cannot escape detection, try to shift their responsibility to other shoulders.

SHRI H. D. RAJAH : That is the point.

SHRI H. N. KUNZRU : I should like my hon. friend the Law Minister who has spoken with sincerity and fairness to take this point also into consideration. We do not want formal

justice ; we want the substance of justice—a justice that will put a speedy end to the demoralisation that the war has unfortunately brought about among public servants. If the officials were honest, how many businessmen, even though in a position to offer large bribes, could corrupt them? Businessmen were in a position to seduce public servants even before the war, but it is the shortages of raw material and the consequent conferment of power on the officials to distribute those materials that are in short supply and to grant export and import licences and so on that has discredited the Administration and brought the Government into disrepute and it is this state of things that Government ought to have primarily in mind in dealing with this matter.

My second point, Sir, is, as pointed out by the Tek Chand Committee, that a change in the law by itself will not suffice unless the law is properly administered. The Committee has made some observations on the subject to which the attention of the Government and the public ought to be drawn forcibly. In going into the manner in which the Special Police Establishment has functioned, the Committee has found that co-operation from Ministries and Departments was not forthcoming in all cases. The Committee say in paragraph 33: "We regret to observe that we came across certain instances where certain Ministries and Departments of the Government of India failed to extend their fullest co-operation to the staff of the Special Police Establishment in their investigation. This has taken various forms such as active or passive obstruction in the securing of the relevant documents by the Special Police Establishment, withholding of witnesses or other information on one plea or another, etc." And the Committee then go on to say: "Surprisingly enough such instances are not due to any deliberate official policy and the cause has usually been an inadequate appreciation by individual officers of the status and objective of the Special Police Establishment." Now, Sir, it is undoubtedly

necessary not to indulge in exaggeration. Restraint is always commendable, but I think that the mild language used by the Tek Chand Committee appears to me to be—I am sorry to say notwithstanding the recommendations of the Committee—a sort of condonation of the behaviour of the officials in this respect. I wish that the Committee had expressed its views more definitely and strongly on this subject. What the Committee has said is known to us all. We cannot really speak of this matter in the mild language used by the Tek Chand Committee. I think this is a serious matter, and unless Government deal with it severely, erring officials will undoubtedly try to persuade their superiors to be indulgent to them and not to throw them, as it were, to the wolves. And the head of a department may, for understandable reasons, try to protect a colleague who has been working with him for three or four or five years. If Government are so anxious to prevent corruption as to place the bribe-giver on the same level as the bribe-taker, should they not be strict in this matter also? Should they not say that unless adequate reason for delay is shown by the superior officer concerned, severe displeasure of Government should be visited on him? Mere change in the penal law and a mild warning to officials from time to time will not serve the purpose at all. The evil has grown to such an extent that the Government must, where they can take administrative action, be swift and determined in their action.

The Committee say with regard to this subject:

“ We have suggested to the Ministry of Home Affairs that the existing directives regarding full co-operation with the Special Police Establishment should be brought once more to the notice of all Ministries, etc., and that it should be stressed that in future all cases of failure to implement the terms of these directives should become the subject of a detailed inquiry.”

In the summary of their recommendations there is something more to that effect. The Committee say there that the circular to which I have already referred should add that instances of lack of co-operation have been taken note of by the Committee, who desire

that the cases should be investigated by appropriate authorities. I should like the Government, who are strengthening the penal law, to tell us what action they have themselves taken in this matter.

There is one more matter to which I should like to draw the attention of the House before I conclude. When the Tek Chand Committee considered as to the best way of bringing about a quick disposal of departmental proceedings in cases investigated by the Special Police Establishment, they learnt that the Home Ministry had thought of two ways of dealing with the existing state of things. Difficulties arose partly because cases relating to a department had to be dealt with by the officers of that department. Consequently there was lack of uniformity. As the officers concerned were not experts in procedure, the person who was called upon to submit an explanation was not slow to take advantage of this and to try to escape punishment. In order to deal with this, the Home Ministry's first proposal was the compulsory retirement of officers who had qualified for full pension and who were suspected on good grounds to be corrupt, even though there might not be sufficient formal evidence for a judicial trial or departmental proceedings. The second proposal was the constitution of an administrative tribunal on the lines followed by Madras, consisting of persons with both judicial and administrative experience. This tribunal was proposed in order to avoid difficulties arising from uniformity of procedure. Not content with the proposals mentioned by the Home Ministry, they said in their recommendations that a machinery should be evolved for the speedier disposal of departmental proceedings. I should like to know whether any of these proposals has been finally approved of by the Home Ministry and whether they are being acted upon now. I am glad that the Government, finding how dissatisfied the public is with the present state of things, are trying to alter the penal law and the Corruption Act and to take other measures in order to purify

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the Administration. But here are certain kinds of action that need no change either in the penal law or in the procedure. Government, I suppose, knew the recommendations of the Tek Chand Committee before the report was published. Indeed, some of the recommendations were acted on before the report was published. Besides, some of the proposals were made by them. It is reasonable, therefore, to suppose that they have had ample time to think over the recommendations and suggestions made by the Tek Chand Committee and to make up their mind about it. I trust for all these reasons that my hon. friend the Law Minister, though he may not have charge of Home Affairs, will take the trouble to find out what the Home Ministry is doing with regard to those matters which depend on administrative action.

SHRIMATI LILAVATI MUNSHI (Bombay) : Sir, I rise to support this Bill moved by the hon. the Law Minister. I hope, Sir, that after the Bill becomes an Act, henceforward not only those who will receive bribe but those who give bribe also will be equally doomed. Well, Sir, bribery and corruption are supposed to be age-old practices but as the hon. friend Mr. Kunzru put it, ever since the War it has become all-pervading. During and after the War, Sir, this practice has become so rampant that nothing could be achieved without the silver bullets. It starts from the smallest thing and goes to big things. Supposing if you want to have reservation in a railway compartment, you do not get it unless you bribe. Or supposing if a merchant wants a wagon he cannot get it without paying something as a bribe. The hon. the Law Minister also gave an instance that just for sheer compulsion people have to give bribes. One has got to secure a wagon for moving his goods. One has got to get a licence. In all such cases—I will quote Dr. Kunzru—palm-greasing has become necessary. Sir, I was a member of the Indian Merchants Chamber for a long time and I know that in every meeting we used to get complaints

from these merchants of the official harassment and how they had to suffer. Of course some withstood the temptation for giving bribe for some time but when they saw some clever persons doing it and getting away with it and moving all his goods, they also succumbed. After all, Sir, a person who sees his goods in the railway yard exposed to sun and rain and to a possibility of pilferage and he also sees his neighbour or his other co-merchant getting things done expeditiously, he also succumbs.

Well, Sir, we have even heard about a regular tariff being put by the officials on some kind of goods. Every time an officer must get two rupees or three rupees or five rupees per ton. I think there are very many cases like that. They have already been discussed in the other place and therefore I need not go into their details. There are so many cases. Take for instance the case, in which vegetable ghee was passed off as pure ghee. It could not have been done without the connivance of the officials because they gave the certificate. During the war time for a number of years this kind of scandal went on and even now I think some cases are going on.

So in the Chamber very many officials came. I think the Indian Merchants Chamber is a very popular body and almost all Ministers and officials are very fond of going there. These complaints were put before them and they were all sympathetic and they said that they would do something in the matter. But I find that nothing is done or hardly anything is done. They wanted clues. But you are not certain whether the officer concerned is going to be punished or not. I do not know how it happens. But even with the best of the evidence somehow these officials escape. Such cases are within my personal knowledge. But I need not go into them. Therefore the merchants are compelled to give bribes otherwise their business gets ruined. I am not defending the people who give bribes but I am just pointing out under what circumstances these things are happening. Sir, I think the whole world has become a mad house and

any one who does not give a bribe is supposed to be foolish. So this vicious atmosphere has prevailed. The officials came and officials went and things went on for ever in the same direction. 10 a.m.

Well, Sir, I will give you one personal instance. I am connected with a charitable institution called Bharatiya Vidya Bhavan and we had some land in the suburbs connected with the college and it was found that there was some legal flaw in the lease and it had to be rectified by the Notified Area Committee first and then it had to go to the Government for rectification. Now what happened, Sir? The Congress Ministries resigned in 1939—and the Advisers were appointed. They came. The Secretaries came. Then the Ministers were appointed, they came and everybody agreed that this was a very small thing and it could be done. But for 7 years it could not be done. Why? Because the clerk in the Notified Area Committee did not dare to ask for any bribe from us and so he saw to it that the papers did not move from his table to the officer concerned and once when an office-bearer went to that office, the clerk said "Oh, I am a poor man. After all Mr. Munshi is a very big man. I have to look to my living etc." So ultimately we came to know what was the reason. Well anyhow that was done. In Bombay we are supposed to be carrying a little influence, but if this happens to us, we can, Sir, well imagine what must be happening in the cases of others.

I now quote another instance, a very small case. I wanted to attend a Select Committee meeting at Poona and I wanted to have my reservation on a particular day because at 12 o'clock the Select Committee was meeting. I sent my man to the station. He was told that there was not even a single seat available in that train. So I telephoned to the Brandons who are the Railway caterers and asked the Manager if he could get me reservation by the same train. He at once said 'Yes'. And actually I got the reservation. On the day I was travelling I found that half of the train was empty. There were many first class

seats and a number of them were empty. And with all that I was told that not a single seat was available in that very train.

I will now give another instance of Calcutta. Sir, only a few months back my daughter had gone to the Sharda Mandir of Ramakrishna Ashram at Calcutta. She went to some village. She had gone there with her companions. I do not remember the name of that village. And they were returning by an early morning train. This story was related to me by my daughter. It was about 4 o'clock in the morning. They were all travelling in the third class compartment. She was with her companions. It was a ladies compartment. A man in woman's clothes was there. There were a number of women with little rice in their bags, and they were all sitting there. One officer came and he began to demand from each of them four annas or six annas and so on. And these girls first pretended to be sleeping because they did not know what was the matter. Afterwards they got up and my daughter shouted and asked the man what he was doing. The man decamped from that compartment without finishing his nefarious business with the people who were smuggling that rice in the Calcutta area. The man simply just vanished from that compartment. So, Sir, in the big things as well as in small things I think this bribery and corruption has somehow entered. It has entered into the very life of the people.

I can quite understand that there will be false complaints. Someone wants to involve somebody else. One officer wants to involve another officer or a merchant or someone else. Then false complaints are given and people are unnecessarily involved. This is much worse than giving bribe. So, Sir, the only remedy is to raise the morale of the whole nation. Whatever laws you pass here are not going to be effective unless the morale of the whole nation is raised.

Now, in England if a man goes one mile further than his ticket permits, he himself contacts the ticket collector and offers him the extra money. In

[Shrimati Lilavati Munshi.]

America—I was there in 1950—I stayed in a friend's house for a night. It was out of the way and in his house, near the gate there was an open box in which the postman put his post. If there was any shortage in stamps, then he left a chit saying so much more money was required. The man concerned put the money in that open box next day. Now, in such cases nobody touches the money. Only the postman takes it. I saw a big store. People go there for their daily purchases. They take a go-cart—a kind of wire perambulator—pick up whatever they like from any shelf or a case. They put everything in the cart, go to the cashier who looks at the things and prepares the bill. In the whole store there is nobody to check. People can put something here and there if they were so minded—and nobody will be able to find out, but none of them does so. Here we say that honesty is a virtue but very conveniently we go on breaking it. There are others who may not claim that as a virtue ; they may consider it merely as a trait or it may be their business policy, still they go on observing it.

And then, there are certain subtle ways; I do not know whether they can be called bribery. Supposing parties and dinners are given and one gets a contract. Is it bribery or not? Is it corruption or is it not? Supposing advertisements are given to a newspaper and things are written in one's favour. It may be that the man in charge is convinced, but a person who was a critic till yesterday, suddenly becomes an admirer of a person. Does it mean corruption or not?

And then, big presents are given. Diamond rings are given to somebody's son at the time of his marriage. I can understand relations giving presents to one another, I can understand friends giving them to one another, but I fail to understand those who have very little connection with one other giving these presents on such occasions. Would it mean bribery and corruption ? There are

innumerable subtle ways of corruption and bribery but today we are not considering all of them. It may be that the people's conscience will be so much roused and later on these will be considered.

Then, there is another point. People who are in a position to give evidence may not come forward. Of course you can make them approvers, but many people do not like to become approvers. Then, your task becomes very difficult, as was pointed out by my hon. friend, Dr. Kunzru, and also by the Law Minister.

Then, Sir, we should also, as I pointed out before, guard against whispering campaigns. One may start a rumour that this man is taking bribe, this man is doing this and that, and somehow that kind of campaign goes on against the person and somehow that becomes a kind of firm belief. This also we should guard against. I hope, Sir, that Government will take all necessary precautions in these matters and something will be done which will raise the morale of our society. Sir, I support the Bill.

SHRI C. G. K. REDDY (Mysore): Sir, I am not a lawyer; so I do not want to go into the legal implications of this Bill. But there are certain social and moral conditions which give rise to corruption and I should like to deal with them and request the Home Minister to see and include some provisions in this Bill or elsewhere to ensure that such conditions are no more existent in this country which give rise to corruption and bribery. So far as the Bill itself is concerned if I may refer to it first, even though it creates new offence or rather makes the penalty for old offences more severe, it does not make any departure in the procedure that is now being followed.

Now, Sir, so far as the apprehending of offenders is concerned, the same procedure that has been followed before is going to be followed again. You may have a special judge or special tribunal or special authority, but if the same Police Establishment, who

have been investigating and apprehending people before, are going to function in the future also and if the procedure is not changed, it will not be possible for any improvement to take place in our country. Here we have made the penalties more severe. I do not think that any Member of this House would like to deny the Government, whether we like their policies or not, the powers to see that corruption and bribery are put down, but we have to see whether these powers which the Government will take will be useful for the purpose for which they have been asked or not. I should have liked another sub-clause to be added to clause 8 whereby—I am not a lawyer, I am only making a suggestion which lawyers know how to put into the Act—the special judge or the special authority which is created by the Act could also be in charge of apprehending an investigation of offenders, and if it is not there, I do not think any improvement can take place. If I may quote an example, today the police are invested with the authority, with the duty, of apprehending people, who take bribes and who give bribes. I will give you an instance of how prohibition works in my home in Chittoor town and in Chittoor District in Madras. In front of the police station itself liquor is being sold. I take full responsibility for the statement and if any Member of Parliament or Member on the Treasury Benches would like to accompany me I would certainly show him the place. Any amount of liquor can be had in front of the police station. I would explain to you how this thing happens. Now, the prohibition authorities do know that something is happening in Chittoor and yet they cannot bring the people concerned to book, because these people have arrangements with the police authorities. Every week, Sir, one person is handed over to the police, and the police are asked to charge him with a prohibition offence. This is a regular arrangement between the police and those people who are in charge of illicit distillation. Not only that, during the period this man is in jail, his family gets a subsistence

allowance from the time he goes to jail. There are many people who volunteer to go to jail to get this thing going.

Similarly I can quote several instances where the police more often misuse their authority than use it for the public good and for seeing that these offences are put down. One small fry is charged with the offence and sent to jail, thereby giving the impression that the police, or at least most of the police, are discharging their duties with a due sense of responsibility.

I don't say every police-man is so very corrupt but I do say there are a great majority in the Police Department in any State—taking from the constable right up to the highest official—who are corrupt to some extent and under certain conditions. Therefore if you invest them with the authority, it is a waste. You create a Special Judge or authority for putting down corruption, the responsibility being laid on this authority and also the powers to see that they direct the apprehension and investigation of such offences. Otherwise it would not be possible with this Bill or any other Bill that the Government may put before this House to see that corruption is put down.

SHRI TAJAMUL HUSAIN (Bihar) : How does the hon. Member suggest that the Special Judge should take cognizance of an offence ?

SHRI C. G. K. REDDY : I have in mind a special authority—it may be a Tribunal, an anti-corruption authority, let us say, which will have the power to direct the investigation of corruption and the putting down of corruption in this country. It is not only a question of detection but it is also of apprehension and investigation of these offenders and the punishment of these offenders—all these should be vested in one authority. When I say an authority, it does not mean a single individual. I mean an authority—it may be a tribunal, a number of people or it may be one person.

SHRI H. D. RAJAH : Like the Election Commission ?

SHRI GOVINDA REDDY (Mysore) : It will be against the fundamental ideas of justice.

SHRI C. G. K. REDDY : I am not a lawyer. I don't know whether it will be against the Hindu justice or Mohammedan justice or Roman justice. All I wish to say is that it should be under one authority and I put before the Government what I think ought to be done. I am only suggesting a special procedure. After all, law as I look at it, should be administered for the good of the people and the prosperous growth of the community. I am not interested in the tenets of such and such law which was existing or which is existing today. I look at law as that thing which makes it possible for human beings to live together peaceably, which will give them the opportunity to develop themselves and which will help them to grow into a healthy community and a healthy nation. With that view I am putting forth these suggestions. I don't have any legal knowledge—I don't know how to put it but am only putting it in my own way and it is up to the House to consider it.

Now there are certain other aspects to this question of bribery and corruption. I feel that it would not be possible even with the special authority that I have suggested to put down bribery and corruption completely or very effectively because of certain social and other conditions existing in the country. I would refer for instance to social insecurity from which each one of us—whether he is the highest or the lowest suffers. Today supposing anyone of us here or outside suddenly dies or gets into an accident or suddenly comes across a misfortune, then the community will not look after him from tomorrow. The family is not looked after by the community. So the idea gets into his head that he would like to provide for tomorrow and the idea grows firm in his head that he should make

as much money as possible and as quickly as possible.

MR. CHAIRMAN : Mr. Reddy, the general improvement of social conditions as an essential part of our objective is not quite relevant to the discussion.

SHRI C. G. K. REDDY : I was only making a suggestion, and I will not take more time on it.

Because of this everyone of us—almost from the highest to the lowest—would like to make as much money as possible and as quickly as possible—it does not matter what methods we adopt. Some are very clever and others are not so very intelligent and so they are caught and then the operation of this Bill comes into force. Therefore I suggest that apart from this amendment of the law, we should also see to it that conditions are changed so that such things may not happen. It is no use creating new offences or making of offences more cognizable or awarding more severe punishments. Until you make it impossible for such offences to take place or at least you make it possible for conditions to be such that offences don't take place as much as they do at present, things will not improve. Therefore I am making my suggestion—not strictly a legal idea and I have not put it in a legal fashion—that unless you invest the authority in a body other than the Special Police or other Police officials who have proved to be inefficient, it will not be possible for us to get rid of corruption and I would most humbly suggest that in so far as my suggestion is concerned, if it is possible for us to amend the Code to accommodate the idea that I have thrown out, we would be able to get better results from such a Bill.

SHRI KRISHNA MOORTHY RAO (Mysore) : Sir, under this Bill bribery is made a substantive offence and both the bribe-giver and the bribe-taker are made punishable and the procedure also is shortened but I would like to suggest that the law should be very

clear and there should be no room for ambiguity. In this connection I I would like to refer to the wording of clause 10 of this Bill and I would like the hon. Law Minister to consider the implication of the wording. Clause 10 reads :

"All cases triable by a Special Judge under section 7 which immediately before the commencement of the Act were pending before any magistrate shall, on such commencement, be forwarded for trial to the Special Judge having jurisdiction over such cases."

There are Magistrates and Magistrates. This Bill is made applicable throughout India—Parts A, B and C States. The natural tendency of a Magistrate is to get rid of the case as soon as possible and Magistrates as we know, have got certain powers. A criminal case has got 3 stages viz., investigation stage, the enquiry stage and the trial stage. In this case the enquiry stage is to be done away with because the Special Sessions Judge will be empowered to try the bribery offences but even a case under the investigation stage will be a case triable by a Sessions Judge. So if the Magistrates transfer even such cases, the Sessions Judge will not have powers to remand, powers regarding seizures of property and also the power to grant pardon at that stage. Under section 337 the Magistrate has got power to grant pardon and under one of the clauses to that section he will have to be examined as a witness in the Sessions trial. If in a case under investigation the Sessions Judge grants pardon perhaps that Sessions Judge will have to appear as a witness and there will be further complication in the matter of trial and even for the convenience of investigation purposes it is better that powers of investigation, remand and seizure of property remain in the hands of the Magistrates because it may be all right in a Presidency Town where there are more than one Special Judge but usually in the mofussil districts there will be only one Special Judge in the district and it will be very difficult for the police or even for the accused to appear before a Special Judge in connection with seizure of property. I therefore

suggest to the hon. Minister to consider whether it will be proper to amend this clause 10.

So I would suggest that after the word "pending" we may insert the words "for trial or enquiry". That will keep the powers with the Magistrate during the stage of investigation of the case and this will help the proper investigation of the case also. Otherwise, as the Sessions Judge has no powers of remanding and also because he has not the power to refer back the case to the Magistrate a good case may be lost for some technical defect at the stage of the investigation and I do not want such a thing to occur. I would therefore suggest to the Law Minister that he may look into this aspect of the question and see if my suggestion of adding the words "for trial or enquiry" can be accepted. If he thinks there is no such danger then he is free to reject my suggestion. But I feel that clause 10 will be much clearer if these words are there. There will be no room for any legal defect in the trial of these cases. Or the Law Minister may provide sufficient safeguards against such legal technicalities.

PROF. G. RANGA : If it is made a matter of delegation, will that not meet the wishes of the hon. Member ? The special tribunal will have to delegate the particular authority that he suggests now to the local Magistrate. Will not that serve the purpose ?

SHRI KRISHNA MOORTHY RAO : The Magistrate already has got the power under the Criminal Procedure Code. The Magistrate in whose jurisdiction the offence is committed has got the power to pass orders during the investigation stage. It is not necessary to incorporate another section for that. But if the words are kept as they are, a Magistrate in a distant part of India because of the disposal mania and because the High Court also presses for more and more disposals may in his desire to get rid of

[Shri Krishna Moorthy Rao.]
the case transfer the case to the Sessions Judge.

PROF. N. R. MALKANI (Nominated): Sir, I rise to support the Bill; but I am not quite happy about it. We seem to be making laws and more laws to cure law. Here is a great evil, a great social evil and to deal with that if a law is necessary that law must be a fairly comprehensive one. But here I find there is no provision for an offence committed by a Minister of a State. There are provisions for public servants, but what about the Ministers themselves? Some provision must be made about them as well. I have read the Gorwala Report on Public Administration as many others must have done. It is an official report, and there he says that wherever there is a Minister of State against whom grave allegations, specific allegations are made, and a *prima facie* case exists a tribunal may be set up. Such a tribunal I think, may be nominated by the Supreme Court or it may be appointed by the President. But there must be some such provision here also, some provision to deal with a Minister of State's delinquencies also. Ministers of States like Cæsar's wife, must be above suspicion. But there are talks of that kind and I am not aware of any action being taken where a Minister is involved.

Proceeding further, as regards public servants, it is good to frame laws, but unless some conventions come into existence, some traditions are built up, no law can be effective. The proper tradition should be built up. Even in the case of public servants, when there are continuous and strong rumours that such and such an officer is corrupt, if allegations of that kind are made, or if there is a public servant having a large wealth, one does not know how acquired, living in luxury, then there is a case for enquiry. I would rather say, a case for immediate suspension and enquiry, for I have found that whenever there is a *prima facie* case, it

is best to suspend the officer immediately. Then half the battle is won. He is completely demoralised and the whole service will become very cautious. But I find cases of suspension are extremely rare. I feel suspensions should be very much more frequently resorted to than at present, and wherever there are specific allegations an enquiry must be held and as suggested by Mr. Gorwala, there must be a Special Enquiry Officer, a permanent Special Enquiry Officer, to make these enquiries immediately. I have seen how enquiries are made. I myself have instituted enquiries the actual inquiry takes two to three months. Then it goes to the Secretary and there it lies for three to four months. Then it goes to the Minister where it remains for another month or two. And so nearly eight to nine or ten months pass before the orders are passed. And meanwhile the man suspended draws salary. He gets eight to ten months' salary for no work and when he is reinstated, he gets his whole salary. Therefore I say a Special Enquiry Officer should be appointed to immediately go into the case and a time-limit should be placed, say a month or two months, within which it should be completed and orders passed.

Sir, I think you will agree with me when I say that after the elections the quality of Cabinets and Ministers all over India has improved and they are working more harmoniously. But can we say the same of our public servants and Administration? Do we think that its quality has improved? Do we find that delays are less now than before? Public Administration is just as it was before—rigid, corrupt, slow,—and something must be done about it. As far as I am aware there is no code of honour amongst public servants, that they are public servants and must do their duty properly. Lawyers have got their code of honour. Doctors have got their code of honour, that they should do their duty to the patient. But among public servants there is only a tendency to safeguard

one another's interest. You may not touch me so that I will not touch you—is the code of honour that prevails amongst them, as far as I know. They must realise that they too should have a code of honour and it must be higher than that of doctors, higher than that of lawyers—a high code of honour for public servants. But I do not find it. As long as it is not there, even if we have laws and better laws, we will not get what we want.

Finally, may I say something about ourselves—the legislators? We are some 700 here and there are thousands elsewhere in the States. We are swamped and surrounded by privileges. I have been sitting here for two months in comfort. We misbehave and abuse and do things of that kind and then claim privileges. We may remind ourselves a little of our duties also. As I said, I have been here for two months. I am not an elected Member. When I get my post I hesitate. I do not open my post before eating my food. After I do that, I open my post and there I find requests like—“Will you get me a little job?” “Will you take me to such and such Minister?” “Will you do this thing and that?” I don't belong to any group or province. If I did, I think I would be flooded by such letters. Some of us are not as strong as we should be in these matters and it devolves upon us that we should also have a high code of honour—higher than that of the public servants and as good as that of Ministers. After all our conduct will react on the conduct of others. We may demoralise even a good Minister. We may even by our conduct uplift him. And so let us not forget ourselves when making provisions like those in this Bill. I would much rather appeal to ourselves and say, let us also evolve a high code of honour so that no influences are exercised—undue and immoral—so that the atmosphere within the hall and the atmosphere outside is kept pure and elevating. If we do that, then the law may work, not otherwise.

23 P.C.D.

SHRI B. GUPTA (West Bengal):
Mr. Chairman, there can be no two opinions regarding the urgency of such measures for fighting bribery and corruption in the country. But, I wish the provisions of this Bill were balanced by an awareness of the situation that has led to corruption and bribery in this country. It is not merely a question of passing legislation; it is also, and no less important, a question of using this legislation. Then, Sir, when you have powers you must have the machinery to administer such powers in order to stamp out vices like bribery, corruption and all the rest of it. Unfortunately, we have got plenty of powers. During the war, the British Government passed the Defence of India Rules. There was a plenty of provisions in that. Those provisions became, in practice, a dead letter and in practice they promoted corruption rather than stop it. Even in this present machinery, we find that there are extraordinary powers. There are powers also of a temporary nature which the Government can use for fighting bribery and corruption but we have seen that these have not produced the desired results. Why? In the first place, those who are responsible for administering these measures are not always above board. Secondly, the Government has not devised ways and means of associating the public with the efforts at fighting corruption. These are the two main reasons why whatever honest efforts or intentions there might be, they have failed to produce any tangible results. I understand, Sir, that some legislation should be made to call to account those people who give bribes along with those who take bribes. But, in our country, you must then take into account the social reality and the objective factors in which we live and function. You will then find that there are bribe takers and bribe takers and bribe givers and bribe givers. If you put them all in one basket, you will be missing a most outstanding reality, namely that the present social conditions compel some people, even though they do not like it, to resort to either bribe taking or bribe

[Shri B. Gupta.] giving. After all, Sir, you cannot put a Chowkidar in a village in the same category as a Magistrate who sits in the District Headquarters, nor could you put a small petty official in the Civil Supply Department with the Civil Supply Minister.

AN HON. MEMBER : Why not ?

SHRI B. GUPTA : I will tell you. When we have Ministers and high officials, we give them specific assignments and we pay them out of the public exchequer to discharge certain functions and responsibilities. It is their duty to see that they do their duty in the interests of the State. In the case of a petty officer of the Civil Supply Department who is given a pittance of, shall we say, Rs. 50 a month and who finds it difficult to provide for his family, he is naturally tempted to get some money somehow to meet the very urgent and very pressing needs of his family. You have to view his case from a different angle. I will not say that he does not commit a crime ; when he takes any bribe ; I do not say that he is not guilty. What I would like to impress upon you is that you must take a different view of such people. That is my point.

Now, Sir, I can give you a very good example. I make no allegations against anybody but I will place certain facts before you. I will start with the Enforcement Department in which some of the officers are no doubt doing useful service. You have to satisfy yourself whether this Department is functioning as honestly and as efficiently as you would like it to function. I know of a very interesting case—again I do not name the person. A professional colleague of mine, who did not get on well at the Bar, took up a job in the Enforcement Branch at Calcutta. He did something which I do not know. Then, suddenly, I found him switching over to the legal profession again and developing a very good practice and a lucrative practice at that. His clientele comprised of some businessmen, very high

businessmen and the cases required specialised knowledge relating to defending cases in which these people had been hauled up either for corruption or bribery. Maybe suddenly he developed some kind of very good faculty for that branch of law, I do not know. It may be so ; but, later on, I found him appearing in the role of a Congressman. I had known him in England ; I have known him in Calcutta and I have been with him at the Bar. It was an astounding thing. From the Enforcement Department to the Congress and the Bar again ! Sir, this kind of thing is happening and I would ask the hon. Minister to consider these things. This way, you find that some people entrusted with the responsibilities of fighting and stamping out corruption are not behaving in the way they should behave.

For creating confidence in the public that the Government is fighting corruption, Government have no machinery. We tried our best to extend our cooperation to the Government in our State for stamping and fighting out corruption. I had been on a number of Committees, the Food Committees, for instance before the Preventive Detention Act came on my head. I was on the Civil Supplies Advisory Committee and all that sort of thing. As soon as the Congress gentlemen appeared on the scene, we were unwanted and we were driven out of those bodies and eventually hounded under the Preventive Detention Act. Naturally, therefore, I could not give the measure of cooperation that I would otherwise have liked to give. The Gorwalla Report was mentioned. I think that is a very useful document, although I do not agree with everything that has been said there. Many suggestions have been made in that and certain allegations have also been made. These allegations have been made by an officer of the Government, rather one officer who was a high officer of Government. They have not been made by Communists or by people who

are mischievously called "fellow travellers" or by Professor Ranga. They have been made by a Government officer. This should have been gone into. The Enforcement Department and the Central Government should have considered this proposal in the light of the allegations they have in their possession. In Bengal you will find a lot of material only if you invite the cooperation of the public. Nothing of that sort had been done with the result that the Ministers against whom there were allegations continued in office and it was left to the people to throw seven of them out in the last General Elections. You could yourself have done that. After all, in many other countries, the Government itself had taken action against their hon. Ministers. We have seen the British example where Mr. Hugh Dalton resigned because of certain Budget leakages. We see nothing of that sort happening here, but instead find hon. Ministers losing their tempers when we tell them home truths, and they accuse us of abusing the Government.

Now, Sir, this sort of thing happens. Have powers, by all means if you will ; but, try to change your outlook. Try to set up an honest Administration and try to overhaul this Administration in a manner which would make it possible for you to go into the roots of the trouble, the causes for corruption and bribery in high places. Charity begins at home. Why not start with the high places? If you want our co-operation, I shall certainly see that we give you the fullest measure of co-operation in wiping out corruption and in that manner create a proper background for stamping out corruption and bribery in this country. It is no use just passing a brief legislation, coming forward with Bills and all that sort of thing. What is more essential is that you must search your own hearts—(turning to the Chair) I am addressing through you, Sir, the hon. Ministers in the Congress Benches—search your own hearts, see where the trouble lies, find out the root cause of the evil, find out the fountain-head of all

corruption and bribery that is going on in this country and you will then see that the Chowkidar is not to blame, he is not corrupt ; he is essentially a decent man. Common people are essentially decent people. Many men in Government services—people in the lower grade—are undoubtedly decent people. But if at the same time we had the big guns doing their job well, without corruption, without lending any kind of support or patronage to corruption, then things would be quite different. That is why I would request this Government to look into this aspect of the story and that is a very sad story indeed.

(MR. DEPUTY CHAIRMAN in the Chair.)

SHRI TAJAMUL HUSAIN : Mr. Deputy Chairman, unfortunately, Sir, this country of ours has got many bribe givers and bribe takers. Bribery is rampant in this country. It is one of the greatest evils that we can think of. In ancient India bribery was unknown. I think that foreign rule may be partly responsible for it. Under foreign rule we Indians, who in our ancient civilization were honourable, became demoralised. Under foreign rule we lost all our prestige. While we were slaves, independent countries progressed in every sphere of life and we remained stationary. Not only that, we went downwards. Now we are an independent nation. At one time, History will tell us, that we were one of the greatest nations of the world. We must, now being independent, become one of the greatest nations of the world again and I have not the least doubt that in course of time we will. Illiteracy, Sir, may also be one of the causes. If illiteracy is removed, perhaps bribery may go ; but removal of illiteracy will take a long time. We must get rid of bribery and corruption now and there should be no delay about it. The whole question is how can it be done.

The hon. Minister in charge of Law has introduced this Bill which is under consideration and this Bill, he says,

[Shri Tajamal Husain.]

is meant only for three years. In his opinion and in the opinion of this Government, bribery will go within the course of three years. But I say, Sir, 3 years is not sufficient. You will forgive me for a little digression. In the last session of the Provisional Parliament when the Preventive Detention Bill was being discussed—and it was meant only up to 30th September because the Minister in charge of the Bill was of the opinion that by 30th September there would be no need for that Bill—I said no; we must have it at least for ten years. I said that subversive activities by some of us will not cease by 30th September.

SHRI C. C. BISWAS : May I correct my hon. friend ? The Bill is not for three years. The limit of two years is only with reference to the amendment which enables pardon to be tendered to an approver who is an accomplice in respect of the offences mentioned in clause 5 of the amendment.

MR. DEPUTY CHAIRMAN : Section 5, clause (2)—the 2 years' limit there refers to section 5 only.

SHRI TAJAMUL HUSAIN : I am very grateful to the hon. Minister for pointing out my error. I stand corrected. The provision for pardon only is for two years. But even then I submit, Sir, that two years may not be sufficient for that.

As far as the Bill is concerned, the maximum penalty to the taker of the bribe has been increased from two years to three years, but the imprisonment may be of either description, simple or rigorous. I submit, Sir, three years' imprisonment will not be sufficient. If you want to eradicate from this country one of the greatest evils that is prevalent here, the punishment is not sufficient. In China, I am told—I have no personal knowledge—before this present regime bribery and corruption were as rampant as they are in this country. Now I am told it is completely gone. How have they done it ? Perhaps our hon. friends—the Communist

Members—might enlighten us, but I am told that the present regime inflicts the maximum punishment both to the giver of the bribe and to the taker of the bribe. They shoot them, hang them or flog them in public places, and the result is that bribery has been completely eradicated from China. I therefore would suggest to the hon. Minister that instead of fixing three years as maximum punishment, it should be more. You have fixed three years as the maximum punishment and left the discretion in the hands of the Magistrate and we know what Magistrates do especially when you give them power or leave things to their discretion. They may give simple imprisonment, or only inflict fine, or it may be only imprisonment till the rising of the Court. That is what is being done. Not even that; under some section of the Criminal Procedure Code, they take a bond and release the man. You leave so much power in the hands of the Magistrate to act in such a serious matter as corruption for which India has got a bad name. Government wants it to be eradicated, but the method that Government wants to be adopted for the purpose will fail.

So, I submit that it should be maximum punishment which should be inflicted on both the giver and the taker. As regards the giver, formerly he was only an abettor and under the law an abettor got only one-fourth of the punishment which was prescribed for the substantive offence. I am glad to see that the punishment to be awarded to the giver of the bribe will be the same as to the taker. I think the giver of the bribe is the worse offender than the taker. If there were no giver, there would be no taker. I will tell you a story for which I take full responsibility because I happen to know it myself. Some time ago, when the British were ruling here, there was an Inspector-General of Police in Bihar—an Englishman. He was examined as a witness before some Royal Commission which had come from England to inquire into bribery and corruption. He made a

very drastic statement before the Commission. He said that 99 per cent. of police constables took bribes—his own men—and about 75 per cent. of sub-inspectors of police, 50 per cent. of inspectors, 25 per cent. of deputy superintendents of police, and 2 per cent. of superintendents of police. He made that statement before the Royal Commission. Then there was a meeting of the police officers, and they condemned their own boss, the Inspector-General. "Why did you say that?", he was asked. "Well, I said that. Have I said anything wrong? What is wrong with it?", was his retort. It is the fault of the people. It is the people who offer bribes. And the sub-inspectors of police come from the same class of people. The sub-inspector of police in his childhood saw his father giving bribes. When he became a police-constable or a sub-inspector, he knew that bribes would be offered to him. I submit that there is no person in the world who is incapable of taking bribes. It all depends on the amount. I may take a bribe of Rs. 100. There are others who may take Rs. 1 lakh or Rs. 10 lakhs. But if it is offered, I am very doubtful if there are people who would refuse. I am sure—you try to give me a lakh, and I will take it. I am not putting it very high; I will take it. I doubt very much if there is anyone who would refuse Rs. 1 crore. We have known instances. I do not know whether it is true, but we heard that an Englishman, a knight, who was a Member of the Executive Council in the days of the British, took about 10 lakhs from some munition factory in Calcutta. You know the name. Even a Member of the Executive Council in those days, who was drawing Rs. 5,555-10-8 per mensem took bribes. So everybody has a price. My point is that the greater sinner is the giver.

SHRI J. R. KAPOOR (Uttar Pradesh): If everybody takes bribes, it is no use trying to eradicate the evil.

SHRI TAJAMUL HUSAIN : What does the hon. Member say?

MR. DEPUTY CHAIRMAN : Order, order. Let the hon. Member proceed.

SHRI TAJAMUL HUSAIN : I just wanted to know what was in the hon. Member's mind.

Sir, I do not find in the Bill any mention that the offence will be cognizable. I looked at the section in the Indian Penal Code. It is not cognizable. I think this is a very serious matter, and the police should be given power to take cognizance of the case. Of course a Magistrate of the first class would be empowered under the Code of Criminal Procedure and he can take cognizance of any offence. But this should be mentioned here. I would go a step further and say that every individual, every citizen should be allowed to take cognizance of the case and inform the authorities concerned. That is the only way to deal with this evil. Suppose I have come to know that bribe has been taken. I can see it taking place. But it is very difficult to prove the giving of bribes and the taking of bribes. It is done secretly. But when I happen to know it, I can go and inform the authorities concerned and they can investigate the matter.

Again, I find that it is not a non-bailable offence. That such an offence should remain bailable is wrong. In practice, what will happen? When you allow bail, people may run away. Some may run away to Pakistan, some may run away to Goa. So, in the first instance a warrant should be issued.

I would like to say a few words in reply to some of the hon. Members who passed certain observations.

11 a m.

MR. DEPUTY CHAIRMAN : Leave it to the Law Minister.

SHRI TAJAMUL HUSAIN : My hon. friend Shri Kunzru has said that it is very difficult to get copies of decrees and poor people have to offer bribes to expedite cases. He is wrong. I do not agree. If there

[Shri Tajamal Husain.]
is a decree against you, you can apply for an urgent copy and you will get it in 24 hours. You need not offer bribes.

AN HON. MEMBER : It is not so easy.

SHRI TAJAMUL HUSAIN : The hon. Member was justifying the bribe giver. I do not agree with him.

Prof. Malkani has referred to the inclusion of Ministers in this Bill. I do not know whether Ministers are public servants or not. If they are not public servants, they should be included. Of course we, Members of Parliament, are not public servants by any stretch of the imagination. I suggest to the Law Minister that all Ministers including his colleagues and those in the States and ourselves should be brought under the Bill.

My hon. friend Mr. Gupta told us the story of a barrister-at-law who was a cheat and who had become a Congressman suddenly. It reminds me of another story. The hon. Member has taken responsibility for that story, and I take responsibility for this story. I could even mention the names of the persons. My friend the Communist Leader, Mr. Gupta, told us the story of a barrister who became a Congressman. That reminded me of another story, and it is a true story, and I take full responsibility for it. I can even mention names. There was a Magistrate in Bihar. He was posted to Darbhanga. If you want the name, I could tell you. (*Interruption.*) He was accused of taking bribes—about Rs, 3,000 or Rs, 4,000. That was at Darbhanga. There are hon. Members from Darbhanga present here. He was tried by the Sessions Judge of Patna. The case was transferred. He did not want to be tried at Darbhanga. He was convicted. He appealed to the High Court. He went to jail for two years. When he came out of jail, he became a leader. I was surprised. I knew him very well, when he was a Magistrate at

Darbhanga. He said that he had become a Communist.

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Deputy Chairman, I am not opposing the Bill as a whole, but only certain provisions contained in it. I shall first deal with the provisions which I would like to support. First of all I would like to support the provisions of the Bill making the offering of a bribe a substantive offence by itself instead of treating it, as at present, as a mere abetment. I agree with the sentiments of the previous speaker, Mr. Tajamal Husain, that a bribe giver should be treated alike with a bribe taker. If there is a bribe giver, there is a bribe taker, *Vice versa*, if there is a bribe taker, there is a bribe giver. So, there should not be any distinction between bribe giver and bribe taker. I am glad that after the criminal law has existed for nearly 90 years on the Statute Book, this amendment has now been brought in, and I wholeheartedly welcome this measure. While welcoming it, I would also express a few sentiments of my own. We must root out corruption with an iron hand. There is no denying it. I can speak with some authority about the corruption that is rampant in Madras State, especially in particular departments. I can say with authority that corruption among Government servants is rampant in the Engineering Department. Almost every member of the subordinate staff in the Engineering Department resorts to this anti-social act. They call it *mamool* in Madras. If a contract is given to a contractor by a P.W.D. Engineer or a Highways Engineer or a Local Fund Engineer, 5 per cent. is given to the supervisor, about 2½ per cent. to the officer above him, and so on. It is a recognised practice, and everybody knows it. Likewise, in the Excise Department, corruption in the shape of *mamools* has been going on for several years.

And not only that. Coming to the Police Department, we find how these bus people give *mamools* to the sub-inspectors and inspectors and also corruption in the Railway Department

for booking wagons and for booking seats in railway compartments—as Mrs. Munshi was saying a little while ago—not to speak of corruption in the Revenue Department in the Madras State. Well, Sir, in another way also I welcome this move to treat the bribe taker alike with the bribe giver. I know one instance, Sir. The police called it ‘Trap system’. A poor officer on 27th or 28th of the month when all he had got on the 1st had been exhausted naturally becomes a corrupt officer. How is the trap laid by the police officers? They put a 10 rupee or a 100 rupee note in an envelop and hand it over to the officer in charge saying it is an application for a railway wagon. The officer-in-charge naturally receives it sometimes knowing that it is a currency note and sometimes not knowing it is a currency note. And then immediately there are half a dozen officers who get at him and take statement from him. There are several instances like that, Sir.

Now if this Bill comes into effect and takes its place on the Statute Book, certainly such sort of things would be eliminated and naturally innocent people would not be enticed. There are some officials who towards the end of the month are naturally off their pockets.

Coming to the second provision of the Bill, i.e., to enhance the punishment of bribe giver to the level of the bribe taker, I certainly welcome this move because I had already said that no distinction should be made between bribe giver and bribe taker. The enhancement of the punishment is also welcome.

Then coming to the third aspect, I would like to support the special form of trial proposed by the appointment of Special Judges in order to eliminate delay. This provision also is welcome. But I find that it has been suggested in the Bill that only Sessions Judges, Additional Sessions Judges and Assistant Sessions Judges alone could be selected for this purpose. I would also ask “Why should not the members of the bar who are having active practice for at least 7 years be

selected as Special Judges?” That is a qualification required for the appointment of a District or Sessions Judge in Madras State. Why should these lawyers also not be considered for these appointments? In fact I was under the impression that no special recruitment would be made for the appointment of Special Judges, but after hearing from the hon. Minister for Law that special recruitment would be made for the appointment of the Special Judges why should the members of the bar not be considered for these appointments? And it is not out of place for me to mention, Sir, that the hon. Minister for Law himself was elevated from Advocate to the rank of a High Court Judge of Calcutta. He was practising as a lawyer in the Calcutta High Court, if I am correct.

Now, Sir, I would come to the point which with certain diffidence I would like to oppose. And that is that the scope of the provisions of section 337(1) Criminal Procedure Code for tendering pardon should not be extended to bring these corruption offences within the purview of this Act. Why I oppose that provision is, Sir, that as you go through this Indian Penal Code, you will find that section 337(1) is made applicable—i.e., tendering of pardon is made applicable—to really very serious offences, offences like murder, offences under section 211, offences which are triable by Sessions Judges, offences which are triable by High Courts and offences involving false charge of an offence punishable with death or transportation for life or imprisonment for a period of 7 years, harbouring offenders and dacoits, kidnapping children under 10 years of age with intent to steal from their person, punishment for belonging to a gang of thieves, mischief caused by fire or explosive substances to an amount worth Rs. 100 and falsification of accounts. And it will not be out of place for me to mention, Sir, that the punishment involved in all these offences is 7 years. When the provision in this Bill is for punishment of only 3 years, how can you bracket this or couple this with the provisions that I have just read out, i.e.,

[Shri Rajagopal Naidu.] couple with sections 211, 216A, 369, 401, 435 and 477A of the Indian Penal Code. I may suggest, Sir, that if you want to couple this provision also along with the sections that I have just read out, then enhance the punishment from three years to seven years so that what I would suggest is that we will not be going against the accepted principles of law as enunciated in the Indian Penal Code. You can't say that the punishment that is awarded in this case is three years and tag it on with the other provisions where the punishment awarded is 7 years. It is only for this reason, Sir, that I would suggest that this provision—section 337(1)—should not be made applicable to the provision of this Bill.

Then for another reason also, Sir, if that is introduced and is made into law, it will lead to unfair trial. As the learned Deputy Chairman who is also a leading lawyer of Mysore would have known, the tendering of pardons is always abused by the persons who are in charge of prosecution. I would not dilate on that. But our experience shows that this tendering of pardon always leads to certain malpractices by persons who are in charge of prosecutions.

Then, Sir, in clause 6, sub-clause (2) I find the qualifications required for appointment as a Special Judge. I find there is also a provision there for the appointment of retired judicial officers, retired Sessions Judges, retired Additional Sessions Judges and retired Assistant Sessions Judges. I followed the debate in the Lower House with regard to this and I saw that the hon. the Home Minister had given an assurance that no retired person would be thought of for appointment as a Special Judge. But so long as these words are there in the Statute, they would naturally think of retired officials. I do not question the ability of retired officers to try important cases of corruption and bribery. But when we have so many persons aspiring for promotion, when there are Assistant Sessions Judges aspiring to come Additional Sessions Judges, and when there are Additional Sessions Judges

aspiring to become Sessions Judges, why should we think of retired people? To try an important case, one can think of retired High Court Judges. We find so many retired High Court Judges in New Delhi in several important places. One is even a Governor of a province. I do not say anything about retired High Court Judges. With all their experience, they would certainly be a great asset to try these cases as Special Judges.

Sir, special tribunals were constituted to try corruption cases among military personnel during the war. I know for instance there was one retired High Court Judge of Calcutta who, along with two others, was trying corruption cases among military personnel, sitting at Bangalore, Madras and other places, as a sort of itinerant court. Why not think of special tribunals being appointed for a contiguous area of two or three districts so that they may always be moving and trying these cases? Why should we think of Additional or Sessions Judges or Assistant Sessions Judges to try these offences? That is one of my suggestions, Sir.

Then, I have already spoken about the appointment of advocates to try these cases. Probably the argument against me would be that this is only for a period of two years. Even so, why should we not appoint advocates as members of a tribunal? As the previous speaker has said, this may be only for a period of two years, but it is likely to continue for long. I find there is already an amendment to change it to ten years. Certainly no extra expenditure will be involved.

Sir, I would once again request the hon. Minister to consider the amendment which I had given to include a member of the bar in the matter of appointment of Special Judges and delete the words "or has been". As I do not propose to speak on the amendment, I would press now that that amendment be accepted, and the words "or has been" deleted in the relevant clause of the Bill.

MR. DEPUTY CHAIRMAN : I find there are so many Members who are anxious to speak on this. We

have a discussion at 12.30 p.m. on Mr. C. G. K. Reddy's question. Therefore I would like to finish this debate by that time.

PROF. G. RANGA : Why curtail the debate, Sir ?

MR. DEPUTY CHAIRMAN : I do not want to curtail the debate, but I would request hon. Members not to repeat the arguments and be as short as possible.

SHRIMATI VIOLET ALVA (Bombay) : Sir, I rise to support this amending Bill moved by the Law Minister in the absence of the Home Minister. The objects are quite clear. They are three-fold. Firstly, it seeks to improve the law relating to bribery and corruption. Secondly, it seeks to make the offering of bribes a substantive offence by itself instead of, as at present, a mere abetment. Thirdly, Sir, in view of certain practical difficulties in the prosecution of cases relating to bribery and corruption, a special forum for trial is also proposed for such cases in order to eliminate delays.

Sir, I shall be brief, but because this amending Bill is the outcome of the Tek Chand Report, it is necessary that we should peep into what the report has said about the various organisations and persons. Sir, I shall begin with the paragraph on page 11 in which it is said, "In course of our examination of the working of the Special Police Establishment we found that in many instances subordinate officers did not exercise sufficient discretion in taking cognizance of cases." And then, Sir, on page 15, paragraph 40, line 3, it is said, "We desire to record our considered view that Special Police Establishment should not, for the present, be wound up." Then, it goes on, "In some cases courts have criticized individual officers of the department for their acts of omission and commission. A considerable number of prosecutions have been unsuccessful, though the figures of convictions do not compare unfavourably with similar figures in ordinary police cases." Then it goes on, "The moral and psychological effect of the existence of a special agency of this character has had a

salutary effect upon wrong doing and has, in a certain measure, helped to keep and strengthen the forces of honesty and morale so necessary for sustaining public confidence in the Administration."

Sir, if this law is to be brought into force with this background, do you think we are going to succeed in putting down corruption and bribery ?

KHWAJA INAIT ULLAH : No.
SHRIMATI VIOLET ALVA :

"Ill fares the land to gathering ills a prey
Where bribe, accumulate and laws decay."

I have slightly twisted Goldsmith to serve the purpose today. Sir, did we not have the Emergency Act of 1947 ? Was it not there to root out corruption and bribery ? It may be that bribery and corruption perhaps rose to a high degree during the years of the war. But it rose to a crescendo after the war, because of controls and on account of our economic conditions. Who is the bribe giver ? He is the man who has become rich because of these controls. Sir, I do not want to be long, but I may say that it is becoming fashionable, as it used to be fashionable in the days of the freedom struggle for patriotic reasons, to go to prisons. Today businessmen go to prison and hang their reputation as the *khaddar* cap on the peg of the jail and come out and wear it again. After these businessmen are charged, convicted and sent to jail, they carry on correspondence with the Chief Minister or other Ministers, and change their classes from C to B and from B to A and from A to A1. If such things happen, how are you going to root out corruption and bribery ? Have you at least one organisation that is incorruptible ? Sir, as a lawyer, I know what the police can do, what collusion they are capable of having with the offenders, how they can tamper evidence. As a journalist, I know, Sir, how imperfect our laws are. The Emergency Act of 1947 did not apply to the Presidency towns. Then it applied to States A there was difficulty in applying it to B and C States. Can we not ever hope to aspire for a perfect Act ?

[Shrimati Violet Alva.]

If we want to put down and make corruption and bribery a thing of the past we have to have good draftsmen in the Government. We must take time so that the law when it comes on our Statute Book must not have obvious loop-holes. Such simple loop-holes that even a layman can lay his hands on are there and then as a legislator with very little experience I find that laws accumulate while the State and society decay. You will forgive me here if I turn to page 4 of the Tek Chand Committee Report. This laborious report was undertaken in 1949 and it is here before the House today in the form of an amending Bill in 1952. Today even our millionaires have not the same amount of money to give away as bribes. What has happened? We brought forward a Bill, passed it but we were not able to put down bribery and corruption. Why? There is something rotten in the State of Denmark. If I quote some of the other countries in the world you will say I am totalitarian. No, I am not, but where there is a will, there is a way and if you mean to put down corruption, you will. You need a certain amount of ruthlessness as some other hon. Members have said. In Britain Mr. Dalton had to resign for a slight leakage of the Budget. Who resigns here for a slight rumour that is spread around his name? None, and then may I submit as to why there is no coordinating authority to catch the culprits. Laws look after themselves. As long as we have an independent judiciary in the country, we are safe for democracy. They will uphold our laws if they are good, otherwise we have to go on amending them. If we don't have the will, we shall not put down corruption with a thousand laws. You have mentioned a punishment of over 2 years. Is it enough? I would say that this punishment is not enough. People think that it is respectable to go to prison and be in prison. Wealth has attained such a respectability. Punishment must be made more ruthless than it is now. In our administrative Departments, why is the coordinating authority left

to the Home Ministry I have never understood it. It was the hon. Pandit Kunzru who turned my attention to this paragraph where it says :

"We regret to observe that we came across certain Ministries and Departments of the Government of India which failed to extend their fullest cooperation to the staff of the Special Police Establishment in their investigation."

I do not know whether any reasons have been given for this but certainly some doubts must have crossed the minds of the Committee members. Why were the Ministries so deleterious? It is a shame. The Ministries should have come forward, it was for the Administration, it was for our Prime Minister to appoint a Secretary General for the Government of India only for this purpose. Sir, if you will permit me to digress, I will cite the instance of Bombay where we had the Chief Secretary to Government of Bombay not merely for this purpose but who did his job well. He will soon take up the Chairmanship of the Tariff Board in Delhi. We had Shri M. D. Bhatt as Chief Secretary and the cases of corruption and bribery were at their lowest. Can't the Government of India find such a man of humility and integrity, of years of hard service who has no axe to grind and who does not want to buy cars and lounge through the streets, but one who wants to do service and ensure justice? Sir, it is time that the hon. Home Minister, on whom the burden is very heavy because we know what type of legislation is going to follow this, should leave bribery and corruption in the hands of a senior administrative officer, a man who has been known for his integrity and strength of character. We have such men—not that we are so completely rotten. The rot however, is spreading. When you see the figures given in the Tek Chand Committee Report you will find that the number of cases registered in 1949 was 731 and in 1951 it was 274 and the number of gazetted officers involved went up from 66 in 1949 to 101 in 1951. What happened to these officers? Sir, I may be permitted to say that our whole economy is

wrong. The rich get richer, the poor get poorer and the laws multiply. Where shall we end this ? Only if a Secretary General to the Government of India is appointed for this purpose, if only Government will see that a speedy investigation takes place, that the Ministries concerned will help and cooperate with him, that the officers—as the hon. Member Mr. Malkani said—will not screen each other, when there will be a fear of the law, things will improve. Who fears our laws today ? Nobody is afraid of our laws. We make laws here and the laws are obviated. The police are corrupt to the core, the Special Police Establishment is enjoying the same reputation. How else could the Tek Chand Committee insert this paragraph 33 ? The legislators, the citizens, the Ministers and the administrators must all combine.

This law will very soon go on the Statute Book. It will still be challenged by the judiciary. I am not an eminent lawyer of the calibre of the hon. Member for Law or Home. But this law is going to be challenged and before a year is out you will have a decision against you then you will be amending it again. That is not the way to put down corruption. Let us be a little more ruthless. Why not make a public example of the man who gives or takes bribe ? Who are the bribe givers—the man who has made easy money. Who are the bribe takers—it is perhaps the man whose children are starving, a man who is not satisfied with a small car, who wants a big car. I often wonder how these officers can run about in costly cars as Buick cars when they are just Government of India officials. A code of conduct, a code of honour cannot be built in this way for the lower grade employee. As much as you may dislike, I shall have to quote the example of China. If China can put it down—and China was more corrupt, there was rampant corruption, corruption galore—if she can put it down, India can and if India will not put it down, it shall go the China way. That is all that I want to say, Sir.

SHRI S. MAHANTY (Orissa) : Sir, I fully appreciate the hon. Law Minister's anxiety to check corruption and arrest the deterioration in the moral standards of our public Administration that is on the increase. Therefore naturally, my sympathy goes with him. I know before long this piece of legislation will go on the Statute Book. What I intend to submit is that according to the juristic principles, it is not a good law, for this reason only that it forgets that a man is essentially a moral being. Instead of appealing to his moral values and senses, it wants to over-awe him with the consequences of law. Of course I admit that corruption in the Administration is much more dangerous than any other menace one could conceive of. Whatever we might say about the British in India, we should at least admit that one thing they aimed at and that was to set up an honest Administration. You all know the instance of Warren Hastings, the man who founded the British Empire. He extorted a few lakhs of rupees from some Begums of Oudh and you also know the other minor corruptions he was charged with. Yet the British Parliament had no compunction for him. They had to impeach him and he had to spend his last days in misery, starvation and poverty. It pains me to observe that those who would have set up an ideal of being above corruption are corrupt to the core. It pains me also very much that on this occasion I should have to wash the dirty "Khaddars" of Orissa. I will cite one instance. The Special Police Establishment on 14th June made an enquiry in my home town i.e., Cuttack under section 420 I. P. C. and the Import and Export Rule 1947. One Congress legislator of Orissa was implicated in it. His premises were searched. In this case one ex-Minister at the Centre was said to have been implicated in it also. The Private Secretary of that hon. Minister was also implicated. There was a search, there was investigation but what happened ? That same evening a newspaper controlled by that hon. Minister came out with a report that these investigations were most unwar-

[Shri S. Mahanty.]

ranted. And that the Special Police Establishment were misguided by certain political adversaries of that particular Congress legislator, and of that particular ex-Minister. I wonder how a newspaper office, a journalist could speak with such confidence. It was only this morning that I was telling the Minister of Commerce and Industry that these things have undermined the faith and confidence of the public in Orissa in equity and justice.

Sir, I do not want to go into further details. They are so dirty that possibly I may lose my temper and may run into unparliamentary language.

AN HON. MEMBER : Do, do; we shall not lose ours.

SHRI S. MAHANTY : You may not lose your temper but I will. Let us bear in mind that this Indian Penal Code was drafted in 1898 by a set of people whom we called *Satans* and these satanic people wanted that Indians should be given an Administration where there will be equity and justice, and so they provided section 165. And now after 54 years, with the background of the unredeemed pledge of Pandit Nehru that he would hang every corrupt official and every black-marketeer from the nearest lamp-post, with that unredeemed pledge, today we are making the offering of bribe not an abetment but a substantive offence. I hold no brief for the giver of bribes, but let us try to understand the position of the man offering the bribe with a certain amount of sympathy. The Tek Chand Committee has mentioned the instances of compulsion and the Committee have laid considerable stress on such instances. But let us try to understand the psychology of the man who offers the bribe. You know it has been said that man has created God after his own image. You know man offers bribe to the deity to pass through an examination. You know a litigant offers bribe to a deity to get a favourable decree and so on it goes. Now, in this society of ours, I should say of a very primitive order, the administrators are equated

with gods. Every public servant is a "*Mabap*" a "*Huzoor*". Therefore if these "gods" are bribed for small benefits is there anything to be surprised ?

AN HON. MEMBER : Sir, there is not a single Minister in the House.

SHRI B. RATH (Orissa) : Sir, on a point of order. There is no Minister in the House now and the discussion has been going on. Even if the concerned Minister is not able to be present here, at least some other Minister should be present.

SHRI H. D. RAJAH : Then in the absence of any Minister, shall we adjourn the House ?

MR. DEPUTY CHAIRMAN : The Minister has just gone out with my permission and he will be back in a minute. The discussion can continue.

SHRI B. GUPTA : Could not one of them be present, Sir ? They could have asked at least one of the Deputy Ministers, of whom there is a good number, to be present here in the absence of the Law Minister.

PROF. G. RANGA : Sir, with due respect to you, Sir, and to the permission that you have given to the Minister—I do not question your power to give that permission, you have it—we are entitled to insist that at least one Minister should be present here. I can understand a particular Minister having to go out to relax—we ourselves find it difficult to sit inside here all the time. But there should be some other Minister, some other representative of Government to listen to what is being said here. At least the Deputy Whip could be there.

MR. DEPUTY CHAIRMAN : The Minister will be in in about a minute. It is not for relaxation that he has one out. Mr. Mahanty can go on

SHRI B. GUPTA : But can the discussion continue in the absence of a Member of Government ?

SHRI H. D. RAJAH : Such a debate is not right even in the eye of law perhaps.

SHRI B. GUPTA : Why not let us adjourn for two or three minutes ? There may be would-be or might-have-been Ministers here, but that does not help matters.

MR. DEPUTY CHAIRMAN : I will help the Minister and inform him of the discussion. It can go on.

SHRI B. RATH : Sir, what is the ruling on the point of order that I raised ? Is it not necessary that at least one Minister or Deputy Minister should be present when the discussions are proceeding ? Is this a precedent that we can establish in this House ?

SHRI H. D. RAJAH : We had better keep silent till the Minister comes back.

SHRI GOVINDA REDDY : For ought we know, the Minister might have only gone to answer nature's call.

SHRI B. GUPTA : I quite sympathise with him. I can see that he might have left for good reasons. But he could have left behind him some other Minister or at least a Deputy Minister from the big list they have got of such Ministers.

SHRI H. D. RAJAH : I would request you to send for the hon. Minister so that.....

(At this stage the hon. Minister for Law entered the Council and occupied his seat.)

MR. DEPUTY CHAIRMAN : Now the problem is solved.

SHRI B. RATH : The problem may be solved, but my point of order is there for which I would like to have a ruling.

MR. DEPUTY CHAIRMAN : It requires no ruling now.

SHRI S. MAHANTY : Sir, when I was interrupted, I was dealing with section 165 of the Indian Penal Code and the present intention to convert the offering of bribe into a substantive offence. Those who were responsible for drafting the original section in I. P. C. probably thought that the offering of bribe was not such a heinous offence as the accepting of bribe by a public servant. That is clear because the public servant must not only appear to be innocent, but must be honest, because that is precisely why he is there. It is his job to administer honestly. On the public administrator hinges the safety and happiness of society. By public servant I am not here referring to petty ticket-collectors or police constables who were mentioned here during the debate, but I mean the big sharks of the Secretariat. I have already referred to the case of a Congress legislator who was a man of no means before independence and now has millions in the banks.

SHRI K. S. HEGDE (Madras) : Have you prepared a list of your Party Members who have taken bribes ?

SHRI S. MAHANTY : I mean such big sharks. It was only yesterday that my hon. friend Prof. Ranga referred to M. Ps. of a particular political brand seen hob-nobbing in the corridors of the Delhi Secretariat.

MR. DEPUTY CHAIRMAN : I would ask the hon. Member to confine his remarks to the provisions of the Bill before the House.

SHRI S. MAHANTY : It is a discussion on the general principles of the Bill and that covers a wide ground.

Whatever ruling the Chair may give, I only request him that he should not stifle the voice of the Opposition on such a momentous issue.

Often the man who gives a bribe is forced to offer a bribe. Otherwise, no one would offer a bribe voluntarily if he could get things done without having

[Shri S. Mahanty.]

to pay a bribe. It was precisely for this reason that offering a bribe was not considered a substantive offence as accepting a bribe. In this connection, I would refer to the bold experiments started in New China. You know, Sir, the K. M. T. was notorious for its corruption and now, after the Peoples' Republic has come in, there is no corruption, as certain Members of the Cultural Delegation sent by the Government have testified. Mr. Frank Moracs, a Member of that Delegation, wrote a very informative article in the "Times of India." He said that one officer, because he took his fiancée to a dancing hall in Shanghai and thereby wasted 700 gallons of State petrol, was brought to book. He also mentioned the case of a gentleman who was the Secretary of the Communist Party in Shanghai. He was penalised because the house in which he was living was fitted with many luxuries. He referred also to two movements 'Su-fan' and 'Wu-fan'. The 'Su-fan' movement has been initiated by the Government to weed out corruption in its own Departments. There was no law enacted. It was simply felt that corruption should go. That also is the feeling of the oppressed millions of India. By merely bringing about legislation you are not going to check it. You should help the people in suppressing corruption and for that you should have moral integrity. You should not only be honest but you should appear to be honest and that makes a great deal of difference.

Sir, I would tell you that if you had a serious intention of suppressing corruption you should not merely move this Bill, get it passed, put it on the Statute Book and go to bed immediately. You know, law is not justice. Law is like any other purchasable commodity. There are instances where people charged with more serious crime, get away. If I have the money enough to engage an eminent lawyer, then I know how to get off scot free. I would once again emphasise that law is not justice. If you want that there should be justice and equity in society then it

devolves upon you to see that law is not only enacted but administered according to its intentions. Man is essentially a moral animal. By appealing to his moral senses and values only you can weed out corruption. Of course, as I told you already, I do not hold any brief for the bribe givers nor do I hold any brief for the bribe takers. Willy nilly, I have to support this legislation because it is a welcome measure however inadequate it may be, to weed out corruption. With these observations and with the suggestion that there should be specific instruction that a distinction should be drawn between these two categories of bribe givers—one voluntarily with a view to seduce an honest officer and the other under compulsion as pointed out in the Tek Chand Committee Report, I support this legislation.

SHRI O. SOBHANI (Hyderabad) : Mr. Deputy Chairman, I rise to support the amendment because I feel that it is a step in the right direction. I, however, feel that by merely punishing the bribe giver we are not going to eradicate this evil. Sir, it is felt that this sort of evil has increased considerably since 1939 and it has further increased, I regret to say, after 1947. We have, therefore, while welcoming this step, to think of ways and means of completely weeding out bribery. Hon. friends have already referred to the measures adopted in other countries. Public co-operation is essential if this evil has to be rooted out and I would suggest, Sir, that we may invite suggestions from the public as to what would be the best ways and means for doing so.

Sir, a bribe giver has been referred to in the Tek Chand Committee Report as an "unscrupulous person". I know that some businessmen do offer bribes but the atmosphere is such that if the bribe is not given by him, his rival would get things done. That is one mitigating argument in his favour. I have no sympathy for him and I feel strongly that he must be punished. Sir, I respectfully make a few suggestions that when a candidate appears for a Government service he must be taught

to be honest and he must be warned that if he is found to be guilty of corruption he would be summarily dealt with. I would also suggest, Sir, that an oath be administered to any person who enters Government service to be honest. As far as the existing officers are concerned, some of them are, if reports are to be believed, the worst offenders.

I would therefore suggest that an oath should be administered to them, that whatever they may have done in the past, in future at least they should not be tempted by bribes. If in spite of the oath he is found to be taking bribes, Sir, no consideration should be given to the duration of his service or the eminent office that he may be holding, if a man is found to be corrupt.

I would refer to the increase in corruption after 1947. Sir, I come from Hyderabad where as far as corruption is concerned the position has deteriorated considerably since 1947. The reason is that in the old days when a man entered service he felt secure for a period of at least 25 years. He felt that he could go about accumulating what was known as *balai amdani*—additional income—in the course of these 25 years. He obliged members of the public in different ways and he received some consideration. But after 1947 several officers have come from the Union Government and I am sorry to say that there has been a certain amount of feeling that there being no certainty of the period of service in Hyderabad, these officers perhaps felt that they might as well make hay while the sun shines.

While talking about the change in the behaviour of officials, I may be permitted to make a reference to the change in the behaviour of the officials towards members of the public. They are definitely discourteous. I had an occasion myself to protest against the behaviour of a Deputy Secretary and he told me: "I am not a *mulki*. I don't know who is who in Hyderabad. The other day I treated the ex-Chief Justice in the same manner". I think the Government should issue a warning

to the officials so that their behaviour may improve. I will not take up the time of the House any more. I only hope that the two suggestions that I have made will receive due consideration at the hands of the Government.

SHRI K. C. GEORGE (Travancore-Cochin): I oppose this Bill, Sir, because I think that this Bill in the form in which it has been presented to this House is not going to realise the object with which it has been introduced. So many hon. Members have placed before the House instances showing the depth to which our country has sunk in the way of bribery and corruption, and I do not want to narrate the stories that I have myself come across. At the same time to show how low we have sunk in this regard, I would like to quote a saying in my own language with the permission of the Chair, which means that people have begun to think that if you go to any Government building or to the courts, you will find that even the pillars of those buildings will receive bribes. That is the concep-

tion; that is the experience of the people. As such, I appreciate the introduction of the Bill inasmuch as this corruption and bribery has to be wiped out, but my case is that this does not serve the purpose. An attempt has been made by many Members who supported the Bill to show that apart from the man who takes the bribe, the man who pays the bribe is also equally guilty. Now, Sir, it is the opinion of courts—both the Bench and the Bar—that cases of bribery are difficult to be proved. The result of this Bill will be that the man who pays the bribe, being the only corroborator that could be had in the case to prove the taking of the bribe, would not come forward to give evidence, because he is also guilty under this law. What has been attempted here, I would say, is to make the position worse. Formerly, the man who pays the bribe had a lesser punishment; now this Bill attempts to make it more serious and that makes the situation worse. If formerly some people were willing to give evidence, under this Bill they would not come forward at all.

[Shri K. C. George.]

Of course, the Government Member might say, this Bill contemplates that contingency and the provision for approver is there. But what I would say is, as has been pointed out by experienced lawyers even here that taking approver's evidence is not quite successful in as much as the police have got a very important hand in the matter. My point is that I would certainly make a distinction between the man who receives the bribe and the man who pays the bribe, particularly so because the purpose of the Bill is mainly to put down corruption in the Government Administration. If that is so, the first thing we have to aim at is to see that people in the Administration are brought to book even though we have to show leniency to the other people. Only then we can root out corruption in Government Departments and only if we are able to wipe out this evil from among the Government servants, we can wipe it out from the people. Now this bribe-taking and bribe-giving is going on everywhere. It may not be that the man who takes the bribe is taking it only because of the lust for money. It may be that he is under paid, he may have the burden of maintaining a big family and is forced by circumstances to accept bribe. It may be the other way also. We cannot make a distinction between morally guilty and morally not guilty. What I want to stress is that firstly we should set right the men in Government service. It is more serious. Let us put it out first ; let us see that the Government Department is clear. If that is done the result will be that ordinary people will also improve. Let us set our home right. If the Law Minister had approached the problem in that spirit, the thing would have been entirely different and he would not have treated both the man who takes the bribe and the man who gives the bribe alike.

So, my contention is that the man who offers the bribe must be treated much more leniently, though he should not be excused, for the time being at least. Once you punish the bribe-taker severely, then you can wipe out corruption and bribery from the

Government, and there is an end of the matter. That is the spirit in which I would request the Law Minister to approach this problem if it is not for the sake of mitigating the offence and if the Government is really taking very serious action in order to suppress bribery and corruption. If the Bill is really brought for the purpose of suppressing bribery and corruption, the Government should first of all put right its own servants. They should say : " Whatever happens to others, whether they are good boys or bad boys, you as Government servants have to be good boys." That is the attitude which Government should adopt. It is only then that the purpose we have in view will be achieved, otherwise not. It is on this ground that I oppose the Bill.

BEGAM AIZAZ RASUL (Uttar Pradesh) : Mr. Deputy Chairman, the measure under discussion is a measure the necessity for which is keenly felt by all sections of society in our country, and I can assure the Members sitting on that side of the House that we on this side feel just as keenly about this as any one on that side can feel. This is a question that is engaging the attention of the Government as well as of the people of this country. It is not a small matter. This matter of bribery and corruption is one that is engaging, as I said, the attention of all of us all over the country. Therefore, any legislation that is brought in order to eliminate these corrupt practices will certainly receive the support of the Members of Parliament as well as of the public outside. We have, however, to see whether this piece of legislation, this Bill that is under discussion today, goes any way towards mitigating those social evils that are rampant in our society today. It is unfortunate that trends in society have led to so much corruption and bribery. It is also unfortunate that so many of our people are involved in this sort of practice. That is also a matter that must receive the very deep attention of every one of us. Therefore, I welcome this measure that has been brought today.

Much has been said about the Tek Chand Committee's report on which this Bill is based. I have also read that report. That report has differentiated between the two sections of the people that are called bribe givers. As has been pointed out in this House, there are two kinds of people. There is no doubt that although according to all principles of morality a bribe giver is just as much a culprit as a bribe taker, I would respectfully submit that a bribe giver is obliged to give bribes in certain cases, as has been pointed out, under compulsion. He may not want to give bribes, and we know that in many cases he does not want to give bribes, but he is obliged to give bribes because he cannot get his work done. Now, what is that work which he has got to get done? In certain cases that work is a necessary piece of work that has got to be done. I would therefore, divide the bribe-giver into two categories. I feel that these two categories should not be treated in an equal manner. As has been pointed out, there are certain litigants, and hon. Members of this House know that it is so very difficult to get copies of decrees and other documents, and litigants have to wait for days and days before they can get their work done. Therefore, a small bribe here and there has to be given in order to get that kind of work done.

There is another small matter in which we know bribes have to be given. When a gate at a railway crossing is closed and sugarcane-loaded bullock carts and bullock carts laden with other commodities are held up, those poor people, in order to get the gate opened, have to give a small bribe to the gate-keeper in order to get their commodities through. These are practices which are certainly condemnable. But in these cases the bribe giver should not be condemned in the same manner as a bribe giver who wants things done so that he will get financial or monetary benefit out of it. As we all know, there are black-marketers in our country indulging in this practice, and they get most of their

work done by giving bribes. Licences are obtained, permits are obtained, and so on in this manner. I strongly condemn these people, and I feel that no law is strong enough to punish such people. But, as I said, we must certainly divide these bribe givers into two categories, and some legislation must be passed by which the first category of bribe giver is not punished, because in their case they have to give bribes in order to get work done which could not be done ordinarily. Now, in this regard, those officials who take bribes must be condemned and punished very severely. All the small petty officials, the gate-keepers and other railway officials about whom things have been said here—it is those people who induce the poor people to give them bribes in order to get their work done. I feel very strongly about it. I feel that it is a canker in our society that is eating into our souls and something has to be done about it. It is an unfortunate thing. As I said in the very beginning, I feel as strongly about it as any other hon. Member of this House. But I also feel that legislation in this matter cannot remedy the evils from which we are suffering today. It is ultimately the moral standards of our people that have to be raised. In that respect I really feel that a whispering campaign is the only thing that can remedy the evil. I suggest that bribe takers who are indulging in these practices should be condemned by society.

Now, I know that it is an easy thing for me to say this. But how do we achieve results? Our society unfortunately is today so apathetic in these matters that although we see them with our own eyes, although we hear with our own ears that these things are going on, yet we do not do our duty in order to eradicate this evil from our society. Prof. Malkani said that there was no code for public servants. Now, Sir, to me the highest code is that of morality. To my mind that is the highest code. Any one can take an oath and swear that he will do this and that. Doctors take an oath, and lawyers take an oath. But if their moral

[Begam Aizaz Rasul.]

standards are not high enough, do you think that an oath can have any effect at all ? In the same way, if the moral standards of public servants are not high enough, they can take any number of oaths and yet not become honest. Therefore I feel that strong measures have to be taken by Government in this respect. Unless ruthlessness is exercised in this matter and a certain number of individuals are brought to book, this evil in our society will never be removed.

Sir, I have some experience of public life and I know that so many times Government has appointed anti-corruption committees to go into the whole matter of dealing with these things. So many Committees are always constituted to investigate into these things. But the results we see unfortunately are not up to the mark and just a few petty officials here and there are given some punishment, but as has been very rightly pointed out by Members of this side as well as of that side, the bigger officials go scot-free and it is on account of that that there is a certain feeling of frustration. There is a certain feeling of inertia and of apathy among our people because it is the common man who suffers. It is the public man that suffers the most. He has to give a certain amount as bribe to get his work done and officials are there who do take bribe. Therefore he is compelled to adopt that method of bribe. Therefore to put him on the same footing as the bribe taker is, to my mind, not a very healthy principle. I am not supporting or defending the bribe giver in any way. I feel that the bribe giver is just as much to blame as the bribe taker. But as I have said, there are extenuating circumstances and if this Bill is passed as it stands, I am afraid that even that little bit of help that the public was giving to the Government in the detection of bribe taking will disappear because no one will then come forward to say that such and such person has given bribe.

Sir, as has already been said,—and I feel very strongly about it—we used to hear that China was rampant

with bribery and corruption; it had eaten into the very souls of people and the nation itself was going down. But today we find that after drastic measures were taken there, that evil is clearing up and strict measures are being taken against anyone who indulges in these crimes. Therefore this bribery and corruption is disappearing there. I wish, Sir, that somehow or the other people may be harnessed in this respect so that they may be able to help Government in detecting and bringing forward those bribe takers who all the time in every section of society and public Administration are going scot-free. And I think that such a measure as has been brought before this House today may to some extent mitigate that evil, but can never eradicate it and therefore, Sir, while supporting this measure I feel at the same time that stronger measures must be taken in order to eradicate this evil.

SHRI H. D. RAJAH : Sir, the psychological problem that is behind this Bill is the most potent factor for consideration. The Bill which has been introduced by our hon. Minister for Law has pointed out two important features. One is the punishment of a bribe giver or a bribe taker and the second is giving pardon to an approver. Sir, let us go into the root cause of this trouble. I am taking an instance of a policeman who is employed by our Government on a salary of a grand sum of Rs. 25. That man is getting this amount.....

SHRI B. B. SHARMA (Uttar Pradesh): On a point of order, Sir. Greater the salary, larger the bribe.

SHRI H. D. RAJAH : I am obliged to my hon. friend for his suggestion. The lower the salary the larger is the bribe. Sir, these points of order very often break the continuity of thoughts which sometimes get lost. I shall dilate upon bribe as a whole. Now we take for granted that in this country there is large-scale bribery and the bribe is due to various sections of society who are giving these bribes.

Sir, if in the matter of giving a bribe a man is made to feel that he is equally guilty, the man who receives the bribe must be more guilty. But in this provision, in this Bill you will not find a distinction being made at all.

Apart from that view, the second point which I have to bring to your notice is the question of pardon. I will tell you an interesting story about myself. I was implicated in a conspiracy case in Madras as a very tremendous revolutionary who wanted to upset the British Empire in India. Now, Sir, in that case that pardon matter comes in. A man was pardoned who was equally a victim of this conspiracy and the police arrested several people and put them into a prison. He was tutored and he was asked to say certain things about me which I never even dreamt of. Sir, the instance is this. One of the conspirators was made an approver by the police and the police told him "Tell the court that H. D. Rajah wanted to send out poisoned handkerchiefs to all the Europeans existing in this country on the Christmas Day so that they will be destroyed". Now, Sir, imagine this fantastic nature of the conspiracy. He was given pardon so that he can come out and say utter falsehood. Had I decided to destroy all the British fellows in India by that process, certainly I would have welcomed it. But it did not happen. A thing which did not happen has been put into the mouth of an approver who is made to come and deliver before the magistrate a statement of this fantastic nature. What I am driving at is, Sir, the question of giving pardon. Giving pardon to an approver is a matter which is fraught with very grave and serious consequences. Now if you are not going to find out the causes which are the root causes of these bribes, if you are not going to analyse the social problem of humanity, if you are not going to find out the reasons by which these people are becoming criminals, you can never succeed in eradicating this evil. You should psychologically change over the mind of the people and go into the root cause of these troubles. Bribery exists from as early as

Adam and Eve. They started it along with the procreation of humanity.

I will tell you, Sir, the question of bribe is now here confined to monetary events. Do you mean to say a man gets things done in a Government office only by monetary concessions? I know extraordinary considerations are being brought to bear upon the superior officers by others. Do they not come under 'bribes'? A thing which an officer cannot grant to a man is granted to him not because he gave money but something else. Now what does it show? Is it not bribe? Therefore we must go to the root of the problem in a psychological manner. Remove the causes that are responsible for these people to go and offer bribes. Remove the causes that create a situation in this country by which the poorest man is made the poorest. A man is employed by the Government at 25 rupees a month. A man with a wife and 7 children to live in this country on 25 rupees a month! (*Some hon. members : Shame, shame.*) And a man to gloat over having the control of all the economic events of this country and in fact becoming the managing agent of the Government of India as a multi-millionaire! That is the root cause of this problem. If your Government servants are made to know what is democracy.....

MR. DEPUTY CHAIRMAN

The hon. Member may speak on the Bill. He should not be irrelevant

SHRI H. D. RAJAH : Yes, Sir, I am obliged to you. I am bound by your ruling. If the question of this bribery is a matter which has to be psychologically approached, the morale of the service must be improved.

Sir, under the present economic set up a middle class employee, a clerk in a Government office is facing utter ruination. If that man is simply obliged, as some friends suggested, to lift his file from that table to this table, if that man is taken out by another friend and given coffee so that he need not go to his home where he does not have his coffee in the afternoon, is it

[Shri H. D. Rajah.]
 or is it not amounting to a bribe? Therefore what I am saying is that we have to go to the root of the problem before criminology is enforced upon people—the psychological factor that lies behind our actions. What is it? It is just like any other provision of this Government to whom I do not credit with much commonsense. This Government just like any other Government in the world thinks of only curing a disease. What is that disease? Go into the root cause of the disease. See that it does not occur anywhere at all. That is the way in which a society is built up. In that event, Sir, you will find that in India all these criminal legislations will be of no use. If you have to tackle that problem from that point of view, I will suggest further that the police will not be necessary. The police, I will say, are also bribe takers. The Special Police are equally bribe takers.

MR. DEPUTY CHAIRMAN : The hon. Member will continue tomorrow.

MESSAGE FROM THE HOUSE OF THE PEOPLE

MR. DEPUTY CHAIRMAN : We have received a message from the House of the People which the Secretary will read.

JOINT COMMITTEE ON THE PREVENTIVE DETENTION (SECOND AMENDMENT) BILL, 1952

SECRETARY : Sir, I have to report to the council the following message received from the House of the People signed by the Secretary to the House:

"I am directed to inform the Council of States that the annexed motion has been passed in the House of the People at its sitting held on Wednesday, the 23rd July 1952 and to request that the concurrence of the Council of States in the said motion and further that the names of the Members of the Council of States to be appointed to the Joint Committee be communicated to this House.

The motion is :

"That the Bill be referred to a Joint Committee of the Houses consisting of 42 Members ; 30 Members from this House and 12 Members from the Council ;

that the Joint Committee is also authorised to consider all amendments to those sections of the original Act which are not sought to be amended by the Bill under reference to the Committee ;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee ;

that the Committee shall make a report to this House by the 29th July, 1952 ;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make ; and

that this House recommends to the Council that the the Council do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Council to the Joint Committee."

MR. DEPUTY CHAIRMAN : I will read the message to the House. The motion is that the Bill be referred to.....

(Interruption.)

SHRI C. G. K. REDDY (Mysore): I wanted to submit....

MR. DEPUTY CHAIRMAN : The message from the House of the People takes precedence over other business of the House.

SHRI B. GUPTA (West Bengal): On a point of order, Sir. My point is this that we do not have any Bill at all for our purposes from the point of view of this House. There does not exist any such Bill before us. We may have read something in the papers. That is a different matter. But we do not have any cognizance of any such Bill as far as this House is concerned. Now here the motion is being placed before us in connection with the Select Committee for the consideration of a Bill which does not, constitutionally speaking, exist as far as this House is concerned. I think, Sir, it is an astounding procedure. Therefore, Sir, I submit that this question cannot be brought in—the question of appointment of the Select Committee whether it is a Joint