

रहे हैं। इसलिए आप जो भी बात करे, सोच-समझकर करे...(व्यवधान)... क्या है, क्या नहीं है, वे सब जानते हैं...(व्यवधान)... राघवन जी, बोलिए ...(व्यवधान)...

श्री मोती लाल वोरा (छत्तीसगढ़) : सभापति महोदय, मैं ...(व्यवधान)...

श्री सभापति : वोरा जी, मैं किसी को एलाऊ नहीं करूंगा सिवाय श्री राघवन जी के। मैं माननीय सदस्यों से निवेदन करना चाहता हूँ कि कल इस पर चर्चा समाप्त होनी चाहिए थी। मुझे इस प्रकार का ऐश्वोरेस दिया गया था लेकिन किन्हीं कारणों से वह चर्चा पूरी नहीं हो सकी। मैं आपका इस मामले में सहयोग चाहूंगा। आज दो बिल हैं, ये दोनों बिल आज पारित होने चाहिए। मैं समझता हूँ कि पचौरी जी और लालू जी, इसमें मेरा सहयोग करेंगे। करेंगे ना? ठीक है। लालू जी, कल की तरह से मत करना।

श्री प्रेम गुप्ता (बिहार) : मान्यवर, जॉर्ज फर्नान्डीज ...(व्यवधान)...

श्री सभापति : छोड़िए जॉर्ज फर्नान्डीज को। प्रेम गुप्ता जी, आप बैठ जाइए।

GOVERNMENT BILLS

The Central Vigilance Commission Bill, 2003

SHRI A. VIJAYARAGHAVAN (Kerala): Mr. Chairman, Sir, we have started this discussion yesterday onwards. It is a very serious matter. After discussion in the Subject Committee, this Bill came up for discussion in this House. According to the World Economic Survey, both in terms of corruption and dishonesty of officials, out of 49 countries, India's rank is 45th. In 1999, in international ranking for transparency, India's rank was 73rd amongst 99 countries. The lack of transparency provides an opportunity to public servants to extracting bribes and misleading citizens, who have to transact business with them. Sir, certainly, India's size of parallel economy is estimated at 40 per cent of the GDP which provides a fertile ground for corruption. Equally important, the corrupt face little deterrence in this country. There are enormous delays in the prosecution of cases in courts. What is worse, the conviction rate is hardly six per cent in criminal cases. Corruption is anti-national. This Bill came immediately after this *hawala* scam. The *hawala* scam showed that the anti-national militants were sending money from abroad through *hawala*. Corruption is anti-poor, since the resources meant for poverty alleviation schemes get siphoned off by corrupt bureaucrats and politicians. Corruption is anti-development. It was demonstrated by the experiences of 1997 in the East-Asian economy. What happened? There was a total collapse of the economy because of the involvement of corrupt bureaucracy. That experience is there in the South-

East Asian countries. Sir, we are discussing a very serious matter. It may repeat recur in our country. If this condition prevails, it may recur in our country. It is against the basic foundations of democracy. It also increases poverty, subverts the financial system and undermines the legitimacy of the State. Thus, corruption is anti-poor, anti-development, anti-growth, anti-investment and inequitable. The cost of corruption to a nation is very high. There is a perception that corruption begins at the top. Because of that perception, we have to refer to this Bill.

With regard to CVC, we have had so many experiences. Our CVC, when it was a one-member CVC, took initiatives to curb corruption and intervened to identify the corrupt officials and the corrupt bureaucrats. What has happened? The former CVC started a website which published the names of senior officers who were charged with violating the conduct rules. On that website, he had displayed the names of senior officials of the Government of India, including the IAS and IPS officers. That caused a mild furore in the media. One of the IAS Officers' Associations passed a resolution against the CVC stating that the publication of a name on the website could bias the process of a departmental inquiry.

(THE DEPUTY CHAIRMAN in the Chair)

Then, the CVC website came out with some other report. As per that report, in the banking sector, over a dozen departments, especially loans and advance wings of six banks have been identified as corruption-prone despite the fact that the administration has launched several preventive measures to check the menace. In the banking sector, the CVC has named certain departments of State Bank of Patiala, Canara Bank, State Bank of Indore, Syndicate Bank and Bank of Saurashtra as extremely corruption prone.

With regard to the DDA, the CVC asked them to keep the suspected officers under surveillance and prepare a list of officers of doubtful integrity. Now, what had happened? Even after the CVC had given such an instruction, there was a scam in the DDA! Even if the CVC gives some instructions and expresses its apprehensions, no action is taken. The CVC has also written, at least, three letters, on June 28, July 7 and July 15 of 2002, to banks, asking them to comply with the CVC's instructions and the CVC's recommendation for penalty and launching criminal proceedings against the corrupt officials, but there was no response from the Administration.

Madam, you are also aware of the arrest of Mr. B.P. Verma, Chairman of the Central Board of Excise and Customs (CBSC)--an agency that provides the Central Government with half the revenue to keep itself running; that showed how the system has for years been rewarding the corrupt with promotion and career advancement.

Madam, the value of assets owned by Mr. Verma was nearly Rs.40 crores. He was on a vigilance watch-list for some years, but not miss his opportunities to rise in the hierarchy of the India Revenue Service. This is the situation. The top official who was collecting half of the revenue was under surveillance, and he had been promoted! Madam, we had that experience. Before that, the CVC, Mr. Vittal, was also informed about the background of this fellow. Despite that, his name has been cleared even by the PMO as the Chief of the CVC. This is the situation! In this situation, naturally, this country needs an enactment to provide more strength to the CVC. That is why, there is an intervention from the apex Court. Now, the Bill is in front of us. Naturally, I have to support some aspects of this Bill which is going to provide more powers to the CVC. Here, Madam, we have given a statutory status to the CVC; it is a good step. Similarly, we have decided to increase the number of members in the CVC. Naturally, this also would be a step forward. Shri B.P. Jeevan Reddy, the Law Commission Chairman, has expressed the view that the CVC should be a multi-member body with persons from specialised fields like finance, law, administration and vigilance. This would strengthen the CVC. In this Bill, we are making provisions for strengthening the CVC. I am supporting both these clauses.

But, unfortunately, there are still so many limitations in the existing Bill. One is related to the clause of single directive. This itself is becoming a serious issue. The critics of this Bill say that this is a vicious clause. How can this happen? It means the senior bureaucrats will have double protection, both from investigation and from prosecution. That is the impression created. We are giving more powers to the CVC. We are giving the CVC statutory powers. It became a multi-member institution. But this clause is staring in the face of the public as one of the serious defects in the Bill. What is the position? It should be explained to the public.

Madam, there is a feeling that this Government is always helping corrupt elements in the society. There is such a feeling among the public. There are certain instances. When Shri George Fernandes became the Defence Minister of this country, he asked the CVC to specifically look into the allegations about the role of middlemen and agents in Defence deals

and any involvement of them in Defence-related purchases had been banned. He gave instructions to the CVC. As a reciprocal gesture, the CVC had given a list of such officials. But what was the response of the Ministry? They did not take any action. They took only one action and through that action the Government allowed the agents and middlemen to get into the lucrative Indian arms bazaar. Shri George Fernandes requested for one thing and he performed a totally different thing. Similarly, this issue is very serious.

Today, this morning an issue was raised with regard to the Report of the CAG special inquiry into Operation Vijay. What has happened? In this House, yesterday, they submitted the PAC Report and I quote:

"Since the Public Accounts Committee are seized of the examination of the Report of C&AG dealing with procurement transactions during 'OP Vijay', PAC desired the Ministry of Defence to make available the CVC Report on Defence deals for reference. The Ministry, however, declined to submit the CVC Report to the Committee on the plea that 'it is based on secret and top secret documents' and, therefore, 'it would be prejudicial to the interest of the State'. As a matter of fact, while the Ministry entrusted both C&AG and the CVC with inquiring into the defence deals, an anomalous situation had arisen where findings of C&AG were made public, whereas 'secrecy' has been claimed under Rule 270 of the Rules of Procedure and Conduct of Business in Lok Sabha in respect of the findings of the CVC. The Committee are surprised that such a vital document which was considered essential for scrutiny of these procurements has been withheld from them on the ground of secrecy.

In the face of refusal by MOD in supplying the CVC Report, the Committee regret their inability to give their findings on the defence procurement transactions reported in the C&AG's Report on "Review of Procurement for 'OP Vijay' (Army)."

Madam, this is the situation. Here the Government is not at all transparent. The Government says one thing and does another thing. When the Government comes with this type of a Bill, the general impression is that this Government is not for curbing the menace of corruption in the bureaucracy. The Government is creating an impression that they are with the corrupt elements. They are not stopping corruption in the

bureaucracy. The CVC had no objection to give details about whatever information it had. But that has not been done. So far as Tehelka issue is concerned, so many revelations were made. But there has been no action. Take the Ayodhya issue. So far as the CBI is concerned, there is interference of the Government. This is the practice which is being followed in our country. There is political interference in each and every issue. Whether it is the Tehelka issue or any other issue with the CBI, there is political interference. So far as the Defence deals are concerned, the CVC is ready to give the details but the Government is not ready. Madam, you know what had happened in regard to the allotment of petrol pumps. So this is the situation. There is some collaboration between the Government and the bureaucracy. That is why corruption is increasing day by day. Now they have come forward with this Bill. Can the Government assure that this Bill will help to curb corruption? Will it help to curb corruption in the bureaucracy? Will it not prove to be an additional safeguard for corrupt bureaucrats in our bureaucracy? These things need to be clarified. Will you permit this institution to work independently? Will you permit autonomy to this institution? Or will it be another institution to camouflage the misdeeds of the bureaucracy? These questions need to be answered. The Government should ensure that there is no political pressure on these kinds of institutions; otherwise, a wrong message will go outside and Parliament also will have a bad name. We do not want to permit any kind of corruption in our country. Mahatma Gandhi said, "Corruption itself is a criminal act". We should not permit any kind of criminal act. Unfortunately, whatever the Government has done so far, that is not at all transparent. In such a situation, you have to explain your position in regard to the issues and lacunae raised by the Members. We should not give an impression to the people that the court is trying to curb corruption and Parliament is promoting corruption. No such message should go outside. Therefore, you have to explain why such a lacuna is there and why you are providing some safeguards. These things have to be explained. No such message should go to the public. But I am not expecting anything from this Government. The Government says one thing and does something else. They have to show in practice the goodwill behind this Bill. Thank you.

उपसभापति : प्रो० रामगोपाल यादव । आप पार्टी के टाइम पर बोलें ताकि यह समय पर खतम हो जाए।

प्रो० रामगोपाल यादव (उत्तर प्रदेश) : मैं कितने मिनट बोलूँ?

उपसभापति : आप 9 मिनट बोले। आप तो बहुत ही अनुभवी हैं, बहुत कुछ बोल सकते हैं।

प्रो० रामगोपाल यादव : मैडम, अगर कोई कानून इस उद्देश्य से लाया जाता है कि वह भ्रष्टाचार पर प्रभावी ढंग से अंकुश लगा सके तो एक अच्छी बात है। लेकिन यह जो विधेयक है, इससे हमें यह लगता है कि इसमें कुछ ऐसी खामियां जानबूझकर छोड़ी जा रही हैं जिनकी वजह से पब्लिक सर्वेन्ट्स अगर बड़े पदों पर हैं तो उनके खिलाफ कार्यवाही करने में दिक्कत होगी। जैसा अभी हमारे साथी ने कहा, उनके लिए प्रोसिक्यूशन के लिए गवर्नमेंट की पूर्वानुमति चाहिए। वह पूर्वानुमति मिलने में बहुत दिक्कतें हैं। तो एक तरफ यह भी लगता है कि हम भ्रष्टाचार पर अंकुश लगाने के लिए कार्यवाही करने जा रहे हैं और दूसरी तरफ उसी में यह लेकर छोड़ दिया जाता है ताकि जो बड़े-बड़े मगरमच्छ हैं उनको बचाया जा सके। इस विधेयक में जो इस तरह की कमी छोड़ी जा रही है इसके लिए हम इसका विरोध करने के लिए खड़े हुए हैं। कभी राजीव जी ने पूरे हिन्दुस्तान में कहा था कि हम लोग अब देख रहे हैं, यह कितना सत्य था कि जो पैसा यहां से चलता है, वह नीचे तक पहुंच ही नहीं पाता। अब स्थिति इतनी खराब हो गई है कि संसद सदस्यों के लिए जो पैसा जाता है लोग उससे भी पैसा लेने की कोशिश करते हैं। अगर कहीं, किसी तरीके से भ्रष्टाचार को रोकने के लिए कोई कार्रवाई हुई है तो उस पर प्रभावी ढंग से कोई कार्रवाई नहीं हो पाई है। मैं माननीय मंत्री जी से यह जानना चाहूंगा कि जब माननीय सर्वोच्च न्यायालय ने इस आधार पर इसे स्ट्रोक डाउन किया था कि आप एक डिस्कमिनेशन कर रहे हैं कि अगर एक निश्चित पद से नीचे के अधिकारी हैं तो उन्हें यूं ही प्रोसिक्यूट किया जा सकता है लेकिन अगर ज्वाइंट डायरेक्टर या उससे ऊपर के पद के अधिकारी हैं तो उसके लिए अनुमति लेनी पड़ेगी, इसी आधार पर इसे रद्द किया गया था तो ऐसी क्या जिद है कि उसी चीज को फिर से यहां लाने का प्रयास किया जा रहा है? वह गड़बड़ी जिसे सुप्रीम कोर्ट ने प्वाइंट आउट किया था, अगर उसे रिमूव करके इस सी.पी.सी. विधेयक को लाया जाता तो इससे क्या नुकसान हो सकता है? ऐसा क्यों प्रतीत होता है? हम लोग पार्लियामेन्ट्री डेमोक्रेसी के बारे में पढ़ा करते थे। ब्रिटिश सिस्टम के बारे में पोलिटिकल साइंस के लोगो से सवाल पूछा जाता था कि मंत्रियों की स्थिति क्या होती है? उसमें जबाब यह था कि कुछ लोग तो ऐसे होते हैं जो डॉटिड लाइन पर दस्तखत करते हैं, कुछ ऐसे होते हैं जो अपने आदेशों को कानून के हिसाब से देखते हैं और तब दस्तखत करते हैं और कुछ ऐसे भी होते हैं, जो इम्प्लिमेंट करवाना चाहते हैं किसी को और उस तरह से आदेश करते हैं। अगर डॉटिड लाइन पर दस्तखत करते वाले मंत्री होंगे कि जैसा अधिकारी बिल बना दें उसी को अपने विवेक का प्रयोग किए हुए बिना ही पेश कर दें तो लोग बचते रहेंगे क्योंकि जिन लोगो को बचाने की कोशिश की जा रही है, यह सब उन्हीं के जरिए तैयार हुआ है। मेरा आपसे अनुरोध है इस विधेयक के संबंध में कि आप इस सदन को जरूर आश्वस्त करें कि इस तरह की कोई दिक्कत नहीं आएगी कि अधिकारियों को बचाने की कोशिश की जाएगी। जब अधिकारी बहुत बेईमान हो जाता है, बहुत पैसा कमाने लगता है तो इस सीमा तक गड़बड़ी होती है। कोई जांच तो होती नहीं है लेकिन वे बहुत कमजोर होते हैं। कुछेक राज्यों के बारे में आपको भी जानकारी मिल रही होगी कि बड़े-बड़े सीनियर आई.ए.एस. ऑफीसर्स को बुलाकर कहा गया कि तुमने पचास लाख का मकान नोएडा में बनवा लिया, हमारे नाम लिख दो, लिख दिया। ऐसा कई राज्यों में हुआ है। मैं नाम नहीं लेना चाहता हूँ लेकिन बड़े-बड़े सीनियर, प्रिंसीपल सेक्रेट्री और सेक्रेट्री तक के अधिकारियों ने अरबों रुपया कमा लिया लेकिन इस डर की वजह से कि उन्हें प्रोसिक्यूट न किया

जाए, मुख्यमंत्री ने कह दिया कि मकान लिखो, मकान लिख दिया। आप जांच करा लीजिए... (व्यवधान)...

श्री भारतेन्दु प्रकाश सिंहल (उत्तर प्रदेश) : आप हमें इन्फोर्मेशन दे दे तो बड़ी कृपा होगी।

प्रो० रामगोपाल यादव : मैं इन्फोर्मेशन दे दूंगा, आप बाहर चलिए।

श्री भारतेन्दु प्रकाश सिंहल : लिखकर दीजिएगा। मैं इसको कैम्पेन करूंगा।

प्रो० रामगोपाल यादव : मैं इसको लिखकर दे दूंगा। मैं यहां नाम नहीं देना चाहता हूं। मैं अभी आपकी लॉबी में लिखकर दे दूंगा कि किस-किस आई.ए.एस. अफसर का मकान, कहाँ-कहाँ, किस नम्बर का मकान, किसके नाम उत्तर प्रदेश की मुख्यमंत्री ने लिखवाया है। मैं अभी बाहर लिखकर दे दूंगा। अगर हिम्मत है तो जांच कराइए। आप जांच नहीं करा सकते हैं। आपकी सारी पार्टी जांच कराने के लिए कह रही है लेकिन दो-तीन लोगो के अलावा किसी की हिम्मत नहीं है। सारी पार्टी चाहती है कि जांच हो लेकिन आई नो इट कि आप मुंह नहीं खोल सकते हैं। इसलिए मैं कह रहा हूं कि ये जो बड़े-बड़े अधिकारी हैं इनके करप्शन की जांच के लिए जो अनुमति की जरूरत है, वह क्लॉज खत्म कर दीजिए। ये खत्म नहीं करेंगे तो इससे कोई काम बनने वाला नहीं है। लोग जानते हैं कि जितना चाहो उतना कमा लो, उसका थोड़ा हिस्सा कुछ जगह दे देगे क्योंकि उन्हें अनुमति कभी नहीं मिल सकती। इसलिए इस रिजर्वेशन के साथ, मैं ज्यादा नहीं कहना चाहता हूं क्योंकि यहां आदरणीय जेठमलानी जी, नरीमन साहब जैसे बड़े-बड़े विद्वान लोग बैठे हैं, इस पर मैं क्या ज्यादा बोलूंगा। मैं कुछ नहीं कहना चाहता। मेरा एक रिजर्वेशन था। इसके साथ मैं अपनी बात खत्म करता हूं। बहुत-बहुत धन्यवाद।

SHRI P. G. NARAYANAN (Tamil Nadu): Madam, in pursuance to the recommendations of the Committee on Prevention of Corruption headed by Shri Santanam, the CVC was set up in the year 1994 through a Resolution. The said Resolution provided that the Central Vigilance Commissioner would be attached to the Ministry of Home Affairs. But, in exercise of its powers and functions, it will not be subordinate to any Ministry and it will have the same measure of independence and autonomy as the Union Public Service Commission has. In September, 1997, the Government constituted an independent Review Committee, comprising of Shri P. G. Deshmukh, Shri V. V. Giri and Shri N. N. Vohra, to suggest measures for strengthening anti-corruption activities as part of its efforts against corruption. One of the recommendations made by the Committee was the conferment of statutory status on the CVC, along with the restoration of the provision relating to the appointment of the Central Vigilance Commission. The Committee had also recommended that the CVC should be made responsible for the efficient functioning of the CBI.

Subsequently, the hon. Supreme Court, in the year 1997, in Vineet Narain's case -- which is, probably, known as the Jain Hawala Case -- had given the direction that statutory status should be conferred on the CVC. Then, in the year 1998, two Ordinances had been promulgated to comply with the directions of the Supreme Court; and, subsequently, the Bill was introduced in the Lok Sabha. The 12th Lok Sabha was dissolved on 26th April, 1999 and, consequently, the CVC Bill lapsed. The Supreme Court judgment had declared the singular directive null and void. The singular directive was a set of Executive instructions issued by the Central Government, prohibiting the CBI from undertaking any inquiry or investigation against any officer of the rank of Joint Secretary and above in the Central Government, without prior sanction of the Head of Department. The Court found it bad in law on two grounds -- one, it required Police to seek permission from the Executive to initiate investigation into a criminal offence; two, it violated the canon of equality in the application of law. The exemption -- extended to the senior officers from even being enquired into by the CBI without the Government's permission -- is now being accorded legal sanctity. The Committee has tried to justify the restoration of this single directive on the ground that no protection is available to the person at the highest decision-making level. It is noteworthy to mention that the protection against the prosecution, without the sanction of the Government, is already available to all public servants under Section 197 of the Criminal Procedure Code and Section 19 of the Prevention of Corruption Act.

Madam, even Kautilya, in his *Arthashastra*, says that it is not possible to stop fish from drinking water. So, corruption has always been a part of our public life. This position has to change. Corruption has to be fought because it is anti-poor, anti-national and anti-economic development. In brief, the CVC should be given statutory power, and the provision of the Bill is to be implemented in letter and spirit to eliminate the cancerous corruption from our system.

THE DEPUTY CHAIRMAN: *Mantriji*, before I call the next speaker, I have two observations to make. Being a Member of this House, I feel that you should protect the dignity of this House also. I am not saying that your Bill brings any indignity to this House. But if you read Clause 4(1), it says that the Committee will consist of the Prime Minister, the Minister of Home Affairs and the Leader of the Opposition in the House of the People. It also gives Explanation as to what is meant by the Leader of the Opposition. Now, why is Rajya Sabha not included in it? The Leader of the Opposition

in the Rajya Sabha holds an equally important position. And I would like you to consider why Rajya Sabha is being treated differently. The Rajya Sabha is a permanent House and the House of Elders; I think it would be proper if the Leader of the Opposition in the Rajya Sabha is also included in it.

The second observation that I want to make is this. Of course, I am going to write about it to the Law Minister also. Now that we accept that women would be holding various positions, I still notice that, in our legislations, we generally write 'he'; in every Clause, you have written 'he'. How do you assume that no woman will ever become the Chairman of the Commission?

SHRI B. P. SINGHAL (Uttar Pradesh) : Madam, ...

THE DEPUTY CHAIRMAN: Just one minute. Please do not interrupt. This is a serious matter, and I am very serious about it. It is no matter of joke.

In IPU, I have got the entire language changed and made it gender-neutral. We cannot keep on assuming that only men are going to hold these positions; women also are going to hold these positions. Very eminent jurists are sitting here. If it is 'he' only in your Bill, it means a woman is discriminated against, because she cannot become the Chairman of the Commission according to your Bill. You are talking only about a man, not a woman. ...*(Interruptions)*...No, I do not agree with the General Clauses Act. Even the General Clauses Act needs to be changed. I do not believe that 'man' includes 'woman'; in fact, I feel 'woman' includes 'man', if you look at the spellings of the word 'woman'. ...*(Interruptions)*...

SHRI C. P. THIRUNAVUKKARASU (Pondicherry) : Madam, you can say 'she', and we can amend the General Clauses Act by saying that it includes 'he' also. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Yes. I do not want to discriminate against men too. I want that our legislations should have proper language. So, please take care of it. Of course, I will write to the Law Minister.

श्री लालू प्रसाद (बिहार) : मैडम, उपस्थिति बहुत कम है।

उपसभापति : ठीक है। आप बैठिए।

श्री लालू प्रसाद : नहीं, नहीं। ठीक नहीं है।

उपसभापति : श्री सी० पी० तिरुनावुक्कारासु। ...**(व्यवधान)**...

श्री लालू प्रसाद : कोरम पूरा है, लेकिन उपस्थिति कम है।

उपसभापति : लालू जी, मैं आपसे रिक्वेस्ट करूंगी कि अगर आपको इस बारे में चिंता है तो आप सेंट्रल हाल में जाकर जो मैम्बर सदन से बाहर बैठे हैं उन्हें बुला लाइए।

श्री लालू प्रसाद : घंटी बजाइए, न। यह काम मेरा नहीं है।

उपसभापति : तो मेरा भी नहीं है, लालू जी।...**(व्यवधान)**...

श्री लालू प्रसाद : आप घंटी बजाइए तो आ जाएंगे।

उपसभापति : लालू जी, घंटी बजाने के भी नियम हैं। अगर कोरम नहीं होगा तो घंटी बजेगी। मुझे लगता है,....**(व्यवधान)**...

श्री लालू प्रसाद : मैंने कहा कहा कि कोरम नहीं है। मैंने कहा कि बहुत कम उपस्थिति है।

उपसभापति : बहुत कम उपस्थिति के लिए...**(व्यवधान)**... अब बहुत कम उपस्थिति के लिए चेयरमैन या पार्लियामेנטरी अफेयर्स मिनिस्टर, किसी के हाथ में कोई सत्ता नहीं है कि मैम्बरों को पकड़ कर लाएं। आप हाऊस में नहीं थे, जब मैंने कहा था कि अगर मैम्बरों को इतने इम्पोर्टेंट लेजिस्लेशन पर कोई इंटरेस्ट नहीं है तो मजबूर उन्हें कोई नहीं कर सकता। बोलिए, तिरुनावुक्कारासु।

श्री लालू प्रसाद : हम लोगो का इंटरेस्ट खूब है। समय नहीं मिलता बोलने के लिए।

उपसभापति : आपका तो सात मिनट ही है।

श्री लालू प्रसाद : सात मिनट में कोई काम चलेगा।

उपसभापति : पता नहीं। अब इन्होंने तो अपने टाइम से कम में बोल दिया और बहुत अच्छा बोला।

SHRI C. P. THIRUNAVUKKARASU : Madam, after the *Hawala* case in December, 1997, the Supreme Court had observed in its judgment that statutory status should be given to the Vigilance Commission. The Bill has been introduced. Now, my submission is that the Bill does not have any tooth. As per the Bill, the power vested in the CVC is only soda power; it is not real power. Section 6A of the amending Bill, with regard to the Delhi Special Police Establishment says, "The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988, except with the previous approval of the Central Government where such allegation relates to the employees of the Central Government of the level of Joint Secretary and above..." My submission is, there is a prohibition even for

conducting an inquiry by the CBI. There is a prohibition for investigation also. The investigation starts when the FIR is registered. But, conducting that inquiry and further investigation by the CBI has been prohibited by way of clause 6(a). So, as far as this clause is concerned, prior to the Hawala case, a notification was issued by the Government of India to the CBI. As per that notification, before starting any proceedings under this Act, as against the Joint Secretary, with regard to inquiry and investigation, you should get the permission. As against that particular provision, in a judgement, the Supreme Court had set aside that single directive which had been issued. My only submission to the hon. Minister is, once the Supreme Court has said that the directive that had been issued by the Government of India to the CBI is null and void, the same provision has been incorporated as clause 6(a) in the Bill. My submission is this. I am having a clear doubt that clause 6(a) will be set aside by the Supreme Court again. Then, what is the necessity of giving special privileges to the Joint Secretaries? If you want to make an inquiry, if you want to make an investigation, you should get the prior permission of the Government. What is the special thing that you want to give to the Joint Secretary and above ranks? The Members of Parliament, MLAs and others have been prosecuted even without registering FIRs. They need not make an inquiry at all. They can straightaway go and enter into the house, see the property and make all sorts of charges under the Prohibition of Corruption Act because the Members of Parliament are treated as public servants. They can file all sorts of cases against them. But, what sort of privilege is that which has been given to the Joint Secretaries? All the Government servants, all the bureaucrats want to enjoy the same privileges which they are enjoying, as it is. So, the CBI has not been entrusted with any powers by clause 6(a) of the Bill. With great respect, I submit that it will be struck down by the Supreme Court.

Madam, much is said about clause 17(1), which proves that the CVC is not having any teeth at all. Clause 17(1) says, "The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action." They are entitled to suggest further course of action.

Then, it says, "(3) The Central Government or the corporation established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government as the case may be, shall consider the advice of the Commission and take appropriate action." So, they can advise.

Further, they say in a proviso, "...does not agree with the advice of the Commission, it shall, for reasons to be recorded in writing, communicate the same to the Commission."

So, the Commission will make an inquiry on all the matters and transmit the matter to the concerned Government or the authorities. The authorities, after perusing the Commission's report, need not agree with the same. They can do so without giving any reasons; it may be with a reason, or without a reason. They can communicate the same to the Commission that they are not agreeing with that. So, the whole time of the CVC has been wasted by that. If the CVC is not having any power -- you do a particular thing in a particular way -- if its advice is not being accepted by the Government, then, what is the power that has been given to the CVC? The CVC has no power at all, under the Bill.

Madam, after 1995 Hawala case judgement and before the introduction of this Bill, several things have been done by Shri N. Vittal. As has been pointed out by the previous speakers, he raided several houses of the IPS officers, IAS officers and other people. In order to give benefits to those people, clause 6(a) is sought to be introduced in the Bill.

Madam, the final point I would like to mention is regarding Clause 23(1). It says, "If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act." Why should there be an embargo of two years? Different people can interpret legislation in different times in different ways. The Supreme Court interprets the provisions of an Act in different ways at different times. And, according to the interpretation of the Supreme Court, you are bound to follow the directions. Or, issue a different sort of directions. Why should there be an embargo that within two years you have to make an amendment? Otherwise, you are not entitled to make any amendment. It means you want to keep the law as it is throughout. So, with due respect, I say that we would have paid more attention had we

enacted this before. Now, we are giving to it the statutory power, but without any teeth. Hence, I request that this may kindly be taken into consideration by the hon. Minister. Thank you.

PROF. SAIF-UD-DIN-SOZ (Jammu and Kashmir): Madam Deputy Chairperson, I welcome this Bill. But, I regret that this has come before this House very late. This Bill could have been passed in 1999 itself. This is acceptable because it has passed through the Standing Committee and the Committee gave its recommendations. It is all right. I think the cross section of this House will rise to pass this Bill. But, there are some painful features which must be mentioned here. For me this job is not very easy. Speaking on this Bill, in the presence of the top jurists -- Shri Fali S. Nariman, Shri Ram Jethmalani, Shri Kapil Sibal, who are not here; we are proud of them -- of the country, for a layman like me that too on judicial matters is not easy. But, I want to convey to these legal luminaries that unless they hear the public perception -- it comes without any technicalities to the House -- as to how people perceive these measures taken by Parliament, how do they know about the public opinion? So, therefore, it is good that Shri Nariman and Shri Ram Jethmalani will speak after me. Let them have a feel as to how the people of India in cities, towns and villages think of these legal measures.

I raise a bigger question connected to this. The founding fathers had earmarked the jurisdiction for the executive, legislature and judiciary. But, maybe, since the executive is sluggish, is not doing its job properly, the judiciary has come into its arena in a big way. And, the most painful feature of this Bill, Madam, is we are not enacting this on our own. We are doing under the directions of the Supreme Court. The Supreme Court wanted to give a statutory status to the C.V.C. We are here obeying the orders of the Supreme Court of India. It is a painful feature, because the founding fathers have proved, to some extent, wrong. India has changed. I find the Parliament in decline. I do not know what Shri Ram Jethmalani will say later while speaking on this Bill. I would like Shri Ram Jethmalani and Shri Nariman to comment on what I am saying. This is a painful feature. We are obeying the orders of the Supreme Court! It is not a small matter. It will reflect on very big issues in future in Parliament. I find that Parliament of India is in decline. We could have passed this Bill in 1999 itself. We have delayed and a judgment of the Supreme Court was quoted here. I will also quote a couple of lines from that judgment. Doing this under the direction of the Supreme Court takes away the shine of this measure. We

will discuss and express many thoughts on it. But the real credit will go to the Supreme Court of India. It happened so many times. Madam, even the Dehi High Court passed orders to remove garbage in Delhi because the executive had become sick. So, we have look into this question again and again in Parliament. What is the justification of the executive? What is the jurisdiction of legislature? And what is the jurisdiction of the Supreme Court and the High Courts in India? Why do I say that it is a painful feature? A judgement of the Supreme Court has often been quoted by many people here. I think, the hon. Shri Fali Nariman and Shri Jethmalani would also quote that. I will quote only two lines from that paragraph. लालू जी, यह मैं आपकी खिदमत में अर्ज कर रहा हूँ कि जो एक्जीक्यूटिव को करना चाहिए, वह सुप्रीम कोर्ट कर रही है और यह आइंदा के लिए पार्लियामेंट के लिए बहुत गलत होगा। I will revert back to the paragraph of the judgement of the Supreme Court in Vineet Narain case. I will just quote the last two lines, Madam. They say something about IRC etc.etc., and, finally, it is mentioned, "These directions require strict compliance, adherence of the Union of India and all concerned." Now, you kindly consider the judgement of the Supreme Court of India. Maybe, the provocation came from the Union of India. The High Court can do it tomorrow; there is no restriction. Never before this judgement, never before, has this word been used for the lawmakers. We are the Parliament of India, we are the representatives of the people of India; of one billion people, and we are the lawmakers, and we have to obey the order of the Supreme Court of India. I say this with emphasis; we have to show utmost respect to the Supreme Court of India. If we do not show respect to the Judiciary, who else will? We are bound by convention. We are bound by tradition. We are bound by the Constitution of India to show utmost respect to the Supreme Court of India. I think this expression is not in good taste. Because we have been directed to comply with the orders of the Supreme Court and adhere to it. Therefore, my grouse is that the Executive has become too sluggish and it gives handles to the courts, maybe, to the lower courts, to high courts, and finally, the Supreme Court also. And this judgement is an alarm for the Parliament of India. A vibrant Parliament, of a vibrant democracy has allowed the Supreme Court to say what it has said. Madam, coming to this Bill, I would like to say that corruption has assumed enormous proportions. One cannot go into the details because, everyday, there is paucity of time. I cannot go into what happened during the Second World War or how much money was required for reconstruction and development all over the world. And in our country, since 1947, that is, since we became independent, enormous public

spending has taken place. So, this public spending has, in part, pumped corruption into the society. One does not know what will happen in future. We are rated as a corrupt society. We are rated as one of the most corrupt among the countries of Africa, Asia and Latin America. Somebody quoted the graph and said that we are positioned at 73. Sometimes, it was a little above or below. But we are rated, internationally, as a corrupt society. I think, we have not yet found a very definite measure to stop corruption in this country. The measure which is before us; apparently, this is a measure to empower the CVC. But I find so many restrictions enshrined into the very Bill. Legal luminaries and jurists will go deeper into that. There are so many restrictions that I think, the CVC will not be able to do its job properly. I think, many of us are afraid of the CVC, particularly, the Government of India. I will briefly invite the attention of the House to Clause 8. It is full of restrictions for the CVC, so it may not be able to perform well. Now, the sub-clause (c) of clause 8(1) says and I quote: "inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act..." So, CVC cannot do anything *suo motu*. If under the very nose of CVC corruption takes place, it cannot do anything. It will act, inquire, investigate only when the Government of India refers the case to the CVC. Therefore, CVC's independence is totally restricted by this clause.

Now, let us go to clause 8(1)(a). The Bill provides that CVC will be in a position to exercise superintendence over the working of the CBI. In fact, CBI is not mentioned in this Bill, it should have been mentioned. I quote what is mentioned here, "exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act..." Now Delhi Special Police Establishment Act also covers CBI, but CBI has become enormous for this country. There may be so many Inquiry Commissions within the Ministries. They are not totally relevant to the entire country. They are in compartments, but CBI is a national institution. It could have been said in the Bill, "including CBI". Now, CBI does not seem to be controllable these days. The entire Opposition, in both Houses, have found fault with the working of CBI. Some questions were raised here. The whole discussion was to be declared *sub judice*. In fact, CBI's conduct cannot be *sub judice*. We are the people who must investigate into these Institutions. Ultimately, the whole

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judiciary is answerable to the Parliament of India. The Parliament has become very weak. In fact, earlier, when the Inter-Parliamentary Conference was taking place, we were told that hon. Attorney-General of India feels that in case of disinvestments, Parliament is not needed to be consulted. I had the courage to raise the question whether that shows Parliament is in decline. Now, here, Parliament is told that the CBI cannot be looked into, and Parliament, by and large, kept quiet. There was some sort of *hungama*. On that question, the Parliament could have risen to the occasion. And you could have told the nation that CBI is answerable to this House. That has not taken place, and now, today, we have the CVC which will look into these Commissions; these Inquiry Tribunals or whatever they are called in Ministries. The CBI is not even mentioned here. It could be said, "including CBI." Now, CBI cannot be supervised by CVC at all, because of the restrictions. Because, earlier I said, in sub-clause (c) of clause 8, that nothing could be looked into by CVC unless the Government of India sanctions. Unfortunately, the Government of India, at this point of time, is not prepared to examine the working of CBI. A large question mark has been put for the first time on the CBI, and CBI is answerable to this House directly. The Government of India takes birth from the Parliament of India. Once the Government is constituted, it feels independent. It is not answerable to Parliament of India. Therefore, CVC will not have any teeth. It is just an eye-wash. This measure does not empower CVC. Now, sub-clause (h) of clause 8 (1) is a further restriction, through this proviso. Now, the proviso is, "provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the vigilance administration, in a manner not consistent with the directions relating to vigilance matters issued by Government and to confer power upon the Commission to issue directions relating to any policy matters."

So, it is a total restriction. CVC cannot function even an iota more than it is functioning now. So, even though we appreciate the Bill, I say that through these restrictions, CVC will be rendered action-less; it cannot take any action. If there is a person in the Chair, he may do something, like the present incumbent is doing.

Therefore, Madam, this Bill is acceptable, I support this Bill. What I ask is a question. If you intended to empower CVC, could you not have done it earlier, because you are doing it under the directions of the Supreme Court of India? Secondly, you have imposed restrictions and you

want to make CVC toothless. It will not have any muscle to grapple with the growing levels of corruption in this country.

The finale to this Bill, Madam, is that at present, hon. the Prime Minister, hon. the Home Minister, and the Leader of the Opposition in the House of the People will constitute a body that will select CVC. But unfortunately, our hon. Home Minister is an accused person. In the Hawala case, I saluted the man in the Chair, the Deputy Prime Minister, because he had resigned from his post, went to polls again and सिर्फ उन्हीं का सियासी कद दराज नहीं हो गया, the whole country celebrated and said that here was a man of integrity. But today, he is accused. As long as he is accused, he cannot be a member of the body, which will elect, select, and appoint the CVC of this country. Thank you very much.

THE DEPUTY CHAIRMAN : The House is now adjourned for lunch.

The House then adjourned for lunch at two minutes past one of the clock.
The House re-assembled after lunch at two minutes past two of the clock.

[THE DEPUTY CHAIRMAN in the Chair]

उपसभापति : लालू जी, आप बोलिए।

श्री लालू प्रसाद : मैडम, आप ख्याल रखती हैं, इसलिए आपको धन्यवाद। महोदया, यह जो सैन्ट्रल विजिलेंस कमीशन का जन्म है, यह इस देश में सरकारी कर्मियों में चारों तरफ व्याप्त भ्रष्टाचार और हर स्तर पर इसकी जो गूँज सुनाई देती रही है, वह आज से नहीं, लगातार भ्रष्टाचार-भ्रष्टाचार की चर्चा होती रही है, एलीगेशन लगते रहे हैं। एलीगेशन लगने से कोई आदमी दोषी नहीं होता तो उसे न्यायपालिका देखती है। सुप्रीम कोर्ट ने यह व्यवस्था दी, यह जजमेंट दी कि पब्लिक सर्वेन्ट, जिसमें संभवतः मैजिस्ट्रेट ऑफ पार्लियामेंट और लेजिस्लेचर्स एक्सक्लूडेड हैं, ऐसे मामलों से निपटने के लिए एक सशक्त संगठन का बनना जरूरी है और सरकार को बनाना चाहिए, इसलिए इस संगठन का जन्म हुआ। इसीलिए मैं इसका इतिहास बताना चाहता हूँ। इसमें पीएम, डिप्टी पीएम, लीडर ऑफ द ओपोजीशन, लगता है उस समय डिप्टी पीएम नहीं थे, पता नहीं, यह तो उधर से डिप्टी पीएम का उदय हुआ, अब कैसे डिप्टी पीएम आ गए ... (व्यवधान)...

कृषि और ग्रामीण उद्योग मंत्री (श्री सच प्रिय गौतम) : 1977 में दो-दो रह चुके हैं।

श्री लालू प्रसाद : आप रुकिए न, आपका हम लोग आदर करते हैं तो आप याद करा देते हैं, ठीक है, पीएम, डिप्टी पीएम और जो विरोध पक्ष के नेता होंगे। इसके चयन में एक वृहत्त कमेटी नहीं, लेकिन एक अध्यक्ष और दो मैम्बर से इसका गठन हो गया। देश भर के लोगों को चारों तरफ पता था कि इस संगठन का, विजिलेंस कमीशन का जन्म हो जाने के बाद भ्रष्टाचार और भ्रष्टाचार की गंगात्री में डूबे जो लोग हैं, सरकारी पदाधिकारी हैं, जो भी इसकी परिधि में आते हैं, उनसे भ्रष्टाचार दूर हो जाएगा। अब ज्यों ज्यों हम उपाय कर रहे हैं, त्यों त्यों

भ्रष्टाचार में कोई कमी नहीं आ रही है। आज लोगों के तो यह स्लोगन हो गए हैं कि जो, बड़े लोग हैं, जब वे कानून बनाते हैं तो उसमें छेद, होल भी छोड़कर जाते हैं। बोलते हैं कि घन और घरती बंटकर रहेगी अपना अपना घर छोड़कर।

महोदया, इसमें देखा गया है कि ज्वायंट सेक्रेटरी से ऊपर के जो लोग हैं सरकारी तंत्र में, उनको इसके दायरे में नहीं लाया गया है, इससे नीचे के पद के जो लोग हैं, उन लोगों को इसमें लाया गया है और इसके ऊपर के लोगों पर अगर मुकदमा भी चलाना हो तो सरकार से अनुमति ली जाएगी। सरकार से बाहर करके जो भावना सुप्रीम कोर्ट की थी कि सरकार का इस पर कोई नियंत्रण नहीं होना चाहिए, वह भावना नहीं आ पाई। यही कारण है कि इसे संदेह की नजर से देखा जा रहा है। इसमें पहले जो चेयरमैन थे विट्टल साहब, जब यह संवैधानिक पद उनको मिला तो मीडिया के माध्यम से, अखबारों के माध्यम से और चारों तरफ से, जैसे टी0एन0 शोषण साहब इलेक्शन कमीशनर थे, बेलगाम हो गए और विट्टल साहब ने सारे पोलिटिशियन्स को घोर कहना, गाली देना, अपमानित करना शुरू कर दिया और चारों तरफ यह कहा कि इस देश के जो राजनेता हैं, पोलिटिशियन हैं, यही चोर हैं, यही बेईमान हैं। डा0 राम मनोहर लोहिया जी का कहना था कि सरकार के आने जाने से कुछ फर्क नहीं पड़ता, जब तक हमारा यह जो तंत्र है इस पर बदलाव नहीं होता तब तक कोई परिवर्तन नहीं हो सकता। कहना मैं यह चाहता हूँ, महोदया, कि हमारा अनुभव है, आज देश का यह अनुभव है कि जो भी आदमी अफसर बनता है, जो सरकारी सेवा में आता है उसे जो प्रोपर्टी डिक्लेयरेशन करनी होती है कि उसकी कितनी संपत्ति है, लेकिन इसको कराने में आज तक सीवीसी विफल रहा है, लाचार और वियश रहा है। अगर बड़े बड़े शहरों में देखा जाए, इन लोगों के मकानों को देखा जाय, इन लोगों के बेटे और बेटियाँ कहां पढ़ते हैं इसका अगर सर्वेक्षण सीवीसी ने किया होता तो लोगों को सजा मिलती, बताना पड़ता, एक्सप्लेन करना पड़ता। जहां तक कानून का है, जितने कानून बनाना है बना लीजिए, चर्चा कर लीजिए, लेकिन जो बेईमानी जारी है, भ्रष्टाचार जारी है, वह अपना अलग रास्ता बनाता है। इसमें काफी होल है, यह जो बिल लाया जा रहा है। लगता है इस बिल को दीमक जैसे चाट गई, उसी तरह का बिल यह आ रहा है।

महोदया, फिर सुप्रीम कोर्ट की यह भी भावना थी कि सीबीआई को इसके अंदर लिया जाएगा। आज सारे देश में चर्चा होती रहती है कि लोगों के पैसे हवाला में हैं, देश के बाहर हैं, यहां इंडस्ट्री में या कहां कहां लगे हैं, फार्म हाऊसेस में लगे हैं। ये बड़े बड़े पदाधिकारी, जिनको छोड़ दिया है इस प्रकार की जांच से, उनके बारे में सोचना होगा। इस देश में यह भी देखते हैं कि आदमी को पद मिल जाने से, जिसको जिम्मेदारी वाला पद दे दिया, उसका दिमाग खराब हो जाता है, वह मालिक बन जाता है, एबोव द ला, एबोव द कंस्टीट्यूशन बन जाता है। यह पब्लिक एकाउंट्स कमेटी का जो रोना है, जो इसकी रिपोर्ट है, इस पर चर्चा के लिए माननीय सभापति जी ने कहा कि मीटिंग होगी और उस मीटिंग में तय करके चर्चा यहां होगी, लेकिन यह जो दस्तावेज दिया गया, इसमें आप देखेंगी कि सीवीसी ने फाइल मांगी रक्षा विभाग से, सब लिखा हुआ है। वह तो जिस दिन चर्चा होगी, हम लोग बोलेंगे लेकिन जब उन्होंने फाइल मांगी और जिस समय ऑपरेशन विजय पर चर्चा हो रही थी, उस समय जॉर्ज साहब ने कहा था कि इस मामले को विजिलेंस कमीशन देख रहा है। मैं जानना चाहता हूँ कि क्या हमारे कानून का, संविधान का कोई औचित्य है? जो PAC है, इसको संवैधानिक दर्जा प्राप्त है। कहीं भी स्केडल होता है, कहीं भी पैसों का अपव्यय होता है, उसको देखने के लिए संविधान में CAG की

व्यवस्था है और राज्यों के मामले में AG की व्यवस्था है। राज्यों में जो एकाउंटेंट जनरल होता है, वह एक-एक पाई का, एक-एक पैसे का हिसाब रखता है और भारत सरकार के अंदर पार्लियामेंट के द्वारा जो सैंक्शन किया हुआ पैसा है, उसका कहीं अपव्यय होता है तो उसको देखने के लिए CAG है। इस तरह सबके नियम और कायदे बने हुए हैं। संविधान में साफ-साफ व्यवस्था है कि अगर कहीं भी स्केडल होता है, कहीं भी कोई घोटाले की बात होती है तो PAC में यह मामला जाएगा और PAC को संवैधानिक दर्जा प्राप्त है। सिर्फ एक दल ही नहीं, हर दल के, पक्ष के, विपक्ष के सारे मेंबरान उसमें होते हैं और हमने जो समझा है, सीखा है, हम बिहार राज्य के मुख्यमंत्री भी थे, हम समझते हैं कि सदन में जो lay होता है, वह सदन की संपत्ति हो जाती है। Lay होने के बाद एक-एक पाई का हिसाब PAC लेती है और वह रेजोल्यूशन एक प्रस्ताव के द्वारा सरकार में भेज जाता है कि अगर कहीं धांधली हुई है तो मुकदमा करना है और पैसा वसूल करना है। लेकिन इसका वॉयोलेशन हो गया और वह इस रिपोर्ट में है। रिपोर्ट में कह दिया कि हम नहीं दे सकते, यह गोपनीयता का मामला है। क्या गोपनीयता है? मैं कहना चाहता हूँ कि गोपनीयता के नाम पर इस देश में दो तरह की बातें चलती हैं। इसमें साफ-साफ लिखा हुआ है कि इसमें वे विफल हो गए और कमेटी किसी नतीजे पर नहीं पहुंच सकी।

हमारे जो रक्षा मंत्री हैं, जिनको हम लोग अभी तक recognise नहीं करते, उन्होंने कहा कि इसे कमेटी में देखा जाएगा। कई documents जो गोपनीय हैं, वे किताब लिखने के लिए दिए गए हैं लेकिन PAC वहां शिथिल हो गई। विजिलेंस कमीशन फाईल मंगाकर बोलता है कि हम नहीं दे सकते हैं। आखिर यह कैसे चलेगा? कैसे व्यवस्था चलेगी? इसलिए हम आपके सामने यह कहना चाहते हैं कि यह मामला साधारण मामला नहीं है। इस मामले को देखना चाहिए। अगर आप में हिम्मत होती तो इस देश में संपत्ति के मामलों के बारे में, CVC पर आप एक मजबूत बिल लेकर आते और सारे देश में जिन्होंने संपत्ति बनाई है, चाहे यहां बनाई है या बाहर बनाई है, एक बार संकल्प लेकर सरकार को दे देनी चाहिए। यह सरकार की संपत्ति हो गई। हम देखेंगे, सर्वेक्षण करेंगे लेकिन जब तक लोगों को दंड नहीं दिया जाएगा, जब तक तेज और धारदार बिल और कानून नहीं आएगा, तब तक हम बेकार में घर्चा करते हैं कि इससे भ्रष्टाचार मिट जाएगा। हां, अगर किसी का खून सुखाना है, below Under Secretary level के जो लोग होते हैं, अफसर लोग भी होते हैं, कमजोर लोग होते हैं, उनके लिए यह औजार है। यह औजार बड़ा भोथरा है, चोख और धारदार नहीं है। इसलिए मैं इसका विरोध करता हूँ।

मैं एक बार CVC से मिला था। हमारे कुछ MPs उनसे मिले थे। हमने कुछ शिकायत उनसे की थी CBI के पदाधिकारियों के बारे में, about the conduct of the CBI officials. किस तरह से क्या-क्या हुआ, कैसे पैसा लूटकर चले गए, कैसे CBI के चंद अफसर पशु-पालन के मामले में racket करके चले गए, ये सारे दस्तावेज उनको दिए गए थे। CVC बोले - "बाबा, हम कुछ नहीं कर सकते हैं।" हम लोग लिख सकते हैं, हम बोल सकते हैं, लेकिन हम कोई एक्शन नहीं कर सकते हैं। इसका मतलब क्या था? सुप्रीम कोर्ट की भावना थी कि इस देश में इस तरह का बिल आये। प्राइम मिनिस्टर, मंत्री के लिए लोकपाल बनाया जाये। यह लोकपाल की बात तो अलग है। लेकिन यह जो स्थिति है, यह बड़ी भयावह है। चारों तरफ बेलगाम स्थिति है। आज एक चीज की डील होती है, ब्यूरोक्रेसी बेलगाम है, महावत कमजोर है, महावत ठीक नहीं है। हाथी पर लगाम नहीं है। यह जिधर चलता है उधर चल कर के खा जाता है और उसके नीचे की हर बड़ी मछली छोटी मछली को खा जाती है। इसके लिए यह नियम बनाया था, कानून

बनाया था, लेकिन यह छोटे लोगो के ऊपर लागू हुआ। जो टॉप लेवल पर बैठे हुए लोग हैं, What is the accountability of the controlling officer? जो कंट्रोलिंग ऑफिसर है, हैड आफ दी डिपार्टमेंट हैं, जो प्रधान है, वही इसके लिए जिम्मेदार हैं। अंडर सेक्रेटरी से बिलो का आदमी इसके लिए जिम्मेदार नहीं है। यह हमने समझा है। यह हमने अपने राज में देखा है। सबके काम बंटे हुये हैं। संविधान में जो सिस्टम है, जो अंग्रेजियत है, जो कल्चर है, उस कल्चर को हम फॉलो कर रहे हैं। सबका काम बंटा हुआ है, लेकिन मैं देखता हूँ कि हर बड़ी मछली छोटी मछली की तरफ इशारा कर देती है। अगर हिम्मत है तो जांच कराइये। सीवीसी में प्रावधान किया जाये कि इस देश में जिन्होंने अपार सम्पत्ति बनाई है, फार्म हाउस बनाये हैं, सैनिक छावनी बनाई है, चारों तरफ उनकी सम्पत्तियां हैं। इनके पास कहां से पैसे आये? मैं जानना चाहता हूँ कि सर्विस का रिकार्ड है। जिस दिन सर्विस ज्वाइन किया, उसी दिन डिक्लियरेशन देना है कि यह सम्पत्ति कहां से आई? लेकिन हर आदमी राजनीतिक लोगो के पीछे पड़ा हुआ है, हर आदमी बोलता है राजनेता चोर। सब हम ही लोगो को चोर-चोर कहते हैं। हमारे दरोगा बम्बू थे, हमारे राज्य के मुख्य मंत्री थे, वे बोलते थे कि ये जो ब्यूरोक्रेसी के लोग हैं, इन पर मजबूती से लगाम कसनी चाहिए। मैडम, हम सरकार में, पावर में रहेगे या नहीं रहेगे, जो भी लोग पावर में रहेगे, उनके लिए ब्यूरोक्रेसी के लोग मायाजाल फैलाते हैं, माया फैलाते हैं और लॉयलिटी दिखाते हैं। लेकिन जिस दिन सत्ता की कुर्सी से हट जाइयेगा, वे चाय पीने के लिए भी नहीं पूछेंगे। देखेंगे तो नजर बचा कर निकल जायेंगे, चुनाव आयेगा तो खिसक जायेंगे कि कही चंदा न मांग ले। यह हालत है। इसलिए इस देश का पैसा कहां गया? इस देश में जो हमने खर्चा किया है उससे सारे गांव लुट गये। गांव का सीमेंट शहर में, गांव का लोहा शहर में, गांव का कारीगर शहर में, सारे कारीगर लोग एक से एक नक्काशीदार घर बनाने में लगे हुये हैं। देश का पैसा चंद हाथो में लग गया है और यही लोग इलेक्ट्रानिक मीडिया के माध्यम से, जिनके पास दो पैसा है, जिनके पास बचत है वे "कैस" का बक्सा लगा रहे हैं। कल ही "कैस" बक्सा की चर्चा हो रही थी। उसमें क्या है, बक्सा लगा देने से बेटर विजुअल आयेगा। उसमें जो नग्न चित्र, जो वलगर बात हो रही है, आदमी उन चीजों में लगा हुआ है। अभी पेप्सी, कोका कोला और पानी के लिए भी चारों तरफ शोर मचा हुआ है। अब कोई पेप्सी नहीं पी रहा है, कोई कोका कोला नहीं पी रहा है। उसमें कीटाणु आ गये हैं या उसमें जहर आ गया, पता नहीं क्या बात है? हमें तो लगता है कि इसमें साजिश है। हर आदमी परेशान हो जाता है। कोई कुछ भी बिना जांच के बोल देता है, I am not advocating pepsi or cola. मैं तो पीता ही नहीं हूँ। मैडम, कभी आप पेप्सी पिलाकर देख लीजिएगा। हम उसे रख देंगे, हम पानी पी लेंगे, लेकिन आपकी दी हुई पेप्सी नहीं पीयेगे।

उपसभापति : हम आपको पेप्सी नहीं देगे। चूंकि हम खुद ही पेप्सी नहीं पीते हैं।

श्री लालू प्रसाद : मैडम, अच्छा है। हम एक ही रेंज में आ गये। अच्छा है आप बची हुई हैं। आप प्रिकॉशन लिए हुए हैं। उपसभापति महोदया, यह जो बिल आ रहा है, मैं बताना चाहता हूँ कि जब तक आप पुरानी सम्पत्तियों को नहीं देखेंगे, इसको कैसे लागू करेंगे? अभी अपने देश में क्या हो रहा है। एक सरकार गई, लेग पुलिंग हो रही है। हर पॉलिटिकल पार्टी का नेता एक-दूसरे पर मुकदमा कर रहा है। हम लोग चकचा-चकई खेल रहे हैं, आज देश ब्यूरोक्रेसी का पवाड़ा रहता है। ऐसा नहीं है कि ब्यूरोक्रेसी में सब बेईमान आदमी हैं। ब्यूरोक्रेसी में जो अच्छे आदमी हैं, उनकी प्राइम पोस्टिंग नहीं हो रही है, उनको मजबूत जगह पर नहीं लगाया जा

रहा है, उनको पद नहीं दिया जा रहा है। ऐसा नहीं है कि सब आदमी बेईमान हैं, उसमें भी अच्छे लोग हैं। ... (समय की घंटी)... मैं जानता हूँ कि आपका निर्देश आएगा, वार्निंग आएगी इसलिए हम नहीं चाहते हैं कि आपको दुबारा, तबारा घंटी बजानी पड़े इसलिए हम इसका विरोध करते हैं और मांग करते हैं कि इसको मजबूत करके लाना चाहिए था, सशक्त बनाकर लाना चाहिए। एमपी, एमएलए को भी आपने कानून में डाल दिया कि वह पब्लिक सरवेंट है। अब इसको आपको अलग से लाना चाहिए। पब्लिक सरवेंट के नाम पर दुनिया के जो मन में आता है, धारा 120 लगा देते हैं, आईपीसी एक्ट लगा देते हैं, देश भर में सबका चरित्र खराब कर देते हैं। मुकदमे चलते हैं, बरसो-बरस चलते रहते हैं। एक सरकार गयी, दूसरी सरकार का आदमी आकर उस पर मुकदमा कर देता है। एक समय आएगा, जब कोई आदमी बचेगा ही नहीं। ... (व्यवधान)... एंटीसिपेटरी बेल भी हम लोगों को काहे को मिलेगी? हम लोग एंटीसिपेटरी बेल के लिए धिल्लाते रहें, हम लोगों को एंटीसिपेटरी बेल नहीं है, इसलिए कोई नहीं बचेगा। न कोई रहा है, न कोई रहेगा। अगर यह व्यवस्था रही तो एक दिन सबको जेल जाना पड़ेगा। मैडम, मुझसे कहा गया कि तुम बार बार जेल क्यों चले जाते हो? हमने कहा कि आपका दुर्भाग्य है जो हमसे पूछ रहे हो। कृष्ण का जन्म और बचाव जेल में हुआ था, वह हमारा गुरुद्वारा है। जो आदमी जेल नहीं जाएगा, उसका जीवन सार्थक हो ही नहीं सकता। चाहे बाहर रहकर जितना कृष्ण का नाम ले लो, जप लो, वृंदावन बिहारी लाल का नाम लो, जेल कृष्ण को मानने वाले लोगों का गुरुद्वारा है। इसलिए कृष्ण भगवान बुला लेते हैं। वही से निकलने के बाद दुष्टों का संहार हुआ था। अब हम निकले हैं तो दुष्टों का संहार होगा। संहार से मेरा मतलब है - मैं गर्दन काटने वाला आदमी नहीं हूँ - जो नल है, नील है, कोल है, भील है, गरीब है, दलित है, पिछड़ा है, अकलियत है, ऐसे लोगों को अगर हमने जगाने का काम किया, यही हम लोगों का कसूर हो जाता है इसलिए हम माननीय मंत्री जी से, सरकार से इस बिल का पुरजोर विरोध करते हुए सिफारिश करना चाहते हैं कि यह जो विजिलेंस कमीशन आप बना रहे हैं, इस संबंध में बिल लाए हैं, इसमें बड़ा भारो भेदभाव है। इसमें कोई यूनीफॉर्मिटी नहीं है। आप इसको ठीक करिए और भ्रष्टाचार को कैसे रोका जाए, यह देखिए। जब तक सजा नहीं मिल जाएगी, पहले के लोगों को, जिन लोगों ने सम्पत्तियाँ बनायीं। महोदया, हम आपको सदन में कहना चाहते हैं, सन् 77 से हम लगातार एमपी, एमएलए, आपोजिशन लीडर, मुख्य मंत्री रहे और फिर राज्य सभा में, सब सभाओं में हम घूमे हैं। एक भी घाम नहीं है, जहाँ जाने से हम बचे हुए हैं। असेबली, अपर हाउस, यह हाउस, वह हाउस - सब जगह हम गए हैं। लेकिन है कोई माई का लाल तो बता दो, एक भी चंपरासी क्वार्टर हमारा हो। एक ढोर भी जमीन हो तो यहाँ पर बत्त दो। हमने जो भी बनाया है वह एक कोऑपरेटिव का मकान है, एमएलए, एमपी की पूरी जिंदगी में। लेकिन हमारे पीछे सीबीआई ने बोल दिया। हमने बोला कि साढ़े 12 लाख लगाया है। उन्होंने यहाँ की सेंट्रल गवर्नमेंट के सीपीडब्ल्यूडी का भी हिसाब जोड़ दिया - वहाँ के मजदूरों ने यह कार्य किया था इसलिए हमने कहा साढ़े 12 लाख रुपया लगा। बाहर से आदमी ने जबर्दस्ती केस करने के लिए बोल दिया कि साढ़े 19 लाख लगा। मतलब इस तरह से चारों तरफ से जलील और जलालत करने के लिए ये सब षडयंत्र होते रहते हैं। इसलिए इन चीजों से लोगों को बचना चाहिए। भारत कैसे समृद्धि की तरफ चले? जो भी पैसा है, देश में और प्रदेश में जो भी स्कीम है, अगर ईमानदारी से अगर हर आदमी खर्चा करे, इसी के लिए स्वर्गीय राजीव गांधी जी चिंतित रहते थे। पैसा जाता है लेकिन चार आना भी जनता को नहीं मिलता है। पंचायत के चुनाव हो गए, सारे देश में हो गए, प्रखंड के हो गए, सब हो गए लेकिन सारे राज्यों के मुख्य मंत्रियों से पता कर

लीजिए, सिस्टम फेल हो गया। सब बराबर बराबर स्कीम बांट रहे हैं। इसलिए महोदया, मैं इस बिल का विरोध करता हूँ। इसे और मजबूती से लाना चाहिए। इससे न तो देश में कोई भ्रष्टाचार मिटने वाला है और न यह कोई तेज धारदार है। इसलिए हम इसका विरोध करते हुए अपनी बात को यही समाप्त करते हैं। महोदया, आपको धन्यवाद देते हैं जो आपने दोबारा घंटी नहीं बजाई। इसके लिए आपको बार-बार धन्यवाद देते हैं।

DR. P.C. ALEXANDER (Maharashtra): Madam Deputy Chairperson, I am very grateful to you for giving me an opportunity to participate in the debate on this Bill. I wanted to participate in the debate on this Bill because I have dealt with this subject of vigilance administration right from the beginning of my Civil Service career and I have drawn certain lessons from my experience as to what should be done to strengthen the vigilance mechanism to deal with Civil Servants' corruption.

Madam, within the short time that is available to me, I can only touch on two or three points. I would like to say that the corrupt officer is very well experienced in managing to escape punishment by his own efforts or by manipulating things in such a way that the punishment remains uninflicted till he leaves the service. If you take the history of investigations or inquiries against the Civil Servants on corruption charges, you will be amazed to find how few among those who have been *prima facie* charged with offences have ultimately been punished. If in certain cases a Civil Servant succeeds to go outside the service by resigning or opting for retirement, he would have manipulated things in such a way that for him it is not a punishment but a reward. The built-in provisions of inquiry, appeal and final review by the appointing authority are such that they always favour the person who want to escape punishment. Therefore, what is needed in an effective instrument against corruption in our country, as far as Civil Servants are concerned, is a change or a reform in the procedures of inquiry, investigation, punishment, appeal and final award of punishment.

The second point that has been noticed in my long experience, as a Civil Servant, is that there is no seriousness among bureaucrats in dealing with corruption. I am ashamed to say this, having been a bureaucrat all my life till recently. Those who are entrusted with the work of vigilance in the Ministries or in the Departments, take it from me, are those who cannot escape that job. It will go round and round a person who is least fitted for it and least anxious to do that job. His own object is to see that nothing is done; instead he goes along with the persons against whom the inquiry has been started and ultimately he becomes a party to the crime, that is, the delinquent escape punishment. These are the two important reasons. There

may be ten other reasons which I would like to place before you. But for want of time I flag only these two points: (1) the procedural delays, which are manipulated by the corrupt; (2) the non-seriousness on the part of the bureaucrats in charge of the administration.

Madam, this Bill has been hailed as a great victory for those who have been fighting against corruption. Very frankly, I find nothing in this Bill which deserves that type of an encomium. I don't find anything in the bill which will help in the expeditious disposal of corruption cases. I do not see anything that will help the civil servants to take up the work of anti-corruption with the seriousness that it deserves. On the other hand, I am afraid, some of the provisions in the Bill will only lengthen the procedure; contribute more to the delay in booking a man or a woman who has been guilty of corruption. I am sure, distinguished jurists like Shri Ram Jethmalani and also my esteemed friend, Shri Fali Nariman, are going to make their contribution on the legality of certain provisions. I don't want to go into that question because there are more qualified people than me to speak on that aspect. But I want to register my strong protest at the inclusion of clause 6 (a) on substantive grounds of equity, justice and also on the procedural part of the investigation. On the ground of equity it is bad. How do you make a distinction between a corrupt Deputy Secretary and a corrupt Joint Secretary? What is the difference? A Joint Secretary has to put in only three or four more years of service. By the time he is booked in a corruption case and if he has to be prosecuted or an inquiry itself has to be conducted only after sanction or approval by the Government, we are really offering a shelter to the person who has now become a real source of corruption in bureaucracy. This is my second point.

When I entered the civil service way back in 1948, at the beginning of our Independence, my worry was whether my Tehsildar would be corrupt, my Sub-Inspector would be corrupt, the Bench Clerk in my court would be corrupt. I could never imagine that my senior officers would be corrupt. I could never imagine when I became a senior officer that I would ever become corrupt. Today you ask junior officers in any service, including the All-India Services like IPS and IAS and they will point the finger right up to the top and say, "These are the people sitting in the Secretariat, heading the Department, who are more corrupt than us". What have we done under this Bill? We have given them protection. A Government sanction is needed before an inquiry can be started.

Who are the people who will decide in the Government whether an inquiry should be started or not? Are they Ministers who are going to take a decision? If it is the Minister, how will he be able to decide whether there is a *prima facie* case against a Joint Secretary or an Additional Secretary, unless there is an inquiry? But the language of the Bill is such that even to start an inquiry, even to find out whether there is a *prima facie* case or not, you have to take permission. Therefore, there is going to be a lot of arbitrariness, highhandedness and, if I may say so, favouritism and cronyism involved in allowing prosecution or inquiry. This is a very serious matter. Therefore, I would very strongly suggest that clause 6 (a) should be deleted from the Bill. The delays that occur in sanctioning or approving an inquiry will be a case study worth making by anyone else. I had done it myself. I know, very often, whenever there is a sanction to be obtained, the whole thing can be delayed for not months, but years together. Therefore, clause 6 (a) which has been introduced in the Bill, I consider, as the enemy number one for this Bill. It will lengthen the procedure, defeat the objective and make the corrupt breathe free than what they could have normally done. Madam, I will also make one or two small points. I want to find out why clause 5 (9) (3) has been added in the Bill at all. It says that the business of the Commission shall, as far as possible, be transacted through unanimity. I couldn't understand, having created a Commission of three people, why we should insist on unanimity among the three. Even though we have added the words 'as far as possible', This is going to be a Pandora's box. If the Commission comes to a decision that 'X' is punishable for a particular offence, and if there is no unanimity, the person concerned is going to exploit that; he will go on appeal, drag the whole procedure to all the courts that he can, have an opportunity of getting it open, and it will lead to unnecessary and vexatious delay. If a High Court Bench can take decisions affecting life and property, liberty and rights on majority principle, if the Supreme Court takes decision on a majority basis, then, why should we introduce this unanimity concept? Even though there is a clause saying, "as far as possible, there should be unanimity", it may be a small point in the eyes of others, but it has to be, in my judgement, deleted.

Finally, I would say, Madam, I endorse the very valuable suggestion you made in the morning that in making the selections for the Chief Vigilance Commissioner and others, the Leader of the Opposition in the Rajya Sabha also should find a place in the selection board. This should not be a matter left entirely to the Constitution, as it is proposed in the Bill, where there is no provision for a representation by the Rajya Sabha.

Madam, I know that the time that has been allotted to me is only three or four minutes, and out of your generosity and kindness, you have been looking the other way, but I have been looking at the watch, and I am coming to the end of my speech.

I don't think this is going to be a great improvement on the existing system of fighting corruption in the civil services. Take it from me; clever people will swerve in. A person becomes corrupt not by accident but by choice. When he makes that choice himself, he is clever enough to drag on the procedure and finally escape the net of punishment. So, this Bill is not going to catch such big fishes, as we would like to. Strengthen this Bill, if necessary. Take a little more time; plug the loopholes; make sure that nobody will question the legality or validity of it, and then, probably, a better Bill which will satisfy all sections of the House should be there to fight this evil. Thank you, Madam.

THE DEPUTY CHAIRMAN: Thank you very much. I made two suggestions, Dr. Alexander. One was about including the Leader of the Opposition of the Rajya Sabha and, maybe also, the Leader of the House of the Rajya Sabha, because the Prime Minister is the Leader of the House in the Lower House and the Leader of the Opposition is also included there. So, it should be the Leader of the House as well as the Leader of the Opposition in the Rajya Sabha. This is one suggestion. And, I would appreciate if you also support the second suggestion that any legislation, including this, that they bring in should be gender-neutral. It should not be so biased against women; say, for instance, the Government never imagines that a woman will become a Vigilance Commissioner.

Before I call the next Member, the Minister of Parliamentary Affairs will lay the Supplementary Demands for Grants (General) for the year 2003-04, on behalf of Shri Jaswant Singh.

SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL) 2003-04

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI O. RAJAGOPAL): With your permission, Madam, I lay on the Table of the House a statement (in English and Hindi) showing the Supplementary Demands for Grants (General) for the year 2003-04 (August 2003).