

**GOVERNMENT BILLS****The Central Vigilance Commission Bill, 2003 - Contd.**

THE DEPUTY CHAIRMAN: Yes, Shri Fali S. Nariman.

SHRI FALI S. NARIMAN (Nominated): Madam, years ago, we had a judge in the Supreme Court, Justice Bachawat, who, while listening to our arguments, used to say, "Give your arguments in a capsule form". So, I propose, Madam, to attempt to give my arguments today in a capsule form.

When a measure has already been screened by the Joint Parliamentary Committee, passed by the Lok Sabha, and supported by the Opposition, people like me can only expect small crumbs. I would request the hon. Minister -- for the reasons given by Dr. Alexander, and for what I am going to say -- to kindly visit this Bill again, even after it becomes an Act, and for good reason; it is too serious not to be given a second thought.

First, with regard to the general observations from the Chair, I support the inclusion of the Leader of the House and the Leader of the Opposition in the Rajya Sabha. Since it has come from the Chair, I am sure the hon. Minister will give it the consideration it deserves. Secondly, since the Law Minister is also here, he must instruct his Law Secretary, for all the Bills in future, to make them gender-neutral. And that is a very good thing. It is happening all over the world. When people speak in seminars the world over, they never say 'Chairman'; they always say 'Chairperson', or 'Chair'. So, it is a very good thing and we must encourage it, particularly, in this country.

To come to the point, Madam, we need this Bill because of the bureaucrats that we have. We have excellent bureaucrats. Please do not make any mistake. I respect many of them. I know many of them. And I find that many of them are very, very honourable. Sometimes, when we speak, for instance, of judges, etc., and say that so much percentage of them is corrupt and, therefore, everybody is corrupt, I do not accept it; I do not take that view. On the contrary, I find very highly-spirited and very highly-motivated judges. I find very highly-motivated bureaucrats as well. But let me tell you one thing which Dr. Alexander mentioned, and which is in my knowledge; someone -- I think, Laluj -- spoke about Dharmveera. I remember Dharmveera telling me once -- when he had gone, as Cabinet Secretary, with a delegation to buy some plane parts, or, something, in some foreign land -- that when the whole negotiations had concluded, the person on the other side of the table said, "Now, Mr. Secretary, how would

you like to take the kickback? In whose name shall I make the cheque"? So, promptly, he said, "Make it out in the name of the Government of India"? And that man made out a cheque for the discount in the name of the Government of India. When he came back and told Panditji about it, Panditji got furious and said, "What? You accepted a discount! It is a disgrace", and so on. He said, "Panditji, what did you expect me to do? Take it in my name and put it in a Swiss account". That was the calibre of the bureaucrats that we have had. That is the calibre of some of the bureaucrats that we still have. But we need this Bill with respect to the unfortunate few, perhaps, or, many -- I hope not -- who, I think, require this particular law.

Now, what is this Bill about? One very important thing which has not been mentioned and which I propose to mention at the outset, hon. Minister, is that you should not bring this Bill as long as you have your Official Secrets Act, because this Bill is a zero. Why? If the CVC says, "Mr. Minister, please produce this file before me", and someone marks it 'Secret', the CVC will be helpless. Anything that is marked 'Secret' under the Official Secrets Act, cannot be disclosed, and we find that it is not disclosed. I personally think that the Official Secrets Act is not to protect the secrets, but it is to protect the officials. Therefore, the earlier this Act is scrapped, the better it is, or, at least, it must be amended that, on very rare occasions, for security reasons, it will be applied.

There are two things that I would request the Government to do. You have this independent Commission, to be appointed, not by the Government on its own, but by a very high-powered trio. It has suggested five members but, at the moment, it has a trio. You have given it a security of tenure. It is expected to act independently of the Government. Then, why is control being retained? Are there any cards up your sleeve? I don't think so, and I don't think it is expected. Let me give you one instance, or, two instances. Why is it that you have provided in the Bill that one of the functions of the Commission is to enquire or cause to be made an inquiry or investigation against any employee of the Central Government only on a reference made by the Central Government? Why? It is stated in clause 8(c). Delete those words, 'on a reference made by the Central Government'. They can do it on their own. Suppose, they come to the conclusion, some one gives them very credible information, not the Central Government, with regard to one of the employees of the Central Government. Why do we wish, if we want genuinely to put an end to corruption? Why are we doing this? Particularly, if I may so addition of Section 6 A by clause 6(c) of the

Bill is obnoxious. I am not going into the constitutionality of it. I am not bothered whether it is constitutional or not. I raised that question yesterday. I was reprimanded, and correctly, perhaps, reprimanded, that it should have been done when the Bill was introduced. That was correct. So, the courts will deal with it when it is to be dealt with it. I am not bothered about the constitutionality. I am on the propriety. Why is clause 6(a) there? A very distinguished Chief Vigilance Commissioner, Mr. Vittal, wrote an article in March and it was published. He called it 'A vicious clause'. Dr. P.C. Alexander also described it in similar terms. Now, I would suggest to you that this clause 6(c) which says that anyone above the rank of so and so, the Delhi Special Police Establishment cannot go into it or cannot even investigate an offence; not only to file a case, that requires permission, that remains, that requires sanction; not even investigate into his conduct, I think it is really trying to catch the postman and not the Postmaster. Is that the intent? What is the use of having it here? It is the same sort of thing that we read every day that so and so has arrested some poor peon for taking a bribe of fifty rupees or hundred rupees or two hundred rupees. We are not catching the small fish, which Dr. Alexander correctly described them as. It is the unfortunate and hopefully few big fish that sometimes fall into the net and don't prevent it from falling into the net. The suggestion made in Vineet Narain case was that this was to protect officers at decision-making level and to relieve them of anxiety and likelihood of harassment from making honest decisions. This is the exact quote. Now, if the Government cannot convince the CVC about it, then I am afraid, you can't convince anybody. You set up an independent body. If they are not going to be convinced that this is done for honest reasons, then no one will be convinced. I, therefore, suggested to the hon. Minister that instead of the word 'Central Government' in clause 6(a), - if you must have clause 6(a), - use the words, 'except with the approval of the Central Vigilance Commission'. There you have the independent body. Therefore, anyone above the rank of 'x', 'y', 'z' whom you have mentioned, above a particular rank, should have the approval of the Central Vigilance Commission. Why can't you trust the Central Vigilance Commission on matters like this?

[MR. CHAIRMAN in the Chair]

If you can trust the Central Vigilance Commission for a Director in a Department, or a Joint Secretary, why can't you trust him for the Secretary? Otherwise, don't appoint a CVC. Therefore, I would respectfully suggest for the Minister's kind consideration that clause 6(a) should either be dropped, or, the words, 'with the previous approval of the Central Government' be

substituted by the words, 'with the previous approval of the Central Vigilance Commission,' which is your own independent body, meant to be independent, and meant to act independently. Thank you, Sir.

SHRI DRUPAD BORGOHAIN (Assam): Sir, thank you very much for giving me some time to express my viewpoints on this important Bill. Sir, I have heard the speeches made over here, by our hon. Members. I support Prof. Saif-ud-Din Soz, and I, also, support hon. Member, Shri Thirunavukkarasu, when they said that the Bill has been made toothless. If the Bill is made toothless, then, naturally, this Bill has to be reviewed again. If the Bill is made into a law, even then we should think over the matter and we should do something to make it really applicable in dealing with the corruption in higher-ups.

Sir, the idea for a Central Vigilance Commission had been mooted in early sixties, when the Santhanam Committee exposed the weaknesses in fighting the menace of corruption in administration. The Santhanam Committee pointed out that the administration could not be a judge of its own conduct. Hence, the Central Vigilance Commission was conceptualised as an apex body for exercising general superintendence and control over vigilance matters in administration.

After the directions given by the Supreme Court in the Vineet Narayan case and other havalas cases, the Central Vigilance Commission was given statutory status through an Ordinance in 1998. Then, the Central Vigilance Commission Bill, 1998, was introduced in the Lok Sabha and was passed in March, 1999, but was pending before the Rajya Sabha.

As the earlier Ordinance of 1998 expired, and the Bill was also not adopted in Parliament, a new Ordinance had to be promulgated. Then, the Union Government resolved on 4.4.1999, that the Central Vigilance Commission constituted under the Ordinance would continue to discharge its duties and exercise its powers under the same resolution of 4.4.1999, after the expiry of the 1999 Ordinance.

The Government, once again, introduced the Central Vigilance Commission Bill, 1999, in the Lok Sabha, which was referred to a Joint Committee of both Houses of Parliament. All these delayed exercises create confusion in the minds of the public about the real intention of the Government to fight against the rampant corruption in the higher bureaucratic echelons of the Government.

I also agree with some of the hon. Members, when they said that in bureaucracy, there are fine elements, it is true. But it is also true that there is corruption in certain sections of the bureaucracy. So, to fight against corruption, this Bill was very much necessary. Now, it has been brought forward before us. Though, in the present form it is toothless, it should be given teeth so that it is powerful enough to fight against the corrupt.

Doubts have been expressed by Mr. N. Vittal, also, the former Chief Vigilance Commissioner on the powers being given to the Central Vigilance Commission through this Bill. The JPC discussed the Bill thoroughly on certain matters like the requirement of taking the Centre's permission, before conducting inquiry or investigation against officers of the rank of Joint Secretaries or above. The JPC had recommended to revive the clause, which was struck down by the Supreme Court. The Central Vigilance Commissioner is also against the JPC's viewpoint. All these confusions are also there. So, I request the Minister that he should take note of this while we pass this Bill in the Parliament.

Now, corruption is very much rampant in our country. It is very much on the top. The public has observed how a big shark is going out of hand while small fries are caught. The Central Vigilance Commission must be given such powers and functions so that it can expose all those top corrupt officials and the Government should take action immediately to save the Government Departments, PSUs from such officials.

Here, it is also to be noted that the other premier investigative agencies, like the CBI and other departmental Vigilance Commissions are also very much there. Their functions should not be overlapped with the setting up the Central Vigilance Commission. If differences arise between the Central Vigilance Commission and the CBI, then, they must be solved in a proper manner. The CBI has got the authority of investigation, but has no power which the police force of the country has. So, though it has exposed so many corrupt cases, it is unable to prosecute the corrupt in a proper way, and punish them in its totality. Though the Central Vigilance Commission has also the investigative power, but the nature of taking action is only suggestive. Hence, it may also fail in prosecuting the corrupt officials and award punishment to them in order to save the country from corruption. Here, the political pressure must be eliminated. I think, the Minister should consider these aspects also.

The Central Vigilance Commission Bill is a piece of legislation which has jurisdiction over a certain category of the Government officials and PSU officials. But, today's corruption is very much interlinked. From top to bottom, from some high political personalities to some officials of different status, from top businessman to certain powerful personalities of our society, corruption binds them all together. So, if a piecemeal fight against corruption is made, it normally doesn't come out successful. So, a comprehensive legislation should be there, so that all the corrupt officials can be booked in the right earnest. Hence, the Lok Pal Bill is also an essential component in fighting against this hydra-headed monster of corruption. I urge upon the Minister to look into these matters also. Thank you

MR. CHAIRMAN: Now, Shri N.K. Premachandran, not here; Shri R.S. Gavai, not here; Shri Rajeev Shukla, not here; Shri Kuldip Nayyar, not here, Shri Javare Gowda.

SHRI H.K. JAVARE GOWDA (Karnataka): Mr. Chairman, Sir, I thank you for giving me the opportunity to speak on the Central Vigilance Commission Bill, 2003. This Bill is being brought to inquire or cause inquiry to be conducted into offences alleged to have been committed under the Prevention of Corruption Act by certain categories of public servants of the Central Government, PSUs and others.

I support the Bill. At the same time, I have a doubt, and I would like to know whether by passing this Bill we would be in a position to control or contain the rampant corruption that is prevailing in the country. There was a time when everybody thought that population was the problem and it had to be controlled; otherwise the nation would not progress. To some extent, the people of all sections started adopting the family planning measures. To some extent, it succeeded also, and to some extent, it has not succeeded. But, the country is progressing on that line. But as far as corruption is concerned, what is our progress in containing it? So far, everyday we are losing the grip on it. We are not progressing in containing corruption. Moreover, the percentage of corruption is increasing alarmingly among all sections--be it in the State Government, or, the Central Government. It is a worrying phenomenon.

As far as this Bill is concerned, you have said that above the level of Joint Secretary there is a need to take the permission of the Head of the organisation. I don't see any reason for this. Shri N. Vittal, the former Chief

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Vigilance Commissioner, has clearly said that it is a bad in the eyes of law. His views are to be included. This, I leave it to the Minister. When it is required, it should be made applicable to one and all.

The other matter on which I would like to draw the attention of the Minister is, under the nose of everyone of us--be it the Members of Parliament or Minister or anyone--Government officers are accumulating a lot of wealth. Yet, we are not dare enough to question them. I don't know if this Bill will be able to contain it. According to me, there should have been one provision, so that it helps in containing corruption. If anybody identifies an official with the data of how much wealth he had while entering the service of the Government and how much the official had accumulated after ten years of service, and if he substantiates that, that person should be provided with security and some award by the Government. What I mean to say is this. To curb these activities and if it is not applied properly to the people concerned, whatever type of laws we make, those laws will not fulfil the aspirations of the people and our objective cannot be achieved.

Under these circumstances, I submit for consideration of the hon. Minister, unless you involve the general public to find out and catch hold of the corrupt officers in this country, we will not be able to achieve the objectives of the Bill.

With these words, I conclude my speech. Thank you.

**श्री सुरेश पचौरी (मध्य प्रदेश) :** महोदय, मैं आपकी आज्ञा से मात्र दो-तीन बातों की तरफ आपका ध्यान आकर्षित करना चाहता हूँ कि जहाँ तक भ्रष्टाचार से निपटने का प्रश्न है, भ्रष्टाचार समाप्त करने का प्रश्न है, हम और हमारी पार्टी इसके लिए कटिबद्ध हैं। मैं ऐसा मानकर चलता हूँ कि भ्रष्टाचार को जड़ मूल से समाप्त करने के लिए कठोर से कठोर कदम उठाया जाना चाहिए। चाहे इसमें कोई भी लिप्त क्यों न हो, चाहे कोई राजनीतिज्ञ हो या आफिसर हो। लेकिन इसके लिए दोहरा मापदंड नहीं होना चाहिए। एक तरफ एमपी को पब्लिक सर्वेन्ट माना जाता है, उसके खिलाफ यदि कोई कार्यवाही करने की बात होती है तो किसी की इजाजत की आवश्यकता नहीं पड़ती है। मैं यह नहीं कह रहा हूँ कि यदि एमपी भ्रष्टाचार में लिप्त है तो उसके खिलाफ कार्यवाही न हो। अगर एमपी भ्रष्टाचार में लिप्त पाया जाता है तो कानून के दायरे में रहकर जो कार्यवाही संभव हो, वह होनी चाहिए। जब मैं इस दोहरे मापदंड की बात कर रहा हूँ और इस सीवीसी बिल पर बात हो रही है तो मैं इसके सैक्शन-6(ए) की तरफ आपका ध्यान आकर्षित करना चाहूंगा और मैं इसको पढ़ना चाहूंगा जो इस टाइटल के अंतर्गत है 6A. Approval of the Central Government to conduct inquiry or investigation. इस सीवीसी बिल के सैक्शन -6(ए) को मैं उद्धृत करना चाहूंगा The Delhi Special Policy 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 (a) the employees of the Central Government of the level of Joint Secretary and above. जब ज्वॉइंट सैक्रेट्री या उससे ऊपर के दर्जे के अधिकारी इस प्रीवेंशन ऑफ करप्शन एक्ट के अंतर्गत करप्शन के मामले में आते हैं तो उनके खिलाफ सैन्ट्रल गवर्नमेंट की अनुमति की आवश्यकता होती है, ऐसा प्रावधान क्यों है जबकि दूसरे पब्लिक सर्वेंट्स के मामले में या किसी और मामले में इस प्रकार का प्रावधान या प्रायोजन नहीं है। मैं इस दोहरे मापदंड पर माननीय मंत्री जी का ध्यान आकर्षित करना चाहूंगा कि इस विषय में यह जो बंधन लगा हुआ है, यह बंधन हटना चाहिए। यदि ज्वॉइंट सैक्रेट्री एंड एक्जाल्ट स्तर का कोई अधिकारी भ्रष्टाचार में लिप्त पाया जाता है, उसके लिए कानून के तहत कार्यवाही होनी चाहिए। यह बन्धन नहीं रहना चाहिए कि सैन्ट्रल गवर्नमेंट से उसके लिए पहले से परमिशन लगे।

SHRI RAM JETHMALANI (Maharashtra): Mr. Chairman, Sir, speaking on this subject of C.V.C. binds me to disclose to the House what had been held by your predecessor in office. It is my duty, that if a Member of Parliament has even a remote professional interest, in a particular proposition, must disclose it to the House before he starts his submission. It has come to be my fate -- I do not know how -- that I am, today, involved in defending late Shri Rajiv Gandhi, against whom the charge is that he gave Bofors contract for a commission received by him as bribe. However absurd that acquisition may appear to be, I will disclose and I must tell you that one of the points raised in that case is that if C.V.C., of the kind which was mandated by the Supreme Court, namely, C.V.C. with effective powers of superintendence, existed this prosecution against late Shri Rajiv Gandhi would never have been filed after his death. And, that is my professional interest in that proposition and I have now disclose it and now I proposed to deal with four aspects of this Bill which is before the House.

First of all, I have heard the statesman-like speeches from my friend, Mr. Nariman and Dr. Alexander. Both spoke out of their long personal experience. Both spoke out of their professional experience. I must say that they spoke in a most convincing manner about the inequity and injustice of Section 6A. It is not of this Bill. Clause 26(c) of this Bill introduces Section 6A in the Delhi Police Establishment Act. The obnoxious provision is the provision 6A in the Delhi Police Establishment Act which is sought to be introduced by Clause 26(c) of this Bill. Having heard these speeches from experienced Members of Parliament -- Shri Fali Nariman went out of his way to quote even the CVC, who had called this provision



obnoxious -- I might now add some further reason that this is a reiteration of that hated and obnoxious single directive. The single directive, which was issued as a Governmental Resolution having no statutory basis, was on the same lines and it was challenged in the courts. Sir, speaking for myself, when I challenged that in the Court I almost went there -- supposed to be some kind of a counsel, almost for the BJP and, at least, speaking the voice of the BJP -- having succeeded in getting it struck down, it is a matter of shame to me that it is the BJP Government which wants to restore that provision which we got struck down in the Supreme Court. Sir, I must tell you something remarkable. I accept the Ministers are absolutely honest people. I have nothing against them. They are men of highest integrity. But, unfortunately, they are not able to see the machinations of their bureaucrats. The bureaucrats don't want this provision to go. They want to continue to enjoy this immunity and that is why they misguide their Ministers. Now, what happened, Sir, when this proposal was first mooted that the bureaucrats again wanted to restore it, there was a lot of opposition and as a result of the opposition the first Ordinance, which was issued, lapsed and the second Ordinance because of intense public opposition a new Ordinance was brought in which this provision was dropped. So, the public opinion asserted itself again and the provision was brought and ultimately I find, Sir, that that Bill in which the provision was dropped could not be enacted into law and subsequently again bureaucrats have asserted and have again got the better of these Ministers and these innocent Ministers don't know how to deal with them. Sir, I appeal to the hon. Minister that please drop Clause 26(c) of this Bill. It restores a provision, which -- two Members have told you -- is unjust intrinsically and the Supreme Court has struck it down on the ground that it is unconstitutional. The Supreme Court said that you cannot distinguish between a Joint Secretary on the one hand and an Assistant Secretary on the other and you cannot distinguish between bureaucrats on the one hand and a person who is highly placed in public life on the other. A Chief Minister can be investigated by the CBI, but a Joint Secretary of the Government cannot be. Sir, kindly see what a ban this is. Sir, I am not talking of any particular Minister either past, present or future. But, suppose if a Minister is corrupt, be sure that the Minister will practise his corruption in complete cooperation with the corrupt Secretary. If a Secretary wants to be corrupt, he will first corrupt his Minister and see to it that both act up.

MR. CHAIRMAN: Thank God, you have been saved.

SHRI RAM JETHMALANI: If you find material against the Minister, the Secretary will defend the Minister. If you find material against the Secretary, the Minister will, because this becomes then an act of joint cooperative. This is an obnoxious provision and the Supreme Court has said it is unconstitutional. I do not mean to say that the House can commit contempt of the Supreme Court and be punished. No. Mr. Kapil Sibal said yesterday that the House could not commit contempt. I agree. But the House can commit another kind of contempt by disregarding the expressed views of the Supreme Court of India showing little respect to the opinions of those people and it is not merely the opinion of the Supreme Court, but it is the opinion of the respected Members of the House who have no personal axe to grind. Sir, this was the first point that I had to make. Secondly, kindly look at the clause 8, which creates the powers of the CVC. Take the very first power under clause 8(1)(a). You have given the CVC the power to exercise the powers of superintendence in prosecutions under the Prevention of Corruption Act, 1988. There are still some prosecutions under the 1947 Act, and these prosecutions do not get time-barred. Late Shri Rajiv Gandhi is being prosecuted under the 1947 Act, and I have made a point that you deliberately kept control over the 1947 prosecutions because you want to keep that prosecution pending till the next election. Sir, I had tremendous differences with late Shri Rajiv Gandhi. In fact, the manner in which things happened after the Bofors contract, I had criticised him in public. But, when it comes to appreciation of legal evidence, today, I find against that man there was no legal evidence, it is the Army, which brought about this contract. The Army still say that the Bofors is the best gun and Kargil episode has proved that it was the best gun. Sir, to be fair to the memory of that person, who is no longer with us, why are you not putting 1947 prosecutions subject to the purview of so and so, put that there. There are still some 1947 prosecutions, which are pending.

Now, I would make my third point. I would request the Minister to kindly carefully listen to the two questions which I am asking you and I hope your answer is a 'yes' to those questions because I believe that those answers should have been incorporated in this Bill itself. But, now, it is too late to move amendments and so on. Your statement on the floor of the House that my interpretation of the law is correct, is good enough for my purposes. I am asking this: If the CVC feels that an unfair, unjustified, corrupt investigation is being carried on by the CBI, either to let the guilty escape, or, an innocent person be harassed by useless prosecution, does his power of superintendence enable him to stop this? To my mind, the

power of superintendence is zero, is useless unless the CVC has, at least, this much power that he sees that CBI, under political influence, is perpetrating serious injustice, either by letting the guilty person escape or by handing in an innocent person so that he should not be able to contest election or should not enjoy political power. Now, he should have the power. So, please define that the scope of superintendence includes this power. And, secondly, once he has this power, can any victim of injustice approach him and can he listen to him and order justice to be done? To my mind, this is the least we expect out of the CVC, if he is to become a guardian of public integrity and if he is to exercise proper powers over the CBI, the investigating agency. If your answers are 'yes', I am happy and this goes.

Sir, the last point was raised by hon. Deputy Chairman here about the question of having the Leader of the Opposition in the Rajya Sabha to be one of the members in the Committee which appoints the CVC. Now, Sir, the idea of the CVC was that so many criminal prosecutions are the result of political prejudice and political animosity. Some should be discontinued; some should be vigorously pursued; politics enters; therefore, if the CVC is to exercise proper power and he is the person to inspire confidence, then, he must have the confidence of the Leader of the Opposition as well, because most of these prosecutions have a political colour. The idea was that in the selection of the CVC, there should be parity - Government, on the one hand, and the Leader of the Opposition, on the other. Parity can only be preserved if you have the Prime Minister and the Home Minister on the one side, by having the Leader of the Opposition in the Lok Sabha and the Leader of the Opposition in the Rajya Sabha on the other side. It should be two against two. You can make some kind of a provision as to how supposing there is a deadlock, how is it to be done? But, Sir, I am not in favour of the other proposition that came from hon. Deputy Chairman that you should have both the Leader of the Opposition and the Leader of the House from Rajya Sabha because that will again disturb the principle of parity. The ruling party and the Opposition, both should have the parity. Therefore, you should have two and two mechanism for solving the problem of a deadlock, otherwise, you will again make it loaded in favour of one or the other. So, that has to go. Sir, I am happy that you have given me enough time without ringing the bell today for a change. Thank you.

**श्री सभापति :** आपने एक बात सुनी होगी। श्री लालू प्रसाद यादव जब यहां बोल रहे थे तो उन्होंने एक बात कही थी कि जो पब्लिक ऑफिस होल्ड करते हैं और गवर्नमेंट सर्विस में हैं, उनमें किसी प्रकार का discrimination नहीं होना चाहिए। सुना है आपने?

**श्री राम जेठमलानी :** जी, मैंने सुना है।

**श्री सभापति :** इस पर आप क्या कहना चाहते हैं?

**श्री राम जेठमलानी :** हमारी भी यही राय है कि बिल में distinction क्यों करना चाहते हैं? Of course, I say that there should be no distinction between one Government servant and another; between the higher and the lower. ...*(Interruptions)*... A Member of Parliament is certainly a public servant. But it is strange that nobody needs the permission of anybody to investigate a case against the Member of Parliament, and, he would arrest him, but, a Joint Secretary cannot be.

[THE DEPUTY CHAIRMAN in the Chair]

**SHRI B.P. SINGHAL (Uttar Pradesh):** Madam, before I commence, I think, I need to clarify two things. One was the confusion created by the hon. Mr. Ram Jethmalani. He said that section 6(A) draws its powers from section 6 of the Special Police Establishment Act. Section 6 of the Special Police Establishment Act only limits the powers that no CBI investigation, investigation under the Special Police Act, pertaining to a Government servant of a State can be taken up by the CBI, today as it is called, without the permission of the State Government. So, State Government only gives the cases to CBI. Then, alone it is investigated. It is not a blanket thing for Joint Secretaries.

The other thing is that some misapprehension was created by Mr. Soz, and, Mr. Nariman also said it, that the CVC can not initiate inquiries. I am afraid, section 8(d) enables the CVC to conduct enquiries. It does not stop him. It does not have to be routed through the Government. He can initiate enquiries on his own, provided he gets a complaint. So, that provision is there. It was a wrong apprehension that it was made.

Mr. Raghavan, of course, mentioned the Ayodhya case where the influence of the Government was exercised. Yes, I also suspect very strongly, and I have reasons for it, that influence of the Government was exercised in the Ayodhya case. But, how was it exercised? Madam, the chargesheet in that case was submitted on 27.2.1993 by the CBCID. Six months later, it occurred to the Government that perhaps very important

section of 120(b) was not there. So, perhaps, something occurred and the CBI was asked to restart the investigation, reopen the investigation and, six months later, the CBI stepped in on 27.8.1993. Now, you cannot investigate a case without obtaining the permission. So, the permission was obtained and the permission was granted on 10.9.1993. I am talking about the Government interference. The permission was given on 10.9.1993, and, the chargesheet was submitted on 5.10.1993, in 25 days. That was a command performance. In 25 days only, all those 700 witnesses, so many tapes, so many video- tapes and thousands of press coverages all were concluded. That was the command performance. Therefore, I suspect that the CBI was used. And, it is this kind of usage of the CBI that prompted the Supreme Court to come up with the suggestion that it can't get swayed, either slow down your proceeding, or, expedite your investigation, depending on the complexion of the accused involved. Therefore, it was the Supreme Court that suggested that the CVC should be appointed by a high-powered Committee, including the Prime Minister, the Home Minister and the Leader of the Opposition. It was not the Government's proposition, Madam. This Committee has been formed on the advice of the Supreme Court.

Now, I have certain points to make. The Bill does take care of two important points that the Supreme Court had made, that is, the CBI and the CVC should be free from any political interference. I hope, it does take place. The Supreme Court also prescribed the time limit of 90 days for obtaining the sanction. Now, that is the law today. But, I am sorry to find that there are a large number of cases that have been pending for sanction even after 90 days. In fact, even today, there are about 319 such cases which have not been given the sanction by the Government, although there have been more than 90 days. This law has not been reinforced in the Act. I hope and wish, as Mr. Nariman said, that we should go through this Act again very soon to remove all the discrepancies that are there and this particular section should be added. There are, however, some problems when we are coming out with this kind of an Act. I feel that this Act should also take care of the scandalous delays that are taking place, and also prevent the scandalous speed with which the investigations are conducted. It should also take care of the fact of absence of prompt punishment. Madam, a crime is not deterred by the amount of punishment that an offence obtains, but by the promptness with which the person is punished. Certainty of punishment is the chief demotivator of a crime and that is what this Act should somehow manage. That can be managed if we prescribe

time limits to everything that is being done in the whole process of investigation. My suggestion is -- I hope the hon. Minister will kindly take care of it -- that there should be a Registrar in the office of the CBI or the CVC. Every complaint of corruption that comes, the Registrar should be able to determine as to how much time the inquiry should take and then set a particular period within which that inquiry should be completed. In England, the Registrar in the High Court determines how many days a particular case will take for trial and parties get themselves insured that in case the case takes more time, then the extra money that will be charged by the lawyer or someone else, the insurance company will pay. So, if they can determine in Parliament as to how many days a trial will take, at least, in an investigation, it should be prescribed how much time it will take. However, there can be investigations where more time would be necessary. In that case, a clause should be there that the investigating person should come to the authority concerned, asking for extra time and fix a date by which he will be able to complete the investigation. And, then, he should keep that date. If he does not keep that date, he commits a misconduct for which he should be punished, or, at least, warned. For each such misconduct, at least warning must be given. So, prescribing dates of the period in which investigation should be completed. Then, prescribing dates within which the entire process of supervision and everything should be completed. Prescribing date for the time the prosecution will take. All this is very necessary. Then, comes the chargesheet of a case. The chargesheets are kept pending for months. They are ready, but not submitted to court. Similarly, official reports, I know, are kept ready; nothing has to be done; but it is pending there. Madam, these two pendencies become a source of monthly income of the subordinate persons in the CBI. So long as a case is pending, the accused feels that 'perhaps he can do something; he might do some mischief; so, keep him on the right side'. That is why, I feel that time limits have to be fixed. The most important point that I want to make, Madam, is that while there is a very high-powered Committee to select the CVC, the selection of the Director has been left to the Vigilance Commissioner, two members and two Secretaries. Now, there are five people, who will select him; and who are those five? These five mostly will be belonging to the Indian Administrative Service. Suppose, I am an SP, or, a DIG in the CBI and I have a chance to investigate one, Mr. 'X'; I investigate him for a corruption charge; and whatever result followed, evidently, it was not sufficient to knock that man out. Now, that man becomes either a member of the CVC, or, one of its

Secretaries. Now, from the post of DIG, I rise and now my turn is about to come for Directorship. Here would be a person sitting, whom I have inquired into. Will his judgement not be swayed? It can be swayed either side. If I had been sweet towards him, he will be favouring me; if I had been harsh towards him, he will be against me. So, my point is that any group, which can be a subject of inquiry by the CBI, cannot possibly be in the Committee in which the Director, CBI has to be selected. I do not see anything wrong if the CVC can be selected by this Committee of the Prime Minister, the Home Minister and the Leader of the Opposition in the Lok Sabha. Why cannot the Director also be selected simultaneously? That is one point.

The second point that I want to make is this. The appointment, transfer, posting, or, the extension of the tenure of the Joint Directors and the Deputy Directors are also going to be determined by that Committee of five. Now, Madam, this completely knocks out the principle of a single line of control of Police administration. All the States have gone to dogs so far as the crime situation is concerned, just because of this. If the Director General does not have the right to post officers, whom he considers fit, he cannot be made answerable for what is happening in the districts. Likewise, if the Director is deprived of picking up his Joint Directors, or, Deputy Directors, or, his SPs, how can he be made answerable for their performance? I cannot understand this. How can some other authority appoint them? This is absolutely an impossible situation that will come about, and it will completely ruin CBI's discipline as well as its performance very severely. So, I personally believe that this should be left to the Director, as it was happening in the past. When I was about to join the CBI, what did the Director do? He called up all the officers belonging to UP, individually, and just started asking what kind of an officer B.P. Singhal was. Now, they all gave a very free and frank opinion. The Director, therefore, gets a very good picture about what the officer is like, before he comes in. If he feels that he will make a grade, then he allows that officer to be inducted into the CBI. If he feels otherwise, he writes back saying that he does not want him. So, this particular facility -- of real consultation, and a genuine and frank appreciation of the calibre of the officer who is to join the CBI -- is not available to this Committee. I, therefore, maintain that if, at all, this Committee has to do the selection, or, posting, or, whatever, of officers of the rank of the Joint Directors and below, only the Director should be made the authority to recommend the future of the subordinates, and not any other body. I would urge the Government to seriously ponder over this and amend the law when the time comes.

Now, there are some small points that I want to make, Madam, that pertain to the ineligibility criteria that has been given in the section pertaining to the Chief Vigilance Commissioner. I would like to add one more section to it, that is, he should be made ineligible also to seek an election to the Rajya Sabha, or, the Vidhan Sabhas. That is another instance whereby favours are being given to the members of such authorities who have to take decisions -- that Rajya Sabha or Vidhan Sabha seats are offered. So, he should be made ineligible for those things also. That also should be made ineligible for these items.

Madam, there are three places where differences can arise. One is when the CVC's findings are not agreed upon by the Department or by the PSU. The concerned Section says that the PSU or the Department concerned will submit its dissent note why it is not in agreement with the CVC, in writing, and it ends there. Now who decides which one is right? So, I propose that there should be a provision for referring it to the Chairman, UPSC, and he should be the authority, a referee in this case. Whatever his decision may be, should be acceptable. Similarly, when there are sanctions, and where the sanctions are refused, in the first place, there should be a provision that if the sanctions do not come within 90 days, sanctions should be presumed. That is a very important section. This is one place where the cases, the prosecutions are getting delayed indefinitely. So, the presumption that sanctions are granted if it does not come within 90 days, should be there. In case the sanction is refused, the case and the grounds for refusal should, again, be referred to the Chairman of the UPSC for giving his final verdict.

Madam, not only should there be transparency, but it should also be visible in all the affairs pertaining to the CBI. Then, there is a section 9(6) having a provision for making an inquiry. Madam, I could not understand how an inquiry is knocked out. After all, if some Secretary gets a complaint, or if a Minister gets a complaint against his Joint Secretary, that he is indulging in corruption, what does he do? Sit on it! If there is something to be inquired into, he has to make an inquiry. It is totally impractical to say that no inquiry can be done. Inquiry can be done, and investigation should also be permitted. There is a very strong provision for protecting the honest, and it is there in obtaining sanctions when the charge-sheet is filed. Until that is done, yes, there has to be a provision for preventing demoralisation that has set in the bureaucracy. Because of the actions of certain corrupt officers, even the honest officers are genuinely



feeling very insecure, and in that respect, I think, there should be a provision in this Bill itself, that every CBI inquiry must end up in three forms. One is, when a charge is proved *prime-facie*, the charge-sheet has to be submitted. The second is, when a charge is proved false, that is the final report. The third is, when a charge is proved false or when charges are proved false, then the person who has alleged should be prosecuted, and punishment should be given to him if he is not able to disprove his charge as much as he was seeking to be provided to the officer against whom he had made the allegation. Section 195 of the IPC has got a provision like that, an analogous provision, that if a person charges someone for some offence, and if that is proved false, he would also get punished to that extent. That provision should also be included--and that will provide a great moral booster to the bureaucracy--that let anyone frames a charge, and if falsehood is established, the man will get punished. Today, what is happening is, anybody can make a charge, and nothing is happening. Even under Section 182, which is a very weak section, a case is filed where a man can be prosecuted for making false complaints. Those provisions for holding the person who is making false complaints, responsible and punishable, also should be included whenever an amendment to this Bill is taken up. With these words, Madam, I thank you for giving me time to express my opinion, and I support the Bill.

THE DEPUTY CHAIRMAN: Shri Arun Jaitley, do you want to intervene? ...*(Interruptions)*...

श्री राजीव शुक्ल (उत्तर प्रदेश) : महोदया, पहले मैं बोल लूँ।

उपसभापति : वे इंटरवीन कर लें, फिर आप बोल दीजिए। मिनिस्टर साहब बाद में रिप्लाई करेंगे। He is only intervening. He is not leaving. He will be here.

श्री राजीव रंजन सिंह "ललन" (बिहार) : महोदया, सबका माखण खत्म हो जाए, तब इंटरवीन करें।

SHRI B.P. SINGHAL: Madam, I want to make one point more. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: He has a commitment; he wants to go.

श्री राजीव शुक्ल : मैडम, मैं बहुत संक्षेप में बोलूंगा।

उपसभापति : हिन्दी में एक कहावत है कि "घूँहीमार टोला, जनावर भाग भाग बोला।" अभी वे बेचारे बोलने के लिए खड़े ही हुए हैं। Without knowing what is the reason, everybody gets up. This is not the way. The Minister has some

commitment. If he wants to intervene now, let him do so. The other Minister is going to reply. He is not piloting the Bill.

**श्री राजीव शुक्ल :** मंत्री जी खुद यील्ड कर गए।

**उपसभापति :** मंत्री जी खुद यील्ड कर रहे हैं तो मुझे क्या एतराज है?

SHRI B.P. SINGHAL: Madam, just one more point I want to make. May I have your permission?

**श्री राजीव शुक्ल :** मैं बहुत संक्षेप में कह रहा हूँ। चेयरमैन साहब ने पहले बुलाया था, मैं नहीं था इसलिए आपका बहुत-बहुत आभारी हूँ।

SHRI B.P. SINGHAL: Madam, before he begins, I just want to say one more sentence. There was a point made by the Supreme Court that premature publicity should be eschewed. That has not been included in this Bill. That should also be included in this Bill.

THE DEPUTY CHAIRMAN: You mean media trial.

SHRI B.P. SINGHAL: Yes.

**श्री राजीव शुक्ल :** मैडम, हमारे सदन में जो विधि विशेषज्ञ हैं चाहे अश्विनी कुमार जी हो और चाहे राम जेठमलानी जी हो, सीबीसी बिल के जो कानूनी पहलू हैं, तकनीकी पहलू हैं उन पर काफी गहराई से प्रकाश डाला है। लेकिन एक -दो बिन्दु और मैं आपके सामने रखना चाहता हूँ। सीबीसी पहले भी होता था और जो तमाम भ्रष्टाचार निरोधक मामले हैं उनको डील करता था। लेकिन कुछ साल पहले यह ज़रूरत महसूस हुई कि सीबीआई की जो फंक्शनिंग है, डायरेक्टर इन्फोर्समेंट की जो फंक्शनिंग है, उसमें राजनीतिक प्रभाव का इस्तेमाल होता है और उससे अपराधी बच जाते हैं। जिन लोगों को सजा मिलनी चाहिए उनको सजा नहीं मिल पाती है। इस तरह की बात जब विनीत नारायण केस के जरिए सुप्रीम कोर्ट में आई तो तत्कालीन चीफ जस्टिस ने उस समय सीबीसी के गठन का सुझाव दिया और उसका गठन हुआ। अब नए कानून के तहत इसके तीन-तीन-चार फंक्शन बताए गए हैं, Superintendence over the functioning of the Delhi Special Police Establishment, Government directions to Delhi Special Police Establishment, inquire and investigate on a reference from the Central Government, etc. इसमें सारे दिए हुए हैं। मेरा कहना यह है कि इसमें सिंगल डायरेक्टिव को लेकर सबसे ज्यादा बात हो रही है। सदन में कई लोगों ने इसकी चर्चा की है। मैं भी ऐसा मानता हूँ कि ज्वाइंट सैक्रेट्री और उसके ऊपर के जो अधिकारी हैं उनको प्रोटेक्ट करने का इसमें एक प्रावधान किया गया है जिसकी सरकार से अनुमति लेनी होगी तभी उसके खिलाफ जांच हो सकती है, तभी उसके खिलाफ कोई इन्वेस्टिगेशन शुरू हो सकता है, तभी उसके खिलाफ कोई कार्यवाही हो सकती है। मैं मानता हूँ कि यह गलत है और यह नहीं होना चाहिए। लेकिन इसकी मूल वजह क्या है। जब मुझे लगा कि सरकार को ऐसा लगा है कि जो ज्युडिशियल सर्विसेज के लोग हैं, जो जजेज हैं उनके बारे में जब जजेज ने प्रावधान बना दिया कि उनके ऊपर कोई इन्वैयरी चाहे भ्रष्टाचार की हो, कैसी भी हो, सरकार या सीबीआई

अपनी तरफ से नहीं कर सकती उसमें चीफ जस्टिस की परमिशन लेनी होगी। चाहे हाई कोर्ट का जज हो या नीचे की कोर्ट का जज हो उसके लिए तो चीफ जस्टिस से परमिशन लेनी पड़ेगी और कैबिनेट सैक्रेटरी को सीधे रेंड करगी और पकड़ लेगी। मुझे लगता है कि इस बात की कही न कही, कोई तकलीफ रही होगी जिसका प्रावधान यहां पर डाला गया है। मैं समझता हूं दोनों प्रावधान उचित नहीं हैं। न जजेज को ऐसा प्रोटक्शन मिलना चाहिए और न आईएसएस आफिसर को ऐसा प्रोटक्शन मिलना चाहिए। लेकिन जब सरकार ने इसकी जरूरत समझी है तो इस पर सरकार पुनर्विचार कर सकती है। मैडम, इसकी आलोचना करके मैं एक बात और कहना चाहूंगा कि डिपार्टमेंट आफ परसोनल के मिनिस्टर भी यहां बैठे हुए हैं, सीबीआई की फंक्शनिंग में भी कुछ सुधार होना चाहिए। जो मोडस ओपरेन्डी इन्वेस्टीगेशन की है, उसमें जरूर सुधार होना चाहिए। 98-99 परसेंट केसेज सीबीआई के केसेज कोर्ट में ध्वस्त हो जाते हैं। माननीय वीरा जी यहां पर बैठे हुए हैं, उत्तर प्रदेश के गवर्नर थे। आडवाणी जी सांसद हुआ करते थे। एक केस में सीबीआई ने उनको चार्जशीट कर दिया। उन लागो का राजनीति जीवन, राजनीतिक कैरियर खतरे में पड़ गया, इस्तीफा देना पड़ा और डेढ़ साल तक इनकी जिंदगी में अंधकार रहा और इसके बाद कोर्ट ने पाया कि इनके खिलाफ कोई सबूत नहीं थे, बिल्कुल बेकार केस था और उसको खत्म कर दिया। जिन अधिकारियों ने चार्जशीट फाइल की थी, उनकी क्या जवाबदेही है। टी.विजय रामाराव आंध्र प्रदेश में मिनिस्टर बनकर बैठे हुए हैं। उनकी देश के प्रति, वीरा जी के प्रति, आडवाणी जी के प्रति और चौदह उन केन्द्रीय मंत्रियों के प्रति जिनको इस्तीफा देना पड़ा, क्या जवाबदेही है। इसलिए सीबीआई की भी कही न कही एकाउंटैबिलिटी फिक्स की जानी चाहिए। तीन-तीन साल, चार-चार साल केस चलते रहते हैं, चार्जशीट फाइल नहीं होती है और अधिकारी रिटायर हो जाता है। उसका पूरा कैरियर तबाह हो जाता है। बाद में वह कोर्ट से छूट जाता है। तो छूटने से क्या हुआ? हो सकता है माइकल मसमरान, जो भाग्य के धनी थे एक दिन सेवा में मिल गया एयर इंडिया, और लौटकर उस कुर्सी पर बैठ गए। कई ऐसे हैं कि रिटायरमेंट के एक-एक साल बाद उनके खिलाफ केस अदालत से छूटते हैं। तो सीबीआई को भी अपनी मोडस-ओप्रेडी, जो उनका इन्वेस्टीगेशन का मैथड है, उस मैथडोलोजी में तब्दीली लानी होगी और फोक्सड इन्क्वायरी होनी चाहिए। अगर इन्क्वायरी "ए" से शुरू होती है तो यह नहीं कि कोलैबोरेशन की थ्योरी लगाते-लगाते "जैड" तक पहुंच जाए। एक ही इन्क्वायरी है तो उसी केस से मुत्तलिक उसको जांच के दायरे में रखना चाहिए, क्योंकि "ए" से जब "जैड" जाते हैं तब चार-चार साल इन्वेस्टीगेशन में लग जाते हैं और अदालत में कुछ भी साबित नहीं कर सकते। इसलिए सीबीआई की भी एकाउंटैबिलिटी फिक्स होनी चाहिए। जो इन्वेस्टीगेटिंग आफिसर है, उसके ऊपर जो डीआईजी, एसपी है, अगर उसका केस कोर्ट में खारिज होता है, तो उसकी भी कुछ न कुछ जवाबदेही होनी चाहिए और उसके लिए भी कुछ निर्धारित किया जाना चाहिए, यह मेरे कहने का मतलब है। अब एक बात पोलिटीकल इंटरफीयरेंस की है, जो कि जेटमलानी जी ने भी उठाई है। मेरी समझ में यह नहीं आता है कि राजनीतिक प्रभाव को इतना खराब क्यों माना जाता है और राजनीतिज्ञों ने ही मानना शुरू कर दिया है। आपको तो वोट देकर इसीलिए इलैक्ट किया जाता है कि आप सरकार की फंक्शनिंग में इंटरफीयर करें। यह आपकी ड्यूटी है। इंदिरा जी इसीलिए मजबूती से सरकार चलाती थी। जब आपके हाथ में कुछ राजनीतिक शक्ति दी है, लोगो ने आपको चुन कर भेजा है, तो Political interference has become a wrong word. मेरी समझ में यह नहीं आ रहा है और पूरा देश उसी रौ में है। उसी रौ में मीडिया है, उसी रौ में नेता हैं, उसी रौ में कोर्ट्स हैं, हर आदमी वही बोल रहा है। यह क्या तरीका है? जब आपको

चुन कर भेजा गया है, चाहे इधर के हो, चाहे उधर के हो, जब जिसकी सत्ता आए, उसका अधिकार है उस छोड़े की लगाम लेकर उसको चलाना। तो राजनीतिक प्रभाव या राजनीतिक हस्तक्षेप, मेरे ख्याल से खराब शब्द नहीं माना जाना चाहिए। आज जो बात है, जो कई हमारे माननीय सदस्यों की चिंता है, वह सब से बड़ी चिंता यह है कि आईएस आफिसर भी बच गया, जजेज भी बच गए तो एमपी कहां हैं? एमपी को जस्टिस जेएस वर्मा ने पब्लिक सर्वेंट में डाल दिया। वह कहां का सर्वेंट है, उसके पास कौन सा आफिस है, वह कौन सा ऑर्डर कर सकता है, वह किसको क्या दे सकता है? क्या उसने यूपीएससी का इम्तहान दिया है कि उसकी 35 साल की सर्विस है। उसे तो हर ढाई, तीन, चार या पांच साल में बाहर निकाल देते हो और छः साल बाद यहां से निकाल देते हो। फिर उसको आप कैसे पब्लिक सर्वेंट मानते हैं? और यह हम सब लोग मान कर बैठे हुए हैं, हमारे मंत्री मान कर बैठे हुए हैं, कानून मंत्री यहां बैठे हुए हैं, पाठक जी बैठे हुए हैं, आप बताइये एमपी कहां पब्लिक सर्वेंट बनता है, किस कानून से बनता है? सिर्फ जस्टिस जेएस वर्मा ने कह दिया, इसलिए ऐसा हो गया। आप मिनिस्टर को मानिए तो हमारी समझ में आता है, लेकिन एमपी कहां से पब्लिक सर्वेंट हो गया? उसके हाथ में कौन सा अधिकार है?... (व्यवधान)...

SHRI KAPIL SIBAL (Bihar) : Madam, I would like to mention one fact. When the original Bill was introduced in Parliament - I remember, Shri Chidambaram had introduced the Bill - the Minister in his explanation to the Bill said that Members of Parliament were not going to be included as public servants. That is part of the record. Now the Supreme Court has decided otherwise. Then we sat back. Madam, the hon. Minister is also here and he is going to speak in his capacity as a Member of this House. I would request Mr. Jaitley to respond to this point. What are his views on this subject?

**श्री राजीव शुक्ल :** प्रधानमंत्री, उप प्रधानमंत्री, मंत्रिगण लोकपाल के दायरे में चले गए, मुख्य मंत्री लोकपाल के दायरे में चले गए, आईएस आफिसर्स के लिए गवर्नमेंट की परमिशन चाहिए, जजेज को चीफ जस्टिस से परमिशन चाहिए और बाकी यहां जो एमपीज बैठे हुए हैं उनको किसकी परमिशन चाहिए? सीधे दारोगा जी आएँ और उठा कर बंद कर दे और वह कुछ भी कर सकता है। इसलिए मैं सरकार से चाहूंगा कि इस मामले को वह स्पष्ट करे कि क्या स्थिति है और अगर कहीं ऐसा है तो एमपी को पब्लिक सर्वेंट के दायरे से निकाला जाना चाहिए। यही मेरा कहना था। धन्यवाद।

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): Madam, I seek your leave to intervene in this matter. There are indeed several important issues which have been raised. Some of the hon. Members are concerned about the fact that in different wings of governance, there are increased instances of corruption; what should be the standards of accountability and really what should be the response of the political system through this legislation and otherwise to all these issues which have arisen.

Madam, permit me to take a few minutes and just refer to an instance that took place about two years ago. I had gone to attend a meeting on judicial reforms in one of the States where senior members of the judiciary, the Chief Minister of that State, some other public persons, some media persons, etc. also spoke on the subject. Almost, there was an echo that for whatever went wrong the blame was coming on the doorstep of politicians. So, a very humble Chief Minister got up and made a brief speech, just for three or four minutes. And, that was one of the finest speeches I have heard. He said, "Yes; we are in the business of asking for votes; therefore, everybody blames us. And everybody has said that we are not accountable. But, every morning, I am scared as to what the media has to say about my performance. I don't know whether any of you, the other gentlemen, sitting here, ever face the same response. I, earlier, used to face the electorate every five years. Now, it is every two or three years of election that my performance is tested. I have complaints against me in various Lok Pals, Lok Ayuktas and other bodies which we have set up. I have to stand up every four or six months in a year and answer my Assembly. Somebody who joins the Civil Service, for 25 years, does he have to go through all these layers? Somebody who joins the judicial institution, does he have to go through all these layers which I have to go through? But, still the popular perception is that every other institution has layers of accountability and I have none." He made this brief speech and sat down which led to an interesting debate on this subject. I think, a lot of these issues which we are raising today really are arising out of this whole environment in which we are living where we have created a suspicion about every acts of Governments which are elected, which have popular responsibility, which are accountable, and, therefore, other institutions, whatever they do, will not be tested on the same measure on which various acts of governance and those involved in public life, political life, are going to be tested.

Let us just see what really has happened. Before I come to this much discussed single-point directive, let us start with this. There is a very salutary rationale behind this. Shri Lal Bahadur Shastri was the Home Minister. The Grants for the Home Ministry were being discussed, and the issue of accountability of Civil Service, issues of corruption, came up. A Committee headed by Shri Santhanam, was appointed. That Committee consolidated all the regulations, and those regulations in 1964 came to be known as the single-point directive. And, the rationale was that those who are in serious decision-making positions, those who have to exercise

discretion, those who have to take vital decisions, could, frequently, be the targets of frivolous complaints. Do we allow those complaints against them to go on and those people to be subjected to all these? Or, do we have some screening mechanism whereby serious complaints would be investigated and frivolous complaints would be thrown out? And this is how the single-point directive was born, and in 1988, they replaced the senior civil servants in the senior decision-making positions by saying 'Joint Secretaries and above'. And, if you were to say that there is no protection to be given to you, when you take all the decisions, when you make all the discretions, and anybody can file a complaint, and an inspector or the CBI or the police can raid your house any moment, if this elementary protection is not to be given to the senior decision-makers, you may well have a governance where instead of tendering honest advice to political executives, a very safe, non-committal advice is going to be given. Now, these are the different views on the subject; well, the Minister may take his own decision in the matter. I don't want to be subjective of all these complaints. It is very easy for those, who have lesser ideas of how governance really works, to realise what kind of protection is to be given at what levels. And, judiciary, let me say this in their favour, is fully conscious of the problems which may confront them at all levels. A magistrate, a very junior magistrate, a civil servant, may well decide something against the local police and be the target of investigation. So, the judiciary very rightly said, - even though there is no law, there is no single-point directive, in relation to Courts - "We can't allow such a situation to develop. So, even before you register an FIR against a judge, - he may be a judge at the lowest accounts of judiciary -- take the permission of the Chief Justice. Before you investigate it, take the permission of the Chief Justice. There are several cases. I was going through some of them. In Justice Veeraswamy's case -- Mr. Kapil Sibal had argued that matter" - the Supreme had said, "Well, against a judge of the High Court, you can't register an FIR and investigate the case, till you take the permission from the Chief Justice. Otherwise, you will be opening a situation, where an inspector of the police, or, an SHO will walk into a Judge's house and say, "I want to investigate your assets." Perhaps, the judiciary knew the problem, which the judicial system confronted and, therefore, they rightly - even though there was no single-point directive; no law - gave a judicial directive, "Let us start protecting judges." ...(*Interruptions*)...

SHRI KAPIL SIBAL: Madam, if you just permit me, I would like to inform the Members of this House what had happened. The Veeraswamy's

case related to a Chief Justice of the Madras High Court, who was sought to be prosecuted under the Prevention of Corruption Act. In Veeraswamy's case, they had said, "Sanction has to be obtained from the Chief Justice of India, before you prosecute a Judge of the High Court". When it came to the JMM case, where Members of Parliament were involved, I told the court that we had the same provision, where there was no sanction *qua* a Member of Parliament, because the sanctioning authority had to be the appointing authority, and a Member of Parliament was not appointed; a Member of Parliament was elected; and the sanctioning authority had to be the removing authority; a Member of Parliament was not removed by the Government. Therefore, under the Prevention of Corruption Act, there was no sanctioning authority, just as in the case of a Judge, because a Judge could only be removed through the impeachment procedure. He couldn't be removed by the Government. Therefore, the same principle must apply. So, they applied a different principle to their own kin, but did not apply that principle to the Members of Parliament. Now, what is the logic? I just wanted to place it on record, Madam.

THE DEPUTY CHAIRMAN: Different yardsticks!

SHRI ARUN JAITLEY: Madam, therefore, the Judiciary, when it came to Judges, very clearly said in Justice Veeraswamy's case, and I am just reading one sentence, "We, therefore, direct that no criminal case shall be registered under section 154 of the CrPC against a Judge of a High Court, or, a Chief Justice of a High Court, or, a Judge of the Supreme Court, unless the Chief Justice of India is consulted in the matter." This is for the judges of the High Court and the Supreme Court. What do you do about Magistrates, etc.? In one case, a Magistrate was charged with accepting bribe. So, even if he was charged with accepting the bribe, the Judiciary said, "We direct that, in addition, no crime for investigation should be registered pursuant to any FIR, without the permission of the Chief Justice." And I support these decisions, because, otherwise, it will lead to a very strange situation where you may well have an Inspector of Police saying, "You don't have an immunity against investigation. If it comes to the question of seeking sanction, I will see who is to be consulted. I am first raiding your house; I am searching your house, you had passed strictures against me, yesterday. We will settle that issue separately." Therefore, Judges are rightly entitled to this protection. Then, you have a whole history, right from the Santhanam Committee Report of 1964 as to whether those in decision-making positions in the Government should be

allowed to be investigated for every discretion they exercised, or, there should be some screening mechanism, which would see whether it was a frivolous complaint, or, it was some matter, which required investigation? This process continued. And, when this process continued, and the last of these directives were issued, what happened in one of the offshoots of the *hawala* case, where the single-point directive was struck down? The principal reason for which the single-point directive was struck down was not that the single-point directive itself was void, or, the whole concept was obnoxious; the principal reason was, and I am quoting, "In the absence of any statutory requirement of prior permission or sanction for an investigation, it cannot be imposed as a condition-precedent for initiation of investigation, once jurisdiction is conferred on the CBI to investigate an offence by virtue of section 3 of the Act". Now, section 4 of the Delhi Special Police Establishment Act says, "Powers of superintendence are given to the Central Government over the CBI." So, the Central Government, at that time, defended, and said, "Because we have powers of superintendence, the 'power of superintendence' will include the power to tell the CBI not to investigate a senior officer without taking permission from the Central Government." They said, "Well, the meaning of the word 'superintendence' does not bring, within its ambit, such a wide power and, therefore, under the Special Police Establishment Act, you do not have the statutory power to direct the CBI to ask you". Then, what should be the statutory power? And this is my principal reasoning; what should be the procedure for this? Madam, who is to decide this? Is it to be decided by this House pursuant to its legislative jurisdiction or is it to be decided by the judicial institutions? It is a matter of policy. The policy has to be given a legislative shape, and when the policy is to be given a legislative shape, the sovereignty of that belongs to this House, it does not belong to judicial institutions. Members have occasionally said that, of late, we first started with public interest litigations, I am not opposed to them. When the executive does not perform its duty, there must be an active public interest litigation. The next stage has been, judicial legislation in terms of directions. To maintain one of the basic structures of the Constitution, which is the separation of powers, it is this tendency which we have to make sure that statesmanship both by the judicial institutions as also by the legislative institutions that legislative policy and legislative power will have to be decided by the House. Therefore, if this House feels that a single point directive is not necessary, if a Joint Secretary or a Secretary of the Government of India takes a decision and the Inspector of the CBI is



entitled to visit him without anybody's permission, then, what are the consequences of it on governance going to be, on decision-making going to be, it is a serious matter which really should be considered. The Government is of the very considered view, as also the Committee which has got its stamp of approval on this, that on such matters there has to be some preliminary screening. If it is *per se* frivolous, then you again allow senior officers at the level of decision-making really to be brought into this whole process. I am conscious of the fact that when people have been quoted as to what goes on. Well, we can have a lot of quotes. I don't get into names. He was a former Chief Election Commissioner. About corruption, the best quotes came from him. And, I do remember that subsequent to retirement, despite the best quote against politicians, first running to my friends in the Shiv Sena to get nomination for one political office to be proposed, and then running to the Congress Party for another nomination.

SHRI FALI S. NARIMAN: The Minister will pardon me. This is all very well. We were only wondering that there has to be some safeguards. So, the alternative that was suggested was that where the Central Government refuses to allow an investigation, at least, it must give reasons in writing which will ultimately on occasion be tested in a court. There must be no objection to that.

SHRI ARUN JAITLEY: I think what comes of Mr. Nariman is something which I cannot even argue against because if the Central Government says on the basis of these facts, permission is being granted or is not being granted, these orders of the Central Government must necessarily contain reasons.

SHRI FALI S. NARIMAN: That is not in the law.

SHRI ARUN JAITLEY: Mr. Nariman, with utmost respect, if I may just say this. It is obvious that when the Government pass these orders, they will have to be reasoned orders. These orders would also be tested on judicial review. Reasoning will have to be given. If the Government choose not to give reasons, these reasons would be struck down for the asking, as there being no reasons at all, if you have no reasons to give. And, I am sure, my friend, Mr. Pathak, while responding to this would also repeat this assurance to you that in these cases, reasons would necessarily have to be given, when somebody asks for a permission and you deny that permission to him. But, let us just see this, to what extent we will take the distrust. I

**4.00 P.M.**

recently came across a statement of one of the most eminent persons in Indian public life, "India's foreign exchange reserves are increasing because Indian politicians have started bringing moneys back from their Swiss accounts." Now, we have \$ 85 billion. He must have an idea as to what a billion dollar is. Are we going to take distrust against politicians to such an extent that whatever power is to be given to them necessarily will have to be viewed with some element of suspicion.

Madam, as far as the question of MPs is concerned, it is for my learned friend and his Department and then collectively the Government to take a view, but my suggestion would be that at some stage, either a discussion on the subject or an all-party meeting on this subject can be held because it may be difficult for us to suggest that MPs must have no accountability. There will have to be some form of accountability. But, what seems to have happened in the past is, when the Prevention of Corruption Act, 1988 was brought in, a question was specifically raised in Parliament as to whether MPs are public servants or not. The Minister of Personnel, at that stage, while piloting the Bill said, "No, you are not public servants merely because you are MPs. If you are holding some office as to a Chairman of an Undertaking or something, you may be public servants because of that, but by virtue of being MPs, you are not public servants. But on the ground that the definition of a 'public servant', as in the penal code, includes a person who performs public duty, the Supreme Court interpreted it to say that because a Member of Parliament performs public duty, he is necessarily a public servant.

Then, this whole debate has started as to whether being a public servant, who should be the sanctioning authority. The first instant view was that there is absolutely no sanctioning authority. The alternative view given is, if you don't have a sanctioning authority, which is defined in the law, let the Speaker of the House or the Chairman of the House be the sanctioning authority, as far as we are concerned. These are, again, if I may suggest, arrangements for sanctioning, which have been made by judicial construction. These are all matters, really, which are to be sorted out, eventually, by legislation and I would suggest that at some stage, formally or informally, if the Department of Personnel consults all parties, some way of accountability can be evolved. What that accountability mechanism would

be, what the procedure would be, is a matter which we can separately discuss.

Thank you very much, Madam, for giving me the time.

**श्री राजीव रंजन सिंह "तलन"** : उपसभापति महोदया, मैं आपका आभारी हूँ कि आपने मुझे इस बिल पर बोलने का मौका दिया है। महोदया, इस बिल में मुख्यतः तीन बातें हैं।

### [उपसभाध्यक्ष (डा० ए०के० पटेल) पीठासीन हुए]

पहली तो यह है कि जो सीवीसी का बिल है और जो सीवीसी की संस्था इतने लम्बे समय से चली आ रही थी उसको कोई स्टेट्युचरी स्टेटस नहीं था, आज उसको स्टेट्युचरी स्टेटस इस बिल के माध्यम से दिया जायेगा। दूसरी जो बात आई है और वह है कि पूरे दिल्ली पुलिस एक्ट के अंतर्गत जो सीबीआई की टोटल फक्शनिंग है, उस फक्शनिंग को मानीटरिंग करने का काम सीवीसी करेगी। तीसरी बात है कि जो अलग अलग मंत्रालयों में, उनकी आंतरिक निगरानी है उनके रिकार्ड के आधार पर सीवीसी सलाह देगी। लेकिन महोदय, इन सारी बातों के अलावा बिल के जो प्रावधान हैं, उनमें कुछ शंका और प्रश्न मेरे दिमाग में हैं जिनको हम चाहेगे कि सरकार स्पष्ट करे। सवाल यह है कि जब आप सीवीसी को इतना स्टेट्युचरी प्राविजन दे रहे हैं, उनके सारे अधिकार एक जगह पर सीमित कर रहे हैं, तो ऐसी स्थिति में जिन उद्देश्यों के लिए सीवीसी का गठन किया जा रहा है, उस उद्देश्य से यदि सेट्रल विजिलेंस कमिशन भटकता है तो उस स्थिति में क्या होगा? क्योंकि सीवीसी इसके पहले, आज की बात मैं नहीं कर रहा हूँ, लेकिन इसके पूर्व जो सीवीसी थे, सेट्रल चीफ विजिलेंस कमिशनर थे, उनके बारे में बहुत तरह की बातें थी, हम उनमें नहीं जाना चाहते हैं। लेकिन एक-दो उदाहरण हम देना चाहते हैं। इसी सदन में एक प्रश्न दिल्ली विकास प्राधिकरण से संबंधित था। सीबीआई की जांच चल रही थी। सीबीआई की जांच के आधार पर, उनकी रिकमंडेशन पर 31 पदाधिकारियों को निलम्बित किया गया। उन 31 में से एक के बारे में सीवीसी ने कहा कि उनका निलम्बन हटा लो, सीबीआई ने कहा कि नहीं, अभी हमारी जांच चल रही है, सीबीआई ने कहा कि हम इनका निलम्बन नहीं हटायेगे। सीवीसी ने कहा कि हटाना पड़ेगा, हम कह रहे हैं निलम्बन हटाओ और उस विभाग को उनका निलम्बन हटाना पड़ा।

महोदय, कई ऐसे उदाहरण हैं जहां पर डिपार्टमेंटल मंत्रालयों की सीवीसी के पास अनुशंसाये गईं। हम उन उदाहरणों का नाम नहीं लेना चाहते हैं। लेकिन कई उदाहरण हैं। उनकी कई अनुशंसाये सीवीसी के पास गईं। सीवीसी ने लिखा इसमें मेजर पेनल्टी दी जानी चाहिए। जब यह आदेश निर्गत होने की स्थिति में था, सीवीसी ने उस फाइल को मांग लिया और लिख दिया कि माइनर पेनल्टी दी जाये। उस पर कौन नियंत्रण करेगा? आप जिन उद्देश्यों के लिए सीवीसी का गठन कर रहे हैं, उन उद्देश्यों से अगर सीवीसी भटकता है तो उनको नियंत्रित करने का इस बिल में क्या प्रावधान है? जहां तक मैं समझता हूँ, इसमें प्रावधान है कि सुप्रीम कोर्ट की अनुशंसा पर महामहिम राष्ट्रपति उनको हटाने का निर्णय करेगे, इसके अतिरिक्त कोई प्रावधान नहीं है। कौन जाएगा सुप्रीम कोर्ट? कौन कहेगा सुप्रीम कोर्ट से? सुप्रीम कोर्ट जाने की क्या प्रक्रिया होगी? इसका कहीं कोई विस्तृत उल्लेख इस बिल में नहीं है। इसलिए महोदय, मैं यह कहना चाहता हूँ कि जब सीवीसी को आप पूरे अधिकार दे रहे हैं तो उनको उनके उद्देश्यों के प्रति कैसे नियंत्रित रखा जाए, इसका प्रावधान इस बिल में होना चाहिए। दूसरी बात मैं यह

कहना चाहता हूँ, जैसा कई सदस्यों ने कहा, माननीय विधि मंत्री जी ने भी अभी हस्तक्षेप करते हुए कहा कि इस बिल के अनुसार ज्वाइंट सेक्रेटरी एवं ऊपर के अधिकारियों के मामले में उनको सरकार से परमिशन लेनी पड़ेगी। यह डिसक्रिमिनेशन क्यों है? अगर ज्वाइंट सेक्रेटरी से नीचे के पदाधिकारियों के लिए ही इतना बड़ा जाल और संस्था खड़ी की जा रही है तो मैं समझता हूँ कि इसके पहले भ्रष्टाचार को मिटाने के लिए जितने प्रावधान थे, वे नीचे के पदाधिकारियों से निपटने के लिए काफी थे। जो नीचे के पदाधिकारी हैं, जब तक उनकी ऊपर के पदाधिकारियों के साथ मिली भगत नहीं होगी, तब तक बड़ा भ्रष्टाचार नहीं हो सकता है। आज ज्वाइंट सेक्रेटरी और सेक्रेटरी को आप इससे बाहर कर रहे हैं, ... (व्यवधान)...

**श्री बालकवि बैरागी (मध्य प्रदेश) :** और एमपीज को ला रहे हैं। ... (व्यवधान)...

**श्री राजीव रंजन सिंह "ललन" :** ज्वाइंट सेक्रेटरी ऐड अबव, जितने पदाधिकारी हैं, वे ब्यूरोक्रेसी में सबसे पॉवरफुल व्यक्ति हैं। इनडायरेक्ट रूप में जो पॉवरफुल लोग हैं, उनको आप सीवीसी के दायरे से अलग कर रहे हैं। अगर सीवीसी परमिशन मांगेगा - अभी तो जो मुझे जानकारी है कि सीवीसी ने अधिकारियों के खिलाफ प्रोसीक्यूशन के हजारों सेक्शन मांगे हैं, वे सेक्शन अभी तक बरसों से लम्बित हैं। जब प्रोसीक्यूशन के सेक्शन बरसों से लम्बित हैं तब उस परिस्थिति में, यदि उनके खिलाफ जांच करने की अनुमति मांगी जाएगी तो वह कहां से प्राप्त होगी? कभी प्राप्त नहीं होगी। इसलिए महोदय, श्री बालकवि बैरागी जी ने बिल्कुल ठीक कहा। दूसरी ओर यह कहा गया कि सांसद पब्लिक सरवेट हैं। कल हम चुनाव लड़ेंगे। कोई संसद सदस्य चुनाव लड़ने जाता है, चुनाव के लिए 15 लाख की सीमा निर्धारित है। हम किसी से चुनाव लड़ने के लिए अगर चंदा मांगेंगे तो हम पब्लिक सरवेट हैं, हम पर प्रोसीक्यूशन होगा। माननीय विधि मंत्री जी ने बिल्कुल ठीक कहा, हमारी अकाउंटेबिलिटी तो हर पांच साल के बाद होती है। हम हर पांच साल के बाद जनता के सामने जाते हैं और जनता हमारा लेखा-जोखा देखती है तथा उसके आधार पर हमारा फैसला करती है। लेकिन एक अफसर जो नौकरी ज्वाइन करता है और साठ साल के बाद जब रिटायर होता है तो रिटायरमेंट के बाद भी वे, कई जगह उन्होंने स्थापित किया हुआ है, जहां जाकर वे बैठ जाते हैं। एमपीज की अकाउंटेबिलिटी के लिए हमारी संसद की Ethics Committee है। आप विचार करिए, सरकार विचार करे और विचार करके यदि उससे भी बड़ी कोई कमेटी हो सकती है, हमारी पार्लियामेन्टरी डेमोक्रेसी में, हमारे अंदर की कोई व्यवस्था हमें नियंत्रित करने के लिए अगर हो सकती है तो हम उसे कर सकते हैं। Ethics Committee के अलावा भी, अगर सारी पार्टियों के साथ सहमति होती है कि उससे भी बड़ी कोई और सख्त कमेटी बना दी जाए तो बना दोजिए लेकिन पब्लिक सरवेट के दायरे में हम कैसे आते हैं? हम किस आधार पर पब्लिक सरवेट हैं?

SHRI FALI S. NARIMAN: We are promulgating the ethics rules. Once those rules are promulgated, we get together and we can have some discussion on that. हमारी पार्लियामेन्टरी डेमोक्रेसी का जो सिस्टम है, हमारी संस्था के अंदर उसके बहुत सारे रास्ते हैं। उन रास्तों पर विचार होना चाहिए। हम यह चाहेंगे कि जब सरकार इसका उत्तर दे तो इन बातों की ओर साफ-साफ संकेत दे क्योंकि यह डिसक्रिमिनेशन है, ज्वाइंट सेक्रेटरी बाहर, एमपी अंदर। यह बात हम नहीं समझ पा रहे हैं। हम लोगों के मन में ये सारी शंकाएं हैं और हम चाहेंगे जब सरकार इसका उत्तर दे तो इनका भी स्पष्टीकरण दे। इन्हीं शब्दों के साथ मैं इस सीवीसी बिल का समर्थन करता हूँ।

SHRI RAM JETHMALANI: Hon. Minister, please yield for a minute only. I don't want a wrong impression to go uncontroverted. The Supreme Court set aside the single directive on the ground that it produces unlawful discrimination between one public servant and another and also between public servants and the general public. Then the argument was made before it that the Act justifies it. The Supreme Court then gave a second answer that the Act does not contain any such power. So, it is not that the Supreme Court said because there is no power in the Act, therefore, now you create that power by the Act. This is a complete misunderstanding of the Supreme Court judgement. Second, the Supreme Court will consider the inconvenience, as my friend put it, that a Police constable might walk into a Secretary's or Joint Secretary's house and say, "I am going to search you." The Supreme Court said that this protection will come not from the Government and its political masters, but will come from the CVC. So, they dealt with both these aspects of the matter. I am sorry to say that an attempt has been made to create a wrong impression in this House.

THE VICE-CHAIRMAN (DR. A.K. PATEL): Please, take note of it.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI HARIN PATHAK) : Thank you, Mr. Vice-Chairman. I am extremely thankful to all my esteemed friends, hon. Members of Parliament including my most respected Member of Parliament as well as an eminent Jurist of this country for participating in this very important legislation, which we are going to enact as a law today. I am highly enlightened with the views expressed by various speakers. I am indebted to my senior colleague and esteemed friend and our Cabinet Minister in the Council, Shri Arun Jaitleyji, who has replied in detail on some legal aspects of some of the issues raised by some hon. Members. I think that being a layman - I am neither a law graduate, nor an advocate, nor a lawyer - as I understood this Bill by listening to all my friends, I have come to know that there are two major points or issues which are discussed in different manners and in different languages. One of them is the single directive. The first issue relates to Clause 26, Section 6A, which is a part of the single directive and the second issue is about superintendence. These are two major issues which were discussed in this august House in different ways, in different manners. I would also like to touch upon these two issues in my short and brief speech which I prepared, and I am sure that to the best of my ability I would be able to satisfy all my friends who have

spoken on this Bill. Sir, it is my duty to inform Members of this hon. House that in the course of the deliberations and interventions, the reflections and the various opinions expressed by hon. Members conclusively demonstrated the endeavours the hon. Members made on making this Bill an exemplary sort of legislation dealing with serious problems posed by corruption. As my esteemed friend, Shri Ashwani Kumar, who is not present, has pointed out this when he started the debate yesterday. In Vineet Narayan Judgement, the hon. Supreme Court had observed' "The holders of the public offices are entrusted with certain powers to be exercised in public interest alone, and therefore, the offices are held by them in trust for the people. Any deviation from the path of rectitude by any of them amounts to breach of trust and must be severely dealt with, instead of being pushed under the carpet." Sir, investigations into allegations of corruptions are conducted by CBI in accordance with the law and without any interference. There should not be scope for any perception that influence can be exerted on the investigative agency to change the outcome of the investigation. The Government, therefore, intends to transfer superintendence of the CBI to the Central Vigilance Commission to make it more transparent and give it a statutory backing. Sir, some of the important points raised by the hon. Members, and my response to them is as follows.

As I have mentioned, these are the two important issues which were discussed. Single Directive, as Arunji rightly pointed out, I would request the House to please excuse me if there is a repetition of some of the sentences or references in my speech. Before I respond to the points raised by the hon. Members about the Single Directive, I would like to briefly touch upon how the Government policy regarding proceedings against public servants has evolved since 1956, when restrictions relating to the operation and functioning of the Delhi Special Police Establishment, which is now called CBI. मैं कल कह रहा था कि इसका भी नैक्स्ट टाइम लाकर सीबीआई शब्द रखा जाए, क्योंकि कब से यह चल रहा है। दिल्ली स्पेशल पुलिस एस्टैब्लिशमेंट के बदले अब सीबीआई शब्द लिखा जाए तो उस पर भी हम विचार कर सकते हैं! The Delhi Special Police Establishment Act was first enacted in 1946. The Santhanam Committee on Prevention of Corruption suggested in 1962 that these instructions must be consolidated and, consequently, a consolidated set of instructions called, the Single Directive, was issued in 1969 and later amended many times in the light of the experience gained. The much-discussed Directive, that is, Directive 4.73 which was struck down by the Supreme Court. It related to the necessity of the Special Police Establishment for obtaining a prior sanction of the Secretary of the

Department or Ministry concerned before taking an enquiry against the decision-making level officer, that is, Joint Secretary to the Government of India or above and equivalent levels in PSUs and national banks. Sir, the independent review Committee, now the whole process, how it began and how we came to this legislation, a lot of exercise has been done. The independent review Committee had also extensively discussed the Single Directive with Director (CBI) and Secretary (Personnel) and noted in its Report on 18<sup>th</sup> November, 1997 that the Directive was limited in coverage and scope. It distinguished in coverage. It was limited to officials at decision-making levels and in practice, its scope was restricted to official acts. Objective was obviously intended to protect the decision-making level officers from the threat and ignominy of malicious and vicious enquiry investigations and in no way extendable to extraneous or non-official acts of Government functionaries. This arrangement was struck down by the Supreme Court in the Vineet Narayan case, mainly on one ground, as Mr. Jethmalani rightly said, but there were two other grounds also. But, the main ground was that this had no statutory backing and that every person accused of committing the same offence has to be dealt with in the same manner as prescribed in the law. The Joint Parliamentary Committee noted that many witnesses, who appeared before the Committee, expressed the need to protect the bonafide action taken at the decision making level, particularly in the context of the increasingly competitive environment where risk taking forms part of a normal commercial decision-making in various organisations. It expressed concern about the fact that as of now, no protection was available to these persons, at the time of registering a case against them. Sir, the Government have taken the advice of the Department of Legal Affairs in this matter. The sum and substance is that the concept of single directive is neither arbitrary nor ultra vires of Article 14 of the Constitution. Hence, it is within the legislative competence of Parliament to enact the provision to give effect to this concept.

Similar arrangements -- I think, Arun Jaitleyji has already said about it - for Members of the judiciary exist in terms of the judgement of the hon. Supreme Court in the case of K. Veeraswamy vs. Union of India and U.P. Judicial Officers Association vs. Union of India. It is on this ground that the CVC Bill incorporates the provision to amend the Delhi Special Police Act by introduction of section 6(A) to provide for a statutory backing for the concept of single directive, as I mentioned in my opening remarks.

The second point discussed was the superintendence over vigilance administration. Apprehensions have been raised by the hon. Members that proviso to clause 8(1)(h) of the Bill trammels the independence of the Commission by curtailing its powers of superintendence over the vigilance administration. It was observed by the Joint Parliamentary Committee that CVC, invoking its powers to exercise superintendence over vigilance administration, has already issued a number of instructions to various Ministries, Departments and Organisations of the Central Government on several measures which appropriately fall with the Executive authority of the Government and which have created difficulties in the implementation. It was felt that the wording 'exercise superintendence over vigilance administration' was likely to give unlimited powers to the CVC, which is an advisory body, to interfere in the day-to-day administrative functioning of the Government bodies.

यह जो शब्द सुप्रींटेण्डेन्स है, इसका अभिप्राय जब अंग्रेजी से लिया गया तब यह पता चला कि इसमें तो बहुत वाइड पावर है। अगर वे गवर्नमेंट विजिलेन्स के एडमिनिस्ट्रेशन के लिए जो अधिनियम बने हैं, रूल्स बने हैं उनके अंतर्गत काम नहीं करते हैं और अपने मन से काम करेंगे तो उनके पास तो अब्बाय सत्ता आ जाएगी और फिर who is responsible and accountable to the Parliament; both the Houses, that is the Government.

कही पर भी ऐसा न हो कि किसी एक संस्था के पास इतनी पावर आ जाए कि वह सरकार के ऊपर रहे। मैं समझता हूँ, हम सब यहाँ सदस्य बैठे हुए हैं, इस बात को समझते हैं कि सरकार सबसे ऊपर है बल्कि इसके ऊपर ये दोनों सदन हैं। सरकार इन दोनों सदनों द्वारा बनाए हुए कानून के अंतर्गत अपने कार्य को चलाती है। मेरा तो यह मानना है, व्यक्तिगत तौर पर मेरे पांच टर्म लोकसभा में हो गए हैं, मेरा यह मानना है पब्लिक लाइफ में, कि संसद के ये दोनों सदन इस प्रजातंत्र में सर्वोपरि हैं। कानून बनाना है तो सदन बनाएगा, किसी प्रजातांत्रिक विषय पर निर्णय करना है तो संसद के दोनों सदन में बैठे हुए, प्रजा द्वारा चुने हुए प्रतिनिधि इस विषय को लेकर अपना मत अभिव्यक्त करेंगे, जिसके तहत देश में सरकारें चलती रहेगी।

SHRI VAYALAR RAVI (Kerala) : Mr. Minister, does it mean that the CVC will get into the day-to-day administration of each Ministry and will try to dictate? But, to my understanding -- you can clarify -- the CVC's functioning is only to look into the charges of corruption, or, petitions. So, how can the Government say that there is going to be a "super-Government"? How can you give that interpretation?

श्री हरिन पाठक : मैंने इसलिए कहा यह सुप्रींटेण्डेन्स शब्द की जब परिभाषा, उसकी व्याख्या की गई तो उसमें इतना व्यापक अर्थ आया कि वे डे टू डे फंक्शनिंग में भी जा सकते हैं। ऐसा जेपीसी को भी लगा, सभी माननीय सदस्यों को भी लगा कि यह सुप्रींटेण्डेन्सी शब्द के साथ सीपीसी को सारी सत्ता दी जाएगी तो वह डे टू डे फंक्शनिंग के अंदर हस्तक्षेप कर सकता है।



इसलिए हमने रिस्ट्रिक्शन रखी है, जो मैं आगे चलकर बताता हूँ। It was felt that the wording 'exercise superintendence over vigilance administration' was likely to give unlimited powers to the CVC, which is an advisory body, to interfere in the day-to-day administrative functioning of the Government bodies. Now, I come to the next paragraph which will clarify your queries. According to the advice tendered by the learned AG, the word 'superintendence' includes powers to give general policy directions. The word 'vigilance administration' includes the areas of preventive vigilance involving Government rules and procedures, etc., which are internal to the administration in the Government. The superintendence by the CVC in that area will lead to unintended outcome. The issue of various instructions by the CVC, particularly, without prior consultation with the various Government Departments is not considered desirable. Moreover, it is the Central Government, as I have just mentioned in Hindi, which is and will be accountable to the Parliament and not the CVC, even though, it will be a statutory body. So, friends, it was, therefore, considered appropriate that the powers to give general policy directions including on vigilance in disciplinary matters vest with the Central Government. With a view to avoiding unintended implications of the word 'superintendence', the JPC recommended the addition of the proviso in existing clause 8(1) (g), to clarify that CVC is not authorised to exercise superintendence over vigilance administration in a manner not consistent with the direction issued by the Government and does not have the power to issue direction relating to any policy matter. CVC यह नहीं कह सकता CBI को कि हम कहें इस प्रकार से आप investigation करो, हम कहें इस प्रकार से इसका investigation होनी चाहिए। जो सरकार के vigilance administration के नीति-नियम बने हुए हैं उसके अधीन रहकर, सुपरविजन करके CBI की जो functioning है, उसका वह ध्यान रख सकते हैं मगर उसको particular manner में ही investigation करनी चाहिए, यह कहने की इजाजत हम उनको नहीं देते हैं। Therefore, Sir, in view of the above, the CVC is restricted only on giving directions which are inconsistent with the Government policy. However, please listen to it carefully, the CVC is still free to advise the Government even on policy matters. The CVC can advise the Government on policy matters. Now, about accountability of the CVC. यहाँ इसकी भी चर्चा हुई कि CVC की accountability क्या हो? The CVC is not directly accountable to the Government. However, the following checks have been provided in the Bill. The CVC, that is, the Chief Vigilance Commissioner and the VC are to be appointed on the recommendations of the Committee headed by the Prime Minister, as mentioned in Clause 4(1). The CVC/VC can be removed on the ground of proved misbehaviour or incapacity. The Commission is to submit

its report within six months of the close of the year. The report is to be laid before the each House of the Parliament (Clause 40). The elected representatives, Rajiv ji, I am coming to your point, even some other hon. Members also raised the concern about MPs, the elected representatives, unless appointed to corporations, etc., are not within the jurisdiction of the CVC. जब तक वह Corporation में मैबर नहीं बनेंगे, तब तक नहीं होगा। मगर आपने जो चिंताएं व्यक्त की हैं we are all concerned about Members of Parliament because it was discussed that a prior permission of the Government is required to conduct an inquiry against a Joint Secretary and above. But, it is not required in case of MPs. I do agree with the concern of the House. But, I think, there is a Representation of the Peoples Act, 1959. There is also an amendment of section 19 of the PC Act, 1998, and section 8 of the Representation of the People Act, 1951 is under consideration of the Government. यह सरकार के विचाराधीन है। उसमें आपकी भावनाओं पर अवश्य गौर किया जाएगा ताकि उनके साथ कोई अन्याय न हो।

SHRI FALI S. NARIMAN: The hon. Minister has not answered my point about how a Joint Secretary would be free, but not a Member of Parliament. We are all under the CBI, but a Joint Secretary is not.

SHRI HARIN PATHAK: No, no, I said that it is under consideration. It is under consideration. That amendment in the Prevention of Corruption Act, 1988...(Interruptions)...

SHRI SWARAJ KAUSHAL (Haryana) : All we want to know from the hon. Minister is: By when he would come forward with a legislation to give similar protection to the Members of Parliament? It is all that I want.

SHRI HARIN PATHAK: I cannot give exact time-frame that by when I would come before the Parliament. But as I have mentioned that the amendments of Section 19 of the Prevention of Corruption Act, 1988 and Section 8 of the Representation of the People Act, 1951 are under consideration...(Interruptions)... Let me finish. ...(Interruptions)...

**श्री राजीव शुक्ल :** एक स्पष्ट आश्वासन दे दीजिए।

**श्री हरिन पाठक :** यह जो सी०बी०सी० का बिल है इसमें जब चर्चा हुई तो आप सबने अपनी भावनाएं व्यक्त की हैं। मैंने कह दिया कि जहां तक सी०बी०सी० बिल का सवाल है, जब तक माननीय सदस्य सरकार के किसी निगम के चेयरमैन नहीं बनते हैं उस पर यह लागू होगा नहीं। सी०बी०आई० इस पर इंक्वायरी करेगी नहीं, सी०बी०सी० को तो करने का सवाल ही नहीं है। मगर पूरी चर्चा के दौरान आप सब की भावना थी कि ज्वायंट सैक्रेटरी और उसके ऊपर के लोगो के लिए सरकार की अनुमति है तो एम०पीज० के लिए भी होनी चाहिए। तो मैंने कहा कि

आपकी भावना से मैं सरकार को अवगत कराऊंगा और जो किसी ऐक्ट में अमेंडमेंट ला रहे हैं उस अमेंडमेंट के अन्तर्गत...(व्यवधान)... This cannot be included in the CVC Bill. How can I include this in the CVC Bill? ...(Interruptions)... I appreciate and endorse it. ...(Interruptions)...

MR. VICE-CHAIRMAN (DR. A.K. PATEL): Please allow him to reply. ...(Interruptions)...

श्री मोती लाल बोरा (छत्तीसगढ़) : मैं कहता हूँ कि इसमें...(व्यवधान)...

श्री हरिन पाठक : बोरा साहब, आप मेरे से सब विद्वान हैं...(व्यवधान)...

श्री राजू परमार (गुजरात) : हम आपसे आश्वासन चाहते हैं।...(व्यवधान)...

SHRI HARIN PATHAK: Let me finish. ...(Interruptions)... (Time bell rings)

MR. VICE-CHAIRMAN (DR. A.K. PATEL): Please address the Chair.

श्री राजीव शुक्ल : मैं आपको एक सुझाव दे रहा हूँ कि हम इस बिल को तो पास कर रहे हैं लेकिन 6ए का इम्प्लीमेंटेशन का तब तक रोक दीजिए जब तक एम0पीज0 का आप क्लीयर नहीं करा लेते। दोनों एक साथ इम्प्लीमेंट हों।

SHRI HARIN PATHAK: Swarajji, you are a lawyer. You know, this Bill has nothing to do with the MP. ...(Interruptions)... Please, try to understand me. ...(Interruptions)... I cannot incorporate Members of Parliament here in this Bill. This Bill pertains to the CVC...(Interruptions).....And this Bill also pertains to the supervisory and functioning of the CBI. How can I incorporate Members of Parliament in this Bill, when I say that no Member of Parliament will be subject to this Bill until and unless he or she is appointed in a corporation? ...(Interruptions)...

MR. VICE-CHAIRMAN (DR. A.K. PATEL): Please, address the Chair. ...(Interruptions)...

SHRI HARIN PATHAK: I assure them...(Interruptions)...

SHRI SWARAJ KAUSHAL: Sir, I am only trying to say that unless you make a package deal along with the services and people covered by the CVC and the CBI in isolation, it will be quashed, if it is only in respect of the Members of Parliament. Please appreciate this. So, bring a comprehensive Bill in respect of all aspects, namely, the Members of Parliament, the Ministers and the services. Thank you.

MR. VICE-CHAIRMAN (DR. A.K. PATEL): Please go ahead. ...(Interruptions)...

SHRI HARIN PATHAK: The elected representatives unless appointed to the corporation will not be within the jurisdiction of the CVC. The CVC is a multi-member body, everybody knows about it and I do not want to go into the details of the functioning of the CVC. What the CVC has done in 2002 or what the CBI has done in 2003. There are some queries, which, I think, Arunji has already replied. I am just referring to the point raised by Shri Ram Jethmalani. He has mentioned that in clause 8(1)(a), include the Prevention of Corruption Act, 1947 as there are continuing prosecutions under that Act. I would humbly submit before him that Section 32 of the PC Act, 1988 saves anything then or any action taken in pursuance of the PC Act, 1947...*(Interruptions)*...

DR. T. SUBBARAMI REDDY (Andhra Pradesh) : Sir, I want to make a point.

THE VICE-CHAIRMAN (DR. A.K. PATEL): Are you yielding, Mr. Minister? ...*(Interruptions)*...

SHRI HARIN PATHAK: ...for inquiring into the allegations of offence under the P.C. Act against public functionaries, including the P.M., Ministers and Members of Parliament, the institution of Lok Pal is proposed to be set up under the Lok Pal Bill, 2001. इसमें भी उस पर ध्यान दिया जायेगा जिसके बारे में आपने कहा है। वह भी है, कंडक्ट के बारे में लोकपाल बिल में है। ...*(व्यवधान)*...

श्री राजीव शुक्ल : इसे भी लोकपाल के अंडर में कर दीजिये। ...*(व्यवधान)*...

DR. T. SUBBARAMI REDDY: Sir, I want to make only one point. ...*(Interruptions)*...

THE VICE-CHAIRMAN (DR. A.K. PATEL) : One by one.

DR. T. SUBBARAMI REDDY: Sir, the point is, in our society, even the Government officers are being harassed. If an 'x' officer is against a 'y' officer and writes a letter to the CVC, charging him with blackmailing, the CVC will recommend for stopping his promotion. Now, I want to know from the Minister what protection he is going to give to M.Ps or innocent persons. Where is the guarantee? If somebody submits a petition, just fictitiously, that he is harassed, what is the protection that he is going to provide? ...*(Interruptions)*... So many cases have come to light. ...*(Interruptions)*...

SHRI HARIN PATHAK: I agree, Rajivji, that a separate Bill.....

THE VICE-CHAIRMAN (DR. A.K. PATEL): Let him reply completely, Reddyji. ...*(Interruptions)*...

DR. T. SUBBARAMI REDDY: Sir, I am expressing my views. Regarding the Government officers, there are so many cases where even one small petition has stopped their promotion? I want to seek a clarification; what protection he is going to provide. In...

SHRI HARIN PATHAK: Let me reply. ...*(Interruptions)*... Let me reply. ...*(Interruptions)*... Again, let me reply. मैंने पहले भी कहा है। अभी भी कहता हूँ और अरुण जेटली जी ने भी अपने वक्तव्य में इस बात पर जोर दिया था कि इस विषय पर सबके साथ चर्चा करके एक प्रस्ताव लाना होगा, कोई विधेयक लाना होगा उसके बारे में सरकार सोच सकती है। ऐसा अरुण जी ने अभी कहा था और मैं भी कह रहा हूँ। The something I am telling you ...*(व्यवधान)*...

श्री के. रहमान खान (कर्णाटक) : उन्होंने कहा था कि आप एश्योरेस देंगे।

श्री हरिन पाठक : इसीलिये मैं कह रहा हूँ कि आप सब से चर्चा करके...*(व्यवधान)*...

एक माननीय सदस्य : इस सदन में चर्चा हो गयी। ...*(व्यवधान)*...

श्री हरिन पाठक : दूसरे सदन में भी यह बिल जाने वाला है। दूसरे सदन में भी मैं चर्चा करूंगा। The same Bill will go to the House of the People. उसमें भी हम इसके बारे में चर्चा करेंगे और उस पर कोई विचार करेंगे।...*(व्यवधान)*... Sir, as a layman, I have tried to satisfy most of the Members...*(Interruptions)*...

THE VICE-CHAIRMAN (DR. A.K. PATEL): Let him finish his reply. ...*(Interruptions)*...

SHRI HARIN PATHAK: As far as the law is concerned, ...*(Interruptions)*...Everybody is a layman. My definition of layman is, I am not an expert; I am a Member of Parliament; I am not an expert in law. ...*(Interruptions)*...Because, here, as you know, there are some Members of Parliament who are expert in law, who are eminent jurists; I do not want to counter them. As far as the law is concerned, as far as the legal experience is concerned, I can say, with a humble submission, that I am not so expert as hon., most respected Narimanji or Ram Jethmalaniji or Kapil Sibalji, but I tried to just satisfy everybody. Sir, there are two amendments which I want to move for the approval of the House. Sir, the need for the amendment of clause 26 of the Central Vigilance Commission Bill, 2003 has arisen. One amendment is about the Secretary, Personnel. Instead of Secretary, Personnel, there will be a Secretary, Coordination, from the Cabinet Secretariat because the CBI is now transferred from the Personnel

Ministry to the Cabinet Secretariat. And the Second one is, up to the level of Superintendent of Police, instead of Joint Director, the need to amend clause 26 of the Central Vigilance Commission Bill, 2003 has arisen because of the work relating to the Central Bureau of Investigation has been transferred from the Department of Personnel and Training to the Cabinet Secretariat. Also, the appointment of the level of Superintendent of Police and above are proposed to be brought within the purview of the CBI Selection Committee in the light of the directions of the Supreme Court in the Vineet Narain case. Sir, I have made an earnest attempt to answer most of the important issues raised by the hon. Members on various provisions of this Bill. The collective consequence of granting statutory status to the Central Vigilance Commission, the nature of the responsibility and functions to be devolved to it and its indirect accountability to the Parliament through its annual reports would enable the Commission to eradicate corruption more efficaciously. I have no doubt and hope to have laid to rest the hon. Members genuine doubts. With these words, I would like to request the hon. Members to adopt unanimously the motion for consideration of the Central Vigilance Commission Bill, 2003 as passed by the Lok Sabha on 26<sup>th</sup> February, 2003.

**SHRI B.P. SINGHAL:** Sir, there are two important points which I have raised. The question of knocking down the entire single line control principle of police working remains unanswered. The Director has to have complete control over his subordinates and their appointments. If everything from the subordinates to the Director is given to a committee, then that committee itself might become responsible. The Director will not be responsible and the whole system will collapse. That is what I am saying.

**श्री राजीव रंजन सिंह "ललन" :** महोदय, मैंने यह सवाल उठाया था कि जब कोई चीफ विजिलेंस कमिश्नर या सीवीसी भ्रष्टाचारियों पर कार्यवाही करने के बजाय - जैसे मैंने पीछे के विजिलेंस कमिश्नर के बारे में कई उदाहरण दिए - उसमें लिप्त होता है तो उसको हटाने के लिए सुप्रीम कोर्ट में जाने की क्या प्रक्रिया होगी और कौन जाएगा?

**श्री हरिन पाठक :** महोदय, जैसा मैंने अपने वक्तव्य में कहा है कि सारे मुद्दे मैंने ले लिए हैं। Could you kindly repeat your point?

**श्री राजीव रंजन सिंह "ललन" :** मैंने कहा कि उन्हें हटाने के लिए जो सुप्रीम कोर्ट की रिकमेण्डेशन की आवश्यकता होगी तो सुप्रीम कोर्ट कौन जाएगा और उसकी क्या प्रक्रिया होगी?

**श्री हरिन पाठक :** बिल में हमारे प्रेजिडेंट को यह अधिकार दिया गया है कि किसी के मिस बिहेवियर, मिस कंडक्ट, दियालिया होने, काम करने की अक्षमता के संबंध में जब उन्हें पता

चलेगा तब वे सुप्रीम कोर्ट को रेफर करेंगे और सुप्रीम कोर्ट की रिपोर्ट आने के बाद उस पर वे कार्यवाही करेंगे।

SHRI FALI S. NARIMAN: Sir, the Minister was to give us some assurance. ...*(Interruptions)*... Some assurance has to be given to us.

श्री हरिन पाठक : आदरणीय नारीमन जी से मैं कहना चाहूंगा कि ज्वाइंट सेक्रेटरी एंड अबव, के संबंध में सरकार परमिशन देगी और अगर सरकार परमिशन नहीं देती है तो उसके लिए यह लिखित में जरूर उत्तर देगी और कारण बताएगी कि किस कारणवश वह परमिशन देने में असमर्थ है। आपका जो सुझाव था, उस पर आवश्यक इंस्ट्रक्शंस दी जाएंगी।

(THE DEPUTY CHAIRMAN in the Chair)

THE DEPUTY CHAIRMAN: I understand that the discussion is over. Mr. Minister, have you replied to the queries which I have made? At least, you give an assurance that you will look into them.

श्री हरिन पाठक : मैं इस संबंध में बताना चाहता था मगर चर्चा में एमपीज़ को, हम सब को बचाने में मेरा समय चला गया। मैं आपकी भावना और सदन की भावना से अलग करारुंगा क्योंकि ज्वाइंट पार्लियामेनटरी कमेटी और स्टेडिंग कमेटी में भी यह तय हुआ था कि ये तीन रखे जाएं। फिर भी आपकी भावना से मैं अलग करारु दूंगा क्योंकि यह बिल दुबारा लोक सभा में जाने वाला है।

THE DEPUTY CHAIRMAN: It is gender neutral.

श्री हरिन पाठक : इस संबंध में मैंने अरुण जी से बात की है कि वे आइंदा 'He and She' के संबंध में जो आपकी भावना है, उसको भी ध्यान में रखेंगे।

THE DEPUTY CHAIRMAN: Now, I shall put the motion moved by the Minister to vote. The question is:

That the Bill to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration.

*The motion was adopted.*

THE DEPUTY CHAIRMAN: Now, we shall take up clause-by-clause consideration of the Bill.

*Clauses 2 to 25 were added to the Bill.*

*Clause 26 - Amendment of Act 25 of 1946.*

*Interpretation Section.*

THE DEPUTY CHAIRMAN: Now, we shall take up clause 26 for consideration. There are two Amendments, Nos. 1 and 2, by the Minister.

SHRI HARIN PATHAK: Madam, I am extremely grateful to the hon. Members of the House who have unanimously adopted the motion for consideration of the Central Vigilance Commission Bill, 2003, as passed by the Lok Sabha. Now, with your permission, Madam, I move the following official Amendments:

That at page 9, for lines 15-17, the following be *substituted* namely:-

"(d) Secretary (Coordination and Public Grievances) in the Cabinet Secretariat". -- Member;

That at page 9, line 32, for the words "Joint Director" the words "Superintendent of Police" be *substituted*.

*The question was put and the motion was adopted.*

*Clause 26, as amended, was added to the Bill.*

*Clause 27 and the Schedule were added to the Bill.*

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

SHRI HARIN PATHAK: Madam, I beg to move:

That the Bill, as amended, be passed.

*The question was put and the motion was adopted.*

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### **The Repatriation Of Prisoners Bill, 2003**

THE DEPUTY CHAIRMAN: Thank you all for the cooperation. Now we will take up the Repatriation of Prisoners Bill, 2003. One hour has been allotted for it. We will finish this Bill in one hour.

श्री बालकवि बैरागी (मध्य प्रदेश) : मैडम, आप से एक प्रार्थना है कि आज शाम को साढ़े छः बजे बिस्मिल्लाह खां साहब की शहनाई का बहुत महत्वपूर्ण कार्यक्रम रखा गया है और