CHAPTER SIX

WHITE COLLAR CRIME IN GOVERNMENT AND POLITICS

Criminal behaviour in the sphere of Government and politics generally manifests itself in corruption, bribery, nepotism, gerrymandering, maladministration, criminal misconduct, misappropriation of public property, criminal breach of trust, election offences and the like. The menace of political corruption, graft and public dishonesty has assumed serious proportions today. It has demoralized public life and administration to a degree in which much of it is not even noticed. It appears to have become an integral part of the political system of every democratic country, particularly of the newly independent and developing countries like India. There is, of course, an increasing realization in our country of the dangerous potentialities of this situation and the need for countering it at all levels in the administration and public life.

A significant manifestation of the growing awareness of this evil is the extensive discussion on corruption that we get today in Parliament, in press, and on public platforms. However, this has not taken us too far, excepting to tarnish the public image of our country and our national character in foreign minds.

There is indeed so much of talk about corruption today that it has become difficult to appraise what has been happening. A dispassionate and objective assessment of the problem requires a clear perspective. This is what is attempted
in the following few pages of this chapter.

Corruption in Historical Perspectives

Corruption in Government and politics is certainly no recent innovation. The evil has been there in all societies in varying degrees. No epoch in human history has been free from it; no country either. It is thus essentially a human problem which has existed from the dawn of history in all countries and climes. According to the opportunities provided by the political set-up, the economic arrangements, and the psychological drives in the contemporary cultural milieu, corruption has only varied in its degree and intensity.

It is common-place to suggest that the present state of corruption in India is a British legacy. Though there is some truth in it, to put the blame squarely on the maladministration of the British would only show ignorance of Indian political history prior to 1600. Kautilya, the celebrated Indian writer on economics and statecraft, referred in his writings to the various forms of corruption prevalent in his times in ancient India and advised the king to be eternally vigilant. Historical records, official reports, personal memoirs and independent studies have abundantly exposed the existence of the evil in varying degrees in medieval and pre-British period. The East India Company Administration and the British regime kept intact and even encouraged many evils of the feudal society including the extortion of illicit tolls by the privileged classes.
While the British officials were paid high salaries, the vast army of lower officials consisting of the loyal native people were maintained at a pitilessly poor economic level. The rulers took it for granted that these people would supplement their poor legitimate income with illicit tolls. People were employed on the strength of loyalty to the regime and the newly-created native middle classes were allowed to indulge freely in all sorts of malpractices so long as law and order situation was not disturbed. The colonial rulers were only concerned with the collection of taxes and maintenance of 'order' and they were least interested in providing a clean administration. For decades the practice has been to employ people solely on the strength of loyalty to the regime thereby putting a high premium on nepotism, dishonesty and sycophancy. It is therefore not surprising that on achieving independence the country inherited the legacy of a corrupt administration particularly in its lower echelons.

However, there are many reasons why the problem of corruption has become the cause of national anxiety in India today. Problem of this type generate public criticism only when the people are aware of its social consequences. Modern press, political parties and other institutions of mass communication have systematically exposed corruption and educated the public mind. The spread of education, improvement in the methods of social communication and increasing public participation in the political processes accelerated this trend. Corruption is news today and there
are more critics than ever before. A wrong which might have been endured a few decades ago as something inevitable or not worth bothering about, would no longer be accepted today with the same fatalistic submission.

Together with this change in public psychology, the activities of the Government have also increased particularly in the sphere of welfare schemes that yielded new opportunities for corruption and graft. There are now many agencies of Government dispensing huge sums of money through contracts, subsidies and loans which either did not exist or were relatively unimportant many years ago. Today more people are handling larger public funds than ever before in our political history. The rapid industrial development and general economic growth under a system of governmental control have placed in the hands of officials and politicians a power which can be used to public advantage or disadvantage as the actual holders of it wish. Whenever this power has been abused, or not used for public benefit, the reaction of the people is now sharp and swift.

It is, however, unfortunate that the problem of corruption is so often identified with Government and politics whereas they represent only part of the general degradation in public life. Dishonesty, lack of integrity, unscrupulousness, and moral indifference are at a high premium in present day society. Corruption exists in business, labour, the "noble" professions like law, medicine and education and amongst general public. We cannot therefore isolate the evil and
diagnose in one particular context only because it is
the common consequence of the larger process of social
disease and disorganization.

It is equally unfortunate that the existence of
the evil of corruption in public administration should be
a matter for political exploitation and unwarranted and
ill-conceived generalizations. It is necessary in the
first instance that the problem be divorced from political
polemics. Accusation of corruption being flung at others
merely out of political and personal motives is a diabolical
pastime of some of our politicians. Mischievous exaggeration
and unprincipled publicity to the problem of corruption
give a poor image of our otherwise 'stable administration'
to the world at large. This is certainly detrimental to
the interests of a developing democratic country. Likewise,
men who are disgusted with the present are apt to picture
the past as a golden age in which citizens were virtuous
and public officials impeccable. Such an attitude is of no
practical value and such people are doing a distinct disservice
to our infant democracy. It only creates confusion and
discontent in the minds of men eventually eating away their
faith and confidence in themselves. It must also be said
here that the obstinate refusal to investigate charges of
corruption by men in authority out of a 'political defense
complex' is not worthy of our political leaders. It undermines
public confidence in the administration so essential to the
growth of democracy and the rule of law. The problem is
national and a corrupt public servant or a dishonest politician,
whatever his position or party, is an enemy of the people and deserves no sympathy. It is in this perspective the problem is examined here.

**Importance of the Problem in Contemporary India:**

Corruption in public administration affects each one of us in some way or the other. Today it is said to be difficult to get a licence, a permit, or even a third class railway berth without paying 'extra' for it. There is bribery in connection with the purchase of supplies, the making of contracts, the enforcement of regulations, the enactment of legislation and even the administration of justice. There have been instances of corruption among Ministers (e.g., Report of the Commission of Inquiry against Pratap Singh Kairon, the Chief Minister of Punjab, 1964; Shiv Bahan Singh Vs. State of Vindhya Pradesh, 1964 Cr. L.J. S.C. 910), highly placed public servants (e.g., S.A. Venkataraman Vs. The State, 1958 Cr.L.J. 258; State of West Bengal Vs. S.K. Ghosh, 1963 (1) Cr.L.J. 352 - both members of the Indian Civil Service; C.S.D. Swami, Director of Fertilizers, Govt. of India Vs. The State, 1960 Cr.L.J., S.C. 131; Major E.G. Barsay - Chief Ordnance Officer Vs. State of Bombay, 1961 (2) Cr.L.J. 828; Major H.H.B. Dill Vs. The King, 49 Cr.L.J. 503; P.C.; M.M. Gandhi Executive Engineer Vs. State of Mysore, 1960 Cr.L.J. 934; State of Madras Vs. Veidyanatha Iyer - Income Tax Officer, 1958 Cr.L.J., S.C. 232) and even amongst judicial officers (e.g., Narendra C. Baroti Vs. Emperor, 48 Cr.L.J. 118; State Vs. Pundlik, 1959 Cr.L.J. 1421; Keshavlal Vs. State of
 Bombay, 1961 (2) Cr. L.J. S.C. 571. The annual reports of the Special Police Establishment (Delhi) contain the large number of prosecutions launched every year against gazetted and non-gazetted officers.

The influence of corruption is insidious. It not only inflicts wrongs which are difficult to redress but it undermines the structure of the administration and confidence of the public in the administration. Unless it is effectively checked, the country shall have to pay dearly for it, because good administration is necessary not only for the healthy growth of our economy but also for preserving our freedom.

In his Republic Day message to the nation in January 1967, President Dr. S. Radhakrishnan expressed concern at the widespread prevalence of the evil and added that "Unless we destroy corruption in high places, root out every trace of nepotism, love of power, profiteering and blackmarketing which have spoiled the good fame of this great country in recent times, we will not be able to raise the standards of efficiency in administration as well as in the production and distribution of the goods of life". There must, therefore, be a continuous war against every species of corruption within the administration as well as in public life. There should be a systematic probe to gauge its causes, its extent and magnitude, as well as to evolve effective remedial and preventive steps to root out this evil.
Corruption and maladministration impose a great strain on democracy and rule of law. The smouldering discontent, frustration and cynicism often come to the surface in the form of revolutions. In fact corruption among the ruling classes have always led in many countries in the past to political upheavals and military dictatorships. The problem therefore demands urgent and vigorous attention from all concerned. For these reasons, white collar criminality in public administration is discussed in the following pages as comprehensively as possible.

Nature, Definition and Scope of Corruption

The giving and taking of bribes as a crime is the outcome of civilized legal systems. In primitive societies payment for favours shown was the rule. Prior to and even during the Anglo-Saxon period in England the judges were expected to take payment from the parties and its abuse led to 'sale of Justice' to the highest bidder. It was only with the progress of civilization that this system with its built-in corruption was found to be reprehensible and was eventually replaced by a system of payment from the State to Judges and officials.

The modern conception of integrity of public servants in the sense that they should not use their official position and status to obtain any kind of financial or other advantage for themselves, their relatives or friends is due to the development of the rule of law and the evolution of a large permanent public service cadre. Levy of taxation
by law, parliamentary control of expenditure, and the
regulation of conduct of public servants by rules, the
breach of which would subject them to penalties including
dismissal and prosecution in courts, contributed to the
present notion of integrity of public servants. The fact
that fair, honest and just principles are declared and
adopted in matters like recruitment, promotions and other
conditions of service, has further encouraged the growth of
the currently accepted standards of integrity.

The expression "corruption" in its narrower
application is confined to pecuniary benefits or bribes but,
in its wider sense covers a host of vices attributable to
influences - political, personal, communal, linguistic,
regional and others. Corruption is a wider term than
bribery and embraces all forms of dishonest gains in cash,
kind or position, by public servants, businessmen or the
common people. "Bribery" usually means the taking by a
public servant of gratification other than legal remuneration
for the performance of an official duty. A bribe is
defined by the great lexicographer, Webster, as a price,
reward, gift or favour bestowed or promised with a view to
pervert the judgment or corrupt the conduct of a judge,
witness, voter or other person in a position of trust. The
problem which has acquired topical piquancy is not merely
corruption in its legal form hedged in by technical pleas
and loopholes but also in its moral, political and other
aspects. The issue before the nation is larger, subtler,
more varied and complex than presents itself in the law
courts.
Chapter IX (Sections 161 - 171) of the Indian Penal Code discusses offences by or relating to public servants. The most common form of corruption - public servant taking gratification other than legal remuneration in respect of an official act - is stated in Section 161 of the Code:

"161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the central or any State Government or Parliament or the Legislature of any State or with any local authority, Corporation or Government Company referred to in Section 21, or with any public servant, as such shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both".

In other words, any act of commission or omission by a public servant for securing pecuniary or other material advantage directly or indirectly for himself, his family, relatives or friends constitutes the criminal offence of corruption. Again Section 166 of the Code punishes public servants obtaining valuable thing, without consideration, from persons concerned in proceeding or business transacted by such public servants. Section 166 reads:

"166. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he
knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

Apart from the above provisions of the Indian Penal Code, there are many other legislations for prevention of corruption in India. The Prevention of Corruption Act, 1947, is intended to make more effective provisions for the prevention of bribery and corruption. Section 5(1) of the said Act provides the offence of criminal misconduct in discharge of official duty.

"5(1) A public servant is said to commit the offence of criminal misconduct -

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in Section 161 of the Indian Penal Code, or

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, or
(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or

(d) if he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage, or

(e) if he or any person on his behalf is in possession of has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine:

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

Certain acts in connection with elections are treated as corrupt practices under Section 123 of the Representation of the People Act, 1950 and most of them are also offences punishable under the Indian Penal Code, whether they are committed by the candidate or any other person. The corrupt practices according to Section 123 of the Representation of the People Act, 1950 are:

(1) Bribery

(ii) Undue influence

(iii) Appeals to vote or refrain from voting on the grounds of religion, race, caste, community or language or the use of, or appeal to religious or national symbols.
(iv) Promotion or attempt to promote enmity between classes.

(v) Publication of false statements as to personal character or conduct or candidature of candidates.

(vi) Hiring or procuring of vehicles for the conveyance of electors to or from polling stations.

(vii) Incurring or authorising of expenditure in contravention of Section 77 of the R.P. Act.

(viii) Obtaining or procuring the assistance of persons in Government service.

In the above list of corrupt practices, bribery, undue influence, publication of false statements, illegal election payments and failure to keep election accounts are also punishable as offences under the Indian Penal Code.

The offence of bribery is committed under the Code when a person gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right.

However, the above definitions do not exhaust all the various manifestations of the evil of corruption and bribery that are found in the ever increasing complexities of modern society. Graft and nepotism, direct or devious, are also evils akin to bribery. Graft is a poisonous form of political corruption and involves the abuse of power in dealing with the resources of the Government in the interests...
of private profit. It often assumes the shape of patronage or influence based on communalism, sectarianism, nepotism and favouritism. It indicates the absence of intellectual honesty - a desire to reach decision on merits alone unaffected by personal prejudices. It results in maladministration - a fertile source for corruption and such other illegal practices.

Corruption is thus as much a social problem as it is a legal one. Many an undesirable and anti-social practice which may not strictly be called corruption in the technical sense may carry the element of blameworthiness and social opprobrium to a similar or even greater extent. Some may say that there is corruption only when a bribe is received, either financial or otherwise. Others may argue from a strictly legalistic standpoint and ignore the insidious forms of the evil. "Such a narrowing down of improper conduct", according to one writer on the subject, "is to compromise with many forms of insidious evil, where motivations may not be a direct or indirect financial benefit to oneself. The love of power, the fear of losing a job, the fear of incurring the displeasure of powerful groups, the desire to avoid unpleasantness or painful intellectual effort are all equally strong motive forces, as in the love of lucre. Corruption implies moral deterioration in any form, whatever may be the causative factors or the temptations. As a nation we must get away from the mood of compromising with evil or glossing over its existence, as that too is a form of corruption." Though this is too extreme a view to
be of use for practical purposes, it is to be admitted that any meaningful study of corruption should have a wider basis than the strict legal interpretation would permit. The problem is therefore discussed here in its wider connotation.

**General Causes of Corruption**

Like every other anti-social behaviour, corruption too has its roots in the socio-economic conditions and cultural milieu of contemporary society. Though the immediate causes of corruption in particular cases may vary, yet a sociologist can discern a set of fundamental factors that encourage or discourage illegal practices in public life of a given community. These factors may be conveniently studied under the following heads:

1) Historical
2) Environmental
3) Economic
4) Functional and
5) Sociological

1. **Historical Causes**

In countries of Asia and Africa, newly liberated from centuries of British or French rule, the problem of corruption has roots deep in the past. In India, the colonial Powers took pride in deliberately letting the privileged middle classes to extort illicit tolls from the public to make good their otherwise poor legitimate income.
The two World Wars had created conditions which not only made money-making easy but placed great temptation before officials charged with the granting of permits, licences, quotas etc. The climate in the bureaucracy had been rendered unhealthy by the war-time controls and scarcities, the post-war flush of money, and the consequent inflation.

After Independence, the sudden extension of the economic activities of the Government with a large armory of regulations and controls administered by inexperienced officials and power-hungry politicians made the situation still worse. The quest for power, economic or political, emphasized the successful achievement of the objective more important than the means adopted to achieve it. The deterioration in ethical standards, which had set in, was not promptly arrested after the country achieved independence. As the Santhanam Committee had observed, complaints against the highly-placed in public life were not dealt with in the manner that they should have been dealt with if public confidence had to be restored. Weakness and pusillanimity in this respect created cynicism and the growth of the belief that while Governments were against corruption they were not against corrupt individuals, if such individuals had the requisite amount of power and influence.

Independent India with an under-developed economy and a vast mass of illiterate and politically inexperienced people had to solve grave problems of gigantic immensity at a relatively fast rate. In the process there
has come about a certain amount of weakening of the old integrated system of administration and dissolution of public virtues without being replaced by any effective system of values and principles. Social controls of an essentially agrarian society were weakened and forces of materialism, impersonalism, group loyalties, and status based on economic power have emerged in the semi-urbanized Indian Society. Despite many fundamental changes in the social, economic and political spheres, no fundamental re-orientation of the administrative services was effected. The assumption of new responsibilities by the Government necessitated rapid promotions including those of some unproven men. Recruitment of a large number of officers in public services inevitably caused a dilution of experience and ability. Instead of cleaning up the administration of corrupt elements, praise was lavished upon the services by the political bosses even when there was no occasion for it. It was thought by responsible men in authority that the higher levels of officialdom were completely free from corruption and even in lower ranks it was negligible. The result of such a policy was the further aggravation of the malady already widespread.

2. Environmental Causes

Corruption cannot be explained solely by the presence of certain dishonest officials in the administration. The increasing break-down of morals and integrity and the rapid disintegration of social relationship under the impact of industrial civilization have influenced the public services as well. Material possessions and economic power are now
recognized as determining a person's status in society. Corruption has become such a large-scale racket because of the tendency in society to honour men of wealth irrespective of the fraudulent ways they achieved it. A society that does not attach any stigma to the corrupt man can hardly be rid of such ignoble men. People will now bribe and accept bribes to get additional wealth and the status and recognition that come with it. As one writer has recently pointed out, "Those who have tried to live as moral men in an immoral society have generally given away, sooner or later, under agonizing pressures of legitimate ambition which can only be achieved through illegitimate means - the pressure from family obligations, the slow insidious pressures of a society in which material success is adulated and where material failure is ruthlessly mocked, the pressure of increasing defeatism, or realization that public opinion stigmatizes the transgressor so lightly, and that so little seems to be gained by trying to swim against the tide."

One can notice two aspects of the problem of corruption prevailing in India today. One is the inevitable corruption that is built into an economy of scarcity and controls. The other kind of corruption that has traditionally become part of the bureaucracy partly stems from the temptations thrown in the path of ill-paid Government employees struggling to make the two ends meet. It was to be admitted that corruption has increased in recent years primarily because of the extension of controls and the proliferation of officials administering a multiplicity of regulations in which there is
wide discretion for administrative authority. Where there is power and discretion, there is always the possibility of abuse, more so when the power and discretion have to be exercised in the context of scarcity and controls. That is why corruption is particularly pervasive in certain "action-laden" areas in Government where the temptation for the officials to succumb is great. Examples of such areas are the revenue, police, excise and customs, public works and licensing departments of the Government. In obtaining a permit or licence, so much depends upon the lower official making an appropriate note, on the discretion vested in officers which is so vast, on the promptness with which the grant or permit is issued and on the resulting profit to the beneficiary that neither the tempter nor the tempted finds it possible to resist making a deal.

It is held by a few that the root cause of corruption is the system of increasing controls and regulation of economic activity by the State. Discussing the problem of corruption Sri C. Rajagopalachari observed that "the system of permits, licences, allocation of transport routes, quotes and similar attempts to administer the economy of a big and busy nation from the Secretariat instead of leaving such things to the consumer and competition in the market, is at the root of corruption ........... The contact between the official and party bosses on the one side, and the very clever, far too clever, businessman on the other, with a tremendous lot of money expected in the business,
produces the national malady we call corruption......

Unless we minimize official intervention and ministerial power, making or marring the fortunes of businessmen and industrialists, unless we reduce controls upto the level called for by international trade and exchange pressures and bravely decide to knock out the rest and try out the consequences, we are bound to suffer this newly-introduced and widespread malady of corruption at the ministerial and secretariat levels.

This is, perhaps, an overstatement and an extreme point of view. Nonetheless, there is an element of truth in it. The complicated and confusing system of laws and regulations controlling business and industrial activity bewilders the ordinary people and helps the corrupt official to hold them in his grips, on his terms. The swollen administrative set up, lost in files and a hierarchy of officials, serves to protect the delinquent ones who purposely delay papers to attract his victim to his table.

Today, the corruption of public officials does not generally take the ancient method of direct giving of money. In place of such crude tactics, there developed a series of ingenious and subtle devices that help to avoid detection and publicity. It is common knowledge that in New Delhi as well as in State Capitals, there are well known "intermediaries" or "contact men" kept by big business houses who can get things done at various levels. They carefully study the tastes and weaknesses of public officials and then
exploit them to their advantage. According to one report, "as a matter of general practice, they stage mid-night parties for romantically-minded persons in authority where lavish drinks are supplied to induce the negotiating mind. Many public officials are corrupted by accepting expensive entertainment. This generally begins innocently enough with an invitation to lunch. Following this come elaborate dinners, weekend invitations to hill stations, air trips and free rooms in expensive hotels. There is also a group of people who can be relied upon to provide nice-looking young ladies to enliven the idle hours of some romantic person in authority, if he is known for his weakness for the fair sex. All these techniques put the public official under such a feeling of personal obligation that he gradually loses his sense of mission to the public and comes to feel that his first loyalties are to his private benefactors and patrons. He may not even realize the subtle process of influence on him which makes him corrupt. What starts out apparently as pure friendship concludes by being a purchase. Most of the businessmen and industrialists are addicted to this method of making friends and influencing people......

The initiative and pressure in most cases come from unscrupulous and dishonest businessmen. Some officials may yield willingly or without much resistance, but they seldom begin the liaison. Senator Douglas in a penetrating study reveals the real problem in the following words, which sounds as true in India as in the United States:

"After accepting gifts and entertainments from these people, if the official later decides against him, the erstwhile host will feel offended and complain of ingratitude. The official
obviously will be inclined to return the favours he has already received. In other words, he comes to pay off his private debts by giving away public rights. In all this the public official will try to preserve his self-respect by insisting to himself that he is making his decision solely on the merits of the case and not because of any favours previously conferred upon him by his hosts or patrons. The truth will be that the favours which he has received and not returned will make him emotionally more receptive to his host's arguments than would otherwise be the case."

There are other methods employed by unscrupulous big business in undermining the integrity of public officials. The prospect of subsequent employment on attractive terms in private industrial and commercial establishments has now become a serious problem besetting public officials in this country. It is a common feature now-a-days for leading officials of Government to resign or retire and then almost immediately appear as well-paid representatives or directors of private firms doing business with the Government. It is generally believed that such employment is secured in many cases as a quid pro quo for favours shown by the Government servant while in service. These highly-paid agents of big business are in a position to influence Government officials who might have been their colleagues or subordinates to get favours for their masters. Some of these retired officials operate as "contact men" or "intermediaries." During the period 1958-59 to 1961-62 it is reported that 284 class I officers and 62 All India Service officials accepted or were permitted to accept lucrative jobs with business concerns after their retirement. It is also reported that the then Home Minister has informed the consultative group of M.Ps on administrative
vigilance and anti-corruption, that during 1964-65 as many as 329 'contact men' were found 'undesirable'. We have no idea as to the extent to which their corrupt practices have succeeded in inducing the Government to show special favours or unfair advantages to the firms they represented.

There is another temptation to which public officials succumb, namely, to use their public office as an indirect means of making money in an allied private business in which they themselves or their relatives are engaged. Sometimes people use general information and knowledge which they obtain in Government Service to play the market with success. This is obviously an abuse of trust and hence markedly improper. Such cases are seldom brought to light because no definite connection could be proved between the benefits derived and the knowledge abused.

Another environmental factor that helped the growth of corruption is a pronounced maladjustment of Government and Ministers with the administration. This is partly the result of the sudden transition of Indian polity from colonial rule to the status of a Democratic Republic. The inherent drawbacks of an infant democracy were accentuated to a great degree by the injection of considerations based on caste and community, religion and language, ignorance and inexperience, nepotism and favouritism. The fall in standards, was in consequence, sharp and steep, striking and staggering. The new rulers had no clear ideas for keeping
the civil service and the administrative machinery in proper spirits and under effective political control. Ministers, in their ignorance, had to depend excessively on the administrators who took advantage of the situation. Ministers either knew very little of what was happening in the department or were knowing the facts but lacked the courage to be firm. This has resulted in a deplorable environment that helped to entrench corrupt men in office. On the other hand, some of the ministers, in order to gain control over the bureaucracy, began to browbeat the officials, coerced them with their exercise of authority and started victimizing subordinates to satisfy their political ambitions. The bureaucracy caved in; to save its skin it became subservient and sycophantic to the predatory power of politicians. As a retired civil servant has remarked, "…… a politically unreformed political party is responsible for the virus of corruption in India's body politic."

3. Economic Causes

No impartial observer can fail to take note of certain deeper factors which have encouraged corruption at various levels. Corruption is nourished by rapid industrialisation, by pouring torrents of money into the economy without simultaneously achieving comparable increase in productivity, by reckless expenditure of public money regardless of efficient implementation and available personnel, and by the resulting inflation leading to an increasing disproportion between the needs of a decent living and its cost. This
inflation has led to unrighteousness and its brood - high prices, oppressive taxation, blackmarket, ostentatious living on the one hand and frustrated greed on the other. In a country where the mass of people and the bulk of public servants have no escape from the life of frugality and privations, conspicuous consumption by the few often has a highly corrupting influence. The high cost of living, the disparity in salaries when compared to those of men in similar positions in business and industry and the enormous concentration of wealth and power in the business world make the position of public servants exposed to an atmosphere of temptation. The officer succumbs to temptations because he cannot, with the legitimate income at his disposal, live up to the expected standard of living, and there is no moral atmosphere to deter him. There is no compulsive influence which would induce moral rectitude because the emphasis of the powers-that-be is on higher standards of living, and not on higher standards of conduct.

While some of their temptations may be reduced by an increased income, the bureaucrats at the same time would then be likely to lose any real sense of identification with the average citizen whom they represent. Moreover, men will not be saved from temptation merely by being paid more money. This does not mean that Government servants should be kept on a ridiculously low pay as against inflationary tendencies in the economy, rising prices and standard of living. More often than not public officials, particularly at the lower levels, find themselves unable to make both ends
meet with their salaries and an enhanced salary shall have some salutary effect in warding them off from the evil of corruption.

Corruption can exist only if there is someone willing to corrupt and capable of corrupting. The Santhanan Committee found that both this willingness and capacity to corrupt is found in a large measure in the industrial and commercial classes. In the words of the Committee:

"To these, corruption is not only an easy method to secure large unearned profits but also the necessary means to enable them to be in a position to pursue their vocations or retain their position among their own competitors. It is these persons who indulge in evasion and avoidance of taxes, accumulate large amounts of unaccounted money by various methods such as obtaining licences in the names of bogus firms and individuals, trafficking in licences, supressing profits by manipulation of accounts to avoid taxes and other legitimate claims on profits, accepting money for transactions put through without accounting for it in bills and accounts (on money) and under-valuation of transactions in immovable property. It is they who have control over large funds and are in a position to spend considerable sums of money in entertainment. It is they who maintain an army of liaison men and contact men, some of whom live, spend and entertain ostentatiously. We are unable to believe that so much money is being spent only for the purpose of getting things done quickly. It is said that, as a large majority of the high officials are incorruptible and are likely to react strongly against any direct attempt to subvert their integrity the liaison and contact men make a careful study of the character, tastes and weaknesses of officials with whom they may have to deal and that these weaknesses are then exploited. Contractors and suppliers who have perfected the art of getting business by under-cutting, of making good the loss by passing-off sub-standard works and goods generally spare no pains or expenditure in creating a favourable atmosphere. Possession of large amounts of unaccounted money by various persons including those belonging to the industrial and commercial classes is a major impediment in the purification of public life. If anti-corruption activities are to be successful, it must be recognized that it is as important to fight
these unscrupulous agencies of corruption as to eliminate corruption in the public services."

The volume of "black money" has been variously estimated up to 3,000 crores of rupees. The size is not the material consideration in this context. But the question how far it corrupts public life in India is important. It corrupts not only the administration but every phase of public activity. If money is parted with illicitly it is to gain an advantage which could not be got by lawful and straightforward means, and it must find an equally illicit receiver to accept it. The proportion of secret money going into the pockets of public servant would not obviously be large. Nevertheless, even a microscopic quantity can benefit unethical businessmen significantly and poison public life.

4. Functional or Procedural Causes:

The Bihar Police Commission attached a great deal of importance to the procedure that is adopted for the disposal of work at various levels in the Government. The Commission observed that it is necessary to remove gaps in the procedures and defects in the laws for minimising the scope for corruption. A simplified law and procedure is advocated by many quarters as a pre-requisite to anti-corruption measures. The Railway Corruption Enquiry Committee also was of the same view and pointed out defects in rules and regulations which leave loopholes for corruption. Again, recently, the Santhanam Committee observed that the procedures and practices in the working of Government offices are cumbersome and dilatory, and the anxiety to avoid delay
has encouraged the growth of dishonest practices. The maze of rules and regulations, the octopus-like administrative machinery, the intolerable delays in official action and general inefficiency provide a fertile field for "hidden corruption".

Inordinate delays have become the besetting sin of our Administration and a blessing for the corrupt. Red-tapism and unnecessary technicalities of certain departmental procedures put the public generally at the mercy of the officials who deal with particular files. The businessman is naturally anxious to get things done for them at any cost and in priority to others. One permit delayed by a few days would cost him lakhs of rupees and the refusal of a permit may mean loss of crores of rupees, and a bribe, promptly given and cheerfully accepted, would save him from incurring these losses. Necessity forces the members of the public to purchase favours of particular officials.

Generally, the bribe-giver does not wish, in these cases, to get anything done unlawfully, but wants to speed up the process of the movement of files and communications relating to decisions. Thus money is given to office assistants, clerks, peons and other small fries, to push things up and to avoid delay and suppression. Besides being a most objectionable corrupt practice, this custom of "speed money" has become one of the most serious causes of delay and inefficiency.

Money passes in other cases for something graver than speeding up of movement of papers in offices; say, to
get a monopoly or a relative advantage of great pecuniary value. Scope for corruption is greater and the incentive to corrupt stronger at those points of the organization where substantive decisions are taken in matters like assessment and collection of taxes, determination of eligibility for obtaining licences, grant of licences, ensuring fair utilisation of licences and goods obtained thereunder, giving of contracts, approval of works and acceptance of supplies. In all these matters a regular percentage is paid by the parties which is shared in agreed proportions among the various officials concerned. Failure to pay the percentage results in difficulty and delay in getting the bills paid. In the higher ranks, differences and disputes about specifications, use of inferior quality of material, and other technical issues are utilised for the purpose. The following case cited in a newspaper is illustrative:

"A gentleman sold a high priced equipment to the Government directly. The contract was concluded. A few days later, an agent of the officer concerned came to demand a commission. The seller, confident in the strength of a concluded bargain, rebuffed him. Within a few days he had to pay the price of the rebuff. Questions were immediately raised as to the validity of the bargain; technical difficulties sprang up where none existed before. The seller was put to a loss of about Rs.40,000 before things could be straightened out and the concluded bargain implemented by the department concerned."

The problem of corruption is closely linked up with the efficiency, or lack of it, in public administration. The traditional system of good housekeeping - sound conservative estimates and an establishment consisting of a compact
manageable staff - has been completely distorted by modern public finance, with its high taxation derived from diverse sources, both direct and indirect, augmented somewhat lavishly by foreign aids, gifts, loans, credits etc., and by the state of staff management by an immense increase in the size of the establishment, the technical, scientific and managerial personnel outnumbering the administrative part, and the ever-widening circle of governmental activities invading every aspect of the citizen's life. Both estimates and establishment are now swollen into unmanageable proportions.

The Railway Corruption Enquiry Committee also noticed a close relation between inefficiency and corruption. In its view, whenever, efficiency is low, the volume of corruption is increased. The general inefficiency in the Railways as a result of chronic delays in correspondence indifference to public complaints, irrelevant replies to public queries and delays in the settlement of claims provide ample scope for corruption.

Complicated procedural laws bring corruption in their way even in our law courts; much more so in the secret recesses of administrative cells. Paul H. Appleby in his study of Public Administration in India found the cause for irregularity and corruption not so much in any low state of personal integrity of officials but on structural and procedural defects. He observed:

"I should think that the Government's widest single area of vulnerability, in both the States and the Centre, is in the imperfect and belated
levying and collection of taxes. This is not the first instance corruption; but it is a condition that encourages tax evasion by citizens and invites corruption within the Government. The faults are in part with existing statutes, and in part strictly administrative."

Corruption in police is said to be partly the result of weaknesses in procedure which afford opportunity to an official to accept illegal gratification in the matter of recording entries in the station diary, recording F.I.Rs., in the matter of arrests, execution of warrants and processes, bail, dealing with traffic, prostitution and gambling offences etc. The same is true with regard to the booking of goods and passengers, awarding of contracts, dealing with public complaints and settlement of claims in the Railways where corruption is widely prevalent.

Above all the legal apparatus today is very inadequate to deal effectively with the problem. It is said against some officers justifiable suspicions of corruption might exist even though it might not be possible legally to prove the charge. It was the opinion of the Santhanam Committee that Article 311 of the Constitution as interpreted by our courts had made it very difficult to deal effectively with corrupt public servants and that the protection given to the Services in India is greater than that available in the more advanced countries. Article 311, which deals with dismissal, removal or reduction in rank of civil servants, has been the subject of judicial examination on a number of occasions and of constitutional amendment once.
By judicial interpretation of the scope of Articles 310 and 311 the procedure for imposing the penalties of dismissal, removal, compulsory retirement and reduction in rank became "elaborate, formal and highly involved". Comparing this situation with the civil services of several other countries the Santhanam Committee observed:

"In India, however, the Government servant is in a far more secure position which on the one hand gives him the right to be informed of the charges and evidence, to file a written statement (at his convenience), to be heard once against the charges and again to represent against the proposed action, to have his case considered by the Public Service Commission, to appeal or submit a memorial and later to move the Courts if he is aggrieved by an order. It is therefore not surprising that a disciplinary case drags on for years and that, in some cases the orders passed are declared void as being violative of Article 311 resulting in payment of arrears of large sums and the public services being saddled with men of doubtful integrity". (emphasis added).

The requirements to be complied under Article 311(2) for dismissal, removal or reduction in rank are given wide interpretation by the Courts some of which on doubtful or erroneous assumptions. The majority judgment by Des C.J. in Purushotam Lal Dhingra Vs. Union of India laid down the following propositions: (1) Article 311 protected all Government servants whether permanent or temporary, officiating or on probation; (2) In the absence of a contract or service rule providing for termination of service by notice a Government servant has a "right" to hold a permanent post till the age of superannuation. This assumption of the Supreme Court in Dhingra’s case is held to be erroneous by Mr. Seervai as it overlooks the tenure at pleasure laid down in Article 310(1) and the light thrown on that tenure by
Article 310(2). The learned writer is of the view that no civil servant has a "right" to hold a post for any fixed period of time as it negatives the concept of the pleasure of the President or the Governor as the case may be, under Article 310(1).

It is true that Article 311(2) qualifies the pleasure of the President or the Governor, and the pleasure cannot be exercised if a Government servant's service is to be terminated as a punishment for misconduct or inefficiency. In such a case Article 311(2) requires that a reasonable opportunity to show cause against the proposed punishment must be given to the Government servant and the rules prescribe an elaborate machinery for serving a "charge sheet" asking for an explanation of the charges and holding an inquiry at which witnesses can be examined and cross-examined. Article 311(2) requires two opportunities to be given before any order inflicting the punishment of dismissal, removal or reduction in rank. The words "reasonable opportunity" came to be interpreted as conformity to the principles of natural justice. And as observed by the Senthanam Committee, the fact that the rules of natural justice have not been completely or precisely determined has enabled the courts to prescribe various "restrictive conditions" from time to time. All these have tended to make disciplinary proceedings against Government servants highly involved and to protect men of doubtful integrity in the public services.

The unwillingness on the part of the authorities to deal drastically with corrupt and inefficient public
servants also contributes to the growth of corruption. To infuse confidence in the public and get their cooperation in administering the affairs of the country, it is primarily necessary to enquire promptly cases of corruption, particularly in the higher levels.

The absence of a regular permanent machinery which can investigate charges of corruption including those against Ministers as comprehensively and expeditiously as possible has also facilitated the growth of corruption. The present methods are so cumbersome, and the initiative lies so decisively with the executive, that there is a lot of time wasted between the initial charges and the final inquiry. Invariably this grace period is used to hush up matters and destroy evidence.

Doctrinaire attempts to regulate public morals is yet another cause of corruption. Prohibition and Gold Control are instances that provide the police with immense opportunities for corruption. Laws which are not sincerely and completely enforced or which are not supported by the majority public opinion only result in confusion, corruption and creation of an ever-increasing lawless group of persons.

Some of the rules framed by departments under particular laws affecting the citizens are circulated only amongst the officials through departmental circulars with the result that an ordinary citizen finds it difficult to get his rights without the assistance of intermediaries and touts who make a good business of it.
Further, many of the laws do not provide deterrent punishment for their violations. The sort of corrupt practices that we have yet to recognize by our law as criminal are being punished in Soviet Russia by life imprisonment and even by execution. If a man is allowed to keep his ill-gotten wealth after paying a nominal fine or serving a few months in prison, he would gladly do this and enjoy the rest of his life with the society having forgotten, or forgiven, his crime. Therefore, the basis of an effective anti-corruption strategy should be that the corrupt shall not enjoy the fruits of corruption.

5. Sociological Causes: Role of the Public

Public apathy, indifference and lack of enthusiasm in ventilating corruption in places known to them contribute to the unabated continuation of the evil. Many consider it as harmless and often permit such activity in their own backyards. This attitude helps anti-social elements to rationalize their illegal behaviour.

The main difficulty in the matter of detection of bribery is the natural reluctance of the bribe-giver to give evidence or to help in any way in the investigation of the crime. He either receives some benefit, which, in the ordinary course he would not, or avoids trouble, real or threatened, which otherwise would cause him injury in person, property or reputation. In the former case, he will not only not volunteer information but also hide it
even if others gave out. In the latter case, one would come forward if one was unjustly harassed but this would again depend on whether one could or could not be further harassed by the original tormentor or extortioner, his heirs or administrators.

The evil of corruption is supported by the appetites of those members of the general public who are, in the words of Mark Antony, "honourable men". As observed by the Indian Railway Enquiry Committee, 1947, "some of the travelling and business public acquiesced in the payment of additional premia for service in the Railways, and considered it 'smart' to obtain by bribery an advantage to which they are not entitled."

During the pre-independence days, the general attitude of the public towards the Railways was to take advantage of the facilities it afforded without paying the due cost if possible. Unfortunately this attitude still persists amongst large sections of the travelling and business public. In 1963 alone 5.7 million passengers were detected travelling without tickets. A sum of Rs.118 lakhs was collected from these persons as railway fares and luggage charges and another Rs.38 lakhs as penalty. Even so the Railways incurred a loss of more than Rs.3 crores by ticketless travel alone. Although checking has been made more strict and a large number of inspectors have been appointed to detect violations of the law, lakhs of persons including students, political workers and
government servants travel merrily on the railways without bothering to purchase tickets. In this connection, the observations of the Railway Corruption Enquiry Committee is worth recording:

"It is not enough for the public to say that if bribes are not given, their work will not be done and they will be harassed. Citizens of a free country have the right - nay, the duty - to insist that public servants render due service for which they are paid from public coffers. It is rightly said that eternal vigilance is the price of liberty. Our democracy will not work unless there is honesty and efficiency in Administration. Under present circumstances this is not possible merely through Government action. Citizens themselves will have to be vigilant and they must insist upon their rights. They should also be prepared to pay, if necessary the price of such insistence with some temporary loss or inconvenience to themselves. A strong public opinion must therefore be created and a determined effort made to withhold payment of illegal gratification."

**Extent, Magnitude and Cost of Corruption:**

The extent of corruption in the Services, civil or military, cannot accurately be ascertained on the basis of complaints received, investigations made, departmental proceedings taken or actual prosecutions effected and punishments procured. Statistics available in this respect would give an idea of the prevalence of the malady and only provide broad indications of the extent of the problem. Only a very small percentage of the offences of this category would ever be detected and a still smaller fraction subjected to legal or departmental action. This is because of various reasons. In the first place, the very nature of these offences is such that in the normal course there would not be any reason for complaint to either
party to the transaction - the bribe-giver and the bribe-taker - for both of them receive illegal advantages out of it. Secondly, many of the malpractices now in vogue in the administration and in public life are such that they are difficult to be included within the legal definitions though they carry blameworthiness to a similar or even greater extent. Finally, even if prosecution proceedings are taken on prima facie justifiable cases of corruption they often end in acquittals as the prosecution is unable to prove guilt "beyond any reasonable doubt". The legal philosophy that "a hundred guilty persons may escape but not a single innocent person should suffer" overlooks the fact that no guilty person can escape without making some innocent suffer.

Acts of corruption are not normally performed in the open and in the presence of witnesses of the highest probity and integrity. The working of the "benefit of doubt" principle, though laudable for its democratic content and concern for individual rights, is not helpful in curbing corruption. Government, with all the resources in men and money and sources of information, have secured conviction in only a negligible fraction of known cases of corruption. And every unchecked act brings public administration in greater disrepute.

Before pondering over the available data on the quantum of corruption, it has to be pointed out at the outset that no official agency or administrative authority in charge of anti-corruption work, either in the State or in the Centre, could claim to have comprehensive
information of even the known cases of corruption. While in some States an organized anti-corruption machinery is itself non-existent, in others their working is far too inadequate. In the circumstances, no useful purpose will be served by assessing the extent of corruption in the States on incomplete details. Even in respect of the Centre, lack of co-ordination between agencies engaged in anti-corruption work and absence of any systematic reporting of the cases detected put serious disadvantages in the way of any realistic study of the problem. In this respect, the report of the Committee on Prevention of Corruption (1964) has been of great service in providing consolidated account of corruption cases investigated or punished by the Central anti-corruption machinery. The extent and magnitude of corruption is examined here in general, and then in selected departments of the Government.

For the purposes of this study, complaints and vigilance cases dealt with by the Delhi Special Police Establishment and the Administrative Vigilance Division of the Union Home Ministry respectively, are analyzed for a period of five years from 1966-67 to 1972. The statistical information provided here are gathered from the annual reports of the anti-corruption machinery at the Centre - i.e., Delhi Special Police Establishment and Administrative Vigilance Division - and the final report submitted by the Committee on Prevention of Corruption in 1964. Most of the cases under review related to the offences of bribery, corruption and misconduct, misappropriation and embezzlement, cheating, forgery, possession of disproportionate assets,
breach of import-export regulations etc., and involved large number of public servants from lower ranks as well as from gazetted cadre.

**Classification of Gazetted Officers against whom cases were investigated during 1957-62.**

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<tr>
<th></th>
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<td>5</td>
<td>..</td>
<td>5</td>
<td>5</td>
<td>15</td>
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<td>6</td>
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<td>5</td>
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<td>5</td>
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<td>234</td>
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<td>197</td>
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*Source: Santhanam Committee Report (1964) P.16.*
The table above indicates the rank and organisation of gazetted officers against whom cases were investigated by the Delhi Special Police Establishment during the year 1957 to 1962.

The table that follows gives a picture of Ministry/Department-wise distribution of complaints and vigilance cases during the period between 1957 and 1962.

(TABLE Page = 241)
<table>
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<tr>
<th>Department</th>
<th>No of complaints</th>
<th>No of Vigilance cases</th>
<th>Dismissal</th>
<th>Removal</th>
<th>Compulsory Retirement</th>
<th>Reduction in rank</th>
<th>Other Penalties</th>
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<td>-</td>
<td>394</td>
<td>-</td>
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<tr>
<td></td>
<td>2138</td>
<td>289</td>
<td>1</td>
<td>9</td>
<td>-</td>
<td>27</td>
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<tr>
<td></td>
<td>4407</td>
<td>1072</td>
<td>-</td>
<td>7</td>
<td>-</td>
<td>26</td>
<td>1</td>
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<tr>
<td></td>
<td>1962 only.</td>
<td></td>
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<tr>
<td></td>
<td>1962 only.</td>
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<tr>
<td></td>
<td>Includes figures for DWP &amp; T for the years 1958 &amp; 1959.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of Complaints</td>
<td>No of Vigilance Cases</td>
<td>Dismissal</td>
<td>Removal</td>
<td>Compulsory Retirement</td>
<td>Reduction in rank</td>
<td>Other Penalties</td>
<td></td>
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<td>NG</td>
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<tr>
<td>Pvt</td>
<td>230</td>
<td>128</td>
<td>-</td>
<td>13</td>
<td>-</td>
<td>16</td>
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<td>55</td>
<td>-</td>
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<tr>
<td>Hon.</td>
<td>4351</td>
<td>1601</td>
<td>-</td>
<td>187</td>
<td>-</td>
<td>89</td>
<td>-</td>
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<td>1527***</td>
<td>1735</td>
<td>-</td>
<td>86</td>
<td>1</td>
<td>189</td>
<td>-</td>
</tr>
</tbody>
</table>


** 1958 incorporated against Ministry of Home Affairs.
Table VIII below gives the number of cases investigated by the Delhi Special Police Establishment during the year 1957 to 1962 classified according to the nature of offences.

**Table VIII**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Cases involving allegations of bribery, corruption, misappropriation and other types of misconduct</th>
<th>Cases of possession of assets by public servants disproportionate to their known sources of income</th>
<th>Cases of breach of import/export regulations</th>
<th>Cases against private persons and companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957</td>
<td>294</td>
<td>-</td>
<td>184</td>
<td>5</td>
</tr>
<tr>
<td>1958</td>
<td>351</td>
<td>-</td>
<td>137</td>
<td>8</td>
</tr>
<tr>
<td>1959</td>
<td>912</td>
<td>-</td>
<td>131</td>
<td>5</td>
</tr>
<tr>
<td>1960</td>
<td>940</td>
<td>89</td>
<td>124</td>
<td>6</td>
</tr>
<tr>
<td>1961</td>
<td>1004</td>
<td>100</td>
<td>83</td>
<td>17</td>
</tr>
<tr>
<td>1962</td>
<td>1168</td>
<td>93</td>
<td>113</td>
<td>34</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4669</td>
<td>282</td>
<td>771</td>
<td>76</td>
</tr>
</tbody>
</table>

* Source: Sathyanam Committee Report, p. 17.
Table IX below indicates the number of cases relating to violation of import/export regulations registered and investigated by the Delhi Special Police Establishment.*

<table>
<thead>
<tr>
<th>YEAR</th>
<th>No. of firms</th>
<th>No. of licences obtained as a result of malpractices</th>
<th>Value of licences mentioned in column</th>
<th>No. of firms blacklisted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>69</td>
<td>145</td>
<td>76,66,237</td>
<td>62</td>
</tr>
<tr>
<td>1959</td>
<td>68</td>
<td>139</td>
<td>49,83,128</td>
<td>129</td>
</tr>
<tr>
<td>1960</td>
<td>67</td>
<td>82</td>
<td>37,13,082</td>
<td>28</td>
</tr>
<tr>
<td>1961</td>
<td>156</td>
<td>137</td>
<td>47,92,054</td>
<td>560</td>
</tr>
<tr>
<td>1962</td>
<td>73</td>
<td>105</td>
<td>55,69,601</td>
<td>51</td>
</tr>
<tr>
<td>TOTAL</td>
<td>451</td>
<td>660</td>
<td>2,38,01,160</td>
<td>433</td>
</tr>
</tbody>
</table>

* Source: Bonthanam Committee Report, P. 17.
The fact that licences worth Rs.2,33,24,142 were obtained by fraud and other types of malpractices is clear indication of the extent of the problem in the licensing activities of Government. Each licence, if sold, will fetch 100% to 500% or more of its face value. The Senthnam Committee, on the above premises, has observed that a huge unearned profit of anything from rupees two to ten crores should have been made in these transactions and a sizeable part of it should have gone into the pockets of public servants.

A few other observations of the Committee are worth reproducing in so far as they give an idea of the magnitude of the problem of corruption in the Services.

Between 1967 and 1962, the Chief Technical Examiner's Organisation unit of the Ministry of Works, Housing and Supply detected 1593 cases of over-payments in the Central Public Works Department involving an amount of Rs.43,66,667/- The Committee further found: "During the Second Plan period the total expenditure on construction and purchases was of the order of Rs.2,300/- crores. It is common knowledge that the custom of percentages is prevalent in respect of contracts of construction, purchases and sales and this is shared in agreed proportions amongst the concerned officials. We were told that in the contracts of construction, 7 to 11% was usually paid in this manner ..... If it is assumed that even 5% of the total investment on constructions and purchases during the Second Plan period is accounted for by such corrupt practices, the total loss to the exchequer is about Rs.140 crores."
On the subject of tax evasion and avoidance, the Committee are of the opinion that some portion of it at least is shared by public officials including the assessing officers. And the issue is serious in view of the fact that about Rs.45 crores of tax is evaded annually by assesses in the higher income groups, the evaded income being about Rs.230 crores.

Furthermore, the Committee assumed that "since smuggling in this country is a well-organised racket, it is possible that some at least of the customs officials are involved in this racket either on payment of a share regularly or on each occasion." It should be noted that as a result of the anti-smuggling measure of the Government, smuggled goods of the value of Rs.434.92 lakhs of rupees were seized in 1962 alone, and what has been seized does not represent the whole volume of the goods smuggled in. Police connivence or abetment in smuggling activities has been revealed in a recent survey of the extent of corruption in the Delhi Police.

The following tentative conclusions can be drawn from the statistics and data provided above:

1) There has been a steady increase in the number of corrupt officials brought to book (See Table VI, Supra). Of course, this might be taken as evidence either that anti-corruption measures have been enforced more vigorously or that the evil itself has grown alarmingly. Both assumptions probably would be valid up to a point. However, there is no gainsaying the fact that bribery, corruption and similar offences now prevail in a considerable scale in almost all the Ministries and Department of the Government.
II

As pointed out in the first part of this chapter, it is difficult to make a precise estimate of the extent of corruption among Government servants as a whole. On the basis of the annual reports of the Delhi Special Police Establishment and those of the Administrative Vigilance Division of the Union Home Ministry as also the recent Report of the Committee on Prevention of Corruption headed by K. Santhanam, M.P., a tentative estimate of the extent and magnitude of corruption in the Central Government has been attempted in the earlier section. In this section it is proposed to discuss:

a) practices that lead to corruption in certain departments/organisations under the Central Government,

b) extent of corruption in the enforcement machinery particularly the police, and

c) the nature and shape of the evil in certain public undertakings, autonomous bodies, cultural organisations, State Governments and municipal bodies.
The Railways:

The Report of the Railway Corruption Enquiry Committee of 1953-55 supports the general complaint that in the Railways, corruption is widely prevalent from top to bottom. It is an admitted fact that 'bakshish' or 'masul' is collected at various levels by the Station staff in respect of booking of passengers and goods. The railway staff takes advantage of the ignorance of the parties concerned by misrepresenting the rules in force or giving false information about restrictions and quota limitations, and then pretends to confer favours without violating the rules. The authorities have been trying to put down this evil by various institutional checks though they have not resulted in commensurate success. Corruption is entrenched in this biggest public undertaking and it is connived at by certain sections of the public. The public tempts the railway staff to falsify records to save themselves the payment of railway dues, and thereby gaining substantial advantage.

A passenger in dire need of a Railway berth or a businessman who has to transport his perishable merchandise urgently is at the mercy of the petty official who controls allotment of accommodation and wagon space on the Railways. The evil does not end there. The businessman naturally passes on to the consumer his investment in greasing the palms of the officials. The habit also grows. Instead of going through what is described as a cumbersome and often times unsuccessful
procedure of securing a Railway berth, the temptation is to bribe one's way to it. According to the Railway Corruption Enquiry Committee it had become such a convention to bribe the Railway staff for obtaining wagon space that an official of a Sugar Mill had issued written instructions to his staff regarding the rate of payment to the Railway officials for loading their supplies. He was reported to have laid down that the station master, the guard and the engine driver should be paid 75 paisa, 19 paisa and 12 paisa respectively for every wagon loaded.

In the Engineering Department, the Kripalani Committee found the existence of corruption extending from senior officials at the highest level down to the inspecting staff.

The Defence Services:

It is the general impression that the Defence Services - Army, Navy and Air Force - are above corruption, and are comprised of patriotic people of integrity and honesty. This is not wholly correct. While some of their members die on the battle field, others are busy lining their own pockets. There have been cases of horribly shady transactions, of shaky erections and constructions, of supplies of stuffs less in quantity and worse in quality than actually paid for. The reports of the Delhi Special Police Establishment reveal few cases every year where senior army personnel have been prosecuted for misappropriation and embezzlement of Government funds. From 1957 to 1962, one hundred and twenty cases of corruption against Military
Commissioned Officers were investigated by the Special Police Establishment. The expenditure on defence is of the order of Rs. 1000 crores every year. There is large scope of corruption and misuse of funds in the purchases, constructions, supplies and other activities in connection with defence, and only an official enquiry can reveal the extent of corruption in the colossal expenditure of this Department.

The Public Works Department

The Public Works Department is responsible for the execution and maintenance of works of all classes of civil departments of the Government and the opportunities for corruption are abundant. People complain how in spite of their lowest tenders and exact mathematics on paper, roads, canals and buildings have their elastic margins to be shared by engineers and other public officers including accountants, bill-clerks, head-clerks etc. It is no wonder that during the last decade of our planned development, contractors as a group improved their position and wealth considerably. In collusion with unscrupulous contractors the engineering and supervisory staff of the Government also made money by dubious methods. It is said that many an overseer earns, or rather collects more than what High Court Judges get by way of salary.

The major portion of the activities of this department involves considerable expenditure of public funds through departmental agencies and contractors. There is wide scope for corruption to the supervisory staff who
interpret the various clauses of the contract, specifications and quality of work. Through defective tender notices carrying ambiguous specifications, manipulations and substitution of tenders, splitting of contracts, divulging information to the favourite contractors about rates of other contractors, and liberal interpretation of the contract conditions they show favours to contractors who please them by gifts etc., in return. Certain contractors resort to deliberate under-cutting and later make good the loss by sub-standard work. In certain cases, all contractors join together and quote higher quotations with the understanding that the one amongst them should quote slightly lower rate than others so that the contractor concerned gets the order. This system of 'pooling' is generally resorted to with the connivance of the public works Department officials.

The Civil Supplies Department is another establishment where similar circumstances prevail to make easy money through corrupt means.

**Import and Export Control Organization**

Import control was first introduced in May, 1940 as a wartime measure under the Defence of India Rules. As its primary object was to conserve shipping space, it was limited only to a few commodities; but with the progressive increase of foreign exchange difficulties and in the interest of economic development of the country, it became necessary to extend its scope. The control is now exercised under the Imports and Exports (Control) Act 1947 and the orders issued thereunder.
Issue of licences for the import and export of goods and investigation and punishment of violations of Imports and Exports Trade Control Regulations constitute a major and important portion of the work of this organisation. Till 1962 licensing was done once in six months. On an average, 1,60,927 licences of the value of Rs.413,03 crores were issued during each half year. Import licences when sold in the market fetch 75% to 500% more of their face value depending upon the commodity. This gives a measure of the profit that could be made.

Issue of licences in the names of fictitious concerns, trafficking in licences, importing goods against bogus licences, selling of goods imported against actual users licences, over-invoicing and under-invoicing of goods at the time of import and export, or applying for licences by misdirection of value, sort, quality or description of goods etc., are some of the common malpractices found in this important area of governmental activity. Corruption is found to be rampant in transactions relating to obtaining of quota certificates, essentiality certificates, licences and their utilisation. Import licences granted as export incentives are transferable and this is said to have caused serious damage both to the domestic market and to our foreign exchange resources. Such licences, it is suggested are a fruitful source of accumulating unaccounted money and evasion of taxes. Above all these delays on the part of this Organisation is of serious consequence as the fortunes of trade depend so much on prompt action in obtaining licences, quotes etc. Delays are a fertile source of corruption that would help dishonest
officials to make easy money.

**Customs and Excise Departments:**

These are among the most important revenue-earning departments and practically every decision taken here has a financial implication. The Customs Department is the executive organisation for levy and collection of customs duties by assessment of goods coming into or going out of India and for prevention of smuggling. This department also administers the various restrictions and prohibitions under diverse Acts relating to imports and exports of goods.

Delay in clearance of goods, under assessment of goods by Preventive Officer, allowing clearance of smuggled goods and connivance at smuggling, declaration of new articles as old, harassment of parties, substitution of seized articles by spurious ones, deliberate wrong classifications for purposes of customs tariff so as to give the party wrongful advantage etc., are some of the few ingenious devices adopted by the Customs staff to extort illegal advantages to themselves. The resulting loss to the public exchequer is great and generally incalculable.

**Income Tax Department:**

The function of the Income Tax Department primarily involves assessment, collection, recovery and refund of tax. The work involved is complicated. The Income Tax Department is also entrusted with the administration of Excess Profits Tax Act, 1942, the Business Profits Tax Act, 1947, the Estate Duty Act, 1953, the Wealth Tax Act, 1957, the Expenditure

The two major methods of corruption existing in this Department are:

1) wilfully showing favours to tax-payers in matters relating to assessment, penalties, recovery, refund, appeals etc., and

2) deliberately causing harassment with a view to gain favours from the tax-payers.

The Sathyanam Committee was of the opinion that apart from the general practice of corruption, "the most important and urgent problem that has to be dealt with by this Department is that of evasion and avoidance of tax as such mal-practices represent the graver types of white-collar crime and cause damage to the economy of the country and place an unequitable burden on the honest tax-payer. Tax so evaded and avoided is kept as unaccounted money and one of the many uses to which it is put is for corrupting public servants."

The secrecy provisions in the taxation laws only help big assesses to indulge in corrupt practices and the Sathyanam Committee has rightly recommended its abrogation.

Public Sector Undertakings:

The corruption that is found existing in the Ministries and offices of the Government extends to the corporate undertakings of the Government and Government-sponsored cooperative organisations. In matters regarding recruitment and the management of personnel, awarding contracts for work and supplies, sales and disposals of goods etc., abuses are
easily possible and, in the absence of an efficient vigilance organisation these areas of Government activity may provide for easy exploitation by dishonest officials. There have been instances where gross mismanagement of public funds in these undertakings have been detected. The reports of the Public Accounts Committee carry disturbing stories in this regard.

There are allegations, some genuine, that the much publicised cooperative movement has degraded into a means of exploitation in the hands of dishonest political workers and partymen. Very recently inquiries have been instituted against the Managing Director and Secretary of the Delhi Central Cooperative Store for alleged malpractices, profiteering etc. Ever since the Government began giving generous loans and grants, cooperative societies have sprung up like mushrooms. Many of the labour contract cooperative societies which were getting Government contracts at negotiated rates used to play the role of brokers by handing over the work to private individuals after keeping a margin of profit. The President of the Federation of Indian Chamber of Commerce and Industry has condemned the working of cooperative movement as unsatisfactory and giving rise to yet another kind of corruption.

State Governments and Municipal Bodies:

Apart from occasional outbursts in the legislatures, municipal councils and regional press, the problem of corruption has not attracted as much attention in the States as in the Centre. In some of the States the anti-corruption machinery
is non-existent, defunct or neglected. Proper investigations are not promptly taken and legal proceedings are delayed or dropped due to political influences. Though opportunities for corruption and bribery are comparatively not large in the case of State Governments and Municipal Bodies their administration is in no way clean and satisfactory.

According to an official report on the working of the Punjab State Vigilance Department for the past four years (1959-63), 29,163 complaints of corruption against government employees were received and inquiries were instituted into 16,434 cases. As a result about 3,000 Government officials were dismissed or punished and a few departments were advised to reduce the pension of 23 gazetted officers. Evasion of sales tax amounting to Rs.3.90 lakhs involving 42 officials of the Department was detected in a period of two years.

In Bihar, the anti-corruption Department has investigated 5,523 cases of corruption against Government servants since 1958. From every other state we get equally disturbing reports of corruption, bribery and other types of white collar crime indulged in by government servants and politicians.

The state of affairs in some of the Municipal and local bodies give an appalling picture of the way civic administration is conducted in this country. Much of the corruption in this field remains undetected. It is when a local body is superseded and placed under an official administrator - in Uttar Pradesh practically every important
Municipality has been under supersession at one time or another during the last fifteen years - that the public begins to sense that there is something wrong. The State Government which is responsible for the efficient and honest working of the local bodies, is reluctant to disclose the real position lest it rebounds to its own discredit. The occasional denunciations of corruption in local administration serve only the immediate purpose of frightening a few and temporarily satisfying the public opinion. Many councillors seem to have learnt to put up with it, or perhaps have come to the conclusion that corruption cannot be eradicated.

Police Service

There is a general impression in the country that the custodians of law and order, the police, are themselves responsible, either directly or indirectly for the perpetration of a large number of crimes. Though one may not agree with the opinion of Justice Mulla of the Allahabad High Court, one will have to concede that the Police Department has for long been notorious for corruption and graft. (Mr. Justice Mulla is reported to have observed in State vs. Mohd. Faim as follows:

"If I had felt that with my lone efforts I could have cleared this Augeran Stable which is the Police Force, I would not have hesitated to wage this war single handed. . . . . . . . There is no single lawless group in the whole country whose record of crimes comes anywhere near the record of that single organized unit, which is known as the Indian Police Force."

The remarks were later expunged by the Supreme Court on an appeal by the State). Reports indicate that every fifth policeman in Madhya Pradesh faced an inquiry and charges of
corruption in 1961. As a result, 16 police officers and 201 policemen were dismissed, legal proceedings in courts were taken against 4 police officers and 16 policemen while 1,424 officers and 6,503 policemen faced departmental inquiry and action. This is indeed an alarming record when it is known that in a number of other cases either the authorities did not proceed at all or were not reported to them.

According to a survey made by a senior police officer in Delhi, the capital’s policemen were found to have 36 ways of taking bribes. The percentage of police connivance in different types of offences varied from 5% to 25%. About a fourth of the smuggling cases, this officer found, were the result of connivance by police. A secret investigation carried out by the anti-corruption Bureau of the Delhi Police revealed that the police refused to register 65 per cent of the crime cases in the Capital. The high incidence of ‘crime burking’ has shocked even police officers. To their amazement they discovered that serious crimes like robbery and burglary were not investigated. Posing as complainants, officials of the Anti-corruption Branch went to 36 police stations to register their cases and the result are as follows:

<table>
<thead>
<tr>
<th>Nature of Offences</th>
<th>Cases sought to be registered</th>
<th>Actually registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Burglary</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Pickpocketing</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Cycle thefts</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Misc. thefts</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Loss of property</td>
<td>TOTAL: 32</td>
<td>10</td>
</tr>
</tbody>
</table>
Corruption in police has roots deep in history. The Indian Police Commission of 1902-03 found that the Department was steeped in corruption. The second chapter of the Report of the Commission contains their full concurrence of the popular condemnation of the police as "dishonest and tyrannical". The problem became greatly aggravated as a result of the last war and the later unsettled conditions in India. Today corruption in Police Services is an inveterate disease defying all administrative measures that have been adopted from time to time to tackle this problem. As the Bihar Police Commission has observed, the corruption on the part of a policeman cannot but be more intolerable because of the greater opportunities of oppression and extortion, which his police powers afford and also because of his intimate connection with the life of every individual.

It should be admitted that in the peculiar nature of his duties policeman has frequently to face several pitfalls. Today he is called upon to supervise the execution of various controls and a number of regulatory legislations which some sections of the public may dislike and disobey. The tremendous power of the vested interests of vice and corruption has also made the task of the honest police official very difficult. The criminal, the gambler, the dishonest liquor vendor, the prisoner, the dishonest businessman and all those who try to defy the laws of the land or make an effort to escape from the penalty of the law are ever ready to pay a price and only a strong sense of duty and much stronger character help a policeman in resisting any such
They are thus generally exposed to peculiar temptations and many officials who are ill-paid or whose moral fibre is not strong enough to resist such pressures succumb to them.

A study of corruption and illegal behaviour in the Delhi Police is reported to have revealed that at the lower levels the Police usually meddle with the investigation and prosecution of cases. The weaknesses of the police cases are sometimes leaked to the opposite party and strong points which may secure the conviction of the accused omitted from the case. Case diaries are sometimes copied out and sold at big price to interested parties. Among the most abused powers of the police are those which empower them to make arrests for alleged apprehension of a breach of the peace and for loitering.

The institution of police touts in which even retired police officers are engaged is another serious menace practiced in a large scale in the matter of tampering with the investigation of crime and letting criminals escape the legitimate processes of law. Some policemen are themselves ready to protect criminals close to them. Dishonest policemen would inform the criminals a few hours in advance of an impending raid as and when one is planned by their superior officers. As a result of all this the impression is gaining ground in the public mind that the men at police stations generally have full knowledge of crime and criminals in their areas but, for one reason or the other, are most reluctant to act.
Some of the misdeeds and irregularities of the Police in cities and the countryside are poignantly given in an essay on the subject by a retired police officer, the relevant portion of which is reproduced below:

"The Thane Police: The illiterate mass at the countryside has been completely at the mercy of the subordinate thana police. ... Informants have to pay something for having their information recorded and substantially if land disputes or other interests are involved; First Information Reports are twisted, minimised or exaggerated; cognizable cases are made non-cognizable and vice-versa; names of accused or suspects are left vague; unnamed people are chased and harassed; investigations are prolonged; loopholes for acquittals are left even in cases sent up for trial and all these with a view to making some extra money."

"The Town Police, in addition to the above, indulge in the following malpractices:
(1) tinkering with prostitutes, monopolising a few for themselves, and harassing visitors to prostitutes; (2) fraternising with bad characters, patronising some, victimising a few and enacting police and smuggling and stealing in spades; (4) patronising gamblers and exacting commission; (5) enjoying free rides in buses, rickshaws and free cinema shows; (6) patronising drivers or owners of vehicles and forbearing from strict checking. Licensing and testing of vehicles are said to yield something. (7) having free drinks and food at stalls; (8) making money over cases from complaints and the accused etc."

It is said that even in jails corruption is practised by the warders in collusion with clever and loyal prisoners. The following incident narrated by Abul Hosanat would indicate one such practice. "An ex-convict returned to his village home after undergoing three or four years of rigorous imprisonment, but with quite a few thousand rupees. This man picked up intimacy with the jail authorities and then was used as a negotiator. He would impress upon new
convicts that their lives would be pleasant, provided they have rich relations to help. Money paid in through dummies would be used to appease the doctor for beds in hospital, the warder for employment on light work, the jailor for introducing amenities etc., etc."

The Judiciary:

Of the three arms of Government, public criticism is mainly directed against the corrupt practices of the Executive. It is fortunate that corruption on the judicial side has so far been a remarkable rarity. Of late, however, there are disturbing reports of the incidence of corruption in the judiciary particularly in the lower ranks. The subordinate court staff are said to earn quite a tidy little sum by creating odd difficulties for the parties to a case. In direct cases they receive an initial goodwill offering, then something more for giving precedence, yet something more for prompter issue of processes, or delaying matters by not issuing them or intentionally issuing defective ones so that no action can be taken. They tinker with dates, prolong or expedite matters, and share spoils over bail matters.

A number of lawyers and litigants are of the view that bribery in criminal courts begins with the process of bail. One has to "follow it up" when bail has been granted. The phrase "follow up" in the courts normally means follow up with money. Otherwise the subordinate staff in courts may delay the preparation of the release warrant. By illegible writing or wrong entries in the release warrant the court staff can harass the parties and delay the matter.
Recently it was reported that a magistrate in Delhi was found to have signed a bundle of summons forms with the space, where names are filled in, left blank. The forms had been kept in an almirah in the court room to which the subordinate court staff had access. In another incident a magistrate is reported to have written and signed one judgment and pronounced in court a contrary one. In Rajasthan, a magistrate was caught red-handed while accepting Rs.11,450 from a person accused in a passport case. Such instances in the lower judiciary are becoming a common feature particularly where the separation of judiciary from executive has not been fully effected and where the system of honorary magistrates is followed. There are reported cases of corruption by judicial officers of the higher echelons also.

It is all the more disturbing to find even some responsible persons to have accepted corruption at the lower level of the judiciary as part of the game. Only a few seemed to realise that it would be a sad day if people lost their faith in the process of justice.

The wholesome principle of keeping the judiciary separate from the executive has not been fully implemented with the result that there is general suspicion that the judiciary is susceptible to governmental pressure. That the suspicion is not entirely unfounded was proved by a recent observation of the Supreme Court against a Delhi Magistrate who was found to have taken an uncalled for initiative in a case in which the Punjab Government were said to be interested. Further, public suspicion is strengthened by
the reported practice of judges being granted interviews by Ministers, Judges accepting invitations from the Government as 'commands' and judges tendering private legal advice to members of the Union Cabinet, Greater detachment from the executive is called for by the judiciary in whose independence, competence, and eternal vigilance hinges the future of democracy in India.

Another portentous feature of the judicial administration was brought to light by the Law Commission which made some strong observations on the appointment of judges. "It is widely felt", the Law Commission observed, "that communal and regional considerations have prevailed in making the selection of the judges... It is the general impression that executive influence exerted from the highest quarters has been responsible for some appointments to the Bench." These observations, though disputed and contradicted, give us a warning to keep eternal vigilance for guarding the integrity and independence of the judiciary.

Educational and Cultural Fields

Corrupt practices are not confined to the administrative political, economic, civic and judicial spheres only. Their symptoms are visible to an increasing extent and degree deep into our social life. In the cultural sphere malpractices are reported in the matter of financial assistance in the form of grants and loans to educational and cultural organisations, in the sponsoring of various delegations to foreign countries, the award of prizes and gifts, the commissioning of writers and artistes, the
purchase of art treasures and other diverse activities. The columns of newspapers often claim to carry inside stories of factions in control over cricket, hockey and other national games. Even in the case of relief funds, memorial funds, defence funds and similar benefactions, to which lakhs and crores of rupees have been donated, one often hears doubts and speculations about the way the monies have been handled. Public anxiety has also been expressed over the funds of temples and other endowments.

Educational institutions which are supposed to produce public men of integrity and honesty, are today the subject of serious complaints, irregularities, intellectual dishonesty, party politics and the like. The spread of student unrest throughout the country is an indication of the unhealthy state of affairs in our academic institutions. The Santhanam Committee has rightly suggested an inquiry into the malpractices that may be prevailing in our universities and national institutions.

Political Corruption: Nature, Extent and Scope

Far too dangerous than corruption among Government servants is corruption at the ministerial and political level. Without ministerial and political corruption, corruption in services cannot flourish, and no measures to eradicate the latter would succeed unless some purity and integrity are restored in the political and ministerial circles.

Political corruption, in a technical sense, is the wilful exploitation of political office or opportunity for personal gain. The machinery of Government is manipulated
in the interests of predatory power groups in complete violation of public trust. It not only promotes crime; political corruption itself is crime. Undermining the public welfare for the advantage of the few and taking the people's money for illicit purposes by surreptitious means is "robbery" by whatever name it is disguised. If corrupt politicians and ministers are caught and adjudged solely on the serious social consequences of their frauds, they would easily receive the maximum penalty of the law. This seldom happens, as one writer has put it, "even the court-room feels the strength of the politicians' power".

The ordinary manifestation of political corruption is the phenomenon of "graft". Graft is a comprehensive term covering a variety of irregularities. It involves the abuse of power in dealing with the resources of the Government in the interests of private profit. It is one of the more poisonous and destructive form of corruption. It may be said to be the worst of all in so far as it has a cancerous effect on the well-being of a nation. Any public act, observed Elliot and Merrill, may be considered from two points of view in order to ascertain whether or not graft is involved. First, if the act entails a specific abuse of power it is a definite instance of graft. The criteria which define abuse of power may be legal, customary or ethical. Second, if a definite profit is involved, the act is an example of graft. The profit may be either pecuniary or in the nature of special favours granted to the dispenser of the graft.
Corruption in the ultimate analysis is an attitude of mind, and largely the attitude of mind brought to bear upon the administration and the public life of the country by the political leaders and rulers of that country. So far as India is concerned, it must be painfully admitted that this attitude is one of "easy virtue of adjustable conscience". Politics which had been considered to be a spiritual mission and philosophic pursuit has today degenerated into a business proposition where unscrupulous and dishonest persons thrive at the cost of illiterate and ignorant masses. Eighteen years of absolute power has generated a baneful influence in the ruling party. There is a widespread impression that lack of integrity is not uncommon among ministers and that many of them have enriched themselves illegitimately, obtained good jobs and handsome incomes for their sons and relations through nepotism and influence, and have reaped other advantages inconsistent with any notion of purity in public life. A former President of the Indian National Congress had said that Congressmen who were paupers in 1947 had become millionaires and multi-millionaires without having any ostensible sources of income. The Santhanam Committee noted with deep concern ministerial lapses in this country and stated that ensuring absolute integrity on the part of ministers at the Centre and the States is an indispensable condition for the establishment of a tradition of purity in public services. The Committee regretted that while there are elaborate rules to ensure probity among officials, there are hardly any for ministers, legislators or political parties.
It has now become a common feature of political life in this country to hear almost everyday some sensational charges and counter-charges of corruption being made on the floor of the legislature, in the press, or from public platforms by ministers and ex-ministers, opposition leaders and dissident partymen. It may be possible that in many cases these charges are unfounded, malicious or made out of spite, but in most cases, whether true or untrue, no serious attempt is even made by the authorities to properly inquire into them and clear the confusion in public mind. In a memorandum submitted to the President of India by leaders of opposition parties in Parliament requesting a public inquiry in the case of a former Union Finance Minister, they observed: "Those in authority, especially ministers who are in charge of administering the country, should not only be above corruption, but the people at large must have convincing proof that they are, indeed above corruption. Only in that way can our democracy succeed and the principles of natural justice maintained in our country."

Allegations of political - criminal symbiosis involving even ministers are occasionally heard in legislatures of some of the states. Of course, one cannot uphold the tendency among some legislators to hurl charges indiscriminately without producing conclusive evidence. As Lord Denning has correctly observed, "Public men have become more vulnerable since scandalous information is a marketable commodity which has buyers". But, if this tendency on the part of legislators is bad, the tendency on the part of authorities to brush aside these allegations without proper inquiry, probably to safeguard
the prestige of the party, is equally undesirable. This tendency can be curbed considerably by public condemnation of the member who makes such charges, after they have been found baseless on a proper inquiry. But when it is made to appear that people in power are not interested in taking action on such charges, and are prepared to sacrifice ethical principles of public administration for the sake of political expediency, the general impression created is that possible culprits are being shielded. This inability of those in authority to assert themselves has led to a cynical attitude towards corruption in higher quarters and has created an atmosphere in which people are inclined to remain self-complacent towards increasing moral vacuum.

The liaison of political leadership with big business is an unfortunate development in India that has its roots in the National Movement. Rich businessmen contributed money liberally to the National Movement and the Congress Party. This patriotic investment has afterwards resulted in making the party in power vulnerable to the influence of their wealthy patrons. Some of the dishonest politicians when they got power indulged in graft and other malpractices in collusion with big business houses and carried on their nefarious activities with varying degrees of subtlety. Quite unashamedly some of them got their relations and acquaintances appointed to high-salaried jobs in the Government or, by abusing their power, got them lucrative jobs in business establishments. If the former category endangers the efficiency of the administration, not to speak of lowering the integrity and morale of public life, the latter category creates dangerous inroads
for the business community into the political set-up through which it very often tries to take undue and irregular advantage.

The public belief in the prevalence of corruption at high political level has been strengthened by the manner in which funds are collected by political parties, especially at the time of elections. Actually no political party can be said to be entirely free from the influence of interests seeking to obtain some concessions in legislative enactments and administrative action. Such gifts are in a sense investments for the donors for they get back their original money and a big profit through contracts, loans, subsidies, licences, quotas, privileges, and so on. For the businessmen, contributions to the funds of political parties is insurance against risks of loss of business by refusal of permits or licences and legislative interference in their profit-making activities. This system of financing elections is not 'bribery' in the legal sense, though the practice is normally reprehensible. It poses serious ethical problems to the legislators and the ruling party in particular. The Santhanam Committee has done well to recommend a total ban on contribution by private companies to party funds and an obligation on parties to disclose the sources of their funds and an audited statement of accounts. A statement laid on the table of the Lok Sabha on February 17, 1965 by the then Finance Minister stated that of the 1 crore and 15 lakhs contributed by companies to political parties from the middle of 1961 to the middle of September 1964, the Congress received 98 lakhs and the Swatantra Party, 15 lakhs, while the remaining small
amount went to the other parties. The Congress received contributions from 31 companies and the Swatantra from 16 companies. Apart from this, large numbers of M.P.s are individually helped by certain big business houses. Business concerns thus play a direct part in political finance and in the process corrupt the political apparatus of the Government in the Centre and in the States.

In re, Indian Iron and Steel Co.Ltd., Justice P.B. Mukherjee of the Calcutta High Court has pointed out the inherent dangers involved in political donations by companies. The company sought the approval of the Court for the necessary alteration of its Memorandum of Association to enable it to contribute to political funds. The reason put forward by the company in this respect is revealing:

A.R. 1957 Calcutta 234 at p. 235:

"The prosperity of the Company's business is very much dependent upon the industrial policy of the Central Government of the day. Further, the Company's principal business being the manufacture of iron and steel, the sale and distribution of the Company's products, the prices to be received by the company for the same and the manufacturing and other policies to be followed by the company are all subject to and closely related to the requirements of the Central Government with which the company has intimate dealings, transactions and connections ......... In order to enable the company to carry on its business more efficiently it is necessary that the company should be enabled to contribute to the funds of political parties which will advance policies conducive to the interest of industries in general and of the company in particular......." (emphasis added).

Is this not an attempt on the part of industrialists to have legal sanction to bribe the Government of the day, to induce policies that will help them in their search for profits?
As Justice Mukherjee has rightly remarked in the course of his Order in the above reference,

"To induce the Government of the day by contributing money to the political funds of political parties, is to adopt the most sinister principle fraught with grave dangers to commercial as well as public standards of administration...... Persuasion by contribution of money lowers the standard of administration even in a welfare state of democracy. To convert convictions and conscience by money is to pervert both democracy and administration."

"Its dangers are manifold. Joint Stock Companies are not intended to be adjuncts to political parties and possible sources of revenue for these parties...... Secondly, it will induce the most unwholesome competition between business companies by introducing the race, who could pay more to the political funds of political parties...... Thirdly it will mark the advent and entry of the voice of the big business in politics and in the political life of the country...... The tune of political life, therefore, is liable in the long run to become the tune of the big trading companies and concerns. That will be bad both for business and for politics. It will be like bad for public life as well as commercial life."


While the Indian law does not prohibit contribution to political funds or political parties, in America, the American Corrupt Practices Act as amended by the Taft Hartley Act expressly declares such contribution to be unlawful. The learned Judge had therefore suggested that:

"As the number of applications here (in India) are becoming more and more numerous by which the companies are trying to divert commercial funds to political purposes it is essential in the interest of both commercial and public standards to have immediately similar legislation on the subject to keep the springs of democracy and administration reasonably pure and unsullied and before it is too late to control the dangers and mischiefs inherent in the situation."

It is therefore certain that we will not be able to build the edifice of an honest and progressive democracy unless all political parties learn to practise the rules of the game
and eschew corrupt practices in raising funds as well as in conducting elections. Meanwhile there is urgent need for legislative prohibition of company contribution to political parties and political funds.

Another form of political corruption is what is called "electioneering bribery" or exercising undue influence at an election. Writing on the subject, a critic of public administration observed: "The practice consists in ministers going to a constituency on the eve of an election, then and there promising all kinds of administrative favours to that constituency, and thus influencing the voters on behalf of their candidate".

A complete list of ministerial lapses in India is difficult to obtain. No proof of such lapses can, in the nature of things, be available in a court of law, not even in an administrative tribunal, much less before a party tribunal. The beneficiaries of their favour complain about them in confidence but seldom would come forward to complain formally or substantiate any complaint. However, of late, as a result of the untiring efforts of some opposition leaders in Parliament some 'hidden episodes' and 'untold stories' involving influential ministers in the Centre and the States have come to public notice. A recent book on "Political Corruption in India" written by a member of Parliament and a journalist gives an impressive array of important corruption cases in the political sphere in India after Independence. The Das Commission Report on the former Punjab Chief Minister, the late Mr. Pratap Singh Kairon,
is another important document judicially exposing the unhealthy state of affairs existing at the ministerial level. There is at least one reported case also in which a Minister of the former State of Vindhy Pradesh was punished by the Supreme Court for bribery and corruption. In this case the minister for Industries of the State of Vindhy Pradesh was caught red-handed for accepting a bribe of Rs. 25,000/- in return for granting mining rights for the Panna Diamond Mining Syndicate.

Mahatma Gandhi wanted the ministers and the legislators, like Caesar's wife, to be above suspicion. He wrote in 'Harijan' on April 23, 1938:

"The ministers and the legislators have to be watchful of their own personal and public conduct. They have to be, like Caesar's wife, above suspicion in everything. They may not make private gains either for themselves or for their relatives or their friends. If the relatives or friends get any appointment, it must be only because they are the best among the candidates, and that their market value is always greater than what they get under the Government. The ministers and the legislators have to be fearless in the performance of their duty. They must always be ready to risk the loss of their seats or offices."

It is distressing to note the record of our legislators, ministers and party officials, who are supposed to be the disciples of the Father of the Nation, during the last twenty years of the life of Independent India. An illustrative list of cases of political corruption drawn from the limited materials available is examined here with a view to find out the prevalence of the evil in India today.

The tendency of the authorities to overlook or sidetrack political corruption on the ground of personality and prestige, party interests and exigencies of the situation,
has come in for serious public criticism and the demand for regular inquiries into charges of corruption against ministers became irresistible. In a memorandum presented to the President of India on July 13, 1963 the opposition parties in Punjab levelled twenty allegations against the late Mr. Pratap Singh Kairon, former Chief Minister of Punjab and requested a public inquiry. He was charged with having abused his position as head of the State administration to help his sons and other members of his family to amass wealth. A one-man Commission of Inquiry consisting of Mr. S.R. Des, a former Chief Justice of India, was set up on November 1, 1963. The publication of the Commission's report forced the late Mr. Kairon to quit office. He was later murdered by an 'unknown' assassin on his way from Delhi to Punjab and people suspect it as a case of 'political murder'.

The Des Commission had classified the proven charges against the late Mr. Kairon into three categories:
(i) abuse of influence and power by the former Chief Minister for his own benefit; (ii) similar conduct personally and/or by or through his colleagues or subordinates to help his sons or relations in their business transactions; and (iii) exploitation of the late Mr. Kairon's position and power by his kith and kin for securing undue favours or advantage from Government officials in their business dealings.

There was only one charge in the first category. It was that the late Mr. Kairon had made use of the services of a Government doctor for 45 days while on an electioneering
tour of the State for the ruling party. The Commission found the conduct of Mr. Kairon "reprehensible" and "unbecoming" of a Chief Minister.

There were three charges involving abuse by the Chief Minister of his influence and powers to help his sons and relatives to amass wealth. These consisted of acquisition of two cinema houses and a cold storage plant by the former Chief Minister's sons and the purchase by the Government of surplus lands of relatives of Mr. Kairon. The Commission felt that several "illegalities and irregularities were committed with the full knowledge" of Mr. Kairon and that if he did not actually direct their commission, he certainly connived at them. The Commission also observed that Mr. Surinder Singh had exploited his father's position to win favour from officials.

In the third category was listed acquisition by the late Mr. Kairon's sons of three cinema houses, a spinning mill and an automobile sales agency by abusing the position of the former Chief Minister. The Commission found that Mr. Surinder Singh Kairon had taken "the fullest advantage of his position as the son of the Chief Minister and has freely exploited the influence and power of his father in securing the sales agency and in developing its business and increasing its sales in diverse ways and in delaying the filling of sales tax returns or marking of the voluntary deposits without any effective step being taken against him and in getting away with a paltry penalty wholly inadequate to his lapses." The Commission also referred to a series of irregularities committed by some ministers of
of the Punjab Government and certain officials who, voluntarily or otherwise, responded to the wishes of their political boss and showed undue favours to his sons in the hope of pleasing him or earning promotions.

In view of the contention indirectly raised before the Commission that a minister would not be responsible for the misdeeds of any person other than himself, the following observations of the Commission in this respect are particularly noteworthy.

"The Commission is free to concede that a father cannot legally or morally prevent his sons from carrying on business, but the exploitation of the influence of the father who happens to be the Chief Minister of the State cannot be permitted to be made a business of. Such exploitation cannot possibly be legitimate business and the father's influence and powers cannot be permitted to be traded in. In the delicate situation in which S. Pratap Singh Kairon, holding such an exalted high office, was placed, as a result of the activities of his sons and relatives and Government officials, even assuming he personally had not lent a helping hand in relation to them, the least he could do was to give a stern warning in private and, if necessary, publicly, to his sons, relatives, colleagues and subordinate officers against their alleged conduct, even if such conduct had not been proved to be true. There is no getting away from the fact that S. Pratap Singh Kairon knew, or had more than ample reason to think or suspect, that his sons and relatives were allegedly exploiting his influence and power. But as his own affidavit shows, he made no enquiry, gave no warning to anybody and took no steps whatever to prevent its recurrence, but let things drift in the way they had been going, assuming he had no hand in it. In the premises he cannot now be heard to say that he had no knowledge of any wrongful conduct on the part of his sons, or relatives, or the officers under him. The allegations stared him in the face; he paid no heed to them. He cannot now plead ignorance of facts. In view of his inaction in the face of the circumstances hereinbefore alluded to, he must be held to have connived at the doings of his sons and relations, his colleagues and the Government officers."
This is the true position as the Commission apprehends it. It will be for the authorities to consider and decide what consequences follow from such connivance.

Following the "Kairon Case", opposition leaders in the Orissa Assembly submitted memoranda to the President, Dr. S. Radhakrishnan, and made public statements demanding inquiries against the former Chief Minister of Orissa, Mr. Biju Patnaik, and his successor, Mr. Biren Mitra, for alleged help to their wives in amassing wealth by doing business with the Government which they headed at the time. It was contended that the former Chief Minister and some of his colleagues had abused their positions and virtually entered into business transactions with the Government of which they were a part and enriched themselves in the process. This was accomplished by doing business with Government in the name of firms really owned by them but nominally managed and run by their wives.

Following submission of the memoranda, the Union Home Minister directed the Central Bureau of Investigation to make a "preliminary inquiry" into the charges. The C.B.I. report established a prima facie case, it is alleged. On the basis of the findings of the C.B.I., Mr. Patnaik and Mr. Mitra were asked to offer their "explanations". A sub-committee of the Union Cabinet is reported to have found improprieties in several transactions and lack of normal standards of public conduct. The sub-committee is also reported to have felt profound concern at the abuse of authority by leaders of the State Government.
After this indictment, Mr. Patnaik and Mr. Mitra were "advised" to step down from their respective offices which they did. Apart from this political action in the form of a mild rebuke and a temporary loss of office, the authorities did not take any legal action or institute a judicial inquiry, probably because of an ill-conceived anxiety to protect the ruling party's interests in the State.

Yet another instance of ministerial lapse and consequent loss of the tax payers' money is provided in the Mundhra deals that has been the subject of a Commission of Inquiry. Mr. Mundhra, known for his dishonesty and manipulation in business, was reported to have made available large sums of money to the ruling party and cleverly cashed in on his acquaintance with leading men in authority. He was able to get the Life Insurance Corporation to invest nearly Rs.15 million in six of his concerns, primarily to help him out of a precarious financial situation. The nature of these shady transactions, in which a large sum of public money held in trust by a statutory body like the L.I.C. was misused to bolster up the questionable business activities of a "known speculator", is thoroughly investigated at the instance of the late Mr. Feroze Gandhi by a Commission of Inquiry consisting of Mr. M.C. Chagla.

According to its terms of reference, the Chagla Commission was to inquire whether the purchase of the shares was in accordance with normal business principles or practice,
whether it was proper, and who were the persons responsible for the purchase. The Chagla Commission held the then Finance Minister, Mr. T.T. Krishnamachari, responsible for the acts of his subordinates resulting in the disastrous investment of L.I.C money in various concerns managed by an individual known for his doubtful reputation. Finding that the transactions were hustled through hurriedly, Mr. Chagla concluded that "there was some compelling reason, some motivating force" behind the precipitate action.

Mr. Krishnamachari's plea that "his subordinates did not reflect his policy or acted contrary to his wishes or directions" was not accepted by the Commission, which held him fully responsible for the deals, both constitutionally and factually. Eventually, Mr. Krishnamachari, who was subsequently taken in the Union Cabinet, resigned for the second time in ten years, when the then Prime Minister decided to refer to the Attorney-General certain corruption charges against him made by the opposition parties in Parliament through a memorandum to the President.

The 'Serajuddin affair' involving a former Union Minister, Mr. K.D. Malaviya, is another known case of political corruption. Messrs Serajuddin & Co. are a firm of mine-owners operating in Orissa. Between 1949 and 1956, Mr. Serajuddin had been financing politicians belonging to the ruling Congress party in Orissa and elsewhere. In 1956, in the course of a search in connection with cases of evasion of income-tax and customs duty, the private account books and correspondence of Mr. Serajuddin fell into the hands of the authorities. In 1963 certain
newspapers in Calcutta reported that the documents seized from Mr. Seraajuddin contained entries showing payments made and gifts given to some Central Ministers. 131 The indefatigable Mr. Dwivedy M.P. demanded in Parliament investigation of the incriminating entries. Meanwhile, in a meeting of the Congress Parliamentary Party Executive, the then Minister of Mines and Fuel, Mr. K.D. Malaviya, was reported to have confessed that he had obtained from Mr. Seraajuddin, a financial contribution of Rs.10,000. Besides this, Mr. Biren Mitra, the then Chief Minister of Orissa was also reported to have received Rs.2,00,000 from Seraajuddin & Co. The issue got another dimension when the 'lok Sevak' of Calcutta reported that the Ministry of Mines and Fuel is favouring the already maligned Seraajuddin & Co., in the matter of a barter deal licence. 132 It was contended by Mr. Dwivedy that after having received the money from Mr. Seraajuddin, the firm was sought to be favoured in more than one way, first by being allowed to mine the ore in contravention of the Industrial Policy Resolution, and secondly, by being permitted to export the product in exchange for machinery which it would sell, apparently at a profit, to the Oil and Natural Gas Commission.

Ultimately on May 9, 1963, the Prime Minister announced that on the advice of the Attorney-General who had examined the papers seized from Seraajuddin & Co., he had requested the Chief Justice of India to suggest a Supreme Court Judge for conducting "a full inquiry" into the entries in the Seraajuddin books relating to Mr. Malaviya. On August 17, the Prime Minister announced in the Lok Sabha that following
inquiry by Mr. Justice S.K. Das he had accepted Mr. Malaviya's resignation as Minister of Mines and Fuel. Neither the Das Report nor the incriminating entries in the books of the impugned firm was ever published, and from what was disclosed by the Prime Minister in the Lok Sabha, Mr. Justice Das' Report was partly favourable and partly unfavourable to the outgoing Minister of Mines and Fuel.

Two important inquiries are now being conducted, one against Bakshi Chulam Mohamed, the former Chief Minister of Jammu and Kashmir, and the other in respect of certain transactions by the Ministry of Iron and Steel which are alleged to have involved the wrongful issuance of pre-import licences to the Amin Chand Pearalal Group of firms resulting in a loss of foreign exchange earnings of about Rs. 24 million. The former inquiry is being conducted by an ex-judge, Mr. K. Rajagopal Ayyanger, and involves, inter alia, charges of corruption, abuse of authority and adoption of questionable methods in state administration by the former Chief Minister. The latter is a comprehensive inquiry on certain steel transactions of the Government being conducted by a former Chief Justice of the Supreme Court, Mr. A.K. Sarkar. The critical reference made by the Public Accounts Committee of Parliament in its fiftieth report about the improprieties in the steel transactions and the subsequent demand in Parliament for a thorough investigation of the matter gave rise to the appointment of the Sarkar Commission.

A discussion on political corruption would not be complete without a reference to the "Nudgal episode", which according to Messrs Dwivedy and Bhargava "is
important in being the first proven instance of a Member of Parliament having been paid to use his position for furthering certain business interests." Bribery of members of Parliament and State Legislatures and abuse of political power by elected representatives strike at the very root of democratic institutions and bring democracy itself into ridicule.

The charge against Mr. Mudgal, Member of Parliament and publisher of a couple of periodicals in Bombay, was that in return for a consideration he had used his position as a Member of Parliament to create the necessary atmosphere for getting support to the objectives of the Bombay Bullion Association. A Committee of Parliament enquired into the matter and found misuse of his position as Member of Parliament for ulterior purposes. "The services to be rendered by Shri Mudgal" observed the Committee, "were to include putting of questions in Parliament, moving amendments to the Forward Contracts(Regulation) Bill and arranging interviews with Ministers etc." The Committee held that Mr. Mudgal's conduct was derogatory to the dignity of the House and inconsistent with the standards expected of a Member of Parliament. Subsequently, Parliament adopted a motion moved by the Prime Minister that, in the light of the Committee's findings, Mr. Mudgal deserved expulsion from the House.

Commenting on the Mudgal episode, Mr.s. Twivedy and Dhargava wrote: "If the Mudgal episode had led to realization of the danger of a liaison between business and politics
it would have been an eye-opener. But in practice it proved to be a flash in the pan. The Government and the ruling party which had rightly taken a very serious view of Mr. Madgal's conduct, unfortunately did not keep it up when even graver transgressions were committed by politicians holding even more important positions."

According to Ronald Wraith and Edgar Simpkins, there is an "illicit glamour" about ministerial corruption, which causes it to be talked about more than it perhaps deserves. While this is true, it is only natural to magnify and exaggerate the incidence of corruption as and when it is condoned or concealed. And in India, unfortunately, "the practice had been to single out the small fry in the crusade against corruption while allowing politicians the benefit of doubt. The accent had been on weeding out corruption in the administration without touching its mainly political sources".

If corruption is to be curbed, corruption among ministers and politicians should be tackled first. Ministers hold the key. They create the atmosphere and the standards. For, if they are above board, they can control and discourage corruption among their subordinates, friends and protégés. An honest Minister is a formidable deterrent to corruption in his colleagues or officials. A fairly large section of the civil servants feel, and not very unjustifiably, that without Ministers' and politicians' connivance, if not active participation, there cannot be such growth in corruption
in the country as has taken place. A review of the instances of political corruption discussed above supports and substantiates this view.

In examining the social climate that would be conducive to the restraining of corruption, the Santhanam Committee had rightly emphasised the need for Ministers and legislators observing codes of conduct that would place them above suspicion. It is essential that the balance sheets including incomes and expenditures, assets and liabilities of Ministers, Central and State, should be published annually. It will be more graceful if the Ministers do so voluntarily. Otherwise, they should be obliged by law to do. The wholesome practice in a Parliamentary Democracy that ministers ought not to enter into any transaction whereby their private pecuniary interests might even conceivably come into conflict with their public duty, must be accepted as a binding principle of public life. The special machinery of a 'National Panel' which the Santhanam Committee had suggested for enquiring into charges against ministers is intended to deal with situations, which in the past, have not been either promptly or satisfactorily dealt with by the authorities. There would be little need for an outside agency of any kind to determine the integrity or otherwise of ministers if, as a rule, those who had been charged with abusing their power and office for personal or party gain, had chosen to vindicate themselves openly or followed well-established parliamentary conventions and resigned their offices. Ministerial corruption
is not often of the kind that can be judicially investigated and punished. A corrupt minister can also be excluded by political action by the High Command, who can demand his resignation or reconstitute the cabinet without him, and thereby avoid proving his guilt to the satisfaction of a hierarchy of courts and risk failure. The prospect of exposure in the legislature, Parliament, Press etc., must continue to serve as the main restraint on ministerial misdemeanours. The present tendency of identifying the administration wholly with the services for purposes of dealing with corruption is in any way unjustified and even dangerous.

Checking Corruption: An Examination of the Law and Procedure:

Offences like bribery and corruption have now become the subject-matter of a special and important branch of Indian Criminal Law. Apart from Chapter IX and Chapter IX-A of the Indian Penal Code discussing offences relating to public servants and corrupt practices in elections respectively, there is now a separate legislation, The Prevention of Corruption Act, 1947, designed to meet the increasing manifestation of the evil in the services.

The Prevention of Corruption Act, 1947 creates only one substantive offence, namely, "criminal misconduct" which is defined in section 5(1). The main object of the Act is to deal with the kind of "misconduct in which Government servants or public officers with no ascertainable means of support or inadequate support are living obviously above their income and are in a position to invest in property,"
which it appears on the face of it to be impossible that they should have had the money to acquire or at any rate that they should have got those resources honestly. 141

It was felt that it was difficult to pin down, because in such cases all that the Government or the police could find was that the Government servant could have no ostensible source, which could be accounted for as the basis of extravagant expenditure. No specific action could be taken against him or proved in the way of accepting a bribe or obtaining the money by corrupt means. The object of section 5 was to make it possible to detect and punish officers who had "managed to evade detection in that way". Thus, a public servant in possession of a sudden accretion of wealth was deemed guilty of the offence of criminal misconduct, unless he could prove that the accretion was honestly obtained. 142 The rule of evidence in sub-section (3) of section 5 of the Act enabled the court to draw the legal presumption of criminal misconduct against the public servant, once the prosecution established assets in his possession disproportionate to his known sources of income. 143 The Anti-Corruption Laws (Amendment) Act, 1964 however changed the rule of evidence in this regard by making possession of disproportionate assets by a public servant to be a substantive offence by itself. (Vide new clause (e) to section 5(1) of the Prevention of Corruption Act). The burden on the accused seems now to be lesser than that used to be under the old law. Previously the accused had to prove that the apparent disproportionate assets were not acquired through corrupt means; under the amended law he
can perhaps discharge the onus by giving only a
satisfactory account.

For the investigation and trial of corruption
cases the special provisions of the Prevention of Corruption
Act, 1947 and the Criminal Law Amendment Act, 1950, are
applied in preference to the general rules of procedure.
Further, the former Act introduced two entirely new
features in the administration of criminal justice in this
country. By section 7 thereof, it is provided that,
subject to certain conditions, when any person is charged
with an offence punishable under Section 161 or Section
165 or Section 165A of the Indian Penal Code, or under
Section 5 of the Act (Prevention of Corruption Act, 1947),
such person shall be a competent witness on his own behalf
or on behalf of any other person charged together with him
at the same trial. Secondly, in the matter of proof of
these offences, the Act has created two special presumptions
which modified the rules of evidence laid down in section
101 and section 102 of the Indian Evidence Act. Thus
Section 4(1) of the Prevention of Corruption Act provides
that where it is proved that an accused person has accepted
or obtained, or has agreed to accept or attempted to obtain
any gratification (other than legal remuneration) or any
valuable thing from any person, it shall be presumed unless
the contrary is proved that he accepted or obtained, or
agreed to accept or attempted to obtain, that gratification
or that valuable thing, as the case may be, as a motive or
reward such as is mentioned in Section 161 or, as the case
may be, without consideration or for a consideration which he knows to be inadequate. Section 4(ii) of the Act creates a similar presumption in respect of Section 165-A of the Penal Code.

Furthermore, in respect of the offence of criminal misconduct (Section 5(1)(e)) where the fact is made out that the accused person or any other person on his behalf is in possession of pecuniary resources or property disproportionate to his known sources of income for which the accused person cannot satisfactorily account, the Court has to presume, unless the contrary is proved, that the accused person is guilty of criminal misconduct in discharge of his official duty.

Explaining the justiciability and constitutionality of these statutory presumptions under Section 4 of the Prevention of Corruption Act, the Supreme Court observed in "Meen Vs. State of U.P." 146

"Presumably the Legislature felt that the evil of corruption among public servants which posed a serious problem had to be effectively rooted out in the interest of a clean and efficient administration, and it realised from the experience in criminal courts how difficult it is under the normal rules of evidence and proof to establish the charge of bribery or corruption beyond a reasonable doubt. Therefore, in order to achieve the object of eradication of corruption from amongst public servants, it has decided to enact Section 4 of the Act which lays down that as soon as the condition precedent prescribed by it is satisfied, the Court shall be bound to raise the statutory presumption as to the motive of the accused in accepting or obtaining any gratification other than legal remuneration."
It is true that this principle of statutory presumption revolts against the accepted rule of criminal jurisprudence on the burden of proof in criminal cases, viz., that it is the duty of the prosecution to prove the accused's guilt beyond a reasonable doubt. It is also true that it puts the accused charged of corruption or criminal misconduct in a disadvantageous position as compared to persons charged of other offences in the Penal Code. The benefits provided to an accused under Section 101 of the Evidence Act and Section 342 of the Code of Criminal Procedure are denied to him. But, as the Supreme Court observed in "Mukherjee Vs. State of U.P." such modifications of the rule of evidence might become necessary in the interest of a clean and efficient administration. A man who, by reason of his education or social status, secures a position of special confidence in the public services owes a special responsibility to the State and Society. If such a man abuses the confidence reposed in him by unsuspecting citizens, it is the Society which suffers most. Such men can, by clever manipulation commit loot overnight of the property of hundreds of thousands of people. They are indeed more dangerous to the society than an ordinary thief or a dacoit for, in the latter case the victim usually knows about his enemy and his hostile attitude. White collar crimes of the above nature cut at the very root of valuable social institutions and hence differential treatment is necessary and justified.

Though a complete reversal of "presumption of innocence" is inconsistent with our notions of democracy
and individual rights and therefore not justified, an extension of the modified rules of evidence may be considered necessary in respect of other crimes by public servants and people holding trust in society. Such modifications are increasingly adopted now by both the legislatures and approved by the judiciary.

The substantive offences created and the procedural changes effected in the law relating to corruption by the Prevention of Corruption Act, 1947 were soon found to be insufficient to meet the growing evil. Under Section 7A of the Act the provisions of the Code of Criminal Procedure, 1898, were modified in their application to any proceeding in relation to an offence punishable under sections 161, 165 or 165A of the Penal Code or under section 5 of the Prevention of Corruption Act. Even this amended procedure was highly involved and necessarily slow. Therefore in 1952 The Criminal Law Amendment Act was passed to further amend the I.P.C and Cr.P.C, with a view to provide for a more speedy trial of corruption cases. Under section 6(1) of this Act, the State Government was empowered to appoint as many Special Judges as may be necessary for such area, or areas as may be specified by the Government to try corruption cases. Additional powers were also conferred on the Special Judges modifying to that extent the provisions of the Code of Criminal Procedure (vide section 8 of the Amendment Act, 1952) with regard to cognizance, trial, conviction and sentence of persons accused of the said offences. The law was again amended in 1958 and 1964 by the Criminal Law Amendment Act,
Another important piece of legislation passed for fighting corruption is The Delhi Special Police Establishment Act, 1946 under which a special police force was constituted for the investigation of certain offences including corruption (Appendix V). The superintendence and administration of the Delhi Special Police Establishment vests in the Central Government. It is now one of the major divisions of the newly constituted Central Bureau of Investigation.

Apart from the above statutes, corruption and maladministration in the services are dealt with by the Government servants' Conduct Rules both at the Central and State Government levels. A good deal of instances of official misconduct are handled by departmental authorities according to the provisions of the Government Servants' Conduct Rules and the regulations made by the various Departments and Ministries from time to time. In a properly run administrative system, departmental action would largely meet the needs of the day. But in other situations departmental action would only tend to delay issues, find technical justifications for inaction and aggravate corruption. In India the problem of corruption is so much involved with related lapses like delays in dealing with public business, inefficiency, red tapeism, arbitrary use of power, and even faulty or unjust executive processes that an integrated approach in the administrative and legal spheres is called for.
The Committee on Prevention of Corruption appointed by the Government of India with Shri K. Santhanam, M.P., as Chairman reviewed the then existing instruments for checking corruption in the Central Services. It felt that the prevailing vigilance arrangements in the Government were inadequate and required important modifications in several directions. The committee observed that the Administrative Vigilance Division in the Central Ministry of Home Affairs and the vigilance units in the various ministries and departments functioned "substantially in an advisory capacity" and had certain inherent drawbacks. It, therefore, recommended the establishment of a Central Vigilance Commission enjoying, by convention, the same measure of independence and autonomy as the Comptroller and Auditor General or the Election Commissioner or the Union Public Service Commission. The Government of India accepted this recommendation and set up the Commission under a former Chief Justice of the Mysore High Court. A detailed note on the present vigilance organization in the Central Government is provided in Appendix VI.

It was hoped that the terms and conditions of the appointments to the Vigilance Commission would be such that the Commission could become an effective deterrent to any attempt at suppressing action in cases of corruption brought to light. It was also thought that the creation of such a vigilance organization would restore public confidence in the Government's determination to eliminate corruption and lack of integrity speedily and effectively.
But these fond hopes could not be realized in any appreciable measure due to various reasons. According to the Government decision the functions of the Central Vigilance Commission, like its predecessor, were also advisory in the constitutional and legal sense. Secondly, complaints of "political graft" were specifically excluded from the purview of the Commission. After about three years' of experience as Central Vigilance Commissioner Mr. Rau, the first Vigilance Commissioner, is reported to have come to the conclusion that without tackling political corruption it was not possible to root out the evil from the Civil Services.

The Central Vigilance Commission, as conceived by the Santhanam Committee, provided for a branch to deal with general complaints not connected with corruption. The absence of a machinery for appeals other than inside the hierarchy and of a suitable machinery for redress of public grievances, according to the Committee, contributed to the growth of an impression of arbitrariness on the part of the executive and had resulted in a phenomenal increase in the number of 'peddlers of influence'. The Government have recognized the importance and urgency of providing a machinery for looking into the grievances of the citizens against the administration and for ensuring just and fair exercise of administrative powers. But it did not want to burden the Central Vigilance Commission with these activities and decided to create a separate machinery for it. An Administrative Reforms Department was accordingly set up to scrutinize and improve administrative
procedures and to work out details of the machinery for looking into the grievances of the citizens against the administration and for ensuring just and fair exercise of administrative powers. The Administrative Reforms Department in the Union Home Ministry, in consultation with the Ministries concerned, set up teams to review the procedures of the Departments of supply, Technical Development, Import-Export Control, C.P.W.D. etc., with a view to spot out and rectify points of corruption, minimise delay and facilitate quick and efficient disposal of business for public convenience.

These changes in the institutional set up did not bring about the desired result and the evil of corruption continued unabated. The need for a comprehensive enquiry and radical reforms were so deeply felt that on 5th January, 1966, the Government appointed a high powered body, the Administrative Reforms Commission, under the chairmanship of Mr. Moraji Desai. Mr. Hanumanthayya later took over the chairmanship from Mr. Desai. According to its terms of reference, "the Commission will give consideration to the need for ensuring the highest standards of efficiency and integrity in the public services, and for making public administration a fit instrument for carrying out the social and economic policies of the Government as also one which is responsive to the people." The Commission submitted an interim report to the Government on the "Problems of Redress of Citizens' grievances" in October, 1966 recommending an Ombudsman-type institution to deal with citizens' grievances and complaints against officials and ministers.
The plea for the institution of a high-level standing tribunal endowed with statutory powers and completely independent of the executive to tackle the problem of corruption was raised several times before by administrators and public men. Writing on the need for an Ombudsman in India for eliminating corruption and for providing even distribution of administrative justice, a Bombay journalist wrote succinctly in his recent book:

"We have our Courts that take several years to establish a case of corruption and very often after several years of litigation a dismissed civil servant, widely believed to be corrupt, gets himself reinstated in service, on the basis of some technical lacuna, with a huge sum awarded against the Government as backlog of wages. We have the legislatures that find themselves helpless in the face of a well-entrenched party majority till a commission of inquiry comes around and declares a Minister guilty. We have our Parliamentary questions which only succeed in getting from the Government what is already known and keeping away any damaging information till it is forced to reveal it because of some leakage somewhere. We have had Pandit Nehru looking into charges personally like a grand arbiter and, as later events have proved, shielding the guilty through a false sense of loyalty to associates and friends. We have had party bigwigs trying to decide issues, not surprisingly to the party's advantage. The ritual of 'taking up' and 'dropping' charges has gone on far too long to be tolerated any more. In such a confused situation one would sympathize with Mr. Patnaik who hit upon the mess meeting idea to decide issues of corruption which was perhaps in disuse ever since Antony and Brutus offered their versions to the Roman crowd after the death of Caesar. Finally, we are recommended to have a national panel which, if set up, will be hardly different from the Congress Party's panel of lawyers - the chief difference being that in the one the initiative to act was with the party while in the new set up the initiative would be with the President which, under our constitutional set up, would mean the Government."
In the existing circumstances in this country, the individual, if he is not a member of some organised group or well-placed in life, has very little chance to get his complaints investigated and grievances redressed. The position has been well summed up by Mr. A.N. Jha, a senior I.C.S. officer in his foreword to the syndicate study of the National Academy of Administration, Mussoorie. He wrote:

"The fact remains that the existing remedies against abuse of authority by the administration, particularly in its lower echelons, are not available to the common man, for whom the concept of equality before the law and social justice have at present little practical significance or value. With the ever-increasing scope of its activities and the consequent inevitable expansion of the bureaucracy, which, in its turn, at least in the initial stages, must result in placing many persons in positions of responsibility far beyond their capacity to shoulder, it is important that the Welfare State should provide some machinery for dealing promptly and expeditiously with cases of abuse of authority affecting the common man whether he be a poor cultivator or a low-paid public functionary who has neither the resources nor the influence needed for obtaining redress from the existing forums."

The Administrative Reforms Commission also in its interim report examined the existing safeguards for the citizen, assessed their efficiency and recommended an "Ombudsman" for India. According to the Commission the answer to the public outcry against the prevalence of corruption, the existence of widespread inefficiency and the unresponsiveness of administration to popular needs, lies in the provision of a machinery which will examine such complaints and sift the genuine from the false or the untenable so that administration's failures and achievements can be publicly reviewed in their correct perspective."
Even from the point of view of protection to the Services, observed the Commission, such an institution is necessary for projecting their image on the public mind, in its true character and for ensuring that the average citizen is not fed on prejudices, assumptions and false notions of their quality and standards.

The Commission has referred to the recent climate of recrimination and charges and counter-charges made against persons in authority and stated that a suitable institution independent of the executive should be set up soon to create confidence in the people and to sustain and foster democracy. In the Commission’s view an honest and responsive administration was fundamental and basic to the functioning of a democratic Government. Especially when the State was committed to a policy of socialist development with an enlarging public sector, it thought, adequate built-in safeguards were necessary against encroachment by the administration on individual liberty. The citizen should be doubly assured that wrongful use of discretion by ministers and officials will not go unpunished. At the same time the machinery and procedure suggested should be such that the honest will have nothing to fear. The Commission was not impressed by the argument that regulatory check on the actions of the executive in the discretionary field will lead to serious delays in developmental activities or will promote a feeling of demoralization in, or have a cramping effect on the administration.
The Commission further said:

"We strongly feel that this malaise in administration mainly arises more from a sense of frustration or lack of appreciation of good work done and from an exaggerated image of corruption, inefficiency and lack of integrity current in the public mind than from actual investigation into complaints submitted by citizens. We have every reason to believe that the working of such an institution (Ombudsman) will in the long run rectify and thus restore the correct image of the administration, create public confidence in its integrity, and thereby promote, rather than impede, the progress of our developmental activities. Apart from this, the informal character of inquiries will save the public servant from exposure to public gaze during the course of an enquiry, which often has the effect of condemning him in the public eye before he is ultimately found guilty or innocent, as the case may be. The institution will thus be a protection for, and a source of strength rather than a discouragement to, an honest official, whose susceptibilities alone are germane in this context."

In drawing up its scheme, the commission has taken whatever is suitable to Indian needs from the Scandinavian authority known as "OMBUDSMAN" and also from the provisions of the British legislation now before the House of Commons envisaging the appointment of a "Parliamentary Commissioner". Under the scheme recommended by the Commission there will be two independent agencies - a "Lok Pal" to look into complaints of administrative excesses and malafide exercise of discretion by Ministers and Secretaries of the Central and State Governments, and "Lokayukta", one for the Centre and one for each State, to investigate similar charges against other officials. To ensure that the Lok Pal is independent of the executive and to create public confidence in the impartiality and
fairmindedness of him, the Commission has proposed that the President would appoint him on the recommendation to be made by the Prime Minister in consultation with the Chief Justice of India and the leader of the opposition. He will be answerable to the President and Parliament and cannot be removed from office by the executive except under the impeachment procedure provided under Article 123(4) of the Constitution for Supreme Court Judges. He shall have the same status, salary and other emoluments as the Chief Justice of India. A draft bill providing for the appointment and functions of the Lokpal (to be suitably adapted for the appointment and functions of the office of Lokayukta) was appended to the interim report of the Commission. Subsequently a bill creating the office of Lokpal was moved in Parliament and is now under its consideration (Appendix VII).

The present system of Vigilance Commissions wherever operative would become redundant on the implementation of the Commission's scheme and will have to be abolished on the setting up of the institution of Ombudsman (Lokpal).

**Preventive Measures:**

Corruption cannot be eliminated or even significantly reduced unless preventive measures are planned and implemented in a sustained and effective manner. Preventive action must include administrative, legal, social, moral, economic and educative measures.
There is no doubt that given adequate salaries, housing and medical facilities, the integrity of civil services can be considerably enhanced or at least the causes of corruption can be minimised. In such a context, strict vigilance and close supervision would necessarily bring positive results. The following administrative measures are generally recommended for reducing the scope of corruption:

1. The greatest care should be taken in selecting officers entrusted with the grant of permits and licences, and the rules for granting them should be drawn up with the greatest precision so as to avoid wide discretionary powers. Government have to ensure that only those officers whose integrity is above board should be selected for high administrative posts and officers whose integrity is not certified, should not be granted extension of service or re-employment.

2. Administrative delays must be reduced to the utmost extent possible and firm action should be taken to eliminate all such causes of delays as provide scope for corrupt practices. Undue delays in the investigation of administrative lapses would not only endanger the evidence which may disappear or be tampered with, but could be regarded as grossly unfair to the person accused. The cardinal principle of departmental action is that it should be initiated and completed as promptly as possible.

3. Government servants and Ministers should be required to submit returns from time to time regarding movable and immovable properties acquired by them.

4. Employees should be urged to observe the requirements of courtesy, consideration and promptness in dealing with or serving the public. Each department will be responsible to bring the proper minimum standards of conduct to the attention of all its employees.

5. Government shall impress on the public that it is their duty to report at once and co-operate with the authorities in cases of official misconduct. Public vigilance is the basis of
any anti-corruption strategy. While the Government seek to tighten the law and set up new institutions for investigation, the real remedy for checking the evil lies much deeper in the society itself. It will be difficult to tackle this growing evil unless we mobilize the best elements in society to fight it. Public watchfulness is easily the most powerful deterrent against corruption.

In order to harness popular participation in the campaign for purity in national life and administration, a non-official agency known as the Samyukta Sadachar Samiti was formed in April 1964 with Shri Gulzarilal Nanda, the then Union Home Minister as president and Shri Bhimsen Sachar as the General Secretary. Its main objective is said to be the creation of a social and moral climate that would discourage anti-social and corrupt practices and develop the will and capacity of the people to fight and eradicate corruption in all forms. It should be remembered that for every corrupt official there are hundreds of members of the public wanting to make use of him and to feed him. The faults reflect our own moral failures. Therefore, what is needed is to bring about a healthy social climate and public opinion in which people of integrity are respected, obsession with material gain at all cost scotched, and corrupt elements looked down as criminals. Efforts have to be made to develop a consciousness of moral and social responsibility and an appreciation of the place of moral values in the life of an individual and the country. The moral and social sanctions generated by a responsible public opinion will far outweigh the corrective and deterrent influence of punitive action by the State.
CHAPTER SIX
WHITE COLLAR CRIME IN GOVERNMENT AND POLITICS

REFERENCES AND NOTES


5. See 'City Lights' by Civitas in Times of India (Delhi) dt. July 1, 1968.


7. Ibid., p. 6.


10. In view of the fact that 'corruption' is not merely a legal problem but more of a sociological one, it is examined in this chapter in its wider significance particularly with reference to causes and remedies.

11. Chapter IX of the Indian Penal Code, sections 171A to 171-I deal with offences relating to elections of which the important are: (a) Bribery (171F); (b) Undue influence at elections or per seonation at elections (171F); (c) False statement in connection with an election (171G); (d) Illegal payments in connection with an election (171H); and (c) Failure to keep election accounts (171I).

12. Ibid.

13. Ibid., Section 171 B

15. See generally, Roberts P.F., History of British India, Supra.


17. Ibid. p. 8 and pp. 101-106; See also Dwivedy and Dhargave, Political Corruption in India (1967) pp. 90-91.

18. It is said that former Prime Minister of India, Jawahar Lal Nehru, held such a view in the beginning—see generally Paul & Apalby, Public Administration in India—Report of a Survey, Govt. of India (1957) pp. 1-9.

19. John Monterio, Corruption etc., Supra, p. 34.


21. More and more regulations on economic activity are not only necessary but desirable in a planned socialist society like India; but the point that is suggested here is the possible resultant confusion and complexity which could be minimized only by an efficient administration.


25. According to one such official who occupies principal executive positions in two big commercial concerns, it is difficult, if not impossible, to secure licences through honourable methods without active liaison assistance in Delhi—See 'Post-Retirement Jobs for Civil Servants', Civic Affairs, November 1962; See also Senthanan Committee Report, pp. 200-204.


28. Venkatachary C.S., Economy and Efficiency in Public Administration in India, Forum of Free Enterprise (Bombay); Also see Kodanda Rao, B. CRIMINAR—VIII, April 1960.

29. Senthanan Committee Report, p. 46.

30. Ibid., pp. 11-12.


32. Senthanan Committee Report, pp. 9-10 and 45-46.

33. Ibid., p. 10.

39. "311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State -

(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply -

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry." - Article 311, Constitution of India.

40. Santhanam Committee Report, supra, pp. 34-35.


43. Seervai, Constitutional Law of India, p. 1061.

45. Sathanan Committee Report, p.30. A number of restrictive conditions imposed by courts in the
enunciation of rules of natural justice included in the words "reasonable opportunity in Article 311(2)"
are listed in the Report at pp.30 - 32.


47. See generally the discussion on the relevant provisions of the Criminal Procedure Code in Sathanan Committee
Report, pp. 61-64. The Criminal Law Amendment Acts of 1952 and 1958 were intended to provide for a more
speedy trial of cases of bribery and corruption. In the case of Ministers corruption charges are enquired
into only when the Cabinet agrees such a course and more often decisions in this respect are taken at a
political level - The Lok Pal Bill submitted by the Administrative Reforms Commission, however, provides
necessary machinery to enquire corruption charges against Ministers as well (See Appendix V).

48. Sathanan Committee Report, p. 46.

49. "Economic Crimes in the Soviet Union" (December 1964),
Vol. V, Journal of the International Commission of Jurists, p.3; Also see 39th Report of the Law Commission
of India, pp. 14-17.

50. See generally Kripalani Committee Recommendations for exemplary punishment for corruption, supra, p.10.


52. Ibid. p.117.

53. Ibid. pp.117-118.

54. The Public Accounts Committee of Parliament in its
21st Report expressed surprise that in 1961-62 while
there were 4511 cases in which penalties were levied
for concealment of income totalling Rs.7,13 crores,
not more than one person was sent up for prosecution.
Though this instance does not directly relate to
corruption in the services, still it indicates the
practice of taking only a very small percentage of
violations to Courts of law and dealing most of them
administratively. It is not clear as to why this is so.
However, the difficulty of advancing sufficient proof
for a conviction in a criminal court is sometimes
advanced as the main reason for keeping the violations
out of court.

55. Amongst them the Sathanan Committee Report mentioned
a few malpractices and recommended their prohibition
under criminal law, sections 7 and 8.

56. It is at least debatable whether the conditions against
which these procedural safeguards were devised in the
early common law are any more valid in the present context.


58. The Delhi Special Police Establishment was created in the early stages of the last war in the year 1941 by means of an executive order of the Government of India to combat the incidence of corruption arising from the vast expenditure on purposes connected with the prosecution of the war. It later received statutory recognition in the form of the Delhi Special Police Establishment Act (25 of 1946). It was then placed under the Ministry of Home Affairs and its functions were enlarged to cover all departments of the Government of India. Its jurisdiction extends to all the Union territories and to all other States with their consent.

On the establishment of the Central Bureau of Investigation in April 1963, the Delhi Special Police Establishment has been made one of its principal divisions and redesignated as the Investigation and Anti-corruption Division of the C.B.I. The jurisdiction powers and functions of this Division however remain as before under the Act of 1946. It is authorised to take up for investigation only those offences which are notified by the Central Government under section 3 of the Delhi Special Police Establishment Act, 1946 (Appendix V). These include cases of bribery, illegal gratification and criminal misconduct punishable under sections 161 - 169 of the Indian Penal Code or under the Prevention of Corruption Act, 1947. In the area of notified offences the Special Police Establishment enjoys concurrent powers of investigation and prosecution with State Police Forces. To avoid duplication of work administrative arrangements are made between the Centre and the States with regard to the type of cases to be handled by the respective agencies.

For further details see R. Deb, Principles of Criminology, Criminal Law and Investigation, 2nd ed., Vol.I (1968) pp. 311 - 313.

59. The Administrative Vigilance Division started functioning in August, 1965 with the purpose of initiating and sustaining a simultaneous effort in all Ministries and Departments of the Government of India for combating corruption through preventive and punitive measures. Under this scheme there are Chief Vigilance Officers in each Ministry or Department and Vigilance Officers in all subordinate and attached offices, as well as public sector undertakings. Each Vigilance Officer under the guidance of the Director of the Administrative
Vigilance Division and the Secretary of the Ministry/Department is primarily responsible for the purity, integrity and efficiency of his Department. The Vigilance Officers besides being the link between the Central Vigilance Commission and the Ministry/Department should also act as special assistant to the Secretary or the Head of the Department in prevention, detection and punishment of corruption and other malpractices in the respective Ministry/Department.

The main duty of the Administrative Vigilance Division is to "Co-ordinate the work of the Vigilance Officers and to furnish the required drive and direction" in the eradication of corruption from Public Services. For further details see Santhanam Committee Report (1964) pp. 294-295.

The vigilance activities at the Centre have recently been reformed in view of the recommendations of the Santhanam Committee on Prevention of Corruption. Accordingly a Central Vigilance Commission was set up with a retired Chief Justice of a High Court as the first Vigilance Commissioner in February, 1964. Besides, a Department of Administrative Reforms was also constituted. A note on these changes in the vigilance organization at the Centre based on the Santhanam Committee Report (pp. 294-298) is given in Appendix VI.

60. Santhanam Committee Report, p. 18.
61. Ibid., p. 18-19.
62. Ibid., p. 19.
63. Civic Affairs (Kanpur), November, 1962.
64. See generally Santhanam Committee Report, pp. 18-19.
65. The Railway Corruption Enquiry Committee was appointed by the Government of India in September 1963 with Shri N.R. Kumru and later Shri Acharyya J.B. Kripaleini as its Chairman. The terms of reference of the Committee were:

"To enquire into and report on:-

(i) Extent of corruption prevalent among various categories of railway employees in their dealings with the public.

(ii) Methods adopted by the staff concerned.

(iii) The causes of corruption.

(iv) Responsibility of the using public."
(v) Defects, if any, in rules and regulations which leave loopholes for corruption.

(vi) Remedial measures, both administrative and legal, to eradicate this evil in all its aspects.

Ministry of Railways, Government of India, pp. 2-3.

66. Ibid., pp. 13-14.
67. Ibid., pp. 20-21.
68. Ibid., pp. 44-53.
69. See Chapter VIII infra: Public attitude towards white collar crimes - Findings of a public opinion survey.
71. Santhanam Committee Report, p. 16.
72. Report of the Committee on Distribution of Income and Levels of Living (Mukherjee Committee) Part I, Planning Commission, Govt. of India (1964) p. 18.
73. Santhanam Committee Report, p. 260.
74. Ibid., pp. 250-251.
75. See for further details on corrupt practices in Import & Export Control Organizational - Santhanam Report, pp. 261-264.
76. Ibid., p. 254.
77. See for details Santhanam Committee Report, pp. 274-281.
78. Ibid., p. 267.
79. Ibid., p. 271.
80. The Department has since started the publication of the names of big assesses and their income-tax payments (see Section 33 of the Finance Act, 1964).
34. See Times of India (Delhi) dt. March 6, 1964.
38. SURVEY (Bombay) dt. October 6, 1962.
40. Montolio, Corruption (Manaktales, Bombay), supra, p. 46.
41. Ibid.
42. Report of the Bihar Police Commission, Chapter XXIV.
43. Ibid.
47. Ibid.
50. e.g. Harendra Chandra Bari Vs. Emperor, 48 Cr.L.J. 118 (Cal); State vs. Pundlik, 1359 Cr.L.J. 162(3om); Keshevial Vs. State of Bombay, 1961 (2) Cr.L.J. 571(S.C.)
51. This wholesome principle is adopted as a directive principle of State policy in Article 50 of the Constitution of India.
55. Ibid., p. 520.
56. Dwivedi and Bhargava, Political Corruption in India, New Delhi (1967).
107. Press Statement at Indore by Shri Sanjivayya on July 31, 1963 - Quoted in Public Administration (Kanpur), 1963, p. 11.


110. In December 1963, a member of the U.P. legislature brought forward serious allegations in the State Vidhan Sabha regarding an alleged gang of smuggling racket in which a State Cabinet Minister was reported to have been involved - Hindustan Times (Delhi), dt. December 21, 1963.


113. M.V.Namjoshi, Monopolies in India, Lalvani (Bombay), 1966, pp. 84.

114. It is gratifying to note that in spite of opposition from certain influential party colleagues, Mr. Faizurxdin Ali Ahmed, Minister for Industrial Development, has brought forward a bill prohibiting company donations to political parties. The bill is to be taken up for consideration by the Lok Sabha in August 1968 - See Times of India (Delhi) dt. July 4, 1968; See also Appendix IV.


116. Dwivedi and Bhargava, Political Corruption in India (1967), Delhi.


120. Ibid., p. 277.

121. Ibid., pp. 241-249.

122. Ibid., p. 122.

123. Ibid., p. 122.
124. Ibid., p. 93.
125. Ibid., pp. 283-284.
126. For a detailed account of the alleged "shady" transactions the following documents may be consulted: (i) The Orissa Affair and C.B.I. Inquiry by S.K. Dwivedi, New Delhi (1965); (ii) Dwivedi and Bhargava, Political Corruption in India (1967), Chapter IX.
127. A "certified" copy of the unpublished C.B.I. Report on the "Orissa Affair" was placed on the table of the Lok Sabha by Shri S.K. Dwivedi, M.P. It created a lot of sensation in and outside Parliament, particularly because its genuineness was never contradicted by the Government.
129. Dwivedi & Bhargava, Political Corruption in India, "Mundhra Affair".
130. Memorandum submitted to President on November 22, 1965, supra.
131. Ananda Bazar Patrika, dt. February 6, 1963; CURRENT (Bombay) dt. March 9, 1963; Also see Dwivedi & Bhargava, Political Corruption, Chapter XI.
134. The report of the Ayyanger Commission was since submitted to the Jammu & Kashmir Government which is reported to be contemplating legal action against the former Prime Minister (Bakshi Ghulam Mohamed) and some Government Officials on the basis of the Commission's findings.
135. The Sarkar Commission also has submitted its report in 1968. According to the evidence before the Commission, it could not find any impropriety on the part of the Minister in revoking his earlier decision in favour of a Private Party in the alleged Steel transactions - Final Report of the Steel Transactions Inquiry Committee, Govt. of India (1968) p. 144.
137. Ibid. p. 65.
140. Santhanam Committee Report, pp. 102-105.
143. Section 5(1) read with section 5(3) of the Prevention of Corruption Act, 1947. The rule of evidence under section 5(3) was later substituted by section 6 of the Anti-corruption Laws (amendment) Act, 1964 (Act 40 of 1964) which created a substantive offence of the same nature - vide section 5(1)(e) which now reads:

"5(1) A public servant is said to commit the offence of criminal misconduct -

(e) if he or any person on his behalf is in possession or has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income."

148. Abul Hasen, "Justice and Peace for All" (1954); Also Shri V. N. Krishna Iyer (now Judge of the Kerala High Court), "Diagnosis and Treatment of Corruption", STUDIES (Delhi), dt. April, 1960;
149. Railway Stores (Unlawful Possession) Act, 1955 - Section 3; Bombay Prohibition Act - section 66 and 85.
151. The High-Powered Administrative Reforms Commission that is now examining the issue in all its aspects is expected to give clear and concrete proposals in this regard.
152. Santhanam Committee Report, pp. 53-66.

153. Ibid. p. 75 and 77.


159. Journal of the National Academy of Administration, Vol. VIII, No. 4, October 1963 at p. 43.


161. Ibid.

162. A bill for setting up the office of 'Lok Pal' is now under the consideration of Parliament.

163. See generally Santhanam Report, pp. 41-52.