THE LOKPAL BILL, 1989

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THE LOKPAL BILL, 1989

A

BILL

to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1989.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “chairman” means the Chairman of the Lokpal;

(b) “competent authority”, in relation to—

(i) the Prime Minister, means the House of the People;

Short title, and commencement.

Definitions.
(ii) a public functionary other than the Prime Minister, means the Prime Minister;

(c) "complaint" means a complaint alleging that a public functionary has committed any offence punishable under the Prevention of Corruption Act, 1988;

(d) "Lokpal" means the institution established under section 3;

(e) "Member" means a Member of the Lokpal and includes the Chairman of the Lokpal;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "public functionary" means a person who holds, or has held, the office of the Prime Minister, Deputy Prime Minister, Minister, Minister of State or Deputy Minister, of the Union.

MACHINERY FOR INQUIRIES

3. (1) As from the commencement of this Act, there shall be established, for the purpose of making enquiries in respect of complaints under this Act, an institution to be called the "Lokpal".

(2) The Lokpal shall consist of a Chairman and two other Members.

(3) The President shall, after consultation with the Chief Justice of India, appoint, by warrant under his hand and seal, persons who are or have been Judges of the Supreme Court as the Chairman and Members of the Lokpal.

(4) Every Member shall, before entering upon his office, make and subscribe before the President, or a person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

4. A Member shall not be a Member of Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Member), or be connected with any political party or carry on any business, or practise any profession and accordingly, before he enters upon his office, a Member shall,—

(a) if he is a Member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.
5. (1) Every Member shall hold office for a term of five years from the date on which he enters upon his office:

Provided that he may—

(a) by writing under his hand addressed to the President, resign his office;

(b) be removed from his office in the manner provided in section 6.

(2) On ceasing to hold office, a Member shall be ineligible for further employment in any office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and other conditions of service of—

(i) the Chairman shall be the same as those of the Chief Justice of India;

(ii) other Members shall be the same as those of the Judge of the Supreme Court:

Provided that if a Member is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as a Member be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and pension payable to and other conditions of service of, a Member shall not be varied to his disadvantage after his appointment.

6. (1) A Member shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Member under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968, in relation to the removal of a Judge and, accordingly, the provisions of that Act shall, subject to necessary modifications, apply in relation to the removal of a Member as they apply in relation to the removal of a Judge.
7. (1) The Lokpal shall, for the purpose of assisting in the discharge of its functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may, in consultation with the Lokpal, determine from time to time.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any classes of complaints, secure—

(i) the services of any officer or employees or investigating agency of the Central Government or a State Government with the concurrence of that Government; or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as the President may, in consultation with the Lokpal, determine from time to time.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

8. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as it considers it necessary so to do for the purpose of its inquiry into any such allegation:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952, except on the recommendation, or with the concurrence, of the Lokpal.

60 of 1952.
9. (1) The Lokpal shall not inquire into any matter concerning any person if any Member has any bias in respect of such matter or person and if any dispute arises in behalf of the applicant, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on its recommendation or with its prior concurrence.

(3) The Lokpal shall not inquire into any complaint if the complaint is made after the expiry of five years from the date on which the offence mentioned in such complaint is alleged to have been committed.

10. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal.

Explanation.—For the purpose of this sub-section, "public servant" means—

(a) any person who is a member of a Defence service or of a civil service of the Union or a State or of an all-India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence alleged and shall be accompanied by an affidavit in support of such particulars and a certificate in the prescribed form in respect of the deposit under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of one thousand rupees to be available for disposal under section 26:

Provided that the Lokpal may, for sufficient cause to be recorded in writing, exempt a complainant from the requirement under this sub-section.

(4) Notwithstanding anything contained in the foregoing sub-sections, any letter written to the Lokpal or, as the case may be, the appropriate authority by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.
(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in charge of any jail or other place of custody or of any asylum or other place for insane persons in forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Explanation.—For the purposes of this section, “appropriate authority” means any of the authorities which the Lokpal may, by general or special order, in writing, determine to be the appropriate authority.

11. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as it deems appropriate,—

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 9; or

(b) that it cannot make an inquiry in respect of the complaint by reason of the provisions of sub-section (1) or sub-section (2) of section 9 or any other provision of this Act; or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint,

the Lokpal shall dismiss the complaint after recording its reasons therefor and communicate the same to the complainant and to the competent authority.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular, the Lokpal may, if it deems it necessary so to do, call for the comments of the public functionary concerned.

12. (1) If, after the consideration and verification under section 11, in respect of a complaint, the Lokpal proposes to conduct any inquiry, it—

(a) may make such orders as to the safe custody of documents relevant to the inquiry as it deems fit;

(b) shall, at such time as it considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall be conducted in camera by the Chairman and the Members sitting jointly.

(3) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.
13. (1) Where the Lokpal is satisfied—

(a) that investigation by any police officer under the Code of Criminal Procedure, 1973, into any offence in respect of which a complaint is made or into any matters connected therewith may prejudicially affect the conduct of inquiry under this Act with respect to such complaint; and

(b) that having regard to all the circumstances of the case it would be proper to defer such investigation pending the completion of such inquiry.

it may, by order in writing and for reasons to be recorded therein, direct that till the completion of such inquiry or for such shorter period as may be specified in the order, any such investigation shall be deferred or, as the case may be, shall be suspended:

Provided that no such direction shall apply with respect to any investigation required to be made in pursuance of an order of any court.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in computing, for the purposes of Chapter XXXVI of that Code, the period of limitation for taking cognizance of any offence, being an offence the investigation in respect of which has been deferred or suspended by reason of an order under sub-section (1), the date on which such order was made, the period during which the investigation remained deferred or, as the case may be, suspended by reason of the order and the date on which the order ceased to have effect, shall be excluded.

14. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 11), the Lokpal—

(a) may require any public servant or any other person who, in its opinion is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.
(3) Subject to the provisions of sub-section (4),—

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever shall apply to the disclosure of information for the purposes of any inquiry (including the verification under section 11) under this Act; and

(b) the Government or any public servant shall not be entitled, in relation to any such verification or inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document—

(a) as might prejudice the security, or defence, or international relations, of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union Government or of any Committee of such Cabinet, and for the purpose of this sub-section, a certificate issued by a Secretary to the Government of India certifying that any information or answer or portion of a document, is of the nature specified in clause (a) or clause (b) shall be binding and conclusive:

Provided that the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued under this sub-section to the effect that it is of the nature specified in clause (a) to be disclosed to it in private for scrutiny and if in such scrutiny the Lokpal is satisfied that such certificate ought not to have been issued, it shall declare the certificate to be of no effect.

Explanation.—For the purposes of this section "public servant" has the same meaning as in section 21 of the Indian Penal Code.

15. (1) If the Lokpal has reason to believe that any documents which, in its opinion, will be useful for, or relevant to, any inquiry under this Act, are secreted in any place, it may authorise any officer subordinate to it, or any officer of an investigating agency referred to in sub-section (2) of section 7, to search for and to seize such documents.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in its custody, it may retain the said document till the completion of such inquiry:

Provided that where such document is seized before the commencement of such inquiry, the Lokpal shall return the document before the expiration of a period of one year from the date on which it is seized unless such inquiry has been commenced before such expiration.
Explanation.—For the purpose of this sub-section, an inquiry in respect of a complaint—

(a) shall be deemed to have commenced on the date on which it is made to the Lokpal under section 10;

(b) shall be deemed to have been completed on the date on which the Lokpal closes the case under clause (a) of sub-section (1) of section 16 or where the Lokpal makes a report to the competent authority under clause (b) of that sub-section, on the expiry of the period mentioned in sub-section (4) of that section.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 185 of the said Code shall have effect as if, for the word "Magistrate", wherever it occurs, the words "Lokpal or any officer authorised by it" were substituted.

16. (1) If, after inquiry in respect of a complaint, the Lokpal is satisfied—

(a) that no allegation made in the complaint has been substantiated either wholly or partly, it shall close the case and intimate the complainant, the public functionary and the competent authority accordingly;

(b) that all or any of the allegations made in the complaint have or have been substantiated either wholly or partly, it shall, by report in writing, communicate its findings and recommendations to the competent authority and intimate the complainant and the public functionary about its having made the report.

(2) The competent authority in the case of a public functionary, other than the Prime Minister, shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) The Speaker, in the case of the Prime Minister, shall, as soon as may be after and in any case not later than ninety days from the receipt of report under clause (b) of sub-section (1), cause the same to be laid before the House of the People.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which the House of the People is not in session shall be excluded.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after, and in any case not later than ninety days from the receipt of such report, cause the same, together with the explanatory memorandum, to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.
17. The salaries, allowances and pensions payable to, or in respect of, the Members, shall be expenditure charged on the Consolidated Fund of India.

18. (1) Any information obtained by the Lokpal, or by any officer, employee, agency, or person referred to in section 7, in the course of, or for the purposes of, any verification or inquiry under this Act, and any evidence recorded or collected in connection therewith shall be treated as confidential and, notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokpal, or any such officer, employee, agency or person, to give evidence relating to such information or to produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of the information or evidence referred to therein—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on any report under section 16; or

(b) for the purposes of any proceedings, for an offence of giving or fabricating false evidence, under the Indian Penal Code; or

(c) for such other purposes as may be prescribed.

19. (1) Whoever intentionally offers any insult, or causes any inter-ruption, to the Lokpal while the Lokpal or any of its Members, is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

20. (1) If, at any stage of a proceeding before the Lokpal, it appears to the Lokpal that any person appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, the Lokpal may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or fabricating false evidence, take cognizance of the offence and
may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973, and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to simple imprisonment for a term which may extend to one month, or to fine which may extend to five hundred rupees, or to both.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(4) Any person convicted on a trial held under this section may appeal to the Supreme Court.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

21. (1) If any person prints or publishes any information with respect to any complaint under this Act (including the identity of the person making the complaint, the public functionary against whom the complaint has been made and the particulars contained in the complaint) or with respect to any proceeding, act or thing taken or done or purported to have been taken or done under this Act in relation to such complaint—

(a) where the Lokpal dismisses such complaint under section 11, at any time before such dismissal; or

(b) where the Lokpal closes the case with respect to such complaint under clause (a) of sub-section (1) of section 16, at any time before such closure; or

(c) where the Lokpal forwards to the competent authority a report of his findings and recommendations with respect to such complaint under clause (b) of sub-section (1) of section 16, at any time before the expiry of three months from the date of receipt of the report by the competent authority or, as the case may be, at any time before the report is laid before the House of the People under sub-section (3) of section 16,

such person shall be guilty of an offence under this sub-section.

(2) If any person prints or publishes any information alleging or suggesting that a complaint has been made under this Act against any public functionary and such information is false, such person shall be guilty of an offence under this sub-section.
(3) When any offence under sub-section (1) or sub-section (2) is committed, the Lokpal may take cognizance of the offence and, after giving the offender reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to six months or to fine which may extend to ten thousand rupees, or to both.

(4) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(5) Any person convicted on a trial under this section may appeal to the Supreme Court.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

22. (1) Every person who wilfully or maliciously makes any complaint which he knows or has reason to believe to be false under this Act shall be punished with imprisonment for a term which may extend to one year and shall also be liable to fine which may extend to three thousand rupees.

(2) No court, except a Court of Session, shall take cognizance of an offence under sub-section (1).

(3) No Court of Session shall take cognizance of an offence under sub-section (1) except on a complaint in writing made by the Public Prosecutor at the direction of the Lokpal and the Court of Session may take cognizance of the offence on such complaint without the case being committed to it.

(4) The Court of Session, on conviction of the person making false complaint, may award, out of the amount of fine, to the public functionary against whom such false complaint has been made, such amount of compensation as it thinks fit.

(5) The provisions of this section shall have effect notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973.

23. Notwithstanding anything contained in any other law for the time being in force, where on an inquiry in respect of a complaint against a public functionary the Lokpal has held that any allegations made in the complaint have not been proved or substantiated, no prosecution shall lie on any complaint, report, information or otherwise and no court shall take cognizance of any offence on the basis of the same or substantially the same allegations as in the complaint.

24. Subject to the other provisions of this Act, the provisions of the Code of Criminal Procedure, 1973, shall apply to proceedings before a Lokpal under sections 20 and 21 and for the purposes of the said provisions of that Code and the said proceedings the Lokpal shall be deemed to be a Court of Session and shall have all the powers of a Court of Session.
25. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegation (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary and, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as he would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 22) shall apply accordingly.

26. The sum deposited by a complainant under section 10 shall,—

(a) in a case where the complaint is dismissed under clause (c) of sub-section (1) of section 11, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant.

27. If the Lokpal is satisfied—

(a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined to the complainant.

28. (1) No suit, prosecution, or other legal proceedings shall lie against the Lokpal or any Member or against any officer, employee, agency or person referred to in section 7, in respect of anything which is in good faith done, or intended to be done, under this Act.

(2) Save as otherwise provided in this Act, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question, in any court.

29. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on it by or under this Act [except the powers under the proviso to sub-section (3) of section 10, the power to dismiss a complaint under sub-section (1) of section 11, the powers to close cases and make reports under section 16 and the
powers under sections 20, 21 and 22] may also be exercised or discharged by such of the officials, employees or agencies referred to in sub-section (1) or sub-section (2) of section 7, as may be specified in the order.

33. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the manner in which the President shall obtain the opinion of the Chief Justice of India under sub-section (1) of section 9;

(b) the form in which complaints may be made under section 10 and the fees, if any, which may be charged in respect thereof;

(c) the manner in which and the authorities or agencies with whom deposit shall be made under sub-section (3) of section 10 and the form in which certificates shall be furnished in respect of deposit under sub-section (3) of section 10;

(d) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 14;

(e) the purposes referred to in clause (c) of sub-section (2) of section 18;

(f) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring of any jurisdiction on the Lokpal to make any inquiry into any allegation against or any act or conduct of—

(a) the President, the Vice-President or the Speaker of the House of the People;

(b) the Chief Justice or any other Judge of the Supreme Court of India;

(c) the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioner (if any) or the Chairman or any other Member of the Union Public Service Commission.

32. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.
33. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures: "Subject to the provisions of sub-section (3) of section 8 of the Lokpal Act, 1993, the appropriate Government may" shall be substituted.

THE SCHEDULE

The several (1)

I, having been appointed Chairman/Member of the Lokpal,
do swear in the name of God that I will bear true faith and allegiance
solemnly affirm

that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will
STATEMENT OF OBJECTS AND REASONS

The Lokpal Bill has had a chequered history going back to 1968. Having studied the interim report of the Administrative Reforms Commission submitted in 1986 on the subject and all the four Bills which were introduced in the Parliament earlier, the Government has come to the conclusion that such legislation for constituting the institution of Lokpal is imperative to combat the problem of corruption at higher political levels. In the interest of democracy, it should be the endeavour of every public functionary at top political levels to maintain high standards of public morality. Hence this Bill.

2. The present Bill seeks to set up the institution of Lokpal consisting of Chairman and two Members. Only persons who are or have been Judges of the Supreme Court would be eligible for appointment to this Body. This has been proposed to create a greater assurance of justice and fair play in the minds of all. It is proposed that jurisdiction of Lokpal should cover the complaint of corruption within the meaning of the Prevention of Corruption Act, 1988 against the Council of Ministers including the Prime Minister. It is also provided that in case of complaints against a Minister, the competent authority should be the Prime Minister to decide about the action on the recommendation of the Lokpal and in the case of the Prime Minister, it is left to the House of the People as ultimately the political functionary is responsible to the people through their representatives. To enable the persons constituting the Lokpal to perform their functions with highest objectivity and to ensure their independence it is also provided that their salary, other conditions of service including removal from office shall be those of the Chief Justice of India in the case of the Chairman and Judges of the Supreme Court in the case of other Members.

3. The Notes on clauses explain the various provisions of the Bill.

NEW DELHI: DINESH GOSWAMI.

The 21st December, 1989.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter dated 22nd December, 1989 from Shri Dinesh Goswami, Minister of Law and Justice to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the appointment of a Lokpal to enquire into allegations of corruption against public functionaries and for matters connected therewith, recommends under clauses (1) and (3) of article 117 of the Constitution of India, the introduction and consideration of the Bill in Lok Sabha.
Notes on clauses

Clause 3 defines the various expressions used in the Bill.

Clause 3 provides for the establishment of an institution to be known as Lokpal which will consist of a Chairman and two other Members. The Chairman and other Members will be serving or retired Judge of the Supreme Court of India.

Clause 4 provides that the Chairman or other Members of the Lokpal will be ineligible to hold certain offices or positions and before entering upon the office of the Chairman or a Member, he shall resign or sever his connection with such office or position.

Clause 5 provides for the term of office and other conditions of service of the Chairman and other Members of the Lokpal. The conditions of service, salary, allowances and pension of the Chairman will be the same as those of the Chief Justice of India. The conditions of service, salary and allowances of other Members will be the same as those of the judges of the Supreme Court.

Clause 6 provides for the removal of a Member and is self-explanatory.

Clause 7 provides for the staff of the Lokpal and the powers of the Lokpal to utilise the services of any investigating agencies of the Government or any other person or agency.

Clause 3 deals with jurisdiction of the Lokpal. Sub-clause (1) of this clause provides that the Lokpal may inquire into any matter involved in or arising from or connected with any allegations made in a complaint. Sub-clause (2) provides that the Lokpal may conduct an inquiry into any act or conduct of a person other than a public functionary in so far as it considers necessary so to do for the purposes of inquiry into any such allegations. Sub-clause (3) provides that inquiry under the Commissions of Inquiry Act, 1952 may not be made in respect of a matter in respect of which a complaint has been made to the Lokpal except on the recommendation or with the concurrence of the Lokpal.

Clause 8 provides that Lokpal shall not inquire into any matter in respect of any person if any of its Members has any bias in respect of such person or matter, or into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952. It also provides that the Lokpal shall not inquire into any complaint made after a period of five years from the date of the commission of the offence mentioned in the complaint.

Clause 10 provides that any person other than a public servant may file a complaint which shall be in the prescribed form and shall be accompanied by an affidavit. This clause also provides for a deposit of Rs. 1000 by a complainant.

Clause 11 provides for the preliminary scrutiny of complaints by the Lokpal and empowers it to dismiss the complaint in specified cases after recording its reasons therefor and communicate the same to the complainant and the competent authority.
Clause 12 provides for the procedure for making inquiries into the complaints by the Lokpal.

Clause 13 provides for a form of civil suspension for a specified period or till the completion of inquiry by the Lokpal of any investigation or inquiry by any police officer under the Code of Criminal Procedure, 1973. In respect of matters connected with a complaint being acquired into by the Lokpal by an order and for reasons to be recorded. Sub-clause (2) of this clause also provides that for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, the period of detention or suspension of any investigation into an offence shall be excluded from the period of limitation for taking cognizance of the offence.

Clause 14.—Sub-clause (1) empowers the Lokpal to require any public servant to furnish any information or produce any document. Sub-clause (2) provides that the proceedings before the Lokpal shall be deemed to be judicial proceedings within the meaning of section 193 of the Indian Penal Code.

Clause 15 seeks to confer powers of search and seizure on the Lokpal.

Clause 16 relates to reports of the Lokpal and action thereon. Sub-clause (1) provides that when after inquiry no allegation made in the complaint is substantiated, the Lokpal shall close the case and intimate the complainant, the public functionary, and the competent authority accordingly. When all or any of the allegations made in the complaint are substantiated, the Lokpal will make a report communicating his findings and recommendations to the competent authority and will also intimate the complainant as well as the public functionary about his having made the report. Sub-clause (2) provides that the competent authority will, in the case of a public functionary other than the Prime Minister, inform the Lokpal of the action taken or proposed to be taken on the report within a period of three months. Sub-clause (3) provides that in the case of the Prime Minister, the speaker shall within three months from the date of receipt of the report, cause it to be laid before the House of the People. Sub-clause (4) provides for the presentation by the Lokpal of annual reports on the administration of the Act to the President and for the laying of such reports before the Houses of Parliament.

Clause 17 provides that the expenditure on Lokpal shall be charged on the Consolidated Fund of India.

Clause 18 provides for secrecy of information and evidence collected during any inquiry by the Lokpal.

Clause 19 provides for punishment for intentional insult or interruption to or bringing into disrepute the Lokpal or any of its Members.

Clause 20 seeks to confer powers on the Lokpal to try summarily and punish persons giving false evidence, etc. in any proceedings before the Lokpal or commiting offences under section 175, 178, 179 or 180 of the Indian Penal Code in the view or presence of the Lokpal. The clause also provides that a person convicted thereunder may prefer an appeal to the Supreme Court.
Clause 21.—Disclosure of information in respect of complaints against public functionary or proceedings relating thereto causes, irreparably damage to the public functionary in those cases where the public functionary has been absolved of the charges against him. This accordingly makes printing or publication of any such information in relation to any complaint before the inquiry under the Act has reached a definitive stage an offence triable summarily by the Lokpal. The clause also seeks to make the printing or publishing of any false information alleging or suggesting that a complaint has been made against a public functionary an offence triable summarily by the Lokpal. The clause further provides that an appeal against any conviction for any offence thereunder may be made to the Supreme Court of India.

Clause 22 provides for the punishment for making wishful or malicious complaints.

Clause 23 provides for the bar of prosecution on allegation in cases where the Lokpal has held that any allegation made in the complaint have not been proved or substantiated.

Clause 24 provides for the modified application of the provisions of the Code of Criminal Procedure for trial of an offence under sections 20 and 21.

Clause 25 relates to conferment of certain additional functions on the Lokpal and is self-explanatory.

Clause 26 provides for disposal of deposits made by the complainants.

Clause 27 provides for compensation or reward or both payable to complainant in the event of all or any of the allegations made in a complaint being substantiated.

Clause 28 provides for protections from legal proceedings, etc.

Clause 29 provides for delegation of powers by the Lokpal to certain officers or agencies.

Clause 30 provides for the power of the President to make rules.

Clause 31 seeks to make it clear that the Lokpal shall not have any jurisdiction to conduct any inquiry into any allegation against or any act or conduct of the President, the Vice-President, or the Speaker of the Lok Sabha or the Chief Justice or any other Judge of the Supreme Court of India or the Comptroller and Auditor-General of India or the Chief Election Commissioner or other Election Commissioner (if any) or the Chairman or any other member of the Union Public Service Commission.

Clause 32 provides that the provisions of this Bill shall not affect the constitution or the continuance of any commission of inquiry appointed under the Commissions of Inquiry Act, 1952 before the coming into force of the provisions of this Bill.

Clause 33 seeks to make a consequential amendment in the Commissions of Inquiry Act, 1952.
FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of an institution to be called the Lokpal, which shall consist of a Chairman and two other Members, to be appointed by the President. Sub-clause (3) of clause 5 of the Bill envisages that the salary, allowances and pension payable to and other conditions of service of the Chairman shall be the same as those of the Chief Justice of India, and of the other Members shall be the same as those of the Judge of the Supreme Court.

2. Sub-clause (1) of clause 7 of the Bill provides that the Lokpal, for the purpose of assisting it in the discharge of its functions, shall appoint a Secretary and such other officers and employees as the President may, in consultation with the Lokpal, determine from time to time. Sub-clause (2) of this clause empowers the Lokpal to ensure for the purpose of dealing with any complaints, or any classes of complaints the services of any officer or employee or investigating agency of the Central Government or a State Government or the services of any other person or agency. Sub-clause (3) of this clause provides that the terms and conditions of service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) shall be such as the President may determine in consultation with the Lokpal.

3. Clause 17 of the Bill provides, that the salaries, allowances and pension payable to, or in respect of Members, shall be expenditure charged on the Consolidated Fund of India.

4. Clause 27 of the Bill provides for payment of compensation or reward to a complainant as determined by the Lokpal, by the Central Government.

5. At this stage it is not possible to give precise details of the expenditure to be incurred on the institution of Lokpal. It is, however, expected that the Bill, when enacted, will involve a non-recurring expenditure of Rs. 7.5 lakhs and a recurring expenditure of Rs. 25 lakhs per year. In case it becomes necessary to construct a building to house the institution of the Lokpal, additional expenditure of a non-recurring nature of the order of Rs. 75 lakhs may also be necessary.
MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30 of the Bill empowers the Central Government to make rules for the purpose of giving effect to the provisions of the proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (3) of clause 30 and relate mainly to the manner in which the President shall obtain the opinion of the Chief Justice of India under clause 9, the form in which complaints may be made, the form of certificate which shall accompany such complaints, the manner in which and the authorities and the agencies with whom the deposits shall be made under sub-clause (3) of clause 10, and the additional matters in respect of which powers of a civil Court may be exercised by the Lokpal.

These are matters of detail necessary for effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.
ANNEXURE

EXTRACT FROM THE COMMISSIONS OF INQUIRY ACT, 1952

(30 of 1952)

3. (1) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by the House of the People or, as the case may be, the Legislative Assembly of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly:

Provided that where any such Commission has been appointed to inquire into any matter—

(a) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning;

(b) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.
A BILL

to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.

Chairperson: Governor of Law and Justice
LOK SABHA
CORRIGENDA
to
THE LOKPAL BILL 1989

/TO be/As introduced in LOK SABHA/

1. Page 2, line 16,-
   for "enquiries" read "inquiries"
2. Page 5, line 29,-
   for "party)" read "party,"
3. Page 4, line 9,-
   for "employees" read "employee"
4. Page 13, line 9,-
   for "he" read "it"
5. Page 17, line 8,-
   for "position" read "positions"
6. page 17, line 22,-
   for "enquire" read "inquire"
7. page 17, line 3 from bottom,-
   for "specific" read "specified"
8. page 19, line 11,-
   for "congnizance" read "cognizance"
9. page 18, line 14 and 15,
   omit "[ sub-clause (1) ]"
10. Page 19, line 18,-
    omit "modified"
11. Page 19, line 11 from bottom,-
    for "Lok Sabha" read "House of the people"
12. Page 20, line 14,-
    for "services" read "services"
13. Page 21, line 2,-
    for "Central Government" read "President"

NEW DELHI;

December 27, 1989.
Pusa 6, 1911 (Saka)