the moment, we have nothing". Following further questioning, Mr Killesteyn advised that the AFP indicated that they would not accept a referral early in the process because “there was no information as to the circumstances of the missing ballots”.

New Clerk of the House of Representatives
On 12 December the Speaker of the House of Representatives, Hon. Bronwyn Bishop, MP, announced the appointment of Mr David Elder as the new Clerk of the House of Representatives. Mrs Bishop commented that “I am pleased to announce the appointment of Mr David Elder as Clerk of the House of Representatives, effective from 1 January 2014, following the retirement of Mr Bernard Wright”.

As the principal advisor in relation to the proceedings of the Parliament and CEO of the Department of House of Representatives, the Clerk of the House is crucial in maintaining Australia’s parliamentary democracy. Mr Elder was appointed to the position in accordance with the selection process required under the Parliamentary Service Act 1999. The Act requires that a person cannot be appointed as Clerk unless the Speaker “is satisfied that the person has extensive knowledge of, and experience in, relevant Parliamentary law, procedure and practice”, and consults with Members before making the appointment.

Mrs Bishop noted that Mr Elder began working for the Department of House of Representatives in 1981, and has extensive experience in parliamentary committees, including the House Standing Committee on Finance and Public Administration which, in the early 1990s conducted a major inquiry into the Australian banking industry. Mr Elder has been the Deputy Clerk of the House since 2010, and secretary of the House of Representatives Committee of Privileges and Members’ Interests since 2000. Mr Elder has a Master of Arts degree and an Executive Master of Public Administration degree.

The retiring Clerk Mr Bernard Wright worked for the House of Representatives for more than 40 years, and had been Clerk of the House since December 2009. Mrs Bishop stated that “I would like to publically thank Mr Wright for his enormous contribution to our Parliament, his dedication and the knowledge he has freely given myself and others. I wish Bernard an enjoyable, well-deserved retirement”.

INDIA GOVERNMENT PASSES ANTI-CORRUPTION BILL

The enactment of an effective anti-corruption Bill called the Lokpal Bill dominated the 2011 Monsoon and Winter Sessions of Parliament. The demand was made by the civil society groups led by Shri Anna Hazare. A Joint Drafting Committee (JDC) consisting of the representatives of Shri Hazare and the Union Government was constituted by the government to prepare a draft of the Bill. After several meetings of the JDC, the government introduced the Lokpal Bill, 2011 in the Lok Sabha on 4 August 2011. The Bill provided for the establishment of the institution of Lokpal (Ombudsman) to inquire into allegations of corruption against certain public functionaries. It was referred to the Departmentally Related Standing Committee on Personnel, Public Grievances, Law & Justice for examination and report on 8 August 2011. Shri Hazare asked that their version of the Bill called ‘Jan Lokpal Bill’ be passed by Parliament by 15 August 2011. The Leader of the Opposition in Lok Sabha, Smt. Sushma Swaraj, MP, (BJP) asked why the Prime Minister was keeping it out of the purview of the Lokpal Bill introduced by the government.

On 17 August 2011, the Prime Minister, Dr Manmohan Singh, MP, made a statement in the Lok Sabha on the issue of Lokpal and the agitation launched by Shri Hazare, who was arrested on 16 August. While agreeing that a Lokpal Bill must be passed as early as possible, he also insisted that it was the Executive’s responsibility to draft a Bill and place it before Parliament. It was Parliament’s job to debate and adopt the Bill. In the process of adopting the Bill, there would be opportunities for Shri Hazare and others to present their views to the Standing Committee. The Prime Minister said he was not aware of any constitutional philosophy or principle that allowed any one to question the sole prerogative of Parliament to make a law. In making a law on Lokpal, the government had faithfully adhered to the well-settled principles and Shri Hazare was questioning these principles and claimed a right to impose his Jan Lokpal Bill upon Parliament.
The representatives of the people in Parliament “must be allowed to do the job that they were elected for”, said the Prime Minister.

On 27 August 2011, the then Finance Minister and the Leader of the Lok Sabha, Shri Pranab Mukherjee, MP, made identical statements in both the Lok Sabha and the Rajya Sabha, on the issues relating to setting up the Bill. He highlighted the issues of the Citizen’s Charter, setting up of Lokayuktas at state levels and bringing lower bureaucracy under the ambit of the Lokpal. These issues had been raised by Shri Hazare and his team members through their Jan Lokpal Bill. The Minister proposed to adopt a resolution by consensus at the end of the debate which might satisfy Shri Hazare. Shri Mukherjee, however, asserted that the supremacy of parliamentary democracy and constitutional framework must be maintained.

As provided in the Jan Lokpal Bill, the anti-corruption wing of the Central Bureau of Investigation (CBI) should be brought under the Lokpal. Smt. Swaraj said that the selection body for appointment of Lokpal should not be dominated by the government and proposed to have more members from the outside.

The House agreed in principle on the following issues: A Citizen’s Charter, lower bureaucracy under the Lokpal through appropriate mechanism, and establishment of Lokayuktas in the States. As requested by Shri Mukherjee, Speaker, Smt. Meira Kumar transmitted the proceedings to the Departmentally Related Standing Committee for its perusal while formulating its recommendations on the Lokpal Bill.

In its report, presented on 9 December 2011, the Standing Committee made a number of recommendations suggesting major amendments to the Bill with regards to the scope and the content. Subsequently, the government withdrew the Bill and introduced a new one, the more comprehensive Lokpal and the Lokayuktas Bill, in the Lok Sabha on 22 December 2011. On 27 December 2011 when the Bill was placed before the Lok Sabha for its consideration, Smt. Swaraj said the Bill suffered from enormous discrepancies and termed the Bill as weak. She suggested for referring the Bill back to the Standing Committee for further improvement. Intervening in the debate, the Prime Minister said the task of legislation must rest with the legislators; others could persuade and have their voices heard. With regards to the CBI functioning under the Lokpal, the government believed this would create an Executive structure outside Parliament, which was accountable to no-one. The Lok Sabha eventually passed the Bill on 27 December. However, the Constitution Amendment Bill seeking to provide constitutional status to Lokpal and Lokayukta fell through due to the lack of requisite numbers as required for constitutional amendment bills.

On 29 December 2011 the Rajya Sabha also had a discussion on the Bill as passed by the Lok Sabha. The Bill could not be passed before the Rajya Sabha was adjourned sine die at midnight. Subsequently, the Rajya Sabha adopted a motion on 21 May 2012 referring the Bill as passed by the Lok Sabha to its Select Committee for examination and report.

Ram Gopal Yadav (SP) raised certain apprehensions. He said the Bill should not be passed as it was not in the interest of the nation as once enacted, the bureaucracy would be afraid to take decisions.

Shri Kapil Sibal said the Select Committee had carefully looked at various provisions of the Bill and made comprehensive recommendations. He praised the Leader of the Opposition in the Rajya Sabha, Shri Arun Jaitley (BJP), for taking a very constructive approach to ensure that there was a comprehensive and thought-out legislation. The Select Committee of the Rajya Sabha recommended to remove the part of the Bill relating to State Lokayuktas. It was one of the provisions which had stalled the passage of the Bill in December 2011. The recommendation was to set up an institution of the Lokayukta through enactment of a law by the State Legislature within a period of one year from the date of commencement of the Act. The government accepted the recommendation. The Select Committee had recommended a number of amendments in the Bill with a view to strengthening the CBI such as setting up a directorate of prosecution headed by a Director of Prosecution.

The essence of the legislation, according to Shri Sibal, was that the investigating agencies would be independent, and the appointment of the CBI Director...
would be carried out through an independent and transparent process. The prosecution by the CBI agency with reference to matters referred to it by the Lokpal would also be overlooked by the Lokpal. Consequently, there was no element of governmental interference in dealing with matters of corruption.

Shri Jaitely (BJP) said the debate was an extension of the debate held on 29 December 2011. He said the Samajwadi Party's contention that people would be afraid to take decisions was unfounded and, in fact, people would be afraid of taking wrong decisions. The fight against corruption could be carried out within the federal structure of the country, and search and seizure would be without prior permission as this would help in checking corruption.

Shri Satish Chandra Misra (BSP) welcomed the Bill and said his party was against corruption. He suggested that after the Bill was passed, the government should send the Act as a model to all the States, asking them to consider and adopt this within a one-year period. Shri Sitaram Yechury (CPI-M) said corruption had two sides - supply and demand, and it would be difficult to stop corruption without tackling the supply side. Funding of political parties by corporate houses was also responsible for corruption and should be banned through amendment in the law.

Referring to the Opposition leader's view that bringing all the private agencies, etc. into the ambit of the Lokpal would be unmanageable and it would be a gross interference in the democratic rights and privacy of such agencies. He suggested that the public-private partnerships and the corporate sector needed to be under the purview of the Lokpal.

Shri Sukhendu Sekhar Roy (AITC) referring to the provision that “the chairperson or a member shall not be a member of Parliament or a member of the Legislature of any State” wanted to know why only judges would be appointed to head such bodies. Shri Shivanand Tiwari (JD-U) welcomed the Bill commented that legislation alone would not be able to check corruption. Dr V. Maitreyan (AIADMK) suggested excluding the Prime Minister, since the Prime Minister was already covered under the Prevention of Corruption Act, and any misconduct on the part of the Prime Minister could be investigated otherwise. Similarly, the Chief Minister of any State...
should also be kept out of the purview of the State Lokayukta. Dr K. P. Ramalingam (DMK) while expressing his party’s wholehearted support for the Bill had doubts about the efficiency of the CBI. While bringing the Chief Minister of a State under the purview of Lokayukta, care had to be taken against any misuse of the law. He also supported the view that religious institutions and charitable institutions should not be exempt from the purview of the Bill.

Shri Baishnab Parida (BJD) said it was the duty of all the political parties, the government, members of Parliament and the people of the country to see to it that this Bill was implemented in letter and spirit. For Shri Rajeev Chandrasekhar (Independent) the Bill was probably the single most important legislation that would be passed in the post-Independence India on the issue of governance. The future and current generations would thank the MPs for their near unanimous support for the Bill and their efforts at cleaning up governance. Shri Ravi Shankar Prasad (BJP) thanked the social activist Shri Hazare for inspiring Parliamentarians through his movement and for early passage of the Lokpal Bill.

Shri M.P. Achuthan (CP) stated that the unholy nexus between the government, political leadership, corporate houses and the bureaucracy was the root cause of corruption in India. He argued that leaving the corporate houses and the private sector out of the purview of the Lokpal was however its main drawback. Dr Bhalchandra Mungekar (INC) while supporting the Bill said bringing the incumbent Prime Minister under the purview of Lokpal would lead to an erosion of moral authority of the Prime Minister. He believed the source of corruption in the country was basically the absence of the rule of law. Shri Birendra Prasad Baishya (AGP) said strong Lokayuktas should be established in all the States simultaneously to curb corruption. Shri Naresh Gujral (SAD) opined that if guilty officers or public functionaries were not given exemplary punishment, the institution of Lokpal would be totally ineffective.

Replying to the debate, Shri Sibal hoped that all State governments would take note of the strong Lokpal Bill passed by Parliament as a model Bill. The Prevention of Corruption (Amendment) Bill which was already in place dealt with the supply side corruption. As far as the issue of Prime Minister was concerned, it was the consensus of the House that the Prime Minister should be included, added the Minister. The Bill, as amended, was passed.

On 18 December 2013, the Lok Sabha took up the motion for consideration of the amendments made by the Rajya Sabha in the Lokpal and Lokayuktas Bill, 2011. Smt. Kumar, in view of the expectations of the people regarding the Lokpal and Lokayuktas Bill, directed that the House might take up consideration of amendments made by Rajya Sabha in the Lokpal and Lokayuktas Bill, 2011 before the notices of Motion of No-Confidence given by some members were brought before the House.

Moving the motion for consideration of the amendments made by Rajya Sabha in the Bill, Shri Sibal said the discussion on this Bill had been going on for the last two and a half years, and the Lok Sabha had already discussed the Bill before passing it on 27 December 2011. Since comprehensive discussions had already been taken place, he requested the members to pass it without further discussion.

As the Lokpal Bill alone was not adequate to fight corruption there was need for a comprehensive anti-corruption code in the country. He said all pending anti-corruption Bills should be passed before the expiry of the term of the Fifteenth Lok Sabha. Shri Mulayam Singh Yadav (SP) said the Lokpal Bill was fraught with such dangers that officers would avoid responsibility. He requested the president of the INC party to withdraw the Bill. Shri Dara Singh Chauhan (BSP) stressed on enacting the legislation with utmost honesty. Shri R. Dhruvanarayana (INC) hoped that the Bill would help the government clean up the Executive system and bring more transparency.

Many Members including Shri Kalyan Banerjee (AITC), Shri Sudip Bandyopadhyay (AITC) and Dr Nirajan MebboS Beg (J&K) wholeheartedly supported the Bill. Shri Thirumaavalavan insisted on including the chairpersons of National Commission of SCs and STs, Women and minorities in the selection committee of the Lokpal. He requested the government include the corporate sector under the purview of Lokpal.

At the end of the debate, the motion was adopted and the amendments made by the Rajya Sabha were agreed to. The Bill received Presidential assent on 1 January 2014.