

Amendment No. 2 was, by leave, withdrawn.

[English]

MR. DEPUTY-SPEAKER: I shall now put the motion for consideration of the Bill to the vote of the House.

The question is:

" That the Bill further to amend the Copyright Act, 1957, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: We shall now take up clause-by-clause consideration of the Bill. First, let us take up clause 2.

Shri Rasa Singh Rawat, are you moving your amendment?

[Translation]

PROF. RASA SINGH RAWAT: Sir, as regards the extension, I would like to request that it should be done after detailed discussion on it. I would not move my amendment.

[English]

MR. DEPUTY-SPEAKER: The question is:

" That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY SPEAKER: The question is:

" That clause 3 and 4 stand part of the Bill"

The motion was adopted

Clause 3 and 4 were added to the Bill

MR. DEPUTY SPEAKER: The question is:

" That clause 1, the Enacting Formula and the Long Title stand part of the Bill"

The motion was adopted

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

[Translation]

SHRI ARJUN SINGH: I beg to move " That the Bill be passed."

[English]

MR. DEPUTY SPEAKER: That question is:

" That the Bill be passed."

The motion was adopted

18.31 hrs.

STATUTORY RESOLUTION RE. DISAPPROVAL OF THE REPRESENTATION OF PEOPLE (AMENDMENT) ORDINANCE, AND REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

As Passed by Rahya Sabha

[English]

MR. DEPUTY SPEAKER: Now, we shall take up item nos. 18 and 19 together. Shri Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): I beg to move:-

" That this House disapproves of the Representation of the People (Amendment) Ordinance, 1992 (Ordinance No. 1 of 1992)

1001 *Stat. Res. re. dis-* PHALGUNA 27, 1913 (SAKA) *Representation of* 1002
approval of Representation of
People (Amend.) Ordinance and
promulgated by the President on the 4th
January, 1992". *People (Amend.) Bill*
As passed by Rajya Sabha
sion could serve for a maximum period of 10
years or up to 65 years of age, whichever is
earlier.

Mr. Deputy Speaker, I have moved a Resolution for the disapproval of this Ordinance.

The high powered committee constituted for recommending electoral reforms has reported that election of a constituency should be countermanded only when a candidate of a recognised political party dies. The report further states that elections should not be countermanded in the event of death of an independent candidate. Poll will be countermanded only when a candidate of a recognised political party dies. The Committee has, inter-alia, made several other recommendations also that by-elections should be completed within a definite timeframe. The Committee has also made recommendations for lowering the minimum age of voters and conducting election in non-partisan manner. All the members of the all party committee were unanimous on the point that section 52 of Representation of the People Act 1951 should be so amended that the elections of a constituency would be countermanded only when a candidate of a recognised political party dies and not otherwise. It has also recommended that the decision to countermand the poll should be taken before the commencement of elections and not after the declaration of results. The Committee has also recommended that the minimum age of a candidate contesting Lok Sabha and Legislative Assembly elections should be lowered to twenty one and minimum age of a member to enter Rajya Sabha and the State Legislative Council should be fixed at twenty five. It has recommended that by elections should be held within six months of a seat falling vacant. If general elections are due within that year then that by election can be held along with them. The Committee has recommended for a multi-member Election Commission. There should be, at least, three member in the Commission and they should be appointed by the President or the Chief Justice of the Supreme Court. It has further recommended that the Members of the Election Commis-

Mr. Deputy Speaker, Sir, the Bill has been brought forward with a view to make electoral reforms. There are different views about electoral reforms. It also fixes a ceiling on expenses a person would incur in the elections. (*Interruptions*)

[English]

MR. DEPUTY SPEAKER: The time is limited and many Members want to participate in the debate. So, please be brief.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: I am making the same submission. (*Interruptions*). Mr. Deputy Speaker, Sir, only one out of the several recommendation has been accepted. How much a candidate should spend on the elections has also been recommended by the Committee. Similarly, the Committee has fixed some criteria for declaring the elections null and void. It has suggested that polls should be conducted with the help of electronic machines. This will help check bogus voting. It suggests the ways how to entertain an election petition and recommends other rules for a smooth poll. The Committee recommends that election petitions should be disposed of within 6 months, but in practice, it is not disposed of within 5 years even. When the time of next elections comes, then the cases are being disposed of I had written for the disapproval of this Ordinance. The Ordinance has been promulgated by the President by accepting only one recommendation of the Committee. It is wrong. The government should not have promulgated the Ordinance. A comprehensive Bill should be brought forward for this. The question of Electoral reforms has time and again been taken up in the House and committees have been constituted. I would like to submit that all the recommendations of the Committee should be incorporated in the Bill and all political parties should be consulted before bringing it forward. It should

be discussed in the committee to be constituted for the purpose and people's views in this regard should also be taken into account. The Bill should be a comprehensive one comprising all electoral reforms.

Mr, submission is for a simple thing. Elections were due in Punjab. This amendment has been brought forward with the intention that when elections are held in Punjab independent candidates contesting elections should not die at the hands of terrorists. Because hence forward no elections would be countermanded on the death of an independent candidate. Elections have been completed in Punjab but it is not certain as to how long the Assembly will last. The Congress party wanted to increase the strength of its Members in the Lok Sabha and it has succeeded in increasing the same. The Government has been applauded for its action. The Legislative Assembly would not work. The Assembly took the oath of office and secrecy yesterday. It is most likely that they would dissolve the Assembly within two months. They only wanted to increase their strength in the Lok Sabha. They are not at all concerned with the working of the Legislative Assembly. My submission is that this Ordinance was issued keeping in view the elections in Punjab, but Government should introduce a comprehensive Bill comprising all the electoral reforms that have been recommended by the committee. That is why I have moved a Resolution for the disapproval of the Ordinance. The Bill brought forward for the replacement of the Ordinance promulgated by the President contains only one recommendation of the committee. As such it should be disapproved. I hope the hon. Minister would bring forward a Bill comprising all electoral reforms.

[English]

MR. DEPUTY SPEAKER: Motion moved:

"That this House disapproves of the

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI K. VIJAYA BHASKARA REDDY): I beg to move:

"That the Bill further to amend the Representation of the People Act, 1951, as passed by Rajya Sabha, be taken into consideration."

Section 52 of the Representation of the People Act, 1951 provides for countermanding of a poll on the death of a candidate. Due to the rise of terrorism and violence in certain parts of the country, combined with the phenomenal increase in the number of independence candidates, the danger of countermanding of election on the death of a candidate has increased. One of the measures suggested to reduce disruption of election process and to reduce danger to lives of independent candidates who are an easy prey to terrorism, is to amend the aforesaid provisions so as to restrict the countermanding of elections only to the case of death of a candidate set up by a recognised political party. The main purpose of countermanding an election on the death of a candidate is to enable a recognised political party to field another candidate in his place. This is, however, not the case if an independent candidate dies.

This issue was also examined by the Electoral committee set up in 1990 under the chairmanship of the then Minister of Law and N Justice, late Shri Dinesh Goswami. The Committee had recommended substitution of the said section 52 and a provision of this effect has been included in the Representation of the People (Amendment) Bill, 1990 which is pending in the Rajya Sabha.

In the meanwhile, it was decided to hold general elections to the House of the People from the State of Punjab and also to the State Legislative. In view of the situation prevailing in the State of Punjab and in order to curb the

danger of disruption of election process there, it became imperative to amend Section 52 of the Representation of the People Act, 1951 so as to restrict the countermanding of elections only in the case of death of a candidate set up by a recognised political party.

As Parliament was not in Session, the said Section was amended by promulgation of an ordinance by the President on 4th January, 1992.

The present Bill seeks to replace this Ordinance by an Act of Parliament.

Hence, the Bill is before the House.

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951, as passed by Rajya Sabha, be taken into consideration."

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Deputy Speaker, Sir, I rise to support this Representation of the Peoples (Amendment) Bill which is intended to replace the Ordinance promulgated on the eve of recently concluded Punjab elections.

You will find that this is a Bill without any controversy. This is an innocuous Bill and is sure to receive support from all sections of the House.

AN HON. MEMBER: No.

SHRI SRIBALLAV PANIGRAHI: No? Then unfortunate. It will be supported even by the Opposition.

We all know the disadvantages, the ill effects, of having too many candidates in the elections. Sometimes it so happens that the ballot paper runs into two pages. The voters get confused. Just to get cheap popularity, some people who are not very serious about contesting elections, do come forward and file nominations and naturally we have to

create a situation that non-serious candidates and independent candidates are eliminated.

They do not join the fray and complicate the procedure of elections.

There is a provision in our Representation of Peoples Act under Section 52 which provides for countermanding of a poll, the election, on the death of a candidate and this death of the candidate also includes independent candidates.

Now we are going to differentiate so far as this provision is concerned between a regular candidate, sponsored by a recognised political party and one who is contesting on his own as an independent candidate.

There is lot of justification behind this and particularly the situation that used to prevail in Punjab clearly and abundantly necessitated the promulgation of such an Ordinance, making provision that in the case of the death of an independent candidate elections would not be countermanded.

The May-June election could not be held. I think that a large number of candidates were killed. Subject to correction, I can say that earlier elections were countermanded in as many as 13 Lok Sabha Constituencies in the country as a whole. Coming to the Assemblies, it rose further higher up to 22 or something like that.

Most of them happened to be independent candidates. With the abnormal growth of violence, terrorism and terrorist activities in the country, independent candidates who do not have any support of any political party behind, are more exposed to danger. When a particular group of anti-social elements or terrorists are bent upon and determined to create disorder and to see that elections are disrupted, the independent candidates become the targets. We are all concerned about it.

Therefore, it is a very appropriate step which the Government have taken to ex-

clude the independent candidates from this provision of Section 52. So, I wholeheartedly support this Bill. I also congratulate the Government for the determination with which they went ahead holding the elections against heavy adversity, against heavy odds. Against all the odds, they conducted the elections. They went ahead with holding the elections in Punjab. We expect similar determination from the Government to hold the elections in Jammu and Kashmir also.

Ours is one of the largest democracies in the world. Our country is a democratic Country. So, we should see to it that our democracy is also converted into the best democracy from the point of view of holding elections also. I think the situation is such that today we cannot claim that distinction. It is common knowledge that rigging is resorted to here and there in some parts of the country. The money-power, muscle-power do come to operate in certain pockets, in certain areas. But those evil powers should not be allowed to raise their ugly heads and should not be allowed to operate in the sphere of elections. We have got some provisions. We have got our Acts etc. But beyond that also, we have some sort of an understanding, some code of conduct which is not mandatory. If you do not agree or if you agree and do not follow, do not observe it, you are not taken to task. Therefore, it is time that the entire House,the leaders of all the political parties as also the intellectuals outside the House should address to this problem themselves how we can improve upon our electoral system. We precisely call this as electoral reforms which are also under the active consideration of the Government, as we understand. There was a Committee earlier also which went into this in detail. A Bill is pending in the other House. But they further need closer scrutiny, deeper thinking and that should be expedited. While doing so, we have to see that our elections in India at all levels elections for Parliament, Assemblies and down-below at the Panchayat levels-should be free and fair and less costly. Everybody knows that there is some restric-

tion as far as expenditure is concerned. We do have the experience of the level of expenditure involved in the elections. There is some limit of expenditure that is to be incurred in different elections like elections to the Lok Sabha, Assemblies etc. and the expenditure vary, to some extent, from State to State. But it is observed more in violation. Everybody knows that. Right from our Rashtrapathi down to a village chowkidar, everybody knows how that particular provision is being observed, how it is being followed. Therefore, the provisions which cannot be followed, observed, such provisions should be deleted or if such provisions are there, there should be strict enforcements Reasonable and Practical provisions should be kept to see that they do not lose their relevance and they do not become an object of ridicule. At present, that is an object of ridicule. Almost all are rather committing a fraud but it is there. Certain provisions in certain laws are there which we know that they are not practicable, not capable of being implemented. But that remains there and we are also involved in the process of committing a fraud by filing wrong returns deliberately.

It is not the real state of affairs. I will not go into details. There can be several suggestions like issuance of identity cards, introduction of electronic machines. But if the human behaviour does not change, if the political parties do not take adequate lessons, if we are not determined, if we go on fielding the undesirable elements in the elections, things cannot improve. As you know, in certain booths, you can just introduce the electronic machines. People are not lagging behind. There are people who are capable of even snatching those machines from the booth and run away. What will happen then? Is it not happening? The anti-social elements are raiding the polling booths with arms and fire arms. So many things are happening. We should very seriously study all these things and all political parties and leaders should sit together and address themselves to this problem as to how to get rid of its vicious and ill effects. It is a slur also in the name of our democracy which is the largest democracy in the world. At the same

time, there should be self-introspection. While doing so, all political parties should not go for immediate gains and they should be self-introspection.

This electoral reform is a continuous process. At various points of time, several good measures have been introduced. During the time of Shri Rajiv Gandhi- I must make a reference to it- anti-defection law was enacted. It was also provided that donations could be made to the political parties by the industrial houses. Age limit also was brought down.

So many things are there which can be considered for electoral reforms. There should be a comprehensive Bill. Candidates and the political activities, before commencement of the nomination period, apply to their political parties. There are many candidates who after being rejected by their party by in the other party for nomination. (*Interruptions*)

MR. DEPUTY SPEAKER: The responsibility of the Treasury Benches is more to get their work completed. You have to cooperate with us now.

SHRI SRIGALLAV PANIBRAHI: All right, Sir. Anti-defection law is there. If the nomination is not cleared, if we do not look beyond our nose, if we do not want to have ideal elections, if we do not want to strengthen our democratic system, then things cannot improve. When somebody is rejected by the political party, he runs to other political party. In that case, other political parties should not oblige him.

It is an innocuous Bill, a non-controversial Bill. I whole-heartedly support it. We are all looking forward to a comprehensive Bill, after due deliberations where consensus should be arrived at among different political parties, to be tabled in the House as early as possible.

MR. DEPUTY SPEAKER: The time at our disposal is very short and we must keep in mind that we have to accommodate other

speakers also. Now Shri Bhagwan Shankar Rawat.

[*Translation*]

SHRI BHAGWAN SHANKAR RAWAT (Agra): Mr. Deputy Speaker, Sir, my hon. friend Shri Panigrahi made a few submissions just now. I feel that this is a piece meal legislation and there was no need to introduce this Bill now since no elections are due. Had these reforms been introduced during general elections then its purpose would have been understood. I am of the view that in place of this Bill a comprehensive Bill should have been brought forward and the shortcomings of Bill should have been discussed. The Government should formulate a policy in which all the points in connection with elections right from enrolment of voters and the shortcomings noticed upto completion of election process and the points on which a national debate has been going on for last several days including suggestions made by the Elections Commissions and the matter which is pending in the Rajya Sabha since the time of previous Government should be considered and a comprehensive Bill should be brought forward accordingly. Although the Government is giving assurances again and again in the House but due to its vested interests it is not doing codification. It is not making the reforms which are very essential. First of all, I would like to submit that the Representation of People Act stipulates that a door to door survey should be done for enrolment of voters. Thereafter drafts rolls are published. Then applications are invited for publication of final rolls and then people are allowed to add or delete their names in the voters' list. Now the whole procedure has changed and due to this voters names cannot be registered in the list. Many people cannot register their names because they cannot fill up forms for inclusion of their names in the draft roll. Even if they apply, the machinery which verifies enumeration of names are of the level of patwari and accountant. I can give full proof of cases where these people throw thousands of such forms in waste paper baskets. There is rampant corruption in the

voters in general constituencies. Rotation will help in removing this feeling.

process. The person who can give money can get his name enumerated and others who do not pay cannot include their names in the voters' list. I am making these allegations in the House with full responsibility. The corruption starts from that level. Therefore, the Government should pay attention to door to door enumeration. Voters should be issued identity cards. This would help check bogus voting. Under the existing system, persons can manipulate to include his name at three places. He casts his vote at all the three places. This affects the entire electivity results. Bogus voting can be stopped only when identity cards are issued to the voters.

Now, I would like to make a submission about delimitation. When Mrs Gandhi was alive, she wanted to introduce a Bill where delimitation would be made on rotation basis. Delimitation Bill has already been drafted and the Constitution provides that delimitation should be done on the basis of census reports. As long as Jawaharlal Nehru was alive, this provision was fully implemented. Thereafter, a Bill was introduced that now onwards no delimitation would take place and the seats of Lok Sabha and Legislative Assembly would be kept static till 2001. When Mrs. Gandhi came to know about it, she did not accept it. The practice of increasing the number of seats for representation in Lok Sabha and State Legislative Assemblies on a definite population on the basis of increased population was not revived as required under the provisions of the Constitution. I would like to submit that number of seats should be increased with the rise in population.

19.00 hrs.

Secondly I would like to say about the delimitation of the constituencies that the permanently reserved seats should be changed on rotation after every 10 years, because a sense of stagnation has developed among the general voters in reserved constituencies and among the reserved

Some days ago a resolution was brought forward that the Government would not increase the total number of seats. But it some Constituencies the fluctuation of population is too much, for example, in Delhi, Bombay and other metropolitan cities, where number of voters has increased manifold while in some constituencies the number of voters has either diminished or is the same. Therefore, some constituencies have become unmanageable. If the Government is determined not to increase the number of seats according to the population, at least the population should be equitably divided by the total number of seats. Justice would be done only if the number of seats are increased according to the increasing population. In some constituencies the population of voters is so high that a Member cannot contact his voters. In the Indian context every voter wants that the Member of his constituency listen to their problems and tries to solve them. This is the reason why the candidate becomes unpopular and there is resentment among the people.

Besides, I would like to say a few words regarding booth capturing. Every possible effort should be made to check booth capturing. At present booth capturing has become such a problem that the election atmosphere is vitiated and mandate goes to those who cannot represent the aspirations of the people. Therefore, steps for checking booth capturing are very essential. A comprehensive Bill should be brought in the House in this regard wherein there should be effective provision to check booth capturing.

Irregularities in counting of votes could be checked through electronic machines but these machines are lying idle in the country. Still the Government has not will to use those machines. I would like to say that those machines should be used immediately and in each election, counting of votes should be done by those machines.

Besides, to reduce the expenditure of

the elections there should be state funding and the expenditure made by the candidates of the recognized political parties should be met by the Government. The Government should decide specific items of expenditure which would be borne by it. Besides, there is need of preventing the non-serious candidates. The security deposit for independent candidates should also be increased. Besides some other steps should also be taken. After holding national debate on this issue the Government should take some decision and election malpractices must be checked. My suggestion is that if any independent candidate wants to contest the elections, he must be a member of any local body or of Legislative assembly. If the Government makes such a provision it may help in preventing non-serious candidates from participating in the elections.

Now-a-days black money is being misused in the elections. Though all people file the returns but they are fake. After a national debate in this regard a certain policy should be framed to check this.

I would also like to submit one point more. My intensions are not wrong but unfortunately I am constrained to say that decision in elections should not be taken on the basis of politics. Elections should be countermanded only in extraordinary circumstances, otherwise it should not be done. A strange situation has been created in the country today....

[English]

MR. DEPUTY SPEAKER: An independent candidate has a right to contest elections. Now the Amendment is, that if an independent candidate were to die, then the elections need not to countermanded. That is the thrust of the Bill.

[Translation]

SHRI BHAGWAN SHANKAR RAWAT: Sir, I think you for guiding me but this Government brings only those issues which are in its own interest. There is need to reform

our code of elections that should also be brought in the House. The elections were postponed in this country after assassination of Shri Rajiv Gandhi. There is no such provision in the constitution of India. Therefore, I would like to say that there should be a codification of postponing of the elections so that there is no confusion in future.

Alongwith this, I would like to add that there should be guidelines for countermanding the elections, when the Election Commission countermands it on the basis of complaints of booth capturing or other complaints. There was a complaint regarding the last elections that the Election Commissioner countermanded the elections arbitrarly. It should not be left to the discretion of an individual. It can lead to controversy, therefore it should be done on the basis of a code.

Sir, I would like to state one point more that some eligibility conditions should be fixed for election of the people's representative. Some eligibility conditions are already there but in the present structure of democracy it is being felt that some additional qualifications should also be prescribed for the people's representatives.

Decision on election writ politions should be taken speedily. At present these elections writs are not decided even for 5-6 years and that is not good. Besides, Anti-defection Act should be amended and provision should be made under Representation of People Act that if an individual contests that election on the tickets of a certain party and wants to defect from the party, he should be debarred and deprived of the membership of the House. He should seek fresh mandate as an independent candidate or a candidate of a political party. It will remove the political corruption. We often see designs to break the parties. Any ruling political party, which tries to indulge in this does at the cost of losing confidence of the people. Therefore, such provisions should also be made there

Mr. Deputy Speaker, Sir, I am thankful to you for giving me an opportunity to speak. In the end I would like to say that the

Election Commission should also be constituted properly so that people may have faith in it. I would like to urge the Government that in principle I support this Bill which seeks to ensure that the election should not be countermanded on the death of an independent candidate. It is being misused particularly in these days of terrorism. I would also like to say that if the Government has will and sincerity in bringing the election reforms, the Government should assure the House categorically that it will present all those suggestions about reforms given me and my colleagues in a codified form. With these words, I support this Bill and conclude here.

SHRI NITISH KUMAR (Barh): Mr. Deputy Speaker, Sir, this Bill has little scope of discussion. I will not waste the time of the House like my other colleagues, because this Amending Bill is not for entire election reforms, rather it has a specific objectives, that the elections will not be countermanded on the death of an independent candidate during the election or after the beginning of the election process. The election will be countermanded only when a candidate of recognized political party dies. I oppose this Bill. Mr. Deputy Speaker, Sir, I would like to inform you that during the elections to the 10th Lok Sabha the election of my constituency was countermanded due to the death of an independent candidate. I have suffered. At that time I thought that it would have been better if the rule of countermanding the election on the death of an independent candidate was not in existence. But I realised later that these points arise in the mind because man is selfish by nature and his ordinance is the result of this kind of selfishness.

Last time when elections were announced in Punjab the Congress was not participating in them. The Congress wanted to make a back-door entry to the portals of power. Therefore, the election was cancelled. The Congress wanted to add a few more Members to its party in the House and there-

fore such ordinance was promulgated and it was said that due to terrorism there is risk to the lives of the candidates. Mr. Deputy Speaker, Sir, two types of risks have been created due to passing of this Bill. Till now there was a provision that if a candidate dies, the election would be countermanded. Sir, it is in accordance to the law of natural justice. The principle of natural justice says that every person is equal before the law, whether he is a candidate of a political party or is an independent candidate. Even today, some independent candidates win the Lok Sabha Elections and in the Legislative assembly their strength is about 10% of the total seats.

It means that now State Governments will not provide security to the independent candidates, if elections is not countermanded in case of death of an independent candidate. Suppose, any party does not give a ticket to a prominent person and he files his nomination as an independent candidate and the party sponsored candidate finds it more difficult to contest against such a popular independent candidate. Then it may be possible that party sponsored candidate may hatch a conspiracy to murder him as he knows the election will not be countermanded. It will impose a greater threat.

We want to see the whole country from our own angle sitting here. It is against the principle of natural justice. Another situation can arise. If an authorised candidate does not get symbol from 'B' in time so technically he becomes an independent candidate. Many distinguished persons have been elected to this House as independent candidates, they include J.B. Kriplani, V.P. Singh etc. If somebody does not get the symbol in time or symbol form reaches late to him due to road blockade etc. he will contest the election as an independent candidate. It may be possible that his opponent may get him murdered and win the election. It is against the principle of natural justice. The Bill seems to be challenging for the basic structure of the constitution. That is why we want to oppose it. There is also another thing involved in it. A large number of independent candidates file their nomination papers for

contesting elections. In case somebody commits murder of an independent candidate, election will be countermanded. Just now, one hon. Member has said that a many elections have been countermanded this time. If the election is not countermanded consequent upon the death of an independent candidate, it will pose greater risk to the life of a candidate, sponsored by a political party. There will be a double risk. On the one hand it is against the principle of natural justice and on the other hand an independent candidate who may be popular in the constituency does not get equal treatment. In the same way, an independent candidate has to face more difficulties in contesting elections as compared to a party candidate. A candidate of a political party gets so many exemptions in expenditure. His political party bears his different kinds of expenditure. On the contrary, an independent candidate has to contest the election at his own expenses. Two copies of voters' list are given free of cost to every candidates belonging to political parties whereas the same are not given to independent candidates free of cost. In spite of all odds he wins the election. It means that the earlier law is competent enough to provide justice to all contestants and people of the country get opportunity to elect the candidate of their own choice. The Bill is not proper from three point of views one, it is against the natural justice, two, it does not provide opportunity to the people to elect the candidate of their own choice, and three it poses greater threat to the lives of candidates of political parties. This ordinance was promulgated with selfish motives in view. They issued this ordinance keeping an eye on Punjab elections. They needed 12-13 MPs which they got in Punjab elections. Now, let this ordinance be lapsed. There should be a nation wide debate on this issue.

We are passing everything in a very haste. Earlier such an ordinance was promulgated in Punjab which was allowed to lapsed. We would like to request the Government to let this ordinance also be lapsed. An opportunity should be provided to all the people to express their views. An extensive

debate may be held alongwith the comprehensive Bill on election reforms which is proposed to be brought by Government.

With these words, I opposed this Bill. I again appeal the Government to withdraw it and this ordinance be allowed to be lapsed.

SHRI RAMESH CHENNITHALA (Kottayam): Mr. Deputy Speaker, Sir, I was just listening to the speech of Shri Nitish Kumar and was pondering over the points raised by him in his speech. This ordinance was promulgated during Punjab elections. If an independent candidate dies, the elections would not be countermanded. But in case party candidate dies the elections would be countermanded. If party candidate dies, his party will nominate the other candidate. The candidate of a party gets the symbol of his party and contests the elections on the basis of his party's election manifesto. We want that the elections should not be countermanded at any cost. If the Government are to make sure that the elections be held in all circumstances then it should provide that in case of a death of a candidate of any political party, his party would nominate the other candidate. It needs to be given serious thought.

Our other colleagues have said so many things about election system. During Punjab elections the Government had promulgated an ordinance to reduce the duration of election propaganda. But I think, that ordinance is also going to be lapsed. What does the Government think in this regard? The Government should bring forward a comprehensive Bill providing for all these things to bring about improvement in the election system.

The hon. Members have expressed their views regarding the election expenses. Today, an ordinary persons cannot think of contesting an election. It has become too expensive. It runs into crores of rupees. I don't want to say much in this regard. Now-a-days, it has become difficult to contest an election as it requires a lot of money. Apart from this, fake accounts of expenditure are submitted. If the expenditures comes to Rs.

[Sh. Ramesh Chennithala]

5 lakh, the expenditure bill of only Rs. 45,000/- is submitted. After entering into Parliament, some of our hon. Colleagues make wrong statements whereas we have come here after taking the oath in the name of God.

Regarding voters' lists, our hon. colleagues have just said that they are generally incorrect. Complaints to this effect are received from many States. It has become necessary to ponder over this question. There is a need to change the system followed by Government to update the voters' lists.

Every citizen should be provided an opportunity to fight the election. The Government should think over it and provide funds to them for this purpose. The Government should come forward with a Bill providing for at least 14 days time for election propaganda, at the earliest.

The Election Commission has given suggestions about the deposits and these have been forwarded to the Government. Efforts should be made to increase deposits. A lot has been said about booth capturing. The penalty for booth capturing should also be increased. We don't get maximum protection in every election. Two policemen are posted on a booth but they are unable to control the situation. It is very essential to provide protection to the common voters when they come to the booth.

I would like to say one thing about the election symbol. I have fought four elections—two Assembly election and two Parliamentary elections. I have observed that most of the Symbols are so similar that they create a confusion in the mind of voters. The symbol of motor-cycle, and bicycle are very similar, thus the voters are confused.

AN HON. MEMBER: We lost five seats for this confusion between motorcycle and bicycle.

SHRI RAMESH CHENNITHALA: The candidates are also influenced by electronic media. So they should also be allowed to use them. There are many more things to be mentioned. I would also like to mention that the Dinesh Goswami Committee was formed during the erstwhile Parliament which presented some recommendations to the Government. You should consider those recommendations. It should be sincerely considered in this House.

I support this Bill but I would like to state that a comprehensive Bill should be brought. This issue is not only related to Punjab alone you should consider it in a wider context. (Interruptions). It should not be given a political colour, we should work for the reformation in election-system by rising above the party politics.

***SHRI SUDARSAN RAYCHAUDHURI** (Serampore): Sir, following my colleagues, Shrimati Malini Bhattacharya who has spoke on the Bill in Bengali, I would like to speak a few words on this particular Bill in Bengali.

At the outset, I must say that I, on behalf of my party, CPI(M), would like to oppose this Bill.

Till now in the Representation of Peoples' Act Bill, the provision was due to the death of any candidate contesting the election after the election process starts, the election will be countermanded.

Now the amendments in the bill are that from now onwards election will be countermanded only in the death of a candidate belonging to some recognized political party. In the death of any independent candidate, election will not be countermanded. Election process will continue. Our friend from Congress (I) Shri Shri Ballav Panigrahi was right in saying that most of the Independent Candidates contesting the election are not serious candidates. They do not take election that much seriously. Those candidates

as he puts it, become the soft target of the terrorist. But the difficulty is that the moment this Bill is passed these people will become softer target. Precisely for this reason I would like to oppose the Bill.

Now, suppose a terrorist group plans to scuttle an election. Countermanding an election does not mean.

Just to make the election statutorily countermanded, they can create an atmosphere of violence and that can be created by killing one or the other independent candidate.

Besides there is one more trouble. Suppose two candidates, one belonging to a recognised party and the other an Independent, are contesting the election in a constituency. I hope, Mr. Deputy Speaker, Sir, you will realise the problem that may arise in this situation. In the death of the Independent candidate, the candidate belonging to the only recognised political party will win. In the prevailing situation in the country and the state of affairs in most of the recognised political parties, it is not difficult to countermand election in this way. So the purpose of the Bill to curb terrorism won't be served. Moreover we have right to equality in our constitution. By passing this Bill, we will violate that constitutional right to equality also. Because this right to equality is guaranteed to all citizens and we can not check any Independent candidate from contesting the election. They will contest the election anyway. Then we have to remember that the terrorists have the support of many powerful forces even from outside. Is it possible that the number of Independent candidate is increasing so that the election is held in a violent and disturbed atmosphere? In this bill Sir, the lacunae of the election process would continue. What he have been witnessing till now is, the prevalence of Muscle and money power. We cannot forget particularly the election of west Bengal in 1972. We cannot forget that allegations of rigging have been raised against the constituency of our former Prime Minister, either one time Rai Barilley or Amethi or the Nandyal of our present

Prime Minister. Whether the allegation is true or false, I do not want to discuss. The question is how to plug these loopholes in the election process. For this we need a comprehensive Bill. We do not want that type of outrages fill in the name of solving matters in piece meal way. The amusing part is that who is responsible to create this terrorism?

You are first creating terrorism through your action and inaction and then you are coming up with so many Bills in the name of wiping out terrorism. This is very funny. And it is for this reason, we cannot support this Bill.

Thank you.

[English]

SHRI D. VENKATESWARA RAO (Bapatla): Mr. Deputy-Speaker, Sir, the Amendment to Section 52 of the Representation of the People Act, 1951 says that:

"If an independent candidate dies, the election will not be countermanded."

Sir, in principle, I oppose this because it is affecting the fundamental rights as far as my knowledge goes. According to the Constitution, every individual has got a right to vote according to his will and also to get elected to any of these Legislatures. Here, this Amendment is violating the fundamental right henceforth, it is not proper to bring forward such an Amendment. Maybe, the Government has brought forward this Bill because of the situation in Punjab and to get their candidates elected as early as possible. But at the same time, they did not see the repercussions involved in this Amendment.

Sir, my friends Shri Nitish Kumar and others have quoted the examples of many people who got elected to this House as independents. Many eminent people have got elected to this House as independents. Such type of facility is being violated while bringing this kind of Amendment. Instead of

[Sh. D. Venkateswara Rao]

[Translation]

bringing in this type of Amendment, they are bringing in this type of Amendment, I do not know much about the second part of the Ordinance. As far as my knowledge goes, it will reduce the time limit from 21 days to 15 days. That would have been a better proposal, if they have introduced it here in this Bill.

You know very well how much money is involved and how much time is wasted while campaigning for 21 days. This could have been avoided if you have come forward with this type of Bill. On the other hand, as all of us are aware, you are trying to bring forward a comprehensive Bill regarding Electoral Reforms in this august House. It was told in this House many times that a comprehensive Bill will be brought forward in this House. So many meetings have taken place. You know very well that in 1990 a Committee was constituted under the Chairmanship of Shri Dinesh Goswami. At that time, he was the Law Minister. They have recommended so many things including delimitation of constituencies, appointment of the Chief Election Commissioner, other Election Commissioners, rotation of the constituencies, etc. All these matters are pending before us.

Leaving all this aside, we have rushed towards a hasty decision whereby we are violating the fundamental rights; we are avoiding an opportunity that is being given by the Constitution to every individual of this country to get elected to Assemblies, Parliament and other bodies.

While bringing out such a type of Bill, I would like to advise the hon. Minister, the Government to bring out a comprehensive Bill whereby all the relevant problems can be met in that Bill like booth capturing, rigging, money power, appointment of an Election Commissioner and delimitation of the constituencies. All these matters can be brought out in a comprehensive Bill. So, with these words, I oppose the Bill.

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Mr. Deputy Speaker, Sir, a new article is to be brought in the place of article 52 of Representation of People Act 1951. Elections are withheld in case a candidate dies before the holding of elections. Now by bringing this Bill election will not be postponed in case an independent candidate dies or is killed. It is clearly an assault on the dignity of the Constitution. Every one has got a constitutional right to contest election. This right is being assaulted. The greatest point is that the independent candidate who is popular is done away with by money and muscle power because they are good candidate and there by ensures his victory with the fear of the postponment of election. They were already apprehensive of such danger. Another danger that has been added is, if a candidate from the national parties is apprehensive of some danger, particularly when someone wants the postponment of election. The Government has the responsibility of providing protection to all. When you are protecting the candidates of national parties, is it not your responsibility to protect the independent candidate? There is nothing like this in the constitution. It is envisaged in the constitution that providing of protection is the duty of the Government. You have made it clear that you cannot protect them.

The Second thing is the Congressmen were deprived of party tickets, the same man fought and won the election defeating the party candidates. There are dozens of such cases. This Bill has been framed under such circumstances. More so, far such conditions as are prevailing in the Punjab. There was, therefore, no need for bringing this Bill. The Government could hold election by passing ordinance when the question of Kashmir comes. There was no need to bring such a Bill. If you were interested in the survival of democracy, you should have brought amendment in the entire election code. From the beginning all parties are demanding this. But they do not intend to do so. Now democracy is in great danger. They should have brought this Bill in the House. Terrorism has fast

increased because of the irregularities in election. Mr. Deputy-Speaker, Sir, you are also coming after having won the election and so am I. Let us consider truthfully whether the really poor, the weaker and oppressed sections participate in the election or not. They are prevented by money and power. Handful of people cost all the votes of the village. That is why terrorism and exteremism is spreading. We have got such an election system that it does not ensure real representation. I would like to suggest that this Bill should be withdrawn. It should be restricted only upto the Punjab and Kashmir and it should not be made applicable to the whole country. There is not particular gain by this Bill and it is endangering the original constitution.

[English]

SHRI OSCAR FERNANDES (Udupi) : I thank you for calling me to speak on this Bill. I rise to support this amendment. This amendment should have been brought much earlier and I am sure that this amendment will strengthen the party system.

A point has been made that this will go against the Fundamental Rights of an individual. No individual is prevented to contest an election as an independent.

SHRI GEORGE FERNANDES: It may be discrimanatory.

SHRI OSCAR FERNANDES: He is not supported by any party. He is contesting but in the process if he dies, then any other person, if he wanted to contest he would be also contesting in the election as an independent candidate. And the very fact that he has not contested means that there is no other person who is interested in contesting. The purpose of holding an election should not be defeated and it should also help in building the party system.

SHRI ANIL BASU (Aramgarh): If there is one independent and one party candidate, what happens?

SHRI OSCAR FERNANDES: Right. Then the election will be held. The basic thing is you have to help in building a healthy political system. The party system has to be developed. That is why what we feel is that in a country like ours, which is a vast country, there must be stability in the country, elections should be fought on the basis of a manifesto, a programme, a commitment, whether is is at the State level or at the national level. The people should feel that when an election takes place they are to be ruled by the party which comes to power for a full term.

SHRI SRIKANTA JENA: Only the symbol and not the party!

SHRI OSCAR FERNANDES: It is not so. It is the party and the individual both, are to be taken into account.

What has been said in the Bill is that when a party candidate dies, then only it need be countermanded. And if an independent candidate contests and he dies the election should not be countermanded. That is the whole purpose of the Bill. In many elections we have seen, that just to see that the process of election is stalled, a man who is almost made to live on oxygen is made to file the nomination and when he dies the whole election is countermanded. The purpose of holding the election is defeated. This should not be allowed. Non-serious people should not hold the country to ransom or take it as a fun. May be a party candidate himself may feel that a dummy who is about to die is contesting and wants to stall the propects of the winning candidate. That should not be allowed. So, I feel that this Bill has been brought in the right spirit. There are many other things which affect the national life. A comprehensive electoral reform Bill will have to be thought of and brought before the Parliament for passing. So, this Bill could be a step towards that. I request our hon. Minister to see that a comprehensive Bill is also brought while we pass this Bill.

I support this Bill.

[Translation]

PROF. RASA SINGH RAWAT (Ajmer): Mr. Deputy-Speaker, Sir, the Representation of People (Amendment) Bill 1992 has been brought, it is related to the replacement of the article 52 of Representation of People Act 1951. This Bill is, as I think, quite contrary to the original Bill. A provision that has been made in Representation of People Act that only the candidates of Political parties or the people nominated by them can contest election and the independent cannot participate in it. And if independent candidate do contest election, the election will not be countermanded in case of the death of an independent candidate. Others are getting protection while they are being denied that; they are, however, also the citizens of India and they also contest election under the same rules of the same Constitution. It really calls for deep thinking and wide consultations. What would happen if an able and wise person who wishes to win election as a independent candidate without the label of any political party but having the support thereof, dies? The Representations of People (Amendment) Bill 1952 has been brought in a great hurry because election in Punjab was to be conducted anyhow in the situation that prevails there. I would like to make it very clear to the Government that our Constitutional institutions should neither be disregarded nor made a puppet. Whichever party comes to power, it misuses the election Commission, Governors and other institutions. Those days it was stated through the ordinance of the President that independent candidate can contest election.

SHRI NITISH KUMAR (Barh): I am on a Point of Order. The quorum is not complete.

[English]

MR. DEPUTY-SPEAKER : The bell is being rung.

MR. DEPUTY-SPEAKER : Now there is a quorum.

(Interruptions)

[Translation]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Deputy Speaker, Sir, we do not deny that we walked out of the House since afternoon we have been trying to convince the Government about this Bill. Many Members from our party held talks, with the hon. Minister. Many hon. Members from the other side also spoke in protest against the Bill and the logic expressed by them cannot be denied, because no one looked at it from the political point of view (Interruptions).

[English]

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI K. VIJAYA BHASKARA REDDY): Sir, nobody opposed this Bill. Everybody has been telling that the Government should come with a comprehensive Bill, which we are for. It is known in which circumstances we have issued the ordinance. The Rajya Sabha has passed this Bill unanimously.

All the parties have agreed in Rajya Sabha. (Interruptions)

[Translation]

SHRI GEORGE FERNANDES: The hon. Minister is an old Member, he should at last honour the opinion when the House has reached a consensus on some issue. (Interruptions)

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUMARAMANGALAM): We have time only up to Eight O'clock. Let us adjourn the matter, we can discuss this later, and we can adjourn the House now and meet tomorrow.

MR. DEPUTY-SPEAKER : Mr. Rasa

1029 *Stat. Res. re. dis-* PHALGUNA 27, 1913 (SAKA) *Representation of* 1030
approval of Representation of
People (Amend.) Ordinance and *People (Amend.) Bill*
As passed by Rajya Sabha

Singh Rawat, you can continue your speech
tomorrow. [English]

[Translation]

MR. DEPUTY-SPEAKER : Now, the
House stands adjourned to meet tomorrow
at 11.00 a.m.

SHRI GIRDHARI LAL BHARGAVA 20.00 hrs.
(Jaipur): Tomorrow I will go.

*The Lok Sabha then adjourned till Eleven
of the Clock on Wednesday, March 18,
1992/Phalgun 28, 1913 (Saka).*

SHRI GEORGE FERNANDES: It is
nearing 8.00. p.m. now.