

[English]

MR. SPEAKER : Motion moved :

"That the Bill be passed."

[Translation]

SHRI BANWARI LAL PUROHIT (Nagpur) : I had given a notice on the Appropriation Bill.

MR. SPEAKER : What for is the notice?

SHRI BANWARI LAL PUROHIT : I have an important question. Mr. Speaker. Sir, our country became independent on the 15th August, 1947. The Britishers went out, but the ownership of the railway train operating in Vidarbha area from Pulgaon, is with Keelik Nistan and Company. Very many years have since passed, but railway are still paying to the Company Rs.12 lakhs per year as lease, which is renewed every time.

Why this mark of the Britishers has so long been allowed to remain upto 1996? That train is called "Shakuntla Express." That has become a mockery. Kindly take a decision in that regard. That train has been operating there from the days of the British rule in India. That Company is being paid by the Railways Rs.12 lakhs every year. That lease is renewed after a period of ten years. Now it is the time of its renewal.

SHRI RAM VILAS PASWAN : Mr. Speaker. Sir I had a talk with him in this regard. I immediately called the officers and directed them to take necessary action in the matter. The Hon. member is aware that the action is being taken by us.

SHRI BANWARI LAL PUROHIT : It is a memento to of the British rule and a mark of slavery, which should be removed.

[English]

MR. SPEAKER : I think that he has replied to that.

The question is .

"That the Bill be passed."

The motion was adopted.

MR. SPEAKER : Hon. Member, this is for the information of the hon. Members. The dinner is ready in room No.70. It would be available, I am told, till about 10 p.m. This is also for the information of the members of the Press Gallery.

20.17 hrs.

REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL - CONTD.

[English]

MR. SPEAKER : We now move on to item No.13. I think that we have one more Member to speak. Shri Lodha, would you like to speak. If you conclude in five minutes' time, it would be very good.

[Translation]

JUSTICE GUMAN MAL LODHA (Pali) : Mr. Speaker. Sir, the form in which the Representation of the People Bill has been brought forward in the House does not fulfill the need and the feelings of the nation for effecting reforms in the electoral system. The Bill contains less items and the specific items are not included in it which can reduce the election expenditure in the country, make the election process simple and take revolutionary steps for bringing changes in the election procedure. I want to say that utmost need in it was for state funding of elections and including in it certain specific election programmes, for example, election speeches of all candidates should be arranged at a common platform, which is missing in this Bill, although much has been talked about it earlier. The Govt. should provide such an opportunity to all recognised parties and bear its expenditure. That is also missing in the Bill. Non-inclusion of important provisions is indicative of the effort of the treasury benches to make publicity and propaganda that they have effected electoral reforms. But real reforms are totally absent. The most vital thing in the entire country at present causing concerns, is criminalisation of politics in the elections and criminal minded persons facing criminal cases get elected to legislative Assemblies and Parliament, on account of the lack of a suitable legislation in this regard, and column after column is written in respect of them in the news papers. 40-50-55 such persons are nirohed in cases under sections 302, 307 and 376 or similar type of other cases, for which our laws do not prescribe adequate punishment. If a person has been convicted under these sections for the crimes, Governor or President, in exercise of special powers vested in them, grant pardon to such criminals. On account of that they are free to fight election to Lok Sabha or other bodies. Persons convicted by courts and found guilty on the charge of murder and those who destroyed entire community or village, were given pardons and allowed to contest elections for Lok Sabha or State assemblies and they got elected to these bodies. The faith in M.P.s, which the people had earlier has since vanished. Today the need is to improve and brighten our image in the eyes of the people.

There should be a provision in the law that persons convicted in a case and given pardon by the President or the Governor, should thereafter be disqualified for contesting elections. A comprehensive Bill on electoral reforms is badly needed. Electoral reforms should not be made a source of publicity to mislead people, but in reality electoral reforms should be effected.

Public representatives after winning an elections have first of all to face accounts, which is essential for them. It is a matter of shame when they conceal truth and affix signatures or wrong accounts. If the Govt. undertakes main items of expenditure, true picture will be available. I request that all out electoral reforms

should be undertaken and for bringing resolutionary changes in election laws, a comprehensive bill should be brought forward. The present Bill is totally incomplete. So, I demand from the law Minister to come forward with a Comprehensive Bill.

[English]

SHRI SHIVRAJ V. PATIL (Latur) . Mr. Speaker. Sir, the present Bill is of a very great importance. The democracies and parliamentary systems in different countries depend on the elections that take place there. Unless we have elections which are free from defects, the Parliamentary system or the Presidential system of the Democracy cannot function.

The Government has done well in moving this Bill and in trying to rectify some of the defects from which the election system in India is suffering. There are provisions in the Bill which try to remove the defects which have arisen out of the use of money power, muscle power and narrow ideologies. But the provisions are not sufficient. I am sure that the provisions are not going to remove those defects. In spite of the provisions in the Bill, the money power, the muscle power and the narrow ideologies will be used. The defects will be reduced maybe to a certain extent. We shall have to look at the electoral system that we follow in India from a very broad perspective and in a very comprehensive manner.

In the Ninth Lok Sabha this issue was discussed at a length. This issue was discussed for hours together. Then, a Committee was appointed to find out as to how those defects could be removed. That Committee had given its Report and the present Government has tried to act upon that report. The committee also could not find a solution which could have removed all the defects. After reading that Committee's Report, one gets an impression that that was a sort of compromise Report.

On certain points, certain suggestions given by certain parties and individuals were accepted. And on certain other points, suggestions given by certain parties and individuals were accepted. With all the good intentions, they could not arrive at a consensus which could have removed all the defects.

The present Bill also makes use of that Report. There is nothing wrong in making use of that Report because this Bill is going to help the electoral process in the country and to remove the mistakes to some extent. But there are some other very important issues apart from the money power and the muscles power and the narrow ideologies which are being used in the elections today in our country.

What are those issues? We have accepted the principle that every citizen in the country who is of 18 years' age, shall be allowed to vote. That is a kind of right given to him. It is not provided in the Constitution that he has a Fundamental Right to vote. And yet, it is

presumed that he has a right. That right is not a Fundamental Right. It is equal to Fundamental Right or as important as a Fundamental Right. Yet, we find that the right is given but all the voters do not vote in the elections. A person who gets only 30 per cent votes gets elected. That means, he does not represent the majority of the voters in the country leave aside the majority of the people.

Now this defect has to be done away with. How can this defect be done away with? That is really a question. If we study the Constitution and the electoral laws in different other countries, we will find that some of the countries have provided that the citizens have a right as well as a duty to vote. Voting is compulsory in those countries. Is it possible for us to consider this aspect? It is a very big issue. I realise it. Yet, if we do not accept this principle, the electoral system is not going to be free from the defects.

The winning candidate sometimes gets elected by getting less than 30 per cent votes. Now is it possible for us to have something in the law which really makes it representative of more than 50 per cent of the voters at least, if not the people? There are Constitutions and the electoral laws in the world which provide that a candidate, who gets more than 50 per cent of the votes, will be declared elected and not others. In France, the system is accepted. Even for the President's election, this system is accepted. In many other countries also this system is accepted. In Australia, they have made the voting compulsory. In France and Russia and many other countries, 50 per cent votes are necessary. Is it possible for us to examine this issue also to come to certain conclusions?

India is a very big country. It is a country having about 940 million people. One hon. Member of the Parliament represents about 10 to 15 lakhs of voters and not people. People will be more. He represents 1.5 million or even two million people. It is too big a number. In the United Kingdom, you will find that a Member of Parliament represents only 25,000 or 30,000 voters. Our House will be too big. It will be very difficult to manage. Even with this number, sometimes, the Presiding Officers are put to test to manage. Everybody is put to test to get the time to speak on the floor of the House. But the human ingenuity is not that weak. It should not be beyond human ingenuity to find a solution to this problem also.

And there are Constitutions in the world which have found a solution to this problem. They have large number representatives sitting and considering the broader outlines of the national policies, international policies, long-term policies and perspective plans and leave in details to be considered by others. Now, is it necessary for us all the time to follow and imitate what others have been doing in the Western countries? Is it not possible for us to invent a system in which an adequate number of representatives of people will be

sitting and considering the bigger issues? That is also a question to be considered by us.

I have just given a few suggestions. When a comprehensive discussion takes place on election reforms, they may be considered. Probably, the Government thinks that this kind of a Bill is necessary to overcome certain other urgent difficulties and they have come before the House with this Bill. This Bill can be passed and should be passed if it is necessary. But it should be realised by everybody in the House that this Bill does not purify the electoral system in the country. Much more comprehensive discussions and deliberations have to be done and a very comprehensive Bill has to be brought so that the electoral system can be made free from defect, the parliamentary system and democracy also can be made free from defect...*(Interruptions)*

MR. SPEAKER : We have already spent almost four hours.

SHRI MADHUKAR SARPOTDAR (Mumbai-northwest) : But, Sir, I had given my name the other day.

MR. SPEAKER : It is enough.

(Interruptions)

SHRI MADHUKAR SARPOTDAR : Sir, after giving my name, why should I not be given a chance to speak?...*(Interruptions)*

SHRI P. NAMGYAL (Ladakh) : Sir, I am on a point of order.

MR. SPEAKER : Under what rule is your point of order?

SHRI P. NAMGYAL (Ladakh) : Sir, under Article 370 of the Constitution of India, Jammu and Kashmir has got its own Representation of the People Act but this Bill is silent about the scope and jurisdiction so far as J & K is concerned. Since Jammu and Kashmir also, I would like to know on this point.

MR. SPEAKER : The Minister will answer this point.

SHRI P. NAMGYAL : Sir, I want your ruling.

MR. SPEAKER : The Minister will answer your point. That is my ruling.

(Interruptions)

THE MINISTER OF STATE OF THE DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE (SHRI RAMAKANT D. KHALAP) : Hon. Speaker Sir, before I moved this Bill in the House, there was a meeting of the Leaders of all political parties...*(Interruptions)*

MR. SPEAKER : So many other things are there.

SHRI MADHUKAR SARPOTDAR : Time is not the factor. When we talk of the Bill, why should we take time into account? After all, it is a Bill.

MR. SPEAKER : All right. You may speak now.

SHRI MADHUKAR SARPOTDAR : Mr. Speaker, Sir when this Bill was circulated, one point was not taken into account. In this House of 540 Members, 287 Members are new Members. They have not seen the provisions of the Bill. This Bill was brought in the hastily and no one could apply their mind to it. No one has gone through the provisions of the Bill. This is very important because the time is very much limited. What had happened in the past was that there was no adequate time allowed for the members to study it.

Secondly, regarding this Bill, certain provisions have been made. Just now Shri Shivraj Patil said something about international provisions of other countries also. I would like to specifically mention here that most of the people of this country, even after 50 years of Independence, are illiterate. Unless we provide a symbol, they cannot franchise their votes. This is the present condition of our country. Keeping this particular situation in view, what is the use of just comparing our position with that of foreign countries? In foreign countries, there is 100 per cent literacy whereas only 40 per cent of our people are literate and most of our people are illiterate.

20.35 hrs.

(Mr. Deputy-Speaker in the Chair.)

SHRI BIJU PATNAIK (Aska) : But this is not true about Kerala.

SHRI MADHUKAR SARPOTDAR : I am saying this in the context of the country as a whole and not in respect of Kerala alone. I am saying this about the whole country. This is the plight of the people in which our country is today. If you feel that there is cent per cent literacy in our country, then I have no remarks to offer on that.

Sir, after going through the various provisions of the Bill, I would like to make a mention about one or two provisions contained in this Bill. One is about the period of campaigning which has been reduced to 14 days from 20 days. The total number of voters in most of the constituencies in Maharashtra is not less than 15 lakhs. How would it be possible to cover the entire constituency in 14 days? How would it be possible to approach the voters within these fourteen days' time? It is a very important aspect. Moreover, in view of the Model code of conduct of the Election Commission and its strict compliance - only one or two cars are allowed for campaigning - how could a candidate reach out to the 18-20 lakh voter within these 14 days' time of campaigning? According to me, this stipulation of 14 days for campaigning is inadequate. For Assembly elections it is all right but for the parliamentary elections this period is inadequate...*(Interruptions)*

General elections are not held suddenly. In a sense, one can campaign everyday. In that sense one can undertake campaigning in his/her constituency all throughout the five years. There is no dispute about it. But one cannot take up campaigning for elections until they are declared as candidates. My feeling is that after the declaration of elections, this period of 14 days for campaigning is inadequate for Parliamentary elections.

Sir, the second point is about the provision which provides for an observer. This provision again leaves sufficient scope for litigations. In this country we put more emphasis on litigation than on solving the problems. Somebody always tries to find out one plea or the other to go to the Court and start a litigation. Somebody who gets elected also follows that. In case of a provision for observers this dispute would be there and the declaration of election results would get delayed.

Sir, we did not have sufficient time to go through the various provisions of the Bill but whatever I could understand from this provision which provides for an observer, I could say that this would not yield any result and would, perhaps, give rise to more and more complications and, maybe, there would be more difficulties in getting the results of the elections.

Sir, Section 33 provides for proposers to contesting candidates. The provision of one proposers for one candidate for the recognised political Parties has been continues. This section stipulates that the candidates who want to contest independently or at NIRDALIYA what we call it, would require ten proposers. I fail to understand as to why there should be a difference between candidates of recognised political Parties and independent candidates. If somebody wants to contest an election independently why should there be a necessity for ten proposers for him? That is ridiculous. Similar arrangements, as is applicable for candidates of recognised political Parties, should be there for the independent candidates also. After all they have got the right to participate in the elections. One cannot say 'no'. Otherwise, you make a provision whereby independents would not be allowed to contest the elections at all...*(Interruptions)* For that purpose different provisions should be brought in and different norms should be introduced. If you ask for ten proposers, what difference does it make as far as parliamentary elections are concerned? They would bring ten proposers. Even if you ask 100 proposers, they would bring 100 persons. What is the difficulty in persuading the voters to propose somebody's name? My suggestion is that this provision is not effective, rather it is much defective.

Now, there is one more provision, section 33(7)(6) stipulates that one candidate could contest two constituencies. My only question is, why has this

provision been made? One candidate should contest from only one constituency. He/she should not contest from more than one constituency. That is my proposal.

Just to make one's position safe, one wants to contest from more than one constituency. Sometimes he gets elected from one constituency and sometimes from two constituencies. Then he vacates from one seat, as a result of which a vacancy falls. The entire process then has to be undergone again to fill that vacancy. The entire nation is put to further unnecessary expenditure. This should not be allowed. My suggestion is that a person should not be allowed to contest from more than one constituency.

Under Section 34, Sub-Section 1 of 1951 Act, a provision of deposit is there. After all, it is the question of election to Parliament. Instead of depositing Rs.500, if you give Rs.5000 the amount is increased to what material effect does it have. This being a very prestigious election, I feel the amount should be more than Rs.5000. For general candidate that is Rs.10,000 minimum, so that one can bring some restriction.

MR. DEPUTY-SPEAKER : Please try to conclude.

SHRI MADHUKAR SARPOTDAR : At least I should not be restrained from speaking on the provisions of the Bill. Sir, I can understand, if you restrict me for other matter. Anyway, if you insist, I will sit down Sir.

MR. DEPUTY-SPEAKER : All right.

SHRI MADHUKAR SARPOTDAR : I was saying that it should be made Rs.10,000 or Rs.5000 so that the candidate will think thousand times before filing nomination.

There is an amendment to Section 38, sub-section 2 of the 1951 Act. The amendment is for the recognised Party. This, I think is a wonderful suggestion that I have come across. Three different categories are there: recognised Political Party, registered Political Party and other candidates. So far as elections are concerned, I fail to understand as to why should there be any difference between the three. Why should we have one consideration for a recognised political Party and other consideration for a registered political Party? In this way, we are only dividing our people further. I do not know from where this suggestion had come. We are differentiating between the people and creating different classes. I feel, for all the three categories only one consideration is enough.

Section 127 of the 1951 Act deals with the offences and it says that the offences punishable under Sub-Section 1 shall be cognizable. All these provisions have been made. Instead of bringing piecemeal provisions in piecemeal one comprehensive Bill should be introduced before the House. If we bring a comprehensive Bill, it will have more effect. I would

request the Minister of apply his mind correctly and bring a comprehensive Bill. The provision of expenditure will also have to be taken into account. We will have to find out some remedy. We should take into consideration the past 15 years experience. In this democracy, a lot of harassment has been caused to every candidate. Be it about the expenditure on vehicles, posters or anything else. The entire provision has been mis-represented here. This causing a tremendous amount of inconvenience to the candidates.

I have not gone through the entire discussion that has taken place but I have gone through the Bill. It is a very limited and restrictive Bill and not a comprehensive one. I have written one letter also for the disapproval of this Bill only because there was no time for the new members, like me, to go through it. In two days' time it was circulated and brought before the House for discussion and passing. I do not know what was the haste? On enquiry, I came to know that because of the elections in Uttar Pradesh and Jammu and Kashmir, this Bill was being introduced exclusively for these two States. The Government wants to pass this Bill very hurriedly. I would say that when you are making such amendments in the law, you should not keep in mind one or two States only. This should be amended keeping in view the interest of the entire nation concerned parties and election in general. For the interest of the whole democracy, I would also say that you should bring all the amendments at one time only and not in piecemeal.

SHRI RAMAKANT D. KHALAP : Mr. Deputy Speaker, Sir, before this Bill was introduced in the House, we talked to the leaders of various political parties represented in the House. Only when a certain consensus was arrived at on some provisions. This Bill was framed depending on those points and this Bill was introduced. During the debate in the House we found that, even after the first meeting wherein different issues were considered, certain Members wanted us to consider their viewpoints regarding some provisions. As a result, one more meeting was held today morning some provisions. As a result, one more meeting was held today morning to consider the new suggestions that came from the Members. It has now been agreed by all that barring one amendment, which I will be moving during the course of clause-by-clause consideration of the Bill, other amendments would not be considered at this stage.

At the outset only I had said that this is just one single step towards major electoral reforms, this is a beginning. More and more meetings would be held with the leaders of different political parties and that depending upon the consensus that we arrive at a comprehensive Bill would be brought forward for the consideration of the House. That promise remains to be kept.

assure this House that this is only a beginning. One more attempt will definitely be made. We shall be taking into consideration the viewpoints of all political parties and as many Members of the House as possible and bringing a comprehensive Bill.

During this debate, once again, certain points have been brought forward. Today, hon. Member Shri Shivraj Patilji spoke about the need to reform the law in such a way that those candidates who do not get a minimum of 50 per cent of votes are not declared as elected. This is a good suggestion, but we have been going through this particular system for the last so many years. As he rightly said, different countries have different provisions. There is a system called the majoritarian system where one must get a minimum of 50 per cent of votes, and if one does not get it, a second round of voting is resorted to. We have seen President Yeltsin's election only a few days back. Then there is what is called the list system where political parties give a list of their members and depending upon the percentage of votes which they get, certain number of their members stand elected. We have to see whether we can adopt any one of these two systems or whether we have to mix our own system with these systems. It is a major decision on which we all have to deliberate very seriously before coming to a conclusion.

About defection also certain members spoke. There is a provision in the Constitution on defection.(Interruptions).

SHRI V.M. SUDHEERAN (Alleppey) : Mr. Deputy-Speaker, Sir, the hon. Minister has promised that he will be bringing a comprehensive Bill and that is a good thing. I would request him that before a comprehensive Bill is brought before the House, the draft Bill should be prepared in consultation with all the political parties and it should be circulated among all sections of the society, the experts, Press and the public.

SHRI RAMAKANT D. KHALAP : Mr. Deputy-Speaker, Sir, I thank the hon. Member for his suggestion. What he is suggesting is already resorted to by us. We have tabulated the suggestions of different Committees - the Goswami Committee, the Standing Committee as well as the Election Commission - and all of them have been published in the form a booklet which will be supplied to the Members.

Sir, about defection also, a proposal was put forward. As an hon. Member rightly said, split has not been defined and as a result, a number of aberrations have taken place. Everybody has spoken about money power and muscle power. We have taken the first step towards that direction. State funding is an important issue about which we have to deliberate and take a decision. About

reservation for women - these were the points raised during the debate and that is why I am touching them - we have promised that a Bill would be coming before this House at an opportune time.

As to whether voting should be made mandatory, once again it is a very important issue and we cannot reply to it offhand. About the 14 days time limit and the provision regarding ten proposers, which hon. Member Shri Sarpotdar referred to. I may inform the House that this is also a step taken to see that we do not encourage non-serious candidates from contesting elections.

You are aware that hundreds of candidates have been contesting the elections. In Tamil Nadu there was a case where 1,033 contested the elections. How do you curb this menace? In fact, it has become a menace. The whole electoral system has been affected on account of this. So, certain steps have been taken. One is that independent candidates bring in at least ten proposals. Let them pay at least Rs.5,000 for the purpose of filing the security deposits. These are the provisions which have been made in this case to discourage the non-serious candidates from entering the election fray. The qualification of a candidate in a country like ours...*(Interruptions)*

SHRI SATYA PAL JAIN (Chandigarh) . Now one voter can propose as many candidates as he may like. In other case like municipal or panchayat and other cases. you cannot propose names of more than the seats to be filled in. But under the existing law these 10 persons clause will not make much difference These ten voters would stand in DC's office. any candidate may come there. they will propose the names of as many candidates as they may like. So. I will suggest .
(Interruptions)

SHRI RAMAKANT D. KHALAP : I have taken note of your suggestions also.

SHRI SATYA PAL JAIN : You should have meant
that...*(Interruptions)*

SHRI RAMAKANT D KHALAP : This is not the end of the whole thing.

SHRI SATYA PAL JAIN : That is all right
SHRI RAMAKANT D. KHALAP : We are going ahead with a more comprehensive piece of legislation where we will take into consideration your viewpoints also.

Some hon. Members have suggested about qualifications to be prescribed for the members. I was saying that in a country like ours - as the hon Member Shri Sarpotdar has rightly said that illiteracy rate is so low and people can occupy any place without any educational qualification. Will this be a proper step? Anyhow, this is for the hon. Members to decide.

30,000 voters. Certain seats have 20,000 or 30,000 voters; some other seat has about 25 lakh or 28 lakh voters. We are also aware of this. A constitutional amendment has already been moved, a Bill has been made for the purpose of empowering the delimitation of constituencies. Delimitation was frozen till the advent of the 21st Century. Therefore, for the last so many years delimitation has not taken place. It was, in fact, the duty of the Government, as per the provision, that after every consensus, we should have gone for delimitation. We have not done this for two censuses, namely, 1981 census and 1991 census. So under this new Bill, a Constitution (Amendment) Bill, which has already been introduced in this House, this step has proposed to be taken.

SHRI P. UPENDRA (Vijayawada) : What about rotation?

SHRI RAMAKANT D KHALAP When we pass the Delimitation Act after amending the Constitution, the suggestion regarding rotation will also be taken into consideration. But that will once again require consensus among the hon. Members of this House.

Justice Lodha also spoke about criminals to be prevented from entering the election fray. Everybody feels so. But to what extent or what exactly should be the nature of the provision to be brought in? Conviction may be in one lower court and appeal may be pending. What can we do? The legal process takes so many years. The trial process that we have goes through or takes any number of years. These are all issues about which we have to think again: we have to meet again, we have to prepare a comprehensive Bill. A number of Committees in the past have made a number of suggestions. In fact, our archives are brimming with suggestions and reports and all these have to be properly gone into. Let us all cooperate to frame a comprehensive Electoral Reforms Bill which will really help in ushering in real democracy in our country.

Therefore, I request the hon. Members who have moved various amendments to this Bill to withdraw these amendments and to...*(Interruptions)*

[Translation]

PROF. RASA SINGH RAWAT (Ajmer) : When a comprehensive Bill will be brought forward by the Government hereafter? This Bill has been brought after several years. Now you tell when a comprehensive Bill containing all these provisions will be brought please forward in the House?

[English] photo and the amount required to complete the same. SHRI RAMAKANT D KHALAP We have a lot of time during the intervening period that we have from 2nd August to 27th August. We shall meet one of these days during this period. Regarding the Rs. 5,000 or

Rs. 10,000 I have said already that I am bringing in an amendment for that purpose. That should satisfy your query. For the comprehensive Bill, I am saying that we have to meet once again.

After 2nd August and before 27th August, we will have one more meet.

[Translation]

PROF. RASA SINGH RAWAT : Mr. Deputy Speaker. Sir, it will be better if the Minister comes forward with a comprehensive Bill in the House containing an amendment regarding contest of a person on one seat ...*(Interruptions)*

SHRI RAMAKANT D. KHALAP : Sir, I am saying that it is not so. *(Interruptions)*

SHRI SANTOSH KUMAR GANGWAR (Bareilly) : Mr. Deputy Speaker. Sir, I want to say that there was an agreement on the issue of contest of a person at one seat. But, in your proposal there is a provision for contest of a person at two seats simultaneously. This sort of mistake needs to be rectified. You have written in it that for election as M.L.C or for Rajya Sabha, one person can file papers for two seats. Generally it does not happen. Papers are filed for one only. As such, atleast this defect should be done away with. I think that you did not pay attention to it.

SHRI RAMAKANT D. KHALAP : I shall tell you about it

[English]

Sir, the provision is this. In fact I will read Article 154. It states :

Term of Office of Members of the Council of States-Subject to the provisions of Sub-Section 2 and 2A, the term of office of the Member of the Council of States other than a Member chosen to fill a casual vacancy shall be six years.

Sub-Article 2-Upon the first constitution of the Council of States President shall, after consultation with the Election Commission make, by order, such provision as he thinks fit for curtailing the term of office of some of the Members then chosen in order that, as nearly as may be one-third of the Members holding seats of each class shall retire in every second year thereafter.

Article 2A-In order that as nearly as may be one-third of the Members may retire on the second day of April, 1958 and on the expiration of every second year thereafter. President shall as soon as may be after the commencement of Constitution (Seventh)

Amendment Act, 1956. After consultation with the Election Commission make, by order, such provisions as he thinks fit in regard to the terms of office of the Members elected under Sub-Section 2 of Section 147".

The result of this provision has been that we have three categories of the Members of the Council. Three different Notifications are issued for these three different categories. On account of different situations arising in different parts of the country at various times-for example non-existence of the Assemblies, Councils etc. -these elections have sometimes overlapped. There have been cases, as I am informed, where elections of three different categories were held. The same date was notified by the Election Commission but three different notifications were issued thereby permitting a single Member to contest in these three different categories. This is the situation that has been prevailing so far as Council of States is concerned.

As regards the Legislative Council, there is also Article 156 which has also similar provision. So this aspect of providing in two places a Council is on account of this Constitutional provision.

I have not answered the question relating to Jammu and Kashmir. The elections to Jammu and Kashmir Assembly will be held very soon. We are taking separate steps by Presidential Order to extend similar provisions in regard to Jammu and Kashmir also.

[Translation]

SHRI SANTOSH KUMAR GANGWAR (Bareilly) : What the hon. Minister has told is not the practice. Its procedure is quite different. It is a different matter if you make an amendment in it later on. *(Interruptions)*

PROF. OM PAL SINGH NIDAR (Jalesar) : Mr. Deputy Speaker. Sir, I request that this should be removed from it...*(Interruptions)*

SHRI SATYA PAL JAIN : Mr. Deputy Speaker. Sir, I request that if a person contests an election for a Municipal Committee and alongwith that he wants to contest election from the post-graduates constituency, in that case it is possible, but according to the amendment of Rajya Sabha that came recently, it is not possible. Although there are three different terms, but they start at one point of time. Term of all the three starts concurrently. As such, if the proposal of Shri Gangwar is accepted, that will be alright. Otherwise it will become a matter of laughing, because if a person wants to contest from two seats, he cannot contest. It is not possible. Therefore, it should be re-examined. It is not possible now.

PROF. OM PAL SINGH NIDAR : Mr. Deputy Speaker. Sir, why is it not removed from the Bill? Why a show is being made?

SHRI RAMAKANT D. KHALAP : When a person cannot contest election from two seats, where is then the question of contesting an election from two seats?

SHRI SATYA PAL JAIN : Then this clause becomes a mockery...*(Interruptions)*

21.00 hrs.

[English]

SHRI MADHUAKAR SARPOTDAR (Mumbai North West) : Then why should we keep this provision?

[Translation]

SHRI SANTOSH KUMAR GANGWAR : My submission is that if it appeals to you, you may amend it...*(Interruptions)*

[English]

SHRI RAMAKANT D. KHALAP : I have already assured the hon. Members that this provision had to be made on account of : (i) that there was fairly a good consensus among the Members and to (ii) that this is a particular situation...*(Interruptions)*

[Translation]

SHRI JAI PRAKASH (Hissar) : Mr. Deputy Speaker, Sir, elections to Lok Sabha and Vidhan Sabha are held together. Our villagers still suffer from ignorance. They do not understand which ballot paper is for M.P. or which one is for M.L.A. They have to be told that the smaller ballot paper is for M.P....*(Interruptions)*. There both ballot papers are given together. Please bring a reform in this procedure to ensure that ballot papers for M.P. and M.L.A. are separately...*(Interruptions)*. In Haryana, both the ballot papers for M.P. and M.L.A. are given together...*(Interruptions)*

MR. DEPUTY SPEAKER : Both the ballot papers are separate.

SHRI JAI PRAKASH : During the recent elections, both the ballot papers were given together.

MR. DEPUTY SPEAKER : One can understand giving of both together.

SHRI JAI PRAKASH : Mr. Deputy Speaker, Sir, these should be given separately...*(Interruptions)*

[English]

SHRI RAMAKANT D. KHALAP : Sir, I would therefore, conclude by requesting the hon. Members that we take this Bill into consideration, pass it today, proceed further and wait for the day when we request you to come together for another meeting.

SHRI ISWAR PRASANNA HAZARIKA (Tezpur) : Sir, some of the amendments that have been moved are of a nature that could have been incorporated in the Act

For example, I moved an amendment saying that the new provisions introduced in the amended Bill relating to booth capturing should also be extended to capturing of counting halls. Even a logical extension of a provision of this nature has not been incorporated and only one amendment has been put forward.

SHRI RAMAKANT D. KHALAP : I have promised the hon. Member that we will consider it in the next Bill.

SHRI ISWAR PRASANNA HAZARIKA : My point is, if the limited objective of the Bill is to weed out non-serious candidates, let there be one more election in U.P. and J&K under the existing laws. As we have had the elections under these laws in the entire country, heavens are not going to fall if we have one more such election. Some of these provisions introduced in the amendment may become irreversible. For example, reducing the campaign period to fourteen days is a very serious matter in places like North-East where in most parties the nominations are announced at the eleventh hour or the last day of filing of nomination. Then you hardly get fourteen days and you have to cover nine to ten constituencies with extensive and inaccessible difficult terrains.

MR. DEPUTY SPEAKER : Hon. Minister has taken note of your suggestion

SHRI ISWAR PRASANNA HAZARIKA : Sir, some of these suggestions do not appear to have been taken into account. Once, this goes through, it may become irreversible later on. So in a comprehensive legislation, when that is going to be introduced, these things may remain as they are. So my suggestion is that heavens are not going to fall if the legislation which is being introduced, in extreme haste, should not be passed in this manner. Let these two elections be held based on the existing provisions and then let us think about introducing a comprehensive Bill on a time bound basis maybe in a period of one or two or three months. What are you going to lose? Heavens are not going to fall if we hold the elections in U.P. and J&K based on the existing legal provisions.

SHRI I.D. SWAMI (Karnal) : What is the difficulty in deleting not more than two? By looking at the stars we take a decision that at two places one can contest. Why should it not be 'more than one'? If there can be not more than two, there can be not more than three and there can be 'not more than four', then why not only not more than one? The basic logic is that a place whereform a person is to withdraw or a person has to give up his constituency that constituency remains unrepresented for months and months together and sometimes for more than a year. The amendment is very simple. Let us say, 'not more than one instead of 'not more than two'. As per the provision, a person cannot stand in not more than two constituencies. I say,

you make it only one instead of two. Otherwise, what is the logic for having two and why not three or four. By looking at the stars, you will be taken the decision. The decision should be based on some logic. The logic is that there should not be any candidate who can contest in not more than one constituency. If you make it two, then why not three or four? The amendment does not require much change. You have only to substitute the word 'two' by the word 'one'. Kindly do that much at least.

[Translation]

SHRI ATAL BIHARI VAJPAYEE (Lucknow) : Mr. Deputy Speaker, Sir. I thought that there was unanimity about contesting from one seat. I myself contested from two seats. Some other hon. Members also contested from two seats. After winning from one seat, resignation had to be tendered from the people of that seat, which was surrendered, felt very sad and they said that if one had not to stay there, why did he go there for contesting the seat. I told that it was not so. I was contesting from two seats in the interest of unity and integrity of the country. I think that Biju Babu will agree to it. Contest from two seats should not be necessary... (Interruptions)

SHRI BIJU PATNAIK (Cuttack) : When the husband and wife are agreeable, what can the priest do? Both of us agree. One should contest on one seat. Even now I agree to it. I am lamenting over resigning from one seat.

[English]

SHRI MADHUKAR SARPOTDAR (Mumbai North-West) : It should be not more than one... (Interruptions)

SHRI BIJU PATNAIK : I agree that it should be not more than one. This should be amended immediately... (Interruptions)

SHRI I.D. SWAMI : Now we are left to the discretion of the Election Commission. Sometimes, it says: 'One counting only booth-wise'. In another election it again changes and says: 'First single count; first initial count by mixing and then total count'. Why are you leaving these things at the discretion of the Election Commission? Why can we not provide this here?... (Interruptions)

[Translation]

MR. DEPUTY SPEAKER : When the comprehensive Bill comes, it may be included therein.

[English]

SHRI I.D. SWAMI : This is not given neither in the Act nor in the Rules. I have read it... (Interruptions)

MR. DEPUTY-SPEAKER : The question is :

'That the Bill further be amend/ the

Representation of People Act, 1950, and the Representation of the People Act, 1951 be taken into consideration.'

The motion was adopted.

MR. DEPUTY SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

MR. DEPUTY SPEAKER : Shri George Fernandes, do you want to move your amendment?

[Translation]

SHRI GEORGE FERNANDES (Nalanda) : I insisted on the point of one member. Right from the morning it is being stated that it will be brought in the comprehensive Bill. Should we take that it will be brought in the next Bill?

[English]

SHRI RAMAKANT D. KHALAP : It will be considered... (Interruptions)

[Translation]

SHRI GEORGE FERNANDES : Not consider etc. ... (Interruptions)

[English]

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA) : The Government has agreed to put forward this issue in the second round of the discussion of the all-party meeting. The Government has no objection to this... (Interruptions)

[Translation]

SHRI GEORGE FERNANDES : It will not be said that the Bill has been passed how can it be considered again... (Interruptions) This word will not come in it.

[English]

MR. DEPUTY SPEAKER : The Minister says that the Government will have no objection to this.

(Interruptions)

SHRI MADHUKAR SARPOTDAR : What are the difficulties?... (Interruptions)

SHRI SRIKANTA JENA : We have no objection to this. We have assured in the morning meeting that we would put forward this issue in the second round of the discussion with all the political parties because this was the mandate of all the political parties. But right now, we cannot take it up... (Interruptions)

[Translation]

MR. DEPUTY SPEAKER : This is an amendment moved by Mr. George. As such none else shall speak on it. Mr. George, are you moving it?

SHRI GEORGE FERNANDES : Mr. Deputy Speaker, Sir, when it is an assurance from their side that it will be accepted...*(Interruptions)*

The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

[Translation]

SHRI GEORGE FERNANDES : Now, there is only one amendment, which has been accepted by them. Except it, there will be verification about any other amendment later on. He has accepted about 10,000. Leaving it, there will be no discussion at present about any other amendment.

[English]

MR. DEPUTY SPEAKER : I take it that you are not moving the amendment.

The question is :

"That clause 3 stand part of the Bill."

The motion was adopted

Clause 3 was added to the Bill.

SHRI PRADIP BHATTACHARYA (Serumpore) : Sir, I beg to move

Page 2.-

after line 36, insert

"(4) Observers shall have the power to re-allocate the polling personnel for conducting the election.

(5) Bogus voters shall be eliminated from the voters list after proper investigation." (41)

I thought that these observers could be given much more power. I have seen that in the Bill only a limited power is given to the observers. But the comprehensive idea should have been like this. Starting from the very beginning of the election process, the observers should have been given the power. So I have brought this amendment and since the Minister has said that a comprehensive Bill will come and at that time it will be properly considered. I withdraw this amendment.

MR. DEPUTY SPEAKER : You are withdrawing it. Is it the pleasure of the House that the amendment moved by Shri Pradip Bhattacharya be withdrawn?

The amendment was by leave withdrawn

SHRI ISWAR PRASANNA HAZARIKA : Sir, I beg to move

Page 2, after line 31,

insert "Provided that the Observer shall also have the power to direct the returning officer

for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes and order recounting from the very beginning at any time before the declaration of results if in the opinion of the Observer capturing or coercive action in favour of a candidate has taken place in one or more counting halls." (55)

My amendment is relates to empowering of the observer to take similar action as he would take in the case of booth capturing and in the case of capturing of counting hall also when counting takes place. On the understanding that a provision of this kind would be incorporated in the comprehensive legislation, which is to be brought forward in the House in due course. I am agreeable to withdraw my amendment.

MR. DEPUTY-SPEAKER : Is it the pleasure of the House that the amendment moved by Shri Iswar Prasanna Hazarika be withdrawn?

The amendment was, by leave, withdrawn.

DR. SATYANARAYAN JATIA (Ujjain) : Sir, I beg to move :

Page 2, line 19

after "officer of Government" insert
"whose posting and place of appointment is at a place other than the place where he is posted as an observer" (65)

[Translation]

We want to speak in regard to the provision for punishment. But, if there is no fear, it will encourage the wrong system and tradition going on to continue in future also. So, the punishment should be two years in place of six months. I have such a feeling...*(Interruptions)*

SHRI RAMAKANT D. KHALAP : I have already given a comprehensive assurance.

SHRI SATYA NARAYAN JATIA : When we intend to have electoral reforms there should be strong provisions. The hon. Minister has stated that he gives an assurance to do it. I therefore withdraw it.

[English]

MR. DEPUTY SPEAKER : Is it the pleasure of the House that the amendment moved by Dr. Satyanarayan Jatia be withdrawn?

The amendment was by leave withdrawn

MR. DEPUTY-SPEAKER : The question is :

"That clause 4 stand part of the Bill."

The motion was adopted

Clause 4 was added to the Bill

SHRI P. UPENDRA : Sir, I beg to move :

Page 3. -

for Clause 5, substitute—

'5. In section 30 of the 1951-Act, in clause (d), after the words "twentieth day", the words "in the case of Lok Sabha election and fourteenth day in the case of Assembly election" shall be inserted.' (42)

Sir, I move this amendment because I feel that fourteen days for a Parliamentary constituency is quite inadequate. We are looking from the cost factor: the less number of days, the less expenditure. But many practical difficulties will come. As far as the sitting Members are concerned, it may be all right. But if a new Member has to contest, by the time the Parties announce the nominations and he goes and files the nomination, any by the time he sets up his machinery, seven or eight days will be lost.

The second difficulty will arise from the point of view of printing of ballot papers because the stipulation is that the ballot papers have to be printed in a Government Press. They have to be numbered, checked and bundled. They have to be despatched to the remote corners of the Parliamentary constituency, which are very wide everywhere and mistakes might be committed. Therefore I feel, it is not possible for the administrative machinery also to complete all these formalities within fourteen days because the polling staff will go at least two or three days earlier. That means virtually on the twelfth day, the ballot papers have to be despatched. Is it possible? Is the hon. Minister concerned with this aspect? He should discuss this matter with the Election Commission and other officials. I do not know as to what happened in the All-Party meeting. I personally feel that it is impossible to complete a campaign in fourteen days and to complete administrative arrangements in fourteen days.

My amendment is that this period of fourteen days should apply to the Assembly elections and for Parliamentary elections, this should be made twenty-one days.

SHRI RAMAKANT D. KHALAP : Fourteen days period is the minimum period prescribed. The Election Commission may give an additional time.

SHRI P. UPENDRA : Where is it written?

SHRI RAMAKANT D. KHALAP : It is there. This is the minimum period. If you read the main Section, you will find it.

SHRI P. UPENDRA : How will you decide about the number of days later on?

SHRI RAMAKANT D. KHALAP : There was a complaint here that in certain cases, some Members got even twenty-eight days and more because of staggering of the elections. But this is the minimum

prescribed period and there is a consensus on this issue.

SHRI P. UPENDRA : Is it minimum?

SHRI RAMAKANT D. KHALAP : Yes. There is a consensus on this issue that in order to reduce the election expenditure...

SHRI P. UPENDRA : It is all right. I have already explained about other difficulties also.

SHRI RAMAKANT D. KHALAP : Your Party has vehemently supported it...*(Interruptions)*

SHRI P. UPENDRA : Where is it written minimum? ...*(Interruptions)*

SHRI RAMAKANT D. KHALAP : Kindly withdraw your amendment.

SHRI P. UPENDRA : Can you read out that particular sentence where it is written 'minimum'? I do not have the copy of the Bill with me.

SHRI RAMAKANT D. KHALAP : If you read Section 30 :

"As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—
(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the twentieth day... which is now becoming fourteenth day, which shall be a date, let us read the amended section now, which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures.

So, the minimum period prescribed is fourteen days, and it shall not be earlier than the fourteenth day.

SHRI P. UPENDRA : So, in view of the clarifications given by the hon. Minister, I withdraw my amendment.

MR. DEPUTY-SPEAKER : Is it the pleasure of the House that the amendment moved by Shri P. Upendra be withdrawn?

The amendment was, by leave, withdrawn.

MR. DEPUTY-SPEAKER : The question is :

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

MR. DEPUTY-SPEAKER : Shri Fernandes has already said he would not move his amendments.

The question is

That Clause 6 stand part of the Bill."

The motion was adopted

Clause 6 was added to the Bill

MR. DEPUTY-SPEAKER : The Minister may move his amendment.

Amendment made :

Page 4.-

for line 16 to 19. - substitute -

"(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited

(a) In the case of an election from a Parliamentary constituency, a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees; and

(b) In the case of an election from an Assembly or Council constituency, a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees." (82)

(Shri Ramakant D. Khalap)

[Translation]

DR. LAXMINARAYAN PANDEY (Mandsaur) : Mr. Deputy Speaker, Sir, the amendment moved by me is similar to the proposal made by the Hon. Minister. I have also proposed Rs. 5000/- (five thousand rupees) in place of Rs. 10,000/- (ten thousand rupees) and for scheduled caste and scheduled tribe candidates Rs. 2500/- (two thousand and five hundred rupees) in place of Rs. 5000/- (five thousand rupees). I, therefore, withdraw my amendment, which is analogous to that of the Minister.

[English]

MR. DEPUTY SPEAKER : The question is :

"That clause 7, as amended, stand part of the Bill"

The motion was adopted.

Clause 7, as amended, was added to the Bill.

MR. DEPUTY-SPEAKER : Shri George Fernandes has already said, he would not move his amendment.

The question is:

"That clause 8 stand part of the Bill."

The motion was adopted

Clause 8 was added to the Bill

MR. DEPUTY-SPEAKER : Shri G.M. Banatwalla - not present

SHRI N.K. PREMACHANDRAN (Quilon) : Sir, I beg to move :

Page 5, line 3.-

after "recognised political party"

insert " registered political party" (39)

Sir, my amendment is with regard to registered political parties. This is a Bill which is totally adverse to the interests of the registered parties. Since the Government has given an assurance that a comprehensive Bill regarding all these matters will be put forth, I am withdrawing my amendment with the permission of the House.

MR. DEPUTY-SPEAKER : Has the hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS : Yes

The amendment was, by leave, withdrawn.

MR. DEPUTY-SPEAKER : Shri Tarit Baran Topdar - not present.

Shri Hannan Mollah - not present.

SHRI BASU DEB ACHARIA (Bankura) : Sir, since the Government has assured that the Government will be moving a comprehensive amendment after consultation with all the political parties, in view of that assurance of the Minister, I am not moving my amendment.

Amendment made

Page 5, line 33.-

for "and section 38," substitute "section 33 and 38." (83)

(Shri Ramakant D. Khalap)

MR. DEPUTY-SPEAKER : The question is :

"That Clause 9, as amended, stand part of the Bill"

The motion was adopted

Clause 9, as amended, was added to the Bill

MR. DEPUTY-SPEAKER : Shri Rajiv Pratap Rudy - Absent.

The question is :

"That Clause 10 stand part of the Bill."

The motion was adopted

Clause 10 was added to the Bill

MR. DEPUTY-SPEAKER : The question is :-

"That Clauses 11 to 17 stands part of the Bill"

The motion was adopted

Clauses 11 to 17 were added to the Bill

Amendment made

Page 1, line 5. -

Omit "Second". (80)

(Shri Ramakant D. Khalap)

MR. DEPUTY-SPEAKER : The question is

"That Clause 1 as amended, stand part of the Bill"

The motion was adopted

Clause 1, as amended, was added to the Bill

MR. DEPUTY SPEAKER : The question is :

"That the Enacting Formula and long title stand part of the Bill"

The motion was adopted.

The Enacting Formula and the long title were added to the Bill.

SHRI RAMAKANT D. KHALAP : Sir, I beg to move :

"That the Bill, as amended, be passed".

MR. DEPUTY-SPEAKER : The question is :

"That the Bill, as amended, be passed".

The motion was adopted.

MR. DEPUTY SPEAKER : Now the House stands adjourned to meet again on July 31, 1996 at 11.00 A.M.

21.30 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, July 31, 1996/Sravana 9, 1918 (Saka)