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14.58 hrs.

Title: Discussion on the Representation of the People (Second Amendment) Bill, 2002. (Bill passed)

THE MINISTER OF LAW AND JUSTICE (SHRI K. JANA KRISHNAMURTHY): Sir, I beg to move :

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration. "

I have already moved an amendment that by mistake, it has been mentioned as Representation of the People (Second Amendment) Bill, 2002. That amendment has already been given. It is only Representation of the People Bill, 2002.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration. "

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Thank you, Mr. Chairman Sir. We support this Bill, but at the same time, we have to draw certain interpretations which may come in the future and which must be considered. This Bill gives the commencement of the disqualification for a particular period if the fine is paid by the accused. That is from the date of the order of the judgement, that is, from the date of conviction. At the same time, if the sentence is imprisonment, then the disqualification will come into effect from the date of the release of the accused. That means a person can easily be caught in the hold of this type of offences. For example, we know very well that a competent rival who can become the Chief Minister, who was a Chief Minister earlier, can be very easily brought into the fold of enactments like the Prevention of Corruption Act or even the Prevention of Terrorism Act.

15.00 hrs.

They can be put inside a jail and a small conviction is sufficient for that. Very leading Members were now booked under POTA and they are inside the prisons. Suppose, they get some punishment, even a fine is sufficient to put an end to their political career because they will go for an appeal, then they will go for a second appeal or a revision. It will take about ten years. Afterwards, if it is confirmed, then they will go to the prison to undergo the punishment imposed on them. When they come out or when they are released, they will be feeling handicapped in their day-to-day life as a politician. Therefore, this legislation is a very serious legislation having serious consequences.

Actually, these types of enactments are being forced upon us by the fourth pillar, that is, the Press and the media because media wants the politicians alone to be puritans and they should not have any black marks in their career. Therefore, they want the politicians not to involve themselves in any activity other than the political activity. However, in the course of the political activity, there is a power struggle. If a person wants to get power, then the person who is already in power would not like to allow that person to come into power. Since they have power in their hands, be it for a three-year term or a five-year term, they can very easily get the witnesses. Normally, the Indian judiciary depends on oral evidence in criminal cases. There cannot be documentary evidence in every case and, therefore, more dependence is on the oral evidence. Oral evidence can easily be arranged or tutored. In this fragile system where the judicial interpretations are done, how are we going to face the situation?

We can even mention the case of a Tamil Nadu Chief Minister who has faced many cases and on whose head a Damocles sword is hanging now. Do we have to create such situations just to satisfy the Press or the so-called intellectuals who conduct seminars and who feel that the politicians alone should be puritans and they do not care about the rest.

I am in no way supporting the regular criminals who are coming to Parliament. I am in no way supporting them, but at the same time, here is a possibility and we have got the specimen cases in front of us. Therefore, this Amendment Bill will open the Pandora's box. That is why, it should be implemented with a lot of precautionary measures so that the power-struggles should not make it a draconian law or it should not handicap the politicians who are civilised and who want to lead a proper life in their own way.

A judicial magistrate or a district judge can impose simple fines, and oral evidence is sufficient for the higher courts

to confirm that punishment. We know how many politicians were crucified by this method of judicial pronouncements. I would like to say that this Amendment Bill may have a lot of repercussions and, therefore, there should be proper consideration and precautionary steps should be undertaken.

My senior colleague feels that if possible, it can be referred to a Standing Committee or a Select Committee because it will have very strong repercussions. ...(*Interruptions*)

SHRI C.K. JAFFER SHARIEF (BANGALORE NORTH): The hon. Law Minister is sitting here. He comes from Tamil Nadu and he knows what is happening there. It is happening not only in Tamil Nadu, but also it is happening in Bihar. You need to look at the whole spectrum, I mean, the situation prevailing in different parts of the country.

People have reposed faith and given us the opportunity to enact laws. Let us be careful and truthful to ourselves and also to the people while framing the laws. Let us not be driven by the opinion of the people, the intellectuals who are sitting in air-conditioned rooms and debate such issues as these and play to the gallery. Let us be careful about such things.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Sir, after he has completed his speech, we should also be given a chance to speak.

SHRI K. JANA KRISHNAMURTHY: Probably such a confusion would not have arisen if I had, in a regular manner, explained the scope of the Bill.

SHRI C.K. JAFFER SHARIEF : I suggest that this Bill be referred to a Joint Select Committee. When there is a case against a political activist, cost of fighting the case for the Prosecution is borne by the State Exchequer, but the individual has to fight his or her case by spending his or her money, which by itself is a Herculean task.

SHRI K. JANA KRISHNAMURTHY: I will reply to that.

SHRI E.M. SUDARSANA NATCHIAPPAN : Mr. Chairman, Sir, I would like to mention about the Tamil Nadu case. The present Chief Minister was prosecuted by the previous regime and now after she has assumed office, she is taking a lot of steps against the Ministers of the previous regime. There are raids being conducted in their houses. Corruption cases are being filed against them. There is a virtual war between the politicians. What would happen in future? I am not saying that I want to protect the corrupt politicians. But would this not be a tool in the hands of the people who are presently in power to see that the people who intends to come to power is handicapped? In case of a flat race when a person is running, he or she should not be obstructed by the other person, maybe, in such an event, there is a possibility of even the other person ending up winning the race. This should not be allowed to happen. At the same time, I would like to very candidly submit that persons who are criminals should not be allowed to come into politics. But the politicians should not be misconstrued as criminals simply because of this enactment. This would have very strong repercussions. It is because the persons who comes to power, either at the Centre or at the States, would remain in power for a period of five years and within this period of their being in power, they can mis-utilise the provisions of this enactment by putting their political opponents to various kinds of hardships.

We are aware of many such incidents that had happened in this country. I need not name the persons, who had the potential of becoming the Prime Minister of this country, who were facing corruption charges simply because some initials of their names were found in a diary belonging to a person who was involved in a scam. They were prosecuted for so many years. Fortunately for us, the politicians were acquitted by the higher Courts. Otherwise, what would have happened to their future? Such politicians would never have been involved in any case of corruption in their life.

Therefore, I would request that there should be some thinking on this. There should be a thorough study on this. There should be precautionary measures. I am not saying that every law is misused. But we are witnessing such things everyday for the last about seven years. The same thing happens in other places as well. It can happen in other States as well by utilising the provisions of this type of an enactment. That is my question. It may be considered by this august House whether, even after this Bill has been discussed and debated, it could be referred to a Standing Committee or a Joint Select Committee for further consideration or not.

प्रो. रासा सिंह रावत (अजमेर) : माननीय सभापति जी, मैं सरकार के द्वारा लाए हुए इस बिल का पुरजोर समर्थन करता हूँ। वास्तव में हमारे जो प्रतिनिधि हैं, वे अपराधीकरण से सर्वथा मुक्त हों और जैसे अक्सर कहा जाता है कि राजनीति के अंदर माफिया एवं अपराधी गिरोह का वर्चस्व होने लग गया है। कई राज्यों में ऐसे-ऐसे लोग जनप्रतिनिधि बन कर विधानसभाओं, संसद के अंदर या अन्यत्र भी पहुंच जाते हैं और केवल बाहूबल के आधार पर, अपने अपराधीकरण की प्रवृत्तियों के आधार पर अथवा कभी-कभी मनी पावर के आधार पर जीत कर आ जाते हैं।

यह बिल इसी दो को दूर करने के लिए लाया गया है कि राजनीति में आने वाले लोग अपराधीकरण से मुक्त हों। देश में एक स्वर से सुना जा रहा है कि "राजनीतिज्ञों का अपराधीकरण" और "अपराधियों का राजनीतिकरण" - ये दोनों चीजें हमारे जनप्रतिनिधित्व की दृष्टि से घातक हैं। इसलिए मैं एनडीए की सरकार को बधाई देना चाहता हूँ। लेकिन ये इसे टुकड़ों में ला रहे हैं। अगर समग्र रूप से चुनाव सुधारों को लिया जाता तो उचित होता। लेकिन कुछ नहीं से तो कुछ करना ही अच्छा है। इसलिए मैं इस सरकार को बधाई देना चाहता हूँ। हमारे देश की परम्परा रही है कि और उसका मैं एक दृढ़ता देना चाहता हूँ। राजा अश्वघोष के राज्य के बारे में पूछा गया, तो उसने अपने राज्य के बारे में कहा कि मेरे राज्य में कोई शराबी, कोई भ्रष्टाचारी, कोई अपराधी, कोई परस्त्रीगामी कोई दुराचारी नहीं है। हमारे देश में ऐसी व्यवस्था थी। लेकिन आज जो देश की जनता का प्रतिनिधित्व कर रहे हैं उनके अंदर भी अपराधी प्रवृत्ति बढ़ती जा रही है। हमारे यहां कहा भी गया है कि "यथा राजा तथा प्रजा" - जैसा राजा होगा, वैसी प्रजा होगी। इसलिए राजा के अंदर सुधार लाना अत्यंत आवश्यक है। इसलिए लोक प्रतिनिधित्व (संशोधन) विधेयक, 2000 लाया गया है। लोक प्रतिनिधित्व अधिनियम, 1951 जब बना, तब से अब तक बहुत बार चुनाव लोक सभा और राज्य सभा के हो चुके हैं लेकिन तब से अब तक चुनावी प्रक्रिया के अंदर बहुत दो आ चुके हैं। उनको दूर करने के लिए भी निरंतर सुधार होते रहे हैं और यह सुधार भी उसी कड़ी के अंतर्गत है। इसमें है कि किस तारीख से सजा मानी जाए और उम्मीदवार को अयोग्य घोषित किया जाए।

(iii) for the portion beginning with the words "shall be disqualified" and ending with the words "such conviction", the following shall be substituted, namely:-

"shall be disqualified, where the convicted person is sentenced to -

- i. only fine, for a period of six years from the date of such conviction;*
- ii. imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release";*

यह सब इसके अंदर इंकलूड किया गया है। इसमें तीन बातें और रखी गयी हैं, The Commission of Sati (Prevention) Act, 1987 के अंतर्गत सती प्रथा कानून निरिद्ध है, फिर भी कुछ लोग भावुकता में आकर सती प्रथा को बढ़ावा देने लगे हैं। राजस्थान का दिवराला कांड हो या उत्तर प्रदेश और मध्य प्रदेश में हुई सती की घटनाएं हों। जो भी सती प्रथा में अभियुक्त पाया गया है और उसके साथ-साथ उनको भी जो Prevention of Corruption Act, 1988 में भ्रष्ट सिद्ध हो चुका है या जिसने भ्रष्ट आचरण किया है, या किसी दूसरी तरह से पैसे का गबन किया है, उनको भी अयोग्यता की सूची में सम्मिलित किया गया है। The Prevention of Terrorism Act, 2002 के अंतर्गत भी जो व्यक्ति पोटा कानून के तहत सजा पा रहा है या जिसके ऊपर अपराध सिद्ध हो चुका है, उनको राजनीति के अयोग्य घोषित करने के लिए यह कानून लाया गया है।

मैं समझता हूँ कि सरकार ने बहुत साहस का कदम उठाया है। निश्चित रूप से राजनीति में पवित्रता लाने के लिए, अच्छे लोगों को राजनीति में लाने के लिए, अपराधीकरण की प्रवृत्ति को रोकने के लिए, अपराधियों को राजनीति से दूर रखने के लिए, उसके दुपरिणामों से रोकने के लिए इस प्रकार का कानून अत्यन्त आवश्यक था। ऐसे कानून का सब को स्वागत करना चाहिए।

मैं इस संदर्भ में एक बात अवश्य कहना चाहूंगा। चुनाव सुधारों के संबंध में दिनेश गोस्वामी की रिपोर्ट आई थी। उसने कहा था कि रिप्रैजेंटेशन एक्ट के अन्तर्गत ये संशोधन होने चाहिए। इसके बाद भी इस संबंध में कई कमेटियां बन चुकी हैं और उन्होंने कई सुझाव दिए लेकिन उन सारे सुझावों को अभी लाया नहीं गया है। चुनावों में कितना खर्चा होना चाहिए? चुनावों में खर्चा बहुत होता है। निर्वाचन आयोग को केवल दिखाने के लिए उसकी सूचना दी जाती है। चुनावों में खर्चा ज्यादा करके वे लोक सभा और विधान सभा में आते हैं। जैसे दूसरे देशों में उन्हें राजको से पैसा दिया जाता है, वैसे यहां भी दिया जाए ताकि अनावश्यक खर्चा न हो। दिनेश गोस्वामी आयोग की सिफारिशों को सरकार जल्दी लागू करे ताकि चुनावों में पवित्रता आए। यह अपराधीकरण से मुक्ति वाला मामला है। " जैसा खाएंगे अन्न, वैसा बनेगा मन, जैसा पीएंगे पानी, वैसी बोलेंगे वाणी, जैसा करेंगे संग, वैसा चढ़ेगा रंग, जैसा होगा आचार, वैसा बनेगा विचार, जैसी होगी मति, वैसी होगी जीवन की गति, जैसा जानेंगे श्रेष्ठ धर्म, उतना होगा श्रेष्ठ कर्म, जितनी जानेंगे नीति, उतनी अच्छी होगी जीवन की रीति, जैसी होगी करनी, वैसी पार उतरनी "

इन सिद्धान्तों के आधार पर और राजनीति में पवित्रता लाने के लिए जन प्रतिनिधित्व कानून में ये संशोधन बहुत जरूरी हैं। मैं ऐसा समझता हूँ कि अब यह विवाद समाप्त होना चाहिए कि कब से उन्हें अयोग्य माना जाए? इसमें स्पष्ट कहा गया है कि जिस दिन से जुर्माना है, उसे कौन से समय से अयोग्य ठहराया जाएगा और जिसे कारागार की सजा दी गई है उसे 6 साल के लिए अयोग्य घोषित किया जाएगा। वह जेल से रिलीज होने के 6 साल तक और जुर्माना होने पर छः साल तक चुनाव नहीं लड़ सकता है।

आपने मुझे बोलने का जो अवसर दिया, मैं उसके लिए आपका आभारी हूँ। मैं एक बार पुनः सरकार को बधाई देता हूँ कि वह चुनाव सुधार संबंधी नियमों में धीरे-धीरे संशोधन कर रही है। धीरे-धीरे करते हुए एक दिन ऐसा आएगा कि रिप्रैजेंटेशन ऑफ पीपुल्स एक्ट पूरी तरह इतना सशक्त हो जाएगा कि कोई अपराधी राजनीति में आने की हिम्मत नहीं करेगा।

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Mr. Chairman, Sir, first of all, I beg to apologise that I was not present when you called my name to speak on this Bill.

MR. CHAIRMAN : It is all right.

SHRI PRIYA RANJAN DASMUNSI : I assure you that it will not be repeated.

Sir, I rise to extend our very critical support to the Government on this Bill. The critical support is not in the sense that we are questioning the spirit of the Bill. We are very sincere to support the very spirit of the Bill. We are also sincere to understand the requirement and the need of the day. We are also extending our support to the Government for their realisation of bringing forward this amendment.

There is a saying in English: "It should not only be good; it should appear to be good." Now, criminalisation of politics and criminalisation in politics have been the talking point in the entire country for the last so many years. You go to any society, you go to any place in public life, if anybody is denigrated today in the eyes of the people and whom people talk with contempt, unfortunately, it is the politicians. But look at the days of the struggle of the people who came from the Freedom Struggle, who built the entire India's political pyramid with great sacrifices. They never even dreamt of that the politicians who are the worshippers of the democracy, who are devoted to the cause of the people, will be once dealt with contempt.

Unfortunately, the focus of the media, especially the focus of the electronic media today is that if you are a Judge, you are a holy man.

If you are a journalist, you are a super holy man. If you are a bureaucrat, you are a master of the situation but if you are a politician, you are a dirt. That is how we are being considered and treated. We have to address ourselves as to why we have come to this stage.

It is because, cutting across Party lines, the social and the political situation in various parts of the country sometimes compel us - I am not taking the name of any particular political Party - to make compromises, in a given situation, with the undesired elements. As a result, presence of even one or two out of 543 Members in an Assembly make the whole situation muddy and people feel that the whole assembly is of the same kind. That is why we have been led to this situation

Most of us have joined politics with certain commitments and vision, whichever Party we may belong and this vision begins with a dream to serve the people and to take up issues of the people in terms of the democratic arrangement of the country. When I joined political Party through the students' movement we had a few good many friends. We did differ on occasions. Myself and the present Chief Minister of Bengal studied together and we fought on the political principles and ideologies. In those days we had a dream to be a leader like Prof. Hiren Mukherjee of CPI, Shri Nambudripad of CPI(M), Shri Minoo Massani of Swatantra Party, Shri Kamat, Shri Madhu Limaye, Shri Atal Bihari Vajpayee, Shri Humayun Kabir and other great parliamentarians who used to come to the House. We used to copy them - including Pandit Jawahar Lal Nehru and his colleagues - in our mock-Parliaments. This is the kind of a situation we wanted to see in the country. We wanted to see this type of Parliament, Assembly and also this kind of politics. We used to hear them, sitting in the Visitors' Gallery, with rapt attention. When we were students, we used to read their speeches, copy their speeches from the Parliament Library to ensure the strength of the debate. Where have those days gone? Who bid good-bye to those days? I would say that unfortunate social tensions and developments have resulted in this. If people believe that good people should come to politics then good people should make a motto to join politics. Let them join any Party they like. If ten good people, good technocrats, best students or best lawyers choose to serve the political system of the country without avoiding it, the system will be strengthened. When I see a retired Army personnel, brilliant Law Graduates, lawyers, former community leaders, cooperative movement leaders coming to Parliament, I feel the future of the democracy of India, its Constitution, is enriched and strengthened. It is, therefore, the bounden duty of the political parties to find the people of this calibre and bring them into the mainstream. I will give you an example.

Suppose, we choose the best man and bring him to the Party office on the day of nomination to election, the first remark will be that he has come straight from the University, has he served the Party at the grass root level? No. So, he may be considered only an intellectual or a brilliant person in Army or legal profession, brilliant in his approach to science and technology but certainly he is not a grass root level worker of the Party. This is the first criterion.

The second criteria is this. Does he stand by the workers? We get confused because of such issues. There are two aspects of serving the workers. Firstly, educating the workers to build up the political struggle and to defend the workers in some violent situation.

Sometimes somebody becomes famous by using his gun power widely and recklessly in one or two violent incidents and he becomes a *dada*. At some point of time, even some political party may consider him a powerful man who can manage booths for it and can terrorise people. Due to this, he is sure to win. The political parties think that they would not make him Minister but if he joins us, he would add to their strength. This very concept is a concept of compromise in our entire political system cutting across party line. The day we make this compromise, any number of Bills we may bring, we cannot strengthen our democratic system and other things.

Sir, Shri Rajiv Gandhi gave ticket to Shri Nitish Sengupta, the former Revenue Secretary. But some other person was the aspirant to get ticket from there. So, some of our people shaved his head and put all dirty things on his head. They did not even allow him to file his nomination paper. He was able to file his nomination paper with great difficulty. He is not present here. He would have vouchsafed for what I am saying. But the other section of the workers said that he is a good man and he should come. So, this is how we ourselves have polluted the system. Therefore, I first address the issue that the spirit of the legislation can be enriched finally if all the political parties

address themselves to support the political system with the best possible talents of the party, come what may.

The other day, Shri Mulayam Singh Yadav was telling me the legacy of Uttar Pradesh Assembly. It used to send such stalwarts who were more powerful than the parliamentarians of the Lok Sabha. It sent a lot of good people. Where have those days gone? This is the talking point in the media today. Where is that Legislature of Uttar Pradesh? Where is that Parliament of India? It is not that we are all fools. We are also good people. But due to two-three incidents, the entire system gets bad colour. Therefore, logically this kind of provision in the law is no doubt, very much justified. As I said earlier, it should not only be good but it should appear to be good.

Now let us discuss the answers. I am not trying to score a political point today. But if I hold a very high office in the Government and I am *prima facie* charged with some offence by any court of law, should I remain in office? To justify the intention of the Government, the legislation should not only be good but it should appear to be good. Does it not address to my conscience that I should leave the office till the whole thing is settled? I praise profusely late Madhavrao Scindia and Shri Advani. On a small, unfortunate, uncalled for, and ill-motive charge about a *havala* transaction, they resigned and said that they will not come back till it is resolved.

These are the things where people are won. People do not read these Acts. How many people read these Acts? It will be confined to you and I and the people who argue in the court. But the people in democracy are the most sensitive. They are convinced when they watch and see the system. That is why, I said that the legislation should not be good but it should appear to be good.

In that context, while we address this legislation, we must know what we did. Shri V.K. Krishna Menon was not a dishonest man. He was a great man and a great champion of our freedom struggle. In those days, he held many meetings in London against the British Raj. He was a very competent Minister of Defence. But during Chinese aggression, when he was charged in this House for certain irregularities, he resigned. He was a towering personality. Pt. Jawaharlal Nehru had no other option but to advise him to step down. He stepped down and Shri Y.B. Chavan was brought in. Are we following the same legacy today? We are not.

Sir, this morning, Dr. Vijay Kumar Malhotra presented a Preliminary Report on the incident involving Shri Devendra Prasad Yadav. The Committee had recommended that to ensure transparency of the investigation, the Deputy-Commissioner of Police should be put under suspension without accusing that he is guilty.

It is an observation not to influence the inquiry. Is it, therefore, not desirable that if any court finds anybody in the Government as an accused *prima facie*, he or she should not remain a part of the Government till cleared? Whatever may be the case; they may be in the Government or on the other Benches, if there is an observation by a court of law that this man is accused *prima facie*, or that he is required to be tried, till the trial is over he should not be holding any public office. It is to justify the notion that 'it is not enough to be good, it should also appear to be good'.

Are we doing it? We are not. There we take a political stand. What I am saying is not a political stand; it is a logical stand. I know a friend of mine, Shri Chadulal Chandrakar. Today he is not alive. He was a Minister at one time when Shri Rajiv Gandhi was the Prime Minister. A report came that without intimating the External Affairs Ministry, Government of India, or our Party, he went to Taiwan maybe on a private visit and a dossier came. Then he was asked to step down from the Ministry.

In this Bill there is a provision for imposition of fine. The Law Minister may kindly explain this to us. If in an offence, only a fine of Rs.10 or Rs.10 lakh is imposed and the imprisonment is only for three years – or either a fine or imprisonment – even for that fine, you may like to appreciate this point, should a person be disqualified? This is a grey area where I need your guidance. You will have to educate and enlighten us as to what is your intention. This is wrong. The Parliament must also consider as to how this will be applied.

I am not casting any aspersion on the judiciary. I have been watching for the last one or two years an uncalled for and unwarranted enthusiasm in the name of judicial activism in this country. It is totally uncalled for. Today our respected Prime Minister intervened in the matter of sugarcane growers. Knowing full well that the Government of India can decide the matter, the court stepped in and asked what would happen to the sugarcane growers. Tomorrow the court will step in and ask what I will do or what he will do. The court will guide the Parliament and say it should do it or do that. This is too much. If the court considers a few judges of Karnataka to be examined on certain things and we try to remotely react to it, they say we are attacking judiciary. I am not attacking the judiciary. Judiciary is one of the respected pillars of democracy. But an impression is created that all politicians are thieves and dacoits whereas only holy people are sitting in the temple of judiciary and they will try us. This impression, I warn, is an indication of demolition of the constitutional system and Parliamentary Democracy. For a single case, for a single black sheep, for one bad judge as I cannot accuse the entire judiciary, in the same manner, for one offence committed by a particular politician of a particular State, if the judiciary tries to summon the lawyer and tries to teach him a lesson by saying that 'oh, after all, he is a politician', this is a dangerous thing for the entire country. They

should stop this kind of character assassination.

You have given this power of imposing a fine. It simply means I have not been given punishment of imprisonment, I will have to give only a fine to an individual and I am giving the fine. For this fine also do you mean to say that I will be disqualified? Here I thought you could have discussed the issue with us or sent it to a Joint Parliamentary Committee to call more experts and give wider thought and then bring it here. But I do not know what for you are in a hurry. If I oppose it now, you would say the Congress Party is against it. कांग्रेस पार्टी अच्छा काम करने से रोकती है। हम आपको कभी नहीं रोकेंगे, आप करते रहिए। लेकिन इसके लिए अगर किसी दिन आपको भुगतना पड़े तो हमको शिकायत मत कीजिए।

I will conclude in two minutes. The Minister is kind enough to bring in three provisions. Commission of Sati Act 1987 is one provision. I am grateful to our late lamented leader Rajiv Gandhi.

I was also a Minister in his Government. At that time, he had brought this legislation... (Interruptions) It is brought within the purview. I salute and the Parliament also should salute the contributions of Raja Ram Mohan Roy. It is he who first created the movement in the banks of Ganges against the British *raj*. He was not only against the British *raj* but also against the orthodox, religious, obscurantist Hindu community which tried to misinterpret the provisions and misguided the society. I do not know how many great holy unfortunate mothers had to die in that compulsion. This is all done by Hindu fundamentalists. Raja Ram Mohan Roy stood against them. I am glad that the Bill has now been brought. You must bring this provision. I am grateful to the Minister for having considered this matter.

The second point is on POTO. Do not take it that I am scoring political points here. For instance, if Shri Vaiko is convicted under POTO, he cannot contest for six years and the court, whatever may be the judgement, may punish him for 10 or 20 years. After all, in a political system, POTO can be misused sometimes. You may agree or disagree with me. Even I can misuse it if I would come to power. For that reason, I may take political revenge against a friend like Shri Raghunath Jha saying that he was behind sabotage of the Rajdhani Express, and that he should be brought under POTO by influencing various things like assuring somebody that he will be put as the Chairman of the Commission of Inquiry and if he would give the findings against Shri Raghunath Jha to settle my score, he is also influenced. So, this provision is good but there should be a Committee to review all such decisions and judgements. Otherwise, I am afraid that it could be politically misused.

Other provisions are all right like the Prevention of Corruption Act. You have brought it and I am grateful to you as this was highly required. But my only last appeal to you is this. Why not you think of, if not today or tomorrow or in the next Session, a law which says that whoever hits or engineers in hitting the secular foundation of the Constitution, be it a church or a temple or a mosque, after the last findings of the court, should not enter into Parliament. It is because Parliament is for the secular foundation of democracy. This Parliament is the only guarantee for secularism. Till a charged person is found accused, he should not hold an office. You may bring such a law. Let it be the case of a Hindu temple or a Christian church or a Muslim mosque. Those who are found guilty should not be allowed to enter Parliament. If this could be further rectified in your period, then I should say that the intention is not only good but it appears also to be good.

SHRI K. MALAISAMY (RAMANATHAPURAM): Mr. Chairman Sir, I am thankful to you for giving me a chance to speak on the Bill and to make my brief presentation.

At the outset, I am inclined to support the Bill on the ground that it has done something, though not fully, and as such, I am giving my qualified support. As a student of management, I have been given to understand that any single problem will have more than one solution. In that way, instead of making a comprehensive electoral reform, they have made a beginning and I am happy that the Bill has been brought to a limited extent.

As far as the Bill is concerned, as other Members who spoke earlier to me rightly pointed out, it has crossed over various stages. In pursuant to the Supreme Court direction, the Election Commission has issued instruction prescribing affidavit and on that situation, the Government has come forward to promulgate an Ordinance. The Ordinance has now been formalised. It is now becoming a law. To that extent, this Bill is before us now.

Sir, as far as the Bill is concerned, it has got a lot of inadequacies from what the Supreme Court has said and what the Election Commission has followed. I would like to mention the following inadequacies. They have mentioned about educational qualification, but that has been left out. As far as the disclosure of assets and liabilities are concerned, only the candidate's assets and liabilities are taken and that of the spouse and dependants have been left out. Not only that, there has been shift of filing 'from whom' and 'to whom'. The candidate, before election, has to disclose all these information regarding assets and liabilities before the Returning officer. Now it is changed.

DR. RAGHUVANSH PRASAD SINGH (VAISHALI): Sir, this is Second (Amendment) Bill. He is speaking about something else.

MR. CHAIRMAN : I know. Shri K. Malaisamy, this is not that amendment. This is a limited amendment to include

three or four offences.

SHRI K. MALAISAMY : Before touching upon the merits of the Bill, I am trying to make certain observations. We are living in a democracy, that too in the largest democracy in the world, that too in a working largest democracy. We are used to free and fair elections. As you know, Sir, conducting free and fair elections periodically is not an easy task. It is a gigantic and massive task, ranging from 500 million electorate going up to 5.5 lakh polling stations throughout the length and breadth of twenty-eight States and seven Union Territories, one end at the top of the hill and the other end beyond the sea, in the islands and in thick forests. All these things have been done. This kind of free and fair election is the bedrock of our democracy. Over a period of time, during the last five decades, the elections have been going on and we pat ourselves that we have done excellently well in democracy. In the initial two decades, everything went on well according to me. It is the report of others also. It went on. Free and fair elections were there.

From the third decade - till now, the deterioration and de-generation started and erosion of ethics and vanishment of values have crept in. The entire House will agree that there is a total deterioration and de-generation not only at the level of politicians but at all levels. The perceptions have changed and the value systems have changed, not only in the case of politicians but also at every level. I want to insist that it is at every level. In that case, due to the system, due to the electoral system, due to the governance, due to other situations, one has to make a lot of compromises. But unfortunately, politicians are being spotted out easily. That is why everybody seems to be looking at us with contempt. On the other hand, the persons who are blaming the politicians, blaming the system, are educated, well-informed, enlightened, and sophisticated. That cadre of the society should come to politics and try to cleanse the politics instead of sitting on the fence and trying to blame us. What I am trying to say is that, political leaders with vision and mission, political leaders with direction, political leaders with disinterested devotion, and true spirit of honourable service were there. They were 3S namely, self-discipline, sacrifice and service. This is on one side. Now a days, it is accused that politicians are endowed with five Ms. What are these five Ms? The five Ms are: Muscle power, Money power, Ministerial power, Media power and mafia power.

This is the way that we are being branded. Now, communalism, casteism, corruption, criminalisation of politics are surfacing. This is the serious situation which is prevailing, for which something has to be done. I agree with the attempt of bringing a Bill to control this kind of evil. This is not enough. Mr. Minister, my point is that you must go in for a comprehensive electoral reform. A number of Committees were there. A pretty number of fine electoral reform measures have already been given. How to improve upon them, how to cleanse the system and how to attract the well-meaning, decent and dignified politicians like many of us to come to this House, should be the approach.

I want to get some clarifications from the hon. Minister before I conclude. As I could know, right to vote is the statutory right. It is not a constitutional right. I would like to know whether the right of information is a constitutional right or a fundamental right. As per the observation of the Supreme Court, it is a natural right flowing from the concept of democracy. They have not said it as a fundamental right. If that is the case, should it be taken as a fundamental right? This is my first point. What is your view on that?

Sir, I have got the greatest respect for the judiciary. The Indian democracy stands on three pillars of, the Executive, the Legislature and the Judiciary operating through the bureaucracy and assisted by the Fourth Estate. These three pillars, the three limbs of democracy should revolve round their own orbit without dashing with each other. But, unfortunately, the judiciary seems to be encroaching upon the Legislature and Executive. It is assuming more powers. As has rightly been said by Shri Dasmunshi, there is uncalled activism. Many times, it is said that from activism, it has gone to the extent of adventurism. It is not only that. They do not stop with that. From adventurism, they go rarely to terrorism also. This is what many people say. So, I would like to know whether the Supreme Court has got the powers to give a direction to the House to legislate; whether it has got the power to ask us to legislate in a particular way.

MR. CHAIRMAN : Even the Supreme Court has said that it has no power to compel the Parliament to legislate.

SHRI K. MALAISAMY : Sir, I thank you very much for giving a clarification. On that point also, I need the hon. Minister's clarification.

Then, my third point is whether it is desirable or advisable to over rule the guide lines of Election Commission.

Now, I come to one important point. It is about the disclosure under the Act....(*Interruptions*) .

Let me conclude now. That will give a sigh of relief to the Chairman.

MR. CHAIRMAN: The Bill is quite simple. The provisions are about corruption, *sati* etc.

SHRI K. MALAISAMY : I feel that many anomalies are there. According to me, the period of operation of disqualification starts from the date of release and it goes beyond six years. I endorse the view of many of our

colleagues here. I would like to know whether it is right or not. On the point of fine also, I am in agreement with the views expressed by the earlier speakers.

With this I conclude.

श्री मुलायम सिंह यादव (सम्मल) : सभापति महोदय, जनप्रतिनिधि संशोधन विधेयक माननीय कानून मंत्री जी ने सदन में प्रस्तुत किया है, इसके लिए मैं उनको धन्यवाद देता हूँ।

महोदय, मुझे प्रसन्नता है कि सर्वोच्च न्यायालय के निर्देशों और चुनाव आयोग द्वारा लिये गये अव्यवहारिक निर्णयों पर पूरी तरह से विचार-विमर्श करने के बाद इस विधेयक में सभी राजनीतिक दलों के सहयोग से प्रश्नगत विधेयक का प्रारूप तैयार किया गया था।

15.50 hrs. (Dr. Raghuvansh Prasad Singh in the Chair)

बहुत सारी बातें मैं दोहराना नहीं चाहता हूँ, क्योंकि माननीय सदस्य, श्री प्रियरंजन दासमुंशी जी ने सारे तथ्य सदन के समक्ष रख दिये हैं, लेकिन मैं मुख्य रूप से कुछ बातें कहना चाहता हूँ। राजनीतिक अपराधीकरण के मामले में हमारी आरम्भ से यही राय रही है कि राजनीतिक अपराधीकरण को राजनीतिक दल ही रोक सकते हैं, कानून नहीं। और कानून के माध्यम से यदि इसे रोका जाएगा, तो इसका दुरुपयोग होगा। हम इस बात को बार-बार नहीं दोहराना चाहते हैं, लेकिन यह कानून बनने के बाद आपके हाथ में कुछ नहीं रहेगा। संयुक्त अधिवेशन में हमने पोटो के बारे में भी यही कहा था। हम बार-बार निवेदन करना चाहते हैं कि इसका दुरुपयोग होगा। श्री वैको जी ने कहा था, कि पोटो विधेयक का विरोध करने वाले विरोधी हैं, लेकिन हमने सबसे पहले कहा था कि आपके ऊपर उसका सबसे पहले दुरुपयोग होगा और वही हुआ। दुर्भाग्य से श्री मुरासोली मारन जी का स्वास्थ्य ठीक नहीं है, हमारी कामना है कि वे जल्दी स्वस्थ हों। उन्होंने सबसे पहले रासुका का समर्थन किया था और रासुका का दुरुपयोग सबसे पहले उन्हीं के खिलाफ हुआ। कानून मंत्री जी, राजनीतिक बदलाव होते रहते हैं, लेकिन आप इस पर गंभीरता से विचार कीजिए खतरे की घन्टी इधर भी हो सकती है और उधर भी हो सकती है जो इस विधेयक को लाए हैं। हम इस विधेयक का समर्थन करते हैं और आपको धन्यवाद देते हैं।

जहां तक अपराधीकरण रोकने का सवाल है, जनता की निगाह में जो अपराधी है, वह अपराधी है। सभी राजनीतिक दल जानते हैं कि वह जनता की नजर में अपराधी है। उनको यदि राजनीतिक दल टिकट न दे तो यह समस्या स्वतः ही समाप्त हो जायेगी। हम तो यहां तक समझते हैं - आप समझते हैं कि हम गलत कह रहे हैं और हम समझते हैं कि आप गलत कह रहे हैं - कि हमारे जितने उम्मीदवार हैं, उनकी सूची दे दें कि ये लोग अपराधी हैं और हम आपकी सूची दे दें, तो उस पर विचार कर लिया जाए। हम यहां तक बहस करने के लिए तैयार हैं, तथा यहां तक तैयार है कि परस्पर विचार कर अपराधी चिन्हित करें तथा उन्हें टिकट न दें। लेकिन कानून के माध्यम से अपराधीकरण को रोकना संभव नहीं है। ऐसी स्थिति में जो अच्छे व्यक्ति हैं, उनको चुनाव लड़ने का मौका नहीं मिलेगा। आपकी और हमारी हालत ऐसी हो जाएगी कि चुनाव लड़ने के लिए लोगों को क्लैक्टर साहब, एसपी साहब के पैर छूने पड़ेंगे कि हम पर कृपा रखिए, कोई झूठा गंभीर मुकद्दमा दर्ज मत कीजिए। कोई मुकद्दमा दर्ज हो गया, तो हम चुनाव नहीं लड़ पायेंगे। ऐसी स्थिति में हम फिर किसी भी अन्याय के खिलाफ, अन्याय के विरुद्ध नहीं लड़ सकते हैं। यह हमारा मौलिक अधिकार है, लोकतान्त्रिक अधिकार है, संवैधानिक अधिकार है, लेकिन फिर हम उसका उपयोग नहीं कर सकते हैं। अभी माननीय सदस्य देवेन्द्र प्रसाद यादव जी की पिटाई हो गई। अगर ज्यादा लड़ेंगे, तो उनके खिलाफ, जैसा कि पहले कानून है, मामला दर्ज हो जाएगा और नाराज होकर उन्हें चुनाव नहीं लड़ने दिया जाएगा। आपने यह विधेयक लाकर अच्छा काम किया है। पहले तो बिना सोचे-समझे कानून पास होते रहे हैं, लेकिन मंत्री जी ने बहुत सोच-समझ सभी दलों की सहमति से इस विधेयक को प्रस्तुत किया है और हम इसका पूरी तरह से समर्थन करते हैं। हम इस बात को फिर दोहराना चाहते हैं कि यह समस्या स्वतः ही हल हो जाएगी, अगर राजनीतिक दल अपराधियों को टिकट न दें। हम देख रहे हैं, जिनको हम अपराधी समझते हैं, कानून विरोधी समझते हैं, दासमुंशी जी ने सही बात कही, उन्हें एक प्रदेश की सरकार सबसे ज्यादा बढ़ावा दे रही है।

हमें और आपको अपराधीकरण रोकने के लिए ऐसे लोगों को टिकट नहीं देना चाहिए तो स्वतः ही राजनैतिक अपराधीकरण रूक जाएगा। यह संकल्प सदन को लेना चाहिए, लेकिन कानून के माध्यम से नहीं।

महोदय, आज भी राजनैतिक व्यक्ति आम जनता की सेवा सबसे ज्यादा करते हैं और ज्यादातर राजनैतिक नेता बिना स्वार्थ और लोभ के जनता की सेवा करते हैं, लेकिन सबसे ज्यादा आलोचना के पात्र वही होते हैं। ये आलोचना ऐसे राजनैतिक लोग करते हैं, जिनका जनसेवा से कहीं भी कोई सरोकार नहीं होता है। लेकिन मीडिया के माध्यम से लोकप्रियता प्राप्त करने के लिए हम लोगों पर अनावश्यक और गंभीर आरोप लगा कर अपना नाम छपाते हैं। हम लोग अगर मीडिया में भी कोई सकारात्मक बात कहेंगे तो वह उतनी नहीं छपेगी, जितनी माफियाओं के बारे में कहानियां लिखी जाती हैं। आदरणीय सोमनाथ चटर्जी जी इस सदन के आदर्श सदस्य हैं, इन पर कोई आर्टिकल नहीं लिखा जाएगा और अपराधियों पर आर्टिकल लिखा जाएगा। सबसे ज्यादा आलोचना के पात्र हम और आप राजनैतिक लोग हैं और इसका सबसे दुखद पहलू यह है कि इस मुहिम में राजनैतिक व्यक्ति ही सबसे ज्यादा आगे होते हैं, इसमें हम और आप सभी आ जाते हैं।

महोदय, हमने कई बार सदन में कहा कि अगर किसी भी एक माननीय सदस्य पर अन्याय हुआ है, हमने परम्परा देखी है। पूरा सदन उस अन्याय के विरोध में खड़ा हो जाता था। प्रिय रंजन दासमुंशी जी, रघुनाथ झा जी और हम भी कहते हैं। हम लोगों ने किस के नेतृत्व में राजनीति शुरू की थी। हमारे और आपके कौन आदर्श थे - आचार्य जी, जयप्रकाश जी और डा. राममनोहर लौहिया जी। हम लोग ने इनके नेतृत्व में छात्र जीवन से ही संघर्ष किया है और, जेल गए हैं।

15.57 hrs. (Mr. Speaker in the Chair)

महोदय, हमें उनके नेतृत्व एवं मार्गदर्शन का सौभाग्य प्राप्त हुआ है, 13 साल की उम्र में ही हमें जेल में जाना पड़ गया था। हम उनसे इतना प्रभावित थे। किसानों पर सिंचाई टैक्स बढ़ा दिया गया और हम 13 साल की उम्र में ही समाजवादी आंदोलन में जेल में चले गए। यह बात अलग है कि हमें 28 घंटे की सजा मिली तथा अन्य लोगों को दो महीने की हुई। हमारे देश के जो आदर्शवादी लोग थे हम भी उनके विचारों को सुनकर तथा समाचार-पत्रों में पढ़ कर तथा उनसे प्रभावित होकर जेल में गए थे और राजनीति में आए थे। हमने यह कभी नहीं सोचा था कि भविष्य में माफियाओं को टिकट मिलेगा और वे सबसे ज्यादा वोटों से जीतेंगे। आज हम कहते हैं, कानून मंत्री जी और उप-प्रधानमंत्री जी, जिनके पास गृह मंत्रालय भी है कि सबसे ज्यादा नौकरशाह और पुलिस माफियाओं की मदद करते हैं। इस कानून में सोच-समझ कर सुधार करें ताकि अच्छे लोग चुनाव लड़ने से वंचित न रह जाएं। जब हम जाते हैं तो पर्व की जांच-पड़ताल होती है और उसी रात को दो संगीन केस हम लोगों के विरुद्ध लिख दिए जाते हैं तथा उसी पर एतराज होता है कि पर्चा खारिज किया जाए, इन पर दो संगीन केस हैं। यह सुझाव किस ने दिया, जिनको धरातल का ज्ञान नहीं है। वे लोग तथाकथित बुद्धिजीवी हैं जिन्हें पुलिस की भूमिका का अनुभव नहीं है। उस स्थिति में वह सबसे बड़ा दारोगा हो जाएगा। (व्यवधान)

हम ज्यादा बोलना नहीं चाहते। आज जो कहा गया वह सही है, विधानसभा की बात छोड़ दीजिए। हम कहना चाहते हैं कि लोक सभा और राज्य सभा के कुल मिला कर लगभग 786 सदस्य हैं और इनमें से मुश्किल से दो प्रतिशत ऐसे हैं जिनकी छवि खराब हो। किन्तु दूसरे क्षेत्रों में चोहे नौकरशाही हो और चाहे उद्योग जगत हो, उनकी छवि की क्या स्थिति है, इस बारे में आपने कभी सोचा है? (व्यवधान)

अध्यक्ष महोदय : मुलायम सिंह जी, आपको कितना समय और लगेगा?

श्री मुलायम सिंह यादव (सम्मल) : अध्यक्ष महोदय, मैं पांच-दस मिनट में अपनी बात समाप्त कर दूंगा।

16.00 hrs.

अध्यक्ष महोदय : मुलायम सिंह जी, मैं चर्चा पहले लेना चाहता हूँ। आप बाद में भी बोल सकते हैं क्योंकि दूसरी चर्चा मुझे नियम के अनुसार चार बजे लेनी पड़ेगी।

श्री मुलायम सिंह यादव : हम तो इससे सहमत हैं और समर्थन के लिए खड़े हुए हैं। लेकिन कुछ व्यावहारिक तथ्य आपके सामने लाना चाहता हूँ। जिन लोगों का संबंध राजनीति से और धरातल से बिल्कुल नहीं है ऐसे तथाकथित बुद्धिजीवियों का समूह जाकर कहीं कह दे और उनके कहने पर कानून इस तरह का बन जाए, ऐसा नहीं होना चाहिए। हम लोग भुगत चुके हैं। राजनीति में हमें किन-किन चीजों का सामना करना पड़ता है, वह हमें ही पता है। नौकरशाही और उद्योग-जगत की क्या स्थिति है, इस पर भी विचार करना चाहिए।

ये लोग एक मिनट के लिए भी अपने स्वार्थ से अलग कोई काम नहीं करते हैं। उनके कहने पर हम लोगों को गाली दी जाए, उनके कहने पर राजनीतिज्ञों की आलोचना की जाए, इस पर हमें गंभीरता से विचार करना चाहिए। हमारे माननीय सदस्यों को इस पर भी गंभीरता से सोचना चाहिए। मेरा कहना है कि राजनीतिज्ञों की इनकी चाल में फंसने से बचना चाहिए। ये दो संशोधन बहुत आवश्यक हैं। ये बहुत खतरनाक कानून आपने इसमें शामिल कर दिये हैं। सर्वदलीय बैठक में हमारे जो 5 प्रतिनिधि गये थे, उनसे मैंने सारी जानकारी ली, लेकिन ये तो आपने अपनी तरफ से जोड़ दिये। केवल नाममात्र का जुर्माना होने पर भी 6 वाँ के लिए अयोग्य घोषित कर दिया जाए, ऐसा प्रावधान इसमें है, जिसका दुरुपयोग खासतौर से भ्रष्टाचार निवारक अधिनियम के अंतर्गत हो सकता है। सब जानते हैं कि माननीय उपप्रधान मंत्री जी को फंसा दिया गया। ठीक है, उन्होंने कहा कि नैतिकता के नाते मैं सदन में नहीं आऊंगा जब तक कि मैं निर्दोष साबित नहीं हो जाऊंगा। लेकिन जिन लोगों ने गलत फंसाया था उनके लिए क्या सजा है? ऐसे कितने ही लोग थे जिनका सारा जीवन बर्बाद हो गया। एक बार माननीय उप-प्रधान मंत्री जी इतने भावुक हो गये थे कि उन्होंने कहा कि हमारे जैसे लोगों पर भी इतना गंभीर हवाला का आरोप है। उस समय भी हमें विश्वास नहीं था कि उपप्रधानमंत्री जी उसमें आप सम्मिलित होंगे।

इन्कम-टैक्स अधिकारी जरा भी नाराज हो जाए तो जुर्माना किसी पर भी कर देगा, हम लोग उसकी मंशा जान भी नहीं पायेंगे और चुनाव भी नहीं लड़ पायेंगे तथा 6 साल के लिए चुनाव के अयोग्य घोषित हो जाएंगे। मैं पूछना चाहता हूँ कि यह राय किसने आपको दे दी? यह तो पहले से भी ज्यादा आपने खतरनाक स्थिति कर दी। इसलिए इसमें संशोधन करना चाहिए और इसे विधेयक से निकाल देना चाहिए। अगर ऐसे मामले में दो वाँ से अधिक की सजा होती है तो भी चुनाव के अयोग्य माना जाएगा - ऐसा पहले से ही प्रावधान था। अब कोई इन्कम-टैक्स अधिकारी नाराज हो जाए तो सोर्स से अधिक आय का आरोप लगाकर किसी भी राजनीतिक व्यक्ति का राजनीतिक जीवन वह तबाह कर सकता है। इसलिए इस पर गंभीरता से विचार करके इसमें संशोधन किया जाए। हम इस विधेयक का स्वागत करते हैं और कानून मंत्री जी, हम आपको धन्यवाद देते हैं और अनुरोध करते हैं कि कृपया संशोधन स्वीकार कर लीजिए।

माननीय प्रणव मुखर्जी जी ने जो ड्राफ्ट बनाकर दिया था उसमें सब तय हो गया था, फिर उसमें यह कहां से जोड़ दिया - ऐसा नहीं होना चाहिए। जब सर्वदलीय बैठक हो गयी और उसमें सारा निर्णय हो चुका है, तो यह नहीं जोड़ना चाहिए था। इन्हीं शब्दों के साथ हम अपनी बात को समाप्त करते हैं लेकिन साथ ही यह कहना चाहते हैं कि धर्म-निरपेक्षता का स्वरूप, हमारे देश को संविधान द्वारा दिया हुआ है और जो धर्म-निरपेक्षता को समूल नट करना चाहते हैं, उनको टिकट नहीं मिलनी चाहिए। यह बात भी इसमें आनी चाहिए। स्पीकर साहब, आपने मुझे बोलने का मौका दिया, इसके लिए बहुत-बहुत धन्यवाद।

अध्यक्ष महोदय : आंतरिक सुरक्षा के विषय पर चर्चा नियम 193 के अंतर्गत शुरू हो रही है।

श्री प्रबोध पण्डा जी।

â€(व्यवधान)

SHRI SHIVRAJ V. PATIL (LATUR): Sir, may I submit one thing? We are thankful to you for allowing this discussion. This is one of the very important topics which should be discussed on the floor of the House. Next to national security, this is an important matter. I am afraid that the time which is available today may not be sufficient. If it is agreeable to the Government, we may have it continued on the other day also.

It is because a full-fledged discussion on this can take place. We are not interested in *Tu Tu Main Main*. We are not interested in blaming each other and apportioning the blame. The discussion should take place in a structured manner. I hope, my request will be acceded to.

MR. SPEAKER: Has the Government any objection to this suggestion?

THE DEPUTY PRIME MINISTER AND IN CHARGE OF THE MINISTRY OF HOME AFFAIRS (SHRI L.K. ADVANI): The Government has no objection. But the Minister of Parliamentary Affairs was telling me that he has some other legislative business which he would like to have passed on Monday. So, if at all it is to be continued, we can

continue it on Tuesday. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE (BOLPUR): I believe on Tuesday, namely, 17th December we are discussing disinvestment. It is slated for 17th December. ...(*Interruptions*)

MR. SPEAKER: In the meantime, I will discuss it with the Minister of Parliamentary Affairs.

SHRI SHIVRAJ V. PATIL : Sir, we will accommodate the Government's difficulties also. ...(*Interruptions*)

MR. SPEAKER: We will adjust.

...(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN (SANGRUR): Sir, we would like to speak on this Bill. Please give us some more time to speak on this Bill. ...(*Interruptions*)

SHRI L.K. ADVANI: If the debate is to continue on Tuesday and not to be concluded today, as most of the speakers on this particular Bill have spoken, if we conclude the debate today by 4.30 p.m., we can start the discussion under Rule 193 at 4.30 p.m. ...(*Interruptions*)

MR. SPEAKER: If the House agrees, it can be done. We would like to conclude the discussion today on the Bill by 4.30 p.m.

SHRI L.K. ADVANI: It is because then the Bill will be passed. ...(*Interruptions*)

MR. SPEAKER: So, at 4.30 p.m., we can take up the Discussion under Rule 193. Shri Prabodh Panda, please sit down. We will start the discussion at 4.30 p.m.

Shri Somnath Chatterjee to speak on the Bill.

SHRI SOMNATH CHATTERJEE (BOLPUR): Sir, we are discussing the Second Amendment only. On principle, one accepts this amendment.

What we have been saying for a long time – I am glad that Shri L.K. Advani is here – is that we are trying to tackle the question of electoral reforms in a piecemeal manner. There have always been piecemeal amendments that have come. The major issues or the major lacunae in our electoral laws are not being addressed to in a manner, which will bring about a comprehensive change in the whole situation. There is no dearth of reports. I had the great distinction of being a member of the Jagannath Rao Committee, the Dinesh Goswami Committee and the Indrajit Gupta Committee. All the reports of these Committees have been, with exception of some minor issues, unanimous. That means the entire spectrum of the political thinking in this country has been of unanimous decision.

One other proposal has come for the purpose of incorporation in our statute law. But still, the hon. Minister will agree with me that the question of criminalisation of politics has become a very major issue. It is because we have not been adverted to it in a manner which would have shown a concerted political will as well as administrative will to tackle this. It is becoming a graver and graver issue in our body politic. It is a matter of great agony that after we have celebrated our Golden Jubilee, a law has to be brought to keep out criminals from the House.

We cannot but remind ourselves of the report of the N.N. Vohra Committee. Hon. Shri L.K. Advani was on this side. We had all criticised or referred to the serious situation that had been brought out in that report of the N.N. Vohra Committee as to how this system was being misused by some persons who had no commitment to the basic principles of our constitutional framework and the question of public service was anathema to them.

But, where are we today? Have we really tried to solve those problems? Why is it that the criminals are getting interested to come inside the House? Why do we have to shout that *Mafia* is overtaking the political system? It is because they find that the politics gives them, provides them a good medium to carry on with their depredations so far as polity is concerned. It has become a method of making money. Corruption has somehow been glamorised in this country. This is a matter of great agony and I am sure most of us share that agony that after the Golden Jubilee

of our Constitution, we have to put our heads together to keep out criminals.

We have a lot to say on the other Bill. Of course, we are party to that which it is more important. Here, of course, really an important provision is made except POTA. It is not that I am trying to glamorise or support the terrorists. But our very good friend Shri Vaiko provides a shining example of its misuse. I am happy that the hon. Deputy Prime Minister is here. If he likes, he may intervene to tell us how POTA has been able to solve the terrorism in this country.

I know that mere detention under POTA will not disqualify anybody until there is conviction. But what is the fate of Shri Vaiko? The onus will be on him. If he is ultimately tried, the onus will be on him and if he cannot discharge the onus, which is not so easy, then he will be disqualified for six years after his release. Of course, I have not given any amendment; but I am requesting all my friends from all sides, including the Government that do not put it on a pedestal which it does not deserve.

It is painful to me and at least to many of us that even now the system of *Sati* is prevalent somewhere and we have to, in the year 2002, try to incorporate it and make it more stringent. It is already included. Take the case of Prevention of Corruption Act. These have to be made more stringent. I have no objection to it. The other Bill has got some other important issues to be considered. But I cannot deny myself the opportunity that has been given to us, especially because of the presence of the hon. Deputy Prime Minister. It has been thought by everybody that State-funding may reduce dependence on black money or corrupt method of acquiring money.

As soon as hon. Shri L.K. Advani became the Home Minister, he appointed a Committee. We appreciated that. No less a person than Shri Indrajit Gupta, with the largest experience of the functioning of this House, was chairing it.

I had the great privilege of working under him and we gave a unanimous report. Where is it? I hope, the hon. Deputy Prime Minister will intervene. I do not mind. I would request him to intervene.

SHRI L.K. ADVANI: Sir, to the best of my information - perhaps the Law Minister may guide me - there is a Bill which incorporated both the Indrajit Gupta Committee's Report as well as some other proposals with regard to funding of elections.

SHRI K. JANA KRISHNAMURTHY: It is pending with the Standing Committee. It has not yet come up.

SHRI L.K. ADVANI: I am sorry.

SHRI SOMNATH CHATTERJEE : It is not yet introduced.

Now, the hon. Minister of Law and Justice has little time after his visit to Gujarat. ...(*Interruptions*) I saw him there and also the distinguished, most hon. Deputy Prime Minister. Therefore, this is a matter pending for nearly three years. Then, the suggestions of the Dinesh Goswami Committee are also pending.

SHRI L.K. ADVANI: It is yet to come from the Standing Committee.

SHRI SOMNATH CHATTERJEE : Some progress has been made.

SHRI K. JANA KRISHNAMURTHY: Much progress has been made.

SHRI SOMNATH CHATTERJEE : It is limping.

SHRI K. JANA KRISHNAMURTHY: Before the Standing Committee.

SHRI SOMNATH CHATTERJEE : Sir, we are passing some of the Bills without referring them to the Standing Committee.

MR. SPEAKER: That is an exception.

SHRI SOMNATH CHATTERJEE : Shrimati Sushma Swaraj persuaded all of us to get the Cable Television Network (Regulation) Amendment Bill relating to conditional access through. I am being abused by others in the other House as to why we have allowed it to be passed without its being referred to the Standing Committee. Therefore, he could have persuaded us without much difficulty.

What I am saying is that let there be rigorous punishments. I do not mind, but the situation we see in this country is that people who are actually in jail are getting elected by huge margins. This is a paradox. The longer they are in jail, probably they are getting larger majority. What is the reason? The reason is the whole system of political propaganda or political activity is being sought to be vitiated. This must be the reason of *mafia* domination or money power. So many other things are also there. Therefore, I am saying that anybody can take a holier-than-thou attitude, but my appeal to all sections of the House is that if we really believe in maintaining a true parliamentary

system of Government in this country, we have to do something. Whatever may be our political views, we know that in India, there is no alternative today. As a matter of fact, I am also a votary - and at one time, Shri Advani was also a votary - of a partial list system. I do not know whether he still maintains it. That is one of the things we thought might reduce the influence of the *mafia* or reduce the influence of money or money power.

There is also a recommendation, but who is concerned about it? These are tinkering with the issue. It gives a good mileage, maybe, to our distinguished Minister of Law and Justice, who is now without Department of Company Affairs in his charge, to say how concerned he is to weed out criminals from politics. Hon. Minister is not even scratching the surface. Well, if anything good comes out, let it come, but please do not denude the people. There should not be any thinking that after this, India's political system will become free of criminalisation. To that extent, I support it, but much more needs to be done.

I am sure, wherever that Bill is, probably, it is with the Standing Committee on Home Affairs, the hon. Chairman and Members of that Standing Committee will try to expedite it. Of course, I do not want to hurry them and I want their jurisdiction intact.

We have shown that we can really act unitedly in our fight against terrorism. Tomorrow is the anniversary of what could have been a great tragedy to our Indian Republic. All sections of the House stood up to express their condemnation and also to pay respect to those young, innocent people who lost their lives. In so many matters, we have all worked together.

If this system goes, if the parliamentary system of democracy in this country is affected, I do not know what is the future. What is the alternative? Of course, presidential system is a great favourite subject of Shri Advani. Even that presidential system cannot thrive on criminalisation of politics. There it will be much more important and the President will have to be free from everything.

Therefore, Sir, my request to the Government and to all parties here, and, I am sure, everybody will generally agree, is that the time has come, let us not scratch on the surface, let us try to pay proper attention to this. It is a matter of shame that a country like India with such a tremendous tradition, talent, and history, are today shouting about that we have been overtaken by criminals, that Mafia are trying to rule us and that the entire political spectrum is being controlled by some people who have not the good of the country at heart. We must get rid of this agony. I do not know why nobody thinks about it or says about it. Why should any political party give any nomination to any such candidate? However, we find in the lists that there are so many candidates who can be called Mafia or criminals or history-sheeters. Why do the political parties not proclaim, 'Come what may, we will never give nomination to any candidate who is tainted'? Then, this thing cannot come. Maybe, one or two independent candidates, by show of force or some other method, can get elected, but that will be more by way of an exception than a rule. Today, we have a list of ...(*Interruptions*)

DR. NITISH SENGUPTA (CONTAI): Why can there not be a code of conduct among all parties?

SHRI SOMNATH CHATTERJEE : We have so many codes of conduct, but who follows them? Even the law is not being followed, what is a code of conduct! If the code of conduct had been followed, then this Bill would not have been necessary.

MR. SPEAKER: How much time you are going to take?

SHRI SOMNATH CHATTERJEE : I will conclude in a minute. Therefore, code of conduct does not help. I want a principled stand and a principled action by all political parties. I am sure, Sir, I can request you to take a lead in that matter because you are occupying that seat. It is a very important position that you are occupying, Sir. Therefore, we shall all support you, if you take that lead.

MR. SPEAKER: I was thinking of requesting the Minister to reply to the debate. However, there are two or three more speakers, and if they do not insist, then only the debate can be finished by 4.30 p.m. May I now request the hon. Minister to reply to the debate?

SHRI G.M. BANATWALLA (PONNANI): I would like to speak on this Bill. How can you have such an unparliamentary haste? We must consider the Bill that is there. The Bill has not even gone to the Standing Committee for consideration.

MR. SPEAKER: Shri Banatwalla, I have taken the sense of the House.

SHRI G.M. BANATWALLA: We have always cooperated, but this haste, I would submit, will be an unparliamentary haste.

MR. SPEAKER: If you think so, then we can go ahead with the debate. There are three more speakers, and the

debate will have to be postponed to some other day.

SHRI G.M. BANATWALLA : That is a different thing. You can regulate it, and we do not mind it. However, let there be no haste.

MR. SPEAKER: You are aware Shri Banatwalla that a few minutes ago, the House agreed that this debate has to be concluded today. Therefore, I suggested that.

SHRI G.M. BANATWALLA : Sir, should it be at the cost of the Members?

MR.SPEAKER: Shri Banatwalla, it is unparliamentary for you to be standing when I am speaking.

SARDAR SIMRANJIT SINGH MANN (SANGRUR): Sir, please hear our voices also.

MR.SPEAKER: Then I will continue this debate later and now we would take up the discussion under Rule 193.

SARDAR SIMRANJIT SINGH MANN : Sir, just give me five minutes to speak.

MR.SPEAKER: You will be given a chance to speak on this, but not today.

Yes, now Shri G.M.Banatwalla.

SHRI G.M. BANATWALLA : Mr. Speaker, Sir, I endorse and support the principle of the Bill, though in the matter of important details, there are certain differences. As far as the principle of the Bill is concerned, I support the Bill.

Sir, at the outset, I would like to state that India is the largest democracy in the world. The basis of democracy is the right of the people, the citizens to vote and to contest elections. It is strange that this right to vote and to contest elections, which is the basis of democracy, is not a Fundamental Right in our country. It is a mere legal or a statutory right at the mercy of an enactment that may be passed by a simple transient majority in the Parliament. It is a very unhappy situation. Therefore, I would, first like to emphasise the need that participation in an electoral process should be made a Fundamental Right.

Sir, coming to the provisions of the Bill I would like to submit that an important aspect of the Bill is to add to the number of offences which may lead to disqualification of a person from contesting elections. Offences under certain enactment have been added in this particular Bill. Here I would like to point out that by a mere legislation, the question or the issue of criminalisation of politics cannot be fully addressed. Two things are necessary.

Sir, in the first place, there is need for a political will and a total non-partisan attitude on the part of the Government with respect to the entire situation. We are coming across this phenomenon that there are individuals who are challenging the law. There are individuals who are vitiating even the communal atmosphere in our country and they go totally scot-free for reasons that they may be from the same party or of the some *parivar* as the ruling party. If they are not brought to books, if they are not brought to the courts and convicted, then the provision of this Bill of disqualifying them does not come into operation. This situation must end.

Sir, while there should not be misuse of powers, it is necessary that those guilty of heinous crimes should be prosecuted, should be brought to books and non-partisan attitude should be taken, rather than a Nelson's Eye being turned to their activities. It is when they are booked, it is when they are prosecuted and convicted that the question of their disqualification would come up.

MR. SPEAKER: Shri Banatwalla, you will be on your legs. We will go ahead with the discussion on internal security now.

SHRI G.M. BANATWALLA : I may be permitted to continue whenever this discussion continues.

MR. SPEAKER: You will be allowed to continue.

SARDAR SIMRANJIT SINGH MANN : Sir, Let us finish this Bill. It will take only ten more minutes. After Shri Banatwalla, I am the last speaker on the subject. Let us finish with it.

MR. SPEAKER: If the House agrees, only two Members will be permitted - Shri Banatwalla and Shri Simranjit Singh

Mann. Thereafter the Minister will reply and we can finish this Bill. But, it depends on the House.

डॉ. रघुवंश प्रसाद सिंह : हमारा भी सूची में नाम है। असली में तो बिल में हम ही भेद खोलने वाले हैं। हम भी बैठे हैं। (ब्यवधान)

अध्यक्ष महोदय : मैंने आपकी तरफ देखा ही नहीं है।

(ब्यवधान)

अध्यक्ष महोदय : मैं किसी के साथ अन्याय नहीं करना चाहता हूँ। आप दो-तीन मिनट में पूरा करना चाहते हैं तो हो सकता है।

SHRI SHIVRAJ V. PATIL : Sir, tomorrow is Friday. It may not be possible now because everybody would be getting up and asking for time.

MR. SPEAKER: These three hon. Members had already given their names. Therefore, I have to allow them. No more speakers will be allowed. मैं सोचता हूँ कि इसे आज पूरा करना ठीक होगा। दो-तीन मिनट में अपनी बात कहिए। I think this is the sense of the House.

SHRI G.M. BANATWALLA : Mr. Speaker, Sir, there is another important point. On the one hand, we require a Government that has the political will and a non-partisan attitude and, on the other hand, we need individuals who respect democratic conventions, democratic propriety and parliamentary propriety. Then only we can have an ideal situation. Parliamentary propriety and democratic conventions demand that when a person faces serious charges framed by a court of law, then he should not contest elections. Conviction may come later on. If there are charges framed by a court of law, propriety demands that he should not contest elections; propriety demands that if he is a sitting MP, or an MLA, or a Minister, he should tender his resignation.

However, we are sorry to find that even at the national level, not one, not two, but three Ministers are there in the Cabinet, accused of the heinous crime of demolition of the Babri Masjid. No resignation from them! The point of propriety is that not one, but two courts of law came to the conclusion that there is a *prima facie* evidence. The court proceeded to frame charges but there were certain technical loopholes. Therefore, we see that there is a necessity for two things. Firstly, a non-partisan Government to see that those flouting such laws that entail disqualification are really brought to book and no Nelson's eye is turned towards them, and secondly, we need individuals respecting democratic conventions and the propriety.

16.34 hrs. (Shri Basu Deb Acharia in the Chair)

I will conclude by saying that we have a strange phenomenon that important Commissions like Minority Commission, Human Rights Commission, Concerned Citizens Tribunal, practically go on saying that a particular person, even the Chief Minister of a State, is responsible for genocide, and yet such persons with accusations of genocide go scot-free, moving about not merely participating in the campaign but leading the campaign. Such is the unfortunate nature of our democracy! I have given notice of an amendment also on that particular point.

The last point - I will conclude because of the haste - is that an offence under this Prevention of Terrorism Act is also brought under the Bill to disqualify a person.

Our views about Prevention of Terrorism Act are very well-known. It should not be misunderstood for the purposes of defence of the terrorists. I had made my submission at the time when that particular Bill was there before the House and the Joint Sitting. But here we have, in the Prevention of Terrorism Act, a law which is a lawless law against all the settled principles, respected principles, well-established principles of jurisprudence.

Now, the need is to repeal such a law. Here, even that is also being included.

MR. CHAIRMAN Please conclude now.

SHRI G.M. BANATWALLA : I am just concluding.

Sir, there is a need for further strengthening of the Bill. There is a need to see that such things as a nominal fine for some simple conviction should not result in a disqualification. These are various factors that need to be considered, and I hope that this House and the Government will consider them seriously.

SARDAR SIMRANJIT SINGH MANN : Mr. Chairman, Sir, I thank you very much for giving me some time to speak on this very important legislation.

The hon. Law Minister in the Statement of Objects and Reasons has said that the issue of criminalisation of politics was discussed by the Government with political parties on 13.9.2001. But my humble submission is that we, the Sikh Members of the Shiromani Akali Dal, have never been invited to the All-Party Meetings despite our saying so to the Speaker and to the Prime Minister.

I want to give you a little background about the promises made by the Indian leaders to the Sikhs. There was a Congress Session at Lahore from 28 to 30 December, 1929 and the hon. Moti Lal Nehru and the hon. M.K. Gandhi approached the Akali leaders and promised not to betray the Sikhs. The Congress and the leaders assured the Sikhs that no solution thereof in any further Constitution, will be acceptable to the Congress that does not give full satisfaction to the Sikhs.

Then again, on 15 July, 1934, a delegation of Sikhs met the hon. M.K. Gandhi, who assured the Sikhs that the Congress shall not accept any Constitution that did not satisfy the Sikhs.

Now, Sir, is this the way we are going to be treated? These promises are historic. The British Constitution is an unwritten Constitution. The British Constitutional system runs through conventions, traditions and promises made to the people. These promises made by hon. Moti Lal. Nehru and hon. M.K. Gandhi have the same force of law. After all, do we not refer to the Constituent Assembly Debates, when we speak in Parliament and argue a case in the Supreme Court? Because the Sikhs were not taken into confidence, our two representatives Sardar Bhupinder Singh Mann and Sardar Hukum Singh did not sign the Constitution of India as the promises made by the Congress leaders were violated.

Sir, now, I wish to state that this POTA and TADA are primarily used against the minorities. At the moment, in Patiala House, New Delhi, I myself am facing the charges under TADA. These charges have been made under TADA and POTA by the majority against minorities. Even the Indian Government is so prejudiced against the minorities that the Amnesty International and the International Committee of the Red Cross are not allowed to visit Punjab, Gujarat, North-East and Jammu and Kashmir.

Now, Sir, as Shri G.M. Banatwalla has said, we the minorities, if the disqualification has to be done, must also follow the norms set by the International Convention under Geneva, under UN Treaties.

For example, if 1948 Convention on the Prevention of Punishment of the Crime of Genocide is brought into a legislation, as per article 51 of the Constitution, then the atrocities and the genocide of the *Sikhs* would not have taken place in 1984 and the Muslims would not have been massacred in Gujarat. Also, what is going on in North-East and Kashmir would not have happened. We also say that 1966 Optional Protocol to the International Covenant on Civil and Political Rights must also be signed and brought into a Municipal Law. We have another convention, that is the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage. Why no Bill has been formulated according to these UN Conventions? Had a Bill been brought about, the *Babri Masjid* and the *Golden Temple* would not have been reduced to rubble. We also have 1984 Convention against Torture and other Cruel Inhuman or Degrading Treatments of Punishment. But, yesterday itself Shri Devender Yadav was tortured in a cruel manner. I myself have been tortured. Today, farmers have been killed in U.P. If these legislation are brought and people are brought to book, certainly the minorities will have some faith in the Constitution of India. We also have 1984 Safeguard and Guaranteeing Protection of the Rights of those facing the Death Penalty and 2001 Rome Statute by virtue of which the International Criminal Court has been set up at The Hague. Why all these Conventions not being honoured?

I think the fear is that most of our Indian leadership has committed crime of genocide and if they enact these legislations they are likely to be hauled up by the Rome Statute. Might be, you remember that President Pinochet of Chile was caught in Britain on the mere warrant issued by a magistrate. If they escape the crime of genocide, I can assure you, Sir, when they visit European countries on a similar warrant they may be caught for the crime of genocide.

I would beg to tell you that the intention of the amendment Bill, of those who have brought and vetted it, is not to halt the march of criminals, crooks and scoundrels from entering the legislative bodies in India but to impede the progress and efforts of Indian minorities to enter these representative chambers. Therefore, my Party, Shiromani Akali Dal, Amritsar and I oppose this partisan amended legislation and ask the Government to hold its horses till it gets legitimate approval of the minority who stands to lose the right to enter the statute formulating halls of this country. In its present stage, it is one-sided, discriminatory and a biased piece of legislation. I reject it.

श्री रामजीलाल सुमन (फिरोजाबाद) : महोदय, किसानों पर फायरिंग के सिलसिले में सरकार को बयान देना था, वह कब होगा?

सभापति महोदय : छ: बजे स्टेटमेंट देंगे।

श्री रामजीलाल सुमन : कौन देंगे?

सभापति महोदय : खाद्य मंत्री जी देंगे।

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, इसका नाम लोक प्रतिनिधित्व (दूसरा संशोधन) विधेयक, 2002 है। प्रथम को छोड़कर सैकिंड अमेंडमेंट कैसे आ गया?

SHRI K. JANA KRISHNAMURTHY: I had made a mention in the very beginning itself that it has been typed by mistake and I have moved an official amendment for that.

सभापति महोदय : गलती से आ गया है। इसमें सरकारी संशोधन हैं।

डॉ. रघुवंश प्रसाद सिंह : सरकारी संशोधन आया है तो इस बिल के मूवर माननीय के. जना कृणामूर्ति इसे लाए हैं। दूसरे संशोधन को हटाने के लिए श्री रवि शंकर जी का संशोधन आ गया।

कोयला और खान मंत्रालय में राज्य मंत्री तथा विधि और न्याय मंत्रालय में राज्य मंत्री (श्री रवि शंकर प्रसाद) : विधि राज्य मंत्री हैं, इसलिए आग्रह कर दिया है।

डॉ. रघुवंश प्रसाद सिंह : बड़े मंत्री को ठीक करने के लिए छोटे मंत्री इसे लाए हैं। क्या प्रोपराइटी का सवाल है?

SHRI K. JANA KRISHNAMURTHY: Sir, perhaps he was not present when I moved the Bill. If he was present, maybe, he did not hear me properly.

डॉ. रघुवंश प्रसाद सिंह : ऐसा लगता है कि दोनों में राजनीति के अपराधीकरण को हटाने में कॉन्टैस्ट है। इस संशोधन और दूसरे संशोधन में बड़ा कंफ्यूजन हुआ है। माननीय मलय स्वामी जी पहले संशोधन पर बोलने लगे। इससे भेद खुलता है इस सरकार का कि राजनीति के अपराधीकरण पर इनकी सोच क्या है? ये राजनीति में अपराधीकरण को समाप्त करने के लिए विधेयक लाए हैं। इस विधेयक में क्या कुछ दम है? किसी को 10 वा की सजा हो जाए। सजा के दिन से 6 वा तक चुनाव लड़ने के अयोग्य हो जाए। मान लो कि वह जेल में है और चार वा तक जेल में ही रहेगा। इस कानून के अंतर्गत अयोग्यता 6 वा तक होगी। वह चार वा से जेल में है तो उसके बाद वह चुनाव लड़ने का हकदार हो जाता था। आप जो पहले के बिल में रखे थे उस पर हम पहले बोल चुके हैं। यह ठीक है कि राजनीति में अपराधीकरण देश की प्रमुख समस्या है। लोकतंत्र का मतलब है वोट का राज। इसलिए जब तक वोट प्रणाली में सुधार नहीं होगा, तब तक यह चलता रहेगा। अभी एक माननीय सदस्य पांच " एम " यानी मनी, मसल, मदिरा और न जाने क्या-क्या कह रहे थे। इसलिए मेरा सुझाव है कि एक कंप्रीहेंसिव विधेयक चुनाव सुधार के बारे में लाना चाहिए। आपमें इच्छा-शक्ति हो तो दिनेश गोस्वामी कमेटी, इंद्रजीत गुप्ता कमेटी और वोहरा कमेटी की जो रिपोर्टें हैं कि राजनीतिज्ञों, अपराधियों और अफसरों का जो नैक्सस है, उसको खत्म करने वाला विधेयक आना चाहिए। इन्होंने कहा है कि जिसको जुर्माना लगे यानी जिस दिन दो सिद्ध होगा, उससे 6 वा तक वह चुनाव के अयोग्य हो जाएगा। जिसको जेल काटने की सजा होगी और वे जेल काट लेंगे और जेल से निकलेंगे, उस दिन से 6 वा तक अयोग्य रहेंगे। बिल का मूल उद्देश्य यही है। हम सरकार से जानना चाहते हैं कि लोअर कोर्ट अगर सजा दे दे, जिला-कोर्ट सजा बढ़ाती या कम करती है।

हाई कोर्ट और सुप्रीम कोर्ट सजा घटाती, बढ़ाती और खत्म करती है। ऐसे में आप किस कोर्ट की सजा मानेंगे? जिला कोर्ट ने यदि किसी को दस वा की सजा दे दी लेकिन हाई कोर्ट में अपील कर दी और वहां सुनवाई हो रही है तो सिद्ध दो किस दिन से मानेंगे, उसमें कौन सी प्रक्रिया लागू होगी और किस कोर्ट की सजा मानेंगे? सजा देने के न्यायालय के तीन स्तर हैं। तीनों स्तरों में किस स्तर में 6 वा की सजा मानेंगे? इसमें बड़ा कनफ्यूजन है। कोई पेच जरूर है।

मेरा आखिरी सवाल है कि जिस के उम्र जुर्माना होगा, वह भी छ: वा तक डिसक्वालिफाई होगा और जिस को जेल होगी वह भी छ: वा तक डिसक्वालिफाई होगा। जो अपराधी नहीं है, उसके उम्र भी जुर्माना हो सकता है क्योंकि अनेक तरह के कानून होते हैं। न्यायिक प्रणाली के हिसाब से यह विधि सम्मत नहीं लगता है। जो जुर्माना देगा, वह भी छ: वा तक और जो जघन्य अपराध का कसूरवार होगा, वह भी छ: वा तक डिसक्वालिफाई हो जाएगा। क्या छ: वा की सजा काटने के बाद वह भला आदमी हो जाएगा? यह सरकार की डिक्शनरी में होगा। सरकार की इसमें राजनीतिक इच्छा शक्ति नहीं है। राजनीतिक अपराधीकरण को दूर करने के लिए दृढ़ इच्छा शक्ति की जरूरत है जिससे चुनावों में सुधार हो और लोकतंत्र मजबूत हो।

श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) : सभापति महोदय, समता पार्टी की ओर से किसी भी सदस्य को बोलने का मौका नहीं दिया गया है। मुझे दो मिनट का समय दिया जाए।

सभापति महोदय : श्री रघुनाथ झा का नाम बुलाया था लेकिन वह उपस्थित नहीं थे।

SHRI K. JANA KRISHNAMURTHY: Mr. Chairman Sir, I shall be very precise and concise in my reply. I have been very carefully listening to the viewpoints expressed by various hon. Members with regard to this Amending Bill. Many Members advanced arguments keeping some other Bill in mind. Incidentally, I will clear the confusion which the hon. Member who spoke last has.

We introduced a Bill for discussion. But that could not be taken up at all. It was only circulated during the last Session period. So, that became the Representation of the People (First Amendment) Bill. In this Session, when we came forward with this Bill, it had to be introduced as the Representation of the People (Second Amendment) Bill. This is not the second amendment as such, but this is the Representation of the People (Second Amendment) Bill. There is no confusion in our minds at least between the Cabinet Minister and the Minister of State.

16.54 hrs. (Mr. Speaker in the Chair)

This is a very simple amendment, not as complicated as many Members thought it to be. The heading of Section 8 of the Act itself is 'Disqualification and Conviction' for certain offences. I am not introducing Section 8 now. It has been there for the last so many years in the Statute Book. What we are trying to do by this amendment is that under Section 8(1), if anybody gets punishment, including the term of punishment of imprisonment, the total number of years of disqualification is only six years.

On the other hand, under Section 8(2) and 8(3), if a person is punished, then the sentence will be the period of imprisonment plus six years of disqualification. This was the difference. Under the same disqualification section, under one section, the punishment is plus six years and under sub-sections (2) and (3) and under section 8(1), the total punishment is six years. So, an anomaly arose. If a person were to get sentenced for ten years under section 8(1), then the six years disqualification goes and remaining in jail, he can contest the elections. In the Supreme Court, the present Chief Justice Shri Patnaik, when he was Justice Patnaik, brought out this anomaly saying as to how it can be under the same section 8. So, the Parliament should pay attention to see that the anomaly is removed. This amendment tries that and while doing it, we tried to bring POTO or one or two other Acts which we have mentioned.

I am not discussing POTO. This House has discussed POTO and all the hon. Members have expressed their views and it has become an enactment.

An hon. Member said that since the hon. Minister is from Tamil Nadu, he should be aware that POTO is being applied in Tamil Nadu. I am aware of it. It is not only in Tamil Nadu but in the rest of the country also. The matter is in the court. We are not introducing POTO here. The question is, suppose under POTO, a person is arrested and sentenced for six years, should he be disqualified or not. That is the only question here. So, we included POTO in this to see that under the enactment, if a person is punished under POTO for six or eight or ten years or so, and remains in jail and if we do not make this amendment under section 8(1), then what will happen ultimately? After six years, having been punished under POTO, he will be entitled to contest elections.

श्री प्रभुनाथ सिंह : अध्यक्ष महोदय, हम सरकार से स्पटीकरण जानना चाहते हैं। माननीय सदस्य श्री रघुवंश प्रसाद सिंह ने जो सवाल पूछा था, मंत्री जी उस पर नहीं बोल रहे हैं। मैं जानना चाहता हूँ कि लोअर कोर्ट की सजा मानी जायेगी या अंतिम अदालत की सजा मानी जायेगी।

MR. SPEAKER: Mr. Minister, I hope you have understood his question.

SHRI K. JANA KRISHNAMURTHY: Sir, let me complete my reply and then, I will answer his question also.

MR. SPEAKER: Mr. Minister, have you heard the question which he has asked?

SHRI K. JANA KRISHNAMURTHY: I will answer it at the end of my reply.

MR. SPEAKER: How much time will you take to conclude? I am asking this because I have to start another discussion under Rule 193 regarding internal security.

SHRI K. JANA KRISHNAMURTHY: I would conclude within ten to fifteen minutes.

This amendment is only to see that section 8(1), 8(2) and 8(3) are of the same order. Whatever punishment is given by the competent court of law through due process of law, it would be the period of the sentence, whatever it may be, plus six years disqualification. That was not there under section 8(1). This amendment is trying to set it right.

श्री मुलायम सिंह यादव : अध्यक्ष महोदय, माननीय प्रभुनाथ सिंह ने यह पूछा था कि क्या लोअर कोर्ट की सजा मानी जायेगी? (व्यवधान)

अध्यक्ष महोदय : मंत्री जी, इसका जवाब बाद में देने वाले हैं।

...(व्यवधान)

श्री प्रमुनाथ सिंह : अध्यक्ष महोदय, अपील का महत्व है या नहीं ? (व्यवधान)

अध्यक्ष महोदय : मंत्री जी बाद में इसका जवाब देंगे।

...(व्यवधान)

श्री प्रमुनाथ सिंह : हम यह पूछना चाहते हैं कि यदि अपील एडमिट है तो उस परिस्थिति में सरकार क्या करने जा रही है ? (व्यवधान)

SHRI K. JANA KRISHNAMURTHY: I have got a court judgement before me. I would quote it. You have put a question on whether it is the lower court or the higher court judgement... (Interruptions)

श्री प्रमुनाथ सिंह : सरकार को उत्तर देना चाहिए, कोर्ट का जजमेंट क्या होता है? (व्यवधान)

SHRI K. JANA KRISHNAMURTHY: I am to reply your question. This matter came up in the all-Party meeting held on 13.9.2001 and there was a consensus in that all-Party meeting. I am not talking of the all-Party meeting which was held this year. This meeting was held on 13.9.2001.

17.00 hrs.

The consensus in the above-said meeting was:

"The provisions of sub-section (1) of section 8 of the Representation of People Act relating to the commencement of the disqualification period be brought at par with sub-section (2) and (3) of section 8 of the said Act. "

This amendment does only that. Nothing more than that. We have brought only two additional things. We have brought POTA and Prevention of Corruption Act. There is one small anomaly in the Prevention of Corruption Act. Under Section 3(8)(b) of the Prevention of Corruption Act, if a person is sentenced to two years and more, then he is disqualified from the period of conviction plus six years. What we are trying to do, by bringing this amendment is that, if he is sentenced under the Prevention of Corruption Act even for one year, the period of conviction plus six years will hold good. So, we are harmonising the whole thing by this small amendment so that disharmony in the same section, between the two sub-sections will not be there.

A question was asked with regard to the judgement. Always the Government's view is that whenever a person is sentenced in the lower court and then it is taken for appeal in the Supreme Court or the High Court, whatever be the appeals court, ultimately if it gets confirmed or if it gets reduced etc., then it is on the basis of the conviction of the lower court. This is what the Supreme Court also has upheld. There can be no doubt that in a criminal case, acquittal in appeal takes effect retrospectively and wipes out the sentence awarded by the lower court. This implies that the stigma attached to the conviction and the rigorous suspensions are completely obliterated and that does not mean that the fact of the conviction sentenced by the lower court is obliterated until the conviction sentences are set aside when appealed at court. Law is clear on this. There is no confusion at all.

Almost all the Members and parties generally supported this Bill. Some might have said that they are giving critical support. Some might have said that they are extending a general support. They say: "I generally support the spirit of it, but with one or two suggestions". I have explained that the scope, purport and purpose of this amendment is very limited. It is not that I am introducing Section (8) itself for consideration. So, in these circumstances, I am quite sure that the House will extend its full support for the entire amendment as such. Some other arguments have been advanced. Incidentally, Shri Somnath Chatterjee is not present here. He asked me as to what steps have been taken with regard to many of the other Bills. I tell you that six Bills are pending. When Business Advisory Committee finds time, all these Bills will come here. Some Bills have come with recommendations from the Standing Committee. One or two Bills are still pending with the Standing Committee. We will take up every Bill for consideration. Many of the arguments or many of the view points that have been expressed here are more related to these Bills rather than to this Bill.

So, I seek and I would request that this House unanimously support this amendment so that it takes care of the

purpose for which it has been brought to the House.

श्री प्रभुनाथ सिंह : अध्यक्ष जी, मंत्री जी ने कहा है कि निचली अदालत की सजा को सजा माना जाएगा।

अध्यक्ष महोदय : मंत्री जी आपका प्रश्न जानते हैं।

श्री प्रभुनाथ सिंह : एक कन्फ्यूजन है कि निचली अदालत की सजा को सजा माना जाएगा तो अपील में अगर हाई कोर्ट में पन्द्रह साल तक मुकदमे का पट्टेसला नहीं हुआ और छः सालों (व्यवधान)

अध्यक्ष महोदय : आपने प्रश्न पूछा है, मंत्री जी चाहते तो उत्तर देते।

श्री प्रभुनाथ सिंह : हमारे सवाल का जवाब नहीं आया।

अध्यक्ष महोदय : आपने दो बार प्रश्न पूछा। मंत्री जी चाहते तो उत्तर दे सकते थे।

श्री प्रभुनाथ सिंह : उन्होंने इसका उत्तर नहीं दिया है, इसे क्लीयर करवा दीजिए।

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration. "

The motion was adopted.

MR. CHAIRMAN: Now, the House will take up clause by clause consideration of the Bill.

**Clause 2 – Amendment of Section 8 of
Act 43 of 1951**

MR. SPEAKER: Shri G.M. Banatwalla, are you moving your amendment?

SHRI G.M. BANATWALLA : Yes.

I beg to move:

Page 2,--

after line 20, insert, --

'(iii) after sub-section (2), the following sub-sections shall be inserted--'

(2A) Where a Commission of enquiry set up under the Commission of Enquiry Act concludes that there is enough evidence to establish that person is guilty of an offence that may involve sentence of imprisonment for not less than six months, the person concerned shall be disqualified to participate in any electoral procedure or campaign for a period till an appropriate court convicts or acquits the person concerned of the offence.

(2B) Whoever contravenes the provisions of sub-section (2A) shall be punished with imprisonment of either description which may extend to three years.' (1)

MR. SPEAKER: I shall now put amendment No. 1 moved by Shri G.M. Banatwalla to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 - Short title

MR. SPEAKER: There is a Government Amendment No.2. Shri Ravi Shankar Prasad to move it.

SHRI SOMNATH CHATTERJEE (BOLPUR): What is that amendment?

THE MINISTER OF STATE IN THE MINISTRY OF COAL AND MINES AND MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD): It is the first Bill only, not the second one.

I beg to move:

Page 1, line 2,-

for "(Second Amendment)"

substitute "(Amendment) " (2)

MR. SPEAKER: The question is:

Page 1, line 2,-

for "(Second Amendment)"

substitute "(Amendment) "

The motion was adopted.

MR. 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.

The Enacting Formula and the Title were added to the Bill.

SHRI K. JANA KRISHNAMURTHY: I beg to move:

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

MR. SPEAKER: The question is:

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

The motion was adopted.

SARDAR SIMRANJIT SINGH MANN : Sir, Shri Banatwalla represents the Muslim community. I represent the Sikh community. The Bill is prejudicial to the interests of the minorities. This is ethnic cleansing. So, the Muslims and the Sikhs reject it....(*Interruptions*)

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