

**INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION BILL**

**The Minister of Labour (Shri Khandubhai Desai):** I beg to move for leave to introduce a Bill to provide for the modification of the decision of the Labour Appellate Tribunal, dated the 28th day of April, 1954, in accordance with the recommendations of the Bank Award Commission and for giving effect to the award accordingly.

**Mr. Speaker:** The question is:

"That leave be granted to introduce a Bill to provide for the modification of the decision of the Labour Appellate Tribunal, dated the 28th day of April, 1954, in accordance with the recommendations of the Bank Award Commission and for giving effect to the award accordingly."

*The motion was adopted.*

**Shri Khandubhai Desai:** I introduce the Bill.

**REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL AND REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL.**  
*Contd.*

**Mr. Speaker:** The House will now resume further discussion on motions for reference of the Representation of the People (Amendment) Bill and the Representation of the People (Second Amendment) Bill, 1955 to Select Committees and also the consideration of the amendments moved by Shri N. C. Chatterjee thereto.

Out of 16 hours allotted for the discussion, 2 hours and 25 minutes was availed of yesterday.

So, we will now proceed with the discussion. I find no hon. Member is rising to speak. If none wants to speak I will put the motions to the vote of the House.

**Some Hon. Members rose—**

**Mr. Speaker:** I am calling Shri Bhagwat Jha Azad.

**Shri Bhagwat Jha Azad (Purnea cum Santal Parganas):** We welcome these two Bills that have been placed before this House for consideration for more than one reason. In the light of the experience that we have gained in the last general elections there are certain things which have been simplified and which, as a matter of fact, ought to have been done earlier. I need not go into the simplifications which have been introduced in these two Bills one by one, but I would rather like to stress on three or four main items on which I feel there is still scope for amplification and simplification.

It has been very rightly stressed in these Bills that the time taken for elections should be compressed because we saw in the last general elections that the total time taken in the elections in different States and for the Parliament was more than 8 months. It is therefore essential that in the light of the experience that we have gained, this time should be compressed. It is desirable, even at the cost of dissolution of some legislatures rather prematurely, we should hold election in lesser time. Moreover, these 42 days that are taken between the publication of the notification calling for an election to be held and the actual election should also, I think, be reduced and it should be 21 days and nothing more.

Regarding clauses relating to nomination papers, appointment of agents, reduction in the number of members of tribunals and administrative difficulty that led the Government to give power to the Assistant Returning Officer, they are not to be amplified but I would like to stress on the provision relating to the regulation of nomination papers and the return of expenditure.

Then 'office of profit' has not been defined in these Bills. Sir, it is but natural that a Returning Officer has to take note of the qualification that a candidate who stands for election

should have but so far disqualifications are concerned it is rightly stressed that this should be left to the court to decide later on. In the United Kingdom these disqualifications are brought to notice only when a petition is given in the High Court and when it is pressed. Therefore, it is but natural that in our country also when a candidate wants to stand for election these things should not be taken note of at the time of filing of nomination papers. In the United Kingdom it is left to the voter to reject those candidates who are disqualified. Let them have the choice and let them take also the risk that if they vote for candidates who may be disqualified it will not be the first or the second candidate who may be declared elected but rather the third candidate may be declared elected by the court which is called upon to decide on an election petition.

With regard to the return of expenditure which a candidate has to submit, from 12 to 13 items under which he was required to keep records of expenditure it has been simplified and a candidate is required to keep record of election expenses according to necessity. I feel that there is still scope for simplification in the submission of election expenditure returns. It is said that rules should be made to prescribe the highest limit or the highest sum that a candidate can spend. I think it is better that there should be no different scales and the limit of expenditure should be the same throughout India. It is, therefore, desirable that this should be in the Act itself rather than leaving it under the rule making powers of the Government.

[PANDIT THAKUR DAS BHARGAVA in  
the Chair]

It has not been clearly mentioned in the Bill as to from what time the election expenses will be counted; whether it will be from the date the participating candidate will start

propaganda or before filing of nomination papers. It should be clearly laid down in the Bill that the election expenses will be counted from the date of filing of nomination papers to the date when the candidate is declared elected by the Returning Officer. This date should be clearly mentioned in section 33 of the old Act which is referred to in clause 14 of the present Bill.

Then, there are candidates who are fortunate enough to have their big purses. If such candidates contribute to their party funds to which they belong, that should not be counted in the election expenses and a particular candidate, whether it be A, B or C, who do not want any money from the party and who is in a position with a big purse to contribute to the party should have the privilege to contribute to the party without that amount being taken into account while calculating his own personal expenses on election. Therefore, I would say that this liberty should be given to the candidate to contribute to the parties.

On certain occasions, the leaders of the various parties who go out for the support of the candidate in the different constituencies have to incur large amounts of expenses. I propose that expenses that are incurred in connection with the tour or the propaganda by party leaders in support of the candidates should not form part of the election expenses of the candidate concerned.

Then, there are expenses incurred by the third party, that is, the candidate's polling agent or canvasser or his proposers or seconders who go out in connection with the propaganda are entertained by the third party by which I mean the villagers, or the voters or the electorate. In the United Kingdom, what amount has been spent on the entertainment of the candidate and his other friends who go out in connection with the election propaganda to the various parts of the

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constituencies can be very easily assessed. But in India, it is neither desirable nor good that the sum spent by the host who entertains the candidates or their associates should be assessed and then be included in the election expenses of the candidate. It is not provided in the Bill that such expenses will not be included, because it is but natural that when candidates go for propaganda round about the constituencies, every now and then, they will be paid compliments in the form of entertainments and thereby indicating that they will be voting for them. That will be a huge expenditure that is incurred by the host, the third party. Therefore this expenditure should not be included in the election expenses of the candidate. It is not mentioned in the Bill that such expenses will not be included in the returns, and therefore, it may be possible that such expenses which are incurred by the third party, the host, may be included. The election expenses should not subject the candidates to corrupt practices in any way. Therefore, it should be clearly laid down in the Bill that such expenses will not be included in the returns.

Then I come to the next point. There are various rulings, which unfortunately I could not find in the library, but I have seen a book published by the Uttar Pradesh Government which has given certain rulings and decisions by the courts. If there are two candidates, and if one candidate advertises and makes propaganda in support of himself and the other candidate—such as in a constituency having a seat reserved for a Scheduled Caste candidate or a Scheduled Tribe candidate then, it is laid down in the present Act that this expenditure will be apportioned between the two candidates for the House of the People or it should be equally distributed among the other candidates who are standing for the legislature from the same constituency. This is a very difficult thing. I

have seen the rulings of the Uttar Pradesh. In many cases this has subjected the candidates to great embarrassment, and sometimes at the cost of losing the seat. Therefore, it should be clearly mentioned that if any advertisement or any propaganda or any publication is made or taken out by a candidate in support not only of himself but of other candidates, which may be four or five or even eleven as in the case of plural constituencies, the expenditure incurred should be apportioned to him and not be proportionately distributed among all the other candidates. It is very difficult for say, a sum of Rs. 500 or something like that, to be proportionately distributed. Therefore I feel that such a provision as I have suggested now should be there and it should be looked into in the light of the rulings and decisions of courts. I feel that the five points which I have made regarding the return of election expenses, which are apparently very harmless, should be definitely included in the relevant sections of the Act by amending clause 14 of the present Bill which is an amendment to section 33 of the principal Act.

Now I should like to refer to the election returns that are to be submitted. This point has been very rightly pressed by you, Sir, as Chairman of the Committee on the submission of election returns. It is not necessary; if at all we feel that election expenses are to be submitted, then there is no case to press the other point. As you have very rightly suggested in your note while submitting the report of the Select Committee which, of course, is not being placed before this House due to the circumstances which led to the introduction of that Bill not being fructified, I also feel that it should not be essential for all the candidates thousands and thousands in this country—to submit the election returns and thereby giving a chance to the defeated candidate to go and probe into the minute points of detail in the

election expenses which can be found out and which can be made grounds for an election petition to the court. If the defeated candidate has reasonable doubts that the maximum amount set by the Act has been surpassed and the limit has been crossed by the winning candidate, he has got every right to go to the court and say that this amount has been surpassed, that therefore this is a corrupt practice, that the election petition should be entertained by the high court and that, therefore, necessary steps should be taken in that regard. Only in that case, say, after 15 or 21 days' notice, such candidates should be asked by the court to submit the election returns. This is a point which has to be considered by this House and thereby the necessity of submitting an election return at all can be dispensed with.

There is one important point which I want to stress and that is about the office of profit. It is nowhere mentioned—either in the previous Act or in these two amending Bills that are before us—what actually is the meaning of office of profit. We know the history of the office of profit. It was established by King of England who wanted to oblige some Members, to offer or give something to them and then win them over, and in order to see that the Members should not be bribed or should not be forced or prevented from discharging their responsibilities, some offices were given to them and that was called an 'office of profit'. Such things still continue in England. They still have the Chiltern Hundreds and the Ducy of Lancaster. If a Member wants to get out of the House conveniently without facing some charge—if there is a charge, he will be labelled out—the small offices which I mentioned are given to them and the Members then quietly quit the House. Such things are there in the United Kingdom. But in our Act, there is nothing which can say that a particular office is an office of profit. On the other hand, we do

the thing negatively. When a Member has any chance of getting an office or profit, then a Bill is brought forward and it is decided that such an office should not be taken to be an office of profit. Articles 102 and 191 of the Constitution say that certain offices of profit which are declared by Parliament as not offices of profit will not debar any Member from the privilege of the membership of the House. But what happens is this. Nothing has been concretely stated and nothing has been definitely stated in these two amending Bills as to what an office of profit is. Therefore, it is very difficult to give decisions, both for the candidate and for the courts, on these points. Whenever some candidates face this position taking shelter under articles 102 and 191, a Bill is brought forward saying that such and such an office will not debar a Member from holding the membership of the House. From the view of propriety also, it is not a desirable practice. When a candidate who is holding an office of profit runs the risk of being unseated from the membership of the House, the Bill comes in. I want that this Bill should debar that man; his election should be set aside and he should go again to the electorate to seek election. But that is not done. A Bill is brought in to exempt such a person and he is declared to be eligible to continue as Member of the House. So, from both these points of view, it is not desirable that we should leave office of profit undefined. Whenever chances of incurring a disability come in, you come with a Bill and enable the candidate to sit in the House. I submit that in the Bill itself, it should be clearly defined as to what offices of profit are.

**Mr. Chairman:** A fresh Bill is going to be introduced in the House which will deal with this question. Already a committee, which has been appointed by the Speaker, is going into this question and after it has reported, the hon. Minister of Legal Affairs will bring a Bill in this House in the near future.

**Shri Bhagwat Jha Azad:** Then, it is said towards the end of this Bill that the rules will be laid on the Table of the House after they are framed. But it is not mentioned there whether this House will have the opportunity to discuss those rules or to suggest any amendment, if the Members want to. It should be laid down that within such and such time, say 15 days or 30 days, if no amendments are received to these rules, the rules should be supposed to have been passed. These rules affect the election of Members to this House; they affect the main composition of this House. Therefore, the Members should have the right and an opportunity to consider the rules framed by the Government under this Act. If that is not done, it does not matter whether these rules are placed on the Table or not. With these words, I support the Bill and I submit that it should be amended according to the suggestions that have been made with regard to election returns.

I have got one more point and that is about the proposer and the seconder. It has been rightly stressed that there is no necessity for a seconder. The Election Commission has also suggested that there should be no necessity for the proposer as well and it should be sufficient if a candidate declares his intention of contesting the election in writing to the Returning Officer. I submit that we can do away with the proposer on the same grounds which compel us to do away with the seconder. If a candidate declares his intention to contest the election in writing, if he presents his petition in writing to the Returning Officer, that should be taken as sufficient ground. The Election Commissioner goes to the extent that if a candidate is eligible to be a voter and is not actually a voter, his nomination should be entertained. Of course, I cannot go to that extent. I only say that we can dispense with the question of proposer and seconder. It should be enough if a candidate himself presents his nomination paper

declaring his intention to stand for the election. There can be only one difficulty in this. If a candidate is not able to present his nomination papers, what will happen? It is very simple; he can authorise some friend to present the nomination papers to the Returning Officer. We are trying to dispense with the proposer, because there are so many restrictions that the proposer should be so and so, he should not incur disqualifications and so on. The same thing will apply in the case of the Secunder also. This difficulty can be obviated only by providing that any man, even if he has got a disqualification according to the rules can carry the nomination papers of the candidate to the Returning Officer. But we can avoid all these difficulties by dispensing with the Secunder also. Out of the 300 and odd petitions, more than 160 relate to illegal rejection. Out of these 160 cases, in over 64 cases it was upheld that the nominations were rejected illegally, thereby causing great hardship to the candidates. Therefore, I submit that the proposer also should be dispensed with.

With these suggestions relating to the various clauses, I support this Bill.

**Shri Kamath (Hoshangabad):** On a point of order, Sir. May I ask whether this greatest Parliament in all Asia is not entitled to expect on this important occasion the presence of either the Law Minister or the Home Minister? With due deference to the capacity of my hon. friend, the Minister of Commerce, I submit that the Law Minister, failing him the Home Minister, must be present on this occasion in this biggest Parliament of Asia.

**Mr. Chairman:** The hon. Minister of Legal Affairs was present in the House; he must have just gone out.

**The Minister of Commerce (Shri Karmarkar):** He said he would be coming back in ten minutes.

**Mr. Chairman:** He is here usually in the House. Also, Shri Karmarkar is adopt in legal affairs also. The

House remembers how he piloted the very complicated Marriage Bill in the other House and in this House also.

**Shri Kamath:** Of course, I do not doubt his capacity.

**Shri Karmarkar:** The hon. Minister of Legal Affairs is coming back in a few minutes; he has asked me to sit till he comes. Normally, it has been the practice in this House that whenever a Minister in charge of a Bill has to be absent, some other Minister represents him.

**Mr. Chairman:** Mr. Kamath did not know that the hon. Minister of Legal Affairs had to be absent.

**Shri Karmarkar:** He said he had some urgent work and that he would be coming back in ten minutes.

**Shri C. R. Narasimhan (Krishnagiri):** The hon. Minister while moving this Bill said that he was coming here with the experience of the Government and the Election Commission. He did not mention the experience of Members here. I suppose it was due entirely to inadvertance. In the course of the debate a number of suggestions have been made to improve the Representation of the People Act. A review of the working of the Act can be gone through. I will now take up the question which seems to be of some importance; the hon. Minister also referred to it. I would like to refer to the election disputes and the judicial disputes. The Minister referred to the position prevailing in the United States and other countries. Though he alluded to the position in other countries, he did not consider this matter fully and come to a conclusion. I refer particularly to the Constitutional provision in Article 329. This Article says:

“Notwithstanding anything in this Constitution—

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 328,

shall not be called in question in any court;

- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.”

In my humble opinion, that article was put in the Constitution to prevent successful candidates from being dragged from one court to another, their entire career being left in suspense, their being prevented from attending to their work after election and getting involved in tiresome legal proceedings. I think it was the intention of the Constitution-makers to limit this kind of disputes to a particular special tribunal and once decision is arrived at there, that decision should be taken as final so that thereafter the Members could attend to their task. According to the quotations made by the Law Minister himself, in America, both the Houses of the Congress deal with election matters and decide on the composition of the respective Houses. Whether it is in the States or in the Centre, each House is treated as competent to declare its final composition. In England, they naturally turn to special judicial bodies. Here in our country also, I think, the Constitution-makers intended that the question should be decided by a special body and then there should be a finality about it. But, unfortunately, after the first gigantic elections were over, a number of cases were instituted and ultimately the High Courts, and the Supreme Court thought that notwithstanding these provisions of the Constitution which I read now, they should interfere and that they derived powers under articles 136, 226 and 227. My feeling is that these high judicial bodies thought that in the interests of justice, they should interfere. The

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scheme of the Constitution has been forgotten. I would like the House to bestow some thought on this matter, because, the question centres round one particular point, namely, who constitutes the Parliament or the legislatures. Probably, in other countries like America, it is the Congress itself, or in the case of a State legislature that legislature itself, that constitutes the House. Here, there is no answer to that question: who constitutes the Parliament.

**Shri Kamath:** In U.K. also, the new Act of 1949 makes a difference.

**Shri C. R. Narasimhan:** Let us address ourselves to our own affairs. Who constitutes the legislatures in India? Is it the President or is it the Election Commission or the legislatures themselves? Or, is it the Central Government or the various State Governments or the Governors? For that there is no definite answer. That is the problem. A *via media* has to be found out. We should know whether there should be a finality as to these election disputes or whether it should be open to anybody to question the election and then the successful candidate or whoever the affected party is, should be made to go to the various courts in the country. As I said before, if the Members are harassed with such proceedings, they cannot address themselves to the task before them. Their mind will be on the election dispute. This should not be case. I think that it should be enough if a competent judicial body at one stage decides the issue. There should be no further endless proceedings about it. In this country, the nature of the people is such and the litigant mentality is there. I do not think that in this particular sphere it is necessary to encourage that mentality. I hope either now or at some future date the Government and the House itself will bestow some attention to this aspect of the matter.

**Shri N. C. Chatterjee (Hooghly):** May I point out to the hon. Member who has now raised an important

point, that unless article 329 is amended, you cannot possibly give finality to the decisions of the Election tribunal.

The Supreme Court has now held that they are not infringing article 329 by sitting in judgment over the decisions of the Election tribunals. They are exercising their right under the Constitution to issue writs of *certiorari* or other prerogative writs when a tribunal has exceeded its jurisdiction or has done something illegal or committed a manifest error on the face of the record. Only in such cases they are interfering; not interfering with the election, but interfering with the decision of some tribunal which has exceeded its jurisdiction.

**Mr. Chairman:** In article 329, where is the finality to the judgment of the first court or the second court? There is no question. The point here is, the case should be agitated only by an election petition.

**Shri C. R. Narasimhan:** The article is clear. What you, Sir, have said and what Shri N. C. Chatterjee has said are, of course, correct. My own feeling is that when the authors of the Constitution put in these clauses, they really intended that there should be some kind of a limit.

**Mr. Chairman:** The intention is there.

**Shri C. R. Narasimhan:** In actual working, we find that a number of cases have come on major questions.

**Mr. Chairman:** Even now, no appeal is provided. When there is an election tribunal consisting of three members, their decision is final, except for the fact that by virtue of the Constitution, there is a certain power given to the higher courts and in exercise of these powers, they sometimes interfere. Otherwise, there is no appeal.

**Shri N. C. Chatterjee:** The law has been clarified in Shri Kamath's case, where they have said, we do not sit in appeal over the decision; only we have got to exercise certain rights

conferred on us by the Constitution for rectifying errors committed by tribunals functioning in the Republic of India.

**Mr. Chairman:** The Supreme Court possesses supreme authority over all courts and tribunals, whatever their constitution. There is an article there. Even under the income-tax law or other revenue laws, when there is a final decision, they are competent to interfere. According to the Constitution, that is so. Apart from article 329, the powers of the Supreme Court are definite. They have overall jurisdiction.

**Shri C. R. Narasimhan:** There are articles 136, 226 and 227 and they derive powers under these articles. I do not dispute either the right or the necessity of the decisions that have been given. What I feel, as practical people dealing with election questions, is that it is a very simple, quick, administrative type of operation, to some extent like a military operation. When a decision is reached, there should be some finality. My own feeling is, in the way these articles 329, 226 and 227 have functioned, there is room for some improvement. Of course, I expect better heads to put themselves together and deal with the problem. I have a feeling that there should be a finality about it. So far, there has not been that amount of finality which should be there.

There was mention about disqualification. We are given to understand that the question of deciding about disqualifications will be removed from the purview of the Returning Officers. But, there may be a snag in that also. There are certain qualifications prescribed. Want of qualification may also be imagined to be a kind of disqualification. My doubt is whether this will also come in. Want of certain qualifications may be as good or as bad as a disqualification. I want the Select Committee and others to think about what will be the position.

of the Returning Officers in this matter.

There was mention about reducing the interval between nomination and election. It is all right to say that this will reduce expenditure. We know suffrage has increased in each constituency. It has now reached the figure of 8 lakhs. Really if we are to do justice to the task of electioneering and making the people acquainted with party policies on the questions before the public eye, the time is really not enough. Whoever is the candidate, the voters expect him to visit their villages. These are 800 polling stations; there are constituencies 200 miles long. I do not know if they can be covered within a fortnight. Some people imagine that the parties will do the propaganda and that would be sufficient. There are cases where parties do not function. There may be constituencies where there is no party candidate, but there are independent candidates. But, the voters have a right to expect the independent candidates also to do propaganda properly and get the benefit of the viewpoints placed before them by the respective candidates. Therefore, there are two sides to the question. I do not say there is no advantage in reducing the period, but there are two sides to the question, and it is up to the Select Committee to examine both the sides.

Then, there was a reference to the election expenses also, and it was suggested that party expenses will be put under a different category. There is one difficulty here also. On the election eve sometimes some of the parties get contributions from some candidates, and what are we to describe them as? Are they to be treated as donations, or are they to be treated as election expenses? Certain cases did arise in some of the places as to whether contributions made to party organisations by candidates were election expenses or not. In one case a certain contribution made by a certain candidate to a par-



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ticular party was treated as election expense, and the failure to show it, in spite of other legal advice, in the election returns resulted in his election being declared invalid, and there was re-election in that particular case. Therefore, I would suggest that the Select Committee should deal with this question also, and make it beyond doubt as to whether contributions and donations on election eve by a candidate to a party should be treated as the candidate's expense or not. There are decisions by courts. Whether those decisions should be there or not is the point I would like the Select Committee to re-examine.

Another point was made by Government that there will be great political and administrative advantage in having simultaneous elections for Parliament as well as the State legislatures, but I have a slightly different view of the matter. My own opinion is that the mixing up of the Parliamentary election and the Assembly elections is not of one uniform advantage. Actually I find from various accounts that the part a Parliamentary candidate plays in a general election when there are State Assembly candidates, is very, very minor and sometimes unimportant. It becomes almost a farce. The others decide, and he becomes just a victim of the same function, so to say, and therefore it is not of advantage. I even go to the extent of saying that at times the decisions arising out of simultaneous elections do not always reflect the true opinion of the voters. A Parliamentary candidate may be popular, but still, owing to the organised action on the part of the State Assembly candidates, he does not get elected.

**Shri Dabhi** (Kaira North): Is not simultaneous election being held now?

**Shri C. R. Narasimhan**: I say there is. In passing I want to say that true representation cannot always be there. If a Parliamentary candidate

is there and if it is only a Parliamentary election, the merits and demerits of the respective candidates will be impartially noticed. But, if there are Assembly candidates also, there are several groupings and combinations that ultimately, though the electorate may like to vote for a Parliamentary candidate, in view of the other situation of the State Assembly candidates, a different decision is arrived at. That shows that it cannot always be a dependable decision.

Then, there is another proposal to vest the Election Commission with power to remove some of the disqualifications. I do not agree with this. It is not desirable to bring in the Election Commission to decide these issues. If there are some disqualifications laid down and they have got to be removed, then it is better to describe in the statute itself where they are removable and give a guidance in the statute itself to the Election Commission, and then leave the decision to the Election Commission. To leave the discretion to the Election Commission will ultimately bring trouble for the Election Commission. I would not advise the Election Commission to take that power. There may be all kinds of pressures and allegations and the great reputation that the Election Commission now enjoys may suffer if further powers in this matter are granted to them. I would urge some kind of definition in the statute itself so that they may act under its guidance. Otherwise, simply to allow them to use discretion may lead to trouble.

A suggestion was made from the Opposition side that some of the other clauses should also be gone into before arriving at a final decision. It deserves some consideration provided this Act is passed quickly and there is some kind of an improved Act before the country for the next elections. Provided that is not prevented by taking up too many questions, I think that suggestion merits support.

and I am sure, as the Minister himself promised in the beginning, he will give consideration to the whole question.

Then, as far as the Bills are concerned, I have nothing more to say. Only I was rather sad that the Opposition took advantage of the business before the House to say what I would describe as some amount of meanness on their part. They referred to the Prime Minister travelling, and the All-India Radio and this and other questions.

**Shri Kamath:** That is no meanness, but only fair criticism.

**Shri C. R. Narasimhan:** I think they could be a little more charitable about it.

**Mr. Chairman:** At the same time, even if they said it, there is no occasion for calling it meanness.

**Shri C. R. Narasimhan:** All right. If it is too strong a term, I too readily withdraw the term. I think it was ungenerous.

**Shri S. S. More (Sholapur):** He only wants to demonstrate his loyalty to the party.

**Shri C. R. Narasimhan:** Not so.

**Shri Kamath:** To call it meanness is meanness.

**Mr. Chairman:** This is another similar mistake.

**Shri C. R. Narasimhan:** It is ungenerous because the personalities that were concerned against whom the charges were made, have been trying to the best of their ability to be impartial and receive even the approval of the Members opposite who have made the charge. Therefore, I really imagine that those opposite could have been a little more generous, but whatever it is, even if those accusations are really there, what I wish to say is that it is for the electorate to decide even those questions. If the electorate finds out that the ruling party and the Government for the time being have been using their offices for the sake of success in election, the electorate is not totally blind, it is open to them to dismiss the Gov-

ernment on that charge. (**Shri Kamath:** Only after the election!) I will come to Shri Kamath's case also. He did manage to succeed despite the various other factors. Therefore, I think, to imagine that the electorate is not wise enough to take note of things is not doing justice to it.

**Shri B. S. Murthy (Eluru):** Shri Kamath's case has been decided.

**Shri C. R. Narasimhan:** No Government can thrive with such abuses.

**Shri Mulchand Dube (Farrukhabad Distt.—North):** The two amending Bills seem to be based on the recommendations of the Election Commission. The Election Commission, of course, has realised the difficulties that beset the Election Commission during the elections in the matter of examination of the return of election expenses and the rest. It does not seem to have taken into consideration the difficulties that beset the candidate.

In regard to the amendments that are proposed in the Act of 1950 I welcome them on the ground that the unit is now being made the Assembly constituency rather than the Parliamentary constituency, and the preparation of two electoral rolls, one for the Parliamentary constituency and the other for the Assembly constituency, is avoided. This, of course, means saving of considerable labour and expense.

**Shri B. S. Murthy:** What about the expenses of the candidates standing for the Assembly constituencies?

**Shri Mulchand Dube:** I am coming to that.

In regard to the correction of electoral rolls it is provided that a person whose name has been omitted may apply for inclusion to the electoral registration officer, but if the election is on, the petition can be made only to the chief electoral officer. That is, I think, a cumbersome and difficult procedure, for, the chief electoral officer will in many cases have his office at a place which will be at a considerable distance from the parliament-

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ary constituency concerned, and the person who applies for the inclusion of his name in the electoral roll and who is required to prove certain facts, namely that he was resident in that locality on the qualifying date, that he does not suffer from any disqualification and that he has attained the age of 21, may find it difficult to prove them at a distance from the constituency. So, I hope the Select Committee will take into consideration this fact and provide that even in case the election is on, the inclusion of a name which has been inadvertently left out may be made by the registration officer.

In regard to the Act of 1951, I may say that the chief points which cause a headache to the candidates have not been sufficiently provided for. I shall refer you at once to the return of election expenses. It is certainly mentioned that it will be in the form prescribed by rules. But we do not know what the rules are going to be and whether they will provide for all the difficulties that beset a candidate during the time of his election and in the preparation of the return of his election expenses. Moreover, there are about eleven to twelve parts—I do not exactly remember the number—which will have to be filled up; and some of them overlap each other also. I would therefore suggest that the return of the election expenses has to be simplified, and it should be embodied in the Act itself rather than left to be provided for in the rules. Section 76 should be so framed as to include all these things. To leave the matter to the rules will not solve the difficulties.

There also seems to be some idea to raise the ceiling prescribed in regard to the election expenses of a candidate. My submission is that the ceiling should not be raised. The ceiling that is there at present should be considered sufficient.

The third point that the Bill does not seem to take note of is about corrupt practices (major and minor), and illegal practices. The present clause seems to be based on the law as it stands in the UK, where the difficulty that we have in our country does not arise. The conditions in this country are entirely different from what they are in the UK. For instance, in this country, at the time of the general elections, there are Assembly candidates as well as parliamentary candidates set up by a party; and the parliamentary candidate supports the Assembly candidate, and the Assembly candidate supports the parliamentary candidate. Therefore, any corrupt practice—major or minor—or even an illegal practice which may have been committed in the course of the election wheresoever it may be and by whomsoever it may be, whether by an agent or canvasser of the parliamentary candidate or by an agent or canvasser of the Assembly candidate—each being an agent of the other—would be considered by the law to be a corrupt practice committed by the candidate even though he may have no knowledge of it, and he may not have been concerned in it at all. And if the law of agency that prevails in UK is made to govern the conditions that prevail in this country, there is a likelihood of many of the elections being set aside for no fault on the part of the candidates. I think this is a matter which needs to be looked into.

The next point that arises in this connection is about the disqualification arising out of holding an office of profit. We have had several enactments during the last three or four years, both in the State Legislatures as well as in Parliament, by which the disqualifications that arose on account of the holding of offices of profit were removed. My submission is that all this has been done without having a clear idea as to what an office of profit is. I think we should

first of all clearly define what an office of profit is, whether it is an office really or whether it is merely confined to the holding of some employment or office under Government. This point has not been touched in either of the Bills before us, and particularly in the second Bill of which it should have formed a part.

The last thing that I would like to say—in fact I should have said it first with regard to the Act of 1950—is this. In UK it appears that the parties take care to have the electoral rolls corrected. There it is left to the parties, and Government do not take any action in the matter until a thing is particularly brought to their notice. The state of parties being what it is in our country, and the electorates as they are being extensive. I think it would be almost impossible for any party to see that the name of every elector is entered properly. The constituencies extend over very wide areas. So, the parties cannot take it upon themselves to have the entries corrected where necessary. Hence the matter should be left to Government and the Election Commission. It is only after the election is notified that a party can if at all see whether the electoral rolls are correctly made or not. But having regard to the fact that nearly four to five lakhs of voters are there in every constituency, it is almost impossible for any party to undertake this task. So, the matter should for some time at least be left to Government and the Election Commission.

**Shri D. C. Sharma (Hoshiarpur):** The first point that I want to make is in regard to the preparation of electoral rolls. I think it will be the experience of most of the Members of this House as well as the Members of the State Legislatures that the electoral rolls are prepared in a very perfunctory manner. They are never up to date, and if I may be pardoned for saying so, they are very often incorrect. They do not take into account the people who are living or the

people who are dead. In my own State, as you know very well, these electoral rolls are published in Urdu; of course, they are published in other languages also. But as you know, when a thing is written in Urdu, a dot above a certain point or below a certain point makes a lot of difference and it also makes a lot of difference whether there is one dot or whether there are two dots. So, sometimes, it becomes very difficult for a candidate to trace the proper person who is a voter.

1 P.M.

Sometimes a voter is left out because his name is incorrectly transcribed in the electoral roll. Again it so happens that sometimes the names by which we are known are not given in the electoral roll. For instance, I am known by a particular kind of name. But in the electoral roll, my complete name will not be given but a kind of name will be given which will put people in doubt about my identity. I do not think this applies to all the voters, but this does apply to some persons. Again, in the electoral roll, the profession is not given very precisely. I know very often it happens that a voter who goes for recording his vote is not able to do so, because the electoral rolls are not prepared very exhaustively and very properly. Therefore, this is the first suggestion that I want to make.

The second suggestion that I want to make is this. Nomination papers are a very big hurdle. Now, it so happens that in the electoral rolls, you have the major part and you have the supplementary part, and in supplementary part, you have some numbers and in the major part, you have some numbers. Sometimes, it is not correctly stated whether there is any differentiation between the major part and the supplementary part, and therefore, a person who wants to get himself nominated finds it very difficult to put down his name correctly. At the same time, one place of residence is given in the electoral roll

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but in the meantime that person may have shifted from that locality or town to some other locality or town. I know that some persons have got into trouble on account of this. They shifted from one part of town to another part; somebody said, 'Well, he is not the same person; he is some different person'. Therefore, I say that these things have got to be looked into.

I find that the business of the proposer and seconder is a ticklish proposition, and it gives a handle to some persons to harass the candidate. Sometimes this harassment is done with some purpose and sometimes this harassment is very vexatious. It is done only in order that the man may be subjected to a kind of minor war of nerves. I would, therefore, say that if a man's name is on the electoral register, he should not need any proposer and seconder. Because you know that when we are putting in our nomination papers, we do so in large numbers. For instance, we think that perhaps one nomination paper may be rejected.

**Shri S. N. Das** (Darbhanga Central): We only agree to nomination.

**Shri D. C. Sharma:** Our nomination paper is rejected. Therefore, we try to file as many nomination papers, supported by proposers and seconders, as possible. It is because one paper may be rejected on one ground and another may be rejected on another ground. Therefore, the proper course is this. This is a very minor thing; it is not a thing which is going to affect, in any way, the prospects of a candidate. We should do away with this paraphernalia of the proposer and the seconder.

Again, I would say that it should be made necessary—and I want it to be done by the Select Committee—that some minimum educational qualification should be there for anybody who stands for an Assembly or Lok Sabha.

**Shri B. S. Murthy:** Is it a University qualification?

**Shri D. C. Sharma:** I do not think that that person should have any University qualification; I will not say that. But I say that a person should have some minimum educational qualification, and without going into this matter in detail, I want to make a suggestion to the Select Committee to go into this question so that...

**Mr. Chairman:** The hon. Member knows that such a qualification cannot be made so far as the rules are concerned. Unless Parliament passes a law to that effect, no such qualification can be inserted in the rules. Perhaps the hon. Member also knows that there was a resolution brought forward here about this minimum educational qualification and the House did not pass that resolution.

**Shri Bhagwat Jha Asad:** Should all professors be elected to Parliament?

**Shri B. S. Murthy:** He is talking like a professor.

**Shri D. C. Sharma:** A great deal has been said about the propoganda part of elections. I do not want to rebut all the arguments that have been made against the ruling party on the floor of this House. But I would say this, that proper scrutiny should be made of the posters that are published at the time of these elections.

**Shri B. S. Murthy:** By whom?

**Shri D. C. Sharma:** Some kind of minimum standard—as we have minimum standards for everything—some kind of ethical standards should be there for the publication of these posters. This provision can be incorporated in the Act. Because I know all kinds of posters are published; all kinds of things are said, all kinds of allegations are made, and there is so much of rush that the executive government has absolutely no time to look into them, and these

things are sometimes made use of for the purpose of election petitions—but very often they are not. But I should say that for a clean, healthy public life in India, it is necessary that minimum ethical standards should be prescribed for these posters and for these cartoons which are published. I would also say that there should be some kind of check at these public meetings. I am talking from my experience, and I think many of my friends will bear me out when I say that at these public meetings, slogans are shouted which would not do credit to any civilised society in any part of the world. At these public meetings, things are said which will not do credit to this great country which is a great democracy, which is the biggest democracy. I would also say that near the polling booths.....

**Shri B. S. Murthy:** 'Polling' booths, not 'pooling' booths.

**Shri D. C. Sharma:** I know. The hon. Member is trying to criticise me as if he was born and bred in Oxford. I know sometimes in a hurry one is not able to pronounce correctly. I think my friend should not be so uncharitable.

**Shri B. S. Murthy:** I am helping him.

**Shri D. C. Sharma:** He is helping me. For God's sake, let him not help me. God save me from friends like him.

I was talking about the polling booths. I know that sometimes there are certain parties which do not let the members of other parties to go to the polling booths. I know that makes it impossible for them to record their votes. Of course, people will say that this is done by the Congress Party. I can assure you that it is not the Congress Party that has done anything of this kind. I do not want to name the parties but I tell you, there are other parties which are responsible for that.

[MR. DEPUTY-SPEAKER in the Chair]  
They also harass the voters. I would, therefore, say that so far as arrangements at these polling booths are concerned, they should be made very stringent and very wholesome. At the same time, I would say that so far as appointment of polling agents, counting agents and election agents is concerned, some kind of minimum qualifications should be prescribed for them, because I know that these persons are sometimes appointed in a way which is not wholesome for our democracy. For instance, I know that sometimes polling agents are appointed not because they will be conducive to the successful conduct of the election but because they would be instrumental in disrupting the ordinary procedure of those elections. I would, therefore, say that some kind of qualifications should be prescribed for these agents.

The number of counting agents and the number of polling agents should be increased as much as possible so that a candidate who has to run his election campaign does not suffer on account of this. The point I was making was that the polling booth should be protected against hooliganism and that it should be made possible that propaganda is as clean and wholesome as it is practicable.

Now, I come to election expenses. My feeling is that in the case of recognised party candidates the election is run by those parties. Of course, the candidates run it in their individual capacity also. They are there mostly because they are nominees of a particular party. I do not want to apportion the ratio between the party aspect and the personal aspect. I do not want to do that. I say that most of the persons who are returned to the House are there because of their parties. I would say that so far as the election expenses go, it should be for the parties to file the return of election expenses. It

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should be given individually only by those candidates who are independent candidates and who do not belong to recognised parties. In the case of others, it should be the party that should submit the return. I think it will make for a cleaner public life if that is done. In that case there will be very little room for malpractices or corrupt practices, major and minor, and for illegal practices. I think it is much better if this return is done away with. I know that the preparation of the return of election expenses is a very tedious thing. It is very difficult and it is a very tortuous thing. It is not only that one has to run his election but one has to keep one's eye on every item of expenditure. One has to keep a bill for every pice that one has to spend. I think this is a kind of nervous strain from which we should save the candidates as much as possible. I know that a person can take this thing very gaily. But, that is not possible. Therefore, for the sake of promoting better standards of public life, I would say that the return of election expenses should be simplified. I say that it is only the party that should submit the return; but, if that is not possible, the form should be simplified. At present the form of return is very cumbersome. I do not want to say more than is necessary. It is not in any way conducive to the promotion of high standards....

Shri Syamanandan Sahaya (Muza-farpur Central): Of truth and honesty.

Shri D. C. Sharma: You would say that when you make your speech.

It is said that the expenses that are prescribed are very low. If what I have suggested is put into practice the question of expenses being high or low will not arise. I think the limit of expenses which has been prescribed already is quite all right.

For instance, you say that a man who runs in a double member constituency for the Lok Sabha can spend up to Rs. 30,000. I say it should be reduced. This is not in keeping with the national income of our country. I would say that these expenses should be brought as low as possible, especially in the case of double member constituencies for Lok Sabha and the State Assemblies.

The point that should be made clear is this. We should be told from what time we are to record our election expenses. When do we begin to function as candidates for an Assembly seat or for a Lok Sabha seat? That is the problem. When I was filing my return of election expenses so many different interpretations were given.

Shri Kamath: By whom?

Shri D. C. Sharma: By men like you. By men, good, perverse and all sorts of men. They said to me, 'you became a candidate from the moment you went to the District Congress Committee and signed your application'. Somebody said that to me and, of course, they were lawyers.

Shri N. C. Chatterjee: I should tell my hon. friend that this week the Supreme Court has delivered a judgment in the Katpadi case setting aside the election of a Congress candidate saying that on the very day the poor man sent his application to the Congress Committee for considering his name, from that very day he becomes a candidate. I had the privilege of appearing before the Supreme Court on his behalf and we contended that it would be absurd, it would not be proper to fix him with liability and making him a candidate from that day because he only said 'if you give the nomination, I would stand; otherwise, I am not going to stand'. In spite of that, the Supreme Court has held that he had become a candidate because he held himself out as a prospective candidate and that Rs. 100 plus Rs. 400 must have been

shown in the return of election expenses. And, as it had not been shown, his election was set aside. Not only that, he has been disqualified also. I think the name of the candidate is Shri Kader Seikh.

**Shri D. C. Sharma:** I thank Mr. Chatterjee for this clarification. I say the Supreme Court is always wise after the event. What would happen to the poor man? There must be some clarification on this point.

Again my hon. friend Pandit Thakur Das Bhargava has said that the Committee is going into the question of office of profit. I think we should await the findings of that Committee. They will be debated on the floor of the House and, I think, something useful will be done.

I would say that in the matter of profit, which of course, includes money, prestige, patronage and so many other things, the directions should be as clear and as precise and definite as possible. I know some Vice-Chancellors of some Universities were disqualified and others were not disqualified. Some persons were disqualified for some reasons and some others were not disqualified for the very same reason. Therefore, I say it should be precise.

Moreover, I would say that to say that a lambaradar is holding an office of profit is some kind of exaggeration of language. To say that a lambaradar, a patwari or a chowkidar—these officers of the village community—is very influential is again some kind of exaggeration of the language. I would say that simply because these persons get a little money, simply because they get some commission, they should not be debarred from performing a civic duty which is much greater than the petty earnings that they get. I would say that the hon. Minister should kindly publish very definite and precise rules under this Act. Again, some attempt should be made

to educate the public with regard to this. I know that our hon. Finance Minister announced the other day that it would be possible for him to bring out some literature with regard to the company law so that the ordinary man or the average man is educated properly. If the Finance Minister thinks that it is his duty to educate the common man with regard to the company law, I think it should be the duty of the Ministry of Law in a greater degree to educate the common man so far as the law of elections is concerned. I would therefore say that good, easy and simple literature should be produced in order that the common man understands what makes an election, what he is to do at the time of the election and what kind of things he is to avoid, etc.

One more point and I will finish, and that is about election petitions. It has been said that election petitions should be tried by a tribunal consisting of one man and some people say that it should be tried by a tribunal consisting of more than one man. I would say that they should be tried by a tribunal not less than three persons and that these persons should be at least of the status of District and Sessions Judge. I would also say that there should be a time limit prescribed within which they should give their judgment. I know there are election petitions which keep going on and are not decided as quickly as possible. The election machinery should be so devised and geared up that no election petition takes more than a year to decide. There are some persons who say that it should not take more than six months, but I would say that it should not take more than one year to decide.

**Shri S. S. More:** The tribunal is proceeding with the hearing of the election petition, but either of the parties may go to the Supreme Court and get a stay order—or it may be from the High Court. Therefore, no categorical time-limit can be imposed.



**Shri Kamath:** In the normal course.

**Shri D. C. Sharma:** This is a welcome measure and I hope the other suggestions made by Members of this House will be looked into by the Joint Committee and the election law will be made as worthy of this country as it is necessary.

**Shri Lokenath Mishra (Puri):** I wholeheartedly support the two Bills that are now before this House. In fact, our experience of the last general elections has made us wiser in this matter, and the Ministry of Law and the Election Commissioner deserve our thanks for having brought forward these two Bills before the coming general elections.

While accepting the provisions given in these two Bills, I would like to emphasise only on clauses 17, 58 and 60 of the bigger Bill and clause 13 of the smaller one.

Clause 17 of the bigger Bill refers to the disqualification of candidates. It is proposed that to minimise the duties and responsibilities of the Returning Officer, the rules should be so simple, precise and definite that there will be no difficulty for him to decide the nomination or otherwise of a particular candidate. This is really a very good provision, but at the same time it says that so far as the candidate is disqualified or not, that will not be decided by him but will be left open for a tribunal if a case so arises. I submit that this is not good. In the first instance, the Returning Officer should have jurisdiction to decide all the points that the opponents of a certain candidate may like to be decided upon. I therefore suggest that in the first instance, unless the rival brings forth the question of disqualification definitely to the notice of the Returning Officer, any further chance of bringing forward this charge should be barred.

Then I refer to clause 58 which speaks about substituting a petitioner

who fails to appear at any stage of the trial before the tribunal. I would submit that this is a very bad provision. We know the rigours and difficulties of being a candidate in the general elections. We should attempt to frame the law in such a manner that after an election is over, there should be as little cause for anxiety for a candidate as possible. Of course I assume, and I have every right to assume in the light of the experience of the last general elections, that we are quite competent—the Government, the Election Commission, and the candidates—to run the elections as fairly and as democratically as possible. Therefore, our first view should be to make the election final as early as possible. Suppose before a tribunal some persons or rival candidates came with a petition for disqualifying the candidate who was successful, and they defaulted to appear later. In that case we should not make a provision in the law that anybody else may come forward and that he would be substituted as a petitioner and the tribunal would have jurisdiction to carry on the case. I think there is no justification for this new provision, which is absent in the existing Act.

I would then refer to clause 60, which refers to section 123 of the existing Act. It refers to corrupt and illegal practices in elections. Whoever reads our election law will say that we are extremely anxious to avoid corruption and to make the election as just and fair as possible. But however much we may try, with all the best intentions in the world, life is such that minimum corruption is a part of life, and I, therefore, submit section 123 which describes the major corrupt practices is too hard for any gentleman to observe.

**Shri Kamath:** Gentleman?

**Shri Lokenath Mishra:** Yes. For the benefit of this House, I will just read one or two sentences to show how unfair and hard it is.

It says like this:

"The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of including—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not so stood, or for having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting."

This means that in no manner you should attempt to make your election easy. Supposing I am a candidate and there are two or three rivals against me, I will have no opportunity or it will be illegal for me to ask my rivals to consider how far their elections or my election would be preferable. In other words, it means that if you are to stand, you must stand and fight and then win. But I think this should not be the case. Suppose there are two or three candidates rival to one another. The candidates should have a right to persuade the rival to withdraw justly, rightly and democratically and ask him to consider for himself whether he would be a better choice or the other man would be a better choice.

In fact from my own experience in the last elections, I can say this. There were two candidates opposed to me. One was a communist candidate and the other was an independent rich. Of course, as a Congress candidate, I knew that my success was sure. But then I thought sometimes within myself what a fun it was for

this rich man—who does not know politics—to stand for election. He was not a fit candidate but he had been made to stand against me. I was wondering how it was that he stood for election. I was sometimes tempted to ask him: why bother about it; you have other business to carry on; here refrain. But when I read this law, I thought this would be a wrong way. If I just talked to him over and somebody takes a note of him and me together, then it might be said that it was an act of corrupt practice. So long as this law stands, that is also a corrupt practice. I hope my hon. friend, the Law Minister will make it clear whether it is fair for a candidate to persuade his rival or to discuss with his rival as to whether there is a possibility of making the election easier or uncontested. So long as this stands, it is not possible. It is such a thing that any man, any rival can bring the successful candidate in the election under the mischief of this law whatever may be the result. We know the troubles that hang around a candidate. I, therefore, bring to the notice of the Minister of Law this rigorous attitude that has been taken with regard to corrupt practices. I need not go into the details; it is a very long and cumbrous thing. It is really good that we have tried to focus so much attention on corrupt practices but we have been so impractical in this matter that we must now take a realistic view of the elections and accept some amount of corruption—if it may be called corruption—in the day-to-day elections. We should make it a little more liberal.

I would speak a word about election expenses. It has been said that henceforward the process of submitting return of election expenses will be made easier and it will not be as complicated as it has been. But to my mind elections are such a matter that the greater is a candidate in position and authority, the more will be the corruption about him. How-

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ever much you may say that you must not use your political influence or other influences other than what is legitimate and open only, when there are ordinary rivals, this sort of equal opportunity is impossible. I rather think that it would be much better to do away with these returns of election expenses altogether. We know that with the best of our intentions we cannot give a very correct report of our election expenses. For instance, I myself did hardly spend more than a thousand rupees for election. I thought how it would look if I submitted this figure while the figure fixed is Rs. 25,000. Who would believe me? In fact I thought of raising it to more than the amount spent. I submit that the statement of election expenditure is certainly a good thing to a certain extent and it will prevent a certain amount of corruption sometimes. Beyond that I do not think there is any real utility in submitting them.

**Mr. Deputy-Speaker:** A thousand rupees for 7.5 lakhs of population with five or six local Assembly seats. Did not the other Assembly members spend money?

**Shri Lokenath Mishra:** I have not to submit accounts for their spending.

**Mr. Deputy-Speaker:** The hon. Member may be appointed as election agent by all the other Members everywhere in India so that they may get things cheaper.

**Shri Lokenath Mishra:** I would submit something about the ceiling on election expenses. It is now legal to spend upto Rs. 25,000 for a single-member Parliamentary constituency and perhaps a lakh and twenty thousand for a double member constituency.

**Pandit K. C. Sharma (Meerut Distt.-South):** Rs. 35,000.

**Shri Lokenath Mishra:** Let us take the Rs. 25,000 for a single-member constituency. We are here for about

five years and I think in spite of all the miserliness and economising of our expenditure, I do not think we would be able to earn a net amount of say Rs. 15,000 during all these five years.

**Shri Kanavade Patil (Ahmednagar North):** We have not come here to earn money.

**Shri Lokenath Mishra:** I know that; and yet I know for what we are here. I am coming to practical politics.

**Mr. Deputy-Speaker:** What is the hon. Member's suggestion?

**Shri Lokenath Mishra:** My suggestion is that Rs. 25,000 for a Parliamentary constituency in the present economic conditions of our country and considering the average income of a citizen is too much. Therefore, it should be less. I do not know how much it should be. It may be Rs. 5,000 or Rs. 7,000.

It may be said that we could not with this sum, educate lakhs and lakhs of our citizens. But in my case and in the case of most of us our electorate did not go uneducated.

**Mr. Deputy-Speaker:** May I ask the hon. Member what according to him was spent by every one of those Legislative Assembly members in his constituency.

**Shri Lokenath Mishra:** If what they spent is included within my expenses...

**Mr. Deputy-Speaker:** No. Individually, what was the maximum and the minimum that has been spent?

**Shri Lokenath Mishra:** I think in my constituency nobody spent even half of the amount he was legally bound to spend.

**Shri S. N. Das:** If there are separate elections for the Parliament and the Assemblies.

**Mr. Deputy-Speaker:** It is so in Andhra today. (Interruptions).

**An Hon. Member:** What about by-elections?

**Shri Lokenath Mishra:** Of course the case of by-election is there. Even in a by-election, who can leap out of his purse?

**Mr. Deputy-Speaker:** May I suggest to hon. Members—of course every hon. Member can go on elaborating a single point for all the 20 minutes at his disposal—that if they confine their remarks to particular points it would be better. Every hon. Member knows the particular points. He has stood for election to this House and nobody has been nominated. Therefore, he knows the details of the difficulties undergone by himself or by others, and as such the points may be given elaborating one or two points here and there. Otherwise, if an hon. Member goes on referring only to the ceiling I will have to ring the bell and ask him to conclude.

**Shri Lokenath Mishra:** Lest you may ask me to sit down, Sir, I withdraw all that I have spoken of election expenses.

**Mr. Deputy-Sepaker:** No, no. The hon. Member has spoken very well.

**Shri Lokenath Mishra:** Thank you, Sir.

Now, I need not speak more about it and I will go to another point and that is with regard to the electoral roll itself. There is some provision to amend the electoral roll itself. It is my experience that the electoral rolls are so badly and irresponsibly kept that they are incomplete and this touches the very fundamental right of a citizen who is an adult in this country. In the last election even in urban areas I know people of a whole mohalla were left out. I know cases where even some villages were left out completely. It has been provided here that when somebody finds that his name is not there he has to go with the proper form, to the proper authority and in the proper manner

so that he may get his name added to the electoral roll. This, I say, is putting the cart before the horse. Once you decide that every adult of this country has the right to be a voter and for that purpose the public exchequer spends money on officials whose duty it is to make the electoral rolls up-to-date it is not for the citizen, who has already spent money over it by way of taxation, to take care of himself and see whether his name is there in the electoral roll or not. I think the law should make it mandatory—not mandatory in the sense that if a certain name is not there the whole election would be void or the whole electoral roll should be considered improper; I do not mean to say that—what I say is that there should be a clear provision in the law itself that it is the duty of the officer concerned or the election authority to see that the electoral roll is complete and rightly complete. If, for instance, as Shri Kamath said yesterday, he was a candidate and he might have lost—he shall certainly be a person who is entitled to be on the voters' list. But in the by-election, Shri Kamath said, he found his name was not there. Do you think it is up to him to go to somebody else and get his name included? Therefore, I say that there should be a provision in the law that in cases of such default the authority concerned should be brought to book.

**Shri Kamath:** I am glad you are supporting me.

**Shri Lokenath Mishra:** You are providing here that if your name is not there you should go to some person in a proper manner and see that your name is included. I think this attitude that a citizen should go and find out first whether his name is there in the electoral roll or not and if his name is not there he should see that his name is included is a call at the wrong place. The responsibility should be that of the officer concerned and some provision should be

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made that in case of glaring impropriety on the part of the registering authority that authority—not the candidate or the person whose name is not there in the rolls—should be held responsible.

**Mr. Deputy-Speaker:** The hon. Member must conclude now.

**Shri Lokenath Mishra:** Sir, I have almost done. I am very grateful to you for having given me this chance and once again I whole-heartedly welcome this measure because it brings about more sanity, more practicality and more simplicity. With these words I commend the two Bills for the discussion of the Select Committee, at the same time requesting them to see that these basic provisions on which I have spoken something are given due consideration.

**Shri B. C. Das (Ganjam South):** The present Bills embody the amendments suggested by the Election Commission based on its experience on the working of the Representation of the People Act during the last general elections. So, it is meet and proper that the Select Committee should go through the entire Act in order to understand or properly appreciate the amendments suggested and also to suggest new amendments to other provisions if necessary. I think, if it is the purpose of the Government to improve upon the old Acts and to remove the defects experienced during the last elections they should give the Select Committee and the House an opportunity to examine the two old Acts in their entirety.

The hon. Minister has admitted that parliamentary democracy in India is very new and that it is on trial. Its future and fate depend upon the ensuring of free and fair elections. If the people feel that parliamentary democracy can deliver the goods, that a welfare State can be established which can faithfully represent the aspirations and the best

desires of the people then it will have a longer lease of life. If, on the other hand, people get convinced that parliamentary democracy is a mere facade to cover up the rule of big money, then, sooner or later, they will drop it like red hot potato. That is the position. I think the Representation of the People Act, if properly designed and executed, will be able to ensure free and fair elections. It can function as a weapon to safeguard parliamentary democracy and to ensure free and fair elections. We have to examine how far the amendments suggested in these two Bills serve this purpose.

We know that in a multi-class society, where big money rules the roost it is very difficult to ensure free and fair election. Mr. H. N. Brailsford in his brilliant book *Property and Peace* has cited chapter and verse to show how big money intervenes in elections even in England. So, in a country like India where the tradition of democracy is very weak our difficulties are still greater.

There are twin dangers that stand in the way of free functioning of democracy in this country. First is the intervention of big money and the second is the undue influence exerted by the executive. These twin dangers imperil free and fair elections. Though most of the amendments suggested in these Bills seek to rectify defects in the principal Act, certain amendments, I am sorry to say, are really retrograde steps and should not be accepted. In the principal Act, though a ceiling was fixed to the election expenses, it was fairly very high and placed the poorer candidates at a disadvantage. In the present Bills, the present high ceiling is retained. At the same time, political parties are given free hand to spend as much as they like. No limit is fixed to the expenses of parties. This will give a free hand to the parties of big-money to break their opponents under the sheer weight of

their money-bags. This will lead to very grave consequences. In a country like India where people have to be trained in democracy, if any party spends huge sums of money, puts up a giant election apparatus with a myriad-mouthed propaganda machinery which seeks to bewilder and befuddle people's minds and if it appoints agents for every household and fixes up a mike at every street-corner, in the general ballyhoo of election, the people may be stampeded into the polling-booths, but the verdict of the electorate in that case will not be a proper verdict; because people in that bewildering atmosphere will not be able to exercise their true judgement. The other party which might have got a poor jeep and a few leaflets to distribute cannot be heard; its voice will be inaudible in the blare of publicity of the party which spends huge sums of money. Therefore, I suggest that in the case of party-sponsored candidates, the ceiling on personal expenses should be lowered, must be drastically lowered. Party expenses also must be subject to scrutiny. Then a ceiling should be fixed, and on no account the party expenses incurred in a particular constituency and the personal expenses of the candidates put together should exceed the present ceiling fixed by law, and a machinery should be devised to scrutinise the accounts of the parties. If this is not done, free and fair elections will not be possible.

In this connection, I put forward another suggestion. The deposits required for filing nominations are too big. A poor candidate will not be able to deposit Rs. 500 and it is a big sum for him. So, I would suggest that the deposit amount should be halved. Similarly, the deposit required for filing election petitions should also be reduced.

Another difficulty during elections which was experienced by us was the challenging of votes. When we

challenge a vote, we have to pay a deposit amount of Rs. 10. A deposit amount of Rs. 10 will put the poor candidates to a disadvantage. My purpose in emphasising these points is to make it clear that if we want to make democracy function, we should make the elections as inexpensive as possible and make them easy and bring them within reach of the common people.

There is another retrograde provision found in these Bills. In the principal Act, there was a provision that the village headman cannot canvass on behalf of any candidate, but now, the State Governments are empowered to remove the restrictions on these officers. A free hand is given to the State Governments and in the explanation given, it is specifically mentioned that the village headman should be allowed to take part in electioneering work. I think it is a dangerous provision, because, one who understands our social set-up will agree with me that the village headman is much more powerful than even the district magistrate. He is the local boss. He is the gateway through whom you approach the Government. He is sometimes the money-lender and the landlord, rolled into one. He is very powerful and every day he comes into contact with the life and activities of the villagers. So, it is very difficult for a villager to incur his displeasure. If the village headman starts canvassing, I think it will be an undue influence exercised on the voters.

Another danger experienced during the elections was the intervention of the Ministers. I had a personal experience of this just a year ago at the time of a by-election to the State Assembly in a small constituency. In that particular constituency, you would be surprised when I say that the entire cabinet functioned in favour of a candidate. All the members of the cabinet, about 10 or 12, went from village to village. In the

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day-time they used to go with the national flag flying and tell the villagers, we would open schools, construct roads, loosen the starings of the State purse and donate to different institutions, etc. In the evening, the flag used to be changed and the congress flag was put on the bonnets of their cars and they went from door to door and canvass the votes of the villagers. On the election day, in Berhampur town itself, it so happened that every ward was in charge of a Minister. A powerful Minister, holding the reins of Government in his hands, will go from door to door and ask the voters to go to the polling-booths and vote for the candidates of his choice. If this is not corrupt practice, I do not know what else can be corrupt practice.

**Mr. Deputy-Speaker:** Does the hon. Member suggest that the Ministers should resign?

**Shri B. C. Das:** I am coming to my suggestion. My suggestion is, the Ministers should be forbidden to do propaganda for any candidate. If they want to do propaganda for any candidate, they have to relinquish their office, and as private citizens they can go and do propaganda. As long as they hold the reins of Government in their hands, as long as they wield immense power and influence, undue influence is sure to be exercised on the voters. In the particular case which I mentioned, the entire cabinet of the State came and worked for one single candidate. When that is the case, you cannot expect any fair practice in that area.

**Shri B. S. Murthy:** What was the result of the election?

**Shri B. C. Das:** The Congress won naturally; by 2,000 votes.

**Mr. Deputy-Speaker:** Wherever it lost, what happened? Were the Ministers ill?

**Shri B. C. Das:** It was a by-election. It was possible for them to concentrate all their force there.

**Mr. Deputy-Speaker:** Therefore, for every by-election, the Ministers should resign and then come back!

**Shri B. C. Das:** They should not go in for propaganda as long as they retain their office. There is the President of the Congress Party, the Chairman of the socialist party, the Secretary of the Communist Party, etc. They can go and do propaganda but not the Ministers who hold office.

Another suggestion that I want to make is that the election officers of the States should be independent of the State Governments. They should be under the complete control of the Election Commission. Their promotions, their transfers, everything, should be in the hands of the Election Commission. They should not be recalled to the State service on any account. The Election Commission may send them away but not the State Governments. I say this because I came to know about a queer experience of one particular election officer of a State. He was not very pliable and so he was recalled and harassed. So, just as we have got an independent judiciary, these election officers also should function under the Election Commission. Even the clerks and all members of the staff of the election officer should be independent of the Central and the State Governments. Then alone we can expect some sort of independence from them. If they are attached to the Ministers, they cannot be expected to be fair or straightforward.

**Mr. Deputy-Speaker:** Does the hon. Member suggest that the Election Commissioner should have an army of these people?

**Shri B. C. Das:** Yes; as we have got in the case of the High Court and the Supreme Court, so also, to ensure democracy in India, especially parliamentary democracy in India, we have to be specially careful, because in this country, where parliamentary traditions are yet to be built up, we have to put special safeguards. Other-

wise, there is very great danger of parliamentary democracy collapsing in this country.

2 P.M.

**Mr. Deputy-Speaker:** The analogy of High Court does not hold good in this case.

**Shri B. C. Das:** What happens during elections is that the Ministers bring in the voters in lorries or motor-cars to the polling booths and the police are not interfering. Therefore, if the Election Commission has got a special staff, they can come and inspect and check these things and then bring the culprits to book. Then alone we can expect some justice.

**Shri B. S. Murthy:** Can you give details about the staff required?

**Shri B. C. Das:** I have not worked out the details. If I am taken in the Select Committee, I can tell you how it can be done.

I have one more suggestion and that is about the preparation of electoral rolls. My hon. friend, Shri Lokenath Mishra, has already criticised how the electoral rolls are prepared. I know that in my own State the electoral rolls were so grotesquely distorted that you could not identify the names at all. In case of women, husbands were styled as fathers, fathers were styled as sons and so on. I say this is very humiliating. The reason for this is that the staff employed for enrolling the names of voters is poorly remunerated. Petty school teachers getting Rs. 10 or Rs. 15 a month are employed for this purpose and they neglect their duty. There is also another difficulty. The State Government, which sends the voters list to the press, wants to engage the cheapest presses which demand the lowest charges for printing the electoral rolls, with the result that innumerable printing mistakes are found in these electoral rolls. Another difficulty is this. We know that the citizens of India are not so enlightened and so developed politically that of their own accord they

will come forward and give their names to the people who enroll the names of voters; you cannot expect them to correct their names if they are defectively printed in the electoral rolls. Usually the electoral roll is hung in a corner of the police station or the panchayat office. Very few people go there and take the interest to see those rolls. If you are really earnest democrats, you have to teach and train the people in democracy. By the beat of drum, you have to tell the people that the electoral roll is hung in such and such a place. A special officer must be appointed to assist the people in finding out whether their names are put properly in the electoral rolls. A sort of campaign should be launched in order to enthuse people to go to that particular place and find out whether their names are enrolled. The political consciousness of our masses has to be roused; then alone democracy can function in this country.

In this connection, I would say something about banning of vehicles. We know that there is a law that candidates cannot take voters to the polling booths in vehicles. But invariably powerful parties carry their voters to the polling booths in vehicles and the police very rarely interfere. I would suggest that in the interest of free and fair elections, on the day of election, vehicles should be banned. Only the candidate will be allowed to use one car or jeep; none else should be allowed to use cars on that particular day. They should be banned.

Regarding the composition of the Tribunal, I think there is some advance over the old system. When you appoint some advocate who aspires to become a judge or who aspires to some high office, you cannot expect justice from him. I know of a case in which, a particular gentleman, who invariably becomes a member of Government appointed Tribunals, was appointed to the Election Tribunal. He was a tribunal judge to exa-



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mine cases of detunes when I was a deteneue myself. His ambition is to get some high Government post or a post depending on the favour of the Government. From such a person you cannot expect justice. Such people get employed in the Tribunals very often and therefore people lose respect for these tribunals. I submit that it is better to have full-time persons already in employment and who do not expect any favour from the executive Government. Only such people should constitute the Tribunal; then alone we can expect some justice.

**The Minister of Legal Affairs (Shri Pataskar):** The proposal now is to have two serving judges.

**Shri B. C. Das:** That is why I say it is a step forward.

In conclusion, I would like to submit that if parliamentary democracy can be given a chance, it is the party in power that can give it a chance. But if the party in power abuses the trust which has been reposed in it, if it really betrays parliamentary democracy, history will not excuse it. We know very well that Parliamentary democracy is not the final word in political wisdom; it is on trial. In India if elections are not fairly conducted and if people feel that election is but a costly farce, the result will be that parliamentary democracy will soon be discarded and some other political machinery will be invented by the people for establishing a welfare State.

**Mr. Deputy-Speaker:** I will call those hon. Members who have had no chance during recent years. Shri B. D. Shastri.

**Shri Kamath:** You are very considerate.

श्री बी० डी० शास्त्री (शाहडोल सीधी) : मंत्री महोदय ने जो यह विधेयक संसद् के सम्मुख उपस्थित किया है, वह दो

मुद्दों पर है, एक तो एलेक्शन कमीशन के अनुभव के आधार पर और दूसरे गवर्नमेंट ने गत चुनावों में जो अनुभव प्राप्त किये हैं, उनके आधार पर यह विधेयक तैयार किया है।

कल आदरणीय सदस्य श्री एन० सी० चटर्जी ने एक मोशन प्रस्तुत किया है कि इसका दायरा क्षेत्र फल सेलेक्ट कमेटी में और बढ़ा दिया जाना चाहिये। वस्तुतः इसको अगर देखा जाय और इसके सारे डिटेल् में जाया जाय, तो इसमें आप काफी सामियां पायेंगे जिसके लिये ग्रामूल परिवर्तन करने की जरूरत तो नहीं है लेकिन मध्य मध्य में उसको संशोधित करने की पर्याप्त आवश्यकता है। मैं चाहूंगा कि सेलेक्ट कमेटी शुरू से ले कर आखिर तक अर्थात् जो पूरा रिप्रेजेंटेशन आफ दी पीपुल बिल है उसको अमेंड करे।

मैं धारा १० के ऊपर आपका और सदन का ध्यान आकर्षित करना चाहता हूँ। धारा १० में यह बात बताई गई है कि अभी तो एक बूथ पर एक ही प्रीसाइडिंग आफिसर नियुक्त किया जाता था, अब अगर एक ही मकान में या एक दूसरे से मिले जुले दो या कई बूथ हैं तो आपने इस धारा १० के मुताबिक यह प्रबोध किया है कि वहाँ पर एक ही प्रीसाइडिंग आफिसर उन सारे बूथ की जिम्मेदारी लेगा। इस सम्बन्ध में मैं आपको बताऊँ कि बूथ पर इतना अधिक काम होता है और कई किस्म की गड़बड़ें वहाँ पर उपस्थित होती हैं जिसमें एक तो यह है कि एजेंट खामख्वाह अपनी सामियों पर जल्दी से जल्दी प्रीसाइडिंग आफिसर के पास जाता है और विरोध प्रदर्शन करता है कि इस और से यह खामी की जा रही है और अमुक और से ऐसी खामी प्रस्तुत की जा रही है और उसमें जरूरी होता है कि प्रीसाइडिंग आफिसर हमेशा उन

चीजों को देखें और तै करे, इसके अलावा बोटर्स के बारे में यह दिक्कत उनके सामने पेश आती है कि लिस्ट में उनका नाम ठीक तौर पर दर्ज नहीं होता और वह जिम्मेदारी प्रीसाइडिंग आफिसर के ऊपर होती है कि नामों को लिस्ट से ठीक तरह मिला कर बैलेट पेपर इषू कराये और अगर हम दो या तीन बूथ एक प्रीसाइडिंग आफिसर के पास कर दें तो उसके लिये यह मुमकिन नहीं है कि वह ठीक तरीके से उन लिस्टों का निरीक्षण कर सके और अपनी सही गणना जो विरोध किया जाय, उसके मुकाबले में दे सके। इसलिये यह जरूरी है कि एक बूथ पर एक प्रीसाइडिंग आफिसर रखा जाय।

मैं आपको अपने अनुभव के आधार पर बतलाना चाहता हूँ कि गत चुनावों में लोगों को यह भी नहीं पता था कि बैलेट पेपर बैलेट बाक्स में कहां पर छोड़ना चाहिये। ऐसे पिछड़े इलाके थे जहां स्त्रियां बोट करने आईं, मर्द बोट करने आये, देहाती अनपढ़ आदमी थे, उनको यह ज्ञान नहीं था कि अपना बोट बैलेट बाक्स के भीतर डालना चाहिये या उसके ऊपर रख देना चाहिये, हालांकि उनको कई मर्तबा बताया गया कि उनको अपना बोट बाक्स के अन्दर डालना चाहिये, लेकिन आपके कानों तक भी यह शिकायत जरूर आई होगी कि बहुत से लोग अपने बैलेट पेपर्स बैलेट बाक्सों के ऊपर रख कर चले गये।

चीज यह थी कि वहां जो एजेंट मुकरर थे वे चाहते थे कि १०, १०, ५, ५ मिनट के बाद, प्रीसाइडिंग आफिसर के साथ हम लोग भी पहुंचें और देखें कि कितने बैलेट पेपर बाक्स के बाहर पड़े हैं, लेकिन प्रीसाइडिंग आफिसर हमेशा यह कहते थे कि नहीं, आप लोग वहां नहीं जा सकते। प्रीसाइडिंग आफिसर अकेले ५, १० या १५ मिनट बाद, या जब उचित समझते थे, जाते थे। पता

नहीं वह बैलेट पेपर किसी इंटरेस्टेड पार्टी के बैलेट बाक्स में डालते थे या क्या करते थे कभी कभी कुछ बैलेट पेपर्स को अपने साथ बाहर भी ले आते थे। इसके लिये जरूरी है कि जब भी प्रीसाइडिंग आफिसर बैलेट बाक्स के पास जायें, वह और पार्टियों के जो एजेंट हों उनको भी साथ ले जायें।

दूसरी बात यह है कि एक शिकायत इस बारे में भी आई है एजेंटों के कहने के मुताबिक कि गणना के बक्त अगर कुल बोटर्स २०० आये तो कभी कभी ऐसा हुआ कि रजिस्टर में ३०० बोट्स दर्ज किये गये। इसलिये यह जरूरी है कि जब पोलिंग खत्म हो जाये तो जो लिस्ट हो उसको चैक कर लिया जाय और उस पर एजेंटों के भी हस्ताक्षर ले लिये जायें ताकि किसी को यह कहने का मौका न आये कि जितने सही पोल्ड बोटर्स हैं उन से एक भी ज्यादा मत उसमें काउंट कर लिया गया है।

एक शिकायत और भी है, आपने देखा कि विन्ध्य प्रदेश की ट्राइब्यूनल के सामने भी डिमान्स्टेशनस हुये और वह डिमान्स्टेशनस बैलेट बाक्स के बाबत हुये। एक डिमान्स्टेटर ने दिखाया कि चिट के लगे रहने पर भी बैलेट बाक्स सुविधाजनक तरीके से खोला जा सकता है, उसमें से बैलेट पेपर निकाला जा सकता है, दूसरा छोड़ा जा सकता है और फिर उसको उसी तरह से बन्द किया जा सकता है। विन्ध्य प्रदेश में जो एलेक्शन पिटिशनस हुये उन में यही आम्बेक्शन रेज किया गया और उसके बाद रिटर्निंग आफिसर ने पता नहीं एलेक्शन कमिशन की इजाजत ले कर यह कैसे यह तय कर लिया कि बैलेट बाक्स पर कपड़े का बन्धन लगा कर उस पर सील लगाई जा सकती है। लेकिन मीने मुना है कि बहुत से ऐसे स्थान भी थे जहां लोगों ने चाहा कि कपड़े का बन्धन हो लेकिन उन्हें इसकी इजाजत नहीं मिली। जब इस डिफेक्टिव सील का डिमान्स्टेशन यह मिड

[श्री बी० डी० शास्त्री]

करता है कि यह तरीका गलत है तो यह आवश्यक है कि अगर कोई कैंडिडेट अपने खर्च से कपड़े का बन्धन लगाने के लिये तैयार होता है तो उसको इसकी स्वीकृति मिलनी चाहिये। इस विधेयक में इसको स्पष्ट करने में मैं नहीं समझता कि कोई पेचीदगी है।

धारा १२ में विद्वाल के बारे में मेरा एक सपेशन है। पहले तो यह कि जो समय निश्चित किया जाये उसमें अगर कोई कैंडिडेट अपना नाम वापस ले लेता है तो अच्छी बात है, लेकिन अगर किसी खास वजह से वह अपना नाम वापस नहीं ले सकता है तब भी उसको पोलिंग डे तक यह अधिकार होना चाहिये कि वह अपना नाम वापस ले ले भले ही नाम की वापसी में जो सिक्क्योरिटी उतने जमा की है वह उसे वापस न की जाय। ऐसा होता है कि अधिकांश लोग एक से अधिक कान्स्टिटुएन्सी के लिये अपने नामिनेशन पेपर फाइल करते हैं, वह कान्स्टिटुएन्सी काफी दूर होती है एक दूसरे से, एसेम्बली के लिये भी और लोक-सभा के लिये भी और दो या तीन दिन के भीतर कैंडिडेट यह निश्चय नहीं कर पाता कि मैं इस जगह से एलेक्शन फाइट करूँ या उस जगह से। अन्त में विद्वाल की तिथि खत्म हो जाती है और तभी वह निश्चय कर पाता है कि वह फर्ला जगह से एलेक्शन फाइट करेगा। यहाँ पर दो, डार्ड या पांच सौ रुपये के चले जाने का प्रश्न नहीं है, प्रश्न यह है कि अगर वह एक कान्स्टिटुएन्सी से लड़ना नहीं चाहता तब भी बैलेट बाक्स वहाँ उसके नाम में चला जाता है और सौ, पचास बोट उसमें पड़ ही जाते हैं। यदि वह बैलेट बाक्स वहाँ न रखा होता तो वह बैलेट पेपर्स किसी ऐसे सही आदमी को दिये जाते जो उनसे लाभ उठाता। इसलिये अगर इस कारण से उसका बैलेट बाक्स वहाँ न रखा जाये और उसका विद्वाल मान लिया जाय तो, भले

ही सिक्क्योरिटी न लौटाई जाय, मैं समझता हूँ कि एक बड़ा अच्छा कदम होगा और इसमें कोई नुकसान की बात नहीं होगी।

धारा १२ डी के अनुसार चुनाव के समय में भी कुछ कमी कर दी गई है। मुझे इस पर बड़ी खुशी है, लेकिन खुशी इस बात की नहीं है कि जो चुनाव का समय कम किया गया है वह कोई व्यापक रूप रखता है बल्कि इसलिये कि अक्सर यह देखा गया है कि जिस प्रकार से मेटक वर्षा काल में इधर उधर पानी के लिये काफी दौड़ धूप किया करते हैं वैसे ही चुनाव के दिनों में जो थैली वाले लोग हैं, पूजोपति हैं, काफी रुपये पैसे वाले हैं, वह माँचते हैं कि कौन मा बैकवर्ड एरिया है और कहां मैं कामयाब हो सकता हूँ ताकि रुपये के बल से या प्रोपेगैन्डा के बल से कम से कम एक सीट पा सकूँ। आपने देखा होगा कि अगर कोई यू० पी० का है तो वह मद्रास चला जा रहा है, मद्रास का है तो वह बम्बई चला जा रहा है, बम्बई का है तो वह कानपुर चला जा रहा है। विन्ध्य प्रदेश में भी कोई कानपुर का इन्डस्ट्रियलिस्ट है तो कोई कहीं का, और रुपयों की पैलियां उनकी पहुँच रही हैं। मुझे अपने विन्ध्य प्रदेश में इसका अनुभव हुआ है कि जो ३० दिन का मौका मिला उसमें ऐसे लोगों ने लाखों रुपये खर्च किये, एक, दो नहीं चार, छः या दस दिन पहले से ही सवारियां, ट्रक, जीपगारियां और लारियां दौड़ने लगीं और हजारों आदमी जो उनकी इन्डस्ट्री में काम करते थे, कपड़े की मिल में काम करते थे वह दूसरे स्टेट्स से भाये और अपने मालिकों का जितना अधिक से अधिक प्रचार कर सकते थे उतना किया। सवाल यह है कि अगर हम इतना समय कर दें और अपनी निर्वाचन पद्धति को बदल दें तो उससे हमें गलत आदमियों का निर्वाचन करने का कुभवसर नहीं मिलेगा। मैं चाहता हूँ कि इसका समझ

कुल पांच दिन कर दिया जाये और पांच दिन करने के बाद भी इसमें यह रखा जाव कि किसी भी कैंडिडेट को प्रॉपेगैन्डा करने का कोई अधिकार नहीं होगा। इससे यह होगा कि जो सही आदमी अपने क्षेत्र में पहले से है, मेहनत करने वाले हैं, सही तरीके पर अपने क्षेत्र के लोगों की वर्षों से सेवा कर रहे हैं, और जिन पर जनता का विश्वास है, वही चुने जायगे और वह आदमी नहीं चुने जायेंगे जो कि थैली या प्रोपेगैन्डा के बल पर उस कान्स्टिटुएन्सी का वोट्स सिक्थोर करने जा रहे हैं। बल्कि बेहतर यह होगा कि रटनिंग आफिसर को ऐसे पैम्फलेट निकालन चाहिये जिन में जितना भी उम्मीदवार हों सब का नाम, उनका चुनाव चिन्ह और उनका मैनिफेस्टो वगैरह सब दिया हो और जितना समय हो उस में सारी कान्स्टिटुएन्सी में बांटा जाय। भले ही इसका खर्चा कैंडिडेट्स से ले लिया जाय, लेकिन यह तरीका सही आदमी को चुनने का होगा। अगर आप चाहते हैं कि एक परिश्रमी आदमी, मेहनती आदमी प्रदेश की धारा सभा में और लोक सभा में आयें तो इसके लिये वह आयत्वश्यक होगा कि आप कम से कम समय रखें और चुनाव में अधिक से अधिक प्रबन्ध रखें। आप देखेंगे कि एलेक्शन कमिशन ने एक रिपोर्ट दी थी कि जितने लोगों ने एलेक्शन एक्स्पेन्सेज सबमिट किये हैं सब गलत हैं। इससे साफ जाहिर होगा कि अनुपात से कहीं अधिक खर्च किया गया है और एलेक्शन कमिशन इस बात को भी मानता है कि आपके पास कोई तरीका नहीं कि आप इसको चैक कर सकें। एक आदमी आज लाखों रुपये खर्च कर देता है, अगर उसके खिलाफ पिटिशन भी दी जाय तो उससे पार पाना मुश्किल होता है क्योंकि हमारे पास तो पैसा नहीं है कि विटनेस बुला सकें और उससे एविडेन्स दिला सकें। फिर अगर हम ऐसा कर भी सकें तो हो सकता है कि हमारे विटनेस को बुलाने

से पहले ही १००० ६० की थैली उसके घर पहुंच जाय और वह अपने से इन्कार कर दे तो इस तरह की मुसीबतें आती हैं कि हमारे सामने कोई तरीका नहीं है कि हम इन चीजों को रोक सकें। आपने यह तरीका बना रखा है कि एक कान्स्टिटुएन्सी में २५,००० ६० से ज्यादा खर्च न किया जाय, लेकिन यह सिर्फ आपकी धारा की शब्दावली में ही बनी हुई है। जहां तक मैं समझता हूं जो खर्च करने वाले लोग हैं उन को आज तक नहीं चेक किया जा सका और इस बिना पर कि उन्होंने अधिक खर्च कर लिया है जितना कि नहीं करना चाहिये, उन को कोई डिस्क्वालिफाई नहीं कर सका है। मैं पूछता हूं कि जो राशि आप ने तय की है यदि उसकी सही जांच कराने का कोई उपाय नहीं तो उस से क्या फायदा है अलावा इस के कि जो गरीब आदमी हैं वह परेशान हों।

अब एक चीज मैं धारा १४ के बारे में कहना चाहता हूं। इस में आपने यह नियम रखा है कि सैक्रेडर की कोई जरूरत नहीं है। वास्तव में कोई प्रस्ताव लाने का एक तरीका होता है कि उसका एक प्रस्तावक हो और दूसरा समर्थक। इस लिये अगर आप सैक्रेडर को हटा देते हैं तो फिर मेरे ब्याल में कोई जरूरत नहीं रहती कि आप प्रस्तावक को भी रखें और एक कैंडिडेट जैसे ही एक एप्लीकेशन ले जाये उसे ठीक मान लिया जाये और उसे कैंडिडेट घोषित कर दिया जाये। अगर कोई चाहे तो प्रस्तावक भी रख लें लेकिन कोई जरूरत नहीं है। जब आप इस रूल को सरल बना ही रहे हैं तो जैसे मैं ने कहा है उससे यह रूल और भी सरल बन जायेगा.....

**Shri Pataaskar:** A proposer is necessary for this reason that supposing the man is ill at the time when the nomination paper has to be filed, then we thought it much better that we might give this latitude that somebody might go and file that nomination.

[Shri Pataskar]

and propose his name. That is the only object why the proposer is kept.

Pandit K. C. Sharma: Yes, proposer must be kept.

श्री श्री० डी० शास्त्री : इसमें हमारा बहुत बड़ा विरोध नहीं है। मैं ने सिर्फ एक सजेशन दिया है आप जैसे समझें कर लें।

अब मैं धारा १७ पर आता हूँ जहाँ आपने रिटनिंग आफिसर को नामिनेशन पेपर स्वीकार करने के तरीके को सरल किया है। पहली बात तो यह है कि यदि रिटनिंग आफिसर के स्थान पर कोई ज्यूडिशल कोर्ट का एक अनुभवी व्यक्ति रख दिया जाये तो ज्यादा बेहतर होगा और उससे यह सुविधा होगी कि वह इन वैधानिक गड़बड़ों में काफी गम्भीरता से और गहराई से जा सकेगा। इसके अलावा जो वह जजमेंट देगा वह किसी हद तक निर्णयक हो सकता है। लेकिन ऐसे अफसर को जो हमेशा माल के केस करता है उसके लिये इन सब बातों में जाने में बड़ी दिक्कत पड़ती है और होता यह है कि कई बार गलत तरीके से नाम एक्सेप्ट कर लिये जाते हैं और गलत तरीके से रिजेक्ट भी कर दिये जाते हैं। इस लिये मेरे स्थान में अच्छा यह होगा कि इन चीजों का फैसला करने वाला कोई अच्छा विधानज अधिकारी हो। ज्यादा सुविधा की बात तो यह होगी और मैं आपकी उम एमेंडमेंट की तारीफ करूँगा जिसे आप ने विद्वुरा कर लिया है और जिस में आपने कहा था कि रिटनिंग आफिसर जो निर्णय देगा उसकी अपील हाई कोर्ट में होगी और हाई कोर्ट में अपील होने के बाद अन्तिम निर्णय समझा जायेगा। यह एक अच्छा तरीका था क्योंकि लक्ष्य यह नहीं होना चाहिये कि अधिक से अधिक इलेक्शन पेटिशनस सामने आयें, बल्कि लक्ष्य यह होना चाहिये कि इलेक्शन पेटिशनस जितनी कम हो सकें उतनी कम हों। यह तभी सम्भव है जब कि उनकी अपील चुनाव के

पहले हो जाये। यह चीज अगर चुनाव के पहले हो जाती है तो सारी दिक्कत दूर हो जाती है और अगर पहले नहीं होती है तो बड़े सरल तरीके से लोग नामिनेशन पेपरज को एक्सेप्ट कर लेंगे और उन्हें रिजेक्ट नहीं करेंगे और बाद में कठिनाइयाँ पैदा होंगी। इसका नतीजा यह होगा कि एक आदमी को इलेक्शन करार देकर के बाद में उसकी इलेक्शन सेट एसाइड होगी और फिर सारी दिक्कतें पैदा आयेंगी। तो मैं आप से चाहूँगा कि जो सुझाव मैं ने दिया है यदि आप उसको स्वीकार कर लें तो यह एक बड़ी अच्छी बात होगी। यह जो सारे झंझट हैं यह पहले ही दूर हो जाने चाहियें और अगर आप ऐसा नहीं करते हैं तो इसका यही नतीजा होगा कि बाद में इलेक्शन सेट एसाइड होंगे और फिर उन लोगों का लाखों रुपया दुबारा खर्च होगा, और गवर्नमेंट का भी। दूसरी बात यह है कि एक आदमी जो इलेक्शन लड़ता है और इलेक्शन जीतता है और अगर दर असल जो उसका नाम एक्सेप्ट हुआ या रिजेक्ट हुआ उसमें कोई गड़बड़ी नहीं है और रिटनिंग आफिसर के न्याय के बावजूद उसकी इलेक्शन सेट एसाइड हो जाती है तो भला उस बेचारे का क्या अपराध है जिस को कि इलेक्शन पेटिशन सेट एसाइड हुई है। आप देखें कि रिटनिंग आफिसर ने उसके नामिनेशन पेपर को स्वीकार किया था और उसके बारे में अपना निर्णय भी दिया था लेकिन फिर भी उसकी इलेक्शन सेट एसाइड हो जाती है। इस लिये मेरा सुझाव है कि अगर इसको एपीलेबल बना दिया गया तो कम से कम पानी छना हुआ तो आयेंगा और इलेक्शन पेटिशनस भी कम होंगी।

चुनावों में जो रुपया खर्च किया जाता है उसके बारे में मैं कहना चाहता हूँ कि आपने एक हद तो रख दी है कि २५,००० रुपये से ज्यादा किसी कैंडिडेट को खर्च

नहीं करना चाहिये लेकिन मैं समझता हूँ कि इसका चेक कोई नहीं है और इसका कोई न कोई चेक जरूर होना चाहिये। जो लाग एक या दो लाख रुपया खर्च कर देते हैं उसको चेक करने का तरीका आपके पास कोई नहीं है और जब ऐसी बात होती है तो इस लिमिट को रखने से कोई फायदा नहीं होता है। मैं चाहूँगा कि सिलेक्ट कमेटी इस पर गहराई से विचार करे और जो भी तरीका हो सकता है और जो भी तरीका उसकी समझ में आवे वह निकाले ताकि इस को किसी तरह से चेक किया जा सके।

ट्रिब्यूनल की बाबत आपने धारा ४७ में तय किया है कि ट्रिब्यूनल विटनेस को रिकाल कर सकते हैं और उससे जो एविडेंस लिया जा चुका है उसकी बाबत दुबारा एविडेंस ले सकते हैं। मेरा सजेशन यह है कि अगर ट्रिब्यूनल अपनी खुशी से किसी मामले को साफ़ कहने की गर्ज से किसी विटनेस को जो एक मतबाधा हुआ है अदालत में उसको दुबारा काल करते हैं तब तो मुझे कोई आपत्ति नहीं है। लेकिन अगर एक पेटिशनर की पेटिशन के बावजूद दुबारा वह फिर काल किया जाता है तो यह जरूरी है कि जो प्रतिवादी है, जो डिफेंडेंट है उसको ऐसा अवसर दिया जाये ताकि वह क्रास एग्जेमिन कर सके और रिबट कर सके। जब उसने एक बार एविडेंस दे दिया है तो फिर उसको दुबारा रिकाल करने की जरूरत नहीं है। मेरा खयाल है कि अगर किसी विटनेस को दुबारा रिकाल किया जाये और उसे कोई चीज साफ़ करने को कहा जाये तो हो सकता है कि उस चीज को रिबट करने की आवश्यकता पड़े और ऐसे मौके पर जब कोई विटनेस रिकाल किया जाये तो जो दूसरा आदमी है उसको भी सफाई का मौका दिया जाना चाहिये।

कई बार ऐसा भी होता है कि जहां विटनेस बाक्स में एक गवर्नमेंट के अफसर

को बुलान की जरूरत पड़ती है और उस को किसी रिकार्ड के साथ आने को कहा जाता है तो देखा गया है कि अदालतों में ट्रिब्यूनल के सामने पुलिस के अफसर डाकुमेंट पर प्रिविलेज क्लेम कर देते हैं और वह डाकुमेंट आ नहीं पाते जिस का नतीजा यह होता है कि सही न्याय नहीं हो पाता और सही न्याय होने की सम्भावना कम हो जाती है। अगर कोई पुलिस का अफसर किसी डाकुमेंट में प्रिविलेज क्लेम कर दे तो वह डाकुमेंट नहीं आ सकता और उस डाकुमेंट के न आने के कारण हो सकता है कि दूसरे आदमी को फांसी लग जाए। मैं चाहूँगा कि इस बात का निर्णय करना है कि वह डाकुमेंट प्रिविलेज क्लेम करने लायक है या नहीं, पुलिस के अधिकारी का काम न हो बल्कि यह ट्रिब्यूनल का काम हो या हाई कोर्ट के किसी जज का काम हो।

Mr. Deputy-Speaker: The hon. Member must conclude now.

श्री बी० डी० शास्त्री : तो मैं चाहूँगा कि अगर कोई पुलिस अधिकारी किसी डाकुमेंट के बारे में अपना प्रिविलेज क्लेम करे तो इस का जो फाइनल जजमेंट दे वह या तो ट्रिब्यूनल दे या कोई जज दे या कोई कोर्ट दे न कि वह पुलिस का अधिकारी दे। एक बात मैं . . . .

Mr. Deputy-Speaker: Now, no एक बात।

श्री बी० डी० शास्त्री : सिर्फ पांच मिनट और दीजिये।

Mr. Deputy-Speaker: I have given him sufficient time. I will call upon another hon. Member. It is endless. It is such a big ocean, and anybody can speak.

Shri N. M. Lingam (Coimbatore): The measure before this House is important not only from the point of view of its proximate and direct concern to most of us here, but also from the point of view of the future of democracy in this country.

The world has hailed the last general elections as one of the greatest experiments in democracy the world has ever seen, but we in this country

[N. M. Lingam]

have seen what defects, what obstacles, what bottle-necks we had to encounter in the process of carrying out this experiment.

Before I go into the facts that contributed to the success of this great experiment, I shall deal with the major changes that have been proposed in this measure.

The measure covers the whole gamut of election proceedings, from the publication of the notification to the setting up of election tribunals. I shall deal with the very first changes proposed.

It is proposed that the interval between the notification of election and filing of nomination shall be a maximum of ten days. In my view this interval is quite inadequate. To publish a notification throughout a constituency of seven to eight lakhs of people is no easy matter. The notification has to reach every nook and corner of the sprawling constituency. It has to be channelled through the hierarchy of the revenue department. So it takes days before the notification reaches every quarter. So I would suggest that the interval between the publication of the notification and the date of nomination should be not less than ten days. This is the minimum even for elections for local bodies. So, it is necessary that this interval should be increased.

I come next to clause 12 relating to the period between the notification calling for election and the commencement of polling. This period is sought to be telescoped in the Bill. My own submission is that at least thirty days should elapse between the date for the publication of valid nominations and the date of poll. It is the experience of hon. Members in this House that anything less than thirty days is very inadequate to contact the electors in the constituency. So, a minimum of thirty days is necessary, though the Election Commission with the best of intentions, has

proposed that the interval should be smaller. One of the reasons adduced by them is that the candidates will not be put to heavy election expenses. It is necessary that in the interest of proper education of the electorate and proper facilities for doing propaganda the interval should be the minimum. I would suggest that to be thirty days between the date of publication of valid nominations and the date for poll.

Then I come to grounds on which nominations may be rejected. It is proposed that the question of disqualification should not be the subject matter of decision by the returning officers. It is true that the returning officer cannot be expected to go into the question of fact and law involved in every case where the disqualification of a candidate is involved. But if there are glaring instances where the candidate is suffering from disqualifications it ought to be the function of the returning officer to reject the nomination summarily. If, for instance, a candidate is known to be a man having contractual obligations with the Government, then there is no point in not dealing with that question and leaving it to the other candidate or candidates to fight it in a court of law later on. This is quite an-avoidable difficulty and harassment to the other candidates.

Then section 46 of the Act provides for the appointment of polling agents at least three days before the commencement of the poll. This has caused hardship and the change proposed is that there should be no time-limit for the appointment of polling agents and that they could be appointed and that the presiding officer could accept the appointments later.

Then there is the question of declaring a member elected. A simple question like this has created a lot of confusion. The declaration is made as soon as the election is over, but the notification in the Gazette comes

later on. I think the change proposed that the election should take effect from the date of declaration is very welcome. The declaration should in fact be not merely that the candidate is elected, but that he is elected and he shall come into office forthwith. The form of declaration itself should be specified in the rules which should be framed under the Act.

Then there is the question of election expenses. Much has been said about it in this House and it is the experience of most of the Members here that this requirement under the present rules is observed more in the breach than in the observance. Election itself is a gruelling ordeal; to subject an elected candidate, or for the matter of that, even a defeated candidate to this process of submitting the election return in the complicated form required by the Election Commission is very cruel, apart from the fact that it serves no useful purpose. It should be in my view, as simple as possible and here the Select Committee has to rack its brains as to how best it could simplify this process of submitting the election return.

Various doubts have been raised whether the process of computing the election expenses commences with the applicant filing an application to the party for a ticket or even earlier still. A little while ago, the hon. Member Shri N. C. Chatterjee was saying that a person was unseated because he did not include in his election expenses the fact that he had applied for a ticket from a party. So, all these matters require careful consideration by the Select Committee. There should be no room given later on for the tribunal or the High Courts, to go into this question and decide the fate of members on merely technical grounds. I cannot suggest just now as to how best it should be simplified, but it occurs to all of us here, I dare say, that the form in which election expenses are expected to be submitted is quite cumbrous. It also puts to strain the candidate's

code of conduct in that he has to depart on several occasions from what he feels to be the proper thing to do. I would not suggest in this connection that the limit for election expenses should be raised, although on the merits of the case there is nothing repugnant in this proposal. If actually we are to educate the electorate if we have to go to every voter and explain to him about what he has got to do in the elections and tell him that under the new Constitution, sovereignty inheres in him and that he must exercise his vote without fear or favour, the upper limit prescribed in the rules is hardly sufficient. There is nothing wrong in raising the limit or a man showing a higher expenses. But my whole point is that the election figures which are submitted are fictitious. It will be interesting to know the average election expenses incurred by candidates for both Assembly and Parliamentary constituencies. I do not know if the Election Commission has compiled these figures. One hon. Member here was saying that he had incurred an expenditure of Rs. 1000 only. I do not know whether he was suggesting that there should be a minimum for election expenses. But whatever it is, the form in which election expenses should be submitted, and the procedure for doing so should be simplified to the utmost extent possible, thereby causing no strain either mental or moral on the candidates.

I now come to the question of implicating the candidates in election disputes, whether there are multiple seats. The amendments proposed are very salutary, because if in a double-member constituency the candidate for the reserved seat is returned unopposed then there is no point in implicating him later on if the election of the candidate for the general seat is called in question.

Next I come to the big question of election disputes. The Election Commission was taken by surprise that the Supreme Court had to



[Shri N. M. Lingam]

interference in a large number of cases which had been decided by the election tribunals. We can imagine the condition of the Members returned to this House, who have to go through the ordeal of these election petitions, sometimes even throughout the period or term of their membership in Parliament. The changes proposed only touch the surface. In order to avoid delay, it is proposed that instead of three members, there should be only two members constituting the tribunals; and in cases of difference of opinion between the two, the question will be referred to a judge of the High Court who would be appointed in consultation with the Chief Justice. We do not know how in actual practice this would eliminate delay.

My principal point is apart from the time and the processes that the new proposal will take us through, it is important that there should be some finality about the decisions of the tribunal on election petitions. I know that there is article 329 of the Constitution which empowers the High Courts and the Supreme Court to issue prerogative writs. I do not know if it is possible to take away these writs and amend the Constitution. But it ought to exercise our minds that there should be some finality about the fate of these election petitions. Otherwise we will be ruining many a candidate for no other reason than that an opponent bent upon creating vexatious litigation would pursue the successful candidate. I do not know if it is possible to fix a time-limit for these tribunals to dispose of the applications. Even if there is a time-limit, still there is the prerogative of the High Courts. I know that. But no time-limit is contemplated in the amending Bill.

Shri Pataskar: That will not be effective, for article 329 is there, which reads:

Notwithstanding anything in this Constitution....

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority.....

The Supreme Court has interpreted this in the following manner, namely that this provision does not mean that they have not got the powers to issue writs or to grant special leaves to appeal. So, even if we fix some time-limit for the election tribunals, it will be of no use, for once the writ comes, naturally the whole proceedings have got to be stayed.

Shri N. M. Lingam: I appreciate the difficulty. I am mentioning this only to draw the attention of the Select Committee to this most important point namely that something should be done to give some finality to the decisions in regard to election petition.

Shri Pataskar: The only thing is to amend the Constitution.

Shri C. R. Narasimhan: A legal brain devise any remedy.

Shri Pataskar: You will have to amend articles 139 and 226.

Shri N. M. Lingam: With regard to the participation of village officers, it is common knowledge that village officials are officials, non-officials, men of political influence, and in fact men who play many other roles all rolled into one. It is anomalous that while they are allowed to stand for elections they are not allowed to canvass for elections. My suggestion is that they should not be allowed to stand even for elections, because in the elections, at the lowest level, they play a very important role. They attend to the polling officers, to the election officers and so on; they are identifying officers, and in fact they are everything. So it is not desirable that the village officers

should be allowed to stand for elections in the first place. The position at present varies from State to State. For instance, in Punjab, they are allowed to stand, but in Madras they are not allowed to stand—though, under the Constitution they are allowed, yet under the departmental rules, there are restrictions against their standing for elections. But I would suggest that some uniform procedure should be evolved by which officers of any tinge whatsoever should be completely debarred from standing or canvassing for elections.

Lastly I would say that the Select Committee should examine the other aspects of the two Acts, with a view to seeing that the whole election procedure may be made simple, if our objective is to make elections, as we want to make justice, simple, speedy and inexpensive. At the same time, we have to remember that in a country like India, the constituencies are rather very huge. In UK about 50 million people elect nearly 600 members. But here the same number or even less, i.e. about 500, are elected, by about 300 million people. So, unless we increase the number of Members in the House, the constituency will go on growing.

**Shri B. S. Murthy:** Stop it.

**Shri N. M. Lingam:** I am suggesting it for your consideration.

**Pandit K. C. Sharma:** Control the population.

**Shri N. M. Lingam:** Then there is the fact that the educational standards of the electorate in this country are comparatively lower. Having regard to these things, we have to evolve a machinery for election which will contribute to the growth of democracy in this country. Of the three limbs for the growth of democracy, we are dealing with election at present. But it is equally our responsibility to see that the electorate is educated, and there are healthy political parties. Unless there is the healthy play of these three factors, i.e. the

education of the electorate, the growth of political parties on sound lines, and a proper election law, we cannot have a sovereign parliament which could be the arbiter of the destinies of a great country like ours.

**Shri Lakshmayya (Anantapur):** I need not say that the two Bills before us are the most important, because they are directly concerned with Parliament and the State Legislatures. I was one of the Members of the Select Committee that was appointed last time to consider the original Bills. We discussed those Bills at great length in that Select Committee, and made many improvements. It is in pursuance of the assurance given by the then hon. Minister of Law that these two Bills are being brought forward now. I am very happy that they are taking the shape after one year.

First of all, I want to compliment the hon. Minister of Legal Affairs for having come forward with a number of suggestions and amendments. Of course, this election is a human institution, and therefore there are bound to be defects. It is in the light of experience gained by Government and the Election Commission that these changes are now proposed. I should thank the hon. Minister for having proposed several changes which are acceptable to the House.

But since we are only referring these two Bills to a Select Committee I do not want to go into the details of the proposed changes. I would only lay down some broad principles and make a few suggestions which absolutely need to be considered by the Select Committee.

At the very outset, I want to refer to section 23 of the Representation of the People Act, 1950. There in it is said that the electoral roll for each constituency shall be prepared every year. I wish to say that the preparation of the electoral roll is really imperfect and unsatisfactory. In the light of experience in the elections

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held recently in Andhra State, I want to cite one instance in this connection. A member was returned by an overwhelming majority in the last election; he was a member of the Madras Legislative Assembly, and after the separation of Andhra he was the member of the Andhra Assembly. He wanted to contest in the elections recently held in Andhra, but to his utter surprise and amazement—and to his regret—he found that his name was not found in the list. The nomination paper was rejected on the ground that his name was not there. The man was there in flesh and blood—the returning officer was there to receive nominations and to scrutinize them but to the surprise of all, his name was not found in the Electoral roll. Of course, where the mistake lies, we all know. Now, an annual revision is proposed. Of course, it is a welcome proposal. Instead of duplication of work and heavy expenditure, the Government have proposed such a very good thing as annual revision. This annual revision will also be for enlisting the names of new voters. But my anxiety is that the officer in charge of revision will do such mischiefs intentionally or inadvertently such mistakes would happen. Therefore, the officers must exercise due care and attention in enlisting new names and revising old ones. What happened in this connection is this. Unfortunately, the wife of the member died, and instead of deleting the name of the wife, his name was deleted. When he went there, to his utter amazement his name was not in the electoral roll with the result his nomination was rejected. It is a thing which happened recently. Therefore, I would request the Select Committee to take note of this.

**Mr. Deputy-Speaker:** Wife is the the better half.

**Shri Lakshmayya:** Therefore, provision should be made in this regard. It is a glaring mistake. When such

mistakes are found, the returning officer should be empowered to take the initiative and see that his name is included even at a heavy fee and the nomination is accepted. I would request the Select Committee to see that such defects are rectified.

Then I come to section 7(c) relating to disqualification. Even if the agent of the candidate, has not submitted the return of expenses, the disqualification would be incurred; disqualification would be caused to the candidate as well as to the agent. For the fault of the agent, the candidate has to suffer. I would cite another recent instance. An agent was appointed only at the eleventh hour, on the day of the election. The candidate had submitted the return of expenses in time. The agent unfortunately went to a place which was far away. There, on account of unavoidable circumstances—I learn his mother had died—he had to stay for some time. He could not come and submit the return of expenses within the time fixed.

**Shri B. S. Murthy:** How is it that he is quoting only deaths?

**Shri Lakshmayya:** Unfortunately, deaths occur. Even the other day when we were debating the Hindu Succession Bill, a death occurred in this august House. Death is natural and inevitably occurs sooner or later. So he stayed there for some time; he could not come in time, and he could not send the return of expenses. What is the result? The candidate was disqualified. Already he was returned by an overwhelming majority of 30,000 votes. Then the disqualification ensued. What should he do? He had to run to Delhi and move heaven and earth to see that the disqualification was removed. I request the Select Committee, particularly its Chairman, to take particular interest and see that such things do not recur. I suggest that the powers of the Election Commissioner should be widened; in such cases, he must use his discretion and be liberal and gene-

Bill

rous enough to remove such disqualifications.

The next thing I want to say is in regard to section 34 of the Act relating to the amount of deposit. Under section 34, a candidate should deposit Rs. 500 along with the nomination. In my humble opinion, this is a very high amount. Ours is a poor country; a deposit of Rs. 500 is really an enormous amount. I suggest to the Select Committee that it should be reduced to Rs. 300. The candidate for the parliamentary constituency will be already overburdened; even a pie would be a heavy amount for him. Besides, when the deposit amount is fixed at such a high amount, it would be the monopoly of moneyed class and some of the middle class, but not of the poor. The poor also should have an opportunity to contest. In my humble opinion, the deposit amount in the case of a parliamentary constituency should be reduced to Rs. 300 and in the case of a State legislature constituency to Rs. 150. It might be said that everybody will contest, because the amount is very scanty, and it may lead to some unhappy things, and all that. I do not think these grounds are just and reasonable. Even Rs. 300 is a large amount.

Here I would like to make another suggestion. According to the law now, for avoiding forfeiture of deposit a candidate should poll one-sixth of the total votes polled. I suggest that it may be increased to one-fifth or one-fourth of the number of votes polled, so as to make a candidate think twice before entering the arena. At the same time, the deposit amount may be reduced.

**Shri C. D. Pande** (Naini Tal Distt. cum Almora Distt.—South-West cum Bareilly Distt.—North): There are people who have been elected with less than one-tenth of votes.

**Shri Lakshmayya**: That occurs very rarely. Then I would make another suggestion. There is now, of course, a method of voting for the blind people. The blind will be led to the polling booth. The presiding officer

would follow him and in his presence he has to cast his vote. Of course, he is supposed to cast his vote in some box. Now, I learn that some unhappy things have happened. A presiding officer who is interested in some candidate or some party may misuse his power and, and it may be put in the box of the presiding officer's choice. To safeguard against that and to see that the intention of the blind is carried out perfectly, some other method should be devised. In my humble opinion, instead of one officer going there, two officers, that is, the presiding officer and the assistant presiding officer could accompany him. If two are there, at least something better would occur. I feel that the principle of secrecy of ballot will not be violated by this system. Some differences of opinion may arise and one officer may fear that the other would divulge it. That is why I say some better method should be devised and the Select Committee should look into it and formulate a better method.

3 P.M.

As I said before I do not want to go into details. But, I would like to say a few words with regard to the appointment of the polling agents, election agents and the counting agents. Clauses 40, 46 and 47 deal with these appointments. I am glad that the appointment of an election agent has been made optional. I had rather a painful experience. The House also knows the other instance which I cited just now. On account of the failure of the election agent, the candidate was disqualified and he had to get it removed. He is now an hon. Member of the Andhra Legislative Assembly.

With regard to the counting agent, I suggest one thing. Now, either the candidate or his election agent or some other counting agent may be present at the time of counting. As the Deputy-Speaker said yesterday, there would be eight lakhs of people in one constituency and the polling would be by about three to four lakhs.

**Mr. Deputy-Speaker:** Eight lakhs of population.

**Shri Lakshmayya:** It means at least four lakhs of voters and the polling would be at least two lakhs. Therefore, for counting two lakhs of votes how many people would be necessary? At least 20 to 25 batches would be there and the counting may go on from 7 A.M. to 7 P.M. or even to midnight. What can one counting agent do? He can not be a *sahasraksha* since he has only two eyes, nor make *ava-dhanam* there. Therefore, I suggest that some maximum number should be fixed. The Select Committee should see that as many counting agents as possible are appointed to watch the counting carefully.

With regard to the election agents, recently we had some experience. At present we have to send the list of the election agents three days before the date of election. Fortunately, that is proposed to be changed and we must be thankful to the hon. Minister for it. Now, we can prepare the list in duplicate even on the election day and present it. The candidate as you are all aware, by practical and personal experience, is already worried and tired. The Select Committee should see that ample facilities are given to him by lessening such unnecessary burdens and worries. There may be technical and legal defects. The Select Committee should see that as far as possible these difficulties and defects are removed and that this Act is exhaustive, comprehensive and self-contained.

**Pandit K. C. Sharma** (Meerut Distt.—South): Sir,....

**Mr. Deputy-Speaker:** I will give an opportunity to every hon. Member as far as possible. Therefore they will state their points within 15 minutes.

**Pandit K. C. Sharma:** Less than 15 minutes, Sir.

I have appeared in many of what are called well contested election petitions. Having gone through the reports of general elections in other countries, I confidently say that these general elections here were fought fairly and freely to an extent of which you will not find an example in any other country—with the least trouble, with great satisfaction and giving opportunity to every class of voters, rather to every voter. There were long queues of village women coming and voting; everybody cast his vote and returned back without any trouble, without any kind of disturbance.

With all the emphasis at my command, I deprecate the allegations made by Shri Kamath and some others that Ministers and others went there and made propaganda and influenced illegally and unduly. Out of the 338 petitions filed, in not a single petition has it been proved that a Minister had exerted undue influence or that any government official exercised undue influence or duress or in any way abused his position. It was a remarkable success the like of which you cannot find anywhere in the world in the history of elections—to the extent to which the Indian voters went to the polls. This is an achievement of which every citizen of India should be proud. Of course, to err is human and here and there, there might have been some mistakes. But, one thing I would submit and it is this. It is not fair to run anybody to the ground. Do you think that any Minister worth the salt, any responsible government servant will act in a way which will cut at the very root of the foundation of good democracy? Democracy must have fair and free elections. It must have an efficient and independent judiciary. If these two great organs of State are not available, then democracy cannot work. No responsible Minister can and dare act prejudicial to this vital principle of the foundation of democracy.

Having said this, I want to bring one major fact to your notice with regard to the working of democracy all over the world. Generally, it is 50 per cent. of the population that are voters and 50 per cent. of them go to the polls. One party can easily get returned 51 per cent. of the candidates or securing 30 per cent. of the 50 per cent. cast, and then rule the country. If 30 per cent. of 50 per cent. votes that are cast are secured then a party comes into Power.

**Shri M. S. Gurupadaswamy (Mysore):** Forty-seven per cent. is ruling us now.

**Pandit K. C. Sharma:** You are fortunate to have 47 per cent. What I beg to submit is that it is possible—rather it is the world record—that 15 per cent. can create a majority in the Legislature and that rules the country, as against the 85 per cent. which are either indifferent or are opposing. Therefore, 15 per cent. getting a majority in the House and ruling the country is no democracy at all. Therefore, the only panacea for making democracy working in the real sense of the term is to make it compulsory that every voter should go to the polls and vote.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

My respectful submission is that the present day Government is a welfare State. Therefore, every citizen has the right to claim that the State should provide facilities for the education of his children and certain essential and decent necessities of life for him. Having made this claim on the State, it is his duty to cast his vote for the Constitution of the Government on which he has a claim as a citizen.

**Mr. Chariman:** What punishment will the hon. Member provide if a person does not cast his vote?

**Shri C. D. Pande:** You have to amend the Constitution so that the civil liberty of the man may be curtailed.

**Pandit K. C. Sharma:** There is some provision in Norway and in one or

two other countries of the world, to the effect that voting is compulsory; there is a penal clause to the effect that anybody who fails to cast his vote shall be liable to pay a fine of about Rs. 50 or so.

**Mr. Chairman:** Food and shelter are not compulsorily provided for in the statute, but everybody is fined Rs. 50 for not casting his vote?

**Pandit K. C. Sharma:** That is so in the constitutions of two or three countries. It is a fundamental question because it is the only provision which can secure the rule by a democratic government, that is, by the Minister being voted by a majority of voting. Otherwise, the result will be that 10 to 15 per cent. of the voting strength may go to make the government, ruling the country, against 85 per cent. This is not democracy. As I submitted before, 30 per cent. of the full strength, which is ordinarily 50 per cent. of the number of voters can secure a majority of 51 per cent, which means that 15 per cent. of the voting strength can make a government which will rule the country against 85 per cent. either indifferent or opposing.

I am glad that the nomination is made easier and simpler because many of the election petitions have been accepted due to wrong rejection of the nomination. Particularly, in PEPSU we saw the phenomenon that the majority of the members lost their seats on account of the wrong rejection of the nominations of their opponents. Therefore, it would not be possible now for such a thing to happen. This is an improvement and I welcome the amendment suggested by the hon. Minister.

Again, I congratulate the hon. Minister for providing in this Bill that the party expenses would not be added to the sum that is incurred by the candidate so far as his election expenses are concerned. I do not so much worry about the sum or whether it will increase or decrease, but it would

[Pandit K. C. Sharma]

bring in one salutary change, namely, that there will be much more party propaganda rather than individual canvassing. When a candidate resorts to individual canvassing, the thing that will appeal to the voters is caste feeling, religious sentiments and certain other such factors, which are not very desirable ones so far as election for the legislatures is concerned. When a party comes in for propaganda, it puts in the broad questions of policy, the issues involved etc. and, therefore, the electorate is better educated, and it will also have a more salutary effect on the general conduct of elections. The party will be more prominent in making propaganda and conducting the elections rather than the individual candidate. It will again bring in a class of people who are personally averse to the humdrum and turmoil of election business because the party will work for them and they will not be forced to come into this turmoil, which does not suit a class of people who are finely sensitive and highly evolved. It is better if a class of people can come in who can lend flavour to a high standard of working of the legislature, and that is possible by this provision. Therefore, the party will be much more prominent in the elections rather than the individual candidate.

I come to election petitions. My respectful submission is that I do not like special laws for having special procedures or what you call 'judicial procedures'. It is better that the procedure should be the same as prescribed in the Civil Procedure Code, which is the general law of procedure. Why should you say that this name should come in, or these particulars should be mentioned? The particulars that are necessary to make a claim, as envisaged in the Civil Procedure Code, should come in. A man who makes a claim and comes for relief must give the particulars that will entitle him or warrant him the claim of relief asked for. That

is enough. What is the use of having clauses 82, 83 and 84, and then saying that the Election Commission can dismiss the election petition? The Election Commission should not be authorised to dismiss such a petition. Let it go to the tribunal and let it follow the procedure as provided under the Civil Procedure Code. Let the candidate have justice and let him have the opportunity to amend any particulars he likes as provided in the Civil Procedure Code. Why do you give the preliminary power to the Election Commission to dismiss a petition simply because the name is left out or a particular is left out? The petitioner does not know the particulars of law and no citizen knows these. He goes to the lawyer. If he makes certain mistakes of this type, the election petition is dismissed. This is a funny sort of state.

**Mr. Chairman:** Can any election petition be dismissed on account of the fact that certain particulars are not mentioned?

**Pandit K. C. Sharma:** In Lucknow, in the petitions in which I had the honour to appear, there was one petition against one of the Ministers. Simply because certain names were not given....

**Mr. Chairman:** Then it means that a necessary party has not been impleaded. My point is whether a petition can be dismissed only due to the fact that certain particulars are not mentioned.

**Pandit K. C. Sharma:** Supposing certain particulars are not mentioned, there may be a few particulars which might make a strong case for the petition being accepted. How can the Election Commission sit in judgment? It is not a tribunal and it is not constituted of judges. Certain facts might look superficial and may seem entirely unimportant, but before a tribunal it may make what is the crux of the problem. It often happens that what is unimportant and superficial to the layman is very important

to the judge and very important to the man who knows the law. The layman just sees it superficially but the judge goes into the fundamentals of the question. There is a difference in outlook between these two. Therefore, my respectful submission is that no power of dismissing a petition should be given to the Election Commission. All powers of dismissal or acceptance should be vested in the tribunal alone and the tribunal should adopt the procedure laid down in the Civil Procedure Code. On principle I am against these special provisions. Why not the general law come in? What is the lacking in the CPC? Why should not the petitioner be allowed to amend or add the name or some small particulars that are lacking? You give certain rights in cases making claims of money; you give rights to amend under the CPC. Why not this facility allowed in a big thing like the election petition where a candidate is contesting an election. People come and dispute that a man is wrongly elected. You do not allow these rights here whereas in a claim for Rs. 50 or Rs. 100, you allow him to amend his claim in order to get relief. There is no logic or sense behind it.

With these suggestions, I commend the amending Bill and request the Minister to let the Select Committee make any other change in order to ensure an easier and fairer election and minimise the disputes about elections and the unnecessary prolongation of the election petitions.

श्री अजित सिंह (कपूरथला-मटिडा—  
रक्षित—अनुसूचित जातियाँ): पहली बात मैं इलेक्ट्रल-रोलज के बारे में कहना चाहता हूँ। जैसा कि शिड्यूल्ड कास्ट्स कमिश्नर की रिपोर्ट पर बहस के दौरान में कई भाइयों ने एतराज किया था कि सेन्सस में शिड्यूल्ड कास्ट्स के लोगों के साथ डिस्ट्रिक्टिनेटरी सलूक हुआ है। उस में बहुत से लोगों को शामिल नहीं किया गया। मुझे पिछले इलेक्शन

का तजुर्बा है कि बहुत से हरिजन लोगों को इलेक्ट्रल-रोलज में नहीं रखा गया। यह क्यों हुआ, इस की ज्यादा डिटेलज मैं इस वक्त नहीं बताना चाहता हूँ। मैं सिर्फ यह कहना चाहता हूँ कि कुछ लोग—कुछ सेक्शनज, जिन का नाम बताना ठीक नहीं है, ऐसे हैं जोकि सरटेन पार्टीज में इन्टरेस्टेड होते हैं। वे जानते हैं कि हरिजन कांग्रेस को ही वोट देते हैं और वे किसी और पार्टी को कम ही वोट देते हैं। इसलिये वे चाहते हैं कि इन लोगों के नाम इलेक्ट्रल रोलज में न लिखे जायें। साहिबे सदर, मैं मिनिस्टर साहब से बड़ी इत्तजा से कहूंगा कि इन लोगों के नाम इलेक्ट्रल-रोलज में फिर से लिखे जायें। इसलिये यह जरूरी है कि इलेक्ट्रल-रोलज का रिविजन किया जाय।

एक्ट के सेक्शन २३ में कहा गया है :

"Section 23 of the Act requires that the electoral roll for each constituency shall be 'prepared' every year in the prescribed manner with reference to the qualifying date. In view of the enormous size of the rolls and the expense incurred in the preparation of the first electoral rolls the Election Commission has decided not to attempt anything like a completely fresh preparation of the rolls every year except in a few localities. A house to house enquiry and re-writing of the rolls every year will be unduly expensive and almost impracticable."

मैं कहना चाहता हूँ कि इस को थोड़ा आसान कर दिया जाये और हरिजन भाइयों के लिये कुछ न कुछ फैसिलिटी जरूर दी जाय। उन के घरों तक पहुंच कर उन के नाम फिर से लिखे जायें। इस में कहा गया है कि साल के साल यह एनाउन्समेंट किया जायगा कि जिस का वोट नहीं बना है, वह अपना नाम दर्ज कराये। मैं दर्ज करना चाहता हूँ



[श्री अजित सिंह]

कि गांव के लोग तो पहले ही बहुत अनपढ़ होते हैं। कास्ट हिन्दूज और बड़ी कास्ट के सिखों को भी यह पता नहीं होता कि कब वोट्स बनते हैं, कहां बनते हैं और कौन बनाता है और हरिजनों को तो इस बारे में कुछ भी मालूम ही नहीं होता है।

दूसरी बात यह है कि वोटिंग के वक्त हमारे साथ बड़ा जुल्म होता है। हरिजन भाई वोट देने के लिये कांग्रेस कैम्प में जाते हैं। गांवों में कुछ लोग ऐसी मैनलिटि के होते हैं कि वे कांग्रेस की तरफदारी नहीं करते। मुझ अपनी कांस्टीच्युएन्सी का एक इन्सिडेंट याद है। हरिजनों ने कांग्रेस को वोट दिये। वे लोग लीडलेस होते हैं और न उन के पास मकान होते हैं। जब वे लोग, उन के बच्चे और उन के मवेशी खतों को जाते हैं, तो जिन लोगों के पास जमीन होती है जराये होते हैं, व उन को बाहर नहीं निकलन देते। शिड्यूल्ड कास्ट्स वाले लोग कहते हैं कि हमें गवर्नमेंट ने यह हक दिया है कि हम अपने वोट को आजादी से इस्तेमाल करें। इस के जबाब में जमींदार लोग यह कहते हैं कि हमें भी इस बात का हक है कि हम आपको अपनी जमीन पर न भ्रान दें और आप के मवशियों को वहां न चरन दें। इसलिय यह जरूरी है कि एकट में कोई न कोई प्राविजन रखा जाय कि इस किस्म की रेस्ट्रिक्शन्ज न हों और शिड्यूल्ड कास्ट्स और हरिजनों को इतनी तकलीफ न ही।

तीसरी बात यह है कि इलेक्शन्स के वक्त पुलिस आफिसर बहुत ज्यादा इन्टरफीयेरेन्स करते हैं। वे सास कर डाकुओं और इनफ्लुएन्शाल आदमियों के जरिये गरीब आदमियों पर रीब डालते हैं और उन पर नाजायज मुकदमात चलाये जाते हैं। मैं ने इस किस्म के कई इन्स्टान्सिज देखे हैं।

मैं मिनिस्टर साहब से दरखास्त करूंगा कि वह इन दो तीन बातों की तरफ तबज्जह दें। आपका शुक्रिया।

श्री जयपाल सिंह (रांची पश्चिम-रक्षित—अनुसूचित आदिम जातियां) : मुझे बहुत हर्ष है कि हमारे नौजवान दोस्त सरकार के मालिक और प्रतिनिधि बने हुए हैं, और जो एक दो बातें मैं कहूंगा, उन को शायद वह लिख लेंगे। वह कानून मंत्रालय के मंत्री नहीं हैं, यह मैं अच्छी तरह से जानता हूँ, मगर मैं बहुत खुश हूँ कि वह एक दूसरे मंत्रालय में चले गये हैं और मुझे पूरी आशा है कि वह बहुत दिनों तक वहीं टिके रहेंगे। लेकिन साथ ही मैं उन से यह अर्ज करूंगा कि वह कानों में तेल डाल कर न बैठे रहें और सो न जायें, क्योंकि जो कुछ मैं कहता हूँ और जिस इलाके और वर्ग की मैं बातें करता हूँ, उस के सम्बन्ध में बहुत कम माननीय सदस्यों को परिचय है।

हिन्दुस्तान में यह एक बहुत बड़ी बात की गई, जब कि हम लोगों ने तय कर लिया और विचार कर लिया कि यहां के हर एक नौजवान को अपना मत देने का अधिकार दिया जाये। यह एक बहुत भारी बात थी। हम लोग छः हजार बरस तक ब्राह्मणों के गुलाम रहे।

श्री बी० बी० बेशपांडे (गुना) : भभी तो आठ साल हुए हैं।

श्री जयपाल सिंह : इस ब्राह्मणबाजी के कारण ही, जोकि हमारे मुल्क में इतनी देर तक चली, हमें भभी तक यह अधिकार नहीं मिला था। ये ब्राह्मण तो कल परसों ही यहां भाये हैं, पर हम इन के पैदा होन से छः हजार बरस पहले यहां पर थे। ये भपन को ब्राह्मण कहते हैं, मगर यह हिन्दुस्तान की एक बदतमीजी की बात है। मुझ यही

कहना है कि जो गणतंत्र, जो जनता का राज्य हम ने हिन्दुस्तान में लाया है, वह अभी पूरा नहीं हुआ है। अभी तो अर्धविकृत हिन्दुस्तान है। मैं तो अर्धविकृत हिन्दुस्तान वाला हूँ। हम नहीं चाहते कि हम कांग्रेस पार्टी के गुलाम बन कर मुल्क को बिक्री कर दें और जनता राज्य की बात करें। कांग्रेस पार्टी को कहां से ऐसा हुक्म मिला या कहां से ऐसी शक्ति मिली कि वे हिन्दुस्तान को बेच कर दो टुकड़े कर दें। हमारा मुल्क दो टुकड़े हो गया यह सही बात है। हम तो आखिर तक, जब तक हम में सांस है लड़ेंगे कि हिन्दुस्तान फिर एक हो जाय।

इतना कह कर, सभापति जी, मुझे यह कहना है कि हम ये फिजूल बातें न करें, कि जनता राज्य या गणतंत्र वगैरह वगैरह। मैं सरकार को इसीलिये धन्यवाद देता हूँ कि वह यह संघोषित कानून ला रही है, ताकि जो कुछ हमारे सामने है उस में एक प्रकार की प्रगति हो। हम सब जानते हैं कि चुनाव एक अजीब बात है। हमारे माननीय दोस्तों ने बहुत कहा कि हमारे प्रधान मंत्री के लिये विशेष गाड़ी चलती है वगैरह वगैरह। मैं उन से यही अर्ज कलंगा कि अगर वह उभर होते, उस गद्दी पर होते, तो उन के लिये एक गाड़ी के बजाय दस गाड़ियां चलतीं। तो अगर हमें हार खानी है तो हम हार खाते हैं। उस को हमें स्वीकार कर लेना चाहिये, यह जनता राज्य की बात है। बहुत सी ऐसी बातें हैं जो हमें पसन्द नहीं आतीं। अभी हमारे दोस्त वहां प्रधान मंत्री की जगह बैठ हुए हैं, यह बात हमें पसन्द नहीं आती, वह जनता राज्य की बात नहीं है।

संसद-कार्य मंत्री (श्री सत्य नारायण सिंह) : आप कहें तो मैं उठ जाऊं ?

श्री जयपाल सिंह : इसी तरह से जिन माननीय मंत्री को यह कानून पारित कराना

है वह यहां मौजूद नहीं हैं, यह शर्म की बात है। यह जनता राज्य की बात नहीं है। आप को जनता राज्य चलाने की भ्रम नहीं है, आप नहीं चाहते कि जनता राज्य यहां हो। जनता राज्य तभी हो सकता है... सभापति जी, यदि आप मुझे अनुमति दें तो मैं कुछ अंग्रेजी में कह दूँ।

What does democracy mean? It ensures that the minority voice shall be heard. I am tired of hearing from the other side: "The country has sent us here". You have polled only 41 per cent and you call that democracy? Forty one per cent or call it 49 per cent, but it is not 51 per cent and you say you have been sent here to rule the country. I think it is time you produced new dictionaries to define the word 'democracy'. Sir, let us be honest with ourselves. I think it has been a courageous thing and something for which I must congratulate the Congress Party—I know my friends on this side do not seem to have much to say in favour of the Congress Party—for the very very brave decision they took about adult franchise. It is a very big thing. We have often talked about our being a democratic country but with sacerdotalism there can be no democracy. I say, let us be honest with ourselves. I know, when I talk of Brahmanism my friends may say Brahmanism is not conterminous with democracy. But, what do you mean by democracy? It is 'equality'. Does Brahmanism fit in with 'equality'? Please do not talk of your glorious past. I do not want to talk of my glorious past. I know what the invading hordes have done to the Adivasis, the most ancient aristocracy of India. I know what the new comers have done. They who have produced millions and millions of serfs talk today of democracy. I ask them: "Go to the Adivasis and they will teach you democracy."

Sir, having exhausted my invective may I go back...

Mr. Chairman: I was just going to ask the hon. Member to speak about the Bills.

**श्री जगपाल सिंह :** मैं आप को बहुत धन्यवाद देता हूँ कि आप ने मुझे एक रास्ता दिखाया। वह रास्ता यह है कि हमारे पश्चिमी बंगाल के माननीय सदस्य श्री चटर्जी ने जो बहस की है उस का मैं समर्थन करता हूँ। सवाल यही है कि यह जो सिलेक्ट कमेटी बनी है उस को पूरा शक्तिशाली दिया जाये कि जो भी सवाल उस के सामने पेश किया जाय उस पर वह विचार कर सके। यह केवल कानून और आर्डिन की बात नहीं है। हमें मुल्क को बढ़ाना है। जनता राज्य हम ने स्वीकार कर लिया है, इसलिये जनता राज्य को लाने के लिये हम जो कुछ कर सकते हैं करें। आर्डिन और कानून, वकील और बकालत ने हमारे मुल्क को बरबाद किया है। सभापति जी, आप मुझे क्षमा करें क्योंकि आप भी एक वकील हैं। हम जानते हैं कि आप नाराज होंगे यदि हम यह कहें कि आदिवासी इलाकों में एक भी वकील नहीं होना चाहिये। यदि आदिवासियों को किसी ने दबाया है तो यही आप की जाति ने दबाया है।

**Mr. Chairman:** Fortunately, the Legal Practitioners' Act is not under discussion. We are only discussing these two Bills.

**Shri Jaipal Singh:** Sir, we are producing so many laws. May I just tell you that in 1946 I was not a voter? I was not in the electoral roll when the rolls were being compiled. I had to go to a Sub-Divisional Officer. He asked me what my qualification was. I said I was a matriculate. He asked me for the matriculation certificate. At that time I was staying in the great industrial city of Jamshedpur which was about 100 miles away from my sub-divisional headquarters. I had to go there for my enrolment. The Sub-Divisional Officer asked me to produce the certificate. For my sins I did not matriculate in India but somewhere else and that also was 20 years before.

I told the Sub-Divisional Officer all these things. but he said: "No, you must produce your matriculation certificate." Then it certainly occurred to me that I had been a member of the Indian Civil Service and I could not have been a member of the Indian Civil Service unless I was at least a matriculate. Then he said: "All right, you should produce evidence."

**Shri Pataskar:** When did that happen?

**Shri Jaipal Singh:** If my friend will have a little bit of histrionic sense I think he will be able to conduct things in a better way.

Then the Sub-Divisional Officer said that the evidence must be hung up in the Thana for 10 days. So, again I had to go back a hundred miles to Jamshedpur and come back. Then my great satyagrahis on the other side, at the end of 10 days pointed out: "Yes, he may be an eligible elector, but is he an Adivasi?" So, I was asked to prove that I was an Adivasi. It is very difficult to prove one's paternity. I am just giving an instance of what happened to me. Then, there was a sitting Member in the Council of States, again an Adivasi. At the last election she was disqualified because her name was not in the electoral roll. These are the sort of things that are happening.

All that I say is, if we are really serious about democracy—and I think India has a tremendous future in democracy—let us be honest with ourselves. What about these disqualifications and other little things? If you do not keep your accounts this or that way you are disqualified. Let us be genuine in our endeavour in this march towards democracy because we have at the present moment a really good man, a good chap who means well. He may be in bad company and he is Shri Janwāharlal Nehru. He is in bad company on the

other side, but he is a genuine, a good man and he does bring credit to our country. It is no good trying to deceive ourselves and saying we are democratic. That party has not been democratic as far as I know. I know you, Sir, feel a bit upset when I talk like this. But what I am trying to say is this: that the only way to be democratic is, I think, in my view, to be liberal, to be generous, apart from the other point of view. I feel somehow or other—I do not know whether it is in this Bill or not—that the only way of having democratic representation in the legislatures is proportional representation. I do not know whether it is in this Bill or not, I do feel it may be a very difficult thing to execute, but as far as I am concerned and my colleagues, that is, the *jungtis*, and the *girijans*, and the Adivasis as you call them, are concerned, their reaction to this adult franchise has been the best in this country. You look at the report of the Election Commission. It is in the tribal areas that there has been the best response and the best behaviour. It is the so-called educated fellows in the urban areas who create all the trouble. I know of instances where people have filed up serially and voted in the villages. There has to be discipline in this country. We may lough at proportional representation and say: "No, we have not reached that stage yet". But I think we have to think about this question very seriously.

I have one more point to make but I feel that in my endeavour to make a speech in Hindi I may have gone off the rails. I am thinking not only of us who are in this great land of ours but there are literally millions of Indians abroad. Take the case next door—the case of Ceylon. There, the problem of franchise is a very tricky one. Elsewhere also, it is so. I know that the armed forces have got the right to vote. It is my considered view, my considered opinion, that Indians, wherever they are, so long

as they have not the franchise anywhere else, should have the right to vote at our elections. I know it will not be a simple matter, but there are countries like the United States of America, Great Britain and so forth, whose nationals, wherever they are, are enabled to vote for the candidates whenever there are elections. That is rather an important point.

Finally, I would like to have real democracy in this country. I do not like the idea of the *thana* being the polling place. Somehow or other, we do not trust ourselves. Since independence, we have tried to translate our ideas of democracy in a very peculiar way. Many Members have referred to the village *chowkidars* and so forth. Why cannot the polling take place in the village itself? Why not? I think this is something worth while considering very, very seriously. Certainly in regard to the tribal areas there will be no hocus-pocus. It is only when clever, half-educated and half-baked lawyers come into the picture that we get all the trouble. Mahatma Gandhi has reminded us *ad infinitum* that India is a country of villages. Any pattern that we try to evolve legally should have relation to the village economy of this country.

जब भी उन को मत देना हो तो गांव में क्यों न दें और वोट देने जाने के लिये उन को ५, १० और १५ कोस पैदल क्यों चलना पड़े और इस में होता यह है कि आप के दोस्त जो उधर हैं, वे इन को दारू वगैरह दे करके वहां पहुंचाते हैं। हमें इस प्रश्न पर अस्थी तरह से विचार करना चाहिये कि अगर मत देना है तो वे अपने गांव में ही जहां कि पंचायत है, वहां अपना मत क्यों न दें और यह जो आप एलेक्टोरल रोल्स बनाते हैं, लाखों रुपये आप खर्च करते हैं उन को छपवाने पर, तो मैं पूछता हूं कि उन के छपवाने को क्या जरूरत है? क्या गांव में लोगों को मालूम नहीं है

[श्री जयपाल सिंह]

कि कौन कितने वर्ष का है और किस कीमत देने का हक है और किस को नहीं है। मैं पूछता हूँ कि अगर आप को ग्राम पंचायतों पर विश्वास है तो यह जो करोड़ों रुपये आप खर्च कर देते हैं, एलेक्शन रोल्स छपवाने में उस की क्या जरूरत है ? मैं आप से यही विनय करता हूँ कि आप भगवान के लिये, भल्लाह के लिये, यह जो करोड़ों रुपये आप व्यर्थ में फेंक रहे हैं, आप उन को न फेंकिये। गांव में जो चौकीदार होता है वह सब गांव वालों को जानता है और वह यह भी जानता है कि किस को मत देने का हक है और किस को नहीं है और किस की कितनी उम्र है इत्यादि ; मगर खेद के साथ कहना पड़ता है कि आपको गांव पंचायतों पर विश्वास नहीं है, आप तो पूंजीपतियों की बात रखते हैं जिन के कि थैले में ज्यादा पैसा है। और आप खोग चाहते हैं कि यहां पर वे ही लोग आयें। मैं अपने इलाके की बात कह रहा हूँ जहां कि एलेक्शन के वक्त लोगों की हमारे दोस्तों को तरफ से बताया गया कि देखो यह गांधी जी का बक्सा है, मुझे इस बात का अफसोस है कि गांधी जी का नाम मुझे लेना पड़ रहा है, लेकिन मैं आप को बतलाऊं कि वे आप के ही साथी थे जिन्होंने लोगों को कहा कि देखो यह गांधी जी का बक्सा है, इस में वोट डालोगे तो वृक्ष भी काट सकोगे, और बैल गाड़ी में मुफ्त बैठ सकोगे और भट्टी में जा कर मुफ्त में दारू पी सकोगे, यह सब प्रचार होता है। हमारे दोस्त उधर बैठे हुए हैं, अगर मैं कुछ मलत कहता हूँ तो वे खड़े हो कर इन्कार करें।

श्री सरय नारायण सिंह : इस बुनिया में इन की बातों को कोई इन्कार नहीं कर सकता है।

श्री जयपाल सिंह : मैं यही कहना चाहता था कि ऐसा कानून बनाइये कि जो भी व्यक्ति हो, चाहे वह पोलिंग एजेंट हो, एजेंट हो, या उन के वर्कर्स हों, अगर ऐसी ऐसी बातें कहें तो उन को कालेपानी भेजा जाना चाहिये।

यह जो एलेक्शन एक्सपेन्सेज की बात उठती है, तो मैं भी जानता हूँ कि क्या होता है और आप भी बलूबी उस को जानते हैं। मेरा तो इस सम्बन्ध में कहना यही है कि जनता राज्य

में टैकिनकैलिटीज नहीं होनी चाहियें। मैं पहले ही कह चुका हूँ कि मैं एलेक्शन रोल्स बनाने की कोई जरूरत नहीं समझता और अगर आप गांवों में ही मत देने का प्रबन्ध करें तो करोड़ों रुपया आप का बच जायेगा। आप को पोलिंग एजेंट की कोई जरूरत नहीं है। सरपंच वहां पर हैं, वही सब लोगों के सामने जैसा कि स्वीटजरलैंड में कन्टोन्स में हुआ करता है, आप खुद जानते हैं कि वहां पर हाथ उठा कर के फैसला होता है, इतनी हिम्मत होती है कि सब के सामने वह अपनी राय प्रकट कर देते हैं। हमारे दोस्त जो यहां पर बैलेट की बात करते हैं तो मैं उन से कहता हूँ कि यह बैलेट क्या चीज है और उस को आप गुप्त क्यों रखते हैं ? अगर मैं आप को चाहता हूँ तो क्यों नहीं मैं सब के सामने हाथ उठा कर दुनिया को बतला दूँ कि मैं आप को चाहता हूँ। मेरे विचार में असली जनता राज्य वही है।

सभापति महोदय, मुझे कहना तो बहुत कुछ था, मैं ने हिन्दी में अपनी बात कुछ कहने की कोशिश की। मैं आप को धन्यवाद देता हूँ कि आप ने मुझे बोलने का अवसर दिया।

Shri Raghavachari (Penukonda): I just want to deal with a few outstanding problems connected with the election law. Before doing so, I would respectfully ask for the consideration of the Government as well as of this House as to what happened to the results of the prolonged deliberations and labours that were invested upon a Bill previously which was the subject-matter of a Select Committee's consideration. The reason at that time was that it was only concerned with a few aspects of election law and that they wanted to have it urgently before the elections in Travancore-Cochin and other places were held. But in spite of all these deliberations, the very conclusions which the Government arrived at from its experience of the previous General Elections have conveniently

not even been referred to in this Bill. I would particularly like to refer to the programme of elections. In the elections, the most important thing that generally leads to litigation is—it has also been the experience of the Government during the last elections—that many election petitions are filed because of the improper rejection or acceptance of nomination papers. So, they were very anxious to find a solution that did not really necessitate the whole election being set aside, long after the election was held and after thousands of rupees had been spent. So, they were anxious that in future the rejection or acceptance of these nomination papers should be entrusted to be decided by a body which would do the thing fairly satisfactorily, infusing confidence in the people concerned with the elections and also quicken the proceedings. I am surprised that all those clauses of that Bill, particularly clause 17 which referred to some amendments proposed to section 36 and the addition of a new section 36A, have been forgotten. The whole procedure, which after a good deal of deliberation the Select Committee unanimously recommended—I take it that it was with the agreement of the Government also—has entirely been neglected in this Bill. I wish to submit that this is one of points which the Select Committee should take into consideration. The labours and opinions expressed previously should again be considered and really some clauses must be included in this Bill which would effectively provide for a satisfactory settlement of these matters at an early stage. Not only have the Government not referred to those conclusions, but they now propose, that but for certain very minor objections with regard to disqualifications which are apparent on the face of it, all the rest may be left over, it is specifically provided like that—to be decided later in election petitions. We know, if many of these matters are to be decided in election petitions, what an amount of State money as also the

private money of the candidate will have to be spent and how unsatisfactory the whole thing will be. So, I would earnestly suggest that the Select Committee do consider those provisions which were made before and incorporate them here in this Bill.

As now proposed, they want to reduce the period of the tension of the election from 42 days to 30 days or something like that. By this process of an intermediary agency for settling the acceptance or rejection of nomination papers it is quite possible that the period of election tension would increase. But to my mind it looks that one or two weeks of extension is certainly necessary to spare ourselves the complications and the possible future waste of labour involved therein. Therefore, I beg to submit that this point also may be considered by the Select Committee.

I shall confine myself to two or three important points. Take, for instance, the question of ceiling election expenses. I find that for the first time this election law is introducing a ceiling on expenses. My experience may not be very much, but I find that in the local boards, elections etc. this kind of ceiling is not there and yet we are getting on in this country with elections fairly well. Now we have provided this ceiling on election expenses. I will just refer to the details. They started with a ceiling on election expenditure and in these few years the experience of the Government and the experience of the country has been that this ceiling is found to be very unworkable, unsatisfactory and unreal and often, if I may be pardoned for saying so, found certainly incorrect, not to use the word 'false'. We all know how these expenses are incurred. Even the Supreme Court has referred to this in a number of cases. If a candidate employs a man, you say it is his election expense. But if his grandfather or brother-in-law employs a man, it is not his election expense.

[Shri Raghavachari]

The amount is capable of being included or excluded from the election expenditure of the candidate. Not only that. In the present Bill it is provided that monies spent by recognised parties will not be considered as election expenditure at all. The difficulty which the Government felt and which the Minister of Legal Affairs expressed yesterday was that when the party spends say Rs. 50,000 for the election of one Parliamentary Member and 4 Members for the State Legislature, the portion to be allotted to any particular candidate must be arbitrary. Therefore, hereafter they say that there should be no inclusion of this amount in the ceiling. The party which is in power can provide crores of rupees and the candidate who has the good fortune to stand on behalf of that party will have a big purse at his disposal. But what about independent candidates? Let us consider what a discrimination it makes. If I am unfortunate to stand independently or on behalf of a party which is not recognised, I cannot spend that quantum of money which can be spent by a candidate standing on behalf of a recognised party. Is this not discrimination? It will be much more honest, in my opinion, to make a law which says that no candidate shall stand for election, unless he stands on behalf of a recognised party. This sort of discrimination, ✓ is not, to my mind, justified. About this question of ceiling, as I said, ✓ abolish this ceiling on election expenditure. Along with the ceiling go all the other responsibilities like submission of accounts and so on. Even the Government have now felt that returns need not be submitted in a particular form; and that it is enough if some kind of account is given. They have found that many of these accounts are cooked up accounts for submission later, let me say, incorrect accounts, to keep it within the limits permitted. It is unreal. I think, you Sir, used the words, it is putting some kind of burden, an uneasy bur-

den, on the conscience of people if there is something left still in them. For those who have none, they can say anything; if they had spent Rs. 25 lakhs, they may say Rs. 10,000 only. To my mind, it seems that we should not encourage or demand a thing which every one of us knows to be unreal. You may have omitted many things, it is not complete. Why make this farce and say, there is a ceiling, there are consequences of non-submission of accounts?

4 P.M.

✓ Let us take up the disqualification involved in not submitting these accounts. The rule was that all candidates who have filed nomination papers should submit their accounts. The Election Commissioner has found that hundreds of them have not submitted. Therefore, he had to disqualify all these people. Then such of them as had the commonsense applied and the disqualifications were removed. Another Gazette notification had to be issued and so it went on. Now, it is said that it is impracticable and therefore only those who are validly ✓ nominated need submit accounts. In other words, in your own experience, stage after stage you found that the restrictions that you have prescribed are things which are impracticable and unreal. Then, suppose my account is incorrect and my agent has omitted to mention something. Or, there are numerous people employed and there is some expenditure and some mistake has occurred. The disqualification is, you cease to be a Member of Parliament or of a legislature. You cannot stand again for 6 years or 5 years. What is the offence? Even the worst criminal is not punished like this. The consequence of a rotten requirement that you have insisted, knowing full well that it is unreal, that it is impracticable, is that one has to suffer. Let us be honest and, say, we will not have these provisions regarding election expenses, this ceiling, etc.

Fortunately, the power to remove this disqualification is left in the hands of the Election Commissioner. I feel that this is right. After all, he may use his discretion and exempt many people where he finds that there are mistakes and not really involve the candidates in moral turpitude. As I said, I feel that the provisions relating to election expenses may safely be omitted in the interests of easing the conscience of people who have still something left.

In addition to what I said about the machinery required for finalising as far as possible the acceptance or rejection of nomination papers, I have only to make a few observations about the election tribunals. Government have by experience found that the existing tribunals have contributed to the delay in the disposal of these election petitions. I wish the Government had given us more particulars to make us judge whether it is the presence of the third member who, I call, is an independent member, that is the cause of these delays. I call him independent because, he is neither a district judge nor a retired district judge or a retired High Court judge—these were two—he is an advocate or some independent man. I ask whether in all these cases, the delay was due to the fact that there was a non-official member on the tribunal and there was an adjournment of the case because he could not come. Or is it your district judges or retired people who said that they could not come and therefore, it was held up? You quietly say, we will omit one of them and we will have only district judges in office. To my mind, there seems to be some suspicion that you are attempting to take away this independent association of an outside gentlemen from the agency of the tribunal. If you really do not want to have an independent tribunal, I would even submit that it would be much better if you make these election

petitions to be enquired into by a district judge, and provide an appeal to the High Court. It will solve all the problems once for all. Why this provision for two people and if they differ, then a reference to the High Court? That may be done in a regular manner. Possibly the argument will be that the election tribunal must be an independent body and should be free from State interference. We all know that the country has the greatest confidence in the judiciary rather than in these tribunals. No doubt, technically under the Constitution, it may be an independent body. Your own district judges come here. What is their independence? They always depend on you. It is much more healthier and much more honest to say that we will have a district judge and there will be an appeal to the High Court. What some Members have submitted is that the Supreme Court under article 136 and the High Courts under articles 226 and 227 interfere in these matters and therefore there is not much purpose in these tribunals. We know that these writs of *certiorari* etc., are mostly in cases where jurisdiction not vested is exercised or jurisdiction vested is not exercised or is wrongly exercised or there are patent or clear cases or manifest cases of error. Therefore, jurisdiction is very very limited. Therefore, these provisions regarding tribunals must be amended by providing appeals.

Then, I come to the provisions regarding public servants and their interference. I do not mean to say that as a result of this amendment, all public servants, particularly village officers and others will begin to canvass hereafter. But, that is perfectly permissible. In section 123, the old explanation was that the *patwaris*, *karnams*, etc., shall not be exempted. Now, you have permitted the State Governments to exempt these people. It does not mean even now that the State Government must exempt them or that the State Governments will exempt all village officers



[Shri Raghavachari]

and permit them to canvass. But, is there anything in the law to prevent the Government from doing that? That is possible. Therefore, you see how the new Explanation is objectionable as Shrimati Renu Chakraborty submitted also. The notes on this clause refer that this provision has been found unworkable and therefore you want to exempt so that public servants can go on doing propaganda. It becomes most unfortunate. But, even as it is, people here are complaining that the Government and its machinery is being utilised, some say unduly and unjustly. Our friends opposite get angry and they say it is 'mean' as somebody wanted to call it. It is not a question of mean or high; it is a question of reality. I would mention only one thing. How many of us have not seen this? When the party in power stands, you find the whole machinery of the Government works, very smoothly as if it was greased cent per cent. But, the point so far as I am concerned will be this. Even suppose you won't allow Government servant; suppose a public servant's wife stands as a candidate. The public servant is a very powerful fellow. In the very place where he is a public servant, his wife is a candidate.

**Shri S. S. More:** That has happened.

**Shri Raghavachari:** I do not know. I am making a supposition. We are aware of the influences. You may ask, has somebody proved any case of undue influence. I would ask this question. There are 100 murders in my district every year. Sixty of them are not established, and, therefore, are there no murders? Therefore, simply saying "Have you established in a court of law that there is undue influence?" does not mean that there is no undue influence. It is difficult to establish it. Therefore, I say there is this undue influence when a near relation of a public servant stands in a place where he is an officer. We might sug-

gest that where a public servant has a sway or influence, his relation or wife, or her husband, cannot stand in that very locality but elsewhere, but it may be objected to on the ground that he or she must have a right to stand in a place where they have some influence and therefore it may be against the Constitution. To my mind it looks to be a difficult thing, but still, as we did in the company law—for the relation or near relation of the managing agent something we did—if you make some kind of a definition here that "public servant" includes his wife or some other relation or a near relation, I think we might try to solve this difficulty. I would mention that and then leave it there.

Then, the other thing I want to submit is as regards the date on which the election, or the result of an election petition is to take effect. There is some amendment that is proposed. Well, we know that oftentimes there are some difficulties. The moment the result of an election is notified, the man is supposed to be a Member of this House. I had even to raise a point of order when Shri Kamath's case came here. "It has not yet been reported here, so we do not know" came from the Chair. I said: "Under the law there is no need to send any such notification here, and he is a Member. You have deprived him of his right to participate today." The next day, of course, and even that very day after lunch, he was called, but our friend had gone away. That is one difficulty which is cleared, I am glad.

What about election petition results. There is now need for Gazette notification. We all know they stop the issue of notification, go to the Supreme Court. I may not favour that, I perfectly agree. So, these election petitions are pending and therefore you cannot remove the man. The moment the election petition result is announced, the man ceases to be a Mem-

ber. Let us take that as we have proposed. What would be the consequence? He can, in spite of that judgment on the election petition, go to the Supreme Court and the High Court. He has still got that right. But undoubtedly you will immediately dislodge him from his position, and the next thing is to order a bye-election, and then you spend your money, Government money, public money, others spend their money, we are all busy with the next election, and another man comes here by election. The Supreme Court takes 1½ years to decide the case, and meanwhile the new man has come here and the Supreme Court allows the appeal. What is to happen? The man here will have to be sent out then and the old Member will have to come in. I am only saying this leads to this inconvenience. Therefore, I would suggest that the moment an election petition judgment is pronounced, give a month's time or some time for him to go to a higher court and then if he has not committed any major corrupt practices immediately he may come here. They have also provided amendments now that if anything has been done by that particular Member participating, it is not illegal. There is some doubt in article 102 or so, so they have provided for it.

Finally, I have to say another thing. That is about these symbols. I have found some difficulty in the matter of these symbols. What happens is the Election Commissioner has reserved particular symbols to particular parties, all-India parties, and he has also reserved some for State parties. The other people who come have a long list to choose from, from an ass to some other thing, any one of those things. And then the difficulty is this. If two of them work together, as the reserved and unreserved candidates, one will be an ass, another will be an elephant, rather than an ass within a ring as generally it happens for Harijains or Scheduled Caste candidates, who are working on behalf of recognised parties when the same symbol is ringed.

**Shri B. S. Murthy:** Nowhere a Harijan has taken an ass as his election symbol. Sir.

**Shri V. G. Deshpande:** He is in the ring always.

**Shri Raghavachari:** Therefore, I would submit that so far as the symbols are concerned, others also may be given symbols similarly.

Having said that, I would only say that I have found many of these provisions proposed necessary, and most of them will make for smooth working. I do not wish to detail all these things that make for smooth and quicker working and clarification of the things. They are all quite welcome. I feel my submissions are important matters on which we have to concentrate our attention, if we are to make the election smooth, the courts and our own conduct above suspicion and, above all, consistent with reality and truth, and if we are not to be compelled to say and do things publicly for which we are to feel sorry privately

**Shri K. L. More (Kolhapur cum Satara—Reserved—Sch. Castes):** I am grateful to you for having given me this opportunity to speak on the two measures before the House. At the outset I must congratulate the hon. Minister for having brought forward these two measures which are ultimately going to lead to smooth, fair and free elections, as my hon. friend Shri Raghavachari just said. Many hon. Members have dealt with various points in the two Bills already. Moreover since these two measures are to be referred to a Select Committee, I feel it is unnecessary for me to repeat those very points.

But I would like to draw the attention of the Select Committee to certain points and to certain clauses. The first point that I would like to deal with is in regard to nomination, i.e. clause 14 of the second Bill. I am glad that the hon. Minister has inserted a wholesome provision in this respect, saying that a declaration is unnece-

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sary in the case of the reserved candidates. My hon. friend Shri Jaipal Singh was pointing out so many difficulties that he had to face in establishing his caste. But if the new provision is accepted by the Select Committee, and it becomes law, then my hon. friend will not have to face such difficulties.

I now come to another important matter which the hon. Minister emphasised in the course of his speech, and that is with regard to plural-member constituencies. He has inserted a new proviso in this respect, and that is a good one. That is to the effect that a candidate who is elected to a reserved seat will not be liable to have his election set aside in case an election to the general seat is called in question and set aside. In the notes on clauses it is stated:

"Under section 54(2) in plural-member constituencies if the number of candidates qualified to be chosen to fill the reserved seats is equal to the number of such seats, all those candidates shall forthwith be declared to be elected to fill the reserved seats and a poll shall be taken in respect of the general seats. Now, if bribery, undue influence or intimidation prevailed in the contested election relating to the general seat there is no justifiable reason why the uncontested elections of the reserved candidates should also be set aside."

So this is a good provision, but it is only a partial relief.

Another point will arise. When the reserved seat candidate will not be declared unopposed, there will be election of both the members. Then the question will arise that if this election is set aside on account of this ground, the reserved seat candidate will also suffer its effect. That is not provided for here.

An Hon. Member: Quite right.

Shri K. L. More: How could you

make out that corruption or undue influence or any of those grounds were due to this candidate or that candidate, because one party may say that both of them are involved? In a double-member constituency, it may so happen, and it would be a doubtful case, as to on whom to impose that disqualification. So this should be taken into consideration by the Select Committee when it goes into this matter, and section 100 should be amended suitably.

Now, I will come to the matter of the tribunal. Much has been said about it, and my hon. friend, Shri Raghavachari, also just raised a doubt. I agree with him. I think the Minister of Legal Affairs has not cited any justification for introducing this new method. Why should the third member be eliminated?

Shri Bhagwat Jha Azad: To avoid delay.

Shri K. L. More: Of course, delay can be minimised by some other means by putting certain limitations, that the case should be decided within four or six months or something like that. But a case has not been made out to say that the third member or the second member has contributed to the delay.

Shri Pataskar: That has been the experience. In many cases, these matters were held up because the non-official member had naturally to attend to other work. Therefore, the work could not be speeded up.

Shri S. S. More: Even in ordinary courts, with one man in charge of disposal of cases, ordinary delay is the common feature.

Shri K. L. More: Here I wish to submit that the delay might have been due to so many cases; it might have been due to the retired judge or the district judge or the High Court Judge. So that may be reasonable or unreasonable—I do not wish to enter into that matter. But to ascribe this delay to the advocate may not be correct. I am not just pleading for him.

**Shri Pataskar:** It is not only with regard to the advocate, but even with regard to the retired district judge. In the case of those who are not in service, naturally there is such a tendency.

**Shri S. S. More:** If I may say so, even the district judges who happen to be chairman of the tribunals are more careful to attend to their ordinary work than to such election matters.

**Shri K. L. More:** I am submitting for your consideration that the right personnel may be chosen in this connection to avoid all these delays and pitfalls. But to eliminate there by reducing the number may not help in any way. Whether it is constituted of one or two or three members, it won't make any difference.

**Shri S. S. More:** Is there any advantage in having three members to decide a matter?

**Shri K. L. More:** Of course, we cannot say that the advantage or disadvantage would depend on the number.

**Shri Kamath:** More versus More!

**Shri Pataskar:** On the contrary, Shri Raghavachari's proposal that there should be one District Judge and an appeal to the High Court, I think, is something which deserves greater consideration.

**Shri S. S. More:** That was the proposal before the last Select Committee.

**Shri K. L. More:** Then I come to another matter regarding village officials. They are to be exempted. The Bill has provided for exemptions. I submit that the rule should be a uniform one for all the servants, whether village servants or high officers like the Secretary or anything like that. If we have to eliminate government servants or officials, whether high or low, then the provision should be applicable uniformly. Just to exclude some village officers and retain some others is not a wholesome provision. I maintain that the whole class of officers, high or low, should be eliminated and they should be forbidden to take part in the furtherance of elections.

I come to another important matter regarding electoral roll. My hon. friend from PEPSU has just passed some ungenerous remarks on some parties and the Congress that they had a hand in the matter of the registration of voters etc. I feel that this charge is untenable. We have experience that the non-registration of Harijan voters is not due to this cause but due to ignorance and that should be removed. We must just educate them and stress the importance of Franchise. That task is before us all. I think it is not proper just to charge any party or blame any party.

The hon. Minister wants to reduce the election period. But, I submit, the reduction of 12 or 15 days will not make any difference. Let the parties or the candidates have sufficient time to go the electorate and place before them ideals of work etc. This difficulty will be there, at least, in the case of Parliamentary constituencies where the constituencies extend over miles and miles and also when the constituency is sometimes hilly and approach is difficult. In that case, if the days are reduced, the difficulty will arise. I request the hon. Minister not to lay more stress on the days. Of course, I may just request him to consider this point that before the date of election all propaganda by the parties must be forbidden for 5 days so that the voters may not be troubled and will be uninfluenced and will exercise their right of vote freely and fairly (*Interruption*). Five to six days will be sufficient.

I would like to have two or three minutes more, Sir. I wish to submit that the intention of the election law should be that the voter should be allowed to exercise his right freely and without undue influence. For that reason I wish to maintain that the voter is a real sovereign and it is his verdict that will govern the destinies of the country. It is the duty of all irrespective of party, caste or creed that the voter should be put in such an atmosphere that he will exercise his free right of vote. It is the ballot box that is to govern this country

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and, therefore, the voter should be allowed to have his free will. I wish to appeal to the hon. Minister that the election law should be framed in such a manner and amendments taken up in such a way that undue influence, bribery etc. will have no place at all. Then there will not come any question of filing of returns, on which Members have expressed their opinion. A person who may spend only Rs. 400 may not be in a position to maintain his accounts and, therefore, he will be disqualified. But a person who spends lakhs and lakhs of rupees—may be a *bania*—will be in a position to maintain his accounts properly even though he may have committed bribery and used undue influence and, therefore, his return will be quite in order. But this poor man will have to go even though he finds the support of the voters. I, therefore, submit that all these provisions are unnecessary if the voter is made independent and free to exercise his vote.

With these few suggestions I commend these two measures.

श्री नबल प्रभाकर (बाह्य दिल्ली-रक्षित-अनुसूचित जातियाँ) : आज हम जन प्रतिनिधि संशोधन विधेयक के ऊपर विचार कर रहे हैं। मुझे इस में जो "ग" भाग के राज्य हैं, उन के सम्बन्ध में एक बात कहनी है। उस के बाद मुझे और जो सुझाव आप को देने हैं, वह मैं बाद में दूंगा।

"ग" भाग के राज्यों के सम्बन्ध में जो कि गवर्नमेंट आफ पार्ट "सी" स्टेट्स ऐक्ट, १९५१ है, उस के अन्दर पार्ट सैकेण्ड के शेड्यूल ३ में सब सेक्शन ३ में जो "ए" भाग है, इस में The number specified in the third column shall be the number of seats reserved for the Scheduled Castes और उस में अन्त में १७वें पृष्ठ के ऊपर जो शेड्यूल दिया हुआ है उस में दिल्ली के लिये ६ सीटें एलाट की गई हैं। मैं माननीय मंत्री की सेवा में निवेदन किया चाहता हूँ कि जिस

समय यह ६ सीटें एलाट की गई थीं, उस समय आयावश दिल्ली की जो जनसंख्या थी १९५१ के अनुसार, वह २ लाख, ८ हजार समझी जाती थी, किन्तु वस्तुतः दिल्ली की जो जनसंख्या थी, अनुसूचित जाति की, वह उस से अधिक थी। शेड्यूल कास्ट कमिश्नर की सन् १९५३ की रिपोर्ट के अन्दर वह कहते हैं कि दिल्ली के अन्दर जो अनुसूचित जाति के लोग रहते हैं उन की लिस्ट पैप्स और यहां के शेड्यूल कास्ट के लोगों की जनसंख्या कम दिखालाई गई और पंजाब की लिस्ट होने की वजह से। जैसा कि अभी पहले दातार साहब ने इस रिपोर्ट पर बोलते हुए कहा था, कि १९५१ की अनुसूचित जाति के लोगों की जनसंख्या सही नहीं थी, उस को दुबारा एस्टिमेट करने से ज्यादा आई, १०३ पृष्ठ के ऊपर वे ऐसा लिखते हैं। मैं सारा नहीं पढ़ना चाहता। सरकार ने जो एस्टिमेट किया तो उस के अनुसार यहां के अनुसूचित जाति की तादाद २ लाख ६८ हजार होती है। मैं माननीय मंत्री से कहा चाहता हूँ कि अजमेर के अन्दर ८० हजार ९७४ अनुसूचित जाति के लोग रहते हैं, उनकी आबादी इतनी है। उन को ६ सीटें दी गई हैं। अजमेर की आबादी लगभग ६ लाख है या ६ लाख से कुछ ज्यादा होगी। दिल्ली की आबादी १७ लाख ४४ हजार के आस पास है और जब कि यहां २ लाख ६८ हजार अनुसूचित जाति के लोगों की तादाद है तो उस हिसाब से अजमेर के अन्दर साधारण लोगों के लिये जो एक सीट है, वह २० हजार की जनसंख्या के ऊपर पड़ती है और उस में जो सुरक्षित सीटें हैं वह तकरीबन साढ़े तेरह हजार के ऊपर पड़ती हैं, यह वहां पर विशेष ध्यान कर के दी गई है किन्तु आप दिल्ली में आइये, दिल्ली के अन्दर जो साधारण सीटें हैं, उन का अगर आप हिसाब लगाय तो ३४ हजार २५० की आबादी के ऊपर एक सीट पड़ती है। अब अगर जो १९५१ के आंकड़े जैसे थे, उन का ही हम हिसाब लगा कर देखें और २ लाख ८ हजार मानें, तो

बाहिर है कि उस जमाने में उन के साथ न्याय नहीं किया गया, तब उस अवस्था के अन्दर ३४ हजार ६६६ अनुसूचित जाति के व्यक्तियों के ऊपर एक सीट दी गई थी जब कि साधारण लोगों को ३४ हजार २५० के ऊपर सीट दी गई लेकिन अब हिसाब लगाने से यह संख्या २ लाख ६८ हजार हो गई है। जैसा कि इस में कहा गया है और गवर्नमेंट मान चुकी है, तो उस हिसाब से इस में जो शोड्यूल ६ में दिया हुआ है, मैं माननीय मंत्री से प्रार्थना करना चाहता हूँ कि शोड्यूल ६ के अन्दर के जो अंक दिये हैं उन को बदल करके २ लाख ६८ हजार के हिसाब से निर्णय करें। अगर आठ बनती है तो आठ सीटें दे दीजिये और अगर नौ बनती है तो नौ दे दीजिये। प्रवर समिति के जो सदस्य हैं उन से भी मैं प्रार्थना किया चाहता हूँ कि वह इस ओर ध्यान दें और दिल्ली के लिये जो एक में अंक दिये हुए हैं उन को हटा करके उस की जनसंख्या पर अगर आठ सीटें बनती हैं तो आठ दें और अगर नौ बनती है तो नौ दें।

इस के बाद निर्वाचन सम्बन्धी कुछ बातें मैं बताना चाहता हूँ। लोक सभा का जो निर्वाचन क्षेत्र है वह काफी बड़ा होता है और उस में एक व्यक्ति जो कि उम्मीदवार होता है और खड़ा होता है उस के लिये मैं सुझाव देना चाहता हूँ कि लोक सभा की जो एक कांस्टीट्यूएन्सी है उस में सब जगह पर एक ही दिन मतदान होना चाहिये और एक ही दिन में मतदान समाप्त हो जाना चाहिये। कई जगह ऐसा देखा गया है कि एक एक हफ्ते तक मतदान चलता रहता है, किसी दिन, ५ पोलिंग बूथ पर मतदान हो गया, दूसरे रोज २० पर हो गया तो किसी रोज १५ का होता है और इस से बहुत परेशानी होती है। मैं माननीय मंत्री जी से प्रार्थना करूंगा कि वह इस तरह का प्राविजन करें कि लोक सभा का जो एक निर्वाचन क्षेत्र है उस में जितने पोलिंग बूथ पड़ते हैं, उन सब पर एक ही दिन में मतदान समाप्त हो जाना चाहिये।

हमारी दिल्ली में जो म्युनिसिपल कमेटी के एलेक्शन होते हैं उन में ज्यों ही चुनाव समाप्त होता है मत गणना कर ली जाती है। मैं चाहूंगा कि ग्राम चुनावों में भी जैसे ही चुनाव समाप्त हो वहां पर जो उम्मीदवारों के एजेंट हों उन के सामने मत पत्र गिन लिये जायें और गिनने के बाद उन के हस्ताक्षर करा लिये जायें कि मतों की इतनी संख्या होती है।

बोगस वोट्स के बारे में मेरा यह कहना है कि चुनाव में बोगस वोट्स बहुत ज्यादा इस्तेमाल किये जाते हैं। इस के लिये कुछ न कुछ रोक थाम जरूर करनी चाहिये। इस सम्बन्ध में मैं माननीय मंत्री जी को यह सुझाव देना चाहता हूँ कि यदि सम्भव हो सके तो एक परिचय पत्र या ब्राइडेण्टी कार्ड जैसी कोई चीज वोटर्स को दी जाये। उस से यह फायदा होगा कि जो कैंडिडेट्स होते हैं उन को जो पंचियां बांटनी पड़ती हैं उस से बच जायेंगे। उस परिचय पत्र में आदमी की वोटर संख्या दी होगी और उस से सम्बन्धित अन्य चीजें भी होंगी जैसे दस्तखत या अंगूठा निशान, फोटो यदि हो सके तो और भी अच्छा है। इस सम्बन्ध में आप को अवश्य कुछ करना चाहिये।

आप ने निशान लगाने की बात कही है। लेकिन कुछ लोग ऐसे होशियार होते हैं कि वह निशान भी मिटा लेते हैं। इस के अलावा यह भी होता है कि दूसरे राज्यों से आदमी आ कर के मतदान कर जाते हैं फिर १५ या २० दिन बाद जब वह निशान छट जाता है तो अपने यहां जा कर वोट दे देते हैं।

मेरे यहां पिछले चुनाव में यह देखा गया कि जो चौपालों देहात में होती हैं उन में प्रायः स्त्रियां नहीं जातीं जिस से बेचारे उम्मीदवार को बड़ी परेशानी हो जाती है। मैं ने जा कर प्रार्थना की लेकिन स्त्रियों ने इन्कार कर दिया कि नहीं हम चौपाल में नहीं जायेंगी। इसलिये ऐसी जगह पर पोलिंग बूथ बनायें जायें जो कि

[श्री नवल प्रभाकर]  
 चौपाल हों। ऐसी जगहों पर बनाये जायें जहाँ पर कि जन साधारण जा सकें।

श्री पाटस्कर : चौपाल क्या होती है ?

श्री नवल प्रभाकर : चौपाल कम्बुनिटी हाल जैसी चीज होती है। आप उस को पंचायत घर भां कह सकते हैं। हमारे यहाँ चौपाल कहते हैं, पंजाब में जो हरियाना का इलाका है वहाँ भी चौपाल कहा जाता है। पैप्सू में भी चौपाल ही कहते हैं। पैप्सू में अभी जो एलेक्शन हुए उन में चौपालों के अन्दर स्त्रियाँ नहीं गयीं बोट देने के लिये। तो आगे से जो पोलिंग ब्यूस हों, वह चौपालों में न रखे जायें कोई स्कूल हों या, किसी ऐसी दूसरी जगहों में उन को रक्खा जा सकता है। और यदि और कहीं प्रबन्ध न हो सके तो टैन्ट लगा कर ही इस का इन्तजाम किया जाय।

इस के अलावा एलेक्शनों में जो भ्रष्टाचार होता है उसकी और भी मैं आप का ध्यान दिलाना चाहता हूँ। वास्तव में हमारे सारे देश में ही दारूबन्दी होनी चाहिये, किन्तु मैं माननीय मंत्री जी और सरकार से अपील करना चाहता हूँ कि जिस दिन नामिनेशन पेपर भरे जायें और जब तक मतदान समाप्त न हो जायें इस बीच में सारे देश के अन्दर शराब बन्दी होनी चाहिये ताकि जो बड़े बड़े पैसे वाले हैं जो पूंजीपति लोग हैं, अथवा राजे लोग हैं जो कि एलेक्शन में खड़े होते हैं, और चुनाव के लिये अपने पैसे का दुरुपयोग करते हैं, वह अपने पैसे का दुरुपयोग न कर सकें और गरीब लोगों को शराब आदि दे कर अपने बक्ष में बोट प्राप्त करने की कोशिश न कर सकें। यह तो कम से कम सरकार के बस की बात है। इसलिये मैं सरकार से ही निवेदन करना चाहता हूँ कि जिस दिन नामिनेशन पेपर फाइल किया जाय उस दिन से ले कर जब तक मतदान खत्म न हो जाय, तब तक के लिये तमाम देश के अन्दर शराबबन्दी कर दी जाय।

यह कुछ सुझाव हैं जो मैंने आप के सामने रखे हैं। मैं समझता हूँ कि प्रवर समिति उन

के ऊपर विचार करेगी और स्वीकार कर के देश को फायदा पहुँचायेगी।

Shri Dabhi (Kaira North): I welcome the two Bills which are before the House and especially the second Bill which seeks to amend the Representation of the People Act, 1951, because it seeks to make the election procedure more simple and less complicated, less ambiguous and more explicit and more expeditious and less delaying. Let us take section 33 of the Act regarding the presentation of the nomination papers and the requirement of a valid nomination. We know that this procedure is very complicated, and therefore, it is good that the new section 33, which is a substitute for the original section, wants to remove the restriction on the number of nomination papers which a proposer can subscribe, does away with the necessity of a seconder and dispenses with the declaration regarding the appointment of an election agent in regard to which there have been so many election petitions. But I do not approve of the suggestion that the nomination papers should not be subscribed even by a proposer also. My hon. friend Shri D. C. Sharma said that there was no necessity of even a proposer and he gave the reason why there should not be any necessity of a proposer. He said that the proposers also give troubles to the candidates. I do not know what trouble the proposers may be giving. I do not know what was in his mind, but perhaps the only conjecture that he was making is that the proposer may be asking for something for subscribing to the nomination papers. If that be so, I do not know what to do with that, but then, of course, it means that the man who becomes a candidate has no honest supporter out of the several lakhs of voters. So, even from the very fact that he has got not even one man who is an honest supporter, it is better that he should not stand as a candidate. But if you have a proposer it shows at least that the candidate has got some support. He has to file

four or five nomination papers and let the people know that the candidate has got four or five supporters. Even in ordinary meetings, when any resolution is being put forward, if it is not supported or seconded by somebody, it is not allowed.

**Mr. Chairman:** The hon. Member is aware that if the member's name is wrongly given in the constituency list, then the whole nomination goes away.

**Shri Dabhi:** Then there should be some steps taken in that regard. We have to see that the lists are correct and kept properly. But, on the whole, I feel that my hon. friend was not quite convincing.

**Shri Pataskar:** The general desire is that we should not, as far as possible, create hitches at the stage of nomination. That is the idea.

**Shri Dabhi:** At least the name of the proposer must be there. The Bill also does not do away with the necessity of the proposer.

Then, I want to say a few words about section 36. Sub-section (2) of this section enumerates five grounds on which a nomination paper may be rejected. Under the present law a person is disqualified from being elected as Member if he has any disqualifications under any article of the Constitution. For example, if he has any share in a Government contract or if he holds an office of profit, he is disqualified. Now, at present, the returning officers can reject the nomination paper on the ground that the person was disqualified on the ground that he holds an office of profit. There are two aspects here. One is that it will make the Returning Officer do all these things expeditiously. But on the other hand I am afraid whether it would not lead to more and more election petitions. It is stated here that out of 388 election petitions, arising out of the last general elections, about 116 related to improper rejection of nomination papers. I would like to know from the Government whether those

allegations were true or false. If they were true, then the Returning Officer should not be given the power to reject nomination papers, so that the parties concerned may not be involved in further expenditure.

I would now refer to clause 12. Under the existing law, at least 30 days have to be allowed between the last date for the withdrawal of candidates and the commencement of the poll. This period has now been reduced to ten days. The reason given by the Government is that by making the election programme shorter, the overall election expenses of candidates would be reduced. I agree that if the overall expenses are reduced, it would be advantageous to candidates of ordinary means. But there is another difficulty. I think that unless we reduce the maximum amount of expenditure which a candidate can incur, this provision would not be of advantage to the candidate of ordinary means. For instance, a rich candidate would engage five motor-cars when he has to finish his election propaganda within 30 days. But if he has to do it within, say, 20 days, he can engage ten motor-cars and finish the election campaign. Therefore, in my opinion, so long as the overall maximum expenditure is not considerably reduced, the ordinary candidate would not be benefited.

**Shri Pataskar:** We are prescribing rules for reducing the maximum expenditure.

**Shri Dabhi:** My suggestion is that instead of leaving it to Government to prescribe rules, there should be a provision in this Bill itself as to what shall be the maximum expenditure; the Select Committee may also think over it.

**Mr. Chairman:** It will be laid before Parliament.

**Shri Dabhi:** It may be laid before Parliament, but it is better if we discuss it here. My suggestion is that this maximum expenditure should be



[Shri Dabhi]

considerably reduced. There is one reason given—I think it is the opinion of the Election Commission also—that the returns that are submitted do not contain the real expenditure and that more money has been spent. Of course we know, this; but we must find out some way of preventing this also. The real point is that it corrupts all the voters. In my opinion, something must be done so that nobody can go beyond the maximum limit prescribed by law. My suggestion is that during the elections, the States should employ all the C. I. D. people to supervise the elections, so that it can be found out afterwards whether the candidates have given bribes or not.

I shall refer to clause 19, Section 38(2) as amended says that the list of candidates shall contain the names in the alphabetical order. I want to make one observation about this. We know that all these lists of voters are being printed in the regional languages. After the nomination papers have been filed, the list which is being published by the returning officer is printed in English. What would be the alphabetical order? Is it according to the regional language or English? That was the difficulty at least in my district. According to the alphabetical order in the regional language the name of a particular candidate would be the third whereas according to the order in English, his name may become first. It is necessary to make some explicit provision in regard to this matter.

Taking the Representation of the People (Amendment) Bill which seeks to amend the Act of 1950, the existing section 23 of the Act of 1950 says that the electoral roll for each constituency shall be prepared every year in the prescribed manner etc. The proposed new section says that after the first election roll is prepared, such roll shall thereafter be revised in every subsequent year. It means that there is no necessity to prepare a

new roll again, but it should be revised. I have nothing to say about that. The reason given is that it is very difficult and expensive to prepare new rolls again.

**Shri Pataskar:** In fact, it was revised, but shown as prepared.

**Shri Dabhi:** I quite follow that. I have nothing to say about that. Whether you prepare a new roll or revise it, my point is it should be correct. My experience is, and I think the experience of many Members is though the first electoral rolls were prepared after visiting every house, there are several, numerous mistakes. In several cases, not one or two, men voters have been shown as women voters, female voters have been shown as male voters, some fathers have become sons and sons have become fathers. There are several lists where dead people are shown as living. Several names have been so mutilated that it is very difficult to say as to who is the man shown in the list. Whether new rolls are prepared or the old ones are revised, Government must see that they are correct. It may be said, if a person's name is not found in the list; why did he not go to the officer and get it corrected? That would be very difficult. As we all know, most of the present voters are quite illiterate and we cannot expect everybody to go and see whether his name is in the roll or not and apply for correction. It is the duty of the Government to see that all these lists are correct as far as possible. Every possible step should be taken to see that these rolls are complete. You cannot deprive any voter of his right. We say every person who is above 21 years of age is allowed to vote. That is all right. If his name does not appear in the list or if you do not allow him to vote because the name is not correct, it is not proper. My suggestion is that the Government should issue directions to the State Governments to see that, whether the rolls are newly prepared

or revised, there are no mistakes in the list.

MACHINE TOOL PROTOTYPE  
FACTORY, AMBARNATH

5 p.m.

**Mr. Chairman:** It is 5 p.m. Shri M. L. Dwivedi to raise a half-an-hour discussion on points arising out of answers given on the 22nd August, 1955 to Starred Question No. 991 and Short Notice Question No. 7 regarding Machine Tool Prototype Factory, Ambarnath.

**श्री एम० एल० द्विवेदी** (खिला हमीर-पुर) : सभापति जी, जैसा कि अभी आप ने बतलाया, मैं मशीन टूल प्रोटो-टाइप फैक्टरी, अम्बरनाथ के विषय में प्रश्न संख्या ६६१ और जलहाली की मशीन टूल फैक्टरी के सम्बन्ध में अल्प सूचना प्रश्न संख्या ७ के उत्तर से जो बातें उत्पन्न होती हैं, उन के सम्बन्ध में थोड़ा सा विवाद विवाद इस सदन में प्रस्तुत करता हूँ ।

इन प्रश्नों के उत्तर में सरकार की ओर से यह बतलाया गया था कि अम्बरनाथ और जलहाली की फैक्टरीज के सम्बन्ध में जो आलोचना मशीन टूल कला के विशेषज्ञ श्री जे० डी० स्केफ ने की है, उस में कहां तक तथ्य है, इस बात के आधार पर सरकार ने अपनी नीति निर्धारित की है । इस प्रश्नों के उत्तर में जो बयान सदन-पटल पर रखे गये हैं, उन से जाहिर होता है कि सरकार ने श्री स्केफ की रिपोर्ट को कोई मान्यता नहीं दी, क्योंकि उन में यह बतलाया गया है कि इस नवजात उद्योग के प्रति श्री स्केफ के विचार ईर्ष्या और द्वेष के भावों से भरे हुए थे । इस कारण यह पहले से ही सरकार को ज्ञात था कि श्री स्केफ इन फैक्टरीयों के विरोध में अपना मत देंगे । श्री स्केफ भारत में आये भारत सरकार के बुलाने पर । इन को कोलम्बो प्लान के अन्तर्गत यहां आने का निमंत्रण दिया गया था । यह बात बड़ी रहस्यजनक है कि जब सरकार को ज्ञात था कि भारतीय मशीन टूल उद्योग के प्रति श्री स्केफ के विचार ईर्ष्या और द्वेष

से भरे हुए हैं, फिर भी ऐसे शस्त्र के हाथ में उस ने इस उद्योग की जांच पड़ताल करने का काम सौंप दिया ।

इसके अलावा रोल्स-रायस के प्रतिनिधि भी यहां आये और उनकी रिपोर्ट डिफेंस मिनिस्ट्री के हाथों में है । सदन को अभी तक ज्ञात नहीं हुआ है कि उन लोगों ने इस सम्बन्ध में क्या विचार प्रकट किये हैं । इस बारे में भी प्रकाश डाला जाना चाहिये । सदन को मालूम होना चाहिये कि क्या श्री स्केफ के ही विचार इस प्रकार के हैं या दूसरों के भी ।

इसके साथ ही साथ मैं सरकार का ध्यान पब्लिक एकाउंट्स कमेटी की रिपोर्ट की ओर आकर्षित करना चाहता हूँ—यह चौदहवीं रिपोर्ट है—, जिसमें इस उद्योग के सम्बन्ध में बहुत सी महत्वपूर्ण बातें दी गई हैं । इस के अतिरिक्त १९५४ की डिफेंस आडिट रिपोर्ट में भी बहुत से तथ्य दिये गये हैं । एक महत्वपूर्ण बात यह है कि धोलीकन्ज से जो करार हुआ था, उसमें यह निश्चय किया गया था कि अठारह महीने में फैक्टरी का काम शुरू हो जायगा और २४ महीने में यह उद्योग पूरी तरह से काम करने लग जायगा यानी इसका उत्पादन अपनी पूरी कैपेसिटी के मुताबिक होने लग जायगा, लेकिन जो काम १९५० में चालू होना चाहिये था और १९५१ में जिसका पूरा उत्पादन प्रारम्भ हो जाना चाहिये था, उसका उद्घाटन १९५३ में होता है और उद्घाटन होने के बाद भी केवल थोड़ा सा सामान बनने के अतिरिक्त वहां पर कोई विशेष कार्य नहीं हुआ है । मान लीजिये कि श्री स्केफ के विचार ईर्ष्या और द्वेष से भरे हुए हैं, परन्तु क्या संसद् की प्रतिनिधि समिति, लोक सेवा समिति, के विचार भी द्वेष से भरे हुए हैं ? क्या रोल्स-रायस के प्रतिनिधियों के विचार भी द्वेष से भरे हुए हैं । मुझे आशा है कि माननीय मंत्री हम को बतलायेंगे कि इस धोलीकन्ज कम्पनी के एन्टेसीडेंट्स कैसे थे, उन्होंने कहां कहां काम किया और कहां कहां अच्छी