

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, 12 hours and 17 minutes has been availed of till yesterday.

The discussion will continue up to 2-30 P.M. today when the Private Members' Business will be taken up. It will leave only one hour for reply tomorrow, if we take up all the time up to 2-30, so that the debate concludes today so far as the Members go. The hon. Minister will then reply.

श्री गोविन्द दास (मंडला जबलपुर दक्षिण) : इन दोनों विधेयकों का मैं हृदय से स्वागत करता हूँ। इन विधेयकों के अध्ययन से यह बात स्पष्ट जान पड़ती है कि गत चुनावों में हमें जो अनुभव हुये, और उन चुनावों के पश्चात् जो उप चुनाव हुये, उन में हमें जो अनुभव हुये, उन अनुभवों को ध्यान में रख कर इन विधेयकों की रचना की गई है। परन्तु यदि यह समझ लिया जाय कि भविष्य में कोई परिवर्तन आवश्यक नहीं होंगे तो मैं समझता हूँ कि इस प्रकार की बात समझ कर हम एक भूल करेंगे। हमने इस परिमाण में प्रजातन्त्र का आरम्भ बहुत थोड़े समय पहले किया है और प्रजातन्त्र का यह प्रयोग अब तक के मानव इतिहास में किसी काल में भी इतने बृहत् रूप में नहीं हुआ कि जिस रूप में हमारे देश में किया जा रहा है। इसलिये भविष्य में भी जैसे जैसे अनुभव हमें प्राप्त होते जायेंगे, वैसे वैसे इस प्रकार के विधेयक भी लाना आवश्यक होगा।

मैं एक ही दृष्टान्त देता हूँ। लोकसभा का चुनाव अभी सीधा होता है। इतनी बड़ी संख्या मतदाताओं की है कि ग्राम चुनावों में तो इस सम्बन्ध में कोई कठिनाई नहीं मालूम होती परन्तु यदि कोई उप चुनाव हो जाता है तो नाना प्रकार की कठिनाइयाँ हमारे सामने उपस्थित होती हैं, इसलिये कुछ लोग इस बात पर भी विचार कर रहे हैं कि लोकसभा का यह चुनाव सीधा रखा जाय या उसमें परिवर्तन किया जाय। इस देश की जिस प्रकार की आर्थिक अवस्था है उसे देखते हुये लोकसभा के इतने बड़े चुनाव क्षेत्रों से, सीधा चुनाव होना, यह मैं समझता हूँ कि विचारणीय विषय है।

[SHRIMATI SUSHAMA SEN in the Chair]

मैं केवल एक दृष्टान्त दे रहा था और यह कह रहा था कि जिस प्रकार ग्राम हमें अनुभव होते जायेंगे, उसके अनुसार हमें इस प्रकार के परिवर्तन भी करने पड़ेंगे।

इन विधेयकों की कुछ धारारें सचमुच में बहुत अच्छी रखी गई हैं, जैसे नामजदगी का पत्र सरल कर दिया गया है। अब तक के अनुभव से हमें ज्ञात हुआ कि अभी तक जो चुनाव के मुकदमे चलते हैं वे नामजदगी के कारण चलते हैं। नामजदगी के पत्रों को सरल कर देने से मैं आशा करता हूँ कि काफी सुधार इस सम्बन्ध में हो जायेगा।

दूसरी अच्छी बात जो की गई है वह पोलिंग एजेंटों के नाम तीन दिन पहले देने का जो नियम था उसको हटा देना है। जिन लोगों को चुनाव लड़ने पड़े हैं वे इस बात को जानते हैं कि इस प्रकार की समय की कैद से उम्मीदवारों के सामने अनेक कठिनाइयाँ उपस्थित हो जाती थीं। मतगणना के लिये भी उम्मीदवार जो एक ही व्यक्ति नियुक्त कर सकता था वह भी हटा दिया गया। मैं आशा करता हूँ कि अब अधिक व्यक्तियों के नियुक्त होने से यह मतगणना बहुत सरलता से और जल्दी की जा सकेगी।

[सेठ गोविन्द दास]

एक और बहुत भ्रष्टाचार सुधार जो किया गया वह है कि चुने हुये सदस्य का नाम जब तक सरकारी परिपत्र में प्रकाशित न होवे तब तक जो वह अपने स्थान पर नहीं आ सकता था, वह कैद भी हटा दी गई। यह भी बहुत अच्छी बात है।

लेकिन इसी के साथ कुछ बातें इस विधेयक में ऐसी भी की गई हैं जो कि यदि नहीं की जाती तो भ्रष्टाचार होता। दृष्टान्त के लिये उम्मीदवारों की वापसी और मतदान के बीच में जो अब तक ३० दिन का समय था वह कम कर दिया गया है। मैं आपसे निवेदन करना चाहता हूँ कि जिन लोगों को भी चुनाव का अनुभव है वे इस बात को स्वीकार करेंगे कि यह ३० दिन का समय रहना आवश्यक था। मैं तो यह कहना चाहता हूँ कि इस ३० दिन के स्थान पर यदि ४५ दिन का समय हो जाता तो उत्तम होता, परन्तु इन ३० दिनों के समय को घटा कर १५ दिन करना उचित बात नहीं हुई है, और मैं आशा करता हूँ कि जो प्रवर समिति इन विधेयकों पर विचार करने के लिये बैठेगी वह इस बात पर ध्यान देने की कृपा करेगी।

चुनाव के खर्च जो हर उम्मीदवार को देने पड़ते थे, उन में भी कुछ सुधार हुआ है, उसको सरल कर दिया गया, यह बात ठीक हुई, पर कल यहाँ पर जो बहस हुई उसमें जो यह सुझाव दिया गया कि चुनाव के खर्च किसी उम्मीदवार को देने ही न पड़ें, मैं निवेदन करना चाहता हूँ, यह बड़ी गलत बात थी। मुझे दुनिया के बहुत से देशों को देखने का सौभाग्य प्राप्त हुआ है, जिन देशों में भी प्रजातन्त्र चलता है उन देशों में चुनाव के खर्च हर उम्मीदवार को देने पड़ते हैं। मैं इस बात को स्वीकार करता हूँ कि चुनाव के जो खर्च दिये जाते हैं उन में से बहुत से मैं मिथ्या-वादिता रहती है, मैं इस बात को भी स्वीकार

करता हूँ कि कई खर्च उम्मीदवार ऐसे करते हैं जो वे अपने चुनाने के खर्च में नहीं बता सकते, पर यह दूसरी बात है। अगर हम इस प्रकार का कोई दुर्भाग्यपूर्ण नियम बना देंगे कि चुनाव के खर्च उम्मीदवार को न देने पड़ें, तो मैं आपसे कहना चाहता हूँ कि जो खर्च चुनाव में नहीं होने चाहियें, उस प्रकार के खर्च भी होने लगेंगे। अभी कम से कम चुनाव के खर्च देना का भय तो उम्मीदवारों को रहता है। इसलिये जो अनुचित खर्च होते हैं उन में भी एक प्रकार का बन्धन रहता है। मैं यह नहीं कहता कि अनुचित खर्च नहीं किये जाते, मैं यह भी नहीं कहता कि चुनाव के जो खर्च दिये जाते हैं वे सब सही होते हैं, लेकिन कुछ न कुछ भय, कुछ न कुछ प्रतिबन्ध इस प्रकार का अवश्य रहता है। इसलिये इस चुनाव के खर्च देने के नियम को जरूर रखना चाहिये, वरन् मैं तो आपसे कहूँगा कि सरल करते हुये भी यदि हम उसको और सरल कर सकें तो और सरल करने का भी हमें प्रयत्न करना चाहिये।

इन विधेयकों में कुछ धारायें 'ग' श्रेणी के राज्यों के सम्बन्ध में हैं। इस विषय में मैं एक ही बात निवेदन करना चाहता हूँ। राज्य पुनर्विभाजन आयोग की रिपोर्ट बहुत शीघ्र आने वाली है, मैं आशा करता हूँ कि वह इस मास की ३० तारीख को आ जायेगी और 'ग' श्रेणी के राज्यों का क्या भाग्य होता है इस सम्बन्ध में आज हम कुछ नहीं कह सकते। मैं आशा करता हूँ कि जो प्रवर समिति आगे चल कर बैठेगी और इन विधेयकों पर विचार करेगी वह इस विषय पर भी विचार करेगी।

सब मिला कर मैं यह निवेदन करना चाहता हूँ कि दोनों विधेयक बहुत उचित भाये हैं और इसीलिये मैं इन दोनों विधेयकों का हृदय से समर्थन करता हूँ।

Mr. Chairman: Shri U. M. Trivedi,

श्री धरलू राय शास्त्री (ज़िला आजमगढ़  
पूर्व व जिला बलिया पश्चिम) :

हिन्दी में बोलिये ।

श्री यू० एम० त्रिवेदी (चित्तौड़) मैं  
हिन्दी में बोल तो सकता हूं, लेकिन अंग्रेजी  
में ठीक रहूंगा ।

सेठ गोविन्द दास : ऐसा कोई विषय  
नहीं है जो हिन्दी में न बोला जा सके ।

Shri U. M. Trivedi: I have got a  
very great desire to speak in Hindi,  
but I have found to my chagrin that  
whenever I spoke in Hindi, many of  
my friends have not followed me.

Seth Govind Das: And many of  
them cannot follow when he speaks  
in English.

Shri U. M. Trivedi: The Ministers,  
all of them, know English.

Seth Govind Das: He does not speak  
only for Ministers, but for Members  
also.

Mr. Chairman: Let the hon. Mem-  
ber proceed with his speech.

Shri U. M. Trivedi: I do not want  
to waste time over this, and so I shall  
begin my speech.

What surprises one is that for a long  
time we have been promised that this  
law on election would be codified, and  
codified in a consolidated manner.  
We had one Bill presented to this  
House in 1953; we had a Select Com-  
mittee appointed; that Select Com-  
mittee went into the whole question  
and it also felt that we ought to have  
a consolidated Act covering all aspects  
of election. Unfortunately, without  
assigning any reasons. Government  
has shelved the report of that Select  
Committee, and now again two new  
Bills are being thrust upon our heads.  
Even advocates—I am not talking of  
laymen—are surprised at seeing these  
two Bills—What is this Representation  
of the People Bill, 1955, and again  
what is this other Bill with the same  
title, Representation of the People  
Bill, 1955? Why should there be two  
such Bills? They confuse themselves

on account of the fact that they do  
not go and read into the Bill itself.  
One is an amendment to the Act of  
1950 and the other is an amendment  
to the Act of 1951. Where is the  
necessity for still keeping these two  
aspects of the same law separate?  
Why not consolidate the two to-  
gether? I do not understand the  
reason behind it which still creates  
this confusion. This confusion was  
felt even by lawyers who were enga-  
ged to argue cases. However, it is  
still left to Government to consolidate  
the two, but the present motion, as it  
stands, does not cover that ground.  
There are two motions at present,  
and both to refer to the Select Com-  
mittee two different Bills. Unless  
and until a motion is moved as an  
amendment to these motions, it will  
not be possible to consolidate the  
whole law. Therefore, I say that  
attention must be focussed upon this  
aspect in the first instance.

Many of the things which had cro-  
pped up during the last elections have  
not been closely looked into in draft-  
ing this Bill. Either they have been  
purposely left out or the attention of  
the Government has not been force-  
fully drawn to these aspects. It so  
happened that I was very lucky  
to appear in a great number of cases  
under this election law. I appeared  
in the various provinces, Madhya  
Bharat, Rajasthan, PEPSU, and Delhi.  
I found to my utter disgust that the  
law was not so well codified as to be  
of any help to a candidate who did  
not belong to the party in power.  
Greatest difficulties were created for  
those who had the audacity to stand  
against the Congress Party in the elec-  
tions and the election tribunals were  
also feeling sometimes impotent.  
They did not act sometimes as very  
impartial tribunals.

There is a suggestion here that a  
single-man tribunal will do the trick.  
But I do not believe in it. I say it is  
no remedy to allow a single man's tri-  
bunal to carry on. Sometimes there  
were tribunals where an independent  
opinion was expressed by members of

[Shri U. M. Trivedi]

the tribunal notwithstanding the fact that the Chairman of the tribunal did not like the opinion. One aspect of the corrupt practices has not been moulded properly in this amendment which is being suggested herein, on the contrary I find that what is being done will wipe out what little help an independent or a candidate not belonging to the Congress Party could get. In giving the reason for the amendment suggested in clause 60, a very peculiar logic has been followed by the Ministry and the logic is this.

**An Hon. Member:** They are not listening.

**Shri U. M. Trivedi:** Let them not listen; I am addressing the Chair. If the Central Government is not bound down and is given powers to name anybody, to remove any disqualifications from his exercising his powers as a Government servant, why should the same power be not vested in the State Government? They fail to realise this thing that so far as the Central Government is concerned, it has got very few departments where people come into direct contact with the public. The explanation given here says:

"For the purposes of this clause a person serving under the Government of any State shall include a patwari, chaukidar, dafedar, zaildar, shanbagh, karnam, talati, talari, patil, village munsif, village headman or any other village officer by whatever name he is called, employed in that State whether office he holds is a whole-time office or not but shall not include any person who has been declared by the State Government to be a person to whose provisions of this clause shall not apply."

**An Hon. Member:** The lights are off; there is a black-out.

**Shri U. M. Trivedi:** They are off for six or seven years; since 1947 they went off.

**Shri T. N. Singh** (Banaras Distt.—East): When the British left: is that

**Shri U. M. Trivedi:** When you came in—not when the British left. It is with this unholy desire on the part of the Government that this present amendment is being shunted in. The desire is to remove the disqualification and pave the way for the patwaris, the omnipotent patwaris, chaukidars, dafedars, karnams and all these people. Who are they? They control the whole group in the village. A patwari controls the village. He controls them; he takes them like sheep—the poor peasants—to the polling booth and asks them to vote like this. It is these people whom they want to exempt so that they may exercise their powers of intimidation and influence over the poor peasants. This is entirely uncalled for. There is no provision to make it *ipso facto* disqualification for any candidate who goes the extent of enlisting the support of a Government official. So much mischief had happened, in an election about the help by Government servants that the tribunal had to criticize. It is reported in the Government of India Gazette of 10th of February 1954. That is a case of election petition No. 281 of 1952.

**An Hon. Member:** Who are the parties?

**Shri U. M. Trivedi:** The parties are: the Congress Party on the one side—I do not want to name anybody because some Ministers are concerned—and a small merchant on the other side.

**Shri Dhulekar** (Jhansi Distt.—South): Small merchant?

**Shri U. M. Trivedi:** I will give the names if you like. Mr. Rikhab Das was on the one side and as against him were the then Minister Shri Tika Ram Paliwal and also the Deputy Minister, Shri Raj Bahadur. You wanted names and I have given them.

The finding is this. Shiv Kumar, a Government servant, took part in it. I shall read:

"My finding, therefore, is that Shiv Kumar did take part in a meeting organised by the Cong-

ress and addressed by Shri Tika Ram Paliwal at Hindaun in connection with the General Elections, inasmuch as he recited a poem in favour of the Congress and made a forecast in favour of the Congress."

That was the finding of the Court. And yet what was the result? They say that it does not materially affect the election result although a Government servant was called in for supporting. Another finding was about one Ram Sahai who denied everything. It is the finding of the tribunal; it says:

"Ram Sahai had been canvassing on behalf of the Congress candidates and that complaint to that effect was made at the time by the petitioner's agents."

They have held it but they say that still it has not materially affected the result of the election. What further did they do?

One sub-divisional officer and one sub-inspector of police took it into their heads to arrest every worker of the Jan Sangh Party when it stood against the Congress Party. At every polling booth where election was to be held 17 or 18 or 20 Jan Sangh workers were arrested under section 107 for having committed breach of section 144 and on this the tribunal has said..

**An Hon. Member:** Did they incite communal riots?

**Shri U. M. Trivedi:** No. Communism is left to the Congress and the Muslim League in this country and to nobody else.

**Mr. Chairman:** The hon. Member's time is up.

**Shri U. M. Trivedi:** I will request you to give me another fifteen minutes because I am representing the recognised fourth party in India. I have not received any opportunity to speak on this.

**Mr. Chairman:** I am very sorry; the hon. Member cannot get 15 minutes because there are many hon. Members anxious to speak. I request him to finish in five minutes.

**Shri U. M. Trivedi:** They gave certain findings about these illegal practices. The Government officers, however, were ultimately—both of them—promoted from the ordinary ranks—what we may call ordinary tehsildars—and one became immediately Secretary to the Revenue Board by doing all these tricks. The tribunal's finding was this:

"From the above considerations I have no hesitation in finding that there was no sufficient reason for the promulgation of the prohibitory order under section 144 against meetings and processions, and that the arrests of the workers of the petitioner on the 19th and 20th were quite arbitrary, illegal and *mala fide*."

Further, a Judge of the High Court was also sitting on this very Tribunal and he had to pass very strong strictures against this whole action. He said:

"The Sub-Divisional Magistrate was still more unjustified in keeping the arrested persons in lock-up till 12 noon on the day of election."

For an offence under sections 144 and 107 people were brought and put into cells and they were not released till 12 noon.

What I am asking for is that the Select Committee will have to look into this affair and see that a repetition of these things will not take place at the hands of those who are in power. This provision of section 127 must be so modified as to give relief to those persons who are brave and who dare to stand up to build up a healthy opposition for the healthy growth of democracy in this country. The Opposition is not here for the sake of opposition alone. The Opposition is here to see that democracy in this country should work in a democratic manner and not in an autocratic manner and no Fascist regime should ever be established in our country. In a democracy Opposition is essential and if it is not to be found we will be letting in the evil. If we

[Shri U. M. Trivedi]

are to make rules whereby we allow government servants to go and do canvassing for the party in power then it will not be a proper thing. It is that very particular provision of the law which we want to take out. It is to point out this that I wanted time to speak. Otherwise, there are many other things about which I want to speak on these Bills.

Mr. Chairman, you want to curtail my time. I know that the time is very precious. Certain aspects of the Election Law is such that it is not only section 127 which should be looked into, but the question of symbols has also to be looked into. One rule made at one end of the law is of one type and circulars issued by the Election Commission are of a different type. In some cases people are allowed to go in with the slips of identity given to them and at other places immediately the people go in with such slips objection is taken that this cannot be done. In such cases there is no way to get out of the difficulty. Here I will just give you one instance because I get reminded of it to show what some Presiding Officers actually do. Once a head-master of a school, one Mr. Ram Sarup, in the constituency in which a candidate was living was put as Presiding Officer. This Presiding Officer knew that the candidate was a very influential man, yet when he went to the booth to protest against a particular action of the officer, this Presiding Officer said: "I do not know you. You get out. I won't allow you to enter." His agent was there and he said: "This is my own candidate." But, still the Presiding Officer said: "I do not know him; bring somebody to identify." When the agent brought two lawyers to identify, the Presiding Officer said: "I do not know these lawyers. Ask somebody else to identify the identifiers". Afterwards the court held that this was all high-handedness on the part of this man. How to establish the identity in such cases? The law must be so codified that such malpractices on the part of government servants should be put a stop to.

There are other things to which reference has been made. I know that some aspects of the law are good; but then the whole thing must be put together. It must be now put in a juxtaposition. I am pointing this out so that all aspects of the law may be looked into and the Select Committee should be asked—even though I have not moved any amendment—not only to report on these two Bills but to consolidate and codify—they need not submit their report by the 30th of November, let them submit their report by the 15th of July next year, I do not mind—but they should look into the whole aspect of this law and codify and consolidate the law with all the evidence that they have in their power.

Shri Nand Lal Sharma (Sikar):

नमोऽस्तु रामाय सलक्ष्मणाय दैव्यै च तस्मै जनन  
काल्मजायै तमोऽस्तु रुद्रेन्द्र यमानिलेम्भो  
नमोऽस्तु चन्द्रातकर्मैर्दृग्गोम्यै ॥

वर्मचक्रं प्रवर्तनाय यत्र राजा प्रवर्तते ।

लुब्धकाः प्रविलीयन्ते प्रजा तत्र प्रसीदति ॥

When the Government is acting on the wheel of Dharma, the weak are bound to vanish and the people are bound to be prosperous and happy.

I welcome this present attempt of the hon. Minister of Legal Affairs to amend the Representation of the People Act of 1950 and the Act of 1951. While agreeing with the general principles enunciated in the Statement of Objects and Reasons and in his speech I have to make a few observations with regard to certain difficulties that we experienced actually in the previous elections.

At the outset I would like to lend my support to the amendment moved by Shri N. C. Chatterjee and Pandit Thakur Das Bhargava and I believe that the Select Committee should be authorised to go into many other matters that are not included within these two Bills.

The first thing that is essential is that after introduction of free and

general elections on the basis of adult franchise I feel it is high time that we should also shake off the influence of western methods of electioneering. It is surely against the ideals of Indian culture that a man should go about from village to village, from place to place, and from door to door propagating his importance as a public man and advocating his cause for being elected to the Central, State or local legislature or some other body. I feel that it is the people who should feel the importance and necessity of a particular person who is considered in for such office. The candidate should rather make it a point not to move about in his constituency except where the people might be anxious to see him or to know his views. I learn that during the last elections our Leader of the House and Prime Minister, Shri Jawaharlal Nehru had declared his intention not to visit his constituency and I feel that this should be a general rule to be practised by other candidates as well.

The other point worth consideration is about the electoral rolls. I agree with the hon. Minister that fresh electoral rolls need not be prepared every time and that only a thorough revision of them would be quite sufficient. But, I am surprised to read on page 12 of the first Bill, in the Statement of Objects and Reasons:

"Since general elections to the House of the People and the State Legislative Assemblies (except three) are due in the beginning of 1957, it would not be worth while, revising the electoral rolls for the existing parliamentary and assembly constituencies during the year 1956. The Election Commission would in that year be preparing the rolls for the new constituencies as formed by the Delimitation Commission."

I, therefore, feel that this will greatly jeopardise the rights of so many voters whose names are not correctly entered in the previous electoral rolls. I also feel that there

are so many discrepancies. The hon. Members of this House—practically all of them—know that the electoral rolls contain a number of mistakes and a large number of persons could not vote on account of one or the other technical irregularity found therein. A large number of ladies whose names were not there but who were included in the electoral rolls as "Mrs. so and so" were also precluded from participating in the elections. In other cases the discrepancy about parentage was also put as a bar in the way of voting. I also know a number of cases of persons who had migrated to Pakistan, but whose relatives, somehow or other, gave their names and the votes of those people who had already given up Indian citizenship were being exercised by other persons. In view of this, I feel that the hon. Minister and the Members of the Select Committee should see that this provision is still kept and the revision of electoral rolls is completed before the next elections are started.

The third thing that I intend to emphasise is about the rejection of nomination papers. I can well appreciate that technical objection should not be given much weight. It is also stated in the Statement of Objects and Reasons, out of as many as 338 election petitions as many as 116 contained allegations regarding improper rejection of nomination papers. I do not think I need go through the whole passage, but I feel that a large number of election petitions which go to disprove the elections that have already been successful, for only a technical mistake of a returning officer, would be a great injustice to the candidate himself. I therefore press upon the hon. Minister and the Members of the Select Committee to pay due regard to this aspect and to have some provision with regard to the intermediate tribunal or some measure for deciding the election petitions before the actual polling is begun.

Shrimati Renu Chakravartty also mentioned the point with regard to the distance of polling booths from

[Shri Nand Lal Sharma]

the residential places of the voters, especially with regard to the ladies. When it is a distance of five to seven miles from their residential places, and especially when we see that the use of vehicles by the candidate is also prohibited, I think it is very hard for the ladies to go and poll and exercise their right to vote. I therefore request the hon. Minister to see that the polling booths are situated at convenient distance from the residential places of at least the ladies.

**Shri B. D. Shastri (Shahdol-Sidhi):** Mobile stations.

**Shri Nand Lal Sharma:** Yes.

**The Minister of Legal Affairs (Shri Pataskar):** I of course appreciate the point that the booths should not be far away from the places of residence. But I may point out for the information of the hon. Member that in the last elections we had 19,64,084 polling booths.

**Shri Nand Lal Sharma:** But the area of our country is still larger and we can keep the polling booths at still nearer distances.

**Shri Pataskar:** I do not want to controvert, but I just wanted to give the information.

**Shri Nand Lal Sharma:** Thanks. Another point that I want to make is with regard to the ballot boxes. We know from practical experience that the ballot boxes have been tampered with in a number of cases; they could be opened and the ballot papers could be taken out; the ballot papers could either be transferred or thrown out.

**Shri U. M. Trivedi:** Ballot boxes were also altered.

**Shri Nand Lal Sharma:** I therefore say that even the Presiding Officers are helpless a number of times. I am not looking at this Bill from a particular party point of view. What I feel is that this is the right of the people, and this should not be

tampered with by any interested person, whether he is on the Government side or on the side of some party in power. I know that the helplessness of presiding officers was mostly due to the influence of the executive and the influence of the party in power over the members of the executive, because those poor officers also could see that their chances of service depended upon all those people who might come into power. We talk of very high morals but we have not been able to introduce real democracy. If my present Congress friends, after the death of our revered Mahatmaji, could not see that Ram Rajya is possible in India while Mahatmaji could agree to the term Ram Rajya, in this sacred land of ours, they could at least give up the methods of western electioneering. They should not simply talk that they are going to rise to such high levels. They do not care for Opposition parties. I think Opposition parties should count and sincere opposition should always be welcomed. In that case, I think that the Opposition parties should be given a free and equal chance of representing themselves. I am sure that according to our national culture, the ideal of self-praise, जातमत्वाचा is worse than self-suicide. आत्म हत्या. I feel that our people should not move about from place to place advocating their own cause and their own qualities. Rather, it should be party ideals and the party programmes that should weigh with the voters. I feel that where the oddest of wealth has her own boons, the God of the State of Bacchus has much more intoxicating influence over the people and we should try to save the public as much as possible from that influence.

श्री आर० एस० तिवारी (छतरपुर-  
दतिया-टीकमगढ़): माननीय विधि मंत्री  
जी ने जो दो जन प्रतिनिधित्व विधेयक इस  
संसद के सम्मुख उपस्थित किये हैं मैं उनका  
समर्थन करने के लिये खड़ा हुआ हूँ।

चुनाव होने के बाद हम सब संसद् सदस्यों को यह भली भांति मालूम हो गया कि इस कानून में किस किस धारा को रखना चाहिये और किस किस धारा को निकाल देना चाहिये । बहुत से संसद् सदस्य जो दो दो बार चुनाव लड़कर यहाँ आये हैं उनको इस चुनाव विषय का ज्यादा अनुभव है । उनकी राय का इस सम्बन्ध में विशेष महत्व है । ताकि भविष्य के लिये एक मुन्दर और सही विधेयक बनाया जासके इस सभा में लाने का इतना ही प्रयोजन है । लेकिन इस अवसर का उपयोग हमारे विरोधी सदस्यों ने इन विधेयकों को उत्तम बानान में न करके कांग्रेस पार्टी पर आरोप लगाने में किया । यह अवसर आरोप लगाने के लिये नहीं था बल्कि इसलिये था कि हम देखें कि इन विधेयकों में कौन कौन सी धारायें उचित और समयानुसार हैं और कौनसी धाराओं का होना आवश्यक है । इसी विषय पर विचार करने के लिये इन विधेयकों को सभा के सामने उपस्थित किया गया है । इसलिये इसी विषय पर विचार होना चाहिये था न कि किसी पार्टी पर लांछन लगाने में और दोषारोपण करने में इस अवसर का उपयोग करना था ।

यह जो दो संशोधित विधेयक प्रवर समिति के सुपुर्दे किये जाने हैं, उन में बहुत सी धारायें ऐसी हैं कि जो हमारे माननीय विधि मंत्री जी ने संशोधित करके उपस्थित कर दी हैं और जिसके लिये कि मैं उन्हें धन्यवाद देता हूँ लेकिन बहुत सी आवश्यक चीजें इस में अब भी रह गई हैं कि जो प्रवर समिति के द्वारा ही दुरुस्त हो कर अगले सेशन में लाई जायेगी । जैसे मनोनयन पत्र के रिजेक्ट होने पर शीघ्र अपील हो, समर्थक की आवश्यकता नहीं है, मतदाता सूचियाँ सही होना चाहियें ।

मैं इस विषय में अपने कुछ विचार माननीय विधि मंत्री के सम्मुख उन धाराओं

के विषय में रखना चाहता हूँ जो कि मैं उचित समझता हूँ । जिससे मुझे अपने प्रदेश के चुनाव से अनुभव हुआ है । मेरे साथियों पर ही इसका प्रभाव पड़ा । -

धारा १७ में मनोनयन पत्र भरे जाते हैं और आपत्ति करने अथवा किसी कारण से खारिज हो जाते हैं फिर अन्त में अपील द्वारा सही मान लिये जाते हैं । तो जब तक यह सारा चुनाव हो जाता है वह सारा का सारा चुनाव रद्द कर दिया जाता है, थोड़ी सी गलती से, इसलिये मेरा यह निवेदन है कि रिटर्निंग आफिसर के फ़ैमले की अपील उसी बक्त थोड़ा समय दे कर दो या चार दिन में तय कर दी जाये ताकि सारे चुनाव का खर्चा और सारे चुनाव की परेशानी लोगों पर न पड़े ।

धारा ४८ में एक ट्रिब्यूनल से अगर कोई सज्जन असन्तुष्ट हो जाते हैं और यह चाहते हैं कि दूसरे ट्रिब्यूनल में हमारा मामला दे दिया जाय ताकि न्याय हो सके तो उसको ऐसा करने की सुविधा दी जाये । धाज रिटर्निंग आफिसर को यह अधिकार न होने के कारण वह फिर उसी ट्रिब्यूनल के पास रह जाता है, इसलिये यह अधिकार इलेक्शन कमिशन को होना चाहिये कि जब एक ट्रिब्यूनल के खिलाफ़ अर्जी हो तो दूसरे ट्रिब्यूनल में वह उसे उपस्थित कर सके ।

धारा ६५ जिसमें अनर्हता यानी डिस-क्वालिफिकेशन का बिक्र आया है, उसके सम्बन्ध में कल हमारे माननीय मेम्बर श्री देशपांडे ने कहा था कि इलेक्शन कमिशनर को डिसक्वालिफिकेशन को हटाने का अधिकार न दिया जाये और उन्होंने यह अधिकार दिये जाने का विरोध किया था, मैं उनसे आपके द्वारा यह निवेदन करना चाहता हूँ कि अभी हाल में विन्ध्य प्रदेश में हमारी विधान सभा के ८ सदस्य पदच्युत किये गये थे, चूँकि एक ही दोषारोपण यह था

[भार० एस० तिवारी]

कि जमींदार पोलिंग एजेंट रहा है इसलिये वे डिस्क्वालिफिकेशन में आ गये, उन में जिन दो के पास पैसा था वह तो सुप्रीम कोर्ट में मुकदमा लड़कर जीत गये और मिनिस्टर बन गये लेकिन बाकी आदमी जिन के पास पैसा नहीं था वह सुप्रीम कोर्ट तक नहीं आ सके और आज वह पदच्युत ही नहीं बल्कि मेम्बरी के लिये ६ साल तक के लिये डिस्क्वालिफाइड हो कर पड़े हुये हैं। लेकिन इलजाम कुछ लोगों पर एक ही सा था कि जमींदारों को उन्होंने पोलिंग एजेंट बनाया है, और चूंकि यह सरकारी आदमी हैं, इस वास्ते उनको ६ साल के लिये पदच्युत किया गया था। इसलिये मेरा निवेदन है कि यह अवश्य ध्यान रखा जाये कि अगर वह आदमी डिस्क्वालिफिकेशन हटवाने के लिये मुकदमा नहीं लड़ सकते हैं तो कम से कम अपना प्राथना पत्र तो एलेक्शन कमिशन में दे सकें ताकि जिस झूठे अभियोग पर उनको ६ साल के लिये निकाला गया है, उससे वह मुक्त हो सकें, इसलिये यह जो १४०ए का नया सेक्शन एक्ट में जोड़ा जा रहा है मैं उसका स्वागत करता हूँ।

धारा ५४(२) इस प्रकार है :

“(2) 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 be forthwith declared to be elected to fill the reserved seats, and the procedure laid down in section 53 shall be followed for filling the remaining seat or seats.”

इसके अनुसार जब कोई स्थान ऐसा होता है कि जहाँ शेड्यूल्ड कास्ट के सदस्य चतने ही होते हैं जितने कि सीट्स होती हैं तो वहाँ पर उनके चुनाव की कोई जरूरत नहीं पड़ती और वह इलेक्टड डिक्लेयर कर दिये जाते हैं। और उसका दूसरा कारण यह हो जाता है कि जब वह डिक्लेयर हो

जाता है और उसके साथ जो एक दूसरा कैंडिडेट खड़ा हुआ है, उसके खिलाफ कोई पेटिशन दायर हो जाती है तो उस पेटिशन दायर हो जाने के कारण वह जो दूसरा विरोधी उसके विरोध में पेटिशन दायर करता है तो उसको धारा ८२ के अनुसार एलेक्शन पेटिशन में पेटिशनर को एलेक्शन में नॉमिनेट किये हुये उम्मीदवारों को विपक्षी बनाना पड़ता है। इसके अनुसार उन शेड्यूल्ड कास्ट उम्मीदवारों को भी बनाना आवश्यक हो जाता है कि जिनका निर्वाचन धारा ५४ की उपधारा २ के अनुसार हो गया था, जिनको कि एलेक्शन नहीं लड़ना पड़ा था और वोट नहीं डाले गये थे। इस तरह के उम्मीदवारों को विपक्षी बनाने पर पेटिशन की जांच स्वरक्षित सीट के अतिरिक्त अन्य सीट के निर्वाचन में विपक्षी के विरुद्ध धारा १०० के (१) अनुसार यदि कोई आरोप, रिश्वत, दबाव अथवा अनुचित नामिनेशन का आरोप सिद्ध हो जाता है तो सारा निर्वाचन रद्द हो जाता है। उन सारे के सारे चुने हुये प्रतिनिधियों को रिजेक्ट कर दिया जाता है और जैसा कि हमारे यहाँ शेड्यूल्ड कास्ट के जो लोग थे उनको बिना अपराध रिजेक्ट हो जाना पड़ा और वह पदच्युत कर दिये गये हैं। इसलिये मेरा यह निवेदन है कि इस धारा में भी संशोधन होना चाहिये।

“82. Parties to the petition.—A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.”

इन दोनों धाराओं और धारा १०० की उपधारा १ में भी आपकी संशोधन करना पड़ेगा। इसलिये मेरा निवेदन है कि इन संशोधनों को आप स्वीकार करें और प्रवर समिति के सम्मुख उनको भेजें। इतना ही कह कर के मैं इस सारे विधेयक का समर्थन करता हूँ।

**Shri S. L. Saksena** (Gorakhpur Dist.—North): I am one of those in this House who have come through a bye-election, after fighting election petitions. There are two other friends also in this House who have got that experience. I wish that some of those Members were included in the Select Committee. If they were included, they would give the Select Committee the benefit of their experience as to how election law is actually working. Personally, my original election in which I was declared defeated was fought on the 28th January 1952 and I came back to this House on the 4th March, 1955, after fighting another bye-election after three years and two months.

There has been in this House a suggestion that there should be a time-limit fixed for the decision of these election petitions. I will suggest how that can be done. I know how the delay occurred in my case. It took full 22 days for the counting. This is something extraordinary; you can easily reduce this to three or four days. It took 25 days in my case. I say that at the most 7 days' time should be allowed for counting. After that, 45 days were allowed for filing the accounts and 14 days were allowed for filing the petition. Thus my election petition could be filed only 93 days after the election day. This is too long a time. If the candidate submits his accounts within 14 days, it would be better both for the candidate as well as for the others. If the period is more, there will be opportunities for faking accounts etc. Therefore, the time-limit for submitting the return of election expenses should be 14 days and not 45 days. This would also reduce the overall time-limit.

1 P.M.

In my case after full 3 months from the date of filing my election petition the Chairman of the Election Tribunal was appointed. This is too long a time. It must be laid down in this Bill that within one week from the date of filing the Election petitions the Chairman of the Election Tribunal should be appointed.

Why should they take so much time to appoint the Chairman? Then, the Chairman of the tribunal publishes the petition. This was done on the 6th of September, that is, after full 1 month and 10 days. I do not see why so much time should be taken. The Chairman could immediately send it for publication. I suggest that the Election Commission itself should gazette the petition as soon as it receives the petition. This will give notice to the candidates that a petition has been filed. On the 22nd of September, they nominated the two other Members of the Tribunal. Why so much delay? One week would have been quite sufficient to nominate the other two members. The Chairman was already there. After that, the 23rd of October was fixed as the first date for the filing of the written statement: that was 23rd October. The other side wanted three weeks more time and it was allowed. This was something extraordinary. The respondent had notice of the petition as soon as it was published in the Gazette i.e. on 6.9.52 and yet three weeks more were given. My feeling is that the tribunals try to prolong the cases. Unfortunately, I am sorry to say this, one of the Members is a retired Judge and he gets full salary for the period of the duration of the tribunal. Otherwise, he will get only his pension. I have felt that they try to prolong the trial. This should not be done. I suggest that a retired judge should not be in the tribunal. Two serving judges and one advocate should be there. That is the best thing.

There was another point in my case. After the petition came up for hearing, the Judge member was transferred to Aligarh from Gorakhpur. He had to come to Gorakhpur to try the case. The rules are such that if a person travels again within 10 days, he will not get travelling allowances for the journey again. So all adjournments of the Tribunal were for more than 10 days. That again necessitated delays of more than one month. Amendments should be

[Shri S. L. Saksena]

made to see that things are done quickly. Evidence and everything was over and in exactly two months and judgment could have been delivered on 5th of August, 1953. But, the opponent went to the High Court and filed a writ petition saying that the petition should be dismissed for non-joinder. It took 4 months in the High Court and the proceedings were stayed. Then, he went to the Supreme Court and that took two months again. After the judgement was given, full 26 months after the election, he came to the Supreme Court again and filed an appeal and that again took 6 months. Bye-election was actually held on 28th of February i.e. 5 months after the final decision of the Supreme Court and 110 days after the publication in the gazette. This took 3 years and 2 months. It is very important that the constituencies should be throughout represented by their representatives in the Parliament. It is in the public interests that top priority should be given by all courts, trials of writ petitions and appeals connected with election cases. Otherwise, the whole tribunal is paralysed; Government have to pay their salary; there are unnecessary expenses. If my suggestions are accepted, the maximum time will be 4 months and within 4 months even the biggest election cases could be finished. Six months at the most should be the time-limit fixed in the Bill for final disposal of Election cases.

I have got another suggestion and that is in regard to petitions against Ministers and Chief Ministers. These are high dignitaries. No ordinary tribunals should try their cases. A bench of the Supreme Court in its original jurisdiction should try them. Then alone you can have a feeling that there is a fair trial. As regards the electoral rolls, I was surprised to see that nearly two crores of voters who were eligible to vote in the last elections could not exercise their vote. The date by reference to which the rolls were prepared was 1st March, 1950. Elections

were held in January 1952. So the minimum age of those who voted was 23 years and not 21 years. All the people between the ages of 21 and 23 on the voting day i.e. the 31st January, 1952, were off the rolls. This is something extraordinary. It means that more than 1 crore of voters did not take part in the elections. I therefore suggest that the electoral rolls should be revised every year with reference to 1st of January of the coming year. It will take 6 or 8 months to prepare the rolls. A person who is 20 years old on 1st of January this year will be 21 on the 1st of January of the next year. The rolls will thus include all those who will be 21 years on 1st January 1956 if the electoral rolls are prepared now this year. In that case, the rolls will contain the names of all those who are entitled to vote. This big chunk of 2 crores of voters who should have voted should not be excluded. In fact, the express provisions of the Constitution were thus violated. I hope this matter will be taken into consideration and the rolls will be prepared with reference to 1st January of next year. They will be always fresh and not stale.

Mr. Chairman: The hon. Member's time is up.

Shri S. L. Saksena: I request I may be given 5 minutes more. If some time is given to me, I shall give some more experiences of mine.

I will then suggest that the Election Commission or the Election office should give to the parties concerned and to the public the time table when these rolls are revised. We do not know when these electoral rolls are revised. If we know, probably, we can help much more to give full publicity about the revision and we can help to get all the people entitled to vote, enrolled. I am sorry that there should be a provision that after every 5 years there will be a delimitation of consti-

tencies, I suggest that the delimitation should be for at least 30 years. The rule is fixed that a constituency should have a certain population, why change the constituency every 5 years? Population will not change very much; a little change does not matter. Every citizen should have the right to vote and stand as a candidate. There is no reason why the constituency should be changed every 5 years. I suggest that we should have a delimitation once in 30 years. The Constitution should be amended accordingly.

I am opposed to this election by symbols. This is something extraordinary. People do not know who the candidate is. You have to say vote for a cow or an elephant and so on. I think the other method of having coloured boxes for each candidate was better. If that were not possible. I suggest that you should not give symbols to only 4 or 5 parties. They get an advantage. This enables them to begin propaganda much earlier than others. I suggest that every party which puts forward a request that a symbol should be given to it, should be given one. In the last elections for the local bodies in U.P., a new party the U.D.F. was formed. But, they were refused a symbol. When the elections were held, they won 40 out of 50 chairmanship contests. party that puts up 10 candidates to the Parliament or 50 candidates for the local legislatures should be allotted a symbol.

I agree with my hon. friend as regards increasing the number of polling booths. One thousand voters for one booth is too much. It is not possible to get the votes polled. Five hundred should be sufficient. As regards complaints against Ministers canvassing, in other countries, care-taker Governments are formed and then elections are held. This should happen here.

**Mr. Chairman:** May I invite the attention of the hon. Member. He may write down his suggestions and send them to the Minister. There are so many other intend speakers.

**Shri S. L. Saksena:** I shall finish in two minutes. In the bye-elections, the Ministers should not take part. When they come in to help a particular candidate, the entire Government machinery also comes with them. Much has already been said about reducing the election expenses. It is very difficult to find out how to reduce or how to limit them. I would like to make a suggestion about the motor cars. A large amount of money is spent on cars. No candidate should be allowed to use more than two cars for a parliamentary election or one car for the Assembly. If a candidate stands for the Parliament he will naturally set up 5 candidates for the Assembly and so he will actually have 7 cars. If you limit the number of motor cars that a candidate can use, I think we will be able to reduce the expenditure.

I support the suggestion of my hon. friend Shri Kamath that district judges should scrutinise the nomination papers and count the votes. They should take custody of the ballot boxes after election. If they do it, there will be much less suspicion and there will be much more confidence in the elections. There has been a lot of complaint about temporary with the ballot boxes. I suggest that they should be wrapped in cloth and sealed and should be allowed to be guarded by the volunteers of all the candidates so long as they are there. I hope all these suggestions will be taken into consideration.

**सरकार ए० एस० सहगल (बिलासपुर):**  
गल चुनाव के अनुभव को देख कर और जो जो दिक्कतें हमारे उम्मीदवारों और सरकार को आई हैं उनको देखते हुये हाउस के सामने यह दो विधेयक, बिल नं० ३७, १९५५ का और बिल नं० ३८, १९५५ का, पेश किये गये हैं। यह दोनों बिल एक सेलेक्ट कमेटी के पास जा रहे हैं।

[सरदार ए० एस० सहाय]

बिल नं० ३८ में जो स्टेटमेंट आफ प्राब्लेम्स एण्ड रीजन्स हैं उसको देखने से पता चलता है कि जो क्लॉज १२ में ३० दिन की मियाद रखी गई है उसके सम्बन्ध में सरकार चाहती है कि कोई भी उम्मीदवार जिसने अपना नामिनेशन पेपर दाखिल किया है वह उस तारीख के भीतर जो कि पोलिंग के लिये रखा गया है फिट इन कर ले। मैं समझता हूँ कि यह चीज जो रखी जा रही है वह वाजिब नहीं होगी। ऐसी परिस्थिति में यह जरूरी है कि जो वर्तमान क्लॉज हमारे यहां हैं उसी को रखा जाय। अगर ऐसा किया गया तो मैं समझता हूँ कि यह ज्यादा बेहतर होगा। दफा ४१ में यह भी कहा है कि जो उम्मीदवार चुनाव के लिये खड़े होते हैं उनको कुछ खानों की पूति करनी पड़ती है खर्च के बारे में चाहे वे कामयाब हों या न हों। यह जो चीज थी वह बहुत अच्छी चीज नहीं थी। मेरे खयाल में यह एक अच्छी बात होगी अगर एक आदमी जो चुनाव में कामयाब होता है और जितना वह खर्चा करता है वह उसको बताना चाहिये लेकिन जो दूसरे उम्मीदवार हैं और जो कामयाब नहीं होते हैं उनके लिये यह जरूरी नहीं होना चाहिये कि वह उन खानों की पूति करे और उनको कोई खर्च के एकाउंट नहीं देने चाहिये।

सब से बड़ी बात जो मैं कहना चाहता हूँ वह यह है कि जो सिलेक्ट कमेटी हमने बनाई है और जिसके सुपुर्द हम इन बिलों को करने जा रहे हैं, उसको यह हक हासिल होना चाहिये कि वह और जितनी भी बातें उसके सामने आयें उन पर विचार करे न कि वह इन दो बिलों तक अपने विचारों को सीमित रखे। अगर यह कहा जाये कि सिलेक्ट कमेटी केवल उन्हीं क्लॉजिड पर बहस कर सकती है और उन्हीं पर विचार कर सकती है जो कि इन दो बिलों में दर्ज हैं और जिनके जरिये हम कुछ तरमोमें करने जा रहे हैं तो यह मेरे विचार में ठीक

बात न होगी। मैं चाहता हूँ कि इस सिलेक्ट कमेटी के हाथ नहीं बांध दिये जाने चाहिये और उसको अधिकार होना चाहिये कि वह दूसरी बातों पर भी गौर कर सके जो उसके सामने आयें। इसलिये, सभानेत्री महोदया, मेरी आपसे प्रार्थना है कि सिलेक्ट कमेटी को इन्स्ट्रक्शन होनी चाहिये कि वह तरमोम जो दूसरी बातों पर भी, जो उसके सामने आयें, गौर करे।

अभी यहां पर जिक्र हुआ कि जो उप-चुनाव होते हैं उन में बहुत ज्यादा दिक्कत होती है। सभानेत्री महोदया, जो उप-चुनाव होते हैं और उन में जो दिक्कतें पैदा आती हैं वह तो सब के लिये समान होती हैं और इससे डरने की कोई बात नहीं। हमारे देश में बहुत से उपचुनाव हुये हैं और हमारे मित्र कामत जी भी इसी तरह के एक उपचुनाव में जीत कर आये हैं। तो मेरा विचार है कि इन से डरने की आवश्यकता नहीं है। हमें याद रखना चाहिये कि उप-चुनाव में भी यदि हमारी पार्टी अच्छी है हम ईमानदार हैं, हम अच्छे काम करते हैं तो लोग हमें ही वोट देंगे और हम जीतेंगे और जो हमारे विपक्ष में खड़ा हुआ है वह यकीनी तौर पर हार जायेगा। मैं आपको मध्य प्रदेश में जो दो उपचुनाव हुये हैं उनके बारे में थोड़ा सा बताना चाहता हूँ। यह दो उपचुनाव चापा और जांजगीर कंस्टिट्यूएंसी जो कि बिलासपुर डिस्ट्रिक्ट में है, में हुये हैं। वहां पर जो टिब्युनल मुकर्रेर किया गया था उस वक्त यह देखन की कोशिश नहीं की गई थी कि आया उसके मेम्बरों में से कोई किसी पार्टी का पक्षपाती तो नहीं है। हमें यह जरूर देखना चाहिये कि क्या किसी मेम्बर का झुकाव, किसी का इन-क्लिनेशन किसी खास पार्टी की उम्मीदवार की तरफ तो नहीं है। मैं यह कहने के लिये तैयार हूँ कि इन दो उपचुनावों के बारे में जो टिब्युनल मकरर किया गया था उस में कोई एक ऐसा आदमी था जिसका कि झुकाव किसी एक खास पार्टी के उम्मीदवार की

तरफ या । मैं जो यह चाहता हूँ कि जिन लोगों को ट्रिब्यूनल का मेम्बर मुकर्रर किया जाये वे ऐसे लोग होने चाहियें जो कि हाई कोर्ट के जज हों । साथ ही जब हमारे चुनाव हो जाते हैं उनके बाद जो गिनने का काम है वह भी जो हाई कोर्ट के जजिज हैं या डिस्ट्रिक्ट जज जो हैं उनके हाथ में होना चाहिये क्योंकि यह देखा गया है कि लोगों का ज्यूडिशरी पर ज्यादा कान्फिडेंस है बनिस्बत दूसरों के । यह गिनती का काम भी दूसरे लोगों के हाथ में नहीं होना चाहिये क्योंकि मैं समझता हूँ कि उन पर किसी न किसी तरह कई लोग प्रभाव डाल ही लेते हैं या वे किसी के प्रभाव के नीचे आ ही जाते हैं क्योंकि उनकी रोटी उनके हाथ में रहती है और कई बार गलती कर देते हैं ।

इसलिये मेरा सुझाव है कि हाई कोर्ट के जजिज को ही रखा जाये ।

अब जो क्लॉज २५ में आपने टाइम लिमिट की बात को उड़ाने की बात कही है, इसका मैं स्वागत करता हूँ । इससे कैंडिडेट्स को बहुत ज्यादा सहूलियत होगी और यह ज्यादा मुफीद बात भी होगी ।

इसके बाद मैं एक बात यह कहना चाहता हूँ कि जब कोई आदमी जीत जाता है और उसको विजयी घोषित कर दिया जाता है, वह तब तक अपनी जगह संसद् में या विधान सभा में नहीं ले सकता है, जब तक वहां पर जो डिसकशन होती है उसमें भाग नहीं ले सकता है जब तक कि उसका नाम गजिट में नोटिफाई नहीं कर दिया जाता । इसलिये मेरा सुझाव है कि जिस समय एक कैंडिडेट को विजयी घोषित कर दिया जाय उसके फौरन बाद उसको अधिकार होना चाहिये कि वह आकर डिसकशन में भाग ले सके । अगर यह व्यवस्था कर दी जाये तो ज्यादा अच्छा होगा । जिस दिन एक आदमी विजयी घोषित कर दिया जाये

उसी दिन उसको यहां पर आकर बैठने का अधिकार होना चाहिये ।

इलेक्शन एक्सपेंसिस के बारे में जैसे कि मैं ने पहले कहा है, इसके बारे में एक फार्म है और उसमें जो खाने हैं व सबको भरने पड़ते हैं । मैं यह नहीं कहता कि जो आदमी विजयी घोषित किया जाता है उससे कोई रिटर्न ही न मांगी जाये । मैं मानता हूँ कि जो भी आदमी इलेक्शन लड़ता है उसको खर्च करना ही पड़ता है । अगर इस फार्म के बजाय इतना ही उसको कहा जाय कि वह बताये कि कितना उसने खर्च किया है और किस किस मद में खर्च किया है तो ज्यादा बेहतर होगा । जैसा कि मैंने पहले कहा है कि जो आदमी कामयाब नहीं होता है उसको इलेक्शन रिटर्न भरने की कोई जरूरत नहीं होनी चाहिये ।

अब जो इलेक्शन पेटिशन के बारे में वक्त रखा गया है क्लॉज ४२ में मैं उसका स्वागत करता हूँ । इसमें कहा गया है कि किसी को भी इलेक्शन पेटिशन को दाखिल करने के लिये दो महीने का वक्त होगा और अगर कोई इतने अर्से में इलेक्शन पेटिशन फाइल नहीं करता है तो उसका इलेक्शन पेटिशन फाइल करने का जो राइट है वह जाता रहेगा । इसमें ४५ दिन के अलावा जो कि कैंडिडेट को इलेक्शन एक्सपेंसिस फाइल करने का वक्त दिया गया है, उसके बाद १५ दिन तक भी वह पेटिशन फाइल कर सकता है यह एक अच्छी चीज है । अब यह जो दो महीने का अर्सा हो जाता है और मैं समझता हूँ कि यह एक बहुत अच्छी चीज है ।

मैं समझता हूँ कि इलेक्शन कमिशन को यह अधिकार होना चाहिये कि वह जो दो जजिज एप्वाइंट करे वे हाई कोर्ट के जजिज हों । आपने जो क्लॉजिज ४७ और ५४ में यह कहा है कि यह दोनों जजिज डिस्ट्रिक्ट जजिज हों मैं इसे पसन्द नहीं करता हूँ । मेरा कहना यह है कि डिस्ट्रिक्ट

[सरदार ए० एस० सहगल]

जजिज को एवाइंट न करके हाई कोर्ट के जजिज को एवाइंट किया जाये और जब इन में किसी पेटिशन के बारे में इस्तलाफ़ राब हो उसका फैसला सुप्रीम कोर्ट के जज को करना चाहिये । सभानेत्री महोदया, मैं यह कहने के लिये तैयार हूँ कि हमारे यहां जो दूसरे जजिज हैं उनमें लोगों का उतना विश्वास नहीं है जितना कि जूडी-शीयल पर है । इसलिये यह जरूरी है कि हम हाई कोर्ट के जजिज को एवाइंट करें जिन पर कि लोगों का काफी विश्वास है

आशा करता हूँ जो सुझाव मैंने दिये हैं उन पर गौर किया जायेगा ।

सेठ अचल सिंह (जिला आगरा-पश्चिम) : यह जो चुनाव का विषय है यह आम जनता का विषय है और इसमें हर भारतवासी दिलचस्पी लेता है । पिछले चुनाव जब हुये उस वक्त तकरीबन १७ करोड़ लोगों ने वोट दिये थे । जिस तरीके से और जिस कामयाबी के साथ चुनाव किये गये उसकी प्रशंसा दुनिया भर में हुई । अभी हमारे कुछ अपोजीशन के मेम्बरों ने उन चुनावों के बारे में तरह तरह की बातें कहीं लेकिन मैं यह कह सकता हूँ कि श्रीन दी होल चुनाव बहुत शान्तिपूर्वक हुये और अच्छे तरीके से हुये । यहां तक कि कुछ देशों ने अपने चुनाव कराने के वास्ते यहां की सरकार से चुनाव अधिकारी मांगें, जिन्होंने बड़ी खूबी के साथ चुनाव कराये ।

इसकी काफी प्रशंसा हुई है । इस विषय में मैं दो तीन सुझाव देना चाहता हूँ । आशा है कि मंत्री महोदय उन पर विचार करेंगे ।

श्री कामत (होशंगाबाद) : क्या आप आगे आने का कष्ट करेंगे ? सुनाई नहीं दे रहा ।

सेठ अचल सिंह : पहली बात मैं यह कहना चाहता हूँ जिस वक्त एलेक्ट्रल रील तैयार किया जाता है, तब उसकी अच्छी तरह पब्लिसिटी नहीं की जाती है । जिस वक्त क्लार्क नाम पूछने के लिये घरों पर जाते हैं, तो लोग नहीं समझते कि ये क्यों आये हैं और इसलिये वे अपना नाम नहीं बताते । इस कारण बहुत से नाम छट जाते हैं । मैंने आगरा में देखा कि रोलज के रिवाइज होने के वक्त स्त्रियों ने अपने नाम नहीं बताये और इस तरह बहुत सी स्त्रियां वोटर बनने से रह गईं । मैं चाहता हूँ कि जब लिस्टें रिवाइज हों, तो इस बात की खूब पब्लिसिटी की जाय ताकि जनता को मालूम हो जाये कि लिस्टें बनाने का काम जारी है और हमको अपने अपने नाम दर्ज करवा देने चाहियें । ऐसा करने से लिस्टें मुकम्मल हो जायेंगी ।

दूसरी बात मैं इलैक्शन एक्सपेंसेज के बारे में कहना चाहता हूँ । एक कैंडीडेट विधान सभा के चुनाव में दस हजार से तीस चालीस हजार तक खर्च कर देता है, लेकिन कायदे के मुताबिक उसको विधान सभा और लोकसभा में आठ हजार और २५ हजार तक खर्च करना चाहिये । इसका नतीजा यह होता है कि गलत एक्सपेंसिज लिखा दिये जाते हैं । इसलिये मैं चाहूंगा कि इलैक्शन एक्सपेंसेज की मद्द निकाल दी जाय और हर एक व्यक्ति को इस बात का मौका दिया जाय कि वह जितना चाहे खर्च करे । लोग खर्च तो अब भी करते हैं, लेकिन दिखाते कम हैं और रिटर्न में गलत दर्ज कराते हैं । इसलिये इलैक्शन एक्सपेंसेज के मद्द को निकाल दिया जाय, तो अच्छा है ।

इलैक्शन में बहुत से लोग करप्ट प्रैक्टिसिज करते हैं । वे जरूर खत्म होनी चाहियें ।

सोग कई प्रकार के नाजायज काम करते हैं और रिस्क देते हैं। इस वजह से इलैक्शन में खराबा पैदा होती है, जो कि नहीं होनी चाहिये।

इन शब्दों के साथ मैं मंत्री महोदय से निवेदन करूंगा कि वह इन बातों पर विचार करें, अर्थात् एलैक्ट्रल-रोलज बनाते वक्त काफी पब्लिसिटी को जाये और इलैक्शन एक्सपेंसिज न सबमिट करन पड़ें।

**सरदार इफ्तेखार सिंह** (फाजिल्का-सिरसा) : सब से पहले मैं यह कहना चाहता हूँ कि पीपल्स रिप्रेजेंटेशन एक्ट के नियम बहुत सख्त हैं और इस तब्दीली के बाद भी शायद वे सख्त ही रहेंगे। बहुत कम कैंडीडेट्स ऐसे होते हैं जो कि वकील होते हैं या इतने पढ़े लिखे होते हैं कि इन नियमों को अच्छी तरह समझ सकें।

पहली बात मैं नामीनेशन के बारे में कहना चाहता हूँ। बाज अकाल ऐसा होता है कि नामीनेशन के वक्त एक आदमी दस्तखत करता है और बरखिलाफ़ पार्टी उस पर एतराज कर देती है कि यह उसके दस्तखत नहीं है। तब वह अदालत में आता है और रटनिंग आफ़िसर के सामने दस्तखत करता है, लेकिन रटनिंग आफ़िसर फिर भी उसके नामिनेशन को रिजेक्ट कर देता है और कहता है कि ये दस्तखत मिलते ही नहीं हैं। सदर साहिबा, आप गौर फरमाइये कि देहात में अनपढ़ लोग बसते हैं, उनके दस्तखत कहां तक मिल सकते हैं? मैं चाहता हूँ कि इस एक्ट में यह प्राविजन होना चाहिये कि अगर कोई आदमी रिटनिंग आफ़िसर के सामने यह हलफिया बयान दे कि यह दस्तखत मेरे है, तो वह दस्तखत उसी के तसव्वुर किये जाने चाहियें। देहातियों ने कभी दस्तखत किये नहीं होते और फिर पढ़े-लिखे आदमी भी हर बक्त एक से दस्तखत नहीं कर सकते और उनके दस्तखत भी हमेशा नहीं मिलते, तो फिर अनपढ़ और

कम पढ़े-लिखे आदमियों के दस्तखत मिल सकते हैं? इसलिये इस बिना पर पेपर रिजेक्ट कर देना कि दस्तखत नहीं मिलते हैं, मैं समझता हूँ उनके साथ बड़ी बे-इन्साफी होती है। इसलिये ऐसा प्राविजन होना चाहिये कि अगर कोई शख्स रिटनिंग आफ़िसर के सामने यह हलफिया बयान दे दे कि मैं ने यह दस्तखत प्रोपोजर के तौर पर किये हैं, तो उसको मंजूर कर लेना चाहिये।

इसके बाद मैं रिटनं आफ़ इलैक्शन एक्सपेंसिज के बारे में कुछ कहना चाहता हूँ। यह सब से कठिन बात है। इसको बहुत सादा किया गया है, लेकिन मैं समझता हूँ कि अभी तक वह इतना सादा और आसान नहीं हुआ है, जितना कि होना चाहिये। या तो आप इस किस्म की हिदायत दें कि ये ये चीजें इन्क्यूड होनी चाहियें और ये ये नहीं होनी चाहियें, ताकि कैंडीडेट अपनी रिटनं उसके मुताबिक बना सके। इस एक्ट में इतना बसीह (खुला) मैदान रखा गया है कि जिस बात को कोई जिस बंग से सोचना चाहे सोच सकता है। पिछले इलैक्शन में कितने पेटिशन्स हुये, जिन में रिटनं आफ़ नामीनेशन पेपर के बाद अगर कोई चीज आती है, तो वह इलैक्शन एक्सपेंसिज की है। आपने उसको सिम्पलीफाई करने की कोशिश की है। लेकिन मैं अर्ज करना चाहता हूँ कि खास तौर पर स्टेट एसेम्बलीज के लिये जो कैंडीडेट्स धार्यंग वे छोटे छोटे देहात से आयेंगे। मुमकिन है कि वे इतने पढ़े-लिखे न हों और जब तक आप उनके लिये कोई ऐसा रूल नहीं बनाते कि यह चीज इलैक्शन एक्सपेंसिज में शामिल होनी चाहिये और यह नहीं होनी चाहिये, तब तक उन लोगों की मुश्किल हल नहीं होगी। आपने यह तो कह दिया कि पार्टी के एक्सपेंसिज शामिल नहीं होंगे, लेकिन आप जानते हैं कि इलैक्शन पेटिशन्स में इसके अलावा कितनी चीजें आईं। मद्रास में एक पेटिशन दायर की

(सरदार इकबाल सिंह)

गई थी कि किसी कैंडीडेट ने बेट्ट आने का इलैक्शन एक्सपेंसिज नहीं दिखाया। इतनी सस्ती के साथ यह कानून लागू किया जाता है। मैं समझता हूँ कि सिलेक्ट कमेटी वाजह अलफ़ाज में कहे कि ये ये चीजें इलैक्शन एक्सपेंसिज में आयेंगी और ये ये नहीं आयेंगी ताकि लोगों को रहनुमाई मिले और उसी के मुताबिक कैंडीडेट्स अपने इलैक्शन एक्सपेंसिज तैयार करें।

दफ़ा १२३ और १२४ में कहा गया है कि अगर किसी प्लेकार्ड या सर्कुलर पर प्रिन्टर और पब्लिशर का नाम न हो, तो वह इलैक्शन रद्द हो सकता है, क्योंकि वह एक करप्ट प्रैक्टिस है। मैं कहना चाहता हूँ कि इस देश में कितने ऐसे इश्तिहार निकलते हैं जिन में प्रिन्टर और पब्लिशर का नाम होता है। बाज़ भीकत ऐसा भी होता है कि किसी वजह से किसी इश्तिहार पर प्रिन्टर और पब्लिशर का नाम रह गया, और इलैक्शन पेट्रीशन हुआ, तो वह डिसक्वालिफ़ाई भी हो सकता है। इस में बहुत वेगली कहा गया है कि प्लेकार्ड, सर्कुलर और पोस्टर। कोई भी जानता है कि कितने ही सर्कुलर होते हैं, जिन को पाटियों, संस्थाओं की तरफ से अपने कैंडीडेट्स की हिमायत में निकाला जाता है। उस बिना पर भी इलैक्शन पेट्रीशन हो सकती है। मैं समझता हूँ कि आपको यह बात वाजह करनी चाहिये और मेरे ब्यूल में प्रैस का नाम ही काफी समझा जाना चाहिये।

आखिर में मैं यह कहना चाहता हूँ कि यह बहुत बड़ा देश है। इस में हजारों गांव हैं और एक बहुत बड़ी तादाद में पोलिंग स्टेशन और पोलिंग बूथ्स बनते हैं। वोट डालने के लिये लोगों को एक गांव से दूसरे गांव जाना पड़ता है। अभी तक यह मुक़रर किया गया है कि एक हजार आदमियों के

लिये एक पोलिंग स्टेशन हो, यानी अगर किसी देहात में पांच सौ आदमी हों तो उनको दूसरे गांव जाना पड़ता है। इससे लोगों को बहुत तकलीफ होती है। सरकार को इस बात का फ़ैसला करना चाहिये कि अगर किसी गांव में पांच सौ के करीब वोटर्स हों और पोलिंग स्टेशन तीन मील से ज्यादा फ़ासले पर हो, तो उसी गांव में एक पोलिंग स्टेशन बनाया जाय। जब पोलिंग स्टेशन की लिस्ट छापी जाती है, तो कोई ऐतराज नहीं करता है। लेकिन लिस्ट बनाने बातों को इस बात का इल्म नहीं होता है कि फलां गांव कहां पर वाकया है और दूसरे गांव की लोकेशन क्या है। कैंडीडेट्स जब अपनी कांस्टीच्युएंसि के सब आदमियों का पता करते हैं, तब उन्हें पता लगता है कि वोटर्स कहां रहते हैं और पोलिंग स्टेशन कहां पर रखा गया है। अगर उस वक्त वे ऐतराज करते हैं, तो कहा जाता है कि हम मजबूर हैं, यह तो इलैक्शन कमिशन ही कर सकता है। इस इन्तज़ाम में जरूरी कोई तब्दोली को जानी चाहिये और अगर रिटर्निंग आफिसर यह समझे कि फलां देहात के लोगों को दूसरे गांव के पोलिंग स्टेशन में जा कर वोट डालने में वाकई तकलीफ होगी, तो इस बात का प्राविजन होना चाहिये कि वहां पर एक पोलिंग स्टेशन बनाया जाय, या उसके नजदीक ही किसी गांव में बनाया जाय—उसको ज्यादा दूर न रखा जाना चाहिये।

**Shri J. E. Mehta (Jodhpur):** To begin with, I should like to stress what I consider to be by far the most important matter, while we are considering the reform of our election law and procedure. I should like to say that I strongly share the views,—to which expression has already been given by some hon. Members,—that the hon. Minister of Legal Affairs is guilty of a serious omission in so far as he has failed to meet the wide

demand in this country that in all respects the scrutiny of nomination should be finalised before the elections. We know by our experience of the last elections that by far the large majority of the elections which were set aside on the ground of improper rejection of nomination papers. We also know the great deal of harassment and anxiety to candidates and public inconvenience and expenditure involved in all this. As hon. Members are aware, the Government themselves laid stress on this aspect of the matter when they brought forward to the Representation of the People (Amendment) Bill, 1953, which was subsequently withdrawn; and they had proposed some concrete measures to achieve the object in view. The matter also received very careful consideration at the hands of the Select Committee which considered that Bill and they evolved an elaborate procedure and machinery which in their view was capable of achieving the object. It is a pity that this aspect of the matter has been entirely ignored in these Bills. It is also a pity that the hon. Minister, Shri Pataskar, has not thought fit to explain why he has chosen to do so.

I concede that the question is not a very easy one. There are two opinions, one holding that all questions relating to the rejection or acceptance of nominations should be finalised and are capable of being finalised before the polling; and there is another view that this, though desirable, is not possible without prejudice to satisfactory and proper adjudication, for the simple reason that some of the matters involved are complicated and do not admit of being disposed of within a reasonable time. It is not for me to dogmatise as to which view is correct. But even conceding that there are certain matters which are too complicated and require time, there is no reason why all other matters should not be finalised before the elections actually take place. I regret to have to say that these Bills make no attempt even to achieve this limited objective.

It was my privilege to be a Member of the Select Committee which considered the Bill of 1953 and I ventured to append a note of dissent in which I dealt with this matter and attempted to suggest how far we could go and how we could achieve the objective, partially at least. For want of time, I shall not attempt to read out extracts from that note but I shall content myself by drawing the attention of the hon. House to it for whatever it might be worth. But, I do urge, with all the emphasis that I can command, that the hon. Minister, and the Select Committee, will be pleased to give attention to this problem, without a solution of which all our attempts to simplify election procedure will, I am afraid, not lead us very far.

Next, I should like to say a word about the return of election expenses. Most Members of this House seem to agree that it puts too much strain on the conscience of honest candidates and that, at the same time, it is altogether ineffective for the purpose it is intended to serve. I therefore, strongly endorse the view that has already found expression that this return should be done away with.

This applies, more or less, to the question of ceiling on election expenses. I should, on my part, like to concentrate all my attention to categorising all acts and practices through which money plays its nefarious role in the direction of prejudicing free and fair elections and to provide severe punishment including imprisonment for resorting to any of these forbidden acts and practices. After all, I see no reason why we should make such a great fetish of the amount of expenditure involved. If we take the matter in a sporting spirit, I think, it only helps to spread the socialist pattern of society.

In this context, I should also like to say that I do not at all like the provision that the expenses incurred by recognised party organisations in

[Shri J. R. Mehta]

furthering the prospects of the candidates supported by them should not form part of the election expenses of any individual. This will mean that one can easily circumvent the ceiling difficulty by incurring all or most of the expenditure through his party organisation. This aspect of the matter again serves to reinforce the view that the present provisions relating to return of election expenses are ineffective and can be easily circumvented.

An attempt is made in the Bill to shorten the period provided for the election programme. I wish to state categorically that I am absolutely opposed to any shortening of the time available between the final date of nomination and the actual polling. As the hon. Deputy Speaker pointed out when the hon. Minister was introducing the Bill in the House, we have about 8 lakhs of voters to cater for and apart from that, there is another aspect to be considered, the point of view of not only of the number of voters involved but also of the area comprising the constituency. Now, I wonder whether many of the hon. Members in this House are aware of the area in my constituency. I venture to think they cannot even hazard an approximate guess. May I state, for the information of the hon. Members, that my constituency is as extensive as 36,000 square miles, and something more.

**Pandit Thakur Das Bhargava (Gurgaon):** Terrible!

**Shri J. R. Mehta:** If you keep this figure in mind, you will refuse to accept any proposal for shortening the period between nomination and actual polling. The question of distances and communications also, of course come in. It will, perhaps, interest the House to know that when a team of my workers left for the northern portion of my constituency, which comprises Jodhpur and Phalodi tehsil, when they left for the area

about 15 days before the election, they told me that I should not attempt to contact them before the election had actually taken place and that it will be impossible for them to contact me during this period. So, the House can imagine whether it will be practical wisdom to shorten the period, which is at present prescribed, between the nominations and the actual voting.

I will not take much time. Allied with this question is the question of maximum distance of polling booths. Here, again, I might inform the House that during the last election there were instances of polling booths being situated about 16 miles from the place where the voters were residing. I have with me now a circular which I have received only four days back from the Returning Officer of my constituency in which he proposes to frame certain rules for the next elections and there the distance proposed is 10 miles, which means 20 miles both ways and we have to wade through sanddunes and there are no communications and no vehicles available.

**Pandit Thakur Das Bhargava:** What is the number of voters?

**Shri J. R. Mehta:** The same seven lakhs and 50 thousand. That is how the area is excessive.

Having made these brief observations as to the provisions of the Bill, there is one fundamental matter of general importance which I should like to touch. In this House and elsewhere few will deny that the Parliamentary democracy which we have adopted is too cumbersome and too costly for a country like India. If we compute the total expenditure on Parliamentary and Assembly elections throughout India including the expenditure incurred by the candidates, the voters and the Government, the total will run into astronomical figures.

In the case of parliamentary elections where 8 lakhs of people are to elect one individual, it is doubtful whether they can make their choice rightly or with confidence. It is necessary to think of a more reliable and yet less costly system of elections. I believe that the question is exercising and has exercised the minds of many people in this country. I remember an occasion when the hon. Leader of the House himself expressed doubts as to the present method of our choosing MPs. He hinted at the substitution of some indirect method. There are others like Shri Jaya Prakash Narain who says that we should work for a non party democracy in India, though we are not told how this can be made workable. During the course of this very debate, my hon. friends, like Shri Jaipal Singh who spoke earlier and only today Seth Govind Das and Shri Babu Ramnarayan Singh have referred to this question. I think there is great force in what these hon. friends have stated. Many of us make the mistake to assume that democracy is new to India. I respectfully submit that it is in our blood and is inherent in the very genius of our people. Our village panchayats of old or caste panchayats are models of democracy. So far as they go, they are the examples of non-party democracy. It is not for me to suggest any particular form of democracy, but I do take this opportunity to invite my friends, the wiser politicians and experienced leaders of our country, to give more serious thought to this question. Let us make our democracy more in conformity with the genius of our people and let us, at any rate, make it more healthy, effective and less costly.

[Mr. DEPUTY-SPEAKER in the Chair]

Shri Jethalal Joshi (Madhya Saurashtra): I congratulate the hon. Minister on his bringing these two Bills before the House. These Bills seem to simplify the law, reduce the wastage of time and energy and also

reduce the expenditure besides expediting the work.

Since many of the points relating to electoral rolls, expenditure, period etc. are covered by other speakers in this House, I will not dilate on them and bore the House by repeating the same thing.

Coming to the point at issue, I would like to draw the attention of this House to the Election Commissioner's report. There are certain instances of the grounds on which the nomination papers have been rejected. I will cite some of them.

(1) The word "State" was added in the nomination paper as West Bengal State Legislative Assembly instead of West Bengal Legislative Assembly.

(2) Only one symbol was chosen by the candidate instead of three.

(3) The candidate has been selected for appointment to an office of profit. He has not actually received the profit but has been selected for appointment.

(4) The candidate's name was entered in the lists of assessors for the trial of sessions cases.

From these instances it is evident that the grounds stated are very flimsy and very technical. I would request the Select Committee to go into such grounds and see that no nomination paper is rejected on such flimsy grounds.

Coming to the major corrupt practices, to clause 123 I have one strange addition to make—it is a suggestion. In page 109, under the heading 'undue influence', I would like to add the words "dacoits' displeasure", and it will read like this with my suggested addition:

"Any person who induces or attempts to induce a candidate or an elector to believe that he will become or will be rendered an object of divine and dacoits' displeasure or spiritual censure."

[Shri Jethalal Joshi]

The divine displeasure is rather uncertain and it is vague and distant, but the dacoits' displeasure is certain and is just at hand and tangible. While I make this suggestion, I may say that it is based on the experience that we had in the last election in Saurashtra. The House is well aware that in the year 1951, during the last elections in Saurashtra, there were about 34 murders by dacoits in Saurashtra, and out of that, 11 murders were committed on the night, two days previous to the actual day of polling; for the whole of Madhya Saurashtra, which is my constituency, there were about 23 murders during the interval of one month from the day of nomination down to the actual polling day. What was the reason behind these murders and who were responsible?

**Shri N. Sreekantan Nair** (Quilon *cum* Mavelikkara): Your respectable people.

**Shri Jethalal Joshi:** Shri Dhebarbhai was the Chief Minister of Saurashtra; he stood for a constituency in Upleta, which forms also a part of my Parliamentary constituency. He was the main object of target by the dacoits, but these dacoits were after all tools in the hands of some persons or some political parties. I may say with all the conviction that I can command that these contestants were hands in glove with these dacoits, and although directly the dacoits were responsible for these murders, very distantly these persons were also responsible. I feel that so long as there is greed for power and there are no scruples as regards the means, there will be repetition of such horrors in every election. I, therefore, suggest that some way and some measure to deal with this menace should be found by the Select Committee. All these major corrupt practices, minor corrupt practices and illegal practices, and the sections and sub-sections of the manual of

election laws, the Indian Penal Code and the Criminal Procedure Code, all combined, become very minor when we look at the horrible situation that faced the country some time ago. Therefore, when nobody can say that such horrors will not be repeated, I think that some measures should be devised to meet such a situation whenever and wherever it arises.

The House will perhaps be amused to learn that a candidate who contested the election in the Upleta constituency and his supporters—of course the candidate was an agriculturist and I would not say he was absolutely illiterate but he was essentially an agriculturist—were sustained in the belief that if he succeeded in the election and if they all combined to defeat the Chief Minister, then he would become the Chief Minister of Saurashtra.

Our friends opposite were just saying that there should be a limit to the expenditure. If I may say so and if the Committee wants to impose any limit, it should be a limit on falsehood and lies that were carried on in such elections. Much of the expenditure rises or increases on account of such falsehood being carried on.

Coming to the question of seconder, my standpoint is that we should not dispense with the necessity of a seconder. My interpretation is that when a proposer proposes and a seconder supports, I feel that it is an invitation to a candidate to stand for election and to represent that constituency and therefore, I feel that the seconder should be retained.

Now, the period of 40 days is proposed to be reduced to 30 days. I feel that the hon Minister is anxious to follow the methods and procedure of the United Kingdom. In UK the election is completed within about three weeks but we should look to the size of the country, its area, population and the voters in this country.

The size of the Parliamentary constituency in England is almost equal to the size of the State assembly's constituency in our country. The Parliamentary constituency in this country is rather 5-7 times as large as an English constituency. If we look to these things, I feel that the period should not be reduced to 30 but should be retained as it is. Otherwise only men of means would be able to stand for election and spend lavishly and tour the constituencies; it will leave other people with limited means not to be able to serve the constituency properly.

There is one point about which I want to be clear. That is about pensioners or persons who are retired and who are drawing pension from the coffers of the Government. I would like the Select Committee to go into the question and see whether a pensioner would be eligible for standing as a candidate in a State or Parliamentary constituency.

**Mr. Deputy-Speaker:** There are a number of pensioners already here in the Parliament. Does the hon Member suggest that there ought to be a prohibition against pensioners or does he want an interpretation?

**Shri Jethalal Joshi:** I would like the Select Committee to go into the question again and reconsider this question. I would like to have their interpretation.

**Mr. Deputy-Speaker:** There are many of them here without objection. If he does not want pensioners some of our Ministers also may have to go.

**Shri Jethalal Joshi:** As regards electoral rolls, I have been to my constituency very recently and I wanted to see and verify whether some of the names which are entitled to be registered were there in the list. I was surprised to find that the name of a man very highly placed in the State was not registered in that list. I have

another instance of a friend who stood for the Council of States.

**Mr. Deputy-Speaker:** What is the remedy? Many such instances have been given. It only shows that even an important man's name is omitted. There is no partiality.

**Shri Jethalal Joshi:** There are incomplete and inaccurate. There are a number of such omissions and therefore, they should be properly revised and corrected.

**Mr. Deputy-Speaker:** That is only a blessing—an *asirvadam*. But what are the steps to be taken?

**Shri Jethalal Joshi:** My suggestion is that 15 days before the actual polling, all such names which must be registered or which are qualified to be registered should be registered and they should be allowed to exercise their votes.

**Shri B. K. Das (Contai):** Sir, you were pleased to observe a minute back: 'what is the remedy for the defects that appear in the electoral rolls?' I venture to make one suggestion. The electoral roll should be prepared on a different basis. My idea is that there may be a family-wise roll or a house-roll for each village. The names of heads of families may be arranged alphabetically and the names of members of each family eligible to be voters are to follow the name of the head of the family. In fact when the electoral rolls were prepared, they were prepared after a visit to each house and the names were later arranged alphabetically. If the names of all members belonging to one family would have been placed in one place, it would have been possible to verify or correct the mistakes very easily.

Further when the candidates approach the voters they are also approached house by house. If any name is omitted, it can easily be detected.

**Mr. Deputy-Speaker:** I think the only course is that the candidate must get all the names of persons who are likely to vote for him included in the list and the opposing candidate must get the names of persons who are likely to vote for him.

**Shri Kamath:** There may be common names also.

**Mr. Deputy-Speaker:** There may be common names also. But, that is the only course in which the candidates and the general citizens ought to be vigilant.

**Shri B. K. Das:** That is the final remedy. But, what remedy can we have from our existing arrangements with regard to the electoral rolls? That is what I am suggesting. There is another difficulty which has been pointed out and that is that often the names of dead persons appear in the electoral rolls. If in the course of revision of the electoral rolls the revising officers also make a house to house visit they can easily detect who are all dead. Supposing there are 2000 voters in one village, their names are scattered all over the electoral rolls, if their names are put together family-wise in the rolls then the revising officers can easily detect who are all dead.

I have another suggestion to make about the detection and the removal of the names of dead persons from the electoral rolls. When a death occurs the village chowkidar or such other man who is entrusted with the reporting of deaths to the local Death Registration Officer should at once report the matter. The Death Registration Officer should at once report that matter to the local Electoral Registration Officer so that he may take notice of that and forthwith remove the name of that person from the electoral rolls.

Then I come to election expenses. Here, in the proposed Bill it is not stated from which time the expenses should be kept account of. I think the account should be kept from the

date of publication of the notification regarding the election and any expenditure that may be incurred for the purchase of electoral rolls, even if it preceded that notification, should also be entered as an item of election expenditure.

Now, about the prescribed forms it has been proposed in the Bill that there should be a prescribed form for keeping the accounts. There is a prescribed form for submitting our returns but there is no prescribed form now for keeping the accounts. That will come now as it has been proposed in the Bill. I do not know what form that will be but I should think that proper care should be taken so that all legitimate expenditure can be entered in it. I should like to cite, for instance, that in the present form—that is form No. 26—which is in vogue and in which we are to submit our returns, there is part 'C' in which we can mention only travelling expenses and cost of refreshment provided on account of agents including electoral agent, clerks or messengers. There is no column for showing meal charges for such persons. We know that when a voluntary work is done the volunteers have to be provided with meals in our camps. There is no column in the present form in which such a charge can be entered. There is a miscellaneous column part K, but I do not think such a principle item of expenditure should be entered as a miscellaneous expenditure. Therefore, I suggest that there should be such columns in which expenses as mentioned just now by me can be entered. The prescribed form for keeping the accounts should be such that our expenses can be easily entered.

Now, I come to the question about ceiling and also whether in the ceiling the expenditure by party organisation should be included. I think, if the party expenditure is excluded the purpose for which the ceiling has been put will be defeated because the ceiling has been put so that there may be a check in the expenditure, no

corrupt practices are encouraged and money may not take advantage over other qualifications of a candidate. Therefore, I think if the party expenditure is allowed to be excluded from the ceiling it will be almost meaningless to have a ceiling to the expenditure.

In the form for returns—Form No. 26—to which I have already referred there is a 'receipts' column and in that column all monies and equivalents of money from any person, class, society or organisation is to be shown. I think that if anything is received from the party in the form of money or its equivalents it should be shown in that column and it should be taken into account in the matter of deciding whether the ceiling has been exceeded or not.

Then about the programme of election. It has already been pointed out that the proposed interval of 20 days would be too short and the present arrangement of an interval of 30 days should be there.

About the Election Tribunal I think the recommendation of the Election Commission in its report should be followed. The recommendation is that there should be a Tribunal with one Judge and if that Judge is to be a District Judge the appeal should lie with the High Court and if that Judge happens to be a Judge of a High Court the appeal should lie with the Supreme Court. When the three-man Tribunal was prescribed the idea was that there would be no appeal or that the appeals would not lie with the High Court or the Supreme Court. But, as it has been found that under the constitutional provision the appeal can lie either with the High Court or with the Supreme Court, it is better that the provision of appeal should be made in the Act itself.

**Shri S. N. Das** (Darbhanga Central: There is no appeal like that.

**Shri B. K. Das:** Then I come to the point about the scrutiny of nomination papers. There has always been endeavour to see whether some finality could be reached about that matter before the election is held. I think that after the experience of last general elections the grounds on which the rejections of nomination papers are made may be classified and at least in regard to certain grounds the scrutiny officer should be given powers or final authority to decide. If at least on certain matters a finality is reached at this stage I think much time or trouble may be saved later and the grounds may be held valid when the cases go before the Tribunal. These are my suggestions.

**Shri R. K. Chaudhuri** (Gauhati):  
Sir,.....

**An Hon. Member:** Come to the front and speak.

**Mr. Deputy-Speaker:** He has got some trouble with his legs; he cannot come down to the front.

**Shri R. K. Chaudhuri:** I hope my friends will not be startled by my voice which is as if coming from the outer world, but I can assure my friends that I am alive though not 'kicking', because I have lost the power of kicking for I have fractured two bones of my leg.

**Shri B. Das** (Jajpur-Keonjhar):  
You have joined my battalion.

**Mr. Deputy-Speaker:** The hon. Member may sit and speak. He can resume his seat and then speak from there; he need not stand.

**Shri R. K. Chaudhuri:** Sir, I am grateful to you and I shall do so when I feel tired.

All this I have said about myself in order to make an apology for all the defects and shortcomings in my speech. I can assure my friends that I have done my best to get a cure. I have surrendered my body to my sur-

[Shri R. K. Chaudhuri]

geon just as a lover surrenders his body to any person. I shall speak more about it in connection with any motion on health.

I am very much interested in the present Bills. I have been in the elections for the last 30 years—both in the elections to the Central Legislature as well as the provincial legislature. I can assure my friends that I had no smoothsailing except on occasions when I was bowled out from my State to the Centre.

**An Hon. Member:** Bowled out.

**Shri R. K. Chaudhuri:** I meant to say that I came uncontested. I thank the hon. Member for correcting the word.

There are three things that strike me and which I may suggest by way of improvement on the present state of things. Our object should be to make the elections as cheap and as inexpensive as possible. To achieve that aim, my reason is that we must do away with this system of return of election expenses. We can fix a maximum amount, no doubt, but to call upon a candidate who is excited and who has not the means of having a regular office, to keep every voucher for the purchase of things like petrol, for a cup of tea which is given to his friends, is almost asking for an impossibility, and the insistence on these things leads one to make false statements against a solemn declaration that one makes. So, I submit that this provision for the return of election expenses, giving all the minor details of the election expenses, should be done away with. You may fix a maximum amount and you might ask the candidate to say that he has not exceeded the maximum amount. That of course will depend on the rectitude of the candidate himself. Therefore, I suggest that in order to put an end to complications which we have seen in these elections returns, I suggest that the election expenses need not be submitted and the provision for the return of election expenses should be done away with.

As regards the tribunal which should decide the election disputes, I submit that the present system of three members should continue. We have been reminded by my friend Shri B. K. Das that of late there has been interference by the Supreme Court as well as the High Court. But then the Supreme Court and the High Court interfere only when a flagrant breach of law or rules occurs and not otherwise. The whole thing has got to be decided. If you have got to go through all the facts of the dispute, there must be more than one person to come to a decision about the facts of the case. Therefore, for that reason, the present system of having three members in the election tribunal should continue, because they will be able to form a correct judgment about the facts of the dispute. It certainly seems to be more plausible that there should be more than one judge, and not two, when there is an appeal to the higher tribunal, but there is no appeal, as a matter of fact, to any higher tribunal. There is only a sort of revision and that cannot be sufficient to give the contesting parties any satisfaction that their disputes have been satisfactorily decided. Therefore, I would suggest that the present system ought to continue. But, at the same time, I would request the hon. Minister to find out some means whereby it may be possible to terminate the dispute within a prescribed time, and that prescribed time should not be in any case—including even a decision by the Supreme Court or the High Courts—exceed six months. Sometimes it takes long time for an election to be set aside when the Member, who has been wrongly returned, is merely spending the whole term sitting as a Member. I have heard it said by some friends the day before yesterday that my hon. friend Shri D. C. Sharma wanted to have the proposer also done away with. It is particularly reasonable from this point of view, namely, it is quite possible for any married man...

**Mr. Deputy-Speaker:** Is the proposer to be done away with, after he proposes or before he proposes?

**Shri R. K. Chaudhuri:** I was supporting my friend Shri D. C. Sharma for this reason, namely, if I do not get any proposer, I can ask my wife to propose me in the electioneering work. But, if a man is a bachelor or if one wants to commit suicide by bringing a legislation that no man of advanced age should be allowed to marry, then, for that bachelor it is highly essential that the proposer also ought to be done away with. So, I have no objection if the proposer is done away with.

There is one other matter to which I want to make a passing reference. I think all my friends will join me in paying a high tribute to the Election Commission of our country. The Election Commission has shown wonderful results and wonderful efficiency so far as the last election was concerned. We should all pay a tribute to it so that they will be encouraged in the more arduous performance of the duties which are ahead of them. After all it is a matter of great satisfaction to see that there is a general feeling in the country that they are acting with impartiality, unfettered by any party considerations from any source, high or low.

Now, another thing which was suggested in this House—and I think it is very reasonable—is that there should be no ban against withdrawal of any particular candidate. There should be no prescribed time for it. Any candidate should be allowed to withdraw at any time, to be allowed to drop off at any time. Many candidates come with high hopes; many inexperienced candidates come in, having been allured by false promises. All these promises prove false in the long run. So, if any candidate happens to know, say, in about a week or ten days after he files his papers, that he has no chance, he should be certainly allowed to withdraw, and there should be no penalty for such a withdrawal; because that withdrawal will help not only the candidate but also the public as well as the Government in minimising expenditure. Therefore, I submit that there should be no time-limit for the withdrawal of candida-

ture and that withdrawal should be allowed at any time. That is all I have got to say.

**Shri Veeraswamy:** (Mayuram—Reserved—Sch. Castes): It is very good of you to have called upon me to participate in this debate on the Representation of the People (Amendment) Bills. The Parliament and also the Government—the Law Ministry and the Election Commission—are doing through these measures a good deal of service to the country, especially to the candidates contesting in the general elections to the Assemblies and the Parliament. These two amending Bills, if passed, will remove many difficulties that were experienced in the last election and will also provide certain facilities to the people and to the contesting candidates.

With regard to the provision for doing away with a seconder, I doubt whether the election will be complete without a seconder. I do not thereby insist on seconding the proposal of a candidate, but I doubt whether the election procedure will be complete without a seconder. If a candidate is proposed by one there should be another to second that proposal. If a seconder is not necessary, I do not think whether it is absolutely necessary to have a proposer to propose the candidate at all.

There are many merits in these two Bills. For example, a candidate need not appoint an election agent; also he has been given the right to appoint more than one counting agent. Another advantage is that no separate electoral rolls need be maintained for the Parliamentary constituency; the electoral rolls for the Assembly constituencies will also serve the purpose of the Parliamentary constituency. Thus duplicity of work is avoided.

There are also certain demerits in these two Bills, which I want to bring to the notice of this House. While no deposit is required according to these measures from candidates for the Council of States and Legislative

[Shri Veeraswamy]

Councils, where is the necessity for asking for deposits from candidates for the House of the People and Assemblies alone? A Parliamentary candidate has to deposit now Rs. 500 and in the case of Scheduled Castes candidates, the amount is Rs. 250. I would submit to the Government and also to the Select Committee to which Bill is going to be committed, the following suggestion. I suggest that Rs. 200 should be laid down as the deposit for Parliamentary candidates and Rs. 100 for Assembly candidates. I do not bother about the deposit to be fixed for the Scheduled Castes candidates. They can also very well deposit Rs. 200 as others.

The most important thing which has agitated my mind is the provision that the parties need not submit returns of election expenses. I ask, when the candidates are being compelled to submit returns of election expenses, why not the parties? My hon. friend, an elder Member of this House, Mr. R. K. Chaudhuri just now said that a poor candidate cannot maintain voucher for a cup of tea and it is not necessary to ask him to submit accounts even for such small expenses. In the case of big parties, they would give hundreds of cups of tea and coffee and other things to the workers in the election campaign.

**Shri Kamath:** Coffee also.

**Shri Veeraswamy:** Why should they be removed from the provisions of these Bills? All-India recognised parties also should submit accounts of election expenses. The hon. Minister has said in his initiating speech that it is not easy to apportion the amount spent on election by the parties. I would explain how it can be done. Suppose there is a parliamentary constituency in which there are 5 Assembly constituencies. If the party has spent, say, Rs. 10,000 the expenses can be apportioned among the contesting candidates supported by the party. For instance, if the Assembly candidate has to bear, say, Rs. 1000, out of the amount, the parliamentary candidate can very well bear Rs. 5000 and

that amount can be included in his account.

With regard to the period between the last day of withdrawal of candidature and the date of actual poll, I submit that the period is very short. It is quite possible for a party like the Congress Party, which is the richest organisation in this country, to complete the election work within a short time. They can put on the roads several cars; they can employ hundreds of workers for election work. But with regard to poor candidates, this is not possible. Therefore, there must be at least one month, as it was before, so that poor candidates, who will have no cars or other conveyances, will have enough time to move on foot from village to village, see the electors and do election propaganda. They must be given at least one month.

With regard to the qualification of candidates, I humbly suggest to the House that the candidates should be at least matriculates. We have prescribed several qualifications for Government employees. Members of Legislatures and Members of Parliament should be educated people. So, I suggest that candidates should be at least matriculates, so that they can participate in and understand the proceedings of the House. Also, every candidate should belong to one or other of established parties, whether it be an all-India party or a provincial party, because now there are Members who are answerable neither to this House nor to the electors nor even to any party, because they do not belong to any party. We in our country have established democracy. Our democracy is very young and defective. Therefore, we must do all in our power—by we I mean the Members of this House and also Members sitting elsewhere, Members of State Legislature and the people at large—all of us must put our shoulders together to see that a perfect form of democracy is established in our country. So, literacy among Members is very necessary and hence

a minimum qualification should be prescribed for candidates.

I have got one more point. We have given our people only the right of election. In a democratic country like Switzerland, people have got four rights—they have the right to elect their representatives; they have the right to initiate Bills and demand for referendum of the Bills passed in their Parliament and they have also the right to recall Members from the Parliament, if they are not satisfied with the conduct of the Members. You know more than anybody else that very often this House lacks quorum. That means several Members keep themselves away from the sittings of this House. Several papers like the *Hindusthan Standard*, *Times of India*, *Madras Mail*, and *Shankar's Weekly* and some other Papers also have made constructive criticisms with all good intentions about the conduct of the members and have made suggestions to see that this supreme body of the nation does its work properly for the welfare of the people. Therefore, I submit to the Select Committee to include one provision in this Bill giving power to the people to withdraw the candidates who do not evince keen interests in the proceedings of this House and who aim only at money and Membership but not discharge their responsibilities as Members and do not participate in the proceedings and to see that the honour of this House is maintained, so that our democracy may, from day to day, grow to a State of perfection. Thanks.

**Shri B. K. Ray** (Cutback): With the antecedents of my life, as a professional lawyer and then a Judge, I have had very little experience of fighting an election. The present election in which I have been elected was uncontested. Therefore, I have not been through the fire of election. I do not propose to speak anything with regard to the proposed Bill in relation to the procedure for election.

I think much better wisdom has been delivered by my hon. friends before.

**Mr. Deputy-Speaker:** The hon. Member may continue his speech tomorrow. I believe he is staying here tomorrow.

**Shri Pataskar:** Possibly that would be the last speech.

**Mr. Deputy-Speaker:** Yes, last speech before the Minister.

**Shri K. G. Deshmukh** (Amravati West): Why not extend the time a little more. There are a few more speakers.

**Mr. Deputy-Speaker:** Sixteen hours have been given.

**Shri K. G. Deshmukh:** Half an hour more.

**Mr. Deputy-Speaker:** I am not the master of time.

**Sardar A. S. Saigal:** The hon. Minister can give half an hour.

**Shri Pataskar:** If the Members so choose, I may not reply because the Bills are going to the Select Committee.

#### COMMITTEE ON PRIVATE MEMBERS' BILL AND RESOLUTIONS

##### THIRTY-EIGHTH REPORT

**Shri Raghunath Singh** (Benaras Distt.—Central): I beg to move:

“That this House agrees with Thirty-eighth report of the Committee on Private Members' Bills and resolutions, presented to the House on the 21st September, 1955.”

**Mr. Deputy-Speaker:** It is only allotment of time. They have been liberal. There is no amendment.

The question is:

“That this House agrees with the Thirty-eighth report of the Committee on Private Members' Bills and Resolutions, presented to the House on the 21st September, 1955.”

*The motion was adopted.*