

it should be the particular aim of India's representatives to secure for it the maximum tariff concessions in the foreign market and to safeguard its position from competitive imports from abroad so far as cottage and small-scale industries are concerned. I would like to know how far this was borne in mind and whether we have got any advantage with regard to the export of cottage and small-scale industries so far as the GATT is concerned.

**Shri T. T. Krishnamachari:** As I have said before, they have borne it in mind. At the present moment they did not feel inclined to ask for a waiver in this particular regard.

**Mr. Deputy-Speaker:** There are two substitute motions, one in the name of Shri K. K. Basu and the other in the name of Shri V. B. Gandhi. I shall first put Shri Basu's motion.

The question is:

That for the original motion, the following be substituted:

"This House having considered the White Paper on the General Agreement on Tariffs and Trade, is of opinion that the agreement as modified is also not in the interest of the economic development of the country and therefore resolves that further modification of several Articles such as on 'Binding Rate of Duty', 'State Trading' etc. have to be made if an effective international organisation has to be created in the best interest of all countries including the under-developed ones."

*The motion was negatived.*

**Mr. Deputy-Speaker:** Now I shall put Shri V. B. Gandhi's motion.

The question is:

That for the original motion, the following be substituted:

"This House having considered the White Paper on the General Agreement on Tariffs and Trade, approves of the revised Agreement and the policy followed by the Government in relation thereto."

*The motion was adopted.*

**Mr. Deputy-Speaker:** Shri S. V. Ramaswamy's motion is the same. So it is barred. The House will now talk up the next item of business.

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REPRESENTATION OF THE PEOPLE  
(AMENDMENT) BILL AND RE-  
PRESENTATION OF THE PEOPLE  
(SECOND AMENDMENT) BILL.

**The Minister of Legal Affairs (Shri Pataskar):** I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950 and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S. C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopaljee Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Varma, Shri C. D. Pande, Pandit Balkrishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kasliwal, Shri Awadheshwar Prasad Sinha, Shri Feroze Gandhi, Pandit Algu Rai Shastri, Shrimati Subhadra Joshi, Shri H. Siddananappa, Shri A. M. Thomas, Shri C. Ramasamy Mudaliar, Shri M. L. Dwivedi, Shri Mukund Lal Agrawal, Shri Bahadurbhai Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nettur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri Chatterjee, Shri

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N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Anandchand, and the Mover with instructions to report by the 30th November, 1955."

Along with this I would like to make a motion with respect to the other Bill also, to amend the 1951 Act.

**Mr. Deputy-Speaker:** Does he want to make a speech relating to both?

**Shri Pataskar:** These are two Bills. Formerly there were two Acts, one of 1950 and the other of 1951. And what is proposed to be done is to bring amendments with respect to both the Acts.

**Mr. Deputy-Speaker:** Then I shall allow the motions to be made. They will be put to the House separately. There will be a common discussion.

**Shri Pataskar:** and there will be a common Select Committee also.

I beg to move:

"That the Bill further to amend the Representation of the People Act, 1951, and to make certain consequential amendments in the Government of Part C. States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S. C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopalji Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Verma, Shri C. D. Pande, Pandit Balkrishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kasliwal, Shri Avadheshwar Prasad Sinha, Shri Feroze Gandhi, Pandit Algu Rai Shastri, Shri-mati Subhadra Joshi, Shri H.

Siddananajappa, Shri A. M. Thomas, Shri C. Ramasamy Mudaliar, Shri M. L. Dwivedi, Shri Mukund Lal Agrawal, Shri Bahadurbahl Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nettur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Anandchand, and the Mover with instructions to report by the 30th November, 1955."

As stated in the Statement of Objects and Reasons of each of the Bills, the changes proposed in our election law, that is the Representation of the People Act, 1950, and the Representation of the People Act, 1951, are based on the experience gained by the Election Commission as well as the Government in the working of that law during and after the last general elections of 1952. Detailed explanation of the various changes proposed has been given in the Statements of Objects and Reasons, clause by clause. Here, I may refer in brief only to the principal changes proposed in the two Bills and the reasons and principles underlying the same.

As regards the changes made in the 1950 Act by the first Bill, these changes are more or less simple and non-controversial and do not appear to call for any detailed explanation. They relate mainly to the preparation and revision of electoral rolls. As the House is aware, the present procedure for preparing separately the electoral rolls for parliamentary constituencies and the electoral rolls for Assembly constituencies leads only to unnecessary duplication of work and expenditure, because each parliamentary constituency consists of an integral number of Assembly constituencies. It is proposed to do away with this duplication by providing that the electoral

roll of every parliamentary constituency shall consist of the electoral rolls of so much of all the Assembly constituencies as are comprised within that parliamentary constituency, and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency.

Then, the law at present—section 23 of the 1950 Act—requires that the electoral roll shall be prepared every year. There is no provision for annual revision of the electoral rolls. Annual preparation after house to house inquiry is not only expensive but also almost impracticable and entirely unnecessary. Annual revision of the rolls appears to be quite sufficient. Then, at present, there is no provision in the Act itself for the inclusion of names of electors in the electoral rolls. It is considered necessary to make specific provision in the Act itself in this behalf. Clause 13 of the Bill seeks to provide for all these things in the 1950 Act.

**Mr. Deputy-Speaker:** Hon. Minister means additional names?

**Shri Pataskar:** Yes; additional names.

There are a few other matters in this Bill to which I think a brief reference should be made. The first is that the requirement as to residence in a constituency for a period of 180 days during the qualifying period, that is to say, during the year immediately preceding the year in which the roll is prepared or revised, in order to entitle a person to be registered in the electoral roll, does not seem to be very necessary from the practical standpoint; moreover, it is hardly practicable to make a thorough inquiry on this point. Hence, it is proposed to do away with this requirement and that is tried to be done by clause 11 of the Bill.

The provision as to the qualifying date in relation to the preparation or revision of the electoral roll of a local authorities' constituency gives rise to an anomaly, because the names of persons who have ceased to be members of local authorities at the time of biennial elections to the Legislative

Council of a State may continue in the electoral rolls and it may not be possible to register in the electoral rolls the names of persons who are members of local authorities at the time of such biennial elections. This difficulty was, in fact, experienced in connection with elections to the Legislative Council in Uttar Pradesh and Madras and the Governments of those States have been urging for suitable amendment in this connection. It is accordingly proposed, in clause 16 of the Bill, to do away with the qualifying date in the case of local authorities' constituencies, the electoral rolls of which would always be kept up-to-date by omitting therefrom the names of ex-members of local authorities and including therein the names of new members.

The expression 'Council of States constituencies' is misleading and is not readily understood by many persons. It is not a constituency for the election of a member to the Council of States, but it is a constituency for electing a member to an electoral College in the Part C. States of Kutch, Manipur and Tripura. It is proposed to change the name to 'electoral college constituency' to bring out the real connotation of the term and this is tried to be done by clause 2 of the Bill.

Lastly, I may refer to another small matter in this Bill. The definitions of 'Parliamentary constituency' and 'Assembly constituency' are proposed to be amended as in clause 2 of the Bill to cover not only the existing constituencies which will continue in force only until the dissolution of the existing Lok Sabha and the State Legislative Assemblies, but also the new constituencies formed by the Delimitation Commission, because the next general elections will be held on the basis of these new constituencies. It is from that point of view that these definitions are tried to be amended. This is with respect to the first Bill and I do not think there is much of controversy in it.

Coming to the second Bill containing the amendments proposed in the

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1951 Act, I may group the main changes proposed under the following categories:

- (1) Changes relating to the notification of general elections;
- (2) Changes relating to the election programme;
- (3) Changes relating to the presentation and scrutiny of nomination papers;
- (4) Changes relating to election expenses and return of election expenses; and
- (5) Changes relating to election petitions and election tribunals and corrupt and illegal practices.

I propose to deal with these changes seriatim.

First, as regards the changes in relation to the notifications for general elections, Part III of the 1951 Act deals with notifications for general elections. While section 14(2) requires a general election to be held on the expiration of the duration of the Lok Sabha, the proviso to section 15 suggests that the notification calling the constituencies to elect at such general election may be issued before such expiration but not more than four months earlier. Section 16(2) and the proviso to section 17 contain similar provisions for general elections to the State Legislative Assemblies. The durations of the present Lok Sabha and the State Legislative Assemblies—except those of Andhra, PEPSU and Travancore—Cochin—are due to expire on different dates in the first half of 1957, but the provisos to sections 15 and 17 would make it impossible to hold general elections before their terms expire. Hon. Members will readily realise that there are very great advantages in holding the general elections throughout the country simultaneously. It is accordingly proposed to omit the provisos to section 15 and the proviso to section 17. Part III of the 1951 Act contains provisions relating to the holding of first elections under the Constitution. Those pro-

visions have now become obsolete. A new Part III with suitable modifications is, therefore, proposed to be substituted for the existing Part III of the 1951 Act. That is what clause 6 of the Bill tries to do.

Members are aware that the election programme under our election law is a very lengthy process. A minimum of 42 days is required between the issue of the writ calling an election and the commencement of the poll. At least 30 days have to be allowed between the last date for the withdrawal of candidatures and the commencement of the poll. This is an unduly long period. It is also felt, at the same time, that the election programme should, as far as possible, be fixed in the Act itself. It is accordingly proposed not only to reduce the periods prescribed in clauses (a), (b) and (d) of section 30 of the Act, but also to provide in clause (a) that the last date for making nominations should be the tenth day after the publication of the notification calling the election and in clause (b) that the date of scrutiny should be the second day after the last date for making nominations. If these changes are carried out, the election programme would be reduced by about a fortnight with a consequential reduction in the overall election expenses of candidates. This is what clause 12 of the Bill attempts to do.

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**Mr. Deputy-Speaker:** What is the period between the date of the actual election and the final date of nomination?

**Shri Pataskar:** It will be reduced by about 12 days.

**Mr. Deputy-Speaker:** Will it continue to be 30 days?

**Shri Pataskar:** The overall period will be 42 days, but in this case it will be about 20 days.

**Mr. Deputy-Speaker:** Twenty days for eight lakhs of population?

**Shri Pataskar:** Both views have been taken into consideration, and I would leave it to the Select Committee to do what they like. In the first place, we are not trying to unduly restrict the time, nor do anything of that kind. I think the proposals made will further be gone into by the Select Committee and they could take whatever decision they think fit.

In the next place, the existing law as to the presentation and scrutiny of nomination papers has been found to be difficult and cumbersome. The formalities to be complied with at the time of presentation of a nomination paper are very often difficult to comply with and in many respects quite unnecessary. Sub-section (2) of section 33 restricts the number of nomination papers which one member can subscribe as proposer or seconder. It has been found that this restriction has caused a lot of hardship. This provision serves no useful purpose and has led to many complications. From the practical standpoint, it seems quite immaterial whether an elector subscribes one or more than one nomination papers. Not infrequently nomination papers are improperly rejected because of the existence of the proviso to sub-section (2). It may be said that even the candidate himself does not know as to how many nomination papers have really been subscribed by the proposer or seconder.

Then, the experience of the last general elections shows that the system of election agents has not been very popular with the candidates in our country. In many cases, persons have not appointed agents, except in very rare cases. Under sub-section (3) of section 33, every nomination paper shall be accompanied by a declaration that the candidate has appointed either himself or another specified person as his election agent. On the ground of failure to comply with this provision, many nomination papers have been rejected in the past. It is accordingly proposed (*vide* clause 14 of the Bill) to simplify section 33 by deleting the provisions

contained in sub-section (2) and by doing away with the requirement of a declaration as to the appointment of an election agent.

**Mr. Deputy-Speaker:** There will not be any election agent?

**Shri Pataskar:** A man may appoint an election agent, but it is not necessary.

**Mr. Deputy-Speaker:** The nomination paper will not be vitiated.

**Shri Pataskar:** That is what I mean. If a person wants to appoint an election agent, there is nothing to prevent him from doing it. But if he does not do it, there is nothing lost. Otherwise, at the present moment, the law is that unless a man appoints either himself or another specified person as his election agent, his form is rejected. That position is now being sought to be rectified. By another clause—clause 21—it is proposed to make the appointment of election agent optional for a candidate. As the nomination paper should be as simple as possible, it is proposed to dispense with a seconder and also to provide that in the case of a scheduled caste or scheduled tribe candidate, there need not be a separate declaration: it will be enough if the nomination paper itself contains the declaration. Then, a deposit does not seem to be necessary in the case of an election to the Council of States or to a State Legislative Council by the members of the Legislative Assembly of that State. By clause 15 of the Bill, it is proposed to do away with this requirement. Under section 36 of the Act, there are as many as five grounds on which a nomination paper may be rejected. Out of a total of 338 election petitions arising out of the last general elections, as many as 118 contained allegations relating to improper rejection of nomination papers. The scrutiny of nomination papers by the Returning Officer is of a summary nature; the grounds on which a nomination paper can be rejected should, therefore, be simple so that the Returning Officer may take quick and correct decisions. But the question whether a candidate is 'disqualified' is usually a complicated one and

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involves difficult points of fact and law. It is, therefore, proposed to remove this question from the purview of the Returning Officer. It can be agitated, if necessary, by means of an election petition after the election is over. It will thus be seen that by these amendments the Bill seeks to make the nomination of a candidate more simple and the work of scrutiny much easier.

In the next place, coming to the changes proposed in the law relating to election expenses and the return of election expenses, I may point out that the law as contained in this behalf in sections 76, 77 and 78, and also section 44, of the Act has been found to be unnecessary complicated and difficult to comply with.....

**Mr. Deputy-Speaker:** Even if a candidate is a minor and definitely known to be so to everybody, not a minor but below 25 years of age, he must be allowed to contest. Is that the idea?

**Shri Pataskar:** That is not the idea. The idea is that these simple matters will be decided by him because it can be easily ascertained from the birth register or other document whether a man is 25 years old or over. But the question whether a man is 'disqualified' is a complicated matter and such questions are left out from the purview of the Returning Officer. The intention is to make the nomination of candidate as simple as possible.

**Mr. Deputy-Speaker:** Why not do it *prima facie* as the case of claims petitions in courts of law? When a property is attached, if there is a document, the claim is allowed—unless of course the document is apparently forged.

**Shri Pataskar:** That may be done in the rules. With regard to the question of age, there will be no difficulty because one side or the other may produce an extract from the birth register which will show whether he is a minor etc.

**Pandit Thakur Das Bhargava (Gurgaon):** In the previous Bill referred to the Select Committee in 1953, the Select Committee arrived at a decision that nomination must be finalised before we proceed to election; otherwise, it may be that even a minor might get elected and ultimately it may be proved that he was a minor or a person disqualified to contest the election. On this matter there is a conflict of principles.

**Shri Pataskar:** As a matter of fact, there was already a Bill and I am aware that many of these matters are capable of interpretations in both ways. Let me try to explain the point of view from which the present provisions are drafted in this Bill. I am aware that in a matter of this kind there is bound to be a very large difference of opinion, and I shall be patient to consider every little point when that matter is discussed. This is a matter in which it would be very difficult for any person to say that what he thinks is the only way of solving the question. I would like to place these provisions before the House as they have been drafted in this Bill from the point of view of those responsible for the production of this document. We can discuss it.

In the next place, coming to the changes proposed in the law relating to election expenses and the return of election expenses, I may point out that the law as contained in this behalf in sections 76, 77 and 78 and also section 44 of the Act has been found to be unnecessarily complicated and difficult to comply with, with a clear and honest conscience, and there has been an insistent demand from various quarters for the simplification of this part of the law.

**Shri Kamath (Hoshangabad):** The hon. Minister is a bit too fast; let him go a bit slowly, please.

**Shri Pataskar:** I am entirely reading. Even on the last occasion when the previous Bill was there, this point

was prominently brought out by many non-Members in their speeches. Therefore, we have taken all those points into account, and I shall, therefore, try to explain what the present provisions mean. It is accordingly proposed to simplify the law in this respect and make it workable by revising the sections mentioned above as in clause 41 of the Bill. The operation of these sections will be limited only to elections to Lok Sabha and the State legislative Assemblies. The duty of maintaining a regular and separate accounts of all election expenses at these elections will be thrown primarily on the candidate himself but if he has an election agent, he can ask that agent to maintain the account. It was the experience of the last elections that expenses incurred by recognised party organisations were incurred by that organisation not for the purpose of the election of a particular candidate but of all the candidates put forth by that organisation and there was a complaint that it was very difficult to allocate that party expenditure between candidate and candidate. For example, in the case of a parliamentary constituency for which there was a candidate, there were about five or six candidates who were set up by that party organisation as candidates to the State legislatures.

**Mr. Deputy-Speaker:** In the same constituency?

**Shri Pataskar:** Yes. Because the Parliamentary constituency is much wider. Supposing there is a district and in that district there is one candidate for the Parliamentary constituency and there are others for the State legislatures, the party organisation carries on canvassing in the interest of all those. The return of expenditure showed as if some amount was spent for every particular candidate. It is very difficult to do that. Naturally it was difficult or almost impossible in such a case to say what expense was incurred by the party organisation for a particular candidate. In such cases, the party organisation had to arbitrarily divide the

common expenditure between the different candidates in order to show it in different returns of these candidates as their separate expenses. This could easily be challenged in any subsequent proceedings before the tribunal. As a matter of fact, if I am right, last time many hon. Members took exception to this provision on the ground that they had to make returns and submit them in this form though they believed that what they were going to do was not the right thing.

Another difficulty experienced in this connection was that party organisations naturally canvassed over large areas in favour of their candidates in different areas. In many areas, there would be only one candidate on behalf of their party; and in such a case the question would arise whether the organisation had canvassed in support of the candidates of their party in general or whether they had canvassed only in respect of that particular candidate. On that depended the question whether the money spent in that area should or should not have been shown in the return of election expenses. These were the practical difficulties which were pointed out during the course of the debate last time.

To avoid all these complications, it is proposed to provide that the expenses incurred by recognised party organisations in furthering the prospects of candidates supported by it will not form part of the election expenses of any individual candidate. Then again it is proposed that only the contesting candidates will be required to lodge an account of their election expenses because in many cases it was found that people had withdrawn from the contest and naturally they never bothered to submit any return.

**Shri M. S. Gurupadaswamy (Mysore):** May I know whether the political parties are required to file their returns?

**Shri Pataskar:** At the present movement there is no such provision and I am only tentatively explaining the proposals made. I think they will have to be considered in detail when

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the matters goes before the Select Committee.

Only the contesting candidates will be required to lodge an account of their election expenses and then too not a complicated return as at present. Lastly the present restriction on the number of persons who may be employed on payment in connection with the elections will be removed as it does not seem to serve any useful purpose.

I may now refer briefly to the changes proposed in relation to election petitions and election tribunals and corrupt and illegal practices.

**Mr. Deputy-Speaker:** Has the maximum been increased? The constituency has been increased from 7.5 to 8.5 lakhs.

**Shri Pataskar:** No. I am only referring to the proposals which we have made in the amending Bill. At present the period of limitation for presenting an election petition is left to be prescribed by rules. This does not seem proper. It is proposed to specify this period in the section itself. This period would be two months from the date of the election of the returned candidate. As at present it is a complicated thing which was provided for in the rules and it lead to many complications. Section 82 at present requires that all the duly nominated candidates shall be joined as respondents to an election petition. The number of duly nominated candidates is often very large but subsequent to nomination many of them withdraw from the contest. They naturally have no interest left either in the election or the dispute arising out of it later. It is only the contesting candidates who are generally interested in the election petition. Moreover there is a provision in section 90 which enables any other candidate to join as a respondent. It is accordingly proposed by clause 43 of the Bill to revise section 82 so that it will be necessary to join as respondents only those candidates who are interested *prima facie* in the outcome of the election petition. The provisions of

section 83 (2) requiring a separate list setting forth full particulars of the corrupt and illegal practices alleged has been found to serve no useful purpose. On the contrary, it has in many cases resulted in protracting the proceedings before the tribunals. It would be simpler from all points of view if the petition is complete in itself and contains all the particulars of the corrupt and illegal practices alleged. It is proposed to amend section 83 from this point of view. At present under section 85 it is obligatory upon the Election Commission to dismiss an election petition if it does not comply with sections 81, 83 and 117. The question whether section 83 has been complied with or not cannot properly be decided without hearing both parties. On the other hand, the Election Commission will find it easy to see whether section 82 has been complied with. It is, therefore, proposed to substitute section 82 for section 83 in section 85. At the same time in view of the nature of election petitions and the desirability of reaching finality in regard to all election matters, it is felt that the provision for condoning delay should be omitted from section 85. By clause 46 of the Bill section 85 has been revised accordingly. It may be mentioned here that the power to dismiss a petition for non-compliance with sections 81, 82 and 117, is proposed to be given also the election tribunal. There were some disputes and some arguments about these matters and we want to make these clear by these provisions.

Under section 86 an election tribunal is to consist of three members of whom, the chairman shall be either a retired or serving Judge of a High Court or a retired or serving District Judge, the second member shall be a retired or serving District Judge and the third members shall be an advocate of not less than ten years' standing. The delay in the disposal of several election petitions was partly attributable to this composition. The intention in having a three-member tribunal was that its decisions would be final and not open to any appeal or revision before a higher



court but it has been held in several cases by the Supreme Court that the powers conferred by article 136 and articles 226 and 227 of the Constitution are exercisable in relation to election tribunals also. In order to reduce the expense and delay which the existing composition of a three-member tribunal necessarily involves, it is proposed to amend section 86 providing for double-member tribunals consisting of serving District Judges only.....

**Shri Kamath:** Both.

**Shri Pataskar:** Yes..... and to provide in revised section 104 that in the case of difference between the two members on any question regarding the final order to be made, the question should be referred to a Judge of the High Court nominated for the purpose by the Election Commission with the concurrence of the Chief Justice and the final order should then be made by the tribunal in accordance with the decision of the Judge upon the reference. So, the idea is that in the first instance the tribunal will consist of two serving Judges and if there is a difference of opinion amongst them they might refer the matter to a High Court Judge who may be nominated for the purpose by the Election Commission.

**Shri S. S. More (Sholapur):** May I know what is the point in having two Judges?

**Shri Kamath:** One may be an advocate.

**Shri Pataskar:** Well, I think, that also may be a matter which we can discuss in the Select Committee.

It is hoped that by this provision there will be speedier disposal of election petitions in future. Hereafter I will be mentioning certain facts which I hope the Select Committee will also take into account.

✓ At present the Election Commission has no power to transfer an election petition from one tribunal to another, with the result that an election tribunal, if it is so minded, may sit over an election petition as long

as it likes. As a matter of fact, in some cases in the absence of such a power the Election Commission could not take any action for the expeditious disposal of petitions and much unnecessary expense had to be incurred. By clause 48 of the Bill it is proposed to insert a new provision Election Commission in this behalf.

There does not appear any sound and valid reason why the entire election should be set aside on the ground of improper acceptance or rejection of any nomination paper. It is accordingly proposed to omit clause (c) of sub-section, (1) of section 100 and to provide in sub-section (2) that if the tribunal is of the opinion that the result of the election in so far as it concerns a returned candidate has been materially affected by the improper acceptance or rejection of a nomination the tribunal shall declare the election of a returned candidate only to be void.

Then, in plural-member constituencies if bribery, undue influence or intimidation prevailed in the contested election relating to the general seat there is no justifiable reason why the uncontested election of the reserved candidates should also be set aside. It is accordingly proposed to insert a proviso to the proposed sub-section (1) of section 100. That is tried to be done by clause 53.

Again, it might happen that although on the date of presentation of scrutiny of the nomination paper a candidate was not disqualified for being chosen as a.....

**Mr. Deputy-Speaker:** Should it not be *vice versa* also; if in the reserved seat there is some trouble, malpractice and other things, why should a general seat candidate who is returned....

**Shri Pataskar:** That will also be considered by the Select Committee. Now, I was saying, it might happen that although on the date of presentation or scrutiny of the nomination paper a candidate was not disqualified for being chosen as a member, he subsequently, but before the date of

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his election, incurred a disqualification and continued to be subject to that disqualification even after the election. Such a case would be outside the purview of section 100(1) (c) as well as of section 100 (2) (c). It is accordingly proposed to insert a new provision in sub-section (2) of section 100 that if the tribunal is of the opinion that on the date of his election a returned candidate was not qualified, or was disqualified to be chosen to fill the seat under the Constitution or the Act, the tribunal shall declare the election of the returned candidate to be void.

Under clause (b) of the Explanation below section 123 (8) of the 1951 Act a State Government is debarred from exempting village officers from the operation of section 123 (8) with the result that no one who comes under the category of a village officer can canvass at an election for another candidate. For example, a Lambardar who is a village officer in Punjab can stand as a candidate for election because his disqualification for membership has been removed by the Punjab Act IV of 1950 but he continues to be subject to the disqualification that he cannot canvass for support of any candidate for that disqualification could not be removed by the Punjab Legislative Assembly on account of the provisions contained in section 123 (8). This provision leads not only to hardships but also to anomalies at the time of elections. It is accordingly proposed that clause (b) of the Explanation relating to persons serving under the Government of any State should be on the same lines as clause (a) of that Explanation relating to persons serving under the Central Government so that it will be competent for the Government of a State to exempt village officers or any other officer of the State Government from the operation of section 123 (8).

Certain judicial decisions have raised doubts as to whether acting as an election agent or polling agent or counting agent of a candidate would

be regarded as assisting in the furtherance of the prospects of a candidate's election within the meaning of section 123 (8) of the Act. It is proposed to remove these doubts by making an express provision on that acting as any such agent shall be regarded as assisting in the furtherance of the prospects of a candidate's election. That is what is attempted to be done by clause 60 of the Bill.

At present the Election Commission has no power to remove any disqualifications for membership under section 139 or section 140 of the Act but the Election Commission has power to remove any disqualifications for voting under section 144. A disqualification for membership under section 7 (c) of the Act, however, may be removed by the Election Commission. There does not appear to be any sound reason why a constitutional authority of the status of the Election Commission should not be given the power to remove disqualifications for membership in other cases also. It is accordingly proposed to give this power to the Election Commission by new section 140-A as is tried to be done by clause 65 of this Bill.

I have practically dealt with all the major amendments proposed in our election law. I may refer only to one other matter. Experience of the last general elections has shown that the period of two months specified in section 8 (1) (b) of the 1951 Act is quite insufficient for scrutinising all the returns of election expenses and deciding whether they have been lodged within the time and in the manner required by law. It is therefore proposed that clause (b) of section 8 (1) should be amended so that the disqualification does not become operative until the expiration of two months from the date on which the Election Commission has decided the point. That is tried to be done by clause 3 and 4 of the Bill.

I will now only refer to one important matter. Previous to the introduction of these two Bills, another Bill

had been brought before this House for the purpose of amending both the Representation of the People Acts and that was the Bill to which our hon. friend Pandit Thakur Das Bhargava referred. That Bill was also referred to a Select Committee. The Select Committee had considered that Bill and submitted its report to the House. The scope of that Bill was, however, limited and it was thought desirable that that Bill should be withdrawn and a more comprehensive Bill brought before the House. I gave an assurance to the House to that effect at the time of the withdrawal of that Bill on the 7th of May, and thereafter I introduced these two Bills in this House on the 4th August. The recommendations of that Select Committee have been duly taken into account while framing these two Bills. Though we have not in some cases exactly agreed with the decisions made by them, by and large, I think their recommendations have been adhered to so far as these two Bills are concerned.

The proposals made in these two Bills are not only based, as stated at the very beginning of my speech, on the experience gained by the Election Commission and the Government during the past few years, but they also embody practically all the important recommendations which the Election Commission has made in its report on the first general elections in India. Hon. Members must have noticed, I believe, that the two Bills are fairly comprehensive in their scope and I hope they will be duly considered by the Select Committee and met with the approval of the House.

I would take the liberty of the House to make a very brief survey of the rise and growth of elected law-making bodies in our country. The present system of law, as is well known, is based on the system of law as it obtains in England and has been introduced in our country by the British.

Till 1833, statute law in our country was made by executive orders of Government in the shape of Regulations

of the Bengal, Bombay and Madras Codes. Under the provisions of the Charter Act of 1833, passed by the British Parliament, Lord Macaulay was first appointed the Law Member to the Government of India and the Governor General in Council became the Legislative Council of the country. By the Charter Act of 1853, this Council, when acting as a legislative body, was enlarged by the addition of six more members, two of whom were English Judges of the Calcutta Supreme Court and four were officials.

It was by the Indian Councils Act of 1861 that local legislatures were established for Bombay and Madras, and the Indian Legislature was expanded by the addition of more members up to twelve, of whom not less than half must be non-officials. They were, however, to be nominated only, and there was no question of election.

By the Indian Councils Act of 1892, provision was made for the increase in the number of members of the Indian Legislative Council as well as of the local Legislative Councils. By this Act, the Governor-General in Council was empowered, with the sanction of the Secretary of State in Council, to make rules regulating the conditions under which the Members were to be nominated. The elective element was not yet in sight even then. In the Montague-Chelmsford Report of 1917, it is stated that "The term 'election' was sedulously eschewed".

In 1909, mainly under the pressure of political unrest in the country and various other factors, the Morley-Minto reforms were introduced by the Indian Councils Act of 1909. For the first time in the history of the growth of legislative bodies in India, provision was made by these reforms for the inclusion of some elected members in the Legislative Councils both Indian and local, but these members were elected by methods of indirect election.

[Shri Pataskar]

The system of direct election was for the first time introduced by the Government of India Act, 1919, which was passed on the recommendations of the Montague-Chelmsford Report. By section 64 of the Government of India Act, as amended by the 1919 Act, provisions were made for the making of rules by the Governor-General relating to the qualifications of electors, constitution of constituencies, qualifications for membership, final decision of doubts and disputes as to the validity of an election and so on. Similar rules in relation to the local Legislative Councils were framed under section 72-A (4) of that Act. That is really the beginning of the election law in our country.

In 1920, the Indian Elections Offences and Inquiries Act was passed to provide for the punishment of malpractices in connection with elections and to make further provisions for the conduct of enquiries in regard to disputed elections. That is the first Act relating to malpractices, etc., in elections. Then came the Government of India Act, 1935, under which the first elections were held, as the hon. Members are aware, in the beginning of 1937. By section 291 of that Act, power was given to His Majesty to make provisions from time to time by Orders-in-Council with regard to delimitation of constituencies, qualifications of electors, qualifications for membership, conduct of elections, election expenses, corrupt practices and other offences at or in connection with elections, decision of doubts and disputes arising out of or in connection with elections and matters ancillary thereto. Various Orders-in-Council were made by His Majesty in this respect and I need not elaborate at length on the provisions of those Orders-in-Council. Rules providing for matters of details in respect of these matters were also made by the Central Government and by the various Provincial Governments. The point to be emphasised is that even in the Government of India Act, 1935,

there was no provision for universal adult suffrage in our election law. Universal adult suffrage was introduced for the first time by our Constitution, in article 326. Under this article, every person who is a citizen of India and who is not less than twenty-one years of age on the qualifying date is entitled to be registered as a voter at an election to the Lok Sabha or to the legislative Assembly of a State. In pursuance of the provisions contained in Part XV of the Constitution, as well as entry No. 72 in the Union List of the Seventh Schedule, the Representation of the People Acts, 1950 and 1951, were passed by Parliament. Elaborate provisions have been made by rules made by the Central Government after consultation with the Election Commission for the proper administration of these two Acts and the first general elections in the country on the basis of universal adult suffrage were held in the year 1952.

It will thus be seen that the history of election to legislative bodies is of recent growth. For long years, the people of India had been denied the right to make our own laws to suit the needs of our country. When we got the right to frame our own Constitution, we laid down in it the goal which we desire to achieve and the method by which we want that goal to be reached. By our Constitution we have set before ourselves the ideal of parliamentary type of democracy. In a parliamentary type of democracy the basis is the Parliament itself elected on the widest possible franchise and in a manner which will ensure free and fair elections to that body. It is, therefore, of the highest importance in this type of democracy that the elections to Parliament must be free and fair. In India, with its vast and varied population, it was a matter of doubt with some whether a democracy of this type would serve the purpose of reaching the goal which we have laid before ourselves in our Constitution. There are countries in

the world where this type of democracy is in operation; the oldest of them is probably the United Kingdom; but it is a very old institution which has grown by stages and through centuries.

Our Constitution, providing for the widest possible franchise to our people, naturally attaches the highest importance to the matter of elections and it has made elaborate provisions in that behalf. By and large, it can safely be said that the first experiment of elections based on adult franchise has well succeeded and, on the whole, the working of this type of democracy in our country clearly shows that people are taking to it. Naturally, we did experience some difficulty with all the precautions that we took by the provisions contained in the two Acts of 1950 and 1951 and the rules made thereunder. The present Bills are only an attempt to rectify some of the mistakes which have been discovered.

**Shri Kamath:** Many, many mistakes.

**Shri Pataskar:** As this system gets more and more firmly rooted among the people, I am sure its working also will improve.

The one disturbing feature of the last general elections was the number of election petitions that were filed and the consequent number of inquiries undertaken and the length of time for which these inquiries dragged on. As a result of the last general elections in India, the following information will be found instructive:—

The number of election petitions filed in respect of elections to (a) the House of the People was 39; (b) the Council of States—3; (c) the State Legislative Assemblies 286; and (d) the State Legislative Councils—10. Total—338. The number of election petitions withdrawn before the Election Commission was six; and the number of election petitions dismissed by the Election Commission was 18. The number of election petitions admitted by the Commission was 314.

and the number of Election Tribunals constituted was 64. The total expenditure on Election Tribunals up to July 1955 was in the neighbourhood of Rs. 1.6 lakhs.

**Shri Kamath:** What is the number of petitions allowed?

**Shri Pataskar:** I have not got those figures. But very few were allowed. Of course, I have nothing to say about allowing the petitions, but naturally, there must have been very few petitions of that kind.

**Shri G. H. Deshpande (Nasik Central):** How many petitions remain undecided yet?

**Shri Pataskar:** I would like the hon. Members to bear with me. I do not want to offer any personal comment, but I want to give the whole picture.

**Shri Kamath:** Only for information, I asked the question.

**Shri Pataskar:** Yes, but I am giving the picture as it stands today so that people may come to their conclusion.

As compared with this, it is to be noted that in England there are but rarely such petitions. I am informed that after the recent elections there, only one petition has been filed.

**Shri Kamath:** There, it is a 300-year old democracy. Here, it is only five years old.

**Shri Pataskar:** There is some difference of opinion between the hon. Member and myself. I am afraid that in our country election disputes are not looked at from a proper perspective. They are treated almost in the nature of being a matter of litigation between two contesting rival candidates, and the tribunals and the courts who have occasion to deal with them also do not seem to make much distinction between these disputes and, say, the disputes relating to property between two rival litigants.

Election dispute is not really so much a matter of dispute between two contesting rivals only, as it is a matter of greater importance from the

[Shri Pataskar]

point of view of the right of the people to have the representative of their choice in the Assembly or Parliament. It is from that point of view that it has got to be looked into. I will just give the history of these Acts; I would like to have the attention of my learned friend, Shri Kamath.

**Shri Kamath:** I am all attention.

**Shri Pataskar:** In the United Kingdom, in the beginning, the power of deciding whether a member was validly elected was not decided by any Judge or Court, but was decided by Parliament itself by appointing their own Committee. It was mainly to avoid political bias, that this right of Parliament to decide election disputes was transferred in the U. K. first one Judge by the Parliamentary Elections Act, 1868, and later to two Judges by the Parliamentary Elections Corrupt Practices Act, 1879. This transfer of power to judges does not, however, affect the right of Parliament at any time to exercise its inherent prerogative of determining its own affairs. The material portions of the 1868 Act have now been repealed and are re-enacted in the Representation of the People Act, 1949, being consolidated with provisions enacted from time to time during this period.

In the United States of America, the power of deciding election disputes is vested by the Constitution in each House of the Congress. Clause (1) of section 5 of Article I of the United States Constitution provides as follows:

"Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members."

Our Constitution-makers—the hon. Member opposite was with me there....

**Shri Kamath:** We were in good company.

**Shri Pataskar:**.... were also aware not only of the necessity to make ample provision for free and fair elections, but also to keep them free from judicial interference, as I would like

to call it. They therefore laid down specifically in article 329 that an election can only be called in question by an election petition as provided by law of Parliament and by no other method. It was from this point of view that the Representation of the People Act, 1951, made elaborate provision for the trial of election petitions by Tribunals of a special character. The underlying idea was that the election disputes should be decided speedily and finally. Experience has, however, shown that the working of these Tribunals and the various orders issued by different High Courts and the Supreme Court have led to considerable delay in the disposal of these disputes.

I have one thing to say about the judiciary. I am sure our judges in India, as those in England, are familiar with the public's sense of justice and wherever they have a latitude, they automatically keep within the bounds which that rather vague, but very powerful force, sets for them. But when they have no latitude, they cannot naturally hesitate to give judgements which may not tally with the public's concept of justice. In such cases, they naturally expect the proper authorities to take some remedial action. In my view of the matter, something about making these decisions speedier has to be done by us. Therefore, I have tried to place before the House all this information with respect to the provisions in the different democratic countries. It is not from the point of view of criticising any particular provision. I only want to make the decisions of these disputes speedier and final; it is purely from that point of view that I have tried to make these observations. I am sure the Select Committee will take all these matters into consideration.

I commend my motions to the acceptance of this House.

**Shri G. H. Deshpande:** May I make a suggestion? If a copy of the speech just delivered by the hon. Minister is circulated to the Member of this House, it will be very helpful.

Several Hon. Members: Yes.

Shri Pataskar: It will be done to-  
morrow.

Mr. Deputy-Speaker: Motions  
moved:

(1) "That the Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S.C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopaljee Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Varma, Shri C. D. Pande, Pandit Balkrishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kasliwal, Shri Awadheshwar Prasad Sinha, Shri Feroze Gandhi, Pandit Algu Rai Shastri, Shrimati Subhadra Joshi, Shri H. Siddananjappa, Shri A. M. Thomas, Shri C. Ramasamy Mudaliar, Shri M. L. Dwivedi, Shri Mukund Lal Agrawal, Shri Bahadurbhai Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nettur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Anandchand, and the Mover, with instructions to report by the 30th November, 1955".

(2) "That the Bill further to amend the Representation of the People Act, 1951, and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava,

Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S. C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopaljee Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Varma, Shri C. D. Pande, Pandit Balkrishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kasliwal, Shri Awadheshwar Prasad Sinha, Shri Feroze Gandhi, Pandit Algu Rai Shastri, Shrimati Subhadra Joshi, Shri H. Siddananjappa, Shri A. M. Thomas, Shri C. Ramasamy Mudaliar, Shri M. L. Dwivedi, Shri Mukund Lal Agrawal, Shri Bahadurbhai Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nettur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Anandchand, and the Mover with instructions to report by the 30th November, 1955."

I have also received notice of an amendment from Shri N. C. Chatterjee.

Shri N. C. Chatterjee (Hooghly): My amendments are very short. I have given notice of them along with Pandit Thakur Das Bhargava, Shrimati Sucheta Kripalani, Shrimati Kenu Chakravarty, Shri C. D. Pande, Shri Kamath, Shri A. S. Saigal, Shri M. S. Gurupadaswamy and Dr. Krishnaswami.

I beg to move:

(1) That in the first motion, after "the mover" insert:

"with instructions that matters other than those dealt with in the Bills, but relating to election in general and matters dealt with in the Representation of the Peo-

[Shri N. C. Chatterjee]

ple Acts 1950 and 1951 (XLIII of 1950 and 1951) be considered and amendments allowed to be moved and made and also".

That in the second motion after "the mover" insert:

"with instructions that matters other than those dealt with in the Bill, but relating to election in general and matters dealt with in the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951) be considered and amendments allowed to be moved and made and also".

The hon. Minister has made a very clear and lucid speech. The only thing that I want to point out is that there are certain matters which ought to be considered by the Select Committee. As the hon. Minister has been good enough to put my name on the Select Committee, I do not want to say anything with regard to the merits of any of the important matters therein. But you may remember that when the Representation of the People Amendment Bill was first introduced in this House, there were many important discussions. I particularly remember the very forcible speech delivered by Shri Purushottamdas Tandon in which he suggested that a good deal of fair and free election could be secured, if drastic changes were made with regard to the return of election expenses. As a matter of fact, Pandit Thakur Das Bhargava put in a note of dissent to the report of the Select Committee in which he pointed out, if I may say so with great respect, very pertinently, that 'the rules as they stand put a great strain on the conscience of the Members.' The rules and regulations are such that the Members find it physically impossible to deal with the same. If you look at the figures, you will see that there are only 300 and odd election petitions presented; I think 336. Out of them, over 116—if I remember the figure correctly—dealt with improper expenses and rejection of nomination papers. Only

222 dealt with matters other than expenses and rejection of nomination papers, out of 29,000 candidates, that is a very small percentage. There-

[SHRI BARMAN in the Chair]

fore, it is very desirable at this stage to consider whether we should have at all very strict rules regarding lodging returns of election expenses. For instance, I represent a constituency where there are 3,60,000 voters. Now probably it will be more than 4 lakhs.....

**Shri Pataskar:** May I intervene for a minute? All these are important matters which may be dealt with by the Select Committee.

**Shri N. C. Chatterjee:** What I am pointing out is this. There are many matters which are very pertinent but which are not covered by the Bill. They are ancillary. I am not saying that we should be allowed to put in any extraneous matter. I am only pointing out that there are many other important matters, like disqualifications. Take, for instance, the question whether there should be any Return of election expenses at all, whether there should be a ceiling at all.

**Shri Pataskar:** All these things will be there; there is no doubt about that.

**Pandit Thakur Das Bhargava:** What about disqualifications? There are so many conflicting decisions in the various High Courts. Section 7 is not included here. A few other matters are there. We shall be adding only a few. If they are already there, we are not anxious to add. Each Member has his own experiences.

**Shri Pataskar:** If it only concerns Return of election expenses and matters arising out of it, they will be there.



**Shri N. C. Chatterjee:** Take, for instance, section 7: disqualification of membership. Even if a man has failed to lodge a Return of election expenses, within time, there is a definite disqualification. We do not think section 7 is being touched by this Bill. Therefore I am simply asking the Select Committee to consider such matters. You may remember, when the Preventive Detention (Amendment) Bill came before this House, Sardar Hukam Singh gave an amendment exactly of this character: the House instructs the Select Committee that matters other than those dealt with in the Bill, but relating to the Preventive Detention Act, should be considered and amendments allowed to be moved, and made. Otherwise, what would have happened. There were 16 sections. Dr. Katju was the Minister in charge and he wanted to amend 4 sections. If you say that section 5 should be amended, the Chairman of the Select Committee will say that that is not a section before the Select Committee. You may remember the very strenuous debate on Sardar Hukam Singh's motion. The Prime Minister came and he said that it was very desirable and there should not be any objection to consider those matters because they were a part of an integrated scheme. What I am saying is, there are other matters: disqualification and Return of election expenses, desirability of having a ceiling, whether there should be preliminary trial, etc. As you know, thousand of candidates file nomination papers and they withdraw before the final date. They are not at all candidates. They are mere dummy candidates. Every party sets up one official candidate and also sets up a dummy candidate. The dummy never fights. It so happens that simply because he has failed to lodge a Return of election expenses with all the paraphernalia, he is disqualified. He is disqualified even from voting at the election. These are some of the things which ought to be taken into account.

**Mr. Chairman:** Is that not provided.

**Shri N. C. Chatterjee:** They are not provided. I am only suggesting that these are some of the important things. I am not blaming the hon. Minister. We are anxious to cooperate with him. I am only pointing this out, so that there may not be any technical objection later. I am only asking the hon. Minister to do what the hon. Prime Minister did in regard to the Preventive Detention Amendment Bill, to allow the Select Committee to have a full perspective. The same thing occurred in the case of the Criminal Procedure Code also. Take, for instance, trial with the aid of assessors or by jury. You may remember you wanted that in that case, even the High Court should be taken into account. The hon. Minister said that that should be allowed. All that we suggest is, there should not be any technical fetter imposed on the Select Committee from taking a broad perspective of the whole integrated scheme. Ordinarily, as you know, only those sections which are specifically amended by the amending Bill would be allowed to be amended. You were the Chairman of the Select Committee on that important Bill. Amendments are allowed only in regard to those particular sections. I submit the House also should consider this favourably. There should be a comprehensive survey of the entire position. Pandit Thakur Das Bhargava helped me in drafting the amendment. I am confident this is in line with Sardar Hukam Singh's amendment on the Preventive Detention Act. I hope there will be no objection on the part of the Treasury benches to accept this suggestion of ours. Otherwise, there will be many difficulties created and many useful discussions in the Select Committee may be shut out: both here and in the Select Committee. I do not want the Select Committee to be fettered. Even now, the hon. Minister was saying.....

**Mr. Chairman:** Order, order. May I draw the attention of the hon. Minister?

**Shri Pataskar:** May I at this stage...

**Mr. Chairman:** Order, order. I was going to say, after all, we are going to consider this Bill for 16 hours. So, whatever points the hon. Member is making, the hon. Minister may kindly note and give attention to them and then decide. There is no hurry. It is not only that the speeches are going on record. At the same time, there is something in the delivery of the speeches and the impression that the speech makes. I think it is desirable that, when we have got enough time to think over the matter, the hon. Minister should give his attention to the speeches.

**Shri Pataskar:** May I, at this stage, make one suggestion to the hon. Member opposite and to my hon. friend Pandit Thakur Das Bhargava? It appears from the way in which I have listened to both Shri N. C. Chatterjee and Pandit Thakur Das Bhargava,— I have not got the amendment with me—I think probably, as we go on discussing the provisions of these Bills, they will find that there is hardly any matter which could not be really covered by the reference to the Select Committee. For instance, I would like to draw attention to clause 77 of the Bill. So far as we are concerned, the scheme here is that there is no Return of election expenses to be filed. Formerly there were two processes: keeping of accounts and Return of election expenses.

**Shri K. K. Basu (Diamond Harbour):** Even then, what is the objection?

**Shri Pataskar:** Let the Members discuss the provisions of the Bill. If at the end it is found that there is anything which requires to be considered, but will not be allowed to be considered unless I accept some amendment, at that stage, it will be proper to draw my attention. I shall

consider it. Just now, for me to accept any amendment would be difficult. Therefore, I would appeal to the Chairman on one thing. The discussions, will last for 3 days. There is really nothing important which has been left out, which really could not come before the Select Committee in the discussions. I shall certainly be willing to take that into account.

**Pandit Thakur Das Bhargava:** With your permission, may I submit that, according to the law and practice, if there is any reference to any of the sections which are not included in the amending Bill, neither in this House nor in the Select Committee can any discussion of such matters be allowed. Take a matter like disqualification. We all know that in regard to disqualification, there have been many conflicting judgements of the various High Courts. I had occasion to appear in a case and I found that the various High Courts have given different rulings. So far as disqualification is concerned, section 7 under which we can bring this matter, is not referred to here. The hon. Minister knows better than me that there are conflicting decisions. Suppose we want to reconcile all those judgements and make an amendment in regard to section 7, which is one of the most important sections in this Act, we cannot possibly do so because in the amending Bill there is no such provision. There may be many other provisions of this nature. I would not like to restrict to this. I know the attitude of the hon. Minister. He is not the man who will stand in our way. He wants to have a good law. I do not think that he will stand against us. At the same time, it is beyond him and the powers of the Select Committee to entertain any amendment in respect of any matter which is not dealt with in the amending Bill. I ask my hon. friend whether that is possible even with the best will in the world. That is the law. We cannot change the law. Therefore, as it was done in the case

of the Criminal Procedure Code and the Preventive Detention Act, we gave instructions to the Select Committee to allow such amendments as can generally be made in regard to such matters and consider them. Similarly, here, I am a party to this motion. We have made this motion rather wide. What I am anxious about is, all these matters which are covered by Act XLIII, of 1950 and Act XLIII of 1951, which can be agitated may be allowed. All of us are elected Members. Each one of us has his own experience. We know of many difficulties which, perhaps, the Election Commissioner or perhaps my hon. friend do not know. It is our duty to see that solutions are found and there is no difficulty in the working of the Act. For instance, in a double constituency there are two persons. I had occasion to appear in a case in which there was really a petition against one of the persons on the basis of disqualification. It was a general constituency. Both had to swim together. We have to find a solution for this. There may be other matters of which other Members have experience. Many matters may come up in the course of the discussions. We will not be able to touch them if there is no clause in these Bills touching upon that matter. We will not be able to touch them. Therefore, my humble submission is that nothing will be lost if the members of the Select Committee are allowed to go into the various sections of the Acts of 1950 and 1951 and suggest amendment. Then we shall make a good law.

4 P. M.

After all, the experience of Members in the last election should not be thrown away. The Election Commissioner has only the experience which he may have gathered from these 338 election petitions, but each Member has got his own ideas about the election affair and he may have many experienced same difficulties. With a view to remove all of them, it is absolutely necessary that we should be enabled to have those

amendments considered and made in the Select Committee, and after this has been done a fully considered measure may come to the House.

Shri Pataskar rose—

Mr. Chairman: I should first ascertain whether Shri Chatterjee has finished his speech or not.

Shri Pataskar: May I say something which may satisfy my hon. friends Shri Chatterjee and Pandit Thakur Das Bhargava? So far as I have been able to listen to the points that were raised by these hon. Members.....

Mr. Chairman: I suggested in the beginning that after all we are devoting 16 hours for this. So, when the speeches are delivered here, the hon. Minister may note the points. After that there may be mutual consultations. After all, it is a very important Bill because it concerns a very important matter, that is, the representation of 36 crores of people. So we should try to make this law as perfect as possible, and for that, the hon. Minister and the Members who have something to say on this matter may consult each other some time later on. In the meantime, let us go on with the speeches. Though the hon. Minister is not just now prepared to accept what the others suggest..

Shri Pataskar: That is my position.

Mr. Chairman: That is his position. What I suggest is that he may give attention to what the other Members have to say and then later on come to a decision. We are going on for three days on this Bill. What is the hurry. He may make up his mind later on instead of.....

Some Hon. Members rose—

Mr. Chairman: Let me finish my say.

Shri Raghavachari (Penukonda): May I rise on a point of order?

Mr. Chairman: There cannot be any point of order while I am speaking. What I say is this, that there is no hurry about coming to any decision or commitment from the side of

[Mr. Chairman]

the Government. We shall have enough time to consider this matter. Meantime, let us go on with the consideration of the Bill.

**Shri U. M. Trivedi (Chittor):** May I make a submission?

My submission is only this much.

**Mr. Chairman:** Let me hear the point of order.

✓ **Shri Raghavachari:** My point is this. This House has to consider the motion moved by the Minister. To that motion an amendment has been proposed by a few Members which wants to enlarge the scope of the matter covered by the motion. ✓ When a motion is moved and an amendment to that motion is moved, this is not the time for the Minister to say that he accepts it or does not accept it. It is for the whole House to hear the entire thing including the matter covered by the amendment, and it is for the House to decide whether it will allow extension of the scope to other matters.

**Mr. Chairman:** That is evident.

**Shri Pataskar:** It is not for me to say, and I have never said, that I either accept or reject. The point is, so far as I could listen—of course, naturally, I do not expect those Members also to give all their points—for the present it appears to me that those matters will not be outside the scope of the discussion in the Select Committee. However, let us consider this Bill and if in the course of the discussion we find that there are certain matters which probably do not fall within the scope of the Bill though they are important and might be accepted, well, certainly, I shall be prepared to consider them, and it is not at this stage....

**Pandit Thakur Das Bhargava:** That is the right thing.

**Shri Pataskar:** Let us discuss the Bill, and as we go on, we will see.

Some Hon. Members rose—

**Mr. Chairman:** I do not think there is any necessity for discussing this point any more. The hon. Minister has said that he will consider it, and we are practically coming to this final decision at the end of the debate of 16 hours. What is the hurry?

**Shri Ramachandra Reddi (Nellore):** I am not making a speech, but I want to mention one little point.

**Mr. Chairman:** On this matter?

**Shri Ramachandra Reddi:** Yes.

**Mr. Chairman:** I do not find any necessity.

✓ **Shri Ramachandra Reddi:** The matter is entirely in your hands now because the amendment is moved, and if you allow the amendment, you have simply to waive notice of it, and then the main motion as well as the amendment will be discussed, ✓ and there will be time for the hon. Minister of legal Affairs and the Minister of Parliamentary Affairs to think about it and come to a compromise without any excitement whatever.

**Shri N. C. Chatterjee:** I may shorten the matter. There is really no difference between the Treasury Benches and ourselves. As a matter of fact, I can assure the House that the hon. Minister of Parliamentary Affairs says that that is also the intention of the Government. They do not want to exclude anything. We are also only trying to put it in legal form so that technicalities may not stand in the way of our having the chance of putting in the necessary amendments. I have not categorised all the points. If necessary, I will make a list and furnish it to the hon. Minister.

**Shri Pataskar:** Yes.

**Shri N. C. Chatterjee:** So that he may make up his mind.

**Mr. Chairman:** May I know if the hon. Member is a member of the Select Committee?

**Shri N. C. Chatterjee:** Yes. Therefore, I am all the time submitting.

although my speech has been cut short, that it has not specified or does not contain an exhaustive enumeration of all the points we want to bring before the Select Committee.

Take for instance, transport. You know at an election where the constituency consists of four lakhs of people, you are only allowed one clerk and one messenger. This is absolutely ridiculous, and it leads to absurd situations, and therefore we want also to bring these things in. Technically you may say that particular amendment or that particular schedule is not being tagged on, or is not the subject-matter of the amending Bill. Therefore it should not be considered to be outside the scope of the Bill. All that we are saying is, as Pandit Trakur Das Bhargava has very clearly put it, let the entire original Act be the subject matter of review by the Select Committee, and let us have a comprehensive report from the Select Committee.

Mr. Chairman: Amendments moved:

(1) That in the first motion, after "the mover" insert:

"with instructions that matters other than those dealt within the Bill, but relating to election in general, and matters dealt within the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951) be considered and amendments allowed to be moved and made and also"

(2) That in the Second motion, after "the move" insert:

"with instructions that matters other than those dealt within the Bill, but relating to election in general and matters dealt within the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951) be considered and amendments allowed to be moved and made and also"

Shrimati Renu Chakravartty (Basisat): The amending Bill before us seeks to amend the Acts of 1950 and 1951 which are very important. They

are important from two points of view—not only because we are approaching the general elections, but also because certain unhealthy developments have been noticed since the last elections, and especially in the bye-elections.

Even with adult franchise which, no doubt is a great step forward, within the capitalist system there are limitations in ensuring complete equality and complete freedom of elections. As long as there are landless labourers working for the landlord, there will be pressures, economic pressures which will ultimately result in political pressure too. As long as there are capitalists who are the millowners and there are the workers, there will be a certain amount of pressure. As long as there is the power of money, there will not be any equality and there will always be a tipping over of the balance in favour of the moneyed classes, but in spite of that, in spite of these limitations, we must try as far as possible to ensure some sort of checks and balances in favour of the less moneyed classes who form the vast masses of our people.

What actually do these free and fair elections connote? Firstly, we have to assure ourselves that as far as practicable we do away with the pressure of money and the vested interests. That is one of the principles which we have to apply to every clause and see how far we can actually put certain checks and balances, so that the scales are not tipped in favour of the vested interests.

The second principle which we have to apply is to see that the executive authority is not utilised for influencing the electorate in favour of the ruling party. These are the two principles I think in very broad general outline which we have to see are followed when we are in the Select Committee.

The first, that is freedom from money pressures, includes, of course, the conception that we have to so formulate our election law that even the simplest and humblest pe-

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sant, and worker people with modest means from the intelligentsia, will be able to stand for elections and that their disadvantage with regard to the moneyed classes, is being able to win elections is minimised. That is another thing that we have to see. The conception that only the rich and well-placed, the highly educated and the degree-holders are the best spokesmen of the teeming millions has to be changed.

Moreover, the dumb millions are no longer dumb today, and they have experience of life. And because they have experience of life and its struggles, it is they who are best fitted often to be the practical tacklers of the problems of life. That is why we feel that the two conceptions which have to be realised in our electoral law should be, firstly that our electoral law has to be simple and straightforward, and secondly that it has to be inexpensive.

If we take up first the question of trying to prevent the moneyed pressure, or pressure from the vested interest, then I should like to make certain specific recommendations in that regard for the consideration of the Select Committee. First and foremost. I want to bring to the notice of this House that formerly, permitted ceilings of expenditure were put down in the schedule. Now, a specific portion of that expenditure will be put down in the schedule, but a part of the expenditure will be allowed to be borne by the political parties. There is no knowing whether the political party's expenditure is going to be accounted for. But this much is sure that if the political parties are allowed to bear, and they do bear quite a large portion of the expenditure, then it is necessary that the ceiling of personal expenditure must be lowered. Otherwise, I feel that this will actually help further expenditure being allowed, with the result that the smaller man, the poorer man, and the poorer parties will be put at a disadvantage. The

sources are many for the ruling party; they come from the sugar magnates, they come from the big millowners, and they come from various other places. But at the same time I do not oppose the fact that the political parties must bear part of the expenditure. That is only right, because that in itself will limit the growth of the number of individual independents standing for election. Yet I feel that it is necessary at the same time to limit the personal expenditure of those who are the candidates of political parties.

Of course, it is very difficult even when a ceiling has been laid down everywhere, to really check the expenditure. We know that a person like the Raja of Challapalli has spent about Rs. 5 lakhs to win in Andhra he purchased a thousand cycles, he purchased so many cars and so many lorries, but even then he was able to pass muster under the law. Still, I feel that some sort of statutory provision keeping the ceiling of personal expenditure further down is necessitated now, because....

**Shri C. R. Narasimhan** (Krishnagiri): On a point of order. Is it desirable in the course of the debate to mention proper names, and accuse persons, who are outside the House, of various charges, without giving them an opportunity? Will that conduct to proper discussion?

**Shri C. D. Pande** (Naini Tal Distt. cum Almora Distt.—South-West cum Barielly Distt.—North): Names should not be mentioned.

**Mr. Chairman:** I think in these matters hon. Members should take the full responsibility, though of course this House is free to give expression to any view which cannot be challenged in any court. But hon. Members should take that much responsibility while making allegations against any personality. It is desirable that general references only should let made, instead of accusing any person who is not present here to

reply. I think it will serve the same purpose if a general mention is made that capitalists or Maharajas do such and such things. I think that would be preferable, instead of accusing a person by name, for that man is not present here to reply to the particular charge.

**Shri Kamath:** Proper names will be improper. I suppose that is your ruling.

**Shrimati Renu Chakravartty:** I feel that there is no necessity to be quite so touchy and sensitive about these matters, because everybody in that constituency knows it. By giving that instance, I was only making this point that it is not possible often to prove it because of the fact that even in spite of there being certain statutory provisions, there are people who spend huge sums of money and yet they pass muster under the law. And now, we are seeking to increase the ceiling also. But I feel that now that party expenditure is also going to be there, the ceiling for the personal expenditure should be lowered for party candidates.

There are certain other points which I would like to draw your attention to. I would like to show that the same old class approach remains in certain specific sections, which makes even adult franchise unable to help the masses to express their opinions fully and frankly. For instance, we feel that the deposits for the House of the People and for the electoral roll come to something like Rs. 500 plus Rs. 250. We feel that that is a very high amount. I would like the Select Committee to take note of this. Again, for challenging of a vote, it is necessary to deposit immediately Rs. 10. It may be possible for the ruling party to do so. But we know from practical experience that even when we know that there is a false vote, yet it is often not possible for us to challenge it because of this demand that we should immediately put down Rs. 10.

That is why I feel that the amounts should be lowered, and for the challenging of the false vote also there should not be such a high amount prescribed.

That is one other point for the consideration of the Select Committee. I shall only indicate the broad principles. Before you can file an election petition, you have to deposit a sum of Rs. 1,000. That is also a matter to be considered. Again, there is the very important question of the use of vehicles on the election day. The use of vehicles on the election day has been prohibited within a certain limit. But all of us know that the richer the candidate, the larger is the number of vehicles,—whether they be cars, lorries, bullock-carts or even cycle-rickshaws—that are used. I feel therefore that this question of limiting the number of vehicles that can be used on the polling day must be taken up seriously. We have seen very often how the results of the elections have been very substantially changed on account of this factor.

Although this question of adult franchise is held up to be an example of being the be-all-and-end-all as at symbol of total equality, I feel it is necessary to realise that not only has it got its limitations within the inequalities that are borne in the capitalist system, but also that even in our own electoral law, there are certain, specific cases in which this principle of adult franchise is given the go-by.

For instance, I would like to bring to the notice of the House and of the Select Committee the question of the voting and the constitution of the electorate in respect of the election to the Council from the local bodies constituency. In my own State, the electorate for the Council election from a local bodies constituency is an electorate which is elected not by adult franchise but purely on the basis of the amount of taxes paid or the educational qualifications. So, there is only a very restricted franchise in the case of election from the local bodies constituency; and fur-

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ther, the election is also an indirect one. The fact that an indirect election with a restricted franchise takes place in the case of the Council elections from the local bodies really goes against the principle of adult franchise itself. I know that the local bodies are constituted under State laws, but at least the Election Commission and Parliament should be in a position to see that every State changes its local body laws in such a way that the principle of adult franchise and the system of election through secret ballot are introduced for the purposes. That is a very important point.

I feel that it is necessary for us to take very great note of these points which have been included in our electoral law, in order that we shall be able to give protection against the vested interest and the moneyed interest influencing or being able to influence the electorate to their own advantage and against those who are poor and are unable to fight the power of money.

Another point which I would like to make in this connection is in regard to disqualification. In order to counteract to some extent the influence of vested interests and to prevent them from using their positions in Parliament and the Assemblies to influence the policies in favour of their own interests, we are in favour of keeping, and rigorously enforcing certain disqualifications, especially the disqualifications in regard to contractors.

Now, by the proposed amendment, this question of disqualification will not be argued or interpreted by the Returning Officer during the time of scrutiny. Of course, the hon. Minister has said that an election petition may be made on that basis. But I feel that in spite of the fact of having full knowledge that a person is a contractor, we have to go, through the entire expenditure of an election

and only at the end of it, we will be able to present an election petition, and the protracted, expensive process has to start. I feel that this is a puerile and this amendment should be opposed. At the same time, I want to say that even in the original law itself, on this very clause relating to contractors, there is an expression "appropriate Government" whereby a person may be a contractor of the Central Government, if he stands for MLA-ship and he may be a contractor of a State Government, if he stands for MP-ship. This, I think, is also a rather puerile division to make; because, after all, the Government is one; the strings within the Government are also inter-connected and it is essential that this term "appropriate Government" should be taken away, and anybody who can be proved to be a contractor to the Government will automatically be disqualified. Of course, it is true that it is very difficult to enforce. Even then, vested interests will use certain other methods whereby they will have their interests represented in the legislatures. Even then, a statutory provision is better than having none; it is some sort of a deterrent, and therefore, I propose that this should be kept.

Now, I want to say that certain other disqualifications should be taken away. For instance, there is disqualification if you are imprisoned for more than two years. Now, many of us in this House do not realise this, in spite of the fact that one of our colleagues is today in prison and in a few months, may be disqualified on this ground. I refer to Shri Bhajahari Mahata, a Member of this House—I hope the hon. Member opposite will not mind my mentioning him by name. He is a man who is respected by his constituents, a man who has, under the Bihar Public Safety Order, been given imprisonment—consecutive imprisonment—for taking out processions without licence; three processions, for each count, one year and one



thousand rupees, in default of which he has to undergo three months imprisonment extra. Already I think more than 1½ years have gone, and appeals are outstanding for months past. Even today, that appeal has not been allowed, although he has almost finished two of his terms and is facing the third term.

Now, especially in view of the Congress Government, which knows full well that for political activity many people are put by them into jail for periods even for two years and more, what right have we to disqualify them on this ground? I feel that this is a very important point which has to be discussed, as to whether this should be a case for disqualification.

Then again, there is one other clause which says that disqualification may also be brought about by the term 'disloyalty to the State'. Now, I would like that this should be qualified, and it should be stated as to what is exactly meant by 'disloyalty to the State'. Often, we see the ruling party interpreting opposition to a Government or a party as disloyalty to the State. Therefore, I feel that in this clause it should also be categorically stated as to what is meant by 'disloyalty to the State'—it should not be left to a vague interpretation of the executive.

The last point which I want to make in connection with this question of disqualification is this. There is an amendment in this law whereby for the purposes of disqualification, the Election Commission is going to be given the right to condone the disqualification. I feel that in the case of the question of a candidate being a contractor or being faced with charges of corruption, there should be no condoning by the Election Commission.

Shri S. S. More: Even under the present Act, contractors are not condoned, and their disqualification cannot be removed by the Election Commission. Disqualifications such on account of conviction or on account

of presentation of false returns or something like that—only such disqualifications are removable by the Election Commission. Contractors cannot be given a charter to contest elections.

Shrimati Renu Chakravarty: If that is so, it may remain. But as far as I could make out, one of the new clauses which is being added, gives an overall, blanket power to the Election Commission to do so.

Shri S. S. More: It does not.

Shrimati Renu Chakravarty: Then I would certainly not like that to be amended.

One other way of ensuring that economic pressures are minimised is to ensure the greatest degree of secrecy. Now, we in the course of the last election and the bye-elections, have noted that there has been noting of numbers against the names. That is a very dangerous practice, and we feel that there should be no noting of numbers in the polling booth.

Here I would raise the question of postal ballot. I would like the Select Committee to see the report of the Election Commissioner where he has said that the postal ballot has been quite unsuccessful. Very few people from the armed forces have exercised their franchise through the postal ballot. One of the reasons for that—many people have told us—is that they have to sign their names. Now, it is almost impossible for one in the armed forces to sign his name and vote for any member of the Opposition party. I feel that some sort of method must be evolved whereby the secrecy of the ballot is maintained, and we do not have to insist on his signing his name. Therefore, I feel that this point should also be looked into by the Select Committee.

Another principle that we have to see is put into practice is that the largest section of the people are enabled to exercise franchise. For this, we feel, that polling booths should be within one mile radius, and that there should not be more than about

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500 voters to a booth. I say this specifically because I know how very difficult it is for women to exercise their franchise when polling booths are at a long distance or when they have to be kept waiting in long queues for the whole day. It is true that women have shown a great interest in many States. They have stood in their queues the whole day. I know also how very difficult it has been for them to come over long distances walking and to exercise their franchise. Therefore, I want to put this point before the Select Committee.

The second principle which I had enunciated was on the question of ensuring that the ruling party did not use the executive machinery for unduly influencing the voting. This in concrete terms means that every effort must be made to see that the executive machinery is not allowed to be used for election purposes other than the set-up for the paraphernalia of casting the vote on polling day only. Now, unfortunately during the last elections, we saw many examples of how the advantages of the State machinery were used to the full against Opposition parties.

Shri Kamath: Quite right.

Shrimati Renu Chakravartty: It was impossible for us to seek remedy because the highest Ministers of State, while fully utilising their position of vantage as Ministers, did political propaganda and took cover under the technical plea that they were entitled to propagate their political views. It becomes impossible to extricate how much is spent by them in their official capacity and how much in their non-official capacity. We also saw that during the last Travancore-Cochin elections, even in answer to a question, it was stated that the State had spent a certain amount of money on the visit of Shri Jawaharlal Nehru during his election tour from government funds. But it was said that it was done for

the personal protection, and for security reasons. I remember also that, when Shri Nehru toured the length and breadth of India in his hurricane election tour during the last general elections, he used a special plane. Can any other party—save the ruling party—get such advantages?

Shri C. D. Pande: He paid for it.

Shrimati Renu Chakravartty: He may have paid for it. But even if that is so, is it possible for the Opposition parties to charter a special plan? (Interruptions).

Shri C. D. Pande rose—

Shrimati Renu Chakravartty: I think Shri C. D. Pande ought to have listened a little more carefully to the formulation of my sentence. I said: is it possible for the Opposition parties to charter special planes any time they desire?

Some Hon. Members: Yes.

Shrimati Renu Chakravartty: Even when he went to Cannanore during the last general elections, is it not a fact that the Mangalore airport was still under construction and was somehow made fit for the landing of his special aircraft? Is such a thing possible in the case of Opposition parties? Is it also not a fact that he travelled by special train from Mangalore to Cannanore? This is a thing that everybody knows. Yet when it comes to granting equal political rights to the workers in commercial and industrial establishments, they are hedged in by their bonds, National (Safeguarding of Security) rules and other terms of employment which forbids them from campaigning for anyone in the elections.

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

Shrimati Renu Chakravartty: I hope I will be given at least half an hour.

Mr. Chairman: For party leaders that is generally allowed.

**Shrimati Renu Chakravartty:** I am deputy leader of our party.

**Shri Kamath:** May I suggest that you may regard the first speaker from any group as the leader for that purpose and allot half an hour to him or her?

**Mr. Chairman:** Provided he or she is considered to be chief spokesman of any group.

**Shri S. S. More:** May I bring to your notice that the proposition enunciated by Shri Kamath will not be supported by other Members of the House? (*Interruptions*).

**Mr. Chairman:** Order, order.

**Shri D. C. Sharma (Hoshiarpur):** Why should Shri Kamath think that he is the Opposition-in-Chief?

**Shrimati Renu Chakravartty:** Yet when it comes to granting equal political rights to the workers in commercial and industrial establishments, they are hedged in by their bonds and National Safeguarding of Security Rules and other terms of employment which forbid them from campaigning for anyone in the elections. Although of course technically this veneer of impartiality is shown, in fact officers have not only winked at but connived at campaigning for the candidates of the ruling party, while the least suspicion of favouring the opposition parties has brought censures, secret reports, demotions, severe reprimands and warnings against others.

In this context we wish to place our position very clearly and emphatically that all Government servants who are in a position to use their official capacity to influence the mass of voters because of their official position must be strictly barred and no exemption from this should be left to be notified at the discretion of the State and Central Government.

**Shri S. S. More:** Including the Ministers.

**Shrimati Renu Chakravartty:** This can only be done by statutory provision by Parliament alone. I say this because of a certain provision which has been brought in this amending Bill that in future the State Governments may exempt any body of Government servants and they may participate in the canvassing. For instance, the Minister has been rather honest and frank in the Statement of Objects and Reasons where he says: "By clause (b) of that Explanation a State Government is debarred from exempting village officers from the operation of section 123(8), with the result that no village officer can canvass at election for another candidate. This provision leads not only to hardships but also to anomalies at the time of elections." We are totally against this. We feel that if village patwaris, village munsiffs, local daffadars and chowkidars are allowed to canvass, it will be making them the political canvassers of the Congress Party, and we are totally opposed to it.

At the same time the workers in commercial and industrial establishments and class IV staff and their equivalents in Railway and Posts and Telegraph offices, workers in Sindri and the irrigation projects must be allowed their full political rights to campaign for anyone they choose, because they wield no authority or influence emanating from their official capacity. It is this principle which must guide us in making the discrimination. Otherwise we will find that with a growing public sector we will be having a larger and larger number of workers coming under the category of Government servants, and they will be prevented from exercising their full political rights. Are we going to deny them the fundamental political right or fully participating in the elections? If Ministers of State can use the State machinery directly or indirectly and utilise their own position to the advantage of a political party, what right have we to deny the workers and employees that right?

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Only, we demand strict vigilance to keep out those who wield their official position to influence voters. That is why we emphatically protest against the attempt to change the Explanation to section 123(8) of the Act of 1951. The Statement of Objects and Reasons is very frank about it, and therefore I feel that this has to be changed by the Select Committee. This is the most dangerous amendment in my opinion, and with all the emphasis at my command I would ask the Select Committee to go into this matter in very great detail.

There is another powerful weapon of propaganda.....

**Shri Thanu Pillai (Tirunelveli):** On a point of order. Can speech be read in the House?

**Shri Kamath:** She is not reading.

**Mr. Chairman:** She is just referring to her notes.

**Shri T. B. Vittal Rao (Khammam):** It is a frivolous point of order.

**Shrimati Renu Chakravartty:** The hon. Member has apparently not heard me speaking in the House. Otherwise he would have realised that I am capable of speaking without reading any notes.

As I was saying, another powerful weapon of propaganda utilised by the ruling party is the radio. And the press is already in their favour, at least through their class interests. But the radio, a State concern, is used entirely by the Congress Party. The excuse is that Ministers cannot be barred and they talk, not of political controversy but on subjects like the Five Year Plan, development plans of the Government, etc. But I would like to ask: are other party leaders allowed to give their free opinions on these very subjects? At the time of general elections the entire medium of the radio, takes on through the speeches of the Prime Minister and Ministers a powerful

✓force of propaganda which is denied to other parties. Our demand is that at least during the general elections the programme of the All India Radio must be under the general supervision of the Election Commission, and all parties must be allowed equal opportunities of speaking to the people through the radio. At other times too the radio must be available for all political party leaders to speak, and not kept reserved for the Congress Party through its Ministers.

I should like to point out that the use of the microphone is also discriminated against. Often local laws prevail, restricting the use of microphones and requiring licences, etc. This often leads to harassment and discrimination against opposition parties. Not only that. Often the ruling party breaks the rule. It is also condoned by the police and they do not take any notice of it. This happened in Calcutta at the time of the mayoral election when Mayor Shri Naresh Mukerji was standing for election the Congress Party took out a procession with Shri Dhebar and used the microphone. We sent telegrams to the Election Commission. The Election Commissioner said: I cannot do anything about this because this is guided by the State and so I cannot go into this matter. Therefore I feel that there should be no restriction on the use of the mike, except in the vicinity of places of worship or hospitals, for all parties irrespective of whatever ideologies they may have.

Lastly, there are certain small points to which I would like to refer. I welcome certain features in this bill like proposals for speedy elections and counting of votes. I feel there should be no long drawn out counting. In Andhra one whole month passed. In the last general elections in North India it took a longer time. There in South India where the counting was done simultaneously, it

should be so and the period of counting should be minimised, as far as possible.

On the question of grounds for election petition I should say that I welcome the simplification of accounting, and I do think it is better. An amendment has been brought forward in this Bill by which power is given to the Election Commission to transfer cases from one tribunal to another. That too is good. The proposal for a two bench tribunal will we hope expedite hearings. But we want that in no case should it become a one-member bench which was proposed by certain people.

In regard to electoral roll I would like to say that there is a provision here, if I have read it correctly, that there is no necessity for revising the electoral roll in 1956. I feel it is very wrong. Because, in the beginning of 1957 we shall be having our general elections. It is 1956 which will be the crucial year when the last revisions will take place. Therefore I feel that it is very important.

**Shri S. S. More:** According to the scheme now proposed, the electoral roll will be always under preparation, every minute. It is a continuous process and not a periodical process.

**Shrimati Renu Chakravartty:** There is a clause here. I would like the hon. Minister to look carefully into this amendment. I have looked at it twice or thrice.

**Shri Pataskar:** It is prepared every year. Now there is no necessity for preparing it every year. It will be only revised.

**Shrimati Renu Chakravartty:** As far as I could make out, it appeared to me like this, that there is no necessity for revision in 1956. If it is not so, then I welcome it.

Then I want to say something about the franchise of displaced persons. In the Act of 1950 section 20(7) which

deals with displaced persons and their franchise is being deleted by this Bill, because the Citizenship law is going to prevail. That is the argument. Here again we do not know the final form in which the Citizenship Bill will emerge. For the East Pakistan displaced persons who continue to flow in thousands we have to see that some sort of categorisation is made that a six months residential qualification should entitle them to vote. That, I think, is very important.

In regard to the electoral roll there is also a suggestion that there should be wide publicity and that all political parties should be given the final draft rolls, so that any new additions and alterations could be made. Also fifteen or twenty days or even about three weeks before the actual election, the list of the dead which the enumerators and canvassers get hold of can be hung up so as to prevent impersonation or false voting.

Lastly, for my own State I would propose—I believe it is already there in some States—that there should be a village-wise electoral roll, not on the basis of alphabets but of villages. I believe in U.P. and in certain other States it is done. But in our State there is no village-wise electoral roll. We would like that this should be done for the whole of India as that would be the easiest way to canvass properly.

Therefore, with these few words I would urge that the Select Committee should go into the entire Bill and all its clauses and there should be no technical restriction not to allow them to open up the entire question because there are certain clauses that have not been brought under the amending Bill.

**Shri Kamath:** It is very gratifying that the former Minister in the Ministry of Law, now Minister for Affairs, strictly Legal, Shri Hari Vinayak Pataskar has moved this Bill for reference to the Select Committee on Vinayak Chaturti day. Today is

[Shri Kamath]

Vinayak Chathurti and it is appropriate that Shri Hari Vinayak Patas-  
kar has today moved the motion for  
reference to the Select Committee.  
This day is auspicious for him and I  
hope he will have a very good time  
in this House.

I submit at the outset, without  
boasting, that perhaps I have got a  
little more experience of elections  
than many of my colleagues in this  
House—though not all.

**Pandit Thakur Das Bhargava:**  
Question.

**Shri Kamath:** I said “many, though  
not all.” I fought the general elec-  
tion as well as a by-election; and  
not only that, I have run the whole  
gamut of the judicial process right  
from the Election Tribunal to the  
Supreme Court.

**Pandit K. C. Sharma (Meerut  
Dist.—South):** And not any the  
wiser.

**Shri Kamath:** If wisdom is what  
Pandit K. C. Sharma had, I should  
rather not have such wisdom at all.

I must, at the outset, pay a tribute  
to the work of the Election Commis-  
sion which is a body set up by the  
Constitution, though I cannot pay the  
same compliment to the election ma-  
chinery, the executive machinery, set  
up in the districts and in the States.  
The more or less unbiassed working  
of the Election Commission has not  
been emulated by the executive ma-  
chinery set up in the States and in  
the districts and the constituencies.

My hon. friend, Shrimati Renu  
Chakravartty has traversed a good  
bit of ground about both these Bills.  
So, without reiterating the points that  
she has made, I shall confine myself  
to certain other matters. I shall go  
right from the initial process of the  
preparation of the electoral rolls to  
the final process of the election peti-  
tion; as it has been referred to by the  
hon. Minister himself.

As regards the electoral rolls, I  
would submit—I would make my  
points briefly so that I may utilise  
the short time at my disposal to the  
best advantage—that as regards the  
preparation of the electoral rolls the  
organised parties in the country must  
have the right to submit to the pro-  
per authorities the lists of voters  
whose names are inadvertently, deli-  
berately or accidentally left out in  
many of these draft electoral rolls.  
My name itself was left out at the  
time of the general election and I  
had my name included at that time.  
It was again missing at the time of  
the by-election. It seems to be that  
there was a sort of conspiracy on the  
part of, I cannot say the ruling party,  
but the machinery somewhere. For  
it is very strange that a candidate  
who contested the general election  
should have his name deleted at the  
time of the by-election three years  
later. I had to pay a fee for get-  
ting my name included. I would  
say, in this connection, that the inclu-  
sion of the names of electors should  
be free up to a certain date, free,  
without the payment of any fee or  
charge. It may not be possible after  
the electoral rolls have been given  
to the Candidates, but up to almost  
the last date it should be free, and  
organised parties should be permit-  
ted to submit to the proper authori-  
ty list of voters who, in their opin-  
ion, have been left out, and they  
should be scrutinised by the authori-  
ty concerned. Two copies of the rolls  
should be made available to the con-  
testing candidates free of cost—at  
least one, if not two. At present,  
each candidate in a parliamentary  
constituency has to pay from Rs. 500  
to Rs. 600 for the one copy of the  
electoral roll.

**Pandit Thakur Das Bhargava:**  
Dummy candidate also? (*Interrup-  
tion*).

**Shri Kamath:** I know Bombay  
State is progressive in some res-  
pects.

**Pandit Thakur Das Bhargava:**  
That means that to a dummy candi-

date also a present of Rs. 500 or Rs. 600 worth of property should be made.

**Shri S. S. More:** Contesting candidate.

**Shri Kamath:** If he wants to buy a copy of an electoral roll he has to pay a very large sum of about Rs. 600 today. Therefore, I submit that a contesting candidate must get two copies free, at least one free copy, and an organised party, or the party committee in every State should get at least three copies of the electoral rolls free for their use.

Next, coming to the question of polling and counting, I agree entirely with my hon. friend, **Shrimati Chakravarty**: that the executive machinery in large areas of this country was misused—I would not use a stronger word 'prostituted'—for the benefit of the ruling party. Let me refer to one or two incidents only as it will save much of our time.

The Ministers, when they went out on tour, either in connection with the State Assembly elections or Parliament elections, invariably travelled in Government vehicles or State vehicles, and advance notices of their tours were sent to officers at the district headquarters or tehsil headquarters so that at every station and at their destination officers mustered strong and received their bosses—and naturally people were impressed by the demonstrations and receptions that were accorded to the Ministers. The Ministers occupied, all of them whole circuit houses, and the Prime Minister himself admitted this fact in the House—not in this House but in the Provisional Parliament—when I raised the question in February 1952 after the last general elections. His contention was that a Minister goes not merely as a party member or party leader but as a Minister also, and that, therefore, both these functions are combined in one and the same person even at the time of elections. I remember that **Mr. Attlee**, the

British Labour Leader, and Prime Minister then, after the dissolution of the British House of Commons in 1951, went in his own private car—it was reported in the papers that he travelled in his own private car....

**Shri Asoka Mehta (Bhandara):**  
....driven by his wife.

**Shri Kamath:** Yes, but there are no views to some Ministers. (*Inter-ruption*). It is on record, however, that that Labour Leader went in his own private car and did not use a State vehicle. But here not merely State vehicles are used but I am sure that I.A.F. Dakotas are also used; and special trains were run in Madhya Pradesh during elections. The Prime Minister travelled by a special train from Khandwa to Jabulpore. There was a proposal for having a landing strip at Hoshangabad....

**An Hon. Member:** Hoshangabad is his place and therefore he knows it.

**Shri Kamath:** There was a proposal for constructing a landing strip at Hoshangabad for an aircraft for this purpose, but ultimately it did not materialise because they found that the ground was not suitable. The special train from Khandwa to Jabulpore was therefore arranged, and I do not know whether the expenses of this train were borne by the State or somebody else. But this sort of misusing the resources of the State for the ruling party by the executive or by the administration is reprehensible. Reference was made by my friend to the All India Radio. It is nothing less than the ruling party's megaphone—not merely in the last general elections, even later also, not merely speeches by Opposition Leaders—I do not include all members of a party—even by the leaders of the parties, were blacked out by the All India Radio. It is a monopoly of the Government. Not merely did they black out the opposition parties, Speeches, but a petty speech of a Congress Minister, a petty or a chota Minister or some Parliamentary Secretary opening a restaurant or some tea shop or pan

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shop—that was reported on the All India Radio. Recently a very important statement by an eminent leader like Jayaprakash Narain criticising the Prime Minister's Patna speech was not even mentioned on the Radio; it did not find a minute's—I would say not even a second's—mention in the All India Radio news bulletin. The AIR is really Government's loudspeaker and megaphone. I support the suggestion made by Shrimati Renu Chakravartty that opportunities for broadcasting must be given to all the parties during the time of the general elections, as is being done in the United Kingdom and the United States. There are of course private systems in the U.S.A., but here it is all a monopoly. The B.B.C. allows all parties to broadcast during the time of the general elections.

Coming to the nomination business I would suggest that the scrutiny of the nomination forms should be done not by the Returning Officer that is, the Deputy Commissioner or the Collector, but by the judiciary, say, the District Judge. People may have more confidence in his judgment, and it might be done by him and not by the Returning officer.

So far as polling booths are concerned, the distance should be ordinarily not more than one mile and it should in no case exceed three miles. In my own constituency, in Hoshangabad, in some places polling booths were as far as or as distant as 5 or 5½ miles from the villages. I was told that in jungle areas it was difficult to have polling booths within the distance of three miles. But this should not happen again.

The next point is about counting. About counting, there have been numerous complaints in the last general elections.

An Hon. Member: You have been a victim.

Shri Kamath: Yes, I was a victim and therefore, I would like to dwell more upon that. The Chief Election

Commissioner paid visits to Nagpur and other State capitals after the general elections, and he admitted later on that the ballot boxes were tamperable though for the purpose of election petition the law required that one should actually prove that the boxes have been tampered with. That was very difficult in most cases. In Nagpur there was a demonstration by two or three political workers.

An Hon. Member: You witnessed it.

Shri Kamath: I witnessed it also. It was actually shown that without breaking the seals and opening the ballot boxes the ballot papers could be removed. The Election Commissioner was a witness to that demonstration and he admitted later on that the boxes were tamperable but unless it could be proved that they were tampered with, nothing could be done. I would submit that the ballot boxes should be foolproof and knave-proof.

Shri S. S. More: It is only a question of the method of election.

Shri Kamath: Hundred per cent perfection should be there in making them so that they may not be tamperable.

The next safeguard as regards the safety of ballot boxes should be that counting should take place within two or three days after polling is over. There should not be an interval of five or six weeks between polling and counting as happened in many places in the last general elections. In my own constituency the polling in one area took place on the 30th of December 1951 but the counting took place on the 3rd of February 1952. From 30th December to the 3rd of February the boxes were lying—I cannot vouch for that fact but I was told—in the house of one of the election officers and later transferred to the treasury of the District at that place, which was very objectionable. We, therefore, made a suggestion, in the bye-election held



in April, to the Election Commission that the candidate be permitted to accompany, either by themselves or through their agents, the ballot boxes in transit....

I find that the Chair is having some discussion with the Secretary.

**Shri S. S. More:** You can address the Minister.

**Shri Kamath:** I can address the Minister only through the Chair.

**Mr. Chairman:** You may proceed.

**Shri Kamath:** I would like to catch your ear also—I do not mean literally (*Interruption*).

The suggestion is that the candidates or their agents should be permitted to accompany the ballot boxes in transit from the polling booth to the district headquarters or wherever else it may be. Secondly, I would suggest that the candidates be permitted to have their own guard outside—they cannot go right inside the premises of the Treasury at district headquarters—the compound so that the boxes could be absolutely knave-proof, and proof against all sorts of mischief. Unfortunately, in our country democracy is still in its infancy, and the officers of our governmental machinery have not yet caught the spirit of democracy. They should not bother as to who wins and who does not win. In England, for instance, within 20 days the machinery goes into action. Nobody bothers as to how the voting or counting takes place. Everybody has confidence in the government machinery. Here, I may mention one instance. In the last election when I was in Hoshangabad, a Returning Officer making a reference to the Election Commissioner about validation of certain ballot papers made a very strange remark; that is to say, he said, a dispute will arise in the event of one of the candidates winning by a very narrow majority. This was quoted in the Supreme Court and in the High Court of Nagpur by my

counsel, and the other counsel also. Why should he bother whether somebody wins by a narrow majority or a big majority? It is not his concern. He asked for instructions in certain matters because, otherwise, in the event of a narrow majority a dispute would arise. That clearly shows that these government servants were not immune to influences emanating from certain higher quarters, probably Ministers and others.

Here is very eloquent testimony to this effect, that *mala fides* of the Government are clear from its omission to include one of the recommendations, a very important recommendation, of the Election Commission in its report on the first general elections. It is given on page 207, recommendation No. 18 of the summary of recommendations. In that the Election Commission has recommended that Section 129 of the original Act should be made applicable to exception whether they be charged with any election duty or not. I will read for your information, Sir, and for the information of my hon. colleagues the relevant section 129 of the original Act. It says:

“Any person who is a Returning officer, or an Assistant Returning Officer, or a Presiding Officer or a Polling Officer at an election, or an officer or clerk appointed by the Returning Officer or the Presiding Officer to perform any duty in connection with that election shall in the conduct or management of the election do any act other than giving of votes....” (He is entitled to give his votes) “for the furtherance of the prospects of the election of a candidate. No such person aforesaid and no member of the police force shall endeavour to give his vote at an election etc. etc.”

This is an important section and the Election Commission after its experience gained at the last General election recommended categorically

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that section 129—that is the section which I have quoted—should be made applicable not only to this category of officers—Presiding Officer, Returning Officer and all these—but to all government servants,—one and all, without any exception. This omission is the greatest blot upon the Bills which have been brought forward.

5 P.M.

**Pandit Thakur Das Bhargava:** It is the present law also.

**Shri Kamath:** I am referring to this particular section.

**Pandit Thakur Das Bhargava:** But there are other laws under which action can be taken if any government servant goes about canvassing for any particular candidate.

**Shri Kamath:** Of course, the election petition comes later on, but here, the law itself should lay down the position. I ask, why should not that be included in these amending Bills?

**Shri S. S. More:** Who has to decide that this law has been violated?

**Shri Kamath:** I would ask the Minister to reply to my point about this recommendation contained in the Election Commission's report, and say why it has not been taken notice of. If it is already in the law, then, such a recommendation need not have been made by the Election Commission. The Minister knows more than an experienced officer. He has been in the legal profession.

**Shri Pataskar:** I shall reply to that later.

**Some Hon. Members:** It is 5 o'clock now.

**Mr. Chairman:** I think he can finish his speech today.

**Shri Kamath:** I will take ten minutes more.

**Mr. Chairman:** Yes; you may finish the speech. The House may sit for about ten minutes more.

**Shri Kamath:** I would now make another suggestion. In fact, they are rather minor suggestions but they are fairly important. The ballot boxes must be enclosed in gunny or other bag and sealed with the seal of the Returning Officer and the seal of the polling agents also. Many of us have felt that the counting and re-counting stages were not correctly gone through and there has been a lot of tampering though it could not be actually proved.

Then, I come to the number of agents, especially the counting agents. Agents can be there besides the candidate himself. The rules have been amended so as to permit the opening of many boxes at one and the same time. Therefore, in order to facilitate supervision of counting by candidates and their agents, there should be more agents allowed at the time of counting.

Now, I come back to nomination. There should not be any necessity for a proposer or a seconder. Any person who is a voter or is entitled to stand as a candidate must be accepted.

**Shri Pataskar:** The seconder is proposed to be dropped.

**Shri Kamath:** Even the proposer can be dropped. I do not find any necessity for a proposer either.

Next I would now like to refer to the tribunals.

**An Hon. Member:** There is no quorum.

**Mr. Chairman:** I do not think there is any necessity to insist on quorum now. He will be finishing his speech now. I see some Members coming in. I think there are fifty Members. Anyhow, the hon. Member will proceed.

**Shri Kamath:** As regards tribunals, I do not see why a provision for two district judges is sought to be made. It is rather dangerous. In the case of an election petition against a

Minister, as happened in my own State of Madhya Pradesh—it took such a long time, that the Supreme Court had to pass strictures in the matter of the election petition against the Finance Minister there. It has been remitted for trial and an order has been passed that it should be tried by judges and advocates outside the State of Madhya Pradesh. Already the Tribunal has gone into operation with three Members from Bombay State. So, this aspect also has got to be considered by the Select Committee.

I would like to refer to one other thing, namely, postal facilities for candidates. In England on which our law is based—if it is not a replica exactly, it is modelled on that—under section 79 of the British Representation of People Act, some postal facilities are given—one communication post free to every voter by every candidate.

Lastly, I would revert to the point to which I referred at the beginning and which has been stressed by Mrs. Chakravarty also. This is a very important point and I would like to stress that again. I would submit that some way must be found so that the Minister does not function as a Minister when he goes on election work. In my own State, the Ministers went on tours specifically described as election tours. When Mr. Shukla, the Chief Minister, was on an election tour, some people approached him with certain application and petitions. Then he said:

“हम तो चुनाव के दौर पर घाये हैं और हमारे पास कोई दरखास्त वगैरह सुनने का वक्त भी नहीं है। चुनाव के बाद देखा जायेगा।”

That means the Chief Minister went definitely, specifically and categorically on election tour with all the retinue of police officials and so on. I saw him at Itarsi Junction with the D.I.G. of Police and other officials around him. I would suggest that the Prime Minister himself ought to

set an example in this matter. When the Prime Minister goes about on election tour, if he does not resign his office so as to partake in the elections he must see to it that he campaigns only for his Party and not for individual candidates. When the Congress President or the Prime Minister goes on tour it should not be for canvassing for a particular candidate. The heads of parties can canvass only for their parties and not carry on a campaign for individual candidates. I have got a certain document with me; I am both to use that document, but with a heavy sorrowful heart I produce it here as proof. It is a sad affair. Our Prime Minister said here in this House that “as Congress President, I visited hundreds of places. I did not regard the Member’s constituency as so important for me to pay attention to or to visit”—that is, my constituency. But here I have got a photostat copy of a letter written in December, 1951, by the Prime Minister to Sheikh Abdullah. The Prime Minister wrote that “it would be worthwhile sending some competent workers whom he could utilise in special constituencies.” The Constitution has abolished special constituencies, but he calls them “special constituencies” according to his own concept. One name I shall not mention, as is my hon. colleague in this House. For instance he says:

“I would like to help Syed Ahmed of Hoshangabad.... (one who is my hon. colleague here)... Abdul Ghani of Gurgaon and some people in Rajasthan”.

But, these three are mentioned by name. Again, in the recent bye-election also, it is most surprising a leaflet like this was used, and the people who saw this leaflet were amused and angry. I can understand the Prime Minister or the President of the Congress appealing to voters for their own party candidates. But this is by name for or against another candidate. This is what the leaflet says. A lakh of copies were distributed in my constituency.

14655 Representation of  
the People (Amend-  
ment) Bill and

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Representation of 14656  
the People (Second  
Amendment) Bill

An Hon. Member: Not so bad.

Shri K. Math: I was there for a longer time. The hon. Member was there too, I know.

“लोक सभा में आकर अच्छा काम किया”

There is nothing wrong here, though it may not be true:

“मैं नहीं समझता, उनसे अच्छा कोई भी प्रतिनिधि भोसंगाबाद के वोटर चुन सकते हैं” कोई भी, हिन्दुस्तान भर में चुन सकते हैं।

This sort of appeal does not benefit the Prime Minister or the Congress

President. I would suggest reference only to these three candidates by name, and to special constituencies in a letter written to Sheikh Abdulla in December, 1951 on the eve of the last general elections. It may be an uncharitable view, but it has made me suspect and others also who have seen this, that though the Prime Minister talks of secularism and what not, he has got a secular head with a communal heart and I may add, international feet. I would refer to other points after this Bill comes back from the Select Committee.

The Lok Sabha then adjourned till eleven of the Clock on Wednesday the 21st September, 1955.