

appended a schedule showing the number of Bills which are now pending before the Legislature of Travancore-Cochin so that we have an idea whether we can get time. I want that it should be there before a statement is made in the Statement of Objects and Reasons that Parliament might not have time to deal with them. I also want to know whether the Speaker of this House was consulted before such a statement was made. It is for the Speaker and the House to find out whether we can get sufficient time for the business of the Travancore-Cochin State before having this extraordinary piece of legislation. We would like to have this information before we can apply our mind as to whether we should oppose the Bill at this stage or not.

**Shri A. M. Thomas** (Ernakulam):  
One word, Sir.....

**Mr. Speaker:** I am not going to allow a discussion on this matter. I am not going to allow cross-questions as to what are the other points and so on and so forth. Those can be had for a later stage. There will be ample opportunity at the consideration stage. The hon. Members may say that this ought not to be done or that ought not to be done and that powers should not be given to the President and all that at a later stage. Now, I will put it straight to the vote of the House. Has the hon. Minister anything to say?

**Shri Datar:** So far as the first point is concerned, there are 3 or 4 Bills pending before the Travancore-Cochin Legislature and some power would be necessary for the President to make laws especially as they deal with tenancy.

So far as the other question is concerned, it is entirely for you to give time to this Bill as early as possible. All other questions dealing with the merits of the Bill will be discussed when the matter comes up for consideration.

**Shri Kamath:** In this Session?

**Mr. Speaker:** This will be disposed of in this Session, I think.

The question is:

"That leave be granted to introduce a Bill to confer on the President the power of the Legislature of the State of Travancore-Cochin to make laws."

*The motion was adopted.*

**Shri Datar:** I introduce the Bill.

## REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL

**Mr. Speaker:** Now, the House will take up further consideration of the motion 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, as amended, be passed.

**The Minister of Legal Affairs (Shri Pataskar):** Sir, I will give my reply after hearing the speeches of hon. Members.

**Shri A. K. Gopalam** (Cannanore): This Bill is a very important piece of legislation which affects the future democratic set-up of this country. The members of the Select Committee as well as the Chairman have to be congratulated because they have made certain amendments in the law. But, so far as the Government is concerned, they have not, I am sorry, accepted some of the most important amendments. If the experiment of parliamentary democracy were to succeed in our country, it is very essential that the choice of the representatives of the people should be made in a very fair, free and impartial manner. It is not only enough that the people are given the right of franchise but it is also necessary that they should be given the opportunities to exercise that franchise in a fair, free and impartial manner. The vote in a democracy is the free expression of the opinion of the people. So, there should be nothing in the way of the voter exercising his free will. What has been our past experience? Our past experience, in the last general elections as well as in the other elections conducted afterwards, was that there were so many things, there were intimidations by the landlords, especially in the villages, where the voters, agricultural labourers and others, who were under the influence of landlords, were not only intimidated, but there were also instances where they were forcibly stopped on the election day from going to the polls to exercise their franchise. This took place at several places.

As far as Travancore-Cochin is concerned, I know that there were several instances where the religious heads distributed leaflets and threatened the voters saying that if they voted for certain political parties and did not vote

[Shri A. K. Gopalan]

for the Congress Party, certainly they would incur divine displeasure. There were again instances where the voters belonging to certain religious sects had been asked only to vote for certain persons. When some issue was raised in the High Court, unfortunately even the High Court stated that in certain circumstances such a thing could be done.

[Mr. DEPUTY-SPEAKER *in the Chair*]

There were also instances where openly the religious sentiments of the voters were utilised and they were intimidated to vote for certain parties.

The next question is about giving money and this question was discussed yesterday. As far as corrupt practices are concerned, not only in the Parliamentary elections or State elections but also in Panchayat elections, you can find them. I know in my district about six months back, a panchayat election took place, but there was no secret voting by ballot; it was only by raising hands; the nominee of the Congress Party spent about Rs. 25,000 as far as giving money openly is concerned and there is no secrecy about it. Even such things are practised today not only in big elections but also in the panchayat elections.

Another thing to which attention had been drawn by Shri Kamath yesterday was that in the elections in many provinces—I have seen in more than three provinces—the pictures of Mahatma Gandhi as well as the Prime Minister had been used, stating "Vote for this candidate because your vote to him is a vote to the Congress, is a vote to those persons whose pictures are shown here". There had been open inducement in that way.

In the report of the Election Commission on the first general elections in his country, two things have been brought out; that the elections must be conducted and directed in a non-partisan manner and that the party in power must not be placed at any time in a position to influence the conduct of the elections in a manner which will go to favour its own interest. These two important things are mentioned in the report. In the Bill these two things must be looked into first.

I will not go into much detail, but as far as the amendments given by the Opposition are concerned, most of them, if accepted, would have certainly removed these two defects which the Election Commission has pointed out. If the elections are to be conducted free and fair, then these two things must not have been there, and that was the reason why so many amendments had been tabled by the Opposition. If our amendments had been accepted, certainly these defects would have been removed.

I want now to point out certain things, in addition. To ensure free and fair elections, proper provisions in the Bill relating to the conduct of elections and regulating the process of selecting the representatives are necessary. As far as this Bill is concerned, what are the things that we find in it?

First, take the disqualification clause. It is stated that those who are convicted for more than two years' imprisonment will be disqualified and they cannot stand for election. May I put a question to the hon. Minister of Legal Affairs as well as the other Members of this House? What happened before 1947, when the Congress was fighting for freedom and when a foreign government was here? I know how a Congress leader in my province, who had been convicted in 1922 in the Khilafat Movement and sentenced for transportation for life, was disqualified from standing for the elections—he was released after eight or ten years and he applied to stand as a candidate in the first elections, but he was disqualified because he was convicted and sentenced for transportation for life. There was at that time such a big agitation in which we also took part, that is, the Congress Committee and all other parties, and we stated that the action of the Government then was wrong, that it was undemocratic. We said so because he was only a political prisoner and in the context of the fight for freedom he was convicted. When the Congress Party has come into power, it has framed those very same rules, against which we all protested at that time. When we now say that the elections should be free and fair, and that we must know the mind of the people, I do not know why this particular clause is put in here. There was an amendment tabled stating that those persons, who are convicted for two or more years but not involved in moral turpitude, should not be disqualified. Even that amendment was not accepted. I do not know why it was not

accepted. Though a person had been convicted for more than two years imprisonment or more, if moral turpitude was not involved therein, he should have been allowed to stand for the election and he should not have been disqualified.

There was another amendment tabled. The people who had been convicted and sentenced, have suffered their imprisonment for whatever offence committed by them. After they are released, you cannot punish them again. Under the Constitution, you cannot punish a man twice for the same offence; you can punish him only once. For a certain offence, he was imprisoned. After he is released, he is being disqualified to stand for election. This is a fundamental right for a man. He has got some opinion against the Government and he wants to show that opinion. Any citizen in the country has a right to say what he thinks of the Government and he does it by casting his vote against the Government, which means that the policies or actions pursued by the Government are not liked by him. This fundamental right of a man to exercise his franchise thought the franchise is given, is taken away. As far as that question is concerned, we had given an amendment and even that had not been accepted.

I can only think that this is a revenge against the opposition parties. We may be convicted tomorrow. Even the Prime Minister had been convicted for more than two years. What would have happened if the Prime Minister, who had been convicted under the British regime, had not been allowed to stand for the election? When we want to have free and fair elections conducted, when we want to know the opinions of the people, why should this disqualification clause be still there? I will give you an example. In connection with the States reorganisation question, thousands of persons in Bombay and other places had demonstrated and several of them had been convicted for more than two years. Even now a Member of this House has been convicted for ten years; he is not here; he is in jail outside; though that territory is a part of our country, it is now under the rule of a foreign government. What will happen to that Member?

**Shri Pataskar :** We do not recognise that conviction.

**Shri S. S. More (Sholapur) :** He will not come under this disqualification.

**Shri Venkataraman (Tanjore) :** We are concerned with conviction in India.

**Shri A. K. Gopalan :** I am glad that at least he is not disqualified. I want to know about the other persons who have been convicted. In Bombay and other places there had been trouble and people had been convicted, and sentenced for more than two years. After they are released, what will happen to them? In the ordinary circumstances, in so many places, there may be strikes by workers and the worker may be sentenced for two years or he may be sentenced for more than two years.

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There may be certain sections in the Indian Penal Code or the Criminal Procedure Code by which you can convict a man for two years even for satyagraha. All those persons who fought against the Government, who fought for their rights, will be disqualified. Then, there is this disloyalty to the State. What does it mean? It means disloyalty to the Government. There are so many persons who have, under one Act or another, been suspended or sent away from service. Many of them have not even the right to ask the Government as to what their offence is they are not given a charge-sheet. They do not know why they are dismissed after many years of service. It does not stop there. They are not even allowed to exercise their franchise right; they are not allowed to stand for election. This is very important. The right is given. You have given the Fundamental Right to express his opinion at the time of the election. But, at the same time, there are so many disqualifications by which thousands of persons are denied this right.

**Mr. Deputy-Speaker :** The hon. Member promised that he would try to finish within ten minutes.

**Shri A. K. Gopalan :** I did not promise. But, even the Government breaks promises.

**Mr. Deputy-Speaker :** The hon. Member complains about that. Why should he give an opportunity to be complained against?

**Shri S. S. More :** Does he mean to say that he will behave the same way as the Government?

**Shri A. K. Gopalan :** Sometimes we may be forced.

**Shri Pataskar :** Every party's ultimate goal is to come here. . . . .

**Shri S. S. More :** And behave the same way ! (*Interruptions.*)

**Shri A. K. Gopalan :** If these are there, how is the Bill going to help the people to express their views with greater freedom?

Then, I come to the election deposit. Only a man who can get Rs. 500 at the beginning can qualify. Suppose a person has got only Rs. 100, how will he be able to represent the people? The amount of deposit should be lowered. There was an amendment to the effect that there should be a nominal amount for this purpose but that amendment was not accepted. Only those who have got Rs. 500 will be able to stand for election.

There was also another amendment to the effect that facilities for broadcasting, etc. must be made available to the other parties also but that was also not accepted. Clause 81 says that certain rules will be framed and they will be laid on the Table. There are many things that can be done in the rules. Some advantages can be given to the voters and to the people. I request the Minister that the rules may be framed immediately and the new rules may be placed before the Parliament so that we will have another opportunity to see whether anything could be done to remove the difficulties. There have been some useful amendments but the Government did not agree to them. If those amendments were accepted, many things which stand in the way of free and fair elections would have been removed. My only regret is that the Government did not agree to the two fundamental principles which have been pointed out by the Election Commission to make elections free and fair.

**Shri N. C. Chatterjee (Hooghly) :** In spite of many differences, I think we should start by congratulating the hon. Minister, Shri Pataskar for having successfully piloted two very controversial and difficult measures—The Hindu succession Bill and this Bill, Shri Pataskar's Ballot Act, if I may call by that name the Representation of the People (Second Amendment) Bill, 1955. I was at a big meeting the other night organised by the Arya Samaj at the Dewan Hall and they asked me to explain the good and bad things of *Hari Smriti*. I did

not understand and later on I discovered that the people of Delhi called the Hindu Succession Bill that way because Shri Hari Vinayak Pataskar had sponsored it. Anyhow, it is a good achievement.

I have been trying to make a balance sheet or a profit and loss account. I find that we have distinctly improved this Bill in four or five ways. Firstly, we have removed the many disqualifications and given the Election Commission the necessary power to remove certain absurd disqualifications based on technical breaches of law. That is a distinct gain. Secondly, we have simplified the corrupt practices—major, minor and illegal. As you know illegal practices were never invoked for the purpose of successfully impugning an election. I think we have done well in removing all these absurd and artificial distinctions.

Thirdly, we have simplified the nomination procedure. I wish we had not merely eliminated the seconder but also eliminated the proposer as the Election Commission recommended. Lastly, the tribunal procedure has also been simplified. I wish non-official elements had also been kept. But, now that the Supreme Court has definitely stated that the Nagpur High Court was wrong in Mr. Kamath's case and that Article 226 can be invoked successfully and prerogatives could be issued against the election tribunal, it is much better for providing for appeals. I wish Pandit Thakur Das Bhargava's amendment had been accepted so that the account of the election expenses would be filed after election petitions had been presented so as to make it impossible for any person to blackmail or artificially bolster up a fictitious case in order to harass the successful candidates.

On the other hand, we have to take into account the losses also. I regret to say that there are losses. I am quite sure that Shri Pataskar will have to introduce another Bill after the States reorganisation takes its final shape and the artificial distinction between States A and B and C is eliminated so that there may be some kind of uniformity. Then, this Bill will have to be amended again. The first dissatisfaction or regret I voice is that although we have got a ceiling in name, that ceiling has really been torpedoed. I am glad that the Minister had to yield under the Opposition's heavy bombing, also reinforced by some Congress friends. But it is no good keeping

a ceiling like that and at the same time allowing big and resourceful parties to spend any amount of money. Shri Pataskar protested, more than once, that Shri Asoka Mehta's figure of Rs. 3 crores for the election fund of the Congress was not right. But he protested too much. We would like to know what is the figure. Anyhow, he has not given that.

**An Hon. Member :** Seven crores.

**Shri N. C. Chatterjee :** We do not know. Anyhow, if the ceiling has to be effective, it should be on the basis of Shri Deshpande's amendment or something like that which would place the parties on the same footing. The amount spent in the special interest of particular candidates also would then be included in the returns so that we knew exactly where we stood.

Secondly, I also share Shri Gopalan's regret that we have not removed clause (b) of section 7. Although independent we are still suffering from the vestiges of imperialism. What is the point in keeping this absurd disqualification? I am happy that the Minister has assured us—and that is the correct interpretation—that our hon. colleague, Shri T. K. Chaudhuri who has sacrificed so much for the cause of the liberation of Goa will not come under this disqualification at all, because his conviction and sentence has not occurred in India. Of course we want India including Goa, but it is not yet so under the Constitution. But still there are people in this House who might be affected because they had to take part in certain Satyagraha movements. It is not the monopoly of one man or one party or one organisation. It is meant for the purpose of vindicating the fundamental rights of citizens or certain Members for which an organisation stands. Therefore, it is not right to keep those provisions there.

I am also sorry that the impersonation clause which Shri Kamath wanted to sponsor was not accepted. It leaves a very bad taste in the mouth that such a big party like the Congress Party, of which Shri Jawaharlal Nehru is practically the head—he is Prime Minister and the leader of the House, and he was sitting here—was solemnly voting down that provision regarding impersonation—whether impersonation was to be made a corrupt practice or not. That

shows that they do not really mean honest business and only pay lip service to fair and free elections.

I wish also that another amendment had been accepted namely, regarding the ministerial tours. These tours unfortunately synchronise, at the psychological moment, with a by-election. It is a common practice and it is our common experience that whenever there is a by-election, we find, immediately in that area, that the Ministers have got to visit and do some official work. Then that means that official pressure, intimidation or official influence come into play and they take many insidious and subtle forms which are brought into play. We wish something could have been done to stop such things. Shri Kamath had given the example of Mr. Attlee. That could be followed not only in word but in practice. I am quite sure that men like Shri Jawaharlal Nehru or Pandit G. B. Pant do not want that the elections should be won by their party by dishonest means. Things should be done in such a way that others could follow. They should not only do it themselves but set an example so that the country should know that the big leaders of the big party, the ruling party, do not want to use any of the opportunities given to them for the purpose of furthering their party's election prospects. Those leaders are not merely in charge of the Central Government but are ruling over the destinies of practically a good part of India.

The last point that I would like to make is this. When the time comes for amending this Bill, certain other provisions ought to be taken into account and the lacuna that we now feel should be removed, especially in regard to the point where a lot of discontent has been expressed, namely, the allotment of symbols. They have been done in an erratic way. I do not say that the Minister will exercise any undue pressure on the Election Commission, but I hope the Election Commission will take a rational view of things and exercise their discretion in such a manner that there will be no cause for complaint.

I also wish that if there is any question of keeping any disqualification arising out of offences, it ought to have been kept only in the case of offences involving moral turpitude. I cannot understand why it was otherwise argued. I do not want to make any particular grievance of it, but it is almost absurd

[Shri N. C. Chatterjee]

for this Parliament not to have such a clause in this Bill, especially when the Finance Minister sponsored the Companies Bill and had such a clause in that law. For an offence involving moral turpitude, the directors can be disqualified and certain persons who commit that offence cannot be eligible for managers, and all that, and they could not hold responsible positions under the companies. But when you are enacting the Representation of the People Act, you say you cannot have such a clause because the hon. Minister says that it is vague and illusory. Then, is it not vague and illusory for the Bar Councils Act, for the Legal Practitioners Act and for the Companies Act? I do not feel there would be any difficulty.

Anyhow, I am entirely satisfied that this Bill, as it has emerged from the Select Committee, is a distinct improvement over the Bill which was originally sponsored. This Bill which we are passing today, incorporating as it does the removal of certain disqualifications, is a distinct improvement over the Bill which emerged from the Select Committee, and it will do something to make it possible for us to have fair and free elections. Of course, eternal vigilance is needed not only on the part of Ministers but also on the part of every one. It is only a national and gigantic effort that will keep democracy functioning in the proper way.

**Shrimati Jayashri** (Bombay-Suburban): I rise to support the Bill and I take this opportunity of congratulating the Minister on simplifying the election procedure. We achieved our freedom in a very unique way, and the first election in the republic of India was also a unique one. No shouting of slogans, no rushing of cars, no snatching of the voters, was witnessed. The eyes of the rest of the world were on us. They were looking at us and wanted to know how we will come out of this election programme. We showed that though our people were illiterate, still, we could and we did—behave in a very dignified and intelligent manner.

Sir, I am proud of our women. Our women came in large numbers to the polls. We are told that half the number of voters were women. Though illiterate, they exercised their vote in a wise manner. Nearly 51 per cent. of the voters exercised their franchise during the last election. This shows that there is no necessity for having a compulsory

voting as suggested by some hon. Members, and I am glad we have not accepted that suggestion.

Some of the Members suggested that we should change the mode of voting. I am glad that we have stuck to the mode which we followed during the last elections. That was simple and easy for our people to understand. I do not think we can have a simpler mode for the elections. I am glad that we have not changed it and we are not going to change it.

Many Members have spoken about the submission of the returns of the election expenses. I am glad we have not changed the relevant clause, putting a ceiling on the amount. If we are going to put a ceiling, we should submit the returns during the particular period. If we do not stick to this, then we give a chance to candidates to manipulate and I think our Members here—those who fought the elections—know how expenses can be manipulated. So, we should give as little chance as possible to Members to manipulate, and I am glad that we have kept this clause as it stood. In the last Select Committee which was appointed in 1953, I remember that this suggestion was brought up by Pandit Thakur Das Bhargava, and some of us were there, and we did not accept this suggestion. I am glad we are not going to change this clause now.

I have not much to say. I am glad that our election procedure is going to do justice to all the parties. It is not going to do favour to the majority party alone. It is going to be an impartial election procedure, and in that way, I hope the Members will be satisfied. I hope that the next elections will also be fought in a very peaceful and dignified way.

**Shri M. K. Maltra** (Calcutta North-West): Mr. Deputy-Speaker, Sir, during the discussion it was pointed out several times on the floor of the House that general elections on the basis of adult franchise were one of the biggest experiments in democracy in this country. I quite agree it was. But when we look at the amendments that were proposed by the Government, we feel that the desire to popularise the elections, the desire to rouse enthusiasm among the people to exercise their right of franchise were absent.

The Representation of the People (Second Amendment) Bill, as it has emerged after its second reading, has

not gone far enough to simplify the election procedure. Instances have been cited that in the United Kingdom or in other places, some such procedures are there. But, while comparing India with U.K. or other foreign countries, we must not forget that there are certain difficulties in our country. For example, the low percentage of literacy is there; the difficulties in communication are there. When we will have to enthrone our people to take part in voting and to exercise the privilege of franchise, we should take into consideration all those facts. I am sorry to say that all these facts were not taken into consideration.

My hon. friends, Mr. Gopalan and Mr. Chatterjee have pointed out the disqualifications placed on voters for standing as candidates, like imprisonment for two years or more etc. I think Government should have deleted that rule, because we know that even for securing the smallest demands, people will have to resort to civil disobedience and other measures. Although we are living in a democracy, it is very difficult to get a hearing from the Government and therefore, people who want to secure their demands, have to resort to law-breaking and other things. So, that fact should not have been ignored while putting in that clause. It has been said that the Election Commissioner has the power to relax that rule; but, in a State of democracy, is it right to invest the Election Commissioner, a public functionary, with so much of undefined powers? I am not casting any reflection on the Election Commissioner, but I say it is dangerous to invest a public functionary with too much of undefined powers.

My friend, Mr. Gopalan, has already pointed out that in this country the amount of deposit should have been reduced. The amount of deposit now fixed both for the Lok Sabha and the State legislatures is not commensurate with the per capita income of the people. When you allow a person the right of exercising his franchise, when you allow a person to contest an election, you should not lose sight of the economic conditions prevailing in the country. Therefore, these reasons for reducing the amount of deposit should have been taken into consideration while the Bill was under discussion.

I must confess that during the last four years, the Ministers and Deputy Ministers have failed to create any convention. It is the convention that while

a Minister or a Deputy Minister goes for election propaganda, he must not use the Government conveyances and other privileges. Only three weeks ago, there was a bye-election in Calcutta and I found that Ministers and Deputy Ministers went to address the election meetings in Government cars with liveried orderlies standing by them. Therefore, when the Ministers fail to establish any convention, rules should have been provided to prevent them from abusing their power.

I now come to another question, namely, the question of allowing broadcasting facilities to Ministers. Off and on before the elections, Ministers have been allowed to use the broadcasting station and from there they broadcast to the people about the work of the Government. Of course, it has no direct connection with the elections; but if just on the eve of elections these facilities are utilised by Ministers and Deputy Ministers, it naturally influences the people. Instances have been cited about U.K. In U.K. opposition leaders have been given the facilities to address the people through the B.B.C. That facility has been denied in our country.

Therefore, I must say that these amendments should have been undertaken with an eye to simplify the election procedure, to stop the abuse of power and to stop corrupt practices. But, if we look into the amendments, we are disappointed. About corrupt practices, the simple suggestion of Mr. Kamath about false personification has not been accepted. I may point out that during the last elections three weeks before, persons were challenged for false personifications, but the officers controlling the booths were Government servants. Rs. 10 were deposited for each of those persons. But they were allowed to go to bring identifiers never to return. These things should be stopped; I am sorry that the Government could not accept that suggestion.

Also, during the last elections 450 ballot papers went out of the polling booths, never to return. These things must stop. We expected that the Government would accept the Opposition's suggestion in regard to some of the rules in the Act to stop these things, but the Ministers do not like to establish any convention. With these words, I am of the opinion that these amendments have been prepared more with an eye

[Shri M. K. Maitra]

to keep the ruling party in power perpetually than to simplify the election procedure and stop corrupt practices.

**Shri Kamath (Hoshangabad):** My first regret is that this Act is still not being extended to Jammu and Kashmir. The Minister of Legal Affairs paid a glowing tribute to the competence of the Election Commission and I think as a natural corollary to that encomium, the first opportunity should have been taken to extend the jurisdiction of the Election Commission to Jammu and Kashmir; but that has not been done for reasons best known to the Minister and to the Government, of which the head is the Prime Minister.

My next regret is that my simple amendment providing for a stay by the election tribunal where the party gives notice of his intention to file an appeal in the High Court was rejected and not accepted. I am sure within the next few months or after the next elections, there will be practical difficulties in the enforcement of that particular provision of the Act and then I am sure the Government will come before this House with another amending Bill in that regard. Let events take their own course. The Government which has legislated in haste will amend at leisure.

Next, I would like to dwell upon one more point and that is the amendment which was supported unitedly by all sections of the Opposition yesterday, with regard to party expenditure or organisational expenditure in sponsoring or promoting the election of their candidates. I am given to understand that various interpretations, many of them misleading, are being put upon the Government's acceptance of this amendment. But, I am sure that the Minister of Legal Affairs who was present in the House during most of the debate, and at other times was assisted by some of his active colleagues, has not lost sight of the trend of the speeches made on this side of the House. There is no use accepting the letter and rejecting the spirit of the amendment which was moved by the opposition yesterday. If after accepting the opposition amendment, they lose sight of the spirit of the amendment and the speeches on this side of the House,—if they ignore that,—I for one have no hesitation in saying that the Government would be acting dishonestly, acting *mala fide*, talking with the tongue in their cheek, and I hope they won't do it. I hope that the rules

to be framed under the Act will make specific provisions, having due regard to the spirit and the trend of the united feelings of the opposition in this matter with regard to the showing of party expenditure in the election expenses return. Otherwise, I am sure, if they ignore this, if they go their own way, it will be a boomerang which will recoil on them some day, and Nemesis will overtake them sooner than they imagine. I hope they will not descend to such a level, and that they will incorporate the substance of the amendment as reflected in the speeches of the opposition members in the rules to be framed under the Act. I support wholeheartedly Shri A. K. Gopalan's suggestion that if the Government are really serious about the matter of the rules being examined by the House in the interests of fair and free elections, in the interests of the purity of the elections, they will try their best to see, not only try, but see that the rules to be framed under clause 81 shall be laid before both Houses of Parliament during the next session, July-August, so that we would have enough time to examine them for 30 days before the next session is over, and finalise the rules so that the spirit and substance of the discussions on both sides of the House may be incorporated in the rules with regard to the important provisions of the Act.

One word more and I have done. I am very very sorry that my amendment in regard to including impersonation as a corrupt practice on the ground of which an election could be held void by a tribunal or appellate courts, has not been accepted by the House. I apprehend the reaction of this rejection on the other side will be very unfortunate for them. I do not mind; it is all right for us. It would be unfortunate for them. Already in some other connection, one word, in the countryside, I have heard, used and that word will be used with reinforced vigour again and that is 'चार सौ बीस'. I have no doubt that that word will be heard again in the countryside that this is a Government of चार सौ बीस when they did not accept the amendment of impersonation, being included as a corrupt practice. I would be sorry if that word 'चार सौ बीस' is broadcast—I am sure the radio will not broadcast it—all over the country and the urban areas against my friends opposite, particularly the Minister of Legal Affairs for whom I have great



affection and regard. I do not think that he or many of his other colleagues fall under the category of 'चार सौ बीस'. Unfortunately it may be used as a powerful weapon against them. They will rue the day when they defeated this amendment as regards impersonation.

**Shri Venkataraman:** Apart from Chapter III of the Constitution, the most important piece of legislation which guarantees political rights to the people of India is the Representation of the People Bill. I am very happy that this Bill is about to be passed with a fair measure of support from all sections of the House. It is true that it is not possible to satisfy every one. But, the measure of support that it has received from all sections of the House is a fair indication of the genuineness of feeling on the part of the Government that democracy should prevail not only in letter, but in spirit also. But, there are a number of allegations made in the course of the debate. Owing to the procedure that we follow in which the people who move amendments speak and only the Government replies, a lot of these allegations went unchallenged, I think it is very unfair to the Congress party and the party in power. It was said by Shri A. K. Gopalan that there was intimidation of voters and so on. I know cases where the other party has intimidated workers from going to the polls, intimidation of workers to votes for a person and I know also of cases where other parties have said, if you vote for my party, we will divide the whole country into holdings of five acres.....

**Shri A. K. Gopalan:** I said only intimidation. I did not say Congress party. Wherever there is intimidation.....

**Mr. Deputy-Speaker:** Even otherwise, I am doubtful if the hon. Member would be justified in answering the criticism at this stage.

**Shri Venkataraman:** I am only trying to show that it is not as if allegations could be made only against one side. There are plenty of things to be said on the other side also. Let not the country go with the impression....

**Shri A. K. Gopalan:** Let my hon. friend be clear. What I said, was that the last general elections showed that all these things had been done irrespective of any Bill that is passed here.

I did not say when I said about these things that a certain party did it or the Congress party did it. I only said, intimidation and other things had been there and it must be stopped.

**Shri Venkataraman:** I thank Shri A. K. Gopalan for the clarification. I withdraw the criticism. If that is what he said, there is no criticism.

The next point so far as the law which is to be enacted is concerned is, it has made a very great improvement in the matter of dealing with election petitions. We know of cases in which when an election tribunal gives a finding, the parties did not know to which authority they should go. Firstly, they moved the High Court. After some time, the High Court said that it had no power to entertain these petitions, under article 226. Thereafter, they moved the Supreme Court. This created a lot of confusion. Election petitions which normally should have been disposed of within a short time were revived over and over again by appealing to different authorities. Now, the entire confusion has been done away with. We have now provided an appeal to an authority like the High Court which should be satisfactory to all the parties. That is a very great improvement made and is being welcomed by all parties concerned.

The other point to which I would like to draw pointed attention is with regard to election expenses. Yesterday, in the course of the debate with regard to sub-clause (4) of clause 77, I said that if that clause is dropped, it would lead to arguments whether party expenditure would or would not be included in the total permissible expenditure of the candidate. My hon. friend Shri N. C. Chatterjee immediately got up and explained. I would like Shri Kamath to hear this. After hearing Shri N. C. Chatterjee's explanation, he voted for the deletion. We pressed for the deletion. He is now saying that the Government should adopt the spirit and not the letter. Having himself voted.....

**Shri Kamath:** The letter and spirit.

**Mr. Deputy-Speaker:** The hon. Member only wanted Shri Kamath to hear and not to answer.

**Shri Kamath:** He is misrepresenting.

**Shri Venkataraman :** I am truly representing you. I am saying you made a mistake.

**Shri Kamath :** You are misrepresenting still, I would say.

**Mr. Deputy-Speaker :** It would be better if the hon. Member continues addressing me and not Shri Kamath directly.

**Shri Venkataraman :** I may point out that this is what Mr. Chatterjee said in section 77(1) :

"Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent. . . . ."

I may refer to one case. There was an old zamindar of over 80 years, and his son was contesting the election. The manager and the staff of the zamindar did give assistance to the zamindar's son. The election was set aside because the election return did not show the salary of the manager and the zamindar's staff. The Supreme Court said it was thoroughly proper because he never incurred that expenditure and he never authorised that expenditure. I said that "this leads to the conclusion that whatever expenditure is incurred by any party without a ceiling or without a limit would not be considered to be election expenditure". And the House was not in any doubt about it. Therefore, the effect of dropping clause (4) was perfectly clear before the minds of all the Members. On the other hand, it was I and some of the Members on the Congress benches who wanted to put a ceiling even on party expenditure because there were all sorts of allegations made. Shri Asoka Mehta said two days back that the Congress had collected Rs. 3 crores. Shri Kamath said yesterday it was Rs. 5 crores. If the Bill were to continue for 30 days it would become Rs. 32 crores.

**Shri Kamath :** What do you say?

**Mr. Deputy-Speaker :** Order, order. He has nothing to say, but only to observe.

**Shri Venkataraman :** I say the whole thing is fantastic. I further say there

are similar allegations about foreign money coming to groups opposite. This is not certainly a matter in which you can legislate on the basis of some rumour floating in the country. I asked whether we were or were not in favour of putting a ceiling on party expenditure, and I suggested in the course of my amendment No. 229 that the expenditure on a party, in so far as it relates only to publicity for holding public meetings, issuing circulars, pamphlets and all that, may be considered to be proper expenditure by the party, and any other expenditure by the party may be excluded and counted as illegal or unauthorised expenditure. That was not accepted. Now it is not right for the Opposition to say that they meant one thing, that they voted for another thing, and therefore the Government should carry out what they meant and not what they voted for.

**Shri S. S. More (Sholapur) :** I take this opportunity to appreciate the improvements that we have made in our election law. In a vast country like India with many differences, it is extremely difficult for any political party to satisfy all, but at the stage of the third reading we can take an over-all view of the whole thing and say that the Bill on the whole has emerged from the Select Committee and much more from this House in a very appreciably improved form.

But I am not looking to the past. I want to look to the future, and I want this Government to take particular steps. If you want to develop the socialist pattern, you will have to develop another form of democratic Government and also another form of election which will be easily conducive to lead us to a socialist pattern. Merely following tamely and without much thinking in the footsteps of the English pattern, their form of democracy, is not enough. I may quote that Lenin and Stalin observed on many occasions that Marxism prescribed a revolution but every country had to develop its own method or form of revolution. In the same way I say that though different countries may be travelling on the road towards democracy, they will have to develop their own instruments, suitable to their own traditions, temperament and the objective conditions prevailing in the country, and from that point of view I wanted to suggest that compulsory voting was a necessary part, a

unavoidable part, of our form of democracy. The suggestion was not accepted. It may not be accepted coming as it does from Shri More, but the future is inexorable and it will impose compulsory voting on the party which may be in power. There were many who opposed compulsory education and yet it had to be accepted. There were many who opposed compulsory vaccination, they had to be converted to accept compulsory vaccination. So, the present opponents of compulsory voting will have to accept it some day as the future plans develop and everybody is reduced to a certain small size of personal wealth. Politicians will be in future coming to this House who will be pauper but popular, and when they are popular compulsory voting will enable them to come to this House and plead the cause of the people.

Another suggestion which I wanted to make was that the majority party which comes here must not be having only a majority of members in this House, but it must also reflect the majority opinion in the country, and for that we shall have to fashion our election instrument in such a way that the party which sits on those benches must represent and have the support of the majority of the people in the country. Unless that sort of majority is reflected in the party in power, by no stretch of the imagination can it be said that it represents the majority of the people. A minority of votes and a majority of seats is a fraud on democracy, and it will have to be avoided tomorrow or the day after.

I need not take much time of the House. I do accept that both the Opposition and the party in power have approached this subject in a very sober, moderate, accommodating spirit. My friend Shri Kamath was very keen that his amendment about impersonation should be accepted. But, I should take the liberty of telling him that impersonation is not confined to one party alone. In a vast electorate where hundreds of voters come unknown to every candidate, your enemies my enemies will also see that some persons go there, impersonate others and put their votes in the box. Such persons who are unconnected with us, without our knowledge and even without any sort of encouragement will come to vitiate our elections. The best course is to bring everybody to poll so that there will be no person sitting

in the village or house who will be impersonated. That is the best method of ensuring or eliminating impersonation.

I do believe that the Minister of Legal Affairs will have to come forward with another measure that would still further improve this instrument of our elections.

**Shri Vallatharas (Pudukkottai):** We have done some very good work and the Government have demonstrated their attitude of toleration and also of having the sense of seeing sense in the Opposition. I think this is the first occasion on which there has been some mutual regard on either side.

Apart from the achievements, I want to make one general observation. This law of election has not been originated by us. It has been imitated or copied from another system prevailing in England. So, the law was not born in this country, has not been grown up and been developed by us, but at a certain stage we have adopted it. We know the defects existing in the system. Having known the defects positively even as early as 1944 from some of the best English writers on the English electoral system, we have failed in our duty to see that during these years a different modified electoral system is introduced to suit the aspirations of our nation and our necessity. I am not happy or sorry. Some Members said they felt happy at what we have achieved here. After all, too much of expenditure or too much of influence by one party or the other would not count much for upsetting or unsettling the state of things which are now coming into existence. One or two Members in my place had spent Rs. 1 lakh or Rs. 75,000, they have since become bankrupt; and even though the Congress Party wants them to stand again they refuse. Another gentleman spent Rs. 2½ lakhs against me and some others; and he has refused to stand again because his family has become bankrupt and his sons and daughters have all suffered. I am not worried about his existence. I am of the view that there should be no limitation or ceiling on the expenditure, and a return of expenditure should not be required to be filed. Let everybody spend according to his mite, and let everybody get money just as Viswamitra asked money for his *yaga* from Harischandra. We know the consequences of such uncontrolled expenditure.

[Shri Vallatharas]

Irrespective of the fact that I admire the progress that we have made, I want to stress on this occasion that the English system itself had about eight or nine defects. All those defects apply to us also. The first defect is that the electoral system is not effective and real. I do not want to explain these things in detail, because I have no time. The second defect is that fools, knaves, irresponsible people, and people who do not know anything of human psychology and so on come into the legislature by reason of the fact that the party system has come into existence. These are not my words, but those of the great English writers who had written on the English Party System.

**Mr. Deputy-Speaker:** These words are all of very immense value, but they do not find a place in the third reading.

**Shri Vallatharas:** I am coming to the point. The reason why I am stating all this is that these defects exist in the electoral system. The next defect is that the financial position of the candidate is weakened, because he is subjected to high and expensive courses. In this way, they have given about nine defects. I do not want to go into all of them here, for want of time. But I would only say that the result of all this is that not only free election is impeded with, but on the other hand, the proper members are not being elected.

I would submit that the electoral law is the sheet-anchor on which a balanced House of representatives should rest, and on that basis alone can the national welfare be safeguarded. Democracy does not mean that we should subvert the pyramid and bring in ignorant and illiterate people into the legislature and enable them to become Chief Ministers, Ministers or Members of the State Legislatures. I am ashamed as to why we should devote so much of importance to education, to a study of humanities and so on, when we are going to be ruled by ignorant people. I am not denying the right of any human being to come into the legislature. But when we are working as parties in a democratic system, we must be able to see that the proper and competent persons are put into the legislatures as members, and that is the only way in which a balanced House can be brought into existence. Unless

such a balanced House of representatives is established on the basis of the electoral system, all other aspirations and achievements are absolutely useless.

That is why I beg to submit that it is time now for our Government to consider this question in all its implications—even as the British Government considered it about the end of the war, before the Labour Party succeeded in the elections. They brought forward a resolution requesting the House of Commons to appoint a committee or a conference to be presided over by the Speaker to go into the whole matter. Likewise our Government, by a resolution, should enable our House to freely, fully, openly and frankly debate on all the rules that have to be framed in respect of the electoral system.

[MR. SPEAKER in the Chair]

Then, a committee presided over by the Speaker himself must sit over it and codify all the electoral rules.

We are not here to tinker with certain things. We want that this new era which has started since 1952 must confirm the total end of the old era and the starting of a progressive era suited to the plans which we have got and also to our national aspirations in the interests of the future of our country.

**श्री बी० जी० देसाय (गुना) :** अध्यक्ष महोदय, जन प्रतिनिधित्व विधान इस सदन में स्वीकार होने के पश्चात् बधाई के उद्गारों का यहां पर उच्चारण किया जा रहा है। मुझे यह समय निन्दा करने के लिए या नुकताचीनी करने के लिए व्यतीत नहीं करना है। यह भी यहां पर कहा गया है कि हमारा जो सरकारी दल है यह इस समय बड़ा उत्तरदायी रहा है और रिसर्पॉसिव रहा है पहले समय की अपेक्षा, और यह रिसर्पॉसिवनेस उसने विरोधी दलों की बात को मान कर दिखा दी है। परन्तु मुझे माननीय श्री वेंकटरामन् का भाषण सुनने के बाद यह प्रतीत होता है कि हमारा सरकारी दल जो है उसने हमारा कहना स्वीकार नहीं किया, जो सशोधन श्री वेंकटरामन् दे रहे थे उनको स्वीकार नहीं किया। माननीय मंत्री जी ने कहा कि जान बझ कर अब हम कनफ़रेंस पैदा करेंगे। और पाटियां चाहे कुछ करें लेकिन कांग्रेस वाले तो दो चार करोड़ रुपया खर्च करके दिखा देंगे। उनका कहना था कि तुम इसके

विरोध करते थे, इसमें से दोष निकालते थे, अब तक इसका बदला लेंगे और अब दूसरों को रोना पड़ेगा। फस्टेशन से कोई सुधार हो सकता है, ऐसा मैं नहीं मानता हूँ। मैं तो इस बिल की तरफ इस दृष्टि से देखता हूँ कि जो चुनाव होने हैं वे अच्छे ढंग से हों, निष्पक्षता पूर्वक हों और न्यायोचित हों। मुझे यह शिकायत जरूर है कि पिछले चुनावों में सरकारी प्रभाव डाला गया था और दूसरे देशों में जो बातें नहीं होती हैं वे बातें यहां हुई थीं। मिनिस्टर सरकारी कारों लेकर घूमते थे और अपने प्रभाव से काम लेते थे। जहां तक सरकारी नौकरों का तालुक है, कुछ को आपने फेहरिस्त में से निकाल लिया है लेकिन आपने हमारा संशोधन स्वीकार नहीं किया है। फिर भी अब जो कानून बना है, इसको हम बड़ी कद्र की नजर से देखते हैं। अब देखने वाली चीज यह है कि जो नियम आप बनाते हैं, जो रूलज आप बनाते हैं, वे कैसे बनाते हैं। इससे भी जरूरी चीज जो देखने वाली है वह यह है कि आप कहां तक इन सब नियमों का पालन करते हैं और किस प्रकार से चुनाव करवाते हैं। अभी यहां पर बताया गया है कि मिस्टर एटली अपने घर की मोटर गाड़ी को लेकर तथा अपनी पत्नी को उसका सार्थी बना कर इलेक्शन के दिनों में घूमा करते थे। इसके विपरीत हमारे प्रधान मंत्री सरकारी एयरोप्लेन लेकर इलेक्शन के दिनों में देश भर में घूमते हैं। हमारे मिनिस्टर लोग भी सरकारी कारों को लेकर आज तक जहां पर भी उपचुनाव हुए हैं जैसे भेलसा में, नावणकोर-कोचीन में, आफिशल टूर के बहाने वहां का चक्कर लगाते थे और कनवेंसिम करते थे। अब मैं चाहता हूँ कि जो सरकारी पक्ष है तथा जो विरोधी दल है तथा जितनी भी दूसरी पार्टियां हैं, वे तमाम अच्छी भावना से इस कानून को यदि कार्यान्वित करने का यत्न करेगी तो इस देश में जो लोक-राज्य या जनतंत्र आपन लाया है वह यशस्वी हो सकता है।

**Shri Barman (North Bengal—Reserved—Sch. Castes):** My hon. friend Shri Kamath in the course of his speech today has made a complaint, which is in the nature of a fling at the governing party of the day, to the effect that while amending clause 41 by deleting sub-section (4) of proposed section 77, that party has by some means not accepted the spirit of the House in the course of the discussion on that sub-section. That complaint is in the nature of a fling at the party. First of all, I want to say that there is no substance in his complaint.

If my hon. friend Shri Kamath will read the amended clause 41, he will find that for a particular period in the course of the election, the contesting candidate must keep a correct and separate account of his election expenses, which account has to be produced after the elections. Sub-section (4) of section 77 was put in to make it clear that the expenditure by a party should not form part of this account. But as there was vehement opposition, we consented to dropping out that sub-section.

So far as this party is concerned, Shri Gadgil has said that the party also should have an account. But he did not say that the party account should be included in the candidate's account. That was not his contention at all.

**Shri Kamath:** Shri Gadgil said so. He said that the sources of income for the party should be shown.

**Shri Barman:** He did not say that, as far as I understood him.

Besides, I would like to ask my hon. friend whether it is at all possible for a candidate to keep a true and correct account of the expenditure that an all-India party or a State party or a party recognised in a State is incurring throughout the State or throughout India, and include it in his account.

1 P.M.

Is it practicable or not? That is the first point. If this is not practicable, then how can we propose here that the party expenditure should, by some way or other, be included in the return of the candidate's election expenditure? If once we concede this proposition and stipulate it in our law, just consider the difficulties that a candidate would be put to. He is under our law allowed to spend up to a certain limit, that is, the ceiling fixed by the Election Commission. Suppose the limit is Rs. 25,000 for a certain constituency either for a State Assembly election or a parliamentary election. Suppose the candidate has spent Rs. 24,000. If we take it that the party expenditure is to be apportioned amongst all the candidates, what would be the result in a particular case where the candidate has spent just a little below the maximum allowed?

**An Hon. Member:** He will exceed the amount and be unseated.

**Shri Barman:** So the candidate cannot keep the accounts of an all India organisation, nor would it be fair that the expenditure of the party during an election should be included in the returns of all the candidates of the party.

**Shri Kamath :** It used to be done before.

**Shri Barman :** There is only one alternative. The all-India parties have to carry on propaganda; they must educate the public in what way their parties are carrying on their election promises and also modifying their policies and programmes, according to times and circumstances. The parties must propagate throughout the whole country throughout the whole period between one election and another. You cannot say 'no' there, because that is the duty of any party, whether it is the majority party or any minority party. But now it may be said that at the time of election, during the period for which you have to submit returns that party is to stop all its activities. What does it come to? In a country like ours, where 90 per cent. of the people are illiterate, the all-India party is to stop its activities, not tell the public what are the party's policies and programmes. That means, it must leave the candidate to his own abilities or to help him in a piece-meal way. We cannot accept this proposition. So it is on practical grounds that this position has to be taken and has to be accepted. There is nothing underhand or fishy in it. Whatever we have done, we have done with a clear conscience.

**Sardar Hukam Singh (Kapurthala—Bhatinda) :** Mr. Speaker, Sir, I am thankful to you for giving me this opportunity. I also want to associate myself with the sentiments expressed here when we are about to pass this Bill. In fact, I also congratulate our Minister of Legal Affairs on successfully piloting it. There is no doubt that we have made distinct improvements on the Bill as it emerged from the Select Committee.

There are, however, certain things where I differ. They required certain amendments and they have not been made so far. Nomination paper is one of them. There is no doubt that our nomination paper to be filed has been simplified. We do not require a second. But I regret very much that it is still left to the tribunal to decide and adjudicate upon the improper acceptance and rejection of it. We were very vehement at one stage that these stages should be undergone finally and everything should be decided before the poll took place. I am still of the opinion that that was the better procedure, because the present system would prolong the agony. It has been our view in this House that sometimes deliberately some

papers are filed and they are not rejected at that time. These papers are filed intentionally to put the other party in the wrong, and when the other party becomes successful, then an election petition is brought and all the harassment is caused. It would have been better if the procedure that was suggested had been adopted. I do not agree that that would have prolonged the elections or that the simultaneous holding of elections in every part of India would not have been possible. That could be done. A definite period could be provided wherein this adjudication could have been made. It is my regret that that has not been done even at this stage.

Then we have now made the provision that the election tribunal would consist of only one District Judge. I believe this is good in certain respects. It was our view here that it should include even retired Judges, but, to tell you the truth, from my experience, I have not much faith, with due respect to all of them, in retired Judges. It has been our view that serving Judges are under the influence of the Government and those who have retired are perhaps free. But I differ; my experience is just the reverse. The men in service have certain traditions and they have those responsibilities which they try to discharge. There is no doubt that there has been a little deterioration. That I must confess, but even then we have greater confidence in them. The Judges who retire go round and are always looking to the Government for certain patronage and certain office, that might be good to them for certain periods.

**Shri S. S. More :** Not for themselves, but for their sons-in-law.

**Sardar Hukam Singh :** I am talking of them. The other thing is the second stage. If they might have been doing so only for their sons-in-law, that might have been a different affair, and perhaps we might not have any objection. It is not that they go round for their relations only; they themselves are seekers of certain jobs and offices so that they might make some money out of them. They are not as independent as they should be because of this desire of theirs.

Therefore, I welcome this. But one thing that has not been liked by me was—this was discussed here yesterday—that as soon as an election was decided,

it must take effect immediately. Previously, there were three Judges and the law provided that it was final, though the High Court and the Supreme Court had taken recourse to their inherent jurisdiction, that they had the general control and supervision over all these tribunals. They have exercised that jurisdiction and decided matters. But now we have definitely provided that there would be an appeal against the decision that is given by the tribunal. Now we have said definitely that there would be an appeal and the High Court in appeal can stay those proceedings and can also say that the order is reversed, and in that case, it would be deemed as if the order had never been passed. This is a queer thing, when an election tribunal gives an order and declares an election illegal or avoid and in certain cases declares another person as having been elected instead. What would be the fate of that man who comes and occupies a seat here? Suppose an appeal is filed and suppose that order is reversed. What would be the fate of the man who had occupied a seat here for about a month? When the operation of the order is stayed in appeal, he has to go out. Why should we not have taken this course, that at least the previous method that we had adopted should continue, so that the order might take effect after the publication in the gazette? At least, the person aggrieved would have got two or three days wherein he could rush to the High Court and get an order for stay.

But, now, there is no time-lag at all. The order would take effect immediately. My objection is this. Where there were three persons to adjudicate and there was a provision that their order would be final and would not be open to be questioned in any court, then, the order took effect after it had been published in the Gazette. Now, there is only one judge to adjudicate and there is a provision, here, in the Bill that this order would be appealable to a High Court; when all this has been done, it has been said that this order would take effect immediately and there would be no time-lag at all. This is highly objectionable, so far as I could see.

Great stress was laid on the fact that one return of election expenses should be filed only when an election petition has been filed. It was stressed very much by my hon. friend, Pandit Thakur Das Bhārgava. I should rather excuse myself

for my impertinence in disagreeing with him so far as this is concerned. We have provided that there shall be a ceiling. If there is a ceiling then the return ought to be filed; otherwise, there is no meaning in having a ceiling. When those returns are filed, they should certainly conform to the ceiling, the expenses should be within the ceiling. The other party should have the opportunity to see that really those limits have not been exceeded. It is said that there is no use for those returns unless an election petition is filed.

It was also argued that the man who wants to file a petition should not go and inspect those returns and then make up the grounds of his attack. Why should he not? If our law provides that there should be a ceiling, if we have enacted that the return should be filed and if it comes to the knowledge of the intending petitioner that the accounts have been fictitiously lowered, then, why should he not take up those grounds in his petition and why should he not have an opportunity of going into the accounts and see for himself that the limit has not been conformed to? He is perfectly justified and this opportunity should be given to him to pick up holes in that return. In my estimate, it is right that it is retained there. This ought to be so. This is all I have to say.

**Shri Pataskar :** Sir, I will not go into the details of the criticisms, which were also made at the time of the third reading. I have had occasion to express my view with respect to some matters on which there seems to be some difference of opinion in certain quarters. I would say, it is inevitable in a matter of this importance that people cannot be unanimous. But, I would rather look at the problem from a different point of view.

As I said when I first made a motion to refer the Bill to a Select Committee, we do not look upon this matter as a matter of concern to a particular party alone, whether it is in power or whether it is in the opposition. It is in the interests of the country as a whole that we should make all possible efforts to see that there are free and fair elections which form the basis of what we are calling the parliamentary democracy.

[Shri Pataskar]

I am glad that, barring certain observations here and there, this Bill has been the result of co-operative effort on the part of all sections of this House. Unfortunately, there are certain inherent defects. For instance, our democracy is the parliamentary type of democracy and has its roots, as I said in detail on the last occasion, in certain things which were introduced in our country, when it was not free. So, there might be some notions which cling to some people in spite of the fact that there has been a revolutionary change on account of the attainment of independence. We have, therefore, to look at this problem by and large from the achievements which we have made and try to look to the experience we have had and do what we could, under the present circumstances, to improve this matter.

A law of this nature could not be perfect. There can never be any law in which there will be 100 per cent. agreement among the Members. Even in those countries where parliamentary democracy has been functioning for several centuries, it is a growth out of the experience gained from time to time. It is from that point of view that I am glad that whatever ultimate differences might have manifested themselves, the whole problem was examined in the Select Committee and also at the time of consideration by this House. I would ask those hon. Members who felt that the point of view which they represented has not been accepted not to chagrin at it but to rather look at it as a thing which is inherent in the solution of a problem of this nature.

**Shri Kamath :** By and by.

**Shri Pataskar :** I would say that our first experiment with democracy, where we have extended adult franchise has been almost a success. I think that those who prophesied that an experiment of this nature with adult franchise and with such a vast population—because there is no democracy in the world where the people entitled to vote is on such a large scale—would not work or function properly, if they dispassionately consider this matter, I am sure, would come to the conclusion that those prophesies have turned out true. I am proud of that but it is the genius of our people that has been responsible for this. This parliamentary democracy on such a vast scale has succeeded by and large and it has enabled the nation

—whatever the differences might be—to go ahead in matters social and economic. The credit does not go to Government alone but the credit goes to the people as a whole and that is the test by which we have been judged, whether the parliamentary type of democracy which we have established is or is not successful.

Another factor is whether we are really utilising all the experience which we gained at the time of the last general elections. I am convinced, that except on 4 or 5 points on which difference is expressed, probably, we have tried to benefit by all the errors and mistakes. Whatever suggestions had to be made by the Election Commission have been seriously taken into account and an attempt has been made in this Bill to improve upon the quality of our elections. If I may say so, it is not from the point of view of criticising anybody, we have also inherited some disabilities. It is the essence of parliamentary democracy that there should be a democratic opposition which is as powerful and has as good status as the party in power. Unfortunately, it is to be developed. We cannot suddenly create it out of the past. But, I am glad that even those Members who belong to a party—or rather who borrow their ideas from an institution, which is not a democracy—it is more or less a dictatorship, may be of the masses or anything else—even in this country gradually are beginning to realise that after all the genius of the country comes only in a democratic form of government. Apart from other criticisms, when my friend, Shri Gopalan, said that “this ought to be done in the name of Parliament”, I was glad that the follower of a system, which is of the nature of a proletariat dictatorship, has come to realise that after all everything ought to be done in this way, in a democratic way.....

**Shri A. K. Gopalan :** Show it in practice.

**Shri Pataskar :** He may not have agreed to all these views but still there has to be some change in his mentality and in my mentality, and I am glad that things are improving, because they are the principal party in the opposition. I see very good signs and all those friends of mine are not thinking of proletariat dictatorship but how to make parliamentary democracy successful. I am really glad for this sincerity on their part and for the change that has come over them. After all, every country has to develop in its own way.



Similarly, there is another trouble. After all, we have passed, in the history of Independence, through a process where communalism was encouraged. As I stated yesterday, we suffered heavily on that account; our country was divided. Therefore, we want to write another chapter. Naturally, old things cannot leave us all at once. I see now some good signs; people are really moving towards one thing; after these five or seven years I find that everyone in this House, whatever his views or differences may be, is concentrating his mind on one thing, namely, that there shall be a good parliamentary democracy based on free and fair elections.....

**Shri A. K. Gopalan :** What has that to do with election expenses etc.?

**Shri Pataskar :** That is the spirit which has now caught them up and I really thank them from the bottom of my heart—even those people who may have offered comments, some of which may be bitter. After all, one thing that strikes me very much is that they all have come together to defend and try to improve in their own way—although there might be some differences.

**Shri A. K. Gopalan :** Will the hon. Minister kindly answer to certain things mentioned by us? What has all this thing to do with the election expenses and other points that we have raised. There is no need to say all this.

**Shri Pataskar :** My answer to those questions was given not once, not twice, but thrice.

**Shri A. K. Gopalan :** There are certain things which were stated by us about the rules and other things. Please answer them.

**Shri Pataskar :** There is a certain procedure, and I cannot go on repeating the same argument which I have made to all those points. None of them is new; not a single point is new.

**Shri A. K. Gopalan :** Then the hon. Minister need not have spoken at all now.

**Shri Pataskar :** But I will not say that I reject them; I will say that I cannot accept them.

**Shri Kamath :** Neither rejection nor acceptance.

**Shri Pataskar :** There has been a good deal of criticism with respect to the question of moral turpitude and all that. I have already dealt with that, and I do not know what else I can add to it.

I may say that the Election Commission has never wavered to remove any disqualification on certain grounds where probably there was no moral turpitude. But I still maintain, and hon. Members will remember, that it is not the desire that if a man is convicted for two years for conducting or offering satyagraha in Bombay or somewhere else or for participating in a workers' strike in Calcutta and so on, he should be penalised. But the difficulty is, as I have said, that our ideas of moral turpitude change from time to time.

I would say one thing in this connection. Some hon. friends thought about this. What is this disloyalty to the State? Is it disloyalty to the Government? Certainly not. Disloyalty to the State is a certain, definite, positive thing. I think every Indian loyal citizen rightly knows what it is. It may take various forms. By and large, it is a term which is capable of being misused by somebody or has been misused in free India. Of course, there may have been hardships caused to some people by detention and other things; they are entirely alien to the country.

My friend says that I do not reply to the points raised. What can I reply to my friend, Shri Kamath who says that this is a "420 Government"?

**Shri Kamath :** I said that people will say that.

**Shri Pataskar :** How can I give a reply to a charge like this when I deal with the election law? I even thought about this proletariat dictatorship. It is not right that we should go on raising objections to new words being invented, which will enrich us.

**Shri Kamath :** You will hear it in the country, during your mass contact tours.

**Shri Pataskar :** The repetition here is made for the purpose of the country. I believe more in good human nature outside also.

**Shri Kamath :** Let us hope so.

**Shri Pataskar :** I have been asked a very curious thing. Yesterday, I took great pains to explain the significance of section 77. I made it perfectly clear what was the intention and purpose with which clause (4) was put in there—not by me but by the Select Committee which consisted of members of all sections. As a matter of fact, I then stated that to my mind clause (4) of this section had nothing in addition to section 77(1), but it only made the position clear so that people may know it easily. It was more for the purpose of making

[Shri Pataskar]

clear the basis of section 77 that it is stated that party expenditure generally, which is incurred for propaganda and other things, is not expected to be shown there. There are certain difficulties, and I explained it once, twice and even thrice. But I find it is like the famous knight who fought the windmill thinking that it was a demon. It was only a windmill, a useful thing. That clause really gave some indication as to what was sought to be done. It was more honest to have kept it, because we want that these expenses, which are generally incurred by a party, need not be shown. Some thought that this windmill which was put in there, was a demon and they waged a war against it. I also said, why not leave it out. Now we have left it out. Having done that, there are some people who are at pains to think, what has happened. Nothing has happened. You wanted that it should not be there. In a democratic country, it is the duty of the Government to respond to the opposition's view also.

**Shri Kamath :** We are not sorry.

**Shri Pataskar :** I readily showed that response by consenting to drop out that particular clause. If there are apprehensions which can be removed readily, I would accept such suggestion. Even if it is removed, do not go by the letter of the law, but look to the spirit behind it. That is very difficult because hon. Members like Shri Chatterjee will tell you that whenever you pass a law, you have to see how that law will be carried out in a court of law. You say, do not go by the letter that we have put there, but by the substance contained in it....

**Shri Kamath :** Letter and spirit, not letter only.

**Shri Pataskar :** That is very difficult, because one man might think that this is the spirit, another may think that that is the spirit and it will lead to complications. What is the object of a legislation? Whatever ideas we have got have to be put in rightly and expressed in clear words. We know that words have different meanings in different contexts, and that is a science by itself. Originally we put it in a clear and specific form, but because some people thought "Do not go by the letter but go by the spirit".....

**Shri Kamath :** We are quite happy that you dropped it.

**Shri Pataskar :** When Government has now agreed to it, some other people say that they fail to understand what the

spirit behind it is. They thought that they were fighting and killing a demon as the knight in that famous book who thought that he was fighting a demon while warring with a windmill and ultimately realised that it was not a demon at all. However, that is a different matter. In spite of all we do, opposition is bound to be there. There have been criticisms of the Ministers and their ways and all these things. This is the occasion for it. In spite of all these, I believe that the hon. Members of this House have made the election law more simple and more in tune with the spirit underlying what we wanted in the matter of holding fair and free elections. I may say, in spite of the criticisms, that every section of this House has tried to do its best. But of course when the matter of election comes, party feelings are bound to be there. But, so far as the present Bill is concerned, I think we should try to look at it from a different point of view.

My hon. friend Shri Kamath asked. Why not make this law applicable to Jammu and Kashmir? After all, I am the Minister of Legal Affairs. I cannot override the Constitution and do all manner of things. The President's order by which we have been given the power to make laws specifically says that articles 325, 326, 327, 328 and 329 shall be omitted. We are passing this law under the powers that are given to us by the Constitution in article 327. I explained yesterday that the Election Commission has, very rightly, been made an independent authority under the Constitution. The Constitution gives us certain powers to legislate under article 327. If that article is omitted from this order, it is not for me to do anything in this legislature to make it applicable to Jammu and Kashmir.

Let us take the larger question. There are differences in our outlook and in our patience with regard to the solution of the problem. But, I am glad that there is a trend in this House and even those who at one time thought that we were not doing as much as we should are inclined to think that everything that is possible is being done to solve this question once and for all, to the satisfaction of all concerned. The time will not be distant when such criticisms, as we had occasion to hear in this House, will not be heard. That is what I can say at the moment.

**Shri Kamath :** Is it not possible to enlarge the scope of the President's order?

**Shri Pataskar :** Not at this stage. This is not the suitable time when we should do all these things.

Lastly, I thank all the Members of this House including the Opposition and those who had to differ from the provisions and whose views I was unable to accept. Ultimately, I may say that with patience it will be realised that by enacting this legislation we have—every section of this House—contributed to make it a better and more effective law from the ideal of parliamentary democracy based on free and fair elections which we want to have.

**Shri Kamath :** When will the rules be laid before Parliament?

**Shri Pataskar :** As soon as they are framed.

**Shri Kamath :** Before the next session?

**Shri Pataskar :** I will see that they are framed early; there is no going back upon that.

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

“That the Bill, as amended, be passed.”

*The motion was adopted.*

#### LIFE INSURANCE CORPORATION BILL

**The Minister of Finance (Shri C. D. Deshmukh) :** I beg to move :

“That the Bill to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto, as reported by the Select Committee, be taken into consideration.”

The House has already discussed generally the Bill to provide for the nationalisation of the life insurance business and at that stage I explained in detail the reasons which prompted the Government to undertake the nationalisation. We are now concerned with the machinery to work successfully this scheme and the Bill before the House deals with this question. I shall now

refer briefly to the amendments which have been introduced in the Bill by the Select Committee.

The first change which is of some consequence is the one in clause 6(2) (d). During the course of the discussion on the Emergency Provisions Bill, I had referred to the difficulties which we envisaged in the way of the Corporation carrying on the business outside India. I have mentioned that the Corporation may have to transfer the foreign business to others. The change now made, that is, the addition of the words ‘or persons’ makes it clear that the transfer of business, if such a course is decided upon, will not be all to one company. We shall consider carefully the request of any existing company to be allowed to carry on life business outside India and where we are satisfied that the company in question has the means and the volume of business sufficient to give a good chance of carrying on the business successfully outside the country, we shall readily give the necessary permission and at the least transfer its own foreign life business to it.

The next change is in clause 8. Though one might get the impression that an important change had been made, the change itself is really minor. It is a redraft to bring out more clearly our intention that all provident funds, etc. established by individual insurers shall vest in the Corporation and the Corporation shall, in due course, set up some trusts for the benefit of its employees.

There is a change in clause 11 which is merely clarificatory. The explanation makes it clear that the compensation paid to the employee for termination of service will be in addition to any rights which he may have earned under his contracted service.

I next turn to clause 12. By clause 36 introduced by the Select Committee, the contracts of chief agents are being terminated. I shall deal with the reasons for that provision in due course. Now, clause 12 provides for the absorption in the Corporation of the staff of the chief agents. Strictly speaking, the employees of the chief agents are not employees of the insurance company. It was Government’s intention to give every reasonable consideration, short of an assurance of the kind given to the whole-time employees of the insurance business. The Select Committee was