

financial year ended on the 31st day of March, 1954, in excess of the amounts granted for those services and for that year."

*The motion was adopted.*

†

Shri Alagesan: I introduce the Bill.

APPROPRIATION (RAILWAYS)  
No. 7 BILL.\*\*

**The Deputy Minister of Railways and Transport (Shri Alagesan):** I beg to move for leave to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1956-57 for the purposes of Railways.

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

"That leave be granted to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1956-57 for the purposes of Railways."

*The motion was adopted.*

††

Shri Alagesan: I introduce the Bill.

REPRESENTATION OF THE PEOPLE (MISCELLANEOUS PROVISIONS) BILL

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

"That the Bill to provide for the removal of disqualifications for membership of, and voting at elections to, Parliament and State Legislatures, and for certain miscellaneous matters in connection with such elections be taken into consideration."

As hon. Members are aware, there has been a change effected in the election law with respect to disqualification incurred on the ground of several kinds of corrupt activities. For instance, under the Act of 1951, there was a major corrupt practice, minor practice and illegal practice. Then, there was a very complicated return of election expenses to be filed, and for not having filed the election expenses return in the proper form, disqualification was incurred by the candidate as well as by the election agent. The elections are very near. At the time when the Act was amended, we naturally made the provisions simple and we abolished the distinction between major corrupt practice, minor corrupt practice, illegal practice etc. All the same we find from facts which we have investigated that the number of persons disqualified for failure to lodge return of election expenses, as required by law, is nearly 9,511. It appears that when we amended the Act, probably the disqualification with respect to voting so far as these members are concerned has been removed. But so far as the question of their being entitled to stand as candidates is concerned, I think that disqualification has not been removed. The Election Commission itself out of these 9,511 cases, has probably removed the disqualification in the case of about 3,000 odd people, and 6,000 persons still remain disqualified. Probably many of them are not even aware of the disqualification that they have incurred. Now we have simplified the return of election expenses and in view of the changed procedure to be followed in this matter, it is desirable that all these disqualifications which have been incurred by these people should be removed wholesale. That is why there is provision in this Bill saying that the disqualification of these persons will stand removed.

\*\*Published in the Gazette of India Extraordinary Part II-Section 2, dated 18-12-56 pp. 1184-86.

†Introduced with the recommendation of the President

††Introduced with the recommendation of the President.

**Shri Ramachandra Reddi** (Nellore): Can we have the break-up of the figure of these 6,000 persons party-wise.

**Shri Pataskar**: I do not think it is necessary. They are all for not filing the return of election expenses or for not filing them in right time. There is no desire to keep any of these persons under disqualification.

The number of persons disqualified upon conviction by criminal courts for the offences of bribery and undue influence, or for personation under sections 117 (e) or (f) of the Indian Penal Code or section 139(a) of the R.P.A. is 516. It is only natural that we do not want to remove the disqualification in respect of such persons.

The number of persons disqualified upon conviction by criminal courts is only 20 in the whole of India. We should not also remove their disqualification.

The other category is persons disqualified by election tribunals for corrupt or illegal practices. As I said there were the major practice, the minor practice and the illegal practice. Clause 2 lays down—

“(1) Every disqualification for membership of Parliament or of the Legislature of a State incurred by any person under the Representation of People Act, 1951, . . . before the commencement of the Representation of the People (Second Amendment) Act, 1956, for failure to lodge a return of election expenses as required by clause (c) of section 7 of the principal Act is hereby removed.

(2) Every disqualification for membership of Parliament or of the Legislature of a State or for voting at an election incurred by any person under the principal Act before the commencement of the Representation of the People (Second Amendment) Act, 1956, for any illegal practice or for any corrupt practice other than the

corrupt practice of bribery or undue influence is hereby removed.”

Hon. Members will find that the offence of bribery and undue influence has been defined in the former Acts. Naturally in respect of these cases we should not remove the disqualification. In respect of all other so-called corrupt, illegal or other practices the disqualification should be removed and that is what is proposed to be done by sub-clause (2).

Then we come to clause 3 which seeks to amend section 7. Hon. Members will find that section 7(e) of the Act says:

“if he is a Director or Manager, or holds any office of profit under any Corporation in which the appropriate Government has any share or financial interest.”

It has been represented to us that the words “financial interest is rather too vague. For instance, it may be argued that Government has got financial interest in a co-operative society. There are so many other corporations. The original object with which this provision was made was that in respect of those companies or corporations formed on the basis of capital in which Government has some substantial share, they should incur some disqualification. Now in place of the words “financial interest”, we propose to put in “any company or corporation in the capital of which the appropriate Government has not less than twenty-five per cent share”. Hon. Members may ask me as to why 25 per cent is fixed? Why not we say the director of any concern in which there is some share capital of Government. Why should such a director not be disqualified? That is a legitimate question which Members may ask? I should in this connection like to point out that there are some companies and corporations in which in order that Government may know about the working of the company some shares are purchased. It is more for the purpose of

guiding or taking part in the actual day to day working and to know how the work is being carried on. It is from that point of view that it is laid down that unless Government has 25 per cent. of the share capital in a company no disqualification will be incurred.

Clause 4 deals with special provision for nomination in the case of prisoners in Portuguese territory. Hon. Members will be aware that this is a peculiar problem which has often been discussed in this House in order to enable these countrymen of ours who risked their all for a patriotic cause to stand as candidates. For instance, one of the hon. Members of this House, Mr. Chaudhuri, is in a Goa prison and it is from that point of view that we have made a provision here. I think I need not take the time of the House on this matter. This provision has been made in order that there may be no difficulty in the way of their being able to stand.

The last clause says:

"It is hereby declared that the office of member of the Council of Advisers associated with the Chief Commissioner of Manipur or with the Chief Commissioner of Tripura shall not disqualify the holder thereof for being chosen as, or for being a member of Parliament."

As hon. Members are aware, in the case of these States where the administration is in the hands of Chief Commissioners there is a Council of Advisers and it is our desire that they should not be disqualified from standing for election to Parliament simply because they happen to be Advisers.

This is a simple Bill which I think can be passed without much discussion. It is an urgent measure inasmuch as the elections are very near now and we want that whatever is to be done should be done before that. This is the last session of this Parliament and we are in the last week of it. I would, therefore, appeal to hon. Members that if they agree with the

objectives of the measure they will enable me to have it passed as early as possible.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill to provide for the removal of disqualifications for membership of, and voting at elections to, Parliament and State Legislatures, and for certain miscellaneous matters in connection with such elections be taken into consideration."

**Shri K. K. Basu** (Diamond Harbour): May I make a suggestion: There are certain amendments to the Bill of which notice has been given by Members. Let us move the amendments along with the First Reading and we shall speak on them. Otherwise we do not know how to distribute the time.

**Mr. Deputy-Speaker:** The hon. Member can speak on his amendments. But the stage is for consideration.

**Shri K. K. Basu:** We do not know how to split up the time.

**Shri Kamath** (Hoshangabad): I would earnestly request you to extend the time by about one hour. One hour was allotted by the House earlier. Many hon. Members are interested in this subject and I would therefore request you to extend the time by one hour at least.

**Shri Pataskar:** There are the rules also.

**Shri Kamath:** The rules are made for the House and not the House for the rules.

**Mr. Deputy-Speaker:** This is also what the House has decided: not anybody else.

**Shri Kamath:** Sir, I welcome this Bill, but with mixed feelings. I wish the Minister had introduced two Bills, one for the earlier part and a second one for the latter part, which deals with our freedom fighters, now prisoners in the Portuguese possessions in

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India. As the Minister rightly said, they have risked their all for the liberation of the imperialist pockets in our country. For the first time, I find that the Government has been responsive to the opinion expressed on this side of the House and to public opinion outside in the country. It was our proud privilege to have pressed this matter on the attention of the House and of the Government and I am glad that they have responded to the opposition in this particular matter, to enable our comrades, our friends, the freedom fighters in Goa to contest in the next general elections. We look forward to the day when Goa, Diu and Daman will be fully represented, as the rest of the Indian Union is represented, by a full-fledged Member in Parliament. I wish that the Government or the President under his wide powers had even earlier nominated a Member to represent the Portuguese possessions,—even if not elected—nominated not in this House, but in the Rajya Sabha—. Any way, the first major step has been taken now, in spite of the *volte face* of the Government, in spite of,—if I may use stronger words—the betrayal of the liberation movement in Goa by the Government, to help our freedom fighters and a big and noble gesture has been made to the freedom fighters who have risked their all for the freedom of these few foreign pockets in India. The Government could also have encouraged the formation of a provisional Government in the liberated territories of Dadra and Nagarhaveli, which they have not done. Let them take their own time. The freedom movement will not wait for the Government. It will go on. Just as they have had to bow to the will of the people in this matter, the time is not far off when they will have to bow to the will of the people and change their supine policy in regard to this matter in the very near future. As I said at the very outset, I would have been happy if the first part of the Bill had been separated from the second part, because this forms a turbid mixture, particularly the part

with regard to the removal of disqualification arising out of any illegal practice or for any corrupt practice other than the corrupt practice of bribery or undue influence. I refer to clause 2, sub-clause (2).

The law, as it stands, provides for various corrupt practices. I know things like impersonation etc., and one or two minor corrupt practices are no longer in the list. All illegal practices have been removed from the list. The practice of enlisting the help of government servants and some others still figure in the list of corrupt practices. Does the Government really intend that any disqualifications arising out of the Commission of such corrupt practices should also be removed, a blanket removal except the practice of bribery or undue influence?

**Shri Pataskar:** It is like that.

**Shri Kamath:** Does the Government contemplate that? That would give an undue handle to candidates in the general elections and induce in them a hope, a very well-founded hope that by the time of the next general elections coming in 1961 or 1962, all the disqualifications arising out of whatever corrupt practice they may commit in this election will also be removed. This sort of thing should not be countenanced by the House. Especially in regard to the corrupt practices remaining in the list, disqualification should not be removed. I can understand the old minor corrupt practices. This is almost a blanket removal or near-complete removal; there are only two illegal practices remaining, undue influence and bribery. This I do not approve at all. I hope that the amendments which I have tabled to this particular clause will commend themselves for the acceptance of the House.

I shall very briefly refer to clause 3. It refers to the share of the prospective candidates in Government corporations. They have now made an unsatisfactory provision in that only a

25 per cent. share will come into play, not otherwise. This is wholly unsatisfactory and does not commend itself to us. Any share or interest of a candidate in concern in which the appropriate Government has any share should entail a disqualification. I would prefer the amendment tabled by my hon. friend Shri K. K. Basu that any share of any Government, whether it is the Central Government or the State Government, should entail the disqualification. I would insist that at least the appropriate Government should be taken into consideration and this matter provided for accordingly.

With regard to clause 4, I have tabled certain amendments which seek to facilitate the matter further. Government lost its interest in the freedom movement for some time. But the nation did not lose its interest. I think Government have realised the nation's interest in this freedom movement and brought forward this provision. I do not think that they will again go to sleep over this matter after this Bill is passed. I would request the Government not to insist upon a definite writing to the effect from a person who is behind the Portuguese prison bars. I would suggest that any kind of a statement by a person on behalf of the detenu that he is willing to stand should be sufficient for enabling the detenu to stand for election. Authentication by the Secretary of the Ministry of External Affairs is not always necessary. Anybody in the Ministry of External Affairs, Deputy Secretary or Joint Secretary should be sufficient for the purpose. I will crave your indulgence again for a few minutes when the clause by clause consideration comes up.

**Shri N. C. Chatterjee (Hooghly):** Sir, every section of the House should welcome clause 4 of this Bill for Goa prisoners. Shri Kamath was perfectly right in saying that those freedom fighters for the liberation of Goa were fighters for Indian independence. Our freedom is not complete unless these

foreign pockets are completely eliminated and rescued from the clutches of a fascistic dictator like Dr. Salazar. We are very happy and proud that there are at least two Members of Parliament who entered Goa and defied all the handicaps and difficulties created by that dictatorial power. One was Shri V. G. Deshpande, still here amongst us. He was barbarously treated and let off. Shri T. K. Chaudhuri—we are all proud of him—has spent 12 years of his life; if I remember aright,.....

**An Hon. Member:** Sixteen years.

17 hrs.

**Shri N. C. Chatterjee:** .... sixteen years of his life in prison already in the freedom battle, in different jails fighting British imperialism, participating in all nationalist movements for India's liberation. And it has now fallen to his lot to undergo this sacrifice. I wrote to him the other day conveying the unanimous decision of all the Opposition parties in Bengal that they would not set up any candidate against him, in order that he comes back to this Parliament uncontested. After a great deal of difficulty the Portuguese Government placed this letter of mine before Shri Chaudhuri. I have received a reply couched in language of appreciation, worthy of him, worthy of a true patriot. He is an ornament of this Parliament, an ornament of this nation. We are all proud of him, we are all proud of him as a colleague, proud of the way in which he is bearing this incarceration in the Goa prison. We are happy to know that his health which had a setback is now slightly better, although he is suffering from many handicaps. One clause has been put in here that the nomination paper need not be signed by him, but no such nomination paper "shall be received by the returning officer unless at the time of its delivery the proposer produces before that officer a writing signed by such person and showing his intention to stand as a candidate, and a certificate signed by a Secretary to the Government of India in the Ministry of External Affairs

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that the person is detained in prison or other custody in Portuguese territory". I hope no difficulty will be created, and that it will be possible to produce that writing, and that the returning officers will not create any difficulties but will accept it in the spirit of this Bill.

I am happy to notice that the West Bengal Pradesh Congress chief also made a declaration the other day that they will not set up a candidate against Shri Chaudhury. That means there will be no candidate against Shri Chaudhury and he will be elected to Parliament by the unanimous wish of the people.

I was in Bombay the other day and I found in Maharashtra a deep concern that it should be made possible for Shri Gore who is suffering incarceration also in Goa to represent one of the important constituencies in this Parliament or in the local Assembly. I hope that will also be possible, and he will be given all the facilities.

With regard to the other matter, Shri Pataskar deserves the congratulations of all sections of the House. It is a timely measure. I claim that I have possibly little more experience than many Members of these election cases, and I know how people have been disqualified, and I wish I could support Shri Kamath. I also appeared in his election case, and therefore I know what is what.

**Shri Kamath:** There was no corrupt practice there.

**Shri N. C. Chatterjee:** There was no corrupt practice there, but it required three weeks of argument to convince the Supreme Court that Shri Kamath had been unfairly dealt with by the lower tribunal. Take for instance one clause, clause 7 of section 123 dealing with the obtaining or procuring etc., or clause 6 of that section, dealing with the incurring or authorizing of expenditure in contravention of section 77. You will be amazed to know that a candidate in U.P. who was successful in defeating the Cong-

ress candidate was held guilty of a corrupt practice because his father was a rich landlord and some of his servants actually helped him in the election. The Election Tribunal held that the father being over 80 must be deemed to have retired and his servants must be serving the candidate as his own servants. As the father's staff helped him, they were really his staff, and he was disqualified, unseated and incurred this penalty of being convicted of a major corrupt practice.

With regard to clause (7) there is something in what Shri Kamath pointed out, but I would also remind him that it states that persons serving under the Government shall include revenue officers including village accountants, such as patwaris, lekh-pals, talatis, karnams and the like and also other village officers. It is so broad and so wide. I am certainly not saying that free and fair elections will be possible only by legislation. I do not think that a man like Pandit Nehru or Pandit Pant wants that the Congress should come back to power through unfair means, through this kind of employment of the official machinery to bolster up the Congress candidates, but we know that in spite of what the highest people may profess there are always official interferences, and we all know that in the interests of the ruling party the subordinate hierarchy always acts. They try to justify their existence and to do their best to help the ruling party. Still, I ought to point out that there is some justification for what the Minister is going to do. Having regard to the wide language in which the rules are couched, a man becomes guilty of corrupt practice when there is really no corruption. In the amending Act you have recently done away with minor corrupt practices and illegal practices. It is also reasonable that disqualifications flowing from these technical corrupt practices and minor corrupt practices and illegal practices should be all done away with, and a man should be given a chance.

Just remember Shrimati Sucheta Kripalani's case. The Tribunal unaniously held that there was absolutely no corruption. What happened was that the election return was filed by somebody who did not know how to put in the figures under different categories properly. It is so complicated that even a veteran lawyer would think twice or thrice before he fills it up properly. Although it was held there was absolutely nothing improper or corrupt—possibly one of the fairest elections was fought in Delhi—still she was disqualified and was out of Parliament. This disqualification had affected 6,000 persons.

I remember one case where I appeared for a Congress candidate from Madras. He was a sitting Member of this Parliament and he was disqualified because he had paid Rs. 500 or Rs. 250 to the Tamil Nad Congress Committee for the purpose of applying for nomination as a Congress Candidate. Some money had to be put in.

**Pandit Thakur Das Bhargava** (Gurgaon): Rupees hundred.

**Shri N. C. Chatterjee**: I do not remember the exact amount. I argued before the Supreme Court that it is very unfair because when that Rs. 100 was put in he was not a candidate at all. He simply wanted that he should be allowed to stand as a candidate, and he signed a pledge that if he was not given the nomination, he would not stand for the election at all. Even then Mr. Justice Venkataraman Iyer held that it was a corrupt practice and it comes under this category. So, you never know where you are.

In one other case in Tanjore I appeared for another Congress candidate. What happened? He had a bus permit. He had nothing to do with the Government, but there was one clause that any one who gets a bus route shall have to carry for the Postal Department the mail bags and then he is paid something. And only for that he has been disqualified and unseated from Parliament.

Another case happened in Madhya Pradesh of an amazing disqualification. A chamar candidate was standing there in a predominantly chamar constituency.

**Pandit Thakur Das Bhargava**: The first man may still come under the mischief.

**Shri N. C. Chatterjee**: Because he said it was a chamar constituency and appealed to the chamars for votes he has been disqualified for six years and unseated, although he defeated the Congress candidate by a very large majority.

These things have happened. I am saying this disqualification should go and what the hon. Minister has done is opportune. Not one minute should be lost and I hope all sections of the House will support this Bill. This is really a non-controversial Bill of the highest importance. Let everybody have a fair deal, and these technical disqualifications except cases of bribery or undue influence or gross cases like that, should not be in any way penalised, and they should all have a chance of standing without any shadow or without any stigma of any kind.

**Shri Raghavachari** (Penukonda): I only want to make one observation and that relates to clause 5. I wish Government had brought a comprehensive Bill making it perfectly clear as the Constitution requires what are offices of profit that disqualify Members. In fact, there was a Committee appointed here, elaborate discussion went on and a report was submitted, but the thing has been put into the shelf. Instead of piecemeal legislation coming here and there as it suits our purposes stating that a particular thing is not an office of profit and it will not disqualify a member, I wish a comprehensive Bill had been brought forward after all facts had been taken into considerations to determine which are offices of profit and which are not.

**Shri K. K. Basu**: As the previous speaker said, we certainly welcome the provision of the Bill in respect of the removal of all fetters in the way of

[Shri K. K. Basu]

the standing of candidates or persons who have been in Goa jail for the liberation of that particular part of our country. We had been clamouring for a very long time that we must see that these persons who with the unanimous support of the entire nation went and suffered, and went to jail in Goa for the liberation of the particular territory—subsequently, however, owing to the attitude of the authorities, the liberation movement could not fully succeed—should not have any difficulties placed in the way of their contesting the general elections. The proposal that has been made in this Bill, namely that a person in the Goa jail can stand as a candidate, without the nomination paper actually being signed by him as required under the existing law, is a welcome improvement, and as the previous speaker has said, the entire House is behind Government in this respect.

As you know, our esteemed friend Shri T. K. Chaudhuri has been sentenced to more than ten years of imprisonment in the Goa jail. As for his past career in the British jail, Shri N. C. Chatterjee has already described it. We do wish, and there has been a move by the entire people of West Bengal, that he should come to this House without any contest.

In this connection, I have given an amendment to the effect that in case at the time of the delivery of the nomination paper, the proposers are not in possession of the two documents that are required, namely a writing signed by the candidate saying that he is agreeable to stand as a candidate, and a certificate by a secretary to Government in the Ministry of External Affairs that he is in prison, the returning officer may allow such further time as he may think fit for the submission of these documents. As you know, under the normal rules, a time of not more than 48 hours is allowed for taking objection in respect of any nomination, and within that time, the documents and other papers in support of the objection

could be submitted. So, I would suggest that in case the documents required under clause 4 are not readily available in time, the period allowed may be extended at least till the time of scrutiny. Further, the proposers or the relatives of the candidate might not be able to get in time the writing signed by the candidate showing his intention to stand as a candidate. That is quite possible, in view of the fact that we have no diplomatic relations with the Portuguese authorities now and we have to go through the Egyptian Government, and even the Egyptian Government are in some trouble in recent times. So, it may happen that the document required may not be reaching the proposers in time, in which case they may not be in a position to submit it to the returning officer at the time they file the nomination paper.

So, I would urge Government that they should leave it to the returning officer to extend the time allowed for the submission of the documents, if necessary until the time of scrutiny, or if he is so satisfied that there is a genuine case that the certificate from the Central Government as to the person's being in jail is not received in time, he may extend it to such further time as he may think fit. Since Government are agreeable to remove all fetters in the way of these persons contesting the elections, I hope they will agree to accept my amendment to clause 4.

Clause 5 seeks to remove the disqualification on the members of the Councils of Advisers in Manipur and Tripura. I do not understand why there is so much of hurry about it. We know fully well that in those two territories, the advisers that have been appointed are mostly from the party in power. There are two seats in Parliament for these areas. Since these advisers do not do much of executive work but only some advisory work, they might very well resign two months or three months before the general elections if they want to



contest. I am told that these advisers are given free motor cars, and some other special amenities and remunerations, which they may adversely utilise at the time of the elections. You will appreciate that these two areas are small areas; in the whole of these territories, there may be just three or four cars, two of which may be given to these advisers at State expense. Whereas the Ministers here only get an advance for purchasing their cars, these advisers, I am told, are provided cars by the State. So, I think that unless these special facilities are withdrawn, the disqualification on them should not be removed.

In clause 3 it is provided that unless the appropriate Government have not less than 25 per cent of shares in any company, the holders of office in that company should not be considered to have incurred any disqualification under section 7 of the Act. In the present context of things, the words 'appropriate Government' have no meaning. So, I have tabled an amendment to this clause. For instance, a person might be contesting for a seat in a State legislature, but he may be dealing in iron and steel and he may have a big contract with the Central Government, or he may be a member on some Central committee. Now, the State Governments, representatives also may be members of that committee. Now, irrespective of the fact whether that committee is advisory or not, this person, who, in terms of the law, should be considered as having a dealing only with the Central Government, yet by reason of his participation in that committee may indirectly bring to bear some influence on the State Government's representative to champion his point of view. So, I would suggest that the word 'appropriate' should be removed, so that it may apply to both State and Central Governments. This is very necessary in the interests of the growth of democracy. After all, ours is a nascent democracy. We have had just one general election; that has been done very well, and the way in which the citizens of our country

voted in that election for the nurturing of the democratic set-up was also very good. I would, therefore, urge that every effort should be made to see that our democratic institution which is still in a developing state is not in any way jeopardised by any adverse influence being brought to bear on it in the manner contemplated here.

In clause 2, the disqualifications arising out of any illegal practice or corrupt practice other than the corrupt practice of bribery or undue influence have been sought to be removed. I have tabled an amendment which seeks to make it clear that in cases of convictions arising out of moral turpitude, there should not be any removal of disqualifications. But there may be cases of persons who may have been convicted for political offences in 1952 or thereabouts, at a time of riot, or some other disturbance or some other trouble. Such convictions were the result of particular political conditions or a particular political atmosphere. Or, it may be that these convictions might have arisen on account of the demand of the workers for better wages or the demand by the *kisans* for land reforms, and so on. But in the new set-up of things, since 1952, every political party in the country has changed its attitude in regard to the way in which a right should be established or enforced.

So, I would submit that even in respect of persons who might have been convicted before 1952 for their first set of offences, the disqualifications should be removed, so that in the new democratic set-up and in the new conditions in the country, they may also be allowed to contest the elections, and any disqualification arising out of former conviction might not stand in the way of their being elected as the representatives of the people.

पंडित ठाकुर दास भार्गव : जनाब  
डप्टी स्पीकर साहब, जो बिल हमारे सामने  
झाया\* है, मुझे खुशी है कि सारे हाउस के  
मेम्बरान ने इस को पसन्द किया है ।

[पंडित ठाकुर दास भार्गव]

जहां तक इस के क्लोज़ेज का सवाल है, मुझे कोई भी शुबहा नहीं है कि सिर्फ अपो-जीशन की ही यह ख्वाहिश नहीं थी और न उन के अकेलों की यह मूव थी, बल्कि गवर्नमेंट ने खुद इस बात की कोशिश की कि हमारे अग्नरेबल मेम्बर श्री त्रिदिव कुमार चौधरी की वहां पर जितनी तकलीफ कम की जा सकती है उतनी कम की जायें। वह वहां देश के वास्ते तकलीफ उठा रहे हैं और इस के पहले भी उन्होंने न देश के लिये बहुत काम किया है, वह एक ब्रूड पेक्टियट हैं जिन के लिये हर एक देश वासी का सिर इज्जत से झुकना चाहिये। मैं अदब से अर्ज करना चाहता हूँ कि गवर्नमेंट ने इस कानून में इस किसम का प्रावीजन रखा है कि जिस के मुताबिक वह फिर इस हाउस में, मुझे उम्मीद है, तशरीफ ला सकेंगे।

इसी तरह से यह फंसिलिटी एक दूसरे मेम्बर साहब के लिये भी ओपिन है जिन का जिफ चटर्जी साहब ने किया है। दर असल बात यह है कि जिस किसी ने भी गोआ की आजादी के लिये काम किया है वह हमारी इज्जत का मुस्तहक है और हम चाहते हैं कि ऐसे लोगों को जो भी कानूनी रियायतें इन हालात में मिल सकती हैं वे सब दी जाये। इस वास्ते मैं श्री पाटस्कर को मुबारकबाद देता हूँ कि उन्होंने न सारे देश की आवाज को सुना और इस बारे में एक ऐसी तरमीम की जोकि बहुत ही जरूरी थी।

अब कुछ चीजों के बारे में मेरे लायक दोस्त कामथ साहब ने आबजैक्शन किया है कि दफ़ा १२३ के अन्दर जो डिसक्वालिफिकेशन्स दी हुई हैं उन में चन्द एक डिसक्वालिफिकेशन्स ऐसी हैं जिन को कि हटाना मुनासिब नहीं था लेकिन मैं कामथ साहब की खिदमत में अदब से अर्ज करना चाहता हूँ कि वे मेरे से ज्यादा जानते हैं कि यह राइट कि एक आदमी वोट दे, एक आदमी खड़ा

हो सके और अपने देश की पार्लियामेंट या किसी असेम्बली में जा सके, यह कितना जरूरी राइट है और इस राइट से किसी को महरूम करना किसी टेकनिकल बात पर या किसी ऐसे क़सूर पर जो काफ़ी सख्त न हो, उस के इस हक़ को छीन लेना मुनासिब नहीं है। मैं कामथ साहब से बड़े अदब के साथ, अर्ज करना चाहता हूँ कि जो रिप्रज़ेंटेशन ग्राफ़ दी पीपुल बिल हमने पास किया था अगर वे उस की सारी दफ़ात का मुनाहिज़ा फरमायेंगे तो उन को रोशन हो जायगा कि इस ऐक्ट के अन्दर हॉम ने ऐसी चीजें रक्खी हैं कि इस किसम के ज़रायम के वास्ते जो हम न पैनालिटी रक्खी है वह सख्त नहीं है और सिर्फ ६ वर्ष की हम न पैनालिटी रक्खी है। दफ़ा १४०, १४०(ए) में एलेक्शन कमिश्नर को यह अख्तियार दिया है कि प्रीपर क्लेज़ में रिलीफ़ दे दें। मैं यह नहीं कहता कि यह खिलाफ़ ज़ुर्म नहीं है लेकिन यह टेकनिकल ज़ुर्म है।

कामथ साहब ने बड़े जोर शोर से इमपरसोनेशन की शिकायत की थी लेकिन शायद उन को मालूम भी नहीं है कि एक भी केस इमपरसोनेशन का इलेक्शन पिटिशन का नहीं हुआ।

इसी तरीक़े से कामथ साहब ने गवर्नमेंट सर्वेट्स के बारे में ऐतराज किया है और जिस का कि जवाब श्री एन० सी० चटर्जी ने दे दिया है। मेरा उस की बाबत सिर्फ़ यह कहना है कि अगर आप पहले के ऐक्ट को उठा कर देखें तो पायेंगे कि पहले रूल यह था कि एक लम्बरदार या चौकीदार अगर किसी उम्मीदवार की मदद करते थे तो वह भी कानून की ज़द में आ जाते थे। अब वह क्लाज़ ही दूसरा हो गया, उस को चेंज कर दिया गया और मुनासिब नहीं था कि पुरानी पेनलटीज़ के असर को कायम रक्खा जाता। बाकी चीजें अगर आप

मुलाहिजा फरमायेंगे तो देखेंगे कि बाकी चीजें इस किस्म की हैं कि जिन के ऊपर ज्यादा जोर देना कि वह कायम रखी जायें वाजिब नहीं था और खसूसन् डिसलाएलिटी टू दी स्टेट एंड डिसमिसल फौर करप्शन के जुर्मों के वारंते भी एलेक्शन कमिश्नर को अधिकार दिया है कि वह इस पीरियड को रेड्यूस् कर सकते हैं। बेसिक पालिसी गवर्नमेंट की यह है कि हर एक आदमी जो एलेक्शन के लिये खड़ा होना चाहता है वह खड़ा हो सके और उस को खड़ा होने से महरूम न किया जाय जब तक कि कोई ऐसे वजूहात न हों जिस से कि उसे डिबार्ड करने पर मजबूर ही न हो जाय और इस स्वाहिश को ले कर हमारे पाटस्कर साहब इस बिल को लाये हैं और जो इस के प्राविजंस हैं, वे निहायत अच्छे हैं।

जहां तक वोटिंग का सवाल है दफ्तर १४३ की रू से सजा खत्म कर दी गई है। अब चटर्जी साहब ने और दूसरे साहबान ने कई क्लेज का जिक्र किया है। मैं अपना एक छोटा सा वाक्या सुनाता हूं। मैं जब यहां सन् १९४५ में इस हाउस में आया तो मैं ने अपने रिटर्न्स दाखिल करने के वास्ते अपने एक एजेंट को भ्रक्षत्यार दे दिया कि वह जा कर मेरे रिटर्न्स दाखिल कर दे। जब मेरा एजेंट गया तो हेड क्लर्क ने उस को वापिस कर दिया, उन्होंने उस को नहीं लिया और कुछ उस पर लिखा भी नहीं। आखिर मेरे पास तार पहुंचा कि मैं फौरन अम्बाला पहुंच कर अपना रिटर्न्स दाखिल करूं। मुझे पता नहीं था कि मेरे रिटर्न्स को वापिस कर दिया गया है। खैर मैं आखिरी दिन शाम को ८ बजे अम्बाला पहुंचा, अगर मैं उसी वक्त रात में ५.६ मील पर जो किसी मजिस्ट्रेट के पास मेरे रिटर्न्स पड़े हुए थे, उन से ले कर उसी रात को दाखिल न कर दूं तो मैं यहां हाउस में बैठने से महरूम हो जाता, चुनावे मैं ने अपने रिटर्न्स को ले कर रात को दस बजे सुपरिन-

टेंडेंट कमिश्नर को पेश कर दिये। तो इस तरह का रूल था कि अगर मैं उस दिन अपने रिटर्न्स दाखिल न कर दूं तो मैं पालिया-मेंट के अन्दर मेम्बर नहीं रह सकता था। मेरी अदब से गुजारिश है कि करीब ६ हजार क्लेज ऐसे हैं जोकि एक जनरल हुबम के तहत के फला तारीख तक जिन के रिटर्न्स नहीं आयेंगे वे सब डिसवॉलिफ़ाइड हो जायेंगे, यह एक बिलकुल टेकनिकल चीज थी और इस टेकनिकल चीज को हटा कर के मैं समझता हूं कि ६ हजार आदमियों का भला किया है।

वोटिंग के बारे में मुझे कुछ ज्यादा अर्च करने की जरूरत नहीं है, मैं समझता हूं कि उस के सम्बन्ध में बहुत ठीक हुआ है। मेरी अदब से गुजारिश यह है कि यह जो बिल हम पास कर रहे हैं, इस के जरिये डिसएबिलिटीज के रिमूवल का राइट प्रोवाइड कर रहे हैं और यह प्रोवाइड किया जा रहा है कि टेकनिकल ग्राउंड्स पर लोगों को चुनाव में खड़ा होने से महरूम न किया जाय और मैं समझता हूं कि यह एक ऐसा कानून हम पास करने जा रहे हैं जिस को कि युनैनिमसली पास करना चाहिये और पाटस्कर साहब को मुबारक बाद देना चाहिये कि वे एक क्राबिल डाक्टर की मानिन्द नबज पर हाथ रख कर इस हाउस के सामने इस किस्म का बिल लाये हैं।

**Shri Pataskar:** I am glad that this measure, which I have brought forward, has received the almost unanimous support of the Members of the House.

I can assure all sections of the House that so far as the question of Goa is concerned, there is no difference of opinion. That has been shown by the way in which a special provision has been made regarding those who are now imprisoned in Goa and who want to stand as candidates wherever they like, either to the State Assemblies or to Parliament. At any

[Shri Pataskar]

rate, whatever the differences of opinion with respect to the action taken by Government, I think it will be conceded— and I am glad to note that it has been conceded by everybody— that this will show that every section of this House is one so far as the question of the solution of the Goa problem is concerned, except that there might be differences of opinion with respect to the way, the time and the manner in which it has to be done. I need not, therefore, add any remarks more.

I would have wished that Shri Kamath had not referred to the betrayal of Goa and all those things. After all, we are assembling here to do something on which we are all agreed. Therefore, why try in any way to lay emphasis on our differences of approach. However, that is a small matter.

Even with regard to the other Bills, naturally we are all anxious that our election law should be perfect. We held an election on a colossal scale last time, for the first time in the world. We had an election law which had worked successfully, by and large. At the same time, we are democratic enough to see that this Parliament shall take into account whatever lacunae have been discovered; we have tried also to put them right and have passed the new amended law. Even now we want that some innocent mistakes that might have been committed should not constitute the reason for anybody being deprived of his right to vote or be a member, and we want to rectify those defects.

It is from these two points of view that the present Bill has been brought forward. I am glad that this is one measure on which all sections of the House are united. That shows how India is the right place for the flourishing of democracy.

**Shri Kamath:** A feather in your cap.

**An Hon. Member:** Maharashtrian cap!

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

“That the Bill to provide for the removal of disqualifications for membership of, and voting at elections to, Parliament and State Legislatures, and for certain miscellaneous matters in connection with such elections be taken into consideration”.

*The motion was adopted.*

**Clause 2— (Removal of disqualifications)**

**Shri Kamath:** I beg to move:

(i) Page 1, lines 16 and 17,—

for “illegal practice or for any corrupt practice other than the corrupt practice of bribery or undue influence” substitute “minor corrupt practice”.

(ii) Page 1, lines 16 and 17—

for “any corrupt practice other than the corrupt practice of bribery or undue influence” substitute “any minor corrupt practice”.

I only formally move these amendments. I have already spoken on them.

**Shri K. K. Basu:** I beg to move: Page I, line 17—

after “undue influence” insert “or for conviction for an offence other than moral turpitude”.

I have already spoken on this amendment.

**Shri Pataskar:** I do not accept these amendments. I do not want to take the time of the House by saying anything further.

**Shri N. C. Chatterjee:** He has already spoken.

**Mr. Deputy-Speaker:** Shall I put the amendments to the vote of the House?

**Shri Kamath:** They may be formally put.

**Mr. Deputy-Speaker:** I shall now put the amendments moved by Shri Kamath to the vote of the House.

The question is:

Page 1, lines 16 and 17—

for "illegal practice or for any corrupt practice other than the corrupt practice of bribery or undue influence" substitute "minor corrupt practice".

*The motion was negatived.*

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

Page 1, lines 16 and 17—

for "any corrupt practice other than the corrupt practice of bribery or undue influence" substitute "any minor corrupt practice".

*The motion was negatived.*

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

Page 1, line 17—

after "undue influence" insert... "or for conviction for an offence other than moral turpitude".

*The motion was negatived.*

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

"That clause 2 stand part of the Bill".

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Clause 3—**(Amendment of section 7)

**Shri Kamath:** I beg to move.

Page 2, lines 4 to 6—

for "in the capital of which the appropriate Government has not less than twenty-five per cent. share" substitute: "in which the appropriate Government has any share or financial interest".

**Shri K. K. Basu:** I beg to move:

Page 2, lines 5 and 6—

for "the appropriate Government has not less than twenty-five per cent. share", substitute "any Government has any share".

**Mr. Deputy-Speaker:** I shall now put these amendments to the vote of the House.

The question is:

Page 2, lines 4 to 6—

for "in the capital of which the appropriate Government has not less than twenty-five per cent. share" substitute "in which the appropriate Government has only share or financial interest".

*The motion was negatived.*

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

Page 2, lines 5 and 6—

for "the appropriate Government has not less than twenty-five per cent. shares", substitute "any Government has any share".

*The motion was negatived.*

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

"That clause 3 stand part of the Bill".

*The motion was adopted.*

*Clause 3 was added to the Bill.*

**Clause 4—**(Special provision for nomination in case of prisoners in Portuguese territory)

**Shri Kamath:** I beg to move:

Page 2, line 13—

for "received" substitute "accepted".

So far as my legal and technical knowledge goes, the word "accepted" is more appropriate than "received" in this context. Even the election law, I believe, has used the word

[Shri Kamath]

"accepted". It is said "accept nomination papers", not "receive nomination papers". I would, therefore, request the Minister to go into this matter and satisfy himself whether the word "received" is more appropriate or the word "accepted" is more appropriate.

**Shri Pataskar:** At this stage, 'receives' seems to be the more appropriate word. Shri Chatterjee will explain to you.

**Mr. Deputy-Speaker:** About 5 and 6.

**Shri Kamath:** Sir, the clause provides for the authentication of the certificate by a Secretary to the Government of India in the Ministry of External Affairs. It is said, 'certificate signed by a Secretary'. I have suggested, 'authenticated by the Ministry'. I think that would be more easy to be implemented, than the provision as it is in the Bill. It may not always be possible to get it signed by the Secretary, if it is to be got quickly. The Secretary may not be present always in Delhi; he might have gone somewhere. It will take time. Therefore, I would request the hon. Minister to accept this. The spirit is entirely willing and I say why not the flesh or the letter also? Why should it be so weak? Authentication by the Ministry would be enough. It means authentication by the Joint Secretary or the Deputy Secretary. Why should it be by the Secretary himself? I cannot understand it. If the first one is not acceptable, I have suggested an alternative one, No. 6. There are quite a few Joint Secretaries in the Ministry and one of them may be had at any time. It is not absolutely necessary that it should be by the Secretary. It is enough that it is authenticated duly by a person competent to do so. I would move both these amendments and commend them to the acceptance of the House.

Sir, I beg to move:

(i) Page 2—

lines 18 and 19—

for "signed by a Secretary to the Government of India in" substitute "authenticated by"

(ii) Page 2, line 18—

after "Secretary" insert "or Joint Secretary".

**Shri K. K. Basu:** Sir, I beg to move:

Page 2, line 14—

after "delivery" insert: "or scrutiny or such further time as the Returning Officer may allow"

Sir, my amendment is very simple. I think the hon. Minister will accept it. I want that the delivery of these two documents, a writing signed by such person and the certificate—or authentication, whatever that might be—of the Ministry need not be at the time of the delivery of the nomination paper. We can have a provision, 'or at the time of scrutiny or such further time as the Returning Officer may allow'. Even now, if there is a dispute and if a document has to be produced, it can be done at the time of scrutiny. Often, time is given by the Returning Officer to produce such documents. I think as the Minister wants to remove all difficulties, he will easily accept this which will obviate all difficulties.

**Shri Pataskar:** The matter is very simple with regard to the amendment of my friend, Shri Kamath. The word here is 'received' and I think that word is really the proper word because the nomination paper has to be received at that stage and acceptance comes at a later stage.

"such nomination paper shall be received by the returning officer....."

We say that such nomination paper should be signed on his behalf by the

proposer. Then, we say, 'no such nomination paper shall be received...'. We say, it should not be received unless the two conditions are fulfilled. What are these conditions?

I will first of all refer to (b).

"(b) a certificate signed by a Secretary to the Government of India in the Ministry of External Affairs that the person is detained in prison or other custody in Portuguese territory."

From the information which we have got—and probably hon. Members know that—there are only about 47 such Indian nationals. We have already ascertained that. There will be absolutely no difficulty so far as getting a certificate is concerned. It can be signed by the Secretary. I submit no complications are likely to arise.

With regard to (a)—

"a writing signed by such person and showing his intention to stand as a candidate",

It will be realised that at that stage what is necessary is something in writing whether the person is in Goa jail or in any prison to show that he is willing to stand.

From the speech of the hon. Member, Shri Chatterjee, we find that when the resolution was communicated to the hon. Member, Shri Chaudhuri in Goa, he even wrote a reply. So, there will be no difficulty whatsoever in getting something in writing. I think my hon. friends will see that there is no difficulty in this and I beg both my hon. friends to take back their amendments.

**Shri Kamath:** Joint Secretary will be enough; why insist on Secretary for signing?

**Shri Pataskar:** I will see that there is no difficulty so far as the matter is concerned. I do not think there will be any complication.

**Shri K. K. Basu:** What about my amendment?

**Shri Pataskar:** I am sorry I did not reply earlier. What we want to lay down is very simple. All that we want is that the people who are interested should get something in writing beforehand. I think there ought to be no difficulty in the matter. There is no question of extending the time further because it is not a big matter. It is not a problem in which a large number is concerned.

**Mr. Deputy-Speaker:** Does the hon. Member, Shri Kamath, want his amendments to be put to the House?

**Shri Kamath:** Yes, Sir.

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

Page 2, line 13—

for "received" substitute "accepted".

*The motion was negatived.*

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

Page 2, lines 18 and 19—

for "signed by a Secretary to the Government of India in" substitute "authenticated by".

*The motion was negatived.*

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

Page 2, line 18—

after "Secretary" insert "or Joint Secretary".

*The motion was negatived.*

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

Page 2, line 14—

after "delivery" insert "or scrutiny or such further time as the Returning Officer may allow".

*The motion was negatived.*

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

"That clause 4 stand part of the Bill."

*The motion was adopted.*

*Clause 4 was added to the Bill.*

**Clause 5—** (*Prevention of disqualification etc.*)

**Shri L. Jogeswar Singh** (Inner Manipur): Sir, I beg to move:

Page 2, line 25—

add at the end "or of a Territorial Council".

Sir, in clause 5, members of the Advisory Councils have been allowed to stand for Parliamentary constituencies. Nothing has been provided with regard to their standing as candidates for election to the Territorial Councils. I want to know from the hon. Minister whether just as they are allowed to stand as candidates for Parliamentary constituencies, they are allowed to stand for the Territorial Councils. The Territorial Councils Bill is coming before this House, I may remind the hon. Minister that there are two Advisory Councils, one in Manipur and one in Tripura. Tripura has got 3 members and Manipur 5. These 8 members are treated more or less as Ministers. Shri Basu said on the floor of the House that they should not be allowed to stand as candidates. Why should they not? They are more or less just like Ministers. If the Advisory Council is to be abolished, it is a different matter altogether. If they are allowed to function why not these members be allowed to stand as candidates for the Territorial Councils as well? That is why I want a clarification from the hon. Minister. The Territorial Councils are to be elected along with these general elections. If they are allowed to stand for Parliamentary constituencies why not they be allowed for the Territorial Councils as well?

**Mr. Deputy-Speaker:** Amendment moved:

Page 2, line 25—

add at the end "or of a Territorial Council".

**Shri Pataskar:** Has the Territorial Councils Act been passed?

**Shri L. Jogeswar Singh:** Not yet passed but the Bill is coming up before the House.

**Shri Kelappan** (Ponnani): Unless it is passed how can we have this?

**Shri Pataskar:** The Territorial Councils Act is not yet passed and I do not think it is possible to make such a provision here. But perhaps I can give an assurance to the hon. Member.....

**Mr. Deputy-Speaker:** Does the hon. Member want me to put it to the House now?

**Shri L. Jogeswar Singh:** No, Sir.

*The amendment was, by leave, withdrawn.*

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

"That clause 5 stand part of the Bill."

*The motion was adopted.*

*Clause 5, was added to the Bill.*

*Clause 1, Enacting Formula and Title were added to the Bill.*

**Shri Pataskar:** I beg to move:

"That the Bill be passed".

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill be passed."

**Shrimati Benu Chakravartty** (Basirhat): I would just add my voice to that of my friends in welcoming that part of the Bill which allows the persons who are imprisoned in Goa to stand for election. This measure, has not come a day too soon. As a matter



of fact it has come rather at the fag end of the life of this Parliament. I remember when the discussion on the Representation of the People Bill was continuing in this House, many of us had pointed out that the disqualification of 2 years for those who had been in prison would affect many of the persons who were in prison at that time. Having pressed that, we were given an assurance that when the time came, it would be looked into by the Government, and I am glad that at this last moment this Bill has come before the House.

I would also like to say that we, from all sides of the House, join together in wishing that these people will be released very soon and they will be able to stand as full candidates as anybody else. But I would also like to add that whilst it is true that Government also has made a gesture that they will not set up any candidates against Shri T. K. Chaudhuri, we do not know as yet what will be the fate of Shri Gore and certain others who will probably be candidates, and I hope that the same attitude will be taken up by the Government in the case of Shri Gore and others because these men are victimised for the people of India and deserve the tribute which the people of India want to pay to these selfless fighters for the cause of our freedom, for freeing the last part of the Indian soil which still remains in the hands of foreign imperialists.

**Shri Achuthan (Cranganur):** I also associate myself with the good sentiments expressed by our sister, Shrimati Renu Chakravartty. Even though the Bill is a small measure containing two or three clauses, it contains very important provisions with regard to elections. We know that a number of disqualified members will be saved on account of the provisions of this Bill as well as patriots who are now in Goa.

I want to make one suggestion. We are going to have elections in two or

three months' time. We have passed two or three amendments to the rules, and I would be glad if the Law Minister takes it into his head to prepare a compilation of all these amendments and the rules and publish it very early, at least a month or two weeks before the date for nominations being filed. At least there will be about 5,000 candidates on a rough estimate of three candidates for one seat, and it is highly necessary that two weeks before the nominations are filed, we should have an idea of the rules, the amendments and other provisions which affect us. Even though we have passed these amendments, we ourselves are in the dark. It is very necessary that the Law Minister takes it up personally and sees that all these amendments and rules are compiled and published and made available to the public at least two weeks before the filing of nominations.

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

"That the Bill be passed".

*The motion was adopted.*

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#### MOTIONS RE REPRESENTATION OF THE PEOPLE (CONDUCT OF ELECTIONS AND ELECTION PETITIONS) RULES

**Mr. Deputy-Speaker:** The House will now take up consideration of motions relating to modification of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956. I think the House of the opinion that these Rules should be finished today. The hon. Minister is going out this evening, out of Delhi.

**An Hon. Member:** To his constituency?

**The Minister of Legal Affairs and Civil Aviation (Shri Pataskar):** Anywhere you like me to go.

**Shri Kamath (Hoshangabad):** I have got a number of amendments.