

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, Shri-mati 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.

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.

[Shri Kamath]

How do we proceed, Sir? Is it rule by rule or all together?

Mr. Deputy-Speaker: It is better if he takes up all his amendments together.

Shri Kamath: In respect of Schedules which have been omitted, are they going to have new Schedules?

Mr. Deputy-Speaker: When it is not there, it may be taken to have been amended.

Shri Kamath: But when it is published the House may not be in session. Anyway, I would like to move my motion Nos. 1, 2, 3, 4, 5, 6, 7, and 8. Motion Nos. 9, 10, 11 and 12 have no relevance today.

I beg to move:

(i) This House resolves that in pursuance of sub-section(3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule(1) of rule 18 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

after "Election Commission" add:

"and such design and colour shall be uniform throughout the country."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(ii) This House resolves that in pursuance of sub-section(3) of section 169 of the Representation of the People Act, 1951, the following amendments be made in sub-rule of rule 24 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

(i) for "may" substitute "shall"; and

(ii) omit "shall".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(iii) This House resolves that in pursuance of sub-section(3) of section 169 of the Representation of the People Act, 1951, the following new sub-rule be added to rule 38 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"(2) The returning officer shall permit each candidate to make reasonable arrangements of his own to keep a watch on the ballot boxes from the moment of their despatch from the polling station till the commencement of counting."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(iv) This House resolves that in pursuance of sub-section(3) of section 169 of the Representation of the People Act, 1951, the following provisos be added to clause(b) of sub-rule(1) of rule 53 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"Provided that in a parliamentary Constituency where votes will be counted at more places than one, such counting will take place on the same day:

Provided further that votes shall be counted on a day not later than the third day from the date of completion of the poll."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(v) This House resolves that in pursuance of sub-section(3) of section 169 of the Representation of the People Act, 1951, the proviso to sub-rule(2) of rule 57 of the Representation of the People (Conduct of

Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956, be omitted.

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(vi) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (1) of rule 64 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November 1956:

After "counting" insert "at each place or centre".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(vii) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following new rule be inserted after rule 66 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"66A. The declaration of the results of election shall, as far as may be feasible, be made on the same day in all the States and union territories of India."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(viii) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-clause (1) of clause (c) of sub-rule (1) of rule 131 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

add at the end — "by the candidate, his agent, and the party or organisation promoting his election, the respective amounts being shown separately".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

Before I go to the other motions I would ask the Minister to enlighten the House about this matter, because the Schedule which has been omitted relates to ceiling on expenditure. That is an important matter.

An hon. Member: An announcement has been made.

Shri Kamath: But that is not before the House.

Mr. Deputy-Speaker: That has been laid on the Table of the House.

Shri Pataskar: Yesterday I laid on the Table of the House a copy of it. May I read it for the information of the hon. Member? It fixes the minimum and maximum expenditure etc. It reads:

"In exercise of the powers conferred by section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government, after consulting the Election Commission, hereby directs that the following amendments shall be made in the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, namely:—

In the said Rules—

(i) for Rule 135, the following rule shall be substituted, namely:—

"135. *Maximum election expenses.*—(1) The total of the expenditure of which account is to be kept under section 77 and which is incurred in connection with an election in any one Parliamentary constituency shall not exceed—

(a) Rs. 35,000, in the case of a two-member constituency in any State;

(b) Rs. 25,000, in the case of a single-member constituency in any State;

(c) Rs. 15,000, in the case of a two-member constituency in any Union territory; and

[Shri Pataskar]

(d) Rs. 10,000, in the case of a single-member constituency in any Union territory.

(2) The total of the expenditure of which account is to be kept under section 77 and which is incurred in connection with an election in any one Assembly constituency shall not exceed the amount specified in respect of that constituency in the following table:—

| State | Single-member constituency | Two-member constituency |
|----------------|----------------------------|-------------------------|
| Andhra Pradesh | 7,000 | 12,000 |
| Assam | 6,000 | 11,000 |
| Bihar | 8,000 | 13,000 |
| Bombay | 8,000 | 13,000" |

Mr. Deputy-Speaker: All these have been printed in the bulletin and supplied to Members.

Shri Kamath: I would only confine myself to the other amendments, and particularly what I consider to be major amendments. They are amendments Nos. 3, 4, 6 and 7. I would make a sort of consolidated comprehensive observation about all these as we are racing against time.

Some of these major amendments refer to the counting and pre-counting of stages of election of which I had particular experience during the general elections. So I would crave your indulgence to speak at some length on these particular aspects of election.

Mr. Deputy-Speaker: The hon. Member knows to what length he can go.

Shri Kamath: Yes, I will not exceed the limit, I rarely do.

It has been provided in this rule that counting shall take place at various centres as under the old law. I would suggest that in a parliamentary constituency, where there are several centres—more than one—after the poll is completed in the whole

constituency, the counting may take place simultaneously at all the centres on the same day. The candidate will be present at one centre and his agent may be present at the other centres. The counting need not be postponed from day to day. If there are 5 centres, counting need not take 5 days or more.

Then, the pre-counting stage, which is the post-polling stage, is very important. Some of my friends had some unpleasant experiences at this particular stage between polling and counting. I am therefore asking for certain safeguards which can be approved by the House, and which can be easily provided by the Government, without any detriment to their prestige or to the arrangement they are making in respect of these matters. My hon. friend, Shrimati Shakuntala Nayar—she is not present in the House now—told me that in the last elections, she got special permission from the Presiding Officers to enclose her ballot boxes in special bags which she had made and to seal them with her own seal. I do not ask for that; that may not be allowed. But, Government should have no objection to the candidate making arrangements for mounting guard, for keeping a watch over the ballot boxes during transit. That is possible. When the boxes are conveyed from the polling booths to the treasury or wherever they are deposited, the candidate should be allowed to make arrangements for mounting guard. In an Assembly constituency in my province, Madhya Pradesh, the Returning Officer was good enough to allow this arrangement, but all Returning Officers would not do that. In fact, in the last elections, there was a suspicion that tampering was done in certain cases. The senior Minister told us that this time, "the ballot boxes are fool-proof, knave-proof and proof against everything." I do not know what he meant by everything; I hope they are not proof against ballot papers entering them.

Shri Pataskar: Who said it?

Shri Kamath: Your senior colleague.

Shri K. K. Basu (Diamond Harbour): In the Rajya Sabha?

Shri Kamath: Here in this House.

Then, there is a provision in these rules that the Election Commission should be authorised to validate the ballot papers in certain circumstances. This provision, I am afraid, has been incorporated as a result of my election petition. The judgment of the Supreme Court in that case is reported in A.I.R. January, 1955. The judgment was delivered in December, 1954. The Supreme Court held that the Election Commission should not be authorised to validate the ballot papers once the poll is over. After the poll is completed, and the ballot papers are secure in the ballot box the only authority to validate or reject the ballot papers should be the Tribunal. The Tribunal should go into the circumstances and then decide whether any ballot papers should be validated or not. Neither the Election Commissioner, nor the Returning Officer *a fortiori*, has any authority to validate the ballot papers. Therefore, the Supreme Court held that the Tribunal being a quasi-judicial body should have the authority to validate ballot papers, but the Election Commission being an executive body should in no circumstances be empowered to validate ballot papers. That provision is not at all wholesome, is not at all satisfactory, it is bad in law and must not be approved by the House. I have, therefore given a motion in respect of that also.

As regards other matters I would not take more than three minutes. We have taken this matter at the fag-end of the day.

Mr. Deputy-Speaker: Could I depend upon the clock for this?

Shri Kamath: One hour has been allotted for this.

Shri A. M. Thomas (Ernakulam): You need not take the full one hour.

Shri Kamath: In regard to declaration of results, it should be made, as

far as possible and feasible, on the same day in all the States and Union Territories of India. I need not emphasise the importance or the necessity for this particular motion of mine, because I do not think it is quite desirable that we announce the results piecemeal, in one State in the middle of March, two days later in another State and five days later in a third State and that sort of thing. I would be happy if all the results all over India are announced on one and the same day so that the matter may be satisfactorily settled.

Pandit Thakur Das Bhargava (Gurgaon): It will be against certain portions of the Act.

Shri Kamath: Against the Act? I do not think so.

Lastly, I come to Rule 131 dealing with election expenses. Rule 131 modified the old provision ostensibly for simplifying the whole process, but really for some other ulterior reasons, as was pointed out on the occasion of the debate on the Bill amending the election law.

There was a united amendment from the Opposition.

An Hon. Member: Why Opposition? Congress people also joined.

Shri Kamath: I am glad that some of them joined, not all. About expenses by the party or organisation supporting a candidate, we moved an amendment and the Minister accepted that amendment. The effect of it was contrary to what we on this side of the House had imagined, or visualised. I have, therefore, moved an amendment in motion 8. There is a provision here—

“(c) the amount of the expenditure—

(i) amount paid;

(ii) the amount outstanding;”

I have therefore moved a motion, saying that the amount paid should show that made by the candidate, his agent, and the party or organisation promoting his election, the respective accounts being shown separately.

[Shri Kamath.]

18 hrs.

I would commend this motion to the acceptance of the House, in the interests of fair and free elections in our parliamentary democracy. Without the acceptance of this motion with regard to election expenses, the elections will be heavily weighted against parties which are without money bags behind them, without the capitalists behind them, and particularly against independent candidates. I do not wish to speak on behalf of the independent candidates. There are hon. colleagues here who would speak about them much more effectively than I do. But, I do say that this provision as it is will militate against fair and free elections so far as small parties and independent candidates are concerned. Unfortunately for the country, it is the Congress Party which commands all the money bags by hook or crook. I hope the crook will be less and less as days go by; but it is too much to hope in the coming elections. I plead with the House to accept this particular motion so that all parties will be at par and there will be really fair and free elections and not unfair and un-free elections in our democracy.

Shri V. G. Deshpande (Guna): I beg to move my motion No. 25.

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following provisos be added to sub-rule (1) of rule 10 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table of the House on the 20th November, 1956:

"Provided that in a double member constituency two candidates of the same party would not be discriminated against on account of their belonging to an unrecognised party:

Provided further that as far as possible the candidates of a party which is a recognised party in any State would be allotted the symbol of that party."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

I know that at the fag end of the day, we cannot carry any suggestion by a majority. But, I will try to appeal to the Minister in charge and to the House also to give their attention to one aspect of these rules. I would draw your attention to rules 5 and 10 which deal with choice of symbols by candidates and allotment of symbols. As regards choice of symbols, it is said:

"the choice to be made by a candidate under this sub-rule shall be subject to such restrictions as the Election Commission may think fit to impose in that behalf;"

In rule 10, it is said:

"subject to any general or special direction issued in this behalf by the Election Commission;"

That is, the symbols are to be allotted according to the special or general directions of the Election Commission. Parliament has a right to see what are the directions which are being given by the Election Commission, whether they are proper directions, whether they are according to our wishes and whether they are against the principles of democracy. Cases have come to my notice. The Election Commission did not mean it. I know that, on the whole, the Election Commission has been quite fair and quite just. But, not knowing fully well, things happen. Because, sometimes we vaguely talk things and they are accepted as great principles. It is said that in England there are only two parties. It is said that there should not be too many parties, and that is wrong. They feel that it is a great principle on which our Constitution is based and that there should not be many parties. I think real democracy demands that there can be any number of parties. Even one man can stand and hold his opinion and he has a right to fight the election with as much privilege and as much facility as a party with 375

people. The real point is, there should not be any discrimination. What has happened is this. When they found that there were a large number of parties, they had to put a limit somewhere. While making arrangements, the number cannot be too large. They said, for the allotment of symbols, we recognise certain parties. I would even go and concede that they did not put very strict limits. They said, we will reserve symbols to those who have got at least 3 per cent. of the votes, others will not get. Up to that extent, we do not mind. Now, here comes a hitch. I would like to tell you one or two instances. In the allotment of symbols, the Election Commission issued instructions. The first instruction that was issued was that in a double-member constituency different symbols should be allotted to each contesting candidate in conformity as far as practicable with his choice. They issued instructions that in a double member constituency, the candidate of a recognised party for the general seat should be allotted the symbol of the party, and for the candidate for the reserve seat the symbol with a chakra would be allotted. For other parties separate symbols were to be given. This makes a discrimination. I will give you a concrete instance.

In Datia there were three parties contesting the elections—the Congress, the Hindu Mahasabha and the P.S.P. The Congress candidate got the bullock with a circle, the P.S.P. candidate got his party's symbol with a circle, and the Hindu Mahasabha candidate, when he asked for the symbol of his party, got a hut for the general seat. The candidate for the reserved seat got some other symbol. That is because in that State, Vindhya Pradesh, we are not recognised. The result was that the Hindu Mahasabha candidate for the general seat won the election, the P.S.P. candidate for the general seat came second and the Congress party general candidate came third. Both the candidates of the P.S.P. for the general and reserved seats got the same number of votes, the Congress party also practically got the same

number of votes for both their candidates, but in the case of the Hindu Mahasabha the symbol not being the same, we found the P.S.P. candidate had won the reserved seat.

Therefore, what I say is when a person comes and says that he belongs to a particular party, if other parties are being given the same symbol with only a circle around it, he should be similarly given the symbol of his party. It is fair and reasonable. I wrote frantic letters to the Election Commission, but then they wrote to me: "We are helpless. We have issued the notification. It is not possible to make any change in the instruction". Therefore, what I say is that Parliament should see that the Election Commission does not issue any instructions which would militate against the very conception of democracy, and therefore this power which we have given to them should be restricted. I have moved an amendment with a view to restrict this power of the Election Commission.

Then I come to my second amendment. There are certain parties which are recognised in certain States. A party may be recognised in Bombay State or Madhya Pradesh or Bengal or three or four States. If their candidates stand in some other State, they also, as far as possible, should get the same symbol of the party. I do not say it should be done very strictly, but as far as possible care should be taken to see that no confusion is made. We have got such big States. For example, U.P. is such a big State that even if I set up 100 candidates, my party may not be recognised. Last time from our party a Member of Parliament was elected by a few votes, and this difference could come in due to this difference in the size of the territory. Therefore, these rules should not be hard and fast. Certain restrictions have to be put on these powers of the Election Commission because we find that Parliament has no control, once they issue instructions we have not got the power to take it away or interfere with it.*I would therefore request the Minister that even if the wording of my amendment may not be acceptable

[Shri V. G. Deshpande]

to him, he may change the wording a bit and convey this intention of the House that the House does not want any discrimination to be made between party and party and candidate and candidate on account of its size. We have not accepted the size of the support as a criterion for democracy. In a democracy we feel that even minority has the right to live and fight and have equal privileges. Therefore, I would appeal to the Minister to accept my amendment with some modifications if he thinks fit.

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

"This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (1) of rule 34 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

for "two rupees" substitute "one rupee".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution."

Rule 34 provides that in case a particular vote is challenged, two rupees should be deposited with the polling officer by the person challenging. This time we are trying to make the election machinery as cheap as possible, and in all cases we have tried to reduce the fees even on those suggested by the Election Commissioner. I am fully aware of the fact that originally the amount was Rs. 10 but later on it was reduced. But I feel that it should be reduced to one rupee, because, by and large, from our experience and also from the report of the Election Commissioner on the last general elections, it can be seen that excepting in certain cosmopolitan areas, there had not been many cases of voting by persons who were not actually voters. Unless the fee is very small, it may not be possible for a

genuine challenger to pay the fee, that is, the money required to maintain the challenge, especially if the presiding officer takes a very adverse view.

It has been provided in the rules that in case it is found that the challenge is not *bona fide*, the entire fee may be forfeited, but in case it is found to be *bona fide*, the money would be returned at the close of the poll. I do not see the justification for returning it at the close of the poll. As soon as the polling officer decides that the challenge is *bona fide* it should be his duty to return the fee that was deposited to maintain the challenge. I hope the Minister of Legal Affairs, who has been very sympathetic and who has been trying to improve upon the election laws with a view to simplify them would see the soundness of the amendments I have tabled. I am moving motions No. 16 and 17 in order to make our election machinery as easy as possible and as cheap as it is possible for us to make.

I beg to move:

(i) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (5) of Rule 34 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

for "after the close of the poll on the day on which it was made" substitute "forthwith".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(ii) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following be added at the end of sub-rule (2) of rule 35 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid

*People (Conduct of
Elections and Election
Petitions) Rules*

on the Table on the 20th November, 1956:

“Provided however any candidate or agent shall be entitled to put his seal on ballot boxes if he so desires.”

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

(iii) This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following proviso be added to rule 38 of the Representation of the People (Conduct of Elections and Election Petitions) Rules 1956, laid on the Table on the 20th November, 1956:

“Provided that any candidate or his agent shall be entitled to accompany the returning officer and/or his party for the safe transport of the aforesaid ballot boxes, packets and other papers referred to hereinbefore if he so desires.”

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

My motion No. 18 is to rule 35 which relates to the sealing of ballot boxes etc. after poll. I am told, I have also seen from experience after having attended some of the meetings of the Election Commission, that the pattern of ballot boxes varies from State to State. Under the present arrangement, the candidates or their agents are entitled to seal only the slot through which the ballot papers are dropped inside. But, as you are aware, there have been occasions when the ballot papers themselves are wrapped in some gunny bags or something like that, and then the seal is put. The unfortunate part of it is that the practice in regard to sealing varies from one presiding officer to another. Some presiding officers allow the parties to put their seals on the particular bags, but there are other presiding officers who say that only they are authorised to put the seal and not the candidates or their agents. I do not say that by

and large there have been cases of corruption or maladministration or wrong behaviour, but there can be an occasion, especially when there is a close contest between two candidates, when the ballot papers may not be properly safeguarded or there may not be proper security arrangements for the ballot boxes. So, I would urge that in case the candidates or their agents want to put their seal, they should be allowed to do so after the boxes have been secured and sealed by the presiding officer.

My other motions are in respect of the right of the parties to accompany the ballot boxes when they are transported from one place to another. In our country the transport conditions are very bad at many places. In some cases, for fifty miles or so, the ballot boxes have to be transported on the bullock-cart; sometimes, they have to be carried on the head of a person, as would be the case in Himachal Pradesh, PEPSU and so on. Even in our parts, sometimes, the boxes have to be carried by persons on foot, then by boats, and then possibly on a truck or a lorry, and that too, at dead of night. We have seen in certain cases that candidates have a feeling that the ballot boxes are tampered with. I do not say that as a rule this happens, but the party in power has the advantage of support of the administrative machinery, and the Opposition members feel that these ballot boxes are likely to be tampered with. As a matter of fact, there were cases during the last general elections when ballot boxes were thrown out of the lorry or carrier and they were found ultimately by the Returning Officer lying in some streets. So I say that in such cases, if the candidate or his agent so desires, he can accompany these boxes. It is entirely left to the candidates to decide whether they should accompany the boxes or not. I do not make it incumbent on the Presiding Officer to allow them to do it, but if the candidates feel that they should accompany the boxes, they should be allowed to do so.

Then I have another motion.

*People (Conduct of
Elections and Election
Petitions) Rules*

[Shri K. K. Basu]

I beg to move:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following be added at the end of proviso to sub-rule (1) of rule 58 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

“save and except when the result of the election may be determined on such tender votes they shall be counted at the request of any candidate or his agent.”

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

This relates to the provision for tender votes. Unfortunately, these tender votes are never counted. Therefore, what is the point in having this class of votes? For example, if by impersonation somebody comes and votes for a particular person and the real man comes subsequently, we do not accept the real man's vote. But here we have the provision of a tender vote. But we have no rules under which tender votes are counted.

Rule 58 says that tender votes are not normally counted. I have sought to add:

“save and except when the result of the election may be determined on such tender votes they shall be counted at the request of any candidate or his agent.”

Take the case of Shri Kamath. In the first election he contested, he lost by 170 or 175 votes. In some cases, the tie may be with respect to 200 votes. If, for example, 180 votes out of them were genuine, then they would go in favour of the person who needs that margin. On such occasions, these votes would serve some purpose.

Otherwise, there is no point in keeping these votes. Then they should be made illegal and invalid. So I have suggested this amendment. At the request of the candidate, these votes may be counted and taken into account by the Returning Officer. I hope the Minister will accept this motion.

Mr. Deputy-Speaker: All these motions are now before the House.

Shri Ramachandra Reddi (Nellore): I have a few observations to make. My hon. friend, Shri Kamath, has suggested that there should be simultaneous counting of votes in the several polling booths or polling stations.

Shri Kamath: In parliamentary constituencies, at the counting centres, not polling booths.

Shri Ramachandra Reddi: To my knowledge, all these boxes, especially relating to a parliamentary election, are pooled in one place or two and counting goes on under the supervision of the Returning Officer. If there is more than one centre prescribed for counting, I think it will be physically impossible; it will also not be desirable.

As a matter of fact, the only thing that can be observed is to reduce the time-lag between the polling day and counting day. As it is, I think a week or a week and a half is taken for commencing the counting operation. That can be reduced to the minimum. Probably it would take just 24 or 48 hours for all the boxes to be pooled in one place, however distant they might be from the Returning Officer's headquarters, because quick transport facilities are available now. Therefore, it should be possible for the Government to conduct the counting as quickly as possible, at any rate not later than two or three days after the election is over.

With regard to reduction of expenditure now revised and re-allotted per candidate region-wise, it is, no doubt,

very good on paper and the rule looks to be very reasonable. But it so happens that it is observed more in its breach than in the honouring of it. There is no possibility of any candidate giving correct figures; though he might feel that he should give correct figures, it might not be possible for him to account for every pie that he has spent. On the top of it, we have to understand that in these days elections cost much more than what has been prescribed by Government. I am not quite sure whether the Government realises that it is impossible to contest elections with the allotment that has been made by Government now. I do think that it would be much wiser to scrap this provision for rendering of accounts. As a matter of fact, we find that in several areas the Congress Government is trying to find out the richest men in the area to contest the elections. If that is so, it will not be possible even for the Congress to spend only the prescribed amount and then get success. It would, therefore, be wise on their part to look into things properly and see that this particular rule is scrapped. Nobody would understand or appreciate the "cat and milk policy" of Government. They should find a method by which they can scrap this. Almost every candidate becomes a culprit though he does not want to be so. In this respect, to my knowledge, the first culprit is the Congress party candidate. Otherwise, there is no need for the party government to go about and collect huge sums of money amounting to crores from very rich centres like Bombay and other places. It is done only with a view to spend at election time.

We had recently a very strange experience in Andhra. The elections were conducted under the aegis or supervision or direct intervention of some people from Bombay—hon. Members from Bombay. They seemed to have brought a few lakhs of rupees and spent them there. If it is for the organisational purposes, I can understand it. But, if it is for any other purposes, that is a matter which

requires greater scrutiny and greater alertness on the part of Government. Government attitude seems to be that if it is a Congress candidate that is contesting then no supervision or vigilance is necessary; but if it is an opposition candidate, greater supervision is necessary. Some of these things do come when we prescribe a maximum limit for expenditure. It would, therefore, be wise on the part of Government to see that this rule is not pressed. Later on they need not come to Parliament for an amendment of this rule so that all those that are disqualified under the rule are brought in for the purposes of election.

Shri N. R. Muniswamy (Wandiwash): Mr. Deputy-Speaker, I shall be very brief in the sense that there is only one point which I want to stress.

Mr. Deputy-Speaker: I shall be grateful.

Shri N. R. Muniswamy: The point raised by Shri Reddi and Shri Kamath is only with regard to the counting of votes at a particular centre, that it must be on a particular day. While agreeing with that, I have got one small difference. I would say that the counting of votes in the whole district should be on the same day. I will tell you what happened in my constituency. The election took place in one constituency on the 2nd January and in another on the 5th. They started the counting of votes. Fortunately, the candidate was successful. He was returned with a thumping majority. They took advantage of this and made propaganda saying that such and such a candidate has won and so candidates of that party should be supported at other places. Whether it is a candidate of the Congress party or any other party, I am only saying that the counting should take place on the same day throughout the district, instead of counting them on two or three days. If it is done they cannot say at some other place that such and such a candidate has won and that party should be supported. I do not mind whether it is the Congress party or the P.S.P. party.

[Shri N. R. Muniswamy]

I want to bring to the notice of the House the maximum limits of expenditure which they have prescribed. They have prescribed Rs. 35,000 for a double-member constituency and Rs. 25,000 for a single-member constituency. Some facts have been brought to the notice of the House as regards the method by which a candidate is getting over this difficulty. I know for certain that there are certain candidates who do not even spend Rs. 25,000; they spend only Rs. 5,000 and come out successful; for them there is no difficulty because when they submit their return, they do it in a very honest way. But there are candidates who spend three or four times the money fixed, that is, if it is Rs. 25,000, they spend a lakh of rupees. We have seen in Bombay and other places that they have spent even lakhs and lakhs of rupees. By having these rules of fixing the limit at Rs. 25,000 or Rs. 35,000 as the case may be or re-allotting the amount to the various States after reorganisation from Rs. 5,000 to Rs. 7,000 or Rs. 9,000, the people concerned do not satisfy the rules and they are going to spend more than what is being mentioned here. They will wantonly or dishonestly submit wrong returns saying that they spent much less. By having these rules you are persuading them to spend more and asking them to file wrong returns. Therefore it would be better to scrap them altogether and allow the alternative that the party in power or any recognised party can spend money and as in the present rules the recognised party need not file any return on behalf of their candidates. Therefore, they can spend a lot of money and still the candidates can fight the elections. Therefore, it would be wiser to scrap these rules and only allow the party to spend money on behalf of their candidates.

Shri Pataskar: Instead of trying to reply to every one of these motions, I would try to say generally what I have got to say with respect of these suggestions.

I must first of all say that I admit that the suggestions, even though made by the opposition, are naturally made with a view to see that the elections are fair. I do not at all attribute any motives to the anxiety of all sections of the House.

One fact to be noted in this connection, so far as the rules are concerned, is that they have been framed after consultation with the Election Commissioner, who under article 324 or 325 is really the authority very rightly created in order to see that the elections are fair and free from any possible party influences. I am glad that so far as the coming elections are concerned, the Election Commissioner has taken into consideration all the comments and criticisms made, and tried as far as possible to see that the members of the opposition are satisfied. He has been consulting the leaders of the opposition parties and he is trying to see to the best of his ability, so far as human restrictions are there, that the elections are fair.

There have been some suggestions to which I would refer. These are the stages to which mostly reference is made.

If I am to begin at the bottom, then I will say that there is this question of the expenses. At the time when we were discussing the Bill itself, I think this was subjected to a good deal of criticism on several occasions, and though something can be said on each side, after taking into consideration everything, the Select Committee considered it, the House considered it and ultimately we have passed that section and now we have to fix the maximum. Therefore, I hope and trust that there will be more trust between all parties and that we shall all strive and endeavour to see that the elections are truly free from influences.

Then there is a suggestion about counting and pre-counting stages. Even then we had a very large number of election petitions and at one

stage I tried to suggest to the Election Commissioner that, if it was possible as in some other countries, on the same day the poll is finished, the votes may be counted in the presence of the presiding officer of that place and probably all these agents etc. Whatever we do, there is a rule for it. I am told by the Election Commission that so far as our country is concerned, because of the vastness of the country and the number of persons involved, it would be far more dangerous than the present state of things. Because, if you do not get the right type of men, instead of the complaints and suspicions decreasing they will go on increasing. But he hopes that in course of time and with experience probably things might improve.

Then, with respect to the question of counting being done on the same date throughout India, it may or may not be possible. I do not know whether it will be possible for the Election Commission to fix those dates. But I heard one case where the hon. Member over there was saying that in some constituencies polling had begun before polling had taken place in other parts of the same constituency. If really that had happened in some place, I think the Election Commission will take that into account and see that at least a thing of that kind does not occur in future.

Several suggestions were made with respect to mounting guard and so on. I cannot say whether there has been any such thing in the past, but I believe that so far as this matter is concerned the Election Commission is primarily responsible for the conduct of elections and they will take note of it and see that as far as possible there shall be no grounds for any such complaints.

A suggestion was made about an order being given with respect to the counting. My friend Shri Kamath pointed that out. I am aware that in two cases—one, in which Shri Kamath was concerned, and the other in which Shri Gidwani was concerned—something happened. Probably, that was

a point on which opinion could have come either way. But I think that is not so much a question of law. As, probably, something had to be done executively, and as the law then stood, the Election Commission only exercised it in a particular way. I do not know in what way the Election Commission would operate to see that where possible such a contingency may not arise. But there are other contingencies which may also arise in future with respect to different matters. I think it is much better that the Election Commission, which has evoked so much of confidence from all parties, continues to act, and I am sure it will act in a manner which will prevent any grounds for any serious apprehensions or suspicions in the minds of anyone.

Similar is the case with regard to declaration of assets etc. My friend Shri V. G. Deshpande has made some suggestions with respect to symbols and other matters in connection with smaller parties. We know that there will be candidates who will be independents, candidates who will belong to parties which are not as extensive as some others and there would be candidates belonging to some parties which are very large. I think, so far as this matter is concerned, instead of laying down any hard and fast rules, which I do not think will apply in all cases, we have to learn from the experience in the past. Again I have to request hon. Members, for all these details, to more or less rely on the sense of fairness of the Election Commission and their doing what is right so far as these matters are concerned. What symbols are to be given, to whom, the parties that are to be recognised are all matters that have already been discussed. All these views are before them and I am sure the atmosphere created on this occasion will be different from what it is now.

Then, as regards challenging of votes etc., that relates to impersonation. Supposing somebody thinks that somebody is not the same man, then there is provision for some fee

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[Shri Pataskar]

to be paid. I do not know what merit there will be in one rupee and what merit will be there in two rupees. If we reduce the fee, or do not put any fee at all, then probably it will encourage votes being unnecessarily challenged from various motives. It is not as if the votes are in every case challenged on proper grounds. All these things more or less happen in big cities and not in rural areas. I think this time, probably, there may be several ways by which the apprehension regarding impersonation will also be relieved. As regards ballot boxes, I have not seen myself any ballot box. I have had no time to see it; I have only read about it along with the other Members in papers. But, I have got the information that the Election Commission is trying its best to see that there will be no ground for any complaint saying that they were tampered with. Whether they are foolproof or not, the Election Commission is trying its utmost to see that there is no justification for any complaint. I would assure all hon. Members who have moved motions to have amendments to these rules that the suggestions made by them naturally deserve to be considered, from whatever point of view they might have been made. At the present stage, we shall allow the rules to remain as they are. So far as the conduct of elections is concerned, I am sure we will rely more upon the sense of fairness—I am sure that appreciation is shared by all people—of the Election Commission and the other authorities, which have been already constituted under the Constitution.

I feel no doubt that the next elections will be so fair and so clean and so well-managed that perhaps the next time we will have no voice raised against the matter in this House.

Shri K. K. Basu: My motion No. 17 says that if the challenge is proved to be *bona fide* the money should be forthwith returned, instead of its being returned at the end of poll.

Shri Pataskar: I have seen that amendment. In the case of challenged votes, they are not naturally counted at the time when the general counting takes place.....

Shri K. K. Basu: I am not referring to counting; I am referring to the return of money.

Shri Pataskar: As regards the return of money, anybody who is standing for election and who wants to get the money back will have to wait till the pulling is over. There is nothing wrong in that; it is a small matter.

Shri Kamath: I have to make a brief request to you before you put the amendments. If the Minister can tell us whether, just as he has had no time to see a ballot box, he has not had time to examine each motion separately, you can put them together or separately.

Shri Pataskar: Just because I was fair enough to admit that I had no time to see a ballot box, it does not mean that I have not done my legitimate duty. It is my first duty to see whatever motions have been tabled.

Mr. Deputy-Speaker: I will now put motion Nos. 1 to 8 of Mr. Kamath to the vote of the House.

The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (1) of rule 18 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

after "Election Commission" add—

"and such design and colour shall be uniform throughout the country."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendments be made in sub-rule of rule 24 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

(i) for "may" substitute "shall"; and

(ii) omit "shall".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following new sub-rule be added to rule 38 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"(2) The returning officer shall permit each candidate to make reasonable arrangements of his own to keep a watch on the ballot boxes from the moment of their despatch from the polling station till the commencement of counting."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following provisos be added to clause (b) of sub-rule (1) of rule 53 of the Representation of the People (Conduct of Elections and

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Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"Provided that in a Parliamentary Constituency where votes will be counted at more places than one, such counting will take place on the same day:

Provided further that votes shall be counted on a day not later than the third day from the date of completion of the poll."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the proviso to sub-rule (2) of rule 57 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956, be omitted.

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (1) of rule 64 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

after "counting" insert "at each place or centre".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following new rule be inserted after rule 66 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"66A. The declaration of the results of election shall, as far as may be feasible, be made on the same day in all the States and Union territories of India."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-clause (i) of clause (c) of sub-rule (1) of rule 131 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

add at the end—"by the candidate, his agent, and the party or organisation promoting his election, the respective amounts being shown separately".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (1) of rule 34 of the Representation of the People (Conduct of Elections and Election

Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

for "two rupees" substitute "one rupee".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following amendment be made in sub-rule (5) of Rule 34 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

for "after the close of the poll on the day on which it was made" substitute "forthwith".

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following be added at the end of sub-rule (2) of rule 35 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"provided however any candidate or agent shall be entitled to put his seal on ballot boxes if he so desires."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following proviso be added to rule 38 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"Provided that any candidate or his agent shall be entitled to accompany the returning officer and/or his party for the safe transport of the aforesaid ballot boxes, packets and other papers referred to hereinbefore if he so desires."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169 of the Representation of the People Act, 1951, the following be added at the end of proviso to sub-rule (1) of rule 58 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table on the 20th November, 1956:

"save and except when the result of the election may be determined on such tender votes they shall be counted at the request of any candidate or his agent."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

This House resolves that in pursuance of sub-section (3) of section 169

of the Representation of the People Act, 1951, the following provisos be added to sub-rule (1) of rule 10 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, laid on the Table of the House on the 20th November, 1956:

"Provided that in a double member constituency two candidates of the same party would not be discriminated against on account of their belonging to an unrecognised party:

Provided further that as far as possible the candidates of a party which is a recognised party in any State would be allotted the symbol of that party."

This House recommends to Rajya Sabha that Rajya Sabha do concur in the said resolution.

The motion was negatived.

Mr. Deputy-Speaker: So, the rules stand as they are without any amendment. 1

Shri Pataskar: This is the last legislation which I have brought forward, so far as this Parliament is concerned, because this is practically the last session of this Parliament. I would be failing in my duty if I do not thank all sections of the House.....

श्री कामत : परस्परं भावयन्तः ।

Shri Pataskar: I really thank all sections of the House for the uniform courtesy and co-operation which I have received.

Mr. Deputy-Speaker: The House stands adjourned till 11 A.M. tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 19th December, 1956.

18-30 hrs. ●