

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to validate the imposition and collection of cesses on sugarcane under certain State Acts and to amend the U.P. Sugarcane Cess (Validation) Act, 1961."

The motion was adopted.

Shri B. R. Bhagat: I introduce† the Bill.

12.20 hrs.

APPROPRIATION (No. 4) BILL, 1961

The Deputy Minister of Finance (Shri B. R. Bhagat): Sir, on behalf of Shri Morarji Desai, I beg to move* that the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the Financial year 1961-62, be taken into consideration.

Mr. Speaker: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the Financial year 1961-62, be taken into consideration."

The motion was adopted.

Mr. Speaker: The question is:

"That clauses 1, 2, 3, the Schedule, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

Clauses 1, 2, 3, the Schedule, the Enacting Formula and the Long Title were added to the Bill.

†Introduced with the recommendation of the President.

*Moved with the recommendation of the President.

Shri B. R. Bhagat: Sir, I move that the Bill be passed.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

12.22 hrs.

REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL—contd.

Mr. Speaker: The House will now resume further consideration of the motion moved by Shri R. M. Hajarnavis on the 31st August, 1961, namely:

"That the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, and to make certain minor amendments in the Two-Member Constituencies (Abolition) Act, 1961, as reported by the Select Committee, be taken into consideration."

Shri Banerjee was in possession of the House. The time allotted is 4 hours. He had just started. He may continue.

Shrimati Renu Chakravartty (Basirhat): What will be the division of time?

Mr. Speaker: How much time do they want?

Shrimati Renu Chakravartty: Three hours and one hour.

Mr. Speaker: All right; let it be three hours and one hour for the present.

Shrimati Renu Chakravartty: Sir, I think even in the second reading stage there will be one or two very important amendments relating to language and to places of religious worship being banned for electoral

[Shrimati Renu Chakravartty]

purposes, which may require some discussion because opinion in the House is divided. Therefore, if needed, at that time I would request you to extend the time a little bit for the second reading also. At present we are prepared to have three hours and one hour.

Shri Naushir Bharucha (East Khandes): That may be considered later on.

Mr. Speaker: Let us now proceed. Let the hon. Member continue his speech. He may state the points and wherever it is necessary to elaborate he may do so.

श्री श्री स० मो० झरजी (कानपुर) : अध्यक्ष महोदय, कल इस विधेयक पर बोलते हुए मैंने सदन का ध्यान आकर्षित किया था कि जो मिनट आफ डिमेंट श्रीमती रेणु चक्रवर्ती ने दिया है

श्री ए० का० भट्टाचार्य (पश्चिम दिनाजपुर) : प्रंजी में बोलिये ।

श्री राजसेवक दाबब (बाराबंकी) : क्यों साहब, क्या हिन्दुस्तानी बोलना गुनाह है ?

एक माननीय सदस्य : क्या आप ने व्यवस्था कर दी है ?

श्री राजसेवक दाबब : अध्यक्ष महोदय, मैं समझता हूँ कि जो हिन्दुस्तानी की राष्ट्र भाषा है उस में माननीय सदस्य बोलें तो ब्यादा अच्छा होगा ।

एक माननीय सदस्य : बोट मागना है जा कर ।

Shri C. K. Bhattacharya: Shri Banerjee speaks very good English and it is not always that he speaks in the Rashtra Bhasha. If once he speaks in English it will not make "Mahabharata" spoiled as it said in Bengali.

श्री राजसेवक दाबब : अध्यक्ष महोदय, मैं एक व्यवस्था सम्बन्धी प्रश्न उठाना चाहता हूँ । क्या यह उचित है कि इस सदन के किसी माननीय सदस्य को दूसरे माननीय सदस्य मजबूर करें कि प्रंजी में बोलें ?

Mr. Speaker: Order, please. I would like to impress upon hon. Members here that this is not a school or an examination hall where a test is being held to find out whether a person is proficient in Hindi or English. There are hon. Members who have come from various parts whose mother tongue is not Hindi. Therefore, there is no good saying that they can speak in English or in Hindi. What I understood Shri Bhattacharya to say is that he does not object to Hindi being spoken. Nobody has got a right to do that. Hon. Members can speak either in English or in Hindi. Often a request is made that with regard to a particular important matter it may be in English. I leave it to the hon. Member himself to decide. There is no point of order. He can shift over to English if he feels that he must satisfy some hon. Members.

You have seen in the House that when a Minister replies to a question in Hindi, people say, 'English, English'. Some people want to have it in English. Therefore, I allow them to read it in English also. It is for that purpose I have been very anxious to introduce in this House simultaneous translation so that the Hindi people may follow Hindi and the English people English. There seems to be some difficulty about foreign exchange. If hon. Members would like to give priority to this I have no objection. This is the inconvenience I have been feeling from time to time.

If Shri Banerjee switches over to English there are a number of hon. Members who do not understand a bit of English. There are a number of members who know Hindi only

There is no meaning in expecting them to learn English after coming over here. Likewise, there are a number of members who cannot follow and appreciate every word that is spoken in Hindi. Therefore, this difficulty is felt till such time as we are able to introduce that kind of mechanism so that all sections of the House may follow every word that is spoken here. Otherwise, this is not an examination hall to find out whether a member can speak in Hindi or English. Here what we have to see is that members understand what is going on so that they may vote one way or the other.

Therefore, I think hon. Members would be a little more liberal whenever a request comes to speak in English or Hindi. Hindi must ultimately supersede English; it is the official language. The question is only how long it will take. Most of us try to do it. I can never speak as good Hindi as others, whose mother-tongue is Hindi or who are Hindi Bhasha-bhashi. I, therefore, leave it to the hon. Member to decide for himself. There is no point of order.

श्री रामसेवक दास : प्राप्ते यह कहा था, श्रीमन्. कि यह कोई इन्तहाण का हाल नहीं है। मैं निवेदन करूंगा कि यहां पर प्रश्नकारों में रिपोर्टिंग हुई है, सब कुछ हुआ है, कि हिन्दी बोलने वालों को मौका दिया जाना चाहिये। यह सवाल उठता है कि अंग्रेजी बोलने वालों को ज्यादा मौका मिलता है और हिन्दी वालों

Mr. Speaker: I am trying to do this, whenever requests are made. If hon. Members go to the Notice Office they will find that there are copies of all questions in Hindi and they may take them. But I find that even Hindi-speaking members are gradually more anxious to get English copies than or Hindi copies.

श्री रामसेवक दास : मजदूर हैं हम निचे मांगते हैं।

श्री स० मो० बनर्जी : मैं उस भाषा में बोलूंगा जिस को हिन्दुस्तानी कहा जाता है और मेरे स्थान में उसे सब समझेंगे।

अध्यक्ष महोदय : यहां हिन्दुस्तानी में नहीं बोलना चाहिये। मैं नहीं जानता हिन्दुस्तानी क्या है। The official language is either English or Hindi. यहां हिन्दी या अंग्रेजी में बोलना चाहिये। दूसरी भाषा मैं नहीं जानता हूं। कोई दूसरी भाषा कांस्टिट्यूशन में नहीं है। भाषा चाहे जो भाषा बोले लेकिन कहना चाहिये कि हम हिन्दी ही बोलेंगे।

श्री स० मो० बनर्जी : मैंने कल यह कहना शुरू किया था कि यह विधेयक जो सदन में आ रहा है और जिस के द्वारा सरकार इस बात की कोशिश कर रही है कि कम से कम चुनावों में कोई ऐसी गन्दगी न आ जाये जिस में कि साम्प्रदायिकता, फिर्कापरस्ती, प्रांतीयता या जातीयता की झलक नजर आये,। इसका स्वागत सदन में सभी सदस्य करते हैं और मैं समझता हूं कि चुनाव में अगर यह बीजे आ गई तो चुनाव कभी भी साफ ंग से नहीं हो सकते। लेकिन आज जिन लोगों के हाथों में सत्ता की बागडोर है मैं उनको याद दिलाना चाहता हूं कि धार्मिक यह जातीयता या साम्प्रदायिकता चुनाव में इन्तेमाल कैसे की जाती है। मुझे ख्याल है कि पिछले दिनों कानपुर में हमारे कुछ मोरिष बोस्तों ने मुसलमान बहनों को लाकर एक मीलावे शरीफ करवाया, और उस मीलावे शरीफ में जब हमारी मुसलमान बहने आई तो पांच या दस मिनट तक तो जिक्र रफूज हुआ, उसके बाद जिक्र काब्रैज हुआ और जिक्र बोट हुआ, जिस से कुछ माराजगी लोगों में हुई। उन्होंने कहा कि कम से कम मीलावे शरीफ को राजनीति से अलग रखा जाये, और वही एक कारण था कि हमारी कुछ मुसलमान बहनों ने बात कर और मुसलमान भाइयों ने अमतीर से माराजगी

[श्री स० मो० बनर्जी]

का इजहार किया, और इसको करने का एक तरीका था कि उन्होंने हमारी रूलिंग पार्टी के नुमाइन्दों को वोट्स नहीं दिये।

सिर्फ इतना ही नहीं, आप यह देखिये कि इस विधेयक में यह भी कहा गया है कि भाषा के बारे में भी अगर कोई भ्रालोचना होती है तो वह भी करंट प्रैक्टिसेज में मानी जायेगी। आप जानते हैं कि भाषा के बारे में एक भन्दोलन चल रहा है कि अंग्रेजी को हटाया जाये। तो क्या यह भन्दोलन भी इस में नहीं आ सकता? मैं समझता हूँ कि जो इस विधेयक में यह भाषा की बात डाली गई है, इसका कारण यह रहा होगा कि इस विधेयक को लिखने वालों के सामने आसाम की ओर आने वाले पंजाबी सूबे की तस्वीर रही, इसी कारण उन्होंने भाषा के प्रश्न को इतनी प्रधानता दी।

हर एक आदमी को अपनी-अपनी भाषा प्यारी होती है। अगर आप बंगाल में जायें तो आप देखेंगे कि वहाँ लोग बचपन से यह गीत गाया करते हैं: "अमार बंगाल बंगला देश, अमोरी बंगला भाषा, मोदेर गरब, मोदेर आशा" वह कहते हैं कि हमारी भाषा कितनी सुन्दर है, यह हमारा लिये गर्व की बात है। इसमें हमारी मानभूमि की झलक है।

इसी तरह से अगर आप पंजाब में जायें तो पंजाबी कहेंगे कि हमारी भाषा कितनी खूबसूरत है।

तो मैं समझता हूँ कि इसमें भाषा को लाना ठीक नहीं है। इसके कारण जो चुनाव घोषणा पत्र अममोल हो सकते थे और उनमें अममोल घोषणाएं हो सकती थीं वे नहीं की जा सकेंगी। भाषा को इसमें लाकर उनको रोकने की कोशिश की जा रही है जो कि बिल्कुल बलत् है।

माननीय सदस्य श्रीमती रेणु चक्रवर्ती ने अपने नोट आफ डिस्सेंट में कहा है :

"No secular democratic party can object to such a loudable proposition, although according to me, there are sufficient powers in the ordinary law to check these practices if those in power desire to do so."

उन्होंने कहा है:

"...if those in power desire to do so."

मैं दरखास्त करूंगा कि जो यह विधेयक सदन में आया है इसमें यह साफ तौर से लिखा गया है।

"The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate."

अगर इस तरीके से करंट प्रैक्टिसेज को रोकने की कोशिश की जायेगी तो आखिर चुनावों में कहा क्या जायेगा। लैंग्वेज के बारे में हम कह नहीं सकते, क्लास के बारे में हम कह नहीं सकते। मैं कोई क्लास संघर्ष नहीं चाहता, लेकिन फर्ज कीजिये कि मैं मजदूरों की रहनुमाई करने की कोशिश करता हूँ तो हो सकता है कि मैं कैपीटलिस्ट्स को एंड ए क्लास हिट करने की कोशिश करूँ और यह कहूँ कि जब तक हिन्दुस्तान में वह क्लास है तब तक धन का बितरण ठीक प्रकार से नहीं हो सकता है और जब तक ऐसा नहीं होता तब तक मोषण होगा। वे कोषक हैं

घोर हम घोषित हैं। लेकिन अगर मैं यह कहूँ तो कहा जायेगा कि मैंने क्वास हेटरेड फैलाई है। तो मेरी दरखास्त है कि जब तक आप इसमें प्रापर एक्सप्लेनेशन जोड़ कर इन बातों को साफ नहीं करेंगे तब तक चुनाव ठीक नहीं हो सकते और हो सकता है कि इस कानून की धाड़ ले कर साफ सुथरे चुनावों में गन्दरी लाने की कोशिश की जाये।

मैं उत्तर प्रदेश का रहने वाला हूँ, और उत्तर प्रदेश में जातीयता कितनी बढ़ रही है उस के बारे में कुछ ध्यान इस मदन का धार्कषित किया गया था, क्वास कर मेरे भाई श्री गायकवाड़ द्वारा। जो हरिजन व गांध पंचायतों या मंडलों के चुनावों में जीते उन के घरों में घुस कर पूरे खानदान को गोली से मार दिया गया। मैं समझता हूँ कि जो जानियता देश में इतनी बढ़ रही है उस को रोकने के लिये सिर्फ कानून से काम नहीं चलेगा बल्कि उस के लिये लोगों के मानसिक स्तर को ऊंचा उठाना होगा, आप को लोगों को यह समझाना होगा कि वे पहले हिन्दु-स्तानी हैं और बाद को हिन्दू या सिख, या मुसलमान या बिहारी, बंगाली या कायस्थ ब्राह्मण आदि हैं।

आप देखें कि हमारे यहां पोलिटिकल मर्डर हो रहे हैं। मेरे मित्र जगदीश धबम्बी, अगर उन को मीका मिला तो, बतायेंगे कि इलेक्शन से पहले वह कैंडीडेट जोकि पहले ७० या ७३ वोट से हारे थे उन को बूटसी मार दिया गया। चन्द्रशेखर तिवारी, जिन को सोशलिस्ट पार्टी का अनमोल हीरा कहा जा सकता है, उन को मारा गया पर मारने वाले को नहीं पकड़ा जा सका। इसलिये मैं आप का ध्यान इस घोर धार्कषित करना चाहता हूँ। मैं चाहता हूँ कि हमारे सा मिनिस्टर साहब और होम मिनिस्टर साहब इन चीजों को देखें। और यह मेरी बात नहीं है कि पोलिटिकल मर्डर चुनाव से पहले हो रहे हैं। हमारे उत्तर प्रदेश के गृह मंत्री ने ८ तारीख को वहाँ की असेम्बली में साफ और

से कहा है जिस को उस तारीख के पायो-नियर ने इस तरह छापा है :

"The candid confession followed the grim disclosure by the Minister that till now, as many as 54 people had been 'bumped off' in Aligarh compared to 48 killed during the corresponding period last year—showing an alarming rise in political murders in the district."

यह ८ तारीख के पायोनियर में निकला है और उसका हैडिंग है :

"SPATE OF POLITICAL MURDERS IN ALIGARH DT. GROUP RIVALRY IN RULING PARTY RESPONSIBLE."

अध्यक्ष महोदय, अगर आप चुनावों को साफ सुथरा रखना चाहते हैं,

Mr. Speaker: This is what the Minister said?.... (Interruptions).

श्री स० बी० बनर्जी : मैं उत्तर प्रदेश में रहता हूँ जहाँ ठाकुर ब्राह्मणों में लड़ाई है; ब्राह्मण कायस्थों में लड़ाई है। यह हमारे प्रान्त की बड़ी बड़कियत है। मैं उत्तर प्रदेश का रहने वाला हूँ और मैंने बड़ी जीना और मरना है। इसलिये मैं समझता हूँ कि इस चीज को साफ सामने आ जाना चाहिये बजाय इसके कि इस को छुपकर किया जाये। अगर हम इस को छुपकर करने की कोशिश करेंगे तो इस में बात का और हमारा दोनों का नुकसान होगा। मैं तो चाहता हूँ कि आप इन चीजों को देखें और जानें जोसे कि चुनावों में होने क्या जा रहा है। मैं चाहता हूँ कि समय रहते हम को साबधान हो जाना चाहिये। आप भी आप देखें कि किस तरह से कैंडीडेट जातीयता के आधार पर ऊटे किये जाते हैं। मेरे भाई श्री जगदीश धबम्बी ब्राह्मण हैं, उन के खिलाफ कड़ा करने के लिये कोई कायस्थ कैंडीडेट बुद्धा जा रहा है ताकि उस को आर्यों के वोट मिल सकें। तो मेरा निवेदन है कि हम को चुनावों के

[श्री स० मो० बनर्जी]

जातीयता और फिरकापरस्ती को दूर करना चाहिये और यह तभी हो सकता है जब हम सारे फिरकापरस्तों की, चाहे वे हिन्दू हों या मुसलमान हों या कोई हों खिलाफत करें। लेकिन फिरकापरस्ती को रोकने का यह तरीका नहीं है जो सरकार अपनाते जा रही है।

आप ने जबलपुर का हाल देखा। वहां पर जिस समय हिन्दू और मुसलमानों के धर जल रहे थे तो जो लोग फिरकापरस्ती के खिलाफ भाषण देते हैं और जो कहते हैं कि हिन्दुस्तान में फिरकापरस्ती नहीं होनी चाहिये, वे अपनी छतों से उस भाग की चिनगारियों में हाथ तापने की कोशिश कर रहे थे।

मैं कहता हूँ कि अगर आप इन तमाम चीजों से इलेक्शन को पाक रखना चाहते हैं तो आज जो कानून हिन्दुस्तान में है उसका इस्तेमाल कीजिये वरना यह चीज नहीं रक सकेंगे।

एक दूसरी चीज और है जिस की तरफ मेरा ध्यान गया है। वह यह है कि इस में कहा गया है कि जो परचा निकाला जाये उस पर इस तरह का डिक्लेरेशन हो :

“(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, immediately after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and (ii) in any other case, to the district magist-

rate of the district in which it is printed.”

अब आप सोचिए कि अगर इस तरह की बन्दिशें लगायी गयीं तो फिर चुनाव होगा ही नहीं। हमारे कानून मन्त्री जी ने उस दिन फरमाया था कि इस इलेक्शन में गलती सही परचे न निकलें जो कि वोटरो को गुमराह करें। यह तो हम भी चाहते हैं कि जो परचे निकलें उन पर किसी के हस्ताक्षर हों और प्रिटर का नाम हो। यह ठीक है। लेकिन अगर आप इस तरह का पेचीदा प्रोसीज्योर उसके लिये रखेंगे तो उम्मीदवारों को, खास कर देहात के उम्मीदवारों को, बड़ी मुश्किल होगी क्योंकि उनको क्या पता कि कोई शहर में क्या कर रहा है। हमारे कानून मन्त्री जी शहर में आते हैं इसलिए उनका शहर का तजरबा है और इसी लिये उन्होंने ऐसी बात रखी है। देहात के उम्मीदवार का तो यह हाल होता है कि उसको महीनों देहात में काम करना होता है उसको पता नहीं होता कि कौन जीत रहा है या हार रहा है। उसको तो बाद में पचना नतीजा ही मालूम होता है।

बिचि मन्त्री (श्री ध० कु० सेन) : बनर्जी साहब भी तो शहर से आते हैं।

श्री स० मो० बनर्जी : मेरे चुनाव क्षेत्र में ७५ गांव लगते हैं। इसलिए मैं निबेदन करूंगा कि हमारे बिचि मन्त्री महोदय को इस के ऊपर थोड़ी संजीदगी के साथ विचार करना चाहिए।

तीसरी बात जो हमारे सामने है वह यह है कि चुनाव होने से २४ घंटे पहले चुनाव सम्बन्धी प्रचार बन्द हो जाना चाहिये। अब जैसे तो अगर २४ घंटे पहले चुनाव प्रचार बन्द हो जाये तो यह बड़ी अच्छी बात है और मैं कलिन पार्टी को इसके लिए दोष नहीं देता मैं भी शायद कर सकता हूँ। अब अक्षर होता यह है कि one who gives

the last hit win अब आखिरी दम ऐसा हो सकता है कि वोटर अपना दिमाग साफ कर ले और अगर हमने उसे सोये हुए जजबात को उभार दिया तो हो सकता है कि चुनावों में मैं जीत जाऊं। अब आखिरी वक्त हो सकता है कि मैं मीटिंग करूँ और वह मेरी बातों से कर्नलिस हो जाये। इसलिये मैं समझता हूँ कि यह २४ घंटे के बजाय १२ घंटे होना चाहिए। जिस दिन चुनाव होना हो उसके पहले दिन प्राधी रात तक उम्मीदवारों को अपना-अपना प्रचार और मीटिंग प्रादि करने की इजाजत होनी चाहिए। वैसे भी चुनाव का इन्तजाम करना होता है। अब मेरे जैसे उम्मीदवार को तो कैम्प लेना ही नहीं है। मेरे जैसे उम्मीदवार के बास्ने जिम्का कि कैम्प ही नहीं होता और जिसका कि यह नाग होता है कि चाहें जिस किसी भी कैम्प से जाओ लेकिन वोट मुझे दो। यह चौबीस घंटे की कंद् बहुत दिस्कत तलब होगी और जाहिर है कि जब हमें क्वालग पार्टी के खिलाफ चुनाव लड़ना हो तो यह जरूरी हो जाता है कि हमें आखिर तक मनदाताओं में प्रचार करने की छुट हो और इसलिये मैं समझता हूँ कि १२ घंटे की कंद् उचित है और उसमे ज्यादा नहीं होनी चाहिए।। . . .

Mr. Speaker: It is only an amending Bill. Is this provision also part of it?

Shri S. M. Banerjee: Yes; it is part of this Bill and that is why I am speaking on it.

Shrimati Renu Chakravartty: Not only that. During the meeting of the Select Committee, I think the Deputy Minister, Shri Hajarnavis, agreed that a more detailed discussion may also be permitted; especially on those clauses which are already open for amendment may be further investigated. Therefore, some amendments have been brought on that understanding.

Mr. Speaker: Those that have not been touched upon here.

Shri Surendranath Dwivedy (Kendrapara): When the amending Bill was there, some other points emerged out of the discussion. A motion was moved to the effect that some other clauses may also be open to discussion at the Select Committee.

Mr. Speaker: Did the House, which referred to the Bill to the Select Committee, say that such clauses also may be touched upon?

Shri Surendranath Dwivedy: Yes.

Mr. Speaker: That is all right.

श्री स० मो० बनर्जी : अध्यक्ष महोदय, श्रीमती रेणु चक्रवर्ती ने अपने नोट आफ डिसेंट में जो यह सुझाव दिया है कि रजिस्ट्रेशन फीस नहीं होनी चाहिये वह एक सही सुझाव है और मैं भी उसको मानता हूँ। रजिस्ट्रेशन फीस नहीं होनी चाहिये।

जहां तक वोटर्स लिस्ट्स का सम्बन्ध है मैंने खुद देखा है कि उनमें अनेकों गलतियां भरी रहती हैं। मैं समझता हूँ कि ऐसे सीमावर्गीय व्यक्ति बहुत ही कम होंगे जिनके पिता का नाम उनमें सही दर्ज होगा। मैं तो यह देख कर दंग रह गया कि कुछ दिन पहले की बात है कि एक मेरे दोस्त के घर पर वोटर्स लिस्ट भरने एक धावमी आया तो बुकि वह उस मीके पर घर पर मौजूद नहीं थे तो सड़की ने कह दिया कि पिता जी हैं नहीं कम धाना तो उसने पिता का नाम "कम धाना" लिख दिया। इस तरह की गलतियां वोटर्स लिस्ट तैयार करने के तिलकिले में की जाती हैं कि जिनको देख कर दम दंग रह जाना पड़ता है।

He was disgusted because he went there not only once but twice and thrice, and the gentleman was not available. He had to rectify it.

Mr. Speaker: Hon. Member says that that person was disgusted, the person who went not only once but twice or thrice, Kal Ana was noted down!

Shri S. M. Banerjee: He actually did not go there. He said Kal Ana.

Shri D. C. Sharma (Gurdaspur): Kal Ana can also be a name. (Inter-ruption).

Shri S. M. Banerjee: I would request you to give me five more minutes.

मैं बलला रहा था कि इस तरीके की हजारों गलतियां उन वोटर्स लिस्ट्स में होती हैं। किसी-किसी एरिया में तो मैंने देखा कि सारे वोटर्स के नाम भी एरिया के साथ-साथ चले गये। वोटर्स ने कहा कि भाई हम तो वहीं पर हैं हमारे नाम लिस्ट में क्यों नहीं हैं तो मानूस हुआ कि यह तो फ्लोटींग पापुलेशन है जो आया जाया करती है। अब कानपुर कोई कौरीडोर तो है नहीं कि इधर से उधर आ जाये। अब मेरा कहना यह है कि इन गलतियों को न होने देने के लिये चैक होना चाहिये। अभी बदकिस्मती में हमारे देश में इतनी राजनैतिक जागृति नहीं आई है कि हर एक वोटर्स जिसे वोट करने का हक न मिले वह जाकर कहे कि अगर मुझे वोटिंग का हक नहीं मिलेगा तो मैं धरना दे दूंगा और मैं किसी भी हालत में अपना वोटिंग राइट छोड़ने के वास्ते तैयार नहीं हूँ। अभी इस तरह की राजनैतिक चेतना प्रथवा जाग्रति हमारे देश में नहीं आ सकी है। हम लोग भी नहीं ला सके हैं और आप भी नहीं ला सके हैं। इसलिये मैं समझता हूँ कि आज के हालात में यह रजिस्ट्रेशन फीस नहीं होनी चाहिये।

प्रध्यक्ष महोदय, बार-बार इस सदन में कहा गया है कि यह तमाम कौशिकों जो की जा रही हैं वह इसलिए की जा रही हैं कि फेयर एलेक्शंस हों। मैंने इससे पहले भी इस सदन का ध्यान प्रकटित करने की कोशिश की थी लेकिन उस वक्त अपने कहा था कि प्लानिंग के डिस्कशन में यह चीज नहीं आनी चाहिए और यह आउट ऑफ आर्डर है। चुनावों में आपकी हुकूम की तामील की भी और मैं बैठ गया था लेकिन अब चूंकि यह एलेक्शन का सवाल है वोटर्स का सवाल है

तो मैं समझता हूँ कि वह सब कहना जरूरी होगा।

एक तो हम लोग जातीयता को दूर करना चाहते हैं फिरकापरस्ती को हम चाहते हैं कि वह हमारे कदम चूम ले सिर पर न चढ़े। दूसरी तरफ सरकारी कर्मचारी जो कि २२ लाख हिन्दुस्तान में हैं और उनके परिवारों को मिला कर मैं समझता हूँ ५०-६० लाख हिन्दुस्तान में होंगे, उनके बारे में यह कहा जाता है कि माहब कोई भी राजनैतिक दल एलेक्शन की मीटिंग करे आप उसमें मत जाइये। अभी दिल्ली में इस किस्म का एक मरकुलर निकाला गया है जिसमें यह कहा गया है :

"The Home Ministry advised that the Government servants should not attend election meetings organised by any political party except to the extent necessary for the maintenance of law and order and affording normal protection to the Ministers."

अब जहां तक दिल्ली का सम्बन्ध है यहां बहुत से इलाके ऐसे हैं जहां पर कि दूसरे कर्मचारी हैं ही नहीं खाली सरकारी कर्मचारी ही वहां पर बसते हैं और वह अगर चुनाव की मीटिंग मुनना चाहें तो जहां पर मिनिस्टर साहब बोलते हैं वहां तो वह दौड़ जायें और यह कहें कि हम आप की जान बचाने के लिये आये हैं और अन्य राजनैतिक दल वालों की मीटिंग में उनको भाषण मुनने की इजाजत न हो, मैं यह कहे बगैर नहीं रह सकता कि इस तरह की चीज प्रजातान्त्रिक कदापि नहीं है और आज के इमोक्सी के युग में वह शोभा नहीं देती है। ऐसी बन्धन रखने में तो प्रजातन्त्र के उसूलों की बुनयादें हिल जायेंगी। इसलिए यह कहां का प्रजातन्त्र है कि आप २२ लाख सरकारी कर्मचारियों और उनके परिवारों को यह अधिकार नहीं देना चाहते। अब बिनय नगर और सोधी कालोनी में एलेक्शन मीटिंग हो तो सरकारी कर्मचारी और उसके बाल बच्चों के लिये कहा जाये कि वह उस

मीटिंग में तो चला जाये जिसमें कि मिनिस्टर साहब बोलें ताकि उनकी जान की हिफाजत करे लेकिन वह दूसरी पार्टियों की मीटिंग्स में शरीक न हो। आज के प्रजातान्त्रिक युग में यह चीज बिल्कुल मेल नहीं खाती है और सरकारी कर्मचारियों पर जो यह पाबन्दी लगाई है यह हटा लेनी चाहिये। उस पर इस की कौद लगाना बहुत गलत बात है। अब यह तो हो सकता है कि आप कहें कि सरकारी कर्मचारी एलेक्शन के सिलसिले में उठने वाले जल्मों आदि में न जायें और चुनावों की दूसरी हल्लइबाजियों में वे न जायें लेकिन उनको यह अधिकार तो रहना ही चाहिये कि सब उम्मीदवारों की बातें सुनें, सब की मीटिंग्स में वह सुनने जा सकें। मैं तो चाहता हूँ कि मुझे मुझे और मुझे जिसमें रकाबन है उसको भी वह मुझे और उसके बाद अपनी समझ के अनुसार वह अपने वोट का हक इस्तेमाल करे।

अध्यक्ष महोदय : माननीय सदस्य अब खत्म करे।

श्री स० मो० बल्लभ : बस मैं एक मिनट में खत्म कर रहा हूँ।

अब चुनाव नजदीक आ रहे हैं और डेजरी बेंच बानों से हमारा मुकाबला होगा लेकिन मैं एक चीज साफ कर दूँ कि मैं जब उनसे लड़ना हूँ तो यह मोच कर लड़ना हूँ कि हमारा और उनका युद्ध महाभारत युद्ध की तरह है। उनसे हम पांच गांव के बान्से लड़ते हैं और महाभारत की पांच गांवों को लेकर लड़ा गया था। हमारे पांच गांव हैं—रोटी, रोजी, कपड़ा, मकान, स्कूल व बच्चों का अस्पताल। यह पांच गांव अगर हमें नहीं मिलते हैं तो कुच्छेत्र के मैदान में हो न हो लेकिन दिल्ली के मैदान में कलकत्ते के मैदान में और कानपुर के मैदान में दोनों आइनों में लड़ाई होगी और वह महाभारत की लड़ाई होगी? इसलिये मैं कहना हूँ कि आप जीतिये वा हारिए लेकिन जो प्रजासत्ता के बुनियादी उद्देश्य हैं

उनका हनन न करिए। मैं समझता हूँ कि इस तरह की पाबन्दी लगाना वैधानिक दृष्टिकोण से गलत होगा कानूनी दृष्टिकोण से गलत होगा। अगर आपने उसको ठीक न किया तो मैं समझता हूँ कि हमारे सरकारी कर्मचारी अपने-अपने मशोक साहब को बोट देंगे या अन्य किसी और को बोट दे देंगे लेकिन आपको वह अपना बोट नहीं देंगे। आप उनको बोट की प्राजायी दीजिये और उन पर ऐसी कोई पाबन्दी न लगाइये।

करप्ट तरीके की बात जहाँ पर है, करप्ट प्रैक्टिस हम तमाम जो घादमी यहाँ पर मौजूद हैं वह अपने आप सोचें कि करप्ट प्रैक्टिस क्या है। मैं समझता हूँ कि इस सम्बन्ध में हम लोग आपस में मिल कर कुछ कन्वेंशन्स टय करें, जिनके आधार पर सब लोग चलें।

अध्यक्ष महोदय, हम देखते हैं कि अगर बाहर कोई हमारे खिलाफ बात करता है, तो हम समझते हैं कि हमारी इज्जत पर हमला किया गया है और हम बार-बार मना करते हैं। हम काँ इस सदन की इज्जत बढ़ाने की कोशिश करनी चाहिये, लेकिन उस के साथ ही यह भी देखना चाहिये कि यह खिन्दी का आखिरी चुनाव नहीं है और इसलिये हम को हार-जीत की ज्यादा परवाह न करते हुए जनता के सामने ऊँचे घादमी रखने चाहियें। चुनाव से ज्यादा महत्व नकी और सार्वजनिक जीवन के स्तर को ऊँचा रखने का है। एक बार मैंने कुछ लोगों को छोटे-छोटे बच्चों को कुछ सिखाते हुए देखा और मेरे पूछने पर उन्होंने बताया कि इन को एक छोटी सी कविता सिखा रहे हैं। अध्यक्ष महोदय, आप जानते होंगे कि फ़िल्म आबारा में एक में एक नामा है "इचक दाना बीचक दाना, दाने ऊपर दाना, दोनो बच्चो, क्या?" आप मुझे साफ करेन कि उन बच्चों को वह सिखाया वा रखा वा कि "चार बी बच्चा माहवार, इनकीस क्या रोच, हाँ न की नीकरी, राच-बचन में मोच। दोनो बच्चों

[श्री स० मो० वर्मा]

क्या ?—संसद् सदस्य ।” मैं इस को सुन कर झग रह गया । मैंने उनसे कहा कि आप छोटे-छोटे बच्चों को यह क्यों सिखा रहे हैं । उन्होंने कहा कि यह तो एक पहली है, जो इन को सिखा रहे हैं ।

इसलिये मैं कहूंगा कि हम लोग यहां पर इमानदारी से और दिल पर हाथ रख कर बात करें । शायद चौ० रणवीर सिंह को यह बुरा लग रहा है । मैं प्रार्थना करता हूं और पंजाब के मुख्य मंत्री को चिट्ठी लिखने के लिये भी तैयार हूं कि इनको मिनिस्टर जरूर बनाया जाये ।

Dr. Krishnaswami (Chingleput): Mr. Speaker, I regret that I am not able to see eye to eye with the Government in the purposes which have led them to amend this measure. There seems to be no justification for amending section 123 of the principal Act of 1951. We had already amended this Act in 1955. Quite apart from doing away with the distinction between major and minor corrupt practices,—a distinction of some value and one to be found in the U.K. Act, we weighed the scales in favour of organised parties. The provisions relating to election expenses were amended so as to allow parties to spend any amount.

But what is the major change that has been brought about in the 1955 Act? Any corrupt practice committed by the returned candidate or his election agent or by any other person with the consent of the candidate or the agent vitiates the election. It was laid down that there must be a “systematic” appeal to voters “on the ground of caste, religion or language” and it was only this that vitiated the election. What is it that we have done today? We have omitted the word “systematic” and we have laid down that even a sporadic appeal would be sufficient to upset the whole election.

Are we promoting free and fair elections if we set aside the election of a successful candidates if some one suggested that he received the support of some religious group or linguistic group? It is true that the consent of the candidate or his agent is required in order to attract this section. But what is consent? The consent need not be express, it may be implied. What is the duty that we are putting on the successful candidate? Would it not be easy, because of the fact that the consent is implied, to invite a multiplicity of suits once a candidate is elected?

There is provision 3(A) dealing with “promotion of illfeelings”. I am not one of those who would advocate promotion of ill-feelings, but the Government and the Ministers should realise that whenever any social problem is tackled, there are bound to be very many passions roused either on the one side or the other. Soft words do not butter parsnips;—and I am certain that when we are attempting to promote any change or resist any social change, there will always be heated discussions either on grounds of religion or language or other aspects. Particularly in a country where degree of backwardness varies, there would always be many questions of an acute character which come up and it is certainly the primary function of a democracy to be concerned with those problems, particularly during an election period.

One would like to ask one or two questions of my friend, the Law Minister. I ask him, before he introduced such a legislation, how many cases of appeal on grounds of caste and religion came up before the Election Commission for upsetting the elections. It is true that the word “systematic” finds a place in the section is a legitimate epithet that has been put there. I would like to point out that in the Representation of the People Act, 1955, it was laid down that appeals on ground of irrationalism, a systematic

appeal on grounds of caste, religion or language, should certainly not be allowed and therefore it was included among the minor corrupt practices. It is a sort of undue influence that is exercised over the minds of the voters, as it were.

But when once you think undue influence should be taken as a factor in upsetting an election, you have to make it clear that this will be upset only when there is a probability of the election result having been affected. Parker in his *Election Agent* on page 403 points out: "where undue influence of a certain character comes into play, it is necessary that we should have a clear idea of what undue influence is". If bishops employ spiritual penalties in order to induce their congregations to vote in a particular way, then of course, it would be a case of undue influence. But if they put forward their point of view and support certain candidates, without necessarily invoking spiritual penalties or those other sort of influences which are brought to bear, nobody can taken objection.

I suggest that it is important that we should in a country like ours, which has a variety of religions, languages and social groupings, however much we like or dislike them, we will have to allow them a certain place in any election campaign. It would be unrealistic to think that we can totally wish away these factors. Let it be realised that as a result of having put these two provisions, what we are doing now is to open the floodgates of litigation. No successful candidate will hereafter be secure. Petitions galore will be presented before the Election Commission and apart from harassing the successful candidate, they will set in motion forces of disintegration, which I for my part would regret very much. We have more discussions in courts of law on communalism and linguism than we ever had in the past. Every case where a candidate

is defeated would mean that attempts would be made to file a suit these new provisions. The forces of disintegration will come very much to the fore because of the charges and counter-charges which will be made by one party or the other. Is this the result that we wish for? Is this the objective that we are aiming at or are we aiming at quietning the election temper and having a sort of amicable understanding of the social problems, once the elections are over?

12.59 hrs.

[SHRI HEDA in the Chair]

From 1920 onwards, this problem has been with us. By various provisions in successive Acts we have attempted to secure free and fair election. The law relating to corrupt practices was meant to ensure the objective of free and fair elections. That was why we had that special provision relating to undue influence in the 1951 and 1955 Acts. We felt that an irrational appeal to voters on the ground of religion, caste or language should not be made systematically. But what is it that has occurred? People have a new idea of solving this problem. Now we are seeking a solution to this problem by laying down arbitrary provisions in the Representation of the People Act, the effect of which would be to harass the successful candidate and also promote the forces of disintegration.

I ask the Law Minister, where in the world is there any instance of an election being set aside because a sporadic appeal of this nature is made?

13 hrs.

The thought that comes uppermost to my mind, is that we are in a very difficult position. We know the difficulties of the administration. But may I humbly point out that Bill

[Dr. Krishnaswami]

and the amendment to the Indian Penal Code are the reflex reactions of a person who is worried,—and justifiably,—by a problem, is unable to locate its nature, or find a cure and therefore, hits about blindly all over the place in the hope that he will hit the target. What is more likely is that he will hit at many other things, the most important of which is the right of citizens to express themselves freely and fairly during election time. It is my great regret that as a result of these amendments being introduced and possibly passed by this House free and fair elections would be rendered difficult if not impossible. No longer will it be possible for any candidate, however much he might try, to keep out of controversy, and we are now giving a premium particularly to those who are litigation minded. It is going to affect all candidates irrespective of the party to which they belong. Probably, the Congress Party which may have a larger number of successful candidate will be affected more.

But that is not the issue which is relevant here. What we have to consider is how far would the citizen's right to free expression be preserved. What is it that we are doing to promote free and fair elections? Are we not by putting these two particular offences in our election law giving scope for people who are mischievous to really ventilate their grievances further in courts of law and keep the bitter conflict alive? We know, Mr. Chairman, that when one is elected as a candidate from a particular constituency, after a month or two passions die down, old rivals become friends and we tend to represent the constituency as a whole. Now, as a result of these new provisions that have been put there would be factions, there would be a number of parties who would be coming over either before the Election Tribunal or the Election Commissioner to lead evidence on many

of these matters and the representative of Parliament would have to be the leader of a faction instead of being the representative of the people.

How are we promoting democracy by having such provisions in our election law? I ask this Government and I ask the Minister whether he has given any thought to this aspect of the matter. I thought it was serious when we amended in 1955-56 the very distinction between major and minor corrupt practices. But then I had the consolation that at least the word 'systematic' was there and that, at any rate, would avoid needless litigation.

One must appreciate the difficulties of candidates. Sometimes, we receive support from ambiguous quarters, and the way in which that support is couched is something for which we cannot be responsible. Is a candidate suddenly, because he is afraid of the sections of election law, to go and to suggest to the people that he repudiates that support because it has been couched in a manner which conflicts with the provisions of the election law? We all know what these difficulties are. Quite apart from the fact that the biggest organised parties would be there to watch everyone of the movements of those who are really fighting an election on a different ticket, we have to realise that there would be quite a lot of interlopers who would be anxious to profit by such litigation.

The other point to which I shall make a brief reference is the right to expression to opinion on the part of any citizen in our country. It is true that in the United Kingdom and in other places there are provisions to the effect that where a man uses influence by virtue of his position he can do so without any restrictions being placed on him unless he threatens spiritual penalties or coerces voters. It is the same in many other

countries. In Italy, for instance, it would be next to impossible for catholic parties to exist if the law prevented the Church from participating in politics. In Poland, for instance, the catholic parties have existed as a result of the interest the religious heads have taken in politics. People object not to participation by the heads of Churches in elections but to injunctions to voters to vote in a particular manner and that failure to vote in a particular manner would lead to social ostracism.

We ought to realise that in future, at any rate, if we wish to solve these problems we must have a much more open and courageous approach. It is no use trying to think that an election can be fought on the principles of conversation in a drawing room. Anyone who has gone to the hustings will realise that we will have to give and receive blows. Hitherto, in all the elections that we have fought, the redeeming feature of such elections has been that once the elections are over, once the hurly-burly is over, we have tended to forget animosities. The present Bill unnecessarily tries to keep alive the animosities and by keeping alive the animosities will promote the growth in the forces of national disintegration.

It is a different Bill even from the amending Bill relating to the Indian Penal Code, in certain respects. There the executive might have discretion and wisdom to sleep over certain provisions. But here a defeated candidate is under no obligation. He will go before the Election Commissioner and on the face of it since even a sporadic appeal can lead to the filing of a suit we will have endless worry and litigation. The worry and litigation will be faced not only by us on this side but by also those of the Congress Party. But that is no consolation from the point of view of a citizen and from the point of view of one who wishes the election law to

1182(A) LSD—6.

ensure the holding of free and fair elections.

Shrimati Renu Chakravartty: Mr. Chairman, Sir, this amendment to the Representation of the People Act is a very important one. I am afraid many hon. Members have not really grasped what will be the implications of what we are trying to pass. As a matter of fact, clause 25—section 123 (3A)—is the heart of the problem. We are trying, firstly, to eliminate by legislation communalism, casteism, raceism etc. and make it an electoral offence. To my mind, Sir, the problems that have emanated due to racialism, due to ideas of casteism, communalism etc., are much more deep-rooted and they have to be tackled in a different way. We cannot just by saying that in the matter of elections we cannot raise these matters, remove these problems. I am quite in agreement, as you have seen from my note of dissent, that if any person, any individual appeals to the electorate are made that they should vote for him or her because he or she belongs to a particular caste or community that may be made an electoral offence. I have no objection to that. What I am objecting to is that issues relating to caste, race, religion, community or language is being made an electoral offence. What does that mean? Firstly, I am not dealing with the question of language. I will deal with it separately because, I think that it is totally wrong and I am totally opposed to it.

The Deputy Minister of Law (Shri Hajarnavis): We do not agree with that interpretation. The discussion of these issues is not at all barred. We only say: do not ask people to vote for Shrimati Renu Chakravartty because she is a Bengali, or she speaks a particular language or belongs to a particular caste. That alone is barred.

Shri Tyagi (Dehra Dun): You have said in so many words "do not vote for so and so because he speaks such and such language".

Shri Hajarnavis: That is barred.

Shrimati Renu Chakravarty:
Sub-section (3) of section 123 reads:

1 "The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag. . . ."

So, it refers to religion, race, caste, community or language. I have no objection to that. But what are you trying to import by section 123 (3A)? It reads:

"The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent. . . ."

That is what I object to. I am not dealing with the question of language just at present. I know that the objective is a very laudable one, namely, to stamp out communalism. That may be agreed to on principle by almost every party. Excepting one or two parties, everybody else wants to stamp it out. It is something that we agreed to, because under the Constitution India is a secular State.

But by putting this clause in this form, what are you trying to eliminate? If any Scheduled Caste member gets up and talks about the oppression committed upon his caste or community by the Brahmins or by the so-called higher castes, that will fall under this clause, because obviously it can be interpreted, and will be interpreted, as promoting or

attempting to promote feelings of enmity or hatred between different classes of the citizens of India. This is my interpretation, and that is why I had wanted to insert a provision to make the position doubly clear, which reads as follows:

"Provided that no expression of grievances under which any caste or community or minority group may suffer, or any criticism of practices based on caste, or community resulting in social oppression will be regarded as an offence."

This should be accepted to make doubly sure that references to legitimate grievances arising out of caste oppressions and social oppressions upon minorities will not be regarded as an electoral offence. But my suspicion is strengthened and increased by the fact that this was not accepted, for except myself everybody voted against it in the Select Committee. Why? I am sure that if this is thought over from the national point of view, leaving out all party considerations, all sides of the House will agree that this is a very legitimate point and this is a clarification which is required in this clause. But it has not been accepted. I am sure that many of my friends, even on the opposite side, will agree that this was not what we wanted to eliminate. If we do not want to eliminate the legitimate grievances being put forward, then why should you object to the insertion of this proviso? After all, this is one of the basic political issues which the Scheduled Caste members are going to put forward. If, on the other hand, you tell me that this is not going to create class enmity or hatred, to make things doubly sure, why not add this proviso? If you add that proviso, I am sure that there will be no litigation on this point that by bringing forward legitimate grievances which are not of a communal nature, but which are grievances arising out of very undesirable social oppression of one caste or community by another one cannot

go to an election tribunal on this issue. I am sure that we will really strengthen the Representation of the People Act if this proviso is accepted. Unfortunately, it has not been accepted.

Take, for example, the linguistic minorities. I am not taking the question of language just now. If there are linguistic minorities and they have their grievances, why should they not be able to put forward their grievances. If there is any community or race oppressing that community, they have the right to say so. Why should they not be able to do it?

Then, my biggest objection is that this is going to lead to a large number of cases in the tribunal and unnecessary harassment to all members who are going to be elected in future to this House. Therefore, even at this late stage, I appeal to the Treasury Benches to consider this question very seriously. I am sure, hon. Members from the Congress benches have not looked into it seriously because, if they had looked into it seriously I have no doubt that they would have no objection to adding this proviso, because on this matter I feel that we are all one.

Now I come to the second point. If you really want to eliminate communalism and make it an electoral offence, you must also say that no place of religious worship will be permitted to be used for electoral propaganda in favour of any one party. This is absolutely essential. Believe it or not, an amendment of mine even to this effect was not accepted by the Select Committee, and I was the only member who proposed it and voted for it. I was really surprised when I found it, but when I came to this House I heard many of my friends on the other side getting up and saying "Why should Master Tara Singh fast in a Gurdwara? It should not be permitted". It is being done everywhere. I know, in my own constituency, places of religious worship are used for election purposes. Primarily religious congregations are used for such purposes. It may not be inside a

mosque or inside a temple, but it will be entirely a religious gathering. There the religious dignitaries come and they speak.

An Hon. Member: What is a religious gathering?

Shrimati Renu Chakravarty: Everybody knows what a religious gathering is. In India everybody knows what a religious gathering is and it may even be defined, if you like. There is no difficulty in putting a definition of what is a religious gathering. It is true that the ruling party does utilise the religious gathering for party purposes, and that is why certain members feel frightened about it. So, whatever a religious gathering be, if we incorporate such a provision, it will apply to us, it will apply to every party and every member. What is wrong in it? Let us pass it. So, we should say that a place of religious worship should not be utilised for election or propaganda purposes. I would go even a step further and say that no religious dignitary should be asked or permitted to use the religious sentiment, or the religious symbols to rouse the people to vote in a particular manner. It is being done now and I feel it is a wrong thing. Though I moved an amendment to that effect in the Select Committee, even that was not adopted. So, I have a very strong suspicion whether the Government really wants to eliminate communalism or do they only want to show to people that they want to eliminate communalism and, by the back door, try to stifle the expression of democratic opinion.

Now I come to the third point. By introducing this question of language in this Bill you have shown what is your objective in bringing forward this Bill. On the one hand, we all say that one should not fast for getting linguistic questions settled, we should not ask for linguistic States through unfair means. May we ask: what is the fair means? If we cannot make it a political issue, are we to settle it on the streets? It is a political issue. Let

[Shrimati Renu Chakravartty]

it be clearly understood that language is a matter which was a democratic demand held dear to the hearts of millions of our people. Linguistic States was promised in our national movement also.

I can understand communalism being banned, because that is against the spirit of the Constitution. But what right have we to say that the question of language will not even be permitted to be used as a political issue? I say that because this language question was not settled as a political issue there was trouble both in Maharashtra and Andhra. As soon as it has been settled, both Maharashtra and Andhra have been peaceful and, even according to the Congress, they are doing well and the Congress claims they have come to the top. If that is so, then there should be no fear at all. Therefore, if you do not permit the question of language to be taken up as a political issue in the elections, firstly, you will not be able to prevent it and, secondly, when you try to prevent it, what is going to happen is that it will not be stifled but it will be settled on the streets. There is no other way. It cannot be raised as a constitutional issue because you say that it is an electoral offence. You may point to Assam and say, "Look at the hatred that has been created." True, but hatred has been created because the problem has not been tackled politically. The question is that for the people living in Assam, whether it is for the Assamese or for the Hill people or for the Bengali minority, it has got to be settled. Without that settlement that language question will be a festering sore and by trying to eliminate it just by saying that it is an electoral offence it cannot be eliminated.

I say that we are trying to create even more problems by including this question of language in it and by making it an electoral offence. I hope my hon. friend from Maharashtra will speak on this point, as also even my hon. friend from Assam who spoke

so eloquently during the debate over here. He comes from the Hill Tribes. He is the person who has spoken on this very language question.

Now the point is this. At what point of time, how and in what form the language problem is to be tackled is another matter. But why do you make it an electoral offence? Even regarding this question of the regional formula in Punjab, may I ask you whether it is not essentially a language question for the Punjab when you say, "I am recommending the regional formula"? I tell you the battle will be fought on that.

Ch. Ranbir Singh (Rohtak): We are prepared.

Shrimati Renu Chakravartty: When you are for any formula to be fought out on the question of language, you will also be prepared for litigation by what you are passing. That is the point which Chaudhuri Sahib does not understand, namely, what we are passing. He says that he is prepared. But he is not preparing for fighting for litigation. That is what I am trying to prevent. Therefore I again plead with the House that we must be quite aware of what we are trying to do.

Mr. Chairman: The hon. Members time is up.

Shrimati Renu Chakravartty: Are we really trying to bring in same amendments which will be effective, which will be correct and which will help us forward in stamping out communalism, or is it that we are only trying to create more problems, more litigation and are really making such issues which are basically issues of a political nature and which have to be raised as constitutional issues before the electorate as electoral offences?

Sir, you have rung the bell. There are only one or two other points which I will just mention in passing. One

is the question of banning of printing election propaganda material without the publisher producing a declaration attested by two persons. I do realise that in some places scurrilous printed pamphlets are published. Fortunately for me, I have never faced it, but it is the argument brought forward. But my point is that those who go in for scurrilous printing also get printing presses who will take the responsibility of issuing them without any name. The printer's name will not be there. The publisher's name will not be there. Nothing will be there. They will issue them. After that it is up to you to find out where the place is. By this you are again only putting difficulties in the way of honest people.

Take, for instance, any organised party. They will have their units in the villages. They will be far from the printing presses. They will send it to a city or to a place where there is a printing press. Then, further attestation by those two people who will know the printer and the publisher and all that paraphernalia will have to be included in a period when you are in a great hurry and when you are not always very tiptop in organisation. This is what will happen. I feel that by this you are not going to stop scurrilous printing. Those who want to bring them out and pay money for that will bring them out in the black market. I am afraid, you are only putting a greater handicap on honest people who will again have to go through all these difficulties.

Ch. Rambr Singh: It is to have an election petition.

Shrimati Renu Chakravartty: This has nothing to do with an election petition.

Lastly, one very important point that I want to make is regarding the removal of disqualifications of Members of Parliament. Even at the time when this was originally passed we had raised this point. If anybody has been convicted for two years in a criminal law suit, he is eliminated from standing for election. Naturally,

we do raise this point because we are the people who go to jails, who are hauled up not on political charges now-a-days but on other charges. Against me, probably there will be something under the Goonda Act or under section 302 or on the charge of murder, this or that. If we are by chance convicted for two years, straightaway we will be eliminated. We cannot stand for election again. I do agree that if one is convicted of certain crimes in connection with moral turpitude and are particularly heinous crimes, one should not be a Member of Parliament. You may specify such crimes. Moral turpitude—I was told that it is very difficult to define what moral turpitude is; but I will be more specific—bribery, corruption, immorality or any such thing. But do not say that if you are convicted in a criminal proceeding for two years, you cannot stand for election to Parliament. Let us take things as they are. Today because of public pressure Preventive Detention Act is not used against political workers now. It is under criminal cases that we are put into jail. Therefore again I would urge that we should try to amend that disqualification and remove it.

I would again say that it would have been much better if the Election Commission had called all the parties and had discussed these matters before finally formulating these amendments because I feel that there is a very large consensus of opinion on which agreement could have been achieved. Somehow when voting takes place, it is done on party lines. I feel that this is not an issue which should be fought out on party lines. It should be a national issue and we should bring to bear a national approach to this. It should have been discussed on an all-party level and the consensus of opinion taken by the Election Commission. I am sure that would have been a much better thing. Now, of course, by the power of votes many of my amendments will also be eliminated and what is going to happen is that we are going to vote for

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litigation and are not going to put an end to communalism. That is my fear.

Shri A. C. Guha (Barasat): Mr. Chairman, Sir, this Bill has come almost immediately after the Bill that we passed amending the Indian Penal Code. Some of the points are common to both the Bills, but there are other points also which were not in the previous Bill.

An election campaign on adult franchise is somewhat of a thrilling nature. Particularly in India the job is very difficult. The area for Parliamentary constituencies is so large that it becomes almost physically impossible for the candidates to visit all the parts or to contact at least the representative people of every area of their constituencies. But my experience in the last two election campaigns was that it was an educative thing not only for the voters but also for the candidate. The candidate has to learn much from the voters and the voters also have to be educated by the candidate and by his agents.

13.28 hrs.

[SHRIMATI RENU CHAKRAVARTTY in the Chair].

My experience, particularly in the last election in 1957, has been that I found a large number of pamphlets misleading the public and distorting facts. More dangerous and mischievous than these pamphlets was the whispering campaign. Gossips got current which had no relation with facts. Of course, it is very difficult for any legislation to stop those whispering campaigns, but I think the Election Commission should have taken some notice of those things.

Madam.

Shri Tyagi: She has already committed herself to one side.

Shri A. C. Guha: But when she has gone there, she is not committed.

This election campaign can lead to the promotion of national integrity and at the same time it can lead to the fomenting of disintegrating forces.

Very often, the latter thing is encouraged, particularly by Independent members and also by Opposition members. Their main campaign is somehow to malign the Government and the majority party in power. For that, caste, religion, language, everything is taken advantage of. It is quite necessary for the Government to stop all these things. Particularly, when we find that these disintegrating forces have been gathering strength and there are signs of fissures in the body of our nationhood, such a precaution ought to be taken so that the election campaign may be conducted in a healthy manner, in fact, as a machinery to educate people and also as a means for the candidates to get themselves educated as to the mind and outlook of the people whose vote they seek.

It is very difficult for me now to criticise the speech which you, Madam, delivered from that side. I hope while sitting there, you are not to be associated with the speech which you made from there. The speech which preceded mine has, practically, opposed the whole Bill; at least, the important clauses of the Bill have been opposed by you in the speech you have delivered from there. It has been urged that ventilation of genuine caste or religious grievances should not be banned. Ventilation of caste or religious grievances or any grievances of any particular community is not banned generally. But, if some genuine or supposed to be genuine grievance on the basis of caste or religion is going to be used in the election campaign, then, I think, it will not be a healthy procedure. For election purposes, ventilation of caste or religious or communal grievances should not be allowed. A particular candidate set up against another candidate should not make an appeal to the voters that this candidate belonged to this caste or to this linguistic group or this community and the voters should vote according to the caste, religion or linguistic group or community to which the particular

voter may belong.

Mr. Chairman: There is sub-section 3.

Shri A. C. Guha: In the 1952 elections, . . .

Shri Hajarnavis: If I may add to what has just fallen from the hon. Member, that is exactly the intention of the clause, namely, if an attack is against an unwholesome practice, custom or doctrine of opinion with which one does not agree, such an attack is not barred at all.

Shri Tyagi: If it creates hatred?

Shri Hajarnavis: If it creates hatred or feelings of disaffection against that custom or practice, that also is not barred. If it goes further and creates enmity or hatred as between classes of people, then the law comes in. If we do not permit legitimate airing of grievances, I am quite sure, article 19(2) would regard that encroachment as a contravention of the fundamental rights which are guaranteed to every citizen of India.

Shri Tyagi: If this sort of criticism promotes the chances of a candidate?

Shri Hajarnavis: It should be hatred.

Shri Tyagi: Not hatred. Suppose the mention of a grievance of religion or language or something in a public speech enhances the chances of the candidate?

Shri Hajarnavis: That is permitted. That is, the issue in an election should be political and should not be communal or the basis for creating enmity or hatred among classes. That is what I understood the hon. Member to say and if I may say so, I respectfully agree with him.

Shri A. C. Guha: I may here narrate an experience of mine in the

1952 elections, about a State Assembly seat within my parliamentary constituency. The Congress candidate bears the surname Ghosh. An all-India Opposition party put up a candidate the first part of whose name the Christian name and the surname were the same as the first part, Christian name and the surname of the Congress candidate. Madam, surely, you know that there is a third part in the Bengali name. Only that was different. The surname of the Opposition candidate was also Ghosh. He was not a *kayastha* Ghosh but he was a *guwala* Ghosh. Please understand the confusion. The first part of the name was the same as that of the Congress candidate; the last part, surname was also the same. The second part of the name of the Opposition candidate differed from the second part of the name of the Congress candidate. My name is Arun Chandra Guha. Generally, Chandra is not mentioned. Only Arun Guha is mentioned. The confusion created was the name and also of the caste. The caste appeal was there. That area has a large number of *guwala* voters. The voters were confused, particularly on the ground of caste and also on the ground of the name of the candidate they had to select. This sort of a thing is going on. Particularly religion is very often invoked. I think you may have experience of this in the constituency you were running. There are a number of places with a Muslim majority. There appeal to religion was very predominant, particularly, from the opposition side; not so much from the Congress side.

You mentioned about language. Language, surely is a political issue. But, is it always used as a political issue? It is often used as a party issue, as a means for forgering party interests. The happenings in Assam had their repercussions in Bengal. I am sure, the Opposition party will take advantage of it also in the general elections in 1962. It should be understood that what is happening in

[Shri A. C. Guha]

Assam is a purely political issue and that should be settled as a political issue in Assam. That should not have repercussions in the election either in Assam, least of all in Bengal. I agree with you, Madam, when you said that the language issue has to be settled. Surely, it has to be settled. But, it cannot be made an issue in the election. There is a candidate, say, in, Calcutta. There are a large number of Hindi-speaking people. If a candidate is a Bengali, then, the campaign goes on, he is a Bengali, don't vote for him. If a candidate is a Hindi-speaking man, the campaign goes on, he is Hindi-speaking and therefore the Bengalis should not vote. That is an unhealthy practice. That must be condemned as a disintegrating factor in our nationhood. That is why language also should be put in this clause.

There is another clause which also, I think, Shri S. M. Banerjee has opposed and that is about holding of public meetings.

Dr. M. S. Aney (Nagpur): On this point, I want to ask one question. Suppose one candidate says that the rival candidate stands for the Bengali language to be considered as the principal language in a district and the other candidate says something against that, would that be considered as a propaganda carried on on linguistic basis?

Shri A. C. Guha: I cannot say . . .

Shri Basumatari (Goalpara—Reserved-Sch. Tribes) *rose*—

Shri A. C. Guha: I think clarification will have to come from the Minister and then finally from the Supreme Court.

Mr. Chairman: Just a minute. We can only apply our mind to the legal interpretation.

13.40 hrs.

Shri A. C. Guha: I am of the opinion, as a political being, that these

are matters which have to be settled outside the election campaign, and these should not be made issues in an election campaign. But, if as happened last time in Maharashtra or Gujarat, it is made an issue then that will be a separate question, and I think that that should be looked into by Government. I am not sure about that, but generally speaking, if language is made an issue in the election simply to further the prospects or the cause of a particular candidate as against another candidate because of the language that he may speak, as was the case in Maharashtra or Gujarat, or as it may be the case in Punjab, then, it is for Government to see how they will tackle it. I do not think that that will be barred under this Bill, but I am not sure.

Mr. Chairman: According to the hon. Member, it is not barred under the new clause 3A.

Shri A. C. Guha: These things *i.e.* language, caste, religion etc. of an individual candidate should not be made an issue in an election campaign. We should face the elections as ordinary candidates. I see it from that point of view, I wish that Government will look into broader matter where language is made an issue in any election.

Shri Hynniewta: (Autonomous Districts—Reserved—Sch. Tribes): The hon. Member has said that language should not be made an issue in the elections. But, the hon. Prime Minister, while replying to the debate on the demand for a Punjabi Suba, the other day, said that nobody in this House was supporting the Punjabi Suba. If language is not made an issue in elections, there will be nobody in this House to support the claim of any linguistic group for reorganisation of States.

Shri A. C. Guha: Then, I was speaking about the prohibition of any public meetings even twenty-four hours before the date of polling. I think that that is also a necessary provision,

because there should be an atmosphere of quiet and calmness before the polling. Polling is by itself exciting, and if public meetings also go on just on the eve of the polling, that might disturb the proper atmosphere for holding a quiet and peaceful polling. So, I think that this is also a useful provision and it should be accepted by the House.

Then, I would like to say something about the election expenses and election petitions. In regard to election expenses, particularly, by a special resolution of this House, the Select Committee was authorised to look into the question thoroughly, but I find that the Select Committee has not done anything in regard to these points. I think that the remarks of the Election Commissioner would confirm our experience about the present position, and our experience would say that the present position is untenable. I cannot make a 100 per cent correct statement covering all the candidates, but I can say that it is very difficult for any candidate to submit an honest and true election expenses return. The Election Commissioner has suggested in this report the modification of certain rules, which, he has said, would undoubtedly save many of the candidates from lodging incorrect returns of their election expenses. If the suggestion made by the Election Commissioner is accepted, they will no longer be compelled to adopt ingenious and dubious methods for keeping the accountable amount low enough not to exceed the legal maximum. I think that in view of this very outspoken remark of the Election Commissioner, the Select Committee as also Government should have taken some steps to remedy this matter. It is not a desirable thing that knowingly we should encourage something dishonest and something which is a corrupt practice.

When it is admitted that it is almost an impossible task to submit election expenses in a true and correct form, and this has been endorsed by the remarks of the Election Commissioner

also, I think the Select Committee should have taken this point into consideration.

I believe there are some amendments in this regard, and if any such amendment comes up before the House, I hope that that would not be ruled out, and the House may be pleased to consider such amendments on their merits and see that the untenable position is remedied, and something is done to make us feel that we run our elections conscientiously, and we submit our election expenses return also with a clean conscience.

Shri Surendranath Dwivedy: I am thoroughly dissatisfied with the recommendations made by the Select Committee. It will be recalled that when the motion for reference of this Bill to the Select Committee was being discussed, several points were raised in this House, because it was felt that unless a comprehensive legislation inclusive of election expenses and other such matters, is passed this Bill might not serve the purpose for which it had been brought forward. Therefore, a motion was specially adopted at the end of the discussion that the Select Committee should consider also the provisions relating to election expenses etc. But I regret to find that in the Bill as has been reported by the Select Committee, that particular clause has not at all been considered. I do not know why Government were in such a hurry.

If it be said that the aim of this Bill is to curb communal propaganda or some such propaganda during elections, then, I would say that we have already passed a Bill seeking to amend the Indian Penal Code for that purpose, and that will be sufficient, according to me, for the present, to deal with problems of that nature.

If it had not been possible for the Select Committee to finish its deliberations within the stipulated time-limit, I think it would have been proper on their part to have asked for extension of time, for consideration of this very important matter.

Shri Hajarnavis: But, no suggestions were received.

Shri Surendranath Dwivedy: But, suggestions could have been brought by Government themselves. When they thought of this measure, why is it that they did not consider recommendations of the Election Commission on these matters also?

Regarding the amendment of the election law, the Election Commission has suggested many things. Among those suggestions, the two most important ones relate to election expenses and Government servants. But Government have brought forward a measure, completely ignoring these recommendations. How serious the Election Commission was regarding this matter can be seen from its own remarks. After the experience that the Election Commission has gained in two successive general elections about this election expenditure, this is what they have stated:

"It is very often alleged that candidates find it impossible to restrict their election expenses to the legal maximum and that in order to avoid disqualification they are compelled to file incorrect accounts of their election expenses so as to keep the total expenditure incurred by them below the prescribed limit."

They further say that:

"The Commission is constrained to record that the amendments to the Representation of the People Act, made in 1956, in so far as the account of election expenses is concerned, have rendered the entire scheme of the Act on this subject practically nugatory."

13.48 hrs.

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

Therefore, they have suggested that this particular provision should be amended, and they say that the legal

maximum of election expenses may, for instance, be revised liberally to higher figures and all expenditure incurred on behalf of a candidate by his party or well-wishers with his constructive consent may be made accountable. What we find today is that there are certain limits put in the election law, namely Rs. 7000 for single-member Assembly constituencies, Rs. 15,000 for single-member Parliamentary constituencies and so on. But what do we find in actual experience?

This expenditure excludes the expenditure incurred by the political parties. Besides, the Election Commission goes so far as to say that if one strictly follows the letter of the law, then, a candidate can make this law quite inoperative by purchasing petrol and other things necessary for the election just prior to the filing of the nomination paper, because we have limited the election expenditure to expenditure incurred during a particular period only before the elections and that alone comes within the purview of this Act.

Therefore, what we find is that political parties are free to spend any amount. We have seen this recently in Orissa. It is a very recent experience which has been gained and is very relevant when we are considering this Bill. Government should have made up their mind on this and come forward with their suggestions. A public controversy is raging all over the country. An experienced statesman like Shri C. Rajagopalachari has said that the democratic method is going to fail, and people would have no faith in it, if we do not curb this tendency of spending any amount of money without any limit whatsoever. In the Orissa election, the Congress Party purchased 160 jeeps for 140 candidates.

Shri P. K. Deo (Kalahandi): 162.

Shri A. C. Guha: It is not an expenditure. It has been sold again.

Shri Ranga (Tenali): At a profit.

Shri P. K. Leo: To the Ministry of Defence.

Shri Surendranath Dwivedy: It is alleged that these jeeps were conveniently made available to the Congress Party by recourse to administrative methods which is objectionable.

Shri A. C. Guha: That is not correct.

Shri P. K. Deo: It is a paper transaction.

Shri Surendranath Dwivedy: In this connection, a letter was addressed to the Prime Minister, and reply has been received. It says that it is not the practice with the Defence Ministry to give permits to any party for the supply of jeeps. Whenever they require jeeps, they place their order with the Director of Supplies and Disposals, and the Director of Supplies and Disposals, as a rule, would place the order naturally with Mahindra and Mahindra who are the sole agents of these jeeps. It may also happen—for which the Defence Ministry is not to be made responsible—that some jeeps which have been rejected by the Defence Ministry may be made available to Shri Bijoyananda Patnaik, President of the Provincial Congress Committee, who was running the elections. This is the reply received.

Shri Tyagi: Were the jeeps bought from Mahindra and Mahindra or from the Defence Ministry? Let that be made clear.

Shri A. C. Guha: This is a serious allegation. Our information is that the jeeps were purchased from Mahindra and Mahindra.

Mr. Deputy-Speaker: I cannot allow two or three speeches simultaneously.

Shri Surendranath Dwivedy: I am not giving way.

Government may contradict it if what I am saying is not a true fact.

We have received formal reply to a letter addressed to the Prime Minister.

Shri Tyagi: Why bring in the Defence Ministry here when they were bought from Mahindra and Mahindra?

Mr. Deputy-Speaker: He is not yielding.

Shri Surendranath Dwivedy: I can show you instances which it is very difficult to prove in court or take in a petition to a tribunal, because of the rule that you have to deposit so much amount and again incur expenditure to such an extent, which may be much more than what you have actually spent in the elections.

Shri Hajarnavis: May I ask the hon. Member...

Mr. Deputy-Speaker: He is not yielding. He may move on further from jeeps.

Shri Surendranath Dwivedy: I am only moving to money. It has been rightly alleged that villagers have been paid money. I know an instance; for 150 boats, Rs. 300 were paid to a particular village.

Shri Hajarnavis: Has an election petition been filed?

Mr. Deputy-Speaker: The hon. Law Minister wants to know whether there was any election petition filed.

Shri Surendranath Dwivedy: That is the point I am making.

Shri Hajarnavis: My point is that if an election petition has been filed, he is not right in referring to it here.

Shri Surendranath Dwivedy: There has been an election petition against Shri B. Patnaik. The Law Minister can go into it. In the petition, the numbers of 40 jeeps have also been given.

Mr. Deputy-Speaker: That is only an allegation still to be proved before the tribunal.

Shri Hajarnavis: The matter being *sub judice* cannot be referred to here.

Mr. Deputy-Speaker: That is exactly what I am saying.

It may have been alleged in the election petition by one party. But what turns out ultimately has yet to be known.

Shri Amjad Ali (Dhubri): The hon. Minister specifically asked whether there has been any election petition, for which he got the answer, that it has been filed.

Mr. Deputy-Speaker: His further objection is that since it is under inquiry, it should not be referred to here.

Shri Amjad Ali: Then why should he ask the question and elicit the answer.

Mr. Deputy-Speaker: That was to ask the second question.

Shri Hajarnavis: It is so obvious.

Shri Surendranath Dwivedy: My point is that because party expenditure is not included in the term of 'election expenses', the party goes on spending any amount.

Shri Ranga: Crosses.

Shri Surendranath Dwivedy: The result is that it has become practically impossible for any common man in this country to fight elections.

Shri Ranga: Or his party.

Shrimati Ila Palchoudhuri (Nabardwip): Which party?

Shri Surendranath Dwivedy: The Congress Party in Orissa.

Shrimati Ila Palchoudhuri: Other parties are also doing it.

Shri Surendranath Dwivedy: It has spent Rs. 40,000—45,000 in single constituencies.

Mr. Deputy-Speaker: Were the accounts kept by the hon. Member?

Shri Surendranath Dwivedy: Their accounts are, as you know, said to be public property. They collect it from public organisations; companies will donate and write it in their accounts.

Shrimati Renu Chakravartty: Sugar magnates.

Mr. Deputy-Speaker: The hon. Member must be sure of his facts which he cannot prove.

Shri Surendranath Dwivedy: If you want, I can prove it, not in this House or in a court of law. I can convince you. My point, as has been suggested by the Election Commission, is this. If we really want that elections should be fair and proper opportunities should be given to every voter in this country to exercise his right properly, we have to devise ways and means to ensure that. This is a serious matter. I do not raise this point because the Congress Party has resorted to it. That is not so. I raise this because this is not an isolated case. My friends belonging to other States will know after a period that this money power that has emerged in one corner will also come and probably affect all our friends all over the country. As a result, it will affect the democratic apparatus and democratic functioning in this country. Therefore, I am making this point, when we are considering an amendment to this very important measure. Hence I make an appeal. There is no hurry to rush this Bill through. We can refer this matter again to the Select Committee, or the Minister himself may come forward with Government's suggestions regarding this matter. We do not know what is the reaction of Government to this suggestion of the Election Commission.

Shri Hajarnavis: Why should not the hon. Member himself bring forward an amendment?

Shri Ranga: Why do not the Government do it? He has already put the question. Government do not give the answer.

Mr. Deputy-Speaker: Order, order.

Shri Ranga: This is not the function of the Opposition alone.

Shri Surendranath Dwivedy: The next point I want to make concerns government servants. The Election Commission has also stated this—and I think it is a very good thing—about government servants. There is a demand in this country by a certain party that the Ministry should not function when elections are ordered.

Shri Ranga: That is our view. And, probably, the whole intention is that the government machinery should not be used, for purposes of election.

14 hrs.

Shri Ranga: Yes.

Shri Surendranath Dwivedy: I agree with the Election Commission that by and large complaints against government servants being partial are rare in this country. But, even then it is necessary that we provide in the Act itself to make it foolproof. Therefore, the Election Commission has suggested:—

“In the interests of keeping the entire body of public servants impartial and immune from political influences the Commission would recommend that the provisions of the original Act in this regard should be restored and a candidate should be penalised for obtaining the assistance of any Government servant without distinction of status or category. Pseudo-Government servants like village officers who are not village accountants may, however, be excluded from the ban.”

They have even suggested, I think, that the previous clause relating to

corrupt practices should be restored. Why not Government accept this view?

About the Bill itself generally I do not want to discuss. My hon. friend, Shri Amjad Ali will probably deal with those matters.

Mr. Deputy-Speaker: If given time.

Shri Surendranath Dwivedy: I hope he will be given some time. One thing I want to point out is this. Everybody would agree with the proposition that extraneous matters should not be brought into elections and that elections should be conducted in such a manner that only political principles or election manifestos or differences of political views between the parties should be discussed. But since we are putting a ban on controversies like language and other things, I ask are we ignoring the fact that there are other greater appeals than religion and language which influence elections—that is appeal in the name of Gandhiji and Nehru.

I may tell you that in the Orissa elections calendars were published and circulated in which a supposed conversation between Gandhiji and Nehru was published in Oriya. Gandhiji is handing over this country to Nehru and is blessing Bijoy Patnaik and telling him, ‘You are the person who will ultimately carry out my message to the country.’ Are these appeals not more objectionable?

Mr. Deputy-Speaker: When did this conversation purport to have taken place?

Shri Tyagi: After Gandhiji died. Fifteen years after Gandhiji died.

Mr. Deputy-Speaker: That is the question I have put to him. When did this conversation purport to have taken place?

Shri Surendranath Dwivedy: When Gandhiji was living he did this.

Mr. Deputy-Speaker: Shri Patnaik was not there at the time.

Shri Surendranath Dwivedy: He was not there; but in the clander he is very much there. Any man who reads and who does not know when Shri Pantnaik came into politics would, certainly, come to the conclusion that when this conversation took place between Gandhiji and Nehru not only did Gandhiji make Nehru his successor but Gandhiji also gave blessings to Shri Patnaik that with the money and property that he had acquired by questionable means he should utilise that for the victory of the Congress in Orissa.

Shri Hajarnavis: Is it proper to refer to him here?

Mr. Deputy-Speaker: Shri Tyagi.

Several Hon. Members rose—

Mr. Deputy-Speaker: I see there are a very large number of members who want to participate. I hope hon. Members would confine themselves to relevant points so that I can ablige a large number.

Shri Naushir Bharucha: Ten minutes for each.

Mr. Deputy-Speaker: Is that agreeable?

Shri Naushir Bharucha: It may be strictly enforced.

An Hon. Member: Those who initiate on behalf of parties may be given 15 minutes.

Shri Tyagi: I would suggest that the whole House agrees that today there are fissiparous tendencies in the country which are detrimental both to the integrity and unity of India and they must be put down. I entirely agree with the spirit in which this Bill has been brought forward. But I think it is rather a wrong way to proceed to curb these tendencies through Bills or laws. The laws are only deterrent. The tendencies have to be fought constructively and people have to be brought together and

united by some means other than law. To say that because the law is deterrent and therefore there would be fear would not help you.

Supposing we go on suppressing and inflicting threats of this sort, threats of imprisonment for 2 years or 3 years, to avoid the free expression of their views linguistically or on religion in elections, the result would be that the tendencies would go deep down or underground and it would be difficult to check. When people make some such speeches creating hatred between classes, those people become unpopular ultimately with the electorate and that is the best deterrent for such persons. If such persons are defeated once, twice or thrice, people will learn a lesson that to talk of communal bias is detrimental to their interests in elections. That is the best way. Nobody would talk about it. Everybody would claim that he believes in unity because the electorate stands for unity. Therefore, I would very much welcome these communal-minded people to come forward on public platforms and talk ill against anybody. Let them do it so that they can learn a lesson at the time of elections.

Why are Government afraid of such tendencies? The electorate would put them down; and, in future, there would not be any such tendencies. (*Interruptions*). But if we try to suppress them by means of law, those tendencies would go deep down and there will be secret parties.

I accept the simple suggestion given by our hon. friend, Shrimati Renu Chakravartty, that any meeting held in any religious place would disqualify that candidate. That alone would make sure that these religious places are not used for political purposes at all. This is a better and simpler method to curb these tendencies. This could be done. So, my submission is that this sort of restrictions on expressions of opinion in public meetings would prove to be a

detriment to the very cause for which we have brought this Bill. This is my feeling. I am a man of the masses and I know how the masses feel about these things.

It is not possible by a piece of legislation to abolish caste. The castes are there and it will take centuries for them to vanish. Therefore, why bother about this?

In the Constitution a right has been given to the minorities.

"Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."

I am afraid that this Bill may come into clash with this article 29.

Shri Hajarnavis: Not at all.

Shri Tyagi: If a person stands and says, 'I belong to this community. I am a citizen residing in this territory of India and I have a distinct language and script and culture. I would like such persons to be sent to Parliament would protect my language when a law is made and I want to use the House for the purpose of protecting these things', would it be wrong? The best method of protecting the language and culture is law and the most legitimate method is through the legislature. Therefore, one may advocate that just for the purpose of protecting his right, given to him by the Constitution, he wants to send somebody to Parliament who would protect his language, culture etc. How can you apply such curbs mentioned here? He must speak out his mind freely. Let them do what they like. People are wise enough to see whom to send. They will never send people who are so bigotted or prejudiced against one another. But that is another matter. The motive is good here.

Another objection is that law should not be made by any political party

as a forum for propaganda. This smacks of propaganda; it is very sloganish. I agree with the principle of the Bill. But I feel that it will not be helpful.

Shri Hajarnavis: May I explain the difference to the hon. Member?

Shri Tyagi: This time would be credited against his time.

Shri Hajarnavis: If he were to say: vote for me because I am going to promote Bengali or Hindi language, that is permitted. But if he were to say: vote for me because I speak Hindi or Bengali or to say: do not vote for him because he speaks another language—that will come within this section.

Shri Tyagi: If you ask Prof. Ranga to stand from my constituency, I will surely say: do not vote for Prof. Ranga; he does not know your language; he will not understand your grievances; vote for me; he belongs to the south and he will never understand your grievances. Have I not that right to say so?

Shri Ranga: He says: no.

Shri Tyagi: There are many matters which will arise. I can argue with my electorate: why vote for a man who will not understand you at all? I will defeat him and his security will be forfeited. The purpose is very well served by one clause—No. 23:

"The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language, the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate."

Shri Hajarnavis: If a Muslim candidate were to say to the people: 'most of you, the majority, are Muslims and I am also a Muslim; I can represent you much better than the Hindu candidate' would Shri Tyagi permit such an appeal?

Shri Tyagi: To me it does not matter. I will appeal to the Muslims and say: this gentleman has been in the Muslim League and while there were riots I was—and not he—fighting for you and so vote for me because I will protect the Muslims. I will appeal to them to go with me.

Shri Ranga: They may not vote for you.

Shri Tyagi: Whether they vote for me or not, that is a different thing. But that is the best way of educating. Anyway, clause 23 which I have read out would serve the purpose because it is all comprehensives. But after that, in clause 23, they have added another 23 (3A). What for? I do not understand. It reads:

"The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds or religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate."

Are we enacting any law? There must be some dignity in the law. We cannot go on repeating every time. In the previous clause, we sought to control it and now, in connection with hatred, we repeat the whole clause round the word 'hatred'. This is redundant and unnecessary. Why make it a propaganda Act? For the purpose of law, 23(3) was enough. But that is not all. We say in clause 24 again:

"Any person who in connection with an election under this Act

promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

This is there already in the Indian Penal Code; we passed it yesterday. It is being repeated here? Then why not bring the other clauses relating to theft and robbery? This is exactly what we said yesterday in clause 153A of the Indian Penal Code and it is being reproduced here. This Act should not be used for this purpose. Let us be quite grave and serious and put in only what is essential. But here it is redundant and repetitive. It makes it cheaper and it will not have the effect which we want it to have. Unfortunately, this draft has come from somewhere but now the Select Committee is responsible for it and I cannot accuse the Ministry about it.

Mr. Deputy-Speaker: Shri Ranga—Shri Bharucha—Shri P. K. Deo.

Shri P. K. Deo: Sir, . . .

An Hon. Member: Shri Ranga is here.

Mr. Deputy-Speaker: He wants to speak?

Shri Ranga: Sir, I thought that you called somebody else, that is why I was looking at everybody. Generally I do not wish to stand in the way of anybody else getting a chance.

Mr. Deputy-Speaker: I called Shri Ranga; he did not stand up; I called Shri Bharucha; he was hesitant. Then I called Mr. Deo.

Shri P. K. Deo: I have already started.

Shri Naushir Bharucha: I am afraid that there is something wrong in the microphone system, Sir.

Mr. Deputy-Speaker: I have some trouble in my ear but I did not know that the trouble is with the hon. Members also.

Shri P. K. Deo: From the Statement of Objects and Reasons, we find that the basis of the amending Bill is the report of the Election Commission on the second General Election. We further find that some of the recommendations have already been implemented by an amendment of the parent Act in 1958 and some others have been incorporated in the rules for the conduct of election, in 1961. I cannot understand why there should be this piecemeal legislation. After all this is the biggest democracy functioning in the world and all the eyes of the world are rivetted on the proper working of our democracy and we should have a foolproof election law. I cannot understand why such piece-meal legislations be brought forward. We can as well have comprehensive legislation to amend this Act. Especially when a full mandate was given to the Select Committee to make any recommendations on any of the subjects regarding election. I think that it could have very well made some new changes in the amending Bill. But the Bill as it has emerged from the Select Committee does not fulfil our expectations. The most glaring of all is that no mention has been made to control the election expenses.

Paragraph 2 of the Statement of Objects and Reasons further says as follows:

“The Election Commission, after reconsidering the other recommendations contained in the report, and reviewing the entire election law in the light of recent experience....”

I do not think the Ministry has been benefited by the light of recent experience in Orissa. It has not taken

cognizance of the various corrupt and other malpractices that have been resorted to in the last mid-term elections in my own State.

In this connection, the previous speaker, Shri Surendranath Dwivedy, has pointed out certain glaring instances of all these malpractices. I am not going to repeat them, but, at the same time, I will be failing in my duty if I do not point out in this House how the various methods were used to deceive the voters. The mid-term elections in my own State have been a mockery at poverty, ignorance and simplicity of the voters of my State. Shri Surendranath Dwivedy pointed out a certain pamphlet, and I place it on the Table of the House.* Here it is. It has published a photograph, showing the talk which is going on between Shri Jawaharlal Nehru and Mahatma Gandhi, and the writing under it is in Oriya which I translate:

“In a very feeble voice, the voice of Mahatma Gandhi comes from Heaven, saying that you have taken charge of the Congress organisation, and my full blessings.”

It is signed by Shri Bijoyananda Patnaik.

I do not like to mention the actual amount spent by the party in power for the election purposes, but, at the same time, with all confidence, I beg to submit that in a booklet issued to the Congress workers, it was clearly mentioned that “Amog Ashtra”, that is, the infallible instrument should be used on the last night. That means the vote-purchasing power of money should be used on the last night, on the voters. (*Interruptions*).

Mr. Deputy-Speaker: Was it addressed to the Rajas and Maharajas?

Shri P. K. Deo: No. It was addressed to the Congress workers. Regarding the 162 jeeps which were mentioned by Shri Surendranath Dwivedy, I can say this. I can quote from the statement of no less a person than Shri

*Permission to lay the pamphlet on the Table was not accorded.

[Shri P. K. Deo]

Biswanath Dass, the former Chief Minister who, while supporting the action taken by the P. C. C. chief, said that 162 jeeps were nothing and that he could have procured many more jeeps.

In this connection, the question arises this way: for a private individual to procure a jeep, he will have to wait for three to six months till his quota comes. But overnight, 162 jeeps were procured, and they were used in the election machinery. Considering all these things combined together; I beg to submit that the Congress propaganda and publicity had reached such a low level of falsehood and crudeness—the manner in which the voters were bribed and tempted with dhoties, saris, cash, and donations to temples and *patasalas*—that the entire electioneering was perverted to a scandal. I will be failing in my duty if such serious matters are not brought to light, especially in this House. It is an open secret that the Congress hierarchy had contemptuously disregarded the Constitution and has struck at the very roots of the principles of democracy. If these matters are allowed to continue, I am very sorry to remark that it will be the deathknell of democracy in this country.

The major amendment in this Bill is clause 23 which seeks to amend section 123 of the principal Act. There is nothing to object really, but the only objection to my mind is the question of language. So far, the formation of States on a linguistic basis has been accepted by this House. If we go through the former resolutions of the Indian National Congress, you will find that it was a regular feature, at each and every session of the Congress, to pass a resolution in favour of the formation of States on a linguistic basis. This matter has not been settled. There are tracts which have not been integrated into their parent States. There are outlying Oriya tracts in Bihar, Madhya Pradesh and Andhra Pradesh which should have

been integrated in Orissa. The preservation of the rights of linguistic minorities in those tracts is a fundamental right which has been guaranteed under the Constitution. If questions like this will not form the main plank of the platform of electioneering, I cannot understand what else could form the plank. (*Interruption*).

Shri Hajarnavis: It has not been prohibited under the present law.

Shri P. K. Deo: The law is like this. Even in spite of the assurance of the hon. Minister on the floor of the House, the law today is stretched to such an extent that the entire election could be made invalid. So, to be very explicit, I would suggest that the amendment so ably moved by the lady Member, Shrimati Renu Chakravarty, should be adopted. It would be most unfair to debar persons from fighting the elections on these issues. For a State party like the Ganatantra Parishad, such an issue is the main plank to preserve the right of the Oriya minorities in the outlying Oriya tracts and the integration or unification of those areas in the Orissa State. If the intention of this Bill is to ban that move, then, I strongly oppose it.

Secondly, a referendum is the internationally accepted principle to assess any public opinion. In the case of Maharashtra we have seen that in the 1957 elections, the entire Maharashtrians voted against the Congress, because they did not accept the decision of the Government to have a bilingual Bombay State. If the opportunity had been denied to the Maharashtrians, they would have been nowhere. Then people may have to resort to unconstitutional methods like fasting, violence, etc.

Regarding clause 3A to section 123, I beg to submit that I entirely agree with the views of Shri Tyagi. It is redundant. Only yesterday, we passed a similar legislation by amending the Indian Penal Code and there is absolutely no use in incorporating the

same provisions here. I think they have been reproduced here, word for word, in clause 3A.

Mr. Deputy-Speaker The hon. Member's time is up.

Shri P. K. Deo: I shall make one more point before I sit down. Regarding the bifurcation of the double-member constituencies, I would like to point out in this House that by dividing the double-member constituencies, we thought that our efficiency in conducting the elections would automatically improve. In 1952, the entire elections in the double-member assembly constituencies were finished in a single day. But in the mid-term elections, we found that there was a staggering in polling. The entire polling which could have been finished on one day was stretched for a period of seven days, even though the constituencies were divided into single-member constituencies. That put the party with resources in an advantageous position so that they could mobilise their resources. I think in future this should be stopped and there should be polling on one day.

Shri N. R. Ghosh (Cooch-Bihar): Mr. Deputy-Speaker, Sir, I think the Government have done a right good thing in inserting a new sub-section (3A) in section 123 of the principal Act. Actually what has been done is, you can speak about language, caste etc., and your genuine grievances, if any, but the promotion of or attempt to promote feelings of enmity or hatred between different castes or classes of citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for furtherance of the prospects of that candidate's election has been sought to be curbed and has been made a corrupt practice. So, there should not be any reasonable, objection to this, if we want national integration. It is actually to curb the fissiparous tendencies that are raising their heads. Before we attained independence,

there was, practically at least for political purposes no appeal to castes. Now we find the appeals to castes and classes is profitable at the time of elections and we are really prostituting that mentality of the people. So, I believe the Government have done a very good and right thing in providing this new sub-section (3A).

Mr. Deputy-Speaker: The hon. Member may move forward a bit. He is not audible.

Shri N. R. Ghosh: As a matter of fact, even the opposite benches have not disapproved of section (3) which says:

“(3) The appeal by a candidate or his agent by any other person with the consent of a candidate or his election agent, to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election.” etc.

I think section (3A) simply makes it more effective and more specific. I, therefore, wholeheartedly support this section.

Regarding clause 28, it seeks to insert a new section 127A. Section 127A (1) says:

“(1) No person shall print any circular, placard, pamphlet or poster having a reference to an election....” etc.

This is a very wholesome thing and I welcome it, because we have come across many pamphlets with very objectionable statements against candidates and they have practically no remedy. Therefore, this clause is absolutely necessary. But I think sub-clause (2) is a little bit irksome. It will cause inconvenience and practical difficulty, because hand presses are not rare for such clandestine and

[Shri N. R. Ghosh]

offensive publications and even registered presses can be used for such pamphlets with faked declarations and faked attesting witnesses. But it will create some practical difficulties for *bona fide* candidates and publishers away from towns. I would ask the Ministry to consider whether as a matter of fact, this sub-clause is necessary or not. Of course section 127A (1) should be retained, but sub-clause (2) may be conveniently deleted. It is not made an election offence. Therefore, it is not such a fundamental thing. But some innocent people will be put into trouble, because their opponents, by the use of hand presses, can make faked election pamphlets and faked attesting witnesses and foist them against their opponents. Therefore, they can create difficulties against *bona fide* printers and publishers.

Sub-clause (3) says that the printer of every such circular, etc. shall immediately after the circular is printed, send one printed copy thereof together with the declaration to the returning officer. Of course, if the literal meaning of the word "immediately" is insisted upon, it will create an absolutely absurd position. Of course that cannot be done. The court may construe that "immediately" may mean "within a reasonable", but may construe differently. Law has to be specific as far as possible and it should not allow any dubious interpretations. Therefore, I would ask the Ministry to consider whether instead of "immediately", within a reasonable time" can be substituted.

I have one more point....

Shri Braj Raj Singh (Firozabad): Are we not having non-official business now?

Mr. Deputy-Speaker: The hon. Member, Shri Ghosh, had written to me that he had to go away today and

*Published in the Gazette of India Extraordinary, Part II—Section 2, dated 1st August, 1961.

so I gave him an opportunity. Otherwise, at 2-30 non-official business should have been taken up.

Shri N. R. Ghosh: There is an amendment; I shall ask my friend to speak about it.

Mr. Deputy-Speaker: That is good. This would be continued on the next day.

14.35 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTY-EIGHTH REPORT

Sardar A. S. Saigal (Janjgir): I beg to move:

"That this House agrees with the Eighty-eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 30th August, 1961."

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Eighty-eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 30th August, 1961."

The motion was adopted.

14:36½ hrs.

PUBLIC EMPLOYMENT (REQUIREMENT AS TO RESIDENCE) AMENDMENT BILL*

(Amendment of Section 5) by Shri L. Achaw Singh

Shri L. Achaw Singh (Inner Manipur): I beg to move for leave to