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LOK SABHA

JOINT COMMITTEE
ON
AMENDMENTS TO ELECTION LAW

REPORT — PART II

(Presented on the 13th March 1972)

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C O R R I G E N D A

to

REPORT - PART II OF THE JOINT COMMITTEE ON AMENDMENTS TO ELECTION LAW

Page 5, para 13, line 10,

for "victimisation" read "victimisation"

Page 12, para 28, line 4,

for "Minister" read "Ministers"

Page 14, last line,

for "March 1, 1792" read "March 1, 1972"

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JOINT COMMITTEE ON AMENDMENTS TO ELECTION LAW

COMPOSITION OF THE COMMITTEE

Shri Jagannath Rao—*Chairman.*

MEMBERS

Lok Sabha

2. Shri S. M. Banerjee
*3. Shri R. D. Bhandare
4. Shri Somnath Chatterjee
5. Shri Amar Nath Chawla
6. Shri H. R. Gokhale
7. Shri Krishnan Manoharan
8. Shri Shyamnandan Mishra
9. Shri K. Narayana Rao
10. Shri Satish Chandra
11. Shri Shiv Nath Singh
12. Pandit D. N. Tiwary
13. Shri Atal Bihari Vajpayee
14. Shri P. Venkatasubbaiah.

Rajya Sabha

15. Shri Lal K. Advani
16. Shri Narayana Kalliyana Krishnan
17. Shri V. B. Raju
18. Shri Triloki Singh
19. Shri Awadheshwar Prasad Sinha
20. Shri Sawaisingh Sisodia
21. Shri Mahavir Tyagi.

REPRESENTATIVES OF THE MINITRY OF LAW AND JUSTICE

1. Shri N. D. P. Namboodiripad, Joint Secretary and Legislative Counsel.
2. Shri A. K. Srinivasamurthy, Deputy Legislative Counsel.

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*Nominated w. e. f. 6th July, 1971 vice Shri Rasik Lal Parikh resigned.

3. Shri N. Srinivasan, Deputy Secretary.
4. Shri H. C. Vermani, Under Secretary.

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*
Shri H. G. Paranjpe—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE ON AMENDMENTS TO ELECTION LAW

PART II

I. INTRODUCTION

I, the Chairman of the Joint Committee on Amendments to Election Law, do present on their behalf this Report—Part II, containing some other recommendations relating to election matters. Report—Part I of the Committee was presented to the Speaker on the 18th January, 1972 and the Speaker was pleased to order the printing, publication and circulation of the Report under Rule 280 of the Rules of Procedure and Conduct of Business in Lok Sabha before it was presented to the House. A copy of the Report was also sent to the Ministry of Law and Justice (Legislative Department) on the 24th January, 1972.

2. After the presentation of their Report—Part I to the Speaker, the Committee have held six sittings.

3. The Committee adopted this Report—Part II on the 23rd February, 1972.

II. REPORT

A. Appointment of Election Commissioners and Regional Election Commissioners

Article 324(2) of the Constitution contemplates the setting up of an Election Commission consisting of Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix. There is also a provision under clause (4) for the appointment, in addition, of Regional Commissioners before each General Election to assist the Election Commission in the performance of its functions. Before the First General Elections of 1952, two or three Regional Commissioners were appointed in pursuance of the provisions of the Constitution but later on that system was given up. Instead of that, the offices of Deputy Election Commissioners which were created in the Election Commission for the first time in 1956 have been in vogue since then because this system has proved useful in connection with the work of elections in the country and the election department in each State capital has been strengthened by the addition of a Joint or Deputy Chief Electoral Officer. The Chief Election Commissioner continues to be the sole authority in all matters pertaining to the preparation of electoral rolls and the conduct of elections to Parliament and the State Legislatures and to the offices of President and Vice-President.

2. In order that elections based on adult sufferage in the country may be free and fair, it is essential that the election work should be spread and ramified throughout the length and breadth of the country and that even in the remotest villages this work should be done in a manner so as to inspire the confidence of the people. The election machinery should be such that it may function effectively in every village, town and city in an independent, impartial and fair manner. Gradually, elections have ceased to be a mere quinquennial affair but are held, if not every year, at least in every alternate year in some part or other of our vast country. The elections have, therefore, become a continuing process entailing enormous work on the Election Commission. The immensity of the task of the Election Commission and the complexities of the duties it is called upon to discharge are too obvious and do not require any elaboration. It is too great a burden for a single person to exercise supervision, direction and control over elections effectively and consequently he is likely to be exposed and vulnerable to charges

of arbitrariness and partiality. The Committee, therefore, recommend that the Election Commission should be a multi-member body as envisaged in article 324(2) of the Constitution. While the decision about the exact number of Election Commissioners necessary to assist the Chief Election Commissioner in the performance of his duties may be left to Government to determine, the Committee consider that an enlarged Commission will be able to discharge more effectively the responsibilities relating to elections and in exercise of its quasi-judicial functions, a broad-based Commission is likely to reach generally acceptable decisions and command respect.

3. There are too many matters on which orders of the Election Commission are necessary under the provisions of election laws and it is not possible for the Election Commission at Delhi to take prompt and appropriate steps without the first-hand knowledge at their disposal. The Committee, therefore, further recommend that the Regional Election Commissioners might also be appointed as contemplated in article 324(4) of the Constitution in order to assist the Election Commission in the performance of their functions.

B. **Reform in Electoral System**

4. Article 327 of the Constitution empowers Parliament to make laws with respect to all matters relating to or in connection with elections. When India became independent in 1947, and opted for Parliamentary democracy, it chose the majority system for its electoral system as it had become familiar with that system during the preceding decade.

5. The Committee considered the question of adopting the system of proportional representation including the 'List System' as in vogue in some countries. The merits and demerits of the different systems were discussed. It was generally recognised that the majority system introduces into the election pattern an element of gamble which makes the elections absolutely unpredictable. The list system, it was argued, strengthens the party system and compels the voter to vote on political lines thereby eliminating the opportunistic independent candidates. The list system also assures fair representation to all parties and substantially eliminates the risk of a party getting into power on the basis of a minority of votes. It also helps promote the political education of the electorate and would minimise, if not wholly eliminate, the influence of caste and community factors. It was stated that under the majority system every party in a single-number constituency nominates a candidate

who belongs to the majority caste and this brings in the evil of communalism in the whole process right from the nomination of the candidate by the party to the election of the candidate by the voter. Indirectly, thus, the list system would help promote integration also. It would also prove to be an effective remedy for the evil of defections. Yet another advantage claimed for the list system is that it eliminates the need for bye-election.

6. On the other hand it was pointed out that in a country like India it would be difficult to adopt the list system. The common man cannot be expected to indicate his priorities. Even in an election to the office of President, where we have an enlightened electorate, a number of votes were declared invalid. It was pointed out that it may not be practicable to make any experiment with the list system in this vast country. The list system was in vogue with local variations in a few comparatively small European countries, such as Belgium, Holland, Norway, Sweden, Denmark and Finland. Each of these small countries had evolved a relatively small number of stable parties so that coalition or minority cabinets hold office for long periods, often undisturbed by the very slight changes in the representation which take place at elections. In West Germany and Italy, though the list system was in vogue to a certain extent with local variations, the position was not as good in the above mentioned small countries. This system was not in vogue in Great Britain, U.S.A., Canada or Australia. Even in France, it was no more followed. This system had a tendency to split up big parties and to encourage the formation and independence of small separate groups. A separatist mentality was promoted by the list system which was contrary to the single-member majority system in vogue in Great Britain, Canada, Australia, India, etc.

7. The Committee understand that the Election Commission who were consulted in the matter were totally opposed to the introduction of the List System or any other variant of the system of proportional representation in the election to Lok Sabha and State Assemblies.

The Committee are of the opinion that the existing system of elections to Lok Sabha and State Assemblies might continue. However, the Government might appoint an expert Committee consisting of eminent jurists, experts on constitutional law, etc., to examine the feasibility of adopting the List System or any other system in relation to elections to Lok Sabha and the State Assemblies.

C. Lowering of voting age

8. Under the existing provisions of Article 326 of the Constitution, a person who is not less than 21 years of age and is otherwise qualified is entitled to be registered as a voter.

9. The question of voting age has in recent years assumed considerable significance. It is well known that in Western democracies, the expansion of the franchise was slow, gradual and progressive. Great Britain, for example, took almost a century to arrive at universal adult franchise. In India, on the other hand, the experience of universal adult sufferage is only twenty years old. The question as to whether the provisions of the Constitution might be amended with a view to reduce the voting age from 21 to 18 years, therefore, requires serious consideration. Some members of the Committee felt that if the voting age was reduced to 18 years, it would create innumerable problems in the country. The size of electorate would increase to a tremendous extent partly as a consequence of inclusion of the persons between the age group of 18—21 years and partly because of the considerable rate of increase of population. This would also import party-politics in the educational institutions which would be a source of disturbance at regular intervals, and would also detract the students from their studies. Above all, it would create heavy financial burden on the exchequer for handling such a vast electorate. Other members of the Committee felt that this measure would provide to the younger generation a sense of participation in the democratic process. In their view, there are no valid reasons for denying the right of vote to the age group of 18—21 years, particularly when for all purposes of law they are treated as majors and deemed competent to handle their affairs.

The Minister of Law and Justice stated that Government had not taken any decision in regard to this.

10. Having considered both the above view points, the Committee decided that the voting age should be reduced from 21 to 18 years. The Committee, therefore, recommend that article 326 of the Constitution might be amended accordingly.

D. Procedure re: Counting of Votes

11. Rule 56(1) of the Conduct of Election Rules, 1961, as in force at present, provides *inter alia* that the ballot papers taken out of all boxes used in a constituency shall be mixed together and then arranged in convenient bundles and scrutinised.

12. A suggestion was made before the Committee that the new system of counting of votes constituency-wise, introduced in 1971,

should be abolished. The Committee considered this question at length and took note of the views expressed by the Election Commission in this behalf. The Election Commission had pointed out that, before the General Elections held in March, 1971, several complaints had been received by them to the effect that counting of votes should not be done polling station-wise as it enabled not only the counting staff but also the candidates as well as their counting agents to know as to whom the majority of voters, assigned to a particular polling station, had cast their votes. The fear of being intimidated, pressurised and coerced by influencial persons after the declaration of results led the voters not to turn up at the polling station to cast their votes. The Commission felt there was great force in these complaints and it was considered desirable to change the system of counting as far as practicable in the interest of the general electorate.

13. The Committee feel that the victimisation and harassment of voters whether on a small scale or on a large scale is a reprehensible and undemocratic practice and should be dealt with properly to ensure free and fair elections. There is no doubt that if the evil of intimidation, coercion and undue influence had to be successfully fought and eliminated then it had to be met squarely at the political, economic, social, administrative and legal levels also. But when once it is admitted that harassment and victimisation was prevalent, surely there should be no objection in finding ways and means of putting an end to such victimisaion and harassment. The Committee also feel that while there was nothing unusual in making the change, it had definite merit of avoiding the drawbacks of the pre-existing procedure of counting. Under the new procedure now introduced by the Election Commission, the ballot papers of the entire constituency are mixed up and there could be no possibility of any one knowing how a particular area within the constituency had voted.

14. During the course of discussion, a doubt was expressed whether the new procedure was in conformity with the substantive provisions contained in section 64A of the Representation of the People Act, 1951 which provides that in the event of destruction, loss etc. of ballot papers at the time of counting, the Election Commission shall issue directions that counting shall be stopped, and the polling at the particular polling station or place declared to be void and arrangements made for fresh poll. The Committee were informed that if for issuing directions under section 64A or for any other reason, the ballot papers are required to be separated, it can be done without any difficulty because under rule 38 of the Conduct of Election Rules, 1961, every ballot paper, before it was issued to

the voter, was required to be marked by the Presiding Officer with the distinguishing mark allotted to a polling station in which the ballot paper was being used. Further, every such ballot paper, before it was issued to a voter, was also required to be signed by the Presiding Officer on the back. Therefore, with reference to the distinguishing mark of the polling station and the signature of the Presiding Officer of the polling station, it was possible and easy to separate and re-arrange the ballot papers polling station-wise after they have been mixed up. In the third place, the Returning Officer's register would show the number of ballot papers with their serial numbers issued to each polling station. The ballot paper account in Form 16 would also show the same thing.

The Committee are, therefore, of the view that the new system of counting of votes, as introduced in 1971, should continue.*

E. Broadcasting facilities for Political Parties during the election periods

15. The Committee considered the question as to whether broadcasting facilities on the All India Radio should be made available to the political parties for their election propaganda as is now customary in Great Britain. The Election Commission, prior to the general elections held in 1952, had advised the Government that it would be almost an impossibility to apportion broadcasting facilities amongst the recognised political parties with reasonable fairness and to the general satisfaction of the public and the proposal had, therefore, to be abandoned. Since after the 1952 general election, the number of recognised political parties considerably decreased and their comparative strength in the country could accurately be ascertained, the Commission made further attempts to bring about an agreement so that party broadcasts could be made on a regular feature at the general elections but the idea had to be given up for lack of agreement among the major political parties as to be basis for dividing the available radio time. The Committee feel that the public opinion was, and is, in favour of utilising this valuable medium of publicity for educating the electorate and desire that the Election Commission might make further efforts in this regard so that the broadcasting facilities could be utilised by the recognised political parties for election campaign in future. The Committee recommend that equal time should be given to all recognised political parties.

F. Rules framed under the Election Law

16. The Conduct of Election (Second Amendment) Rules, 1971 published in the Gazette of India (Extraordinary) on the 7th January, 1971 were laid on the Table of Rajya Sabha on the 29th March,

*Minute of Dissent by Shri Somnath Chatterjee.

1971 after completion of the General Elections held in March, 1971. The Rajya Sabha Committee on Subordinate Legislation which enquired into the circumstances which necessitated framing of the aforesaid rules, in their 11th Report made the following recommendation:

"16. The Committee's attention was drawn to the fact that a Joint Committee of the two Houses of Parliament has been appointed to examine the entire election law of the country. Although the appointment of such a Committee would not preclude this Committee from examining such Rules in detail, if it so desires, this Committee refrained from doing so. The Committee, however, felt that this matter may be brought before the Joint Committee of the two Houses of Parliament on Election Law and they may consider whether in the law itself a provision should be made whether such important matters should provide that rules to be framed thereunder would not come into force unless they have been approved by Parliament."

17. The Committee also note that the Committee on Subordinate Legislation of Lok Sabha had in consultation with the Government considered the question of making rules and their laying before the Houses of Parliament for being modified, if thought fit, by them. The following are the relevant extracts from their reports:

Para 36, *Third Report of Committee on Subordinate Legislation, First Lok Sabha.*

"(1) That in future the Acts containing provisions for making rules etc., shall lay down that such rules shall be laid on the Table as soon as possible;

(2) That all these rules shall be laid on the Table for a uniform and total period of 30 days before the date of their publication:

Provided that where it is not deemed expedient to lay any rule on the Table before the date of publication, such rule may be laid as soon as possible after publication. An explanatory note should, however, accompany such rules at the time they are so laid explaining why it was not deemed expedient to lay these rules on the Table of the House before they were published; and

(3) That in future the Acts authorising delegation of rule-making power shall contain express provisions that the rules made thereunder shall be subject to such modifications as the House may like to make."

Paras 78 & 79, Sixth Report of Committee on Subordinate Legislation, First Lok Sabha.

"78. Regarding this recommendation, the Ministry of Law have informed the Committee that in future the Bills which seek to delegate rule making power to the Executive will contain as far as possible a provision on the following lines:

'All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the Session in which they are so laid or the Session immediately following.'

79. The Committee accept the above suggestion of the Ministry of Law as it will meet their intention."

18. Since then all the Acts embody a provision on the above lines. The only exceptions are:

(i) The Mines and Minerals (Regulation and Development) Act, 1957.

(ii) Essential Services Maintenance Act, 1968.

These Acts provide for approval of rules/notifications issued thereunder by both Houses of Parliament. These two Acts are distinguishable. The Mines and Minerals (Regulation and Development) Bill had been drafted before the above recommendation of the Committee on Subordinate Legislation of Lok Sabha came into effect; regarding the Essential Services Maintenance Act, it relates to a specific matter, *viz.* the extension of certain notifications beyond a certain period.

19. The Committee feel that it would not be proper to make a provision in the Election Law that rules to be framed thereunder would not come into force unless they have been approved by Parliament for the following reasons:

(i) A contingency may arise when necessary and legitimate rules made under the Representation of People Acts 1950 and 1951 may have to be promulgated in short time while Parliament may not be in session.

(ii) The Rajya Sabha Committee on Subordinate Legislation while making the recommendation quoted above themselves conceded that in some cases where urgent action

is necessary prior approval of both Houses was not necessary as seen from the Minutes of that Committee quoted below:

"The Committee, therefore, decided to recommend that in legislation dealing with important matters Government should provide that the Rules framed thereunder would not come into force unless they have been approved by Parliament, *except in cases where urgent action is necessary.*"

20. In the light of the aforesaid considerations, the Committee are of the opinion that the existing provision in the Representation of the People Acts 1950 and 1951 providing for modification annullment by both Houses of Parliament after the rules are laid on the Table which has been incorporated in pursuance of the recommendation of the Lok Sabha Committee on Subordinate Legislation referred to above, should continue.

They would, however, like to draw attention to paras 33 and 34 of the Second Report of Committee on Subordinate Legislation (Fifth Lok Sabha) in which revised Model Clause has been recommended by the Committee on Subordinate Legislation as below:

"Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annullment shall be without prejudice to the validity of anything previously done under that rule."

The Committee recommend that section 28(3) of the 1950 Act and section 169(3) of the 1951 Act may be amended accordingly.

G. Consolidation of the Representation of the People Acts of 1950 and 1951

21. The Election Law is at present contained in two Acts of Parliament *viz.*, the Representation of the People Act, 1950 and the

Representation of the People Act, 1951. It was suggested that, if these two Acts were consolidated, it would be convenient to get all the information about the election law at one place. The Committee, therefore, desire that the Government may consider the feasibility of amalgamating these two Acts of Parliament into one enactment.

H. Use of official machinery by Ministers during elections

22. A suggestion was made that no minister should be allowed the use of any form or means of Government transport in connection with any election in any manner whatsoever. The Committee considered this question at some length and feel that in order to ensure purity and fairness in elections, official machinery should not be allowed to be used in furtherance of any election ends. They, however, consider that this is a matter which should be decided by convention rather than by an amendment of law. The political parties should evolve a code of conduct to be followed by Members of Government.*

I. Restriction on Public Welfare Schemes after the issue of notification for election

23. The Committee also considered a suggestion that a restriction might be imposed on the Government not to undertake or execute any new public welfare scheme after the issue of notification of election. The Committee feel that such matters can be considered by the political parties and they might evolve a code of conduct to be followed by members of Government in this regard.*

J. Constitution of a Political Council

24. The Committee noted that the Committee on Defections had in their Report Part I observed as follows:

> "The predominant view in the Committee has throughout been that regardless of the legislative and constitutional measures against political defections, a lasting solution to the problem can only come from the adherence by political parties to a code of conduct or set of conventions that took into account the fundamental proprieties and decencies that ought to govern the functioning of democratic institutions *** One suggestion placed before the Committee was that this could be achieved by having a Standing Committee or Board comprising leaders of political parties and men with legal background who were highly regarded in the country for their experience of public affairs, objectivity, integrity and political neutrality."

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*Minute of Dissent by Shri Somnath Chatterjee.

25. The Committee considered the above mentioned suggestion from the point of view of election law. There are several matters in the conduct of elections which can be better regulated by conventions to be evolved by political parties instead of by written law. The Committee feel that if a Political Council comprising of the leaders of all recognised parties is set up it will help create the conventions. Two suggestions were made regarding the pattern of the working of the Political Council. One suggestion was that it should be on the lines of the Press Council; the other was that it should be on the lines of the National Integration Council. The Committee feel that if the idea of setting up a Political Council is accepted it should not be difficult to work out the exact form, composition and the scope of functions of the Council.

K. Defections

26. In pursuance of a resolution adopted in Lok Sabha on the 8th December, 1967, a Committee under the Chairmanship of Minister for Home Affairs was appointed by the Government consisting of representatives of political parties and constitutional experts to consider the problem of legislators changing their allegiance from one party to another and their frequent crossing of the floor in all its aspects and make recommendations in this regard.

27. The Committee noted that the Report was presented to the Government and laid on the Table of the House on the 18th February, 1969. The Committee also noted that to give effect to the recommendations of the Committee, it would be necessary to amend the Constitution to provide:

(i) that if a person, who is not a Member of the Lower House, is appointed Prime Minister/Chief Minister, he may continue as such at the end of six months only if he has in the meanwhile been elected to the Lower House;

(ii) that the size of the Council of Ministers at the Centre and in the States be limited to 10 per cent of the strength of the Lower House in the case of uni-cameral and to 11 per cent of the strength of the Lower House in the case of a bi-cameral legislature; and

(iii) that a defecting legislator will not be eligible for appointment as a Minister, Parliamentary Secretary, Speaker and Deputy Speaker of Lok Sabha and State

Assemblies, Deputy Chairman, Rajya Sabha, Chairman or Deputy Chairman of the State Legislative Councils, Chief Whip, Deputy Chief Whip or Whip or any other office of profit under the Government or under any local or other authorities subject to the control of Government or any office of profit in or under a Corporation owned or controlled by the Government.

The Committee were also informed that some changes were also necessary in the Union Territories Act, 1963.

28. The Committee were further informed that the Prime Minister had discussed the matter with the Leaders of Political parties. Government were also in consultation with the Chief Minister of States.

In view of above, the Committee would like to refrain from expressing their views in the matter.

JAGANNATH RAO,
Chairman,
Joint Committee on Amendments to Election Law.

NEW DELHI;
March 10, 1972.
Phalguna 20, 1893 (*Saka*).

III. MINUTE OF DISSENT

Part II of the Report deals with some of the fundamental questions relating to elections and the law of elections in this country. I regret that I am unable to concur in the conclusions arrived at by the Committee on some of those questions. I feel that although the importance of the questions was generally appreciated, the Report does not effectively deal with the same.

2. I am of the view that the old procedure for counting of votes should be restored. Nobody disputes that all elections should be free and fair and there should not be any intimidation or coercion or exercise of undue influence but I do not think that the new procedure which has been evolved for counting of votes would avoid any such evil practice, if adopted in any particular area. In the Report of the Election Commission on the Fourth General Elections in India held in 1967, it was observed as follows:—

> "The rules provide for the announcement of the result of counting in respect of each polling station separately. It has sometimes been suggested to the Commission that this method of counting naturally results in the political affiliation of small polling areas with about 1000 electors on an average becoming a matter of common knowledge. It is said that this leads to victimisation and harassment of particular areas which have voted strongly against the candidates of the party in power. The Commission doubts if this is true to any appreciable extent and is inclined to think that an odd instance here or there is being exaggerated to make out the prevalence of a reprehensible and undemocratic practice. The method of counting now in vogue has certainly the merit of being systematic which would be lost to some extent if, as suggested, the ballot papers found in a large number of ballot boxes were first mixed up, put in bundles of 1000 or 2000 and then counted. Even on this pattern it should not be difficult for the political parties, if they were so minded, to find out broadly how a particular area voted."

3. No convincing evidence or materials were placed before the Committee to suggest that the observations of the Election Commission quoted above did not any longer hold good. It would not be very difficult for a political party or candidate to ascertain the

voting pattern of a particular area even if boothwise results were not available. I feel that for the proper functioning of political parties in a democratic set-up, it is necessary that it should be known how the voters in a particular area have exercised their franchise. On the trend of the voting pattern of different areas, a political party would be able to ascertain its strength or weakness in those areas and the reasons therefor and seek to rectify the defects. I feel that the complaints of intimidation or coercion etc. supposed to have been made before the General Election held in March, 1971 were exaggerated and so far as I can recall no specific instances could be placed before the Committee. There are adequate provisions in law to deal with cases of such evil practices if they are followed in any particular area or areas. Therefore, I am of the view that the new system of counting of votes should be abolished.

4. There are considerable feelings throughout the country with regard to misuse of the official machinery by Ministers during an election and the Committee has left that official machinery should not be allowed to be used in furtherance of any election. I do not think it can be ever disputed that such misuse is an evil which should be forthwith stopped. It is the party in power which can take recourse to official machinery for its election purposes. This evil can only, if at all, be avoided if some legislative provisions are made to curb or stop the same. I do not think it is a matter which should be decided by convention or code of conduct alone. Any convention or code of conduct would have no sanction in law. Instead of leaving it to the good sense of the party in power, recommendations should have been made for making stringent provisions to stop the evil.

5. Similarly, I cannot agree with the recommendations of the Committee with regard to the restrictions to be imposed on the Government not to undertake or execute any public welfare scheme or make any promise for the same on the eve of the election. The party in power is prone to take recourse to such practices, which are also evil practices, for furtherance of its political ends. When such important matters are not provided for in the law of elections, it can only raise misgivings in public mind.

SOMNATH CHATTERJEE.

Calcutta,
March 1, 1792.

GMGIPND—LSI—3159 (E) LS—18-3-72—2000.