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REPORTS
OF THE
SELECT
COMMITTEE
ON BILLS

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C O N T E N T S

1. Report of the Select Committee on the Representation of the People (Second Amendment) Bill, 1955. CB II-27

2. Report of the Select Committee on the Life Insurance Corporation Bill, 1956. CB II-30

3. Report of the Select Committee on the Proceedings of Legislatures (Protection of Publication) Bill, 1956 by Shri Feroze Gandhi. CB II-29

4. Report of the Select Committee on the Suppression of Immoral Traffic in Women and Girls Bill, 1954. CB II-42

5. Report of the Select Committee on the Women's and Children's Institutions Licensing Bill, 1953 by Rajmata Kamlendu Mati Shah. CB II-45

6. Report of the Select Committee on the Children Bill, 1954 as passed by Rajya Sabha. CB II-46

7. Report of the Select Committee on the Electricity (Supply) Amendment Bill, 1955. CB II-47

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C.B. (II) No. 27

LOK SABHA

THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955.

(Report of the Select Committee)

Presented on the 15th February, 1956

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI
February, 1956.

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THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955.

Composition of the Select Committee

1. Pandit Thakur Das Bhargava—*Chairman*
2. Shri T. N. Vishwanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Durga Charan Banerjee
6. Shri Ganesh Sadashiv Altekar
7. Shri Balvantray Gopaljee Mehta
8. Shri Gopalrao Bajirao Khedkar
9. Shri H. C. Heda
10. Shri Radha Charan Sharma
11. Shri B. B. Varma
12. Shri C. D. Pande
13. Pandit Balkrishna Sharma
14. Shri Rameshwar Sahu
15. Shri Nemi Chandra Kasliwal
16. Shri Awadheshwar Prasad Sinha
17. Shri Feroze Gandhi
18. Pandit Algu Rai Shastri
19. Shrimati Subhadra Joshi
20. Shri H. Siddananjappa
21. Shri A. M. Thomas
22. Shri C. Ramasamy Mudaliar
23. Shri M. L. Dwivedi
24. Shri Mukund Lal Agrawal
25. Shri Bahadurbhai Kunthabhai Patel
26. Shri Shivram Rango Rane
27. Shri Nettur P. Damodaran
28. Shri Shriman Narayan
29. Shri U. Srinivasa Malliah
30. Shri Shree Narayan Das

31. Shri N. C. Chatterjee
32. Shri P. T. Punnoose
33. Shri Hirendra Nath Mukerjee
34. Shri M. S. Gurupadaswamy
35. Shri Sivamurthi Swami
36. Shri Amjad Ali
37. Sardar Hukam Singh
38. Shri Shankar Shantaram More
39. Shri Anandchand
40. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary*

Shri P. K. Patnaik, *Under Secretary*

Report of the Select Committee

I, the Chairman of the Select Committee to which the *Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951, was referred, having been authorised to submit the report on their behalf, present their Report with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 3rd August, 1955.

3. The motion for reference of the Bill to a Select Committee was moved by Shri Hari Vinayak Pataskar on the 20th September and discussed in the House from the 20th to the 24th September, 1955.

4. An amendment to the said motion was moved by Pandit Thakur Das Bhargava on the 24th September, to the effect that the House might give instructions to the Select Committee that matters other than those dealt with in the Bill but relating to the matters dealt with in the Representation of the People Acts, 1950 and 1951 be considered and amendments allowed to be moved and made.

5. The motion as amended was adopted on the 24th September, 1955. (Appendix I).

6. The Committee held 22 sittings in all.

7. The first sitting of the Committee was held on the 1st October, 1955 to draw up a programme of work. At the second and third sittings held on the 31st October and 1st November respectively the Representation of the People (Amendment) Bill, 1955, to amend Act XLIII of 1950 was taken up.

8. The Committee considered the Bill clause by clause at their sittings held from 4th to 9th November, 19th and 20th November, 1955 as well as 17th to 21st January, 1956.

9. The Committee appointed a sub-Committee on the 17th January, 1956, to examine sections 100, 123, 124 and 125 of the principal Act with a view to suggest simplification of the Law contained in the said sections and also to find out the defects, if any, in those provisions and suggest remedies in respect of the same. The Report of the sub-Committee was presented to the Committee on the 21st January, 1956 (Appendix II).

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*Published in Part II—Section 2 of the Gazette of India Extraordinary dated the 3rd August, 1955.

10. A motion for extension of time for presentation of the Report of the Committee up to the 15th February, 1956 was moved in the House on the 30th November, 1955, and adopted.

11. The Committee considered the Report on the 8th and 14th February, 1956 and adopted the same on the 14th February 1956.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause* 1.—The commencement clause in the Bill, as introduced, provided for the Act to come into force on the 1st day of January, 1956. That date has necessarily to be altered now. The Committee have provided that the Act shall come into force on such date as the Central Government may by notification in the Official Gazette appoint.

14. *Clause* 2 (*New clause*1.—Consequent upon the omission of section 125 of the principal Act the words "and illegal" occurring in the long title of the Act have been deleted.

This new clause has, therefore, been inserted.

15. *Clause* 4 (*Original clause* 3).—The Committee consider that attaching disqualification for 5 years is too severe a punishment as in that event normally the person would be debarred from being a candidate in the next general election as well. The Committee have therefore reduced the period to 3 years.

16. *Clause* 7 (*Original clause* 6).—The Committee consider that the Law should be so amended as to make it possible to have general elections simultaneously for the House of the People and the State Assemblies even before the expiry of the terms of the existing Houses. Proposed sections 14 and 15 in this clause have been amended accordingly.

17. *Clause* 10 (*Original clause* 9).—The Committee feel that the scrutiny of nominations which may involve improper acceptance or rejection of nominations should not be left to be performed by an assistant returning officer.

The clause has, therefore, been amended accordingly.

18. *Clause* 13 (*Original clause* 12).—The Committee feel that there should be an interval of at least two days between the last date for making nominations and the date of scrutiny.

19. *Clause* 18 (*Original clause* 17).—The Committee feel that the question of disqualification should also be considered at the scrutiny stage and should therefore remain as a ground for rejection of the nomination paper.

The Committee also feel that defects in a nomination paper other than those of a substantial character should not be grounds for rejection of a nomination paper.

The clause has, therefore, been amended accordingly.

20. *Clause* 28 (*Original clause* 27).—The amendment is consequential.

21. *Clause* 29 (*Original clause* 28).—The Committee fear that if the words "until such date as the Election Commission may specify in this behalf" in the Proviso to sub-section (3) of Section 53 are omitted, fresh elections may be indefinitely delayed. They feel that such election should be held as soon as the Election Commission is satisfied that if called upon again there will be no such failure on the part of the constituency to elect the required number of persons to fill in the vacancy or vacancies.

The clause has, therefore, been amended accordingly.

22. *Clause* 30 (*Original clause* 29).—The clause has been amended to bring it in line with the amendments made in Clause 29 above.

23. *Clause* 32 (*New clause*).—The Committee consider that on the expiry of the date of withdrawal, if a contesting candidate desires not to contest the election he should be permitted with the consent of the returning officer to withdraw from the election if he notifies his intention 10 days before the date of polling. The Committee also consider that in such a case the returning officer should give due publicity to the fact.

The new clause has, therefore, been inserted.

24. *Clause* 33 (*New clause*).—The Committee feel that the fixation of hours of polling should be done by the Election Commission.

25. *Clause* 35 (*New clause*).—This is merely clarificatory.

26. *Clause* 40 (*Original clauses* 36 *to* 40).—The Committee feel that there is hardly any necessity for issue of notifications under sections 71 or 75 of the principal Act as no general election is held for the Council of States or State Legislative Councils. The Committee also feel that there is no necessity for issue of a notification under section 72 regarding elections to the electoral college.

It has accordingly been decided that sections 73 and 74 of the principal Act might be suitably amalgamated.

The Committee however feel that a new provision should be added to make it clear that the notifications referred to in these sections might be issued even though elections in one or more Parliamentary or Assembly constituencies have not been completed and the issue of

the notification under that section will not operate as an automatic dissolution of the existing House of the People or State Assemblies.

27. *Clause* 41 (*Original clause* 41).—The Committee consider that only expenses incurred by a candidate in relation to his election during a specified period should be regarded as election expenses. As regards what should be the specified period for the purpose, in the opinion of the Committee it should be the period between the date of issue of notification calling upon a constituency to elect a member and the date of declaration or results of the election.

Under the proposed new section 78, the period of limitation for lodging election returns has been left to be prescribed by rule, which the Committee consider is not very satisfactory. They think that the period should be specified in the section itself and it should be thirty days from the date of election of the candidate.

The clause has, therefore, been amended accordingly.

28. *Clause* 42 (*New clause*).—The Committee feel that in section 79 the definition of 'agent' should be omitted.

A new clause has been inserted accordingly.

29. *Clause* 43 (*Original clause* 42).—As the Committee have decided in Clause 41 above to reduce the period for lodging election expenses from forty-five days to one month they feel that the period of limitation for presenting election petition should be correspondingly reduced from two months to forty-five days.

The clause has, therefore, been amended accordingly.

The other amendment is of a consequential nature.

30. *Clauses* 44 *and* 46 (*Original clauses* 43 *and* 45).—Consequent upon the amendment made in section 100(1) omitting the provision relating to the declaration by the Tribunal of the election to be wholly void, consequential amendments have been made in these Clauses.

31. *Clause* 48 (*Original clause* 47).—Under the existing law the Election Tribunal is to consist of three members. The undue delay in the disposal of several election petitions is attributed largely to this composition.

In order to reduce the expense and delay Clause 47 proposed that the Tribunal might consist of two judges with a provision in original Clause 54 that in the case of any difference between them on any question regarding the final order to be made the question was to be referred to a judge of the High Court nominated for that purpose.

The Committee consider that the proposed set-up of the Tribunal may not achieve the object in view. In their opinion for the expeditious disposal of petitions the best course would be to set up one-member Tribunal consisting of a serving District Judge. They further consider that there should also be a provision for appeal against the decision of the Tribunal to the High Court of the State in which the Tribunal is situated.

This clause has, therefore, been amended accordingly.

32. *Clause* 50 (*Original clause* 49).—The Committee feel that election petition should be decided as expeditiously as possible. In their opinion it should be provided in the Bill itself that endeavours should be made to conclude the trial before the election Tribunal within six months from the date of publication of the copy of the petition in the gazette.

The clause has, therefore, been amended accordingly.

33. *Clause* 52 (*Original clause* 51).—Consequent upon the amendment made in section 100, clause (d) of section 98 has been omitted. Minor amendments have also been made in clauses (a) and (c) of that section.

34. *Clause* 53 (*Original clause* 52).—Under Section 99 of the principal Act the Election Tribunal while making any order for corrupt practice may also recommend exemption of any person from disqualification from voting which he may have incurred in this connection under sections 141 to 143. The Committee feel that the Tribunal should not make any recommendation for exemption from such disqualifications. They therefore feel that the provisions regarding such recommendations should be deleted from this section.

As several consequential amendments are necessary because of the decision to do away with illegal practices, the entire clause (a) has been re-cast from the drafting standpoint.

The Committee feel that under the proviso to sub-section (1) of section 99 no notice is necessary on a person who is a party to the petition. The proviso has been amended accordingly.

For existing sub-section (2) of this section, a new sub-section giving the definition of "agent" has been substituted.

The clause has, therefore, been amended accordingly.

35. *Clauses* 54 *and* 65 (*Original clauses* 53, 60 *and* 61).—Under section 123 several acts (eight in number) if done by a candidate or his agent or any other person with the connivance of the candidate or his agent, are regarded as major corrupt practices. Under section 124 those very acts if done by another person are regarded as minor cor-

rupt practices. In addition, several other acts are also regarded as minor corrupt practices under that section. Section 125 states what acts are regarded as illegal practices.

Then under section 100 (1) an election can be declared to be wholly void on the ground of the corrupt practices of bribery and undue influence, in case the Tribunal is of opinion that the election has not been a free election on account of the extensive prevalence of these two corrupt practices. Under section 100(2) (b) the election of a returned candidate is liable to be declared void on the ground of any major corrupt practice and under section 100 (2) (a) the elections of a returned candidate can be declared void on the ground of any corrupt or illegal practice only if the results of the election have been materially affected thereby.

So far as the Committee are aware uptil now not a single election has been set aside on the ground that the result of an election has been materially affected by any illegal practice.

The Committee feel that the provisions of sections 100, 123, 124 and 125 are rather complicated and should be simplified. The Committee are of the view that illegal practices should be done away with, that the classification of corrupt practices between major and minor should be abolished, that there should be only one class of corrupt practices to be called "corrupt practices" simpliciter and clauses (3) and (4) of existing section 123 should not be corrupt practices at all; and that of the various items in existing section 124, item (5) only should be regarded as a corrupt practice and items (2), (3) and (4) should not be corrupt practices at all. The Committee further feel that sub-sections (1) and (2) of existing section 100 should be suitably combined retaining the substance of the existing law and at the same time making the law simple and easily intelligible.

Accordingly by clause 54 a new sub-section has been substituted for sub-sections (1) and (2) of section 100 and by clause 65 a new section has been substituted for existing sections 123, 124 and 125.

36. *Clause* 55 (*New clause*).—Consequent upon the omission of section 125, consequential amendment is required to be made in section 101.

A new clause has accordingly been inserted.

37. *Clause* 56 (*Original clause* 54).—In view of the Committee's decision regarding one-member Tribunal, section 104 of the principal Act providing for difference of opinion among the members of the Tribunal has become redundant and has to be omitted.

The clause has, therefore, been amended accordingly.

38. *Clause* 57 (*New clause*).—In view of the Committee's decision to provide for appeal against the decision of the Tribunal the Committee feel that section 105 may be omitted and provision regarding finality of orders and decision may be made at the appropriate place in the Act (*vide* proposed section 116B in clause 61).

New clause 57 has, therefore, been inserted accordingly.

39. *Clause* 61 (*New clause*).—The new clause has been inserted in accordance with the decision of the Committee to provide for appeal against the orders of the election Tribunal which is to be before the High Court of the State in which the Tribunal is situated.

The Committee also feel that appeals should be decided as expeditiously as possible and endeavours should be made to determine it finally within three months from the date on which it is presented to the High Court.

40. *Original clause* 58.—The Committee feel that no provision need be made in the Act for continuance of an election petition by substituting a person where a petitioner himself fails to appear.

This clause has, therefore, been omitted.

41. *Clause* 63 (*New clause*).—The Committee feel that in every case where an appeal is preferred, a deposit of rupees five hundred should be made by the appellant.

This clause has been inserted accordingly.

42. *Original clause* 63.—The Committee feel that in view of Section 193 of the Indian Penal Code no further provision need be made in this Act making false declaration an electoral offence.

43. *Original clause* 64.—Consequent upon omission of clause 63, this clause has also been omitted.

44. *Clause* 66 (*New clause*).—The Committee feel that the prohibition of holding of public meeting on the election day should be restricted to the concerned polling area and not to the entire constituency.

Section 126 of the principal Act has been accordingly amended by this clause.

45. *Clause* 69 (*New clause*).—Consequent upon the amendment made in section 123, consequential amendment has to be made in section 140.

This new clause has, therefore, been inserted.

46. *Clause* 70 (*Original clause* 65).—The Committee feel that the Election Commission should have the power not only to remove disqualification for membership but also to reduce the period of any such disqualification.

The Committee further feel that any disqualification for membership entailed by any act which would now cease to be a corrupt or illegal practice should stand removed.

The clause has, therefore, been amended accordingly.

47. *Clause* 81 (*Original clause* 74).—The Committee consider that all rules made under this Act should be laid before both Houses of Parliament for not less than thirty days and shall be subject to such modifications as Parliament may make.

The clause has, therefore, been amended accordingly.

48. The Committee would like to suggest to the Central Government that each contesting candidate should be permitted to send, free of cost, at least one post-card to every voter in his constituency for canvassing his candidature. Necessary steps in this regard may be taken by the Government.

49. The Select Committee recommend that the Bill as amended be passed.

THAKUR DAS BHARGAVA,
Chairman,
Select Committee.

NEW DELHI,
The 14th February, 1956.

NOTE

In the Report of the Select Committee on the Representation of the People (Amendment) Bill, 1953, I appended a Note regarding the question of keeping and lodging of the accounts relating to election expenses. I regret that I have not been fortunate enough to get the same accepted by the Select Committee. I am conscious that the Select Committee have modified certain provisions relating to accounts yet some of the objectionable features relating to lodging of accounts remain and when one remembers that election petitions are made in respect of only one percent of the total number of elections held, the request in the proposals contained in the Note, I feel, can bear repetition. I, therefore, pray that along with this Note my old Note appended herewith (Appendix A) may kindly be considered by the House.

NEW DELHI;
The 14th February, 1956.

THAKUR DAS BHARGAVA.

Minutes of Dissent

I

The House, when committing the Bill to the Select Committee, accepted the amendment moved by Shri Thakur Das Bhargava and thus instructed the Committee to bring under its careful scrutiny provisions of the R.P. Act, untouched by the amending Bill. I am very happy to record that the Select Committee has after full and frank discussion and prolonged deliberation, introduced many radical changes which will undoubtedly go toward simplifying the process of elections in the country. Though appreciative of what the Committee have done, I strongly feel that the Committee did not go to the full length for the purpose of more thorough overhauling of the apparatus. I am, therefore, constrained to write this Note in order to indicate broadly the changes which deserved more sympathetic treatment at the hands of the Committee. I shall first comment on some of the clauses as amended by the Committee and then detail other matters which are of sufficient importance and urgency to merit prompt consideration.

1

2. *Clause* 4.—This clause amends clauses (a) and (c) of S.7 which enumerates disqualifications for being chosen as, and for being, a member of any legislature in the country. Clause (b) also needs substantial modification, if not complete elimination. In United Kingdom, Canada and some other countries persons who are convicted of treason or felony are disqualified to be members till the expiry of the sentence or receipt of pardon. There are also countries such as Australia, Burma etc., it may be noticed, which regard conviction of an offence, punishable with certain term of imprisonment as entailing disqualification. S.7(b) of Representation Act. 1951, follows Australia, Burma etc., in this respect, and even goes beyond the Australian practice. In Australia the person is disqualified during the period of his conviction but S.7(b) extends disqualification to a further period of three years. In this respect it copies the provisions of Cl.(e) of sub-Section (1) of S. 26 and Cl. (e) of sub-Section (1) of S. 69 of Government of India Act, 1935.

3. *Clauses* 4, 5, 41 *and* 65.—All these Clauses relate to election expenses. The Select Committee has materially simplified the original provisions regarding the Return of Election Expenses. But, I feel that even these simplified provisions have some undesirable features which ought to be removed.

(a) Every contesting candidate has to see that he does not exceed the maximum amount of expenditure prescribed by S.77. But Cl. 4 of the proposed new S. 77 lays down that the maximum shall

be exclusive of "any expenditure incurred by a recognised party organisation for furthering the prospects of the elections of candidates supported by it." This provision, in effect, practically removes the ceiling limit of expenditure in the case of candidates supported by recognised parties which will be free to spend any amounts for furthering the prospects of their nominees. Thus, independent candidates, candidates of unrecognised parties, and even candidates of recognised but poor parties will be at a great disadvantage when pitted against candidates supported by rich and powerful party organisations. The ceiling limit on expenditure was originally imposed to reduce the disparity in the capacity to spend of rich and non-rich candidates. The present provision strikes at the root of this objective. I, therefore, suggest that either Clause 4 be omitted altogether or another provision be introduced requiring recognised political parties to submit to the Election Commission a separate and correct accounts of expenses incurred for furthering the prospects of their own candidates.

(b) Clauses 4 and 5 make failure to lodge an account of election expenses within certain limit a ground for entailing a disqualification for being chosen as and for being a member of any legislature. I am of the views that unseating a candidate for failure is too drastic a penalty. Instead of imposing such a penalty, the law should make such a failure an electoral offence punishable with heavy fine.

4. *Clause* 15.—The Select Committee has done away with the necessity of a seconder but retained the provision of the nomination paper being "signed by an elector of the Constituency as proposer". I do not see any reason for insisting on having a proposer to sign the nomination paper. The proposer also can be permitted to go out with the seconder. The Election Commission has made a suggestion to that effect. (Report Vol. I. P. 119) A declaration by the candidate in a prescribed form should be accepted as nomination. Besides this personal declaration, recognised parties should be allowed to submit a list of their candidates and this list should be accepted as due nomination of the candidates concerned.

In sub-clause 3 the words "disloyalty to the State" occur. Similar expressions also occur in sections 8 and 9 of the principal Act. What is "disloyalty to the State" has not been defined. When a particular Party is in power, views opposed to the Party in power might be construed as "disloyalty to the State" and a man holding such views might come to be dismissed. Such a person, in case he desires to contest any elections, will have to produce a certificate from the Election Commission who will have no other alternative but to accept the verdict of the dismissing authority. I have grounds to fear that these expressions will lead to persecution of persons for

holding certain views and opinions unpalatable to a Party in power claiming itself to be the State. I suggest that this expression should be deleted entirely from the Representation of the People Act.

5. *Clause* 32.—The new section proposed in this clause permits a candidate to retire from contest at parliamentary and assembly constituencies not later than ten days prior to the day of polling. This provision will assuredly obviate the necessity of taking poll in many constituencies and will thus save expenses both to Government and the contesting candidates. This useful provision should also be extended to Council of State and Council elections.

6. *Clause* 39.—The original section 70 is unnecessarily drastic in its effect and as such not in tune with sections 68 and 69. If a person is elected to more than one seat in either House of Parliament or in the House, or either House, of the legislature of a State. He should make a choice as to what seat he will retain and resign the rest of the seats within the prescribed period. If he fails to make such a choice then he should be deemed to have vacated all the seats excepting that to which he was first declared elected. In the alternative, I suggest that the Election Commission should decide by drawing lots or otherwise, which of the seats is vacated by such person.

7. *Clause* 60.—Sections 108 to 116 deal with withdrawals and abatement of election petitions. These sections authorise the Election Commission or the Election Tribunals to refuse permission to withdraw or to substitute another person as petitioner when permission to withdraw has been granted. Even when a petition abates due to the death of a sole petitioner or of the survivor of several petitioners, any person, who might himself have been a petitioner and if permitted, shall continue the proceedings. Whatever theoretical justification may be advanced for such a substitution of another person as a petitioner, it, in practice, may be readily availed of by unscrupulous persons, for harassing a successful candidate with the sinister purpose of squeezing out money. Besides, such a provision stultifies the provision of limitation within which an election petition has to be filed. I, therefore, feel that these provisions need modifications so as to prevent them from being instruments of harassment and black mail.

8. *Clause* 83.—I am of the opinion that the procedural changes made in the Bill must be given effect to retrospectively.

2

9. Having thus expressed my disagreements with the provisions made in some of the clauses, I proceed to indicate the changes that I deem desirable in our Election Law which the Select Committee has declined to give effect to.

10. *Counting of Votes.*—After the conclusion of poll, the counting of votes should be undertaken forthwith and results declared as expeditiously as possible. In U.K. the counting is commenced immediately after the polling time and the results are announced practically the same day. In our country the time lag between the completion of polling and the commencement of counting is long enough to cause annoyance and exasperation. This delay in counting also breeds suspicion regarding possible tampering with the boxes to the advantage of candidates belonging to the Party in power or candidates who are rich enough to practice corruption. The Election Commissioner in his Report on the First General Elections In India 1951-52 has enumerated and discussed the difficulties which are responsible for causing this delay. (Vol. pp. 137-8) The Commissioner has also admitted that "there were some instances of unjustifiably protracted counting as well" (ibid p.p. 139).

In order to facilitate prompt declaration of results and save the time and energy now spent in arranging counting at some central place, I suggest that the Presiding Officers should be authorised, with the aid of Polling Officers, and in the presence of candidates and their polling agents to open the boxes after polling time is over and count the votes and prepare a statement of the count. The counted ballot papers, the unused voting slips and other documents including the statement of counting should be forwarded to the Returning Officer who will be able to declare the results after putting the totals together. Such a prompt counting on the spot will leave no ground for any complaints about tampering with the boxes. In Canada this practice is actually followed [The Canadian House of Commons, By Norman Ward, P. 208 and Section 50 of (Canadian) Dominions Elections Act. 1938].

11. *Method of Voting.*—Section 59 of Representation of the People Act 1951 says "Vote shall be given by ballot in such manner as may be prescribed." The rules prescribe the manner of voting. According to these rules each candidate is given a separate box which carries his symbol. Voters are given ballot papers which they are to put through a slit into the ballot box or boxes of the candidate or candidates for whom they desire to vote.

Our experience at the last General Elections has convinced many that this method of voting is very costly and vulnerable to tampering by unscrupulous persons. Before this unsafe method was introduced the method in operation, in most of the states for elections to legislatures and local bodies, required the voter to make one or two crosses against the name and the symbol of the candidates printed on the ballot paper. Under this system tampering with the votes or boxes was difficult, if not impossible. Under the present

system the ballot papers, once they are taken out of the boxes, are difficult to identify as being given to any particular candidate. One may even destroy some ballot papers as was found to be done in the Bulsar-Chikhli case and no body can say to what candidate they were given. In most of the Western countries and particularly in United Kingdom the method of making a cross (x) has been followed and we shall do well to adopt it for the next election.

12. *Compulsory Voting.*—The total number of electors on the eve of the last general elections was 173,213,635. As far as the House of the People concerned the total number of electors in the contested elections was 171,747,300. Out of these huge total only 88,612,171 electors actually went to polls. Their percentage to the total number of electors comes to 51.15 per cent.

Ours is an infant democracy; it will not become mature and deep rooted unless all adults vigilently make use of the right of franchise for the purpose of electing their governors. If people continue to be apathetic and indifferent democracy runs the risk of being replaced, in fact if not in form, by an autocracy. In a backward country where people are yet to realise the value of the universal suffrage as an instrument for shaping their own future, voters must be taken to the polls, by persuasion if possible and by compulsion if necessary. Once they develop the habit of using their rights and reaping the fruits, compulsion may disappear. Such a compulsion, instead of damaging democracy, quickens the consciousness of the people and accelerates their march towards full and complete democracy. In many countries democratically governed such as Belgium, Switzerland, Australia, Argentina, Hungary, Denmark, Luxumburg and Italy, compulsion has been introduced with great advantage. Even in England, where the number of voters going to the polls, has been consistantly above 80 percent of the total electors there has been occasional demand to make voting compulsory.

We should follow the example of countries mentioned above and make voting compulsory. The need for compulsory voting is as great as the need for compulsory education.

13. *Minority of Votes and Majority of Seats.*—The electoral system has been repeatedly subjected to criticism during the last more than half a century. One of its glaring defects, bordering on absurdity, is: it permits a party having minority of votes in the elections to have a majority of seats in the House of Commons. Those who emphasise this defect of this system have proved it by facts and figures and it is now beyond the region of controversy. The late

Mr. MacDonald, speaking as the Prime Minister on 12th December, 1930, said

> "I am in favour of such a change in the electoral system as will prevent a party getting a majority in the House of Commons by a large minority of votes in the country."

The Indian electoral system is modelled on that of the United Kingdom and faithfully reveals this deformity inherited from the original. In the last elections 489 seats in the House of the People were filled by election and the Congress party captured 364, the remaining 125 seats going to other parties and individuals. But the Congress Party got only 45 percent of the votes polled for the House of the People. But it secured 74·2 percent of seats open to election; while the opposition parties and individuals got 55 percent of votes and 25·8 percent of seats. Genuine democracy demands that the party assuming reins of power must have the support of a majority of the total voters in the country. But, the present system of elections places power in the hands of a party which is rejected by majority of voters who have gone to the polls. The Select Committee ought to have taken this demerit of the present system and suggested some measure of reform to remove the same.

NEW DELHI;
The 14*th February*, 1956.

S. S. MORE.

II

Although the Bill has been improved in certain respects, I suggest that the Parliament should consider a number of important amendments.

Clause 15:

In section 33 of the Representation of the People Act, there should be no provision made for nomination being made by a proposer. That is also the recommendation of the Election Commission. It will lead to the weeding out of trivial objections and many difficulties may be avoided. Anyone having experience of Election Cases knows that nomination papers are often challenged on the ground that the proposal was not properly made or that the proposer was subject to disqualification.

Clause 54:

Improper rejection or acceptance of a nomination paper has been made one of the grounds on which Election Petitions can be filed and the returned candidate unseated.

In my opinion, after the election is held, the question of the improper acceptance or rejection of nomination papers should not be allowed to be agitated. Experience has shown that this is a mischievous provision and it has led to many abuses. Often dummy candidates are put up, or, defective nomination papers are put in. On the date of scrutiny a particular candidate may take no interest in meeting the opposition to his nomination paper and he may allow it to be rejected. These persons lie low and allow the election to go through and after the whole procedure of election is over and the returned candidate has succeeded in obtaining a majority of votes, the question of improper acceptance or rejection of one nomination paper is brought up and on such ground the entire election is set aside. Therefore, it is imperative that in order to prevent the cruel waste of public money and unnecessary duplication of election process and harassment of the candidates and the voters, an interim remedy should be provided so as to finalise the question of the legality of the scrutiny before the election starts and the actual polling takes place. Some such proposal in this behalf was indicated in the report of Select Committee in 1953. That deserves the serious consideration of the Members of this House. It is necessary in view of the general trend of authorities which take the view that the improper rejection of any nomination paper, however illusory or shadowy the chances of the concerned candidate may be, would automatically lead to the consequence that the result of the election has been materially affected, that some formula should be devised so that the improper acceptance or rejection of any nomination paper would not automatically lead to the setting aside of the entire election.

Clause 41 :

In my opinion the return of election expenses or lodging of account should be dispensed with. I agree with the weighty observations of Shri Purushottamdas Tandon made in the Lok Sabha. It is fairly well-known that the maintenance of accounts compels the Members of Parliament, legislators and candidates to subscribe to declarations often with good deal of mental reservation. Specially in a Parliamentary constituency where the voters number over 350,000, it is impossible to maintain all the details or particulars. Moreover, expenses incurred by 'recognised' party organisations in furthering the prospects of candidates supported by it are excluded from the election expenses of that party's candidates. I object to this provision and to this expression 'recognised party'. This is an artificial connotation which will not fit in with the realities of political life in this country. Again, it will have a deleterious effect on the formation of new parties or the growth of coalitions and it will operate most harshly and unfairly on Independent candidates

who do not want to subscribe to party labels. This will also put a premium on parties which happen to be dominant or ruling in any particular State.

In any event the failure to lodge a return or account of election expenses should not entail any disqualification or penalty. At the worst it should be made an election offence.

I want to emphasise one point which merits the serious consideration of the Parliament. It is no good asking every candidate who contested an election to file a return of election expenses. It is apparent that in some cases grounds were manufactured in election petitions based upon the returns of election expenses and resourceful candidates who were defeated at the polls, got at persons mentioned in the returns in order to bolster up some kind of case against the returned candidates. Therefore, I would urge that even if in the corporate judgement of the Parliament, some kind of return or account of election expenses is to be filed, it should be done only after the election petition has been presented and referred to a Tribunal and in no event should such a return should be open to the inspection of the defeated candidate or the electors supporting him, unless the election petition has been filed.

Clause 59:

I would also urge that an order of the Tribunal should not take effect immediately after it is pronounced. There should be some reasonable time lag between the pronouncement of the order by the Tribunal and its effective operation. This is specially desirable in view of some judgements delivered by Tribunals whereby the election was set aside and candidate defeated at the polls was declared to have been duly elected instead. If the order of the Tribunal is to take effect as soon as it is pronounced, then the successful petitioner, if declared elected, will immediately take oath and, in the event of the order of the Tribunal being reversed on appeal, many complications will arise. Therefore, the order of the Tribunal should be given effect to after the period of limitation for filing an appeal has expired. In any event, sufficient time should be provided so as to move the Appellate Court and to obtain an order for stay.

Clause 83:

The amendments proposed in this Bill which improve or simplify procedure should have retrospective effect and they should apply to pending cases and to election petitions arising out of bye-elections.

Certified that I have read the Report.

NEW DELHI;
The 14th February, 1956.

N. C. CHATTERJEE.

III

In spite of exhaustive discussion in the Select Committee, it has not been found possible for all of us to agree. This is not unnatural, because in a country like ours, generalisations from election experience and ideas in regard to the best way of conducting them cannot be uniform.

It should be stated at the outset that our colleague, Shri S. S. More, is contributing a somewhat detailed note, and with many of his points, though not with all, we are in agreement.

We feel strongly that clause (b) of Section 7 of the Representation of the People Act, 1951, should be omitted. In the socio-political context of our country, it is most unfair to have a provision that conviction and sentence by court to two years' imprisonment or more, should disqualify a citizen for being chosen as, or for being, a member of Parliament or of any State Legislature for a period of five years. It is common knowledge that issues arise from time to time which necessitate some of our best public servants having to disobey the law and brave imprisonment. This may be unfortunate, but is apparently yet unavoidable. Members of the House are aware of at least one recent instance when one of their colleagues was sentenced for participation what appears to be a struggle for civil liberties, to several terms of imprisonment aggregating more than two years. As this Note is being written, several of our colleagues are in jail for alleged offences that have a political cannotation and have not the remotest tinge of moral turpitude about them. If conviction for more than a certain term follows, they will be disqualified—a state of affairs which cannot be supported. We are convinced that our law in this regard should not be harsher, as it is, than that which prevails in the U.S.A., Canada, U.K. and several other countries. On the contrary, our tradition being what it is, the section 7(b) of the original Act, should be forthwith deleted.

We commend the suggestion that was made in Committee that provision should be made, by suitable insertion in Part IV of the original Act, for the publication in daily newspapers of the list of polling stations.

In clause 13 we desire a slight change, namely that the polling date should not be earlier than the thirtieth day after the last day for withdrawal of candidatures. The reason for it is obvious. Geographical and other reasons require a slightly longer period for electioneering than the Select Committee recommends.

We are not happy over the requirement of security deposits from duly nominated candidates. It is certainly arguable that in a truly democratic order, such deposits should not be called for. In any

case, we feel that for parliamentary constituencies the deposits required should not be more than Rs. 200/- (Rs. 100/- for Scheduled Castes and Tribes) and for State Legislatures it should be Rs. 100/- (Rs. 50 for Scheduled Castes and Tribes).

Clause 41 includes a provision that a candidate's election expenses shall not be deemed to include expenditure incurred by a recognized party organisation in his behalf. This is a provision much open to mischief. Except on the basis of almost entirely voluntary and honorary assistance of workers, no election can be decently fought. Our law, however, permits a more than generous allowance of expenditure to candidates, and if we had our way we would drastically diminish the permitted figures of election expense. On top of that, Party expenditure over election is now to be kept out of the reckoning. This is putting a premium on lavish spending, particularly, if we may say so, by members of the Party in power (whose resources are multiform and enormous) and will help Big Money interests to influence elections—a phenomenon which is full of menace.

With all respect to the Election Commission, we wish clause 70 had not given it overriding powers to remove any disqualification. It is not fair to the Election Commission that such sweeping powers should be expected to be exercised by it.

We do not agree with Clause 73, for we feel the interests of purity in public life require retention of Section 146 of the principal Act.

Section 168 of the principal Act, which lays down special provisions with respect to rules of former Indian States should in our view be omitted.

It would have been desirable to ensure the right of a polling agent to seal the ballot boxes of any candidate to his satisfaction (this was denied during the last General Elections) and the right of contesting candidates to post, whenever thought necessary, their own vigilance guards to co-operate with the States sentries in watching places where ballot boxes were kept for safe custody.

We would like to add that we write this after having gone through the Draft Report.

HIRENDRA NATH MUKERJEE,
P. T. PUNNOOSE.

NEW DELHI;

The 14th February, 1956.

IV

A Bill further to amend the Representation of the People Acts of 1950 and 1951 and to make certain consequential amendments in the Governments of 'C' States Act, 1951 was introduced in the Lok Sabha during the first half of 1953 and referred to a Select Committee of the House on 4-8-1953. After prolonged consideration and deliberation the Committee submitted its report on 30-11-53. The immediate purpose and the declared object of that Bill was to remove obvious defects from the existing Election Laws in order to facilitate the then impending General Elections in the States of PEPSU and Travancore-Cochin. A more comprehensive and considered Bill on the Election Law, it was said, would be introduced later after the report of the Election Commission on the working of the Election Laws and Rules has been received and studied by the Government. As, however, Parliamentary time could not be found to pass the Bill in time to apply to the impending elections in the two States, it was placed in cold storage. So much labour of the Select Committee went in vain. The Bill became infructuous.

The Bill under report and the other one already considered by this later Select Committee were then subsequently introduced and referred to this Select Committee. If we compare these two later Bills clause-by-clause with the previous Bill, it will be found that they are almost a replica of the old Bill with a change here or there split up into two in place of a single measure.

In the U.K. the Election Law in force is contained in the Representation of the People Act, 1949, the Representation of the People Regulation of the same year and the Parliamentary Election Rules. The law as contained in the Representation of People Act, 1949 is consolidated and up-to-date. Is it not time that we also went in for one complete and consolidated measure. A new Bill comprehensive and self-contained replacing and repealing the existing Law would have been more welcome and appreciated. As it is certain that the recommendations of the States Reorganisation Commission about the abolition of the 'C' States are going to be implemented, the provisions with regard to the Government of 'C' States Act, 1951, will have to be eliminated.

Under article 102(1)(a) and 191(1)(a) of the Constitution an "Office of Profit" disqualifies a person for being chosen as, and for being a member of either House of Parliament or of a State Legislature respectively. "Office of Profit" a ticklish phrase has not been defined either in the Constitution or by any Law made by Parliament or any State Legislature. It is altogether a British conception, with a long history and numerous precedents, grafted on our Constitution. It has been causing confusion and embarrassment, to candidates, Returning Officers, Courts and even to the Election Com-

mission. It is necessary that it is soon defined exhaustively by an Act of Parliament to obviate the necessity of passing periodically short Prevention of Disqualification Acts with retrospective effect by the Parliament and State Legislatures. The Report submitted recently by the Parliamentary Committee appointed to examine the question is a step towards this end. But until an enactment is passed by Parliament our Election Law would remain incomplete uncertain.

The most important provision of the Infructuous Bill was Clause 17 by which Section 36 of the principal Act was sought to be amended. The provisions about the judicial scrutiny officers and Appelate authority were devised to bring finality to the scrutiny of Nomination Papers before the completion of elections. These were prompted by the spectacle of seeing election after election being set aside by the Election Tribunals on account of wrong and improper rejection of Nomination Papers by the Returning Officers. But this was of our own making in as much as we departed from the procedure in this behalf obtaining in the U.K. By this, however, I should not be understood to be advocating that we should everywhere and on all occasions slavishly imitate the British pattern of Practice and Procedure. But the fact cannot be gainsaid that we have very largely incorporated in our Constitution and the two Acts of 1950 and 1951, the Constitutional and Election Practice and Procedure in force there. In the circumstances if we discard the centuries-old British experience it should be for weighty and valid reasons and for demonstrable advantage. Unfortunately we, under Section 36 of the Principal Act conferred too wide a jurisdiction on our Returning Officers to decide even objections regarding the want of qualifications, and the disqualifications of the candidate at the time of scrutiny. In the U.K. these are left to be decided by the High Court when an election petition is preferred and tried. Election Rule 13 in force in the U.K. renders the Nomination Papers invalid on only two grounds:—

1. That the particulars of the candidate or the persons subscribing to the Paper are not as required by law, and

2. that the paper is not subscribed as so required. The conditions are given in the Parliamentary Election Rules 7 to 11. The result of these provisions is that the Nomination Paper properly filled and fulfilling the other prescribed conditions is *ex-facie* valid and accepted.

Had we also confined the jurisdiction of our Returning Offices to these formal needs we would have no occasion to consider to provide against the situation to remedy which the amending provisions of Clause 17 of the Infructuous Bill were proposed. As the votes given to a disqualified candidate when the voters have notice or

must be deemed to have notice of the disqualification are votes thrown away, it automatically acts as a check on the voters not to vote for a candidate who would be unseated by the Election Court and which may even result in a candidate being declared elected and seated who may not be even their second choice.

The provisions to secure finality of Nomination Paper as proposed in the old amending Bill were obviously cumbersome and impracticable. The remedy might have in the long run proved worse than the disease to cure which it was evolved; so in the present Bill as introduced in the Lok Sabha this craze for finality was abondoned and as a compromise between the British Practice and the existing Law the jurisdiction of our Returning Officers was partially circumscribed. The decision about disqualification of the candidates was taken out of the purview of the Returning Officer, while the power and authority to determine whether or not the candidate is qualified was retained in his hands. The Select Committee has however, restored the *status quo*. Although I would have preferred the amendment of Section 36 to bring it in line with the corresponding Law in the U.K., I would submit to the decision of the majority of my colleagues in the hope that after the experience of the decisions of the numerous Election Tribunals Returning Officers would be very chary in rejecting nomination papers and candidates who really expect to win in their own interest would think a hundred times before raising or pressing even genuine objections against the validity of the nomination papers of their rivals.

Another point of equal importance was keeping of accounts and lodging of the Return of Election Expenses by all the candidates. While the motion to refer the Bill to the Select Committee was being discussed in the Lok Sabha very strong views were expressed on this point. The overwhelming majority was for abolition of the Return of Expenses altogether. In the Bill as it has emerged the rigours of the existing provisions have been softened and conditions rationalised and made less exacting. Much as I would have liked to scrape away the existing provisions about keeping accounts and lodging Returns of expenses altogether, I would give the proposed provisions a trial. I hope that the Rules to be framed under the Act would make them still simpler and more capable of being observed honestly.

In clauses 15, 17, 18 and 19 it is sought to simplify the procedure of Nomination of Candidates. The necessity of a seconder has been eliminated. But why only half-hearted attempt. If the seconder can be dropped the proposer too can be done away without causing any difference. No special sanctity should attach to the proposer. In fact the Election Commission in its report has not only recommended the elimination of both the proposer and the seconder, but have gone much further and suggested almost a revolutionary

change for the simplification of the Nomination business. It can be provided that a Nomination Paper can be delivered by, besides the candidate, someone on his behalf having been authorised in writing by the candidate; but in order to bring about real and substantial simplicity it is absolutely necessary that the proposer is also eliminated from these provisions.

In Clause 48, in sub-section (4) of Section 86 of the Principal Act the phraseology which was suitable when the Bill provided a two member Election Tribunal has been retained in spite of the change to a single member Tribunal rcommended by the Select Committee. It should be brought in line to fit in with the proposed change.

In clause 54 I do not agree with part (C) of sub-section (1) of Section 100 of the Principal Act. Improper rejection of a Nomination Paper should not invariably lead to the setting aside of the election. If this, as recommended by the majority of my colleagues, is made a rule of the thumb it will in many cases lead to great hardship, injustice and harassment of the returned Candidates. I shall illustrate my point. Suppose for an election in a Single Member Constituency six candidates: A, B, C, D, E and F file their Nomination Papers. As it is common practice that parties file Nomination Papers to provide for the contingency that if per chance their intended candidates' nomination is rejected they may rely upon the stand-by candidate who has survived the scrutiny to fight the election A, C, and E are the Principal and B, D and F the dummy candidates of the Congress, Socialist and Communist parties respectively. Now suppose that the nomination paper of B is rejected D and F withdraw after scrutiny. The ultimate contest is between A, C and E the principal intended candidates of three parties respectively. Suppose further that the Communist candidate E wins the election, defeating his Congress and Socialist rivals A and C respectively. Under the recommended provision the election of E would automatically be set aside on a petition by B. It would be a travesty of justice and a *reductio-ad-absurdum.* It would be no consolation to E to say that the Returning Officer or the Election Machinery do not recognise that dummy candidates are set up by parties as a matter of precaution. Even this statement is not absolutely correct. The Representation of People (Conduct of Election Petitions) Rules, 1951 No. 4 and 5 read with schedule II provide for allotment of symbols to parties and the duty cast on the candidate to specify his symbol. The setting aside of the election should be related to the effect the wrongful rejection of the Nomination Paper has on the Election. The real test should be as in the proposed Section 100 (1) (d) that the result of the election has been materially affected. And this should be left to be decided on evidence.

By Clause 63 a new section 119A has been added to the Principal

Act. In this new Section it has been simply ruled that every person who prefers an appeal shall enclose with the memorandum of appeal a Government Treasury Receipt showing that a deposit of Five Hundred Rupees has been made by him. It is not sufficient. The consequence of non-deposit, namely that the appeal would not be entertained should be clearly provided. It is hardly an answer that similar phraseology has been used in S. 117 of the Principal Act. Both sections should be suitably amended.

Thanks to the amendment of Pandit Thakur Das Bhargava, the Chairman of the Select Committee, the scope and authority of the Select Committee was enlarged and it was empowered to consider matters other than those dealt within the Bills, but relating to matters dealt within the Representation of People Acts, 1950 & 1951 (XLIII of 1950 & 1951) and to recommend suitable amendments relating thereto. An illustrative list of 19 such items was included in the amendment of Shri Thakur Das Bhargava. Illustration (XII) referred to withdrawal and abatement of Election Petition (Sections 108, 109, 110, 112, 113, 114, 115 and 116); while illustration (XIX) referred to disqualifications (Section 7)—apart from consequences of not lodging Election Return. The present provisions relating to withdrawal and abatement are a source of great harassment to the Returned Candidate. It should be the absolute right of a petitioner to withdraw at any time. Nor should there be a provision for substitution. It is extremely unjust to hand the sword of Democles over a returned candidate's head even when the petitioner has withdrawn. None would disagree with the desirability that it should not be easy or cheap to challenge the verdict of large electorates such as are in India, but these provisions provide a handle to cantankerous persons to harass and blackmail returned candidates. Similarly there should be no substitution on the death of a petitioner or Respondent. In case of the death of the petitioner the petition should abate while in the case of the death of the Respondent the petition should be heard and decided *ex-parte*.

Under section 7(b) a sentence of imprisonment for two years and over disqualifies a person from being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release. In my opinion the term of two years is arbitrary. A person guilty of say, such heinous crimes as theft, rape, cheating, criminal mis-appropriation or forgery may be sentenced to imprisonment of less than two years. But for a very laudable object under very justifiable conditions or for an act based on and prompted by the purest of motives he may be sentenced to two years or more. While the former after serving the

sentence stands absolved of the stigma of imprisonment, the latter continues to be disqualified. The test should be the nature of the offence and not the length of the sentence. The test should be whether or not the offence of which he has been convicted involved moral turpitude. It is true that the phrase "Moral Turpitude" has not been defined in Law, but it has been interpreted fairly correctly. If it be deemed impracticable to provide for such distinctions no distinction should be made on the length of imprisonment either and every person after having gone through a sentence of imprisonment should be deemed to have purged himself of sin whatever the duration of his imprisonment and should be entitled to stand as a candidate and take his chance with the electorate which can always be depended upon to reject an undesirable candidate.

We are grateful for a note prepared by the Select Committee Secretariat and circulated to the members on sub-section (b) of section 7 of the principal Act wherein the analogous provisions in the U.K., Australia, Canada, New Zealand, France, China, U.S.S.R., U.S.A., Burma and South Africa have been examined. Disqualification after serving the sentence of imprisonment lingers only in the last two countries while so far as I could make out there is no such provision in the first eight countries enumerated above.

The Bill as it has emerged from the Select Committee is vastly improved. The Election Law has been simplified considerably and the difficulties and pitfalls besetting the path of a candidate from the day of nomination to the final decision of the Election Petition have been carefully eliminated and I am, subject to the foregoing remarks, in respect whereof I reserve my right to move appropriate amendments, in full agreement with the recommendations of the Select Committee.

MUKUND LAL AGRAWAL.

NEW DELHI;

The 14th February, 1956.

V

Though the Bill has been improved by the Select Committee, still there is much to be done. I am of the opinion that election is the essence of our democracy and we should see that no blame is left on the ruling party while conducting elections in the country. No doubt that many complications have been removed by the Select Committee but it would have been better if the counting is done and election results are announced, soon after the election is over, in the presence of polling agents. As it is, the experience of some of us is that in certain cases Ballot Boxes, if they are kept for days together, there is every likelihood of mischief being committed with

the boxes in the absence of the interested persons like agents concerned. Therefore, I strongly plead for a provision in the Bill either to announce the result of polling on the spot or to authorise the polling agents to be associated, if they so desire, with the authorities concerned. This will remove the doubts of all parties.

Secondly, Clause 56 should be so altered that the returned representative of the people is not unseated until his appeal is disposed of by the High Court.

SIVAMURTHI SWAMI

NEW DELHI;

The 14*th February*, 1956.

Bill No. 38A of 1955.

THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

further to amend the Representation of the People Act, 1951 *and to make certain consequential amendments in the Government of Part C States Act,* 1951.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Second Amendment) Act, 1956.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of long title, Act 43 of 1951.

2. In the long title of the Representation of the People Act, 1951 (hereafter in this Act referred to as the principal Act), the words "and illegal" shall be omitted.

Amendment of section 2.

3. In section 2 of * * * * * the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*b*), for the words 'to a primary election', the words and letter 'the electoral college of a scheduled Part C State' shall be substituted;

(*ii*) after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) 'chief electoral officer' means the officer appointed under section 13A of the Representation of the People Act, 1950.";

(*iii*) in clause (*c*), the words and figures "or section 124" shall be omitted;

(*iv*) in clause (*d*), for the words 'and includes a primary

election', the words and letter 'or in the electoral college of a scheduled Part C State' shall be substituted;

(*v*) for clause (*e*), the following clause shall be substituted, namely:—

"(*e*) 'elector' in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950.";

(*vi*) clause (*f*) shall be omitted;

(*vii*) clauses (*h*) and (*i*) shall be omitted;

(*viii*) clauses (*j*), (*k*) and (*l*) shall be re-lettered as clauses (*h*), (*i*) and (*k*) respectively and after clause (*i*) as so re-lettered, the following clause shall be inserted, namely:—

"(*j*) 'State Government' in relation to a Part C State, means the Lieutenant-Governor or Chief Commissioner thereof.";

(*b*) in sub-section (*2*), for the words 'a Council of States constituency', the words 'an electoral college constituency' shall be inserted;

(*c*) in sub-section (*3*), for the words 'to a primary election', the words and letter 'the electoral college of a scheduled Part C State' shall be substituted;

(*d*) sub-sections (*5*) and (*7*) shall be omitted and sub-section (*6*) shall be re-numbered as sub-section (*5*).

Amendment of section 7.

4. In section 7 of the principal Act,—

(*a*) in clause (*a*), the words "or illegal" shall be omitted; and

(*b*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) if he has failed to lodge an account of his election expenses within the time and in the manner required by or under this Act, unless three years have elapsed from the date by which the account ought to have been lodged or the Election Commission has removed the disqualification;".

5. In section 8 of the principal Act, in sub-section (*1*),— Amendment of section 8.

(*a*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) a disqualification under clause (*c*) of that section shall not take effect until the expiration of two months from the date on which the Election Commission has decided that the account of election expenses has not been lodged within the time and in the manner required by or under this Act;";

(*b*) clause (*g*) shall be omitted.

6. In section 10 of the principal Act, for the words 'Council of States', the words 'electoral college' shall be substituted. Amendment of section 10

7. For Part III of the principal Act, the following Part shall be substituted, namely:— Substitution of new Part for Part III.

"PART III

NOTIFICATION OF GENERAL ELECTIONS

12. For the purpose of filling the seats of members of the Council of States retiring on the expiration of their term of office the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly or, as the case may be, the members of the electoral college, of each State concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder: Notification for biennial election to the Council of States.

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.

13. For the purpose of reconstituting the electoral college for a scheduled Part C State, the President shall, by notification published in the Gazette of India, call upon all electoral college constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder: Notification for reconstitution of electoral colleges for certain Part C States.

Provided that every such notification shall be issued at the same time as a notification calling upon the parliamentary constituencies in the State to elect members for the purpose of constituting a new House of the People is issued.

Notification for general election to the House of the People.

14. (*1*) A general election shall be held for the purpose of constituting a new House of the People on the expiration of the duration of the existing House or on its dissolution.

(*2*) For the said purpose the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon all parliamentary constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing House of the People, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that House would expire under the provisions of clause (2) of article 83.

Notification for general election to a State Legislative Assembly.

15. (*1*) A general election shall be held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Assembly or on its dissolution.

(*2*) For the said purpose, the Governor, Rajpramukh, Lieutenant-Governor or Chief Commissioner, as the case may be, shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all assembly constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause (1) of article 172 or under the provisions of section 5 of the Government of Part C States Act, 1951, as the case may be.

Notification for biennial election to a State Legislative Council.

16. For the purpose of filling the seats of members of the Legislative Council of a State retiring on the expiration of their term of office, the Governor or Rajpramukh, as the case may be, shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and all the council constituencies concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.".

Amendment of section 19.

8. In section 19 of the principal Act, for the words 'a Council of States constituency', the words 'an electoral college constituency' shall be substituted.

Substitution of new sections for sections 20 and 21.

9. For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

General duties of chief electoral officers.

"20. Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.

Returning officers.

21. For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be an officer of Government:

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.".

Amendment of section 22.

10. In section 22 of the principal Act, in the proviso to sub-section (*2*), the words "to the acceptance of a nomination paper or" and the words "or to the counting of votes" shall be omitted.

Amendment of section 26

11. In section 26 of the principal Act, to sub-section (*1*), the following further proviso shall be added, namely:—

"Provided further that nothing in this sub-section shall prevent the returning officer from appointing the same person to be the presiding officer for more than one polling station in the same premises.".

Amendment of section 29

12. In section 29 of the principal Act, in sub-section (*1*), the words and brackets '(other than a primary election)' shall be omitted.

Substitution of new section for section 30.

13. For section 30 of the principal Act, the following section shall be substituted, namely:—

Appointment of dates for nominations, etc.

"30. As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

(*a*) the last date for making nominations, which shall be the tenth day after the date of publication of the first

mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*b*) the date for the scrutiny of nominations, which shall be the third day after the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*c*) the last date for the withdrawal of candidatures, which shall be the third day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*d*) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the twentieth day after the last date for the withdrawal of candidatures; and

(*e*) the date before which the election shall be completed.

Explanation.—In this section, "public holiday" means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881, or any day which has been notified by the State Government to be a holiday for the Government offices in the State.". 26 of 1881.

Amendment of section 32.

14. In section 32 of the principal Act,—

(*a*) the words "in any constituency" shall be omitted; and

(*b*) after the words "this Act", the words, letter and figures "or under the provisions of the Government of Part C States Act, 1951, as the case may be" shall be added. 49 of 1951.

Substitution of new section for section 33.

15. For section 33 of the principal Act, the following section shall be substituted, namely:—

Presentation of nomination paper and requirements for a valid nomination.

"33. (*1*) On or before the date appointed under clause (*a*) of section 30 each candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

(2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that

seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

(*3*) Where the candidate is a person who, having held any office referred to in clause (*f*) of section 7, has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(*4*) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls:

Provided that the returning officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls; and where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(*5*) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

(*6*) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper for election in the same constituency.".

16. In section 34 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:— **Amendment of section 34.**

"(*1*) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited—

(*a*) in the case of an election from a parliamentary constituency, a sum of five hundred rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two hundred and fifty rupees;

(*b*) in the case of an election from an assembly or council constituency, a sum of two hundred and fifty rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of one hundred and twenty-five rupees; and

(*c*) in the case of an election from an electoral college constituency, a sum of fifty rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.".

Amendment of section 35.

17. In section 35 of the principal Act, for the words 'the persons who have subscribed the nomination paper, as proposer and seconder', the words 'the proposer' shall be substituted.

Amendment of section 36.

18. In section 36 of the principal Act,—

(*a*) in sub-section (*1*), the words "and one seconder" shall be omitted;

(*b*) in sub-section (*2*),—

(*i*) for the word 'refuse', the word 'reject' shall be substituted; and

(*ii*) for clauses (*a*) to (*e*), the following clauses shall be substituted, namely:—

"(*a*) that the candidate either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable, namely:—

Articles 84, 102, 173 and 191,
Part II of this Act, and
sections 7 and 17 of the Government of Part C States Act, 1951, or

(*b*) that there has been a failure to comply with any of the provisions of section 33 or section 34; or

(*c*) that the signature of the candidate or the proposer on the nomination paper is not genuine.";

(*c*) in sub-section (*3*),—

(*i*) for the words, brackets and letters "clause (*c*), clause (*d*) or clause (*e*)", the words, brackets and letters "clause (*b*) or clause (*c*)" shall be substituted; and

(*ii*) for the word 'refusal', the word 'rejection' shall be substituted;

(*d*) in sub-section (*4*), the word "technical" shall be omitted;

(*e*) for sub-section (7), the following sub-sections shall be substituted, namely:—

"(7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in section 16 of the Representation of the People Act, 1950.

43 of 1950.

(*8*) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to his notice board.".

Amendment of section 37.

19. In section 37 of the principal Act, in sub-section (*1*), the word "seconder" and the proviso shall be omitted.

Substitution of new section for section 38.

20. For section 38 of the principal Act, the following section shall be substituted, namely:—

Publication of list of contesting candidates.

"38. (*1*) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (*1*) of section 37, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates, that is to say, candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidature within the said period.

(*2*) The said list shall contain the names in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed.".

Substitution of new section for section 39.

21. For section 39 of the principal Act, the following section shall be substituted, namely:—

Nomination of candidates at other elections.

"39. (*1*) As soon as the notification calling upon the elected members or the members of the Legislative Assembly of a State or the members of the electoral college of a Part C State to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

(*a*) the last date for making nominations, which shall be the tenth day after the date of publication of the

first-mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*b*) the date for the scrutiny of nominations, which shall be the second day after the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*c*) the last date for the withdrawal of candidatures, which shall be the third day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*d*) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures; and

(*e*) the date before which the election shall be completed.

Explanation.—In this section, "public holiday" has the same meaning as in section 30.

(*2*) The provisions of sections 31 to 38, excluding sub-sections (*2*) and (*5*) of section 33 and section 34, shall apply in relation to any such election as they apply in relation to an election in any constituency:

Provided that—

(*a*) any references in the said provisions to the electoral roll of the constituency shall, unless the context otherwise requires, be construed, in the case of an election by the members or the elected members of the Legislative Assembly of the State, as references to the list of members or elected members, as the case may be, of that Assembly maintained under sub-section (*1*) of section 152, and in the case of an election by the members of the electoral college of a Part C State, as references to the list of members of such electoral college maintained under sub-section (*2*) of that section;

(*b*) any references in the said provisions to section 30 shall be construed as references to sub-section (*1*) of this section; and

(*c*) at the time of presenting the nomination paper, the returning officer may require the person presenting the same to produce either a copy of the electoral roll, or part of the electoral roll, in which the name of the candidate is included or a certified copy of the relevant entries in such roll.".

22. For section 40 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 40.

"40. A candidate at an election may appoint in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer.". Election Agents.

23. In section 42 of the principal Act,— Amendment of section 42.

(*a*) in sub-section (*1*), the words "whether he be the candidate himself or not" shall be omitted; and

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) In the event of such a revocation or of the death of an election agent whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 78, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.".

24. Sections 43 and 44 of the principal Act shall be omitted. Omission of sections 43 and 44.

25. For section 45 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 45.

"45. An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent." Functions of election agents.

26. For section 46 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 46.

"46. A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (*1*) of section 29 for the poll." Appointment of polling agents.

substitution of new section for section 47. Appointment of counting agents.

27. For section 47 of the principal Act, the following section shall be substituted, namely:—

"47. A contesting candidate or his election agent may appoint in the prescribed manner one or more persons, but not exceeding such number as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer."

Amendment of section 52.

28. In section 52 of the principal Act,—

(*a*) for the words "If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer", the words "If a contesting candidate dies and a report of his death is received" shall be substituted;

(*b*) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:"; and

(*c*) in the second proviso, for the words, brackets and figures "under sub-section (*1*) of section 37 given a notice of withdrawal of his candidature", the words, brackets, figures and letter "given a notice of withdrawal of his candidature under sub-section (*1*) of section 37 or a notice of retirement from the contest under sub-section (*2*) of section 55A" shall be substituted.

Amendment of section 53.

29. In section 53 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken."; and

(*b*) in sub-section (*3*),—

(*i*) for the words "appropriate authority" wherever they occur, the words "Election Commission" shall be substituted;

(*ii*) the words "before such date as may be appointed in this behalf by the Election Commission and specified in the notification" shall be omitted; and

(*iii*) in the proviso, for the words "until such date as the Election Commission may specify in this behalf" the words "until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members" shall be substituted.

30. In section 54 of the principal Act,— Amendment of section 54.

(*a*) for the words "number of candidates" wherever they occur, the words "number of contesting candidates" shall be substituted;

(*b*) in sub-section (*4*),—

(*i*) for the words, brackets and figures "the procedure laid down in sub-section (*1*) of section 53 shall be followed", the words "a poll shall be taken" shall be substituted; and

(*ii*) in the *Illustration*, for the words "six candidates", the words "six contesting candidates" shall be substituted;

(*c*) in sub-section (*5*),—

(*i*) for the words "appropriate authority" wherever they occur, the words "Election Commission" shall be substituted;

(*ii*) the words "before such date as may be appointed in this behalf by the Election Commission and specified in the notification" shall be omitted; and

(*iii*) in the proviso, for the words "until such date as the Election Commission may specify in this behalf" the words "until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members" shall be substituted; and

(*d*) sub-section (*6*) shall be omitted.

31. In section 55 of the principal Act, the words, letter and figures "or under the Government of Part C States Act, 1951, as the case may be" shall be added at the end. Amendment of section 55.

49 of 1951.

32. After section 55 of the principal Act, the following section shall be inserted in Chapter III, namely:— Insertion of new section after section 55 in Chapter III. Retirement from contest at elections in parliamentary and assembly constituencies.

"55A. (*1*) The provisions of this section shall apply in relation to any election in a parliamentary or assembly constituency.

(*2*) A contesting candidate may retire from the contest by a notice in the prescribed form which shall be delivered to the returning officer between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon of any day not later than ten days prior to the date or the first of the dates fixed for the poll under clause (*d*) of section 30 either by such candidate in person or by an agent authorised in this behalf in writing by such candidate.

(*3*) No person who is given a notice of retirement under sub-section (*2*) shall be allowed to cancel the notice.

(*4*) The returning officer shall, upon receiving a notice of retirement under sub-section (*2*), cause a copy thereof to be

affixed to his notice board and also to be published in such manner as may be prescribed.

(5) Any person who has given a notice of retirement under sub-section (2) shall thereafter be deemed not to be a contesting candidate for the purposes of section 52.

(6) Where by reason of any retirement from the contest under this section, the number of remaining contesting candidates becomes equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats and countermand the poll.

(7) Where by reason of any retirement from the contest at an election to which the provisions of section 54 apply, the number of remaining contesting candidates qualified to be chosen to fill the reserved seats becomes equal to the number of such seats, the returning officer shall forthwith declare all those candidates to be duly elected to fill those seats and countermand the poll in so far as it relates to elections for filling those seats and the procedure laid down in section 53 shall be followed for filling the remaining seat or seats, if any."

Amendment of section 56.

33. In section 56 of the principal Act, for the words "appropriate authority", the words "Election Commission" shall be substituted.

Amendment of section 58.

34. In section 58 of the principal Act,—

(*a*) in sub-section (*1*), the proviso shall be omitted;

(*b*) in sub-section (*2*),—

(*i*) the words "or at any polling booth" shall be omitted;

(*ii*) the words "or in such polling booth, as the case may be" shall be omitted;

(*c*) in sub-section (*3*), the words "or in such polling booth" shall be omitted.

Amendment of section 64.

35. In section 64 of the principal Act,—

(*a*) for the word "supervision", the words "supervision and direction" shall be substituted; and

(*b*) for the words "counting agent", the words "counting agents" shall be substituted.

Insertion of new section 7A.

Date of election of candidate.

36. In Chapter V of Part V of the principal Act, after section 67, the following section shall be inserted, namely:—

"67A. For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 53, section 54, section 55A or section 66, to be elected to a House of Parliament or of the Legislature of a State or to the electoral college of a scheduled Part C State shall be the date of election of that candidate."

37. In section 68 of the principal Act,— Amendment of section 68.

(*a*) in sub-section (*1*), for the words "within ten days from the date of publication in the Gazette of India of the declarations that he has been so chosen or, if such publications have been made on different dates within ten days from the later of such dates, intimate", the words "within ten days from the date, or the later of the dates, on which he is so chosen, intimate" shall be substituted; and

(*b*) the following sub-section shall be added at the end, namely:—

"(*4*) For the purposes of this section and of section 69, the date on which a person is chosen to be a member of either House of Parliament shall be in the case of an elected member, the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination."

38. In section 69 of the principal Act,— Amendment of section 69.

(*a*) in sub-section (*1*), for the words "on the publication in the Gazette of India of the declaration that he has been so chosen", the words "on the date on which he is so chosen" shall be substituted; and

(*b*) in sub-section (*2*), for the words "on the publication in the Gazette of India of the declaration that he has been so chosen", the words "on the date on which he is so chosen" shall be substituted.

39. In section 70 of the principal Act, after the words "all but one of the seats", the words "by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed" shall be inserted. Amendment of section 70.

* * * *

40. For sections 71 to 75 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for sections 71 to 75.

"71. Where a general election is held for the purpose of constituting a new House of the People or a new State Legislative Assembly, there shall be notified by the appropriate authority in the Official Gazette, as soon as may be after the date originally fixed for the completion of the election under clause (*e*) of section 30, the names of the members elected for the various constituencies by that date together with the names of persons, if any, nominated by the President, Governor or Rajpramukh to that House or Assembly, as the case may be; and upon the issue Publication of election results and nominations in certain cases.

of such notification that House or Assembly shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed—

(*a*) to preclude the completion of the election in any parliamentary or any assembly constituency or constituencies for which time has been extended under the provisions of section 153; or

(*b*) to affect the duration of the House of the People or the State Legislative Assembly, if any, functioning immediately before the issue of the said notification."

* * * *

Substitution of new sections for sections 76, 77 and 78.

41. For sections 76, 77 and 78 of the principal Act, the following sections shall be substituted, namely:—

Application of Chapter.

"76. This Chapter shall apply only to elections to the House of the People and to the Legislative Assembly of a State.

Account of election expenses and maximum thereof.

77. (*1*) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.

(*2*) The account shall contain such particulars, as may be prescribed.

(*3*) The total of the said expenditure shall not exceed such amount as may be prescribed.

(*4*) The said expenditure shall not be deemed to include any expenditure incurred by a recognised party organisation for furthering the prospects of the election of candidates supported by it.

Explanation.—The expression "recognised party organisation" means a party organisation which has been recognised by the Election Commission in this behalf.

Lodging of account with the returning officer.

78. Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the returning officer an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.".

42. In section 79 of the principal Act, clause (*a*) shall be omitted. Amendment of section 79

43. In section 81 of the principal Act, in sub-section (*1*),— Amendment of section 81.

(*a*) for the words, brackets and figures "sub-sections (*1*) and (*2*)", the word, brackets and figure "sub-section (*1*)" shall be substituted; and

(*b*) for the words and figures "in such form and within such time but not earlier than the date of publication of the name or names of the returned candidate or candidates at such election under section 67, as may be prescribed", the words "within forty-five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates" shall be substituted.

44. For section 82 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 82.

"82. A petitioner shall join as respondents to his petition— Parties to the petition.

(*a*) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(*b*) any other candidate against whom allegations of any corrupt * practice are made in the petition."

45. For section 83 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 83.

"83. (*1*) An election petition— Contents of petition.

(*a*) shall contain a concise statement of the material facts on which the petitioner relies;

(*b*) shall set forth full particulars of any corrupt * * practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt * practice and the date and place of the commission of each such practice; and

(*c*) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

of 1908.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.".

Substitution of new section for section 84.

Relief that may be claimed by the petitioner.

46. For section 84 of the principal Act, the following section shall be substituted, namely:—

"84. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected."

Substitution of new section for section 85.

Procedure on receiving petition.

47. For section 85 of the principal Act, the following section shall be substituted, namely:—

"85. If the provisions of section 81 or section 82 or section 117 have not been complied with, the Election Commission shall dismiss the petition:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.".

Substitution of new section for section 86.

Appointment of Election Tribunal.

48. For section 86 of the principal Act, the following section shall be substituted, namely:—

"86. (*1*) If the petition is not dismissed under section 85, the Election Commission shall cause a copy thereof to be published in the Official Gazette and a copy to be served by post on each respondent, and shall then refer the petition to an Election Tribunal for trial.

(*2*) For the purpose of constituting such Tribunals, the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir) a list of persons who are district judges in the State and are in the opinion of the High Court fit to be appointed as members of Election Tribunals and shall maintain the list by making such alterations therein as the High Court may, from time to time, direct.

Explanation.—In this sub-section, the expression "district judge'" includes judge of a city civil court, additional district judge, joint district judge and chief judge of a small cause court.

(*3*) Every Tribunal shall consist of a single member selected by the Election Commission from any of the lists maintained by it under sub-section (*2*):

Provided that where the petition is in respect of an election to the Legislative Assembly or Legislative Council of a

State, no person who is a district judge in another State shall be selected for appointment as a member of the Tribunal except with the consent of the Government of that other State.

(4) If for any reason a vacancy occurs in the office of member of a Tribunal, the Election Commission shall, as soon as practicable, appoint a person to fill the vacancy in accordance with the foregoing provisions of this section; and upon his joining the Tribunal, the trial of the petition shall be continued as if he had been on the Tribunal from the beginning:

Provided that the Tribunal may, if it thinks fit, recall and re-examine any of the witnesses already examined.".

Substitution of new section for section 89.

49. For section 89 of the principal Act, the following section shall be substituted, namely:—

Power of Election Commission to withdraw and transfer petitions.

"89. The Election Commission may at any stage, for reasons to be recorded, withdraw any petition pending before a Tribunal and transfer it for trial to another Tribunal constituted in accordance with the provisions of section 86; and upon such transfer, that Tribunal shall proceed with the trial from the stage at which it was withdrawn:

Provided that it may, if it thinks fit, recall and re-examine any of the witnesses already examined.".

Amendment of section 90.

50. In section 90 of the principal Act,—

(*a*) sub-section (*1*) shall be omitted;

(*b*) in sub-section (*2*), the first proviso and the word "further" in the second proviso shall be omitted, and the sub-section shall be re-numbered as sub-section (*1*);

(*c*) sub-section (*3*) shall be renumbered as sub-section (*2*);

(*d*) for sub-section (*4*), the following sub-sections shall be substituted, namely:—

"(3) The Tribunal shall dismiss an election petition which does not comply with the provisions of section 81, section 82 or section 117 notwithstanding that it has not been dismissed by the Election Commission under * * section 85.

(4) Any candidate not already a respondent shall, upon application made by him to the Tribunal within fourteen days from the date of commencement of the trial and subject to the provisions of section 119, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Tribunal and answer the claim or claims made in the petition.

(5) The Tribunal may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of publication of the copy of the petition in the Official Gazette under sub-section (*1*) of section 86."

Amendment of section 97.

51. In section 97 of the principal Act,—

(*a*) in the proviso to sub-section (*1*), for the words and figures, "the publication of the election petition under section 90", the words "commencement of the trial" shall be substituted;

(*b*) in sub-section (*2*), the words "list of" shall be omitted.

* * * * * *

Amendment of section 98.

52. In section 98 of the principal Act,—

(*a*) in clause (*b*) and clause (*c*), for the words "the returned candidate", the words "all or any of the returned candidates" shall be substituted; and

(*b*) the word "or" occurring at the end of clause (*c*) and clause (*d*) shall be omitted.

* * * * * *

Amendment of section 99.

53. In section 99 of the principal Act,—

(*a*) in sub-section (*1*)—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—

(*i*) a finding whether any corrupt practice has or has not been proved to have been committed by, or

with the consent of, any candidate or his agent at the election, and the nature of that corrupt practice; and

(*ii*) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and";

(*ii*) in the proviso, for the words "no person shall be named", the words "a person who is not a party to the petition shall not be named" shall be substituted; and

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) In this section and in section 100, the expression "agent" has the same meaning as in section 123."

Amendment of section 100.

54. In section 100 of the principal Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-section shall be substituted, namely:—

"(*1*) Subject to the provisions of sub-section (*2*), if the Tribunal is of opinion—

(*a*) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Part C States Act, 1951; or

(*b*) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(*c*) that any nomination has been improperly rejected; or

(*d*) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(*i*) by the improper acceptance of any nomination, or

(*ii*) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent, or

(*iii*) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(*iv*) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the Tribunal shall declare the election of the returned candidate to be void."; and

(*b*) sub-section (*3*) shall be re-numbered as sub-section (*2*) and in that sub-section as so re-numbered—

(*i*) the words and figures "specified in section 123" shall be omitted;

(*ii*) in clause (*a*), for the words "without the sanction or connivance", the words "without the consent" shall be substituted; and

(*iii*) in clause (*c*) and clause (*d*), the words "or illegal" shall be omitted.

Amendment of section 101.

55. In section 101 of the principal Act, in clause (*b*), the words "or illegal" shall be omitted.

Omission of section 104.

56. Section 104 of the principal Act shall be omitted.

Omission of section 105.

57. Section 105 of the principal Act shall be omitted.

Amendment of section 106.

58. In section 106 of the principal Act,—

(*a*) the brackets and words "(other than a primary election)' shall be omitted;

(*b*) for the words 'shall cause the order to be published in the Gazette of India and in the Official Gazette of the State concerned', the following shall be substituted, namely:—

"shall cause the order to be published—

(*a*) where the order relates to an election to a House of Parliament, in the Gazette of India as well as in the Official Gazette of the State concerned; and

(*b*) where the order relates to an election to the House or a House of the Legislature of the State, in the Official Gazette of the State.".

Substitution of new section for section 107.

59. For section 107 of the principal Act, the following section shall be substituted, namely:—

Effect of orders of the Tribunal.

"107. (*1*) Every order of the Tribunal under section 98 or section 99 shall take effect as soon as it is pronounced by the Tribunal.

(*2*) Where by an order under section 98 the election of a returned candidate * * * is declared to be void, acts and proceedings in which that returned candidate * * * has, before the date thereof, participated as a member of Parliament or as a member of the Legislature of a State shall not be invalidated by reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation."

Amendment of section 111.

60. In section 111 of the principal Act, the following words shall be added at the end, namely:—

"and thereupon the Election Commission shall publish the report in the Official Gazette".

Insertion of new Chapter after Chapter IV in Part VI.

61. In Part VI of the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

"CHAPTER IVA

Appeals

Appeals against orders of Election Tribunals.

116A. (*1*) An appeal shall lie from every order made by a Tribunal under section 98 or section 99 to the High Court of the State in which the Tribunal is situated.

(*2*) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this Chapter as if the appeal were an appeal from the original decree passed by a civil court situated within the local limits of its civil appellate jurisdiction:

Provided that where the High Court consists of more than two judges every appeal under this Chapter shall be heard by a bench of not less than two judges.

(*3*) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the Tribunal under section 98 or section 99:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(4) Where an appeal has been preferred against an order made under clause (*b*) of section 98, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under sub-section (*1*) of section 107.

(5) Every appeal shall be decided as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

Finality of orders and decisions.

116B. The decision of the High Court on appeal under this Chapter and subject only to such decision, the order of the Tribunal under section 98 or section 99 shall be final and conclusive."

* * * * * *

Amendment of section 119.

62. In section 119 of the principal Act, for the words, brackets, and figure "sub-section (*1*)", the words, brackets and figure "sub-section (*4*)" shall be substituted.

Insertion of new section after section 119.

63. After section 119 of the principal Act, the following section shall be inserted, namely:—

Security for costs of appeal.

"119A. Every person who prefers an appeal under Chapter IVA shall enclose with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the appeal."

Substitution of new heading for heading of Part VII.

64. For the heading of Part VII of the principal Act, the following heading shall be substituted, namely:—

"CORRUPT PRACTICES AND ELECTORAL OFFENCES".

Substitution of new Chapter for Chapters I and II in Part VII.

65. In Part VII of the principal Act, for Chapters I and II, the following Chapter shall be substituted, namely:—

"CHAPTER I

Corrupt Practices

123. The following shall be deemed to be corrupt practices for the purposes of this Act:—

(*1*) Bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person, of any gratification to any person whomsoever, with the object, directly or indirectly of inducing—

(*a*) a person to stand or not to stand as, or to withdraw from being, a candidate, or to retire from contest at an election;

(*b*) an elector to vote or refrain from voting at an election,

or as a reward to—

(*i*) a person for having so stood or not stood, or for having withdrawn his candidature, or for having retired from contest; or

(*ii*) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.

(*2*) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person, with the free exercise of any electoral right:

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(*i*) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right

without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The systematic appeal by a candidate or his agent or by any other person, 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.

(4) The publication by a candidate or his agent or by any other person, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, or retirement from contest, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person, for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (*1*) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(*6*) The incurring or authorising of expenditure in contravention of section 77.

(*7*) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—

(*a*) gazetted officers;

(*b*) stipendiary judges and magistrates;

(*c*) members of the armed forces of the Union;

(*d*) members of the police forces;

(*e*) excise officers;

(*f*) revenue officers including village accountants, such as, patwaris, lekhpals, talatis, karnams and the like but excluding other village officers; and

(*g*) such other class of persons in the service of the Government as may be prescribed.

Explanation.—(*1*) In this section the expression 'agent' includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(*2*) For the purposes of clause (*7*), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent, or a polling agent or a counting agent of that candidate."

Amendment of section 126.

66. In section 126 of the principal Act, for the word "constituency" occurring at both places, the words "polling area" shall be substituted.

Amendment of section 133.

67. In section 133 of the principal Act, for the word, brackets and figure "clause (*6*)", the word, brackets and figure "clause (*5*)" shall be substituted.

Amendment of section 134.

68. In section 134 of the principal Act, in sub-section (*3*), after the words 'electoral registration officers', the words 'assistant electoral registration officers' shall be inserted.

* * * * *

Substitution of new section for new section 140.

69. For section 140 of the principal Act, the following section shall be substituted, namely:—

Corrupt practices entailing disqualification.

"140. The corrupt practices specified in section 123 shall entail disqualification for membership of Parliament and of the Legislature of every State for a period of six years counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act."

Insertion of new section 140A.

70. (*1*) In part VIII of the principal Act, in Chapter I, after section 140, the following section shall be inserted, namely:—

Removal, or reduction of period, of disqualifications.

"140A. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification."

(2) It is hereby declared that any disqualification for membership entailed by any act which has ceased to be a corrupt or illegal practice under the principal Act as amended by this Act shall stand removed.

* * * * *

Omission of section 142.

71. Section 142 of the principal Act shall be omitted.

Omission of section 143 and removal of disqualification incurred under that section.

72. (*1*) Section 143 of the principal Act shall be omitted.

(2) It is hereby declared that any disqualification for voting incurred by any person under the said section for default in making a return of election expenses shall stand removed.

Omission of section 146.

73. Section 146 of the principal Act shall be omitted.

Amendment of section 148.

74. In section 148 of the principal Act, for the words 'Council of States', the words 'electoral college' shall be substituted.

Amendment of section 152.

75. In section 152 of the principal Act, in sub-section (*2*), the words "or group of such States" shall be omitted.

Substitution of new section for section 153.

76. For section 153 of the principal Act, the following section shall be substituted, namely:—

Extension of time for completion of election.

"153. It shall be competent for the Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 30 or sub-section (*1*) of section 39.".

77. In section 155 of the principal Act,— Amendment of section 155.

(*a*) sub-section (*1*) shall be omitted; and

(*b*) in sub-section (*2*), the words and figures "whose name is not required to be notified under section 71" shall be omitted.

78. In section 157 of the principal Act,— Amendment of section 157.

(*a*) sub-section (*1*) shall be omitted; and

(*b*) in sub-section (*2*), the words and figures "whose name is not required to be notified under section 75" shall be omitted.

79. In section 158 of the principal Act,— Amendment of section 158.

(*a*) in sub-section (*1*), the words, brackets and figures 'or in that section read with sub-section (*4*) of section 39' and the words, brackets and figure 'or in that sub-section read with the said sub-section (*4*)' shall be omitted; and

(*b*) in sub-section (*4*),—

(*i*) the words, brackets and figures 'or under that sub-section read with sub-section (*4*) of section 39' shall be omitted; and

(*ii*) in the second proviso, the words 'or at an election in a Council constituency and an election by the members of the State Legislative Assembly to fill seats in the State Legislative Council' shall be omitted.

80. In section 159 of the principal Act, the words 'the Election Commission or' shall be omitted. Amendment of section 159.

81. In section 169 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 169.

"(*3*) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than thirty days before both Houses of Parliament 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."

82. In the Government of Part C States Act, 1951,— Consequential amendments.

(*a*) in section 7—

(*i*) the word 'and' shall be added at the end of clause (*a*); and

(*ii*) the word 'and' at the end of clause (*b*), the whole of clause (*c*) and the *Explanation* shall be omitted;

(*b*) section 8 shall be omitted.

Act not to apply to pending elections, etc.

83. Nothing in this Act shall apply to any election which has been called before the commencement of this Act or to any election petition arising out of such election, whether such petition is pending at such commencement or is presented afterwards, and all such elections shall be held and petitions tried, and all matters in connection with such elections or petitions (including the constitution of Election Tribunals) shall be regulated, in accordance with the provisions of the law in force immediately before such commencement.

APPENDIX I

(Vide *para* 5 *of the Report*)

Motion in the Lok Sabha

"That the Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of—

1. Pandit Thakur Das Bhargava
2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Durga Charan Banerjee
6. Shri Ganesh Sadashiv Altekar
7. Shri Balvantray Gopaljee Mehta
8. Shri Gopalrao Bajirao Khedkar
9. Shri H. C. Heda
10. Shri Radha Charan Sharma
11. Shri B. B. Varma
12. Shri C. D. Pande
13. Pandit Balkrishna Sharma
14. Shri Rameshwar Sahu
15. Shri Nemi Chandra Kasliwal
16. Shri Awadheshwar Prasad Sinha
17. Shri Feroze Gandhi
18. Pandit Algu Rai Shastri
19. Shrimati Subhadra Joshi
20. Shri H. Siddananjappa
21. Shri A. M. Thomas
22. Shri C. Ramaswamy Mudaliar
23. Shri M. L. Dwivedi
24. Shri Mukund Lal Agrawal
25. Shri Bahadurbhai Kunthabhai Patel
26. Shri Shivram Rango Rane
27. Shri Nettur P. Damodaran

28. Shri Shriman Narayan
29. Shri U. Srinivasa Malliah
30. Shri Shree Narayan Das
31. Shri N. C. Chatterjee
32. Shri P. T. Punnoose
33. Shri Hirendra Nath Mukerjee
34. Shri M. S. Gurupadaswamy
35. Shri Sivamurthi Swami
36. Shri Amjad Ali
37. Sardar Hukam Singh
38. Shri Shankar Shantaram More
39. Shri Anandchand and
40. the mover

with instructions that matters other than those dealt with in the Bill, but relating to matters dealt with in the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951), *e.g.*,—

(i) duties of Returning Officer, Presiding Officer and Polling Officer. (Sections 24, 27 and 28);

(ii) appeals from decision of Returning Officer on scrutiny of nomination;

(iii) election accounts—(section 44);

(iv) functions of Polling Agents and Counting Agents—(section 49);

(v) ballot boxes and method of voting—(sections 59, 63)—ballot boxes and method of counting;

(vi) return or statement of Election expenses

(a) whether it should be dispensed with?

(b) whether its filing should be before or after filing of election petition?

(c) whether it should be open to inspection before presentation of election expenses?

(d) whether there should be a ceiling?

(vii) definition of candidate [section 79(b)—specially having regard to the judgment of Supreme Court in Katpadi Election case];

(viii) procedure before Election Tribunal and powers of Tribunal—(sections 88, 90, 92)—and composition of Tribunal;

(ix) Incriminating Questions—should there be certificates of indemnity (section 95)?

(x) claim for Recrimination—(section 97);

(xi) when petitioner in election case can claim the seat—(section 101);

(xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115 and 116);

(xiii) Corrupt Practices—(sections 123 and 124);

(xiv) Illegal Practices—(section 125);

(xv) electoral offences—(section 129 should be made applicable to all Government servants as recommended by Election Commission);

(xvi) disqualifications arising out of illegal practices—(section 142);

(xvii) Removal of Disqualifications—how far condonations should be made retrospective—which authority should be vested with the power to condone and in which circumstances;

(xviii) symbols and Power of Election Commission in connection therewith;

(xix) Disqualifications—(section 7)—apart from consequences of not lodging Election Return;

be considered and amendments allowed to be moved and made and also with instructions to report by the 30th November, 1955."

APPENDIX II

(Vide *para 9 of the Report*)

Report of the Sub-Committee of the Select Committee on the Representation of the People (Second Amendment) Bill, 1955.

I, the Chairman of the sub-Commitee of the Select Committee on the Representation of the People (Second Amendment) Bill, 1955, having been authorised by the sub-Committee to submit the Report on their behalf, present this their Report.

2. The sub-Committee was appointed by the Select Committee at their Fifteenth Sitting held on the 17th January, 1956, to examine sections 100, 123, 124 and 125 of the Principal Act with a view to suggest simplification of the procedure contained in the said sections and also to find out the defects, if any, in those provisions and suggest remedies in respect of the same (*vide* para 4 of the Minutes of the Select Committee, dated the 17th January, 1956—Annexure A.)

3. The sub-Committee held three sittings in all.

4. The amendments suggested by the sub-Committee with regard to the sections examined by them are embodied in Annexure C.

5. Extension of time for presentation of the Report of the sub-Committee upto the 21st January, 1956 was sought at the sitting of the Select Committee held on the 20th January and granted.

6. The sub-Committee recommend that the amendments suggested by them be accepted by the Select Committee.

THAKUR DAS BHARGAVA,
Chairman,
Sub-Committee of the Select Committee.

NEW DELHI;
The 21st January, 1956.

ANNEXURE A

(Vide *para* 2 *of Appendix II*)

MINUTES OF THE 15TH SITTING OF THE SELECT COMMITTEE ON THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955.

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* * * * * *

4. *Clause* 53.—After some discussion, a Sub-Committee was appointed consisting of the following members to examine sections 100, 123, 124 and 125 of the Principal Act with a view to suggest simplification of the procedure contained in the said sections and also to find out the defects, if any, in those provisions and suggest remedies in respect of the same:

Pandit Thakur Das Bhargava—*Chairman*

Shri Ganesh Sadashiv Altekar

Shri A. M. Thomas

Shri Shivram Rango Rane

Shri N. C. Chatterjee

Shri Shankar Shantaram More

Shri Hari Vinayak Pataskar.

The Sub-Committee were directed to submit their report by the 20th January, 1956.

ANNEXURE B

MINUTES OF THE SITTINGS OF THE SUB-COMMITTEE OF THE SELECT COMMITTEE ON THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955.

I

First Sitting

The Sub-Committee met from 3 P.M. to 5 P.M. on Wednesday, the 18th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Ganesh Sadashiv Altekar
3. Shri A. M. Thomas
4. Shri Shivram Rango Rane
5. Shri N. C. Chatterjee
6. Shri Shankar Shantaram More
7. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Sub-Committee held a general discussion on the provisions of sections 123 and 124 of the Principal Act.

3. The Sub-Committee then adjourned to meet again at 3 P.M. on Thursday, the 19th January, 1956.

II

Second Sitting

The Sub-Committee met from 3 P.M. to 5-30 P.M. on Thursday, the 19th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Ganesh Sadashiv Altekar
3. Shri A. M. Thomas
4. Shri Shivram Rango Rane
5. Shri Shankar Shantaram More
6. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Sub-Committee took up consideration of the sections of the Principal Act remitted to them.

3. *Section* 123.—It was felt that instead of having (i) Major corrupt practices, (ii) Minor corrupt practices, and (iii) Illegal corrupt pratices, it will be simpler to have only two categories as follows:—

(i) Corrupt practices; and

(ii) Illegal practices;

and then to attach consequences to each category.

It was decided that clauses (3) and (4) should be deleted.

It was also decided that the class of officers whose assistance was not permissible should be specifically mentioned.

4. *Section* 124.—The Sub-Committee decided that clause (5) should be transposed to the previous section and this section should be omitted.

5. *Section* 125.—The Committee decided that this section should be omitted.

6. *Section* 100.—It was felt that sub-section (1) of this section should be deleted.

7. *Section* 84.—It was decided to delete clause (c).

8. *Section* 98.—It was decided to delete clause (d).

9. The Draftsman was directed to examine all these sections in the light of the aforesaid observations and decisions of the Sub-Committee and to place new drafts before the Sub-Committee at their next sitting.

10. The Sub-Committee then adjourned to meet again at 4 P.M. on Friday, the 20th January, 1956.

III

Third Sitting

The Sub-Committee met from 4 P.M. to 5 P.M. on Friday, the 20th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri Ganesh Sadashiv Altekar
3. Shri A. M. Thomas
4. Shri Shivram Rango Rane
5. Shri Shankar Shantaram More
6. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. Draft of the sections referred to the Draftsman at the previous sitting of the Sub-Committee was placed before the Sub-Committee (*Vide* Annexure C.)

3. The Sub-Committee considered and approved the same.

4. The Sub-Committee authorised the Chairman to present the report of the Sub-Committee to the Select Committee.

5. The Sub-Committee then adjourned.

ANNEXURE C

(Vide *para* 4 *of Appendix II*)

AMENDMENTS SUGGESTED BY THE SUB-COMMITTEE OF THE SELECT COMMITTEE ON THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955.

1. *For* section 84 of the principal Act the following section will be *substituted*, namely:—

"84. *Relief that may be claimed by the petitioner.*—A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected".

2. In section 98 of the principal Act, *for* the words "the returned candidate" at both places, the words "all or any of the returned candidates" shall be *substituted*, and the letter, brackets and words "(d) declaring the election to be wholly void" shall be *omitted*.

3. In Section 100 of the principal Act,—

(a) *for* sub-sections (1) and (2) the following sub-section shall be *substituted*, namely:—

"(1) Subject to the provisions of sub-section (2), if the Tribunal is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Part C States Act, 1951; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the connivance of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate, his election agent or a person acting with the connivance of such candidate or election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or any other Act or rules relating to the election,

the Tribunal shall declare the election of the returned candidate to be void; and

(b) sub-section (3) shall be re-numbered as sub-section (2) and in that sub-section as so re-numbered—

(i) the words and figures "specified in section 123" shall be omitted;

(ii) in clause (c) the words "or illegal" shall be omitted; and

(iii) in clause (d) the words "or illegal" shall be omitted."

4. In section 123—

(a) in clauses (1) and (6) the words "or by any other person with the connivance of a candidate or his agent" shall be omitted;

(b) in clause (2) the words "or of any other person with the connivance of the candidate or his agent" shall be omitted;

(c) in clause (5), the words "or by any other person with the connivance of the candidate or his agent" shall be omitted;

(d) *for* clauses (3) and (4) the following clause shall be *substituted*, namely:—

"(3) A systematic appeal by a candidate or his agent to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to religious and national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election";

(e) *for* clauses (7) and (8) the following clauses shall be *substituted*, namely:—

"(7) The incurring or authorising by a candidate or his election agent of any expenditure in contravention of section 77".

"(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, any assistance (other than the giving of vote) for the

furtherance of the prospects of that candidate's election from any person in the whole-time service of the Government and belonging to any of the following classes namely:—

(a) gazetted officers;

(b) judges and magistrates;

(c) members of the armed forces of the Union;

(d) members of the police force;

(e) excise officers;

(f) revenue officers, excluding the village revenue officers; and

(g) such other class of persons in the whole-time service of the Government as may be prescribed.

Explanation I.—In this section, agent includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

Explanation II.—For the purposes of clause (8), a person shall be deemed to assist in the furtherance of election the prospects of a candidate's election if he acts as an agent, or a polling agent or a counting agent of that candidate".

5. Sections 124 and 125 of the principal Act shall be omitted.

APPENDIX III

MINUTES OF THE SITTINGS OF THE SELECT COMMITTEE ON THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL, 1955

I

First Sitting

The Committee met from 4 P.M. to 4-30 P.M. on Saturday, the 1st October, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Durga Charan Banerjee
6. Shri Balvantray Gopaljee Mehta
7. Shri Gopalrao Bajirao Khedkar
8. Shri H. C. Heda
9. Shri Radha Charan Sharma
10. Pandit Balkrishna Sharma
11. Shri Nemi Chandra Kasliwal
12. Pandit Algu Rai Shastri
13. Shri H. Siddananjappa
14. Shri A. M. Thomas
15. Shri Mukund Lal Agrawal
16. Shri Bahadurbhai Kunthabhai Patel
17. Shri Shivram Rango Rane
18. Shri Nettur P. Damodaran
19. Shri Shree Narayan Das
20. Shri P. T. Punnoose
21. Shri Hirendra Nath Mukerjee
22. Shri Sivamurthi Swami

23. Shri Amjad Ali
24. Sardar Hukam Singh
25. Shri Shankar Shantaram More
26. Shri Anandchand
27. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

Shri P K Patnaik, *Under Secretary.*

2. The Committee decided to hold their next sitting on the 31st October, 1955, and to sit from day to day till the completion of their work.

3. It was decided that the Ministry of Law should try to supply copies of the First Part of the Report of the Chief Election Commissioner and such other materials as it may deem fit for the use of the members of the Committee.

4. It was also decided that copies of the following documents should be supplied to the members:—

(i) Gist of Points raised during debates on these Bills in the Lok Sabha from 20th—24th September, 1955.

(ii) The opening and concluding speeches of the Minister of Legal Affairs on the motions for reference of the Bills to the Select Committee.

5. The Committee decided that members who want to give notices of amendments to the Bills should send them by the 25th October, 1955, to the Lok Sabha Secretariat.

6. The Committee then adjourned to meet again at 11 A.M. on Monday the 31st October, 1955.

II

***Fourth Sitting**

The Committee met from 1-30 P.M. to 5-25 P.M. on Wednesday, the 2nd November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Ganesh Sadashiv Altekar
6. Shri Gopalrao Bajirao Khedkar
7. Shri H. C. Heda
8. Shri Radha Charan Sharma
9. Shri B. B. Varma
10. Shri C. D. Pande
11. Pandit Balkrishna Sharma
12. Shri Nemi Chandra Kasliwal
13. Shri Feroze Gandhi
14. Pandit Algu Rai Shastri
15. Shri H. Siddananjappa
16. Shri A. M. Thomas
17. Shri C. Ramaswamy Mudaliar
18. Shri M. L. Dwivedi
19. Shri Mukund Lal Agrawal
20. Shri Bahadurbhai Kunthabhai Patel
21. Shri Shivram Rango Rane
22. Shri Nettur P. Damodaran
23. Shri Shree Narayan Das

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*The minutes of the 2nd and 3rd sittings of the Committee as well as paras. 2 to 4 of this minutes, which deal with the Representation of the People (Amendment) Bill have not been included in this appendix.

24. Shri Hirendra Nath Mukerjee
25. Shri M. S. Gurupadaswamy
26. Shri Amjad Ali
27. Sardar Hukam Singh
28. Shri Shankar Shantaram More
29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

* * * * * *

5. The Committee then took up clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

6. *Clause* 2.—This clause was adopted without any amendment.

7. The Committee then considered the question whether or not the provision in the principal Act for return of and ceiling on election expenses should be done away with. After some discussion it was agreed that the Act *should* provide for return of and ceiling on election expenses but the existing form and procedure for their submission must be simplified.

8. It was suggested that ground for disqualification for being chosen as, and for being, a member of Parliament under Clause (b) of section 7 of the principal Act should be restricted to convictions and sentences for offences involving moral turpitude.

After some discussion it was agreed that the existing provisions of Section 7(b) should stand.

9. *Clause* 3.—In this clause for the words 'five years' the words 'three years' were substituted.

10. The Committee then adjourned to meet again at 1-30 P.M. on Thursday, the 3rd November, 1955.

III

Fifth Sitting

The Committee met from 1-30 P.M. to 5-30 P.M. on Thursday, the 3rd November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Ganesh Sadashiv Altekar
6. Shri Gopalrao Bajirao Khedkar
7. Shri H. C. Heda
8. Shri Radha Charan Sharma
9. Shri B. B. Varma
10. Shri C. D. Pande
11. Pandit Balkrishna Sharma
12. Shri Nemi Chandra Kasliwal
13. Shri Feroze Gandhi
14. Pandit Algu Rai Shastri
15. Shrimati Subhadra Joshi
16. Shri H. Siddananjappa
17. Shri A. M. Thomas
18. Shri M. L. Dwivedi
19. Shri Mukund Lal Agrawal
20. Shri Bahadurbhai Kunthabhai Patel
21. Shri Shivram Rango Rane
22. Shri Nettur P. Damodaran
23. Shri Shriman Narayan
24. Shri Shree Narayan Das
25. Shri N. C. Chatterjee
26. Shri Hirendra Nath Mukerjee

27. Shri M. S. Gurupadaswamy
28. Shri Amjad Ali
29. Sardar Hukam Singh
30. Shri Shankar Shantaram More
31. Shri Anandchand.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Section 7(b) of the principal Act.*—After hearing the views expressed on the existing provisions of Clause (b) of Section 7 of the principal Act the Chairman accorded permission to re-open the Committee's earlier decision in respect of this Clause.

4. Further consideration of the Clause was however held over and the Chief Election Commissioner was requested to circulate a note regarding similar provisions in other countries.

5. *Clause* 3.—The Chairman also accorded permission to re-open the Committee's earlier decision in respect of this Clause.

It was also decided to consider this clause along with the other provisions of section 7 of the principal Act, mentioned in both.

6. *Clause* 4.—This clause was also held over.

7. *Clause* 5.—This clause was adopted without any amendment.

8. *Clause* 6.—

(i) The proposed new sections 12 and 13 were adopted without any amendment.

(ii) With regard to sections 14 and 15 the Committee felt that it was desirable to have simultaneous elections for Parliament and State Assemblies. The question whether elections for the new Houses could be held during the life time of the existing Houses was next considered.

After some discussion it was decided that the provisoes to the existing sections 15 and 17 of the principal Act should be amended by substituting the words "six months" for the words "four months" occurring therein, to enable general elections being held simultaneously for Parliament and State Assemblies before the expiry of their terms.

The draftsman was directed to incorporate suitable amendments in the Bill.

(iii) The proposed section 16 was adopted without any amendment.

9. *Clauses* 7 & 8.—These clauses were adopted without any amendment.

10. *Clause* 9.—In this clause the Committee felt that the scrutiny of nomination papers should not be entrusted to the Assistant Returning Officers. It was accordingly agreed to retain the existing proviso to section 22 omitting the words 'the acceptance of a nomination paper or to' and the words 'or to the counting of votes' occurring therein.

11. *Clauses* 10 & 11.—These clauses were adopted without any amendment.

12. *Clause* 12.—Discussion on this clause was not concluded.

13. The Committee decided to hold their sitting on the 5th November, 1955, from 9-30 A.M. to 1-30 P.M.

14. The Committee then adjourned to meet again at 1-30 P.M. on Friday, the 4th November, 1955.

IV

Sixth Sitting

The Committee met from 1-30 P.M. to 5-30 P.M. on **Friday**, the 4th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri S. C. Deb
4. Shri Ganesh Sadashiv Altekar
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri B. B. Varma
9. Shri C. D. Pande
10. Pandit Balkrishna Sharma
11. Shri Nemi Chandra Kasliwal
12. Shri Feroze Gandhi
13. Pandit Algu Rai Shastri
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri M. L. Dwivedi
18. Shri Bahadurbhai Kunthabhai Patel
19. Shri Shivram Rango Rane
20. Shri Nettur P. Damodaran
21. Shri Shree Narayan Das
22. Shri P. T. Punnoose
23. Shri Hirendra Nath Mukherjee
24. Shri M. S. Gurupadaswamy
25. Shri Amjad Ali
26. Sardar Hukam Singh

27. Shri Shankar Shantaram More
28. Shri Anandchand
29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Clause* 12.—The Committee felt that on the expiry of the date of withdrawal of candidatures if a contesting candidate desires not to contest the election he should be permitted, with the consent of the Returning Officer, to withdraw from the election provided he does so ten days before the date of polling. The Committee also felt that in such a case the Returning Officer should give due publicity to the fact and take steps to withdraw the ballot boxes of the candidate concerned.

The Committee was of the opinion that the security deposit of such a candidate need not be refunded.

The Draftsman was directed to place a revised draft of the clause for the Committee's consideration.

4. *Clause* 13.— This clause was adopted without any amendment.

15. *Clause* 14.—The Committee felt that a proposer for nomination of a candidate need not be compulsory but optional.

In sub-section (5) of the proposed new section 33 in line four for the word "shall" the word "may" was substituted.

Discussion on this clause was not concluded.

6. The Chairman accorded permission to re-open the Committee's earlier decision regarding proposer being made optional, at their next sitting.

7. The Committee then adjourned to meet again at 9-30 A.M. on the 5th November, 1955.

V

Seventh Sitting

The Committee met from 9-30 A.M. to 1-30 P.M. on Saturday, the 5th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Ganesh Sadashiv Altekar
6. Shri Gopalrao Bajirao Khedkar
7. Shri H. C. Heda
8. Shri Radha Charan Sharma
9. Shri B. B. Varma
10. Shri C. D. Pande
11. Pandit Balkrishna Sharma
12. Shri Nemi Chandra Kasliwal
13. Pandit Algu Rai Shastri
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri Bahadurbhai Kunthabhai Patel
18. Shri Shivram Rango Rane
19. Shri Nettur P. Damodaran
20. Shri Shriman Narayan
21. Shri Shree Narayan Das
22. Shri P. T. Punnoose
23. Shri Hirendra Nath Mukerjee
24. Shri M. S. Gurupadaswamy
25. Shri Amjad Ali
26. Sardar Hukam Singh
27. Shri Shankar Shantaram More

28. Shri Anandchand

29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Clause* 14.—The Committee resumed the discussion on the question whether for nomination of a candidate a proposer should be compulsory or optional and it was decided that it should be compulsory.

This clause was adopted with certain drafting changes in sub-section (5) of the proposed new Section 33.

4. *Clauses* 15 *and* 16.—These clauses were adopted without any amendment.

5. *Clause* 17.—The Committee considered whether or not the right of rejection of nomination papers by Returning Officers during the scrutiny proceedings, on the grounds of disqualifications, should be taken away. After some discussion it was decided that this right should be retained.

In sub-section (4) of Section 36 of the principal Act the word 'technical' was omitted.

The Draftsman was directed to make necessary changes in this clause.

6. The Committee then adjourned to meet again at 1-30 P.M. on Monday, the 7th November, 1955.

VI

Eighth Sitting

The Committee met from 1-30 P.M. to 5-40 P.M. on Monday, the 7th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri B. B. Varma
9. Shri C. D. Pande
10. Shri Nemi Chandra Kasliwal
11. Shri Feroze Gandhi
12. Pandit Algu Rai Shastri
13. Shrimati Subhadra Joshi
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri M. L. Dwivedi
18. Shri Mukund Lal Agrawal
19. Shri Bahadurbhai Kunthabhai Patel
20. Shri Shivram Rango Rane
21. Shri Nettur P. Damodaran
22. Shri Shree Narayan Das
23. Shri P. T. Punnoose
24. Shri Hirendra Nath Mukerjee
25. Shri M. S. Gurupadaswamy
26. Shri Amjad Ali

27. Sardar Hukam Singh
28. Shri Shankar Shantaram More
29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Clause* 17: Sub-sections (7) and (8) of the proposed new Section 36 were adopted without any amendment.

The clause was then adopted subject to the amendments accepted by the Committee at their last sitting.

4. *Clause* 18: This clause was adopted without any amendment.

5. *Clause* 19: In sub-section (1) of the proposed new Section 38 the word 'final' in line 6, was omitted.

Subject to this amendment the clause was adopted.

6. *Clauses* 20 *to* 26: These clauses were adopted without any amendment.

7. *Clause* 27: This clause was adopted without any amendment.

It was suggested that if a candidate dies after the date for nominations and before the date of the scrutiny, fresh nominations should be called for.

Consideration of this question was held over.

8. *Clause* 28: This clause was adopted without any amendment.

9. *Clause* 29: Discussion on this clause was not concluded.

10. The Committee then adjourned to meet again at 1-30 P.M. on Tuesday, the 8th November, 1955.

VII

Ninth Sitting

The Committee met from 1-30 P.M. to 5-30 P.M. on Tuesday, the 8th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri S. C. Deb
4. Shri Gopalrao Bajirao Khedkar
5. Shri H. C. Heda
6. Shri Radha Charan Sharma
7. Shri B. B. Varma
8. Shri C. D. Pande
9. Pandit Balkrishna Sharma
10. Shri Nemi Chandra Kasliwal
11. Shri Feroze Gandhi
12. Pandit Algu Rai Shastri
13. Shrimati Subhadra Joshi
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri M. L. Dwivedi
18. Shri Mukund Lal Agrawal
19. Shri Bahadurbhai Kunthabhai Patel
20. Shri Shivram Rango Rane
21. Shri Shree Narayan Das
22. Shri N. C. Chatterjee
23. Shri P. T. Punnoose
24. Shri Hirendra Nath Mukherjee
25. Shri Amjad Ali
26. Sardar Hukam Singh

27. Shri Shankar Shantaram More
28. Shri Anandchand
29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Section* 53 *of the principal Act*: In the proviso to sub-section (3) of Section 53 of the principal Act the Committee felt that the words 'until such date as the Election Commission may specify in this behalf' should be amended to provide that the appropriate authority shall not be bound to call for fresh Elections until he is satisfied that proper conditions prevail for such an election.

The Draftsman was directed to suitably incorporate the amendment in the proviso.

4. *Clause* 29: In sub-section (4) of Section 54 of the principal Act for the words 'the procedure laid down in sub-section (1) of Section 53 shall be followed' the words 'a poll shall be taken' were substituted.

In the proviso to sub-section (5) of Section 54 the Draftsman was directed to incorporate a similar amendment proposed to the proviso to Section 53(3).

This clause was adopted subject to these amendments.

5. In respect of plural member constituencies the Committee considered the questions:—

(1) Whether or not the right of a candidate contesting the reserved seat, of being elected to the general seat should be retained.

(2) Whether it should be provided in the Act that an elector who has the right of casting two votes shall cast one vote for the general and the other for the reserved seat and not both to the candidates standing for the same seat.

(3) If an elector casts both the votes to the same candidate whether both should be annulled or only one.

Further consideration of these questions was held over.

6. *Clause* 30: This clause was adopted without any amendment.

7. *Section* 56 *of the principal Act*: In Section 56 for the words 'appropriate authority' the words 'Election Commission' were substituted.

8. *Clause* 31: This clause was adopted without any amendment.

9. *Section* 64 *of the principal Act*: In Section 64, for the words 'or under the supervision of' the words 'or under the direction and supervision of' were substituted.

For the words 'counting agent' the words 'counting agents' were substituted.

10. *Clauses* 32 *to* 34: These clauses were adopted without any amendment.

11. The Committee then adjourned to meet again at 10 A.M. on Wednesday, the 9th November, 1955.

VIII

Tenth Sitting

The Committee met from 10 A.M. to 1-15 P.M. on Wednesday, the 9th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Vishwanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri B. B. Varma
9. Pandit Balkrishna Sharma
10. Shri Rameshwar Sahu
11. Shri Nemi Chandra Kasliwal
12. Shri H. Siddananjappa
13. Shri A. M. Thomas
14. Shri M. L. Dwivedi
15. Shri Mukund Lal Agrawal
16. Shri Bahadurbhai Kunthabhai Patel
17. Shri Shivram Rango Rane
18. Shri Nettur P. Damodaran
19. Shri U. Srinivasa Malliah
20. Shri Shree Narayan Das
21. Shri P. T. Punnoose
22. Shri Amjad Ali
23. Sardar Hukam Singh
24. Shri Shankar Shantaram More
25. Shri Anandchand
26. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Clause* 35: This Clause was adopted without any amendment.

4. *Clause* 36 *to* 40: The Committee felt that there was no necessity for issue of notifications under Section 71 or 75 of the principal Act as no general election is held for the Council of States or State Legislative Councils. The Committee also felt that there was no necessity for issue of notifications under Section 72 regarding elections to the electoral college.

It was accordingly decided that Sections 73 and 74 of the principal Act might be suitably amalgamated.

The Committee however felt that a new provision should be added to make it clear that the notifications referred to in these sections might be issued even though elections in one or more Parliamentary or Assembly constituencies have not been completed and the issue of the notification under that section will not operate as a dissolution of the existing House of the People or State Assemblies.

It was accordingly decided that these clauses should be suitably amended.

5. *Clause* 41: (i) In sub-section (1) of the proposed Section 77, for the word "regular" the word "correct" was substituted.

(ii) The Committee felt that the election expenses of a candidate under proposed Section 77 should mean expenses incurred by the candidate from the date of issue of notification calling upon the constituencies to choose a member, upto the date of declaration of results.

The Draftsman was directed to incorporate a provision accordingly in this section.

(iii) In sub-section (2) the words "shall be kept in such form, and" were omitted.

(iv) As regards Section 78, it was felt that although every contesting candidate should maintain an account of election expenses, it need not be lodged. But in case there is an election petition against any candidate he should lodge the accounts if called upon to do so by the Election Commission.

Consideration of this question was held over.

6. The Committee then adjourned to meet again at 10 A.M. on Saturday, the 19th November, 1955.

IX

Eleventh Sitting

The Committee met from 10 A.M. to 12-45 P.M. on Saturday, the 19th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri S. C. Deb
4. Shri Durga Charan Banerjee
5. Shri Ganesh Sadashiv Altekar
6. Shri Balvantray Gopaljee Mehta
7. Shri Gopalrao Bajirao Khedkar
8. Shri Radha Charan Sharma
9. Shri B. B. Varma
10. Shri C. D. Pande
11. Shri Nemi Chandra Kasliwal
12. Shrimati Subhadra Joshi
13. Shri H. Siddananjappa
14. Shri A. M. Thomas
15. Shri M. L. Dwivedi
16. Shri Mukund Lal Agrawal
17. Shri Shivram Rango Rane
18. Shri Nettur P. Damodaran
19. Shri Shree Narayan Das
20. Shri N. C. Chatterjee
21. Shri P. T. Punnoose
22. Shri Hirendra Nath Mukerjee
23. Shri Amjad Ali
24. Sardar Hukam Singh
25. Shri Shankar Shantaram More
26. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee resumed the clause by clause consideration of the Representation of the People (Second Amendment) Bill, 1955.

3. *Clause* 41 (*contd.*): (i) The Committee considered the question whether or not the existing maximum limits of election expenses prescribed under the rules should be increased and it was decided to leave them unaltered as the matter is coming up again in the rules which will be laid on the Table of the House. The Committee considered the question, which was held over at the last sitting, whether election expenses should be lodged by every contesting candidate as proposed in the new Section 78 or only by those candidates against whom there is an election petition and if so required by the Election Commission.

It was decided that every contesting candidate should lodge election expenses as provided in the new Section 78.

(iii) In the proposed new Section 78 for the words "within the prescribed period" the words "within one month of the date of declaration of election" were substituted.

The clause as amended was adopted.

4. *Clause* 42: For the words "two months", the words "forty-five days" were substituted.

The clause as amended was adopted.

5. *Clause* 43: This clause was adopted without any amendment.

6. The Committee then adjourned to meet again at 10 A.M. on Sunday, the 20th November, 1955.

X

Twelfth Sitting

The Committee met from 10 A.M. to 1 P.M. on Sunday, the 20th November, 1955.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri S. C. Deb
4. Shri Ganesh Sadashiv Altekar
5. Shri Gopalrao Bajirao Khedkar
6. Shri Radha Charan Sharma
7. Shri B. B. Varma
8. Shri C. D. Pande
9. Pandit Balkrishna Sharma
10. Shri Rameshwar Sahu
11. Shrimati Subhadra Joshi
12. Shri H. Siddananjappa
13. Shri A. M. Thomas
14. Shri Mukund Lal Agrawal
15. Shri Bahadurbhai Kunthabhai Patel
16. Shri Shivram Rango Rane
17. Shri Shree Narayan Das
18. Shri P. T. Punnoose
19. Shri Amjad Ali
20. Sardar Hukam Singh
21. Shri Shankar Shantaram More
22. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma. *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clauses* 44 *to* 46.—These clauses were adopted without any amendment.

4. *Clause* 47.—The Committee felt that there should be only one-member Tribunal and the Tribunal should constitute of a person who is a serving District Judge. There should also be provision for appeal against the decision of the Tribunal to be heard by the High Court in a Division Bench.

The Draftsman was directed to place a revised draft of this clause before the Committee.

5. *Clause* 48.—This clause was adopted without any amendment.

6. *Clause* 49.—In the proposed new sub-section (4) after the word "made" in the second line, the words "by him" were inserted.

The clause as amended was adopted.

7. *Clauses* 50 and 51.—These clauses were adopted without any amendment.

8. *Clause* 52.—The following amendments were accepted:—

(i) In clause (a)(ii) of sub-section (1) of Section 99 *omit* the following:

"together with any such recommendations as the Tribunal may think proper to make for the exemption of any persons from any disqualifications which they may have incurred in this connection under sections 141 to 143."

(ii) In the proviso to sub-section (1) of Section 99 for the words "no person shall be named" substitute "a person who is not a party to the petition shall not be named."

The Draftsman was directed to make necessary consequential amendments.

9. *Clause* 65.—Along with the clause 52 the Committee also considered clause 65 of the Bill.

It was felt that under clause 65 the Election Commission should also have the power for reducing the term of disqualification.

The Draftsman was directed to incorporate a provision accordingly in this clause.

10. The Committee then adjourned to meet again at 3 P.M. on Friday, the 25th November, 1955.

XI

Thirteenth Sitting

The Committee met from 10-45 A.M. to 11 A.M. on Wednesday, the 30th November, 1955.

PRESENT

Shri Balvantray Gopaljee Mehta—(*in the Chair*)

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri Gopalrao Bajirao Khedkar
5. Shri Radha Charan Sharma
6. Shri B. B. Varma
7. Shri Nemi Chandra Kasliwal
8. Shrimati Subhadra Joshi
9. Shri H. Siddananjappa
10. Shri A. M. Thomas
11. Shri Shivram Rango Rane
12. Shri Nettur P. Damodaran
13. Shri M. S. Gurupadaswamy
14. Shri Amjad Ali

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. In the absence of the Chairman, Shri Balvantray Gopaljee Mehta, was proposed and took the Chair.

3. It was decided to ask for extension of time for the presentation of the Report on the Representation of the People (Amendment) Bill, upto the 6th December, 1955 and for the presentation of the Report on the Representation of the People (Second Amendment) Bill, upto the 15th February, 1956.

4. The Committee decided to meet on the 5th December, 1955, at 10-45 A.M. for consideration of the Draft Report on the Representation of the People (Amendment) Bill, and thereafter to meet on the 17th January, 1956, onwards for completion of their work.

5. The Committee then adjourned to meet again at 10-45 A.M. on Monday, the 5th December, 1955.

XII

*Fifteenth Sitting

The Committee met from 11 A.M. to 1-11 P.M. on Tuesday, the 17th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Ganesh Sadashiv Altekar
6. Shri Balvantray Gopaljee Mehta
7. Shri Gopalrao Bajirao Khedkar
8. Shri H. C. Heda
9. Shri Radha Charan Sharma
10. Shri B. B. Varma
11. Shri C. D. Pande
12. Shri Rameshwar Sahu
13. Shri Nemi Chandra Kasliwal
14. Shri Feroze Gandhi
15. Pandit Algu Rai Shastri
16. Shri H. Siddananjappa
17. Shri A. M. Thomas
18. Shri C. Ramaswamy Mudaliar
19. Shri Mukund Lal Agrawal
20. Shri Bahadurbhai Kunthabhai Patel
21. Shri Shivram Rango Rane
22. Shri Nettur P. Damodaran
23. Shri Shriman Narayan

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*The minutes of the fourteenth sitting of the Committee which deal with the Representation of the People (Amendment) Bill has not been included in this Appendix.

24. Shri Shree Narayan Das
25. Shri N. C. Chatterjee
26. Shri P. T. Punnoose
27. Shri Amjad Ali
28. Sardar Hukam Singh
29. Shri Shankar Shantaram More.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. At the outset the Chairman read out three notes on the following subjects which had been submitted to him earlier by the Lok Sabha Secretariat:

1. Presentation of credentials by members before they take their seats in the House.
2. Amendment of Section 33 of the Representation of the People Act, 1951.
3. Marking of attendance by a Member whose election has been set aside.

The Committee desired that copies of these notes may be circulated to the members and after that the points may be discussed by the Committee.

3. The Committee thereafter resumed clause by clause consideration of the Bill.

4. *Clause* 53.—After some discussion, a sub-Committee was appointed consisting of the following members to examine Sections 100, 123, 124 and 125 of the principal Act with a view to suggest simplification of the procedure contained in the said sections and also to find out the defects, if any, in those provisions and suggest remedies in respect of the same:

Pandit Thakur Das Bhargava—*Chairman.*

Shri Ganesh Sadashiv Altekar

Shri A. M. Thomas

Shri Shivram Rango Rane

Shri N. C. Chatterjee

Shri Shankar Shantaram More

Shri Hari Vinayak Pataskar.

The Sub-Committee were directed to submit their report by the 20th January, 1956.

5. The Committee then adjourned to meet again on Wednesday, the 18th January, 1956, at 9 A.M.

XIII

Sixteenth Sitting

The Committee met from 9 A.M. to 12-15 P.M. on Wednesday, the 18th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri S. C. Deb
4. Shri Ganesh Sadashiv Altekar
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri B. B. Varma
9. Shri C. D. Pande
10. Shri Rameshwar Sahu
11. Shri Nemi Chandra Kasliwal
12. Shri Feroze Gandhi
13. Pandit Algu Rai Shastri
14. Shrimati Subhadra Joshi
15. Shri H. Siddananjappa
16. Shri A. M. Thomas
17. Shri M. L. Dwivedi
18. Shri Mukund Lal Agrawal
19. Shri Bahadurbhai Kunthabhai Patel
20. Shri Shivram Rango Rane
21. Shri Nettur P. Damodaran
22. Shri Shree Narayan Das
23. Shri P. T. Punnoose
24. Shri Hirendra Nath Mukerjee
25. Shri Amjad Ali
26. Sardar Hukam Singh

27. Shri Shankar Shantaram More
28. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 54.—The Committee adopted the following revised clause in substitution of the original clause:—

"54. Section 104 of the principal Act shall be omitted."

4. *New Clause* 54A.—A new clause as follows was adopted:—

"54A. Section 105 of the principal Act shall be omitted."

5. *Clauses* 55 *to* 57.—These clauses were adopted without any amendment.

6. *Clause* 58.—This clause was omitted.

7. *New Clause* 58A.—A new clause as follows was adopted:—

"58A. In part VI of the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

'CHAPTER IVA

APPEALS AGAINST ORDERS OF ELECTION TRIBUNALS

116A. (1) An appeal shall lie from every order made by a Tribunal under Section 98 or Section 99 to the High Court of the State in which the Tribunal is situated.

(2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this Chapter as if the appeal were an appeal from an original decree passed by a civil court situated within the local limits of its civil appellate jurisdiction:

Provided that where the High Court consists of more than two judges every appeal under this Chapter shall be heard by a bench of not less than two judges.

(3) Every appeal under this Chapter shall be preferred within thirty days from the date of the order of the Tribunal under section 98 or section 99:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(4) Where an appeal has been preferred against an order made under clause (b) or clause (d) of section 98, the High Court may on sufficient cause being shown stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under sub-section (1) of section 107.

116B. The decision of the High Court on appeal under this Chapter and subject only to such decision, the order of the Tribunal under section 98 or section 99 shall be final and conclusive.'.".

8. The Committee decided that election petitions must be decided by the Election Tribunals within six months from the date of service of summons and Appeals must be decided within three months from the date of their presentation.

The Draftsman was directed to suitably provide for the same in the Bill.

9. *Clause* 59.—This clause was adopted without any amendment.

10. *New Clause* 59A.—A new clause as follows was adopted:—

"59A. After Section 119 of the principal Act, the following section shall be inserted:—

'119A. Every person who prefers an appeal under Chapter IVA shall, enclose with the memorandum of appeal a Government treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the appeal.'.".

11. *Clauses* 60 *and* 61.—These clauses were held over.

12. *Clause* 62.—This clause was adopted without any amendment.

13. *Clauses* 63 *and* 64.—These clauses were omitted.

14. *Clause* 65.—The Committee adopted the following revised clause in substitution of the original clause:—

"65. In Part VIII of the principal Act, in Chapter I, after section 140, the following section shall be inserted namely:—

'140A. The Election Commission may, for reasons to be recorded, remove any disqualification under this

Chapter or reduce the period of any such disqualification.'.".

15. *Clause* 66.—This clause was omitted.

16. *Clause* 67.—This clause was adopted without any amendment.

17. *Clause* 68.—This clause was held over.

18. *Clauses* 69 *to* 73.—These clauses were adopted without any amendment.

19. *Clause* 74.—It was decided that the rules should be laid before both Houses of Parliament for 30 days and should be subject to modification by Parliament. The draftsman was directed to recast the clause accordingly.

20. *Clauses* 75 *and* 76.—These clauses were adopted without any amendment.

21. The Committee then adjourned to meet again on Thursday, the 19th January, 1956, at 9-30 A.M.

XIV

Seventeenth Sitting

The Committee met from 9-30 A.M. to 1-15 P.M. on Thursday the 19th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri S. C. Deb
4. Shri Ganesh Sadashiv Altekar
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri C. D. Pande
9. Shri Rameshwar Sahu
10. Shri Nemi Chandra Kasliwal
11. Shri Feroze Gandhi
12. Pandit Algu Rai Shastri
13. Shrimati Subhadra Joshi
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri M. L. Dwivedi
18. Shri Mukund Lal Agrawal
19. Shri Bahadurbhai Kunthabhai Patel
20. Shri Shivram Rango Rane
21. Shri Nettur P. Damodaran
22. Shri Shree Narayan Das
23. Shri Hirendra Nath Mukerjee
24. Shri Sivamurthi Swami
25. Shri Amjad Ali
26. Sardar Hukam Singh
27. Shri Shankar Shantaram More

28. Shri Anandchand

29. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee took up consideration of the clauses, Sections and points which had been held over after some discussion at their previous sittings.

3. *Section* 7 (*b*).—(*Vide* minutes, dated the 3rd November, 1955—5th sitting).

It was decided that the existing provision should stand as it is.

4. *Clause* 3.—(*Vide* minutes, dated the 3rd November, 1955—5th sitting).

The following amendment was accepted:—

for "five years" *substitute* "three years".

The clause as amended was adopted.

5. *Clause* 4.—(*Vide* minutes, dated the 3rd November, 1955—5th sitting).

The clause was adopted without any amendment.

6. *Clause* 68.—(*Vide* minutes, dated the 18th January, 1956—16th sitting).

The clause was adopted without any amendment.

7. *Clause* 27.—(*Vide* minutes, dated the 7th November, 1955—8th sitting).

It was decided that no fresh nominations should be called for if a candidate dies after the date fixed for nomination and before the date of the scrutiny.

8. *Points raised in Para* 5 *of the Minutes dated the* 8*th November,* 1955—9*th sitting.*

It was decided that no changes were required in the existing provisions of the principal Act. The provisions of section 63 were considered to be quite appropriate.

9. *Clause* 1.—The following amendment was accepted:

In sub-clause (1) *for* "1955" *substitute* "1956".

So far as sub-clause (2) was concerned, it was decided that this Act should come into force on such date as the Central Government might by notification in the Official Gazette, appoint.

The Draftsman was directed to recast the clause accordingly.

10. The Committee then considered the memoranda on the following subjects:

1. Presentation of credentials by members before they take their seats in the House.

2. Amendment of Section 33 of the Representation of the People Act, 1951.

The Committee felt that as no difficulty has in fact been experienced so far, the procedure of presentation of credentials need not be introduced in the Bill.

As regards section 33, it was felt that no amendment need be made in the existing provisions.

11. The Committee then adjourned to meet again on Friday, the 20th January, 1956, at 9-30 A.M.

XV

Eighteenth Sitting

The Committee met from 9-30 A.M. *to* 12-40 P.M. on Friday, the 20th January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri S. C. Deb
4. Shri Ganesh Sadashiv Altekar
5. Shri Gopalrao Bajirao Khedkar
6. Shri H. C. Heda
7. Shri Radha Charan Sharma
8. Shri C. D. Pande
9. Shri Rameshwar Sahu
10. Shri Nemi Chandra Kasliwal
11. Shri Feroze Gandhi
12. Pandit Algu Rai Shastri
13. Shrimati Subhadra Joshi
14. Shri H. Siddananjappa
15. Shri A. M. Thomas
16. Shri C. Ramaswamy Mudaliar
17. Shri M. L. Dwivedi
18. Shri Mukund Lal Agrawal
19. Shri Bahadurbhai Kunthabhai Patel
20. Shri Shivram Rango Rane
21. Shri Nettur P. Damodaran
22. Shri U. Srinivasa Malliah
23. Shri Shree Narayan Das
24. Shri P. T. Punnoose
25. Shri M. S. Gurupadaswamy
26. Shri Sivamurthi Swami

27. Shri Amjad Ali
28. Sardar Hukam Singh
29. Shri Shankar Shantaram More
30. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

Shri P. K. Patnaik, *Under Secretary.*

2. *Extension of time for the presentation of the Report of the Sub-Committee.*—Extension of time for the presentation of the Report of the Sub-Committee was granted upto the 21st January, 1956.

3. The Committee next considered the drafts prepared by the Draftsman in pursuance of the decisions of the Committee taken upto the Tenth Sitting. They were adopted without any amendment (Appendix).

4. Thereafter the following draft amendments were, in pursuance of Committee's decision taken at the sitting on the 18th January, 1956 (*Vide* para. 8 of the minutes of the 16th sitting), placed before the Committee and adopted:—

1. In section 90 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of publication of the copy of the petition in the Official Gazette under sub-section (1) of section 86."

2. In proposed section 116A, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Every appeal shall be heard as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court."

5. *Section 7 of the principal Act.*—In clause (f) of this section, the words "or under the crown in India or under the Government of an Indian State" as well as "whether before or after the commencement of the Constitution" were considered unnecessary. The Draftsman was directed to examine the same and recast the clause.

6. *Section 126 of the principal Act.*—The Committee felt that prohibition of public meetings on the election day should be restricted to the concerned polling area and not to the entire constituency. The Draftsman was directed to examine if section 126 needed any amendment to clarify this intention and if so, to effect the same.

7. *Chapter IV—Section 108 to 116 of the principal Act.*—The Committee considered these sections and felt that as no difficulty had in fact been experienced in respect of these provisions, the sections might be left as they are.

8. The Committee next considered the following suggestions made by members:—

(i) that each contesting candidate should be permitted to send, free of cost, at least one post card to every voter in his constituency for canvassing his candidature,

(ii) that the ballot boxes should be made fool-proof,

(iii) that counting should be done by the Presiding Officer in the presence of the agents of the candidates immediately after the polling is over,

(iv) that voting should be made compulsory,

(v) that the Government should prepare an Election Code.

Regarding (i) above, the Committee accepted the suggestion and desired that a recommendation to that effect might be added in their Report.

Regarding (ii), the Committee requested the Chief Election Commissioner to see that the boxes are so made that they cannot be tampered with.

Regarding (iii) above, the Committee felt that every effort should be made by the Election Commission for completing the counting of votes as soon as possible.

Regarding (iv), the Committee felt that compulsory voting should not be introduced.

Regarding (v), the Committee desired that the Government should undertake this work as early as possible.

9. The Committee then adjourned to meet again at 2 P.M. on Saturday, the 21st January, 1956.

XVI

Nineteenth Sitting

The Committee met from 2 P.M. to 3-45 P.M. on Saturday, the 21st January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri S. C. Deb
3. Shri Ganesh Sadashiv Altekar
4. Shri Gopalrao Bajirao Khedkar
5. Shri H. C. Heda
6. Shri C. D. Pande
7. Shri Nemi Chandra Kasliwal
8. Shri Feroze Gandhi
9. Shri H. Siddananjappa
10. Shri A. M. Thomas
11. Shri C. Ramaswamy Mudaliar
12. Shri Mukund Lal Agrawal
13. Shri Bahadurbhai Kunthabhai Patel
14. Shri Shivram Rango Rane
15. Shri Nettur P. Damodaran
16. Shri Shriman Narayan
17. Shri Shree Narayan Das
18. Shri M. S. Gurupadaswamy
19. Shri Sivamurthi Swami
20. Shri Amjad Ali
21. Sardar Hukam Singh
22. Shri Shankar Shantaram More
23. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Report of the Sub-Committee was presented by the Chairman (Appendix II).

3. The Committee had a general discussion on sections 100, 123 to 125 as amended by the Sub-Committee.

4. The Committee then adjourned to meet again at 10 A.M. on Monday, the 23rd January, 1956.

XVII

Twentieth Sitting

The Committee met from 10 A.M. to 12-30 P.M. on Monday, the 23rd January, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri T. N. Viswanatha Reddy
3. Shri Venkatesh Narayan Tivary
4. Shri S. C. Deb
5. Shri Ganesh Sadashiv Altekar
6. Shri Gopalrao Bajirao Khedkar
7. Shri H. C. Heda
8. Shri Rameshwar Sahu
9. Shri Nemi Chandra Kasliwal
10. Shri Feroze Gandhi
11. Pandit Algu Rai Shastri
12. Shrimati Subhadra Joshi
13. Shri H. Siddananjappa
14. Shri A. M. Thomas
15. Shri C. Ramaswamy Mudaliar
16. Shri M. L. Dwivedi
17. Shri Mukund Lal Agrawal
18. Shri Bahadurbhai Kunthabhai Patel
19. Shri Shivram Rango Rane
20. Shri Nettur P. Damodaran
21. Shri Shree Narayan Das
22. Shri M. S. Gurupadaswamy
23. Shri Sivamurthi Swami
24. Shri Amjad Ali
25. Sardar Hukam Singh

26. Shri Shankar Shantaram More
27. Shri Anandchand
28. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. V. K. Sundaram, *Chief Election Commissioner.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee took up consideration of the amendments suggested to sections 84, 98, 100, 123, 124 and 125 of the principal Act by the Sub-Committee in their Report (Appendix II).

3. *Section* 100 *of the principal Act.*—In the amendment proposed by the Sub-Committee to this section, in clause d(ii) of sub-section (1), for the words "by any corrupt practice committed" the words "by any act specified in clauses (1) to (8) of section 123 and done" were substituted. Also, for the word "connivance" the word "consent" was substituted.

In d(iv), the words "or any other Act or rules relating to the election" were deleted.

Subject to the above, the amendments proposed by the Sub-Committee to section 100 of the principal Act were adopted.

4. *Section* 123 *of the principal Act.*—The amendment proposed by the Sub-Committee to this section was adopted by the Committee with the following modifications:—

In the proposed clause (8) to section 123—

(i) after the words "any person in the" the word "whole-time" was deleted;

(ii) in (f) after the words "revenue officers" the words "including village accountants such as *patwari, lekhpal, karnam, talati* and the like but excluding the village revenue officers; and" were substituted;

(iii) in (g) the word "whole-time" was deleted.

5. *Sections* 124 *and* 125 *of the principal Act.*—The Committee agreed to the omission of these sections, as proposed by the Sub-Committee.

6. The Committee directed the Draftsman to examine the principal Act and to effect necessary consequential amendments therein consequent upon the amendment made to section 123 and the omission of sections 124 and 125.

7. *Sections* 84 *and* 98 *of the principal Act.*—The amendments proposed by the Sub-Committee to these sections were adopted.

8. The Committee decided to consider the draft Report at their next sitting.

9. The Committee then adjourned to meet again at 4 P.M. on Wednesday, the 8th February, 1956.

XVIII

Twenty-first Sitting

The Committee met from 4 P.M. to 6-15 P.M. on Wednesday, the 8th February, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri Gopalrao Bajirao Khedkar
4. Shri Radha Charan Sharma
5. Shri B. B. Varma
6. Shri C. D. Pande
7. Pandit Balkrishna Sharma
8. Shri Rameshwar Sahu
9. Shri Feroze Gandhi
10. Pandit Algu Rai Shastri
11. Shrimati Subhadra Joshi
12. Shri A. M. Thomas
13. Shri M. L. Dwivedi
14. Shri Mukund Lal Agrawal
15. Shri Bahadurbhai Kunthabhai Patel
16. Shri Shivram Rango Rane
17. Shri Nettur P. Damodaran
18. Shri Shree Narayan Das
19. Shri Hirendra Nath Mukerjee
20. Shri Sivamurthi Swami
21. Shri Amjad Ali
22. Sardar Hukam Singh
23. Shri Shankar Shantaram More
24. Shri Anandchand
25. Shri Hari Vinayak Pataskar

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. At the outset, the Chairman mentioned to the Committee that requests had been received from Shri N. C. Chatterjee, Sardar Hukam

Singh, Shri Amjad Ali, Pandit Balkrishna Sharma, Shri M. L. Dwivedi and Shri Hirendra Nath Mukerjee for permission to reopen Clauses 48, 56, 65 and 76 of the Bill as introduced.

After hearing some members who made submissions on the issue, the Chairman refused permission to reopen Clause 56, but granted permission to reopen Clause 76.

Requests for reopening other two Clauses were not pressed.

3. *Original Clause* 76 (*Clause* 83 *of the Bill as amended*).—It was pointed out that the provisions of the re-numbered Clause 83 and the re-numbered Clause 70 did not read in harmony. The Committee felt that the re-numbered Clause 70 needed clarification.

The Committee, therefore, added a new Sub-Clause (2) to the re-numbered Clause 70 as follows:—

> "(2) It is hereby declared that any disqualification for membership entailed by any act which has ceased to be a corrupt or illegal practice under the principal Act, as amended by this Act shall stand removed".

4. *Re-numbered Clause* 65.—In sub-section (3) of the proposed section 123, after the word "religious" the word "symbols" was inserted.

5. With the two amendments made in the re-numbered Clauses 65 and 70, the Committee adopted the Bill as amended.

6. The Committee then took up consideration of the draft Report.

7. The consideration of the draft Report had not concluded, when the Chairman brought to the notice of the Committee the requests made by and on behalf of certain members who were absent from the sitting to postpone the final sitting to a future date on or about 15th February in order to enable them to attend the sitting.

The Committee thereupon decided to sit on the 14th February and consider the draft Report.

8. A letter received from the Department of Parliamentary Affairs suggesting that copies of the Report may be circulated to members before the 15th February was also placed by the Chairman before the Committee. But the Committee regretted inability to comply with the request in view of the decision taken regarding the final sitting of the Committee on the 14th February.

9. The Committee decided that Minutes of Dissent, if any, should be sent to the Lok Sabha Secretariat after the conclusion of the last sitting of the Committee on 14th February so as to reach them by 3 P.M. on the same day.

10. The Committee then adjourned to meet again at 9-30 A.M. on Tuesday, the 14th February, 1956.

XIX

Twenty-second Sitting

The Committee met from 9-30 A.M. to 9-55 A.M. on Tuesday, the 14th February, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman*

MEMBERS

2. Shri Venkatesh Narayan Tivary
3. Shri S. C. Deb
4. Shri Gopalrao Bajirao Khedkar
5. Shri Radha Charan Sharma
6. Shri B. B. Varma
7. Shri C. D. Pande
8. Shri Nemi Chandra Kasliwal
9. Shri Feroze Gandhi
10. Shri H. Siddananjappa
11. Shri A. M. Thomas
12. Shri M. L. Dwivedi
13. Shri Mukund Lal Agrawal
14. Shri Bahadurbhai Kunthabhai Patel
15. Shri Shivram Rango Rane
16. Shri Shree Narayan Das
17. Shri Sivamurthi Swami
18. Shri Amjad Ali
19. Sardar Hukam Singh
20. Shri Shankar Shantaram More
21. Shri Hari Vinayak Pataskar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee expressed deep concern over the illness of Shri G. V. Mavalankar, Speaker, Lok Sabha, and wished his speedy recovery.

3. The Committee then resumed consideration of the draft Report and adopted the same.

4. The Committee authorised the Chairman to present the Report on their behalf.

5. The Committee then adjourned at 9-55 A.M.

APPENDIX A

NOTE

When the Representation of the People (Amendment) Bill was sent to the Select Committee some of the Hon. Members had suggested that the provisions relating to the lodging of return of election expenses be done away with. This subject naturally came up for serious discussion before the Committee. This proposal did not however find favour with the Committee and the original proposals in the Bill were kept intact. The proposals on the Bill in regard to declaration were certainly improvements on the present position, in so far as, the obligation on the candidate and his election agent to appear before a magistrate to solemnly affirm that the return of election expenses was true to the best of the knowledge and belief of the candidate and his election agent and that no expenses except the expenses set forth therein were incurred for the purpose of such candidate, was eliminated. Section 44 of the Representation of the People Act enforces an obligation of keeping separate and regular books of account wherein such particulars of expenditure as may be prescribed to be entered. According to section 7(c) of the Act "a person shall be disqualified for being chosen as and for being a member of the Houses of Parliament or of the Legislative Assembly or Legislative Council of a State if having been nominated as a candidate.....or having as election agent.....has failed to lodge a return of election expenses within the time and manner required by or under this Act unless four years have elapsed from date by which the return ought to have been lodged or the Election Commission has removed the disqualification".

According to rules the return of election expenses is to be filed within 45 days of the publication of the result in the Gazette and within 14 days of such return of election expenses are notified, the election petition is to be filed. The Select Committee have now prescribed the period of 2 months for the election petition to be filed from the date of election.

Under Section 143 of the principal Act an additional penalty of not being allowed to vote for a period of 5 years was attached to the default of not filing the return of election expenses or making a false entry therein. The Select Committee have recommended the

omission of this penalty but have agreed to add 135A to the principal Act which was as follows:

"135A. Making false declaration

If a person makes in, or in connection with, any nomination of a candidate for election or any return of election expenses a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both."

The Bill proposes to restrict the operation of Chapter VIII relating to election expenses to certain classes of candidates only. In Chapter VII of the rules provision has been made that the Returning Officer shall certify that the return of election expenses has been made and submit a statement to the Election Commission stating the names of all candidates and their agents with a report whether they have lodged the return within the time and in the manner prescribed. Thereafter the Election Commission will publish a list of such candidates and after considering the report decide whether any candidate or election agent has failed to lodge the return of election expenses within the time and in the manner required by the Act and the rules and the candidate and the election agent have thereby incurred disqualification under clause (c) of section 7 and under section 143. Under the rules the disqualification could be removed by the Election Commissioner after such inquiry as he thought fit about the question why default was made.

There is no rule which requires or enables a Returning Officer or the Election Commissioner to scrutinise the accounts or find out whether the entries in the return are correct or wrong. They are only concerned that returns are filed in time and in the manner prescribed by the rules. The accounts, separate or regular or joint and irregular, howsoever kept remain with the candidates and only the returns or excerpts from such accounts entered in the elaborate forms prescribed are filed.

Such returns are open to inspection on payment of nominal fees. At the time of election petition these returns and the accounts if produced can be attached. If any false entry is found it constitutes a minor corrupt practice and an election can be avoided if a corrupt practice has materially affected the result. Thus the only use of these returns and accounts is with reference to the election petition and thus out of the twenty-nine thousand or more returns which should have been filed only 320 returns could possibly have been used in the election petitions. If we take away such election petitions as

proceeded on the basis of wrong nomination papers the number still become less. Thus in not more than one per cent. cases this return and account could possibly be used.

Now when we remember the undoubted fact that amongst us the habit of keeping accounts is not so well established as in other countries, where literacy is much more, the restriction of keeping separate and regular books of account is felt to be very onerous. If we look at Schedule III of the rules and the ceiling which restricts the expenditure, its forms, it appears that some of them are incapable of being complied with the best of efforts and intentions. It is no wonder therefore that in an excessively large number of cases (in no case, in my humble estimate less than 75 per cent.) the returns do not substantially comply with the requirements of the rules and the law and these returns are notoriously wrong and in many cases false. The requirement of the law that declaration and returns must be lodged with the Returning Officer thus puts too great a strain on the conscience of the members even when they do not lodge deliberately false returns and specially so when such returns and accounts are only useable in only one per cent. of cases. I can well understand the provision about the ceiling as also the obligation of keeping right accounts as they constitute in the opinion of many persons salutary safeguards against excessive expenditure and exercise of corrupt and illegal practices. I can also understand that at the time of the trial of election petition such accounts may be utilised by the petitioner to prove his allegations. I can also fully appreciate the provision of Section 135A which rightly penalises the making of false accounts but what I do not appreciate is that separate and regular account books (which means three sets at least written day by day) are to be kept by each member and the return is to be lodged and declaration made within a prescribed time and manner by each member. Thousands of members against whom no election petition was made or could be made have been disqualified and subsequently proceedings have been taken for removal of their disqualification. In my humble opinion if the ceiling and the obligation to keep accounts are kept as well as the obligation of production of accounts and returns seven days after the election petition has been filed all the advantages of these safeguards will be fully availed of. I do not like that the petitioner should be enabled to bolster up a case in the election petition on the basis of entries in the returns. He can however be enabled to file, within a fortnight or ten days of the return being filed, his objections to the accuracy of the returns. It can be argued that these provisions will entail some delay in the disposal of election petition. But in my humble opinion the procedure can very easily be gone into within a short time before the trial of election petition begins which usually does not begin very shortly after the petition is filed.

This compromise between doing away with the provisions entirely and the present position is well worth trying. The proposal combines the ground and salutary effect of the provisions relating to ceiling and keeping true accounts and filing honest returns with the absence of evil concomitant with the obligation of making wrong and false declaration and returns which serve very little purpose. In my humble view the rules and the law must be such as can be reasonably complied with. If in spirit they are violated and in form they are complied with a situation is created in which self deception is tolerated to a degree which is to say the least is scandalous and in conflict with morality and probity which the Parliament of India are supposed to practice.

I am submitting the note not by way of dissent upon any fundamental point but as an humble suggestion for the honourable members of the House to consider in connection with the law and practice regarding election expenses. If it is accepted section 7 and some rules will have to be amended.

THAKUR DAS BHARGAVA.

NEW DELHI;
The 30th November, 1953.

GIPD—LAD—1881 LS—23-3-56