

श्री पद्मनाभ काशपाल : मैं मंत्री  
को यह कहना चाहता हूँ, लेकिन  
नैशनल फ्रेंडरेशन आफ लेबर कोऑपरेटिव  
सोसायटीज रजिस्टर्ड हो चुकी हैं। इस  
लिए मैं उस के बारे में विशेष रूप से आग्रह  
करता हूँ

MR. CHAIRMAN: The hon. Minister  
has said that he will consider the  
matter.

The question is:

"That the Bill as amended, be  
passed".

*The motion was adopted*

16.28 hrs.

#### PRESIDENTIAL AND VICE-PRESI- DENTIAL ELECTIONS (AMEND- MENT) BILL

THE MINISTER OF LAW, JUSTICE  
AND COMPANY AFFAIRS (SHRI  
H R GOKHALE). I beg to move.

'That the Bill to amend the Presi-  
dential and Vice-Presidential Elec-  
tions Act, 1952, as reported by the  
Joint Committee, be taken into con-  
sideration'.

Experience in the past regarding  
Presidential election has not been an  
altogether satisfying one in view of  
the unseemly spectacle of innumerable  
frivolous nominations being filed by  
persons in a lighthearted manner and  
the equally unedifying spectacle of  
election petitions being filed in much  
the same lighthearted fashion. It was,  
therefore felt that in order that the  
highest office of the Head of the  
State is not dragged into needless con-  
troversy because of the aforesaid prac-  
tices, it would be necessary to in-  
corporate in the law relating to Presi-  
dential and Vice-Presidential elec-  
tions, provisions which would operate  
as effective checks both against frivol-  
ous nominations and lighthearted elec-  
tion petitions. With this end in view,

a Bill was introduced in Parliament,  
the salient features of which were as  
follows.

- (1) A prospective Presidential candi-  
date should get the support of  
at least forty electors of whom  
at least twelve electors shall be  
Members of Parliament and at  
least twenty-four shall be  
Members of State Legislative  
Assemblies. A prospective Vice-  
Presidential candidate should  
get the support of at least ten  
electors.
- (2) A prospective candidate should  
deposit a sum of two thousand  
five hundred rupees, which  
amount shall be liable to be  
forfeited in case the candidate  
fails to secure one-sixth of the  
number of votes necessary to  
secure the return of a candidate
- (3) There should be a minimum of  
forty electors joined together  
as petitioners for challenging  
an election to the office of Presi-  
dent and of these forty electors  
at least twelve should be Mem-  
bers of Parliament and at least  
twenty-four should be Members  
of the State Legislative Assem-  
blies. There should be a mini-  
mum of ten electors joined to-  
gether as petitioners for chal-  
lenging an election to the office  
of the Vice-President
- (4) The ground relating to the  
offence of bribery or undue in-  
fluence for challenging an elec-  
tion to the office of President  
or Vice-President should be  
omitted altogether.
- (5) The fact that the nomination of  
any candidate (other than the  
successful candidate) who has  
not withdrawn his candidature  
has been wrongly accepted  
should no longer constitute a  
ground for declaring the elec-  
tion of a candidate to be void  
unless such acceptance has  
materially affected the result of  
the election.

[Shri H. R. Gokhale]

The Bill was referred to a Joint Committee wherein the provisions were discussed in great detail and the Bill that has emerged as a result of this searching scrutiny in the Joint Committee contains changes of a substantial nature which were made having regard to the various shades of opinion expressed in the Committee. Without going into the changes which are of a minor character or of a drafting nature, the important changes made by the Joint Committee in the Bill are:

- (1) Reduction in the number of minimum supporters for the filing of nomination as well as the filing of an election petition in the case of the Presidential election from forty to twenty—ten as proposers and ten as seconders for the purpose of filing nominations;
- (2) Doing away with the further requirement of the support of a specified number of members of Parliament and members of Legislative Assemblies;
- (3) Instead of the provision for the rejection of the nomination papers of all the candidates other than the one that has been filed first where a person has subscribed, whether as proposer or seconder more nominations than one, it has been provided that in such a case the signature of such persons would merely be inoperative on any nomination paper other than the one first delivered; and
- (4) Instead of altogether doing away with the grounds of bribery and undue influence from the purview of the law, it has now been provided that the commission of these two offences at an election by the returned candidate or by any person with the consent (and not connivance) of the returned candidate shall have the result of vitiating the election. It is needless to mention that this change effected in

the Bill while reflecting the general consensus that obtained in the Joint Committee, would also mark a happy via media solution between two extreme views that may be possible in this behalf.

Before I conclude, I would do well to allow the apprehensions, if any, that may be entertained by members about the reasons which prompted the Government to undertake a legislation of this nature. As I had said at the outset, it does not redound to the honour or dignity of our country that the highest elective office in the country should be besmirched and tarnished in a manner which cannot certainly be said to enhance the prestige of the country in the world. It is also considered necessary to provide a built in mechanism in the law which would have a salutary and regulatory effect in curbing tendencies not conducive to the growth of a healthy democracy. The changes introduced in the law are motivated by these considerations. At the same time, the Government has also shown the utmost anxiety and receptivity in making the changes in the Bill, having regard to the various shades of opinion expressed in the Joint Committee without, at the same time, departing from the basic and fundamental objective which motivated the Government in initiating a legislation of this kind. I have hope that this Bill will receive an overwhelming measure of support of the House.

With these remarks, I commend the Bill, as reported by the Joint Committee, for consideration and acceptance of the House.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend the Presidential and Vice-Presidential Elections Act, 1952, as reported by the Joint Committee, be taken into consideration".

SHRI SOMNATH CHATTERJEE (Burdwan): The hon. Minister had said that the main reason which promoted Government to come forward

with the Bill was to see that there were no frivolous nominations, and that election petitions were not filed in a lighthearted manner, and that all these proposals were prompted by the desire of Government to see that in matters regarding election to the highest offices in the country, nothing was done to tarnish the image of the President or the Vice-President.

There was, if I may say so, an outrageous provision in the Bill—or rather the omission of a provision when the Bill was first presented to the Lok Sabha. Happily the Joint Committee has not been persuaded to accept that provision that so far as bribery or undue influence are concerned, they would not form part of the grounds for challenging the election. However, that had been introduced.

This Bill was introduced after the decision of the Supreme Court in Shri Giri's election case was out.

Sir, that election was very bitterly fought in this country; and nobody can deny it. The Supreme Court, after hearing the matter for months and hearing the evidence of numerous witnesses, came to a finding that deliberately false evidence has been given in the case. I may quote only one passage from the judgment of Mr. Justice G. K. Mitter while delivering one of the concurring judgments of the Supreme Court in that case. It said:

"The litigation was not one of an ordinary type, and it was conducted with great zeal on either side. It has divulged a sad lack of responsibility and uprightness in the elected representatives of the people figuring either as witnesses for the petitioners or as witnesses for the respondent. In a case like this, where both sides are responsible for putting into the witness box a large number of persons who deliberately gave evidence which was not true, the proper course is not to award costs even to the successful party."

I am sure the hon. Members are aware that the Supreme Court held

in that case by a majority judgment that undue influence in fact had been exercised but it was not possible on the evidence that was available before the Supreme Court to come to the conclusion that it was done with connivance of the returned candidate. Therefore, the election was not set aside, but in no uncertain manner it was held that undue influence has been in fact exercised.

Could anybody say that that election petition—I am not going into the merits as such—had been presented in a lighthearted manner? Could anybody say—the election petition had raised so many important questions of both of law and of fact—that because of some frivolous nomination papers having been filed, it resulted in that election petition? It could not be said. What was sought to be done was this. If I may say so, it was a most reprehensible attitude on the part of the Government to come forward with the Bill to delete the provisions as in the existing legislation that the election of a returned candidates to the highest office in this country will be vitiated if there was undue influence. That was intended to be deleted. What prompted the Government? The hon. Minister in his introductory speech, referred to that initial proposal I would like to know why such an outrageous proposal even could be conceived of by the Government for the purpose of introducing legislation in this respect.

Sir, happily, as I said, the Joint Committee was persuaded not to accept that and it made recommendations although in a mutilated form which have been accepted apparently by the Government, and I shall come to that.

Kindly see what are the changes which have been brought forward by the legislation. There are four major aspects. One is about the nomination: who will be entitled to nominate a candidate for the purpose of the Presidential or Vice-Presidential election. Previously, any elected Member of Parliament or any elected member of a State Legislative Assembly could nominate a candidate for the Presi-

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dential election. Now, it is being provided that at least 10 persons must propose and ten persons must second. What is the special charm in this number? We have had the strange spectacle in this country that a candidate of the ruling party who was proposed by the leader of the party—it is in the common knowledge—that proposer did not vote for the candidate! Therefore, where is the special charm in finding out how many electors are initially behind the candidate for the purpose of proposing the nomination? Where is the sacrosanct aspect behind this number?

He gets 20 persons to propose him and second him. They may not vote for him. Would it not be a frivolous nomination? Where is the guarantee that in any election the proposer and the seconder will necessarily vote for the candidate? In the really contested elections, in the most bitterly contested elections to the Presidentship of the country, neither the proposer nor the seconder voted for their candidate. Therefore, what is the principle behind it? 20 persons may come forward and ultimately they may not vote. Previously the law was that there must be two electors as proposers and seconders. Suppose two persons were persuaded to propose a candidate and ultimately they did not vote for him? There might have been in history cases where a candidate did not get a single vote. Will the provision to have 10 persons as proposers and 10 persons as seconders ensure or instil a sense of seriousness in the election?

We know that the election to the office of the President is an indirect election. The electoral college consists of elected Members of both the Houses of Parliament and the elected Members of the Legislative Assemblies of the States. In what respect do they reflect popular feelings or popular choice in the country? We have been saying that for the purpose of getting proper reflection of the views of people in the legislative bodies, the elections must be held on the basis of proportional representation. Otherwise parties getting minority votes in the

country can come to power. It has been the experience that with much less than 50 per cent of votes, the ruling party has been in the saddle for so many years. The first thing, therefore, is to introduce the principle of proportional representation in the election of Members to the House of the People and to the Legislative Assemblies in the States, if you cannot have direct election to the President as such. Therefore, our submission is that this attempt will not solve any of the problems that the Government are faced with. It will restrict the proper functioning and proper evolution of the democratic process. Why do you take away the right of a person to stand for election to the office of President? At least he can ventilate his views in the country whether the electoral college accepts him or not. Even if he is defeated, what does it matter? Can you restrict the number of candidates for Assemblies or for Parliament? We find that we have numerous candidates. Does it detract from the importance of the election, because there are numerous candidates? It does not. By this you are putting a restriction so that persons who may be worthwhile and who want to express their dissent in a democratic manner are deprived of their right to express their views in a lawful and a peaceful manner. Therefore, the artificial limitations which are sought to be put by this legislation, will not necessarily enhance the prestige of the office of President. The President's prestige must depend on the powers he has, the way he exercises the powers for the benefit of the people. What is our experience? How many times has article 356, which deals with the imposition of President's Rule, been, we say, misused in different States? The recent example is that of Gujarat which shows that for the purpose of the ruling party's interests the Legislative Assemblies are kept alive and where it does not suit the interest of the ruling party, the Legislative Assemblies are dissolved. When the people of Gujarat have risen with one voice against the administration in the State, when the Ministry was forced to resign, the very Legislative



Assembly which cannot put up an acceptable Chief Minister, that Legislative Assembly is being kept in suspended animation for the purpose of being utilized as and when it suits the ruling party. Therefore, when the powers of the hon. President of this country, holding the highest office, the august post, can be utilized for the purpose of misusing the provisions of the articles of the Constitution of India, merely trying to put some restrictions here and there, trying to place it beyond the pale of controversy in such cases, as is intended to be done here, cannot solve the problem.

Article 310 of the Constitution seeks to protect the tenure of office of the Government servants of the country. Under that very article the President can do away with the statutory requirement of holding an enquiry before he dismisses a Government servant. What is happening in this country? Article 310 is being taken recourse to for political purposes. Officers have been dismissed without any enquiry, without any charge-sheet, without their being asked to show cause, only for purely political purposes. In one case where the Government Secretary had taken recourse to article 310, when the case went to the Supreme Court, the Court observed that it is the personal discretion of the President which has to be exercised. When the case went to the President the result was the same. So, the incumbent to the office of the President has to discharge his duties and responsibilities in a manner which generates confidence in that post; merely trying to put some restrictions in the manner of election of the President will not create that sense of confidence in the post.

One of the steps that will have to be taken in this regard is to introduce the necessary basic electoral reforms in this country. If we want to have real reflection of the wishes of the people, we should have proportional representation. Then, why are we keeping the young people of this country between the ages of 18 and 21 from

the process of elections? Why should they not be allowed to take part in the elections? Yet, that is not being done. The youth of this country, which is making contribution in the different walks of life is kept out of the electoral process.

Therefore, our submission is that this proposal to have ten persons as proposers and ten persons as seconders is not intended to achieve what is sought to be achieved, because there is no guarantee that the proposer and seconder will vote for that candidate. Therefore, if a person can persuade 20 people to sponsor his candidature he has got the right to contest while the others cannot. There is no rationale behind this principle and it is a check on the proper democratic process.

It is said that sometimes a candidate with a remote chance of being elected is standing as a candidate for the election. At what point of time is it decided? Without meaning any disrespect to anybody, particularly to the holder of the highest office in this country, for whom I have got the highest personal respect, was it sure that Shri V. V. Giri would be elected as President of this country? There was no political party which sponsored his candidature. Even though the ruling party had the majority in this country, it was not sponsoring him as its candidate and no other political party was sponsoring him as its candidate. Therefore, when Shri V. V. Giri stood as a candidate for election, was it certain that he was bound to be elected? It was thought by many people that he will put up a serious fight with the official Congress candidate without a very good chance of success. How do you decide? At the time of putting in nomination papers how does one decide whether he has a good chance or a remote chance of being elected?

The 1969 election for the office of the President has been an eye-opener in many respects. Now, you want that once you have achieved what you intended to, subsequent to the filing of

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the nomination papers, that system may continue so that your right again may not be impinged.

If I may use the expression, these are special reasons which are being put forward for the purpose of enacting a legislation, trying to tinker with the provisions here and there and trying to give an impression that the Presidential election has become as it were, the play-field for certain interested or disinterested parties.

Another proposal is that of deposit. Are we going to judge in this country everything by the yardstick of money? Whether a candidate should stand for election of the highest office in this country, that will depend on whether he can beg, borrow or steal or make a deposit of Rs. 2500 in cash? What is the principle behind it? You wish to put restrictions, you wish to get money from the people to find out whether he is a serious man or not a serious man. In the event, if somebody wants to make a deposit for the Presidential election without having a chance, is it so difficult for him to find out Rs. 2500? What is this deposit for? Why suddenly you are introducing a principle which cannot help you in solving what you are trying to solve?

An amount of Rs. 2500 cannot be completely beyond the reach of interested persons. On the other hand, it may be a dissuading factor for the purpose of honest person, who honestly wishes to project his views before the country who wishes to be considered as a bona fide candidate for election to the office of the President, and who has got new things to say to the people of this country. Whether it is accepted or not, he has a right of expressing his dissent democratically if he is not satisfied with the system prevailing in the country. Therefore, you are putting an artificial restriction on him that he must pay Rs. 2500. If he pays Rs. 2500, you tell him, "Now, you seem to be a very sincere person. You have got a good chance because you could find out Rs. 2500. You have passed the initial test of a 'serious candidate'". How unreal is this? You

are introducing proposals which cannot be utilised for the purpose for which you want to introduce them.

Another very important thing is about the question of election petition. Nobody wants a frivolous litigation except professional lawyers like us may be. Nobody will go to the Supreme Court with a completely frivolous election petition. We ought to have faith in the Supreme Court. If you do not have faith in the Supreme Court, that is a different thing. If a frivolous election petition is taken to the Supreme Court, the Supreme Court will be able to deal with it in a proper manner. Does it mean that unless you have got 20 persons to move an election petition, the election petition is frivolous?

In Mr. Giri's case, our present President's case, 10 persons moved an election petition. Whether we were happy or unhappy that the matter was taken to the court is a different thing. We are not concerned with actual personalities. We are concerned with the principle. 10 persons applied for setting aside the election of our present President. Was it a frivolous petition because 10 persons moved it? Now, suddenly after this Bill is passed 10 electors to the office of the President, 10 electors to the office of the Vice-President, cannot think rationally. They cannot take a reasonable decision. They cannot decide on their own whether they have got good grounds for fighting an election petition or not. And if ten more persons or 15 more persons who do not apply their individual mind to it are added, certainly those persons 20 or 21, become able to decide whether the election petition will be a good petition or not. Is that the position? Therefore, my submission is that you cannot achieve these things by merely putting these arbitrary and unreal restrictions on the rights of the people. You have to attack the root of the problem, you have to find out why these sorts of things are being done, what steps are taken in this Bill to see that, in respect of this highest office of this country there should not

even be a suspicion of undue influence. Instead of taking steps to remove even a suspicion of undue influence, the initial proposal was to do away with the requirement altogether.

Previously, as you are aware, one of the grounds for setting aside an election was that, if there was undue influence with the connivance of the returned candidate, then the election was liable to be set aside irrespective of the fact whether the result of the election had been materially affected or not. I am reading section 18 of the present Act which says:

"If the Supreme Court is of opinion: 'that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the connivance of the returned candidate', the election will be set aside.

Now what is being done? The portion 'connivance of the returned candidate' is being deleted, and it is now being provided under the proposed law.

"If the Supreme Court is of opinion, that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the consent of the returned candidate."

Now a person may connive at a thing, and if he is not a consenting party, he is not affected. You know, Sir, how difficult it is to prove direct consent. Therefore, the person may connive at it undue influence may be exercised with his connivance. And this is the provision in respect of election to the highest office in this country; Therefore, people may be allowed to have a feeling that so and so who has become President may have connived at undue influence but he has not consented to it. By this, are we raising the position of President in this country? Suppose I am able to prove that he has connived at it. Is that adding lustre to the highest office? Are you putting it in such a position that people will have complete faith in it? On the other hand, by passing this legislation, we are trying to

detract from the great position this office occupies in this country; we are trying to have it in the people's mind that the Government in this country, the Parliament in this country, does not mind that the candidate who has been elected President of this country has connived at exercising undue influence during the process of election but as he was not a consenting party, he can go scot-free. I hope the hon. Minister will try to tell us the difference between consent and connivance, what is the inter-relation between the two. One has to be frank about it. I request the hon. Minister to deal with these points specifically. Why this change has been made, is consent something else than connivance or is it the same as connivance or connivance is something other than consent and how difficult it is to prove the consent as such in the case of undue influence or bribery. Now connivance at bribery is permitted? Is that the position if the law is passed? Therefore, our submission is: this is also not a proper change. At least, the Select Committee has made some improvements, considerable improvements than the proposed Bill. But, even then we feel that it is not necessary to come out with a Bill like that, for the purpose of making changes which do not aid to the position of the President of this country, but, on the other hand, cause suspicions in the minds of the people,

17.00 hrs.

So far as Vice-President is concerned, you know here the number has been put, so far as election petition, at 10 or more, joining together. Previously, it was 5. There was no restriction. But, why again this artificial restriction? So far as the Vice-President of this country concerned he is also the Chairman of the Rajya Sabha. We feel that if the Vice-President has to play a real role in the country and in the country's evolution of democratic processes, than the Council of States which he represents should be really a representative of the States of this country.

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We do not want a secondary role for the Council of States, the Rajya Sabha. We are of the view that the Council of States, representing the States, should play an equal part, an equally important role in the legislative functioning in this country. Therefore, we want that so far as the Council of States is concerned, it should also be elected by direct election through the system of proportional representation. Then it will truly reflect the States' views and if that Council of States is constituted it can elect its own Chairman who can be the Vice-President of this country. Why do you bring in here the Members of the Lok Sabha? For the purpose of election of Speaker, we do not allow interference by the Rajya Sabha members, but, for the purpose of electing the Chairman of the Rajya Sabha, you allow Lok Sabha members to participate. Therefore our submission is that this proposal also does not mean what is necessary for the purpose of a proper evolution of the democratic processes.

I have only one more submission to make, that unless in this country, the people's faith is established and restored in the proper holding of elections and in the proper conduct of elections, whatever electoral rules, whatever electoral laws we seek to introduce or seek to legislate, will not serve any purpose. It will not restore the people's confidence and all these legislations are bound to remain always suspect in the minds of the people. The need is to purify the method of election, the need is to find out the true mandate of the people and not to put restriction so that once a Party is in power, it can manipulate as to how the election can be held and how it can always get its candidates by one method or the other elected.

Therefore, these are the vital aspects, namely, electoral reforms, pro-

per conduct and holding of elections. These are the things to be attended to before we bring this type of legislation. Therefore, we do not support this proposal because it will not do away with frivolous nominations nor will it do away what is described as light-hearted election petitions. I do not know how a petition by 20 becomes a stout hearted petition and that of 10 persons makes it a light-hearted one. Merely 10 persons would add strength to the petition?

Therefore, this is a useless piece of legislation. It does not make any progress in any field whatsoever. On the other hand, it creates suspicion in the minds of the people.

With these words, I oppose this Bill.

SHRI H. N. MUKERJEE (Calcutta—North-East). I have had only a cursory opportunity of looking at the Bill as reported on by the Joint Committee and the predominant impression in my mind is, that this is a gratuitous piece of legislation with which unfortunately our Parliament has occupied itself for quite a considerable period of time, and the result is, legislation which is completely uncalled for.

I really find it very difficult to understand the motive behind such legislation unless it be, as my friend Mr. Chatterjee suggested a little while earlier, that it is to put curbs on the normal decent democratic way of securing elections, even to the highest offices in our country. I have no manner of doubt in my mind that when the Constituent Assembly was in session, they gave a great deal of thought to the dignity and the supreme importance of the office of President and also of the essentiality of the office of the Vice-President and they set out a certain me-

chanism for the election of these two of our foremost dignitaries.

But, perhaps, when after the election of our President last time, there were certain legal proceedings, and the President did appear before the Supreme Court, it may be that some sticklers for the ceremonials in Government, got an idea that there should be efforts made to put the President,—and to some extent also the Vice-President,—in such a very separate category, shrouded in some kind of oil paper which should be absolutely beyond the ambit so to speak, of normal legislative principles of selection.

I do not know why it is that because of the likely appearance of a few people with frivolous intentions of self-publicity—we should try to shroud the office of the President and the Vice-President in this particular manner.

As a matter of fact, it was only in the Committee that the number of electors required obligatorily by the President for the purposes of his nomination for selection is brought now to 20 instead of 40, as said earlier. Why on earth should it be obligatory for a citizen of this country to be nominated by as many as 20 people and not less, and they have to be Members of the Legislature? What harm is there if in a country where certain minorities which are not represented in the legislature even to any extent do get an opportunity of contesting the office of a President? Why should not even symbolically the office of President be permitted to be contested by individuals? Is it because we think some cranks would get into the scene? The cranks can get into the scene in this country even though you make provisions of this sort. We should have no exaggerated idea of our own legislators, inclu-

ding ourselves, that if we put the number at a very high level. then, of course, nothing wrong would happen. We see what sort of things take place. Parliament is now in possession of the Defection Bill, which again is another example of the kind of degeneration which has overtaken the legislative life of this country, where you find legislators, elected representatives of the people behaving in a manner which is most dastardly.

It is no good merely adding to the number of likely nominators of the President, to make sure that only very serious nominations for Presidentship would take place.

I do not know why one has to go on motive—hunting of a motiveless malignity, as somebody said about a Shakespearian character, in so far as Government's legislation is concerned; What is the reason for it? What is the provocation for it?

What is the reason for limiting the right of the electors to propose somebody for the office of the President and Vice-President? The experience of the last four or five elections has not been so dismal and disastrous and all that. The elections had proceeded in a very smooth and harmonious fashion. One or two candidates had appeared when nobody ever knew. Their names appeared in the papers for a few days. And everybody laughed over them. So, please let us not put this legislation in our Statute Book I do not see any reason why we should try to limit the rights of the electors in so far as the proposal for Presidentship and Vice-Presidentship is concerned. I find it almost impossible to accept the idea of the change which has been suggested by the Joint Committee in so far as the grounds for disqualification of the returned candidate are concerned.



(Shri H. N. Mahabharjee)

Instead of 'connivance', the word 'consent' has now been put in. What difference does it make? Mr. Chatterjee was arguing quite convincingly. I do not see what Government can say in justification of removing the expression 'connivance' and putting in the word 'consent'? Is it not an implied reflection on the character of a person who gets himself returned as the President of this country? After all, if connivance charge is made against him, he could get away with it but, if he had consented to it, then, of course, he cannot get away. I would not even remotely think of casting that kind of indirect reflection upon a person whom I consider to be capable of getting himself elected as President of this country. What kind of political life are we envisaging? Do the Government not have other jobs to pre-occupy themselves with? Is the condition of the people not an enough assignment which they have got to ameliorate earlier than anything else? Why do we busy ourselves with this kind of gratuitous legislation which means nothing to anybody in this country? Is it because we have this feeling that the President's Office is a high falutin and, so a very special legislation of this type is necessary? It is about time that this country sheds the feudalistic idea about the position of the President and Vice-President being in the clouds, so to speak.

We are suffering on account of the hangover of this mentality which continues to plague the political morality of our lives. Why the President should live in Babylone on splendour in a country like ours where deprivation is the destination of every single individual. In our country, we keep the President in a condition which is a sharp contrast to the living conditions of our people. Here, in our country, where perhaps hundreds of millions of children go to sleep every night hungry, we keep our President and other ceremonial

heads of the country in a peculiar affluent condition. This is a continuation of the feudalistic tradition which should go.

Only yesterday, we had the repetition of the ceremonial ritual which has been performed only because the President, according to the constitutional connotation, appears to be a successor to the Viceroy who was the representatives of the King and therefore should have the regal kind of paraphernalia of beating of the drums and sounding of the bugles, the procession and all that sort of things. This is a reminiscence of the Mambo Jumbo of the feudalistic period.

I refer to all this because the Government of this kind also appears to think that the President is something out of the blue. We seem to put him on a pedestal as if there is a link between him and everybody else in this country.

Mahatma Gandhi had talked about the President being a person and perhaps, an untouchable lady should be installed as a President in this country. He was symbolically trying to give expression to something of the sea change which this ancient country of ours requires to have or wants to have. If that is so, then our people are going to have nothing at all. I know that perhaps the Law Minister would say that all this is not relevant to this Bill. It is absolutely relevant. I say that there is nothing in this Bill which affects the interests of our people at all, and in so far as it affects the interests of our people, it affects prejudicially the right of our people to nominate anybody whom they like whatsoever for election to this office, but because of our conception of the President's office as something very peculiar, very sacrosanct, we get into this kind of absolutely unnecessary legislation.



I have made a very quick and cursory study of the provisions here. I find that there is no need whatever for this.

In regard to the office of the Vice-President also, I agree with what Mr. Chatterjee has suggested about this office. If not the very existence of this office, the very connotation of the office and its duties will have to be thought over much more carefully than this Bill seems to do. The Vice-President more or less is here as someone tagged on to the office of the President. That may be more or less the position as it is in our country today. The Vice-Presidents have normally very little to do except to preside over the Council of States or the Rajya Sabha, and then, if something happens to the President, step in into his shoes. Otherwise, the position of the Vice-President really needs examination. Even in the United States, for instance a Vice-President is more of less non-entity unless for some very special reason he can push his way to the fore front. There used to be a saying that in a family there were two sons, and one went to the sea and the other became Vice-President, and neither of them have been heard of ever since. But that apart we have in this country the office of Vice-President which we consider to be a dignified enough office. Why potter about with the manner of election to the Vice-Presidency? It is a good enough mechanism what you have got already. Why have this kind of additional legislation? Why curb the right? If we are going to think of the position of the Vice-President, do make some deep examination of the position of the Rajya Sabha which some people, when our House of the People was called the Lok Sabha, described as Parlok Sabha, but since that time, insistently, but from different angles, the position of that House continues to be a matter for examination. Examine it properly. I find here Shri Samar Mukherjee's note of dissent, also seconded by Shri

Chatterjee's speech, where references are made to the whole idea of re-examining the *locus standi* or the *raison d'être* of the Rajya Sabha and to bring about whatever changes might be necessary in a Union of States which is the Republic of India. I can understand that that is a matter which requires examination but I just do not understand this sort of thing at all.

I could understand if for example Government came forward with legislation which was suggested after some events when the President's Address was disturbed. I was suggested that we should have a change in the Constitution which would make it unnecessary for the President to come in a peculiarly ceremonial atmosphere and make an Address to Parliament which is absolutely of no moment whatsoever in so far as our parliamentary and public life is concerned, that there should be in all conscience and in all reason an effort change the Constitution, so that the obligation that he has unfortunately to come here and address both Houses together is gone, so that at least the seemingly unnecessary and uncomfortable events can also be avoided at the same time. I can understand some sort of practical legislation to get more time for parliamentary work and less time for unnecessary ceremonial. I can understand that kind of legislation. But why this legislation? Will you save money? Will you save time? Will you bring a better moral atmosphere to play into the office of these two dignitaries? I do not think so at all.

We have had very fine people as our Presidents and Vice-President elected by the processes envisaged in our Constitution, which do not require any change whatever. The changes which have been suggested in the present legislation are changes for the worse, because they fetter the right of the citizen. They fetter also the right of the judiciary to examine cases of misconduct. By

[Shri H. N. Mukherjee]

changing 'connivance' to 'consent', there is an open invitation to misconduct and in a manner which reflects so terribly even on the office of the President. If the Government could envisage a returned Presidential candidate to be capable of connivance but to be clever enough to avoid being caught on the ground of consent, then I say, to hell with the ideas which this Government has got about a parliamentary system of administration, to hell with whatever ideas this Government has got about the office of President in at least a civilised, ancient country like ours. Our experience so far has been such that this kind of legislation which is self-defeating, which is something which is a slander on the character of the people of our country, should go, should not be proceeded with. No harm would be done, no prestige would be affected. I am not asking him to ride a high horse. I do not think he wishes to ride a high horse in this matter. He could very well come round and say: Look here, after some cogitation, we discovered that this Bill need be proceeded with; let the Presidential and Vice-Presidential election be conducted in the manner it has been so far; no harm would result.

Therefore, I would suggest very seriously that he withdraws this Bill. There is nothing in it which requires to be adopted by the House.

SHRI DINESH CHANDRA GOSWAMI (Gauhati): I appreciate the objectives with which this Bill has been brought before the House. No one will dispute that the offices of President and Vice-President are very august offices in this country and therefore, a certain amount of seriousness should be attached to the election to these offices and respect also should be shown to these offices. But as I go through the Bill I feel that the purpose for which this Bill has been brought will not be achieved by this Bill. Even if there was some possibility of achieving it,

the Joint Committee has, to a great extent, diluted it.

Before I go into it, I feel that the time has come for the House to ponder whether merely by changing some legislative provisions relating the election, we can maintain the dignity and decorum of these highest offices like the President's or Vice-President's and also the dignity and decorum of institutions like Parliament. As a young new member who has come to this House for the first time, who has looked into the activities of the House for the last few years, I have felt that the real threat to the dignity and decorum of the institution and these offices comes not only from outsiders but to a great extent from ourselves. To a great extent we have not been able to maintain, on occasions, the dignity and decorum of these highest offices, and may be of this institution also.

Looking back on the events that occurred only on the 18th when the President came to address the two Houses and the scene that some of our friends opposite created, do you really feel that we can maintain the respect or dignity of this august House by creating such a scene? Looking at the time we waste in this House by unnecessary shouts and counter-shouts, can we really expect the dignity and decorum of this institution to be maintained by such behaviour?

One of the most important foreign dignitaries whom I had the opportunity to meet today who—I would not like to name—and who was present in the Gallery told me: 'Look here, your Parliament is respected all over the world because your Parliament represents the largest democracy in the whole world. But with the scene I have seen today when a Minister was making a statement, when there were all sorts of shouts and counter-shouts, due to which I could not listen to a word of what the Minister said, do you

think that for long you will be able to maintain this respect throughout the world if such a situation continues? I hang my head in shame when he said this. I would request all members not only on this side but also on the Opposition side to keep in mind that this warning has come from a person who has no interest in the Indian political scene. He is a man who wants democracy in this country to succeed. He is a man who wants that the Indian Parliament should be an ideal Parliament of the world. Therefore, with a certain amount of distress in his heart he has expressed this opinion.

I therefore think that in the context of his Bill it is also necessary for us to search our own hearts and find out the faults which may ultimately affect the functioning of democracy in this country.

Coming to the provisions of this Bill, this Bill was brought with the intention that on a candidate who has got no chance of success in the Presidential or Vice-Presidential election at least some sort of prohibition should be put from his contesting the election but from 1960, if we look back to the earlier Presidential and Vice-Presidential elections we find that persons really joined the fray knowing fully well that they could not succeed but they joined the fray only with the intention that their names may appear in the papers and for posterity also in the records their names may remain. So, I do appreciate the Government that in order to keep a certain amount of dignity and decorum in this office, at least such a type of election fighting may be avoided. Therefore, I could understand it when the Government came forward with the proposal that in the case of Presidential election at least there should be 20 electors as proposers and 20 electors as seconders, with 12 from Parliament and not less than 24 from the State Legislative Assemblies, because, for anyone who can muster a large number of proposers and seconders it may be said that he is a person behind whom there is a certain amount of backing. But today,

what we find is that there should be only 10 electors as proposers and 10 as supporters under the report of the Joint Committee. If we look to the country at large I do not think that it is difficult to get 10 supporters and proposers for anyone who would like to contest. Therefore, the purpose for which this Bill has been brought has to a certain extent been diluted by the report of the Joint Committee, and so I would request the hon. Law Minister and the House to ponder and consider whether it will be desirable to adopt fully the clause originally brought forward or no to adopt it at all, because in the present circumstances, almost anyone can say it is not difficult to get 10 electors either this side or that side.

Then, the second objection I find is this. After all, the Vice-President discharges almost equal functions of the President. In the case of the Vice-President, why an artificial number of five is inserted? If we feel that in the case of the President there should be 10 electors, why not 10 electors be fixed in the case of the Vice-President also? What is the rationale and justification behind the provision for five electors in the case of nomination for the Vice-President?

The other thing which I would like the Law Minister to take note of is this. Under clause 5B(2), each nomination paper is to be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the Parliament constituency in which the candidate is registered as an elector. (Interruptions). Under clause 5B(2) a certified copy of the electoral roll is necessary for filling the nomination. It is also necessary in the case of Parliamentary and Assembly constituencies. But in such cases, if you produce the electoral roll at the time of the scrutiny, that suffices. But I request the hon. Minister of Law to kindly see—it is rather an important point—that under clause 5B(2), if the certified copy is not enclosed, then the nomination paper is bound to be rejected. You have given no option for anyone

Shri Dinesh Chandra Goswami

but to submit the electoral roll. Supposing the office does not give me a certified copy. I can get a certified copy of the electoral roll provided the office supplies it to me. Supposing I am an intending candidate and the office does not supply me with a certified copy, before the date of the submission of the nomination paper in that case also, my nomination paper is going to be rejected. In the case of the Assembly or the Parliamentary constituency, there is a safeguard that if the certified copy is not there. If I produce the original electoral roll before the Returning Officer, he is bound to accept it. I think you should keep such a provision in this Act also.

Coming to the other objectionable features to which my friend has referred, that is, bribery and undue influence in the elections, I should like to say this. I can understand that originally, the words "bribery and undue influence" were not there because the purpose probably was that the person who has been returned to the highest office of the President supported by the Members of Parliament and members of State legislatures was at least expected to be a responsible person. In such cases, it may be said that such Members of Parliament or such members of the legislatures will not be taken in by undue influence and bribery, and therefore, in an election petition, the elected President should not be dragged into such controversies. I could understand it. I could understand therefore that the entire words "bribery and undue influence" were removed from the original Bill. The Select Committee has diluted it. It has now included undue influence and bribery also. I entirely agree with my learned friend that it is not possible for anybody to prove consent in any Court of law. Therefore, it is better that we go back to the original clause. The President is elected by the Members of the State Legislatures and by the Members of Parliament who are responsible persons and, therefore, will not be unduly influenced and this will

not be an issue which can be agitated in an election petition. But if you permit it to be agitated we should not make it "with consent".

In clause 7 you say that if the Supreme Court is of the opinion that the offence of bribery and undue influence has been committed by a returned candidate .... the Supreme Court can set it aside. Suppose there are three candidates in the field, the candidate who was not returned might have influenced the result of election by bribery and undue influence. Suppose there was a keen contest and the difference of vote was one, the undue influence of the third candidate might have affected the choice of the second candidate. In such cases why—do you not permit an election petition? It might be that a person who was successful could not have been successful but for the undue influence and bribery by the third candidate. You only permit an election petition in the cases you have specified. Bribery and undue influence in a close contest by a successful candidate may also held in the success of a person who would not have been successful if this had not been there. So this point should be taken care of. This should be widened as in the case of other election petitions. Even if there was undue influence by a third candidate which materially affected the election the Supreme Court should be permitted to look into it and set aside an election of this kind.

My learned friend Shri Somnath Chatterjee said that so far as the Vice President was concerned Lok Sabha should be kept out, because he was the Chairman of the Council of States. I disagree with him. This Vice President is not only the Chairman of the Council of States, but in the absence of the President, under article 65 of the Constitution he is called upon to discharge certain responsibilities. So when that contingency is there he discharges the functions of the President. So we, the Members of the Lok Sabha would like to see a person of our own choice to be the President to discharge the duties of the

President when circumstances necessitate such a course of action. Therefore, I feel that the ground urged by my learned friend is not correct..... (Interruptions). Even if you want to give the power to the Council of States, it should be a Council of States with equal representations from all States and not a Council of States with the character that it has today. I feel that the Law Minister should ponder over the whole thing. I feel that the original Bill should be passed, because the amended Bill has diluted the effect to such an extent that the objectives to which we subscribe may not be achieved. If in the ultimate analysis the House is not prepared to accept the original Bill then we should have some sort of experiment of this Bill so that we can see what happens. The Government will be able to bring in amendments to suit the contingencies that may arise in the future.

श्री आर० बी० बड्डे (खरगोन) : महापति महोदय, यह बिल क्यों लाया गया यह बात हमारी कल्पना में नहीं आती। हम ने प्रमोशन देखा तो उस में दो बातें बताई हैं। एक यह कि लाइट हाउस एलेक्शन न हो। दो पांच साल तक उन को यह खबर नहीं पड़ी कि इस तरह के एलेक्शन कुछ ऐसी बातें होत हैं और अब कहते हैं कि कोई कैंडिडेट खड़ा होना हो तो उस के लिए दस ओपोजर और दस सेकेंडर होने चाहिए। तो मैं पूछता हूँ कि दस दस की संख्या ही क्यों रखी, पन्द्रह पन्द्रह क्यों नहीं रखे या बीस बीस क्यों नहीं रखे ? जिस तरह मे रायट के लिए कहते हैं कि फाइव थोर मोर परसन्स उसी तरह से इस में डाल दिया। प्रमी बेराव के आफेंस के बारे में वह आया कि टेन थोर मोर परसन्स हों तो बेराव का ऑफेंस होता है तो मैं कहता हूँ कि यह टेन का क्यों इस प्रकार का प्रमोशन हो रहा है, यह बात कुछ समय में नहीं आती।

इसी के साथ में उन्होंने यह कहा है कि आई हजार रुपये उस को डिपॉजिट के देने चाहिए तो यह क्यों किया है ? क्या आप एलेक्शन को इतना महंगा करना चाहते हैं ? क्या फाइव थोर मोर परसन्स महात्मा जी ने जो कहा था कि हरिजन भी कल हमारा राष्ट्रपति हो सकता है तो क्या हरिजन आई हजार रुपये दे सकता है तो फिर यह क्यों रखा है ? क्या महात्मा गांधी के जो सिद्धांत थे, जो उन के कथन थे उन को आप ने खड़े में डाल दिया ; इस के लिये आप ने कुछ बताया नहीं कि इसे किस लिए रखा है ? एक चीज आप कहते हैं कि फ्रिविलस पेटीशन नहीं होनी चाहिए। तो आप आई हजार रुपये तो कोई भी आदमी दे सकता है जिस के पास बहुत सा ब्लैक कपी है। इस आई हजार रुपये की तो उस के लिए कोई कीमत नहीं है। ऐसा था तो और ज्यादा क्यों नहीं रखा ? जो आप कारण बताते हैं कि फ्रिविलस पेटीशन नहीं होना चाहिए, मैं समझता हूँ उस के लिए इस को रखना कुछ उचित नहीं है। मालूम पड़ता है कि शासन ने अपनी सारी जो नीति या उसे खत्म कर दिया और आई हजार रुपए का डिपॉजिट वहां रख दिया।

श्री आर० बी० बड्डे : साथ ही उनका क्वाल यह होगा कि वैसे वाले फ्रिविलस नहीं होते।

श्री आर० बी० बड्डे : वैसे वाले जवाब फ्रिविलस होते हैं। वह तो आई हजार रुपए कभी भी डिपॉजिट कर सकते हैं। लेकिन गरीब आदमी नहीं कर सकता। गरीब आदमी सच्चा होता है। फिर सेक्शन 18 में लिखा है।

"In section 18, enabling the Supreme Court to declare a Presidential election to be void on the ground of commission of the offences of bribery and undue in-



fluence even by a third party who may have no nexus with the returned candidate should be omitted.

मैं यह कहता हूँ कि कंसेंट और कनाइबेंस में क्या फर्क है ? जो मिनिस्टर कामत का एविडेंस हुआ है उस में उन्होंने बहुत अच्छा कहा है उन्होंने कहा है कि कंसेंट में और कनाइबेंस में क्या फर्क है ? वहते कह हैं कि कंसेंट हो तो भी ठीक है और कनाइबेंस हो तो भी ठीक है । एलेक्शन पेटीशन में जो उन्होंने एविडेंस दिया है उसका कोटेशन उस में दिया है, वह मैं आप के सामने पढ़ता हूँ :

"At or about this time there was frequently reference in the daily newspapers to a group in the Congress dubbed as syndicate and another group described as Young Turks who were in open rebellion against the syndicate. The pamphlet shows that the authors thereof were of the view that the Prime Minister was attempting to give what according to them was a correct lead to the country and that she was sought to be thwarted by the members of the syndicate. So much so that the latter were said to have entered in to a conspiracy to oust the Prime Minister from her position and set up a coalition government. This is sought to be supported by written ascribed to Smt. Tarkeshwari Sinha as openly threatening the defeat of the Prime Minister by the syndicate.

There are thus strong indications in the pamphlet to show where it could have come from and who were interested in the defeat of Shri Sanjeeva Reddy and the motive behind this move. It has come out in the evidence of a number of persons examined on behalf of the respondent some of whom admitted themselves to have been described in the press as Young Truks, that their views about the management of the affairs of the Congress Party by some senior members of it described as syndicate was similar to that expressed in the pamphlet."

This is all I would like to read from the Supreme Court judgment.

उस में आगे जा कर कहा है कि यह पम्फलेट बांटना कन्सेन्ट था या कनाइबेंस था । लेकिन उस में यह भी कहा गया है कि इसका इलैक्शन पर कोई विशेष असर नहीं पड़ा । मैं पूछना चाहता हूँ हमारे ला-मिनिस्टर बहुत विद्वान हैं, इस प्रकार से कनाइबेंस और कन्सेन्ट की जो बात कही गई है, इस से क्या फायदा है, कनाइबेंस की जगह कन्सेन्ट रखने से ज्यादा फायदा होगा या जो सिलैक्ट कमेटी थी उस को केवल बताने के बास्ते ऐसा कहा गया है । मेरी दृष्टि में तो इन शब्दों की बजाय पूरे सेशन को ही क्यों न एवाइड किया जाय ।

इस के बाद इन्होंने कहा है कि वोटर्स और सपोर्टर्स को दूसरे कैंडिडेट कोपर्ट नहीं करना चाहिये । मैं कहना चाहता हूँ कि यदि 10 लोक सभा के सदस्य और 10 एम० एल० ए० किसी को सपोर्ट देते हैं तो क्या आप उन के पीछे वाच करने रहेंगे कि दूसरे किसी को सपोर्ट दिया है या नहीं । इलैक्शन में इस प्रकार का जो फर्क आप करना चाहते हैं, वह क्यों करना चाहते हैं । इसके बास्ते ला-मिनिस्टर साहब ने कोई भी अच्छा कारण नहीं बताया है । मैं इन बातों—डिपार्टिट और प्रपोजर जब सैकण्डर के बारे में—विरोध करने के लिये खड़ा हुआ हूँ और ला-मिनिस्टर से बिनती करता हूँ कि वे इन प्रमेण्डमेन्ट्स को वापस ले लें ।

SHRI P. G. MAVALANKAR (Ahmedabad): Mr. Chairman, Sir, may I at the outset offer my congratulations to you on your taking the Chair and presiding over the debate on this measure today.

I wish to offer my remarks in all humility and frankness about this



[Shri P. G. Mavalankar]

measure which my esteemed friend, the Law Minister, has brought forward before the house. I hope when I say something with regard to the office of the President and the office of the Vice-President, my remarks and comments will not be construed by this House or by anybody outside that they are, in any way, reflections on the individuals who have already occupied these high offices and who today two of them, are holding these high offices. We are not discussing individuals; we are discussing certain constitutional provisions and principles involved. We have to look at these provisions from that angle alone.

When one reads this measure whether it is in the form of an original Bill which was brought forward before the House or in the amended form which the Joint Committee has given us, not only one is wonder-struck but one feels completely at a loss as to what really, basically, has been achieved by this measure. We must, of course, be grateful to the Joint Committee for deliberating on this apparently simple but very difficult and delicate measure because it concerns the highest office and it also concerns with the anxiety to keep the highest office clothed with dignity and seriousness. I feel, that was the main consideration.

When one looks at the deliberations of the Joint Committee, one feels that they too have also, more or less, imprisoned them with the provisions suggested by the Government. For example, they say, instead of 20, let it be 10; instead of reducing the time-limit, let it be as it is, etc. The Joint Committee Report itself is not materially different from the original proposition contained in the Bill of the Law Minister.

I fully appreciate and even endorse the remarks made by two of my esteemed friends who preceded me. Shri Somnath Chatterjee and Prof. H. N. Mukerjee. With legitimate and justified anger, they expressed them-

selves vehemently against this Bill. I too must take the same line though slightly on different grounds.

I wish the Government had brought a different sort of legislative measure dealing with the election to the offices of the President and the Vice-President. For example, if the Law Minister had brought forward a Bill making it possible for the office of the President, particularly, being freed from the court life and from the courtiers that are unfortunately surrounding this highest office in the land, we would have welcomed it. One may not be able to reach in the present situation the ideal which Mahatma Gandhi had placed before us that we should have a Harijan girl as President. Mahatma Gandhi used that expression in a symbolic way, in a kind of figure of speech. What he was aiming at was that the lowest of the low, the most depressed of the depressed, someone from these communities, must also be able to rise to the highest office in the land. But in these last 26 years of independence, have we made Rashtrapati Bhavan a place where the ordinary people can go and meet the President? Is there any accessibility between the common citizens of this country and the highest man of this country, President of India? And this is true not only of President or Vice President but also of the Prime Minister the Ministers, the Ministers of State, the Deputy Ministers, and several other high dignitaries of the Government. We have surrounded them with a paraphernalia of people which is difficult to break through even by Members of Parliament, not to speak of ordinary citizens. If the Law Minister had brought forward a Bill which would have freed, as I said, the office of the President from the court life of the good old or bad old British days, from the imperial legacy or the imperial heritage, from those detestible traditions and conventions, some of us, or at least I, would have been able to commend

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such a measure; we would have said, That is going in the direction in which Mahatma Gandhi wanted us to go before his death when he said that the President must be a Harijan girl. Instead of spending usefully the time and energy and the talents of the very talented Law Minister and very talented members of this House, here we are faced with a situation wherein we are asked to accept something which has neither any purpose nor any meaning or reality. I am sorry to use harsh language, but I do sincerely feel that this Bill achieves nothing. And if that was all, then I would have said, 'All right; at least it is harmless'. But it is not harmless. By adding certain provisions, whether it is 20 or 40 or whatever it is, by making these changes, this Bill is seeking to make certain situations complicated. And what is more difficult to understand is this fact that, in the name of avoiding frivolity and with the excuse of having seriousness imported into the election and subsequent holding of the office of President of India, what this Bill has done is to make it difficult, if not impossible, for an upright individual and an independent citizen of this country to contest the highest office if he is not able to get the necessary support of the Members of State Legislative Assemblies or Members of Parliament. Is it necessary, I ask the Law Minister, for a person who wants to contest this office to seek the blessings and support of Members of Parliament and Members of State Legislative Assemblies in order to become even a candidate? Let us, please, not forget the point that the Constitution of India does not envisage that the elected members of Parliament and State Legislative Assemblies should become instruments for curbing the freedom of the independent individuals of this country. All that the Constitution of India tells us is that the following will elect the President and Vice President. And who are the following? The elected represen-

tatives of the people, whether they sit in Parliament or State Legislative Assemblies. But to go beyond this and to ask the electoral colleague for the election of President and Vice President of India, to become a kind of a restraining factor or to make the elected MPS and MLAs instruments for curbing the basic freedom of a citizen, namely, to contest the highest office in the land, is, I think, highly objectionable and highly undemocratic and, I, for one, as an independent member of this House, cannot accept a situation where a Government has to tell, 'If you want to stand for Presidentship, you must secure the blessings, support and co-operation of some Members of Parliament and some members of the Legislative Assemblies in order that you may become a candidate'. Anybody who becomes a candidate knows jolly well that if he wants to get elected or at least if he wants to make a reasonably good show of collecting sizeable votes, he must have the goodwill and support and sensible support at that, of the elected Members of the Parliament and the elected members of the Legislative Assemblies of the States because he has to depend on their votes. But should he also depend on them at the very initial stage of candidature itself? Whether it is 10 or 20 is an immaterial matter. My submission is: should he depend on these elected members of Parliament and elected members of legislative assemblies for becoming even a candidate?

Therefore, I want to ask the Minister of Law whether it is not really curbing the fundamental liberties of the citizen. He is nodding, meaning 'No', but let him give his argument. For example, may I ask any one in the State Assembly or the Parliament that you cannot stand for election unless ten members of the Panchayats or 10 people of prestige in a particular area support your candidature and then only you can become a candidate...

**SHRI ANNASAHAB GOTKHINDE** (Sangli): The law is not like that.

**SHRI P. G. MAVALANKAR:** Precisely! I know the law is not like that. Because basically the constitution talks that it is a fundamental right of every citizen of this country to stand for election, whether it is Panchayat Board membership or Parliament Membership or even the highest offices of the land, namely, the President and Vice-President. How can you stop a citizen? He has a right, it is an inherent right which has been accepted by the Constitution and no Minister or no Government to whichever Party it may belong, can take away that right. It is not something by way of a grant or mercy of the Government or of the Minister. It is the right of anybody to become a candidate. It is the inherent right of the candidate, the inherent right of the citizen to become a candidate.

Therefore, I want to tell you that what the Minister has done, and that is all that he has done, is that he has made it impossible for independents, for honest and upright individuals, to aspire legitimately or rightly to aspire not with narrow ambitions, but to aspire with the natural desire to serve the country and to contest for the highest office available to him or her. If you look at the Law Minister's Statement of Objects and Reasons—I want to ask the Law Minister to please look at it again—this is what the opening sentence in the Bill says:

"Experience has revealed that persons offer themselves as candidates to the highest office of President without even a remote chance of getting elected."

I repeat the words "without even a remote chance of getting elected." Now I ask: 'How do you know? I submit this is highly undemocratic. How can one assume in advance that a particular individual has no chance whatsoever of getting elected

to a particular office? This is contrary to the very basic idea of democracy. A Small man or a man in a minority, surely he cannot get elected. But, to say that he has not the remotest chance of getting elected is very undemocratic. He can contest once, twice or three times or four time why not? ....(Interruptions) upto cannot understand any individual citizen becoming a candidate only on the basis of his getting the support and blessings and co-operation a priori of the Members of Parliament and Members of the Assemblies who form the electoral college for President and Vice-President. Of course, he cannot get elected without the support of M.P.s and MLAs, but do you want to make it a pre-condition for his candidature on the assumption...

**MR. CHAIRMAN:** Are you suggesting that there should be no proposer or seconder at all?

**SHRI P. G. MAVALANKAR:** I am not suggesting that. My argument should not be stretched and reduced to a logical absurdity. By increasing the numbers of Members of Parliament or M.L.As. as Joint proposers or Collective-proposers and Seconders of particular candidates, you do not make that candidature, necessarily more serious or less frivolous.

By making this provision we make it well-high impossible or at least very difficult for an independent candidate or an independent citizen—who may not be in Parliament at all, who may not have seen the portals of the Parliament House or there of the Legislative Assemblies of the State,—who may be very qualified in the eyes of Members of Parliament themselves, to become the President of this country or the Vice-President of this country. Therefore, they are mixing up Electoral College membership with this idea of making them instruments for this thing. But, Sir, don't you think how undemocratic it is for the

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Law Minister to say these words—'without even a remote chance of getting elected'? How does he or anyone know? How do we know that a person who is a candidate will never get elected? He might be elected. Therefore, this idea is very basically wrong.

Secondly, the Minister in his statement of Objects and Reasons says. 'Another matter which is of equal, if not greater, concern is the light-hearted manner in which persons' etc etc. I request the Law Minister to kindly define this very interesting phrase 'light-heartedness'. What exactly does he mean by 'light-hearted' manner? 'Light-heart' means what? It is like that other Bill and I do not want to speak at this stage on that Bill I don't belong to any party, but if one Member belongs to one party, he changes and goes to another party, out of conviction, inner conviction, not with a view to getting anything, but only with a view to satisfying his conscience, that he must be always on the side of right and justice and truth, as he sees it, and therefore he changes the party, the Bill which is already before the House says; No, no, that will not be permitted. But if 20 or 30 in a group go, that will be permitted. The same logic applies here. Therefore, I cannot understand this. It is light-heartedness if it is one. But if it is more, then it is serious-heartedness! How can it be? I would like therefore, the hon Law Minister to define this term 'light-heartedness'.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHURAMIAH). Without interposing myself on the Law Minister, I think, what he meant by 'light-hearted' is a vegetarian expression of chicken-hearted.

SHRI P. G. MAVALANKAR: I am glad my friend, the hon. Minister of Parliamentary Affairs, has injected some good humour into the Debate. But I hope he does not therefore want to detract the seriousness of the argument which I am trying to develop on this matter.

MR. CHAIRMAN: That remark was also light-hearted..

SHRI P. G. MAVALANKAR: Therefore, I am suggesting this, that, to say 'without even a remote chance of getting elected' is not the correct expression, these words are an insult of an individual, because, our own Constitution, particularly the Preamble, says and mentions the words 'dignity of the individual and unity of the nation'. This is the phrase in our Preamble. It says 'Dignity of the individual and unity of the nation'. If the individual, in his dignity, wants to stand, what happens? He must first canvass and campaign, not for getting elected, but for just becoming a candidate. Therefore, what I feel is, these restrictions which are proposed to be imposed on the prospective Presidential candidates and on the prospective Vice-Presidential candidates are restrictions which are artificial, which are unreal. And, therefore, I oppose this Bill on that score.

Secondly, I want to suggest that these restrictions, or, rather, these proposed restrictions, are negative and undemocratic restraints on an independent citizen and an upright individual.

Thirdly, I want to ask the Law Minister and the Government, whether frivolity or seriousness is something which goes with men and money. You pay more money by way of deposit and then you are less frivolous. You get more support of more individuals and then you are more serious. But, you don't always or necessarily get support, even if you are right! What has history taught us? History has given us examples of several individuals who have the courage to stand all by themselves, as lone or single individuals, backed up neither by men nor by money, but only backed up by their conscience, and backed up by their real convictions, and backed up by their character and integrity.

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And yet, this Bill will make it impossible for such individuals of the country to contest the office of the President. It is from that angle also I want to suggest that this obnoxious Bill must be thrown where it rightly and obviously belongs.

Finally, I want to suggest one or two things. One of them is this. The Minister says in his Statement of Objects and Reasons in No. 4 as follows:—

"The ground relating to the offence of bribery or undue influence for challenging an election to the office of President or Vice-President should be omitted altogether".

What the Minister say is extraordinary. I am not going to enter into any detailed argument, partly because there is no time and partly also because this was discussed already.

MR. CHAIRMAN: Mr. Mavalankar, will you be finishing within half a minute or would you want more time?

SHRI P. G. MAVALANKAR: I would need some more time.

MR. CHAIRMAN: If that is so, before I adjourn, I shall call upon Shri K. Raghu Ramaiah, the Minister of Parliamentary Affairs, to present his Thirty-sixth Report of the Business Advisory Committee.

#### BUSINESS ADVISORY COMMITTEE THIRTY-SIXTH REPORT

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Sir, I beg to present the Thirty-sixth Report of the Business Advisory Committee.

MR. CHAIRMAN: The House now stands adjourned till 11 a.m. on 21st February, 1974.

18.01 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, February 21, 1974/Phalguna 2, 1895 (Saka)*