

LOK SABHA DEBATES

1

LOK SABHA

Tuesday, August 5, 1975/Śravana 14,
1897 (Saka)

*The Lok Sabha met at Eleven of the
Clock*

[MR. SPEAKER in the Chair]

PAPER LAID ON THE TABLE

KEROSENE (RESTRICTION ON USE) AMDT.
ORDER 1975.

THE MINISTER OF PETROLEUM
AND CHEMICALS (SHRI K. D.
MALAVIYA): I beg to lay on the
Table a copy of the Kerosene (Res-
triction on Use) Amendment Order,
1975 (Hindi and English versions)
published in Notification No. G.S.R.
958 in Gazette of India dated the 2nd
August, 1975 under sub-section (6)
of section 3 of the Essential Commo-
dities Act, 1955 (Placed in Library
See No LT-9922/75)

1101 hrs.

ELECTION LAWS (AMENDMENT) BILL

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

“That the Bill further to amend
the Representation of the People
Act, 1951 and the Indian Penal Code
be taken into consideration.”

Sir, the Bill is a simple one. Its
main object is to remove with retros-
pective effect certain uncertainties and
doubts regarding the provisions of the
Representation of the People Act, 1951
relating to—

(1) the definition of candidate un-
der section 79(b);

(2) the corrupt practice under sec-
tion 123(3) of the Act as to use of

2

and appeal to religious and nation-
al symbols; and

(3) the corrupt practice under
Section 123(7) of the Act as to as-
sistance by officers in the service of
Government for the furtherance of
the prospects of the candidate's elec-
tion.

The Bill also seeks to make the ne-
cessary consequential amendment in
the definition of candidate in section
171A of the Indian Penal Code.

Section 79(b) of the representation
of the People Act, 1951 reads as fol-
lows:—

“‘candidate’ means a person who
has been or claims to have been duly
nominated as a candidate at any
election and any such person shall
be deemed to have been a candidate
as from the time when, with the
election in prospect, he began to
hold himself out as a prospective
candidate.’

This definition deals with two issues;
first as to the person who will be re-
garded as a candidate, secondly as to
the time from which a person will be
regarded as a candidate. There is no
difficulty regarding the first issue.
Only a person who is duly nominated
or who claims to have been duly no-
minated will qualify as a candidate.
As regards the second issue, namely,
the time from which a person will
be regarded as a candidate, it may be
pointed out that the definition does not
particularise the date from which or
after which alone the candidature can
commence. This results in undue un-
certainty. So far as election expen-
ses are concerned, by an amendment
made in 1956, it has been provided that
only expenditure incurred or authoris-
ed by a candidate or his election agent
between the date of publication of the

[Shri H. R. Gokhale]

notification calling the election and the date of declaration of the result thereof will be taken into account. This provision is contained in section 77(1) of the Act. The effect of this provision is that for the purpose of determining whether the election expenditure of a candidate exceeds the prescribed limit, a person will be a candidate only from the date of the publication of the notification calling the election.

It would be illogical to have a different rule for other purposes. Clause 3 of the Bill seeks to amend section 79(b) to specify the same point of time as is provided in section 77, namely, the date of publication of the notification calling the election as the point of time from which a person shall be deemed to be a candidate. The more appropriate course, however, would be to treat the date of nomination of a person as the date of commencement of candidature of that person. I have, therefore, given notice of amendments to clauses 2 and 3 to make the date of nomination the point of commencement of candidature for purposes of election expenses and for other purposes. Clause 5 of the Bill seeks to amend section 171A of the Indian Penal Code so as to fix the date of the nomination as the date which a person shall be deemed to have candidate for purposes of that Code also.

Under section 123(3) of the Representation of the People Act, 1951, the use of, or appeal to, religious or national symbols for the furtherance of the prospects of the election of a candidate or for prejudicially affecting the election of any candidate constitutes a corrupt practice. As the hon. members are aware, symbols are allotted to candidates for purposes of election by authorities under the Act. The final decision as to what symbol a candidate should have rests with those authorities and not with the candidate. Hence it would be unreasonable to allow any scope for argument that a symbol duly allotted by an authority under the Act can be questioned as a religious or national symbol. It is, therefore, proposed to

make it clear that no symbol allotted under the Act shall be deemed to be a national or religious symbol.

Section 123(7) of the Representation of the People Act, 1951 makes the obtaining etc. by or on behalf of a candidate, of assistance from certain classes of officers in the service of the Government for the furtherance of the prospects of the candidate's election, a corrupt practice. The provision is not intended to cover any act or thing done by a person in the service of the Government in the discharge or purported discharge of his official duty. It is necessary to make this position clear beyond doubt.

Another difficulty which can arise in the operation of the provision of section 123(7) relates to the question as to whether a person from whom assistance of the nature referred to therein is obtained, is a person in the service of the Government. As regards some of the classes of the persons mentioned in the provision, the practice both in the Central Government and in the State Government is to notify the fact and date of appointment, the acceptance of resignation, termination of service or removal or dismissal from service in the Official Gazette. In these cases, it would be conducive to the smooth and easy application of the provisions of the section to make the publication in the Official Gazette conclusive as to the appointment, resignation, termination of service, removal or dismissal from service and also as to the date of taking effect thereof as specified in the Gazette. It is, therefore, proposed to add a suitable Explanation for this purpose.

Sir, the provisions of the Bill are simple, self-explanatory and long overdue. As already mentioned, I have given notice of amendments for making the date of nomination of a person as the date from which he may be regarded as a candidate. I have also given notice of certain amendments to the provisions as to disqualifications on ground of corrupt practices. I shall deal with these later. I commend the Bill for the consideration of the House.

SHRI INDRAJIT GUPTA (Alipore):

I do not understand what the hon. minister meant when he said that he would deal with the amendments later. He should explain the amendments now itself.

SHRI H. R. GOKHALE: I can explain them now. I thought the proper time for that would be when I move them. The amendments which are not merely consequential but which are material are these. With regard to the definition of candidate, the original provision in the Bill was that the candidate should be regarded as a candidate from the date on which the election is called by the Election Commission under the provisions of the Act. The result of it was that the deeming provision still remains, although it could not go prior to the date of the notification. The concept of 'holding out' which has been recognised all along till now does not fit in with this idea of making the candidature relevant from the date of the notification by the Election Commission calling the election. Therefore, the only change suggested in the amendment is to treat the date of nomination of a person as the date of commencement of candidature of that person. That is one. The other thing which is material is in respect of disqualifications; hon. Members are aware that there are many Sections; but one, in particular, is very material and all other Sections are really consequential to that Section. That Section is 8A of the Representation of the People's Act. In fact, it was added to the Act subsequently, by way of an amendment. Now, the result of Section 8A, as it is today, is that the disqualification is automatic. Actually, some high courts, in their judgments have said that because of the finding of corrupt practices and the election being declared void so-and-so will be disqualified for a period of six years; which is redundant because, even if the high courts do not declare it, under the law itself, the disqualification automatically follows. That is the present pro-

vision in the Act. This results, in my view, in considerable hardship. I will give you only a few illustrations. Even if the corrupt practice is held proved, the gravity and the nature of the corrupt practice is not necessarily the same. For example, expenditure might be incurred, and the limit on expenditure might have exceeded just by one rupee. Still, technically it is a corrupt practice; and even then the disqualification is for a period of six years. The corrupt practice might be a minor, technically corrupt practice. Even then, there is no option but to disqualify the candidate for a period of six years. Now, all that is done is that the disqualification is not the automatic result of the judgement of the high court that the election is void, or that certain corrupt practices have been held to be proved; now, once the judgement is delivered that the election is void; the judgement is final, subject to appeal and so on and so forth; but the question as to whether any disqualification should follow at all, or if it should follow, for what period it should follow—but in any case not exceeding a period of six years—has been provided for in this; and this is in line with the Article which is already in the Constitution, viz., Article 103; for example, in the case of a disqualification arising after a person has already become a Member of the House—except the holding of offices of profit which are exempt—it becomes a disqualification subsequently. And now the provision is, whether I have incurred a disqualification or not, is, as under the existing scheme of the Constitution, left to be determined by the President, on the advice of the Election Commission; and the Election Commission's advice is binding on the President. On the same lines, if a disqualification has to be removed, or if the period of disqualification is to be reduced or maintained to the maximum period of six years, then again it is the President who has to determine it on the advice of the Election Commission, whose advice is binding on the President. That is another basic change which has been

[Shri H. R. Gokhale]

made. So far as I can see, the other amendments are only consequential amendments which are necessary because of the amendment to Section 8A; even with regard to Section 8A, the position is that we have taken care to see that both the cases are covered; for example, there may be some cases where the disqualification has already been incurred because the judgment has been delivered, the appeal has been disposed of, and the six-year period is there; and even then the man will have no relief because of the present peremptory provision. Under the new amendment he will be in a position, by way of a petition, to move the appropriate authorities, so that the President, with the advice of the Election Commission, can be moved to consider whether, in such cases also the disqualification is justifiable, or not justifiable. But in cases where the disqualification is not already incurred and which might be incurred in future cases, in such cases the authorities specified will refer each such case where an election is declared void on a corrupt practice being found by the court, through the Election Commission to the President; and the Election Commission's advice will be the basis on which the President will either impose a disqualification or will not impose a disqualification or will impose a disqualification for a limited period, or for the entire period of six years. These are the basic changes which are suggested in the amendments.

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code, be taken into consideration."

Mr. Mohan Dharia.

SHRI MOHAN DHARIA (Poona): Sir, it is most unfortunate that when we speak of the rule of law in the country, the whole rule of law should be circumscribed to suit some individuals.

I would like, with due respect, to submit the any attempt by this august House to enact or amend laws for the convenience of a few individuals as against society will be doing great injustice to the parliamentary institution itself. Without going into the merits or demerits of the Allahabad High Court judgment, there is no doubt in my mind that the Bill in the amended form has been brought forward before the House by the Law Minister to circumvent those issues which have been held by the High Court in favour of the petitioner and against the Prime Minister. Similarly, all possible care is being taken to take away the powers of the Supreme Court in deciding this matter on merits. The amendments now brought forward here are meant clearly to take care of the indispensable leadership of the Prime Minister. There was some doubt whether it was a 20 point or 21 point programme, but I am convinced that it is a 20 point programme as referred to by Mr. Subramaniam plus one more point and that is to save the Prime Minister from the judgment given by the Allahabad High Court. That is the 21 point programme which has been put forward.

MR. SPEAKER: Don't attribute motives to the Parliament. Parliament is a sovereign body.

SHRI MOHAN DHARIA: I am not saying that Parliament is not a sovereign body. When there is an attack on the whole of Parliament from the executive, I am too an all a man to launch any further attack. It is the executive which has launched the severest possible attack on Parliament and parliamentary institutions in the country.

So far as this Bill is concerned, I can very well understand and that there is a lot of scope for amending our election laws. But the Prime Minister and the Minister of Parliamentary Affairs have given the assurance on the floor of the House that before any amendments to the election laws are

introduced, the opposition and all sections of the House will be taken into confidence and an exhaustive amendment will be brought to the election law. I am not opposed to amendments. I quite understand that if a candidate is elected by thousands of people, on technical grounds the candidate should not suffer. We could have taken care of the rampant corrupt practices and the role of huge money power in elections. We could have taken care of defections. It is in this context that I appeal to the House through you: Let us apply our minds in a very dispassionate way. I do realise that changes in election laws are necessary, but it should be for the whole of democracy, for the whole of society, and not to suit a few individuals, whatever be the stature of the individuals. Therefore, I am here to oppose the amendments as have been brought forward by Mr Gokhale. I would respectfully submit that these amendments are of a character which requires a lot of consideration. Mr Gokhale himself said that this is a basic change that is being introduced through this amendment. When the word has been used by the hon. Minister that there is a basic change, even under the rules, some time has to be given. I draw your attention to Rule 93. If such an amendment is brought forward and if it is considered, then that Bill cannot be passed on the same day; it is to be passed on the next day.

Rule 93 is very clear. Under the circumstances, may I request you to give some time to move our amendments. Nobody has so far moved an amendment to set aside this Rule 93. I would like for the information of the House to read Rule 93.

AN HON. MEMBER: The rules have been suspended.

SHRI MOHAN DHARIA: No, it has not been suspended. I am sorry.
(Interruptions).

I would like to have your ruling whether the rules for the passing of the Bills have been suspended by the House

(Interruptions)

MR. SPEAKER: These matters were dealt with last week. Why do you repeat them again now?

SHRI MOHAN DHARIA: I am thankful to you. As far as Rule 93 is concerned, these procedural rules are not suspended as per my information. The records of the House are very clear. I quote here Rule 93. It says:

"Where a Bill has undergone amendments the motion that the Bill as amended be passed shall not be moved on the same day on which the consideration of the Bill is concluded, unless the Speaker allows the motion to be made."

A stage has come because the hon. Minister has given notice of a series of amendments.

(Interruptions)

They are perfectly all right. So, my submission to you is that for such amendments, we should be given enough time even to propose our own amendments to the amendments. That we can do under the rules. I would like to beg of you that let this House not be converted into a place to suit the dictatorial pattern as has been introduced in the country.

(Interruptions)

I am not here to be cowed down. You can raise your voice.

(Interruptions)

You cannot cow me down that way. So, my submission to the House is that this Bill is nothing but surrender of a parliamentary democracy to the coming dictatorship and therefore I oppose this Bill very vehemently.

SHRI VASANT SATEE (Akola): That is the only thing you wanted to do.

(Interruptions)

He did not utter a word on the merit of it. He was only imputing motives. That is all that he wanted.

(Interruptions)

SHRI MOHAN DHARIA: Sir, you made a suggestion that I should not take more time.

SHRI INDRAJIT GUPTA (Alipore): Mr. Speaker, Sir, whether any particular individual at a particular moment of time will derive any advantage or benefit from these amendments or not, does not affect, in any way, the actual merit of the amendments. We have to judge the merit.

SHRI MOHAN DHARIA: You are in 'their company.'

(Interruptions)

SHRI INDRAJIT GUPTA: You were also in this company all these years. At least, Mr. Speaker, unlike Mr. Mohan Dharma, I never left my party in order to join (Interruptions) another party and to become a Minister there. I did not defect from my party to become a Minister.

SHRI MOHAN DHARIA: For the information of the Members, I would like to say that when I defected, I resigned from all the posts.

(Interruptions)

If the Prime Minister assures that the bye-elections will be held within two months, I am prepared to resign.

(Interruptions).

MR. SPEAKER: Order please. Kindly sit down. You better make such a code of conduct outside as to under what conditions to remain in the party and what not. Please do not discuss it here.

SHRI S. M. BANERJEE (Kanpur): He thinks that he is the only person in the opposition. Let the country

know, (Interruptions) that he has defected (Interruption).

MR. SPEAKER: Order please.

SHRI S. M. BANERJEE: We never defected. He is a defector.

(Interruptions)

MR. SPEAKER: Order. Shri Indrajit Gupta.

SHRI S. M. BANERJEE: He is a born defector.

(Interruptions)

SHRI MOHAN DHARIA: If it is to go on record, I would like to offer my explanation.

MR. SPEAKER: Mr. Mohan Dharma, it is very easy to explain the records these days. Order please.

(Interruptions)

I have called Mr. Indrajit Gupta to speak.

SHRI INDRAJIT GUPTA: Personally, I do not approve of not allowing Mr. Mohan Dharma to have his say. I do not understand what is the purpose behind it.

(Interruptions)

MR. SPEAKER: You better address me for a speech.

SHRI INDRAJIT GUPTA: I mean we thought that was one of the advantages we were getting as a result of the steps taken since the emergency. So, at least, observe that now. The thing is that Mr. Mohan Dharma's way of looking at these amendments. I am afraid, is something which is quite wrong. Let me say quite it clearly. If the Prime Minister or any other individual, who may be involved in a particular case or something like that is going to derive any advantage through these amendments, well, so will anybody else for that matter. These are not amendments which are drafted in such a way that they can only help the Prime Minister and nobody else. I do not understand, I

don't think there is anything concealed or hidden about it. Mr. Mohan Dharja seems to think that because the Prime Minister is involved in certain proceedings before the court, and these amendments may help her, go to her advantage, therefore, these amendments are bad and should not be accepted.

(Interruptions)

Everybody knows that. Everybody in the country has got some commonsense. He alone does not have, the monopoly of commonsense.

(Interruptions)

Everybody in the country knows why it is being brought now. What is wrong with it?

(Interruptions)

SHRI MOHAN DHARIA: Very nice of you

SHR. INDRAJIT GUPTA: Because the reason is this.

(Interruptions)

It is a fact that the proceedings before the Allahabad High Court have thrown up certain issues and certain questions which everybody must admit now are not sufficiently clear in the law as it stands. The law does not put, beyond doubt, what should be the actual position regarding those questions. I think these questions were never thrown up in any previous election petition case, but, for the first time, they have been thrown up. And certainly if the amendments seek to put beyond a shadow of doubt what the position in law should be regarding these particular two or three points, I don't see what is wrong in it; that is all to the good. But, as far as my party is concerned, of course, I do not share and we do not share that kind of concept—well, we do not like using these words—but the idea of a parliamentary set up, a parliamentary constitution and parliamentary democracy in which all these three institutions—the Executive, the Judiciary and the Parliament—are the three

pillars on which our Constitution rests, and therefore all the three have got absolutely the same status and equal status, we do not accept this.

This Parliament represents the sovereign will of the people. We have seen, time without number, in the past that matters which have been decided by this Parliament, which have been legislated by this Parliament, are completely overthrown and upset by the will of some judge sitting in a court somewhere. And because that is the Judiciary—I have got all respect for the Judiciary—it should not be put on a pedestal higher than the Parliament which represent the sovereign will of the people. Then what kind of democracy will you have? In the same court, different judges and different benches will give contradictory interpretations about the Constitution and various laws. We have gone through this experience from 1969 onwards. This battle was fought here. Several times we had to amend the Constitution only because of that.

These are not such fundamental issues as we had to deal with at that time. For example, this question as to from when it will be reckoned that a certain person is to be counted as a candidate or has held himself out as a candidate is not such a fundamental issue. At present, the position was such that anybody could interpret it in any way he liked. The Allahabad High Court has interpreted it in a particular way. It is entitled to do it according to law as it stood for so long. But ten other judges give ten different interpretations, ten other judgments, on that point. I know, some gentlemen used to sometimes issue statements in the press saying, "I am going to stand from 15 constituencies simultaneously." I do not want to name anybody. Before the General Elections, one gentleman issued a statement saying, "I propose to contest from 15 constituencies."

MR. SPEAKER: Even now there are many persons who are thinking like that.

SHRI INDRAJIT GUPTA: Does it mean, in that case, that statement is to be taken as evidence of his having held himself out as a candidate in those 15 constituencies and, thereafter, he has to be held responsible for whatever happens anywhere in those 15 constituencies? It is ridiculous. Apart from any legal understanding of the position, I think, that common-sense dictates that from the date when your nomination paper is accepted, you are the candidate. Before that, you may go about talking anything under the sun. Why should anybody take you seriously?

I am glad, Mr. Gokhale, has come forward with this amendment to the amendment. Yesterday, I was also wondering. There is a big gap between the notification of an election and the date of a nomination. It is an anomalous position. In that period, many things can happen. A person can change, his mind; he can switch over from one constituency to another; he may decide not to stand for election. Anything can happen. So, this is the correct thing that has been done. This will apply to everybody hereafter. Whether it applies to Shrimati Indira Gandhi or not today, I am not concerned with it. It will apply to everybody hereafter. Otherwise, the court can give any kind of interpretation on this.

SHRI MOHAN DHARIA: What about retrospective effect?

SHRI INDRAJIT GUPTA: It applies to all cases which are pending. There is not only Shrimati Indira Gandhi's case. There may be other cases also pending.

SHRI MOHAN DHARIA: How many cases are there?

SHRI INDRAJIT GUPTA: I do not know.

SHRI MOHAN DHARIA: Let them tell us how many cases are there.

SHRI INDRAJIT GUPTA: As far as the proposed amendment to Section 123 of the principal Act is concerned, regarding the Government officer discharging certain duties or providing certain facilities or making certain arrangements in the discharge or purported discharge of his official duty, the only point I wish to ask, as a clarification, is that in regard to all those classes of Government servants who are to be brought within the purview of this, where are the official duties prescribed in extenso? What exactly do you mean by "discharge or purported discharge of his official duty"? How is the court to judge that? Suppose a point comes up in a particular case, whether he has actually done it in the discharge or purported discharge of his official duty, is there such a compendious, all-embracing, comprehensive prescription of the official duties of each of these classes of Government officers laid down by which the court can proceed? I do not know. How do you wish this thing to be properly decided upon? I am not quite clear.

About the appointment, resignation, termination of service, dismissal or removal from service also, I think, what has come to light is a ridiculous position. The arguments can go on before the courts for weeks together as to how it is to be proved whether a person has resigned or not resigned, when he resigned, when he tendered his resignation and when his resignation was accepted and all that. Whatever it is, the matter should be put beyond doubt. This cannot be a matter on which there should be endless argument. So, this amendment seeks to say that once it is published in the official Gazette, that should be taken as the conclusive evidence. That is

a very fair thing. That should apply always. Why should this be open to doubt at all. I do not follow. This is the type of amendments which are here.

Mr. Gokhale has explained the reasons for the latest amendment. Mr. Mohan Dharis has said that he agrees with the general principle behind it, that a person who may have committed a very small, technical default should not be subjected necessarily to the maximum penalty. The idea is quite sound. There is nothing wrong in that.

I do not think that the whole thing should be looked at only as Mr. Mohan Dharis has sought to look at it. About taking away the Supreme Court's powers, well, I am all for taking away the Supreme Court's powers in many things, and I think, more things will come. I am not prepared to put the Supreme Court on a pedestal. The Parliament is supreme, The Parliament has to be supreme. Otherwise, say good bye to democracy. I do not share the view of those friends who always used to say that the Judiciary is supreme.

MR. SPEAKER: That Montesquieu theory is getting out-dated.

SHRI INDRAJIT GUPTA: Which one?

MR. SPEAKER: The Montesquieu theory of 'separation of powers' which you were quoting.

SHRI INDRAJIT GUPTA: I must say one thing. I partly agree with one idea which Mr. Mohan Dharis seemed to be trying to project, and that is that, since we are discussing a Bill for reform or amendment of the electoral laws, I think this opportunity should have been taken by the Government with a little more imagination and foresight to include certain other provisions also. You may not be able to bring forward a total com-

prehensive overhaul of the entire electoral laws just now, because you are not prepared; there can be no other reason. It is being discussed and discussed for a long time. Mr. Gokhale will remember that, in the last Session, there were several meetings with the leaders of the Opposition, and many people had submitted their views in writing; printed memoranda and all that were given. There was enough time to process all these things and to come forward with some more important amendments, and we would have welcomed that. I am sorry this opportunity has been lost. Perhaps the Government will say that they are thinking of some Bill which they will bring in future and so on. But we cannot go on tinkering with these things every time—today do a little, piecemeal tinkering, and after two weeks a little bit and so on. I am afraid this kind of method is being adopted even with regard to the Constitution. It should not be amended every month or every 15 days. We should think out the things properly beforehand and come with all the amendments together.

Yesterday, my friend, Mr. Viswanathan, and I were going through the Report of the Joint Select Committee on electoral reforms, and we found that there were some quite important and useful suggestions which were given by them as unanimous recommendations. The Joint Select Committee, including the members of the Government who were members of that Committee, had unanimously recommended certain things. I fail to understand why at least those few points could not be incorporated in this Bill. They were unanimous. Generally when a Joint Select Committee gives a unanimous report, it is accepted; generally, it is not amended or altered even when it comes before the House. And what were those five points which were unanimously agreed? One was that there should be a multi-member Election Commission.

[Shri Indrajit Gupta]

This was a unanimous recommendation. How it is to be constituted, how many members are to be there and all that can be decided later, but a provision could be made for a multi-member Election Commission. The second point that they had recommended was reduction in the voting age from 21 to 18 years. This was a unanimous recommendation, and I think that, in conformity with the spirit of the times, there is nothing which is more urgently required than this. Some people ask: how can anybody be mature enough at 18 to vote? The age of 18 is considered mature enough to be drawn into all kinds of agitations, and nobody seems to think then that they are immature.

Anyway, this was a unanimous recommendation. The third recommendation was that broadcasting time on the radio should be provided to all recognised parties as part of the election campaign. This was a unanimous recommendation. The fourth is with regard to electoral reforms. It is very very important, but not something which cannot be done; it is very easy. The recommendation is that electoral rolls must be corrected, revised, amended and maintained always up-to-date. This is very necessary. If you are to be fair to the voters, a provision has to be made that the electoral rolls are kept in a constantly up-to-date manner. The fifth recommendation is that the present ceiling on election expenses should be raised. This is a suggestion which the ruling party has also approved of in their party conclaves, the only one perhaps. What we feel very strongly is that when you are after a long time coming forward with an amending bill, this opportunity should have been taken; it would have been much better, much more feasible, much more presentable, practical and much more acceptable to the country at large, if you

had incorporated at least these unanimous recommendations in this Bill. I am very sorry that this has not been done and this opportunity has been lost.

This Bill before us is a limited one with reference to certain limited provisions, but as I have already said, I see nothing wrong in those. I would also have been happy if a little more time was available to us to digest them better, but I do not think, much material change would have come as a result of that. As a matter of fact, the whole of yesterday was available to draft certain amendments and I find certain amendments have been circulated. Mr Mohar Dharra has also given one.

We support this Bill, but I hope Mr. Minister in his reply will tell us something as to whether they have given a go-by completely to the question of more radical reforms to the election laws, or whether they have anything concrete in mind or whether we can anticipate that in the next session we will have some Bill before us, that is very urgent and necessary.

With these words, we support this Bill.

SHRI G. VISWANATHAN (Wandiwash) Mr Speaker, Sir, the Law Minister has brought forward certain amendments which are going to be very useful at least in the future. When Mr Mohan Dharra criticised this Bill, I think, he started looking at these amendments through the glass of the Janta front. That is why, he said that this is meant only for an individual. This may give some advantages to one individual, but certainly that is not going to be only for that individual. It is going to the advantages of so many hundreds and thousands of candidates in future also. For example, the definition of the candidate has been amply made clear by the Law Minister. The main question which was agitat-

ing this country for a long time was whether Parliament was supreme or the judiciary was supreme; that has been decided for once and for all. I think, the people also have agreed that the supremacy of Parliament has come to stay in this country.

We know the mind of the judiciary in this country, for example their decision on the bank nationalisation case, their decision on the abolition of privy purses and privileges, and again so many land reforms Acts of so many States have been thrown out. We were hoping that the judiciary will make law by interpretation of law. I think, this is a wrong attitude. It is for the Parliament and the State legislatures to make laws.

There are certain High Courts where you can purchase justice. I deliberately tell this in the House so that the Law Minister can take note of this. When the citadel of justice becomes corrupt and sometimes the executive also joins it, what is the alternative for us? For example, there is a High Court in our country where the Chief Justice and the Chief Minister joined together to start new ventures and industries. How are we going to get justice from this High Court? There are certain High Courts, where two or three judges give different views on the same question.

How is this going to be decided? The poor District and Sessions Judges cannot take a decision in this case at all. Hitherto, the disqualification was automatic, but, I am glad now the power is going to be vested with the President. But I am not sure who will approach the President. Mr. Gokhale said that the case shall be submitted by the prescribed authority to the President. The President could not act on his own and he has to act on the advice of some prescribed authority. Who will be that prescribed authority—I do not know. Then the President has to be guided by the opinion of the Election Com-

mission. The President is not given all the powers. He has to go by the opinion of the Election Commission.

As it has been pointed out by my friend, Shri Indrajit Gupta, the Communist Party leader, there had been consultations among the Opposition Parties and the last instance was when the Prime Minister had a meeting with the leaders of the Opposition regarding electoral reforms. Almost all the Parties were asked to give their opinions and views. We have also submitted our Party's views. For example, we have emphasized that the right to recall should be prescribed in our laws. When a member, whether he is a Member of the Assembly or the Parliament, gets elected, he thinks he can never be disturbed and that he can treat the people like slaves. In other constitutions like that of USSR and Switzerland, there is already an article for recall. We have asked the Government to consider that question also.

Among the various other points mentioned by Mr. Indrajit Gupta, the question of having a multi-member Election Commission and also lowering the voting age from 21 to 18, giving facilities in the All India Radio to other Parties—these points have been accepted unanimously by the Joint Select Committee presided over by Shri Jaganatha Rao on Election Reforms. I thought that the Government would have taken into consideration some of them and introduced them in this Bill. The Minister has not given any consideration to them. At least in future, I hope the Government will consider these unanimous recommendations of the committee and the views placed by the parties before the Prime Minister and he will bring forward the necessary amendments to the election law.

Finally, there are certain amendments which are given here and I think they are quite welcome and

[Shri G. Viswanathan].

they will every useful to the candidates for the future. Hence, I welcome this Bill.

SHRI H. R. GOKHALE: There are some points raised and I thought it is desirable that I should deal with them.

As I have said in my opening speech, the Bill seeks to remove the loopholes which have led to a situation which is ridiculous with regard to 'holding out'. For example, as you indirectly indicated, when I intervened when my hon. friend, Mr. Indrajit Gupta was speaking, from the point of view of the wider concept which is now recognized, everyone of us is holding out from now on for the next elections because I have an office in my constituency and I believe most of us have and even if we do not have our offices, we do nurse our constituencies, so that, when the time comes, we will be able to participate in the next elections. We may or may not or we may contest from another constituency also. Therefore, the situation as interpreted, has gone, if I may say so, to such a ridiculous extent that nobody was safe from attack on the ground of this 'holding out' concept. Therefore, I said it is overdue that this change ought to have been made and that is what is proposed to be made now. If everyone has studied the text of the proposed amendments or the content of the amendments, they leave no doubt that it is not intended for any single individual. In fact, it has been made applicable to all pending cases. It has been made applicable to cases which have been disposed of by the High Courts but where the period of limitation has not expired for filing an appeal; so it has been made applicable to all pending cases in appeal also. And it makes no distinction whatsoever between one case and another. In my submission it is useless to say that this is again a special

case made for any particular individual.....

SHRI MOHAN DHARIA: Then why don't you come with a comprehensive Bill on election laws?

SHRI H. R. GOKHALE: That is not the point you have raised, but it has been more validly and appropriately raised by Mr. Indrajit Gupta and also by my friend, Mr. Viswanathan, in the course of his speech. When I come to that, I will deal with that also.

Therefore, I do not think it necessary to deal with any other part of Mr. Dharia's speech at this juncture because I consider it, with all respect to him, completely irrelevant and beside the point.

A point has been made that this Parliament is supreme. Nobody ever questioned it. This Parliament had assured its supremacy when its supremacy and sovereignty was questioned by the judicial decision. It is not necessary to remind the House of the number of occasions on which this Parliament has acted to establish the sovereignty and supremacy which it always had and which I assert it will always continue to have in future.

I agree that we might have to have an overall look, may be, even at the Constitution itself, to see that no future situations arise where the final word of the Parliament itself is challenged. It is true that the question of electoral reforms on a comprehensive basis has been the subject matter of discussion in the public at large. There had been a general debate on it. Some initial discussions had been started with the opposition parties. I must point out, in respect of a few points, not all the points, discussions were held at that time. At a later stage some of the opposition parties wanted postponement of these discussions and the discussions could not continue. But in such mat-

ter, discussions had taken place. My hon. friend Shri Indrajit Gupta had been present in most of the meetings. There was no unanimity even among the opposition parties on the question of election expenses. He was right in saying that we had to raise the limit. But at that time there was no unanimity in the meeting on this point among the opposition parties. I am not saying that we should not consider it. Anyway, it is not a matter of legislation. The limit is not fixed by the Act, it is fixed by the rules framed under the relevant provision of the Act and the question can be considered independently after the present legislation.

There are other issues, for example broadcasting. A reference was made to electoral rolls and also to a Multi-Member Election Commission. No amendment, either of the Constitution or of this Act is necessary because constitutional provision as at present pre-supposes the possibility of constituting a Commission of more than one Member. That is a matter for understanding—political decision, reaching a consensus with everybody and Government taking a decision thereafter. Therefore, it could not form part of the present amendment. I am grateful to Shri Viswanathan and Shri Indrajit Gupta for having pointed out to me three or four matters. I considered them but when I found those were not matters of legislation, I did not include them in the legislation. These points have been left for discussion with them and the opposition parties and proper action will be taken at that time.

I am saying with regard to the completion of the electoral rolls. Now as it is not in the Act but in the rules which are framed under the Act, periodical revision of electoral rolls has already been made mandatory and particularly so before the general election. But when any further suggestions for change are received, we are certainly willing to

consider them. For example, it has been accepted and included in the other Bill that instead of 2 qualifying dates it should be four. Government has considered it. But I must say that after all this experience and the debate which has taken place, it may be that even the Bill which we have put before the House for consideration may not be enough and we may have to have a look at the scheme of the Act and the whole question of electoral law reform independently. At a later stage when that study in depth is made we can come before you for appropriate legislation in this regard. But I assure the hon. Members that the question has not been given a go-by as Mr. Indrajit Gupta apprehended. I want to assure him that it is not given a go-by, but the matter is still kept alive and every aspect of the question will be considered carefully.

One point which was made was with regard to the proposed amendment with regard to discharge of duties by Government servants. Now, Sir, the Clause is wide, I agree. The Government has to discharge all duties not necessarily, under rules or instructions. But there are rules. These rules and instructions have been in existence. Therefore, when they are in existence, there is no question that they are directly in discharge of those duties which arise as a result of those rules. Situations arise for example, Mr. Jayaprakash Narayan has been addressing meetings in Delhi and other places. Even though it was not protected by any rules as a mere matter of affording security to him, and for preventing violence, as a more matter of maintaining law and order the authorities discharge certain duties to see that Mr. Jayaprakash Narayan is protected. Therefore, this is not only in respect of important dignitaries like the President or Vice-President or the Prime Minister or for that matter some other dignitary. But the provision is so wide that if tomorrow for

[Shri H. R. Gokhale]

example if hon. Mr. Dharia is in a situation where he needs protection, the officials have to discharge their duties, and the discharge of duties cannot be said to have anything to do to assist the prospects of election of Mr. Dharia. That is the purpose of the amendment.

SHRI MOHAN DHARIA: I want protection from authoritarian rule.

SHRI H. R. GOKHALE: I don't know; perhaps time has come when you will require protection from the people themselves.

SHRI MOHAN DHARIA: Not in the least. If you assure this House to hold bye-election in Poona, in my Constituency within two months, I am prepared to resign. Can you give that assurance, I am ready. I don't want to get any protection; I shall get enough protection from the people. I am not going to oblige you that way, by resigning without this assurance.

SHRI H. R. GOKHALE: The question is not whether hon. Mr. Dharia needs protection.

MR. SPEAKER: When he was a Minister I went to Poona, to his house and I was surprised, it was well protected by the police.

SHRI MOHAN DHARIA: They came with you, Sir, not for me.

SHRI H. R. GOKHALE: The question is not whether Mr. Dharia needs it or not. His life is so valuable that we must give him that protection, whether he likes it or not.

SHRI MOHAN DHARIA: Thank you very much.

SHRI H. R. GOKHALE: Here it is a matter for the authorities of doing everything that is necessary to see

that every citizen of the country, every candidate for the election, is protected. The officials concerned with State Governments or other Union Territories or of the Central Government act under instructions when the instructions are there. On the general question of treatment of law and order issues, violence and things like that, they have to discharge this. It is their duty. That is the thing which this amendment seeks to cover.

12.00 hrs.

Then, Mr. Viswanathan asked, who is to approach the President for removal of the disqualification. The Clause makes it clear as I said earlier. It is in two parts because it has to take care of the case where the disqualifications have already been incurred. And because of the mandatory provisions in the Statute, now one is helpless even though the officers may be found guilty of an offence of a very technical nature or of a very insignificant gravity. Now, he can make a petition to the authority specified—specified after the passing of the Act—and the Election Commission will examine the case and recommend to the President as to what action if necessary, will have to be taken where the disqualification has already been incurred. In future cases, it may happen where for example, there is a duty on the specified authority itself to take up his case, to put it before the Election Commission and, on the advice of the Election Commission which, in line with Article 103 of the Constitution, as I said earlier, the President has to Act. This is the object of that provision.

The other provisions I have already dealt with in my opening speech and, I suppose, there is no doubt with regard to any of the provisions that they were necessary and they protected all those anomalies and ridiculous

situations which arose on account of the Act as it is and on account of the various judicial interpretations.

Sir, I would strongly recommend that the Bill be taken into consideration.

SHRI D. N. TIWARY (Gopalganj): Sir, I want to know whether Government is considering the proposal to postpone the elections to Parliament till the Election Law is amended?

SHRI H. R. GOKHALE: The question does not arise. It has nothing to do with the amendment in question.

MR. SPEAKER: Now, the question is:

"That the Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code, be taken into consideration."

The motion was adopted

Clauses 1A to 1D (New)

MR. SPEAKER: We shall now take up clauses 1A to 1D (New). This is a new Clause. There is one amendment No. 18 by Shri Gokhale.

Amendment made

Page 1, after line 3, insert—

'1A. Substitution of new section for section 8A.—In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for section 8A, the following section shall be substituted, namely:

"8A(1) Disqualification on ground of corrupt practices.—The case of every person found guilty a corrupt practice by an order under section 99 shall be submitted, as soon as may be, after such order takes effect, by such authority as the Central Government may specify in this behalf, to the President for determination of the question

as to whether such person shall be disqualified and if so, for what period."

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

(2) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion."

1B. Amendment of section 11.—In section 11 of the principal Act, after the words "under this Chapter", the brackets, words, figure and letter "(except under section 8A)" shall be inserted.

1C. Amendment of section 11A.—Section 11A of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) in the sub-section as so re-numbered, clause (b) shall be omitted; and

(b) after the sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) Any person disqualified by a decision of the President under sub-section (1) of section 8A for any period shall be disqualified for

[Mr. Speaker]

the same period for voting at any election.

(3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (b) of sub-section (1) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, as if such decision were a decision in respect of the said disqualification for voting also."

ID. Amendment of section 11B—In section 11B of the principal Act, for the words "any disqualification under this Chapter" the words, brackets, figures and letter "any disqualification under sub-section (1) of section 11A" shall be substituted'. (18)

(Shri H. R. Gokhale)

MR. SPEAKER: The question is:

"That new Clauses 1A to 1D stand part of the Bill".

The motion was adopted.

New Clauses 1A to 1D were added to the Bill.

Clause 2 (Amendment of section 77)

MR. SPEAKER: Now, I shall take up Clause 2. There are three amendments by Shri Sher Singh.

PROF. SHER SINGH (Jhajjar): I move:

Page 1, line 8,—

for "of any" substitute "of security" (1)

Page 1, line 9,—

omit "facilities provided or any other act or thing done" (2)

Page 1, lines 11 and 12,—

omit "or purported discharge" (3)

क्लाज 2 के अन्दर मैंने तीन एमेंडमेंट्स दी हैं। इनको देने का उद्देश्य यह है कि एक्सप्ले-नेशन के अन्दर बहुत सी ऐसी पावर्ज दी गई हैं जिन का कभी भी दुरुपयोग हो सकता है। इसमें आपने कहा है:

"any arrangements made, facilities provided or any other act or thing done by"

इसका मतलब यह है कि सरकारी अफसर को खली छूट है कि कोई इनजाम करे, कोई भी फर्मिनिटी दे, कोई काम करे और जो कुछ भी वह करेगा उस में जो भी खर्चा वह करेगा वह खर्चा कैंडीडेट के भैंचें में शामिल नहीं होगा। इस वाक्य में मैंने यह कहा है जेमे आपने अभी कहा है कि सिक्क्योरिटी प्रेजमेंट्स सभी के लिए होने चाहिए जो ठीक बात है लेकिन मैंने जो एमेंडमेंट दिया है उस में डिफाइन कर दिया है कि आप एनी की जगह आप सिक्क्योरिटी कर दिया जाए। अर्थात् मैंने

"facilities provided or any other act or thing done" को डिस्लिट करने के लिए कहा है। आगे चल कर जहाँ लिखा है 'और परपरटिड डिसचार्ज आप डिज आफिशल ड्यूटी' इसमें आपने उसको बहुत ज्यादा छूट दे दी है। सीधा आप रखने डिसचार्ज आप पब्लिक ड्यूटी तब तो ठीक था। परपरटिड डिसचार्ज जब आपने रख दिया है तो वह कोई भी बहाना बना कर जिस किसी की मदद करना चाहेगा कर देगा और इलेक्शन की और फेयर नहीं हो सकेगा जो कि एकट का भी मकसद है। वह कैंडीडेट की खुल कर मदद कर सकेगा और जो भी खर्च उस में होगा वह खर्च भी उसी-

द्वार के खर्च में मसिल नहीं होगा। इस वास्ते धार परपरटिड डिस्चार्ज शब्द आप निकाल दें। सिक्योरिटी के लिए रखना तो ठीक है लेकिन इतनी खुली छूट देना ठीक नहीं है और मैं समझता हूँ कि यह चीज फ्री और फेयर इलेक्शन के खिलाफ होगी (बुद्धधान) मेम्बरों का काम केवल होन पीटना है? हाउस की डिगनिटी का तो आप क्या करें। (इंडरप्राइज) मैं समझता हूँ कि इतनी खुली छूट आप देते हैं तो उसका नाजायज इस्तेमाल होगा और फ्री और फेयर इलेक्शन नहीं हो सकेगा। इसका जवाब आप अगर दे सकें तो दे दें।

SHRI H. R. GOKHALE: Sir, I have already dealt with these points and I have said you cannot restrict it only to security because occasions can be of different nature. I as an ordinary citizen want to contest an election and apply for the electricity connection to be given to me from the nearest pole for my microphone to work. Some government servant of the Electricity Board has to do that job and yet you say he has been functioning as a Government servant and assisted you in the discharge of his duties. It does not come under security. So, I am not in a position to accept the amendments.

MR. SPEAKER: I will now put amendments numbers 1, 2, & 3 to the vote of the House.

Amendments Nos. 1 to 3 were put and negatived.

Amendment made:

Page 1, for lines 4 to 6, substitute—

"2. In section 77 of the principal Act, in sub-section (1)—

(a) for the words "the date of publication of the notification calling the election", the words "the date on which he has been nominated" shall be substituted;

(b) after Explanation 2, the following Explanation shall be inserted, namely:—' (19)

(Shri H. R. Gokhale)

MR. SPEAKER: The question is:

"That clause 2, as amended, stands part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3 (Amendment of section 79)

Amendment made:

Page 1, for lines 18 to 22, substitute—

"(b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election;"

(Shri H. R. Gokhale)

MR. SPEAKER: THE question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 (Amendment of section 123)

MR. SPEAKER: We shall now take up Clause 4.

PROF. SHER SINGH: Sir, I beg to move:

"Page 2,—

omit lines 2 to 6. (5)

Page 2, line 11,—

omit "or purported discharge" (6)

Page 2, line 11,—

for "any" substitute—

"security" (7)

[Prof. Sher Singh]

Page 2, lines 12 and 13,—

omit "or provides any facilities or does any other act or thing, for, to, or in relation to," (8)

Page 2, line 13,—

for "any" substitute—

"for any" (9)

Page 2, lines 16 and 17,—

omit "facilities or act or thing" (10).

Page 2,—

omit lines 19 to 37." (11)

जो एमेंडमेंट्स क्लॉज नम्बर 2 में दी गई हैं उन्हें को चार में भी दोहराया गया है। उसी ढंग की ये भी हैं

अध्यक्ष महोदय : वे रिजेक्ट हो गई हैं तो दुबारा देने से क्या फायदा ?

प्रो० शेर सिंह : ये दूसरे कंटेक्स्ट में हैं। इसमें खर्च का सवाल नहीं है। दूसरी बात है। इसलिये मैं इनको मूव करता हूँ।

MR. SPEAKER: Now, I shall put Amendments Nos. 5 to 11 to Clause 4 moved by Prof. Sher Singh to the vote of the House.

Amendments Nos. 5 to 11 were put and negatived

MR. SPEAKER: The question is:

"That Clause 4 stand part of the Bill"

The motion was adopted

Clause 4 was added to the Bill

MR. SPEAKER: Now, we shall take up Clause 5. There is no amendment. The question is:

"That Clause 5 stand part of the Bill"

The motion was adopted

Clause 5 was added to the Bill

MR. SPEAKER: Now, there is an amendment, amendment No. 17, by Shri Amrit Nahata, seeking to introduce new Clauses 5A to 5D. Is he moving it?

SHRI AMRIT NAHATA (Barmer): In view of the fact that my amendments have partly been accepted by the Minister, I am not moving it.

Clause 6 (Amendments to have retrospective effect)

MR. SPEAKER: Now, we take up Clause 6. Apart from the Government amendment, there is Amendment No. 12, by Prof. Sher Singh.

PROF. SHER SINGH: Sir, I beg to move:

"Page 3,—

omit lines 1 to 11" (12)

अध्यक्ष महोदय, मैं ने यह संशोधन दिया है कि इस धारा के भाग (2), (3) और (4) को डिलीट कर दिया जाये, क्योंकि अगर हम इस क्लॉज को इसी रूप में पास कर दें, तो यह डिसक्रिमिनेटरी हो जायेगी। जिन लोगों ने अभी तक अपनी चुनाव-याचिका दाखिल नहीं की है, उन्हें तो मालूम है कि कानून क्या है और वे उस के हिसाब से अपनी याचिका पेश करेंगे। जो लोग पहले ही अपनी याचिका पेश कर चुके हैं, उन को यह पता नहीं था कि यह कानून आने वाला है। अगर उनको यह मालूम होता कि यह कानून बनना है, तो शायद वे कोई याचिका दाखिल न करते, और उन्होंने जितना खर्चा किया, वह बेकार न जाता। भाग (1) तो ठीक है। उस में लिखा है :

"in respect of which any election petition may be presented after the commencement of this Act;"

जो लोग अपनी याचिका दाखिल कर चुके हैं अगर उन को पता होता कि यह कानून है, तो वे किसी और मुद्दे को ले कर कोशिश करते। उन्होंने सोचा कि आज यह कानून है और अगर यह साबित कर दें, तो बात बन जाती है। इसलिए उन्होंने उसी पायट पर जोर दिया और दूसरे पायट पर जोर नहीं दिया। अगर उनको पता होता कि यह कानून बदला जाना है, तो वे उन मुद्दों को पकड़ते। अगर हम इस कानून को यह कह कर विद रिट्रोस्पेक्टिव इफेक्ट कर दें कि जिन लोगों ने अपनी चुनाव याचिका दाखिल नहीं की है, यह उन पर लागू होगा, और जो दाखिल कर चुके हैं, उन पर लागू नहीं होगा, तो डिन्क्रिमिनेटरी नहीं होगा अन्यथा यह डिस्क्रिमिनेटरी होगा।

MR. SPEAKER: Mr. Mohan Dharja has also an amendment, No 13, to Clause 6.

SHRI MOHAN DHARIA: Sir, I beg to move:

"Page 3,—

omit lines 3 to 11" (13)

Sir, a charge has been made against me that my speech was subjective and it was irrelevant according to the hon. Minister.

Sir, I want to make it very clear that I was very much to the point. May I know from the hon. Minister if he is prepared to have an exhaustive amendment of the Act in an integrated manner to consider the whole of the election law. Then let us postpone this whole discussion. Let us have that exhaustive law and let us take that into consideration. The very fact that the Bill has been brought with such urgency, the very fact, as I said yesterday, that it was brought with indecent haste to the extent that even circulation was not there for two days...

SHRI C. M. STEPHEN (Muvattupuzha): He is entitled to speak on the amendment.

SHRI MOHAN DHARIA: I am entitled to speak.

These facts show that this Bill is meant for a particular purpose. If it is not that, then my amendment for not making it retrospectively applicable to such election petitions as have been decided by the High Court and which are pending in the Supreme Court should be accepted. I have said that retrospective effect should not be given to this to cover such cases. It is absolutely in order. It has been accepted by you.

SHRI C. M. STEPHEN: How is it in order? It is negative.

MR. SPEAKER: I have been trying to understand what you have been saying. When I saw the number of your amendment—it is 13—then I got satisfied! That number 13 is always like that—unlucky in some cases.

SHRI MOHAN DHARIA: It is very dangerous.

MR. SPEAKER: I am going to put the amendments now to vote

SHRI MOHAN DHARIA: I was just pleading for my amendment. I have not finished.

MR. SPEAKER: I thought that you had said whatever you wanted to say.

SHRI MOHAN DHARIA: I was just on my legs.

I was only submitting to the House that if it is not for a particular purpose, if this is not a subjective Bill, the Government can straightway accept my amendment and I shall also be absolved of the charge against me. I request the hon. Minister to accept this amendment so that nobody will treat this as subjective.

SOME HON. MEMBERS: No, no.

MR. SPEAKER: Did you accept such suggestions when you sat on this side?

SHRI H. R. GOKHALE: I am sorry I cannot accept the amendment. I am opposing the amendment.

MR. SPEAKER: I shall now put amendment No. 12 to vote.

Amendment No. 12 was put and negatived.

MR. SPEAKER: I shall now put amendment No. 13 to vote.

Amendment No. 13 was put and negatived.

Amendment made:

'Page 2, line 42 for "The amendments made by this Act in the principal Act", substitute "The amendments made by sections 2, 3 and 4 of this Act in the principal Act".'

(Shri H. R. Gokhale)

MR. SPEAKER: The question is.

"That clause 6, as amended, stand part of the Bill".

The motion was adopted.

Clause 6, as amended, was added to the Bill.

SHRI H. R. GOKHALE: There is amendment No. 22 which is consequential, about renumbering of clauses etc. Your goodself may do it.

MR. SPEAKER: I am authorised* to do that.

The question is:

"That clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. R. GOKHALE: I beg to move:

"That the Bill, as amended, be passed".

MR. SPEAKER: Motion moved:

"That the Bill, as amended, be passed".

SHRI MOHAN DHARIA: I do not want to take more time. But I want to make one submission to the hon. Minister (*Interruptions*).

I am referring to Government Amendment No. 18 which says that—

"the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion."

Sir, may I submit to the Government that I can very well understand the intention of the Government?

(*Interruptions*)

What I am submitting here is, with your permission, that instead of binding the hands of the President and his authority, it would be advisable to leave the matters to the President after he obtains the opinion of the Election Commission. This is my request to the hon. Minister.

(*Interruptions*)

SHRI H. R. GOKHALE: For once I am surprised to know that he wants to protect the authority of the Government. Actually he has read out the Article 103. (*Interruptions*). Then it is all the more reason why this point should not be regarded as absolutely essential. That is provided in the Constitution itself. The second

*Consequent upon the adoption of amendment No. 18 for insertion of new clauses 1A, 1B, 1C and 1D, re-numbered as clauses 2, 3, 4 and 5, the existing clauses 2—6 of the Bill were re-numbered as clauses 6—10 respectively.

thing is that the Election Commission is an independent body constituted under the Constitution itself and instead of leaving it to the President, which means on the advice of the executive and so on, it is better he acts on the advice of the independent body. That is the purpose of bringing this amendment.

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

12.22 hrs.

INDIAN COINAGE (AMENDMENT) BILL

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB KUMAR MUKHERJEE): Sir, I beg to move:

"That the Bill further to amend the Indian Coinage Act, 1906, be taken into consideration".

Under Section 6 of the Indian Coinage Act, 1906, the Central Government have power to mint coins of such denominations not higher than 100 rupees as the Government may by notification in the official gazette determine.

It is proposed to remove this denominational restriction and permit the minting of a coin of the denomination of 1000 rupees.

In 1968, the FAO invited the Government of India to participate in an International Issue of Commemorative coins as legal tender, in a new action of international goodwill to tackle World Food and Agricultural problems. For obvious reasons, a commemorative coin has to be different from the existing coinage. It is also of advantage if it is of higher value than the normal coins,

since such a coin is likely to command a better sale price abroad.

Minting of high denomination commemorative coins has recently become a big numismatic attraction. Several foreign countries are issuing coins of the denomination of \$125 (equivalent to Rs. 1,000 approximately) as participants to commemorative series sponsored by the International Union for Conservation of Nature and Natural Resources and the World Wild Life Fund. The preference of collectors of coins for high denominations render these coins highly attractive from the foreign exchange point of view.

India has been in the market of commemorative coinage issues from 1969 and has been selling coins of the denomination of Rs. 10 and even Rs. 50 recently in the international numismatic market in sets of uncirculated quality and in sets of proof quality, as well. The foreign exchange earned from the sale of these uncirculated sets or proof sets has gone up from \$62,715 in 1969 to \$135,650 in 1974. As high denomination coins contain precious metals like silver and nickel which have to be conserved or which are imported, such coins are usually minted in limited quantity for purposes of promotion of sale in international numismatic markets and earning precious foreign exchange.

We are actively considering participation in proposals which require minting of high denomination coins of Rs. 1000/- but prior to final decision on these issues it has become necessary to amend Section 6 of the Indian Coinage Act, 1906.

I commend this Bill to the House

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Indian Coinage Act, 1906, be taken into consideration."

*Moved with the recommendation of the President.