

checked. But I do not agree with him when he says that educated women are not behaving properly.

Shri Sham Lal Saraf: He did not say all, he had a complaint only against some of them.

Shrimati Lakshmikanthamma: It is not due to education. Whether they are men or women, educated or uneducated, it is in the minds of the people. I may remind him that the greatest of Indian women, Gargi and Maitreyi, were highly educated and were the beacon lights for great Swamis also.

I express my thanks to the hon. Minister again for agreeing to the circulation of this Bill. It shows that Government has recognised the importance of bringing forth such a Bill and I once again thank him for that. I request the House to accept the motion that the Bill be sent for eliciting public opinion.

Mr. Deputy-Speaker: The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1963."

The motion was adopted.

16.51 hrs.

CONSTITUTION (AMENDMENT) BILL

(Amendment of articles 136, 226, etc.)

Shri Shree Narayan Das (Darbhanga): Sir, I beg to move:

"That the Bill further to amend the Constitution of India be taken into consideration."

This Bill seeks to amend five or six articles of our Constitution. It is intended to exclude the jurisdiction of

the High Courts and Supreme Court in election disputes save as provided by or under any law made by the appropriate authority. In this regard, article 329. says:

"Notwithstanding anything in this Constitution (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature."

The whole scheme of this chapter of our Constitution was to make elections in India fair and free. It was for that purpose that an independent body like the Election Commission was created by the provisions contained in this Chapter. Because an elected assembly or House is a supreme body by itself the constitution and other matters relating to that body should be decided by that body itself. In many countries the provision is that if anything had to go before the court regarding elections, the court's jurisdiction could be exercised only to the extent to which powers are given by the Representation of the People Act. So, when the time came, before the first general elections, for this House to enact a law for the representation of the people in Parliament and State legislatures, the Act provided that no ordinary court could have jurisdiction with regard to election; it specifically stated in that Act that the decisions with regard to elections, of the Election Tribunal, constituted under article 329, would be conclusive and final. There shall be no appeal to any court, either high court or the Supreme Court, of the country. But after

the first general election was over, the Election Commission constituted a number of election tribunals to deal with election petitions. As soon as they were constituted, some aggrieved persons, aggrieved with the decision of the returning officers, approached the courts, and in some cases they approached the high courts also against the decision of the returning officer. These cases were in regard to the elections, rejection of nomination papers and acceptance of nomination papers. On some grounds or other,—and they were taken to the court. There were various kinds of decisions, but in course of time, practically everything went to either the high courts or the Supreme Court.

The articles which I intend to amend through this amending Bill are those which give a special power to the high courts and the Supreme Court. Article 136 gives over-riding powers to the Supreme Court. I would like to quote it, though hon. Members might be knowing it. It reads like this:

"Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

Under this article, a large number of cases against the decisions of the returning officers and against *ad interim* orders of the election tribunals were accepted by the Supreme Court. In similar circumstances, the provisions of article 226 give the high courts the power to issue certain writs, and under the provisions of articles 227, the high courts get the power of superintendence over all courts.

We found that the objective of the Representation of the People Act,

1951 in which we have made provisions—the Constitution had made provisions—was to see that the election matters are decided by the Election Tribunals, and the courts having nothing to do with them. But, as I have pointed out, under the provisions of the articles I have just mentioned, they were entertained by the courts. Ultimately, what happened? In some cases it took two or three years before the cases pending before the tribunals were taken to the high court, and it took a long time when a decision was made by the high courts, and it took a long time in the Supreme Court also in cases of appeal under article 136.

Mr. Deputy-Speaker: The hon. Member might continue on the next non-official day. We will now take up half-an-hour discussion.

16.59 hrs.

INDIAN MISSIONS ABROAD*

Mr. Deputy-Speaker: Shri Hem Barua. Other hon. Members will be allowed only to put a question each. No speech.

Shri Hem Barua (Gauhati): I do not want to discuss the political aspects of our diplomatic missions abroad, although it concerns us vitally. I would like to discuss only the financial aspects of the working of these missions abroad, for due to the lack of vigilance on the part of those who are responsible for the work it has resulted in huge losses to our public exchequer.

I would very briefly catalogue the financial irregularities and the lapses committed in some of these missions. I would try to avoid identification of the missions as far as possible. Let me point out that one of our High Commissions purchased four plots of land measuring 10,470 sq. yards at a

*Half-an-hour Discussion.