

Shri Priya Gupta (Katihar): Sir, there has been a contradiction in the Railway Minister's statement.

Mr. Speaker: When he made that statement on that day, he might have asked for it.

Shri Priya Gupta: He said that they will not find any increase in expenditure. I want to know how far it is correct. *(Interruption).*

Mr. Speaker: Order, order.

RE. BUSINESS OF THE HOUSE

The Leader of the House (Shri Satya Narayan Sinha): Sir, last Friday I had announced in this House that the discussion on the motion about Gold Control would start at 4 p.m. Some requests were made to me, and I also think, that one hour will not be quite sufficient for it. I therefore request the House to take it up at 3.30.

Shri M. R. Masani (Rajkot): We wanted two hours; it may be from 3 to 5.

An hon. Member: We may sit till 5.30.

Mr. Speaker: There are two half-hour discussions, starting from 5.

Shri Satya Narayan Sinha: One and a half hours may be given.

Shri Sezhiyan (Perambalur): At least two hours should be given.

Shri Satya Narayan Sinha: Let it then start at 3 p.m.

Mr. Speaker: All right. We will take up that discussion at 3 O'clock

12.44 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—*contd.*

Mr. Speaker: The House will now take up further consideration of the Representation of the People (Amendment) Bill,—the motion for reference to a Joint Com-

mittee, moved by the Minister of Law on the 1st September, 1966.

Shri P. K. Deo (Kalahandi): Sir, before the House takes up further discussion of this Bill, before anybody points out, I think it is my duty to inform the House *suo motu*, pointing out the inadvertent mistake that has occurred in my speech yesterday. While quoting from the judgment of the Madhya Pradesh High Court in the case of Khubchand Baghel v. Vidyacharan Shukla, I read out a wrong line; it was by mistake. I request that it may be deleted. The relevant line in that regard should read as follows:

"Thus, it is clear that those allegations are false. It is also difficult to see how a person of normal intelligence and decency could commit any honest mistake in this regard."

I am very sorry about this thing. I apologise to you and to the House.

Shri K. L. More (Hatakanangle): Sir, I welcome this measure. At the outset, I congratulate the Law Minister on bringing this measure. I would like to make two observations on this occasion. The first is regarding the security deposits. The Report of the Election Commission on the third General Elections has recommended the increase of the security deposit to Rs. 1500 in the case of Lok Sabha and Rs. 750 in the case of Assemblies. In my humble opinion, this increase is not good. The report of the commission says that there were a large number of light-hearted contestants, who had no substantial electoral support; they were coming into the contest only to gain something or strike bargains, etc. Therefore, they had recommended that the security deposit should be increased. But in my humble opinion, this increase is going to bring many hardships to the poor candidates who have substantial electoral support, especially the scheduled castes and scheduled tribes. These poor people will be put to very great difficulty. Therefore, this recommendation has not been accepted by the Minister and I congratulate him on that.

My second suggestion is about election expenses. The report says that the maximum limit laid down at present is Rs. 25,000 in the case of Lok Sabha, and for the Assembly it varies. In some States, it is Rs. 9,100; in some Rs. 8,000, Rs. 7,000, Rs. 6,000 and so on. That limit is not the same in all States. That discrimination is still there. I am not in favour of all these maximum limits because, as observed in the report, the limits are not maintained. Money should not play a role in the elections, because the intention of the Constitution is that there should be free and fair elections.

In order to achieve this end, the end being fair and free elections, money should not play any role at all. Therefore, I am of the view that it should be the responsibility of the Government or an independent machinery like the Election Commission to provide such circumstances or occasions where nobody could bring into play money.

In this respect, I want to make one or two suggestions. A candidate has to spend money on printing pamphlets, advertisements, on propaganda work etc. They have categorised the items for which expenses are incurred. They have also made an observation with regard to the limit. If the propaganda work is undertaken by the Election Commission it would be a good thing. The most important thing is just to publish the names of the candidates. The candidates must be known to the voters. If the Election Commission just makes a provision for common advertisement, then it would lessen the work and reduce the expenditure. In the report it is said that there should be publicity of the names with photographs and there should be provision for broadcasting also. It was about posters I was saying that there should be a common poster for each constituency in which the names of all the contesting candidates should be there with the photographs and it should be placed before the voters. This will lessen the necessity of expenses.

Another thing is, we should not attach any value to these corruption matters etc.,

which arise from money matters and expenses. If this work is undertaken by the Commission and the responsibility of advertising or publishing the names of the candidates on a common board or something like that is taken over by them, then it will lessen the expenses.

The next point that I would like to make is regarding the voters. The report has said that the system of giving the voters identity cards with photographs attached is impracticable. But that is what is needed. It will be a golden day when the Representation of the People Act is so amended as to incorporate this provision and arrangement is made to give the voters identity cards with photographs attached. This will lessen false personification and other evils of elections.

With these few suggestions, Sir, that election expenses, as far as practicable, should be lessened and that the maximum laid down at present should be minimised. I support the motion.

Shri Alvares (Panjim): Mr. Speaker, Sir after the experience of three elections, it was proper that Government should bring an amending Bill to improve the method of elections and also to make the representative character of elections more perfect. But we find that instead of being comprehensive about it, the Government have only made certain provisions and not a complete and wholesale review. If I concede that the elections are free, it must also be said that the elections must be fair also. The elections are undoubtedly free to a very large extent, but democracy would not serve its purpose if the elections are not fair also. Certain provisions have been omitted in this Bill because the Government is hesitant to incorporate those measures recommended by the Election Commission which would make the elections fair as well as free.

Sir, right at the outset, may I thank the Government for making representation to the Lok Sabha from Jammu and Kashmir an elective process. Hitherto they were nominated by the President, hereafter they

[Shri Alvares]
will be elected. Therefore, we welcome this suggestion and the provision whereby the Members of Lok Sabha from Jammu and Kashmir will be elected. At the same time, may I join the Secretary of the Congress Legislative Party when he said that so far as 'occupied Kashmir' is concerned we must make a symbolic reservation of an additional two seats to the Lok Sabha which may be kept unfilled. The Jammu and Kashmir Legislative Assembly, I understand, has kept for the area occupied, 25 seats vacant. May we make a similar suggestion that two seats, for people representing the area of 'occupied Kashmir' may be, similarly, kept vacant in Lok Sabha as a symbolic assertion of our right and continued occupation by Pakistan and the fact that 'occupied Kashmir' belongs to India. I am sure, if this provision is incorporated by the Law Minister, there will be a psychological atmosphere created in Jammu and Kashmir and also an assertion of our right in the international circles that Pakistan continues to occupy 'occupied Kashmir' and that by the provision of two seats in Lok Sabha we have asserted our right that these people should be represented when the time is opportune.

The next point I would like to refer to is in respect of fair elections. The Election Commission has undertaken a rather comprehensive review of what would constitute fairness. It is not enough if the elections are merely free. They must be fair also so that there is a conveyance of the feeling to the public that this democracy has the wherewithal to survive all vicissitudes, particularly, in the question of election expenses. If elections are free, then, what makes them not fair? It is submitted by the Election Commission, in a review, that the election expenses contribute to its non-fairness, if I may use that word.

In the first Representation of the People Act, a candidate was enquired to submit the total expenses as election expenses. In a subsequent amendment made, there is a dichotomy, division of responsibility, whereby a candidate is required only to submit a list of expenses incurred by him personally. It is well known all over, that in addition to the money that a candidate spends himself, for which a limit is laid

down—Rs. 10,000 in a single-member constituency—now all constituencies are single-member constituencies—there is a large amount, a large volume of expenses incurred by the political party to which that candidate belongs. We have had the experience in Bombay in the last elections, where lakhs of rupees were spent by the party sponsoring the candidate, or by his friends, or other allied institutions, in the North of Bombay. Each party has election expenses running into lakhs of rupees. Here is an instance where a statutory provision of limitation of expenses is by-passed, and the Government, by not accepting this recommendation of the Election Commission whereby the totality of expenses from any source should be limited, has kept the door open, or left a loophole, for every organisation to spend a lot of money which is not accountable and the account for which is not necessary to be filed before the Election Commission. Therefore, I would suggest that the Government should accept the suggestion of the Election Commission that the totality of expenses incurred, either by the candidate himself, or by any political party, or association, or friend, should be accountable for, because otherwise this limit of Rs. 10,000 for a parliamentary constituency has no meaning and has no relevance.

13 hrs.

Secondly, if the election expenses are to be regulated, then we should also regulate the way in which money comes to big political parties. It is obvious that a Government party has a natural advantage over the opposition, and this advantage is taken by the Government party in collecting corporate funds from big corporations. Nobody could object to funds being collected on an individual basis, but when funds are collected from corporate bodies, with the incentive that this shall not be liable to tax, here is a case where the dice is loaded against the opposition parties, specially the smaller parties, because of the natural advantage which the Government party has, which can naturally bring in all sorts of pressure and throw all sorts of incentives to the corporate sector to invest in its return to power so that it can reap the benefit. Often in this House repeated attempts have been made by various members on both sides of the House to

put a stop to this practice which is unfair. So long as this practice persists, it makes election unfair between candidates. Therefore, I would suggest that the Government should accept the recommendation of the Election Commission that contribution from the corporate sector to the political funds of any political party should be entirely banned.

I have got two more points. One is in regard to the question of election officers. A very salutary provision has been accepted here whereby the district election officer is now an officer of the Election Commission. It would have been better if a more specific provision had been brought in whereby, in addition to the officer being an officer of the Election Commission, he will be entirely under the discipline of the Election Commission. It is obvious that the Election Commission cannot set up the entire machinery for the whole of India to conduct the elections. The Election Commission has naturally to rely on the State Governments. While it relies upon the State Government for the conduct of the elections, the officers of the State Governments are not entirely under the discipline of the Election Commission. Therefore, we find a situation wherein, as for instance in Gonda, in the election of Shri Dandekar, the electoral officer was pressurised by the State Government to indulge in certain malpractices. I am sure that if the district election officer is now brought under the total discipline of the Election Commission, and not made liable to answer to the State Government, all these malpractices could be avoided.

Lastly, the High Courts have been made responsible for trying election cases. I am glad that election tribunals have been done away with. They were costly and dilatory and often they got hamstrung because of writ petitions or stay orders from High Courts. The trial of election cases by High Court is something which is welcome, and we do hope that many of the dilatory tactics will have been eliminated, decisions will be coming soon, apart from being not costly. I do hope that early justice, speedier justice and cheaper justice will come because of the provision for eliminating the tribunal and entrusting that work to the High Court.

1633 (A) LSD.—3.

Shri M. L. Jadhav (Malegaon): Sir, I rise to make some observations on the measure that is before the House. The hon. member of the Swatantra Party was pleased to observe that this Government is ruling on a minority vote. May I submit that, unlike in England or America, there are a number of parties in this very House? In England, which we consider the mother of democracy, there are only two or three parties to contest the elections. So, every party has got a fair chance of getting a good number of votes in the elections. But, in India, in the Parliament alone there are about a dozen parties, and still more number of parties in the States. When a number of parties contest in the elections, the votes are divided between the parties, which is only natural. Yet, the ruling party has got more votes than the other opposition parties. Therefore, nobody can allege that the ruling party has been returned with a minority vote. When the votes are divided between a number of parties which are contesting the elections, such a thing is bound to happen. So, nobody can claim that a minority party is ruling the nation. Since that party has got a majority of votes over the other parties, it has got the right to rule in a democracy.

After we enacted our Constitution, we have had three elections and the fourth one is fast approaching. The world has applauded us by saying that democracy has succeeded in India. We have got adult franchise. That has also succeeded and the elections have so far worked well.

Under this Bill the work of the election tribunal is being entrusted to the High Court. I doubt very much whether this change will result in expeditious disposal of election disputes. This change can only avoid a writ petition or stay order to the High Court from the tribunal. We expect that all the election petitions should be disposed of within six months of the elections? Whether it is possible or not, it is for the Law Minister to see. I want only to express my doubt how far this change is going to result in speedy disposal of cases.

Coming to election expenses, in a country where poverty is rampant, I find that more

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and more money is being spent on elections. When we say that we want to usher in socialism and the socialistic pattern of society, if the election expenses are going up every time, how can the poor peasants or other poor people come to this House by contesting the elections? Now the submission of the election expenses is merely a farce and nothing else. I doubt whether the present provision will tighten the return of election expenses.

It has been suggested that judges or district courts should be entrusted with the election work. In a big country like ours, with a large number of polling booths spread over the villages, can we find sufficient number of judicial officers to run the entire election machinery. So, the election machinery has to be run through the revenue authorities of the State Government. At the most, we can have an agent of the Election Commission to supervise the work of these officials. There is no other alternative. Therefore it is not possible that the judiciary can be entrusted with this work.

Then, yesterday it was observed by some hon. Members that in the case of Members, who are disqualified because of corrupt practices, the disqualification should not be removed immediately. I entirely agree with the suggestion that in the case of one who is disqualified for a corrupt practice if the disqualification is removed immediately and he is allowed to contest again and come to this House, that is not a happy thing for democracy. I feel that such things should not happen. We should see that when corrupt practices are proved by a court of law and are held as proved by a High Court, whoever he may be, he should not be allowed to contest and the removal of disqualification, whether he is A or B, is not a happy thing for the working of democracy.

With these words, I feel that the measure before the House may help to carry smooth elections and next time we may find that the representatives of the people returned to this House are better in quality so that we may have better working of democracy.

Mr. Speaker: Shri Ram Sewak Yadav.. He is not here. Shri Kakkar.

Shri Gauri Shankar Kakkar (Fatehpur): Mr. Speaker, Sir, I welcome this Bill.

Shri Ram Sewak Yadav rose—

Mr. Speaker: He did not stand up when I called him. Now I have called Shri Kakkar; he will please sit down now.

Shri Gauri Shankar Kakkar: But I am very sorry to say that whatever report the Election Commission has submitted is not a very exhaustive report and has not covered other aspects so that free elections are guaranteed. I would point out some salient features of this Amendment Bill and the other items which have been ignored by it.

13.13 hrs.

[Mr. Deputy-Speaker in the Chair]

The first thing is that the election tribunal has been abandoned and now for an election petition the jurisdiction is the High Court. A new forum has been created. In this respect I will submit only one thing. If the Judge of the High Court is to try an election petition, the convenience of the litigant or the petitioner is to be looked into. That would be possible if the Judge were to go to the District headquarters, sit there and do the case. A number of witnesses are to be examined, a number of documents are to be filed which are to be scrutinised and sometimes, when the handwriting is challenged, even the experts are summoned; so, if the High Court Judge has to decide the election petition sitting in the High Court, it would cause much expense and inconvenience to the litigant. So, if at all the election tribunal is to be abandoned and the High Court becomes the forum, the judge should go to the District headquarters, sit there and dispose of the election petition. That will lessen the expenses and will also be convenient to the witnesses. That is my submission.

Then, I find that here one clause is still retained about disqualification. If a Member has been found to be disqualified on account of indulging in corrupt practice by the pronouncement of a High Court or any other forum, that is by a judicial pronouncement, I fail to understand how an administrative forum, the Election Commission, has been given the right to

condone it and make him all right for contesting the election. That is a sort of an insult to the judiciary. Once a person has been found to be disqualified on account of corrupt practice, for that period he should not be allowed to contest any election; otherwise it will mean that the pronouncement of the judiciary is being undone by an administrative machinery, that is, the Election Commission.

With regard to the allotment of symbols, so many years after independence we have noticed how the ruling party, the Congress Party, riding on a pair of bullocks has come to this stage. In our side and everywhere the saying is prevalent that bullocks hardly have any intelligence. It is said so in UP; Tyagiji knows it—

“तुम बिलकूल बैल हो ।”

श्री कृ० च० शर्मा (सरगना) : आंगड़ी में गधा बंधता है ।

Shri Gauri Shankar Kakkar: Sometimes the performance here and outside also goes to ventilate this fact. When the electorate of this country is ignorant, illiterate, poor and backward, let there be a provision for the change of symbols at least after every election. Let them leave the bullocks and take some other symbol and then let them show whether they are able to attract the electorate. That would be most proper and that would show what Shri Tyagi was saying yesterday that he would welcome that the Opposition Members should have a say in the Joint Committee with regard to this legislation. I submit that there is something magic in the pair of bullocks. Why should there not be a change of the symbol, when in India election is to be conducted on the basis of the symbol on account of the ignorance of the electorate?

Then, it has been said by the Election Commission that on account of the multiplicity of candidates sometimes they are not able to manage the election affair. I find from the report of the Election Commission that during the General Elections of 1962 the independent candidates for the Lok Sabha secured 12.3 per cent of the votes in the country. There should be a provision to allow genuine independent candidates, who have succeeded in the last election, to retain the symbol which

they were allotted during the 1962 elections. It is not always that independent candidates are being set up as has been said by the Election Commission by this side or by that side. I have the experience of facing a Minister of State of the Government of India and I can say in this House how official influence, undue influence, is being exercised, specially when a minister is in the field. I would have been glad if the Election Commission had gone into those fears. I suggest, the Law Minister should ascertain as to how many licences for revolvers and guns are granted, how many loans are advanced, how much grant is advanced during one month or two months on the eve of elections. They are genuine fears and the Election Commission has not looked into them. If you look into all these things, that is, granting of licences, giving contracts, giving quotas, giving grants and loans just on the eve of elections in order to lure the electorate of this country, there would be innumerable cases. There will be figures which will come out and say that it is not a free election which your democratic set-up is guaranteeing. When I had to face the Minister in Fatehpur, which is a very poor district, both the suites in the inspection house were got reserved for 45 days for the Minister who was contesting the election. The District Magistrate, the SP and other officers were dancing attendance on him all the time. Then there are other things. When a minister is moving, there is some sort of awe or fear. If you really believe in a democratic set-up, then you should allay all apprehensions from the electorate and the candidates who are opposing you in the elections.

I find, during 1961, there was some amendment to the effect that if there is recourse to religious or caste sentiments, that will amount to corrupt practice. May I tell you one thing? When only four days were left for the poll, that Minister—I will not mention his name because he is not here in the House—overnight came forward with pamphlets showing pandit such and such and that pandit was the State Minister facing the election. It is a recurring offence from the very beginning committed by such responsible persons who have been Secretaries, Administrators, and what not.

[Shri Gauri Shankar Kakkar]

My submission is that there are certain things included which amount to an offence but there is an open play of these offences being committed by the ruling party and still no cognizance is being taken of all that.

There is no denying of the fact that in order to have deep roots of democracy, there should be free elections and without any influence of the Government. For that, I may submit, the Law Minister should come forward with a comprehensive amending Bill of the Elections Act. This would hardly suffice.

In the end, I submit that there is an All-India Voters Council registered in Delhi of which the hon. Speaker happens to be the President. This is a non-political body and I would suggest to the Law Minister to take notice of that institution which is a non-political body whose aim and purpose is to educate the electorate to elect proper candidates for Parliament and State Legislatures.

In this Bill, I find that a provision has been made for disqualification of the contractors and others. There is one particular provision that if a Government employee is found to be an election agent of any candidate, he shall be fined etc. I submit that this is a redundant clause. A Government employee will never come forward to become an election agent. But what they do is that they are exercising their influence for the ruling party candidates. There should be a provision that if it is manifest or proved that there has been any undue influence or any sort of favouritism by any Government servant, he should be punished and awarded rigorous imprisonment. That provision should be there and this redundant clause will not give any remedy.

I conclude by saying that all this should be an eye-opener to the Congress Party who have gone into three General Elections and they should work for the ideal democratic set-up of the country.

Shri G. N. Dixit (Etawah): Mr. Deputy-Speaker, Sir, I thank you for giving me this opportunity. I have to make two or three

suggestions to the Law Minister, to the Joint Committee and also to the House.

The first one is about the Delimitation Act. Unfortunately, as our Delimitation Act is constituted and as the provisions have been made in the present Bill, we are going to deprive this Parliament of certain powers. As has been said, the Parliament has been always world-over zealous as not to give up powers but to snatch more powers. What is the position in England? Under Article 105, we have said that unless there is a law made by Parliament, the powers of the Parliament shall be the same as prevailing in the United Kingdom. Now, in the United Kingdom, the position is like this. There is the Redistribution of Seats Act of 1949 and by that Act there are three or four boundary commissions and the work of these boundary commissions is that they make a report to the Parliament. When their report comes to Parliament, the final power vests with the Parliament to increase the number of seats or not to increase the number of seats, to accept the delimitation or not to accept the delimitation. The same position obtains in the United States of America.

What we did was like this. In article 82 of our Constitution, we have said only so much that the Parliament shall appoint an authority to make re-adjustment as a consequence of the census in such a manner as the Parliament may direct. Now, that provision of the Constitution has not said that the decision of the Delimitation Commission shall be final. Article 105 gives the same powers to the Parliament as are given in the United Kingdom by the Redistribution of Seats Act. Therefore, my submission is this. I have read the debate on the Delimitation Bill in which my friend Mr. Tyagi participated and so many other hon. Members participated and it was said during that debate by every hon. Member and also by the Deputy Minister who was piloting the Bill that this body was a quasi-judicial body. A quasi-judicial body cannot be a law-making body. If you say what you have stated here, it will have the full force of law or it will be the law. Then, it will be giving very wide powers to a quasi-judicial body.

This point needs consideration as to how to adjust the powers given in the Constitution under article 105 to Parliament and under article 82 and how to keep in view that the Delimitation Commission may be constituted by the High Court Judges but that does not go a long way and act against the mandate of the Parliament. After all, in the Delimitation Act, we have given certain directions to the Delimitation Commission to act in a particular manner. There must be some provision to see that the Delimitation Commission does not act contrary to the mandate of Parliament. But, as we have said in this Act and as we have said in that Act, interpretation can be made that the power of the Delimitation Commission is complete and that when it makes delimitation, it becomes the law. This is my first suggestion for the consideration of the Government.

My second suggestion is about the work being assigned to the High Courts to decide the election petitions. This is a very good thing. But some difficulties must be kept in view. The most important difficulty is that about the election petitions, the burden of proof is as in a criminal trial and the procedure is as in a civil court. It is very necessary for a Judge of the High Court or of a tribunal to be fully conversant with both the criminal law and the civil law. Anybody knowing only one law cannot be a proper person to decide the case. Previously, the District Judges knew both the civil law and the criminal law. They were the proper persons to be appointed. Then, about appointing a special Bench of the High Court, only those Judges must be appointed who are fully conversant with both the criminal and the civil law.

Another point is this. So far as the procedure is concerned, you will have to amend the procedure as in the Civil Procedure Code because if the same procedure is in the High Court and if there is delay according to the entire procedure of the Civil Procedure Code, then your intention of expediting election petitions will be marred. Therefore, you will have to substitute a middle-course, that is, the session's trial procedure and you will have to find a *via media* for the procedure for having expeditious hearing.

The third point you have to keep in view is this that there should be no appeal. Then, in the High Court also, time will be taken. Either you make a law that there should be no appeal, that the judgment of the single judge will be final....

The Minister of Law (Shri G. S. Pathak): That has been proposed in this.

Shri G. N. Dixit: That is all right. Then I am sorry.

There is another thing about qualifications and disqualifications. I personally feel having been in this House for four or five years that one of the most important purposes of the Parliament, apart from other purposes, is to enact law and when it is its purpose to enact law, the body which enacts law, the people who enact law must be law-abiding. (Interruption).

I said that they should be law-abiding. A law maker is not a law maker unless he abides by law.

Therefore, I suggest that this may also be included as one of the disqualifications that if the Speaker, either of this Parliament or of any Legislature, certifies that a particular person is habitually breaking the law in the House, as has been habitual in this House, he should be debarred from standing for elections. This is my suggestion. I say that if the Speaker certifies that a particular person has got the habit of breaking the rules here in this House or in any of the Legislature, he should be disqualified..

Shri Gauri Shankar Kakkar: I rise on a point of order. The hon. Member is saying about breaking the law inside the House. Is it possible? Breaking the law inside the House is something very serious. I might say that there have been no instances of breaking the law inside the House. If it is interpreted like that, it is a very serious thing because it amounts to violence. Is it proper?

Shri G. N. Dixit: May I meet the point of my hon. friend?

Mr. Deputy-Speaker: There is no point of order here.

Shri G. N. Dixit: The rules of this House are law. My friend, being a lawyer, must know this. The rules and regulations of this House are law.

This is my third suggestion.

Mr. Deputy-Speaker: He may conclude now.

Shri G. N. Dixit: That is all. I am very thankful for the opportunity given.

श्री रामसेवक यादव (बाराबंकी) : उपाध्यक्ष महोदय, मौजूदा विधेयक बहुत ही महत्वपूर्ण है। हमारे संविधान ने यह व्यवस्था की है कि कोई भी व्यक्ति किसी भी धर्म का हो, स्त्री हो या पुरुष, यदि उसकी आयु 25 वर्ष की है, तो विधान सभा या लोक सभा के लिये उम्मीदवार बन सकता है। लेकिन अगर हम असलियत की तरफ जायें तो पाठक जी को भली प्रकार यह जानकारी है कि इस देश में आज साधारण आमदमी चुनाव नहीं लड़ सकता है, क्योंकि चुनाव बहुत ही खर्चीले हो गये हैं और अगर आप जनतन्त्र को सफलतापूर्वक चलाना चाहते हैं तो इस दिशा की ओर आपको ध्यान देना चाहिये, नहीं तो इस तरह से यहां पर विधेयक लाने का कोई बड़ा मतलब नहीं निकलेगा।

मैं साफ कहना चाहता हूं, उपाध्यक्ष महोदय, कि आज 1952 में जितने लोगों ने चुनाव लड़ा, और उन्होंने जितना पैसा उस चुनाव पर खर्च किया, 1957 में उस से दुगुना पैसा लगा, 1962 में उस से भी अधिक लगा और 1967 में जो चुनाव होंगे, उस के सम्बन्ध में तो मैं यह कहूंगा कि यह रुपयों का चुनाव होने जा रहा है।

श्री काशी राम गुप्त (अलवर) : यह तो तरक्की हो रही है।

श्री त्यागी (देहरादून) : मुखालिफत में खड़े होते हो तो रुपया खर्च होता है, मत खड़े हो।

श्री रामसेवक यादव : जब तक इस देश में घोर असमानता है—छोटी आमदनी और बड़ी आमदनी में, ऐसी स्थिति में निष्पक्ष और शुद्ध चुनाव, जिस के लिये कि मंत्री महोदय यह विधेयक लाये हैं, की बात करना, मैं समझता हूं कि बालू में से तेल निकालना है, या मृगमरीचिका जैसी बात होगी।

श्री कृ० चं० शर्मा (संघना) : बालों में तेल होता है।

श्री रामसेवक यादव : मैं मंत्री महोदय से यह कहना चाहता हूं, क्योंकि वह भी उत्तर प्रदेश से आते हैं और उनको मैं समझता हूं कि इस बात की जानकारी होगी कि उत्तर प्रदेश में, मैं बिरला के कारखानों की बात नहीं करता हूं, मैं कमलापत के कारखानों की बात नहीं करता हूं, मेरा मतलब जगमलाल कमलापति से है, कमलापत बिपाठी जी से नहीं है, वहां के पुलिस विभाग में चौकीदार को 5 रुपया मिलता है, जब कि वहां के आई० जी० को वेतनभत्ता तथा अन्य सुविधाओं को मिला कर 5 हजार मिलता है, जहां इतना अच्छा समाजवाद हो, वहां अगर चौकीदार का बेटा विधान सभा के लिये चुनाव लड़ता है और दूसरी तरफ आई जी० का बेटा चुनाव लड़ता है, तो बतलाइये कौन चुनाव में सफल होगा ?

जनतन्त्र में छोटे और बड़े में फर्क नहीं होना चाहिये। मैंने आपके सामने एक मिसाल दी। जहां बड़े बड़े पूंजीपति हों, जिनके पास अथाह धन हो, उस पैसे से बा तो बड़े स्वयं आयेंगे या फिर शक्लें बदले हुए लोग आयेंगे, जो उन के घर के लोम तो नहीं होंगे, लेकिन उनकी नकलें उनके हाथ में होंगी। जैसाकि इस सदन में कई बार उठ चुका है कि कई माननीय सदस्य तो पूंजीपतियों के या बिड़ला साहब की जेब के लोग हैं और मैं यह भी उल्लेख कर दूं, शायद त्यागी जी प्रबोक कर सकते हैं, कि कुछ मंत्री भी हैं जिनको माहवारी पैसे के रूप में, तनकावाह के रूप में बड़े बड़े पूंजीपति देने हैं।

श्री कृ० चं० शर्मा : इस का कोई सबूत नहीं है ।

श्री सिंहासन सिंह (गोरखपुर) : यह तो एनीगेशन है, प्रिक्लेजेज की बात है ।

श्री त्यागी : उन्होंने अपने लिये भी कह दिया है ।

श्री रामसेवक यादव : उपाध्यक्षजी, जहां जिस देश में यह स्थिति है, वहां जनतन्त्र और शुद्ध व स्वस्थ चुनाव की बात मेरी समझ में नहीं आती और मैं तो कहूंगा कि यह जनतन्त्र नहीं जनतन्त्र है ।

मैं आपको मंत्री महोदय के इरादे की भी बात कहता हूं । चुनाव आयोग ने एक सुझाव दिया कि उम्मीदवारों को किसी तरह से कम किया जाय और खास तौर से ऐसे उम्मीदवारों को जो किसी दल से सम्बन्धित न हो, उनको चुनाव में खड़ा होने से रोका जाय, कोई पाबन्दी उन पर लगनी चाहिये और उस को इस कानून में जगह मिलनी चाहिये । मंत्री महोदय ने उस सुझाव का विरोध किया और इस विधायक में उस सुझाव का कोई समावेश नहीं है । उन्होंने अपने भाषण में यह कहा कि हम किसी भी नागरिक के अधिकार को नहीं छीनना चाहते और जितने भी लोग चुनाव लड़ना चाहें, उन को हम आजादी देना चाहते हैं । सुनने में यह बात बड़ी अच्छी लगती है, बड़ी फराखदिली जाहिर होती है, लेकिन यदि उसके मूल में जायें, तो क्या होगा ? अगर आज दल ही चुनाव लड़े तो वे काफ़ी हैं हमारे मंत्री जी को चुनाव में सफल बनाने के लिये, उन को बहुत थोड़े वोट मिलेंगे, लेकिन फिर भी वे सफल हो जायेंगे, लेकिन जब यह भी अधिकार रहे कि और लोग भी खड़े हो सकते हैं, तो चाहें पाटियां कम भी हो जायें, तब भी इन को लाभ होगा । जनतन्त्र को सफलतापूर्वक चलाने के लिये पाटियों का अधिक होना बहुत ही खतरनाक है, इसलिये पाटियों में कमी होनी चाहिये ।

मेरा यह भी कहना है कि विरोधी दलों में कुछ ऐसे लोग भी हैं और शायद सब में हैं, जिनको इन्होंने छोड़ रखा है...

श्री त्यागी : विरोधी दल में भी ?

श्री रामसेवक यादव : जी हां, विरोधी दल में भी छोड़ रखा है, क्योंकि जब जरूरत होती है, तब उनको ये अपने में वापस बुला लेते हैं ।

श्री त्यागी : एक तो यशणल सिंह ही हैं ।

श्री रामसेवक यादव : जब कभी जरूरत होती है, ये उन को बुला लिया करते हैं । जैसे मैं आपको बतलाऊं हमारे योजना मंत्री अशोक मेहता हैं, जैसे उत्तर प्रदेश में हमारे नये खेती मंत्री, जिन्होंने चूहे खिलाने का अभियान चलाया है—गेंदा बावू हैं यह जो तरीका है, यह जनतन्त्र को कुंठित करता रहता है । लेकिन जब स्वतन्त्र उम्मीदवार, बिना पार्टी का उम्मीदवार, जिनकी न कोई नीति है और न रीति है, केवल अपने शुद्ध स्वार्थ को, अपने व्यक्तित्व को उठाने के लिये चुनाव लड़ेंगे और उन को इस की आजादी होगी, तो फिर यह 47 लाख रुपया, गुप्ता जी का कहां जायगा, कुछ उनके खुद के चुनाव लड़ने वाले उम्मीदवारों पर और कुछ ऐसे व्यक्तियों पर जो जाति, विरादरी और धर्म के आधार पर खड़े किये जायेंगे, उन पर खर्च होगा ताकि वोटों का बटवारा हो सके और सत्तारूढ़ दल को सफल कर दे ।

श्री त्यागी : यह तो चन्दा है, इलेक्शन के लिये नहीं है ।

श्री रामसेवक यादव : उपाध्यक्ष जी, आप तो स्वयं समाजवादी हैं, आप स्वयं जानते हैं कि जनतन्त्र में जब तक समता नहीं होगी, इस समाजवाद का कोई मतलब नहीं है । इस देश में आपने समाजवाद की घोषणा की है और उसका बोझ आपने अपने ऊपर डाला है, हर समय आप जनतन्त्र और समाज-

श्री रामसेवक यादव]

वाद की दुहाई देने हैं, लेकिन उस के बाद भी देश में असमानता हो, इस का क्या अर्थ है। आज जो चुनाव में पैसा खर्च कर सकता है, वही चुनाव लड़ सकता है, दूसरा नहीं लड़ सकता।

दूसरी बात जो मैं कहना चाहूंगा वह यह है कि आयोग कहा है कि जो चुनाव के खर्च का हिसाब बतलाने की व्यवस्था है, उस को खत्म करें। मंत्री भरोदय उसके खिलाफ हैं। मैं इस के बारे में दो बातें कहूंगा—या तो इस को खत्म करें, क्योंकि उस चुनाव खर्च का कोई मतलब नहीं है—आप किसी भी मंत्री का चुनाव खर्च उठा कर देख लीजिये, या किसी भी सदस्य का चुनाव खर्च उठा कर देख लीजिये, खास तौर से उन सदस्यों का जिन्होंने 25 हजार, 50 हजार या एक लाख रुपया खर्च किया है, लेकिन चुनाव का हिसाब-किताब देखेंगे तो शुद्ध पाई-पाई जितना कानून में है, उतना ही दिखलाया गया है, उस से ज्यादा नहीं है।

श्री त्यागी : यह बात ठीक है।

श्री रामसेवक यादव : अब अगर रोक नहीं लगाना चाहते हैं, कांग्रेस के पम्फलेट पर, कांग्रेस के पर्चों पर, उनके जरिये जो कारें चलती हैं दोस्ती के नाम पर, उनको जिताने के लिए जो मोटरें चलती हैं, उन पर अगर रोक नहीं लगाते हैं और कानून की खाना पूरी के लिये हिसाब-किताब का देना रखना चाहते हैं, तो मैं इस के हक में नहीं हूँ और मैं चाहता हूँ कि इस को खत्म कर दिया जाय। मैं समझता हूँ कि चुनाव आयोग ने जो सुझाव दिया है, वह उत्तम है। मैं कहूंगा कि आप इस को खत्म करें, और अगर खत्म नहीं करना चाहते हैं तो चाहे पार्टी खर्च करें, चाहे दोस्त खर्च करें, चाहे रिश्तेदार खर्च करें, कोई भी खर्च करे, उस में सब का हिसाब आना चाहिये। तब तो इस का महत्व है नहीं तो कोई महत्व नहीं है।

मैं चुनाव निशान के सम्बन्ध में कहना चाहता हूँ कि चूँकि यह देश अशिक्षित है

यहां पर चुनाव निशान का बड़ा महत्व है। जब चुनाव निशान का महत्व है तब चुनाव आयोग को चुनाव निशान देने के बड़े ज़बर्दस्त अधिकार हैं, असीमित अधिकार हैं कि जब चाहे जिस को चुनाव निशान दे, जब चाहे जिस का चुनाव निशान छीन ले। जैसे कि अभी सोशलिस्ट पार्टी और प्रजा सोशलिस्ट पार्टी आपस में मिल गई थीं तो उन को चुनाव निशान झोंपड़ी दिया गया था। बाद में कुछ प्रजा सोशलिस्ट पार्टी वाले खफा हो कर चले गये और दुबारा प्रजा सोशलिस्ट पार्टी बना लिया और अपना चुनाव निशान लौटा लिया। मैं इस विषय में ज्यादा नहीं कहना चाहता क्योंकि सुप्रीम कोर्ट में मामला है, लेकिन चुनाव आयोग को इस सम्बन्ध में जो असीमित अधिकार हैं उन के लिये भी कोई कानून में व्यवस्था हो या नियम में व्यवस्था हो कि किस डिस्ट्रिक्शन का इस्तेमाल कैसे होगा क्योंकि यह चीज अच्छी तरह से नहीं चल रही है।

इस के बाद दलों की मान्यता का प्रश्न आता है। चुनाव आयोग ने दलों को मान्यता देने के सम्बन्ध में जो सिद्धांत अपनाये हैं उन में एक बहुत ही अचरज का सिद्धान्त है। अगर कोई उम्मीदवार किसी पार्टी की तरफ से चुनाव लड़े और उस की जमानत जब्त हो जाये, तो जमानत तो जब्त हुई ही, जो मत उस को प्राप्त होते हैं, उस दल को मान्यता देने में उन का हिसाब नहीं लगाया जायेगा। मतदाता को सजा देने के समान यह नियम हुआ क्योंकि एक तो उस को चुनाव लड़ने की सजा मिल गई कि जमानत जब्त हुई, रुपया उस का जब्त हो गया, लेकिन जिस मतदाता ने मत दिये हैं उस का वोट भी जब्त हो जाता है। यह एक अचरज का कानून है। इसलिये मैं चाहूंगा कि उस के मत का भी समावेश किया जाये मान्यता देने में क्योंकि चुनाव में ऐसा भी होता है कि जमानत जब्त होती है फिर भी उम्मीदवार जीत जाता है और जीत कर विधान सभा का सदस्य रहता

हैं पांच वर्ष तक। जब जमानत की जल्दी वाला उम्मीदवार जीत सकता है तब उस के वोट का शुमार न करना मैं नहीं समझता कि किस तरह से जनतंत्र की बात हो सकती है और किस न्याय की दृष्टि से यह बात उचित होगी।

Shri K. C. Sharma: I congratulate the hon. Law Minister on his having brought forward this amending Bill. I would like to make just one submission in this connection. Ours is a great democracy. It is a new experiment that we are having, perhaps the first in the world, with 480 million people, who have fought three elections successfully. Despite many comments from my hon. friends opposite, I dare say without any fear of contradiction that never in the world has any other country with 480 million people fought elections so fairly, so peacefully and so successfully as India has done these three general elections. It is to the credit of the Indian people, and it is ingrained in them as a discipline; it is their old tradition to rise to the occasion when it is a question of the whole nation, when it is a question of the whole people or a question of the future of the generation being at stake. We are capable of rising to the occasion, and we have given enough proof of it, and I feel proud that our people have done it, and I expect that our people will do it again.

Anyhow, there are two great tendencies in the world which we have to reckon with. Now, the world is one, and we cannot afford not to be affected by what goes on beyond our country. In this connection, I would like to read out from Iam T Bluhm's *Theories of the Political System* Mill's observation on this matter. He says that there is a power elite, and the power elite manages the affairs so well that the candidates of their choice will contest the elections and also win, they will hold the power and they will get what they intend to get. The common men have no voice. The press is in their hands; the public platform is in their hands. The common man in the factory or the man in the fields is helpless. They do not have security of their person; they do not even

have the right of living as ordinary animals in the world, if the power elite does not wish it. Bluhm says:

"Whatever else it may mean, freedom means . . .".

Freedom means the right to be free. That right to be free is meant only for the power elite.

"Whatever else it may mean, freedom means that you have the power to do what you want to do when you want to do it, and how you want to do it. And in American society, the power to do what you want, the power to do what you want, requires money."

Shri D. C. Sharma: And where you want.

Shri K. C. Sharma: He further says:

"Money provides power and power provides freedom."

Sir, I come from a village, and I have seen able-bodied people begging and kneeling down, and our position is no better if we compare ourselves with the American Power. Therefore, so long as we are economically backward, to talk of freedom has no reality behind it. To be free under such circumstances has no meaning at all. In order to be free, in order to be respectable and in order to have dignity and freedom, the first responsibility of our people is to see that we are economically strong and self-reliant. The second thing is to educate our people for an under nourished people have no future, neither have the unskilled.

The other influence on our people and our economy and our social life is one which believes in what is called the dialectic system. What is this dialectic system? The instance is given of a seed. A seed is thrown into the soil; the seed fades away and a plant rises in its place, and when the plant rises, a seed is developed again; that seed is a greater and better seed than the former one. Similarly, this society must be made to fade away; it must be abolished, and in the course of revolution, a new society and a new order would arise in its place here and then there would be superabundance and men would be free.

[Shri K. C. Sharma]

In one way we are facing the danger of the power elite in whatever shape it may be. My hon. friend was saying that some Ministers were bought and some Members were bought. But I would submit that he will be the fool of a money-bag who will buy a Member or a Minister. What the rich do is to have what is called corporate government in Europe. They take hold of the first class students in the college or in the university and give them 500 dollars a month and then those youngmen come into the administration as the first secretary or the second secretary and they will wield the power. What is the use of buying up a Minister? What is the use of helping him in fighting elections? The power is with the secretary. They bring their persons there in the administration and the government is carried on on their behalf by those secretaries and others. There is a system there; there is a logic there, and there is a science there about how to get the power from behind the curtain. So, Ministers are never bought.

So far as the present Government is concerned, I can confidently say that our Ministers have never been bought. Whatever other faults we may have, at least we have got something of the spirit and teaching of Gandhiji in us, something of the tradition of our ancient glory, and there is no price that can buy a Congress Minister. Let my Hon. friend rest assured of that. The power is bought at some other level.

In conclusion, I would submit that in a democracy there are certain obligations of the citizenry. Firstly, they have to accept the democratic system of Government. The second is supply of information regarding the government and its working to the common people. The third is active service for national defence and the fourth is proper tax payments.

Then there is the obligation concerning public offices etc. Then the obligation to vote in the election. Out of the ten listed here, I have read only five or six. The Law Minister should incorporate some provision for compulsory voting, some provision making it obligatory on the candidates to accept the democratic system of government, the obligation to be peaceful and

law-abiding, as my hon. friend, Shri Dixit said. No person should be entitled to come here who is not ready to abide by the law. The law-breaker has no right to be Law-maker.

Shri S. Kandappan (Tiruchengode): Mr. Deputy-Speaker, it was heartening to hear some of our Congressmen fervently pleading for fair elections. So I think there is still some hope for democracy in this country. But no amount of rhetoric expressions of allegiance to democracy and fervent promises to uphold democracy will lead us anywhere if Government do not come forward even to accept the fair suggestions and recommendations made by the Election Commission.

Yesterday Shri Tyagi went to the extent of saying that the Government should come forward to accept all the suggestions made by the Opposition parties. We are very thankful for this gesture shown by Tyagiji. But I do not expect so much indulgence from the Government. The Opposition would be very much satisfied if Government come forward to accept the important recommendations made by the Election Commission.

In the statement of objects and reasons, reference is made to two things, election expenditure and multiplicity of candidates. There are two recommendations of a vital nature concerning these two points which the Government have totally ignored. Reference has been made to the recommendation re: election expenditure by members on both sides; strangely Government have not accepted that. The Election Commission has recommended that the number of motor vehicles that might be used for electioneering purposes should be limited to three in an assembly constituency and six in a parliamentary constituency. It has also recommended that the use of public transport vehicles other than buses plying on regular schedules should either be completely prohibited or strictly regulated on the polling day. In all fairness, Government should agree to accept these recommendations. I am at a loss to understand why Government hesitate to straightforwardly accept these.

With regard to multiplicity of candidates, this unhealthy, if not pernicious, tendency is increasing. The Election Commission in p. 124 of its Report has this to say:

"In regard to the unduly large number of independent candidates, it is common knowledge that many of them only stand with a view to striking a bargain with one or the other of the serious candidates and then withdrawing from the contest for a consideration, or with a view to splitting the votes of a small section of the people on caste or communal grounds. These are tendencies which militate against fair democratic elections and should be eliminated".

On this, I would like to point out only one thing. There are parties and groups even now in many States which carry on propaganda on communal lines. I would cite a particular case. In Tamil Nad, there was a party called Commonweal Party which was liquidated soon after Shri Kamaraj became Chief Minister of Madras State. Unfortunately for that party, its leaders put their interests above the party. So they succumbed to the temptations and lures offered by the Chief Minister. One of their leaders was taken in the Cabinet and the whole party was liquidated. Now the party is again being revived. The leader of that group along with some other communal leaders are now raising this issue in Tamil Nad openly. It is rumoured that this is being supported by Shri Kamaraj and the Chief Minister Bhaktavatsalam and other high-ups in the State hierarchy. I do not know the extent of their complicity in this matter. But I would like to ask Government what for is our Constitution and what are Government doing when there is open propaganda on communal lines, when there is an open demand that the elections should be based on communal lines. Why can't they be brought to book and proper action taken against them? This is a very serious matter.

Shri Tyagi: There is no such thing.

Shri S. Kandappan: There is I am prepared to prove it. There are individuals who are doing it.

Shri Tyagi: The DMK might be doing it, not the Congress.

Shri Sezhayan: Kamaraj is doing it, not the hon. Member, Shri Tyagi.

Shri S. Kandappan: The Government should come forward to scotch this mischievous propaganda before it eats into the vitals of our body-politic. Uptil now neither the Chief Minister of Madras nor Shri Kamaraj has openly condemned this kind of propaganda. This in itself is eloquent testimony of their complicity in this kind of propaganda. I know Government are deliberately refraining from doing anything to counteract this because they know fully well that their future lies only in splitting the votes. That has been our past experience. I would plead with Congressmen who still have some decency left in them that they should abhor this kind of practice, and in their anxiety to get into power, they should not stop to such a low level.

Shri Tyagi: I am afraid he is wrongly informed.

Shri S. Kandappan: No, no.

Now I would turn to election broadcasts by political parties. Here I do not understand why the Election Commission or Government have completely ignored one party, the DMK, in Tamil Nad. They have invited certain parties for a confabulation, but no such invitation has been extended to us. I would only say this, that by excluding the DMK they practically shut out the voice of the opposition so far as Tamil Nad is concerned.

With regard to the compromise that has yet to be worked out, the Commission says that the parties will come to an agreement. The hitch is over the time to be allotted to each. The Commission is proposing that there should be proportionate time given on the basis of the prevailing strength of the various parties in Parliament. I think this is not a fair suggestion. Why should anybody presume that the party in power for the time being will again come to power? Every party thinks that it will come to power. It is for the elections to decide the issue. To presume that the Opposition parties of today will always be

[Shri S. Kandappan]

in the Opposition and that the ruling party of today will always remain the ruling party is not proper. It is suggested that the time allocation should be in the ratio of the members who are sitting in the Lok Sabha. This is not fair. I think there should be equitable distribution of time to all parties concerned so that they can carry on their propaganda and put their ideals before the public through the medium of the radio.

There is no other democracy in the world where dead men take the trouble of becoming alive during election time and exercising their franchise. Unfortunately, it happens in our country. They just coolly walk to the polling stations, cast their votes and slip away! Government should do something with regard to this.

In this connection, I would like to draw attention to a suggestion made by the Commission that there should be provision to make panchayats maintain a roll of voters. That is a very useful suggestion and Government should do something with regard to that.

Also they should try to effectively identify people who come to vote. The Commission is at a loss to suggest any means to give effect to this. It says it is not possible to issue voter's identity cards with photograph attached.

It may not be feasible, but still I think without attaching photographs, they can issue identity cards. After all our countrymen are already in possession of so many cards reminding them of the death of consumer goods in the country, let them possess one more card which will remind them of their responsibility. I think it is not a difficult thing.

Only one more thing. It was demonstrated in Madras that the ballot box could be opened without breaking the seal.

14 hrs.

Shri Tyagi: How can that be done?

Shri S. Kandappan: It was demonstrated. It was a serious thing. This matter has been brought to the notice of the Election Commission.

श्री चन्द्रमणिलाल चौबरी (महुआ) :

यह बिल्कुल गलत बात है कि बैलट बाक्स तोड़े जाते हैं कहीं नहीं तोड़े जाते हैं।

Shri S. Kandappan: I am making a very important submission. The Election Commission has suggested that instead of those Allwyn type of boxes, we should have Goodrej boxes. This is a very important matter. I would request the Government to see that we get enough Goodrej boxes before the forthcoming general elections.

Dr. L. M. Singhvi (Jodhpur): I move that the time for this be extended by half an hour.

Mr. Deputy-Speaker: I am sorry.

Dr. L. M. Singhvi: The next Bill can be completed in half an hour because there is no dispute regarding its principles....

Mr. Deputy-Speaker: We cannot, because it is the House that has extended the time.

Dr. L. M. Singhvi: I am moving for the consideration of the House.

Mr. Deputy-Speaker: It is the House that has extended the time, and we have to close it at 2.20. I am calling Mr. Pandey.

श्री श्रीकार लाल बेरवा (कोटा) :

श्री पाण्डेय को पहले टाइम नहीं दिया गया। उनको अब टाइम क्यों दिया जा रहा है जब कि मेरे चिट भेजने पर भी मुझे नहीं बुलाया गया है ?

Mr. Deputy-Speaker: The Minister has given five minutes of his time.

Dr. L. M. Singhvi: How can the Minister give time to a Member? How is it possible?

श्री श्रीकार लाल बेरवा : क्या सदस्यों को मिनिस्ट्रों की सिफारिश पर बुलाया जायेगा? यह उचित नहीं है।

Mr. Deputy-Speaker: If he had been here earlier, he would have got the time. I am very sorry.

श्री राम सहाय पांडेय (गुना) :
उपाध्यक्ष महोदय, चुनाव कानून में जो भी संशोधन किये गए हैं मैं उन में नहीं जाना चाहता हूँ। मैं इस बात की ओर सदन का ध्यान आकर्षित करना चाहता हूँ कि चुनाव के संदर्भ में हैडबिल्ड, पैम्फलेट्स, पोस्टर और भाषणों के द्वारा उम्मीदवारों की चारित्रिक हत्या की जाती है। पिछले तीन चुनावों में हमें जो अनुभव प्राप्त हुआ है उस के आधार पर मैं यह कहना चाहता हूँ कि प्रजातंत्र की रक्षा के लिए और जनता की प्रतिष्ठा के और गरिमा के संरक्षण के लिए यह कार्य बड़ा अनुचित होगा कि किसी उम्मीदवार के प्रति अश्रद्धा या कुत्सित भावनाओं का प्रचार कर के उसे पराजित करने का प्रयत्न किया जाये। उम्मीदवार चाहे किसी भी दल का हो, हमें उस के व्यक्तित्व की रक्षा करनी है। हमें अपने चुनावों का संचालन एक ऐसी प्रक्रिया के माध्यम से करना चाहिए जिस में किसी उम्मीदवार के विरुद्ध भड़काव और विद्रोह न हो और उसकी चारित्रिक हत्या न की जाये। ऐसे बहुत से उदाहरण हैं जिन के द्वारा मैं यह सिद्ध कर सकता हूँ कि अनर्गल, अनुचित, असत्य और मिथ्या बातों को कह कर उम्मीदवार को नुकसान पहुँचाने का प्रयास किया गया है।

आखिर यह चुनाव है क्या ? चुनाव की पहली शर्त है गोपनीयता। चुनाव के समय वोटर विभिन्न दलों के कार्य और नीति का अध्ययन करता है उन के मैनिफेस्टो को पढ़ता है और उन के आधार पर यह निश्चय करता है कि उसे किस दल को वोट देना है। गोपनीयता को बनाए रखने के लिए पोलिंग स्टेशन पर परदा लगाया जाता है, जिस के पीछे जा कर वोटर वोट करता है। इस बात का प्रयत्न किया गया है कि अन्य लोगों को मालूम न हो कि प्रमुख वोटर ने किस को वोट दिया है और उस की सम्मति क्या है। लेकिन जाहिरा

तौर पर क्या होता है ? जाहिरा तौर पर यह होता है कि इस प्रकार के पोस्टर और हैडबिल निकाले जाते हैं, जिन पर किसी का नाम नहीं होता है, लेकिन जिन में किसी उम्मीदवार के बारे में भयंकर बातें कही जाती हैं और उन बातों का प्रभाव जनसाधारण पर पड़ता है।

जब मैं इंग्लैंड में था, तो वहाँ पर चुनाव हो रहे थे उस समय लेबर पार्टी के एक उम्मीदवार ने कन्वरवेटिव पार्टी के उम्मीदवार के बारे में "डिबाच" शब्द का प्रयोग किया। इतना ही नहीं कि उसने माफ़ी मांगी, बल्कि वहाँ से एक मोबाइल मैजिस्ट्रेट ने इस बारे में सम्बद्ध पार्टी को कहा और उस पार्टी के नेता ने इस बात के लिये लिखित माफ़ी मांगी कि उस के उम्मीदवार ने दूसरे उम्मीदवार की शान और प्रतिष्ठा के खिलाफ़ बात कही है। मैं सुझाव देना चाहता हूँ कि इस कानून में इस बात को इनकापेरिट किया जाये कि चुनाव के अवसर पर मोबाइल मैजिस्ट्रेट्स को रखा जाये, जिन का काम यह हो कि जिस किसी हैडबिल या पोस्टर में इस प्रकार की अनुचित बातें कहीं जायें, वह उन के जुडिशल एस्पेक्ट को देखकर तुरन्त इस के बारे में निर्णय कर दे। अगर किसी पोस्टर में कोई नाम नहीं है, तो यह देखा जाना चाहिए कि उस का ब्रेनिफ़िट, लाभ किस को पहुँचता है और उस में जो बातें कही गई हैं, उन से किस को नुकसान पहुँचता है। उस के माटिवेशन को एस्टाब्लिश कर के उचित कार्यवाही की जानी चाहिये

जहाँ इस बात की आवश्यकता है कि चुनाव शांति के वातावरण में हों, झगड़े न हों और धर्म या जाति के आधार पर कोई प्रचार न किया जाये, वहाँ इस बात की भी बड़ी आवश्यकता है कि उम्मीदवार के चरित्र और व्यक्तित्व की रक्षा के लिए,

[श्री राम सहाय पाण्डेय]

उस की प्रतिष्ठा के लिए और जनता में प्रतिष्ठा और गरिमा का उच्च स्तर बनाए रखने के लिए इस कानून में कोई न कोई प्रावधान अवश्य किया जाये, ताकि हमारे चुनाव सुचारु रूप से सम्पन्न हों और हमारे प्रजातंत्र की प्रक्रिया प्रतिष्ठा और गरिमा के साथ चले, क्योंकि आखिर यह चुनाव एक वैचारिक मन्थन है, जिस से आदर्श और सिद्धान्त का उदय होता है, जिस के आधार पर जनता अपने मत और इच्छा के अनुसार सरकार का निर्माण करती है।

उपाध्यक्ष महोदय : श्री पाठक ।

श्री यशपाल सिंह (कैराना) : उपाध्यक्ष महोदय, मैं सिर्फ़ एक मिनट चाहता हूँ जेलखाने में भी हर वक्ता हाजिरी का क्रेडिट मिलता है। मैं सिर्फ़ एक मिनट में अपनी बात कह देना चाहता हूँ। मुझे कम से कम एक मिनट तो मिलना चाहिए।

Mr. Deputy-Speaker: I am very sorry. Your party Member has spoken. No more speeches now. Mr. Pathak.

Shri G. S. Pathak: I must express my gratitude to the hon. Members who have spoken on this motion. Many valuable observations have been made, and I am sure that the Joint Committee, to which the Bill is going to be referred, will consider those valuable observations. I cannot say that all the observations will be considered because there are some observations like a change of the electoral system to proportional representation and so on. They are such radical proposals....

Shri Muhammad Ismail (Manjeri): It is a fair proposal.

Shri G. S. Pathak: . . . that they are not likely to be considered, but it is for the Joint Committee to examine any proposal that might be made before it.

The most important question that has been raised and that has occupied the time of the House is that relating to the election expenses. The Election Commission, while

saying that the change, should be either drastic or the section should be abolished—that was the recommendation of the Election Commission—also said that although the heavy expenditure now incurred by parties etc., is undesirable, it is not easy to find practical, effective and generally accepted methods which would make them spend less. Now, the question for the consideration of the House is whether any concrete proposals which may be effective and which may be practical are coming forth or have been suggested by the hon. Members of this House. If you accept the proposal that the amount should be enhanced, that is impossible, that will be accentuating the evil. If you remove Rs. 25,000 ceiling, you are taking away a curb on expenditure, which curb is exercising restraint on at least law-abiding people. On the other hand, if you decrease the amount, then again the question would be what should be the figure which should be substituted in place of Rs. 25,000 or the sum for the Legislative Assembly. If you retain the present law and they say in respect of some items the expenditure should be incurred by the Government—that is the suggestion by some of the hon. Members—that again is not a practical suggestion. Another suggestion has been made that the State should run the election even for the candidates. I submit that there has been no concrete suggestion which may justify any change in this section. It must be remembered that in the year 1961 when some changes were made in this Act, at that time too no change was suggested. So far as this provision is concerned, it was introduced in the year 1956. Therefore, we have got to take the practical aspects of the matter. So far as the corporate sector is concerned, we know that there was a section introduced in the law in 1960 which aims at limiting the donation given by the companies to political parties.

Shri Tyagi: It has not been very healthy.

Shri G. S. Pathak: May be healthy or unhealthy; then something healthier could have been suggested. In some other matters also we have to remember that law is not the remedy for every evil. After all those who contest elections and come into the legislatures, they can control their own conduct and control our own conduct.

Political education and public opinion, electoral morality these are the things which have got to be developed as is happening in England, where although contests are increasing in number yet the election petitions are decreasing, there are some corrupt practices which have become unknown in England. Therefore, we should not do something in this matter which may be impractical.

A suggestion was made about the multiplicity of candidates. We must remember article 84 which says that a citizen possessing certain qualifications has got a right to be chosen as a candidate. Will you not be taking away that right?

Shri Shinkre (Marmagao): There is one devise.

Shri G. S. Pathak: If you listen to me I shall explain; it is said that law can impose qualifications. By the imposition of a qualification saying that the number of candidates will have to be 2 or 4 or in other ways restricted, by that are you not taking away the right of the parties, the rights of the people of India who have got the right to be chosen as candidates for seats in the legislature?

Shri Shinkre: One interruption. If you make absolute majority of the total votes polled a pre-condition for the election, this will be obviated.

Shri G. S. Pathak: You cannot impose any condition on elections except in accordance with article 84 and that article permits Parliament only to impose a qualification and not restriction on the right to be elected.

On the question of raising the security deposits, some hon. Members very rightly said that we must give an opportunity to those who have lesser means, and therefore if you increase the amount of security you may be depriving some members of our population, to exercise their right which belongs to them under the law. So far as the observation on presidential elections is concerned, that is not a matter relevant to this Act but to the Presidential and Vice-Presidential Elections Act. You do not make a law for rare occurrences. On the last occasion, there were only three candidates. One of them, as has been pointed

out, received just his own vote and one more vote. You cannot treat such occurrences as serious occurrences and you can not make a law for things which are not happening; and, therefore, to suggest that security should be imposed on the right to stand for election to the office of the President is not a very good suggestion, and therefore Government has not accepted it. Mr. Tyagi's point deserves more anxious consideration. I assure Mr. Tyagi that I have examined the relevant provisions of the law. I have not got sufficient time to give details of the existing law and the question would be whether the existing law should be altered or some new law should be made in order to effectuate the object which Mr. Tyagi has suggested. That is a serious question which I am considering.

Shri Tyagi: What is the existing law?

Shri G. S. Pathak: I will tell you. It happens that sometimes we forget what the law is and we do not apply that law.

Shri Kashi Ram Gupta: What is Mr. Tyagi's point?

Shri G. S. Pathak: His point is that government servants must be punished in case they take part in the election process.

Shri Tyagi: They can vote but not work for a candidate.

Shri G. S. Pathak: I want to remind Mr. Tyagi and this House that under section 129 there is prohibition against all those officers who take part in the election work including the clerks and the junior officers from doing any act which may further the prospect of any candidate.

Shri Tyagi: Is it only advisory or there is some punishment for breach of this rule?

Shri G. S. Pathak: The punishment is six months and fine. Police officers cannot persuade, induce or influence. There is section 171 C of the Penal Code. There is a chapter on electoral offences in the Indian Penal Code which applies to all persons whether they are government servants or not.

Shri Tyagi: What is the punishment for the breach of the law?

Shri G. S. Pathak: Six months or fine or both for breach of section 129.

Shri Dade (Khargone): 171 C is only meant for undue influence.

Shri G. S. Pathak: I have mentioned 171 C because in the speeches the expression 'undue influence' exercised by officers was repeatedly mentioned. Therefore, the question is whether we should make any new law or the law which exists is adequate enough to meet the situation. There are some 3000 constituencies for assemblies and about 500 for the parliament and there are so many officers, district magistrates, special divisional magistrates and almost all of them are absorbed in the election work and they are subject to this law. It is also to be borne in mind whether you want to take away the right to express one's opinion about any candidate without an intention of influencing, that is to say, the right to vote from the Government servant. Under the Government Servants Conduct Rules, they are prohibited from taking part in elections.

Shri Tyagi: Has anybody been convicted so far? You have not asked anybody to be dismissed on that ground.... (Interruptions).

Shri G. S. Pathak: I do not want to detail you any longer on this point. There are many matters on which I could make some observations.

श्री शिव नारायण (बांसी) : पाठकजी, एक अश्वोरेस आप हम को दे दें कि हमारा वोटर जरूर पोलिंग पर पहुंचने दिया जाय, रुकावट न हो ।

Shri G. S. Pathak: In concluding, I should like to express my gratitude to Shri Kamath in particular for the reference he made to me in his intervention; I had the honour of working with him in certain committees.

Shri Hari Vishnu Kamath (Hoshangabad): Against me, before the tribunal I thought you were referring to the tribunal.

Shri G. S. Pathak: I hope we will have occasion to work in other matters also.

श्री यशपाल सिंह : मैं एक सवाल पूछना चाहता हूँ, यह बात साफ़ नहीं हुई, आज गांधी जी के आदर्शों पर यह देश खड़ा हुआ है, तो क्या आप यह मानने के लिये तैयार हैं कि शराबी को न बोट देने का हक होगा और न चुनाव में खड़े होने का हक होगा ? क्या इस बात को सरकार मानने को तैयार है ?

श्री राम सहाय पाण्डेय : कौन सी शराब—ठर्रा या विलायती ?

श्री रघुनाथ सिंह (वाराणसी) : जिनको बिना शराब पिये हुए नशा होता है, उन का क्या होगा ?

श्री यशपाल सिंह : कुछ तो जवाब मिलना चाहिये ।

श्री त्यागी : लेकिन सिगरेट पीने की इजाजत है ।

Shri Hari Vishnu Kamath: On a point of information. The hon. Minister referred to some committees. On which committee did I work with him?

Shri G. S. Pathak: That was about the Judges (Enquiry) Bill.

Mr. Deputy-Speaker: The question is....

Shri Hari Vishnu Kamath: Sir, I should like to suggest, by way of a short-notice amendment, that instead of "first day of the next session," it would be better if it is "the last day of the first week of the next session", because that way we might get time for Minutes of Dissent. The last day of the first week—that is, Friday or...

Mr. Deputy-Speaker: We will give sufficient time for Minutes of Dissent.

Shri Hari Vishnu Kamath: Oh, I see; you will be the Chairman.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, be referred to a Joint Committee of the Houses consisting of 36

members, 24 from this House, namely:—
 Shri S. V. Krishnamoorthy Rao, Shri Bhagwat Jha Azad, Shri N. C. Chatterjee, Shri Homi F. Daji, Shri N. Dandekar, Shri Shree Narayan Das, Shri A. K. Gopalan, Shri Hari Vishnu Kamath, H. H. Maharaja Karni Singhji of Bikaner, Shri Madhu Limaye, Shri Ghanashyamal Oza, Shri Vishwa Nath Paudey, Shri C. R. Pattabhi Raman, Chowdhary Ram Sewak, Shri Shivram Rango Rane, Shri H. C. Linga Reddy, Shrimati Yashoda Reddy, Shri Sham Lal Saraf, Shri Era Seshian, Shri T. H. Sonavane, Shri U. M. Trivedi, Shri Tula Ram, Shri Amar Nath Vidyalkar and Shri Radhelal Vyas and 12 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 12 members to be appointed by Rajya Sabha to the Joint Committee."

The motion of adopted.

14.24 hrs.

RAILWAY PROPERTY (UNLAWFUL POSSESSION) BILL

श्री किशन पटनायक (सम्बलपुर) :
 उपाध्यक्ष महोदय, मेरा प्वाइंट ऑफ आर्डर है . . .

उपाध्यक्ष महोदय : क्या प्वाइंट ऑफ आर्डर है ।

श्री किशन पटनायक : आपने जो पाटिल साहब को बुलाया है, उस के बारे में है ।

Mr. Deputy-Speaker: I will hear him afterwards. sit down.

1635 (A) LSD-4.

The Minister of Railways (Shri S. K. Patil): I beg to move:

'That the Bill to consolidate and amend the law relating to unlawful possession of railway property, as passed by Rajya Sabha, be taken into consideration."

Mr. Deputy-Speaker, Sir, the proposed Bill which I am moving for consideration is a non-controversial measure consisting of two main points. The definition of property and the power to the RP to investigate and enquire into the cases which power they do not possess just now. The proposed Bill is being sponsored in replacement of the existing Railway Stores (Unlawful Possession) Act, 1955, providing for the proper investigation and prosecution of cases relating to railway property including goods in transit and also to provide for deterrent punishment being awarded to offenders connected therewith. The word "property" hitherto was defined as the property which belongs to the railway. But the property did not include the property that is in charge of the railways and for which we have got to pay in case it is lost. Even though the unlawful possession of the railway stores is an offence under the railway Stores (Unlawful Possession) Act, 1955, the Act does not regulate the manner or procedure of investigation, enquiry, etc., into the offences. The offences under the Railway Stores (Unlawful possession) Act, 1955 are therefore enquired into in regard to the provisions of the Criminal Procedure Code, by the police of the land. In the proposed Bill, the procedure for investigation and enquiry, etc., into the offences relating to the railway property is being provided. That is also a change.

The need for introducing the Bill has arisen because of the fact that the claims bill which was 29 million in 1953-54 rose to 42 million in 1962-63, which was an enormous increase. Apart from this, the amendment of the Indian Railways Act, 1961, has cast a greater responsibility on the railways in respect of carriage of goods and animals. Now the railways are responsible for claims for losses, destruction, damages, deterioration and for undelivered goods tendered for despatch, unless it is proved that such losses etc., are due to an act of God. On account of these reasons, it has become imperative for the Government to