

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

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LOK SABHA

Saturday, 24th September, 1955

The Lok Sabha met at Two Minutes
Past Eleven of the Clock

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published)

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL AND RE- PRESENTATION OF THE PEOPLE (SECOND AMENDMENT) BILL

Mr. Speaker: There is no Question Hour today.

The House will now resume further discussion on the motions for reference of the Representation of the People (Amendment) Bill and the Representation of the People (Second Amendment) Bill to Select Committees and also the consideration of the amendments moved by Shri N. C. Chatterjee thereto.

Out of 16 hours allotted for the discussion, 14 hours and 43 minutes have been availed of till yesterday. This means the discussion will conclude today by about 12-15 P.M.

Thereafter, the House will take up the consideration of the Industrial Disputes (Banking Companies) Decision Bill for which 5 hours have been allotted.

Does the House sit till six today?

Some Hon. Members: Yes.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Only if there is quorum after five.

Shri C. D. Pande (Naini Tal Distt. cum Bareilly Distt.—North): May I suggest that we may sit only till 5-15 that is till the Industrial Disputes Bill is finished, and that the fresh business may be taken up on Monday?

Mr. Speaker: We will see what happens. At any rate Members will make the best effort to maintain a quorum.

So for the present we presume that we sit till six, and then we will adjust later on.

Shri B. K. Ray may now continue his speech.

I may state, looking to the time at our disposal, that after Shri Ray has finished I will call upon the Minister to reply.

But before Shri Ray begins I should like to understand from the hon. the Law Minister about certain amendments which he proposes to move.

The Minister of Legal Affairs (Shri Pataskar): With respect to the amendments proposed by Shri N. C. Chatterjee and Pandit Thakur Das Bhargava, I found them rather vague. So I asked them to clarify the matters that they would like to be opened in the Select Committee. I asked them to mention the topics and the sections. They have given me a list, and I shall have no objection to the matters therein being discussed in the Select Committee.

With respect to the other amendment, I had at one time intended to amalgamate the two Acts into one. Yesterday I thought over it and I

[Shri Pataskar]

found it would require probably more elaborate consideration, because many of the sections would automatically become overlapping. So for the present we shall leave the matter as it is.

Mr. Speaker: Has he got a draft of the specific sections which he proposes to include in the amendment of Mr. Chatterjee?

Shri Pataskar: I have been supplied a list by Shri N. C. Chatterjee and Pandit Thakur Das Bhargava. (1)

Mr. Speaker: Mr. Chatterjee is not here.

Shri Pataskar: As a matter of fact, I find on a careful examination of these matters that many of them will be open for the Select Committee to go into; some of them may not be. But I am prepared to accept that all these matters mentioned may be opened in the Select Committee.

Shri Raghavachari (Penukonda): I take it that any one of us can move an amendment to the amendment.

Mr. Speaker: Anyone can move, and I will permit.

I just wanted it to be clarified in the beginning so that Mr. Ray also might have the advantage of knowing what the position is.

Shri B. K. Ray (Cuttack): From the Election Commissioner's report on the experiences of the last general election, it appears that he had promised that there should be a compact and consolidated Election Code before the next general election comes. He said, I think very rightly, that the election law so far enacted was enacted piecemeal and in different instalments; the entire picture could not be viewed at one and the same time and therefore there might be some flaws and defects.

Now, the present proposal before us is really very limited. I would therefore fall in line with those hon.

friends of mine in this House who have said that the Select Committee should be authorised to go into the entire matter and make such amendments in the election law as it may think fit and proper.

So far as my remarks in this debate are concerned I am confining them within a very narrow limit. I will not traverse the grounds which have already been traversed, except one or two. My target will be the proposed amendment in relation to the election petitions and the election tribunal. Before I submit my contentions before you I will preface my speech with some introductory remarks. They are of a general character but they will form the background and will prove the importance of the suggestions that I shall make.

The *sine qua non* of a true democracy is fair and free election of people's representatives to the sovereign legislature. For the purpose of acquiring this, the framers of our Constitution have drawn largely from the experiences of other democratic countries in the matter of their elections and have thought it necessary to lay down proper safeguards to prevent those abuses and pitfalls which have been experienced in those countries in the early days. The first thing to start with was to establish an independent body, namely the Election Commission independent of the Government of the day for the purpose of superintendence and control of the conduct and preparation for the elections. Now, of course, it is not within the scope of my speech to discuss the merits of that institution. To me it appears, when I read the Constitution at the beginning and also now, that the Election Commission ought to have been composed of an independent body of men. I do not mean to throw any reflection upon that body as it is now framed. On the contrary I should say that we in this country have been very fortunate that the Election Commission with regard to its impartiality and independence has won the approba-

tion as well as the confidence/ of the people. But, at the same time, from the proposed amendments it appears that, that Election Commission is going to be empowered with certain judicial powers over the tribunals that are to try the election petitions, namely, the power to transfer/ the cases. There are also already certain inherent powers vested in the Election Commission i.e. either to admit or reject an election petition and also to decide the question whether a petition has been filed in time or whether there are sufficient/ reasons due to which (3) the delay could not have been condoned. All these matters, I think, form the subject matter of the amendments.

Now, my point is that simply the establishment of an independent body in shape of the Election Commission having power/ of superintendence and control over the elections all over the country is not enough to secure election of a non-partisan character. In the case of a Government in which the party in power wants to come back to power again by the/ process of election it is necessary that not only there should be at the head an independent body but also there should be safeguards in the statute and rules by which the law of election is to be administered particularly to see that/ the election is made without corrupt influences, without corrupt practices and election offences. In case they are practised no election which is vitiated thereby should be allowed to stand.

Now, what are the amendments that are now being proposed? An election commences with/ the filing of nomination papers. It is being proposed that nomination papers need not be seconded. What is the intention and object of those provisions of law which insist upon certain formalities to be complied with? It is only in order that there/ should be a valid nomination—to show the genuineness of the candidature, that the candidate is a qualified man, that the candidate

himself desires to stand as a candidate and also that he is worthy of the confidence of his brethren in the constituency. Now, it is proposed to do away with the seconding of the nomination papers. I do not really understand the value of this amendment. It is fundamental that without a seconder no proposal is a valid proposal. No resolution/ is taken as proposed until it is seconded. So, this is a most essential thing that is needed. I do not know what is the difficulty experienced by a candidate. If he is a genuine, worthy candidate it is very easy for him to secure somebody/ to second him. I, therefore, (5) find absolutely no good reason behind it.

Secondly, one proposal which is of a most serious character is this. It is proposed that after the nomination when the Returning Officer will scrutinise, he will not scrutinise as to the correctness of the objection raised by a candidate, as to the disqualification of another candidate. It is proposed that he will simply see whether a candidate is qualified. He will not see at that stage whether he is disqualified. Now, this seems to be a distinction without difference. If you pronounce somebody to be qualified the negative that he is not disqualified follows. Unless you take into consideration the circumstances that may make him disqualified you do not really consider whether he is qualified. Now, you leave it to be agitated in the election petition. One result of it will be that after a long time is passed, i.e. after waste of time, waste of money,—unnecessary expenditure on the part of the Government as well as of the/ parties concerned,—it will at last come out that a man successful in the election is disqualified. It is only at the last moment that is when an election petition is filed, provided somebody has money and energy enough to pursue the matter/ that a candidate is proved disqualified; otherwise, a disqualified candidate will come and find a seat in the House. It is said that this will simplify matters but I think it is of doubtful simplicity. It will

[Shri B. K. Ray]

introduce complexity rather than
simplicity.

With regard to the election petition there is a proposal to make an amendment that the present rule which requires that to every petition should be attached a list of the corrupt practices or election offences which it is alleged have vitiated the election, with specific particulars of instances, and which is made compulsory in the sense that if it is not attached to an election petition the petition should not be accepted, should be omitted. Now it is said that the petition will be complete in itself. Of course, if it simply means that instead of being in a separate paper this list will form part of the petition then the change does not matter. At any rate this is also a distinction without difference. But if the rigour with which mention of the specific character of these allegations are insisted upon is considered very high and it is sought to be reduced, then also the amendment will not achieve our aim. It is now said that if you allege certain wrongs having been committed, certain corrupt practices having been indulged in by a person you should give the time, place, person and all other necessary particulars which will give full evidence of the allegations made against him. The result that is sought to be achieved by this amendment may not be achieved at all because it is a general principle of law, that in any proceeding, civil or criminal, if certain allegations are made against one of the parties charging him with misconduct he is entitled to call upon the party so alleging to give all specific particulars of them. Instead of simplifying matters and saving time this amendment will, on the contrary, elongate the proceedings because the respondent appearing before the court will say: "So far as your petition is concerned you have not given specific particulars about the allegations. I want specific particulars." He may issue an interrogatory. The general provisions of law of procedure in this respect are applicable

to the trial of an election petition. Therefore, I also doubt about the correctness of this proposal.

Lastly, it is sought to reduce the composition of the tribunal from a 'three men's tribunal' to 'two men's tribunal'. Under the present law, one of the Judges either retired or serving in the High Court may be the Chairman; the second member may be a District Judge either retired or serving and the third member may be an advocate. Now, the present proposal is to have only two serving District Judges. In the Statement of Objects and Reasons it is stated that it is because of delay and expenses that are necessarily involved in a 'three men's tribunal' that this change is now sought to be made. If it is not a fact that in order to understand the questions of fact and questions of law presented to the tribunal, the time taken is arithmetically proportionate to the number of people constituting the Bench, there is absolutely no meaning behind the present proposal. Three judges sitting together will take the same time to understand and come to a judgment as two judges will take. On the contrary, instead of saving time and saving expenses, according to me the proposed system will involve more time and more expenses. It is in this way. In the three-man tribunal, you have always the majority rule. Whenever there is any difference on any question of fact, on any question of law, on any question of interpretation of law, the majority opinion will solve the problem. When two people are there, it is not possible. It is said that when the two people differ with regard to any matter regarding the final order they will seek the assistance of the Election Commission who, in consultation with the Chief Justice, would appoint some high court judge to whom the difference will be referred and according to his decision the final order will be passed. Will it save time or will it involve more waste of time? Besides, this device is of a limited character. You say that the

difference must be with regard to a matter concerning the final order, but there may be a difference with regard to the admissibility of a piece of Evidence; with regard to certain facts relating to a particular witness or with regard to the veracity of a particular witness. How are all these differences going to be solved? As I have already said, it is the duty of an independent body, namely, the Election Commission, to ensure free and fair elections, and there cannot be free and fair elections unless the corrupt practices, the election offences or any other disputes with regard to elections are tried by an independent tribunal. I do not for a moment doubt the independence of the serving district judges, but in the matter of justice, it is always fundamental to say that it is not only that justice should be done but it is also necessary that there should be a strong belief in the people who are tried, that justice is being done.

Now, hitherto, the rule was that a high court judge or a district judge qualified to be a high court judge should be the Chairman. The second member will be another district judge either in service or retired. The third member will be an advocate. Advocates, non-officials or retired men are generally persons in whom people have more confidence because the position is that the party in power which is carrying on the Government is also a party which is interested in entering into the election for coming into power. Under these circumstances, the people who are outside the party and who are fighting elections and have interest in the cases that are being tried by the tribunals must have faith in the tribunal itself. I do not at all see how, by the present proposal, things could improve. In every State, at least you can have five or six or eight advocates who can adorn the Bench even of the Supreme Court, not to speak of the High Courts. Why not make a selection from among them?

Shri Bogawat (Ahmednagar South): I hope the Minister of Legal Affairs will kindly note it.

Mr. Speaker: He is nothing all points and will reply to whatever he thinks fit. The hon. Member may proceed; he has very little time at his disposal now.

Shri B. K. Ray: On the contrary, the reason for this change is said to be that at the time when the Constitution was framed it was intended that the election tribunal's decision will be final. Now, however, it has been found by the decisions of the Supreme Court and the High Courts that the tribunal's decisions are being interfered with. That means it has not the finality which, it was originally thought it would possess. Therefore, it is said, the three-man tribunal is being reduced to a two-man tribunal. But how does it cure the disease? If, either rightly or wrongly, anybody has assumed the jurisdiction which the Constitution has not intended, it is the High Court and the Supreme Court. Has not the sovereign legislature power enough to make laws so as to prevent them from interfering with a jurisdiction which, according to the Constitution, should not be interfered with?

Pandit K. C. Sharma (Meerut Dist. South): There are provisions in the Constitution to that effect.

Shri B. K. Ray: If necessary, amend the Constitution. Supposing you have a provision in the Representation of the People Act that the election tribunal constituted by the Election Commission is neither, as a tribunal, nor, as an authority, inferior to any court in India, then, tomorrow, what will the Supreme Court do? I can give a constructive suggestion as a lawyer. Now, the Supreme Court exercises also a residuary power of administering justice over subordinate authorities and inferior tribunals. Suppose the law that constitutes a tribunal says that this tribunal should be, neither as a tribunal nor as an authority, considered as subordinate

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to anyone, I think the tribunal's decision should be completely above any power of interference.

I shall mention for the information of the hon. Minister of Legal Affairs how the delay is occasioned. It is not an account of the advocate not finding time to go and answer to the summons of the chairman to join in the work of the tribunal; nothing of the kind. It is through the ingenuity of the lawyers—which is taken advantage of by the parties—in finding out points and fighting the case on preliminary points first. I have my personal experience about a particular case. When an election petition was filed, it was sent by registered post as well as a duplicate by ordinary post from Cuttack to Delhi, on the very last available day. The petition sent by ordinary post, reached Delhi in time. The rule is that it should be sent by registered post. There is always one day's delay in the delivery of registered post. So, the petition sent by registered post reached the next day. The Election Commission has got the power to consider the circumstances and to excuse the delay. He excused the one day's delay. The petition had reached the office, though not the one sent by registered post. The duplicate was however received. Under the circumstances, the Election Commission excused the delay. When the tribunal sat, the other party was a sitting Minister and he engaged a very big counsel from a different place and took up this point, namely, that the Election Commission had no power to excuse the delay, and that this delay was fatal to the election petition and that therefore it should be dismissed. It was argued like that and the point was, however, decided against the minister. The matter was then brought to the Supreme Court. The Supreme Court said 'you have not come through the lower court, that is, the High Court'. So, he went to the Cuttack High Court. The Cuttack High Court said they had no jurisdiction because the Election Commission

was made a party in the case. Meanwhile the man got a stay order from the tribunal and filed an application before the Punjab High Court. It also negatived the contention. Then it went to the Supreme Court and in the Supreme Court it was finally negatived, and the Election Commission's decision was upheld as final. How will, in such cases, a two-man tribunal save the situation? Therefore, the boot is on the other leg. The remedy is somewhere else. Be it the Supreme Court or the High Court or any court, so far as interlocutory matters are concerned—matters which are preliminary to the investigation by the tribunal, matters which hold the progress of the election tribunal in abeyance—must be disposed of within the shortest time possible. Cannot the Supreme Court be made amenable to this rule? Cannot the High Courts be made amenable to this rule? In this matter whether the Election Commission had the power to excuse the time, it took only half an hour before the Supreme Court.

Shri Pataskar: Unless you amend article 226, there is no way.

Shri B. K. Ray: I do not think it is so much necessary. However, that is my own suggestion. You are the man to deliver the goods. I am not the man.

Shri Bogawat: You are a Member of this House.

Shri B. K. Ray: As a member, I am giving my suggestion. I think, so far as the High Court rules are concerned and the Supreme Court rules are concerned, they are made by the Judges. But, they are consented to in the State by the Governor and in the Centre by the President. In these rules, it may be stated that so far as election matters are concerned, particularly matters which are interlocutory, pending consideration and which hold the progress of the election tribunals in abeyance, should be disposed of as quickly as possible. It is not

practically the time that is occupied in deciding the matter, not practically the time that is occupied in giving notice to the parties, but it is the pending in the file for months and months and years and years that delays. Therefore, the remedy is there. If you simply make it a two man tribunal of serving district judges, you cannot save time. My submission, therefore, is, so far as this proposed amendment is concerned, it is for the Select Committee to see to it carefully.

So far as expenses are concerned, they should not be grudged. In order to keep the standard of justice high, in order to have the faith of the people in our Government, in our machinery, in our tribunals, no expenses should be grudged. If you want to change it, give it to a Division Bench of the High Court, *ex officio* appointed as Election tribunal. Let them dispose of the case; make it final.

Before concluding, I would just make a reference to one of the profound observations of Woodrow Wilson for which he was noted. He said:

"The history of liberty is the history of limitations upon the powers of Government."

How is this limitation effected? By judicial brakes. Therefore, these brakes, as the brakes of motor cars, should not be loosened. These are my observations.

Shri Pataskar: The Bills in question have been discussed in this House for the last 4 days and more. Almost 50 members have taken part in the discussion. They represent the views not only of all parties in this Parliament, but also of many individuals who hold different views, on this absorbing question. I have carefully listened to all the speeches made by hon. Members and to the points that they have raised. It would be well nigh impossible for me to reply to every single point raised. For, that would take a very long time. More

particularly, in view of the fact that the motion is merely to refer the Bills to a Select Committee, the Members of the Select Committee will take into account all these different points that have been raised.

I have already made a detailed speech trying to explain in my own way the various implications of the provisions proposed in these amending Bills. I would avoid a repetition as far as possible of what I have said earlier. As I said earlier in my speech the history of elected legislative bodies in India is comparatively of recent growth. There is no other country in the world where this experiment of parliamentary type of democracy, established on the basis of adult franchise, was tried on such a large scale as ours. It is not only a question of the large number of voters who are entitled to vote, but also a question of the vast areas over which they are spread, the difficulties which the voters have to encounter on that account and the variety of the people in several respects who constitute the large population of our country. As I have said at the beginning, by and large, the observers in the world, who watched our experiment, some with sympathy, some with antipathy, some with doubt and some even with jealousy, have admitted the success of this venture, and they had to admit, at any rate, that our elections were not less fair and free than those in any other part of the world.

Elections are, naturally, as I said earlier, an absorbing subject. It was no wonder that the discussion on this matter, ranged widely over all manners of extremes. So far as the method of election is concerned, some even went to the length of suggesting that the present method was no good and that the whole thing could be made very simple by ascertaining the wishes of the voters by collecting them somewhere and asking them to raise their hands or their voice.

Shri Kamath (Hoshangabad): Who said so?

Shri Pataskar: I would not like to mention names.

I do not know whether this would at all be possible even in respect of small villages. But, even if it was, what about the large number of people who inhabit the cities and towns and the medium-sized villages in our country? On the other hand, there have been those that urge that the present machinery of election should be far more elaborate than what it is now. Again, coming to the question of preparing rolls of voters, there were equally great divergence of views. Some complained that the present list of voters was all wrong, that we can dispense with any such lists and we should depend more on honesty and straightforwardness of the common man, who votes and anybody may be allowed to go and record his votes. It is difficult to imagine how such an election could either be free or fair. Would it not lead to large scale impersonation? Would it not lead to double voting and many other evils which I need not refer to in detail.

Pandit K. C. Sharma: There is marking with indelible ink.

Shri Pataskar: As regards the number of those who vote, some people have complained that hardly 50 per cent. of those who are entitled to vote went to polls in the last general elections, and it was suggested that the people should be compelled to record their votes. One of them was my hon. friend Pandit K. C. Sharma. I think we forget the very wise proverb that you can only take the horse to water, but you cannot make it drink.

Pandit K. C. Sharma: I did not suggest it.

Shri Pataskar: Any such compulsion is likely to create a sense of hostility against his exercise of the right to vote. Even in countries where this franchise is being exercised for the last several centuries, I learn that the percentage of those who actually vote is not much larger. As

I said in my speech earlier, I think the people in this country have taken very kindly and well to this matter of elections.

As regards maintenance of proper rolls of voters, there were occasional complaints that some names were missing from the lists, that some names have been wrongly mentioned. To some extent, it appears to be inevitable when we are dealing with the preparation of rolls for a vast number of people as here. In this connection, I might mention that the total number of election officers appointed for the preparation of electoral rolls at the time of the last general election was as follows. For parliamentary constituencies, there were 324, for Assembly constituencies there were 1275 such officers, and for the Council constituencies there were 53. In all, there were 1652. The total number of revising authorities appointed for decision of claims and objections to the draft electoral rolls was 1529. On the whole, the work of the preparation of electoral rolls has been found satisfactory.

Much was made of the fact that in some cases, particularly when describing women, instead of their husband's name, their father's name or their brother's name was shown. This naturally might have happened in a few rural areas. I understand that the difficulties of enumerators are numerous. At the time when the electoral rolls are prepared, elections are not always in sight and even the future candidates are undecided, and the interest taken in the matter of getting the names registered is almost non-existent. Not only that, but when the enumerators visit certain houses, some people do not care to give correct information and at times give information which is misleading. Of course, this has been not on a very large scale, but I believe the only solution of this problem will be to create a spirit by means of propaganda and other means among the

people in general to pay more attention to the exercise of this fundamental right of theirs. I have known of such instances, not of illiterate men, but of persons in trading firms in towns and cities. For instance, if the enumerator asks the name, they say it is Ramkishen Pannalal. It may be that Pannalal might be the name of some relation which is mentioned for the purpose of a particular trade which is carried on in that name. The enumerators go and ask him: "What is your name?" He gives the name of Ramkishen Pannalal. When the time comes for voting, Ramkishen goes to the poll and when asked his father's name, he only mentions a name something different from Pannalal. Then he finds his father's name is not there at all. In some cases the father's name is put before the person's name as a customary thing as is well known. That again leads to some mistakes. Such mistakes are there. They are comparatively very few, and as the common man begins to take more interest in his right to vote and realises the value and importance of his vote, they will disappear in course of time.

In the meanwhile, those who are charged with the task of preparing the rolls will, I am sure, make every possible endeavour to avoid mistakes of any kind.

I know there has been a good deal of complaint from hon. Members regarding the enumeration of voters belonging to the Scheduled Castes and Scheduled Tribes or women in general in the rural areas. I will see that special instructions are sent out by the Election Commission to those who are charged with that duty, to see that as far as possible they try to get correct information and do the needful in the matter, but it would be much better if these efforts are at the same time helped by the members belonging to different parties to see that proper rolls are maintained and that they are kept in the proper form by suitable machinery even before the actual time of the election.

There are already enough provisions in the rules under the present Act by which the people can get their names registered. The procedure prescribed in this respect is very simple, and I do not think any difficulty has been experienced so far on that account.

An element of exaggeration was also introduced in the debate when it was stated that when a man of the rank of an M.P. went to the registering officer to have his name registered, he was asked whether he was a matriculate, and when he said he was, he was asked to produce the certificate. Well, conceding that this may not be altogether an impossible thing to have happened, the chances of such a thing being a common occurrence or an occurrence of which this House should take note in framing this legislation are very rare indeed. It was probably meant as a sort of some merriment in the House.

Some complaints were also made in respect of the constituencies that have been framed. There were also suggestions whether there should be any double-member constituency even when the seat is reserved for the Scheduled Castes and Scheduled Tribes. I know that the difficulties of candidates in respect of double-member constituencies naturally are very great. There have also been complaints about the delimitation of these constituencies. I think these are all matters outside the purview of these two Bills and the two Acts which these two Bills seek to amend.

As Members are aware, we have got the Delimitation Commission Act passed by this House and that Commission's functions are to deal with this matter of determining and delimiting the constituencies and I regret that with all my sympathy for any grievances that may exist in this regard, it would not be possible to take these into account while considering the Bills now before the House.

[Shri Pataskar]

There was also a complaint that the voters' lists are not easily available, and also that they should be supplied free. I do not think it would be feasible to supply free copies of electoral rolls to all those who want them. It will involve Government in unnecessary and large expenditure.

Shri Kamath: The Bombay Government is doing it.

Mr. Speaker: Order, order.

Shri Pataskar: On the contrary, a candidate who wishes to stand either for the State Assembly or Parliament can easily spend for obtaining those copies at a fairly moderate price which is charged to him for supplying copies of those rolls.

Again, a question was raised with respect to the educational qualifications necessary for a person who could be allowed to put himself forth as a candidate for election. As we know, for historical reasons the spread of education in our country has not been as much as we would have liked it to be. Naturally, to have such a rule would be to confine the right to represent the people to a very small number of the population of our country. It is likely to be resented by a very large number of the population of our country who do not possess such qualifications. Nor is this test of an academic qualification likely to be a guarantee that such elected persons will be able to represent their constituencies better than those who unfortunately could not; owing to circumstances beyond their control, acquire the necessary academic qualifications.

Then again, it was suggested by some that the present method of nomination of candidates should be scrapped, and some went to the length of saying that instead of a man proposing himself that he was standing as a candidate, it must be left to the people to decide who should or should not stand as a

candidate. It is all very well to imagine many things, but I do not know how the wishes of the people could be ascertained in some other manner than the one which is being followed not only in our country but elsewhere in the world. Then again, what would happen if the person whom the people wished to represent them was not prepared to stand as a candidate or even to work as a representative of the people?

There was a lot of criticism about the way in which the candidates of the parties went about praising their own individual or party merits. To some extent, this is, to my mind an inevitable feature of the elections. The only thing that must be prevented is the conduct of false propaganda either in favour or against any candidate, because that is likely to influence the voters in a wrong manner. I am entirely at one with those who plead that at the time of the election resort to mutual vilification and recrimination should be avoided. At present the Act and the rules framed thereunder make ample provision in this respect and it would be very difficult to go beyond what we have already laid down in this connection whether in these Acts or the rules thereunder.

As regards this matter of recrimination and vilification by parties, groups or individuals, it must be noted that in many cases it has been the common experience of all parties that this recrimination and vilification had produced very little effect on the voters in favour of those who vilified or committed these acts of recrimination. But it has also not been an uncommon experience that the voters have reacted exactly in the opposite way, and I think the best thing would be to depend more upon the common man's goodwill and spirit of decency which an ordinary voter in my opinion does possess in this country.

As far as propaganda by parties is concerned, there are parties in our country and the existence of parties is an inevitable concomitant of parlia-

mentary democracy. Some sort of party criticism is unavoidable, and however much we may try to keep party considerations out, they are bound to exercise some influence on the psychology of those who work in the interests of those parties. I know there has been some criticism against the Congress party which secured in the last elections a majority in Parliament as well as in many of the State Legislatures. I can understand that those who could not be returned in sufficient numbers,—whether they were individuals or members of a party,—are likely to look upon this aspect of the matter from a point of view which is unfavourable to the majority party.

Shri Kamath: Not so.

Shri Pataskar: While conceding this, however, we must set some limit to which such criticism should go. It pained me to listen to some of the criticisms against the majority party, which were entirely unwarranted. One hon. Member went to the length of saying that there was only one good person in the party but then he too was in bad company, while another hon. Member tried to find fault even with that sole person. This is not only condemnation of the members of the majority party, but I would humbly urge that this amounts to condemnation of the mass of people in the country who are responsible for the election of the members of the majority party. I would appeal to them—and it is not from a party point of view I am saying this—that it is desirable to avoid such criticism, for it does no good to those who criticise in this way, and is likely to harm the interests of the nation as a whole.

Shri Kamath: Of the majority party.

Shri Pataskar: Of course, naturally. There should be some proper way in which party discussion and propaganda should be carried on.

There was a good deal of criticism with regard to indirect influence of capitalism on voting. Election is no

doubt a matter of expense, and all attempts should be made to reduce the expenditure. There might have been a few cases where probably people got elected on account of the strength of their purse, but the very composition of our House here and the State Legislatures will show that this criticism is not justified. You see comparatively only a very small number of capitalists either in this House or in any of the elected Assemblies in the country.

Shri C. D. Pande: They are only on your opposite side.

Shri Pataskar: Coming to the question of the method of nomination in this Bill an attempt is made to make it as simple as possible, and if it can be further simplified by the Select Committee, it would be open to them to do so. Previously there had been a Bill introduced in this House to amend the Representation of the People Act, 1951. That Bill was referred to a Select Committee, and that Select Committee did make a suggestion that at the stage of scrutiny of the nomination paper, there should be a judicial authority who should do it, and then an appeal was also provided against the decision of that scrutiny officer. While introducing these Bills, this scheme had been dropped. But many hon. Members including some of those who were Members of the former Select Committee have urged in favour of the reintroduction of those provisions.

It is true that out of 338 election petitions, 116 were on the ground that there was improper acceptance or rejection of nomination papers. Taking this into account, attempt is now being made to make it almost difficult for anybody at the time of scrutiny....

Shri S. S. More (Sholapur): Have you got any figures regarding those petitions which were filed on the ground of illegal acceptance of nomination papers? Have you got any figures about the cost involved in these petitions?

Shri Pataskar: Probably the hon. Member was not attentive. I have just given those figures. Out of 338 election petitions, 116 were on the ground that there was improper acceptance or rejection of nomination papers.

Shri S. S. More: I wanted to know the expenses incurred by Government and possibly by both the parties to the petitions, as far as these matters are concerned. Could you give us some idea of that?

Shri Pataskar: As regards the expenditure incurred by the parties, it would not be possible for me to give it. As regards the expenditure incurred by Government, I shall be able to place that information before the Select Committee; I cannot give it today.

Taking this into account, attempt is now being made to make it almost difficult for anybody at the time of the scrutiny to reject a nomination paper. That is the measure which we have tried to follow in the provisions that are proposed.

The only point is whether if the objection is on the ground of disqualification, that should be investigated at this stage or it should be left to be investigated if necessary by an election petition presented after the elections are over. As hon. Members are aware, the question of determining whether the candidate concerned is disqualified to stand on the grounds mentioned in the various sub-sections of section 7 is a very difficult one. Normally, it would be expected that the person who is really so disqualified is the best person to know it, and he ought not to undertake the task of undergoing all the expense and trouble of an election campaign. And I believe experience in the past will lead many such persons not to attempt to do it. If such a person does stand, then he must be prepared to undergo the risk involved in his being subsequently declared to be disqualified and not being

allowed to sit in the Assembly or the Parliament as the case may be.

But apart from this there is another serious and greater difficulty in the matter, and that is that even if we establish a judicial authority to decide this matter at the time of scrutiny and we set up another authority to hear an appeal from the decision of that authority, the matter is likely to be prolonged very considerably by resort to the use of provisions like those contained in article 226 of the Constitution. In many cases it would not be difficult to obtain writs preventing the holding of election; and once a writ is issued, the matter is bound to be kept pending for a long time. The hon. Member who spoke just before me has suggested that the President and the Governors in the States have got the power at the time the Supreme Court and the High Courts make rules for the conduct of their business to approve of those rules; that is to say, the High Courts have to take the approval of the Governors concerned, and the Supreme Court has to take the sanction of the President. I do not know whether it would be easy to carry out that suggestion. There will be interminable discussions as to what form those rules should take. Though I am not sure of success, I shall try to explore this aspect of the matter also.

But our present experience is that in many cases, the general power given under article 226 to the High Court to issue any writs to any authority or any body, whether judicial or otherwise is a power, which, we find, has been exercised in a way which has protracted these matters. Of course, I do not wish to blame anybody for that. When these writ petitions are filed, we find that in many cases, after eight or nine months, they are dismissed. But the matter is delayed for a considerable time. The same thing might happen even if we set up a judicial authority to decide this matter at the time of

the scrutiny of nomination papers. Even when the writ petition is dismissed by the High Court, the result will be that after a considerable lapse of time, the matter can easily be taken to the Supreme Court under the other provisions of the Constitution. Thus, our experience has shown that it would not be difficult for persons, if they are so minded, to hold up the elections at least in certain parts of the country for a considerable time. This would upset all the arrangements which have been made by the election authorities according to the schedule for holding elections. This might again interfere with the proper constitution of the different Assemblies in proper time. That is a matter further which is of greater importance. It is from these points of view, that those provisions do not and a place in the present Bills. I am sure, however, that the present Select Committee will, while taking into consideration the provisions made by the former Select Committee, also take into account this aspect of the matter which I have just placed before the House.

As regards the curtailment of the election programme, some have expressed themselves in favour of it, and some against it. I am sure the Select Committee will take these views into consideration.

Another aspect of election is the question of the filing of the return of election expenses. Many hon. Members, almost invariably everyone of them, have expressed their own views one way or the other. As the present Act stands, it is necessary for a candidate to keep an account of what he is spending and at the same time to submit also a return of the election expenses incurred. So, he has to do two things, firstly to maintain an account of his expenses, and secondly to file a return in the prescribed form of those expenses. As has been found, the form of return of election expenses is so complicated that it is difficult to divide the various items of expendi-

ture to be shown under the different heads mentioned in the form. At the time of the discussion of the last Bill, there was a good deal of argument, and also to some extent unanimity, complaining about the form of the return of election expenses. It has, therefore, been proposed in the present Bill to do away with this question of filing this sort of a complicated form of return of expenses and what is proposed to be done is that only a copy of the account that the candidate has to maintain should be lodged with the Returning Officer. This will do away with the question of dividing that account into different categories.

12 Noon

Many Members complained that true accounts are never shown by anybody. But, if it is so, the remedy can hardly be to do away with all accounts. It is very strange logic that because people do not keep true accounts, therefore, do away with the accounts themselves.

Shri Gidwani (Thana): It has been urged by every hon. Member as we have to keep false accounts.....

Mr. Speaker: Order, order; let the hon. Minister proceed.

Shri Gidwani: The Minister must make an attempt to reply to.....

Mr. Speaker: I do not accept the practice of an intermittent reply. That means that the whole debate is revived again. For every reply given by him there is bound to be a counter-reply. Unless there is a fact on which intervention is absolutely necessary and a factual reply is given, there is no occasion for the hon. Members to get up and interfere with the hon. Minister.

Shri Pataskar: Hereafter there should be no difficulty in the way of those honest candidates who want to keep true accounts.....

Shri Gidwani: What is the number of such candidates?

Mr. Speaker: Order, order.

Shri Pataskar: There has been some complaint about a provision which made it necessary to attach a voucher in respect of every item shown in the return of election expenses. There is no mention of any such voucher in the provisions now proposed to be made in these Bills.

Then, again, there was considerable discussion with respect to the maximum expenditure which a candidate should be allowed to incur in connection with the election. Some suggested that there should be no limit; others suggested that the limit should be very low. In my view of the matter, the fixing of such an amount at any level will depend upon many factors which will have to be taken into account and this maximum is bound to vary from time to time. It has, therefore, been thought safe to leave them to be decided by rules.

I have already explained in my opening speech in detail as to why expenditure incurred by a recognised party organisation should not be taken into account in seeing whether the maximum amount fixed is or is not exceeded. It is true that this might appear, to some extent, a hardship for individual candidates who do not belong to any party. It appears that by and by individuals are bound to find it difficult to contest elections. Besides, the parliamentary type of democracy clearly envisages a Government by party whichever it might be. So, the development of party organisations is natural and necessary. In such a system, individuals are bound to play, if at all, an unimportant role. That has been the experience not only in our country but in countries where this type of democracy prevails. The arguments advanced in this connection, to my mind, were very significant. Some hon. Members charged that some party had the backing of capitalists behind them, some other hon. Members charged some other party that they were getting resources for election expenses from outside the country and some even

went to the length of saying that money for election purposes was secured by offences against society. While it is difficult and needless to say whether there is any truth behind any of these allegations, such charges only display the acuteness of party feelings which makes people say such things. It is much better to ignore such arguments and believe more in the honesty of the common man and his ability to exercise the vote freely and fairly.

Under the provisions of our Constitution in article 83 there is a provision which says that—

“The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House.”

It is, therefore, clear that unless sooner dissolved our House will continue to function till about May 1957. Then as I said earlier, the periods on which the different Assemblies will be dissolved by efflux of time will be different in different States and if we concede that it would be convenient from the point of view of the elections as a whole that they should be held simultaneously, it can be done more appropriately by dissolving all these bodies a little earlier. But, how to do so is a question which will have to be considered. So long as the proviso to section 15 of the Representation of the People Act, 1951 stands, it would not be possible to hold such simultaneous elections. There is no desire on the part of anybody, as suggested by some hon. Members, to use this as a device to continue for a few months the Ministerial rule without the Parliament or the Assemblies functioning. It is purely from the point of view of the convenience of the public, the electoral authorities and the candidate himself that this has been suggested. I learn that this is the practice which

is followed in the United Kingdom where also a similar period of five years has been prescribed by the Parliament Act of 1911. There also, what they do is, they generally dissolve the Parliament a little earlier than it would be dissolved due to efflux of time and then arrange for the elections. However, that is a matter on which I know there are strong feelings in this House and if there is any other solution possible by which our purpose would be achieved and, at the same time, we may continue here till May 1957, Government will have no objection to any such procedure being devised. It is not because there is a suggestion to that effect from the Election Commission that this provision has been proposed in the Bill but it is purely from the point of view of convenience to all concerned that it has been put forth and, I am sure, the Select Committee will take all aspects of this question into consideration.

I come next to the question of election tribunals. I have already stated in my opening remarks that one disturbing feature of our elections has been that there is a large number of election petitions. It is desirable from every point of view and in the interest of every party or individual in the country that this must be discouraged. I have already referred to the nature of election disputes and as I have made it clear, these must not be looked upon as civil disputes between two contesting rivals but must be looked at from the point of view of the right of the people of the constituency to be represented by a member of their choice.

Here again I might bring to the notice of the hon. Members certain facts about this question as they obtain in England. For instance, in the beginning, it was Parliament itself which used to decide these matters. Subsequently, after some centuries, they found that on account of the prevalence of parties, naturally, it would be much better to leave it to

some outside authority. That is how they started the practice that these matters should be decided by somebody in the position of Circuit Court Judge or such authority. But, there, it is looked at from a different point of view. I would again like to bring to the notice of the hon. Members that the common experience in England is that there are very few petitions. As a result of the last general elections in England, I am told, there has been only one petition. In the United States also there is a provision which I already pointed out and regarding which I would again like the hon. Members to take note that all these matters are decided by the Houses themselves and not by judicial authorities because while we are considering the matter of delay caused we have also to take this aspect of the matter into consideration and separate these from ordinary disputes between two persons regarding property or civil rights. I am afraid this aspect of the matter has not been properly taken into account by various hon. Members who spoke about this matter. I have already explained—and I would like to repeat here—that the Constitution-makers wanted to keep this matter of free and fair elections free from judicial interference of the normal type. They, therefore, laid down specifically in article 329 that an election can only be called in question by an election petition presented in the manner provided by law made by Parliament and by no other method. It was from this point of view that the Representation of the People Act, 1951, made elaborate provision for the presentation and trial of election petitions by tribunals of a special character. The underlying idea was that the election disputes should be decided speedily and finally. I am glad that many hon. Members are also agreed that it must be decided speedily and finally. Experience has shown that the working of these tribunals and the various orders issued by the different High Courts and the Supreme Court have led to considerable delay in the disposal of these disputes.

[Shri Pataskar]

It is worth while here for me to give the hon. Members some information regarding the working of these election tribunals and the settlement of these disputes. There were 338 election petitions filed after the last general elections in the beginning of 1952. Out of these 129 were allowed. However, in spite of decision by tribunals in the case of three cases results could not be published till now on account of the stay orders issued by the High Courts. The number of election petitions dismissed is 157. The number of election petitions withdrawn, abated or otherwise rendered infructuous is 23 and the total number of election petitions even now pending before the election tribunals after 3½ years is 5. Out of these 5 cases one has since been disposed of but the result has yet not been published. I am not sure whether that would be a subject-matter of any writ of High Court or special leave application to Supreme Court. The remaining 4 cases are— one from Delhi, one from Lucknow, one from the State of Bihar and one from Madhya Pradesh. I think every hon. Member will agree with me that a system under which the decision of an election matter can be fought and continued for almost the full period of 5 years indicates an unsatisfactory state of affairs. The delay has been due partly to the work of these tribunals and partly to the various orders issued by different High Courts and the Supreme Court. I have nothing but respect for the ability and efficiency of our judiciary. And I therefore said on the last occasion that our judges also are familiar with the public sense of justice as every judge ought to be, and wherever they have a latitude, they automatically keep within the bounds which that rather vague but very powerful force sets for them. That vague term naturally is the "public sense of justice". But it appears to me that they have no latitude in this regard and therefore they could not but pass the orders which have led to these results. I think this

clearly indicates that it is duty of the Parliament now to take proper remedial action in this matter, and it would be open to the Select Committee to make whatever suggestions it would like to make.

There has been some criticism as to two instead of 3-member tribunals. The Bill has proposed a tribunal consisting of two serving judges. The three-member tribunal consisted of one advocate and two judges who were either serving or retired. In many cases, for administrative convenience, one serving judge was usually appointed, the other judge was either a serving judge or a retired judge, and the third one an advocate. Experience has shown that persons not in actual service are very often not interested to dispose of matters speedily. It is purely from that point of view that the present composition of the tribunal to consist of two serving judges is proposed. Some hon. Members have made a proposal that a tribunal may consist of one serving judge and there may be one appeal to the High Court. I am inclined to think that this also is a proposal worth being considered seriously by the Select Committee, for in that case that might obviate many of these writs and appeals to the Supreme Court. It may also help in preventing the resort to the Supreme Court and High Court in many cases. As regards the appointment of advocate members of the tribunals, the Election Commission found that the remuneration of Rs. 60 per day paid to them did not prove attractive enough to the comparatively senior members of the profession. There was no question of additional remuneration in the case of serving judges and I have pointed out on the last occasion that expenses incurred by Government on these tribunals was somewhere in the neighbourhood of Rs. 16,00,000. I am sure the Select Committee naturally will have to find some solution to this problem and they will take into account the different views expressed

by different members in this connection as also the views of the Election Commission in this regard.

The hon. Member from Delhi complained about the inadequate representation given in the State Assembly to the members of the Scheduled Castes in the Delhi State. While sympathising with any real grievance if there is one on this score, I am afraid that is not capable of being remedied by any of these two Bills.

There was some suggestion from one hon. Member—I do not find him here now—that the age of 21 for the voter should be reduced to 18, the age of majority. I do not see what reasons there could be for suggesting that the age for the voters should be reduced.

The hon. Member, Dr. Krishnaswami, made a pointed reference to the proposal to have the House of the People or the Assembly dissolved prior to the date on which their terms of office expired and he suggested that such a dissolution will not be in conformity with the principles of the Constitution. I am afraid in my view of the matter, there is no such constitutional difficulty. All the same, whether there is propriety or no propriety is a matter which may be considered by the Select Committee. Even that aspect of the matter will, I am sure, be taken into account by the Select Committee.

I have touched on almost all the points from the first stage to the last stage of the election which have been raised by many hon. Members. There might be a few others of a minor nature to which I have made no reference, but I am sure that copies of the debate, which has taken so long and is so elaborate on this subject, will be sent to the Members of the Select Committee and they will take every little point of view urged in this House; all the points will be considered appropriately and properly by the Select Committee.

I commend my motions for the acceptance of the House.

Mr. Speaker: Now, let us be clear about the amendment. Has Pandit Thakur Das Bhargava seen this amendment?

Pandit Thakur Das Bhargava (Gurgaon): There are two amendments; the amendments are the same practically. There are two amendments because there are two Bills.

Mr. Speaker: Will he move them?

Pandit Thakur Das Bhargava: They have already been allowed to be moved. With your permission I will move them again if the previous moving of the amendments is not accepted as correct—at that time the instances were not given there.

I beg to move:

“That in the first motion, after ‘the mover’ insert:

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

- (i) duties of Returning Officer, Presiding Officer and Polling Officer. (Sections 24, 27 and 28);
- (ii) appeals from decision of Returning Officers on scrutiny of nomination;
- (iii) Election accounts—(section 44);
- (iv) functions of Polling Agents and Counting Agents—(section 49);
- (v) ballot boxes and method of voting—(sections 59 and 63)—ballot boxes and method of counting;
- (vi) Return or statement of Election expenses—
 - (a) whether it should be dispensed with?
 - (b) whether its filing should be before or after filing of election petition?

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- (c) whether it should be open to inspection before presentation of election expenses?
- (d) whether there should be a ceiling?
- (vii) definition of candidate [section 79(b)—specially having regard to the judgment of Supreme Court in Katpadi Election case];
- (viii) procedure before Election Tribunal and Powers of Tribunal—(sections 88, 90 and 92)—and composition of Tribunal;
- (ix) Incriminating Questions—should there be certificate of indemnity—(section 95)?
- (x) claim for Recrimination—(section 97);
- (xi) when petitioner in election case can claim the seat—(section 101);
- (xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115 and 116);
- (xiii) corrupt practices—(sections 123 and 124);
- (xiv) Illegal practices—(section 125);
- (xv) electoral offences—(section 129 should be made applicable to all Government servants as recommended by Election Commission);
- (xvi) disqualifications arising out of illegal practices—(section 142);
- (xvii) Removal of Disqualifications—how far condonations should be made retrospective—which authority should be vested with the power to condone and in which circumstances;
- (xviii) Symbols and Power of Election Commission in connection therewith;
- (xix) Disqualifications (section 7)—apart from consequences of not lodging Election Return; be considered and amendments allowed to be moved and made and also;”

This is in respect of Representation of the People (Amendment) Bill, 1955. Now I shall move my other amendment in respect of Representation of the People (Second Amendment) Bill, 1955.

I beg to move:

“That in the second motion, after ‘the mover’ insert:

- ‘with instructions that matters other than those dealt with in the Bill, but relating to election in general and matters dealt with in the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951), e.g.—
- (i) duties of Returning Officer, Presiding Officer and Polling Officer, (Sections 24, 27 and 28);
- (ii) appeals from decision of Returning Officers on scrutiny of nomination—
- (iii) Election accounts—(section 44);
- (iv) functions of Polling Agents and Counting Agents—(section 49);
- (v) ballot boxes and method of voting—(sections 59 and 63)—ballot boxes and method of counting;
- (vi) Return or statement of Election expenses—
- (a) whether it should be dispensed with?
- (b) whether its filing should be before or after filing of election petition?
- (c) whether it should be open to inspection before presentation of election expenses?
- (d) whether there should be a ceiling?
- (vi) definition of candidate [section 79(b)—specially having regard to the judgment of Supreme Court in Katpadi Election case];
- (viii) procedure before Election Tribunal and Powers of Tribunal—(sections 88, 90 and

92)—and composition of Tribunal;

- (ix) Incriminating questions—should there be certificate of indemnity—(section 95)?
- (x) claim for Recrimination—(section 97);
- (xi) when petitioner in election case can claim the seat—(section 101);
- (xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115 and 116);
- (xiii) corrupt practices—(sections 123 and 124);
- (xiv) illegal practices—(section 125);
- (xv) electoral offences—(section 129 should be made applicable to all Government servants as recommended by Election Commission);
- (xvi) disqualifications arising out of illegal practices—(section 142);
- (xvii) Removal of Disqualifications—how for condonations should be made retrospective—which authority should be vested with the power to condone and in which circumstances;
- (xviii) Symbols and Power of Election Commission in connection therewith;
- (xix) Disqualifications—(section 7) —apart from consequences of not lodging Election Return;

be considered and amendments allowed to be moved and made and also."

Mr. Speaker: These two amendments are before the House now.

Shri C. D. Pande: May I just say a word. The long list which forms part of the amendment is not exhaustive, there may be other instances which may have to be considered by the Select Committee.

Pandit Thakur Das Bhargava: The instances are never exhaustive.

Shri S. S. More: They are illustrative.

Mr. Speaker: The position is this. The original amendment that was tabled is:

"With instructions that matters other than those dealt with in the Bills, but relating to election in general and matters dealt with in the Representation of the People Acts, 1950 and 1961 (XLIII of 1950 and 1951) be considered and amendments allowed to be moved and made and also"

This is a vague amendment and is likely to enlarge the scope and give trouble to the Chairman of the Select Committee in deciding as to which amendment should be permitted and which not, under the instructions of the House. The present amendment is, as I understand it, gives the spirit of the same but tries to make it more specific and gives direction specifically as to which sections or which parts should be taken into consideration apart from the other provisions which are parts of the original Acts so that proposals can be made by the Select Committee in respect thereof. That is the only difference. Substantially, there is no difference; only it tries to make it more specific.

Shri Pataskar: I would like to make clear one point. I have no objection to all these matters which are specifically mentioned in the list supplied and just now read out by the hon. Member. But the words "Matters other than those dealt with in the Bills but relating to election in general and matters dealt with in the Representation of the People Acts....." This expression should go. The motion may read: ".....matters which are mentioned in the list attached herewith.....".

Pandit Thakur Das Bhargava: The first amendment as it exists was moved in this House and there was no list attached to it. Then we had a talk with the hon. Minister and he

[Pandit Thakur Das Bhargava]

said that some specific matters should be mentioned here so that he may consider if amendment should be accepted. Then a list was sent to him. Some hon. Members sent me a list containing the points and I also had my suggestion added to it. But the list was never meant to be exhaustive. It was just to convince the hon. Minister so that he may be able to accept the original amendment. I am perfectly conscious that in this matter all the Members of the Select Committee are motivated by one motive alone and that is that the election law of this country should be foolproof and knaveproof. There should be no difficulty about it. We should have the best law. I do not think that there would be any trouble to the Chairman or the Minister in regard to the amendments which we had sought to move. I should think that there was a feeling expressed that this House wanted a complete code of election. If that is so, I would urge the hon. Minister and also request you, to be pleased to accept this amendment. Originally, the amendment was for all matters relating to election in general—everything connected with elections, which may be relevant. We are not out to trouble the hon. Minister or the Chairman but we only want that the law may be as exhaustive and as complete and as good as possible. That is the only basis on which we have moved the amendment and I hope the hon. Minister will kindly agree because this list was never meant to be exhaustive. I only suggested one matter in the list and I never thought what other matters could be included there. If we were told that this list was wanted for this purpose, we would have tried to include all other things also. As a matter of fact, the list was given to me by Shri Chatterjee saying that those were the points which he wanted to indicate and I only suggested one point which I had already made in my speech. I did not think of others. I thought it was only meant to convince the hon. Minister and make him agree to this amendment.

Shri Pataskar: May I just explain the position so that there will be no misunderstanding? I have already tried to make it clear that most of the suggestions contained here are covered by the several amendments that are proposed in the two Bills. At the time when the amendment was moved, a suggestion was made that there may be some other connected matters arising out of those amendments but that they may be ruled out or would not be taken into account by the Select Committee because of some technical reasons. Under those circumstances, I have naturally suggested that whatever amendments or changes were proposed by different Members in this House will be looked into by me and that it would be much better if we referred to the Select Committee specific topics or the sections of the Acts which are proposed to be amended. From that point of view when this list was given to me the next day, I carefully examined it. But I found that many of these matters which come within this amendment are already open for discussion in the Select Committee. However, I thought it to be a better course as there was a general wish on the part of the Members of this House that the connected matters should be taken into account. Instead of trying to say that these are already covered and these are not covered, I am prepared to adopt the whole of that long list. After having carefully listened to the speeches of the hon. Members, I do not find a single point which has been urged for consideration by the Select Committee but which is not covered either by the sections mentioned in this list or by the Bills. It is not from any desire to avoid anything but on principle I think that it is very vague and this is not a good procedure to follow to allow "matters relating to election in general". It means matters relating to election in general—not only matters dealt with in the Representation of the People Act and referred now in the two Bills, not only those sections which are proposed to be amended by them

but also others. It will be very vague to allow or accept any such thing. It is not from any desire to avoid any important aspect or any matter. Normally with this list and the present Bills, there would be no difficulty experienced by any hon. Member in putting forth his view with respect to such matters. On principle, I think it would not be proper to say this when we are considering the amendment for these two Bills that not only the provisions of these two Bills but all other matters relating to election would be taken into account. It is only from that point of view that I say it is vague. If the hon. Member has misunderstood me I am sorry but I have made it clear that I would like to know what specific topics or sections they wanted to discuss in the Select Committee. After that, the list was given. But I can assure hon. Members that I will be the last person to discourage anything which is in any way connected with it. I am sorry I cannot accept the proposed amendment as it is and I would also leave it to the Chair to see whether it is a wholesome practice.

Pandit Thakur Das Bhargava: May I suggest that the words 'election in general' may be scored out?

Shri Ramachandra Reddi (Nellore): I have only one point to suggest. If only this long list of suggestions had been circulated to the Members it would have been possible for them to give some more suggestions. Now, the hon. Minister is both conceding and also receding. In one way he has conceded; he is going to accept all the suggestions made and at the same time he is not very clear about what other suggestions he is going to accept. In these circumstances, it is much better that either the list is accepted as it is in toto or some more time is given so that some more suggestions may be made to avoid the vagueness.

Shri Pataskar: I suggested that even on the very first day. I appealed to hon. Members who had given notice of amendments and who intended to move them and invited them to suggest the specific points that they

wanted to be raised. The record will show it. I made that appeal but it seems nobody had done it.

Shri Kamath: May I ask for a clarification? To use the Minister's words, it is a 'long list'. May I ask whether this list will be *inter alia* or will the deliberations of the Select Committee and later the deliberations of the House will be tied down to only that list?

Shri C. D. Pande: They are there given as illustrations. We do not want to go beyond the scope of the Bills but suggestions which are germane to the Bills may be accepted even though they are not given in the list and come later on.

Mr. Speaker: The hon. Minister's contention appears to be right to me so far as these words are concerned, namely, 'election in general'. That will mean matters not included in the two original Acts. It may mean 'elections in general' and then the scope will be unlimited. That will be a difficulty. It is better, as he has pointed out to restrict ourselves only to the original Acts and I would, therefore, suggest for the acceptance of the Minister, if he likes and if he is so advised, that the words should be "with instructions that matters other than those dealt with in the Bill but relating to matters dealt with in the Representation of the People Act 1950."

Several Hon. Members: That is correct.

Mr. Speaker: Then, of course, there are the words, e.g., as stated by some Members. Therefore, the list is not exhaustive.

Shri Pataskar: Then the list also may not become necessary.

Mr. Speaker: Let it be there. It is an illustrative list. So, I will put the amendment to the vote of the House now.

Shri Raghavachari: May I suggest that the word must be 'Acts' and not 'Act'.

Mr. Speaker: What I have stated: "With instruction that matters other than those dealt with in the Bill" that is the Bill now under consideration. . .

Shri S. S. More: There are two Bills.

Pandit Thakur Das Bhargava: There are two amendments also.

Mr. Speaker: I know. Let there be no confusion. The Chair is clear on all these points. Hon. Members need have only patience. The amendment is: "With instructions that matters other than those dealt with in the Bill"—that is the one under consideration—"but relating to matters dealt with in the Representation of the People Act so and so." There are two amendments. I will now put them one by one to the vote of the House. First I shall put the one relating to the Representation of the People (Amendment) Bill.

The question is:

That in the first motion after 'the mover' insert:

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

- (i) duties of Returning Officer, Presiding Officer and Polling Officer (sections 24, 27 and 28);
- (ii) appeals from decision of Returning Officers on scrutiny of nomination;
- (iii) Election accounts—(section 44);
- (iv) functions of Polling Agents and Counting Agents—(section 49);
- (v) ballot boxes and method of voting—(sections 59 and 63)—ballot boxes and method of counting;

(vi) Return or statement of Election expenses—

- (a) whether it should be dispensed with?
 - (b) whether its filing should be before or after filing of election petition?
 - (c) whether it should be open to inspection before presentation of election expenses;
 - (d) whether there should be a ceiling?
- (vii) definition of candidate [section 79 (b) specially having regard to the judgment of Supreme Court in Katpadi Election case];
- (viii) procedure before Election Tribunal and Powers of Tribunal—(sections 88, 90, and 92)—and composition of Tribunal;
- (ix) Incriminating question—should there be certificate of indemnity—(section 95),
- (x) claim for Recrimination—(section 97);
- (xi) when petitioner in election case can claim the seat—(section 101);
- (xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115 and 116);
- (xiii) corrupt practices—(sections 120 and 124);
- (xiv) illegal practices—(section 125);
- (xv) electoral offences—(section 129 should be made applicable to all Government servants as recommended by Election Commission);
- (xvi) disqualifications arising out of illegal practices—(section 142);
- (xvii) Removal of Disqualifications—how far condonations should be made retrospective— which authority should be vested with the power to

Representation of the People (Amendment) Bill and

condone and in which circumstances;

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

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

be considered and amendment allowed to be moved and made and also."

The motion was adopted.

Mr. Speaker: Now, I will put the second amendment to the vote of the House.

The question is:

"That in the second motion after 'the mover' insert:

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

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

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

(iii) Election accounts—(section 44);

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

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

(vi) Return or statement of Election Expenses—

(a) whether it should be dispensed with?

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

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

(d) whether there should be a ceiling?

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

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

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

(x) claim for recrimination—(section 97).

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

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

(xiii) corrupt practices—(sections 123 and 124);

(xiv) Illegal practices—(section 125);

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

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

(xvii) removal of Disqualifications—how far condonation should be made retrospective—which authority should be condone and in which circumstances;

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

[Mr. Speaker]

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

be considered and amendments allowed to be moved and made and also’.”

The motion was adopted.

Mr. Speaker: Shri N. C. Chatterjee's amendments are covered by these amendments of Pandit Thakur Das Bhargava which have been adopted. So they need not be put.

I shall now put the motion, as amended, in respect of the Representation of the People (Amendment) Bill.

The question is:

“That the Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S. C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopaljee Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Varma, C. D. Pande, Pandit Bal Krishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kesliwal, Shri Awadeshwar Prasad Sinha, Shri Feroze Gandhi, Pandit Algu Rai Shastri, Shrimati Subhadra Joshi, Shri H. Siddananjappa, Shri A. M. Thomas, Shri C. Ramaswamy Mudaliar, Shri M. L. Dwivedi, Shri Mukand Lal Agrawal, Shri Bahadurbhai Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nattur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Guru-

padaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukum Singh, Shri Shankar Shantaram More, Shri Anand Chand and the mover, with instructions that matters other than those dealt with in the Bill, but relating to matters dealt with in the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951), e.g.,—

- (i) duties of Returning Officer, Presiding Officer and Polling Officer (Section 24, 27 and 28);
- (ii) appeals from decision of Returning Officers on scrutiny of nomination;
- (iii) Election accounts—(section 44);
- (iv) functions of Polling Agents and Counting Agents—(section 49);
- (v) ballot boxes and method of voting—sections 59 and 63)—ballot boxes and method of counting;
- (vi) Return or statement of Election expenses—
 - (a) whether it should be dispensed with?
 - (b) whether its filing should be before or after filing of election petition?
 - (c) whether it should be open to inspection before presentation of election expenses?
 - (d) whether there should be a ceiling?
- (vii) definition of candidate [section 79(b)—specially having regard to the judgment of Supreme Court in Katpadi Election case];
- (viii) procedure before Election Tribunal and Powers of Tribunal—(sections 88 90 and

92)—and composition of Tribunal;

- (ix) Incriminating question—should there be certificate of indemnity—(section 95);
- (x) claim for Recrimination—(section 97);
- (xi) when petitioner in election case can claim the seat—(section 101);
- (xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115 and 116);
- (xiii) corrupt practices—(sections 123 and 124);
- (xiv) illegal practices—(section 125);
- (xv) electoral offences—(section 129 should be made applicable to all Government servants as recommended by Election Commission);
- (xvi) disqualifications arising out of illegal practices—section 142;
- (xvii) Removal of Disqualifications—how far condonations should be made retrospective—which authority should be vested with the power to condone and in which circumstances;
- (xviii) Symbols and Power of Election Commission in connection therewith;
- (xix) Disqualifications—(section 7) —apart from consequences of not lodging Election Return;

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

The motion was adopted.

Mr. Speaker: I shall now put the motion, as amended, in respect of the Representation of the People (Second Amendment) Bill.

The question is:

"That the Bill further to amend the Representation of the People Act, 1951, and to make certain consequential amendments in the Government of Part C States Act, 1951, be referred to a Select Committee consisting of Pandit Thakur Das Bhargava, Shri T. N. Viswanatha Reddy, Shri Venkatesh Narayan Tivary, Shri S. C. Deb, Shri Durga Charan Banerjee, Shri Ganesh Sadashiv Altekar, Shri Balvantray Gopaljee Mehta, Shri Gopalrao Bajirao Khedkar, Shri H. C. Heda, Shri Radha Charan Sharma, Shri B. B. Varma, Shri C. D. Fande, Pandit Balakrishna Sharma, Shri Rameshwar Sahu, Shri Nemi Chandra Kasliwal, Shri Awadheshwar Prasad Sinha, Shri Feroz Gandhi, Pandit Algu Rai Shastri, Shrimati Subhadra Joshi, Shri H. Siddanajappa, Shri A. M. Thomas, Shri C. Ramaswamy Mudaliar, Shri M. L. Dwivedi, Shri Mukund Lal Agrawal, Shri Bahadurbhai Kunthabhai Patel, Shri Shivram Rango Rane, Shri Nattur P. Damodaran, Shri Shriman Narayan, Shri U. Srinivasa Malliah, Shri Shree Narayan Das, Shri N. C. Chatterjee, Shri P. T. Punnoose, Shri Hirendra Nath Mukerjee, Shri M. S. Gurupadaswamy, Shri Sivamurthi Swami, Shri Amjad Ali, Sardar Hukum Singh, Shri Shankar Shantaram More, Shri Anant Chand and the mover, with instructions that matters other than those dealt with in the Bill, but relating to matters dealt with in the Representation of the People Acts, 1950 and 1951 (XLIII of 1950 and 1951) e.g.,—

- (i) duties of Returning Officer, Presiding Officer and Polling Officer (sections 24, 27 and 28);
- (ii) appeals from decision of Returning Officer on scrutiny of nomination;
- (iii) election accounts—(section 44);

[Mr. Speaker]

- (iv) functions of Polling Agents and Counting Agents—(section 49);
- (v) ballot boxes and method of voting—(sections 59 and 63)—ballot boxes and method of counting;
- (vi) Return or statement of Election expenses—
- (a) whether it should be dispensed with?
- (b) whether its filing should be before or after filing of election petition?
- (c) whether it should be open to inspection before presentation of election expenses?
- (d) whether there should be a ceiling?
- (vii) definition of candidate [section 79(b)—specially having regard to the judgment of Supreme Court in Katpadi Election case];
- (viii) procedure before Election Tribunal and Powers of Tribunal—(sections 88, 90 and 92)—and composition of Tribunal;
- (ix) Incriminating question—should there be certificate of indemnity—(section 95);
- (x) claim for Recrimination—(section 97);
- (xi) when petitioner in election case can claim the seat—(section 101);
- (xii) withdrawal and abatement of election petition—(sections 108, 109, 110, 112, 113, 114, 115, and 116);
- (xiii) corrupt practices—(sections 123 and 124);
- (xiv) illegal practices—(section 125);
- (xv) electoral offences—(section 129 should be made appli-

- cable to all Government servants as recommended by Election Commission);
- (xvii) Removal of Disqualifications of illegal practices—(section 142);
- (xvii) Removal of Disqualification—how far condonations should be made retrospective—which authority should be vested with the power to condone and in which circumstances;
- (xviii) Symbols and Power of Election Commission in connection therewith;
- (xix) Disqualification—(section 7)—apart from consequences of not lodging Election Return: be considered and amendments allowed to be moved and made and also with instructions to report by the 30th November, 1955."

The motion was adopted.

INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION BILL

The Minister of Labour (Shri Khandubhai Desai): I beg to move:

"That the Bill to provide for the modification of the decision of the Labour Appellate Tribunal, dated the 28th day of April, 1954, in accordance with the recommendations of the Bank Award Commission and for giving effect to the award accordingly, be taken into consideration."

As the hon. Members will recollect, I made a statement on the floor of this House on the 22nd August, 1955, announcing the decision of the Government to accept in full the recommendations of the Bank Award Commission on the substantive terms of the Bank Award. I also assured the House that necessary legislation to give effect to the recommendations will be undertaken as early as possible. The Industrial Disputes (Banking Companies) Decision Bill, which