

ANNOUNCEMENT RE. GOVERNMENT BUSINESS FOR THE WEEK COMMENCING 24TH AUGUST, 1981

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI SITARAM KESRI): With your permission, Sir, I rise to announce that Government Business in this House during the week commencing 24th August 1981 will consist of:—

1. Discussion on the Resolution seeking disapproval of the State of Nagaland (Amendment) Ordinance, 1981 and consideration and passing of the State of Nagaland (Amendment) Bill, 1981.

2. Consideration and passing of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Bill, 1981.

3. Discussion regarding Railway Accidents on 24th August, 1981.

4. Discussion on the Resolution seeking approval of the Proclamation issued by the President in relation to the State of Assam.

5. General discussion on the Assam Budget for 1981-82.

6. Consideration and return of the Assam Appropriation Bill, 1981 as passed by Lok Sabha.

7. Consideration and passing of the Export-Import Bank of India Bill, 1981 as passed by Lok Sabha.

8. Consideration and return of the Income Tax (Amendment) Bill, 1981 as passed by Lok Sabha.

9. Consideration and passing of the Victoria Memorial (Amendment) Bill, 1980 as passed by Lok Sabha.

10. Consideration and passing of the Plantation Labour (Amendment) Bill, 1973 as reported by the Joint Committee.

11. Discussion on the 'current price situation and the steps taken by Government to tackle it' on a motion to be moved by the Minister of Finance on 27th August 1981.

RESOLUTION RE. SETTING UP OF A PARLIAMENTARY COMMITTEE TO REVIEW ELECTION LAWS AND SUGGEST APPROPRIATE REFORMS THEREIN

MR. DEPUTY CHAIRMAN: Now we go to Private Members' Business. Shri Manubhai Patel to move his Resolution.

SHRI MANUBHAI PATEL (Gujarat): Mr. Deputy Chairman, Sir, I rise to move the Resolution which has been admitted against my name, securing first place in the ballot. The sense of this Resolution is against the restriction of free functioning or movement of the democratic institutions. When the sense of this Resolution in this, I would request you, Mr. Deputy Chairman, Sir, not to restrict the time on non-official days and encroach upon the non-official Resolutions by giving more than half a day for official work.

MR. DEPUTY CHAIRMAN: No official work is being done.

SHRI MANUBHAI PATEL: Calling Attention is generally not taken up on Fridays. Today it was taken up because it was a special case.

MR. DEPUTY CHAIRMAN: No. Please do not blame anybody in this regard.

SHRI MANUBHAI PATEL: And because it was a special case, it is all right. But then, as a rule it should not be done.

MR. DEPUTY CHAIRMAN: I accept that thing. But it was done with the consent of the House.

[The Vice-Chairman (Shri Arvind Ganesh Kulkarni) in the Chair]

SHRI MANUBHAI PATEL: Sir, I beg to move the following Resolution:—

"That this House, while condemning certain statements made recently by leading members of Government threatening to review the powers

and functions of the Election Commission following its order for re-poll in the Garhwal Parliamentary Constituency thereby encroaching upon the independence of the Election Commission, is of opinion that a Parliamentary Committee be set up to review the Election Laws and suggest appropriate reform therein."

Sir, why have I selected this subject for my Resolution? There are so many other burning problems also in the country; the rising prices, the question of communal riots, the question of conversions, the question of American supply of arms to Pakistan and the threat to our security and so many other questions of national importance are there. But, to my mind, this is the most important subject because all the questions and all the problems can be solved if we can involve the total population in day-to-day functioning of the Government through the democratic process. And that is the reason why we have adopted parliamentary democracy as our political system, as our governmental system and that is why we have also developed parliamentary and democratic institutions in the country. But, sometimes, either knowingly or unknowingly there are threats to functioning of parliamentary and democratic institutions also. As a result, there is a challenge to our parliamentary and democratic functioning.

Sir, we have created and developed parliamentary and democratic institutions. We have developed the highest parliamentary institution of the President, and you know how, in the past, the ruling party and the Government were trying to behave with regard to those institutions. We have developed the institution of Prime Minister and we know that was also being tampered with in the past. We have developed the institution of Parliament and we know how efforts were being made to belittle Parliament itself, how efforts were being made to make Parliament

a subordinate institution though boldly they were trying to announce the supremacy of Parliament. (*Interruptions*). On one side, you were arguing and shouting for the supremacy of Parliament and on the other you were trying to undermine Parliament also. I can go into this argument and can cite examples also. What I am trying to enumerate is how we have developed Parliamentary institutions and how we have been trying to play with them. (*Interruptions*) Mr. Kalpnath Rai, you are a responsible Member and a General Secretary of your party. You will have your chance. That is not the place wherefrom you should speak. You should come here and speak. Otherwise, keep quiet.

Then, Sir, the institution of Opposition in Parliament. How had the ruling party in the past tried to behave with the Opposition by saying that the Opposition is a stone in the way, is an obstacle in the way; and how had they tried to crush the Opposition by putting the entire Opposition behind bars during the emergency; We know all this.

Then, Sir, regarding the institution of the Cabinet, we know how the Cabinet was made the toy of one person and only temptation was given so that a Cabinet Minister could not behave otherwise and others, those who wanted to enter in, could not completely put forth their opinion. How the institution of the Judiciary was being tampered with, and is being tampered with, we know the examples. We know how treatment was given to the institution of free press during the emergency. And, Sir, last but not the least, the institution of Election Commission, which is the most important institution and an institution of basic importance in a parliamentary democracy, was being tampered with. These are the Parliamentary institutions whose importance one by one was being tried to be ridiculed. I am not for A or for B being elected or defeated. Thanks to Mr. Bahuguna, he himself

contested it because he found out certain incidents, on the strength of which the Election Commission had to pass an order, ordering a re-poll in the Garhwal Parliamentary constituency. Sir, that order—it did not appear verbatim in the newspapers—is worth reading carefully and worth going into to see the arguments which the Election Commission has put forth. For the information of the House, I would like to read that.

“The by-election in this constituency which had become necessary...”

AN HON. MEMBER: Read the whole of it.

SHRI MANUBHAI PATEL: I will read the whole of it. I will not quote only a part of it. I will read the whole of it. I have to decide...

SHRI N. K. P. SALVE (Maharashtra): One point of order. It will be 5 O'clock. (Interruptions). You are a new Member; aren't you? Learn some parliamentary manners, first. I am on a point of order.

SHRI MANUBHAI PATEL: I am not yielding. If he tells me, I will sit down.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Manubhai Patel, let us hear him.

SHRI N.K.P. SALVE: The time for the debate is limited. There was already considerable delay in taking up the Private Members' Resolutions. If he has to go through the entire order of the Commission, I think the rest of the time would have gone and the entire debate would become meaningless. Therefore, I would submit that in accordance with the procedure laid down reference to any order, a lengthy order, is not permitted except. To the extent it is necessary for the purpose of his argument, he can certainly refer to it. I seek your... (Interruptions).

SHRI SADASHIV BAGAITKAR (Maharashtra): What is the point of order? Is he competent to decide whether it is relevant or not?

SHRI N. K. P. SALVE: I have put it to him to decide... (Interruptions)

SHRI SADASHIV BAGAITKAR: You rose on a point of order. There is no point of order involved. He is competent to find out... (Interruptions).

SHRI N.K.P. SALVE: Have I said that you should decide? I have asked him to decide. (Interruptions).

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Salve, you are here with us for a very long time and you know there is no such rule under which you are seeking a point of order. Actually you know this is a non-official day. Unfortunately we have transgressed on the hon. Member's time. But it is up to Mr. Manubhai Patel. If he wants to make any effective contribution, how much to use and how much not to use is his own choice.

SHRI B. D. KHOBRAGADE (Maharashtra): The discussion can continue on the next Friday. We need not close it today.

SHRI MANUBHAI PATEL: For the non-official resolution, there is no question of a time limit.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Why are you paraphrasing it, when I have already said that you are your own.....

SHRI MANUBHAI PATEL: Thank you. It can continue on the next Friday, the third Friday and the fourth Friday if the subject is so important. You can take your next Friday also I quote, Sir.

“The by-election in this constituency which had become necessary on account of the resignation of Shri H. N. Bahuguna on 19-5-1980, was ordered by the Commission with the date of poll on 14th June, 1981.

After the poll was over, Shri Bahuguna made complaints in writing about capturing of booths on a wide scale. He gave specific instances. He also came to see me on

[Shri Manubhai Patel]

16th June in this connection. He further stated that the police forces from the State of Haryana and other neighbouring States had been inducted in the constituency and they had spread terror. I immediately called for a report from the Government of Uttar Pradesh, and wanted to know why the Commission had not been informed of the induction of these police forces from outside the State and the circumstances in which it was done. To this day, there has been no reply to this."

Sir, this should be noted.

"On the day of the poll and immediately thereafter, Shri Bahuguna and his representatives have lodged a number of complaints with the R.O., AROs, Observers, Sector Magistrates and the Commission about the alleged booth capturing resorted to by the Congress (I) workers with the connivance of the local administration and the Police force. About 56 specific cases of booth capturing have been furnished by Shri Bahuguna with full details in his representation dated 15 June, 1981 and presented to the Commission on the 15th June, 1981.

Immediately I sent a team of officers headed by the Secretary of the Commission, Shri K. Ganesan to investigate the matter both at Pauri and Dehra Dun where the election records of four out of five Assembly segments of the Parliamentary constituency are stored.

The Secretary of the Commission, after investigations, gave a detailed report to the Commission."

"This detailed report referred to booth capturing as established based on contemporaneous documentary evidence, like presiding officers' diaries, their independent reports, Sector Magistrates' reports, reports of the Observers, the R.O. and the AROs

There are also complaints received from the Congress (I) in respect of Badri-Kedar Assembly segment specifying the places where the alleged booth capturing by Shri Bahuguna's supporters had taken place. These complaints were however, received in the Commission on 17th June, 1981 after the Commission's team had left for Pauri, and by the R.O. on 16th June, 1981. There were further complaints from this party which were received on the 18th June, 1981, but which had been earlier lodged with the R.O. alleging attacks made on the Congress(I) workers by the workers of Shri Bahuguna's party. It was not, therefore, possible to make any investigation by the Commission's team into these complaints at Badri-Kedar, which was not visited by the team of the Commission. If a detailed enquiry is held now, it will take many days to complete it.

In this connection, it is relevant to mention that when Shri Bahuguna met me on the 16th, he suggested that the proposed team headed by Shri Ganesan should also visit Gopeshwar where the election records of Badri-Kedar have been stored. Immediately I asked the U.P. Government to place a helicopter at the disposal of the team so that the investigation could be done quickly. Unfortunately, the UP Government did not place the helicopter at the disposal of the Commission. Apart from the representatives of the Congress-I who met the Commission's team at Dehra Dun, the other representatives, namely, Shri Darbara Singh, Shri Buta Singh, Shri C.P.N. Singh, Shri Rajesh Pilot, Shri Karupaiiah Moopanar, and others met me on 19th and 20th June, 1981, and made a representation to the effect that there is at present a surcharged atmosphere of class war in the constituency with the result that any re-poll now in the constituency would be vitiated. The Government

of U.P. have also informed me that the present law and order situation is very tense, and violence cannot be ruled out if a repoll is held now.

Apart from the findings of the team regarding booth capturing, the report of the team also discloses the surcharged atmosphere in the constituency immediately before the day of poll and on the day of poll by the presence of the Haryana police on a large scale. The RO of the constituency who is the DM of Pauri Garhwal District..."

This is important, Mr. Vice-Chairman.

"...who is the DM of Pauri Garhwal District has stated in his report to the Commission that he had not made any request for Haryana and Punjab police being posted during the election to Garhwal District, and confirmed that deployment in the district of Pauri Garhwal was not made by him. From the report of the Commission's team and the DM of Pauri Garhwal it is quite evident that Haryana police had been deployed in the constituency on a large scale. The Commission which is vested with superintendence, direction and control of the election, has not even been informed of the deployment of the police force from outside and the presence of outside force naturally vitiated the free and fair conduct of poll in the constituency. I consider that induction of the police forces from outside the State without the knowledge or approval of the commission is a serious matter, and has interfered with the conduct of free and fair poll. There should not only be free and fair poll, it must appear to be so. The present state of affairs is not conducive to holding a repoll of selected booths only. There is need that the outside State forces must first be withdrawn and normal peace and law and order must be restored before any repoll, selective or total, is held.

Having regard to the above circumstances, I feel that repoll, in the entire Parliamentary constituency would be justified and this repoll should be conducted without any intervention of the outside forces and under closer superintendence, direction and control of the Election Commission.

Therefore, in exercise of the power conferred on the Commission under Article 324 of the Constitution Section 58 of the R.P. Act, 1951, and other powers enabling it in that behalf, I hereby declare the poll taken on 14th June, 1981 at all the polling stations in Pauri Garhwal Parliamentary constituency to be void. A fresh poll shall be taken at all the polling stations in the constituency for which the Commission would, after taking into account all the relevant facts and circumstances, fix a suitable programme."

SHRI J. K. JAIN: (Madyha Pradesh): On a point of order...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): What is it?

श्री जे. के. जैन : उन को बैठाइये तो पहले ।

उपसभाध्यक्ष (श्री अरविन्द गणेश कुलकर्णी) : अरे, यह तो बैठे हैं

श्री जे. के. जैन : मर्यादा है पालिया-मेट की । इन को बैठाइये । ये जब बैठेंगे तब मैं कहूँगा । अभी हमारे माननीय सदस्य ने बखान किया कि हमारी सरकार जुडीशियरी के ऊपर, गवर्नमेंट मशीनरी के ऊपर और इलक्शन कमीशन के ऊपर...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Since when have you become so technical?

श्री जे० के० जैन : प्रेशराइज करती है और उल्टे सीधे काम कराती है, तो मैं उन से जानना चाहता हूँ कि क्या हमारी सरकार ने इलैक्शन कमीशन को प्रेशराइज किया था जिसके अन्तर्गत इलैक्शन कमीशन ने यह जजमेंट दिया ?

SHRI SADASHIV BAGAITKAR:
There is no point of order.

SHRI U. R. KRISHNAN (Tamil Nadu): There is no point of order.

श्री जे० के० जैन : बता दिया मैंने प्वाइंट ऑफ आर्डर । वे हाउस को बगल रहे हैं, मिसलेड कर रहे हैं ।

SHRI SADASHIV BAGAITKAR:
Now I am on a point of order, Mr. Vice-Chairman. Is it not against the rules if the Members hinder the work of the House and take the time of other Members in this fashion? This is a fraudulent point of order that he raised. If Members start doing it, our time will suffer. Why cannot they have patience?

श्री जे० के० जैन : इन्होंने पढ़कर सुनाया वह इस बात का विलकुल चोतक है कि हमारी सरकार ने जुडीशियरी में हस्तक्षेप करती है, न जुडीशियल मशीनरी को प्रेशराइज करती है क्योंकि इलैक्शन कमीशन का जो जजमेंट है
(बयबान)

SHRI U. R. KRISHNAN: It is not a point of order.

SHRI SADASHIV BAGAITKAR:
Under what rule you are raising it? आप रूल कोट करिये । बचकानी बात मत करिये ।

SHRI J. K. JAIN: Do not try to mislead the House.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI):
Why are you raising this point of order unnecessarily at an inappropriate time and facing this fury? Let the appropriate time come. What is the use of raising it now?

SHRI HAREKRUSHNA MALLICK (Orissa): Sir, will you conduct the House or somebody from that side will conduct the House?

SHRI J. K. JAIN: I am appointing you to conduct the House.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI):
The Chair is always quite competent to take control of the House.

SHRI MANUBHAI PATEL: Now I rise on a point of order. Mr. Jain said: "I appoint you to conduct the House". Can he appoint anybody to occupy the Chair and conduct the proceedings?

SHRI J. K. JAIN: When he asked as to who was conducting the House, I said: "I am appointing you to conduct the House." I repeat it. "You go and take the Chair."

SHRI SADASHIV BAGAITKAR:
Can he use this language and appoint anybody as the Chairman?

SHRI J. K. JAIN: You are in the Chair. I am not conducting the House. Still he asked whether you are conducting the House or I am conducting the House. Then I said that I was appointing him. . .

SHRI RAMAKRISHNA HEGDE (Karnataka): I must say that the hon. Member is honest in saying that he believes only in appointments. Perhaps that reflects the policy of his party.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI):
I think that all these points of order are irrelevant and there is no point of order. But for the information of my friend Mr. Mallick, I might say that the Chair has also the duty to guide a new Member. You do not worry about that.

श्री मनुभाई पटेल : मैं जो बात अंग्रेजी में कह रहा था शायद जैन साहब उस का तारतम्य नहीं समझे, इस लिये मैं इतना कहूँगा ...

श्री जे. के. जैन : मैंने फीस देकर शिक्षा प्राप्त की थी। आप ने जिस स्कूल में शिक्षा प्राप्त की वहाँ फीस नहीं थी। मैंने आपका बायो-डाटा पढ़ा है। आप फीस दिये बगैर पढ़े हैं।

SHRI MANUBHAI PATEL: I do not yield, आप चुप रहिए।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I only want to tell you that Mr. Jain is trying to derail you from the main item. Be on your guard.

SHRI MANUBHAI PATEL: I wanted him to be a little patient. The point he was trying to raise is that if the Election Commission was not free, how could have they delivered a judgement like this? That was his point. If he had patiently heard me...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Whether the Election Commission has helped Mr. Bahuguna or not is also doubtful.

SHRI MANUBHAI PATEL: My Resolution refers to "certain statements made recently by leading members of Government threatening to review the powers and functions of the Election Commission." That is the subject-matter of discussion. The order of the Election Commission which was published and the reaction of some responsible Cabinet Ministers from part of this Resolution. These reactions appeared in the newspapers. Therefore, I have said that indirectly it is a threat to the free functioning or independent functioning of the Election Commission. They said that the activities or jurisdiction of the

Election Commission should be restricted. If Mr. Jain would read carefully this portion of the Resolution, he would not get up and try to exhibit or show his understanding, wheather it is.

SHRI J. K. JAIN: Sir, if he mentions my name any more, I will be compelled to speak. (*Interruptions*).

SHRI MANUBHAI PATEL: I have every right. If you try to poke your nose, I will mention your name. (*Interruptions*).

SHRI J. K. JAIN: Sir, if he mentions my name, then I will be compelled to speak. So, please ask him not to mention my name. (*Interruptions*).

SHRI RAMAKRISHNA HEGDE: Sir, does Mr. Jain consider that his name is unmentionable? (*Interruptions*)

SHRI MANUBHAI PATEL: I was trying to explain my point and exactly it was at this point that I wanted to say that certain remarks made by the Cabinet Ministers and the Ministers of the rank of Chief Ministers of the States, which appeared in the newspapers, which they made in their press conferences, showed that they have definitely tried to restrict, or to suggest that in future they should restrict, the jurisdiction of the Election Commission, which means that there may not be free and fair elections. That is my case and that is the position that I have taken and, in order to substantiate this, I have got enough evidence before me which I will place before the House.

Sir, Mr. Stephen, in his Press conference, said that it was for the civil authorities to decide about the deployment of the police. The Election Commission has, in its order never claimed that it is the right, or it is within the powers of the Election Commission, to deploy the police forces. The Election Commission has only said,

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even when the Congress (I) members approached them on the 12th June saying that the atmosphere was surcharged, then and there the Election Commission said, that if the atmosphere was surcharged because of the presence of outside police forces, at least the Election Commission should have been informed. The Election Commission has never said that its permission should have been taken before the deployment of the forces. The Commission has said that it is not concerned with it. They have definitely said that they should have been informed. That is the point. And, Sir, here Mr. Stephen says—Here are some his words and I would like to quote this:

“Enough has happened to make us think about and come to certain decisions on the limits of the powers of the Election Commission.”

What does it mean? What does he mean by this? He says, “decisions” and “the limits of the powers of the Election Commission.” Now, Sir, here is a threat.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR): In which paper it has appeared?

SHRI MANUBHAI PATEL: Mr. Stephen, who is a Cabinet Minister, and who is not able to manage his telephones properly and the Department and the Ministry properly, is trying to enter into the jurisdiction of the Law Minister and the Home Minister.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI YOGENDRA MAKWANA): The Law Minister only wants to know in which newspaper it has appeared.

SHRI U. R. KRISHNAN: Almost all the newspapers in India have published it.

SHRI MANUBHAI PATEL: I am giving you now. Not in one newspaper, but in so many newspapers, it has appeared. Here is the newspaper, “The Hindustan Times” dated 23rd June 1981. This is one newspaper.

SHRI M. KALYANASUNDARAM (Tamil Nadu): All the newspapers have carried it.

SHRI MANUBHAI PATEL: Only one or two I am quoting. It is because it was stated in a Press conference and not in any Press statement. I can understand that a statement is sent to a particular Press which only will publish it. But this was in a Press conference.

SHRI P. SHIV SHANKAR: I would like to have a clarification because of the expressions used by the honourable Member. I have some cuttings with me from different newspapers. So, I just wanted to know the wordings that he used as spoken. That is all. I do not want anything else. Now he has made it clear and I will make my submissions later.

SHRI SADASHIV BAGAITKAR: Here is a photostat copy and I am prepared to transfer it to the Law Minister if he so desires.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The matter is over now and he has already said that he wanted only the name of the paper and he has given it. That is all.

SHRI J. K. JAIN: Sir, I was on a point of order, but he is not on any point of order now.

SHRI MANUBHAI PATEL: Mr. Jain, you are always on a point of disorder and others are on points of order.

SHRI J. K. JAIN: It is not for you to say that. You cannot say that and you are not meant for that. (Interruptions).

SHRI MANUBHAI PATEL: All that I have said is about the statements made by the leading members of the Government and their threat to review the powers and functions of the Election Commission. Here is a specific instance and it was in a Press conference which was addressed by Mr. Stephen which has appeared in the newspaper, "The Hindustan Times", and all other newspapers of the 23rd June, 1981. Sir, there are so many other references he has made. But this not relevant; I do not want to be irrelevant.

4 P.M.

Then, Sir, the Chief Secretary of the AICC(I), Shri Vasantdada Patil, has stated that the repeal order was on untenable grounds, etc. He has also said that the permission of the Election Commission for police was not necessary. This point I have explained. The Election Commission never said... (*Interruptions*)

श्री श्रीकान्त वर्मा (मध्य प्रदेश) : जून 1977 में जब आप कहां थे जब असेम्बली इलेक्शन हुए, जब 7 बटालियन पुलिस क्यों बुलाई गई पांच सी० आर० पी० की बटालियन बुलाई गई? तब आपकी पार्टी पावर में थी : ... (*व्यवधान*)

श्री मनुभाई पटेल : आपको जब मौका मिले तब कहिये। मैं बीच में बात नहीं करता हूं ... (*व्यवधान*) लेकिन उसका भी जवाब मिलेगा। मैं कोई और भी बात नहीं करता हूं। जो कुछ यहां पर लिखा हुआ है, जो कुछ छपा हुआ है उसकी के आधार पर मैं बात करता हूं ... (*व्यवधान*)

श्री श्रीकान्त वर्मा : जब पावर में होते हैं तो सब ठीक है, जब पावर में नहीं होते तो दूसरों की बात गलत है : ... (*व्यवधान*)

SHRI MANUBHAI PATEL: Sir, I was quoting another leader who had criticised this and said that permission

of the Election Commission for police was not necessary. I have clarified this point that there was no order about seeking permission of the Election Commission.

SHRI N. K. P. SALVE: It is wrong. I am reading two lines:

"I consider that induction of the police force from outside the State without the knowledge and approval..."

SHRI MANUBHAI PATEL: I will come to that.

SHRI N. K. P. SALVE: When?

SHRI MANUBHAI PATEL: I will come to that at my convenience.

Mr. Jagannath Misra, Chief Minister, Bihar has said that the Election Commission overstepped its jurisdiction. Now, if it overstepped, let it be decided by the court of law. Why was not the Supreme Court moved in order to decide this, whether the Election Commission overstepped it or not? Though threats were given in the beginning that they would move the court, etc., thereafter they said, "We accept the verdict", etc.

Then, Mr. V. P. Singh, Chief Minister of Uttar Pradesh, blames the Commission for acting 'technically'. Sir, there are so many other instances, but I will just place before the House for their consideration a few examples so as to show in which way mind of the leaders in the ruling party is working. Sir, if they really have respect for this parliamentary institution, and if they really have respect for free and fair elections, they should not have passed these remarks. But I will not stop at this. I will produce certain facts in support of my contention.

Sir, about the police which was deployed from Haryana and Punjab, the argument given by the U. P. Government was that since the U.P. police was engaged in anti-dacoity operations it was not possible for U.P. to provide the police for the Garhwal constituency. Now, the whole of the U. P. State was not under election.

SHRI SYED SIBTE RAZI (Uttar Pradesh): He has given other arguments also . . . (Interruptions)

SHRI MANUBHAI PATEL: I do not yield, Sir. Now, U.P. State is a big State and it maintains a big police force. While the Punjab and Haryana police was engaged in the procurement of wheat, there were so many agitations and so many farmers and traders were arrested in connection with procurement. And in this process, the whole States of Punjab and Haryana were engaged and their police was not free. In spite of that, they sent 1700 policemen to Uttar Pradesh. Not only 1700 policemen, but they sent their Chief Minister also so that the Chief Minister could directly instruct. Sir, I will read out one statement. पीठासीन अधिकारी, गढ़वाल ने जो लेक्चर मजिस्ट्रेट, 6 कर्ग प्रयाग, 95 गढ़वाल को लिखा है :

महोदय, निवेदन इस प्रकार है कि दिनांक 14/6/81 को करीब 2 बजे 6-7 बन्दूकधारी सरदार एवं सिविल ड्रेस पहने हुए हरियाणा के जवान पोलिंग स्टेशन नं० 95—गढ़वाल में पहुंचे। इनके पहुंचते ही हरियाणा में पुलिस ने गांव के रास्तों की नाकाबन्दी कर ली तथा किसी भी वाटर को पोलिंग स्टेशन में नहीं आने दिया। ठीक इसी वक्त इन शस्त्रधारी व्यक्तियों ने अचानक क्रम संख्या 625185 से 625200 तक के मत पत्र जिन पर मेरे हस्ताक्षर थे, का कांग्रेस (इ) के निशान पर मुहर लगा करके मत पेटी में डाल दी। तत्पश्चात् एक फ़ोन गड़्डी जिसका क्रमांक 625201 से 625250 है, का फाड़कर तथा उसमें भी कांग्रेस (इ) के निशान पर मुहर लगा करके उनमें से कुछ का मत पेटी में डाल गये तथा कुछ का अपने साथ ले भागे हरियाणा के पुलिस

कर्मों जा कि अनियमित मेरे पोलिंग स्टेशन पर घुसे थे, उन्हें संरक्षण देते रहे।

यह तो वहां एक रिटर्निंग आफिसर है, पोलिंग आफिसर है। उनकी यह स्टेट-मेंट है और उनकी स्टेटमेंट सेक्टर मजिस्ट्रेट की है। इससे पता लगता है कि बाहर की पुलिस आई और बाहर की पुलिस आने से उन्हें क्या आपत्ति थी और हरियाणा पुलिस के बारे में उन्होंने क्या विरोध किया, वगैरह, वगैरह। यहां पर एक-दो माननीय सदस्य एतराज कर रहे थे। यह पढ़ने के बाद वह भी समझ गये होंगे। यदि पुलिस ने बहुगुणा की मदद को तो मैं इसको भी तरफ़दारा करने वाला नहीं हूँ। . . . (व्यवधान)

श्री धर्मवीर (उत्तर प्रदेश) : यह तो क्या वाचन कर रहे हैं। बात का बाद में पता चलेगा। इसमें सच्चाई क्या है बाद में पता चलेगा। . . . (व्यवधान)

श्री मनुभाई पटेल : Sir, I don't yield. (Interruptions)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You please go on.

श्री मनुभाई पटेल : हम बात यह कर रहे हैं कि फ्रॉ एंड फेयर इलेक्शन हों। इसमें जब इंटरफीयर होता है तो इस इंटरफीयर की वजह से वहां जो एट्मोस्फीयर सरचार्ज होता है उसका एक नमूना मैंने यहां पेश किया . . . (व्यवधान)

श्री धर्मवीर : यह सारी मनघड़त बात कर रहे हैं। यह हाउस का गलत बात कर रहे हैं। (व्यवधान) इन्होंने जा नमूना पेश किया है गलत पेश किया है। (व्यवधान)

श्री मनुभाई पटेल : आप इस पर एतराज करते हैं तो जरूर करिये । जब आपका मौका मिलेगा तब आप अपना एतराज पेश काजिए । (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Will the hon. Member please speak when he is called upon to speak? Don't interrupt like this.

SHRI SHRIKANT VERMA: Sir, what he is saying is totally irrelevant ...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Verma, whether it is irrelevant or relevant, you know better that you can only reply to him when your turn comes. (*Interruptions*).

SHRI MANUBHAI PATEL: Sir, what I am saying is on the basis of a statement and that too from officials and not from non-official.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You have to conclude now.

SHRI MANUBHAI PATEL: How can I, Sir?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The point is that you are moving the Resolution. You have got another opportunity to reply. So, if you want really the debate to continue, then you may conclude. Otherwise, you can speak upto 5 o'clock.

SHRI MANUBHAI PATEL: I will just conclude.

Then, Sir, Mr. Bhajan Lal also said in a statement that they had to send the police, outhewise Mr. Bahauguna would have captured. And the charge is about 56 booths have been captured by the other party under the protection of the Haryana police and one incident I have already placed before the House. Then, Sir, I will give you one more example and I will give two other examples

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Patel, you cannot exceed half an hour. I have given you 40 minutes. Now, with in five minutes you conclude.

SHRI MANUBHAI PATEL: Sir, out of 40 minutes ten minutes have been taken by interruptions. It comes to only 30 minutes.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): That is why I have given you 40 minutes. Now, within five minutes you finish.

SHRI MANUBHAI PATEL: Then, Sir, there is one report before me. There is the order of the Deputy Director of Education, Garhwal Region, two teachers, namely, Shri Manohar Singh and Shri Shambu Prasad Kotyal, who are posted at Nandprayag, be attached immediately to the office of Deputy Director of Education, Garhwal Region, Pauri Garhwal, by the order of G. K. Arora, Secretary, Education, Lucknow. Sir, I will quote only one more example and then finish.

जिलाधिकारी:-

"पीडी गढ़वाल लोक सभा के उप-निर्वाचन 1981 के कालागढ़ स्थित मतदान केन्द्र पर कांग्रेस (इ) दल के माननीय 4 विधायकों सर्वश्री बी० जी० प्रकाशन, अजीजूर रहमान, चौ० शोनाथ सिंह एवं रतिराम द्वारा माननीय प्रधान मंत्री, भारत सरकार, मुख्य मंत्री एवं गृह मंत्री, उत्तर प्रदेश सरकार तथा निर्वाचन आयोग को भेजे गये संलग्न टेलीग्राम परिशिष्ट (1) के संबंध में हम महोदय एवं उच्च अधिकारियों के अवलोकनार्थ निम्न स्थिति स्पष्ट कर रहे हैं --

आज प्रात साढ़े सात बजे कालागढ़ मतदान केन्द्र के बाहर हम सभी शांति व्यवस्था की स्थापना हेतु सेवा रत थे ।

[Shri Manubhai Patel]

मतदान कार्य शांतिपूर्वक सम्पन्न हो रहा था। लगभग 11 बजे मतदान केन्द्र के अन्दर कांग्रेस (इ) तथा श्री बहुगुणा समर्थक मतदान अधिकर्ताओं के बीच कुछ कहा-सुनी हो गई, जिस पर कांग्रेस (इ) कार्यकर्ताओं ने श्री बहुगुणा के अभिकर्ता को हटाने के बारे में कहा। वहाँ उपस्थित सेक्टर मजिस्ट्रेट को इस संबंध में हस्तक्षेप करने की सलाह दी गई और कार्यकर्ताओं को समझा दिया गया... (व्यवधान)

श्री धर्मवीर : श्रीमन्, मेरा निवेदन यह है कि क्या इस प्रकार के पत्र सदन में पढ़ने दिये जाएंगे ?... (व्यवधान)

SHRI MANUBHAI PATEL: Sir, this sort of nuisance I am not going to tolerate. Let me finish.

श्री धर्मवीर : श्रीमन्, मेरा निवेदन यह है कि क्या आप इस प्रकार के अप्रमाणित पत्र सदन में पढ़ने देंगे ? क्या आप इस तरह के पत्रों को सदन में पढ़ने की इजाजत देंगे जिनके संबंध में कोई प्रमाण नहीं है ? वे इस तरह के पत्रों को पढ़ते चले जा रहे हैं ?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You please go to your place first. You cannot make submissions from anywhere.

श्री धर्मवीर : इन पत्रों का कोई प्रमाण नहीं है, कोई एविडेन्स नहीं है, लेकिन फिर भी वे पढ़ते चले जा रहे हैं।

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Will the hon. Member please listen? Every Member can quote from papers of various documents. You are also welcome to quote. So, please do not interfere. He is quite competent to quote. You cannot object.

SHRI MANUBHAI PATEL: I will produce that document. It is authentic. इसमें आगे कहा गया है कि "लगभग 2 बजे उपरोक्त चारों विधायक अपने कुछ साथियों के साथ हमारे पास आए एवं अलग से कुछ विशेष बात करने की इच्छा व्यक्त की। अलग से जा कर उपरोक्त में से श्री प्रकाशन द्वारा एक कागज दिया गया तथा यह बताया गया यह कागज.... (व्यवधान) माननीय राज्य गृह मंत्री, उत्तर प्रदेश सरकार द्वारा भेजा गया कोई संदेश है... (व्यवधान)

श्री धर्मवीर : मान्यवर, क्या आप इनको इस प्रकार के कागज यहाँ पर पढ़ने की इजाजत देंगे ? क्या ये कागज इलेक्शन कमीशन को भेजे गये हैं ? इस प्रकार के कागज आप यहाँ पढ़ने की इजाजत कैसे दे रहे हैं... (व्यवधान)

श्री मनुभाई पटेल : जब सत्य हकीकत में मैं पेश करता हूँ तब दलीलें देते हैं और कहते हैं कि सत्य हकीकत में पेश करें... (व्यवधान)... आप क्यों खड़े हो जाते हैं।

SHRI P. N. SUKUL (Uttar Pradesh): He is wasting the time of all of us.

SHRI MANUBHAI PATEL: Am I wasting the time? Sir, I object... (Interruptions).

SHRI P. N. SUKUL: Is it the authorised document?

SHRI MANUBHAI PATEL: Yes, sure.

SHRI P. N. SUKUL: Let him place it on the Table.

SHRI MANUBHAI PATEL: I will; I will place it. It is here.

SHRI DHARMAVIR: These documents were produced in the court. How have you obtained it from the Election Commission? How have you received it?

(व्यवधान)

श्री मनुभाई पटेल : तो उन्होंने लिखा 'काई संदेश आपके पास भेजा जा रहा है। ये पत्र वाहक जो भी कहें कर दें, ... (व्यवधान)

'इसमें यह अंकित था कि कोई संदेश आपके पास भेजा जा रहा है गृह मंत्री उत्तर प्रदेश की ओर से। ये पत्र-वाहक जो भी कहें कर दें। हमारे द्वारा यह पूछे जाने पर हम से क्या अपेक्षित है श्री प्रकाशन द्वारा यह कहा गया कि यह निर्वाचन हमारे लिये है और आप अपनी फॉर्स पुलिस स्टेशन से हटा दें। हमारे द्वारा उपरोक्त प्रस्ताव के अनुपालन से स्पष्ट इंकार करने और विनम्र... (व्यवधान)

SHRI P. N. SUKUL: Point of order.

श्री मनुभाई पटेल : विनम्र भाव से माननीय विधायक गण से निष्पक्षता (व्यवधान)...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Would you please listen? (Interruptions). Would you allow me to ask him? Let me satisfy myself first. Manubhai, where are you quoting from?

SHRI MANUBHAI PATEL: I am quoting from the letter by C. P. Mishra, Pargana Adhikari, Rampur... (Interruptions).

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Is it authorised document?

SHRI MANUBHAI PATEL: Yes, authorised document, and I will produce the photostat copy.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Photostat copy does not mean authorised document. Do you swear on affirmation?

SHRI MANUBHAI PATEL: I do... (Interruptions).

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Would you please listen to me? When he is swearing that it is authorised document, I will see that document if it is authorised. If it is authorised document, it will be here; otherwise it will go out.

(व्यवधान)

श्री मनुभाई पटेल : हमारे द्वारा उपरोक्त प्रस्ताव के अनुपालन के लिए स्पष्ट इंकार करने एवं विनम्र भाव से माननीय विधायक गण से निष्पक्षता पूर्वक... (व्यवधान)

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now I, am going to call somebody else to speak.

SHRI MANUBHAI PATEL: Here is the letter.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): You have already read it.

SHRI RAMAKRISHNA HEGDE: Let him complete, he was not allowed by other Members to complete it.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): He has been reading all along.

SHRI U. R. KRISHNAN: There is a practice in this House to quote from documents, whether authorised or not.

श्री मनुभाई पटेल : मैं आखिर का वाक्य पढ़ दूंगा :

"माननीय विधायक-गण से शांतिपूर्वक मतदान कराये जाने का निवेदन किया गया तथा यह स्पष्ट किया गया कि

[श्री मन् भू भाई पटेल]

हमारा मन्तव्य मतदान केन्द्र पर मातृ
शांति व्यवस्था स्थापित करने का है ।
हमारा असहमति का स्थिति में विधायक-
गण असन्तुष्ट होकर चल गये ”।

Now if this is the position, and on the basis of such documents, a responsible commission like the Election Commission, and the Secretary of the Election Commission, Mr. T. Ganesan, who visited and after visiting collected, those documents, and on the strength of it, he passes such an order and after passing this order, if the Ministers, Cabinet Ministers, Chief Ministers, express such an opinion that they will have to restrict the activities of the Election Commission, this is a threat to the independent working of the Commission. They have given a threat to the freedom and independent working of the Election Commission. This is not only a threat to the Election Commission. This is a threat.... (*Interruptions*) Please sit down. This is a threat to the democratic functioning of the country. This is a threat to Parliamentary democracy. If that were the intention, we will be there to oppose this attitude even at the sacrifice of our blood and to the last drop of our blood, we will fight it out, we will fight this tendency. This tendency only helps the authoritarian forces, which you have supported in the past and which you are going to support in the future and, for this, you are trying to become the sappers and miners to catch the vote.

Sir, there are many other points in regard to the electoral reforms. This is a positive side to which we will have to give greater consideration so that the game of these people, who want to see that democracy does not function and who want to kill, who are trying to kill, one by one and brick by brick, the Parliamentary institutions which I have enumerated, is defeated. We are there to defend it and we will see that even at the cost of our lives, we will defend the Parlia-

mentary institutions and Parliamentary democracy in the country.

The question was proposed.

SHRI SYED SIBTE RAZI: What were you doing when Shrimati Indira Gandhi was expelled from the Lok Sabha, after she was elected from Chikmagalur?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now, there are three amendments. Amendment No. 1 by Shri Kalyanasundaram.

SHRI M. KALYANASUNDARAM: Sir, I beg to move:

1. "That after the words 'independence of the Election Commission', the following be inserted, namely:—

'and also while recording its grave concern over the increasing incidence of capturing of polling booths by armed groups operating with impunity even in the presence of district authorities and often with their open connivance and participation so as to ensure the victory of ruling party candidates by preventing genuine voters from approaching the polling station, thereby violating the democratic electoral process.'"

The question was proposed

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Amendment Nos. 2 and 3 by Shri Surjeet.

SHRI HARKISHAN SINGH SURJEET: Sir, I beg to move:

2. "That after the words 'independence of the Election Commission', the following words be inserted, namely:—

'and the reported use of Government machinery and the rigging of elections in various States.'"

3. "That at the end of the Resolution, the following words be added, namely:—

'including the system of proportional representation.'"

The questions were proposed.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The Resolution and the amendments are open for discussion. Shri Salve.

SHRI RAMAKRISHNA HEGDE: Sir, why are you asking my friend to speak exactly at 4.20?

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI SITA RAM KESRI): The time is 4.23.

SHRI P. SHIV SHANKAR: You got up at 4.20.

SHRI N. K. P. SALVE: Mr. Vice-Chairman, Sir, the Resolution moved by Shri Manubhai Patel enables us to express our views on a subject which has been made quite topical by the political parties, namely, the subject of electoral reforms. In a way, we are happy that this matter has come before this House because it will enable us to clear the smoke-screen which has deliberately been created for collateral purposes by the opposition and the real issues involved in the electoral reforms are, in fact, given a back seat. Shri Manubhai Patel was very emphatic in saying that my party has been responsible for under mining several important institutions which constitute the very basis and the very foundation of a sound and stable Parliamentary democracy. He referred to several institutions. He said that we have done this, and we have done that which erodes basis of sound Democracy. He tried to project himself as a champion and he said that the people in opposition are going to fight desperately to save Parliamentary democracy. These messiahs of democracy were kicked right, left and centre by the voters, in the 1980 elections and the elections thereafter. The minimum they could have done, the minimum expected of the opposition, before com-

ing to the problem of electoral reforms, was to think of some reforms as a result of which the opposition, will behave better, will behave cohesively, effectively and in a manner which would conduce the growth and stabilisation of Parliamentary democracy. The opposition at the moment is disintegrating.

So far as purity in elections is concerned, so far as free, fair and impartial elections are concerned, we are completely pledged to it. All these years, if purity in elections has been maintained, it was not because of Shri Manubhai Patel and his type, it was because of my party and my leader. We are pledged, I reiterate emphatically... (*Interruptions*). We are pledged to free and fair elections as a matter of faith, apart from the fact that free and fair elections are to our advantage and they are to the detriment of the opposition. In fair and free elections we will win, you have been losing your deposits. By shouting you are not going to gain anything.

SHRI MANUBHAI PATEL: By your capturing polling booths, we are losing deposits. (*Interruptions*).

SHRI N. K. P. SALVE: I am coming to that. Sir, long, labyrinthine speeches have been made. Prolonged, long and labyrinthine statements have been made about what were the observations of Mr. Stephen, Mr. Jagannath Mishra, Mr. Viswanath Pratap Singh. I wish to make it clear that in my speech here today I hold no brief for any one of them, they are competent and capable of defending themselves. Therefore, this hallabolloo which has been created and strident protests lodged on account of what Mr. Stephen and others said is a matter outside the purview of what I have to submit. In fact, I am one of those who do maintain as mentioned by Mr. Shahabuddin, that the people in public life must maintain the highest of restraint and speak with circumspection whenever they are speaking in public, and therefore, unneces-

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sary, futile confrontations and controversies must always be avoided, I also maintain that it is only for the idle to go in for futile controversies and confrontations, but does it mean that bold, courageous and honest views which we consider imperative for maintaining purity in public life must not be expressed? Is that your concept of freedom of speech? Is that your concept of individual liberty? Is that your concept of stabilising parliamentary democracy? The power of the Election Commission, under article 324 whether right or wrong, is not the question. At the moment the question is whether or not we are entitled to consider if a Tribunal, a Commission a High Court or Supreme Court, has applied the correct law or not, whether or not we are entitled to criticise a judgement pronounced by them.

SHRI MANUBHAI PATEL: That should be done.

SHRI G. C. BHATTACHARYA (Uttar Pradesh): Why did you not challenge it in the Court? You had the right. You could challenge it in the Supreme Court.

SHRI N. K. P. SALVE: That is because while we disagree with the judgment of the Election Commission, we will abide by it and we respect it. (*Interruptions*).

SHRI P. SHIV SHANKAR: With the permission of the Deputy Chairman, I must say this that the question of challenging the judgment apart by my party or anybody else, I thought that I should explain the legal position. The legal position, as it stands after the Gill's case which has been decided by the Supreme Court in 1978, is this. If my hon. friends hold, I can give the citation, 1978 Supreme Court. This is from AIR I am citing, page 851, so that they could go through it if they like. The position is this. The Supreme Court has categorically held that if the Election Commission has passed the order of repoll, that is not a case

of a declaration of result, and therefore, matters of this nature could only be decided by an election petition filed before the High Court under section 81 of the Representation of Peoples Act. (*Interruptions*). I am just saying this. Let me make the legal position clear. So, Sir, unless the repoll is fixed and unless the result is declared, question of anybody attacking this order that has been passed does not arise, having regard to the judgement of the Supreme Court. Therefore, you will have to wait for a repoll. declaration of the result and by an election petition challenge both that order and this order also.

SHRI G. C. BHATTACHARYA: That is all the more reason why you should challenge it. (*Interruptions*).

SHRI N. K. P. SALVE: The law laid down by the Supreme Court being what it is, there is no remedy at the moment. For the moment we have to abide by it, we have to respect it, but we cast no aspersion. I am quite clear. We cast no aspersion on the personal integrity and ability of the Chief Election Commissioner who has written the judgement. We disagree with the reasoning he has given, we disagree with the law he has laid down. We do not attribute any *mala fides* to the Election Commissioner. We do not say, even for a moment, that the judgement is a dishonest one. In fact, if I may give it a personal touch, I for one have known the present Chief Election Commissioner for ten years when I was in the Lok Sabha and he was the Secretary-General of Lok Sabha. He travelled with me in several Parliamentary delegations which I had led. And apart from anything else, he was my next door neighbour in the Duplex Lane. I have known him as a man of very high ability and integrity. But does it mean that we have no right to disagree with the reasons he has given, that we have no right to criticise the judgement on merit? And, therefore, I want you to be more

objective and come to the merits of the judgement.

SHRI B. D. KHOBRADE: You want to curtail his powers.

SHRI N. K. P. SALVE: We do not want to curtail his power. The only question is whether... (*Interruptions*). Please allow me to formulate ... the powers given ...

SHRI MANUBHAI PATEL: I have quoted Mr. Stephen.

SHRI N. K. P. SALVE: I have already said, I hold no brief for anybody. Why don't you listen to me?

SHRI B. D. KHOBRADE: Why do you want to curtail the powers of the Election Commission. What is the motive behind this?

SHRI N. K. P. SALVE: I have never said that we want to curtail his powers. All that I want to submit is that within the jurisdiction which the founding fathers of the Constitution in their wisdom, have conferred in the Election Commission whether this order was within his authority. That is the question and that is what I am ...

SHRI B. D. KHOBRADE: That will be decided by the Supreme Court. Have some patience.

SHRI N. K. P. SALVE: Please control this gentleman. The question of the powers of the Election Commission under article 324 read with section 58 of Representation of Peoples act is the subject matter of a serious challenge so far as I am concerned. I submit the same does not fall within the purview of powers either under article 324 or section 58. The Commission is entitled to superintendence, direction and control in conducting the elections. For that we do not want to reduce even a comma, full-stop or question mark. But to a rational man, a man with a judicially trained mind, whether this order without any trial is a fair order, a proper order? Anybody will make any allegation and they will be acted upon in that trial.

We have about 30 to 35 allegations, including that of murder, against Mr. Bahuguna and his team. I do not want to waste the time of the House, but I can narrate 35 incidents. Now no evidence is taken and a judicially trained mind is not applied to it in a fair trial but the election has been declared void. It is that which I submit is not proper. What is the basis of the order? The complaint of booth-capturing. No, not that. Mr. Bahuguna has pointed out 56 specific instances. But my grievance is that booth-capturing by itself is not the reason for which this order has been made annulling the election. The only reason for which this order has been made is—I quote three lines and that is enough for the purpose of my submission to the House—the Election Commissioner's observation are,

"I consider that induction of the police force from outside the State without the knowledge and approval of the Commissioner is a serious matter and has interfered with the conduct of free and fair polls. There should not only be free and fair polls, but it must appear to be so".

श्री लाडली मोहन निगम (मध्य प्रदेश) : उससे पहले वाला पैराग्राफ पढ़ दीजिए ।

श्री एन० के० पी० साल्वे : वह ग्राफ

पढ़ लीजिए । Sir, is this a fair basis for annulling the election? Is it a fair basis for coming to the conclusion? That election was void. Because I want to submit that prior approval is what he is contemplating the U. P. Govt. should have sought. If this was so, I am afraid, Shri Manubhai Patel and every one is aware of the long and large many directions given by way of different circulars to different Chief Ministers connected with the organising and conducting of elections. Has there ever been a single circular where it has been said that if the State wants police assistance from any outside State, then it must take the approval of the Election Commission? Had not Mr. Morarji Desai when he was the

[Shri N. K. P. Salve]

Prime Minister and Ch. Charan Singh, the great, was the Home Minister deployed 7 battalions in the 1977 Maharashtra assembly elections we were facing there. There were precedents to this effect. And apart from anything, if one has even elementary knowledge of the Constitution, he would know that public order and police are entirely within the domain of the State Government. At any rate, is it any better or any worse if the Haryana people came and allegedly terrorised? What would have happened if the local people were to come and terrorise?

SHRI RAMAKRISHNA HEGDE: There is one fundamental difference. Whereas in Maharashtra, outside police force was sent to maintain law and order, here the Haryana police went there to assist your party people to capture booths.

SEVERAL HON. MEMBERS: No, No.

SHRI N. K. P. SALVE: No. If it ever is found out that it is for the purpose of intimidation of voters that we had deployed the Haryana police, then each one of them should be impeached and dismissed. (*Interruptions*) What you are talking is baseless. Unproved allegations which could not be accepted by any court, without proper cannot lead to annulment of an election. (*Interruptions*) If this had come before a court of law...

SHRI SADASHIV BAGAITKAR: He said, "I know that outside police force has come to my district and I have not asked for any outside police." These are the discrepancies which you have to explain. The DM made the statement... (*Interruptions*)

SHRI N. K. P. SALVE: What the Returning Officer says is, "I did not ask for police force from Haryana, etc." The question is, who the dickens is the Returning Officer to say that

the police should come from Haryana or Himachal Pradesh?

SHRI SADASHIV BAGAITKAR: He said, "I have no knowledge that there are outside police forces in my district." That is what he says.

SHRI N. K. P. SALVE: Sir, he has made his submission. Shall I make my submission?

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Now you go on.

SHRI MANUBHAJ PATEL: This is in the order of the Election Commission, that the DM did not know about it.

SHRI N. K. P. SALVE: Here I do not want to waste my time. It is stated clearly in the order and I have also said it, "The R.O. of the constituency who is the D.M. for Garhwal district has stated in the report to the Commission that he had not made any request for the Haryana and Punjab police." He did not make any request for the Haryana or Punjab police because he had no authority. But, did he or did he not ask the Chief Secretary for more police forces? That is the crucial point. If any police comes and interferes and tinkers with the free election, if it terrorises the people—whether it is the U.P. police or the Maharashtra police—that is a matter of very serious offence under the election law. It is a very serious corrupt practice for which the persons concerned will be debarred for six years. That is what we wanted to come about, whoever is responsible for this sort of thing that you are alleging the courts and not commission should decide. We are also alleging that a Harijan has been murdered by Shri Bahuguna's supporters. I can enumerate instances just as he has enumerated but I cannot waste the time of the House by enumerating 35 instances. For that is neither here nor there. The crucial question is...

SHRI MANUBHAI PATEL: Mr. Salve, what I have enumerated are substantiated by authenticated papers, original papers from the D.M. and the election officer. It is not certificated on my own.

SHRI N. K. P. SALVE: I am not doubting that these papers have been forwarded to the Commission but that is not my grievance. My grievance is, purely because someone writes that he has filed the originals before the commission, do I take it as Gospel truth? Is it Gospel truth or should it be subjected to proper scrutiny by a court of law in a trial and then judged whether this had happened or not? If the court finds as to what had really happened, the culprit is liable to be debarred for six years. Why is it that an ugly haste is shown and the facts not allowed to be considered by a court. If a reign of terror has been created by such a massive force deployed from Punjab and Haryana, would it then be difficult for a judicially trained mind to determine the motive behind doing this sort of a thing? Sir, is there any evidence whatsoever? Is there even an iota or a shred of evidence before the Commission to infer that instructions had been given to policemen to establish a reign of terror towards one party or the other. The crucial question that I want to submit is,...

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Salveji, there is one more speaker whom I have to call. You are allowed 15 minutes and I have given you something more than that. Now, within five minutes you please finish.

SHRI N. K. P. SALVE: Sir, you have always been kind to me.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): I am always kind to you.

SHRI P. SHIV SHANKAR: What he means is you will not be unkind to him this time.

SHRI N. K. P. SALVE: All I want to submit is this that corrupt practices, *inter alia*, in section 123 of the Representation of the People Act, 1951 include precisely this very offence for which an order has been made. I am referring to sub-section (2) of section 123 of the Representation of the People Act, 1951 which defines "corrupt practices." I shall quote only four lines I will refer to. Sub-section (2) refers to "undue influence". That is to say:

"... any direct or indirect interference or attempt to interfere on the part of the candidate or his election agent or any other person with the consent of the candidate or his election agent with the free exercise of any electoral right;

Provided that without prejudice to the generality of the provisions in this clause for such persons as is referred to herein who threatens any candidate or any elector or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism or ex-communication or expulsion from any caste, community, etc. . ."

Sir, all these alleged complaints, if true, would they not have been taken in by this particular offence, which is covered by the definition of corrupt practices? Is not a punishment under the Representation of People's Act an exemplary punishment to all those who are guilty, those who have committed an offence? But by annulling the election, whom do you penalize? My respectful submission is only this. If the Election Commission exercises its authority and power to annul an election without trial, imagine the havoc that could be caused tomorrow when the election in a whole State could be declared void, election in the whole of the country could be declared void by the Election Commission without a trial. Imagine the dimensions of the problem, the enormity of the problem. That may happen one day. (Interruptions). Shri Shakhder will not misuse his power that I know; but some day it could happen. You are accusing us of authoritarianism. You

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are accusing us of so many other things. We shall never want unfair elections. But, God forbid, if not today, at some other time, one can appoint one's own specially chosen to be the Election Commissioner; and then if the party which appoints the Commissioner for special favours loses the election, immediately he will say in the whole country the elections have been rigged, people did not exercise their votes freely and fearlessly as they need to exercise their right where the elections are free from influence and pressure. Then the elections in the whole of the country will be annulled in that trial. Is it that the Founding Fathers of the Constitution ever contemplated that the election commission becomes the single man who presides over the destiny of the election, the very basis and the very foundation of parliamentary democracy, that he alone has the power to decide whatever he wants to without a trial. We have tribunals, we have the High Courts, we have the Supreme Court. Heavens would not have fallen if the Commission had had allowed and said: "All right. The counting will go on. But after results, commissioner will also go as one of the parties." And if the guilt was established on this side or on that side, courts would have been there to punish the guilty.

In the end, Sir, I would like to submit to Mr. Manubhai Patel one thing. He is talking of electoral reforms with a view to strengthening parliamentary democracy. If he were to give right priorities, the first thing what he needs to do immediately is to reform the completely demoralized Opposition which exists today, devoid of any objections or constructive approach in. The opposition should be made to work a little more cohesively and function more effectively and constructively—that will do you and our Parliament a lot of good and strengthen both opposition and parliamentary democracy. Please do not try to teach things which we do not need to learn from you.

SHRI MANUBHAI PATEL: On the contrary, you should try to understand one thing. Do not break the Opposition. Do not try to play that game.

THE VICE-CHAIRMAN (SHRI ARVIND CANESH KULKARNI): Mr. Nanda, would you please allow me to call our new Member and listen to his maiden speech? Mr. S. P. Mitra.

SHRI NARASINGHA PRASAD NANDA (Orissa): I have already agreed. Let him make his maiden speech. I do not object.

SHRI SANKAR PRASAD MITRA (West Bengal): Sir, kindly permit me to make a few submissions on the Resolution moved by the hon. Member Shri Manubhai Patel. He has already read out to the House the entire Order of the Chief Election Commissioner. He was good enough to lend to me a copy of the Order yesterday and I had the privilege of going through it. Analysing the Order of the Chief Election Commissioner, I find there were some allegations by Mr. H. N. Bahuguna and a team was sent by the Chief Election Commissioner to make an inquiry into those allegations. That team came to the conclusion that there was "booth capturing", in some places, which was established by contemporaneous documentary evidence. There were also allegations of "booth capturing" by the Congress (I) in respect of the Badri-Kedar Assembly segment, including attacks on Congress (I) workers. The Chief Election Commissioner unfortunately has not enquired into this matter at all and the reason, as given in the order, is that the team which was sent by him to the constituency had already left.

The ground on which the entire election has been made invalid is the induction of police forces from outside. The Chief Election Commissioner has relied on article 324 of the Constitution and section 58 of the Representation of the People Act, 1951. The criticism that you hear against the

order of the Chief Election Commissioner is due to the fact that he has not discussed in his order entries 1 and 2 in List II of the Seventh Schedule to the Constitution. He has not discussed in his order the judgments of the Supreme Court for instance, in *Superintendent v. Ram Manohar*, AIR 1960, Supreme Court, 633; *Madhu Limaye v. S. D. M.* AIR 1971, Supreme Court, 2436; *Dalbir v. State of Punjab*, AIR 1962, Supreme Court, 1106; *Virendra v. State of Punjab*, AIR 1957, Supreme Court, 896; and *Ramji Lal v. State of U.P.*, AIR 1957, Supreme Court, 620. The difficulty has been that the Supreme Court in these judgments has made "public order", in given circumstances, synonymous with public peace, safety and tranquility, and these are subjects in List II of the Seventh Schedule to the Constitution. The effect of these provisions of the Constitution on article 324 should have been discussed by the Chief Election Commissioner in his order. Be that as it may, in view of the Supreme Court's judgment delivered in 1978, the Chief Election Commissioner's order setting aside the entire election and ordering a re-poll is binding on all parties and cannot be challenged in any court of law at the moment.

There is a reference in the order to capturing of booths on the basis of contemporaneous documentary evidence. Whether or not the whole election should have been set aside, or whether only elections in some of the booths should have been set aside, may be a debatable question. But since the order is there, we have to accept the order as it stands.

I do not know, Sir, as an independent Member of the House, who is threatening to review the powers and functions of the Chief Election Commissioner. But I think the hon. Law Minister would agree that a review in this manner is not possible. If statements about reviews have been made to the press, those statements have been made irresponsibly. A review is not possible without amending

article 324 of the Constitution itself. And amendment of the Constitution would not be an easy affair for the Government. Therefore, the question of review of the powers and functions of the Chief Election Commissioner, if raised in certain circles, has been raised without any relevance, without any authority, without any jurisdiction whatsoever. The fact is that not only in the case of Garhwal, but we hear, from time to time, allegations of rigging, booth capturing, false voting, manipulation of voters' lists, etc. in many States. Also we hear of intimidation of voters so that they may not exercise their franchise at all. It is alleged that in the voters' lists genuine names have been omitted, fictitious names including names of dead persons, appear and names of persons not eligible to be voters have also been included. The responsibility for preparation of the voters lists is that of the Election Commission. These allegations are being made in spite of all these laws now in existence regarding the preparation of voters lists. I will give you two illustrations of how voters' lists are being perfunctorily prepared in the City of Calcutta. A former Chief Justice of the Orissa High Court is a resident of South Calcutta. He feeds a dog, a street dog, everyday for the protection of his house. The dog's name is Lulu. In the voters' list the dog's name has appeared as Lulu Roy, but the name of the former Chief Justice of Orissa has not appeared at all. In my own case there was a mistake in my name in the voters' list which I detected by chance. One afternoon some gentleman came to my house and asked my daughter and my daughter-in-law to put their signatures on a blank piece of paper. They were told that they were certifying that all the names that were to be included in my premises were there in the voters' list. They refused to sign that blank piece of paper without looking into the list itself. Then on another day when I was going out, another gentleman came and approached me to hurriedly go through the voters' list and sign the certificate. When I hur-

[Shri Shankar Prasad Mitra]

riedly went through the voters' list, I found that my own name had not been correctly printed in the list. And I had to come to the Rajya Sabha after making a good deal of effort and good deal of pleading with the Chief Electoral Officer to have my name corrected and to have a certified copy of that corrected list. With this kind of voters' lists, municipal elections, Assembly elections and Parliamentary elections are being held in various places. We all want—each and every hon. Member of this House wants—free and fair elections and impartial elections. But to my mind, the existing laws have failed to bring about the desired results. That is why I am supporting the operative part of the Resolution of Shri Manubhai Patel that a Parliamentary Committee be set up to review the election laws and suggest appropriate reforms therein because I find that the existing laws are inadequate and insufficient to meet the situation that has arisen. These are my submissions.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): Mr. Narasingha Prasad Nanda. You can start your speech today. You will be called again next time.

SHRI NARASINGHA PRASAD NANDA: Mr. Vice-Chairman, the debate has proceeded in a way as if we are sitting in judgement over the decision of the Chief Election Commissioner in the Garhwal case. I am not one of those who would like to confine the question of electoral reforms only to Garhwal. Garhwal is only a symptom of a deep disease in the electoral system which we have adopted in this country. While we discuss the question of electoral reform, we have to rise above party levels and think more constructively for the growth of the democratic traditions in the country. Electoral reform has been one of my special subjects and since I came to Parliament I have raised this question on the floor of Parliament often times. In fact last year I moved a Resolution on electoral

reforms on the floor of this House. Unfortunately that debate remained incomplete and in fact my speech also remained unfinished and the session was adjourned *sine die* and my Resolution lapsed.

Now, I happen to be a member of the consultative committee attached to the Ministry of Law. I will not like to disclose whatever discussions take place there because after all that is an informal consultation. But I want to inform the House that even there I have always raised this question of electoral reform. There are certain fundamental propositions on which every citizen of this country is agreed. That there should be free and fair elections is one such proposition. Secondly, everybody wants that money power should be curbed. Thirdly, the electorate must get a chance or, in other words, a climate should be created in the country whereby the electorate gets a chance to freely elect his own representative. Fourthly, the governmental machinery is not misused or abused by the party in power.

5 P.M.

Fifthly, those who are in power do not hold out all kinds of promises on the eve of election so as to entice the voters, and so on and so forth.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): May I request you, Mr. Nanda, to continue your speech next time?

SHRI NARASINGHA PRASAD NANDA: Certainly. Thank you very much.

SHRI SYED SIBTE RAZI: We were expecting the same thing.

THE VICE-CHAIRMAN (SHRI ARVIND GANESH KULKARNI): The House stands adjourned up to 11 A.M. on Monday.

The House then adjourned at one minute past five of the clock till eleven of the clock on Monday, the 24th August, 1981.