

[Secretary General]

(VIII)

"In accordance with the provisions of Rule 120 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 17th December, 1974, agreed without any amendment to the Punjab Municipal (Chandigarh Amendment) Bill, 1974, which was passed by Rajya Sabha at its sitting held on the 6th September, 1974."

(DO)

I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Tuesday, the 17th December, 1974, adapted the following motion in regard to the Foreign Contribution (Regulation) Bill, 1973 : —

"That this House do concur in the recommendation of Rajya Sabha that Lok Sabha do appoint a member of Lok Sabha to the Joint Committee of the Houses on the Foreign Contribution (Regulation) Bill, 1973, in the vacancy caused by the resignation of Sardar Buta Singh from the membership of the said Joint Committee and do resolve that Shri Ramachandran Kadannappalli, Member, Lok Sabha be appointed to the said Joint Committee to fill the vacancy."

Sir, I lay a copy of each of the first three Bills on the Table.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE REPRESENTATION OF THE PEOPLE

श्री राजनारायण : इतने बिल पास करने हैं ? का 21 के बाद वो हाउस चलेगा ?

श्री ओम मेहता : इसमें कुछ बिल ऐसे हैं जो हम पहले ही पास कर चुके हैं । हाउस 21 के बाद चलने की उम्मीद नहीं है ।

(Interruptions)

(AMENDMENT) ORDINANCE, 1974
(NO. 13 OF 1974)

II. THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 1974—Continued

MR. DEPUTY CHAIRMAN: Mr D. P. Singh.

SHRI D.P. SINGH: The hon. Member opposite has in his usual manner imparted a lot of irrelevance and vagrancy and ignored the real purpose of the Bill which on a sober consideration, I have no doubt. . .

श्री राजनारायण : जब तक यह बोलेगे हम सदन से बाहर रहेंगे ताकि यह खुल कर बोल सके । यह बिल्कुल गलत बोल रहे हैं ।

श्री उपसभापति : आप चले जाइए और काफी पीकर आ जाइए ।

SHRI D. P. SINGH: Mr. Deputy Chairman, Sir, on a sober consideration, it would appear that the purpose of the Bill is to restore the position that obtained, in other words, the *status quo ante*. It is one of the recognised canons of jurisprudence and law that nothing shall be done, in the matter of application of legal principles, which did not obtain at the time when the particular act was committed. This is more amply illustrated in cases of a criminal nature. Everybody would appreciate that if a particular act done at a particular time was legal and valid, subsequently no law could be passed retrospectively that it is an offence or a liability. And this jurisprudence has been developed and applied in our country in various forms, in the application of constitutional and legal principles, criminal and civil. In other words, if a person does an act at a particular time and if that situation obtains, then by a subsequent legislation the legality of that act is not invalidated. It is in this context that the provisions of this amending Bill have to be examined. When this decision of the Delhi High Court in this election petition came to be considered before the Supreme Court, the Supreme Court had already in a number of cases laid down that any expenditure incurred by a party shall not be taken into consideration in determining the ceiling or the limit of the permissible expenditure by a candidate. It is on that basis, on that assumption, that

the elections have been fought. And subsequently, by a decision of the Supreme Court it was held that any expenditure met by a party would bring the particular person within the mischief of section 77. Then it will be creating an unhealthy situation and therefore it will not govern those cases. The law of re-trospectivity makes it clear that whenever a legislation is made, it is prospective and it is for the future. But for past acts that have been done, it will never be taken into account. Now, according to articles 141 and 143 of the Constitution, the law laid down by the Supreme Court shall be the law of the land. And on the basis of the recognised law of the land if people have fought their election and allowed their parties to incur expenditure for them, then certainly this decision of the Supreme Court was creating an anomalous situation, anarchic in its nature which, if not remedied, would put in jeopardy so many people and so many candidates who had either come out successful or whose elections were pending in courts.

It is, therefore, the gravamen of the amendment to remedy that situation and bring about in law the conditions that obtained before the decision of the Supreme Court came, that is, the earlier decision. It is not that one particular party is going to benefit by the existence of a law or an interpretation of a law. All the parties here, even the Members of the Opposition parties, one party or another who have fought on that basis, who have had their parties incur expenditure on their behalf will stand to suffer, and it is not this party alone whose case or whose interest is in jeopardy. If the law is there it is there for everybody, for all parties, for every one. And, therefore, to attribute motive that this is to regularise a certain nefarious matter through a design is certainly not warranted and not proper at all. After all, we have been considering and debating this matter about reforms - what reforms are necessary, what must be done in law so that the accepted canon of equality of opportunity before the law or the equal protection of law or availability of circumstances and opportunity to fight elections and come to

Parliament or the various State Assemblies may be preserved may be available to every party. That is why this party is debating and considering the various ramifications and its various aspects. Of course, it is open to the Opposition and all members to sit together. We would be extremely happy if we can sit together and evolve ways whereby some of the difficulties or some of the problems that we have in mind or every one of us has in mind can be solved; we would be extremely happy to co-operate. If for that purpose the Members or this House in its wisdom and in co-operation in the general good of the country is able to evolve any procedure, any formula, then that will certainly be welcome. If an agreed formula is evolved which is acceptable to every party, and is in the interest of the country it will be most welcome. One has to examine the conditions that obtain in this country.

Sir, hon'ble Members with larger experience, Members opposite will notice that it is not only the party spending but there are various individuals, various friends and relations who come with their car, who give hospitality, who entertain members, who entertain the workers working in their constituencies, who spend. And generally no one takes account of such expenditure. If you go into much detail of it then any expenditure made by the Member comes within the mischief, but then it has more or less been taken as a fact that whatever situation continues in this country, a general disposition towards hospitality, entertaining people at that time giving them succour, is generally not looked with that amount of strictness as in other matters. And we have permitted individuals to spend. Likewise parties have to function. If the democratic setup has to continue, then the party has to be given a place in the electoral system. It is not only a question of the individual or his resources. The party which is contesting the election on a countrywide basis has to have certain programmes advocated whereby the voters in the far-flung areas of the country have to be educated. Therefore, a certain amount of campaigning appears

[Shri D. P. Singh]

to be not only natural but permissible. And any attempt at curtailing those liberties of the people, the goodwill and the desire of the people to cooperate, will naturally have an evil effect. Therefore, a certain amount of participation by the people, greater involvement by the people, which appears to be the objective and aim of every party, is necessary. And this participation or involvement by the larger masses of people in this great democratic experiment will be impaired if there is a curb put either on the activity of the individuals voluntarily wanting to assist the party or on the party which has to go to help or rescue of a particular candidate and advocate its policies.

3 P.M.

Sir, occasionally in this House or in the other House or in the country, an opinion is voiced that we might take resort to the German system whereby not the individual but the Government might finance the expenditure wholly. Now that is a larger matter which needs greater consideration, more detailed consideration, by this country, where things have to be debated because there are various aspects for and against, harmful and beneficial, which have to be taken into account in coming to a final conclusion. At least there is one aspect of it which seems striking and that is, there the expenditure has to be incurred by the individual himself and it is only subsequently that the Government reimburses the individual. Sir, already in this country we have the baffling problem of not only multiplicity of parties but a large number of individuals trying to take a chance at the polls, and again and again one hears the caustic voice of the Opposition that a party having secured less than the majority votes, is in power. Probably they will be achieving the very same results if there are more candidates fighting in the hope that their expenses will be reimbursed by the Government agencies. Then there is also a chance that there may be more adventurers coming into the field and

defeating- the very object that hon. Members have in mind.

Having said this, I consider it my duty to say that many ill-founded apprehensions, many ill-founded things, have been tried to be put forward and an atmosphere of distrust, an atmosphere of vilification has been projected..

I only submit that the Act, as it is, has a particular beneficial object in mind, that is, to bring the law in tune with the earlier decision of the Supreme Court. It is not only in this, but in various other fields this has been done. Whenever there has been a decision of the Supreme Court making a departure from its earlier decision and whenever it has affected large number of people, there have even been Constitutional amendments, and not merely amendments to any particular law. An instance in point is the sales tax legislation whereby sales tax validation laws came* and then the Constitution itself, that is, article 286 of the Constitution, had to be amended. Therefore, this is nothing new. This is in line with the accepted constitutional practice in all democratic countries where this has been resorted to for attaining beneficial results.

SHRI VISWANATHA MENON (Kerala): Sir, I oppose this Bill. I was trying to understand the principles of democracy as enunciated by my previous speaker. The basic principle of democracy must be free and fair elections. By bringing forward this Bill, the Congress Party has clearly established the fact that they are against free and fair elections. If they were so serious about free and fair elections, Government would have at least incorporated a clause in this Bill limiting the election expenses by the Party. But a Bill has been brought forward under which big money can play havoc in the elections. I am not much bothered about the judgement of the Supreme Court. If the judgement of the Supreme Court is against the interests of the people, the Government can always bring forward a Bill to rectify that defect. But in this case the Supreme Court has clearly stated that the expenses incurred by the Party also come under expenses incurred by the candidate.

Sir, I belong to a Party in which candidates do not spend a single pie. Actually the Party conducts elections. And that is the situation in almost all Parties. There must be some limit to such expenses incurred by Parties. In this particular instance, it is very clear that this Bill has been brought forward to save our Prime Minister from the election petition pending against her. It is clearly stated in the written statement submitted by the Prime Minister that more than lakhs of rupees have been spent by the Party for her elections. It is much above the limit stipulated for a candidate. Therefore, to save the Prime Minister this Bill has been brought forward...

AN HON. MEMBER : Are there not other petitions also ?

SHRI VISWANATHA MENON:

There may be other petitions also. But the Prime Minister is in power in this country. She is the only person in power. She is virtually the dictator of this country. Therefore, I am talking only about her. It is very clear that this Bill has been brought forward to save the Prime Minister from the election petition against her. If the Government is serious about free and fair elections, they would have brought forward many amendments to the Representation of the People Act. For example, in any election the most important thing is that money plays havoc.

In this electoral process, Sir, only the rich people or the rich parties can compete. Had some restrictions been included in this Bill, those would have been very welcome. Rigging of elections is going on every where. And, Sir, my party is a victim of rigging of elections in West Bengal. If the Government had brought forward a Bill to see that there is no rigging of elections or that rigging will not be repeated, I would have welcomed that Bill. Sir, there must be some kind of a committee, representing all the political parties, to supervise the elections at all levels. This is my proposal, is the Government prepared to do that ? I am sure the Government will not do it because the Government wants

to come to power by hook or by crook. ' That is why this Bill is being brought forward now.

Now, Sir, they are going to lift the ban on company donations to the political parties. The ruling party can take money from the companies, particularly the private companies, from the capitalists, and with that money and through rigging of elections they can come to power. The previous speaker, was talking about the principles of democracy and all that. What is the basic principle of democracy ? Every party must have equality in elections. By bringing forward this Bill you are not going to give equality to the parties in the elections. But you are giving more power to the ruling party only. This kind of action on the part of the Government will not solve the problem. If the Government has got even an iota of sincerity, then it should at least come out with certain suggestions with regard to using the All India Radio by all the political parties. Even in this matter we have no choice and the ruling party gets all the propaganda and all the propaganda media are with the Government, the radio, television and all that. Sir, this kind of an attitude will not solve the problem.

Now, Sir, coming to the role of money in the elections, I would say that if the Government comes forward with the proposal that on the election day no vehicles must be run or no vehicles must be used for propaganda purposes, it would be a welcome thing. But is the Government prepared to do it? If the moneyed people with their money and influence can use more vehicles for election purposes, it would be very difficult for the other people contesting the election. So, I would say that there must be some limit on spending for bringing out wall posters and other propaganda material. Is the Government prepared to do all these things? I say that the Government is not prepared to do anything. Then, Sir, if the Government wants that there should be free and fair elections, the people must be able to vote freely and easily, without any difficulty at all, and everybody must be able to vote and for that there must be polling booths nearby and no voter should

[Shri Viswanatha Menon]

be asked to walk more than a mile to reach the polling booth. I would go even to the extent of saying that there should be mobile polling booths so that even the invalids get a chance to vote. But I do not know whether the Government is prepared to consider these suggestions.

[The Vice-Chairman, (Shri V. B. Raju)
in the Chair]

Now, Sir, I come to the question of counting and this is the most important thing. Now, counting is done in a topsyturvy manner. Why can't the counting be done in the polling booth itself? In every polling booth, after the polling is over, counting must be done there itself and then only it must be officially tabulated. Now, Sir, after the polling is over, the ballot boxes are taken to other places for the purpose of counting of votes and we have received a lot of allegations that in West Bengal, Orissa and U.P. many ballot boxes were tampered with. And the ruling party, with the influence of the police and others, has done much greater harm to democracy. Therefore, if the Government is sincere about democracy, if they want to build up a democratic system in this country to such an extent that it would be a model for the world, then such kinds of things must be changed, so that even an ordinary man must get a chance to fight an election or a small party can get a chance to fight. But here the situation is entirely different. The Congress Party, which is ruling this country for the last 27 years has got the influence, has got the power to get money, more money, from the rich people because they are safeguarding the interests of the monopoly capital in this country. Whatever legal lacuna was there is now sought to be filled up by saying that the party's election account cannot be looked into. In the name of the party, lakhs and lakhs of rupees are going to be thrown into each and every constituency, and by that the equality in the electoral system will be removed.

Sir, if this country wants to function in a democratic way, such kinds of things must be changed and even election expenses of candidates must be subsidised by the Government. . . (*Time bell rings*). There should be equality for all the parties. Then only the will have any value in the eyes of the world.

So, Sir, in opposing this Bill, in conclusion, I want to tell that this Bill is giving a green signal for all corruption in the electoral process of this country.

SHRI D. D. PURI: Sir, I feel that a lot of material which is not germane to the Bill at all, has been brought into the debate—matters like the electoral reforms, All India Radio, expenses and all these kinds of things. The Bill seems to me to be very innocuous, simple and straight-forward. I say this because I would like the House to ask itself the question: Does this Bill do anything more than restore the position as it prevailed before the Supreme Court Judgment was delivered? That is the most important question that we have. If it does nothing more than that, and no less than that, then the wider question, in so far as the electoral reform is concerned, in so far as the present Bill is concerned, would be somewhat out of the context.

Sir, this Bill affects every party. I thought that every party would support this Bill. I would like to ask the Question: Has any party understood the law before the Supreme Court Judgment was delivered that the expenses incurred by the party had to be included in the return by the candidate? Sir, I myself have fought two elections for the Vidhan Sabha and one election for Lok Sabha, and I have been actively associated with three other elections. And not only did I myself never include the expenses incurred by my party, but no party opposing us or any of our candidates, did, in a single instance, in my experience, include expenses incurred by the party in the returns of the candidates concerned. I was personally opposed by the Jan Sangh, by the C. P. I. and by the Swatantra Party, as also various other parties. But not any of these parties, in

these years of which I am talking about, interpreted the law or read it so as to require a candidate to include the expenses incurred by the party as part of the expenses incurred under section 77, that is being amended today. That being so, all that is sought to be done is to restore the situation as it existed before the Supreme Court Judgment was given. We will have enough time to discuss the form of the electoral law. But this is a very simple and straightforward measure, as I understand it.

Sir, I believe that the net effect of the Supreme Court Judgment is that, in their wisdom, the Supreme Court has amended the law with retrospective effect. That is exactly what is the net effect of the Supreme Court Judgment. Now, before going into the details, let me say with all the emphasis at my command that we on this side of the House are as deeply concerned with the evil effect of money and particularly of black money on elections. I have myself, on more occasions than one, called the effect of black money as a hydra headed monster which we have to face and we have to bring forward all our might in order to destroy this monster. Is this the way to do it? Sir, I may refer very briefly to Greek mythology. The hydra-headed monster had several heads and each time a head was chopped off, two more appeared. It is a serious matter. We are all concerned about it. We are more concerned about it than the parties opposite. Now the only point is that this Supreme Court Judgment have been given, was it right for the Government to leave the whole thing in a vacuum? The problem of election expenses, black money and the effect of money on elections will need the effort of all parties. We will need to have a consensus. We will need the co-operation of the parties opposite. We will need the co-operation of their heads and hearts to be able to evolve a system which is fair and democratic and based on the realities of the situation in this country. That will take time and it should take time and a consensus has to be evolved. I am not finding fault with the Supreme Court judgment. Wherever there is an honest application of mind, there are bound to

be some differences somewhere or the other. There is even the controversy as to whether this Supreme Court judgment is consistent with the previous judgments or not. A lot of controversy has hung round the word "authorised". What has been authorised by a candidate? What can be deemed to be authorised by a candidate? All kinds of rulings have been given. I have read the judgments very carefully. Whether a certain propaganda done by a party in certain circumstances could be deemed to be authorised by the candidate or it would not be authorised by the candidate is difficult to say. I would say that a lot of ambiguity, uncertainty and vagueness had come to attach itself over a number of judgments around the word "authorised" and it gave rise to another concept that apart from the point of view of the candidate, there should be something more. What that "something more" was going to be? The whole of this thing was very ambiguous. It was getting extremely complicated. One did not quite know as to whether a particular expenditure would be deemed to be authorised and whether that concept of "something more" would be fulfilled or not. Therefore, it is only fair for everyone who is concerned with the elections that the law should be as unambiguous and as clear as it is humanly possible to frame it. I believe that even with the best drafting, there may be still more ambiguities. But insofar as they can be removed, they should be removed. Sir, if the Government had done nothing about this matter, then what would have happened? It would have certainly created certain disadvantages for those people against whom election petitions were pending, whether they belonged to one party or the other. After all, everyone understood the law in a certain manner. But, now, something had to be done with the Supreme Court judgment which, as I said, had the effect of amending the law with retrospective effect. All that has been done is to restore the position as it was before the Supreme Court judgment and as every single party. I dare say, understood the law before the Supreme Court judgment. That is all that the Bill seems to do. It is very clear that this

[Shri D. D. Puri]

Jaw is, by no means, anything like the last word on electoral reforms. I think this is a vast subject which does not concern the Government alone and we will need the co-operation of the opposition parties also. But till that consensus is evolved, shall we, in our own Party, have a scheme of reforms of electoral laws and ramroad it through both the Houses of Parliament, even if it means an amendment to the Constitution? That would not be democratic. We must seek the co-operation as far as possible of all parties concerned. Till that is available, what is to be done? All that is necessary, it seems, is to go back to the position as it prevailed before the Supreme Court judgment. And Sir, there is emphasis on one or two points in the drafting. For instance, it is said, 'Notwithstanding any judgment'. I think these words are quite unnecessary. If a judgment has been delivered by a court, and if a legislature subsequently amends that law which has been interpreted in that judgment, the judgment of the court, without your saying so automatically stands subordinated to and over-ruled by the legislation. And also, Sir, some mention has been made that this would open the floodgates of reference to pending cases. Reference to pending cases was again unnecessary. When you pass any piece of legislation, one can imagine that there is likely to be some case or the other pending in some court or the other which may or may not be affected by that legislation.

Sir, all that I would say is that this law removes something which was highly equivocal, something which was uncertain, something which was ambiguous. And also because too much was hung round the word 'authorised' and this concept 'something more', it should be of interest to all parties in this country who are interested in democracy to welcome the Bill. Thank you, Sir.

SHRI HAMID ALI SCHAMNAD
(Kerala) : Mr. Vice-Chairman, Sir, as far as the law stands today, it provides that a candidate who is contesting for

Parliament could spend Rs. 35,000 and as far as Assembly election is concerned, one could spend Rs. 15,000. This is a fact, Sir. But what is the position that is being obtained in this country? A candidate could spend only Rs. 15,000 for Assembly election and Rs. 35,000 for Parliamentary election. The political party sponsoring the candidate, his friends and others spend much more than what actually a candidate spends from his pocket. I was a candidate, Sir, for an Assembly seat. I did spend a little from my pocket. But the party that sponsored me spent; my friends and the voters did spend. When you take all this expenditure together*, definitely that will be more than this Rs. 35,000 or Rs. 15,000. So, Sir, as far as the spirit of this Amendment is concerned, it is defined very well. 'Expenditure' means only the expenditure incurred by the candidate or authorised by the candidate. At the same time Sir, I feel you should not have given 'retrospective effect' as far as this Bill is concerned, because the intention of the Government is questioned when you give this retrospective effect. Some ruling party candidates lost in a court of law, and the petitions filed in the Supreme Court are being allowed. This would only show that you want to nullify the decisions, and you want to help your own party candidates. So, this retrospective effect ought not to have been given, and the pending cases should not have been taken within the purview of this Act. Sir, in an election, a candidate, whether he is from the Communist Party or any other party, spends, his party spends. The voters also arrange money, loud-speakers, literature and all that. If all this expenditure is put together, it would definitely be more than Rs. 15,000 or Rs. 35,000.

Sir, there is another thing to which I should like to draw the attention of the House and that is with regard to returns. The first sin that a candidate commits is when he is asked to file a return when he is elected as a Member of Parliament or a Legislative Assembly. Sir, does he definitely give a true return. Some return is filed to satisfy the law. I do not know why that re-

turn is at all necessary and this aspect could be examined when you make reforms with regard to election laws.

It is being pointed out that the Prime Minister has spent a huge amount. That is definitely so. Not only is the Prime Minister spending a huge amount but she is also misusing her position as Prime Minister. If Birla's or Tata's stand for an election, they would also spend lakhs and crores of rupees; that is immaterial. But as Prime Minister of the country how could she use her position as Prime Minister to canvass for her candidature and for her party-men? So, the Representation of the People Act should be amended in such a way that when the election takes place the Government should resign and then only they should contest the elections. No person should contest the election when he is in office as a Minister. When elections come they should resign their office and then only they should face the elections. It will be in the fairness of things, equity of justice.

It is being said that All India Radio and other facilities are being extended only to the ruling party and these facilities are being misused and because they are the ruling party they are in a position to make use of All India Radio and other things to their advantage.

Sir, Mr. Viswanatha Menon suggested that We should have mobile booths. That would be an ideal thing and Government may examine this because in the villages you would find that one has to walk two or three miles to go to the booth in order to cast his vote. Mobile vans can be moved from place to place with agents of the various candidates and voters also can be attracted to the nearest booths. So, mobile booths would be one of the ideal things and Government may examine this.

Election expenses—if not fully, to a large extent—should be met by the State and at least expenses of the candidates who would be contesting seriously and who would be getting their deposits should be met by the Government. This may also be examined.

With regard to rigging and other malpractices, Mr. Viswanatha Menon has already spoken and I need not say again. But as far as the last U.P. elections are concerned, in which we also had put up our candidates, definitely the Congress—the ruling party—did not play a proper role during counting time in Moradabad. Everybody knows what happened. When counting was going on, electricity went off. The Muslim League candidate was winning there and when electricity came again, the other candidate got elected by eighty votes. Again, Saharanpur is another constituency where there was rigging. Of course, the election was challenged and petitions were filled and you know the fate of the election petition.

SHRI SARDAR AMJAD ALI: We know the fate.

SHRI HAMID ALI SCHAMNAD: What I appeal to the Government is, the law should be amended in such a way that no election petition should drag on for more than six months from the date of filing the petition and appeal should be over within a year. That should be there. Otherwise what is the fun of an election petition? That will be only a tamasha. Sir, an election petition was filed against the Prime Minister and even now it is pending in a court of law. Five years are coming to an end but the petition is not yet disposed of by the court. Is it not a mockery? It is definitely a mockery and against the interests of justice and equity.

SHRI BRAHMANANDA PANDA (Orissa): The filing of such petitions is an anti-people measure.

SHRI HAMID ALI SCHAMNAD: If I lose because of the injustice done by your officials, I must have a say. What we want is laws should be amended in such a way that no election petition should be pending for more than six months and it should be disposed of.

SHRI K. CHANDRASEKHARAN (Kerala): It is already there in the I Act.

SHRI HAMID ALI SCHAMNAD :

But not in practice (*Time Bell*). Sir, I am concluding. With regard to office of profit there is a provision in the clause where a person who has got some connection with the Government, directly or indirectly, is disqualified. One thing I should like to suggest. A member of Parliament, who is also a lawyer, should be disqualified from appearing before an executive officer on behalf of the party or taking brief and going to the District Collector, to the RTA, to the Revenue Board, to the customs and other authorities. They are misusing their position as Members of Parliament. Even though they file a Vakalat and take a brief, in two capacities they go to the Collector. One capacity is they sometimes act by taking a brief for their party and argue for the party before the District Collector. Sometimes they go on behalf of the public and represent their case before the Collector, definitely his position as an MP or MLA is being misused. The Government should seriously consider whether members of Legislatures should not be disqualified from appearing before executive officers or semi-judicial officers, these are my submissions.

श्री प्रकाशवीर शास्त्री (उत्तर प्रदेश) :
श्रीमन, मैं संक्षेप में अपने कुछ सुझाव देना चाहता हूँ। पहली बात तो श्री गोखले जी से मैं यह कहना चाहता हूँ कि जब यह सर्वोच्च न्यायालय का निर्णय आया तब संसद का अधिवेशन प्रारम्भ होने में केवल दो या तीन, सप्ताह रह जाते थे। उस समय राष्ट्रपति ने जितनी जल्दबाजी में अध्यादेश जारी किया उससे जहाँ इन सन्देशों की सृष्टि होती है वहाँ संसद की जो गरिमा है उसका भी अपमान होता है। मेरा आपसे कहना यह है कि जब संसद कुछ दिन बाद बैठने वाली होती तो इस प्रकार की क्या जल्दबाजी आपको थी। दो सप्ताह या तीन सप्ताह बाद जब संसद की बैठक होती, उस समय आप इसको विधेयक के रूप में क्या नहीं ला सकते थे? राष्ट्रपति ने जिस हड़बड़ी में

अध्यादेश जारी किया उससे सन्देशों की सृष्टि होती है। सारे देश के मस्तिष्क पर भी इसका विपरीत प्रभाव हुआ है जिसकी यहाँ चर्चा आज प्रत्यक्ष रूप से सुनाई दे रही है। आपने लोकसभामें अपने उत्तर में इस बात को कहा और प्रधान मंत्री जी ने दो तीन दिन पहले लखनऊ में कहा कि निर्वाचनों में सुधार लाने के लिए हम विरोधी दलों से कुछ सुझाव आमंत्रित करेंगे। उनके सुझावों पर हम गम्भीरता से विचार करेंगे। ये दोनों बातें परस्पर विरोधी हैं। एक ओर तो आप विरोधी दलों से सुझाव चाहते हैं, उनसे विचार-विनिमय करने चाहते हैं और दूसरी ओर इस प्रकार के विधेयकों को लाते हैं विशेष व्यक्तियों की सुरक्षा के लिए, उनको संरक्षण देने के लिए। इन बातों में कहाँ तक संगति बैठती है। जब आप सुझाव चाहते हैं तो उसका अभिप्राय यह है कि जितने चैंप्टर हैं उनको नए सिरे से सबके सामने खोल कर रखें जल्दबाजी में इस विधेयक को पास कराने की आवश्यकता नहीं। इस विधेयक को जनमत जानने के लिए भेजे, देखें कि जनमत इसके सम्बन्ध में क्या राय देता है। उसके बाद जनतंत्रीय पद्धति से चल वाली सरकार स्वयं स्वस्थ मन से कोई निर्णय ले। इस तरह से शोषिता से सरकार इस विधेयक को लाकर जनमत को अवहेलना करे और फिर कह कि हम विरोधी दलों के साथ राय करना चाहते हैं—इन दोनों बातों में आपस में कोई संगति नहीं बैठती।

दूसरी बात जो मैं विधि मंत्री जी से जानना चाहता हूँ वह यह है कि क्या इससे पहले सर्वोच्च न्यायालय ने व्यय की जो नियत सीमा है उससे अधिक व्यय होने पर किसी का चुनाव अवैध घोषित नहीं किया था? मैं चाहूँगा कि आप इस बात को बताएं कि जब से इस देश में संविधान के अनुसार निर्वाचनों की प्रणाली प्रारम्भ हुई है

क्या तब से उच्च न्यायालय ने या सर्वोच्च न्यायालय ने कोई भी चुनाव याचिका इस प्रकार की रद्द नहीं की कि जो धन की सीमा से अधिक खर्च होने के कारण रद्द की गयी हो और अगर इस प्रकार के चुनाव पहले भी रद्द हुए हैं तो फिर उस समय इस प्रकार के अध्यादेश जारी क्यों नहीं किये गये। इसी समय यह अध्यादेश जारी करने की आवश्यकता क्यों हुई। इससे भी पता लगता है कि किसी व्यक्ति विशेष को संरक्षण देने के लिए आप ने यह अध्यादेश इस समय जारी करवाया जिस को अब यहां विधेयक के स्वरूप में लाया गया है। यहां एक बात यह भी मैं कहना चाहता हूं। बहुमत का लाभ उठा कर सत्तारूढ़ दल भले ही इस विधेयक को पारित करा ले लेकिन देश में जो संदेहों की सृष्टि हो रही है उस का आसानी से निराकरण नहीं किया जा सकेगा। चाणक्य ने कहा है :

‘यद्यपि शुद्धं, लोक विरुद्धं, नाचरणीयम्,
नाचरणीयम्।’

जनता द्वारा जनता की राय से, जनता के मत के अनुसार चलने वाली सरकार को लोकमत की कभी उल्लेख नहीं करनी चाहिए। आप जिस ढंग से इस विधेयक को लाये हैं, इस विधेयक के द्वारा जनमत झलकता है यह इस विधेयक की भाषा और भावना से प्रकट नहीं होता। इसमें एक सब से बड़ी बात यह कही गयी है, जिस का न्यायालय ने भी अपने निर्णय में संकेत किया है और वह है धन की चुनावों में भूमिका। कुछ समय से धन जनतंत्रीय प्रणाली से होने वाले चुनावों पर हावी होता जा रहा है। मैं इस के विस्तार में तो नहीं जाना चाहता कि कैसे दो वर्ष पहले दरभंगा के चुनाव में खुलकर धन का प्रयोग किया गया, और मैं इसकी भी चर्चा नहीं करना चाहता कि उड़ीसा की मुख्य मंत्री श्रीमती नन्दिनी शतपथी के

चुनाव में किस प्रकार से धन का खुलकर प्रयोग किया गया, लेकिन यदि राजनारायण जी ने जो आंकड़े यहां दिये हैं वह सही हैं तो मैं चाहूंगा राज्य सभा के मुख्य द्वार से प्रवेश करते हैं तो वहां पर एक वाक्य दृष्टि में आता है : ‘सत्यं वद धर्मं चर’ उसे हटा दिया जाय। अगर यह आदर्श वाक्य है और सरकार इस को स्वीकार करती है तो क्या खुले हृदय से गोखले जी इस बात को कह सकते हैं कि 12 हजार नौ सौ रुपये में प्रधान मंत्री अपने रायबरेली चुनाव को जीत सकती हैं? इतने में अगर वह अपना निर्वाचन जीत कर आ सकती है तो आये। लेकिन मेरे कहने का स्पष्ट अभिप्राय यह है कि नैतिक दृष्टि से कभी आप को विचार करना चाहिए। हमेशा कानूनी पक्ष को ही प्रबलता नहीं देनी चाहिए। इस का परिणाम क्या हो रहा है आज इस देश में धन की भूमी का चुनाव के क्षेत्र में भिन्न भिन्न मार्गों से प्रवेश कर रही है। तीन तीन मार्गों का तो संकेत सर्वोच्च न्यायालय ने दिया है। एक मार्ग तो यह है कि कोई व्यक्ति स्वयं व्यय नहीं करता, पार्टी भी व्यय नहीं करती लेकिन उस के समर्थक आ कर व्यय करते हैं। वह व्यक्ति तो 12 हजार नौ सौ रुपया व्यय करता है लेकिन उस के समर्थक चार, पांच या दस लाख रुपया उस के चुनाव में व्यय कर देते हैं वह उस व्यक्ति के हिसाब में काउन्ट नहीं होगा और उस के आधार पर वह चुनाव भी अवैध घोषित नहीं किया जा सकता। क्या यह संविधान की भावना और निर्वाचन की प्रणाली का अपमान नहीं है—हम इस प्रकार के मिद्घान को समर्थ न दे कि उस के समर्थक चुनाव में आ कर व्यय कर दें और प्रत्याशी पर किसी प्रकार का प्रतिबंध न हो। दूसरा संकेत सर्वोच्च न्यायालय ने जो दिया है वह है मित्रों के बारे में। प्रत्याशी तो पेपर दाखिल कर देगा कि मैंने तो 12 हजार रुपया अपने इलेक्शन में खर्च किया है, मित्रों ने यदि अधिक खर्च कर दिया तो उस के लिए मैं कैसे उत्तरदायी हो सकता हूं।

[श्री प्रकाशवीर शास्त्री]

वह लाखों भी खर्च कर सकते हैं, करोड़ों भी खर्च कर सकते हैं। मैं समझता हूँ कि यह संविधान की भावना की अवहेलना है और निर्वाचन प्रणाली की भी घोर उपेक्षा है अगर समर्थकों और मित्रों की आड़ लेकर कोई गलत खर्च बताता है तो वह अपराध है। तीसरी सबसे बड़ी व्यक्ति है पार्टी। राजनीतिक पार्टी कितना ही चुनाव में व्यय कर दे लेकिन उस व्यक्ति के मध्यम में जो व्यय हुआ है उस का हिस्सा वह 12 हजार ना सौ रुपये दे कर साफ रक़्त जायगा। यह माना जायेगा कि उस ने चुनाव में अधिक व्यय नहीं किया है। अभी निरनुमोदन का प्रस्ताव रखते हुए श्री लालकृष्ण आडवाणी जी ने पाटस्कर साहब का उदाहरण दिया था। आप ही सरकार को उसे आदर्श मान कर चलना चाहिए था और दूसरे ब्रिटेन की न्यायपालिका में या संसद में जो प्रथा है उसे अपनाना चाहिए। जो दूसरा व्यय होता है उसे पार्टी अपने सिद्धांतों के प्रचार पर या अपनी नीति के प्रचार पर व्यय कर सकती है। लेकिन जो व्यक्ति के चुनाव को प्रभावित करने के लिए कहीं कुंवल बांटे जायें, कहीं दवाइयाँ बांटी जायें, और भी इसी प्रकार खर्च किया जाय, यह उचित नहीं लगता। मैं तो चाहता हूँ इसे समाप्त किया जाय। यह भी चुनाव दृष्टि से बहुत भारी भ्रष्टाचार है कि चुनाव के दिनों में सरकारी अधिकारियों का स्थान परिवर्तन किया जाय या सरकारी अधिकारियों को पदोन्नति या पदोन्नति की जाय। यह सारी घटनाएँ निर्वाचन की दृष्टि से भ्रष्टाचार के अंदर शामिल हो जाती हैं। लेकिन क्या श्री गोखले इस बात को कह सकेंगे कि हमारे जो आम चुनाव पीछे हुए, उनमें इस प्रकार के भ्रष्ट उपयोगों का अवलम्बन नहीं किया गया? अगर इस प्रकार के भ्रष्ट उपयोगों का अवलम्बन किया जात है तो फिर कैसे कह सकते हैं कि जनतंत्रीय दृष्टि

से हमारे चुनावों के अन्दर एक स्वस्थ परंपरा स्थापित होती चली जा रही है।

सर्वोच्च न्यायालय का निर्णय तो एक प्रश्नवाचक चिन्ह था। सरकार सर्वोच्च न्यायालय के निर्णय का स्वागत करती और उसके बाद सभी विरोधी पक्षों को आमंत्रित किया जाता। आमंत्रित करने के बाद सरकार यह कहती विरोधी पक्ष को—यह समस्या दूसरों के सामने भी उपस्थित हो सकती है, केवल हमारे सामने ही उपस्थित नहीं है। आप मिलकर इसका मार्ग निकालिए। लेकिन एक व्यक्ति के चुनाव को बचाने के लिए किसी तरह से उसकी निर्वाचन याचिका को निकलवाने के लिए राष्ट्रपति द्वारा अध्यादेश जारी कराया जाए और उसके लिए संसद के अन्दर फिर विधेयक लाया जाए, जनतंत्र के लिए यह शुभ चिन्ह नहीं है। अगे के लिए हम ऐसे गलत पग उठाने जा रहे हैं इतिहास जिनको क्षमा नहीं कर सकता। परिणाम इसका यह हो रहा है आज हमारे देश के अन्दर बड़े-बड़े धनपति जिनको मोनोपली कमिशन ने आनी लिस्ट के अन्दर सम्मिलित किया है या कुछ दूसरे व्यक्ति लिये हैं वह चुनाव में पिछले मार्ग से आकर उम्मीदवार के साथ लग जाते हैं और हमारी संसद का जो एक पवित्र स्वस्व होना चाहिए वह नहीं रहता, उसकी पवित्रता नष्ट हो जाती है। स्वयं सरकार भी इस को स्वीकार कर चुकी है कि हमारे देश के निर्वाचनों में विदेशी धन का भी दुरुपयोग होता है। विदेशी धन अगर हमारे देश की निर्वाचन प्रणाली को दूषित करता है तो इन सारी बुराइयों से देश को बचाने के लिए हमको कुछ मार्ग सोचना चाहिए न कि सर्वोच्च न्यायालय के निर्णय के बाद एक अस्वस्थ परंपरा का निर्माण विधेयक लाकर किया जाए। पहले एक अध्यादेश जारी कर दिया जाए और फिर उसके स्थान पर सरकार विधेयक लाये और उस विधेयक को बहुमत का लाभ उठाकर पारित करवा ले। यह मैं समझता हूँ कि जनतंत्रीय प्रणाली के लिए शुभचिन्ह नहीं है।

दूसरी बात जिसको कि मैं विशेष रूप से कहना चाहता हूँ वह यह कि पहले ही हमारे देश में सर्वोच्च न्यायालय की जो गरिमा थी वह हिल चुकी थी जब सर्वोच्च न्यायालय के तीन जजों ने त्यागपत्र दिये। हमारे देश में उसको लेकर जो आलाचनायें चलीं, स्वयं श्री गोखले जो न्यायाध्यापक रह चुके हैं, उनका हृदय इस बात को जानता होगा कि किस प्रकार से वह काँड़ हुआ। उसको लेकर देश में किस प्रकार का क्रुद्ध वातावरण बना। कौन उसके पीछे था, क्या भावना उसके पीछे थी आज उसकी चर्चा की आवश्यकता नहीं। लेकिन आपका हाँ अब बनाया हुआ जो सर्वोच्च न्यायालय है उसका जो ढाँचा है, कम से कम आप तो सर्वोच्च न्यायालय के निर्णयों का सम्मान करना सीखिए। आप ही उसका सम्मान नहीं करेंगे तो परिणाम यह होगा कि आप उन परंपराओं को अबहेलना करेंगे। इसी से सर्वोच्च न्यायालय के तीन वरिष्ठ जजों को अपने त्यागपत्र देने पड़े। फिर अब उसके बाद उनके जो निर्णय हैं उनका अपमान करते ही तीन मुख्य बातों का सुप्रीम कोर्ट के निर्णयों में संकेत है। इसमें एक यह है कि हमारे देश में आम चुनावों में जो जात-पात की भूमिका है उसने हमारे देश के चुनावों को दूषित कर दिया है इसलिए सरकार को ऐसे उपाय निकालने चाहिए कि किसी भी प्रकार से जात-पात को जो भूमिका चुनावों में आ गई है इससे संसद और विधान सभा चुनावों को बचाया जा सके। सर्वोच्च न्यायालय का यह एक दूरगामी संकेत था जो आज से कुछ समय पहले उसने दिया।

इसी प्रकार के और भी कुछ संकेत जो उच्च न्यायालयों में मिले हैं जहाँ सरकारों पदों और सरकारों अधिकारियों का दुरुपयोग करके चुनाव जीते जाते हैं। उस और भी न्यायालय संकेत दे चुके हैं। अब तीसरा संकेत वनों की भूमिका के सम्बन्ध में था। लेकिन लगता है कि सरकार न्यायालयों के

निर्णयों को रद्द को टोकरी में ढँककर अपने मनमाने ढंग से अध्यादेश लातो है और अध्यादेश लाने के बाद फिर विधेयक के रूप में संसद में आता है, और बहुमत के आधार पर, बहुमत का लाभ उठाकर उनको पारित करना चाहतो है। अगर यही संसदीय प्रणाली रही तो उसका परिणाम यह होगा कि आज देश में विरोधी पक्ष, संख्या की दृष्टि से जो थोड़ा है उसके अन्दर एक कुण्ठा आगूत होगी और वह कुण्ठा भिन्न-भिन्न रूपों में आकर उदय होगी। मैं नहीं चाहता कि देश में इस प्रकार की अस्वस्थ परंपराओं का प्रारम्भ किया जाए जो जनतंत्रिय प्रणाली और जनतंत्र को जड़ों के मूल पर ही आघात करे। इसके लिए सरकार को जिम्मेदारों है और विशेष रूप से न्याय मंत्रों जो कि जिम्मेदारों हैं। न्याय का आसन ऊँचा आसन है, ईश्वर के बाद दूसरा नम्बर न्याय मंदिर का आता है। इसलिए उसको जो पवित्रता है उसको बनाये रखने के लिए उसके निर्णयों में भी उसी प्रकार की स्वस्थ परंपरा और पवित्रता होनी चाहिए।

दूसरी बात है जो इसलिए संभवतः पीछे संसद् में कई बार चर्चा का विषय बनी है कि चुनावों के पहले सरकार को त्यागपत्र देना चाहिए क्योंकि सरकार जिस तरह से उसका दुरुपयोग करती है, अपने पदों का मंत्रों लोग जिन प्रकार से दुरुपयोग करते हैं उसका परिणाम होता है चुनाव प्रभावित होते हैं और देश के अन्दर निष्पक्ष चुनाव नहीं हो पाते।

इसलिए मैं चाहता हूँ कि इस की चर्चा यहां पर करूं। मैं अपनी बात समाप्ति को ओर ले जाते हुए दो-तीन बातें अवश्य कहना चाहूँगा। एक बात तो यह है कि जैसे हमारे मित्र मुस्लिम लोग के तथा श्री विश्वनाथ मेनन ने भी इस बात की चर्चा की है कि हम को दो बातों का अवश्य ध्यान रखना चाहिए उसमें एक तो जहाँ पर समय को सोमा निर्वाचित याचिकाओं की हमने निर्धारित की है उसे आप

[श्री प्रकाशबोर शास्त्री]

भले ही बढ़ा कर 6 महीने से एक साल कर दें लेकिन यह न हो चुनाव याचिका के निर्णय पर समय को सोमा तो आपने 6 महीने में बढ़ा कर एक वर्ष कर दो लेकिन मंत्रियों का जो चुनाव पेटिशन हो उसमें पूरे पांच साल निकल जाए। मेरा यह कहना है कि चाहें आप को विशेष न्यायालय स्थापित करना पड़े लेकिन जो समय को सोमा हो उसका सम्बन्ध में पालन किया जाना चाहिए।

दूसरी बात यह है कि आपने पिछले चुनावों से यह पद्धति प्रारम्भ की है कि हर जगह के वोटों को लेकर एक डोल में इकट्ठा कर लेते हैं और इकट्ठा करने के बाद सब को एक साथ काउंटिंग करते हैं। इसका परिणाम यह होता है कि पता नहीं चलता उम्मीदवार को किस पोलिंग स्टेशन पर उसकी वज्रा स्थिति रही। सरकार इस को आड़ में जो भ्रष्टाचार करता है, मेरे पास उस के कई उदाहरण हैं। समयाभाव के कारण मैं उनकी चर्चा नहीं करना चाहता लेकिन इतना अवश्य कहना चाहता हूँ कि जो पद्धति पहले था उस पद्धति को रहने दिया जाए। इस नई पद्धति को चालू रख कर सरकार भ्रष्टाचार की नई शाखाएं, परशाखाएं प्रारम्भ न करें।

एक बार श्री गोखले ने संसद् में और संसद् के बाहर तथा अध्यादेश जारी होने के बाद प्रेस विज्ञप्ति में कहा था कि इसका लाभ विरोधी दल भी उठा सकते हैं। मैं श्री गोखले से कहना चाहता हूँ कि विरोधी दल जब इसका लाभ नहीं लेना चाहते हैं तो आप जबर्दस्ती उनके गले में इसका लाभ क्यों उतारना चाहते हैं। विरोधी दल यह कह रहे हैं कि आप को इस तरह का अध्यादेश जारी नहीं करना चाहिए, इस तरह का कानून नहीं बनाना चाहिए अगर किसी तरह से जनतंत्र को बचाना चाहते हैं। विरोधी दलों के नाम पर आपके मस्तिष्क में क्या भावना है यह भी आपके वयान से स्पष्ट है। मैं आपसे कहना

चाहता हूँ कि विरोधी दलों में कोई इस प्रकार का नहीं है जो इसका लाभ उठाना चाहेगा।

अंत में जिस बात को मैं कहना चाहता हूँ वह यह है कि जिस प्रकार से चुनाव के व्यय का विवरण भुक्ति से लिया जाता है उसी प्रकार से पार्टी के व्यय का विवरण भी लिया जाए ऐसी कोई पद्धति प्रारम्भ होनी चाहिए। अगर किसी पार्टी ने चुनाव में अपने प्रत्याशों के लिए चुनाव घोषणा पत्र के प्रचार पर या किसी और बात पर व्यय किया है तो पार्टी का वह व्यय भी सरकार के सामने और देश के सामने आना चाहिए ताकि यह पता लगे कि कौन पार्टी कितने धन का उपयोग करके मत प्राप्त करने का यत्न करती रही।

अगली बात मैं यह कहना चाहता हूँ कि हाई कोर्ट के अन्दर जहां यह याचिकाएं सुनी जाती हैं जिस प्रकार ने सुप्रीम कोर्ट के अन्दर एक बैच याचिका सुनता है, मेरी राय है कि इसी प्रकार से हाई कोर्ट में भी बैच के सामने यह याचिकाएं सुनी जानी चाहिए। वहां पर दो या तीन जजों को मिला कर बैच बननी चाहिए और उसकी यह याचिकाएं सुननी चाहिए।

अंतिम बात कह कर मैं बैठ जाना चाहता हूँ। आप जो चुनावों में बार-बार सुधार की बातें करते हैं। विरोधी दलों की ओर से भी चुनावों में सुधार के कई ठोस सुझाव उपस्थित किए गए हैं। श्री डिकोस्टा ने जयप्रकाश नारायण जी के संकेत पर इंडिया इंटरनेशनल सेंटर में एक सम्मेलन बुलावा था। उसमें कई इसी प्रकार के व्यवहारिक सुझाव आए थे। अगर आप उन को स्वीकार करें तो देश को चुनाव पद्धति के अन्दर कई अच्छे परिवर्तन हो सकते हैं। माननीय आड़वाणी जी ने भी इसके ऊपर चुनावों में सुधार की योजना बना कर सरकार को दी है और उस सम्मेलन के अंदर भी प्रस्तुत की है। मेरी राय यह है कि आप

एक नेशनल कमीशन या राष्ट्रीय आयोग चुनाव पद्धति में सुधार लेने के लिए स्थापित करें जो सारे देश को चुनाव पद्धति को सामने रख कर निर्णय ले और उसके बाद देश में विधान मंडलों और संसद् के सदस्यों का निर्वाचन हो तब मैं समझता हूँ कि अनंतव्यय प्रणाली के अंदर स्वस्थ वातावरण आ सकता है।

DR. V. A. SEYID MUHAMMAD (Kerala.): Sir, denuded of the innumerable irrelevancies, prejudices, sub-judice matters and also grievances of some of the individual Members, the entire debate from the opposite side boils down to two substantive points. The first one relates to the assumption of the Law Minister under which the Bill is brought, namely, the law as it was previously was in a way amended by the Supreme Court and what this Bill seeks to do is to put the law back as it was before.

Then they said that this Bill has been brought forward to salvage the ditlicuit position in which the Prime Minister has been put by reason of the pending litigation on the election petition before the Allahabad High Court.

These are the two objections raised by them. Let us see whether there is any truth in these allegations or substance in these arguments. Let us take the first proposition. They make a distinction between the money spent by the political party in general and money spent by the political party in order to get a particular candidate elected. Their submission is that the law has always been that when election expenditure is computed, money spent by the political party in general is excluded and money spent by the political party in order to get a particular candidate elected is included or should be computed in the election expenses of the candidate. Let us see what the Supreme Court has exactly stated. Reading some comments here or there will not give us the correct picture. This judgment is contained in (1971) 2 Supreme Court Report in the case of Mangraj Vs., K. K. Birla, at page 128. I am reading from this report so that there will be no mistake about what they had said. They have said:

In Mubavak Mazdoor Vs. Lalbaloder. the Allahabad High Court held that the expenditure voluntarily incurred by the friends and supporters of the returned candidate does not come within section 123(3), even though the returned candidate was aware of the fact (This is very important). Then they say :

This court (that is, the Supreme Court) as well as the High Courts have taken the view that the expenses incurred by a political party to advance the prospects of the candidate put up by it without more do not fall within section 77. That position of law was not disputed before us.

SHRI LAL K. ADVANI: Could you explain the words "without more" ? This is the crucial point.

DR. V. A. SEYID MUHAMMAD: I will explain it.

SHRI H. R. GOKHALE : Otherwise, I will explain it afterwards.

DR. V. A. SEYID MUHAMMAD: So, this is the proposition that they have laid down clearly. They have also said that various High Courts also have laid down this proposition.

Now, what is the expression that he wanted me to interpret ?

SHRI LAL K. ADVANI: "Without more".

DR. V. A. SEYID MUHAMMAD: I do not know what he means by that.

SHRI LAL K. ADVANI: That is exactly the basis of the present Supreme Court judgement.

DR. V. A. SEYID MUHAMMAD: What is his suggestion ? The election expenses incurred by the political party are incurred by the candidate or authorised by him. Is it what you mean? Let me know what interpretation you are giving to it?

THE VICE-CHAIRMAN (SHRI V. B. RAJU): He is not saying anything.

SHRI LAL K. ADVANI: You have read the report and the judgement. The present Supreme Court judgement is based on the interpretation of this particular phrase.

DR. V. A. SEYID MUHAMMAD :
"Without more" means positive authorisation. That is what the Supreme Court has said. Is it what you say ?

THE VICE-CHAIRMAN (SHRI V. B. RAJU) : You may go ahead.

4 P.M.

DR. V. A. SEYID MUHAMMAD : The position is that here was a clear case and the Supreme Court has clearly laid down that when a political party spends money for getting a particular candidate election, that money will not be computed. Now, what exactly is their interpretation, I do not understand. It is so clearly laid down here. It is true that in the second judgment, this expression "with more" has been interpreted to mean "authorisation" given under section 77. That may be true. Does a person go to a political party, ask the party to spend lakhs of rupees and authorise the party to do that ? But does it happen anywhere ? As politicians you must know and you know what happens. Is there any question of an individual member going to a political party and authorising that party to spend for him ? The political parties spend for the individuals. But where is the question of an individual candidate going to a political party and authorising it to spend for his elections ? It is the party which puts up the candidate. The political parties put up the candidates and the candidates are authorised to spend by the political parties. So, where is the question of the individual candidates authorising the political parties ? Is this the interpretation of the Supreme Court or is this the way in which Mr. Advani understands it or wants it ? I cannot understand this. The substance of their old argument is that the Supreme Court has given a decision and that we have not respected it or that we have changed it. But that is not correct. Take, for example, the

1921 or the 1923 law—I do not exactly remember the year—by which the Privy Council laid down a certain principle of Hindu Law which was against the accepted principle or the law then current. We made a certain law here and the Privy Council made a certain law there. Does it mean that the British Government had no respect for the Privy Council ? So, this is not for the first time in the history of legislation that a legislature makes a law which the Supreme Court or whatever court is there at the time interprets it differently and that interpretation does not tally with the existing law, whether it is customary law or the law by legislation. Wherever there is a discrepancy between the declared law by the courts and the existing law—this has occurred in innumerable cases, starting from the Privy Council cases down to the recent ones—when it is said that the court has given a different interpretation and it is not the correct interpretation, etc., it does not mean that we are really discarding the courts or disrespecting the courts. Consistently for centuries in England and for a long time elsewhere, when the existing law did not tally with the court decisions and when the court decisions did not tally with the existing law, the legislators had come forward and declared the law and that was called and is called the Declaratory Law and that is an accepted principle in the history of legislation. So, there is nothing abhorrent about it, Mr. Advani, as you pretend to feel and an eminent lawyer like you, Mr. Advani should not feel so.

Coming to the second proposition, Sir, it is said that the whole law is *mala fide* in the sense that it has been brought forward in order to save the Prime Minister from the difficult position in which she finds herself before the Allahabad High Court. This was the second allegation by these people, if I understand them correctly. I do not know how this can be so. Suppose a law is made today so that the entire people of this country are entitled to certain rights. It will mean that the Prime Minister also, along with the entire people of this country, is entitled to that right. You cannot say that that law is made

for the Prime Minister. Do you now expect a law to be made applicable to the entire individuals in the country, but exempting the Prime Minister? If the law is applicable to the people of the whole country, it is applicable to the Prime Minister also. Or, do you want that the law should apply to all the individuals, but not to the Prime Minister? Is it this that you want? Also, you know that there cannot be a separate law for the Minister. If a situation is interpreted with some political motives, one can understand that. But you should not do that. You are in the Opposition now and your function is to oppose. But the opposition must have some relation to the existing facts. The fabrications and the fantasies which you are creating now must have some factual foundation. That being the position now, the arguments which have been advanced by the Opposition have no bearing on the existing facts at all. Sir, one thing I want to make very clear: During the course of the whole debate, the Opposition assumed the mantle of purity and lily-white purity and incorruptibility as if they are not getting money from the big business and are not spending that money for political purposes and as if it is only the monopoly of the Congress.

Yesterday the Finance Minister revealed some figures about Mr. Patnaik. I do not remember them: I am bad at figures. But it was a substantial amount. Immediately, Sir, it was claimed that it was for a political purpose. Mr. Piloo Mody has written that it is for political purpose. I do not know what they are going to do with this money. Do they intend to spend it for election or do they want to divide it among themselves? What is the idea? Immediately some amount somewhere is available, they are in such a shameless hurry to claim it as a political fund! These are the people. I do not want to name the places from where the money was got—conceivable and inconceivable places. But shamelessly they claim that it is political money, a political party fund. Are we supposed to believe that that money will be spent on giving charities or giving water or sugar or milk for the children? You do not use it for a political purpose? Mr. Viswanatha Menon very

very rightly and frankly said that individual candidates in his political party spent no money. Now, in this country the entire democracy is based on a political party system, and the party is predominant. You, Mr. Advani, I and every Member...

SHRI LAL K. ADVANI: Through the Chair.

THE VICE-CHAIRMAN (SHRI V. R. RAJU): In the House we shall not use the word "you".

DR. V. A. SEYID MUHAMMAD: I am sorry. We are here to represent political parties. There may be very few here who have come here individually. But the majority belongs to political parties. Our existence is here because of the dominance in the particular constituency of the political party which we represent, we have come here. That being the position, how can you forget the political party? I can understand their slogan of 'partyless democracy'. We know what they mean by 'partyless democracy'. 'Partyless democracy' means democracy *minus* party. That is one way of interpreting it. But what they actually mean is: Party *less* democracy. They have gathered all sorts of parties together. They are trying to gather all sorts of people to make it a big front. They are now very much afraid of 'Grand Alliance': they have had a bitter experience of it and they feel shy about it. But they want to call it by some other name and gather all the parties together and say: This is partyless democracy. Let us be clear about it. Let us light on principles. This sort of hypocrisy will not work. That you do not spend money on elections or you do not take money; if it be true it is because the people who give money may be reluctant. That is a different matter. But wherever they get it, they grab at it. You are making claims when money is recovered from inconceivable places... (*Interruptions*) This being the position let us be clear about it. Let us not delude ourselves that we are all fine fellows and that others are corrupt. The day after tomorrow we may have something more to say about it. But for the

[Dr. V. A. Seyid Muhammad]

time being, to oppose this Bill on the so-called principle of purity, becomes absolutely ludicrous and a comic opera.

DR. Z. A. AHMAD (Uttar Pradesh) : Mr. Vice-Chairman, Sir, I and my Party are not in agreement with this Bill...
{Interruptions} . . . are not in agreement with this Bill.

SHRI K. CHANDRASEKHARAN: Do you oppose this Bill ?

DR. Z. A. AHMAD: As it is.

SHRI K. CHANDRASEKHARAN: Why don't you put in the positive way so as to make it easier for us to understand ?

DR. Z. A. AHMAD : We are not in agreement, and as it is, we do not support this Bill.

Why is it so ? It is for a fundamental reason. Despite what Mr. Gokhale has said and the eloquent speech made just now by an hon. Member, it completely negates the principle of imposing restriction on expenditure by candidates during elections. It makes the whole provision ridiculous. I would be absolutely in favour of the Bill if it confined itself to the provision regarding expenditure by parties. If it had confined itself to the provision regarding expenditure by parties and if it safeguarded the elections or the candidates from the effect of the latest pronouncements by the Supreme Court, I would have agreed with it because I think it is fantastic to say that the expenditure incurred by a political party would be included or added on to the expenditure incurred by a candidate. It is an impossible exercise. It is difficult to differentiate how much really belongs to the domain of a political party or what belongs to the domain of a candidate. I think to make that sort of differentiation would be a politically wrong and practically futile exercise. I would have agreed to the Bill if it had confined itself only to the expenditure incurred by political parties. But it does not confine itself to that. It goes on further and says that the election of a candidate

by a political party "notwithstanding any judgment, order or decision of any court to the contrary, any expenditure incurred or authorized in connection with the election of a candidate by a political party or (here comes the rub) by any other association or body of persons or by any individual, shall not be deemed ...". What is the meaning of all this ? Any association of persons, anybody or any individual can go on spending lakhs and lakhs for one individual and that individual is quite safe. So, you reduce the whole thing to an absurdity. The provision regarding imposition of restriction on expenditure has been reduced to an absolute absurdity. A chamber of commerce may like to set up a candidate. Some big business or some big landlord may set up his own candidate and that man is quite free. He can talk about it freely and say that he has spent so much. Some businessman, some chambers of commerce, some merchandise association, or wholesale dealers' association or even a group of smugglers can support an individual.

SHRI U. K. LAKSHMANA GOWDA (Karnataka): All-India Peace Council or some organisation like that may also do it.

DR. Z. A. AHMAD : I would not like the Peace Council to be exempted. The Congress or the Communists or the Jana Sangh can carry on on their own. The position taken by the Supreme Court is incorrect. Sir, through you I will tell Mr. Gokhale that his position is absolutely indefensible, incorrect, and undemocratic.

It makes a farce of that provision which says that the expenditure should be controlled. After all, why was that provision included in the Representation of the People Act ? Because ours is a class society, because there is an enormous gap between those who are toiling in the fields and factories and those who mint money by hoarding, speculating, profiteering and all those things. And they are the people who lead the society. We have always said and we say that in a class-ridden society, where there are such differences in wealth, where there is such an inequa-

lity fundamentally, really speaking, there can be no free election. Because, after all, freedom implies equality of opportunity for those who vote and also the capacity to withstand the offensive of wealth and power, economic coercion and all that. Now, you are recognising that it is a class society. There are tremendous inequalities, hugt inequalities. Now, a little safeguard is put in. I know that that safeguard was not very effective. Sir, I know many friends who have been in this field for decades. I would not vouch for the correctness of all the statements of expenditure submitted by the candidates whether they were successful or they were defeated ...

SHRI S. S. MARISWAMY (Tamil Nadu): At one time, Mr. C. Subrama-niam was confronted in the Madras Assembly with the question whether he had spent the money as specified by the Election Commission. He himself confessed that he had spent more.

DR. Z. A. AHMAD: None the less, you exercise a certain restriction. I am saying that it is something you have to be careful about; one has to be careful about it. Now, Mr. Gokhale, you are giving a right to the prices and to the mill magnates to run amuck with their wealth, and to throw into the field their cars, their jeeps, their money, their wealth, their property and everything. And everything is permitted. What is this? Just think about it. I am sorry for you, Mr. Gokhale. The point is that you must realise that there is something like a democratic consciousness in India Now, you are a ruling party. Don't think that you will be the ruling party for all the time to come. No ruling party should be under that impression. There are millions and millions of people who are watching you. And if it comes to this, if I go and say that this is allowed by the Congress Party, by the ruling party that anybody can do anything—you reduced it to a joke—what election speech can you make? Your case is without any defence. You cannot make a defence of it.

SHRI S. S. MARISWAMY: Do you know what is being talked about in the

I Central Hall? This is the last election I and for that they want to open the flood-gates. After that, there will be no election. That is the talk in the Central Hall.

DR. Z. A. AHMAD: I am really sorry for you, Mr. Gokhale. You should try to understand the democratic consciousness of the Indian people. Don't hurt them too much. I don't want you to be defeated. I don't want that grand alliance to win.

SHRI RAJNARAIN: Why?

DR. Z. A. AHMAD: I don't want ; the grand alliance to win for the reasons which I am not going to dilate upon here. If you go on doing such things...

SHRI S. S. MARISWAMY: Are you against all alliances or only against the i grand alliance?

DR. Z. A. AHMAD: I only tell you, I feel sorry for you, Mr. Gokhale. One mistake after the other is isolating you from the people, the educated people, the intelligentsia. The whole thing is reduced to a joke. I tell you, Mr. Gokhale, to stand before an audience, an educated audience and defend this that anybody or any person or any prince or raja or maharaja can spend anything and everything, and yet there is a restriction on expenditure. You will not be able to convince anybod/. I am sure in the ruling party there will be many people who are not convinced. They will either run away or they will raise their hands because there is a whip from the party.

श्री राजनारायण : जब जयप्रकाश जी की इंदिरा जी से भेंट हुई थी तो जयप्रकाश जी कह रहे थे कि इंदिरा जी ने कहा कि थोड़े समय के लिए हमने रखा है।

DR. Z. A. AHMAD: म नहा जानता। Don't drag me in that controversy. I want to keep myself at a distance from that.

[Dr. Z. A. Ahmad]

Therefore, I have moved an amendment—not actually moved an amendment, but I am just stating that—that these words "by a political party or by any other association or body of persons or by an individual (other than the candidate or his election agent)" be deleted. If it is deleted, then it becomes a good Bill, a good law, otherwise, it will be a bad law. Political parties are carried on, but at the same time the individual has the freedom within certain restrictions, financial limitations, to organise the elections. So that is my position, and I hope the hon'ble Minister will appreciate it, even though he may not accept it.

Now, Sir, my general position is that we must maintain—this Bill does not do that—we must assert ourselves, the Opposition as well as the ruling party must see to it, that really some financial restrictions are imposed and those restrictions are made as effective as possible. We should operate, we should create conditions where the people act upon them or abide by them, so that those restrictions become operative. Therefore, I would say that ceiling on expenditure should be maintained, should be made stricter, and ways and means should be found out to enforce this, not just the formality of submitting the returns but there should be some sort of check-up also—sample check-up can be made, or something like that—and some sort of procedure be adopted to find out whether the returns are correct or incorrect and the loopholes found out.

Now, so far as donations to the political parties by companies and by the industrialists and other donations are concerned, I think it is a wrong thing, we should not encourage that. Why should any political party accept donations, openly or otherwise? I think that should not be legally allowed, and it should be morally condemned; we should raise our voice against that, because that is a source, a very big source, of corruption, and after all if you are going—

श्री राजनारायण : डा० साहू, विदेशी सहायता ?

DR. Z. A. AHMAD: *f&tit ^taRrr*

We are trying to move towards a socialist society. Then, of course, the ruling party cannot depend for its financial means or resources on this question which is fundamentally opposed to socialism, with beliefs in acquisitive society and beliefs in profiteering, hoarding, smuggling and all sorts of activities. From wrong sources the money will come. Generally speaking, it has to come from good sources, but it will come from bad sources, from illegal sources. So donations should not be allowed, should not be permitted, whatever be the opinion of the ruling party—I do not know what is the opinion in the Congress Party, but I will oppose it tooth and nail if freedom to collect money is given, for then all sorts of rotten people will come. They will sell everything, all sorts of agents and racketeers will become responsible and in charge of elections—I have got a lot of names here who do that sort of thing. Therefore, legally it should not be allowed and politically and morally it should be condemned.

Then I agree with the suggestion made by some people here that the Government should give some grants to recognised parties for specific purposes, for example, publications, papers and all those sorts of things. I think Government should do that because if we really want to encourage honest electioneering, then it should be there so that even a poor man can take advantage of that grant or a poor party can also take advantage of that grant. The expenditure can be scrutinised and checked and all this can be done. This grant should be for specified purpose.

Mr. Advani said about the radio time that more radio time should be given. I think it is a correct demand. In a democratic set-up the Government should give equality of opportunity. Of course, there are very small splinter parties; I do not know what should be done with them because in our country everything gets divided and divided. We

have a divisive society and we automatically get divided. Everybody seems to have his own *atma* and background of culture and all that and every party gets divided. None the less, recognised parties should be given the opportunity on the radio to broadcast programmes and policies.

Then, I think a suggestion has been made by Mr. Advani—and made earlier also—that all vehicles should be off the road on the election day. I have seen; I have also contested elections 6—7 times, defeated some time and won some time. I have seen that a poor man, a poor voter cannot go because he has to walk a long distance; women cannot also walk that distance. In many places what happens is that when the vehicle comes, people rush up and then they go and use that vehicle and vote in the manner they like. Then the vehicle-owners also would not pick up everybody. So, vehicles going off the road is very essential because that will cut at the very root of the malpractice.

Then there has to be a legal provision somewhere for protecting the weaker sections of the society, particularly the Harijans who are terrorised by the higher castes and stopped from going to polling booths. There has to be some provision. Mr. Reddy, the Home Minister is here. That thing has to be made a major offence, if somebody is stopped or prevented. In the western districts, in Meerut and Muzaffarnagar I know what has been happening year after year is, a Harijan is not allowed. Now who is not allowing, I am not going into that but the Harijans are just not allowed. They say "Your vote has been polled."

SHRI S. S. MARISWAMY: How would you like the idea of having mobile polling booths?

DR. Z. A. AHMAD: There can be various ways; there can be separate booths; there can be mobile booths if there are big villages. Some booths can be specially allotted or some police protection can be given and all that sort of thing is possible. For that, Government has to apply its mind to this

question. After a year or so, we are going to have a General Election to the Parliament.

Then there is another thing for which very very strong administrative and legal steps have to be taken, and that is the practice of capturing booths. I warn you, Sir, that in the coming elections, in many States, I would not be surprised if it becomes a common pattern specially in a State like Bihar or in some parts of U.P. They just go and capture the booth. I remember, my colleague Yogendra Sharma was contesting an election and against him was S. M. Mishra of the Cong (O) and from Nepal some gangsters were called, and particularly men like Kamdev Singh who is in jail in Nepal, came with gangsters and captured 19 booths. Nobody was allowed to go there...

श्री राजनारायण : श्री एल० एन० मिश्र ने किया था ।

DR. Z. A. AHMAD: Whoever did it: regardless of whether it was S. N. Mishra or L. N. Mishra or even myself whoever did it, the practice of capturing booths has to be discouraged. Unfortunately we are coming to a stage where in the midst of the House we go and raise our fists against each other as happened in U.P. yesterday.

What will happen in that case? I think you better apply your mind to that. I would request the hon. Law Minister and the hon. Home Minister to get ready and bring a new Bill amending the Representation of the People Act in order to give full safeguards to voters and not bring forward such Bills which unfortunately give full liberty or opportunity to the rich. It gives not only ample but the fullest possible scope for money power in the elections.

Thank you.

श्री रणवीर सिंह : उप-सभाध्यक्ष जी, मैं आडवाणी साहब ने जो प्रस्ताव पेश किया है उसकी मुखालफत में और विधेयक के समर्थन में खड़ा हुआ हूँ । डा० जेड० ए० अहमद साहब के

[श्री रणवीर सिंह]

लिए मेरे दिल में बहुत कद्र है। अभी उन्होंने शंका प्रकट की कि इसमें कंपनियों और दूसरों के खर्च की क्यों छूट रखी गई है? मैं यह कहना चाहता हूँ कि उन्होंने चुनाव तो लड़े हैं, लेकिन मैं समझता हूँ कि डा० साहब ने शायद कोई इलेक्शन पिटीशन नहीं लड़ा है। मैं डा० साहब से निवेदन करना चाहता हूँ कि मेरे खिलाफ एक महन्त श्रेयोनाथ ने इलेक्शन पिटीशन लड़ा था और उसने यह कहा कि मेरे मकान पर 104 गाड़ियाँ थीं। जितनी जगहों का उसने नाम लिया वहाँ पर 104 गाड़ियाँ खड़ी भी नहीं हो सकती थीं। अगर वहाँ पर 104 गाड़ियाँ खड़ी होतीं तो तमाम सड़कें बन्द हो जातीं। इसलिए मैं फिर यह कहना चाहता हूँ कि इस बिल के पीछे वही भावना है जिसकी आपने तार्जिक की है। आज हम लोग यहाँ पर इस प्रकार स्पष्टीकरण लेकर क्यों आए? श्री राजनारायणजी ने शुरू में ही आपत्ति जाहिर करते हुए कहा कि यह बिल कौन-से सेक्शन को एमेंड करता है और उन्होंने इस बात पर आपत्ति जाहिर करते हुए कहा कि इस बिल के ऊपर गौर ही नहीं होना चाहिए। उप-सभाध्यक्ष जी, मैं उनसे निवेदन करना चाहता हूँ कि यह देश गंगा जमुना का देश है। राम और कृष्ण की यह भूमि है। लेकिन यह सब होते हुए भी इस देश के अन्दर और बिहार के अन्दर जब जमींदारी उन्मूलन का कानून पास हुआ तो अदालतों ने उसको चलने नहीं दिया। इसके लिए कांस्टिट्यूशन में एमेंडमेंट की गई और वह बिल या एक्ट, जो भी कहिये, कांस्टिट्यूशन की शेड्यूल में रखा गया ताकि कोई अदालत उसमें दखल-अन्दाजी करके गरीब को जो फायदा पहुँचता है उस के रास्ते में रोड़ा न बन सके।

श्री आडवाणीजी ने यह आशंका प्रकट की थी और यह पूछा था कि क्या यह ठीक है कि श्री कंवर लाल गुप्त ने जो इलेक्शन पिटीशन फाइल किया था और उस पर सुप्रीम कोर्ट ने जो फैसला दिया था उस फैसले के बाद यह हालत पैदा हुई या इसके पीछे कोई और बात है? मैं उनसे

निवेदन करना चाहता हूँ कि वे तो बहुत विद्वान आदमी हैं, लेकिन विद्वान होते हुए भी कई बातें वे बड़े अजीब ढंग से कह गये। वे इस बात को भूल गये कि हमारे संविधान के अन्दर कानून बनाने की शक्ति सुप्रीम कोर्ट या हाई कोर्ट को नहीं दी गई है। कानून को तबदील करने की शक्ति सिर्फ ऐसमब्लियों को या पार्लियामेंट के हाथ में दी गई है। अदालतों के हाथ में सिर्फ यह बात दी गई है कि किसी कानून के क्या मायने हैं और किसी केस में कानून का इन्टरप्रेटेशन क्या हो, इस पर अदालतें अपना निर्णय देती हैं। सुप्रीम कोर्ट कोई कानून नहीं बना सकती है। सुप्रीम कोर्ट सिर्फ बनाये गये कानून का इन्टरप्रेटेशन कर सकती है। लेकिन यह बात भी देखने में आई है कि कानूनों को इस प्रकार से इन्टरप्रेट किया गया है कि जिससे कानून बताने वालों का मुँदा ही खत्म हो जाता है।

यह कोई नई बात नहीं है। चुनाव इस देश के अंदर 20-22 साल से लगातार होते आये हैं। सन 1952 से शुरू हुए और सन 1952 से कोई भी यह ख्याल नहीं कर सकता, कोई राजनैतिक पार्टी या कोई भाई यह ख्याल नहीं कर सकता था कि पार्टियों का जो खर्चा है वह उम्मीदवारों के साथ जुड़ेगा और अगर यह बात मान ली जाए, जैसा सुप्रीम कोर्ट ने कहा, तो यह बात कांग्रेस के लिए बहुत सही है ही कि कांग्रेस का तो कोई मेम्बर चुनाव हुआ, चुनाव नहीं रह सकता, चूंकि प्रधान मंत्री अगर एक जिले में जाती है तो जैसा राजनारायण जी ने किताब पढ़ कर सुनाया कि उनका खर्च भी पार्टी के ऊपर हो। वह खर्चा पार्टी का उम्मीदवारों के खर्च में जोड़ दिया जाए तो कांग्रेस पार्टी का कोई उम्मीदवार देश में जीता नहीं रह सकता, हर एक उम्मीदवार के खिलाफ इलेक्शन पिटीशन होगा और वह इलेक्शन पिटीशन के अंदर हारेगा। लेकिन क्या यह जो संशोधन लाए हैं, संखले साहब, जैसा उन्होंने कहा क्या यह प्रधान मंत्री जी के लिए लाए हैं। राजनारायण जी चले गए, मुझ तो अपने प्रदेश का ज्ञान है, हमारे प्रदेश के अंदर बी० एल० डी० के 4 सदस्यों में से 2 के खिलाफ

इलेक्शन पिटीशन है और अगर गे.खले जी यह संशोधन न लाते तो वह जितने ही मेम्बरी से हट जायेंगे—एक नाम है महंत श्रेयोनाथ और दूसरे का नाम है संत हरद्वारी लाल। एक महंत और एक संत, और वे दोनों ही हमारी असेम्बली में दिखायी नहीं देते। मैं तो कहता हूँ कि सभी दलों को बचाने के लिए यह बिल लें आये हैं। लेकिन सवाल तो यह है कि कोई आज के लिए यह कानून नहीं ला रहे हैं। अगला चुनाव होने जा रहा है। कब होगा 1976 में होगा, उसके बाद चुनाव 1977 में होगा या कोई उप चुनाव इसके पहले होता है, बाई इलेक्शन या कोई और चुनाव, तो सबके लिए यह कानून है और जब कभी कोई इलेक्शन पिटीशन फाइल करेगा तो उम्मीदवारों के लिए होगा। उपसभाध्यक्ष जी, मैं डा० जैड० ए० अहमद से कहना चाहता हूँ, जिस बात की उन्होंने आपत्ति की है, अगर यह चीज नहीं लायी जाए तो आप और हम चुनाव में जीते नहीं रह सकते। आपके खिलाफ असोसिएशन बयान देगा कि डा० अहमद के चुनाव में हमने 25,000 रु० खर्च दिया। उनका हिसाब किताब अपना है, वे अपने हिसाब किताब की कापी के अंदर लिखेंगे और इस तरह से आपके खिलाफ इलेक्शन पिटीशन में शहादत देंगे। आप कैसे साबित करेंगे यह बात गलत है? इसलिए यह अदालतों के ऊपर छोड़ दिया जाए तो किसी को कानूनी तौर पर उनके खिलाफ कोई गिला नहीं होगी। इतना अच्छा असोसिएशन, इतने कारखानेदार, इतने बड़े बड़े आदमी क्या झूठ बोलेंगे? उनके नुमायंदे झूठ बोलेंगे क्या? ये जो बी० एल० डी० के या ग्रेड एलायंस के मेरे भाई हैं, असोसिएशन उनके काबू का है या मीसा के तस्कारों के जो समर्थक हैं, हिमायती हैं, वे सब अपने कागज लाकर पेश कर दें कि फलां सदस्य के चुनाव में 25,000 रु० हमने खर्च कर दिया। तो आपकी कोई दुश्मनी नहीं, आप साबित नहीं कर सकते। आज चाहे इंडिविजुअल हो, आदमी हो, या असोसिएशन हो, वह कोई नाजायज फायदा उठा कर जो सही चुनाव हुआ है उसको गलत चुनाव साबित न कर सके इसलिए यह किया

गया है। आप जानते हैं, आज हम क्यों इस कानून में तबदीली ला रहे हैं? यह अपने जजों की अक्लमंदी की बिना पर ला रहे हैं वसना क्या जरूरत थी संशोधन की? अडवाणी जी ने कंवर लाल की याचिका के बारे में कहा। मैं कोई ऐसी बात नहीं कहना चाहता। लेकिन, जिस पब्लिक मीटिंग की बिना पर, 20-25 रु० के खर्च की बिना पर एक पार्लियामेंट के मेम्बर की मेम्बरी तोड़ दी गई है वह मीटिंग हुई है या नहीं हुई है इसमें जजों की राय अलाहिदा-अलाहिदा है। जो हाई कोर्ट के जज हैं वे मानते हैं वह मीटिंग ही नहीं हुई और सुप्रीम कोर्ट के जज कहते हैं मीटिंग हुई और इस बिना पर मेम्बरी से हाथ धोना पड़ा। तो बात यह है कि ये भाई लोग अपने नुमायंदे चुनकर भेजते हैं छः सात और 3 लाख व 50 हजार के करीब जो मतदाता हैं वे चुन कर अपने नुमायंदे बना कर भेजते हैं; उनको जो भाई अदालतों में बैठे हैं वे झूठी सचची शहादत के ऊपर उनके चुनाव को रद्द न कर सकेंगे इसके लिए कानून में यह तबदीली लाए हैं। यह तबदीली जैसा मैंने कहा, अगर हमारे प्रदेश को ही ले लीजिये, तो यह बी० एल० डी० को बचाने के लिए है। श्री राजनारायण जी को तो इन्दिरा गांधी ही दिखलाई देती है और हमको संत हरद्वारी-लाल और महंत श्रेयोनाथ ही दिखलाई देते हैं, जो बी० एल० डी० के अन्दर हैं। मैं यह बात मानता हूँ कि यह न तो प्राइम मिनिस्टर को बचाने के लिए और न ही संत हरद्वारी लाल और न ही महंत श्रेयोनाथ को बचाने के लिए है। यह चीज तो सभी ठीक चुनावों को बचाने के लिए है।

हमारे देश के अन्दर जो मान्य अदालतें हैं और उनके जो जज हैं, वे कई दफा फैसला उलट पलट दे देते हैं। उनकी समझ में देश के अन्दर जो तबदीली आ रही है, उस तबदीली को ध्यान में रखकर नहीं देते हैं। अभी श्री अडवाणी जी ने यह जिक्र किया था कि सरकार ने इस बात का फैसला कर लिया है कि जो कंपनियां हैं, वे अब भविष्य में राजनीतिक

[श्री रणवीर सिंह]

दलों को चुनाव के लिए चन्दा दे सकती हैं। उनका कहना है कि यह उन्होंने एक बड़ा गलत काम किया है। यह काम गलत हुआ है इसका ज्ञान तो मंत्री महोदय को ही हो सकता है, लेकिन मैं एक बात कह सकता हूँ कि जब चुनाव के लिए पहिले कंपनियां चन्दा दे सकती थीं तो उनको इन्कम टैक्स में माफी मिल जाती थी उस वक्त चन्दा देना एक खराब काम समझा जाता था जबकि आज छिपे तौर पर चन्दा दिया जाता है, काले धन के रूप में दिया जाता है। इस तरह से इस सम्बन्ध में भी दो विचार हो सकते हैं। कुछ भाई यह भी मान सकते हैं कि बगैर चन्दे के चुनाव होने चाहिये। अगर सरकार सारा खर्च इस सम्बन्ध में कबूल कर ले तो यह बात हो सकती है। चुनाव में बहुत रुपया खर्च होता है और कोई यह मानता है कि अगर चुनाव में काला धन आ गया है तो इससे राज्य की नीति में तबदिली आ जायेगी तो यह उसका भ्रम है। चुनाव के ऊपर खर्च होता है या नहीं होता है, कितना होता है, इसका व्यौरा मैं देने के लिए खड़ा नहीं हुआ हूँ।

कुछ भाई यह समझते हैं कि कांग्रेस पार्टी के पास जो धन आता है वह साहूकारों के चन्दे से आता है। साहूकारों के चन्दे से हम चुनाव जीतकर नहीं आये हैं, हम तो जनता की ताकत पर यहां पर जीतकर आये हैं। बड़ी बड़ी जो कंपनियां हैं, उनमें भी जनता का पैसा लगा हुआ है। आज देश के अन्दर जितना सरमाया हमारे कारखानों में हिस्से के तौर पर लगा हुआ है उसमें से 2900 करोड़ रुपया सरकारी सरमाया है और 2300 करोड़ रुपया प्राइवेट सरमाया लगा हुआ है। इसी तरह से जो बैंक हैं, जो बीमा कंपनियां हैं, हमारे प्रदेश में ट्रांसपोर्ट कंपनियां हैं, उसका हमने नेशनलाइजेशन कर दिया है। अगर हम उनसे पैसा लेकर और उनके खिलाफ बातें हेंक, तो किसी को क्या मिला हो?

कल ही हमने देश में जो 103 कमड़ा मिलें हैं उनको लेने का बिल पास किया है। इसके

लिये जाने पर भी लोगों में घबराहट होती है और यह कहा जाता है कि सरकार टूटी हुई चीजों को लेती है और कमजोर चीज को लेती है। मैं तो चाहता हूँ कि सरकार बिड़ला को जितनी मिलें हैं उनको अपने हाथ में ले ले और उनसे कहें कि वे देहात में जायें और जितने कारखाना लगाना चाहते हैं लगायें। सरकार उनको बौड़ दे दे और उन बौड़ के अगेंस्ट कर्जा दे दे और उनके जो बड़े बड़े कारखाने हैं सरकार उनको ले लें ताकि देश के सामने आम आदमी को बी० एल० डी० तथा जनसंघ वाले यह गलत धारणा न रख सकें कि जो सरकारी कंपनियां होती हैं वे घाटे वाली होती है, खराब होती और उनमें बहुत देरी में मुनाफा होता है।

आडवाणी जी ने भी कहा। कंपनियों से चन्दा लेना, खुला चन्दा लेना अच्छा है या बुरा है यह तो सोच का फर्क है। जिस तरह से आज चन्दा लेते हैं उससे यह अच्छा है कि कंपनियों से खुला चन्दा लिया जाय। राजनीतिक पार्टियां खुद मानती हैं इस बात को कि चन्दा खुला हो, पता हो कि किस पार्टी ने कितना चन्दा लिया है। अब उसको कोई छिपा नहीं सकेगा। आज पता नहीं कौन कहां से लाता है, कौन से देश से लाता है। चन्दे बगैर तो कोई चुनाव लड़ता नहीं। रुपए का चुनाव में कितना असर है। चौधरी शिवनाथ सिंह जो कांग्रेस पार्टी के उम्मीदवार थे, एक गरीब किसान के बेटे थे हिन्दुस्तान के सबसे बड़े सरमायेदार बिड़ला के मुकाबले चुनाव जीतकर आए कोई हिन्दुस्तान में यह मानता है कि चुनाव हिन्दुस्तान के अन्दर रुपए की शक्ति से जीता जा सकता है तो वह गलत है। अगर रुपए की शक्ति से चुनाव जीता जाता तो इस सदन के अन्दर राजा मेम्बर होते, इस सदन के अन्दर बड़े बड़े जागीरदार मेम्बर होते, बिड़ला और टाटा और उनकी एलाइड पार्टियों के लोग मेम्बर होते। कहां हैं वे? यह मानना कि रुपए से चुनाव जीता जाता है यह बिल्कुल गलत है। चुनाव लोगों के दिलों को जीतने से जीता जाता है इसीलिए कांग्रेस पार्टी

जीत कर आई और राजनारायण जी पिटे हुए हैं। पिटे हुए मोहरे आज इस तरह की कहानियाँ कहते हैं। प्रकाशवीर जी ने गिला किया कि सब ढोलों की पंचियाँ को इकट्ठा कर लिया जाता है। क्यों फैसला किया? वेस्टर्न यू० पी० के अन्दर लोगों को डराया जाता है। कि तुमने कांग्रेस पार्टी को वोट दिया तो यह किया जायगा। अब पता तो नहीं लगेगा कि किसने किसको वोट दिया; जो शक्तिशाली हैं गरीब को डरा नहीं सकते, गरीब आदमी अपनी मर्जी से पर्ची डाल सकें इसलिए यह फैसला किया गया था; इसलिए नहीं कि कोई हेराफेरी की जाय। हेराफेरी को रोकने के लिए फैसला किया गया था। अगर कम्पनियों से चन्दा लेने का फैसला सरकार बदलती है तो वह भी इसलिए कि कोई भी सरकार या दूसरी पार्टियों पर यह इल्जाम न लगाए कि काले धन से चुनाव लड़ रहे हैं। ईमानदारी से कम्पनियों से चन्दा आए। जो इस बिल के अन्दर कम्पनियों का या एसोसिएशन्स का जिक्र किया गया है वह इसलिए कि जो लोग ईमानदारी से चुनाव जीतकर आए हैं और जो बड़ी बड़ी कम्पनियों के मुखालिफ हैं, जो उनके राष्ट्रीयकरण के हक में हैं उनके खिलाफ गलत शहादत देकर चुनाव याचिका में उनको हराया न जा सके। इसलिए यह संशोधन रखा गया है; इसलिए नहीं रखा गया कि यहाँ गाड़ियाँ चलेंगी। गाड़ियाँ चलाने वाले भाई न डाक्टर साहब के लिए हैं न हमारे लिए। वे लोग तो गाड़ियाँ चलाते हैं किसी और के लिए। आप कानून बनाइए या न बनाइए, आडवाणी साहब की पार्टी के लिए तो गाड़ियाँ चलती रहेंगी।]

SHRI K. CHANDRASEKHARAN :

Mr. Vice-Chairman, Sir, I oppose the provisions of this Bill in entirety and without any reservations whatsoever. I say, Sir, without any reservations in view of the fact that hon. Dr. Z. A. Ahmad stated that he was opposing it with certain reservations and with some "pluses" and "minuses" in his mind. Sir, we on this side are of the view that this Bill, if enacted into law, would

ultimately impair the conduct of free and fair elections in this country. So far as we, some of the smaller Opposition parties, are concerned, this legislation would be a nail in the crucifixion of some of this Opposition and smaller political parties. Dr. Z. A. Ahmad has propounded the view that unaccounted spending by associations, body of persons and individuals would work havoc so far as free and fair elections in this country are concerned. There is no doubt that the proposition that he advanced is very sound and in practice the Bill would have that result. May I ask him, through you, as to whether the distinction that he made in respect of political parties would be wholly correct? I am prepared to agree with all those who propounded the view that a distinction must be made with regard to the general spending by a political party of all India stature or State nature throughout the country or throughout a particular State. Nobody stated that such spending also should be accounted for, should be partitioned out and the share identified so far as a particular constituency or a particular candidate is concerned, and that also should be included in the election account. Nobody advances that wide proposition. But when a political party finances the candidate that it has put forward and spends particularly for election of that candidate in a particular constituency, that expenditure would have to be identified and certainly earmarked as the expenditure by the candidate concerned. Honourable Shri Viswanatha Menon stated that so far as his Party is concerned, the party candidates never spend themselves. It is the Party that spends for the candidates. He was not referring to the general spending by the party, but particular spending for particular candidates in the constituency concerned. Honourable Shri Puri referred to another possibility where the party does not spend at all for the candidates. The party does general spending and the candidate himself spends in the constituency. There are, therefore, as hon. Members' versions go to show—even otherwise we all know—different patterns of spending so far as different political parties and different candidates are concerned. May

[Shri K. Chandrasekharan]

I ask the hon. Minister for Law and Justice whether the provision that has been incorporated in section 77(1) of the Representation of the People Act is a provision which should be there at all? Does he want that provision? Does he defend that provision? Is it the case that that provision is unnecessary? The provision was introduced in one form in 1951. In 1956 the provision went through an amendment and hon. Member Shri Advani referred to the speech made at that time by hon. Shri Hridayanath Kunzru expressing certain apprehensions and doubts in that regard. Be-that-as-it-may, nobody did contend either in 1951 or in 1956 that when a party finances a particular candidate and meets his election expenses altogether, these election expenses need not be accounted for at all by the candidate. That is a proposition which is being advanced by the Government for the first time.

Sir, two types of criticisms have already been made. And even anticipating the criticism, the hon. Minister who pilots this Bill had advanced his argument in the other House and even before that in public statements. Sir, criticism No. 1 is that the Supreme Court has placed itself, by its judgment in the Gupta case, in a new position altogether. I am not concerned. Sir, as I submitted initially itself, with the legal proposition. But we are concerned here with the moral background of Section 77 and the public purposes and public interests are undoubtedly involved in, and associated with, the provisions in Section 77 of the Representation of the People Act. Sir, what is the position prior to the 1974 judgment? I thought that the honourable Minister intervened when the honourable Dr. Seyid Muhammad was speaking because he said that he would explain a particular point and he was telling the honourable Member, Shri Advani. "Please wait. I will explain". Sir, may I pose this question to the honourable Minister: "Is the 1971 decision relevant at all?" Sir, the 1971 decision is not relevant at all. We are

not concerned with a particular passage or a phrase or a word contained in the 1971 decision. The facts of the 1971 decision would go to show that the decision was rendered in regard to expenses incurred by the friends and admirers of the candidate concerned. But, Sir, we are not concerned with the friends and admirers of the candidates concerned and we are not concerned with the question whether the candidate or his election agent would have allowed his friends and admirers to spend. The crux of the matter is not the question of any association or a body of persons or institutions as Dr. Z. A. Ahmad pointed out. The crux of the matter, according to me, is the spending by the political party specifically for the purpose of the candidate in a particular constituency. Sir, if you go through the pages of the proceedings of this House relating to the period 1967 to 1969, when I had the privilege of being in this House, you will find. Sir, that not a week had passed without any reference having been made to the donations by the companies to the political parties. The honourable Mr. Chandra Shekhar, the honourable Mr. Krishan Kant and several others from the Opposition side had been putting forward the plea that donations by companies to the political parties should stop and that legislation to that effect must come and the honourable Shri Raghunatha Reddy and various other Members of the Government were stating that this would be done and this was done. But what happened? Now, Sir, we find that instead of the donations by the companies, donations by the directors of the companies, by the chairmen of the companies, and the managing directors of the companies did continue and do continue and they continue in some form or the* other without being accounted for properly and black money is being ploughed into the election field. Therefore, Sir, the Government is now coming forward with a legislation—the decision of the Council of Ministers has already been announced in this regard—laying down that the ban with regard to company donations would not be there. The ruling party at the Centre and in many of the States is at an advantageous position

mainly because of the existence of the public sector and because many of the companies are in the private sector which need the help of the Government in one form or another, for their daily existence. If such mighty donations can be had from the companies hereafter, if donations in greater amounts can be had from individuals and associations, the political parties which have an advantage so far as finances for elections are concerned would certainly be at an unfair position of advantage insofar as the elections within a constituency are concerned. Sir, I do make a dividing line here. The most obnoxious aspect of this Bill is that it does not make that dividing line. It tries to mix up a body of persons and associations and individuals and to mix up all sorts of expenses incurred by the political parties and it does not make any distinction so far as the particular expenditure met "by a political party, that has sponsored the candidate in the particular constituency, is concerned. This is the dividing line which has got to be made. And without that dividing line, I submit, Sir, section 77(1) can be absolutely taken away from the Statute Book. Either section 77 can be taken away or here is an open invitation from the Government that hereafter every candidate who contests an election may put in a 'r.h' statement. He can do so on the basis of the amendment that has been made. He can say that every paisa of expenditure in his constituency has been made by the political party or a body of associations or by a group of persons or by an individual and that he did not spend anything at all.

5 P.M.

Sir, I have contested direct elections twice and I had the opportunity to file election returns, and I would agree with the hon. Member, Mr. Viswanatha Menon, that in the election returns that I had submitted the financial assistance that had been rendered to me by my party for the purpose of expenditure within that constituency had been included by me during the period, for the purpose of submitting the election return. It was not as if nobody knew what things were. Everybody knew that

the expenditure particularly made within the constituency has got to be put in by the candidate in his election expenses. And, therefore, Sir, what is being done today is a departure from the past... (*Time Bell*). The hon. Law Minister's statement that he is trying to continue the past and that he is going to see that the break made by the Supreme Court judgment is no longer there, I submit, Sir, is mixing up the matter, and without taking into account the dividing line which has got to be made, so far as the expenditure of the political party within the constituency is concerned.

So far as the aspect of *mala fide* is concerned. I do not want to state anything. I am not concerned with the legalistic aspect, I am not concerned with the aspect to *mala fides*. I pose the question once again as to whether section 77(1) has to be there or not? Is it the purpose, is it the intent, that the candidate should submit a fair election return of his proper and correct amount of election expenses? Is it the purpose that restraints are necessary in this regard? Is that restraint necessary in public interest and for public good? Is not the restraint being completely taken away? Is not the provision contained in section 77(1) being completely eroded by this amendment? That is the question I would like to pose.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Shrimati Purabi Mukho-padhaya.

SHRIMATI PURABI MUKHOPADHAYA (West Bengal) : Mr. Vice-Chairman, Sir, I support the amendment introduced by the Law Minister and oppose the motion that has been brought by Mr. Advani.

Sir, what is the purpose of this Bill? It has been made out as if we are trying to do something new which was not already in the Representation of People Act.

Mr. Vice-Chairman, Sir, you know the latest decision of the Supreme Court in the case of Mr. Chawla *versus* Mr. Kan-warlal Gupta. Always, under section 77 of the Representation of People Act, it

[Shrimati Purabhi Mukhopadhyaya]

was clear that the expenditure borne by the party will not be shown in the account that will be deposited by the candidate. As far as I remember, in most of the cases that were fought in the different High Courts or in the Supreme Court, the Courts upheld the decision that any expenditure incurred by the political party will not be deemed to be taken as the expenditure to have been incurred by the candidate. But in this particular judgment, they demolished—I am not criticizing the judgment, because I am not entitled to do it—they demolished all the previous judgments and precedents and they came out in this particular case against Mr. Chawla that the amount the party spent for the candidate will have to be shown by the candidate. This is the quotation from their judgment:

"When a political party sponsoring a candidate incurs expenditure in connection with his election as distinguished from expenditure on general party propaganda. . ."

"... and the candidate knowingly takes advantage of it and participates in the programme or activity or fails to disavow the expenditure or consents to it or acquiesces to it. it would be reasonable to infer (Mark the word 'infer') save in special circumstances that he impliedly authorised the political party to incur such expenditure."

In order to avoid this kind of judgments and maligning attitudes of different High Courts in future, we want the provision under Section 77 to be explicitly clear. That is • why the present amendment has been suggested to exclude the expenses by the political parties. What is wrong in it? May I ask the Members of the Opposition whether they included the expenses by the political parties when they filled their returns? None of them did it. When we suggest that the political party candidates are not expected to show in their returns the expenses borne by the party, they say it is dishonesty. Today I heard many new terms against us because we are trying to protect the provisions in the Representation of People Act which was passed in this very august House.

We should not leave it in the hands of the judiciary to interpret it in any manner. In order to make the wording of Section 77 explicitly clear, we said that the political party expenses would not be necessary to be shown in the candidates' expenses in the returns. We have heard so many things about company donations. It will be an interesting probe if you could just find out which are the political parties or the beneficiaries that get the maximum amount of company donations either from the company or from the Managing Director or from any other agent of that company. It is the parties in the opposition who get the maximum help from these company donations. Now they are trying to raise the question of all kinds of electoral reforms.

SHRI G. LAKSHMANAN (Tamil Nadu): Congress is getting the maximum, according to the records.

SHRIMATI PURABI MUKHOPADHYAYA : AH kinds of things are now being discussed in connection with this Bill. If there has to be any electoral reform, we will discuss it in cooler atmosphere and come to a unanimous conclusion. We will pursue that matter for future elections. I may say that when we were defeated in 1969 in many States, nobody raised this issue about the election process being wrong. We never cried hoarse by saying that the process of election was wrong. But when they have been defeated by the people, they are finding fault with the whole electoral process of India. This is a defeatist mentality. I will urge upon them to have cooler moments. They said that Mr. Jayaprakash Narayan had a committee and they suggested certain electoral reforms. I have read those recommendations in the paper. The new suggestions are very few or none at all. They only wanted to say whether it will be the American pattern or our existing pattern and in most of the cases they supported the present system of election or the party government. Mr. Vice-Chairman, Sir, in India, we have accepted the party system of government. It is the party which puts up the candidate, and it is the party's responsibility to see that the-

candidates win on its tickets. Sir, in the judgment, I find one sentence. They have said, "It will not be possible for a poor man or an independent candidate to contest the election." Frankly speaking, Sir, in this party system of government, it is the independent MPs or MLAs in different legislatures who tilt the balance. And the whole instability comes only because these independents do not come through any party and they can at any time change the sides. And this imbalance creates an instability. Therefore, Sir, when we have accepted the party system of government, our election manual should be explicitly clear about the symbols that the parties get, and there should be a limit of individuals contesting as independent candidates if we really want to stabilize parliamentary democracy in this country. In 1969, Sir, we have seen the floor-crossings in many States. It is our advantage alone but it was to their advantage too to encourage this kind of defection. And we have already brought a Bill here about defections.

Mr. Vice-Chairman, Sir. I should say that Mr. Chawla got the punishment though he was duly elected through the elections. Sir, the Judges in the High Court took a different view of the whole thing and gave a different interpretation. Till now, the 1974, no other High Court except the Supreme Court took the view that the expenses of the party will have to be shown by the candidate and that expenses by the party would have been deemed to be under the authorization or the knowledge of the candidate. Suppose I go as the Party's General Secretary to address meetings in different constituencies. I go from Delhi either in a car or by train or by plane. I address four or five meetings. I am talking of only myself, leaving the Prime Minister or the Home Minister or the Central leaders. And they say that these expenses will have to be apportioned and included in the candidates' expenses. Now, did the candidate authorize me to go there? This is the party which runs the elections. It is not the individual candidate belonging to the party who runs the elec-

tion. When the party puts up a candidate, it is the party which faces the election. It is the party's responsibility. No doubt, expenses borne by the Government can be shown as expenses authorized by the candidate. The judgment is here. I am not criticising the judgment. We thought that we must make it explicitly clear that the expenses incurred by the party should not be shown as expenses incurred by the candidate. Otherwise, it is illegal, it is immoral and it is unpolitical. That is why, this present amendment has come. And taking advantage of this amendment, all this brain-washing is being carried out in the country for the last few months, and they have shown themselves before us in course of their suggestions. I oppose this kind of suggestions. And I stick to the decision of the Government to make it explicitly clear, and I support the Bill.

SHRI UMASHANKAR JOSHI
(Nominated): Mr. Vice-Chairman, Sir, I won't take long—not being a man of law. I would say, at the outset, that this amendment, to say the least is unfortunate. It has damaged the credibility of the rulers and it does not in any way fortify the democratic standards that are very dear to us.

I speak as a layman. It should have been possible to come out with a decision to protect all the sitting members in the legislatures of the various States and Parliament. This would not have covered all posterity. I do not know whether it is possible legally and constitutionally. I speak, as I said, as a layman. Supposing there is, tomorrow, a snap poll, the future candidates will avail of this facility with all the parties: helping them in a big way financially.

There is a discussion in our country, there is a debate in our country, going on for quite a few years to cut down the election expenses. We are not a very rich country. The ruling party takes every occasion to impress upon the Opposition—which is meagre—that it is very popular. I would agree with the preceding speaker if her party could make the candidates-

[Shri Uma Shankar Joshi]

win without incurring expenses even as a party. It is very unrealistic that her party wants the right to spend more and more money in a poor country where the creditability of the democratic system is going down. What is more unfortunate is, Sir, that if there is a poll during this year, the blame will be laid at the door of the ruling party that it not only wanted to covet inconvenient cases of the past but also wanted to cash on this provision for the coming elections.

It was not fair for the learned Law Minister to have criticised the Judges of the Supreme Court. Already the Executive is behaving as if it is the most important institution in the country. When an hon. Member was speaking from this side, it was suggested from members of the Treasury Benches that the Supreme Court is not supreme but Parliament is supreme. Yes, Parliament is supreme but not the Law Minister. It does not go well with a Minister to criticise the Judges of the Supreme Court.

SHRI H. R. GOKHALE: I agree that the Law Minister is not supreme.

SHRI UMASHANKAR JOSHI: He should then behave that way. He knows law much more than I do. His behaviour should attest to his profession.

His criticism purports to suggest that the Judges have not availed of the previous judgments. I do not remember the actual words of the Minister but this is what he purports to say. It does not seem to be fair. The judgment does go into details of four cases which have come to the Supreme Court and having examined them the Supreme Court tries to take the law a little forward in consonance with the dynamism of a society which wants to develop rapidly.

Why is there this need for a party to spend so much after candidates? I read from the papers that when the U.P. elections were to be held, the would-be candidates thronged at the party office on the Rajendraprasad

Road in the company of legal advisers and advocates because to get selected as a candidate seems to be a financial proposition, a matter of profit.

Everybody in this country knows that elections have much to contribute to the creation of black money. Money which any political party gets for running elections comes from big business and big business ultimately gets that money from the pockets of the consumers and all this makes a mockery not only of democracy but of the very cherished ideal of '*garibi hatao*'. It has damaged the creditability of the ruling Party inasmuch as it has inculcated a doubt in the minds of the common men that the rulers are hand in glove with the big business houses. That is why I say that this amendment is unfortunate. Thank you.

SHRI G. LAKSHMANAN: Mr. Vice-Chairman, Sir, any amendment to any Act or to the Constitution is brought in by the Government of India based on the judgment of the Supreme Court or the High Court. Today this amendment has come in based on the judgment of the Supreme Court. What is the judgment of the Supreme Court? No candidate should spend more money whether it is from the party or an individual himself he should not spend more money. That is why they held the election of some person in the Congress Party as invalid. Now, what is this amendment to the Representation of the Peoples Act? It is just to give a blank cheque to the candidates contesting elections, to spend any amount. That is the amendment now. How has the judgment of the Supreme Court been flouted by the Government? Now they want a sanction of this Parliament to allow any candidate to spend any money and they want us, the people, not to know from which source that money comes. I would have appreciated this amendment had they fixed the ceiling also for the parties to spend on a candidate but they have not done that. The candidate is allowed to spend any amount, the party may spend any amount and the party may get any amount from whatever source, may be the black money. Therefore, this amendment is only to

flout the Judgment of the Supreme Court. The Judgment is that the money should not be spent more than the actual amount that is allowed to be spent by any candidate. Now Government of India wants to give a blank cheque to the candidates which will enable them to spend any money. After 25 years of our democratic existence, we call ourselves the biggest democratic country in the world. Whatever legislation we bring forward must be an example to other countries because we are the biggest democracy. But what have we done? Is there a legislation of this type in any other democratic country in the world? Is there such a legislation in U.K. or America? This legislation authorises the candidate to spend any amount and the source will not be made known to the people. It should

[The Vice-Chairman (Shri Jagdish Prasad Mathur) in the Chair]

not be questioned. We are setting a very bad example after our independence by bringing forward this amendment. It touches the self-respect of the nation. When the future historians write about our legislative history, they will definitely laugh at us. This has come about probably because the ruling party is in alignment with the Communist Party. Lenin had written in a book which I remember to have read some time ago that in democratic countries like ours one bag or box of currency notes has to be spent for getting one vote. Probably because the ruling party is in alignment with the Communist Party, Lenin's writings are coming true. The ruling party wants to spend any amount in the next elections. It is said that in order to circumvent the law and save the Prime Minister from her election petition, this amendment has been brought forward. It is also said that the Lok Sabha will be dissolved and then the ruling Party will have to face the election soon. I would say that they have 1976 in view. They know that they will be defeated in 1976 election because they cannot go to the people and tell them what their achievements are during the last five years when they were ruling the country. They are afraid of 1976 elections. If at all they can win the election, they can do that only with

money power. That is why this amendment has come now. And that is why I oppose this amendment. This tells upon the character of Indian nationals in this country. What do people talk about Parliamentarians and MLAs? They say that we are spending lot of money. The biggest political party, namely, the Indian National Congress should be an example to other parties in this country. I belong to a very small party. You may call it a tiny party. But how does the biggest party, which was responsible for getting independence for us, function? They are exposing the national character of our people. That is why I oppose this amendment.

What is happening in this country? There are two grades of people, two grades of citizens in this country. One grade is allowed to participate in the election and contest the election as well. The other grade is allowed only to participate in the elections, but not to contest. The second category consists of Government employees. They are the intelligentsia of this country. But they are not allowed to contest the election-even after 27 years of our independence. These are the two grades of citizens in our country. In U.K. everybody, provided he is a citizen of that country, is allowed to contest election and not only to participate. Unless and until Government employees in this country are permitted to contest the election". . .

SHRI P. L. KUREEL URF. TALIB (Uttar Pradesh): They can resign and then contest.

SHRI G. LAKSHMANAN: But that is not the position in U.K. which is a very small democratic country. The procedure there is that if any Government servant wants to contest election, he is granted leave. If he is defeated in the election, he can go back to his job. If he is elected, then also he will not lose his job. But in a big democratic country like ours... (*Interruptions*). You may differ. I would say that if our democracy is not to be a mockery and if it has to be a reality, every citizen of India must be permitted not only to participate in the election, but also to contest the election. Then

[Shri G. Lakshmanan]

only will there be character in the nation; there will be democracy based on character. Another thing is, we are talking so much about corruption and bribery. Please try this method. I would appeal to the Government of India. You include the Government employees; they should not only participate but also contest the elections. And you will see that the general character of the parliamentarians and the MLAs also will improve.

Another thing is, we must definitely put an end to this malpractice in the election. Money power is definitely playing its own role. How to stop it? After 25 years of independence, Shri Jayaprakash Narayan has started a big movement. But how to stop corruption and bribery? What will the people think? Every day in Parliament we are speaking about corruption and bribery and scandals. How will we be respected internationally? We will not be respected. Therefore we must put an end to all these things. Corruption or bribery or any other malpractice starts from the political life of this country. Therefore, I would put forth certain views how it should be implemented. In the election no individual candidate will contest, only the parties will contest the election.

AN HON. MEMBER: That is better.

SHRI G. LAKSHMANAN: Parties only will contest the election. In a particular constituency all political parties will contest the election. Suppose one political party wins, that will be taken as a candidate in that party. And likewise, whether to Parliament or to the Assemblies elections will be held. For instance—I am speaking about Tamil Nadu—if the DMK wins in 140 or 150 constituencies, the Executive or the General Council of the DMK will select the candidates, of course, giving preference to the particular constituency. A voter from that particular constituency, a partyman of the DMK, will be nominated as MLA or MP. Likewise, any party—whichever party gets the majority—will become the ruling party. They will elect their own Prime Minister or

the Chief Minister, as the case may be. Therefore, if we follow this method, not only money power but also communalism which is playing a very bad role in the democratic way of life of our country will be curbed. And if you put up the party, nobody will say that it is so and so. And in the electoral rolls also the name of the community should not be there. Then you may ask me, how about the reservation for the Scheduled Castes and the Scheduled Tribes? I would say, if the DMK wins 140 seats, such and such a percentage will be reserved for the Scheduled Castes and the Scheduled Tribes, of course, belonging to the DMK. And nobody should have his caste name appended. For example, our Home Minister, Mr. Brahmananda Reddy, will not be allowed to have 'Reddy' with his name; he will be called only as 'Mr. Brahmananda'. By this, communalism will also not play any role. And elections should be held within 15 days of the filing of the nominations. The election manifesto of each party will be printed by the Government of India or the respective State Governments and it shall be sent by post to each head of the family of the voters. And no public meetings will be held; only the election manifesto should be there, which will be printed by the Government of India or the State Government—the election manifesto of the Congress or the Communist Party or the DMK or the Socialist Party or any party contesting. I do not say about individuals. Each party, in a constituency, will publish 500 posters. This will also be borne by the Government. In the radio election manifesto will be read out every evening for ten or fifteen minutes giving chance to each party equally. If these methods are followed definitely, Sir, our democracy will be a success. Today I am myself blaming the Prime Minister that she is collecting money for the Congress Party or the Prime Minister or any other M.P. from the ruling party charging the D.M.K. that we are corrupt. Therefore, these things should stop. Unless this is done we are not going to solve this problem. Therefore, these suggestions you can consider. Even after 25 years of independence people complain why the account of the party is not made known

Unfortunately, they are taking advantage of poverty in this country and purchasing politics as a commodity. That is why they do not want this thing. If they were really bold they should have come forward in this august House stipulating that only so much would be spent on a candidate by a party. Sir, we had allowed Rs. 9,000 or Rs. 10,000 when the money value was 75 Paise or 80 Paise. Now what is the money value? Therefore, there is no meaning in saying that the ceiling would be Rs. 8,000 or Rs. 7,000. This expenditure must be met by the party and it should be accounted for along with the expenditure of the candidate and also the party expenditure.

Sir, giving blank cheque brings blame to the party. When some smugglers were arrested they said that politicians talked very bad of them in the day time, and in the night, including Ministers, came to them to take money. This is what the smugglers have said. Now, the Congress Party have brought this amendment. The Party has not repudiated what Haji Mastan has said nor any Congress Member has said anything so far.

श्री गुणानन्द ठाकुर (बिहार) : आप देख लीजिए आज हाजी मस्तान कहाँ है और किन लोगों ने भेजा है।

SHRI G. LAKSHMANAN: Therefore, Sir, I would say that if democracy has to be a success it has to be pure. Democracy is not only a form of government, democracy is a way of life in this country. Sir, this is the land of great leaders like Mahatma Gandhi and Jawaharlal Nehru. Had Jawaharlal Nehru continued to be the Prime Minister of India for some more time such an amendment would not have come; definitely it would not have come. And if he had brought the amendment he would have fixed the ceiling for expenditure. I would appeal to the Congress Members to tell their party leaders to have a ceiling on party expenditure also over a candidate. It will be moral and decent way of behaviour. Therefore, let us not become a mockery before the eyes of the public. The peo-

ple are not so very bad nowadays. They are watching everything. They have faced four or five elections. They know everything. Any citizen of India is more political, more democratic, more intelligent than even a Cabinet Minister of our country. Therefore, you will have to face the people of this country. Now you are getting a blank cheque because you have a brutal majority. What is to be considered is, what effect it will have on the people of this country. Therefore, in the interest of the Congress Party, the biggest political party, I am appealing to them not to have this blank cheque. Even if you are honest in spending the amount you cannot face the people in 1976. They will say you brought the amendment only to see that any amount could be spent. Therefore, such a criticism should be avoided; it should not come in the year 1975 when you are to face the election in 1976. So I appeal to the ruling party to fix a ceiling for the expenditure that may be incurred by the party itself. Let them study the suggestions that I have submitted before this august House in regard to the conducting of elections and consider them. And if anything can be done, it will be in the interest of the nation. Therefore, I oppose this Bill because it is a draconian Bill, it is a reactionary Bill, it is an anti-national Bill, exposing the self-respect and the national character of the people of this country and democracy itself.

THE VICE-CHAIRMAN (SHRI JAGDISH PRASAD MATHUR): Mr. Kumbhare. Mr. Lakshmana Gowda. Not here. Mr. Advani, you may reply.

श्री लाल आडवाणी : उप-सभाध्यक्ष जी, मैं उन सब माननीय सदस्यों का आभारी हूँ जिन्होंने इस चर्चा में भाग लिया है। मैं समझता हूँ कि अगर आप मुझे कल को रिप्लाय देने की इजाजत दे दें तो अच्छा रहेगा।

उप-सभाध्यक्ष (श्री जगदीश प्रसाद माथुर) : मुझे इसमें कोई आपत्ति नहीं है। जैसी सदन की इच्छा हो वेंता कर लिया जाय।

श्री रवी राय : ठीक है, इनका रिप्लाय कल को हो जाय।

उपसभाध्यक्ष (श्री जगदीश प्रसाद माथुर) :
अब सदन की कार्यवाही कल प्रातः 11.00 बजे
तक के लिए स्थगित की जाती है।

The House then adjourned at
forty-one minutes past five of the
clock till eleven of the clock on
Thursday, the 19th December, 1974.