

[Shri Banka Behary Das.] also said that block jeeps would be withdrawn. I would request that the Election Commission should issue a circular to all the State Governments that in no way, directly or indirectly, should Government machinery be used for a particular party. I want this assurance.

SHRI B. K. GAIKWAD (Maharashtra): I wish that the hon. Minister, who has announced the election programme, just now, will circulate it to all the Members.

SHRI JAIRAMDAS DAULATRAM (Nominated): Sir, I would like to seek clarification on a small point from the Minister of Law. It is stated here that a session will be held in the latter half of March for transacting the minimum financial business, such as the presentation of the Railway and General Budgets and the obtaining of the necessary votes on account. I just want to know, if there is any legislation, non-controversial legislation, to be passed over from this House to the Lok Sabha, whether there will be time available and that also will be included, because I understand that the next session is not only for financial business. If there is any non-controversial legislation passed over from this House to the Lok Sabha, could that also be taken up?

SHRI G. S. PATHAK: Sir, the statement that I have made relates to the programme of the elections. It is not concerned with the question of the conduct of the elections, nor is it concerned with the question as to who is entitled to vote, nor with the question of law and order nor with the question of preventive detention and so on and so forth. No questions can be put to a Minister under the Rules when a statement is made by him. But questions have even been put to me which do not concern my Ministry.

MR. CHAIRMAN: You can say that you are not concerned with them.

SHRI G. S. PATHAK: Now questions about political prisoners, banning of organisations, Sheikh Abdul-

lah's detention, and then certain hypothetical questions of Mr. Raj-narayan, i.e., if certain things happen, then what will be the Government's attitude, have been put to me. I hope, Sir, you will not ask me to answer those questions, because they do not belong to my portfolio.

Then, so far as the question of Mr. Daulatram is concerned, the position is that the preparation of the agenda for a particular Session is also something which does not belong to my portfolio and his question relates to the preparation of the agenda in relation to a Session. All that I can say is that this will be the programme, if there is sufficient time and if there is nothing in the practice or in the rules to prohibit other legislation from being introduced and passed. That is a matter which will have to be considered by the Leaders of the Houses concerned.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 1966—contd.

MR. CHAIRMAN: Mr. Arora. We will have to sit through the lunch hour.

SHRI ARJUN ARORA (Uttar Pradesh): Mr. Chairman, this Bill seeks to regularise certain things which follow the delimitation of constituencies and also make a certain other provisions.

[THE DEPUTY CHAIRMAN in the Chair.]

But I am sorry that in making provision for disqualification of candidates the Law Minister has not adhered to the earlier intention on banning contractors, particularly contractors who are under contract with public sector companies. The Select Committee made the recommendation that contractors under contract with public sector companies should also be disqualified from seeking election. But somehow the Government changed its mind and the Bill as it has come to us from the Lok Sabha does not disqualify the contractors.

Madam, the public sector in the country is growing and more than Rs. 2,000 crores are already invested in that sector. The Public sector companies have been given the status of companies with only one shareholder, and that shareholder is the President of India. That status has been acquired by them in order to facilitate commercial work of the companies, in order to ensure that the commercial work of those companies does not get tied down to the red tape of the various Ministries of the Government of India, particularly the Finance Ministry. That was the intention. The very fact that the President of India is the only shareholder of these public sector companies makes it obvious that whatever may be the form, in fact they are Government property as much as any departmentally run undertaking. The result of the provision is that while contractors to the various departments or departmentally run undertakings will be disqualified, those under contract with public sector undertakings which are growing—and I want them to grow even more—will be entering the Legislature.

Madam, all the money needed by the public sector companies is supplied by the Government from the Consolidated Fund of India of which the Parliament is the guardian. All the capital is provided from the Consolidated Fund of India. All the loans that they require are either given by the Government itself or given by the banks under guarantee of the Government. Why then should public sector companies be distinguished from departmental undertakings as far as political influences are concerned? Does the Law Minister realise that by not disqualifying contractors to public sector undertakings he will create a situation in which contractors will enter the Legislatures, get more contracts and deprive the public sector undertakings of their profit and rob them. Why should those people who are beneficiaries of undertakings run from funds taken out of the Consolidated Fund of India be given the opportu-

nity and the privilege of managing those funds? The contractors of public sector undertakings should also be banned.

Madam, there is already so much talk of corruption. There has been, for example, the C.B.I. report about Orissa which made it clear that if unscrupulous people enter the Government, they rob the Government, they rob the people. The result of the disclosures in Orissa and elsewhere should have been that the Law Minister should have tightened the law and made it impossible for profiteers, racketeers and contractors to enter the Legislatures, particularly when they are doing business with the Government or Government undertakings.

SHRI ABDUL GHANI (Haryana): What about Ram Ratan Gupta?

SHRI ARJUN ARORA: Ram Ratan Gupta is doomed. After his goonda conduct his passport is cancelled, and he will soon be sent to jail for violation of the Company Law and other laws. I think, Madam, the Law Minister should give a second thought to his attitude as regards contractors of public undertakings.

Before I sit down, Madam, I anticipate what the Law Minister will say. He will say that if he accepts my reasonable suggestion, of which I have given notice as an amendment,—it was recommended by the Joint Committee and removed at the instance of the Minister by the Lok Sabha—even if the Law Minister accepts my point of view, he will say, "Oh, today is the last day of the session of the Lok Sabha and if we make any change here, what will happen? The Bill cannot go back to the Lok Sabha for its concurrence." That is an obvious reply which our very esteemed Law Minister will make. But it is not a valid objection. It is an insult to this House, as somebody whispers correctly. Time and again we are confronted with this weak and insulting argument. Why does not the Government arrange its

[Shri Arjun Arora.] business -properly? Why was this Bill kept for the last days? As a matter of fact it was passed by the Lok Sabha only on the 2nd of December, which was originally the last day of its session. Why does the Government not show some foresight and why does not the Government bring forward important legislations early in the sessions? I must submit that during the last six years that I have been in this House I have wondered again and again on the incompetence and lack of imagination of those people who arrange the business of the Government. This argument that today is the last day of the session of the Lok Sabha should not open the floodgates of legislatures to the contractors who, having made profits out of their business with the public sector undertakings, want to place themselves in a position in which they can regulate the public sector undertakings and ask them to give bigger contracts and bigger profits. I hope the Law Minister who, I know, has no love for contractors, though some of them may have been his clients in the old days, would accept my suggestion to this effect. Of course, I have tabled an amendment which, I trust, the House will support.

SHRI K. K. SHAH (Maharashtra): Madam, I am particularly restricting myself to the interpretation of a section which is now intended to be included, which disqualifies any body of persons in 'trust for him' having a contract with the Government or a corporation, wherein the Government has a share-capital of more than 25 per cent. Now when the last amendment had taken place the words 'in trust for him' were interpreted in a number of ways. 'In trust for him' may also mean a man holding a large share capital. 'In trust for him' may also mean the share capital. And it was made clear that neither the managing agents nor the persons holding shares in a corporation having a contract with the Government will be disqualified. And in fact, opinion had to be

taken after taking opinion, clarification was made. Madam, I want the Law Minister to make it specific. I have no objection. But it must be his opinion. There are cases where, especially when the Government has been granting loans through the I.F.C. and other organisations, what is done is only a loan is given to a corporation. Now, who is rendering the service? The last wording is 'or the performance of any services undertaken'. Now, this is a service rendered in the sense that a loan is given to the corporation. In that corporation, there are a number of people who are shareholders, managing agents, managing directors, secretaries and so on. Now, whether it is intended to cover these or not, I want the Law Minister to clarify. I have no objection in a contractor being punished. I am agreeable to it. I have also agreed that a man may have an interest in a direct contract. But if he has an indirect interest in the sense that every one of his people is a share holder and when loans are given by the Government for the industrialisation of this country, it will be very difficult, unless this explanation is given. That is the only clarification I want.

SHRI NIREN GHOSH (West Bengal): Madam Deputy Chairman, I rather regret the way in which a new amending Bill has been brought forward because there are so many things involved in this. After all the convention is that Parliament has to govern the country. Whether it does govern or not is another thing but at least there is the formal convention. Now, in all these things, more serious consideration should have been given to all the subjects brought forward, I would like to bring to your notice that just before a general election which is impending, which is going to be held within the next few weeks, an amending Bill has been brought forward but with no penalties prohibiting the companies from donating to the election fund, of the different parties. It is in the interests of a company to donate to a political party.

If any business magnate out of his own pocket donates anything to any party, we can have no objection. And it is also well known that they will donate to the parties that subserve their interests, the Congress or the Swatantra Party. But to make a public limited company to subserve the interests of big business and the parties concerned, I think, is to make a mockery of the system of parliamentary democracy. When such a Bill was brought forward, even at the highest level of the judiciary, this criticism has been voiced. Yet, before another general election, such a Bill is before us, there is no penal clause preventing or prohibiting the companies from making donations to the election funds of the political parties. It is surprising. That they do want to corrupt democracy and finish it off, is clear from this. I do register a strong protest against this.

Then another thing is this. When the Representation of the People Act comes, the question of how the elections are going to be conducted is there, that is implicitly involved in this. The point is that nobody has any faith in the Government, either at the State or at the Centre, in conducting a free and fair election, so long as they are in office, the Election Commission may fix the dates, finalise the voter's list, this or that, in consultation with this Government. But it is known to everybody and the voters also know it—When we go to the voters they tell us that they cannot vote freely because this Government and its officials will hound us out, will harass us in various ways. So long as it is in office before the election, no freedom can be exercised. Our Prime Minister has not been Prime Minister for long, she ought, to have seen this.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Nobody said in this way.

SHRI NIREN GHOSH: You will accompany me. I will take you to the voters. Perhaps even if Ministers are prepared to accompany me, I will

show them; the voters will tell them how it is being done. So, there should have been a provision that the Government should resign. In the opinion poll of Goa, it is fit that the Bhandarkar Ministry has resigned so that a free poll can be taken. So also, just before a general election, all the State and Central Governments should not have any power to pass any legislation or to make any order. They should resign and some sort of a caretaker Government or something like that should have been formed with no powers to do anything pending the election and the formation of a new government.

SHRI K. K. SHAH: Enlightened Communist.

SHRI NIREN GHOSH: You will have an enlightened India when Communism is established and you will see what happens.

SHRI DAHYABHAI V. PATEL (Gujarat): Many of us will lose our heads.

SHRI NIREN GHOSH: I will keep your head, do not worry.

The third thing that I say is, complaints have been made publicly and on the floor of this Parliament also, that during the elections the Ministers of the States and the Union Ministers, go on their official business and the money is provided by the Government but they make election propaganda. But no such provision is there prohibiting the Ministers from doing it when they are on tour on official work at the expense of the State, because they are provided with all the funds by the State, and they are not prohibited from making any election propaganda, to subserve the interests of one political party that happens to be in power in the *gaddi*. That is also a common thing that by this the election is unfairly influenced. Then, our Law Minister said that it was not within his portfolio to answer questions. And I would like to say that after this General Election, whatever be the result, I am sure that the

[Shri Niren Ghosh.]

Congress would come to power in a number of States. Madam, 1 P.M. elections cannot be taken as an accurate barometer of the will of the people. Had there been proportional representation, had emergency gone, had the D.I.R. gone, had the Preventive Detention Act been scrapped, had there been the widest possible democracy allowing all sections of people to organise and participate in elections, if all these conditions had been fulfilled, then within the limits of capitalism can there be democracy. Then there could be democracy. But just at this moment, when there is permanent emergency in our country, a permanent D.I.R. which is not being withdrawn from the statute book, a permanent lawless law of preventive detention, there is no democracy. How long is India going to be governed by minority? The question arises: How long? In none of the three elections, either at the State level or at the Centre, did the Congress have a majority of the votes cast. So how long such a big country is going to be governed by a minority of voters, minority of the electorate, minority of the people? It is a minority rule which is being termed as democracy. How long will this continue? I want to raise this question.

The fourth thing that I want to say is that the Election Commissioner should be selected from public life. An I.C.S. or an I.A.S. cadre man should not be made an Election Commissioner. An Election Commissioner should be a man from the public life, a person in whom all the parties can have confidence for his impartiality. He should be a person of honesty and integrity and beyond question, in whom all the political parties can have confidence. Only such a person should be made the Election Commissioner and not one drawn from the I.C.S. or the I.A.S. cadre.

SHRI AKBAR ALI KHAN: But he is trusted by all so far. His integrity has not been questioned.

SHRI NIREN GHOSH: I would like to know how Mr. V. C. Shukla is involved in the 'Statesman' case. Who gave all this story about us to the 'Statesman', I should like to know. Perhaps the whole thing will come before you. I would utilise this opportunity on the floor of the House to say that though this famous Minister was disqualified, the moment the Election Commissioner came forward, he became qualified. Such is his impartiality. You may find this impartiality to your advantage, but I would not like to have this impartiality for our disadvantage.

Another thing mentioned herein is about political workers sentenced for some period. Political workers, Madam, unless they are sentenced for moral turpitude, should not be disqualified from standing in any election. It may be that a political worker had to suffer imprisonment for contravention of some law. For that reason he should not be disqualified from standing or from voting in the elections. No sooner a political worker is sentenced, say, for two years, then he is at once disqualified from standing or voting in an election. This is very wrong. I can understand if there is a treason charge against him for which he is convicted or there is moral turpitude involved. Certainly debar such a person. By this provision it is we who stand to suffer in India. We are bound to come in confrontation with the Government some time or the other on various issues either on the floor of the House or in demonstrations in the streets for which they convict us, bring us before the court of law and get us convicted for 2, 3, 4 or 6 years and thus debar us from participating in the elections. It is very, very unfair and discriminatory. So this clause should also go.

Then, Madam, the powers of the Election Commission should be curtailed. I do not know why cases represented by us are not always taken into serious consideration. Everybody knows how in various ways the State Government machinery and sub-divi-

sional officers function as the revising authority. This time when we were in jail, we found that innumerable—4,000 to 5,000—voters are not there in the voters' list. On the contrary, some other 4,000 to 5,000 voters, who do not exist, have come to have a temporary life in the electoral rolls. Actually they do not exist; they are not in this world or they may be in some other constituencies. So all these things are done. The Government machinery is weighted in favour of the Congress Party and rules are prepared accordingly. Therefore, the Election Commissions and subordinate officers should be a separate, permanent machinery, not connected with officers who are bound to bow before the party in power.

As regards the trial of election petitions, I suggest there should be a clause saying that all election petition trials should be finished within six months. The trial should not go on for one year, two years or three years almost covering the entire period for which the Member is elected. It must be made obligatory that all trials, all hearing in connection with election petitions should be completed within six months of the filing of the complaint.

As regards the questions of contractors, I join with Shri Arjun Arora.

SHRI SHEEL BHADRA YAJEE (Bihar): It is also to our advantage.

SHRI NIREN GHOSH: Why do you object then? What I say is all these public sector undertakings are really Government property and all contractors employed in business or in connection with works in those undertakings should be prevented from standing for State legislatures or for Parliament. You cannot have two sets of laws, one for contractors in connection with the departmentally-run undertakings and the other for contractors having relations with public sector undertakings. The two sets of contractors, whether in the public

sector undertakings or in the departmentally-run undertakings should be banned.

Then persons convicted for violation of company law, Foreign Exchange Regulations or evasion of taxes should be debarred from standing for the Legislature. This provision is not there. Madam, every year some Rs. 300 crores are evaded which goes into the black market. In this many firms and many persons are concerned. Year after year this corrupt practice has been going on. But unfortunately such people are not debarred. There are big companies involved in these offences, guilty of tax evasion. But these people are eligible for standing in elections. That is not fair. All those companies should be brought under this umbrella. I would also like to say that in our country, or for that matter in any capitalist country, all the Government servants, in whatever capacity they might be, should have the freest possible right to participate in election campaigns. I would personally like that they should have the right to stand for election, I have no objection to that but be that as it may and it may taste sour in the mouths of many, I would like to say that you cannot debar some 2 to 31 crores of people from the political life and banish them from the country. Whatever moth-eaten democracy may be functioning—this is a moth-eaten democracy of a bourgeois character but whatever it is (*Interruptions*)—the people in the Poice, Army and the Central Government, all, should have the right to participate in the election campaigns freely without let or hindrance. If you debar one crore of people and their families—constituting another 3 crores—what is that democracy? I would plead for their unhindered right to participate in the election campaigns and say whatever they like, fight any party as they like and for the right of every party to approach them freely; otherwise you are keeping a vast section of the people practically outside the orbit of the political life of the country and the

[Shri Niren Ghosh.] election which is held once in five years to establish which Government or group of the big bourgeois and landlords can rule in this country or whether there should be a coalition between the Congress and the Swatantra Party. They, are two sides of the same coin.

THE DEPUTY CHAIRMAN: That will do. Mr. Kesava Rao.

SHRI V. C. KESAVA RAO (Andhra Pradesh): This is a very important Bill. This Bill to amend the Representation of the People Act should have come to this House earlier. Today is the last day for the Lok Sabha. The Minister is not in a position to accept any amendment to this Bill. We know that if any amendment is passed, it has to go to the other House and now there is no chance of the other House meeting before the elections. So an amending Bill like this should have been introduced in this House or the other House a little earlier.

I would point out that the Election Commission has been an arbitrary body because Parliament has nothing to do with the appointments of this Commission. It is not connected with Parliament and so it is an independent body. They are taking the law into their hands and we have no power to change the decision of the Election Commission.

Regarding the Delimitation Commission I would point out that they published their original proposals and later on they themselves changed them. Nobody knows how they came to that conclusion even without taking any evidence from political parties or any leading persons in the districts. They themselves have changed the constituencies as they like. In one instance they have clubbed 4 Assembly constituencies of one district and three Assembly constituencies of another district and formed a Parliamentary constituency. Where the Krishna river joins the sea, it has 5 or 6 branches

and they are about 20 miles wide. Nobody can cross if one wants to go to the other side. One has to take tiny boats. Regular power-driven boats are not there because it is shallow there and only country-boats will go. The Delimitation Commission said that there was no river in their map. They had a map without a river, without hills and there was only an outline map. They looked at only the taluks or samitis. In such a case I do not know and I am doubtful how they come to any conclusion and form constituencies. Another thing that I have pointed out to them is this. One constituency has got 35 miles length and 25 miles width. They had formed such a constituency in their original proposal but in their next proposal they formed a constituency with two firkas. In their next proposal they changed them and put four firkas and they added all the mileage. There are no roads. Everybody knows that tin-villages are not connected with roads and they do not know whether there are roads or not. People from tin political parties also represented that this is the position. The people in the Delimitation Commission are retired persons. They do not understand anything and do not know what is in the area. In some cases the Assembly members also represented the case but it is not heard. In such cases they have utterly failed and they have not heard any evidence from the public. In some cases this has happened. Another thing is we all know that the population is growing day by day and in spite of the Government spending crores, we are not able to control the population of the country. I do not know how the Delimitation Commission came to the conclusion that there was reduction of population in some States. They cannot say that the population has not gone up between 1951 and 1961. Every State has shown increased population and along with that the voters also must have increased. In case of Andhra they have reduced two Parliamentary seats. In Maharashtra they have reduced three for the Scheduled Caste and in Orissa one

And another thing I want to point out here, Madam, is that the Scheduled Caste converts to Christianity must also be treated as Scheduled Castes and allowed to have a claim on the seats reserved for Scheduled Castes after delimiting the constituencies on

[Shri V. C. Kesava Rao.]

their population basis. In my State there are about thirty lakhs of Christian people but not even one M.L.A. or one M.P. is from among them, because political parties also now think of only a higher caste man who has the money and who can be elected, not a man from among the minority community who, in all fairness, should be supported and elected to represent his community. One point, more, Madam.

THE DEPUTY CHAIRMAN: Now your time is at an end.

SHRI V. C. KESAVA RAO: One word, Madam. I want to point that this is a big country having a democracy, and it is the largest in the world. Now I am afraid that every State has got some trouble or the other, in every State the Government is not working smoothly. So, at the time of the elections I think the State Governments must be suspended and they must be placed under the Governors and they must be given special powers to run the administrations till after the elections. Then only I feel that proper elections could be had. Otherwise there is scope for corruption. So I point out that this may be borne in mind by the Government.

Thank you, Madam.

उपसभापति : श्री राजनारायण ।

श्री राजनारायण (उत्तर प्रदेश) : हमको कहा गया था कि हम बाद में बोलेंगे ।

उपसभापति : आपको नहीं बोलना है ?

श्री राजनारायण : नहीं, हम को बोलना है ।

THE DEPUTY CHAIRMAN: You can speak later if you want.

श्री राजनारायण : हम को यह कहा गया था कि जब दूसरी पार्टियों के लोग बोल लेंगे, तब हम बोलेंगे ।

उपसभापति : अच्छा, मिस्टर बासु ।

श्री राजनारायण : कहीं लोग यह न समझें कि हम उनका हक ले रहे हैं ?

श्री अकबर علی خاں : آپ کا حق کوئی لے سکتا ہے -

†[श्री अकबर अली खां : आप का हक कोई ले सकता है ।]

SHRI CHITTA BASU (West Bengal). Madam, the primary object of this Bill as stated by the Minister is to remove the drawbacks, or rather, plug the loopholes in the parent Act of 1951, which had been discovered during the last three elections, and to ensure the passing of an election law to remove all those drawbacks in the original Act. But this object has not been kept always in view while drafting this amending Bill. There have been retracing of steps and departures from the said object, and I feel that that attitude has not been revealed in the Bill throughout. Rather the Government appears to be hesitant and half-hearted in the matter of removal of those loopholes.

[THE VICE CHAIRMAN (SHRI M. P. BHARCAVA) in the Chair.]

Sir, free and fair elections is the *sine qua non* for the success of democracy, particularly for the system of parliamentary democracy. But to me it appears that these proposed amendments fall far short of those changes which are needed to make the original Act free from all those drawbacks noticed in the past.

Sir, during the past three elections we have witnessed that malpractices and corrupt practices in the elections were being indulged in multifarious forms and natures, i do not like to go into the details of those forms and natures of the corrupt practices encouraged by the candidates of the ruling party. But in so far as my experiences go, I know these are the general forms and natures of corrupt practices and malpractices. Sir. votes are sometimes purchased in exenarure

[] Hindi transliteration.

of money. Impersonations are fairly resorted to. Fleets of vehicles are used by certain candidates particularly belonging to the ruling party. Sir, a large number of paid volunteers, paid organisers, paid canvassers are employed to work for the candidates. Sir, arrangements are made by certain candidates for the conveyance of the voters to the polling booths. Sir, illegal gratifications are freely resorted to. Misuse of the position of the Ministers is sometimes made in order to induce the voters, in order to coerce the voters, in order to intimidate the voters, and Government machinery is freely used for the purpose of electioneering for the ruling party.

Sir, we expected that certain amendments would be brought forward to at least remove some of these, but to my greatest surprise and astonishment I find that that attempt has not been made. If we take pains to look into the depth of this matter we would certainly come to this irresistible conclusion that it is the largeness of the purse which determines the chances of the victory of the candidates. It is not a political opinion. It is not the country's cause, it is not democratic opinion which carries the vote: but it is largeness of the purse that determines the fate of the candidate. Fair and free election can be possible only at that time when the Government can ensure the equality of advantages and also the equality of the disadvantages. But, Sir, since some candidates generally belonging to the ruling party enjoy the huge financial backing of the money bags of the country, the financial sharks of this country, there is no possibility of equality of opportunity and equality of advantages and also equality of disadvantages for all the contesting candidates. Unless the Government makes a deliberate and sustained effort in the matter of preventing illegalities and the entry of money into the election field, unless the Government makes energetic effort to ban the use of black money in the election

field, there is no possibility of ensuring fair and free elections. And if we fail to ensure free and fair elections, we are not strengthening the base of democracy in this country, but we are destroying the base of democracy. I felt that this Bill would have come as a measure for strengthening the base of democracy in the country. But I am sorry to say that this Bill is one meant to destroy the base of democracy, so far as I can see it. I can explain it in greater detail. Instead of broadening the base of democracy, instead of making this Parliament a real Parliament of the people of India, by this amending Bill, this Parliament is going to be converted into a happy hunting ground for contractors, big financial sharks and money bags.

SHRI SHEEL BHADRA YAJEE: How?

SHRI CHITTA BASU: I will come to that and show how. You are bringing in the contractors here. While it should have been the duty of the Government to put restrictions on the entry of these undesirable elements into Parliament, while it was the duty of the Government to ensure fair and free elections and to ensure equality of opportunity and to create preconditions for the success of poor candidates coming in, for the poor classes coming from the peasantry, coming from those sections of the country which have been exploited, the Government is actually creating conditions by which these money bags will be coming and adorning the seats where Mr. Yajee is sitting today. The Election Commission in its report on the third general elections took note of these things. I felt that the recommendations which the Commission had made would find place in this amending measure. As far as the employment of paid canvassers is concerned, the Report, of the Commission contains a recommendation of this type, to the effect that the employment of paid canvassers by a candidate should

[Shri Chitta Basu.]

be prohibited. I will read out that particular portion from that Report:

"The employment of any paid canvasser other than the duly appointed election agent of the candidate shall be prohibited."

Sir, is there any such provision, any provision of this nature, in this Bill? No, there is none. There is no provision of this nature in this Bill.

Sir, there was another recommendation wherein it was stated that the Commission was of the view that the legal provisions relating to election expenses as they stand at present are of no use and they call for drastic amendment or total repeal. I do not agree with that part of the recommendation where it is said that there should be total repeal, because such total repeal will only open the flood gates for more candidates winning at elections who have got large purses to back them. But it was expected of the Government that certain measures would be taken in order to drastically limit election expenses which have become so exorbitant and are not at all within the capacity of the poor people who want to take part in elections and come into the State Legislatures or to Parliament.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Chitta Basu, it is time to wind up.

SHRI CHITTA BASU: I will take only two more minutes. Instead of drafting it in the light of recommendations of this nature, what do I find here? There is no such provision. There is the recommendation that fleets of vehicles are being used by certain sections of the candidates and there should be a ban on such use. There should have been a provision here banning or at least limiting the use of such vehicles. But no such provision is there in this Bill.

In the end what I would like to urge upon the Government is that on them rests the future of democracy in

this country. Today since there is no scope for free and fair elections the people of our country are losing faith in this type of elections and ultimately my fear is that they will lose faith in democracy itself and in the democratic set-up. What I feel is that this is not a democratic government. This is not a Parliament containing individuals representing the real masses. Here there are only individuals belonging to the ruling party. Although they are supposed to be popularly elected every five years, they have got no relation with the masses in general. This type of Government is determined to adhere to power and for the sake of adhering to and clinging to power, they are making such electoral laws which can ensure their victory and which can bring such persons into Parliament and the Legislatures who can serve the cause of the ruling party, the capitalists, the big money bags.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Now you are encroaching upon the time of other Members. Please wind up.

SHRI CHITTA BASU: Therefore, what I want to say is that this Bill is not a Bill for ensuring free and fair elections. This Bill is only intended to ensure the success of the Congress Party, and particularly to bring in all those financial sharks into Parliament who can serve the cause of the capitalists in the country.

With these observations. Sir, I oppose the Bill.

श्री शीलभट्ट याजी : माननीय वाइस चैयरमैन महोदया, इस जन प्रतिनिधित्व संशोधन विधेयक का मैं समर्थन करता हूँ।

श्री राजनारायण : कोरम नहीं है।

उपसभाध्यक्ष (श्री महावीर प्रसाद भार्गव) : लंच ब्राकर में।

श्री राजनारायण : क्या कोई फंक्शना ऐसा हो गया है।

उपसभाध्यक्ष (श्री महावीर प्रसाद भार्गव) : आपने ही सजेस्ट किया था ।

श्री राजनारायण : भगर वह चला नहीं था ।

श्री शीलभद्र याजी : जब आपको जबरत पड़ती है तो कोरम की आवश्यकता नहीं . . .

श्री राजनारायण : मैं तो आपको सुनने के लिये हूँ ।

श्री शीलभद्र याजी : तो इसका स्वागत करते हुए यह कहना है कि हमारे विरोधी दल के लोगों ने इस विधेयक की मुखालिफत करते हुए कुछ उट पटांग सी बातें कीं और कहा कि जिस तरह बड़े-बड़े धनाढ्य लोगों को कांग्रेस में ले कर हम विधेयक के जरिये से शासन करना चाहते हैं। जो बोलने वाले ने वह बिन सिर पैर की बात बिना समझे बूझे कर रहे थे, कुछ बात समझ में नहीं आई ।

वाइसचेयर मैन साहब, भुक्त भोगी तो हम लोग कांग्रेस के हैं जो कि धनाढ्यों के शिकार हुये । पीने तीन वर्ष तक हमने एलेक्शन पेटिशन लड़ा, हमने चार सीट खोये और ये अपोजीशन वाले भी बिकने वाले थे । मैं नाम ले ले कर यह कहता हूँ कि अपोजीशन की कई पार्टियाँ हैं, जिनके एम० एल० ए० लोगों को राज्य सभा की सीट के लिये धनाढ्य लोगों ने खरीदा । उनकी एक भी सीट नहीं बिकी हमारी चार सीट बिकी, तो पूँजीपतियों के, कैपिटलिस्टों के शिकार तो हम होते हैं, तो उल्टा चोर कोतवाल को डाँटे वाली बात चल रही है ।

श्री राजनारायण : चार सीट आपकी बिकी ।

श्री शीलभद्र याजी : कांग्रेस की चार राज्य सभा की सीटें 1964 के राज्य सभा के चुनाव में बिकी थी । बड़े-बड़े धनाढ्य कैपिटलिस्ट लोगों ने विरोधी दल के वोट

को भी खरीदा । तो जो कैपिटलिस्ट्स हैं वह तो प्रहार करते हैं और डाह्याभाई पटेल साहब इस चीज को अच्छी तरह से समझते हैं क्योंकि वह जानते हैं कि कांग्रेस सही भावों में सोशलिज्म से आगे जा रही है । वह इस चीज को अच्छी तरह से समझते हैं । यह बड़ी खुशी की बात है । मुझे तीन वर्ष लड़ने के बाद अनुभव हुआ, हमारे ऐसे एक गरीब वक्ता को पीने तीन वर्ष के अन्दर, एक वर्ष तक ट्राइ-ब्युनल में केस चला, छः बार हाई कोर्ट गया और दो बार सुप्रीम कोर्ट आया, हमारे खिलाफ में एक इतना धनाढ्य, धन कुबेर आदमी था जिसको पैसे की कभी नहीं, तो भी एक वर्ष ट्राइब्युनल में रहा, छः महीने में खत्म होने की बात है और साल भर लगा, छः बार हाई कोर्ट आया, दो बार सुप्रीम कोर्ट आया, तो खेत बेचना पड़ा और क्या-क्या नहीं करना पड़ा, 164 वकिंग डेज हुए कर और करीब 76 हजार रुपया खर्च हो गया ।

श्री राजनारायण : आपका ।

श्री शीलभद्र याजी : जी हाँ ।

श्री राजनारायण : कहां से इतना पाये ।

श्री शीलभद्र याजी : अपनी जमीन बेच कर खर्च किया, आपसे भीख मांग कर नहीं । अपोजीशन के, पी० एस० पी० के, स्वतंत्र पार्टी के, एस० एस० पी० के लोग जो चोर निकले जिन्होंने रुपये लेकर वोट डाले, हमारे भी चोर निकले और उनके भी निकले ।

श्री राजनारायण : कितने हजार में कितनी जमीन बिकी ।

श्री शीलभद्र याजी : सब कुछ किसी प्रकार से किया । हिन्दुस्तान में इन्स्पेक्शन आफ बैलट पेपर हुआ जब कि वर्ल्ड में कभी नहीं हुआ, सुप्रीम कोर्ट ने, हाई कोर्ट ने, आर्डर किया । तो यह सब हमने किसी तरह से किया । यह जो छोटी मोटी पार्टी के लिए

[श्री शीलभद्र याजी]

वह कहते हैं। पी० एस० पी० के बिके, एस० एस० पी० के बिके, स्वतंत्र पार्टी के बिके, कांग्रेस के बिके जन संघ के बिके। तो हम तो भुक्त भोगी हैं, एलेक्शन पेटीशन लड़ने में न मालूम क्या-क्या हमें तजुर्बा हुआ, अनुभव हुआ। एलेक्शन कमिशनर ने इस आधार पर जो सजेसन दिया उसके आधार पर इस में अमेंडमेंट होना चाहिये। ठीक है, कि ट्रिब्यूनल को खत्म किया और अब मामला हाई कोर्ट में जायगा, लेकिन एलेक्शन कमिशन ने कहा था कि यदि डेमोक्रेसी को चलाना है तो ये जो इतने लोग इनडिपेंडेंट खड़े हो जाते हैं यह न हों। तो इसको रोकना चाहिये। यह देखना चाहिये कि धनी लोग, कैपिटलिस्ट किस तरह से करते हैं, वह किसी पोलिटिकल पार्टी में नहीं आयेंगे और हर साल राज्य-सभा के लिये सीट खरीदते हैं, कॉमिल की सीट्स खरीदते हैं और इनडिपेंडेंट होकर करोड़ों, लाखों रुपये खर्च करने हैं। जब यहां शुरू में डिसकशन हो रहा था तो हम लोगों ने भी कहा था कि पार्लियामेंटरी डेमोक्रेसी को चलाने के लिये पार्टियों को इसके लिये इजाजत देनी चाहिये लेकिन जो इतनी अधिक तादाद में इनडिपेंडेंट लोग, धनी लोग, धनकुबेर लोग खड़े हो कर सभी पोलिटिकल पार्टीज को खतरे में डालती है वह नहीं होना चाहिये उनको उम्मीदवार नहीं होना चाहिये अभी तक इसकी व्यवस्था नहीं हुई है हालांकि एलेक्शन कमिशन ने यह सुझाव दिया था कि इससे कर्प्शन बढ़ता है।

ठीक है, अब एलेक्शन होगा और उसके बाद यह हो सकेगा लेकिन मैं ला मिनिस्टर से कहना चाहता हूँ कि कम से कम इनडाइरेक्ट एलेक्शन के लिये खड़े नहीं हों। इस तरह की व्यवस्था करनी चाहिये थी क्योंकि जो पूँजीपति है, धनी लोग हैं उनके पास वोट भी नहीं है तो भी कैसे जीतते हैं यह उनको समझना चाहिये था। कम से कम इनडाइरेक्ट एलेक्शन में जो किसी पार्टी का नहीं है वह

न खड़ा हो सके इस तरह की व्यवस्था होनी चाहिये। आप देखें कि पाटक जी भी खतरे में पड़ जाते हैं जैसा कि राजनारायण जी ने कहा। वह भी जानते हैं कि हमारे साथी खतरे में पड़ते हैं क्योंकि धनी लोग मनीबैंग लेकर आते हैं। तो एलेक्शन कमिशन ने इस तरह की व्यवस्था करने को कहा मगर यह नहीं हुआ।

जो विरोधी दल के लोग हैं वह कहते हैं कि कांग्रेस से खतरा है, उसमें बड़े-बड़े धनी लोग हैं, लेकिन मेरा उतने कहना है कि कांग्रेस तो समाजवाद को लाकर खूब टैक्स वगैरा लगा कर पूँजीपतियों को मता रही है, तो उनको कांग्रेस से खतरा नहीं होना चाहिये, उनको तो पूँजीपतियों से खतरा होना चाहिये जो कि इनडिपेंडेंट खड़े होकर आ जाते हैं और बहुत रुपया खर्च करते हैं। तो ऐसी व्यवस्था नहीं हुई जिसको एलेक्शन कमिशन ने माना था।

मैं तो समझता हूँ कि हमारे देश में जो एलेक्शन चल रहा है वह बहुत निर्भोक्ता के साथ और न्याय के साथ चल रहा है, बिना किसी पार्टी की परवाह किये हुए, शासक पार्टी या किसी पार्टी की, एलेक्शन कमिशन ने ईमानदारी के साथ, न्याय के साथ काम किया है। लेकिन हमारे विरोधी दल के लोग, कम्युनिस्ट पार्टी के लोग, कामरेड भूषण गुप्ता भी और राइट और लेफ्ट के लोग भी, दोनों, और राजनारायण जी भी कहते हैं कि एलेक्शन कमिशन निष्पक्ष नहीं है, यह तो बिल्कुल गलत बात है और यह कह देना तो बहुत ही गलत है कि किसी पार्टी से, किसी पोलिटिकल पार्टी से, एलेक्शन कमिशन के लोग लिये जायें। आई० सी० एस० और आई० पी० एस० के लोग निर्भोक्ता लोग होते हैं और ठीक से सर्विस करने वाले लोग होते हैं, और अगर किसी पोलिटिकल पार्टी से लेकर उनको चीफ एलेक्शन कमिशनर या आफिसर बनाया जाय तो और भी खतरा होगा। तो जो एलेक्शन कमिशनर की बहाली हुई, हाई कोर्ट में ले जाने की जो बात आई है उससे राहत ही मिलेगी

लेकिन उतनी राहिल नहीं मिलेगी जितनी हम चाहते हैं। श्री रघुनाथ सिंह ने यह अमेंडमेंट दिया है। ठेकेदार चाहे वह सरकारी काम का ठेकेदार हो या प्राइवेट हो, ठेकेदार ठेकेदार है, जो रुपया कमाता है उन ठेकेदारों को डिसक्वालिफाई करना चाहिये, डिसक्वालिफिकेशन की बात जो नहीं हटाई गई वह ठीक नहीं है, उन ठेकेदारों का भी इसमें समावेश होना चाहिये।

अर्जुन अरोड़ा साहब ने उड़ीसा की बात कही, कुछ उधर की कुछ उधर की बात कही। तो इसमें लिखा हुआ है कि जो होर्डर हैं, प्राफिट करने वाले हैं, या जो खाद्यान्न और दवाओं में मिलावट करेगा उन लोगों को भी डिसक्वालिफाई करेंगे, उसके लिये इसमें गुंजाइश है।

तो वाइसचेयरमैन साहब, मैं तो कहता हूँ कि शासक पार्टी की थम्बिंग मेजरिटी रहते हुये भी जिस तरह से निष्पक्ष एलेक्शन हिन्दुस्तान में हुआ है और जो हो रहा है उसकी तो विरोधी पार्टियाँ को दाद देनी चाहिये इतने बड़े-बड़े चीफ मिनस्टर लोग, मुरार जी देसाई ऐसे लोग, हार गये, बड़े बड़े लोग हार गये। क्या इस तरह की विरोधी पार्टी के लोग बात कर सकते हैं। रूस चीन आदि देशों में तो एक लिस्ट बना कर दे देते हैं और जनता के सामने कहते हैं कि वह डेमोक्रेसी है। पार्लियामेंटरी डेमोक्रेसी का अर्थ जो जानते हैं उनको पता है। 1952 का एलेक्शन हुआ और उसमें इतने इंडिपेंडेंट कैंडिडेट्स खड़े हुए कि हमारे बिहार स्टेट में आठ सफल कांग्रेस उम्मीदवारों की सिक्योरिटी तो फारफीट हो गई लेकिन वह जीत गये, इतने आदमी थे कि वह जीत तो गये लेकिन वन सिकस्थ आफ दि वोट्स पोल्ड नहीं ला सके, सिक्योरिटी फारफीट हुई लेकिन वह एम० एल० ए० डिक्लेयर किये गये। तो हमें आपस में बैठ कर तय करना चाहिये नहीं तो पार्लियामेंटरी डेमोक्रेसी चल नहीं पायेगी,

यों इसमें यही है कि जो एक वोट ज्यादा से भी विजयी होता है वह ठीक है। ये लोग कहते हैं कि माइनारिटी वोट से आये हैं लेकिन ये अपनी गिनती तो करें, तीन कनोजिया तेरह चूल्हा वाली बात है, कितने वोट आये हैं, पी० एस० पी० के मित्र की तरह मैंने इशारा किया था जो इतना चिल्ला चिल्ला कर यह सब कहते हैं, कि यह यही पार्टी है जिसमें इस तरह की बात करने की हिम्मत करते हैं।

तो मैं यह कह रहा था कि उधर जो लोग बैठे हैं उनको कोशिश करनी चाहिये और हम तो मानते हैं कि पार्लियामेंटरी डेमोक्रेसी में मेजरिटी मस्ट बी ग्रांटेड, उसमें एक वोट से भी जीतें वह मेजरिटी में है। आप अपना वोट देख लीजिए कि ज्यादा उससे आया या है नहीं। . . . कम्युनिस्ट पार्टी को देख लें, एस० एस० पी को देख लें, स्वतंत्र पार्टी को देख लें आपके कितने आए। आपको अभी उतना वोट मिलने वाला नहीं है। मैं बराबर इस हाउस में भूपेश गुप्ता और नीरेन घोष को चैलेन्ज करता हूँ। दोनों छुटममइये पहले मिल लें, इसके बाद दूसरों को लेकर दें तो पार्लियामेंटरी डेमोक्रेसी का एक कायदा है, यदि हार जाते हैं तो गुस्सा निकालने के लिए हमको गाली देंगे, एलेक्शन कमीशन को गाली देंगे, कि निष्पक्षता नहीं हुई इस तरह की बात करने से कोई नतीजा नहीं निकलता। अभी हमारे राजनारायण जी ने धमकी दी कि ऐसे ऐसे एलेक्शन नहीं हुआ तो यह हो जायेगा वह हो जायेगा, तथा खूनी क्रांति हो जायेगी। यह धमकी देने की वजह से तो उनको जेल में बन्द किया जाता है। सशस्त्र क्रांति को आह्वान करते हैं। (*Time bell rings*) कोई भी यदि पार्लियामेंटरी डेमोक्रेसी के कायदे को तोड़ता है उसको जेल में ले जाया जायेगा। जो आदमी डेमोक्रेसी के ढाँचे को तोड़कर वायलेन्स प्रीच करे, उसकी धमकी दे और फिर डेमोक्रेसी का हवाला दे, यह एक अजीब बात है। इसलिये इस प्रकार

का संशोधन बिल यहाँ लाया गया। तो ज्यादा से ज्यादा कैंडिडेट लोग थैला लेकर आते हैं डाइरेक्ट एलेक्शन में इनडाइरेक्ट एलेक्शन में उनको यदि रोकना है, उसका तरीका यह है कि यदि पार्लियामेंटरी डिमोक्रेसी के तरीके से चलते हैं तो आगे से इन्डिपेन्डेंट को खड़े होने से बँन करना होगा। इसके अतिरिक्त जो सरकारी ठेकेदारी करते हैं, इस सम्बन्ध में रघुनाथ रेड्डी का जो अमेंडमेंट है, इस तरह के अमेंडमेंट का समावेश होना चाहिये। उसके हम करप्शन को अप्टाचार को काफी हद तक हटा सकते हैं। और दूसरी बात रुपये पैसे की की गई है, यह ठीक बात है गरीब आदमी नहीं आ सकते हैं लेकिन जितना पार्लियामेंट के लिये, असेम्बली के लिए खर्च किया जा सकता है उतना खर्च किया जाना चाहिये। इसलिये यदि कोई कहता है तो हम उसको इस बात का स्वागत करेंगे कि 3,000 रु० में एलेक्शन हो जायें। लेकिन अभी यह सम्भव नहीं है।

इन शब्दों के साथ मेरा निवेदन है कि हमने जो कुछ सजेशन दिये हैं उनके द्वारा ये जो कुछ तरकीबें लाई गई हैं उनमें कुछ और तरकीबें लाने की जरूरत है। यदि पार्लियामेंटरी डिमोक्रेसी की हिजाफत करनी है तो इस तरह का बिल पास करना ही चाहिए। यह बिल लाकर गरीबों को या दूसरी दूसरी पार्टी के लोगों को, विरोधी दल के लोगों को, मौका दिया गया है न कि सिर्फ एक कांग्रेस पार्टी को। मैं इसका समर्थन करता हूँ।

श्री जगत नारायण (हरयाणा) : वाइस चेयरमैन साहब, मैं आप की इजाजत से वजीर साहब की खिदमत में यह अर्ज करना चाहता हूँ कि जब कभी जनरल इलेक्शन्स नजदीक आते हैं तो हमारे जो भी ला मिनिस्टर हों वे प्यूपल्स रैप्रेजेंटेशन ऐक्ट में तब्दीली करते हैं। तब्दीली तो इस लिए की जाती है कि "फ्री ऐन्ड फ़ैयर इलेक्शन्स" हों मगर मैं वजीर साहब की खिदमत में यह अर्ज करना चाहता हूँ कि मुझे मालूम नहीं, उन्होंने कभी लोक सभा का,

विधान सभा का, एलेक्शन खुद लड़ा है कि नहीं। अगर वे कभी इलेक्शन के वक्त जाकर देखें...

विधि मंत्री (श्री गोपाल स्वर्ण पाठक) :
मैं ने कई देखे हैं।

श्री जगत नारायण : हुकीकत यह है कि इन तमाम लाज की वहाँ पर मुखालफत की जाती है, किसी की पाबन्दी नहीं होती है। आपने यह लाज बनाए हुए हैं कि वोटर्स को ढोकर नहीं लाया जा सकता है मगर जाकर देखिये किस ढंग से वोटर्स ढोये जाते हैं, कानून की मिट्टी पलीद की जाती है। सब जानते हैं कि यह जो वॉटर हैं इसको फलां आदमी फ्री ला रहा है। मैं आपको बताऊँ शहर में, देहात को आप छोड़ दीजिए, जहाँ पोलिंग स्टेशन पास पास होते हैं वहाँ भी दो दो, तीन तीन मील से वोटर्स को आना है तो हर उम्मीदवार को रिक्शा करना पड़ता है, दूसरी सवारी करनी पड़ती है वोटर्स को ढोने के लिये। अब आपका कानून बनाने का क्या फायदा है। आज ऐन सामने वोटर्स ढोये जाते हैं, उतारे जाते हैं, वे जाकर वोट देते हैं। आपके इस कानून बनाने का क्या फायदा है।

वाइस चेयरमैन महोदय, आपको याद होगा 1952 में आप परमानेंट सेक्रेटरी और मैं पंजाब कांग्रेस का जेनरल सेक्रेटरी था, तो दो लाख रुपये हमने लिया था। उस वक्त हमने तीन, तीन चार, चार हजार रुपया हर कैंडिडेट को दिये थे। और उस वक्त यह हालत थी 1952 में कि हमने 7,000 से ज्यादा खर्च करने की कोशिश नहीं की। मैं नहीं कह सकता, कुछ आदमियों का ज्यादा खर्च हुआ हो मगर हमारी कोशिश यह थी कि जो आपने कानून के मुताबिक बनी तजवीज के मुताबिक हम लोग एलेक्शन लड़े हैं और कई लोगों ने 5,000 रु० में बल्कि 4,000 रु० में अपना इलेक्शन जीता था और उस वक्त यह था कि लोगों के दिल में एक श्रद्धा थी कि भाई हमें कानून का अहतराम करना है। मगर आज

हालत यह है कि जो आपने 7,000 रु० की लिमिट की है असेम्बली के लिये और 20,000 या 25,000 की लिमिट की है पार्लियामेंट के लिये, होता यह है कि आज विधान सभा के एलेक्शन में पचास पचास, साठ साठ हजार या 1 लाख रुपया तक खर्च होता है और पार्लियामेंट के लिये दो दो, तीन, तीन लाख खर्च होता है। आपके आंखों के सामने होता है। फिर दुःख यह होता है कि हम लोग, जो अपने को महात्मा गांधी के चेले कहते हैं जिस वक्त अपना रिटर्न भरते हैं, बिल्कुल झूठ रिटर्न भरते हैं, उस वक्त बड़ा दुःख महसूस होता है, तो मैं अर्ज कर रहा था कि जब कभी एलेक्शन नजदीक आते हैं आप कुछ न कुछ कानून में तब्दील ही करते हैं फ्री एन्ड फेयर एलेक्शन्स के लिये, मगर हकीकत यह होती है कि फ्री एन्ड फेयर एलेक्शन नहीं होते हैं और हर एक कानून की वहां पर अवहेलना की जाती है, मैं बजीर साहब को एक मुझाव देना चाहता हूं। मैं जो अमेंडमेंट्स हैं उनकी टेक्निकल्टी में नहीं जाना चाहता लेकिन अगर आप वाकई फ्री एन्ड फेयर एलेक्शन कराना चाहते हैं... (interruptions) मैं यह अर्ज कर रहा था कि बोगस वोटर्स को इस ढंग से लाया जाता है, उन के नाम वोटर्स लिस्ट में दर्ज नहीं होते हैं उनको दस दस मील से, बीस बीस मील से चालीस चालीस मील से ट्रकों में भर कर बैठाकर लाया जाता है। 1952 में यह तरीका था कि पटवारी पास बैठा रहता था और पटवारी जबतक वोटर की तसदीक नहीं कर लेता था कि इस गांव का है, तब तक वह वोट नहीं डाल सकता था चाहे लिस्ट में नाम दर्ज भी हो। मगर आज हालत यह है कि बोगस वोटर्स आते हैं, पटवारी भी उसी ढंग से हां हां करते जाते हैं क्योंकि वे गवर्नमेंट की तरफ से नामिनेटेड होते हैं। मैं नाम नहीं लेना चाहता था लेकिन हमारे स्वर्गीय प्रताप सिंह कैरों का एलेक्शन इसी ढंग पर हुआ था कि जो असली वोटर्स थे वे वोट नहीं दे सके और बहार से दस, पन्द्रह हजार वोटर्स बो कर लाये गये, वे वोटर वोट देकर

गये। लेकिन इसके बावजूद वे सिर्फ 31 वोटों से जीते। तो आप बोगस वोटर्स को रोकने के लिये इंतजाम करें और सख्ती से करें। कि वहां पर उस गांव का पटवारी बैठा हो जहां का वोटर है और अगर वह कहे उस गांव में वह वोटर नहीं रहता है और फिर भी वह वोटर वोट डालना चाहता है वह झूठ बोलता है तो उस को पकड़ लें। कोई न कोई ऐसा ढंग निकालना चाहिये जिस से बोगस वोटर्स वोट न डाल सकें।

इसके साथ साथ दूसरी तजबीज यह है कि एलेक्शन के नजदीक सारी गवर्नमेंट मशीनरी हरकत में आ जाती है और हर इलाके का का जो कांग्रेस की तरफ से मेम्बर खड़ा होता है, वह यह कहता है कि हमारे इलाके में यह थानेदार चाहिये, यह रेवेन्यू आफिसर चाहिये, इस ढंग का पोलिंग बूथ बने इस ढंग का पोलिंग आफिसर मिलना चाहिये। अब हाउस में इलेक्शन के लिए पूरा प्रोग्राम सुनने के बाद आप तमाम कांस्टीट्यूएन्सीज में लिखें कि जो भी पोलिंग स्टेशन में जो थानेदार लगे हुए हैं या रेवेन्यू आफिसर्स लगे हुए हैं उनका कोई तबादला नहीं होना चाहिये, वे अपनी जगह में चुनाव के दौरान भी लगे रहें, सिर्फ उम्मीदवारों के कहने पर उनकी तब्दीली की जा सकती है ताकि हस्त मन्शा अपने बोगस वोट्स पाने के लिये कोई बुरी हरकत न होने पाए।

तीसरी चीज यह है कि बजरा को इलेक्शन टुअर आफिशियल तौर पर नहीं होने चाहिये। मैं खुद बजीर रह चुका हूं और मैंने बाइ इलेक्शन भी लड़ा है। मैं जानता हूं एलेक्शन के दौरान इस ढंग पर मोगे बदले जाते हैं, मोगे तब्दील किये जाते हैं, सिर्फ इस लिये कि वोट लिए जाये। किस तरह स्कूल खोले जाते हैं, उस वक्त स्कूल खोलने के इरादे किये जाते हैं। मैं ट्रान्सपोर्ट मिनिस्टर रहा हूं मुझे पता है, हमने एक जगह पर वोट लेना था तो हमने ट्रान्सपोर्ट की इजाजत कर दी थी सिर्फ इस लिये कि उस इलाके के वोट हासिल कर सकें।

[श्री जगत नारायण]

यह ठीक है कि मैंने एक गलती की। मगर मैं समझता हूँ कि फ्री एन्ड फियर इलेक्शन सिर्फ इसी ढंग से हो सकता है अगर आप अपने आफिसरों को, अपने वजरा को, पूरी ताक़ीद करें कि आपका टाइम टेबल अनाउन्स करने के बाद वे न अपने हरकाज़ात में कोई तबादला करायें और न वहाँ पर अपना सरकारी दौरा एलेक्शन के सिलसिले में रखें। बेशक एक वजीर अपने हल्के में एलेक्शन के दौरे में जाय मगर अपने खर्च पर जाय, और कोई सरकारी काम उन दिनों में न करे। सिर्फ इलेक्शन के सिलसिले में तक़ीर करे, आडियन्स को एड्रेस करे, अपनी कैम्पेनिंग करे और कहे कि हमने अपने राज में ये ये काम कर लिये और यह करना है लेकिन भोगे तब्दील करने का, स्कूल खोलने का और काम दिलाने का जो सिलसिला है यह सब एन्टरटेन नहीं करना चाहिये, कोई कम्प्लेन्ट एन्टरटेन नहीं करनी चाहिये। अगर 2 P.M. आप बाकई फेयर और फ्री इलेक्शन देश में करवाना चाहते हैं तो ये बातें आपको करनी होंगी और इसके मुताल्लिक आपको विचार करना और गौर करना पड़ेगा।

यहाँ पर बिग मनी और इसी तरह की दूसरी चीज़ें कहीं गई हैं। मैं वजीर साहब से पूछना चाहता हूँ कि क्या उन्होंने इस बात का बन्दोबस्त किया है कि अभी हमारे सन्त फतह सिंह दूसरे मुल्कों में तश्रीफ ले गये और, वे लण्डन गये और वहाँ पर उन्होंने काफी चन्दा इकट्ठा किया। कोई कहता है कि उन्होंने 15 लाख रुपया इकट्ठा किया, कोई कहता है 20 लाख और कोई कहता है 25 लाख रुपया चन्दा एलेक्शन लड़ने के लिए इकट्ठा किया। तो मैं वजीर साहब से पूछना चाहता हूँ कि वे वह रुपया क्या सरकारी तौर से यहाँ पर लाये हैं? क्या सरकार ने उन्हें इस तरह का रुपया लाने की इजाजत दे रखी है। इसी तरह से हमारे एक लैफ्ट कम्प्युनिस्ट श्री सूरजीत सिंह हैं, वे भी लण्डन गये हैं और वहाँ पर रुपया इकट्ठा कर रहे हैं और अपनी पार्टी के

जरिये यहाँ भेज रहे हैं। इसलिये मैं यह जानना चाहता हूँ कि वे कहां से और किस तरह से रुपया भेज रहे हैं? क्या सरकार ने इस तरह रुपया इकट्ठा करके भेजने की इजाजत दे रखी है। इस तरह से दूसरे मुल्कों में रुपया इकट्ठा किया जा रहा है और फिर उसको तरह तरह के जरिये से यहाँ पर भेजा जा रहा है। तो मैं मिनिस्टर साहब से यह जानना चाहता हूँ कि इस तरह से जो रुपया हमारे देश में आ रहा है उससे गवर्नमेंट को नुकसान पहुंच रहा है और वह काउन्ट भी नहीं हो रहा है। इसलिये उस तरह के रुपये की बाहर से आने पर रोक लगाई जानी चाहिये।

SHRI A. P. CHATTERJEE (West Bengal): Where do you get this information?

श्री जगत नारायण : मैं यह कह रहा हूँ कि इस तरह से बाहर के मुल्कों में रुपया इकट्ठा किया जा रहा है। और इस मुल्क में भेजा जा रहा है।

SHRI A. P. CHATTERJEE: He is making an allegation against a person who is not a Member of this House-It is against decorum, it is out of etiquette and indecent.

श्री जगत नारायण : वाइस चेयरमैन साहब, इस तरह से जो लोग बाहर जाकर चन्दा इकट्ठा करते हैं, क्या इस बारे में सरकार ने इजाजत दे रखी है और इसके बारे में सरकार को जानकारी है? अगर वह रुपया बाकई इकट्ठा हो रहा है और इस मुल्क में भेजा जा रहा है, तो मैं यह जानना चाहता हूँ कि वह ठीक एजेन्सी के जरिये यहाँ पर आ रहा है या फिर दूसरी एजेन्सीयों के जरिये आ रहा है? जहाँ तक बिग मनी का सवाल है, मैं यह कहना चाहता हूँ कि आजकल तो इस तरह का मनी रूस से भी लोग लाते हैं, चीन से भी लाते हैं, अमेरिका से भी लाते हैं और फिर वह रुपया एलेक्शन लड़ने के काम पर यहाँ लगाया जाता है। तो मैं यह चाहता हूँ कि जो रुपया इस तरह से इकट्ठा किया जाता है, बाकायदा अखबारों

में जिसके बारे में खबरें छपती रहती हैं कि इस तरह में रुपया एलैक्शन लड़ने के लिए बाहर के मुल्कों में इकट्ठा किया जा रहा है, उसके बारे में हमारी सरकार ने कोई एकाउन्ट रखा है या नहीं ? सरकार को मालूम है कि वाकई कितना रुपया इस तरह का बाहर के मुल्कों से इस मुल्क में आ चुका है ? क्या वह रुपया सरकारी तौर पर लाया गया है या फिर किसी दूसरे जरिये से आया गया है ?

इसके साथ मैं यह भी अर्ज करना चाहता हूं और जैसा कि मैंने उस दिन भी निवेदन किया था सुप्रीम कोर्ट से सीधे एलैक्शन की अपील करने के बजाय हाई कोर्ट और सुप्रीम कोर्ट के बीच कोई और अदालत होनी चाहिये ताकि एलैक्शन पेटिशनस का फैसला और जल्दी हो जाय। तो मैं यह अर्ज करना चाहता हूं कि सरकारको इस बात के बारे में कोई रेमेडी निकालनी चाहिये कि हाईकोर्ट के फैसले के बाद कोई और एजेन्सी बीच में हो जो इस तरह के एलैक्शन पेटिशनस का फैसला कर सके और उस आदमी को सुप्रीमकोर्ट में न जाना पड़े। इसलिये मेरी आप से यह दरखास्त है कि आप इस बारे कोई में न कोई रास्ता जरूर निकालेंगे। (*Time bell rings*)

वाइस चेंबरमैन साहब, मैं एक बात कहकर खत्म करूंगा। जैसा कि मैंने पहले भी कहा था कि एलैक्शन लड़ने में बहुत प्रखराजात होते हैं। मैं चाहता हूं कि कोई ऐसा तरीका निकाला जाना चाहिये जिससे एलैक्शन लड़ने में कम खर्च हो। आजकल तो अमीर ही एलैक्शन लड़ सकते हैं और गरीब के लिये एलैक्शन लड़ना बहुत मुश्किल हो गया है। अभी श्री याजी ने कहा कि मैंने अपनी एलैक्शन पेटिशन में 76 हजार रुपया खर्च कर दिया और जमीन बेच कर मैंने यह अपील की। मुझे जैसा गरीब आदमी इतना रुपया कैसे खर्च कर सकता है। इस लिए मैं चाहता हूं कि एलैक्शन पेटिशनस और एलैक्शन लड़ने में कम से कम

खर्च होना चाहिये और उसके लिए हमारी सरकार को कोई वाजिब कानून बनाना चाहिये जिसमें की कम से कम खर्चा हो सरकार को इस तरह का कानून बनाना चाहिये कि एलैक्शन में एक आदमी एक खास रकम के अलावा ज्यादा खर्च नहीं कर सकेगा चाहे वह कांग्रेस का आदमी हो या अपोजीशन का आदमी हो। अगर कोई मुकर्रर की हुई रकम से ज्यादा खर्च करता है तो वह गलत बात होगी और वह आदमी फिर एलैक्शन नहीं लड़ सकेगा और उसका एलैक्शन खारिज हो जायेगा अगर वह ज्यादा खर्च करता है। मैं जानता हूं कि आजकल पार्टों के नाम पर, दोस्ती के नाम पर और तरह तरह के नामों पर हजारों रुपया एलैक्शन लड़ने के लिए खर्च किया जाता है। इसलिए मैं यह अर्ज करना चाहता हूं कि इस मामले पर सरकार को कोई ऐक्शन लेना चाहिये। आज हालत यह है कि जो अमीर आदमी है चाहे वह अपोजीशन में है। किसी और पार्टी में, वही एलैक्शन में कामयाब हो सकता है, गरीब आदमी डेमोक्रेसी में एलैक्शन नहीं लड़ सकता है क्योंकि वह इतना खर्च नहीं कर सकता है। आज डेमोक्रेसी चलाने के लिए गरीब आदमी के लिए कोई जगह नहीं है, इसलिए मैं चाहता हूं कि इस तरफ आप जरूर ध्यान दें।

SHRI N. R. M. SWAMY (Madras): Mr. Vice-Chairman, at the outset I wish to place on record our praise for the Election Commissioner who has had three elections having been conducted according to rules without any untoward incident, and the fourth general election is coming very shortly. The experiences which we have picked up and the difficulties and lapses and failures which we have experienced are many and we have found it very reasonable to place them before this House in the shape of amendments to both the Acts of 1951 and 1950. When I read these amendments. I find one important lacuna which I wish to point out to the Law Minister. This is a Representation of

[Shri N. R. M. Swamy.]

(the People Act but when the 1950 Act is amended, so far as Tuensang District is concerned in the Nagaland, only the Regional Council have to select 6 persons to the Assembly. So it would be correct to say that it is an indirect election and not a direct election, and the Representation of the People Act is given a clean go-by so far as this provision is concerned. This is not the proper time to urge an amendment, but still I would only place this observation before the Law Minister to see that at least the next time when the election comes so far as Tuensang district is concerned the representation to the Assembly need not be through the Regional Council. It must be as in any other case direct election to the Nagaland Assembly. With this observation I shall go to the amendments proposed in the next Act.

To say in a general way, anybody will be satisfied with these amendments, and this is not the time for us to introduce any amendment to this amendment as—nor will it be possible for us to do so now, and even if we did—there is no time for the other House to ratify that or to concur with us or to have a joint session in case of tie. The one aspect which I wish to bring to his notice is with regard to disqualification and the reduction of the disqualification period by the Election Commissioner. When an offence is tried by a court, the court passes a sentence and either the sentence is given for more than six months or sometimes for less than six months. Here it is provided that for any offence where the sentence is for more than six months, he will have disqualification for six years after his release. My only submission is that this six-year period can be curtailed or reduced or it could be outright cancelled by the Election Commission. This disqualification flows from out of a conviction and sentence passed by a court, and when this sentence is passed, for the Election Commission to come and then by a stroke of the pen to reduce it or cancel it seems to me rather

anomalous. The Election Commission in an independent body. The court deliver judgments and out of those judgments the disqualification clause alone is taken as though it is a separable one. When it is separated, the Election Commission comes in under the provisions of the present amending Bill. Instead of that, I make this suggestion which might be adopted when another amending Bill is brought forward some years hence, after the present elections are over. A person who has been convicted for more than six months, if he wants to contest an election and thinks that he has got a fair chance of being returned, he would take an application to the judge who has passed the sentence asking him to reduce the period, in which case the Election Commission might possibly fix a date for hearing about his petition, and they can pass a suitable order, instead of being accused of favouring one party or another. It has been said in the other House also that there was one Deputy Minister whose term of disqualification has been completely reduced to enable him to contest the elections. These things would not occur if it was done by a court. I would suggest this by way of caution.

The other thing which I approve of is the appointment of district election officers. I have heard and I have seen that in the districts the returning officers, or the people who are at the polls, they have been very much influenced by the Government and that they do so many things as a result of which election petitions come up. To avoid all these things the appointment of district election officers is a very salient feature which will obviate all these difficulties and I should think that even the other side must approve of this amendment.

It is a good feature that the High Court has been empowered to try these election petitions. This also would lead to difficulties, but not in all cases. In regard to an interlocutory order, if a man is dissatisfied or is aggrieved, he can go to the Supreme Court from where he can get a stay.

Even if he gets a stay order, the disposal of the interim order by the Supreme Court takes a long time. It may be one or two or three years, despite the fact that power has been given to the High Court Judge to dispose of it within six months. Even that must not be allowed for a revision or review of an interlocutory order. This is only a suggestion that when Government comes before the House next, this has to be given a clean go-by and it should be that only the orders passed by the High Court Judges are final; and we should not even allow them to go to the Supreme Court. Otherwise, there will be no end to election petitions. Everybody should be satisfied. In spite of four or five years, even today, cases are pending. By the time they are finally disposed of, the next elections will also come. To avoid all these things, it is much better that the High Court Judges dispose of these cases within a period of six months or even much earlier if they would only sit more. It has been provided that in certain Courts where there is one High Court Judge, he must set aside all other work, all his routine work, and he must attend only to the election petition. This is a good feature because the urgency is that he has to dispose of the present petitions. So, this is a good suggestion or amendment that has been brought forward.

The other aspect which I wish to bring to the attention of the Members of the other side is that money bags also should be allowed to come and contest the elections. In a democratic set-up we cannot distinguish between one citizen and another. One is economically well off, is lucky, one is born a rich man. Because of that he should not be denied the opportunity of representing the people as long as he comes within the four corners of these rules framed and he has got every right to contest the election. If we deny this right and privilege to him, then it will not be called a democratic set-up but then it will be some other set-up. I think we should not make any distinction between the rich and the poor in this matter and

the people who have got the necessary qualification to contest the election must come to the forefront and contest the election. In the election, if they spend money, if they go beyond the limits prescribed for spending money, as a result of that we have got the other way by which we can challenge his election 'saying that he has practised corruption, he has corrupted his constituency and that he has spent more and exceeded the limit allowed, and there are ways by which we can unseat them. But we shall not go through a roundabout method and say that those people should not contest the elections.

I find that your finger is already on the bell. I will close with just one more observation.

While discussing, the Opposition Members have raised a very valid point and that was about the quorum. I agree. If there is no quorum, we cannot conduct the business. It is quite true. During the late Mr. Mavlankar's period in the Lok Sabha, he requested the Government that they must bring forward a Bill with one clause that there shall be no quorum to be insisted upon during the lunch hour. During the lunch hour the Lok Sabha does not have quorum at all. That is followed only as a convention. I am making a request to the Law Minister that he should draft a one-clause Bill to that effect, place it before the Cabinet and introduce it so that we cannot take any objection about it. Though we have agreed not to raise this point during lunch recess, it would be a mockery otherwise and I would only request that the Law Minister will take note of my suggestion regarding the question of quorum.

SHRI K. P. MALLIKARJUNUDU (Andhra Pradesh): I rise to support this Bill. In trying to support this Bill, I would like to make a few remarks. All of us are agreed that we should have free and fair elections and if we want to preserve democracy, elections must be conducted in as free and as fair a manner as possible. It

[Shri K. P. Mallikarjunudu.] is an undisputed fact that free and fair elections are the very bedrock of democracy. If that be our view, we should all endeavour to see that the elections are conducted in a free and fair fashion. From my experience I can say that there are two evils that are vitiating this kind of free and fair elections. One is the influence of money and the other is the influence of caste and community. In the present social and economic structure of India, I do not think that these two evils can be eradicated in the foreseeable future. Let us take the question of caste and community. There is the constituency where a particular caste or community is numerically strong. All parties, with very few exceptions, are trying to put up candidates from that community which is numerically strong and predominant in numbers. Even the Communist Party which proclaims to establish a classless society, is not also free from this evil. So, I should think that unless our social structure is radically changed, there is no hope of any eradication of this evil of caste and community in our public life.

Secondly, there is the evil of money influence. Even here, I should say, the gap between the rich and the poor has been widening further and further, in spite of our endeavours to see that wealth is not concentrated in a few hands. This influence of money is very great in our elections. We should try, as far as possible, to see that this influence of money is not brought to bear on the conduct of elections. Of course, in this matter I might say that it is not possible absolutely to make elections free and fair. We can only reduce the evil flowing from this money influence. I might suggest one method by which I feel we can reduce the influence of money to a certain extent. In my experience I can say that people having money are spending a good lot of money on bringing the voters to the polling booth; they are hiring vehicles and other things to bring the voters to the polling booths. Sir, I know that there is a provision in the present Act

forbidding hiring of vehicles. Still the fact remains that we find almost all the candidates trying to bring voters to the polling booths by employing vehicles. The remedy that I suggest will be to see that instead of voter going to the polling booth, the polling booth should go to the voter.

SHRI SHEEL BHADRA YAJEE:
How?

SHRI K. P. MALLIKARJUNUDU: You can employ a mobile van in which there will be the Election Officer, the agents of the candidates going to houses of the voters. There it is very easy for them to record their votes. Maybe it is costly. But I do not think that the increased expenditure will not outweigh the advantages of a free and fair election.

Apart from that, I should think that if we eliminate this evil, the voters will be able to exercise their free judgment. Nowadays the voters are brought from their houses to the polling booth. Either they are bribed or some appeal is made in the name of caste or community or some such slogan is raised which is likely to defraud them and deprive them of their free judgment. Under the existing circumstances it is now very easy for candidates or their agents to influence the voters somehow or the other and bring them to the polling booth. If the polling booth is carried to the voter, this evil can be eliminated. I am not unaware of the practical difficulties but I do not think the difficulties are so insurmountable as to make the experiment a failure. Let us make the experiment and see. At least in some cases we will gain experience, and if we find that it is a useful experiment we can extend it to all the cases. That is my suggestion.

Sir, it might be said that this thing has not happened anywhere and no other country in the world has adopted this kind of experiment. I should at once say that it is no argument I can understand if any country adopted

it and it proved a failure. Then do not adopt it. But if it is a novel experiment and has not been adopted in any other country let it be experimented here and see what the result would be. I suggest the Government should consider this suggestion seriously and if it is found useful and worth trying, it should be tried.

With these words I support the Bill.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Rajnarain.

श्री राजनारायण : श्रीमान् . . .

भ्रम, सेवानियोजन और पुनर्वास मंत्रालय में उपमंत्री (श्री डी० आर० चट्टान) : मैं बैठा हूँ।

श्री राजनारायण : मंत्री जी बैठे हैं।

मैं समझता हूँ कि इस विधेयक को यहाँ प्रस्तुत करके जनकोष का दुरुपयोग किया जा रहा है, शक्ति का भी दुरुपयोग किया जा रहा है और समय का भी दुरुपयोग किया जा रहा है। उद्देश्य की कल्पना अच्छी है कि निष्पक्ष, स्वतंत्र और स्वच्छ चुनाव हों, मगर निष्पक्ष, स्वतंत्र और स्वच्छ चुनाव होने के लिए जिन बातों की आवश्यकता है, उनका समावेश इस विधेयक में नहीं है। मैं चाहता हूँ कि माननीय मंत्री जी सचमुच मन से और मस्तिष्क से स्वच्छ, स्वतंत्र और निष्पक्ष चुनाव कराना चाहते हैं, तो हमारे संशोधनों और सुझावों पर विचार करें।

हम शुरू से चलते हैं। मैं चाहता हूँ कि 21 वर्ष जो बालिग और वोटर होने की अवधि है, वह धटा दी जाय और उसे 18 वर्ष पर ला दिया जाय। पहली बात, अगर यह 18 वर्ष पर आ जायगी, तो जो इस समय ऐसा अपने कर्तव्य का दुरुपयोग कर रहा है, वह शायद न कर पाए; क्योंकि 18 वर्ष होने से जो पिछड़े गिने जाते हैं, उनके पास ज्यादा वोटर हो जाएंगे और जो नवयुवक हैं, उनके पास भी ज्यादा वोटर हो जाएंगे। इसलिए पहला काम तो यह होना चाहिए।

दूसरी बात यह है कि हमेशा के लिए पेरामाइटिक क्लास कहा जाने वाला एक परमुखापेक्षी समुदाय आज पैदा हो रहा है, हरिजन सुरक्षित सीट को लेकर। अगर अम्बेडकरजी को लोग याद करेंगे तो वे इसके विरोधी रहे हैं। उन्होंने कहा है कि यह सुरक्षित सीट विधान सभाओं और लोक सभा में हरिजनों के लिए न रहे; सविसेज में, सेवाओं में सुरक्षित सीट रहे। इसलिए हम कहते हैं कि 60 प्रतिशत जीवन के हर क्षेत्र में जो पिछड़े हैं, बैकवर्ड हैं, जिसमें औरतें, सभी हरिजन शूद्र के अन्तर्गत आने वाले लोग और अल्प-संख्यक समुदाय के जो पिछड़े, सताए हुए लोग मुसलमान वगैरह हैं, इन लोगों को दिया जाय। मगर इसमें खतरा भी है, उस खतरे को भी नजरान्दाज नहीं किया जा सकता। अगर इस समय हरिजनों के लिए जो सुरक्षा है, उसको हटा दें तो शायद हरिजन आ ही न पाएँ। यह खतरा भी है। इसलिए हम एक बीच का रास्ता कल से सोचते-सोचते आज सुझाना चाहते हैं कि वे हरिजम जो एक मर्तवा चाहे केन्द्र में, चाहे राज्य में, मंत्री, डिप्टी मंत्री, पार्लियामेंटरी सेक्रेटरी या कोई ऐसे स्थान पर पहुँच चुके हों, उनको सुरक्षित सीट से न लड़ने दिया जाय।

कोई ऐसी व्यवस्था हो कानून में . . .

श्री शीलभद्र याजी : यह फंडामेंटल राइट्स के खिलाफ है।

श्री नेकी राम (हरियाना) : वह सुरक्षित सीट से नहीं आता है तो क्या होगा? यह क्या श्रीमान् बतायेंगे?

श्री राजनारायण : यही हमारा विषय है, जरा इसको बारीकी से, ध्यान से सुनें; क्योंकि श्री जगजीवन राम, डा० सीताराम, श्री गिरधारी लाल ये लोग जो हैं, ये हमेशा हरिजन सीट से ही लड़ेंगे, तो क्या ये हमेशा हरिजन ही रहेंगे, इनके लिये क्या हमेशा सुरक्षा रहेगी? इसलिये मैं बीच का रास्ता निकाल रहा हूँ कि जो एक मर्तवा मंजि-

[श्री राजनारायण]

पिछद में किमी भी पद पर रह चुका हो, पालिग्रामेंटरी सेक्रेटरी तक, स्टेट मिनिस्टर तक, डिप्टी मिनिस्टर तक, मिनिस्टर तक, तो उस हरिजन को जनरल सीट से लड़ने के लिये अनिवार्य कर दिया जाय, कानून में ऐसी कोई व्यवस्था हो ताकि ये हरिजन आ पायें और मैं समझता हूँ कि हरिजन समुदाय . . .

उपसभाध्यक्ष (श्री महावीर प्रसाद भार्गव) :

उमसे अच्छा यह है कि जैसे ही खत्म हो यह रिजर्वेशन हटा दिया जाय।

श्री राजनारायण : श्रीमन्, आप तो एक बुनियादी बात कह रहे हैं, लेकिन रिजर्वेशन, खत्म होने वाला नहीं है।

श्री शीलभद्र याजी : उसकी एक अवधि निश्चित की गयी है। हो जायगा।

श्री नेकी राम : यह और भी अच्छा होगा अगर मेरे साथी अपनी मागी सीटें हरिजनों को हो दे दें, वह अपनी सीटें दे दें, तो खुशी होगी।

श्री राजनारायण : इसीलिये तो मैं चाहता हूँ कि मैं भी हरिजन हो जाता तो अच्छा था। मुझे अफसोस है कि मैं जिस गम्भीरता के साथ यह सजेशन दे रहा हूँ, उसको उसी तरह से सरकारी पक्ष अभी लेना नहीं चाहता है, मगर इसको जरा सीरियसली सोचें कि आज एक हरिजन मंत्री बन गया, तो वही हरिजन बराबर मंत्री हो रहा है और वही हरिजन बराबर सुरक्षित सीट से लड़ रहा है। फिर नये हरिजन . . .

श्री नेकी राम : हरिजनों का भला सोच रहे हैं या उसकी जड़ काट रहे हैं, उनका हटाना चाहते हैं या उठाना चाहते हैं।

श्री राजनारायण : उनका उठाना चाहता हूँ और मैं कहना चाहता हूँ कि जो हरिजन हैं, वह आज हमारे इस सुझाव से सहमत हैं, क्योंकि हम इस पर काफी राय ले चुके हैं, उत्तर प्रदेश में घूम घूम

कर दो तीन दिन तक। अगर श्री जगजीवन राम के लिये यह बाध्यता हो जाय कि वह जनरल सीट से लड़ें, तो वहाँ से एक दूसरा आयेंगा। अगर श्री गिरधारीलाल के लिये यह बाध्यता हो जाय कि वह जनरल सीट से लड़ें, तो हरिजन सीट तो सुरक्षित ही है और वहाँ से एक एक और आ जायेंगे, इसी तरह डा० सीताराम के लिये बाध्यता हो जाय कि वह जनरल सीट से लड़ें तो हरिजन के लिये वह सीट सुरक्षित रहेगी और वहाँ से एक नया हरिजन आयेंगा। इसलिये हम हरिजनों के लिए उनका हक व्यापक कर रहे हैं, दायरा बढ़ा रहे हैं।

और दूसरी बात क्या होगी कि इसका अगर अच्छा होगा, क्योंकि एक मर्त्या, दो मर्त्या मंत्री रहने के बाद भी अगर वह हरिजन ही रह गये, उनके लिये भी सुरक्षित सीट से आने की गंजाइश रहे तो समझ लो कि 10 वर्ष भी बेकार गये। ऐसा नहीं हो। मैं जानता हूँ कि श्री जगजीवन राम की समाज में प्रतिष्ठा हो चुकी है, उनका स्थान हो चुका है, श्री गिरधारीलाल का स्थान हो गया है, तो क्यों नहीं यह अनिवार्य किया जाय कि ये जनरल सीट से ही लड़ें और सुरक्षित सीट भी रहे? हम सुरक्षित सीट को हटाने की बात नहीं कर रहे हैं, उस सुरक्षित सीट से दूसरा हरिजन आयेंगा और वह लड़ेगा और श्री जगजीवन राम और श्री गिरधारीलाल या डा० सीताराम जो जनरल सीट से लड़ेंगे, तो ज्यादा सम्भव है कि वह जीत जायेंगे और उससे धीरे-धीरे हरिजन और द्विज का फर्क मिट जाय और आटा और चावल का भाव चुनाव में श्री जगजीवन राम, श्री गिरधारीलाल और डा० सीताराम भी समझेंगे और जो रूलिंग पार्टी होगी, वह भी समझ जायगी कि हमारे स्वतंत्र देश में हमारे हरिजनों को कितना ऊँचा उठाया गया, समाज के दूसरे लोगों के दमियान में इनका स्थान कितना उठ गया; क्योंकि जब श्री गिरधारी

लाल को जनरल सीट से, श्री जगजीवन राम को जनरल सीट से किसी डिज के मुकाबिले में जाकर लड़ना पड़ेगा, तो उन्हें पता चल जायगा कि इनका समर्थन कौन करता है। जब टकराव होगा, धक्का लगेगा, रमरी आवत जात ते सिल पर होत निशान, तो जो एक समानता की स्थिति है, वह पैदा हो जायेगी और तब पता चलेगा। हमको गलत न समझा जाय, मैं इस समय रिजर्वेशन के हटाने के पक्ष में नहीं हूँ। तो जो हमारा मुझाव है, उसका सम टोटल यह है कि सुरक्षित सीट से चुन कर आये हुए हरिजन सदस्य जो सरकारी पदों पर रह चुके हैं, उनके लिये यह बाध्यता कर दी जाय कि आगे वह जनरल सीट से लड़ें और हरिजन सीट से न लड़ें, हरिजन सीट से नये-नये लोग आयेंगे, उनकी उतनी सीट तो सुरक्षित रहेगी।

उपसभाध्यक्ष (श्री महाबीर प्रसाद भार्गव) : एक प्वाइंट पर ही आपने 10 मिनट लगा दिये, तो बड़ी मुश्किल होगी।

श्री राजनारायण : श्रीमन्, आप देख ही रहे हैं।

उपसभाध्यक्ष (श्री महाबीर प्रसाद भार्गव) : आपका 15, 16 मिनट का समय है।

श्री राजनारायण : हमें तो आधा घंटा का समय बताया गया था।

उपसभाध्यक्ष (श्री महाबीर प्रसाद भार्गव) : आधा घंटा तो पार्टी के किसी लीडर ने भी नहीं लिया है।

श्री राजनारायण : हम लीडर तो नहीं हैं, हम तो सामान्य आदमी हैं।

उपसभाध्यक्ष (श्री महाबीर प्रसाद भार्गव) : आपको कुल 20 मिनट मिल सकता है, आप देख लीजिये।

श्री राजनारायण : ये लोग जो बीच में टोका टोकी करें उसको . . .

उपसभाध्यक्ष (श्री महाबीर प्रसाद भार्गव) : उसको काट देंगे।

श्री राजनारायण : तो तीन ही लीडर कटेंगे, श्री जगजीवन राम . . .

श्री नेकी राम : यह तो हर वक्त डिसटर्ब करते रहते हैं, इनका तो नम्बर ही नहीं आना चाहिये।

श्री राजनारायण : कहीं से उठाकर लाकर बिठा दिये गये हैं, ऐसा लगता है। सोचो, सोचो।

तो दूसरी बात जो कह रहा था वह यह कि वोटर लिस्ट जो संशोधित हो रही है उसको बनाने और अन्तिम रूप देने का अधिकार भी एलेक्शन कमिशन के पास जाता है। मैं चाहता हूँ कि वोटर लिस्ट बनाने की जिम्मेदारी अब गांव सभाओं को दे दी जाय। इसके लिये गांव सभाओं को जिम्मेदार बनाना चाहिये और उनको जिम्मेदार तभी बना सकते हो जब कि उनके ऊपर जिम्मेदारी आये। इसमें कई फायदे होंगे।

श्रीमन्, आपकी जानकारी में भी यह बात आई होगी कि बहुत से लोग गांव पंचायतों के चुनाव में वोटर थे, लेकिन असेम्बली के चुनाव में नहीं थे और बहुत से लोग असेम्बली के चुनाव में हैं, तो गांव पंचायत के चुनाव में नहीं है जब कि दोनों के लिये वही शर्त 21 वर्ष की है। अभी हमारे पास बिहार के बहुत से लोग आये थे, जिनके मामले को हमने जगजीवन राम जी के पास भेजा था। कारण क्या है कि जो असेम्बली का वोटर है, वह नोटीफाइड एरिया में वोट नहीं दे पा रहा है और जो 1957 ई० और 1962 ई० के चुनाव में वोट दे चुके हैं, वह आज नोटीफाइड एरिया और टाउन एरिया कमेटी में वोट नहीं है? इसलिये मैं चाहता हूँ कि गांव सभाओं को वोटर लिस्ट छपवाने की जिम्मेदारी दी जाय, उसके खर्च की व्यवस्था हो और हर गांव सभा के वोटर को जुटा कर असेम्बली की एक वोटर लिस्ट बन जाय।

[श्री राजनारायण]

इसको एलेक्शन कमिशन के हाथ में छोड़ना ठीक नहीं, ऐसी व्यवस्था आ रही है कि अनावश्यक ढंग पर अल्पमत को बहुमत बना दिया जाय और बहुमत को अल्पमत बना दिया जाय। ऐसे अनेक पेटिशनस की हमको जानकारी है, मुझे मालूम नहीं कि पाठक जी ऐसे केसेज लड़े हैं या नहीं लेकिन हमें जानकारी है।

श्री गोपाल स्वरूप पाठक : हमने देखा बहुत है।

श्री राजनारायण : देखने से काम नहीं चलेगा अनुभूति करो।

श्री नीरेन घोष : अनुभूति करेगा।

श्री राजनारायण : मैं चाहता हूँ कि पोलिंग स्टेशन के बारे में भी एलेक्शन कमिशन पर पूरी जिम्मेदारी न रहे। पोलिंग स्टेशन की जिम्मेदारी हर गांव सभा पर छोड़ी जाय। एक नियम बना दिया जाय।

SHRI NIREN GHOSH: Where is the quorum?

श्री राजनारायण : जी हां, अब तो कोरम होना चाहिये।

THE VICE-CHAIRMAN: (SHRI M. P. BHARGAVA): Please ring the quorum Bell. You continue. The quorum bell is being rung.

आप बोलिये।

श्री राजनारायण : यह कोरम बेल का समय आप हमारे में न लें।

तो श्रीमन्, हम यह कह रहे थे कि पोलिंग स्टेशन के लिये अगर एलेक्शन कमिशन पर सारी डिसक्रिशनरी पावर छोड़ दी जाती है, तो अंततः विरोधी पक्ष

को जहां पोलिंग स्टेशन रहने पर ज्यादा बोट मिल जायगा, वहां काट दिया जाता है और सरकारी पक्ष के लोगों को जहां पोलिंग स्टेशन होने से सहूलियत होगी, वहां पोलिंग स्टेशन कर दिया जाता है, अन्त तक परिवर्तन होता रहता है।

SHRI MULKA GOVINDA REDDY (Mysore): It is happening in Mysore also.

श्री राजनारायण : सब जगह है।

इसलिये पोलिंग स्टेशन के बारे में भी हम बिल्कुल निश्चित मत के हैं कि उसको भी गांव पंचायत के ऊपर छोड़ा जाना चाहिये।

इसी तरह से श्रीमन् पोलिंग एजेंट्स की बात है। इसके भुक्त भोगी विरोधी पक्ष के लोग अक्सर होते हैं। हम अपने पोलिंग एजेंट देते हैं और प्रिसाईडिंग आफिसर वह नहीं लेते। सरकारी पक्ष का चाहे दस्ताखत हो या न हो ले लेते हैं। तो हम चाहते हैं कि जिस समय जो भी उम्मीदवार हो, वह उम्मीदवार लिख कर दे दे कि हमारा यह पोलिंग एजेंट है तो उसी को उसका पोलिंग एजेंट मान लिया जाय। पोलिंग एजेंट के बारे में कानून की अनावश्यक आड़ लेकर एलेक्शन को पेचीदा न बनाया जाय, जिससे प्रिसाईडिंग आफिसर को हक मिल जाये कि जिसको चाहे रखे जिसको चाहे हटा दे।

इसी के साथ साथ मैं काउंटिंग एजेंट के बारे में कहना चाहता हूँ। जितने टेबल हों उस पर हर टेबल पर जितने उम्मीदवार हों, उनका एक-एक काउंटिंग एजेंट रहे। अगर ऐसा नहीं होता, तो सामान्यतः गड़बड़ी होती है जैसे कि सहरसा के चुनाव में हुआ। 8 बजे सुबह गिनती शुरू हुई, रात भर गिनती कराते गये, 3 बजे रात रेडियो में आ गया हम जीत गये, चीफ मिनिस्टर का फोन आया रिटनिंग आफिसर के पास तो साढ़े 6 बजे हम हार गये। तो गिनती में

जबर्दस्त गड़बड़ी हो सकती है। इसलिये हर पोलिंग काउंटिंग टेबल पर हर उम्मीदवार का एक एजेंट अवश्य रहे, यह हमारा सुझाव है।

इसी के साथ साथ जो चेकिंग होती है, वह चेकिंग जब हो, तो चेकिंग के समय भी उसको रहना चाहिये . . .

उपसभाध्यक्ष (श्री महावीर प्रसाद भार्गव) : समय की चेकिंग के हिसाब से 15 मिनट हो गए।

श्री राजनारायण : थोड़ा सा और समय चाहूंगा।

उपसभाध्यक्ष (श्री महावीर प्रसाद भार्गव) : पांच मिनट।

श्री राजनारायण : अगर अनावश्यक बोल रहा हूं तो कहियेगा। चेकिंग जहां होती है, वहां पर रिटनिंग आफिसर क्या कहते हैं? अगर वोट विरोधी पक्ष के उम्मीदवार को मिल रहा है, थोड़ी सी कमी हो तो कह देते हैं इनवैलिड है, उसमें जरा गड़बड़ी है, और वही अगर सरकारी पक्ष के लोगों को मिलती है, तो कह देते हैं "वैलिड"। इस पर जबर्दस्त व्यवस्था होनी चाहिये। मंत्री महोदय ने जो इसमें संशोधन रखा है, उसमें कहीं भी इस पर कोई चेक नहीं है। या तो एक नियम बना दिया जाय कि जो वोट पड़ गया, जिसका पड़ गया कुछ भी गड़बड़ सड़बड़ बात नहीं है। नहीं तो ऐसा होता है कि हम लोगों के तीन तीन हजार वोट एक एक एम० एल० ए० की कांस्टीट्यूएन्सी में इनवैलिड होते हैं और सरकारी पक्ष के जो इनवैलिड होने चाहियें, वे वैलिड हो जाते हैं। इसकी व्यवस्था हो। बिहार उत्तर प्रदेश से ज्यादा भुक्त भोगी है और उत्तर प्रदेश भी भुक्त भोगी है। श्रीमन्, जो आज सरकारी पक्ष के मंत्री हैं, ये मंत्री लोग क्या करेंगे? यह समझ लेते हैं कि इस निर्वाचन क्षेत्र में . . .

[THE DEPUTY CHAIRMAN in the Chair]

माननीया, आप तो उदार हैं, आपकी उदारता हमारे साथ चलेगी।

उपसभापति : क्या पांच मिनट मिले है अभी ?

श्री राजनारायण : आप देखियेगा। हम सब नयी बात कह रहे हैं। जो लोग कह चुके हैं उसको हम दोहरा नहीं रहे हैं और विधेयक में कोई टाइम होता नहीं है। तो हम यह कह रहे हैं माननीया कि हमको अनुभव है, एक निर्वाचन क्षेत्र है, उस निर्वाचन क्षेत्र में अगर सरकारी पक्ष ने यह देख लिया कि 2,000 वोटों से यहां कांग्रेस हार सकती है तो वह 3,000 वोटों को पहले ही से बमों में बैठा लेंगे, बमों में बैठाकर चार पांच पोलिंग स्टेशनों में धुमकेंगे और वहां वोगस वोट बनेंगे और जब जेनरल वोट्स आएंगे, तो प्रिसाईडिंग आफिसर कहेंगा उनके वोट तो पड़ चुके हैं, उनका वोट नहीं पड़ेगा। तो इस कानून में एक ऐसी व्यवस्था होनी चाहिये, एक दो की कहीं गड़बड़ी हो और अगर जेनरल वोट्स कहे उसका न लो, तो बात दूसरी है, लेकिन जहां पचास पचास सौ सौ पांच पांच सौ वोट्स आते हैं और कहते हैं हमारा वोट नहीं पड़ा है, उस समय के लिये क्या पाबंदी होनी चाहिये? इसके बारे में कानून में व्यवस्था होनी चाहिये। जहां इस तरह से दस से ज्यादा वोट्स वोट देने के लिये आए, वहां हर पोलिंग आफिसर को . . .

उपसभापति : अब आपने समाप्त करना चाहिये।

श्री राजनारायण : आपको आये अभी पांच मिनट नहीं हुआ, आपको बैठे पांच मिनट नहीं हुआ। आपने कहा था, पांच मिनट देंगे।

उपसभापति : आपको वाइस चैयरमैन साहब ने पांच मिनट दिये थे।

श्री राजनारायण : आपने अपनी ओर से कहा था। आप अपने वचन का तो पालन करें।

उपसभापति : किसी और सदस्य ने इतना वक्त नहीं लिया है।

श्री राजनारायण : आप भी समझ ल तो अच्छा हो। देख लें ज़रा कानून की बात।

उपसभापति : आपने भी समझना चाहिये।

श्री राजनारायण : कहिये तो न बोलूँ। हम एक पोइंट आफ़ आर्डर जानना चाहते हैं।

उपसभापति : पाइन्ट आफ़ आर्डर क्या है ?

श्री राजनारायण : आखिर यह विधेयक है, जन प्रतिनिधित्व से संबंध रखने वाला। अगर हम रिपिटिशन करें, तो आप रोक सकती हैं। विधेयकों पर रिपिटिशन हो तो ज़रूर रोक सकती हैं। अगर नयी बातें हों, तो चेयर को रोकने की क्षमता नहीं है। विधेयकों के बारे में हमारी यह मान्यता है। मैं रिपिटिशन नहीं कर रहा हूँ।

THE DEPUTY CHAIRMAN: I am appealing to your reasoning.

श्री राजनारायण : ठीक है, तो मैं जल्दी कर रहा हूँ। मैं स्पष्ट मत का हूँ कि मंत्रियों को चाहिये कि नामिनेशन हो जाने के बाद चुनाव के मौके पर दौरा करने जायें, तो मंत्री की हैसियत पर नहीं रहना चाहिये। उस समय के लिये कोई ऐसी व्यवस्था कानून में हो जानी चाहिये कि मंत्री के रूप में जनता के बीच में न देखे जायें और कोई सरकारी कर्मचारी उनके साथ न जाय। एलेक्शन के दौरान जितने डाक बंगले होते हैं, सभी मंत्री लोग रिजर्व करा लेते हैं, वहाँ उनके कांग्रेस पार्टी के दफ्तर खुल जाते हैं, हम लोगों को कोई मौका नहीं मिलता है। इसके लिये कोई न कोई

व्यवस्था होनी चाहिये कि नामिनेशन के बाद मंत्रियों को मंत्री के रूप में नहीं रहना चाहिये।

तीसरी बात सवारी के बारे में है और जो यहां पर सेलेक्ट कमेटी बनी थी, उसमें भी बहुत से लोगों ने अपने सुझाव उस पर दिये थे। हमें अफ़सोस है, सरकार पता नहीं उसको क्यों स्वीकार नहीं कर रही है? मैं निश्चित मत का हूँ कि सवारी पर कोई न कोई कानून में ऐसा प्रतिबन्ध होना चाहिये, जिससे कम से कम जिस दिन मतदान हो रहा हो, उस दिन तो सवारी का इस्तेमाल हो ही नहीं, सिवाय उम्मीदवार को छोड़कर। उम्मीदवार के लिये सवारी रह सकती है; क्योंकि उसे काफी भाग दौड़ करनी पड़ती है, इधर-उधर आना जाना होता है। कोई दूसरी सवारी पोलिंग स्टेशन पर जाय नहीं, इसकी भी व्यवस्था होनी चाहिये वरना एक स्वतंत्र, निष्पक्ष, स्वच्छ एलेक्शन नहीं होगा।

इसी के साथ साथ जब नामिनेशन हो जाय, नामिनेशन हो जाने के बाद चाहे वह रोडवेज का स्टेशन हो, चाहे नलकूप हो, चाहे नयी सड़क की इजाजत हो, हम चाहते हैं चुनाव के पहले जो एक डेढ़ महीने का समय रहता है, उसमें अगर ये काम न खोले जायें, तो कोई बड़ी आफ़त नहीं आ जायेगी। हम लोग अशिक्षित हैं, हमें लोभ दिया जाता है कि मंत्री जी यहां नलकूप गाड़ देंगे, रोडवेज के स्टेशन खोलेंगे इत्यादि बातें कही जाती हैं। एक नलकूप या रोडवेज का स्टेशन खोल देने से वहाँ जनता के मत को प्रभावित कर दिया जाता है। इसलिये कानून में व्यवस्था होनी चाहिये कि नामिनेशन होने के बाद ये सब चीज़ें नहीं होंगी।

जाति भेद का सवाल भी यहां उठाया गया है। हम कहना चाहते हैं कि जो लोग पश्चिमी समाजवाद के ज्ञाता हैं, उन्होंने केवल क्लासलेस सोसाइटी वर्ग हीन समाज की बात पढ़ी होगी। हमारे भारतवर्ष में जो समाजवाद

की बात कहते हैं, उसमें वर्ग विहीन और वर्ण विहीन दोनों आते हैं—क्लामलेस और कास्टलेस। जब तक कि वर्ग और वर्ण दोनों नहीं हटेंगे, तब तक न जनतंत्र है न समाजवाद है मैं कहना चाहता हूँ कि मिनिस्टर से कि इस कानून में ऐसी कौन सी बात हमने जोड़ी है, जिससे जातिपात का बंधन ढीला हो ? आज जातिपात का बंधन गहरा हो रहा है कड़ा हो रहा है। इसलिये कानून में कोई सख्ती से व्यवस्था होनी चाहिये, जिससे जातिपात की बुनियाद कहीं भी किसी भी तरीके से खड़ी न हो पाये। तो इस तरह को कोई न कोई व्यवस्था इस कानून में होनी चाहिये थी।

माननीया जो ओरिजिनल ऐक्ट है 1950 का उसकी धारा 7 (डी) में पढ़ना चाहूंगा :

"If whether by himself or by any person or body of persons in trust for him or for his benefit or on his account he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by the appropriate Government."

माननीया, देखा जाय कि हम डिस्टेरियोरेंट कर रहे हैं, हम पीछे हट रहे हैं। 1950 के कानून में कहा गया है कि अगर विधान सभा का कोई सदस्य या लोक सभा का कोई सदस्य अपने से संबंधित सरकार से कोई ठेका लेता है, चाहे वह सीधा ले या टेढ़ा ले या डाइ-रेक्ट ले अथवा इनडाइरेक्टली उस कांटेक्ट में उसका इन्टरेस्ट हो, बेनिफिट हो, तो भी वह डिसक्वालिफाइड माना जायेगा।

उपसभापति : अब समाप्त कीजिए।

श्री राजनारायण : अब जो कानून है, इसमें से उसको निकाल दिया गया है। मैं कहना चाहता हूँ कि इस तरह से 1951 के कानून को ना मानकर इसमें संशोधन कर के यह सरकार कुनवा परस्ती को बढ़ा रही

है और भ्रष्टाचार को बढ़ा रही है। अगर 1951 का कानून होता, तो श्यामधर मिश्र कहां से आते ?

उपसभापति : अब आप समाप्त कीजिए।

श्री राजनारायण : जब से ये हटे तो पान्ति देवी उस स्थान पर पार्टनर बन गई। एक सदस्य या मंत्री है और उसकी बीबी किसी फर्म में पार्टनर है और वह कांटेक्ट लेती है, तो बीबी की कमाई को उस मेम्बर की कमाई नहीं मानी जायेगी। इस कानून से जिसके जरिये हमारे माननीया मंत्री पाठक जी भ्रष्टाचार मिटाना चाहते हैं, उसको संशोधन करके वे भ्रष्टाचार को बढ़ावा देंगे, कुनवा परस्ती को बढ़ावेंगे, स्वतंत्र चुनाव की हत्या करेंगे और जनतंत्र की हत्या करेंगे। इसलिये मैं चाहूंगा . . .

उपसभापति : आपका एक मिनट समाप्त हो गया है और आप अब माफ कीजिए।

श्री राजनारायण : मैं एक ही बात कहना चाहता हूँ।

उपसभापति : अब आप समाप्त कीजिये।

श्री राजनारायण : जिस दिन चुनाव हों उस दिन मैं यह चाहता हूँ कि वेल्ट बाक्स की सुरक्षा के बारे में जिस डंग से उम्मीदवार चाहता है उस डंग से उसकी सुरक्षा का बंदोबस्त किया जाय।

THE DEPUTY CHAIRMAN: Now, Mr. Banka Behary Das. I hope you will say whatever you have to say in ten minutes.

श्री नेकीरास : मैं माननीय सदस्य से एक क्लेरिफिकेशन चाहूंगा।

THE DEPUTY CHAIRMAN: No clarification at this stage. Yes, Mr. Das.

SHRI BANKA BEHARY DAS (Orissa): Madam Deputy Chairman, I only want to impress upon the Law

[Shri Banka Behary Das.]

Minister two points. I want an explanation from him as to why in spite of the fact that the Select Committee on which were represented all the political parties in both the Houses recommended a certain thing it was negated in the other House. That was the most important amendment that the Select Committee had suggested in the Representation of the People (Amendment Bill, for the purpose of cleansing the public life of India. It was not a question of the Congress Party or the Praja Socialist Party or any other Party. This is a question which has confronted us all along, namely, how to cleanse public life in this country which] has gradually deteriorated within these past 20 years since the attainment of our independence. You know, Madam, that the Select Committee wanted that these contractors who either directly or indirectly want to take advantage of the political situation in India with the money at their disposal as a result of having contracts with the Government in the various States and at the Centre, should be prevented from doing so. They want to have entry into the political life in different shades. One thing I may say and it is this. I am very happy that two Congress Members who have been supported by all, by both sides of the House, have given two amendments to clause 20 of this Bill. In this connection I want, to say this to the Law Minister, because he knows what circumstances the Election Commission had to face in certain cases because of the want of this disqualification. I can cite some instances, I will not cite many because there is no time for that. I knew how a Minister who was in charge of Community Development and Public Works Department entered into a contract with the Government in the name of an employee of his mm. But he could not be booked for that because of this lacuna. But just because he was having some transactions with a Cooperative Bank, he was booked and he is disqualified and he is no longer a Member of the

Orissa Assembly. I know of another instance where the Chief Minister of a State carried on business in the name of his wife. We know how Election Commission was helpless and the Commission has categorically stated that under the law only the person who has contract with the Government is disqualified, that if he carries on the business in the name of his wife or in the name of his minor son he cannot be booked. Another instance I know in which the Chief Minister of that State just before the nomination, transferred all the industries and all the business he had, in the name of his wife so that he could be Chief Minister of that State. I warn to ask the hon. Minister, Shri Pathak, if he wants that contractors should not be allowed to come into political life to decorate the benches of R: Sabha or the Legislative Assembly of the States or Lok Sabha, how he going to debar such persons?

SHRI KOTA PUNNAIAH (Andhra Pradesh): I would like to know whether the hon. Member wants that thi Chief Ministers only should be debarred or does he want others also to be debarred?

SHRI BANKA BEHARY DAS: Everybody who has such disqualification. I am only citing install because they are referred to by the Election Commission. I want rule to apply to everybody, to us also here in the Parliament and in the State Assemblies, whether the candidates be of the Congress Party or the P.S.P. or any other party. I want to appeal to Shri Pathak, if we are sincere in saying that contractors should not come into the Legist by the back door or to the Parliament, then these two amendments of our Congress friends should be accepted. The Select Committee in its wisdom did something. Though I was not very happy about the Select Committee's recommendation still I wholeheartedly supported it and in the Select Committee the Congress Party also supported it. I do not know what happened during this period and

I do not know why Mr. Pathak has retraced his steps and now wants to see these contractors who are carrying on government business in the names of their wives or somebody else, should come to Parliament or the State Legislatures. This is a very important matter which the hon. Law Minister should explain to this House. He should explain how in spite of the unanimous decision of the Select Committee, he was instrumental in changing this in the other House. I do hope that the Congress Members will stand firm. It is not a question of how many seats the Congress gets. It is a question of how we can purify and rectify the situation that is obtaining in India. Are you going to say that these contractors who were debarred in the original law should now come into this House by the back door? That is the problem and if Mr. Pathak has no solution to it, then I think that this provision in the Bill should be thrown out and the amendments should be accepted.

The second matter to which I want to draw the attention of the House is about the utilising of Government's machinery. All of us want that there should be free and fair elections in India. Both sides of the House want that. Today the Congress Party is in power. Tomorrow some other party may be in power. All we want to see is that in the interest of democracy and in the interest of having free and fair elections, the administrative machinery of the Government should not be utilised either by the Congress Party or by my party or by anybody else's party. I know of hundreds of instances where the public media of communication have been utilised, and projectors have been utilised, cinema films of the Government have been utilised in order to gather people so that the interested persons may speak to the electorate. That is the situation that is obtaining here in India. I want to know if the Election Commission has got power. I know last time there was a circular. Now I want the hon. the Law Minister to tell us frankly that the administrative

machinery of the Government will not be utilised for political purposes. Last time I addressed a letter to the Chief Minister of Orissa. I was told that these things are being utilised. We are now helpless. We cannot go to a court of law now. If a law prohibits such use then we can go to a law court. But nowhere does the law prohibit such things. So the only course open to us is to become desperate. But we do not want to become desperate. We want to see that the administrative machinery of the Government is not used. The Election Commission can issue a circular or the Government of India can issue a circular. They may say that there is no time for bringing in the amendment now to incorporate this as a disqualification. But for the present they can issue a circular that under no circumstances the administrative machinery will be utilised for election purposes. I may tell you, Madam, that the late Prime Minister, Shri Lai Bahadur Shastri, once said that if the Block Development jeeps were misused they would be withdrawn, just before the elections. But up till now they have not been withdrawn and everywhere jeeps are being utilised for political purposes. So I want to appeal to Shri Pathak, if you want a fair and free election, something must be done and there should be some action also.

Madam, I do not want to say anything more, because I have only ten minutes. I hope that the Law Minister will accept the amendments that I referred to, in the interest of free and fair elections and for purifying political life in this country. At least let the amendments moved by these two Congress friends be accepted.

There is another matter and that is about the privy purses. This very fine clause suggested should be added to the Representation of the People Act. Why should these privileged persons who have got money from the Consolidated Fund of India be allowed to come into our political life through the back door? Why should

[Shri Banka Behary Das.]

they come in by utilising this Government's money for political purposes?' If our Congress friends have got courage, let them accept this amendment also for purifying the political life in India. If you are not going to do it, if a certain section of the Congress is going to vote it down

the_n what will be the future 3 P.M. of
India? I will appeal to my

Congress friends and also Mr.

Pathak to accept at least for the time being these two amendments which have come up here and we hope the entire Opposition will be with them if they want to purify the political life of this country.

Thank you.

SHRI G. S. PATHAK: Madam Deputy Chairman, I have studied the speeches which were made in my absence and I have with great attention listened to the debate today. I have been asked by more than one Member to explain why a change was made from what had been decided on by the Joint Committee and I shall deal with that matter at once.

Now we must remember in connection with the question of disqualification that disqualification is an exception. It is not merely the right of a citizen to stand as a candidate but there are other rights also involved. You will kindly remember—I am reminding the hon. Members of this House—that in England at one time the House of Commons while Inflicting the punishment of expulsion on a Member also said that he should not come in the next election: that is to say, he was disqualified. That was a stage of development of the constitutional practice. Later the House of Commons passed a Resolution rescinding the earlier Resolution which permitted that practice and the House of Commons said this; you find this in May's Parliamentary Practice on page 107:

"On 3rd May 1782 the Resolution of 17th February 1769 was ordered to be expunged from the journals as 'subversive of the rights of the whole body of electors of this Kingdom'."

Now the rights of the electors of the whole country are also affected by the exclusion of anybody from standing as a candidate. The House will kindly remember that in cases where the Supreme Court had to consider this aspect of the right of electors they have—and that is my reading of the decisions of the Supreme Court—recognised the right of the electors also in the matter of election. Therefore although disqualification can be provided for by legislation—and the legislative practice is that it is provided for both in the United Kingdom and here—yet it is an exceptional measure because you are denying to the electors of the country the right to elect a person of their choice. Therefore that should be an exceptional measure and that should be a restricted measure. That is one aspect which hon. Members of this House will kindly remember.

Another aspect is that the law of disqualification should be so simple that the Returning Officer who has got to scrutinise the nomination papers should be in a position to judge whether a person is disqualified or is qualified to stand as a candidate. That is section 36 of the Representation of the People Act. He has got to enter into a summary enquiry; it is not possible for him to enter into complicated questions of law and fact because that will take the whole day and he may not be able to decide then and he is not qualified to decide all this. This is illustrated by what Mr. K. K. Shah observed in his speech. He put a question to me: what is the meaning of 'in trust for'? There were several meanings put upon this expression when this expression was a part of the statute and people were not certain about the precise connotation of this expression. Therefore so

far as the disqualification is concerned we have got to make it as simple as possible so that it may be workable, so that the Returning Officer may be in a position to decide at once as to whether a person is qualified or not qualified. Take the other reasons for disqualification; one is conviction for a certain period; the Returning Officer has got only to read the judgment. The other is dismissal for disloyalty to the State and he has got only to read the Order of dismissal. Every disqualification that is mentioned in the section is such as can enable the Returning Officer to decide the question very easily. We cannot put before the Returning Officer complicated questions of law and fact without the determination of which he cannot decide whether a person is qualified or not qualified.

Madam, I have got to take up the recommendation of the Joint Committee which has not been accepted by the Lok Sabha in two parts. I will first take up the latter part where it is stated that if there is a company or a corporation—I need not read the recommendation because the House knows what was recommended by the Joint Committee—in which the Government has a certain share, say, 25 per cent., then any contract with that company will disqualify the person who enters into that contract. Kindly consider that part first. It is conceded—'Mr. Arjun Arora has himself stated—that the public sector is growing.

श्री राजनारायण : इससे क्या होता है ?

श्री गोपाल स्वरूप पाठक : अब आप ज़रा सुनिये । मैंने जैसे आपको सुना वैसे ही आप मुझे भी सुन लीजिये ।

श्री राजनारायण : आपको जानकारी नहीं है आप कैसे बोलते हैं । हमें जानकारी है इस लिये बोल रहे हैं ।

SHRI G. S. PATHAK: These days you have got both Central as well as State corporations and they are growing in number. Also there is a large

number of such corporations in which the Government has interest. There is the co-operative sector also.

SHRI MULKA GOVINDA REDDY: The co-operative sector is excluded. Why do you confuse?

SHRI G. S. PATHAK: By the Act it has been excluded.

SHRI RAJNARAIN: We are passing the Act.

SHRI G. S. PATHAK: My colleague mentioned to me and I mentioned it to you. If you think I was wrong, then you ignore it.

SHRI MULKA GOVINDA REDDY: It has already been excluded and by mentioning the co-operative sector now you are trying to confuse the House; you are trying to mislead the House.

SHRI G. S. PATHAK: Don't use strong words unnecessarily. I am prepared to listen even without the strong language.

Take the case of the Food Corporation. How many growers will sell their grains to the Food Corporation? How many people will enter into contracts for sale with the Food Corporation?

SHRI CHANDRA SHEKHAR (Uttar Pradesh): That is not a contract.

SHRI BANKA BEHARI DAS: You are already excluding them by this. So, there is nothing new.

SHRI G. S. PATHAK: Where is it excluded?

SHRI BANKA BEHARY DAS: You have already excluded them.

SHRI G. S. PATHAK: I follow you.

SHRI BANKA BEHARY DAS: Already you have excluded them. There is nothing new.

SHRI G. S. PATHAK: It is a mistake to think that sale is not a contract. If a person enters into a contract with the Government to sell, it is a contract. It cannot be denied. Any lawyer would say that it is a contract and to say that it is excluded . . .

SHRI CHANDRA SHEKHAR: A sale is not a contract, however much the law point might be emphasised.

श्री राजनारायण : अगर ऐसा ही होगा तो हम लोग इसको एक्सक्लूड कर देंगे । आप आगे चलिए ।

(Interruptions.)

THE DEPUTY CHAIRMAN: Order, order,

SHRI G. S. PATHAK: An agreement or a contract to sell goods is a contract. Now, take a case like this (Interruption.) Mr. Chandra Shekhar please listen, if the Government enters into a contract, say, with foreign country, Russia, to sell shoes and the Government enters into a contract with a shoe manufacturer in India . . .

SHRI BANKA BEHARY DAS: He is disqualified.

SHRI G. S. PATHAK: Is it a contract or not? It is a contract for sale. Now, when a farmer or a grower enters into a contract with the Food Corporation that he will sell a particular quantity of grain to the Food Corporation, that will be a contract. No Corporation can carry on with its work unless it enters into contracts with others and it is for this, this is provided.

SHRI BANKA BEHARY DAS: You have already excluded them.

SHRI G. S. PATHAK: You will kindly remember the history of this section. What was enacted in 1951 was removed by Act 58 of 1958. At that time the question arose whether the

original section, which was enacted in 1951, should be repealed or not. A Joint Committee was appointed, on which the Members were more than thirty. I have got the Report of the Joint Committee.

श्री राजनारायण : पढ़िए, पढ़िए रिपोर्ट में क्या है ?

SHRI G. S. PATHAK: I am reading the Report and you are emphasising that I should read the Report. That Report said:

"Clause 50.—The Committee have carefully considered the proposed substitute clause (d) of section 7 of the Representation of the People Act, 1951. The Committee feel that in view of the expanding activities of the Central and State Governments as the biggest purchasers and suppliers of goods, including food-grains and other essential commodities, a large number of persons in the country . . ."

SHRI BIREN ROY (West Bengal): This is the other Select Committee, which has been superseded by the latest Select Committee.

SHRI G. S. PATHAK: Am I not entitled to give the history of this legislation? I am entitled to show what was the view of Parliament at an earlier stage. Without considering that, you are simply rescinding what Parliament has done.

SHRI BIREN ROY: You agreed with it. There was no disagreement with it.

श्री राजनारायण : अगले जमाने के हैं इन्हें कुछ न कहो ।

SHRI G. S. PATHAK: The Committee feel that in view of the expanding activities of the Central and State Governments as the biggest purchasers and suppliers of goods, including food-

grains and other essential commodities, a large number of persons in the country will have some contractual relationship with the Governments in these matters. Under the circumstances it will not be proper to disqualify all such persons who are having contractual dealings with the Governments from standing for election or being elected as Members of Parliament or State Legislatures. The Committee, therefore, feel that a better course would be to altogether omit the existing clause (d) of section 7 of the Act. I do not want to read from the reports of the debates. When the matter went to Lok Sabha, the question arose whether this recommendation for the deletion of the entire section should be accepted or not. It may be remembered that in 1957 in England the Removal of Disqualifications Act was passed, according to which a corresponding section was deleted from the Statute. When that question arose, the section which exists was enacted. Both Lok Sabha and Rajya Sabha enacted the section which exists and repealed the section which is sought to be introduced now and against which there is this grievance, if I may use that expression. Why has not the Joint Committee's Report been accepted. Now, what has happened is that the section has become clearer. Act 58 of 1958 made the section simpler, so that it may be workable. It may be possible for the returning officer to work it out. Even now those who enter into contracts with the Government for the sale of goods or those who enter into contracts with the Government for the execution of works, will be all contractors. Those who enter into contracts for the execution of works are covered by the existing section. All that is said today is, and every speech has conceded it, when this matter was discussed 'contractors', 'contractors'. Now, kindly consider the fact that the contractors are included. I will read the existing section:

"A person shall be disqualified if, and for so long as there subsists a

contract entered into by himself or by any person or body of persons... on his account in the course of trade or business with the appropriate Government for the supply of goods to or for the execution of any works undertaken by that Government."

That is included. The case of contractors is included in the Bill as passed by the Lok Sabha. Therefore, we have got to see that we do not enlarge the section so that original position of 1951 might be restored and do not further enlarge that particular section by adding the words 'corporations or companies' in which the Government might be interested. That is the position. Lok Sabha has accepted the section as I have read to this House and I submit with the utmost respect to the Members of this House that no reason has been suggested which might justify the deletion of section 9A, in repeal of what was done by this House while passing Act No. 58 of 1958 and going back to 1951. Act No. 58 of 1958 has functioned throughout these years without any difficulty. There are other methods of dealing with people who are corrupt. There are methods. Names have been mentioned of Ministers. The wife of a Minister has been mentioned. When they are mentioned it should also be considered that there are so many other methods of removing those people from the work that they are doing. They can be shown up. They can be dealt with and there are cases where Ministers who have entered into .

श्री राजनारायण : अगर 1950 का कानून होता तो आज बहुत से केन्द्र और राज्य के मंत्री खत्म हो गये होते ।

SHRI G. S. PATHAK: But disqualification is not the only remedy. I submit, Madam, that when you are disqualifying people, you are depriving the citizens also of their right. Therefore, disqualification should be in a limited manner.

श्री राजनारायण : अच्छा आप एक काम कर दीजिए । हम एक क्लैरिफिकेशन चाहते हैं, पाठक जी से मैं एक सफाई चाहता हूँ ।

SHRI MULKA GOVINDA REDDY: Let the Law Minister yield for a minute. The point that was mentioned was that there was a Minister in Orissa whose wife entered into a contract with the Government. The question was raised in the State Assembly. The Election Commission went into this case, and the Election Commission pleaded that because of the existing law the person concerned was not disqualified even though his wife was having a contract with the Government. There are so many cases like that. In Mysore the Chief Minister is there; his son is a contractor.

THE DEPUTY CHAIRMAN: He has got the point.

SHRI MULKA GOVINDA REDDY: My point has not been answered.

SHRI G. S. PATHAK: I am answering it. I am only requesting for patience.

श्री राजनारायण : माननीया, एक सवाल करना चाहता हूँ । एक सफाई मैं चाहता हूँ । पाठक जी जरा एक मिनट के लिये बैठ जायें ।

उपसभापति : एक ही मिनट के लिये ।

श्री राजनारायण : पाठक जी ने यह कहा कि 1950 ई० का जो ओरिजिनल एक्ट था उसके अर्थ निकाले जा सकते हैं इसमें जो कि मौजूदा कानून बनाया जा रहा है । मैं पढ़ता हूँ :

" . . . , whether by himself or by any person or body of persons entrusted for him or for his benefit or on his account he had any share or interest in a contract for the supply of goods to or for the execution of any works or the perform-

ance of any services undertaken by the appropriate Government".

वह डिमक्वालिफाई माना जायेगा । अगर 7 (डी) मन् 1950 ई० का कुछ भी अर्थ मौजूदा अमेंडमेंट में आता है । मैं समझ नहीं पाता हूँ । पाठक जी कहते हैं कि आता है । दूसरी बात . . .

SHRI G. S. PATHAK: Now/ this is a debate.

THE DEPUTY CHAIRMAN: That will do.

श्री राजनारायण : अगर पाठक साहब इसको साफ कर दें कि "ही" मैं "श्री" भी रहेगा . . .

THE DEPUTY CHAIRMAN: That is understood.

श्री राजनारायण : कम से कम वाइफ, उसके बच्चे . . .

SHRI G. S. PATHAK: To answer Mr. Mulka Govinda Reddy's question About the case he mentioned in Orissa the law was amended and power was given to the Election Commission to take evidence also. There are new sections added. Probably they have escaped his notice if you are of the view that they may not apply. But I think they do apply:

"146. Where in connection with the tendering of any opinion to the President under article 103 or as the case may be under sub-section (4) of section 14 of the Government of the Union Territories Act or to the Governor under article 192 the Election Commission considers it necessary or proper to make an enquiry and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such enquiry by the parties concerned of their own accord it cannot come to a decisive opinion on the matter which is being enquired into, the Commission shall have for the purposes of such enquiry the powers of a civil court while trying a suit

under the Code of Civil Procedure in respect of the following matters, namely, summoning and enforcing the attendance of any witnesses", etc.

"The Commission shall also have the power to require any person subject to any privilege which may be claimed by that person under any law for the time being in force to furnish information on such points of matters as in the opinion of the Commission may be useful", etc."

"The Commission shall be deemed to be civil court and when any such offences", etc.

"146A. No statement made by a person in the course of giving evidence before the Election Commission shall subject him", etc.

Therefore, if the Election Commission had to decide the case of Minister in respect of an alleged disqualification and had to report to the Governor or to the President, then it had ample powers to do so. My point is this— and I am asking you in all humility to consider it—there are so many methods by which this evil of corruption can be tackled. I only say this that disqualification is not the only method, and you should not expand the disqualifications. There are several methods by which such cases can be dealt with, there are ample provisions in the law, ample provisions in the rules of procedure, and ample parliamentary practice by which you can deal with these cases.

So far as the contractors are concerned I have shown to you that everyone who enters into a contract with the Government for the execution of works would be covered by the existing section. Therefore, Madam, my submission is that the Lok Sabha was quite right when it accepted Mr. Dikshit's amendment and when it refused to restore the law of 1951 which had been repealed in 1958. Members of Parliament who

had at one time entered into a contract with the A.I.R. would also be covered. Therefore, you have got to take this into consideration, namely, that you will be excluding hundreds and thousands of people in the country from standing for election and you will be depriving the electors of the country of their right to elect persons of their choice. This is with regard to this part. There is an explanation added, and I must inform the House why I sought the addition of that explanation. So far as explanation is concerned, Madam, the controversy was what would happen in a case where the person who has entered into a contract of sale has executed the contract and has performed the entirety of the contract and has supplied the goods but the price of the goods has not been paid by the Government. On the language as it stood the Supreme Court said it did not matter, there would be disqualification. But when this matter arose in England at one time, then the Judges in England said that that would mean that even if one pound was not paid by Government although the contractor had performed the entirety of the contract, he was disqualified. They did not permit such disqualification. I will read just a few lines of the view taken there, and by this explanation that view is sought to be imported in this Bill:

"It appears to me that the respondent was not a contractor within the statute inasmuch as before the election he had ceased to be a person holding or enjoying a contract within the meaning of that statute and had been converted into a mere creditor of the Government, whose claim had been ascertained and whose right was to receive his money and as to whom, as it appears to me, it would be an injustice to say that a mere delay in payment on the part of the Government should have the effect of disqualifying him as a candidate."

[Shri G. S. Pathak.]

"It appears to me very clear, when the terms of the act come to be examined, that it was not the intention of the legislature that the mere relation of debtor and creditor subsisting should of itself create a disqualification. If that were so, it would be impossible to avoid the absurdity suggested by Mr. Mel-lish, that the mere mission of the government to pay a small sum of money, a trifling balance, to a contractor who had completely fulfilled his contract—whether by reason of there having been a dispute that was not adjusted until shortly before the election, or even by reason of an accidental omission of a few pounds at the time of payment,—should constitute the status of disability."

They thought that it was doing gross injustice to the man who has performed fully his part of the contract and who has merely become a creditor of the Government. Otherwise, what distinction do you draw in substance between a person who has become a creditor after he has supplied the goods and fully performed his contract and another person who has given a loan to the Government or who is entitled to receive a certain sum of money from the Government? Even a public servant, even a man whose salary is due, becomes a creditor of the Government and therefore you should not disqualify a person, a contractor, when he has done everything that he was liable to do under the contract and he had merely to receive some money from the Government, howsoever small. That is the reason why this explanation is added because the Supreme Court, said that the language was wide enough to cover cases of this description also. That omission is being rectified, is being supplied by the addition of this explanation.

SHRI A. P. CHATTERJEE: If the Supreme Court decision is definite, why do you add the explanations?

SHRI G. S. PATHAK: Explanation is being added because the Supreme Court while interpreting the language included these cases. I want to show to the House that these cases result in grave injustice to the people who have already performed their obligation? under the contract and without any fault of theirs. If the Government does not pay them they are disqualified from standing at the elections. This injustice I have shown and this injustice becomes important because of the interpretation given by the Supreme Court.

SHRI A. P. CHATTERJEE: You are anxious . . .

SHRI G. S. PATHAK: I am anxious about justice being done. I have got nothing to do with the contractors. I repudiate any suggestion that has been made or might be made that I am favouring any particular party or any particular person. That is entirely wrong. What I am trying to do is to show that the "forking of the Election Law should be effective. I have pointed out to you if you have the language of the 1951 Act, the Returning Officer cannot decide. Will he decide who has got interest in this matter without taking any evidence? Will he decide who is the real beneficiary, who is the real trustee and so on? How can he decide?

SHRI G. MURAHARI (Uttar Pradesh): Why all this?

SHRI G. S. PATHAK: This was very serious and in 1958 that language had to be changed.

SHRI LOKANATH MISRA (Orissa): I hope you will yield to me. The hon. Law Minister is a legal luminary of India. There is no doubt about it. I could not really understand how the addition of one further name in the Act itself would be unintelligible to the Returning Officer. Now, he says that a person who has a subsisting contract with the Government will be disqualified from etic-

tering that particular House. Now, if only one word is added—the person find his wife or any of his children—would it be so unintelligible to the Returning Officer not to understand it while scrutinising the nomination form?

SHRI G. S. PATHAK: I will tell you the reason and that is that in this modern age you cannot disqualify members of the family unless they have done something wrong. It is a very serious thing to disqualify people. Suppose you find that somebody has committed something wrong, that the Minister has done something in the name of his wife. I submit that there are so many other remedies by which the situation can be met and the Minister can be removed from office. Why do you think that disqualification is the proper remedy to meet all such situations?

SHRI A. P. CHATTERJEE: Why do you want Parliament to be crowded with such persons?

THE DEPUTY CHAIRMAN: You go on.

SHRI G. S. PATHAK: I have just to deal with one or two important matters. About the Election Commission, one point was sought to be made by my friend, Mr. Lokanath Misra, that when we are giving appeal to the Supreme Court and we are giving the right to decide the election petitions to the High Courts, why it is that the Election Commission should have the right to remove the disqualifications. Now, this question, I say with respect to Mr. Lokanath Misra, is based upon a misapprehension of the function of the Election Commission. The Election Commission does not sit on appeal on the Supreme Court. The Election Commission does not decide the election petition. The Election Commission does not try to see whether the findings of the Supreme Court are correct or not. The function of the Election Commission is very different. Its function is to see that the Election Law is properly administered.

And there may be hard cases, there may be cases, where some injustice might be done to a particular individual by reason of a technical, purely legal, interpretation of the law. For that reason a person might have to suffer. Or take another case where, say disqualification has not ceased before the next election comes and it is a question of just one week or so before it would cease. Now, the Supreme Court cannot go into that question. It will be the Election Commission alone which will secure to the electors of the country their right to select a person of their choice and to give the right to that person if he wants to stand as a candidate. There may be hard cases. Now, by way of analogy, I may mention the case of a Governor who is entitled to remit a sentence, who is entitled to commute a sentence even though there is this decision by the High Court or by the Supreme Court in a criminal case. Therefore, it should not be thought that the Election Commission's power is that of an appellate authority over the High Court or over the Supreme Court. This residuary power must remain with the Election Commission and there is sufficient safeguard which has been introduced in the section, namely, that the Election Commission will record its reasons in writing. Now, from those reasons, will appear whether the Election Commission has exceeded its jurisdiction or there is error apparent in that order and if there is any error apparent in that order, on the face of the order, or if the Election Commission has exceeded its jurisdiction, the Election Commission is amenable to the jurisdiction of both the High Court and the Supreme Court. Therefore, these are the safeguards and we should not take away this power from the Election Commission, which power can be exercised very beneficially in the interests of the electors, as I have submitted before you just now.

Madam, just one or two more points. One is the perennial question of expenses. I have in this

[Shri G. S. Pathak.] House—hon. Member will remember—dealt with this question on a number of occasions. The hon. Mr. Jagat Narain said that he has spent within the limits in his own case; he also said that if the laws are vague, what is the use of making laws, etc. This is the point. You cannot make a law in order to remove every kind of evil in the country. The electoral morality of the people is a very important factor. We should, in a matter of this kind, try to develop that morality by educating public opinion, by getting together the political parties and by controlling the conduct of the people. It is after all the conduct of those who come into this House or to the other House or who come to the other Legislatures, which we are criticising here. It is, after all, the conduct of the legislators who come in this House or who go to the other House or to the other Legislatures which we are criticising here. How many people who are rich have been defeated at the elections? How many people have lost their security at the elections although they were very rich? It is really casting reflection on the probity and integrity of our voters when we say that big money can buy everybody.

SHRI NIREN GHOSH: Why not then do away with big money and see the result?

SHRI G. S. PATHAK: If wishes were horses every one could ride them. We have got to accept this country as we find it. When you say disqualify rich people, disqualify princes, do you want this Parliament to become a sectional Parliament? *(Interruptions.)* This is a national body. Let it be left to the electors to decide whom they want to be represented by. Let us not introduce artificial bars and disqualifications. *(Interruptions.)*

DIWAN CHAMAN LALL (Punjab): This is against the equality laid down in the Constitution.

SHRI G. S. PATHAK: But we have to appreciate this . . .

DIWAN CHAMAN LALL: What you are wanting to do is against the Constitutional principle.

SHRI G. S. PATHAK: That is what I am saying. On what basis do you want to disqualify people? On the ground of property, on the ground of wealth? On what ground do you want to do it? If you do that, you will have just a sectional Parliament and not a representative Parliament in the country. You are taking away the right of the electors. It is for them to decide whom they want in Parliament.

SHRI NIREN GHOSH: Now you have come out.

SHRI BANKA BEHARY DAS: You have deprived lakhs of Government servants. . . .

श्री राजनारायण : आप क्या कह रहे हैं, समझ रहे हैं ?

श्री गोपाल स्वरूप पाठक : आप समझ रहे हैं तो मैं खुशकिस्मत हूँ और यह मेरे लिए काफी है ।

Now, Madam, so far as the resignation of Ministers is concerned, I do not want to deal with this point. But it must be remembered that under the Constitution there must always be a Council of Ministers. It is loosely talked sometime that the President may rule. But how can the President rule without the advice of the Ministers?

SHRI MULKA GOVINDA REDDY: What is happening in Kerala now?

SHRI G. S. PATHAK: You remember only Kerala. Kerala is always in your mind. It has advisers. But that is according to the Constitution.

SHRI NIREN GHOSH: If the President's Council of Ministers assumes a different complexion, then the Army and the officers will be drawn from the richer classes.

SHRI G. S. PATHAK: There is a provision in the Constitution which has enabled the Kerala Government to function as it is functioning. Well, unless it is established to the satisfaction of the President that in any particular State Government cannot be carried on in accordance with the Constitution, the President will take over. Can you say that the Government is not being carried on in accordance with the Constitution three months prior to the elections?

(Several hon'ble Members stood up in their seats).

THE DEPUTY CHAIRMAN: Not a'l of you. Order, order.

SHRI MUKLA GOVINDA REDDY: Let us establish a convention that the Ministry will resign three months before the election.

SHRI G. S. PATHAK: No convention can exist against the Constitution. This may also be realised. Conventions merely fill up lacunae. Conventions cannot over-ride the Constitution.

Now it has been said that there should be an intermediate appeal before the case can go to the Supreme Court. Madam, I have tried to avoid multiplicity of proceedings. I have tried to prevent many stages in this litigation. Letters Patent Appeal would really undo what I have intended to do. That appeal may take a long time and that will go against the basic principle underlying this amendment bill, namely, that too many stages should be given up.

Madam, I am sorry if I have not met all the points mentioned by hon'ble friends. I have endeavoured to meet all the important points. I might mention one important provision of this law which the Lok Sabha has introduced. It says that in an ordinary case conviction for two years would be a disqualifying factor. In the case of black-marketeers and hoarders conviction for six months is

sufficient to disqualify them. That is a new factor introduced in this law, and I hope that will serve as a deterrent to the hoarders and black-marketeers.

Madam, I have borne in mind all the matters which have been referred to by hon'ble Members here. There are some matters which can be dealt with only at a later stage or when again we have to review this law. At the present moment I would submit that the Bill as passed by the Lok Sabha should be passed by this House. With this request I commend the Bill to this House.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 19 were added to the Bill

Clause 20—Substitution of new Chapters for Chapter HI of Part II

SHRI CHITTA BASU: Madam, I move:

1. "That at page 12, after line 21, the following be inserted, namely: —

'(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), no person convicted of any offence committed in the cause of furtherance of struggle for freedom or preservation of democratic rights shall be disqualified.' "

2. "That at page 13, lines 32 to 37 be deleted."

THE DEPUTY CHAIRMAN: Amendment No. 3, The hon. Member is not here.

SHRI K. V. RAGHUNATHA REDDY
(Andhra Pradesh): Madam, •C move:

12. "That at page 13, for lines 27 to 37, the following b_e substituted, namely: —

'9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by himself or by any person or body of persons in trust for him or for his benefit or on his account in the course of trade or business with the appropriate Government or with any company or corporation (other than a cooperative society in the capital of which the appropriate Government has not less than twenty-five per cent, share, for the supply of goods or animals to, or for the execution of any works or the performance of any services undertaken by, the appropriate Government or by such company or corporation.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government or the corporation or the company¹ in the capital of > which the appropriate Government has got not less than twenty-five per cent, share, the contract shall b_e deemed not to subsist by reason only of the fact that the Government or the said company or corporation has not performed its part of the contract either wholly or in part."

13."That at page 13, after line 37, the following be inserted, namely: —

'9B. A person shall b_e disqualified if, and for so long as, he receives privy purse from the Consolidated Fund of India or from any other revenues of the Government of india.' "

(The amendments also stood in the names of Sarvashri Arjun Arora, Chandra Shekhar, M.M.S. Siddhu, Shantilal Kothari, M. M. Dharia, B. K. Mahanty, B. C. Pattanayak, and Mulka Govinda Reddy.)

SHRI A. P. CHATERJEE: Madam, I move:

14. "That at page 13 —

(i) in line 14, the words "or for disloyalty to the State" be deleted;

(ii) in line 20, the words "has or" be deleted;

(iii) in line 21, the words "or for disloyalty to. the State" be deleted; and

(iv) lines 23 to 26 be deleted."

15. "That at page 13, lines 32 to 37 be deleted."

16. "That at page 14, after line 17, the following proviso be inserted, namely:—

'Provided that an appeal shall lie to the High Court from any such decision of the Election Commission within thirty days of the date of such decision.' "

The questions were proposed.

SHRI BANKA BEHARY DAS:
Madam, I have also to move my amendment.

THE DEPUTY CHAIRMAN: Your were not here. Anyway, you may move your amendment but you should be more careful.

SHRI BANKA BEHARY DAS:
Madam, I move:

3. "That at page 14, lines 1—2, after the words 'he is a' the words 'managing director', 'member of the board of directors,' be inserted."

The question was proposed.

SHRI K. V. RAGHUNATHA REDDY:
Madam Deputy Chairman,

the language of the amendments which I have moved, namely Nos. 12 and 13, is clear by itself. The import of the amendments is clear. Still I may say a few words by way of a reply to the Law Minister's speech when he referred to these amendments.

The Law Minister was good enough to refer to the question of public morality in the English practice and he had given us certain lessons in social jurisprudence. It is wrong to equate the English practice with that of Indian practice and try to draw lessons. As far as England is concerned, the question of amendments, the question of practice of law of elections had taken a different course in history because the social history of England is different and the constitutional and social history of India is different. After all law is a part of the social process as Mr. Pathak would know from the sociological jurisprudence and as Freudman, the famous jurist said: "The law must be such that it must be able to answer the unending changes both evolutionary and revolutionary." Eng'and is not a socialist country. England has never proclaimed to be a socialist country. Even the pretensions of the Labour Party to claim that England is going to be a socialist country become exposed and they become only pretensions after they have amended clause 4 of the constitution of the Labour Party. Therefore what England practises according to even Douglas Jay's book 'Socialism in a new society' is only a kind of welfare measures like the homeopathic doses being given for a case where surgical operation is necessary. That is why it would be wrong to compare the legal practice and the social history of England to that of India and to place an argument on that behalf and press that for the purpose of arguing this case. The Law Minister was pleased to give some lessons on the theory of contract. He had explained some elements of contracts. It might have been a useful lesson for the Law College students which I am afraid even if the students had answered in that way in the

law examination they could not have passed the law examination. I am sorry that I have to say all this because there had been an attempt to confuse this House by importing

various concepts of law like contracts, sale, etc. and try to draw a comparison between sale and contract. It is an elementary matter that a sale can be a matter of agreement and if the terms of the agreement provide for a contract, then the sale becomes the subject matter of a contract, and not otherwise. The actual import of the amendment is, the principle of the amendment, as I have already explained yesterday, is recognised by the clause which the Lok Sabha had passed. If one has a contract with the Government and during the period when the contract subsists, a contractor is disqualified, *pari passu*, it should equally apply with the same force to any contract with the public enterprise where the Government has investments notwithstanding the fact that various legal fictions have been adopted for the purpose of investment and carrying on a trade which is a part of the executive power of the Government. I had been surprised that some senior Members have tried to invoke that if certain persons are prevented, that would mean the denial of equality before law and it would be hit by article 14 of the Constitution. The Constitution itself, under article 102 had made certain classifications preventing certain persons from entering the Parliament or the Legislatures. It is very interesting to note and I hope the protagonists of equality would easily remember this that Article 102 says that if a person is an undischarged insolvent, he is prevented from contesting an Assembly or Parliament seat. The fact that a person is an undischarged insolvent, that is, the character of a person relating to his being an undischarged insolvent, has become the subject matter of a constitutional disqualification. When that is the case, it passes my understanding how one can argue that a contract with a public undertaking cannot be brought under the purview of disqualifications. As I had

[Shri K. V. Raghunatha Reddy.] already said, if really people believe in parliamentary democracy, if the Parliament is to work as an instrument to usher in a society where not only legal equality is there but a real economic equality without concentration of economic power, then it is necessary at least during the transition period from capitalism to socialism that the contractors and capitalists, as far as possible, who would be able to exploit the Government and the public sector, are prevented from entering Parliament. It is said that after all private interest can usually prevail over public interest. In order to safeguard the Parliamentary institutions from being use'd for private purposes, in every country there had been periods of history when certain restrictions had been placed and it is not unknown to constitutional law and the Constitution and the rule of law has been made use of for this purpose and in fact in a case before the American Supreme Court when the matter had been raised whether a proletarian dictatorship is a subversive activity Or not, the Supreme Court of America said that by constitutional amendment if you want, you can establish Proletarian dictatorship. Therefore that is the import of the nature and the necessity of the amendment to suit the social conditions of life and the law should act for the purpose of bringing in such social changes that would really usher in a socialistic society.

There is one more aspect of the amendment. I had pleaded in the amendment that it is not only a person with a contract who has a claim but if there is a *benami* transaction on his behalf being carried on for him by somebody. In such cases, the man behind the screen must come forward and he must be disqualified instead of somebody acting on his behalf. That is the real import of this amendment. The Minister was pleased to quote the proceedings of 1951 of the Lok Sabha and he has* relied for the purpose of his arguments on certain pieces of ancient history of the legislation and the constitutional history and pro-

ceedings of the Lok Sabha. All these learned arguments which have been advanced by the Law Minister have been duly considered by the Joint Committee not for one day but for two days and they have rejected the argument finding that the conditions of life have changed and strict measures of law will have to be imposed. In view of these facts the Joint Committee had recommended such a law and I have no doubt in my mind that all Members of the Joint Committee would share my feelings and would certainly agree with what I have said

SHRI CHANDRA SHEKHAR: I support the amendment moved by my friend Shri Reddy. These two amendments were taken at large in the Joint Select Committee. I am surprised to hear the arguments of the Minister or and of some senior colleagues who say that the Fundamental Rights will be encroached upon if certain contractors are prevented from entering the Parliament.

[THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair]

Already small railway contractors and vendors are prevented from entering into election contests and lakhs of Government servants who are drawing only a nominal salary or only subsistence wages are not allowed to come to this Parliament. If the Minister wants to say that equality before the Constitution means that people who have been exploiting this country for thousands of years should be allowed to exploit this country for another 100 years, no society is going to allow this practice, whatever the Resolution or amendment may be of the Law Minister because no Government, no party, no parliament can go against the wishes of history, and history demands that people who have been exploiting this country for ages together should not be allowed any more to do so, and it is only possible when Parliament, in due course, passes such Bills or such Acts where the common man feels that his aspirations are being respected and he is being given every regard for the uplift of his life

Mr. Vice-Chairman, two things are there—one about, the contractors. Now these contractors, the Law Minister has said, are allowed in England. But how many cases are there in the British parliamentary history where the contractors have been trying directly or indirectly to influence the course of parliamentary life in that country? Mr. Vice-Chairman, it may seem strange, but the biggest businessman, Mr. G. D. Birla, has the guts to say that the Chairman of the Public-Accounts Committee will not be allowed to enter Parliament and he cannot contest against him. Is it possible in the British parliamentary history that any big businessman, whether he is a Birla or a Tata or a Dalmia or any other person, can have the courage to stand against the Chairman of the Public Accounts Committee? It is only because he has been so frank and forthright in condemning certain people who have been exploiting this Government and the public exchequer. Mr. Vice-Chairman, my friend, Mr. Raghunatha Reddy has said that law does not operate in a vacuum, it operates under certain social conditions. And the social conditions as exist in this country call upon this parliament that we should prove that no big business, that no money can influence parliamentary democracy. No one is bigger than the sovereign will of the people. None has greater power than the power of the teeming millions of this country, Mr. Vice-Chairman. So the occasion has arisen when we should say that no big businessman, who is taking the advantage from the Government exchequer, who is drawing profits from entering into contracts with the Government, or who is supported by "the Government financially and otherwise, will be allowed to enter the legislatures or the parliament. About the princes, Mr. Vice-Chairman, for hundreds of years they have been exploiting this country. I have given my Note of Dissent to the Joint Select Committee report. There it was said that constitutionally this amendment cannot be moved. I was surprised over it. The Constitution does not give any immunity about

the privy purse. They have said that it will be drawn from the Consolidated Fund of India and it will be free of income-tax. There is no other immunity. And who are these princes? They may be claiming to be the modern patriots. What about them? A statesman of this country, for whom I have less regard but for whom Mr. Lokanath Misra and Professor Ruthnaswamy may have much appreciation, says about the Indian States and I quote:

"The Indian States, with their total subservience, formed the main arch of the British power in our country. Of this arch, Lord Wellesley was the first architect; Lord Canning, the first Viceroy, the last. After the great National Revolt of 1857, when the Queen of England assumed the role of the Empress of India, it was Canning who first clearly drew the lesson from it. The native Governments[^] proved backwaters to the storm, which would otherwise have swept over us in one great wave.

For over ninety years these States, petrified under British control, continued to play an important role in maintaining foreign rule in India. With ever-changing doctrines and devices regarding their subservience and sovereignty, they provided the strongest bulwark against the rising tide of nationalism."

The author of this book is Mr. K. M. Munshi, a leader of the Swatantra Party. Mr. Vice-Chairman, these princes, who have been responsible for maintaining foreign rule for a century in this country should not be given any preference at the cost of the exchequer made up of each and every penny taken from the starving bellies of this country, and if the Government of India cannot change the Constitution, at least this House has the power to amend this Representation of the People Act to the effect that these princes should be satisfied with the privy purses and they should not come to this parliament to decide the future of this country, to determine the fate

[Shri Chandra Shekhar.] of the people of this great Indian nation. Thank you.

[THE DEPUTY CHAIRMAN in the Chair.]

DR. M. S. S. SIDDHU (Uttar Pradesh): The question before anyone who is drawing a privy purse or who has got a contract with, and is deriving pecuniary and financial gains or profits from the Government and the exchequer is that it is up to him to choose between parliamentary life or that contractual life. If he wants to remain where he is and get more money and become fat, he is welcome not to enter legislative or parliamentary life. The Law Minister said that it would be difficult for the Returning Officer to say, without the help of witnesses, that one is a contractor. Why he, the person standing for election himself knows what contracts he has entered into and he may deny himself his candidature for a legislative seat in such circumstances. Now if in spite of it he stands for election and goes through all the processes of election, he can be taken before a court of law and he will be exposed there. So we want a person choosing parliamentary life to have a cleaner life than the one we are experiencing today. We have placed certain social objectives before the country and so we feel that the persons who are drawing privy purses, or who have got large sums of money taken at the cost of the nation should not be allowed to enter parliamentary or legislative life and feel that such exclusion is called for by law. I therefore commend the amendment, which was moved by my hon. friend Mr. Reddy, to this House.

श्री राजनारायण : इस अमेंडमेंट का मैं समर्थन करता हूँ। और मुझे बहुत अफसोस है कि कानून मंत्री माहब ने संविधान को पढ़ा नहीं है। संविधान के 191, 192, 193, 103, और 104 अनुच्छेदों को पढ़ेंगे तो मालूम होगा कि संविधान में ही यह व्यवस्था है कि कुछ अयोग्य लोगों की अयोग्यता करार दी जाय। इन्हीं शब्दों के साथ मैं जोरदार ढंग से इसका समर्थन करता हूँ।

[THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair].

SHRI MULKA GOVINDA REDDY: I shall not take much of your time, Mr. Vice-Chairman. I strongly support the amendments moved by Mr. Raghu-natha Reddy, Nos. 12 and 13. One thing which I fail to understand is that this was considered by the Select Committee; this amendment is almost a reproduction of the recommendation of the Select Committee. The Law Minister did not move an amendment to this in the Lok Sabha. He was instrumental in accepting an amendment moved by a private Member. This is really strange, why it happened like this; when this Select Committee made a unanimous report, that was not accepted and that was overthrown, but a private Member's amendment was accepted. The second amendment, No. 13, is very important. We have all agreed that we want to establish a new social order. We do not want any more these Maharajas and Maharanis, and this is a very salient amendment which should be accepted. I would also like to say that political parties should also take a decision in this matter. Political parties should refuse to give tickets to any Maharaja or Maharani who is getting a privy purse from the Government of India, from the Consolidated Fund of the Government of India. We should also accept the amendment which seeks to debar any Prince getting privy purse from contesting elections.

The Law Minister says that contractors are covered by the amendment which has already been made in the Lok Sabha. But what we want to point out is that though the contractor may be covered, his wife or children may be having the contract. He may not have it, but the children and wife, all living in a joint family, may have the contract and they may be earning from an existing or subsisting contract with the Government. In such a case even though he may not have any contract, he should come under this disqualification because the earnings

of the wife or children are utilised for the benefit of that person. Those earnings are obtained from that contract and so he should not be in a position to influence the Government in order to make more money for his private ends. Therefore this amendment should be accepted.

I am also in favour of the amendment of Shri Chitta Basu, which is No. 6, to clause 20. That amendment relates to election expenses incurred by the political parties. I submit that those expenses also should be included in the return of election expenses filed by the candidates.

SHRI LOKANATH MISRA: I am very much in favour of amendment No. 12 that is . . .

SHRI CHANDRA SHEKHAR: What about No. 13?

SHRI LOKANATH MISRA: Let me *snow* submit my arguments in favour of amendment No. 12.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Let the arguments be brief.

SHRI LOKANATH MISRA: Yes, Sir. The point is that the law of a land is made according to the requirements of the social conditions obtaining. That is one point. Secondly, it is also admitted all over the world that law is strong commonsense. I hope the Law Minister possesses tremendous amount of commonsense. He possesses tremendous knowledge about law itself and he has tremendous knowledge about the social background that we have in India also.

AN HON. MEMBER: You seem to have doubts.

SHRI LOKANATH MISRA: He must have had experience of two Chief Ministers of Orissa and of the C.B.I. Report also and all that material, plenty of material, which was placed before both Houses of Parliament. Having all this background of the social conditions and knowledge of a!

these things, how does he still argue that he will not disqualify person who is not only getting money out of the public exchequer but also wants to be eligible for standing for election to the Legislatures? He not only gets money out the public exchequer but he also takes advantage of his position by bringing in the wife as contractor in order to earn illegally also. In addition to earning money out of the exchequer, taking advantage of membership of a Legislature is itself a crime. In addition to that such persons have their illegal earnings by having the wives as contractors and that as a greater crime still.

AN HON. MEMBER: How many times will you state that?

SHRI LOKANATH MISRA: Therefore, I would appeal to the Law Minister again to accept this particular amendment even if he is not going to accept any other amendment. This amendment is essential if he wants a cleaner administration in the country, if he wants a cleaner social life in this country. Let us cleanse out and weed out these unsocial elements, these corrupt fellows out of our Legislatures at least. That would give the impression to the country that the present legislators of the country' are at least trying to weed out corruption.

SHRI NIREN GHOSH: Mr. Vice-Chairman, I strongly support these two amendments moved by Shri Raghunatha Reddy and Shri Arjun Arora, because India has become a contractors' paradise. We should have extinguished this paradise. If we cannot do that, let us at least save Parliament and the Legislatures from these contractors. They act like those benami landlords in the case of the law putting a ceiling on land. They act just like that. In the name of the wife or the children they make money. As regards the Princes and¹ their privy purses, for their black and sordid role during the independence struggle, they should have been disenfranchised. Just now these very Princes draw their privy purses and

[Shri Niren Ghosh.] they have no right to come to Parliament because of their money. They draw money from the Consolidated Fund of India and that is also a kind of contract and they want to come into political life to drag Indian democracy backwards. They are dragging it and pushing it backwards with their feudal influences and their obscurantist ideas. Since they are also drawing money from the Government, that is also a kind of contract, as I said. So the Government which professes democracy and which says it stands for parliamentary democracy, should at least accept these two amendments.

SHRI BANKA BEHARY DAS: I will not take more than half a minute. My amendment is a simple one. I shall explain it. The present provision says:

"A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent, share."

I submit that to exclude the managing director and a member of the board of directors from this disqualification would be fantastic. Therefore, the purpose of my amendment is that along with these persons, you should debar the managing director and member of the board of directors.

SHRI CHITTA BASU: In my amendment I refer to disqualification of persons convicted. As I have said previously according to this Bill any person convicted in any court of law for a period of two years will be disqualified from contesting an election. But in view of the fact that the Governments both at the Centre and in the States are increasingly enacting laws preventing democratic movements on a large scale, many trade union workers and many peasant workers may be convicted for periods of more than two years. Therefore, what I mean to say is that the clause relating to the two years' imprisonment should not be

applied to the cases of persons who have been convicted due to their participation in the struggle for democracy and for democratic rights.

SHRI G. S. PATHAK: Sir, I want to make just three points. The first is that the section as it stands, includes contractors. I shall read it again:

"A person shall be disqualified if, and so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government."

SHRI CHANDRA SHEKHAR: What happens to the other one?

SHRI G. S. PATHAK: That is not fair. Let me proceed.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Chandra Shekhar, let the Law Minister have his say now.

SHRI G. S. PATHAK: Therefore, section 9A includes the case of a person who enters into a contract for the execution of any works undertaken by the Government. Is he not a contractor? I submit, Sir, that contractors are included in this section, as passed by the Lok Sabha. That is one point that I wanted to say.

So far as the point mentioned by Shri Lokanath Misra is concerned, the position is this. A person enters into a contract and supposing the wife is a mere name-lender and the real person is the husband. Then in law the husband enters into the contract and not the wife because in the case of benamdars, the courts always take that view. The court or the authority concerned in this matter will find out who is the person who has really entered into the contract. If the money has been spent by the husband, then it is the husband who has entered, the contract. The wife merely lends her name. So such a case would also be covered by this provision.

The third point that I want to say is that when we are considering this question we should also bear in mind the consequences of accepting any amendment here. I am saying this for the reason that the whole Bill will fail. The Constitution (Amendment) Bill which this House passed a few days back will also be of no use whatsoever.

AN HON. MEMBER: Why?

SHRI G. S. PATHAK: Because tribunals are excluded and High Courts are included now. If we do not pass the Bill then the High Court will not have the power and the Supreme Court will not have the power. You have excluded tribunals and you are excluding the High Courts also here, and then you can see the result.

SHRI CHANDRA SHEKHAR: An ordinance can be issued.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Now, Mr. Chitta Basu, what about your amendments? Do you press them?

SHRI CHITTA BASU: No: I do not want to press them.

^Amendment Nos. 1 and 2 were, by leave, withdrawn.

SHRI JAIRAMDAS DAULATRAM (Nominated): I want to understand one thing. Whatever the merits of these amendments, is it that if the House accepts these amendments then unless there is a joint session of the two Houses there will be no Bill on the subject?

(Interruptions)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The procedure is clear. AH Members know the procedure.

^Amendment No. 3 was, by leave, withdrawn.

[For text of amendments, *vide* col. 4238 *supra*.

JFor text of amendment, *vide* col. 4240 *supra*.

[THE DEPUTY CHAIRMAN in the Chair.]

THE DEPUTY CHAIRMAN: The question is:

12. "That at page 13, for lines 27 to 37, the following be substituted, namely:—

'9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by himself or by any person or body of persons in trust for him or for his benefit or on his account in the course of trade or business with the appropriate Government or with any company or corporation (other~ than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent, share, for the supply of goods or animals to, or for the execution of any works or the performance of any services undertaken by, the appropriate Government or by such company or corporation.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government or the corporation or the company in the capital of which the appropriate Government has got not less than twenty-five per cent, share, the contract shall be deemed not to subsist by reason only of the fact that the Government or the said company or corporation has not performed its part of the contract either wholly or in part'."

(The House divided)

THE DEPUTY CHAIRMAN: Ayes 28; Noes 46.

AYES—28

Antani, Dr. B. N. Arora, Shri Arjun Basu, Shri Chitta Chandra Shekhar, Shri Chatterjee, Shri A. P. Devaki Gopidas, Shrimati

Ghosh, Shri Niren
Lalitha (Rajagopalan), Shrimati
Mani, Shri A. D.
Misra, Shri Lokanath
Murahari, Shri G.
Patel, Shri Dahyabhai V.
Patil, Shri G. R.
Purkayastha, Shri M.
Rajnarain, Shri
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri N. Sri Rama
Ruthnaswamy, Shri M.
Sarla Bhadauria, Shrimati
Siddhu, Dr. M. M. S.
Singh, Sardar Ram
Sinha, Shri Ganga Sharan
Sundaram, Shri K.
Supakar, Shri S.
Untoo, Shri Gulam Nalbi
Venkatappa, Shri J.
Zaidi, Col. B. H.

NOES—46

Abdul Shakoor, Moulana
Asthana, Shri L. D.
Baharul Islam, Shri
Chagla, Shri M. C.
Chaman Lal, Diwan
Chavda, Shri K. S.
Doogar, Shri R. S.
Gurupada Swamy, Shri M. S.
Hathi, Shri Jaisukhlal
Indira Gandhi, Shrimati
Jairamdas Daulatram, Shri
Khan, Shri Akbar Ali
Khaitan, Shri R. P.
Krishan Kant, Shri
Kurre, Shri Dayaldas
Mahanti, Shri B. K.
Mallik, Shri D. C.
Mallikarjunudu, Shri K. P.
Maniben Vallabhbhai Patel, Kumari
Mishra, Shri L. N.
Mitra, Shri P. C.
Mohammad, Chaudhary A.
Neki Ram, Shri
Pande, Shri T.
Pathak, Shri G. S.
Patra, Shri N.
Pattanayak, Shri B. C.
Phulrenu Guha, Dr. Shrimati
Punnaiah, Shri Kota
Pushpaben Janardanrai Mehta, Shri-
mati
Qureshi, Shri M. Shan
Ramaswamy, Shri K. S.
Rao, Shri V. C. Kesava

Ray, Shri Ramprasanna
Reddy, Shri Nagi
Savnekar, Shri B. S.
Shah, Shri K. K.
Shah, Shri M. C.
Sherkhan, Shri
Shyam Kumari Khan, Shrimati
Siddhantalankar, Prof. Satyavrata
Singh, Shri S. K.
Singh, Raja Shankar Pratap
Singh, Shri T. N.
Sinha, Shri B. K. P.
Tankha, Pandit S. S. N.

The "notion was negated.

THE DEPUTY CHAIRMAN: What about your amendment No. 13? Are you pressing it?

SHRI K. V. RAGHUNATHA REDDY: Madam, at this stage I will not be able to withdraw it.

THE DEPUTY CHAIRMAN: The question is:

13. "That at page 13., after line 37, the following be inserted, namely:—,

'9B. A person shall be disqualified if, and for so long as he receives privy purse from the Consolidated Fund of India or from any other revenues of the Government of India'."

(The *House divided*) THE DEPUTY CHAIRMAN: Ayes— 28; Noes—48.

AYES—28

Arora, Shri Arjun
Basu, Shri Chitta
Bhargava, Shri M. P.
Chandra Shehkar, Shri
Chatterjee, Shri A. P.
Ghosh, Shri Niren
Krishan Kant, Shri
Lalitha (Rajagopalan), Shrimati
Mahanti, Shri B. K.
Mani, Shri A. D.
Murahari, Shri G.
Pande, Shri T.
Panjhazari, Sardar Raghbir Singh
Patra, Shri N.
Purkayastha, Shri M.
Pushpaben Janardanrai Mehta, Shri-
mati
Rajnarain, Shri
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda

Sarla Bhadauria, Shrimati Siddhantalankar,
Prof. Satyavrata Siddhu, Dr. M. M. S.
Singh, Shri S. K. Sinha, Shri 'Ganga
Sharan Tiwary, Pt. Bhawaniprasad Untoo,
Shri Gulam Naibi Venkatappa, Shri J.
Vidyawati Chaturvedi, Shrimati

NOES—48

Abdul Shakoor, Mouiana
Antani, Dr. B. N.
Asthana, Shri L. D.
Baharul Islam, Shri
Chagla, Shri M. C.
Chaman Lall, Diwan
Chavda, Shri K. S.
Devaki Gopidas, Shrimati
Doogar, Shri R. S.
Hathi, Shri Jaisukhlal
Indira Gandhi, Shrimati
Jairamdas Daulatram, Shri
Khan, Shri Akbar Ali
Khaitan, Shri R. P.
Kurre, Shri Dayaldas
Mallik, Shri D. C.
Mallikarjunudu, Shri K. P.
Maniben Vallabhbhai Patel, Kumari
Mishra, Shri L. N.
Misra, Shri Lokanath
TVTitra, Shri P. C.
Mohammad, Chaudhary A.
Momin, Shri G. H. Valimohmed
Pahadia, Shri Jagannath Prasad
Patel, Shri Dahyabhai V.
Fathak, Shri G. S.
Patil, Shri G. R.
Pattanayak, Shri B. C.
Phulrenu Guha, Dr. Shrimati
Punnaiah, Shri Kota
Qureshi, Shri M. Shafi
Rao, Shri V. C. Kesava
Ray, Shri Ramprasanna
Reddy, Shri N. Sri Rama
Reddy, Shri Nagi
Ruthnaswamy, Shri M.
Savnekar, Shri B. S.
Shah, Shri M. C.
Sherkhan, Shri
Shyam Kumari Khan, Shrimati
Singh. Sardar Ram
Singh. Raja Shankar Pratap
Singh, Shri T. N.
Sinha, Shri B. K. P.
Sundaram, Shri K.
Sunakar. Shri S.

Tankha, Pandit S. S. N.

Zaidi, Col. B. H.

The motion was negatived.

THE DEPUTY CHAIRMAN: The
question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Clauses 21 to 23 were added to the BUI.

THE DEPUTY CHAIRMAN: Clause 24.
There is one amendment, No. 5. Now, Mr.
Chatterjee you had not withdrawn your
amendments to clause 20. So, I will come
back retrospectively to clause 20, because I
thought he had withdrawn his amendment
Nos. 14, 15 and 16. I shall put them one by
one.

The question is:

14. "That at page 13,—

(i) in line 14, the words 'or for
disloyalty to the State' be deleted;

(ii) in line 20, the words 'has or' be
deleted;

(iii) in line 21, the words 'or for disloyalty
to the State' be deleted; and (iv) lines 23 to
26 be deleted." *The motion was negatived.*

THE DEPUTY CHAIRMAN: fAmend
No. 15 is barred.

The question is:

16. "That at page 14, after line 17, the
following proviso be inserted, namely: —

'Provided that an appeal shall lie to
the High Court from any such decision
of the Election Commission within thirty
days of the date of such decision'."

The motion was negatived.

fPor text of amendment, vide Col. 4240
swara.

THE DEPUTY CHAIRMAN: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill,

Clauses 21 to 23 were added to the Bill.

Clauses 24 to 35 were added to the Bill.

New Clause 35A

SHRI CHITTA BASU: Madam. I move:

6. "That at page 18, after line 39, the following new clause be inserted, namely:—

'35A. In section 77 of the 1951 Act, after the words 'or authorised by him or by his election agent' the words 'including the expenses incurred by the political party on the electioneering campaign in his behalf or in behalf of groups of candidates belonging to the same party' shall be inserted.',,

The question was proposed.

THE DEPUTY CHAIRMAN: I shall put this amendment of Mr. Basu to vote.

The question is:

6. "That at page 18, after line 39, the following new clause be inserted, namely:—

'35A. In section 77 of the 1951-Act, after the words 'or authorised by him or by his election agent' the words 'including the expenses incurred by the political party on the electioneering campaign in his behalf or in behalf of groups of candidates belonging to the same party' shall be inserted'."

SOME HON. MEMBERS: We want a division.

THE MINISTER OF STATE IN THE MINISTRY OF LAW (SHRI C. R. PATTABHI RAMAN): Madam, Section 77 has not been touched in the Bill.

THE DEPUTY CHAIRMAN: He is asking for a new clause.

SHRI G. & PATHAK: The new clause relates to something which does not touch the Bill.

THE DEPUTY CHAIRMAN: In any case the Minister is rather late. I shall put it to the vote.

SHRI K. K. SHAH: Madam, you will be establishing a precedent that to a clause which is not before the House an amendment is being moved.

THE DEPUTY CHAIRMAN: Order, order. They had the time to think of it. They should have thought of it earlier before this stage arrived. Therefore, I shall put amendment No. 6 to the vote again. The question is:

6. "That at page 18, after line 39, the following *new* clause be inserted, namely:—

'35A. In section 77 of the 1951-Act, after the words 'or authorised by him or by his election agent' the words 'including the expenses incurred by the political party on the electioneering campaign in his behalf or in behalf of groups of candidates belonging to the same party' shall be inserted'."

(The House divided)

THE DEPUTY CHAIRMAN: Ayes—10; Noes—63.

AYES—10

Basu, Shri Chitta Chatterjee, Shri A. P. Ghosh, Shri Niren Mani, Shri A. D. Murahari, Shri G. Rajnarain, Shri Reddy, Shri Mulka Govinda Sarla Bhadauria, Shrimati Sinha, Shri Ganga Sharan Venkatappa, Shri J.

NOES—63

Abdul Shakoor, Moulana
 Asthana, Shri L. D.
 Baharul Islam, Shri
 Bhargava, Shri M. P.
 Chagla, Shri M. C.
 Chaman Lall, Diwan
 Chandra Shekhar, Shri
 Chavda, Shri K. S.
 Devaki Gopidas, Shrimati,
 Doogar, Shri R. S.
 Gujral, Shri I. K.
 Gurupada Swamy, Shri M. S.
 "Hathi, Shri Jaisukhlal
 Indira Gandhi, Shrimati
 Jairamdas Daulatram, Shri
 Khaitan, Shri R. P.
 Krishan Kant, Shri.
 Kurre, Shri Dayaldas
 Lalitha (Rajagopa'an), Shrimati
 Mahanti, Shri B. K.
 Mallik, Shri D. C.
 Mallikarjunudu, Shri K. P.
 Maniben Valiabhbhai Patel, Kumar
 Mehta, Shri Om
 Mishra, Shri L. N.,
 Mitra, Shri P. C.
 Mohammad, Chaudhary A.
 Momin, Shri G. H. Valimohmed
 'Jeki Ram, Shri
 Pahadia, Shri Jagannath Prasad
 Pande, Shri T.
 Panjhazari Sardar Raghbir Singh
 Pathak, Shri G. S.
 Patil, Shri G. R.
 Patra, Shri N.
 Pattanayak, Shri B. C.
 Phulrenu Guha, Dr. Shrimati
 Punnaiah, Shri Kota
 Purkayastha, Shri M.
 Pushpaben Janardanrai Mehta.
 Shrimati
 Qureshi, Shri M. Shaft
 Ramaswamy, Shri K. S.
 Rao, Shri V C. Kesava
 Ray, Shri Ramprasanna
 Reddy, Shri N. Sri Rama
 Reddy, Shri Nagi.
 Savnekar, Shri B. S.
 Shah, Shri K, K.
 Shah, Shri M. C-
 Shanta Vasisht, Kumari
 Sherkhan. Shri.
 Shukla, Shri M. P.
 Shyam Kumari Khan, Shrimati
 :Siddhu, Dr. M. M. S.

Singh, Shri S. K Singh, Raja Shankar
 Pratap Singh, Shri T. N. Sinha, Shri B. K.
 P. Supakar, Shri S. Tankha, Pandit S. S. N.
 Tiwary, Pt. Bhawaniprasad Uhtoo, Shri
 Ghulam Nabi Vidyawati Chaturvedi,
 Shrimati,

The motion was negatived.,.

Clauses 36 to 50 were added to the Bill.

Clause 51—Substitution of new sections for sections 117, 118, 119, 119A and 120

SHRI BANKA BEHARY DAS:
 Madam, I move:

8. "That at page 25, line 11, for the words 'two thousand rupees' the words five hundred rupees' be substituted "

THE DEPUTY CHAIRMAN: Are you pressing your amendment?

SHRI BANKA BEHARY DAS: I beg leave to withdraw my amendment.

Amendment No. 8 was, by leave, withdrawn.

THE DEPUTY CHAIRMAN: The question is:

"That clause 51 stand part of the Bill "

The motion was adopted.

Clause 51 was added to the Bill. Clause 52 was added to the Bill.

Clause 53—Amendment of section 123

SHRI CHITTA BASU: Madam. I move:

9. "That at page 26,—

(i) in line 10, for the brackets and letter (c), the brackets, letter and figure '(c) (1)' be substituted,
 ana

[Shri Chitta Basu.]

(ii) after line 12, the following be inserted, namely: —

'(hi) after the existing provisos, the following further proviso shall be inserted, namely: —

Provided also it will be the duty of the district election officer to supervise, control, check, regulate or prohibit vehicular traffic from and to the polling stations under his control so as to ensure that no vehicle or vessel is hired or procured in contravention of the provisions of section 123 of the 1951-Act."

10. "That at page 26, after line 15, the following be inserted, namely:—

'(e) after clause (7), the following clause shall be inserted, namely:—

'(8) giving of assurances, hopes promises for the future or inducement in any shape or form to the electorate, or administration of warning, caution or threats to the electorate by a candidate who at the time of seeking election is a member of the government'."

The questions were put and the motions were negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 53 stand part of the Bill."

The motion was adopted.

Clause 53 was added to the Bill.

Clauses 54 to 63 were added to the Bill,

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI G. S. PATHAK: Madam, I move:

"That the Bill be passed."

The question was proposed.

SHRI A. P. CHATTERJEE: Madam Deputy Chairman, the Representation

of the People Bill, which has weathered a storm so to say, in this House and elsewhere has brought to the focus certain points in the attitude of the ruling party, the party which at the present moment is running the Government, towards certain very basic problems. It is true that some of the Members of the Congress Benches came with an amendment which was really progressive in its nature and which really sought to do away with an evil which has dogged the steps of elections in this country. We know, as far as elections in this country are concerned; that these elections have been the plaything of money and the plaything of huge sums spent recklessly by persons who are rich persons, who really draw from the Consolidated Fund of India, who are princes, and who used to support the British at the time of the British rule. Madam, as a matter of fact by virtue of this amendment which was sought to be moved in this House, really that very great corrupting influence in our elections was sought to be removed. But it is a saddening experience that this amendment which sought to do away with a long-standing evil in our social and political life could not be accepted by the Government. That merely puts the Government in the dock. That merely shows that the Government is not really right and really serious when it says that it wants to do away with corruption. I was a little amused when the hon. Minister of Law said that we can do away with corruption with other measures and why should we bother about corruption at the time of elections to Assemblies and elections to Parliament. Actually, this logic is no logic at all; it is a fallacy. I must say that the Minister of Law is missing the entire thing here that after all, in a parliamentary democracy, Parliament is the instrument of the will of the people and Parliament is really the place where people's will is sought to be expressed and in this Parliament, through some back-door or through some other mechanism, those who are the enemies of the people enter, Then,,

well, this Parliament is not Parliament at all, and parliamentary democracy is set at naught. That is why it is necessary, even at the time of the elections to Parliament, that we have to see that corrupt persons, persons who have aided with the British during the independence struggle, people who are in liaison with the big wigs of the Government by way of contracts and so on, should be left out of Parliament, and this was what was sought to be introduced by way of an amendment. But it is rather strange that this amendment even was not accepted; it is also strange, I should say that it is stranger, that even the Joint Select Committee's Report on this question, the Joint Committee's views on this particular section about the disqualification of Government contractors, that also has not been accepted by the Government. I do not think that there can be any other eloquent testimony to the desire of the Government to harbour and shelter all the contractors, persons who have been feeding on the funds of the Government in this fashion.

THE DEPUTY CHAIRMAN: You are saying what you should have said at the consideration stage. This is the Third Reading.

SHRI A. P. CHATTERJEE: I have taken only three or four minutes. I will not take much time. As you know, I always keep within the time.

Further, I was really surprised to find that certain things have been left to the arbitrary discretion of the Election Commission. In the earlier Act, if the Election Commission gave a certificate that a man has not been dismissed for corruption or for disloyalty to the State, well as far as that certificate was concerned, that was the conclusive proof. In this Bill which has been placed before the House, well the certificate of the Election Commission to either effect is conclusive. Well, this is something which is very serious, I should say. Actually, this decision of the Election Commission, I do not say, is bound to be bad, but it may be bad. It may

be arbitrary. But as a matter of fact, there is no appeal against that decision. If the Election Commission only did it, then there would have been, something to say in its favour perhaps. But according to section 21 of Chapter IV, on page 14, clause 19A as amended, the Election Commission would, mean the Secretary to the Commission. That is to say, the decision on this point is being left not merely to the Election Commission but it is being left to the arbitrary and unfettered discretion of the Secretary to the Election Commission. You know that sometimes Government servants are dismissed, their services are terminated on the opinion of the competent authority and that opinion is even not challengeable in a court of law; that opinion merely says that a person is so and so, and immediately the person's services are terminated. There have been many cases of such Government servants who have been dismissed. Therefore, I say that there ought to have been a provision in this statute by which this decision of the Election Commission where a Government servant has been dismissed for purposes or for reasons which have been shown in the order of dismissal, should be subject to some scrutiny by a higher officer or by an impartial tribunal. That should have been there. It is true that there is provision of appeal to the High Court from the election result. But in an interlocutory procedure, if there is no such appeal against the decision of the Election Commission, then a person whose nomination paper is rejected on some such ground as this, on the expression of merely an opinion of the appointing authority to the effect that either he is corrupt or he is disloyal, well, that person's chance of standing for the election is gone. Therefore, I may humbly submit to you that on the one hand there is a leaning, a tendency, to bring into Parliament contractors and persons who have played ducks and drakes with Government money and persons who really have been corrupt to the core of their bone and there is sym-

[Shri A. P. Chatterjee.] pathy for them, on the other hand, as far as the Government servants are concerned, not only are most of them excluded from the right to stand for elections, but even in regard to the persons who are dismissed from the Government service, even their standing at the elections is now subject to the whims and caprices of the Secretary of the Election Commission. Therefore, I would humbly submit that this Bill, as has been brought before the House by the Law Minister is a retrograde measure, even more retrograde than the earlier Bill, and therefore it ought to be thrown out.

SHRI B. K. P. SINHA (Bihar):
Madam, . . .

THE DEPUTY CHAIRMAN: You please be very brief.

SHRI B. K. P. SINHA: Yes.

This Bill is weighed in a golden balance. It is our concern that people who are not clean people, who are corrupt people, should be eliminated from parliamentary life and if the provisions of this Bill are read in a proper manner, it will be realised by everybody that that purpose has been achieved. No doubt, our approach is different from the approach of the hon. Member who has spoken before me. We do not believe in inflicting any punishment on a person simply because his father or grandfather has been something. Our culture is a different culture. We do not believe in that culture which today is working havoc in a neighbouring country where the sins of the fathers and the grandfathers are being visited on innocent children. That has never been a part of our culture and that we never accept. My hon. friend spoke of those who sided with the British Imperialism. Many of them are dead. Their descendants are there. Shall we inflict vicarious punishment on these descendants? Moreover, British imperialism is as dead as dodo and it poses no threat or no danger to us. But then I was surprised—the gentleman came out in his true colours—

when the hon. Member moved an amendment that disloyalty to State should not be a disqualification.

SHRI A. P. CHATTERJEE: In the opinion of the Election Commission.

SHRI B. K. P. SINHA: It is surprising that disloyalty to the State should be made something respectable by the hon. Member.

Then, the hon. Member wants that we should punish the children for the so-called sins of their fathers. He wants to live in the past; he refuses to live in the present. We will live in the present and we will have appropriately live in the future. Therefore, the hon. Minister has rightly excluded those who have such subversive tendencies, those who are disloyal to the State. I welcome that provision in the Bill. And I would humbly request the hon. Law Minister to impress upon the appropriate bodies that the provision of the law which keeps out people disloyal to the State from Parliament should be strictly enforced by all the authorities who have to enforce that provision of the law. We wish this country well. But when there are some who cite scriptures, who expound high principles but their purpose is to destroy and subvert this country. That shall not be permitted.

THE DEPUTY CHAIRMAN: The Minister.

SHRI G. S. PATHAK: Madam Deputy Chairman . . .

I

श्री राजनारायण : मैं खड़ा हुआ हूँ

उपसभापति : आर तो बोल चुके हैं । But I will not give more 'ban two minutes. You have already spoken.

SHRI RAJNARAIN: It is very important.

THE DEPUTY CHAIRMAN: I tell you, this is Third Reading. Comments on the Third Reading must be very judicious.

श्री राजनारायण : अगर थर्ड रीडिंग का कोई महत्व नहीं है तो उसे निकाल दिया जाय।

SHRI NIREN GHOSH: One word of explanation.

श्री राजनारायण : हम बैठ जायें ?

उपसभापति : हां जी ।

5 P.M.

SHRI NIREN GHOSH: Madam, Mr. B. K. P. Sinha has completely distorted the amendment put forward by my friend, Mr. Chatterjee. Disloyalty cannot be attributed simply on the basis of suspicion. In view of this, we are afraid that on the basis of suspicion those who are not disloyal will be victimised. And that is what is being done. If a person is tried in a court of law and reasonable charges are proved against him, then he can be disqualified; otherwise on the basis of suspicion you will disqualify a person. That is what you are supporting and that is not democracy. That is authoritarianism.

THE DEPUTY CHAIRMAN: That will do.

श्री राजनारायण : अब हमको मौका दीजिये ।

उपसभापति : ऐसे ही दो मिनट ।

श्री राजनारायण : माननीया, दो मिनट जो आपने बड़ी विशेष कृपा कर के हमको देने का निर्णय किया है . . .

उपसभापति : आप तो सब बोल चुके हैं, बचा क्या है ?

श्री राजनारायण : हमारा आधा प्वाइंट रह गया है । मैं आप से निवेदन करता हूँ कि अगर थर्ड रीडिंग का महत्व नहीं है तो उसे नियम और संविधान से हटा देना चाहिये थर्ड रीडिंग इसलिए रखी गई है कि जो मूवर हैं उसको अगर हम अपना प्वाइंट समझा दें तो वह अपने विधेयक को वापस ले सकता है ।

मैं कह रहा हूँ कि माननीय कानून मंत्री जी की जो बात हमने सुनी है, उससे ऐसा लगता है कि उन्होंने संविधान के उन अनुच्छेदों का अवलोकन नहीं किया है जिन अनुच्छेदों में नागरिकों को प्रतिबन्धित करने की बात कही गई है कि उनको या तो मेम्बर चुन लिया गया हो तो भी हटाया जा सकता है । और अगर न चुन लिया गया हो तो नहीं चुना जाना चाहिये । क्योंकि संविधान की ईक्वालिटी की बात करके कानून मंत्री ने हमें ऐसा लगता है कि संविधान की अवहेलना की है । इसके ऊपर 188, 191, 192 और 193 अनुच्छेद आपके द्वारा सदन के सम्मानित सदस्यों और विशेषतः कानून मंत्री की सेवा में रखना चाहेंगे । देखा जाय कि जो 193 अनुच्छेद है वह विधान मंडलों के सदस्यों पर लागू होता है । विधान मंडल के सदस्यों के लिए यहां तक कहा गया है कि जिस घड़ी, जिस क्षण, विधान मंडल के सदस्यों को यह पता चल जाय कि उन्होंने सरकार से कोई कांटेक्ट किया है तो उस के बाद जितने दिनों तक वह सदन की सेवा करते हैं पांच सौ रुपये प्रति दिन उन पर हरजाना लगेगा । यह है अनुच्छेद 193 ।

इसी तरह 104 देखा जाय, 104 संसद के सदस्यों के लिये है ।

“यदि संसद् के किसी सदन में कोई व्यक्ति सदस्य के रूप में अनुच्छेद 99 की अपेक्षाओं की पूर्ति करने से पूर्व, अथवा यह जानते हुये कि मैं उसकी सदस्यता के लिये अहं नहीं हूँ अथवा अनहं कर दिया गया हूँ अथवा संसद् द्वारा निमित्त किसी विधि के उपबन्धों से ऐसा करने से प्रतिषिद्ध कर दिया गया हूँ, बैठता या मतदान करता है, तो वह प्रत्येक दिन के लिये जब कि वह इस प्रकार बैठता है या मतदान करता है पांच सौ रुपये दंड का भागी होगा जो संघ को देय ऋण के रूप में वसूल होगा ” ।

यह संविधान के अनुच्छेद में पढ़ रहा हूँ । मैं हैरत में हूँ, कि कानून मंत्री जो इलाहाबाद

[श्री राजनारायण]

से, जहाँ विवेणी है, वहाँ से आये हैं और यहाँ पर आ कर के ईक्वालिटी और समानता का नारा लगा कर संविधान के एक पवित्र उद्देश्य की पूर्ति में बाधक हो जाते हैं। इसलिए पाठक जी से मैं विनम्रता के साथ निवेदन करूंगा कि इस अनुच्छेद का अवलोकन करें और अब भी मौका है, कानून के अन्दर कोई रूकावट नहीं है, अगर इस विधेयक को वापस लेना चाहें तो वापस ले सकते हैं।

एक महत्वपूर्ण बात जो कहने से छूट गई थी उसको भी कह कर मैं कानून मंत्री जी से निवेदन करूंगा कि मौजूदा विधेयक में उस क्लॉज को जब भी रखते हैं तो हमारे साथ बड़ा अनर्थ हो जायगा। माननीया, मुझे मालूम नहीं कि आप अबगत हैं या नहीं, उत्तर प्रदेश के एक मंत्री के विरुद्ध, श्री कमलापति त्रिपाठी के विरुद्ध...

उपसभापति : नाम नहीं लेना है।

श्री राजनारायण : वह तो तमाम अखबारों में आ चुका है।

उपसभापति : प्रिमियल यह है।

श्री राजनारायण : ठीक है एक मंत्री के विरुद्ध 193 अनुच्छेद और इसके क्लॉज 7(डी) के अन्दर मामला उठाया, सदन में उठाया, वह मामला राज्यपाल के पास गया। तब गिरी जी हमारे यहाँ के राज्यपाल थे, उन्होंने एलेक्शन कमिशन के पास भेजा क्योंकि उस में लिखा हुआ था कि एलेक्शन कमिशन की राय ले कर राज्यपाल घोषित करें...

उपसभापति : आप खत्म कीजिये।

श्री राजनारायण :... और इलेक्शन कमिशन की राय ले कर प्रेसिडेंट घोषित करें। तो जो अमेंडमेंट सन् 1958 में हुआ वह न होता और सन् 1951 का कानून अब तक रह गया होता तो श्री कमलापति त्रिपाठी सदन की सदस्यता से खारिज हो गये

थे। उसी तरह से आज मेरा कहना है कि अगर हमारी बात माननीय मंत्रीजी मान लें, इस विधेयक को वापस ले लें, सन् 1951 के क्लॉज को रखें, या जो संशोधन श्री रेड्डी ने रखा था उसको मान गये होते, तो मैं इसके समर्थन में खड़ा होता...

उपसभापति : अब देखिये, समय काफी हो गया।

श्री राजनारायण : तो हमने जितने सवाल उठाये हैं, चाहे वह श्री श्यामधर मिश्र हों, चाहे श्रीमती इन्दिरा गांधी हों, ये सब सदन की सदस्यता से खारिज हो जाते अगर हमारी वह बात मानली जाती।

THE DEPUTY CHAIRMAN: Thai will do. Mr. Pathak.

SHRI G. S. PATHAK: Just one word. Madam. The removal of the word "disloyalty" would have resulted in disloyal persons who had been dismissed on the ground of disloyalty entering into Parliament. They have to take oath on the constitution when they want to be candidates. They have to take an oath here on the Constitution and yet the gentleman who has moved the amendment says that a person who has been dismissed for disloyalty should be able to enter Parliament although when he is dismissed all the Constitutional safeguards are observed.

SHRI RAJNARAIN: Madam, one question.

THE DEPUTY CHAIRMAN: No.

श्री राजनारायण : इस सरकार से बढ़कर कोई डिसलायल क्या और है जिसके एक अंग हैं श्री पाठक जी।

THE DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion was adopted.