

[Mr. Chairman.] the Houses for making rules under sub-section (1) of section 9 of the Salaries and Allowances of Members of Parliament Act, 1954, caused by the retirement of two Members of the said Committee from the Rajya Sabha on April 2, 1956, and their consequent ceasing to be members of that Committee:—

1. Shrimati Chandravati Lakhanpal. . 2. Shri V. K. Dhage.

**MOTION FOR ELECTION TO THE
CENTRAL ADVISORY BOARD OF
EDUCATION**

THE MINISTER FOR EDUCATION (DR. K. L. SHRIMALI) : Sir, on behalf of Maulana Abul Kalam Azad, I beg I leave to move: .

"That this House do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to serve on the Central Advisory Board of Education for a period of three years."

MR. CHAIRMAN: The question is:

"That this House do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to serve on the Central Advisory Board of Education for a period of three years."

The motion was adopted.

MR. CHAIRMAN: I have to inform the Members that the following dates have been fixed for receiving nominations and for holding election, if necessary, to the Central Advisory Board of Education:—

Last date for nominations 28th May 1956,
up to 3 P. M.
Date of election . . . 28th May 1956,
3 P.M. to 5P. M.
in Room No. 29

The election, if necessary, will be conducted in accordance with the system of proportional representation by means of the single transferable vote.

**THE REPRESENTATION OF THE
PEOPLE (SECOND AMENDMENT)
BILL, 1956—continued**

THE MINISTER FOR LEGAL AFFAIRS (SHRI H. V. JOURNAL) : Sir, yesterday I was making a point that so far as the present Bill is concerned, it tries to make the nomination a simpler procedure than what was obtaining under the old Act. The only difference is this. As I said in the beginning, after the last general elections it was found that in certain areas, there were a number of applications which were rejected on the ground that the nominations that were filed were not found in order. Therefore, there was an idea at one time that we might provide for some procedure by which that matter could be taken to some independent authority —judicial or semi-judicial. That was the proposal made by the Select Committee which was appointed in respect of the former Bill which was introduced in 1953 and ultimately withdrawn. However, when this matter was again considered by the Select Committee on the present Bill, they thought that, if at all the judicial authority was going to be interposed at this stage, then the object of having simultaneous elections was likely to be defeated. It might easily happen. Suppose, in respect of a certain matter of disqualification, the matter was allowed to be referred to some authority. It would naturally be subject to the proceeding that might be taken under the powers vested in the High Court under the Constitution or be subject to appeal to the Supreme Court. Therefore, the election programme with respect to a general election would be easily set aside. Ultimately, it was thought that the best way to deal with the problem would be to try to obviate and eliminate as many chances of improper acceptances of applications as possible. Hon. Members will find that the question of nomination for candidates is now made very simple and there is practically no chance of any nomination paper being rejected, because it has been laid down in the Act itself

that the returning officer shall correct if there is a mistake with respect to the number or some such technical mistake. As I said yesterday, we have removed that restriction as to the number to which one voter may subscribe. But the only thing that is now required is that there should be somebody to propose the name of certain other person.

There was also a proposal by some hon. Members that we might do away with that proposal also. Suppose at the time of the election, nomination paper is to be filed and unfortunately a man falls ill. Then it is better that we provide a simple way of getting over this difficulty by having a suitable proposal. I do not think that there will be any difficulty in finding only one man to propose the name of somebody who wants to stand as a candidate.

Then the next question is with respect to his being disqualified on the ground that he was interested in Government contracts or he was a convicted person and so many other things. In that connection, it was found that this was not a matter which could be summarily disposed of and ultimately it has to be left, in spite of all that is said and done, to the election objection which may take place. But I am sure that a man who wants to stand as a candidate to the Legislative Assembly of a State or to the House of the People will naturally think twice before he applies. So that is the scheme so far as nominations are concerned under this Act.

The next item refers to expenditure and hon. Members are aware that after the general election, practically every party and every candidate complained that the form of return of election expenses was so complicated that it was difficult for them to comply with it. In the first place, there were some overlapping items or categories. Naturally when a man stood for election, it was found very difficult for him to find out whether the expenditure was on account of the clerks, messengers, this thing or that thing.

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It was therefore found necessary that the complicated form of returns should not be there. What is now required is that the man should only keep an account of what he is spending and there should be some ceiling on the expenditure to be incurred, because if there is no liability to keep an account, naturally the question of ' fixing a ceiling would be meaningless. It is from that point of view that some provision has been made in this Bill to the effect that he should keep an account, and ultimately he should file a copy of the record. As the hon. Members might be aware, in one of ' the cases—it happened probably in the South—it was thought that there was no fixed date from which the candidate should keep an account, and one tribunal went to the length of saying that the man should keep an account from the time when he offered himself as a prospective candidate. Now, that difficulty has been obviated by saying that that account shall be kept only from the date on which the constituency is asked to return candidates till the date of their election. So, naturally that difficulty will not be there. The matter is now more or less a simple -one.

Then, Sir, after expenditure, another important item was with respect to the programme of election. One thing that I would like to point out is that formerly the programme was rather considered to be too long, and now it has been cut down to the minimum possible extent. As we are aware, this question of the appointment of tribunals, their decisions and those decisions being subjected to High Court writs and being subjected to special appeals being allowed to be filed in the Supreme Court, led to certain abnormal conditions, and in . one case a candidate could successfully carry on these proceedings for almost four and a half years. It was therefore found that something ought to be done in order to simplify the-procedure. What is now proposed to be done is that instead of three members of the tribunal, there will be only r

[Shri H. V. Pataskar.] one member, and that one member will be a District Judge to be selected from the list which will be prepared by the High Court of the State concerned. So, the High Court will be asked to prepare a list of those District Judges who are well-qualified to work as tribunals. And it is hoped that when there is going to be only one member, probably, much of this delay would be avoided. What used to happen was that there were already one or two who were serving as judges, and there were one or two who were advocates, and they constituted a tribunal. In many cases, therefore, instead of leading to speedy results, they caused the maximum possible delay. It is now hoped that with this new method, that difficulty would disappear.

Then, Sir, we must find out the main reason why there were so many writ petitions and petitions for special leave to appeal to the Supreme Court. That was so because in most of these cases we had made the decision of that tribunal final. Now, under the Constitution the Supreme Court has got the right to grant special leave of appeal. That is naturally untouched. Similarly, the High Courts have got the right of the power to issue writs. Of course, I

- cannot say that it is all without justification. Probably, many of those courts thought that in a matter where the aggrieved party had no remedy whatsoever, they should rather have the right to look into that matter. And it was from that point of view probably that we had so many appeals and so many writs issued by the High Courts. Now, we are going to provide in this measure for a direct appeal to the High Court itself. As the lawyer Members probably know, when there is a remedy by way of appeal, no High Court ordinarily issues any writ, and the Supreme Court is not expected to grant any special leave of appeal. It has therefore been found desirable to straightway provide for an appeal to the High Court

i by an aggrieved party. This will also,

I think, remove much of the delay which is ordinarily caused by these matters. Apart from that, Sir, the clause itself mentions that the tribunal shall decide the election petition within six months and that the High Court shall dispose it of within three months. I know that even if we impose such a restriction, it may not necessarily be so. But I am sure that unless there are any special reasons etc., the tribunals will dispose of these matters within six months, and the High Courts also will give priority to matters like these and dispose them of within three months. So, the hon. Members will find that the present provision that has been made in this Bill is much more satisfactory than the previous one.

Then, Sir, as the hon. Members are aware, there was a little confusion with regard to the various categories of corrupt practices, for instance, there were major corrupt practices, there were minor corrupt practices, and there were illegal practices, and all of them had different effects under different circumstances. And even some of the lawyers found this matter rather a very intricate one. In the present Bill, therefore, only corrupt practices have been mentioned, and all that distinction between major and minor corrupt practices has been taken away. Of course, so far as offences are concerned, there is that category of electoral offences, and that has been done, not with a view to change any particular effect with respect to the matters which are undesirable, but that has been done with a view to make the whole thing more simple and easily understandable. So, you will find that so far as the present Bill is concerned, it has made the election law as simple as possible. Probably there has been some difference of opinion in the other House, and there might be some difference of opinion in this House as well, with regard to the clause relating to disqualifications, and particularly with regard to the disqualification incurred by a person who has been sentenced to imprisonment for two years and

more. The reason for that is that generally, the offences for which a man is sentenced to two years are cognizable offences and offences of a "more serious nature. It was therefore thought that in such a case he should not be allowed to stand for five years *more*. But even then, as matters now stand, that disqualification can be removed by the Election Commission in suitable cases. Now, as the hon. Members are aware, the Election Commission is a special constitutional authority set up by us in order to ensure the free and fair elections which we want to have in the country.

Therefore it is not as if this power is given to some executive officer of the Government. It is not correct to look at it from that point of view. As hon. Members know, a man may be convicted or even sentenced to two years for offences which may not involve what is vaguely termed as 'moral turpitude'. To introduce the words 'moral turpitude' in a measure like this will not be desirable, because it is a term which may have a different meaning in different conditions and in different types of circumstances. This 'moral turpitude' is a thing which cannot be defined. Therefore, the other House thought that the best way and the best remedy out of this was to leave the power to the Election Commission itself, and I believe there has been no complaint till now in any proper case that the Election Commission has ever hesitated to remove disqualification if it could be done. I am sure that hereafter also there is no such danger, so far as that independent authority is concerned. But to introduce the term 'moral turpitude' in this measure, that very vague term, has not been found—and I hope it will not be found by this House also—to be desirable.

There are one or two other matters which were raised and which may be raised here also, and I will briefly refer to them. Some thought that we might make voting compulsory. It is a very difficult thing to do in a democracy like ours which has just started functioning. We have adult franchise

and 18 crores of people are involved. This is an impossible thing. You may compulsorily take a voter to the polling booth, but I don't know how you can compulsorily make him vote. Of course, there are one or two countries like Australia and Belgium where, I am told, this thing is being done, but with these exceptions, all over the world, no country has thought it proper to do this. By and large, as I said, considering that for the first time and on such a large scale—not only here but elsewhere too—we had the last general elections when something like 18 crores of people went to the polls, many of whom were not educated, I think that a fairly good percentage of our voters went to the polls. To introduce compulsion is neither necessary nor desirable.

I think these are the four or five important points so far as this Bill is concerned, and as I said in the beginning, even in regard to the Bill as it was passed in 1951, looking at the experience that we have had during the last elections, I think that we could take credit for the efficient way in which the last elections were held, and with the modifications which have been carefully thought out and made in this, I am sure the matter will become more and more simple.

I would only say one thing more. There are some matters, including a matter like this, where unanimity of opinion is almost impossible, and therefore ultimately we have to consider the balance of conveniences and inconveniences, the desirability or undesirability, and then arrive at some decision. This is the decision which a great majority both in the Select Committee and in the other House have come to, so far as this Bill is concerned, and, as I have always said, election law is a thing which is never static. It grows as we go on getting experience, as other countries have done too, and we may have to make some adjustments or changes according to circumstances. Taking all this into consideration, I think that the measure which has been passed by the other House and in res-

[Shri H. V. Pataskar.]
 pect of which I have moved the motion now here in this House for it to be taken into consideration, will receive the unanimous support of this House.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951, as passed by the Lok Sabha, be taken into consideration."

SHRI B. K. P. SINHA (Bihar): Sir, this Bill substantially improves the electoral law passed in 1951. It embodies the experiences of five years of working of that law. And it embodies the wisdom of the Select Committee and of the Government. It improves that measure substantially. The improvements have been very ably listed by the hon. the mover of this Bill. It is difficult to add to that. I would, however, point out some of the improvements.

There is no necessity for a seconder now. The practices which entailed the setting aside of an election were split up by the Act of 1951 into three classes: major corrupt practices, minor corrupt practices and illegal practices, with different consequences following from each. Now, all this has been removed, and we have only corrupt practices. This brings greater definiteness to the law.

Candidates can now withdraw any time not less than ten days prior to the polling. We know the conditions that obtain in this country. Many a time a candidate files his nomination papers for purposes which have nothing to do with the fighting of the elections, and after three days it is not open to him to withdraw. That meant that many boxes had to be kept, and the boxes belonged to candidates who did not enter the fray. Now, with these provisions, a welcome change has come, and only candidates

who seriously want to file their nominations and fight the elections shall be the candidates on the date of the-polling.

The list of Government servants-whose assistance would lead to invalidation of elections has been made more precise and definite. The previous law was so vaguely and widely worded that nobody could know whether his election was final and secure after the results were declared. A postal agent was a Government servant. A chowkidar or any village official who could wield no influence in the country side was considered to be an official, and if such people slightly assisted the candidates, the election was set aside. In a Parliamentary constituency, there were hundreds of booths, in some cases 200 or 300. I know that very often the candidates had to sign on blank paper and leave the names to be filled up by the people in the locality, and if they happened to take some assistance including assistance as a polling agent from some extremely insignificant Government servant, it was made an offence and it entailed the invalidation of the election. All that is now gone, and if only those Government servants, who really wield influence with the public, assisted the candidates, their election, would be invalidated.

These are the few provisions to which I wanted to refer. This Bill now empowers the Election Commission to reduce the period of disqualification and to remove the disqualification 'incurred by a candidate; Under the old law, as soon as an election was declared void on the ground of corrupt practice or illegal practice in certain cases from the date-of that declaration not only the candidate's election was set aside but he could not be a candidate for the next six years. That meant that even at the ensuing election which normally comes after five years, he could not be a candidate. I think that very properly the power to remove the disqualification has been given to the

Election Commission. Corrupt practices are of various kinds. Offences differ in character, in nature, in intensity and gravity. To prescribe one uniform punishment for all the offences is not proper but it is not possible either to draw up a detailed Election Penal Code. Because the materials for that are not available and it is not an easy task. Therefore, in all fitness, the Election Commission has been empowered to reduce the period or remove the disqualification. I would just give one example. The use of transport vehicles is and was a corrupt practice. If one transport was used, the election was declared null and void. The candidate could not be a candidate for the next six years. There might be another candidate who used 500 transport cars and used them on a larger scale in the whole constituency, even he suffered the same penalty which the man who used accidentally or by mistake, only one car, suffered. Would it not be proper to make a distinction between the *two* types of offences? The offences were, of course, of the same type but they have been practised in one case unwittingly or if wittingly, at a very modest scale and in the other case it has been practised on a larger scale. Would it not be proper in the circumstances that the Election Commission, in the absence of an elaborate Election Penal Code, is vested with this power? I think that is proper and this amendment is very welcome.

An election is a matter which really concerns the Parliament or the Legislatures of the States. So much so, in England, in Britain, the Mother of Modern Democracy, election matters, at one stage, were within the purview of the Parliament only. It was for Parliament to decide whether an election was valid or invalid. Of late in Britain also they have departed from the old practice. This practice continued in the Dominions and Colonies of Great Britain but for the last quarter of a century, in those Dominions and Colonies also, there has been a change in practice and instead of Parliaments or Legislatures

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looking into the validity or invalidity of elections, this task has been assigned to people whose profession it is to pronounce judicial judgments. We are following the pattern which is now being followed in Britain and other countries of the world inasmuch as in the Constitution itself we have laid down that an Election Commission shall be in charge of such matters and the Election Commission shall get the assistance of a certain machinery. In the old law, there was a provision for rules to be framed by the Central Government in consultation with the Election Commission. But Parliament came nowhere in the picture. This Bill provides that after rules are framed by the Central Government, they are to be placed on the Table of the House for 30 days and Parliament can make whatever amendment it chooses in those rules. Parliamentary supremacy is established and a jurisdiction which properly falls to Parliament is brought by this amendment within the purview or control of the Parliament. These are welcome changes. There are other changes also. While I welcome them, I feel differently from the mover regarding some of them. Previously there were three-man tribunals, one of whom was a judicial officer and two were advocates. Now we have substituted it by a one-man tribunal. I welcome this because it will make for expeditious disposal and it will give better justice to the petitioner and the contesting respondents. But then, this tribunal consists of a district judge and the word 'district judge' has been given a very wide connotation. The city civil court judge, additional district judge, joint district judge and chief judge of a small cause court will all be considered as district judges. I know an advocate of 10 years' standing is today appointed as a judge and tomorrow he operates as an additional district judge. Now to vest final and conclusive powers in such novices, in my opinion, is not very proper. It may be argued however that an appeal has been provided to the High Court. I feel differently about this

[Shri B. K. P. Sinha.] provision. This election matter is a special jurisdiction. I have already pointed out that the special jurisdiction vested, by immemorial practice, in Parliament itself. If this jurisdiction had vested here also in Parliament, the one and only verdict of Parliament would have become final and conclusive. What is the reason then that we should have a right of appeal simply because we have transferred this jurisdiction to a different body? Election matters, it is recognised by all, should be disposed of very expeditiously. To provide a right of appeal is to hamper expeditious disposal of election matters. I know of no other country where appeals have been provided against the orders or judgments of election tribunals. In the United Kingdom which we have taken as a model, the judgment or order of the Election Court is final. But if there is an error of law, an appeal is provided to the Court of Appeal. Even in the absence of an appeal to the High Court, there are provision-in our Constitution which enabled a petitioner or a respondent, which enabled a litigant before a tribunal to agitate the matter by a reference or appeal to a High Court. The hon. mover has rightly pointed out that under article 226 of the Constitution, a reference can be made against the judgments of tribunals to the High Court.

[MR. DEPUTY CHAIRMAN *in the Chair.*]

They can interfere in limited circumstances only, say if there is an error apparent on the face of it, an error which is known as a 'Speaking error', where the order manifestly indicates that it is wrong; where there is an assumption of jurisdiction which does not vest in the tribunal or a refusal to exercise jurisdiction which vests in the tribunal or where there is an error of law. The matter does not end there.

Under article 136 of the Constitution the Supreme Court has got the right of special appeal and it has been laid down by the Supreme Court that when there is an error of law or

when there is a manifest miscarriage of justice, the Supreme Court could intervene. So the provisions that are found in the United Kingdom are already there. In the U.K. there is an appeal on a matter of law to a court of appeal. Here also, even though we have no provision for a regular appeal to the High Court, a reference can be made to the High Court under article 226. And there can be an appeal under limited circumstances or under a limited situation, to the Supreme Court. Where was then the necessity to provide for an appeal to the High Court? The power of the High Court under this provision is very wide. The appeal can be not only on a question of law, but it can also be on a question of fact. During the last four years, I know of many cases where interlocutory matters have been challenged now in one High Court and now in another and then taken to the Supreme Court and the decision of the tribunal has been delayed for more than three years and in many cases for more than two years. When this right of appeal, both on points of law and on points of facts is allowed to the High Court, I think a situation may arise in many cases in which the petition would not be disposed of before the next elections are called. Therefore, the proper thing to do would be to provide that the one-man tribunals shall consist only of a district judge and his order shall be final and conclusive and to leave the matter at that.

SHRI P. N. SAPRU (Uttar Pradesh) :
Terrible.

SHRI B. K. P. SINHA: My hon. friend may say "terrible", but high court judges have already powers which they have not failed to exercise and my hon. friend was himself one of them and many of his judgments have been reported in the Law Journals.

Next I come to the clause dealing with the old section 100. The previous section provided that the elections shall be declared to be void if the result of the election had been

materially affected by the improper acceptance or rejection of any nomination paper. Now this section or rather the old provision has been split up into two parts. One part says that if there is improper rejection, the election shall automatically be declared void. Nothing more need be proved. Secondly, if there is any improper acceptance of nomination paper, when a candidate who was not qualified to contest the elections, if he contested, then in that case, the election shall not automatically be declared void. The election shall be declared void only if the petitioner proves conclusively that the results of the election have been materially affected. Probably this has been done to bring the law into line with the judgments of the Supreme Court and the judgments of the British Courts. The Supreme Court and the British Courts, both have held that if there is improper acceptance, then in that case, the material affection of the election has to be proved. The British Courts which took this view were not very happy at the result. But in view of the language of the British legislation, they felt constrained to take that view, for it is not for the court to legislate, it is for the court to interpret the law. In the light of this British precedent our Supreme Court also took the same view. But this view gives rise to a situation in which it will be practically impossible for any petitioner, any contestant to prove that the results of the election have been materially affected by the improper acceptance of the nomination paper. This view was taken in the case of *Vasisht Narain Sharma vs. Devi Chandra*. But some of the subsequent judgments of the Supreme Court in which this issue did not arise directly, have taken a view or they have expressed an opinion which considerably shakes the authority of that view held in that particular case. I know that in a case from PEPSU in which one of our colleagues here from PEPSU was appearing, the correctness of that decision was doubted by another bench of the Supreme Court

and this issue has been referred now

to a bigger bench for decision. I therefore, feel that the old provision was better. Rather we should make it clear now that where there is improper acceptance or improper rejection, in either case, the election should automatically be declared void.

Lastly, Sir, I come to clauses 48 and 51 of the Bill. Clause 48 of the present Bill lays down that if the provisions of sections 81, 82 or 117 are not complied with, the Commission "shall" dismiss the petition. The old section 90 provided that notwithstanding anything done by the Election Commission, if the provisions of sections 81, 83 or 117 were violated, the Election Commission "may" dismiss the petition. It will be noted that while the previous section used the word "shall" with reference to the Election Commission, the later section which referred to the election tribunal used the term "may". These provisions were interpreted in the light of other provisions of the Act and it was held by the Supreme Court in the case of *Dinabandhu Sahu vs. Jadumoni Mangaraj* that it was not obligatory on the Election Commission to dismiss the petition and that the word "shall" meant only "may" and not "must". This view was taken because the latter sections had dealt with the powers of the election tribunal and said that the election tribunal may dismiss the petition. Now, we are substituting the word "may" in latter sections by the word "shall" and that introduces, in my opinion, an uncertainty in the law. Previously, in the light of the decisions of the highest court of the country, it was open to both the Election Commission and to the election tribunal to allow amendments to be made in the petition and to allow the petitions to be brought in conformity with the Representation of the People Act. After substitution of the word "shall" for the word "may" in section 90, the whole provision becomes uncertain and once more, I am sure, this issue of the meaning of the word "shall" whether it means even now "may"

[Shri B. K. P. Sinha.] or whether it means "must" will be agitated in the highest court. It is always proper and wise to stick to the language which has received the interpretation of the courts.

I do not see any reason for deviating from that beneficent principle in the case of these two clauses. I have nothing more to add. I feel that this Bill registers a distinct advance on the old measure and I have every hope that we shall expeditiously give our approval to it. Thank you, Sir.

SHRI S. N. MAZUMDAR (West Bengal):
Mr. Deputy Chairman, the hon. Mover while moving this Bill referred to the fact that the Select Committee went through not only the amendments proposed by the Government but through the parent Act. It was, in the circumstances, very right because when the first measure was enacted, as has been admitted by the hon. Minister himself, there were apprehensions in some quarters that the experiment of adult franchise may not succeed—there were difficulties— but, after the experiment of the first Election, it was quite right to review that experience and carry out certain improvements in the existing law. Now, the question is, how far these improvements meet the requirements of a free and fair election based on adult franchise. It has been admitted by the Election Commission itself that the experience of the first General Election proved that the people in our country, the common people in our country, in spite of their illiteracy or in spite of the so-called ignorance or backwardness, are fully alive to the requirements of the situation. In fact, Sir, I think it will not be irrelevant if I were to quote from the Report of the Election Commission about the experience of the first General Election:

"Experience demonstrates, therefore, that literary education, however desirable, is not an essential condition for the successful working of adult suffrage. However backward and ignorant the common man

in an 'undeveloped' country may be, he possesses in his own way enough commonsense to know what is good for him. Given a simple enough system of ballot which he understands, he can be trusted to cast his vote intelligently in accordance with his own free will in favour of the representative of his choice. It is essential, however, that in order that the system of adult suffrage may work fairly and smoothly, two other conditions must be satisfied (i) the conduct of elections must be strictly non-partisan or under neutral control and (ii) the executive Government must sincerely desire free and fair elections and actively work for the same."

Wow, Sir, in connection with this Bill, we must see how far it attempts to fulfil these conditions. About the conduct of the elections b> the Election Commission, I have no complaint but we should see whether there is scope for improvement in the measures pertaining to the conduct of the Executive in this connection. Moreover, there are two other matters in this connection which we should bear in mind because we all admit that economic democracy has not yet been achieved; economic exploitation by vested interests is still going on. So, these are factors that will have to be taken into consideration. The common man, the voter, should be secured from various sorts of influences. Some of the influences which may be exerted on him are mentioned in the Bill in the clause dealing with corrupt practices but there is something more, for instance, a landlord or a moneylender threatening the peasant that if he would not vote for such and such a candidate he shall not get any loan either in cash or in kind. There may be instances of an employer threatening his employees that if they shall not vote for such and such a candidate, either they will be retrenched or will have to face certain other consequences. This thing, Sir, in fact is prevalent in the plantations. The workers in the plantations being isolated from the large mass of

he people and they being backward and further the plantations till recently not being accessible to outsiders, the planters do exert undue influence on the labourers. At the last General Elections, the members of different political parties were not even allowed to go inside the plantations, to the workers' quarters in connection with election propaganda.

SHRI H. C. DASAPPA (Mysore): May I know to which area the hon. Member refers?

SHRI S. N. MAZUMDAR: Areas where plantations are situated.

SHRI H. C. DASAPPA: I understand; but plantations are in the North, South, East and West.

SHRI S. N. MAZUMDAR: If the hon. Member was not so impatient, I was just going to mention the place for his information. It is the North East of India.

SHRI H. D. RAJAH (Madras): Be patient.

SHRI H. C. DASAPPA: I am sorry, Sir.

SHRI S. N. MAZUMDAR: You know that for the exercise of their vote, the common people, the poor people, need certain other facilities also; they require guarantees to be secured from any sort of undue influence either from the executive or from the vested interests. Secondly, they require certain facilities also. We know that in our country the Press is controlled by monopolists; it is controlled by the monopolists and they have certain likes and dislikes and in their papers they do not give adequate publicity to all the different views. It has been admitted to some extent by the Report of the Press Commission that they give a certain slant to the news but our experience is quite different; not only is a slant given but the meetings and demonstrations of political parties which are not to the liking of the Press bosses are blacked out in many cases. The strikes and demonstrations and struggles of the

workers and peasants find very little place in the columns of the papers controlled by these people. Not only that; news is manipulated in various ways. By this, I mean that there are various sorts of methods. If you read some of the so-called nationalist dailies published in Calcutta, you will have the impression that in the Rajya Sabha only the Ministers speak, that the Opposition Members very seldom speak. Only the Ministers speak and the measures are passed without practically any discussion. You will get that impression. It is not said in so many words but while reporting it is said that the Minister said this and that and the Bill was passed. Sometimes, the speeches of prominent Members of the Treasury Benches are reported to some extent and the Opposition side gets publicity very seldom in the Calcutta papers. This is only one example and that is why, I say, while you are thinking of conducting elections on the basis of adult suffrage, to make the experiment successful these matters also should be given proper attention, I may be asked as to what measures I would suggest, I will not be able to suggest a detailed scheme off-hand but I think I shall be able to suggest some measures. I have given notice of some amendments and these suggestions of mine have been incorporated in them.

Coming from that, I would like to suggest to the House that some further improvements can and should be made in this Bill, in the clause dealing with corrupt practices. In that clause, many things have been incorporated, for example, it has been said that if anyone tries to influence the voter by threatening him with divine displeasure, with religious ostracism, or tries to appeal to the voter on the grounds of caste or race then those will be treated as corrupt practices. If these suggestions were given earlier, perhaps they would not have received proper attention, but the experiences of the last General Elections all over India and the subsequent general elections for the State

[Shri S. N. Mazumdar] Assemblies in certain States also have clearly shown that this sort of influences starting from religious influence to appeals to caste or other sentiments are brought to bear upon the voters and these have been rightly included among corrupt practices, but the other methods which I have mentioned, the landlords threatening the peasants, the moneylenders threatening the peasants, the plantation and other employers threatening the workers, these also should be included in the list of corrupt practices. Secondly, it should be seen that we have more safeguards against the executive interfering with the conduct of elections. Some measures are mentioned here, but there are ways and ways of influencing the voters by the Government. Sir, it is often seen that just before the elections a Minister promises certain things to his constituency, or certain long overdue measures for which the proposals were there pending for long but were neglected, and allowed to remain in the shelves of the secretariat are salvaged from there and just immediately before the elections certain measures are undertaken in the constituency of these Ministers. These are means to influence the voters. In the Bill, in the clause dealing with corrupt practices it has been mentioned that "a declaration of public policy, or a promise of public action or the mere exercise of a legal right, etc., will not be deemed to be interference within the meaning of this clause." Certainly it is, Sir, that before the elections the Government will continue to exist and the Government will have to make some declarations of public policy or a promise of public action. I do not say that this should not be done, but there are ways and ways of doing things. We should go into the matter very seriously. As I have said, if immediately before the elections the Ministers become conscious of the needs of their constituencies or they discover certain needs of the people and give certain promises, these are calculated to influence the voters and

we should guard against these measures.

Now, coming to the Bill, some improvements have been made, but some other improvements also could have been made. The Election Commission, on the basis of its experience, made certain recommendations. Some of the recommendations have been accepted and some have not been accepted, say, as regards the filing of the nomination paper. The Election Commission recommended that there is no necessity of a proposer and a seconder. The Election Commission in fact remarked that this necessity or obligation of the nomination paper being proposed by one and being seconded by another was borrowed from the British law in the earlier election law and it has no intrinsic merit. It is a mere technicality. The Election Commission also mentioned that there cannot be any man who will come forward for contesting an election who cannot secure the support of at least one proposer and one seconder and so there was absolutely no necessity for this. But that portion of the recommendation of the Election Commission has not been accepted; that portion has been done away with.

Sir, election laws are to be simplified. It is being admitted even by the hon. mover that due to the complexity and due to the very technical nature of many of the provisions of the election law there were a lot of difficulties. The Election Commission, in fact, has said that they had to publish a candidate's handbook in order to give guidance to the candidates. Now, a common man, say, a poor man, who wants to stand to contest an election, has to go through many technicalities. Some technicalities must be there undoubtedly, but we should see as far as possible that these technicalities are simplified. The Election Commission in fact even said that while accepting a nomination paper the Returning Officer need not insist on whether the candidate's name is in the electoral roll or not because, as the Election Commission

admits, even with the greatest efforts the electoral rolls will remain incomplete and unsatisfactory. So only what is necessary to be seen is whether the candidate is eligible for standing as a candidate or not.

Then, Sir, going further, I may submit another suggestion, which was also submitted in the other House. That is the question of the deposits. As I said, though all are equal before law and all may exercise their right to vote yet, economically the poorer people are placed in quite different positions and for them the sum required to be deposited under the law is high. It should be reduced further and that is why our suggestion was that for a Parliamentary constituency the amount of deposit required should be Rs. 200 instead of Rs. 500; it should be Rs. 100 in the case of a candidate coming from the Schedule Castes or Scheduled Tribes, and for the Assembly constituency it should be Rs. 100. In that way we shall make it possible for the poorer people to come forward to contest elections.

Then the hon. Minister said something about disqualifications. He mentioned the fact that there is a disqualification on a person if he has undergone imprisonment for two years. This is a point about which there was a difference. That was discussed in the other House and the suggestions were not accepted by the hon. mover. Still I like to impress upon him the seriousness of that point of view because, in our country, in view of the conditions prevailing today, political workers, particularly of *me* opposition Parties, have to face situations where they have to undergo imprisonment. There are various measures even now prevalent in our country by which the political workers, particularly the workers who work in the trade unions, and the kisans feel they are victimised. Various sorts of cases are launched against them and convictions also result. So, under these circumstances there should be same

distinction made that this disqualification will not be applicable in cases of political offences and in cases of convictions arising out of the workers' and peasants' movements. The hon. mover might, I think, yet say that the Election Commission has been given the discretion to remove any disqualification. That is a general power given to the Election Commission, but why should we not take the realities in our country? Why should we not take these facts into consideration? The laws have not been changed. Perhaps you may remember, Sir, sometime ago when we were discussing the Criminal Procedure Code amending Bill, we suggested from this side that sections 107, 109 and similar other sections should either be amended or Government should give a definite assurance that these sections will not be applied against the people working in the trade unions and kisan movements, because we know from our experience that these are the sections which are being used by the executive authority as a measure not only to secure conviction but also harassment. So I do not understand why this should not be given proper consideration.

Now, Sir, I mentioned that I have a suggestion about making it possible, about giving the common voters, the common people and particularly the parties representing the poor people some facilities as regards propaganda and publicity and I said that I am going to make a submission just now. I left out that during the earlier course of my speech. I have given notice of an amendment and I find that Mr. Mahanty also has given notice of that amendment and that is that broadcasting facilities should be allowed to all parties and that will be one of the means of giving the different voters proper publicity.

Then there are certain other matters also which were recommended by the Election Commission. May I continue after lunch, Sir?

MR. DEPUTY CHAIRMAN: Will you take more time?

SHRI S. N. MAZUMDAB: Yes, Sir, ;nme more time.

Mn. DEPUTY CHAIBMAN: You nan continue in the afternoon.

The House stands adjourned till 2.30.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI S. N. MAZUMDAB: Mr. Deputy Chairman, earlier I was making the submission But, Sir, the hon. Minister is not present here.

MR. DEPUTY CHAIBMAN: Mr. Rajagopalan is taking notes.

SHRI S. N. MAZUMDAB: I do not think that a Parliamentary Secretary can be a substitute for a Minister.

SHRI JASWANT SINGH (Bajas-than): Parliamentary Secretary of a different Department.

SHRI S. N. MAZUMDAB: However, I must.....

SHRI P. D. HIMATSINGKA (West Bengal): Joint and collective responsibility.

SHRI S. N. MAZUMDAR: Nowhere in the Constitution is it laid down that the Parliamentary Secretary is a part of the joint and collective responsibility of the Ministry and to say that is actually an insult to the Constitution.

SHRI H. D. RAJAH: Is it not possible to bring at least a Deputy Minister?

SHRI S. N. MAZUMDAR: However, "I do not insist; maybe the hon. Minister has gone to attend to some personal needs which we all have to -attend to some time.

Sir, earlier I was referring to two sets of problems. One set of problems related to immediate problems and some suggestions were also offered by me. The other set of problems was of a long-term character and what I wanted to do was to draw the attention of the House to this matter so that we may put our heads together.

For example, I raised the question of the means of dissemination of propaganda available to the poorer people because in my opinion we can have a really free press only when the poorer people have the means of dissemination of propaganda in their hands. Therefore they should be made available to them. Only then free expression of opinion from their side will be possible in the sense that their expression of opinion will reach all sections of the people. I know that this cannot be done overnight but rav whole point in raising this subject is that attention should be given to it. We should not be self-complacent; we should not think that everything has been done in the matter of free and fair elections.

Prom the same point of view I should like to draw the attention of the House to another long-term aspect of this matter. And that is, under the present system of election, however free and fair the election may be, the results cannot fully reflect the wishes of the electorate because what happens under the present system— and what has happened already—is that with a minority of votes the ruling party has been able to win a majority of seats. I am not saying this as a matter of grudge but it is a fact that they have won a majority of seats. The Election Commission itself in its analysis of the results has said that by securing 45 per cent, of the votes the ruling party has been able to secure 73 per cent, of the seats. So this cannot be said to reflect the wishes or the desires or the opinion of the electorate fully. The only way in which the opinion of the electorate can be fully reflected is by the introduction of the system of proportional

representatioa. That may not be done overnight but we should not blind ourselves to this fact that the present system of election does not fully reflect the wishes of the electorate.

Then I shall come to some other problems. For the successful holding of the elections, that is, in order to see that a large number of voters take part freely and fairly what is absolutely necessary is to educate public opinion. Voters must be educated in the matter and for that the co-operation of political parties is necessary. The Election Commission itself has said that the co-operation of the political parties is necessary, starting even from delimitation right up to the date of polling. But while I was reading the recommendations of the Election Commission in this matter I was reminded of one fact which I think I should bring before the House namely, the attitude which was taken by the West Bengal Government in connection with the Delimitation Committee. The West Bengal Government did not agree to nominate representatives of particularly our party in the Delimitation Committee. That cannot be said to be a fair attitude.

Now before I resume my seat, I should like to draw the attention of the House and particularly of the hon. the Law Minister to some special problems, to which I think attention has not been drawn by anyone else. That is as regards the system of delimitation of constituencies itself. It has been provided that a constituency will be delimited on the basis of a certain number. In some cases, for example in the case of the autonomous districts of Assam, a relaxation has been made. There the constituencies have been delimited in such a manner that with a less number of people they can send their representatives to the legislature. That has been necessary because of the special position of that area. I think it is justified but I want it to be extended to some other areas also. I shall particularly cite the example of the Nepali-speaking people of the Darjeel-

ing District. The Darjeeling District is within the North Bengal Constituency. It is a three-member constituency and the composition of the people of the three Districts is different particularly that of the District of Darjeeling. So what happened last time was that in the last general election the Nepali-speaking gentleman who stood as a candidate for the Parliamentary constituency was able to get almost an overwhelming, majority of the votes of the Nepali-speaking people but as the constituency was big, he could not get the requisite number of votes in the other Districts and so he could not be elected. So there is a genuine feeling among the Nepali-speaking people of the area that there should be some means to see that they are represented in Parliament also. They have representation in the State legislature but they desire that they should have some representation in Parliament. Now, I am raising this problem and I am submitting it to the hon. Member for consideration as to whether he can do something about it.

Lastly, I shall mention another concrete problem. The Election Commission also has said something about it, namely, the preparation of the electoral roll every year, and pointed out the unsatisfactory nature of the preparation of the electoral roll. We know what happened in our House at the time of the earlier biennial election when a sitting member belonging to the ruling party—he was from Bihar—was given nomination by his party for re-election but as his name was not on the electoral roll he could not stand as a candidate. Now, this sort of technicalities really do not represent the wishes of the legislature. Now, this matter also should be given proper attention.

Sir, I do not want to say anything more at this stage. If I find I have anything more to say I shall do so at the later stage.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, I consider this Bill to be a very

[Shri R. C. Gupta.] important measure which embodies a lot of improvements which were essitated on account of past experience of five years of actual working. This fact cannot be denied. I, however, would have expected that a Bill of this importance should have been referred to a Joint Select Committee of both Houses. This might have improved the Bill to a certain extent. Now, the Bill as passed by the Lok Sabha comes before us and we are asked to pass this Bill. It may not seem very proper, because the general elections are very near, that certain amendments may be suggested here to be passed and the Bill might be sent back to the other House. There is not the slightest doubt that some of the procedures which were necessary under the old law have been simplified to a very great extent, and in the matter of nomination there is vast improvement. In the last general elections out of 338 petitions that were filed as many as 116 involved appeals or objections against the rejection or improper acceptance of the nomination papers. Out of 116 as many as 64 were accepted on this ground and a lot of public time was wasted and the elections were held again. Therefore, it was necessary to find out some such method by which this might be avoided. This Bill has made certain improvements. I would have expected some more improvements in this connection. The Election Commission in its report, made a very valuable suggestion and that suggestion was that every person who is not disqualified should be allowed to stand as a candidate, no matter whether his name is included or not in the electoral roll, provided he is qualified to become an elector. If this were so, things would have been very much better than they are. In spite of the fact that a man's name is not in the electoral roll, he is entitled to be an elector. If there is a slight mistake in the name or in the description, the present Bill makes it obligatory on the returning officer to accept the nomination and correct the errors there and then. I would

make one suggestion in this connection and it is this. Mis-description in the name of the constituency which seems to be an omission, should also be corrected as mis-description of the name or other description, if found in the electoral roll, the returning officer has a right to correct. Therefore, it would have been much better if law had laid down that if a particular person's name is entered in the electoral roll, there should be no objection so far as the nomination is concerned, no matter whether there is a slight mistake in the description of the constituency, the name of the constituency or the spelling of the name or some such other defects. So, I submit that the hon. Minister might take this into consideration that misdescription of the name of the constituency might also be corrected or allowed to be corrected in the nomination paper when the nomination paper is filed.

In the matter of actual elections, one change has been made and that change is that even on the date of election canvassing has been permitted, holding of meetings has been permitted outside the polling area. This was banned under the old Act. I do not know why this change has been made. In the last elections the prohibition of holding of meetings on the election day was a great success. There were no quarrels, no fights, no disputes of any kind, because one day before the election no general meetings of any description could be held in connection with the candidature of a particular person. Now, the inclusion of this provision may upset the question of law and order and it is not going to bring any particular result, at least tangible result. If a man could not succeed by canvassing for about a month, then canvassing if allowed on the polling day, outside the polling area, would not make much difference; on the other hand it is likely to create some confusion so far as the question of law and order is concerned.

Now, Sir, the third stage after the election is the filing of election peti-

tion. According to the old law—this petition had to be accompanied with a schedule in which the details and the particulars of the corrupt practices and other grounds on which the election was sought to be voided were to be given. That was obligatory. Now, that has been changed and I think it is a welcome change. Under the amended law the petitioner shall have to give the grounds in the petition. It is not necessary that the schedule should accompany it. If sufficient particulars are given and if those particulars constitute illegal practice which would void the election, they would be enquired into and the matter will be decided. But there is one thing so far as this aspect of petition is concerned. Under the old law the scope of amendment of the petition was very much limited. It seems to me that it has been widened too much. The language now employed seems to me much too wide. If this language is allowed to remain, I think, in the petitions every kind of allegation will be made and later on the particulars will be sought to be added and the petition amended. At page 21, clause 51, sub-clause (5) reads:

"The Tribunal may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition."

"Not previously alleged in the petition", this will encourage the inclusion of every kind of allegation in the petition and subsequently when the petition is filed efforts will be made to *get* the petition amended so as to ; Include fresh instances and fresh cases.

This does not seem to me to be a welcome change. After all, general election is a matter of the result of voting and whether the petition is allowed or dismissed, it will not make much difference because, if another election is held, the same sort of practice will prevail, again. Therefore, the idea has all along been to curtail the scope of petitions so far as possible. The petition should be allowed only in two cases and in no other—firstly when there is bribery and, secondly, when the person is guilty of well-defined corrupt practices. All other grounds should be eliminated altogether. After all, you cannot make these elections free from all sorts of corrupt practices. If you allow these amendments as if it is a civil suit in which a dispute with regard to property rights has arisen, then you will be unduly prolonging the disposal of petitions. I think that there is a feeling that the disposal of petitions may be expedited by this change. But I submit that this particular change will go contrary to that expectation. This will unduly delay the disposal of petitions. Hope is expressed that by the inclusion of a provision of this nature, so far as possible, the petition would be disposed of in six months' time. I should say with the experience of law courts that even the application for amendment will not be disposed of in six months. Seventeen petitions are pending practically at the end of five years so far as the last general elections are concerned. If this amendment is effected, I submit that the duration will be prolonged still more. Therefore, I wish to say that no amendment should be allowed on any ground whatsoever except when there is some sort of misdescription in the particulars already submitted in the petition. While I welcome the change in the phraseology of section 83 of the old Act, I do not like that the scope of the amendment should be widened. This is a suggestion which I think might be of some help and use.

Then, in regard to the constitution of tribunals, another chance has been

[Shri R. C. Gupta.] made and it is that it should be a one-man tribunal and the member of it should be a district judge. Probably, in order to meet the criticism that a single member's decision may not inspire full confidence, an appeal has been provided for. I think that these two decisions do not make for a better change. What will happen if the present amendment is to be accepted? First of all, the petition will be fought out like a civil suit in a civil court; there will be a regular appeal in the High Court, and then it will go to the Supreme Court under article 136. There will thus be no end to litigation and the intention that there will be an early disposal of the petitions will become abortive. If this change is effected, there will be an appeal on both the questions of law and of facts.

It is known to everybody who is conversant with law courts that opinions differ on many matters and two courts take different views about the facts involved in a particular case. There can be two views on similar facts. Therefore, there will be an inducement in every case to go in appeal against the judgment of the tribunal and you will find that there is a flood of appeals in the high court. Will there be any finality to this? Under section 86 of the old Act, it was provided that the decision of the tribunal shall be final. Here you are inverting it altogether. You are prodding for a regular appeal and then an appeal to the Supreme Court under article 136. I would submit that the old method of having a tribunal of three members and not allowing any appeal whatsoever would be much better, because, after all, one has to see that there is some finality and a man should be satisfied if three members sit together and decide a case in particular manner. Therefore, I would say that this new provision is not a salutary one and we should revert to the old provision which is better. With this simple procedure, it is possible that the disposal of petitions will take less time.

Sir, a salutary change has been made with regard to corrupt practices. There were three sections 123, 124 and 125 of the Act. Under section 123, major corrupt practices were defined; under section 124, minor corrupt practices were defined and under section 125, illegal practices were defined. Now, they created a lot of confusion and with not much spectacular result. A lot of oral evidence used to be given and all sorts of tilings were placed before the tribunals. If we look at those various judgments of the tribunals, we will find that the discussion on the oral evidence covered a major portion of the judgment of the tribunals. If this could be avoided, it would be much better. Therefore, I submit that the new provision is a salutary one, all things have been grouped together under one clause and I think, this would certainly reduce the perjured evidence that is likely to be tendered before a tribunal.

There is another thing to which I want to make a pointed reference. Under clause 85 it is provided that this Act will not apply to pending election petition etc. I do not see any justification for excluding those cases in which elections have already been held and petitions filed. If the disqualification can be removed in those cases which have already been decided, there is no justification why that disqualification should continue to be attached in those cases which have not yet been decided. The language of this clause is like this:

"Save as otherwise provided in this Act, nothing herein shall apply to any election which has been called....."

I think "called" is a mistake and should be "held"—

"..... before the commencement of this Act or to any election petition arising out of such election, whether such petition is pending at such commencement or is presented afterwards, and all such elections shall be held and petitions tried, and all matters in connection with—

such elections or petitions (including the constitution of Election Tribunals) shall be regulated, in accordance with the provisions of the law in force immediately before such commencement."

"Save as otherwise provided in this Act." I want to say something about this. If there is a corrupt practice which has ceased to be a corrupt practice, the disqualification shall not attach in a case in which a petition is pending. There are 17 cases still pending and there were some more pending in other courts. If there is anything for which a man cannot be disqualified under the provisions of this Act, why should this disqualification continue to be attached to that man whose case has not yet been disposed of? This disqualification should be removed in the case of all those whose cases have already been decided or are pending.

:3 P.M.

Then, Sir, with regard to election expenses, I think, there is an excellent change, and a very desirable change. Everybody knows that it is well-nigh impossible to comply with the letter of the law, so far as election expenses are concerned. It appears to me that under the new provisions, a man has only to keep the account of the expenses incurred. Now, he will not be required to keep the accounts in the form that was used heretofore. That was a very complicated form indeed, and lots of mistakes used to be committed, and even the experts did not know how to fill in that form correctly. But I do not see any justification for keeping the word 'separate' in clause 42, page 17 and line 15, the words mentioned in this clause are as follows:

"Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure....."

I think the idea is to keep a correct account of the expenditure incurred. If the word 'separate' merely means that it should be separate from his

household account or something like that, then it is all right.

SHRI H. V. PATASKAR: There is a meaning to it.

SHRI R. C. GUPTA: That is all right then. Otherwise, the word creates a certain amount of confusion. I am, however, glad to know that that is the meaning of this word.

Then, Sir, on the same page, in lines 29 and 30, the words appearing are "..... which shall be a true copy of the account kept by him or by his election agent under section 77." That means that what is expected of a candidate is that a true copy of the accounts which he has kept should be filed—(Interruption.)—That is a very good change, and I think there should be no difficulty so far as that particular matter is concerned.

Then, Sir, on page 20, clause 51 states as follows:

"Any candidate not already a respondent shall, upon application made by him to the Tribunal within fourteen days from the date of commencement of the trial and subject to the provisions of section 119, be entitled to be joined as a respondent."

Here, Sir, instead of the words 'Any candidate', it should be 'Any contesting candidate'. The addition of the word 'contestng' is very necessary, because the experience so far has been that such applications are instigated by some of the contending parties in order to embarrass the trial, or prolong the trial, or get admissions in favour of one party or another. It will serve no purpose if a candidate who has not contested the election is to be allowed to come into the picture. Therefore, Sir, I submit that the word 'contestng' should be added before the word 'candidate'. And I think that that is the intention, but somehow or other, this word has been omitted from this clause.

Lastly, Sir, I submit that clause 83 makes also a very excellent departure,

[Shri R. C. Gupta.] because it says that "All rules made under this Act shall, as soon as may be after they are made, be laid for not less than thirty days before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following." Sir, this is a very desirable change, because most of the election petitions are likely to be prolonged, if proper care is not taken in the framing of the rules, and my own feeling is that the power to file election petitions and fight out cases should be curtailed as drastically as possible. The present measure puts a premium on the poor people. Under the present Bill, if it is allowed to be passed as it is, every petition will be followed up by an appeal to the High Court, and then an appeal to the Supreme Court. A poor person who may have been declared elected will be harassed and coerced by his rich opponent, because he will try to put him in a tight corner due to his financial difficulties. If my presumption is not wrong, quite a large number of petitions will have to be allowed for want of proper legal advice in a High Court. The question of facts will be argued at length, and the rich people will be able to engage very eminent lawyers, whereas the poor people may not be able to avail of the services of such eminent lawyers. Therefore, Sir, my submission is that this point should be taken into consideration, and the provision should be suitably modified. That is all that I had to say. Thank you.

SHRI H. D. RAJAH: Sir, I have great regard for the sobriety and the level-headedness of my hon. colleague, VJr. Pataskar. But I wonder how he was a party to bringing in a Bill of his nature to amend the Representation of the People Act. Indeed I cannot congratulate him and I cannot say that this is a step in the right direction. Sir, the previous Act contained very salutary provisions which are now given the go-by by this measure. But before I enter into the details of

such provisions, I would like to find out how this democracy itself is functioning in this country. With the Congress regimenting all the economic power in its own hands, making the people contribute in different ways, either by coercion or by other means, to its political funds, and increasing the coffers for the purpose of fighting its election, democracy is coming to a stand-still. In a State where economic power is concentrated in a particular Party, the so-called democratic concept becomes a farce and a fraud, especially in a nascent democracy like ours. We have inherited a totalitarian regime, and a totalitarian bureaucracy. The bureaucracy is yet to be made to know that they are serving the real interests of the democratic republican nation, and so long as that concept has not been properly brought into view, this difficulty will always be faced by us. Added to that, all the fanfare and the trumpet of the broadcasting stations—the radios, the press, and so many other paraphernalia of propaganda—are controlled by a single Party. But Mr. Mazumdar need not complain about it. The same thing happens in Soviet Russia, in Communist Russia. The democratic concept is fundamentally different from the complaint made by Mr. Mazumdar or from the reality which we face on account of the controlling influence of the Congress Party. I will give you one instance. We have got the National Extension Service. We have got the Community Projects. All the people employed in these schemes daily pray to God in the Biblical language, "O, Lord, give us our daily bread; give us our daily wages." And who are the Lords whom in the visible, external world they see? The Congress Party. So much so, the difficulties which Opposition parties face in this country, when they really go to the people to solicit their support, are numerous and far too many. The papers, no doubt, under monopolistic control, express the views of only one particular group. The other groups find it difficult to see that even their programme is made known to the public. The Radio is denied to them.

Now, therefore, just to see that fair and impartial elections take place in this country for the Houses of Parliament as well as for the Legislative Assemblies of the States, I make one humble suggestion here. It is this: When the election is decided upon, from the date when the nomination papers are to be filed till the election results are announced, there must be President's rule all over the country. When you do that, the party in power will cease to exercise any influence with the people and make them vote for their own party candidates. Once they adopt a procedure like that in this nascent democracy, the Congress Party really would be helping the development of democracy in this country and not be fostering totalitarianism of Fascism or Communism. Now, if that procedure is adopted, many problems like the Prime Minister going in a special train to boost up a particular party candidate or a Minister going in a car belonging to the Government to speak for a particular candidate or somebody rushing from one corner of the country to the other spending public money, will not arise.

SHRI S. MAHANTY (Orissa): By aircraft also.

SHRI H. D. RAJAH: By aircraft also according to Mr. Mahanty.

This is a practical step. The other day when the President's rule in Travancore-Cochin was being discussed, the hon. Minister assured the Parliament that the purity of the administration would be maintained. Imagine, Sir, these friends belonging to the Congress Party paying tribute to the Congress regime that happened to be there in Travancore-Cochin before the President's rule came into existence. I ask for purity in propaganda. I ask for fairness for every candidate who stands for election to the Parliament. I ask for justice in the name of the people, so that proper representatives may come to the Parliament and to the Assemblies without

the people being coerced to vote this way or the other by the party in power. After all, the Constitution provides for President's rule. It is not always that the steamroller majority of the Congress can be maintained. The Congress is only a party. There is a possibility that a non-Congress party may come to power and rule the country and then an opportunity must be given to the Congress Party again to come back to power and that party which may not be the Congress Party should be made to step aside. So, the President must rule this country so far as the election period is concerned. In that case you will see real democracy developing in this country.

I will now deal with the nomination paper and the returning officer's duties. It has been a continuous harassment. Illegally the returning officer rejects the nomination papers under some influence or other. This was a very bad feature of the previous Representation of the People Act. I thought that, when an amending Bill is brought forth, some remedy will be devised, some method will be found out by which, if the nomination papers are rejected by the returning officer on some silly ground or some other ground, an immediate appeal, before the election takes place, could be made by the people concerned. That provision is not to be found here. It is really very bad that a deserving candidate, who may actually be returned to the seat, should lose his chance simply because the returning officer rejects his nomination papers. Now, he can only appeal after the whole process of election is over. After the election is over, he can appeal but his chances in that particular election are over. I think the Government must really bring about a provision by which an immediate reference to a higher authority than the returning officer regarding the rejection of the nomination papers could be allowed, and the decision of that authority must be final. Then alone the election should take place. Probably the Government will say, 'In that case, the

[Shri H. D. Rajah.] whole election apparatus will come to a standstill, because we visualise continuous elections all over the country over a period of time. If an appeal against the returning officer's rejection of the nomination paper is allowed, then the whole process will come to a standstill. I say it cannot be, as I do not think that all the returning officers are so mad. I will tell you of a concrete example, of an instance that took place in Madras during the last elections, where a returning officer under the influence of a Minister rejected the nomination paper of a particular candidate.

SHRI G. RAJAGOPALAN (Madras): It is wrong.

SHRI H. D. RAJAH: And it had to go to the High Court for decision. Whether it is right or wrong, the matter is there, and it is now part of history. Now for a situation like that, when a returning officer rejects a candidate's nomination paper, that candidate has not got relief either in the present Act or in this amending Bill. Cannot the hon. Minister for Legal Affairs find out or conceive of a method by which justice can be done to these candidates whose nomination papers are rejected by the returning officer? If some method is found out, then it will be certainly creditable and the candidate also will feel very happy about it.

Now, as regards the nomination papers, I am happy to find that the seconder is omitted, but why a proposer? If a citizen of India is prepared to say, 'I hereby declare that I stand as a candidate for election to the Parliament or to the Legislative Assembly,' it should be enough. Where is the need for a proposer, when you have dispensed with the seconder?

SHRI J. S. BISHT (Uttar Pradesh): If he is ill.

SHRI H. D. RAJAH: He can write in the presence of somebody else or

in the presence of an attesting magistrate.

SHRI J. S. BISHT: If he is absent from the State?

SHRI H. D. RAJAH: Then he is unfit to stand for election. A man cannot say, "I represent the people of a particular area by absenting myself always from the place." This is a democracy based on adult franchise. There is no literacy qualification; there is no property qualification; there is no wealth qualification; there is no health qualification. An old decrepit gentleman can be a Member of this House and absent himself from consecutive sessions. I know of an instance, but I am not mentioning it here. What is it that is sought? Representation of the people. And if representation of the people is to be made in a proper way a man who wants to represent the people can simply say, 'I hereby declare that I stand as a candidate.' That is enough. Even the proposer must be dispensed with, according to me.

SHRI H. C. DAS&PPA: Should he not have at least one person to support him?

SHRI H. D. RAJAH: He will not need. Do you think that in your arrangement where you allow a Legislative Assembly candidate to spend lawfully Rs. 5,000 and unlawfully Rs. 50,000 and a Member of Parliament to spend Rs. 25,000 lawfully and Rs. 2,50,000, unlawfully, a man will venture to come with merely a proposer to back him up and stand as a candidate? It is inconceivable. Therefore the question of proposer need not be in the Bill. That is my humble suggestion.

Now I come to the election expenses and say what they have done with regard to it. The previous Act contained very salutary provisions. If you want to spend money and get elected—though I consider it is a plutocratic democracy and not a democracy in the true sense of the

word—a man capable of spending Rs. 25,000 to seek a seat in Parliament, a man who is capable of spending Rs. 5,000 for a Legislative Assembly-seat, is very rare to be found. What is the average income per capita in this country? Rs. 250. In five years you are going to increase it by 25 per cent. That means 5 per cent. more. That Rs. 250 would give Rs. 20 per month for a man to live and eke out his existence. Would you expect a man to spend Rs. 5,000 legally and Rs. 50,000 illegally through party machinery or through interested persons who are spending on his behalf and allow him to come to the Legislative Assembly to pull wires and if a man, to stand for the Parliament, is allowed to spend Rs. 25,000 legally and Rs. 2,50,000 illegally by a multimillionaire who is interested in sending him to Parliament and voice his points, this democracy is a sham democracy. I cannot say that really the interests of the people are served. I am not taking up the point of Mr. Mazumdar when he said that the minority votes have secured the Congress the victory and so they are in office. I need not say how democracy functions because it is patent and we see how it is functioning. The main point at issue is that so long as economic power is concentrated in any particular party, whether it is the Congress or the Communist Party—there, democracy is buried hundred fathoms deep and people will have to depend upon the ruling party's mercies for their existence, for their work and for their functioning.

Regarding this expense business again, this Bill provides that only the expenses incurred in relation to an election during a specified period, that is, the period between the date of issue of the notification calling upon a constituency to elect a Member and the date of declaration of the results of the election, should be regarded as election expenses. This is a marked departure from the rule hitherto followed with regard to election expenses. What was the provision in | the previous Bill? Under the existing

46 R.S.D.—4.

Act, that means the present law without this amendment, it said that all expenses incurred or authorised by a candidate or his election agent on account of or in respect of the conduct and management of an election are regarded as election expenses.

Now, if a candidate authorises his agent or he himself spends, that alone need be taken into account from the date on which the notification is made till the date on which the election result is published. If I want to stand as a candidate, I cannot go *on* spending money from today onwards for 'Banawing', that is, making the place soft for the purpose of capturing votes for myself. These amounts, till the date on which the notification takes place need not be brought into account at all. That is so far as my money *is* concerned.

Then I have my friend Mr. Saksena who is really interested in making me come back to Parliament and in that event he will be prepared to spend another Rs. 50,000 and if that good friend is prepared to spend Rs.50,000 on my account, that need not come into the picture at all according to the present law. These are the points which we have to take into account.

I am not referring to U.K. because* you see there that two parties on democratic basis have been evolved and brought into existence in a peaceful manner. The Labour Party can throw out the Conservative Party and seize the reins of Government in a very peaceful manner. Similarly the Conservative Party can throw out the Labour Party and take the reins of Government. So democracy has been worked up in such a way over a period of years that this kind of violent convulsion to change, does not take place there. Therefore the law with regard to election expenditure in London or in the United Kingdom is very salutary. Our Act has copied such a salutary provision from that Act and it is in this Act which we are giving a go-by. Therefore, what is it

[Shri H. D. Rajah.] that is being done? The Bill further provides that only expenditure in connection with the election incurred or authorised by the candidate or by his election agent shall be regarded as election expenses. The provision that the said election expenses shall not include any expenditure incurred by recognised party organisation which was sought to be provided by the Bill has been omitted by the Lok Sabha, but this hardly makes any difference*. The Bill does not contain any provision prohibiting the incurring of expenditure by any person other than a candidate or his election agent for furthering the prospects of election of the candidate unless such person is authorised in writing.

Now, Sir, supposing I do not authorise the other friend but still he can spend any amount on me and that amount is not coming in the orbit of our total election expenses. This is a very bad feature according to me. I will not call it a wholesome feature. When a law is sought to be amended, it is amended for the betterment of the law. In any country, when an amendment of a law is thought of, the amendment is sought to better the condition of the law. It cannot be made to worsen the conditions of a law. Now there was a hue and cry that a party, especially the Congress Party, is collecting lot of money from the public with a view to spending in the coming elections. Probably Mr. Kamath's amendment in the Lok Sabha was accepted by my hon. friend Mr. Pataskar because it has not given an opportunity to everybody to say that their friends spent money and not brought into the account. Whether it may be a Party fund or a private individual's fund or anybody's fund but the fund is there and over and above what he has spent, those friends can spend and there is no limit or any curtailment to that provision. This is very bad.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): What is that amendment?

SHRI H. D. RAJAH: The amendment accepted by Mr. Pataskar in the Lok Sabha, that is, deleting Party funds

MR. DEPUTY CHAIRMAN: No side talks.

SHRI H. p. RAJAH: Now that previous provision was wholesome. I give another suggestion to the hon. Mr. Pataskar if he can accept it. Don't include the expenses. Believe me, except under Party ticket where certain friends are sent back to Parliament, or tickets are given, if any candidate dares to stand for election to Parliament once or twice, he will file his schedule and become a bankrupt. Six lakhs of voters are in a multi-constituency for a Parliamentary seat. Three lakhs of voters.....

SHRI J. S. BISHT: 8 lakhs.

SHRI H. D. RAJAH: Three lakhs of voters are generally in a constituency which a Parliamentary Member has to cover. How much money that man has to spend to reach these voters and give them his ideas and ask their votes? Therefore, in all humility, I would suggest to my friend Mr. Pataskar to omit that clause of 'expenses'. Completely omit it. You say that anybody elected under any circumstances validly by votes, will be an elected man. Let him not file a return of his election expenditure. This kind of a simple procedure will do away with many of your problems and will not give corrupt practices a status of legality. That is what I would request my friend to do. If you do that, how many people in this country can afford to stand for election as a Member of Parliament? How many of the people will be able to spend Rs. 25,000 which you have allowed by Statute for a man to spend? Therefore the simple procedure I would request my friend to accept is 'Don't ask people to file their election expenses.'

Coming next to corrupt practices, let us see what are these corrupt practices? Sir, there were very salutary provisions in the previous Act. If a

man connives at impersonation as a voter, then the candidate himself can "be unseated. There was such a provision and there is a provision in our Representation of the People Act. If a man comes and impersonates and votes and if it is detected, then we can directly lay the blame upon the candidate and unseat that candidate. But in the amended law that provision is done away with. Sir, in this country where women still observe purdah, men can put on the Burka as a woman and come in large numbers to the polling booth and cast their votes and walk back. The candidate is free. "He can never be touched. Thousands of men can now put on the Burka, take the place of women, go-up to the polling booth

and exercise their franchise and then go scot free and this candidate, the man who has been elected by these pretenders cannot be dispossessed or unseated under the proposed law. I ask, in all seriousness: Does my - esteemed friend Shri Pataskar believe that a situation of that type must "happen in this country and that he should be a party to it? Far from it. I will not countenance an idea of that nature and I really feel that the law should do justice to the people in a proper manner. Impersonation, if it takes place, must be dealt with at every level. Simply because a Polling Officer is there and he catches the man and sends him to the Station and prosecutes him for that, will not do. You must book the candidate who is ultimately the man responsible for bringing forward these impersonat-*ing* people to cast their votes in his favour. That was the previous law. I request you to retain that law. That is my humble request. Remove this provision about corrupt practices. All these impersonation matters must be dealt with more seriously than you have done. Sir, the Representation of the People Act was based on some sound principles that underlie the election law of the United Kingdom. But the provisions now sought to be fnade give the go-by to these sound principles. It is true that the task of Slaving elections in this country is a

gigantic one and so when we deal with that task, the chances of malpractices are greatly increased. Therefore stricter measures are called for if you are to achieve the end that you have in view, not a piecemeal legislation of the type now visualised here is useful.

Sir, just a few more words and then I conclude my speech on this important subject.

Sir, when you conceive of a law, that law must be humane. It should be understood by the people, the common people. My friend said that we are 93 per cent illiterate and we are only 7 per cent literate. Thanks to your regime for the last eight years, you have not yet thought it fit to liquidate illiteracy in this country. It pays you.

SHRI H. C. DASAPPA: Certainly, it is not so bad as that.

SHRI H. D. RAJAH: I say, it pays them to keep the people illiterate, to keep them illiterate for ten years, so that they may benefit from this illiteracy, so that these illiterate people may follow the bullock cart and quietly put their votes into the ballot boxes with the bullocks. But please remember, as was emphasised by an hon. Member here, though they are illiterate, they have a sense of intuition and they have a commonsense and so they will certainly choose the correct candidates and they will certainly choose the people who will serve them better. They will not play into the hands of those hanky panky people, because the law helps them to do so.

Now I would request them to make the law very simple, make it manageable. Give the benefit and right to represent to every man, irrespective of inhibitions of laws on corrupt practices which will be condoned. Every return which the man makes before the officer to whom you have asked him to make the return, will not be in a position to give the correct picture of his expenditure. If you

[Shri H. D. Rajah.] bring in this law, then I say, in this country where millions are to be reached and the seats are few, where voters are dispersed throughout the districts, it will take a tremendous amount of time, energy and expense to reach them and this law will defeat its own purpose. Therefore, I want the hon. Minister to think of a comprehensive law, drawn up in a better way than what he has done to-day.

SHRI H. N. KUNZRU (Uttar Pradesh) : Mr. Deputy Chairman, this is a very important measure on which the successful working of democracy depends. Yet, Sir, we have only seven hours to consider a Bill of such importance. It is a pity that it should have come to us practically at the end of the session, but even so, I think that so fundamental a Bill as the one before the House should be considered much more carefully than can be done within the limited time at our disposal.

Sir, if Government wanted really to simplify the law and make it possible for true democracy to come into existence, they could have introduced certain changes which, however, find no place in this Bill. It is very well known that when elections take place, "Ministers go about delivering speeches on behalf of the candidates of their party, in official cars and accompanied by magistrates, including the district magistrate and the police officers.

SHRI J. S. BISHT: But they do official business at that time.

SHRI H. N. KUNZRU: I was coming to deal with this excuse, Sir. My hon. friend here, Shri Bisht, says that they do official business at the same time. Now, it is not fair, Sir, that they should combine election business and official business in order to be able to act as canvassers for their party at government expense. The excuse put forward by Shri Bisht is only a colourable excuse.

SHRI J. S. BISHT: It is done in America, in England, everywhere.

SHRI H. N. KUNZRU: No, it does not occur in England and if it has occurred in any instance in England, it is contrary to the established practice there. I think Mr. Attlee stated sometime ago that when Ministers travelled round the country delivering election speeches, they took care to travel in private cars and not in official cars or at government expense. In any case, that is even now the practice in England. Similarly, in the practice followed by the Ministers in this country, a change is urgently called for. I have seen, Sir, with my own eyes, the Chief Minister going about, with the district magistrate and police officers.

SHRI H. C. DASAPPA: Was it election business or some other purpose?

SHRI H. N. KUNZRU: He was going to the places where polling was to be held. Now, what are we to understand from this? Had he official business at that time in all the important places in the various constituencies? It is obvious that even if the Ministers go about partly on official business, on such occasions they try to invent such business so that they may be able to travel at Government expense and with high government officers. I think, Sir, this is almost a malpractice. It is a crime even, and yet my hon. friend Shri Pataskar who stands for the simplification of the laws in order that the working of democracy may become easier, has not a word to say on this point. Nor has the Select Committee

SHRI H. V. PATASKAR: But no law authorises the Minister to travel. How can I refer to that?

SHRI H. N. KUNZRU: What is the good of putting forward an excuse like that?

If you know that Ministers are acting in this way, it is your duty to prevent it.

SHRI P. D. HIMATSINGKA: The other candidates may challenge that. How can the law prevent it?

SHRI H. N. KUNZRU: Now, Sir, here is another lawyer who says, "How can the Government prevent it?" Government can prevent an abuse when committed by me or other people like me but Government cannot prevent an abuse when it is committed by members of the Ministry. (*Interruption.*) If any hon. Member wants a reply, he ought to get up and ought to say something which can be heard by the whole House.

My hon. friend, Shri Pataskar, does not deny these things happening.

SHRI H. V. PATASKAR: I certainly do not admit it. I do not know what the hon. Member means by that. I never said that.

SHRI H. N. KUNZRU: He is too clever a lawyer especially when he is speaking on behalf of Government to admit that. I do not regard him as a green-horn. I regard him as a seasoned lawyer who will never make a statement of that kind. But we who are not bound by the official restrictions by which Shri Pataskar is bound can speak more plainly. Practices like this lend force to the demand that party Government should not exist during the period allowed for preparations for an election. So long as the state of things that I have pointed out lasts, such a demand will be fully justified.

Now, Sir, the Election Commission suggested an amendment of section 129 of the Representation of the People Act. This section prohibits officers and clerks employed on election duties from canvassing for any particular candidate or influencing the voting in any way. It also applies to members of the police force but does not apply to other Government ser-

vants. The Election Commission pointed out this lacuna and said that section 129 ought to be amended so as to cover all Government servants. After the last General Elections, it is tkiore that instances of lapses from the Government Servants' Conduct Rules that were reported to the Commission were very few and were of a minor character; nevertheless, the Commission thought it desirable that the law should be amended and that penalties should be provided for those officers who acted in contravention of the prohibition referred to by me. Now, this Bill does not deal with that matter at all. Take one more matter. The Commission recommended that the failure to submit a return of election expenses should be made a corrupt practice but what does this Bill do in that matter? It recommends that section 143 of the Representation of the People Act which disqualifies persons responsible for failure to submit a return of election expenses or for submitting a return which is found to be false by an Election Tribunal should be omitted. That clause, according to the Bill that has come before us, is to be omitted. This is the manner in which, Sir, an important recommendation of the Election Commission is going to be given effect to by the Bill before us which we have been asked to discuss by the Government. I should like to mention other things too which this Bill should have taken into account but I shall dwell on them no longer and proceed to consider the Bill itself and some of the important provisions of the Bill.

I shall, first of all, deal with clause 41 of the Bill which deals with sections 71 to 75 of the principal Act. The changes that have been made in the Bill in respect of these sections have, I think, been made under a misapprehension. At the present time, Members of the Council of States and of the Legislative Councils are all elected at the same time and cease to be Members of the bodies to which they had been elected also at the saia* time. That is why a notification

[Shri H. N. Kunzru.] necessary. The publication of the names of the new Members is not enough because these names may be published at different times but it is obviously desirable that their tenure of Membership should commence at the same time so that it may end at the same time. If the Membership begins with the publication of the name of a candidate, then it is obvious that different candidates will be held to have been elected at different times. Secondly, their Membership will also end on different dates. Now, that is obviously inconvenient and undesirable. There is one other thing also. These bodies contain nominated Members who also retire periodically in the same way as elected Members. Their names are not published by any Returning Officer. It is obviously desirable, therefore, that a notification should be issued containing the names of all Members, whether elected or nominated, to a Legislature. I hope, therefore, that these sections will be restored to the form in which they exist.

Now, Sir, I go on to clause 42, which deals with sections 76, 77 and 78 of the principal Act. Now, I shall not deal with this matter at length because my hon. friend Shri Rajah also dwelt on the provisions of section 76 of the principal Act and the changes proposed in it by this Bill. Now, what is of importance for us to remember is that section 76 of the principal Act does not fix the period to which the election expenses should relate, nor does it limit the election expenses to those incurred by the candidate or his election agent or with their authority. Now the amendment that has been proposed makes a change in both these respects. It fixes the period to which the election expenses should relate and the return will deal only with such expenses as have been incurred or authorised by the candidate or his election agent. I shall deal with each of these limitations very briefly.

Sir, it is well known that, at the present time, when the period bet-

ween the issue of a notification and the polling day is appreciably longer than it will be in the future, candidates put themselves forward as candidates well before the day on which the President's Notification calling on the various constituencies to elect their representatives is issued. This practice will, I am sure, continue. This is the reason why no period is fixed in England to which the election expenses should relate. It is well understood there, I mean, it is judicially understood there that the election expenses should deal with a period beginning with the time when a person puts himself forth as a candidate. And this is only fair. If you do not include in the return of election expenses, expenses incurred by a candidate before the issue of the President's Notification, rich candidates or candidates supported by rich people or rich parties will be able to steal a march over poor candidates and candidates supported by parties whose financial resources are of a very slender character.

Now what is the object of the law, Sir? Is it to give an advantage to wealth over poverty, or is it to equalise the conditions for persons with differing financial resources? Obviously, if we are thinking of democracy, our object should be to see that only meritorious candidates are returned. Now, merit is not synonymous with wealth. Therefore to place wealth at an advantage and poverty at a disadvantage is virtually to make the success of, even the appearance of meritorious candidates very difficult. It is obviously desirable therefore, Sir, both on general grounds and on democratic grounds that the existing provision with regard to the return of election expenses should be retained.

Now I come, Sir, to the second limitation to which I have already referred, namely, that the election expenses should deal only with the expense? incurred in connection with an election by or under the authority of a candidate or his election agent

Now, Sir, this obviously excludes the expenditure that may be incurred in order to improve the chances of election of a man both by private individuals and by parties. As at present sub-section (1) of section 76 says: "Within the prescribed time after every election there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate, a return of the election expenses of that person signed by him and his election agent." Now, Sir, the words here are significant. They did not refer only to the election expenses incurred by or under the authority of a candidate or his election agent, and the expenditure incurred by a party on a particular candidate has therefore to be shown in the return of election expenses. But, if the change made in the Bill in another place is accepted by us, it will mean that a person who represents a party will not have to show in his return of election expenses the expenditure incurred by his party in securing his election. Now this again, Sir, is giving an advantage to wealthy parties over poor parties, over financially poor parties, although these financially poor parties may have men who, by their knowledge, uprightness and zeal for public service, may be eminently fitted to be Members of Parliament. I think, Sir, that if Government want to simplify the law in such a way as to make the working of democracy easier, then it is their duty to see that the provisions of sub-section (1) of section 76 of the principal Act are restored and that the changes made in the Bill before us are not accepted.

I shall now pass on to another important clause—I think it is clause 55—which deals with section 100 of the principal Act. Here it is necessary to notice carefully the language used in the principal Act. The first thing that I should like to point out is that it will not be within the power of the Election Tribunal, according to the Bill before us, to declare an election void on the ground of the general

prevalence of bribery or undue influence. That cannot be done. It may be said that this change has been made in accordance with the recommendation of the Election Commission which thought that in a multi-member constituency a returned candidate who is innocent of all malpractices would be penalised for the faults of another returned candidate. But look at the changes that have been made in sub-sections (2) and (3) of section 100. Now, sub-section (2) says:

"Subject to the provisions of subsection (3), if the Tribunal is of opinion—

(a) that the election of a "returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice; or

(b) that any corrupt practice specified in section 123 has been committed by a returned candidate or his agent or by any other person with the connivance of a returned candidate or his agent; or

the Tribunal shall declare the election of the returned candidate to be void."

Now, how does the Bill before us amend these two provisions? The amendments that are proposed to the two sections that I have read out are as follows:

"(1) Subject to the provisions of sub-section (2)"

It says sub-section (2) because it has omitted the sub-section (1); otherwise what is sub-section (2) is really sub-section (3) of the principal Act—

".....if the Tribunal is of opinion—

* * * * *

(b) that any corrupt practice has been committed by a returned candidate or his election agent

[Shri H. N. Kunzru.] or by any other person with the consent of a returned candidate or his election agent; or

not candidates or their election agents, to do what they like in order to secure the election of a candidate.

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

* * * * *

(ii) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent, or

the Tribunal shall declare the election of the returned candidate to be void."

You see the far-reaching changes made by the Lok Sabha in order, as Shri Pataskar said, to simplify the law. Now, the principal Act speaks of a corrupt practice committed by a third person, that is, by a person other than the candidate or his election agent with the connivance of the candidate or his agent. Now the word substituted for 'connivance' is 'consent'. Can you ever prove that a corrupt practice was committed by a third person with the consent of the candidate or his agent? You can never do so. Therefore whatever the definition of a corrupt practice may be, it will be of no use because no petition for setting aside the election can be presented unless it can be proved that the third party committed a corrupt practice "with the consent of the candidate or his election agent. It is difficult enough to prove at present even the connivance of the candidate or his election agent.

SHRI H. D. RAJAH: Consent, much more difficult.

SHRI H. N. KUNZRU: But to prove consent will be much harder. It will be well nigh impossible. A *carte blanche* is therefore given to persons,

As regards the second thing, that is, the provision in the principal Act that if anything is done to procure or induce the election of a returned candidate or if the result of the election has been materially affected, what the Bill does is to omit the first portion altogether, namely, 'that the election of a returned candidate has been procured or induced.' It retains in a modified form only the second ground, namely, 'the result of the election has been materially affected' by any corrupt or illegal practice. I am reading out these words though I think that there will be no such thing as an illegal practice under the Bill before us if it is accepted by us. Now, this thing refers to the result of an election and not the result of the election of the returned candidate. It is quite possible that things may have been done prejudicial to the return of another person and thus indirectly favouring the success of the returned candidate. It will be very difficult to prove that any malpractice was committed affecting the election of the returned candidate although a corrupt practice may have been committed affecting the election as a whole and affecting the chances of success of other candidates.

It is obviously undesirable to make such a change unless, again, we want to favour candidates of a particular party which is well supplied with funds.

SHRI J. S. BISHT: Not at all. That is not the idea.

SHRI H. N. KUNZRU: A man is known not by his professions, but by his deeds.

SHRI H. D. RAJAH: Quite right.

SHRI H. N. KUNZRU: Now, I should like very briefly to deal only with what are known at present as I corrupt practices and illegal practices.

es. I have no time to deal with this matter at any length because the time given for the discussion of the Bill is unfortunately very limited, although at least twice the time that has been allowed ought to have been given.

SHRI S. MAHANTY: More than that.

SHRI H. N. KUNZRU: But I must briefly point out the far-reaching changes that have been made. In the first place, impersonation has ceased to be included in section 123 which deals with major corrupt practices. Probably this has been done on the ground that it is punishable under the Penal Code. But why should it not be an election offence, I should like to know. Bribery and undue influence are punishable under the Penal Code. Nevertheless, they find mention in the section dealing with corrupt practices, in what are called major corrupt practices in the principal Act, in section 123. There is no reason, therefore, for doing away with the provision relating to personation. Personation under the Bill will not be an election offence. You can prosecute a defeated candidate or any voter may bring about the prosecution of a person who has been guilty of personation. But even if he is found guilty, he will be disqualified for membership. I do not see any provision under which the candidate, in whose interests he tried himself to represent another person or induce somebody else to represent another person, in whose interests this corrupt practice was committed, can be dealt with. It is obviously in the highest degree undesirable, therefore, that the provision relating to personation should be omitted from section 123 of the Act.

There are some other changes also made in section 123 which should be mentioned, but which I have no time to refer to now. I shall now pass on to section 124 of the principal Act. All

that has been retained by this is subsection (5). Now, this deals with corrupt practices committed by persons other than the candidate or his election agent or any person acting with the connivance of the candidate or his agent. This sub-section (5) of section 124 of the principal Act has been transferred to the new section 123. Mr. Deputy Chairman, if you will refer to this section, you will see for yourself whether it was necessary to include some of the other provisions of this section in section 123 or not. But let me say, again, that even if all these things are included in section 123 and the language is such as to cover all persons, whether acting with the connivance of the agent or not, this stricter definition will be of no avail in the face of the changes that have been made in section 100 which deals with the presentation of election petitions.

Lastly, I shall deal with section 125 which refers to illegal practices. This section has been omitted in the Bill. Now, I shall read out only two subsections of this section in order to enable hon. Members to see whether this section dealt with an important matter affecting elections or not. This section says:

"The following shall be deemed to be illegal practices for the purposes of this Act:—

(1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

Explanation.—Any such expenses as aforesaid incurred or authorised by any institution or organisation

[Shri H. N. Kunzru.] for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause."

May I say here before I read out sub-section (2) that notwithstanding this, the expenses incurred by a party in support of a particular candidate had to be shown in the return of election expenses?

"(2) The hiring, using or letting, etc.

(3) The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof."

Now, the omission of this section does two things. It makes dishonesty on the part of the candidate and his election agent possible. They could get various circulars, placards and posters issued at their own expense without showing the name of the printer or publisher. It will never be known, as it will not be known where these things were published. It will be difficult to find out who paid the cost or charges of publication.

As regards the omission of subsection (1), it is obvious now that if there are rich people supporting a candidate, they can spend any amount of money that they like on his election, including—I make bold to say—the use of hired or private vehicles for the conveyance of voters. However, the conveyance of voters in vehicles is referred to in section 123 and if the result of the election is materially affected by such conduct on the part of certain parties and it can be shown that this has been done with the consent of the candidate or his election agent, the election of the returned candidate can be set aside. But as regards illegal practices, if section 125 is omitted, then people can do the things referred to with impunity

because there cannot be a ground for presenting an election petition in any circumstances.

It is obvious, in these circumstances, that the Bill cannot be regarded as a measure for the simplification of the electoral procedure. In some respects, it will no doubt bring about simplification. But considering the very-serious and pernicious defects that I have pointed out, I think I shall be justified in saying that this Bill should be described as a measure for making the prevalence of corrupt practices at elections easier and making the return of rich candidates or candidates backed by rich supporters easier than the success of poor candidates or candidates having poor supporters. I think this is not a measure that the Government or this House can feel proud of. If we are jealous of the fair name of our country and the Government, if we have any regard for genuine democracy, if we stand by purity in public life, then this Bill must be drastically modified. Otherwise, India will soon go the way of some other countries where elections are a farce and democracy is hardly distinguishable from oligarchy or dictatorship.

SHRI JASWANT SINGH: Mr. Deputy Chairman, since this morning we have heard speeches from eminent hon. Members of this House and therefore, if I were to deal with the same points, I would only be repeating them. In my speech now, I will deal with new points.

It has been shown in this House that this Bill which has come before us is not much of an improvement. Some serious defects are still there and unless these defects are removed, there would not be free and fair elections in the coming General Elections.

First of all, I would like to invite attention to clause 42 of the Bill which

seeks to amend sections 76, 77 and 78 of the principal Act. This relates to the expenditure to be incurred by the candidate. Much has been said on this point, but I will put before the House a new argument.

In the Lok Sabha strong criticism was voiced by the Opposition particularly on the point that a candidate need not take into account what the political party to which he belongs has spent on propaganda, publicity, etc. The hon. Minister in his reply in the Lok Sabha justifying such expenditure by a political party stated, "Of course, if a political party spends money specifically for a particular candidate, then that is a different question." This particularly pertains to by-elections where a single candidate is contesting the election.

In August 1952, a by-election took place in Rajasthan, at a place called Kishangarh. How that by-election came about, I need not mention here. But I would submit that at that by-election, there was one Congress candidate and another put up by us, the Opposition. At that time, some half-a-dozen Ministers from the Central Government were invited to come to that particular place to speak and canvass support for that particular candidate. One minister came by special train; one or two ministers came by specially chartered planes and one minister made his headquarters there for about three to four weeks to canvass support for that candidate. In addition to that, at least half-a-dozen Rajasthan ministers made their headquarters there for two months or more and all the cases pending in that area were decided there on the spot with a view to give full support to the candidate. Then at least for ten days there were three hundred or four hundred cars on behalf of the Congress Party, running to canvass support for him. Money was coming from some industrialist also, but being given to the Congress Party, it was spending it.

On the opposition side, there was a local advocate who was made to contest the election. He was practically ruined in that election. He spent something like Rs. 40,000.

But it is a well-known fact that at this particular election, something like Rs. 3 lakhs were 'spent by the Congress candidate. I know perfectly well that that particular candidate has not got even one-tenth of what was spent. Mr. Pataskar stated in the Lok Sabha that it would be a different matter if the money was spent in favour of a particular candidate. Sir, I want to prove that this is a case where this huge amount of Rs. 3 lakhs and more was spent when under the rules only Rs. 6,000 were authorised to be spent on the particular candidate. On the other side was an ordinary advocate of the local place. He had to spend about Rs. 40,000 and he was practically ruined. So, what I wanted to submit is this. I am sorry that Shri Pataskar is not here at present.

THE PARLIAMENTARY SECRETARY
TO THE MINISTER FOR EXTERNAL
AFFAIRS (SHRIMATI LAKSHMI MENON) : I
am here.

SHRI GOPIKRISHNA VIJAIVAR-GIYA
(Madhya Bharat): She is here.

SHRI JASWANT SINGH: The hon. Parliamentary Secretary will please point this out to Mr. Pataskar. I want to know how he would meet this point. If such huge amounts are spent in favour of a particular candidate, will it become a different matter? Here I am prepared to prove that not less than Rs. 3 lakhs were spent as against the sum of Rs. 6,000 only authorised to be spent for that by-election.

SHRI J. S. BISHT: Is there an election petition there?

SHRI JASWANT SINGH: I will come to that also.

[THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU) in the Chair.]

SHRI MAHESH SARAN (Bihar): Have you seen the accounts? You talk of Rs. 3 lakhs.

SHRI JASWANT SINGH: I would like to know if 200 cars can be Tim at the rate of 100 miles per day on Rs. 6,000 for a month or so

SHRI MAHESH SARAN: Were you -there all the two months?

SHRI JASWANT SINGH:and "2,000 people working for a month. . .

SHRI MAHESH SARAN: It is all a story.

SHRI JASWANT SINGH: I can even name Dr. Katju who was the then Home Minister. He went there by special train for that purpose. In addition to that, there was a big Muslim population. Lots of Muslim leaders were sent there to influence that population.

I come to the next clause which is No. 49. It is in regard to the appointment of Election Tribunal. Much has been said about this point. I take this to be some improvement as there will be expeditious disposal of election petitions. But I would like to submit that for the purpose of this Election Tribunal, the member who should be a district judge may be from the same State. In this connection, I would like to point out that, in view of the conditions prevailing in some of the States how the officers belonging to the same States can be intimidated. I would quote an instance that took place in the Rajasthan Legislative Assembly about three days ago. Sir, I would like to quote a few sentences from the *Hindustan Times* of yesterday. Mr. Tikaram Paliwal, who was formerly the Chief Minister of Rajasthan, stated something in the Rajas-

than Assembly about three days ago. He has shown how the Tribunals in Rajasthan are not only being influenced, but they are also being intimidated by the Ministers. Sir, recently, Mr. Brij Sunder Sharma, the Finance Minister of Rajasthan, was unseated, and he was defeated as a result of some election petition. Sir, this is what the *Hindustan Times* of yesterday says:

"To illustrate his point that the present group was 'intimidating people', Mr. Paliwal cited the example of Mr. Brij Sunder Sharma, Finance Minister, whose election to the State Assembly had been declared void by the Election Tribunal which had also disqualified him from standing for election or from voting for six years. Mr. Paliwal alleged that Mr. Sharma had threatened a member of the Tribunal, Mr. Rastogi, as the judgment had gone against the Minister. He said he had verified this fact from Mr. Rastogi himself.

Sir, this is what a man of the position of the former Chief Minister of the State stated in regard to his own colleague, the Finance Minister, in the Rajasthan Assembly only three days ago. Sir, this is how the Tribunals are being influenced and intimidated. I am simply pointing out how easy it would be for one person constituting a Tribunal to be influenced and intimidated. So, I would submit that this provision of having a single-member Tribunal would not in any way help matters and would not ensure free and fair elections.

Then, Sir, I would like to refer to clause 55 of the Bill, which seeks to amend section 100 of the parent Act. It is in regard to the declaration, by a Tribunal, of the election of a returned candidate as void. First of all, Sir, I would like to suggest that the acceptance or the rejection of a nomination paper should be decided

finally before the polling actually ' takes place. In this connection, Sir, we have had some peculiar experiences, which I am afraid the hon. Members of this House do not know. We feel that if free and fair elections are to be ensured by the time of the next General Elections, all the defects that are there should be remedied. Sir, it has so happened with us that the Congress Party once put up three or four candidates for the same seat, the main candidate, the covering candidate, and the dummy candidates. And ultimately certain nominations they managed to get rejected by raising objections themselves or through their friends. They put up these candidates, because they could not concentrate their attention on one particular candidate. The result was that in a House of 160 members, in Rajasthan, 77 seats were captured by the Opposition and 83 were captured by the Congress Party. Now, Sir, so far as the returning officers were concerned they were their own men, the collectors *etc.*, and they posted there such officers as could be easily influenced. Out of these, I think, about 15 nomination papers were rejected and the by-elections took place, and in regard to these by-elections, I have already quoted one instance. They exercised all their force and nearly all the by-elections they won. I therefore suggest that if free and fair elections are to be ensured, the acceptance or the rejection of the nomination papers should be finally decided before any polling takes place, so that an Influential Party is not in a position to exercise any influence or force and get an undue advantage over others

SHRI JASPAT ROY KAPOOR: What is your specific suggestion with regard to this? How should it be finally decided?

SHRI JASWANT SINGH: Well, this point has been discussed already in the House, and it is for the hon. Minister to devise some machinery for this purpose, so that the acceptance or the

rejection of nomination papers is done before any polling takes place.

SHRIMATI SHARDA BHARGAVA (Rajasthan): On a point of order, Sir, The hon. Member is suggesting that the returning officer or the Collector sided the Party. Does he mean to say-that he was also corrupt and dishonest? If that is[^]so, then what is the remedy?

THE VICE-CHAIR MAN (SHRI P. SJ RAJAGOPAL NAIDU) : I do not think there is any point of order. The hon. Member has already finished that-point. That point is over now.

SHRI JASWANT SINGH: Then, Sir,. I would like to say something about the counting of votes. Counting should commence immediately after the polls have taken place. In this connection, I may point out that in some cases, counting took place nearly after a month from the date of polling, and for this entire period of one month the ballot boxes were kept in the custody of the Government. If the ballot boxes had been kept in the custody of the Election Commissioner or his officers, certainly we would have had no objection at all. But to keep the ballot boxes for nearly a month in the custody of the Government officers is a very serious matter. And we had complained about it....

SHRI JASPAT ROY KAPOOR: As long as one month!

SHRI JASWANT SINGH: Yes, as long as one month.

SHRI JASPAT ROY KAPOOR: What was the reason?

SHRI JASWANT SINGH: Well, that is for the Rajasthan Government to-find out. The reason probably might be that the election continued for nearly a month, or it might be due to-lack of communications and what not. But the fact is that the ballot boxes-

[Shri Jaswant Singh.] were kept in the custody of the Government for nearly a month after the polls had taken place. At one particular place, Sir, we had certain doubts that a ballot box was being interfered with, and we had protested in the Assembly and everywhere, but we were told that it was impossible that the ballot boxes could be interfered with. But, Sir, in the presence of the Collector, one candidate who had lost against the Congress—it was a foregone conclusion and a heavy polling had taken place in his favour—within a period of hardly thirty minutes, successfully opened a ballot box for ten times, and that ballot box could not be proved to have been tampered with. In two cases, of course, it could be proved to have been tampered with. But this particular ballot box could successfully be opened for ten times within half an hour and the votes transferred. Only in two cases it could be proved to have been interfered with. And it was proved in front of the Tribunal and in front of the District Magistrate. At several places, this thing happened. We protested and we thought that something would be done now, when the law is being revised, to remedy it, but we find that nothing is being done. This is a very serious matter, and if democracy is to thrive in this country, if a fair deal is to be given to the opposition and other parties in the country, then something should be done about this. If hon. Members of this House are interested to see this, I can get a person to demonstrate that in an hour a ballot box can be opened at least 15 or 20 times and the papers interfered with, and it cannot be detected. So, when the ballot boxes are in the custody of Government officers for a month, then it is a serious matter.

I am glad that the Minister is here now, and I will cite another serious defect in the present system. On a particular day the voting was found to be in favour of an opponent, and the Congress candidate, when the polling had been half through, said that he

was not feeling well and that he was not prepared to continue with it. So, the ballot boxes were closed, and the next day counting took place but the results were just the reverse. These are very serious things, and I do hope that something will be done to remedy and cure these things.

Then, about one or two minor things. One of the points which has already been referred to is the absence of facilities for broadcasting. This facility must be there for all parties if fair elections are to be ensured.

Another thing is this: I do not know whether it will be within the resources of the Election Commission to send out returning officers of their own, but if it cannot be done, then in that case, so far as the States are concerned, we, know that these officers can easily be not only influenced but intimidated. One instance where the Tribunal itself was intimidated, I have already placed before the House.

Then, I would submit that it should be ensured that at least a year before the elections come, no transfer of officers should be allowed, officers who are likely to be returning officers. In our State even now wholesale transfers take place of officers who are likely to help the Ministers particularly.

In the end, I will give an instance which was mentioned on the floor of the Rajasthan Legislative Assembly and it can be verified. With that, I will close my speech. One Assistant Election Officer in Rajasthan was one day removed from his post and for a full month and a half he was absent without the knowledge of his superior officers. He was taken to help the party in power in regard to their internal affairs. We happened to know of it and we protested.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIBU) : You are making allegations against people who cannot defend themselves on the floor of the House.

SHRI JASWANT SINGH: I am only quoting what happened on the floor of the Rajasthan Assembly.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU) : You need not go on with your list.

SHRI JASWANT SINGH: What I am submitting is this: Transfers of officers from one place to another particularly when the elections are near at hand should not be allowed, but if for administrative convenience it has to be done, then, all key posts where the people transferred are likely to become returning officers, should be controlled by the Election Commission directly, so that elections could be fair and impartial.

SHRI JASPAT ROY KAPOOR: Mr. Vice-Chairman, the general elections being not far off from now, this measure is naturally attracting considerable attention, and it is of much interest not only to the general public but more particularly to the Members of the Parliament and the State Legislatures. This occasion has been availed of by several hon. Members here as also in the other House belonging to parties who did not fair very well in the last elections, to condemn the Government, sometimes with some reason but more often without any TC -son or justification.

SHRI S. MAHANTY: Thank you.

SHRI JASPAT ROY KAPOOR: We would not grudge them the right to avail themselves of every possible opportunity to criticise the Government in any manner they like, but if we analyse their criticisms, we would easily come to the conclusion that there is hardly much force in them. This measure has come before us after due scrutiny by the Select Committee of the other House. I very much wish, as it has already been wished by some other Members of this House, particularly by my hon. friend, Mr. Gupta that this Bill should have been referred not only to a Select Committee of the Lok Sabha but to a Joint Select

Committee. After all, we in this House are as much interested in this measure as the Members of the other House and, if I may say so, we are perhaps a little more interested, because, while Members of the Lok Sabha are elected by the general electorate only, we in this House are elected by the elected representatives of the people, and we have to see that both the elections, not only our own electorate but our own elections, are properly conducted. So, we have to safeguard our interests twice over, once when the Members of the State Legislatures are elected and then when we are elected to this House. Therefore, I submit that this Bill should have been referred to a Joint Select Committee. The time at our disposal is not much for dealing with this measure; otherwise, I would have moved an amendment to this effect that this Bill, as it has emerged from the Lok Sabha, should be referred to a Select Committee of this House for proper scrutiny and for giving it an improved shape. As it is, however, I have to content myself with making observations here, moving amendments and supporting amendments when moved by others if they appear to me to be good and reasonable.

Sir, there is one very good thing which happened in the Lok Sabha to which I would like to refer. A very good and healthy precedent has been established, and that is this: After the motion was moved there for the reference of this Bill, as originally introduced in that House, to a Select Committee, Pandit Thakur Das Bhargava moved, an amendment to the effect that the Select Committee should be authorised not only to confine its deliberations to the provisions of this Bill or to the scope of the Bill as introduced, but that it should be open to it to consider the whole of the original Act and suggest such amendments as it might consider proper with regard to even those provisions of the original Act which were not touched by the Bill as introduced. The result thereof is that many a new provision has been introduced in this Bill and

[Shri Jaspat Roy Kapoor.] we must express our appreciation of this way of dealing with things by the Lok Sabha. We should not, on this occasion, forget to thank our hon. friend Mr. Pataskar for having agreed to that suggestion of Pandit Thakurdas Bhargava and I hope that other hon. Ministers on other occasions would emulate the good example that has been set by him in agreeing to extend the scope of the Bill when it is considered by the Select Committee. The Select Committee has done its job very well. It held 22 sittings, considered the measure in all its aspects and has inserted very many good provisions. But without going much into the details of the good work that they have done, I would particularly refer to a very good suggestion that they have made, though that could not be incorporated in the Bill and that is to the effect:

"The Committee would like to suggest to the Central Government that each contesting candidate should be permitted to send, free of cost, at least one post card to every voter in his constituency for canvassing his candidature. Necessary steps in this regard may be taken by the Government."

I hope and trust that the Government will accept the suggestion of the Select Committee and I hope the hon. Mr. Pataskar will give us an assurance while replying to this debate that this suggestion of the Select Committee will be accepted, with a little improvement, if I might suggest, that in place of the post-card, it might be a cover. That would not make much difference. It will be a book-post and it would not make much difference. I think a post-card costs 9 pies and a cover would cost one anna only. That would not make any difference. But it is necessary that every voter gets an election manifesto by the candidate. Election is not a private affair between the electorate and the candidate. It is a public affair in which the Government is as much interested as the particular candidate and

surely the entire electorate and the entire public is interested. Therefore the concession to the candidates in this form would not be a concession to the candidate but in fact it would be a concession and a necessary concession to the electorate at large.

SHRI J. S. BISHT: Do you suggest that nearly 20 crores of letters should be carried free? There will be at least 8 crore voters and probably each one will be getting 3 or 4 letters from each candidate and the total will be nearly 20 crores of letters.

SHRI JASPAT ROY KAPOOR: The country is a big one. The electorate is a big one. We have deliberately given the right of adult franchise. Why did we give this right of adult franchise? The number of voters may appear to be staggering but how can it be helped? Perhaps if my hon. friend Mr. Bisht had his way, he would reduce the number of voters or probably he would do away with adult franchise and would confine franchise to probably a few moneyed persons.

SHRI J. S. BISHT: That is strange logic.

SHRI JASPAT ROY KAPOOR: It is not logic. It is a logical consequence of what my hon. friend Mr. Bisht suggests. He would not like all the candidates to approach all the voters. Does he want the voters to remain in the dark? Does he want that the election manifesto should not be in the hands of every voter and if that is necessary, how is that to be sent?

SHRI J. S. BISHT: What will be the cost of sending these post-cards?

SHRI JASPAT ROY KAPOOR: The cost will be nil to the State for the simple reason that all these covers will be carried by the permanent staff of the Postal Department.

SHRI J. S. BISHT: Not at all. Additional staff will be needed.

SHRI JASPAT ROY KAPOOR: Surely not.

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): Please allow him to proceed.

SHRI JASPAT ROY KAPOOR: I know, if Mr. Bisht is made the Minister in charge of Communications, of course he would do things in the inefficient manner and expensive manner which he suggests. But fortunately for us, the Communications Ministry is in the hands of a very experienced Minister who has a very able assistant ki Mr. Raj Bahadur and if my friend Mr. Bisht were to consult them, they would assure him that they would not need any additional staff—loyal and hardworking as the present staff is—to distribute this additional number of letters only once in five years.

SHRI J. S. BISHT: If I become the Minister for Communications, you will flatter me also like that.

SHRI JASPAT ROY KAPOOR: Flattering is never my practice. Let Mr. Bisht come over to the official Benches and he will find that I will be a great critic of his though because he sits close by me, I have developed a very soft corner for him in my heart.

My friend Dr. Kunzru has criticised this measure very vehemently. With your permission I would like to deal with some of the points which he has raised. One of the criticisms levelled by him was to the effect that Ministers, when they go for canvassing, go in Government cars and at Government expense and that they make use of the police for the meetings and so on. I do not know what is the source of his information. Probably all his criticisms are based on presumptions. Surely I have seen police going along with the Ministers. But then, it cannot be helped. Ministers are Ministers all the time. It is not that they cease to be Ministers when they go out for canvassing.

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When they go out to address public meetings, police must necessarily be there, following them for security reasons.

SHRI ABHIMANYU RATH (Orissa): If they are so popular, what is the need?

SHRI JASPAT ROY KAPOOR: For our Prime Minister, whenever he goes, special security measures have got to be taken and I do not think even the Members of the Opposition, however much they might be against the Government, would like that our Prime Minister should go about without due protection. One of my hon. friends just asked: If the Ministers are popular, why should they need the police to follow them? Does not my hon. friend remember the recent incident—in Madhya Pradesh it was probably—when somebody jumped up to attack Pandit Jawaharlal Nehru?

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): You can resume your speech tomorrow. Now, you can lay the copy of the Synopsis on the Table.

SYNOPSIS OF THE PROCEEDINGS OF COMMITTEE 'A' ON SECOND FIVE YEAR PLAN

SHRI JASPAT ROY KAPOOR: Sir, I beg to lay on the Table a copy of the Synopsis of the Proceedings of Committee 'A' on the Second Five Year Plan. [Placed in Library. See No. S-189/56.]

THE VICE-CHAIRMAN (SHRI P. S. RAJAGOPAL NAIDU): The House is adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Wednesday, the 23rd May 1956.