

### **MOTION FOR ELECTION TO THE CENTRAL SILK BOARD**

THE MINISTER FOR PRODUCTION (SHRI K. C. REDDY): Sir, I beg to move:

"That this House do proceed to elect, in such manner as the Chairman may direct, one member from among themselves to be a member of the Central Silk Board."

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 be a member of the Central Silk Board."

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 Silk Board: —

Last date for nominations—25th May, 1956, up to 3 P. M.

Date of election— 28th May, 1956, 3 p.M.to 5 p.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**

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Chairman, when the House rose yesterday, I was dealing with the criticism and strong condemnation made by my hon. friend, Dr. Kunzru, against the conduct of Ministers when they go out for election campaign on behalf of their party candidates. The language he used was, of course, strong and it is open to any Member to use such language as he considers proper. But

I am constrained to say that on this occasion, the quantum of his criticism and the language which he used was not only uncharitable but even ungraceful. He went to the length of not only suggesting but also specifically accusing the Ministers of being dishonest inasmuch as they tried to invent some Government business so that they might be able to travel at Government expenses and with high Government officers.

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The charge that he levelled against the Ministers was threefold. Firstly, they invent some business, whereas the primary consideration with them is to carry on an election campaign. Secondly, they go about in Government cars, and their tour expenses are debited to the Government account. And thirdly, they use the police officers and the magistrates to help them in connection with the elections. The third is, of course, by implication. I will deal with .....

SHRI H. N. KUNZRU (Uttar Pradesh) : I did not say, Sir, that the police officers were used by them to help them in connection with the elections. What I said was that I had myself seen the police officers engaged in making preparations for a meeting which the Minister was going to address.

SHRI JASPAT ROY KAPOOR: Then, Sir, he has said something more than what I thought him to have said. I had said that it was only by implication. Now, it was not only by implication; but he says that he really meant it, and he found the police officers and the magistrates helping the Ministers in organising meetings. Well, Sir, so far as his personal knowledge in this respect is concerned, I will not be so bold as to say that it is not correct, for I have always held Dr. Kunzru in very high esteem ever since my college days. Therefore, so far as his personal knowledge of anything is concerned, I would not dispute it, though I might say that my personal experience in this respect has always been otherwise. Possibly, on

some one occasion, it may have been a different matter, when Dr. Kunzru saw it. Well, the police officials are, of course, there. Sometimes, some magistrate is also there, particularly when our hon. Prime Minister goes about on an election campaign, or for that matter wherever he goes. And that is necessary for security reasons. I hope that, of all the persons, Dr. Kunzru would not like that proper security measures should not be taken when our Prime Minister goes out. Sir, yesterday I pointed out one unhappy incident of the very recent past, when our Prime Minister went somewhere in Madhya Pradesh, I suppose, and when somebody sprang upon him in order to attack him. Therefore, Sir, it has been found necessary always to take all the necessary precautionary measures when the Prime Minister goes about or when the other important Ministers go about.

Sir, the second thing that he said was that they go about in Government cars. It is indeed an astounding proposition, coming as it does from Dr. Kunzru. But— I am sure, even he would not say that he has seen any Minister going about in a Government car when on an election campaign. The Ministers, surely all of them, at the Centre at least, have their own cars. Of course, they are lent money by the Government, but then, they have to pay it back in instalments, and the wear and tear thereof is all being borne by the Ministers themselves. So, I fail to see where the question of a Government car comes in.

And then, Sir, he has said that the expenses are all debited to the Government account. I wish, before making such a statement, he had made his position sure about it. Has he any basis for it? Surely, this is not correct. I say that—I won't use a stronger term—it is absolutely incorrect. Our Prime Minister, whenever he goes out, not only on an election campaign, but on any Congress business, the entire expenses of

his tour and travel are borne by the Congress, or by the Prime Minister himself. In the year 1952, when he went round the country on the election campaign, every single pie of the expenditure was borne by the All-India Congress Committee. This news may be a little discomfoting to Dr. Kunzru, but then, here is the fact. Whenever he went on such a business, the charges were borne by the All-India Congress Committee. Whenever he went on plane, the charges were borne by the All-India Congress Committee, the halting charges for instance, and all the travelling expenses, not only of himself, but also of any one of his Congress colleagues, if he happened to be with him. This is so not only in the case of the Prime Minister, but even in the case of other Ministers. Whenever they go out on Congress business, they are sent out by the Congress Committee, and their entire expenses are borne either by the All-India Congress Committee, or by the Ministers themselves. Only the other day, Shri Jagjivan Ram went to Agra. It is a very recent instance, only about a couple of months ago. He went there on election business, and not a pie of that travelling expense was debited to the Government account. All that expense was borne by the Congress. When Shri Jagjivan Ram went to Andhra during the election campaign there, all the expenses incurred by him were borne either by the Congress Party, or by Shri Jagjivan Ram himself. Sir, here are /the specific instances which I am giving. I would, however, like to know from Dr. Kunzru whether he can substantiate this charge by anything definite. Let it not be documentary, but let him at least say that he can prove it by his personal knowledge. If he says that, I will be prepared to admit that on some occasion perhaps, it may have been so. But has he got personal knowledge with respect to even one single instance?

SHRI S. MAHANTY (Orissa): Ther\* are so many instances.

SHRI JASPAT ROY KAPOOR: Well, my hon. friend, Mr. Mahanty, has yet to rise to the position of Dr. Kunzru, when I would accept every single word of what he says, if it is based on his personal experience. Until then he might wait.

Sir, so far as the expenses of the meetings are concerned, when the Prime Minister goes on tour, heavy expenses have got to be incurred by the Congress Committees, not only for organising the meetings, but also for providing all the necessary security measures for him. Even those expenses are borne by the Congress Committee, and not by the Government.

SHRI S. MAHANTY: Sir, may I ask one question?

MR. CHAIRMAN: You will have a chance to speak.

SHRI S. MAHANTY: Just a clarification, Sir. The hon. Member has stated that the Congress foots the bill for providing security arrangements. May I know if the Congress pays the salaries of the policemen who are posted there?

SHRI JASPAT ROY KAPOOR: Sir, it is really an astounding question whether the salaries of the policemen should be paid by the Congress. Well, Sir, if my hon. friend, Mr. Mahanty, agrees to such a proposition, the Congress Committee is prepared to pay the policemen out of its coffers. But then his grievance would be that we have bought over even the policemen to help us in our election campaigns. If he is prepared to agree, the Congress would be prepared to pay the policemen some handsome amount for helping us.

SHRI S. MAHANTY: The cat is out of the bag.

SHRI JASPAT ROY KAPOOR: Well, I do not know whether the cat is out of the bag, or whether the hare is in his den. Then, Dr. Kunzru referred to the question of election expenses. He said that all the expenses must be shown in the return of expenses, whether they were incurred prior to the notification issued by the Election Commission, or they have been incurred subsequently. According to the present law, only such election expenses need be shown in the returns as have been incurred, subsequent to the date of the notification. What he wants is that it should be, as it has been hitherto. His main contention is that if it is not so, then the party which has not got necessary funds at its disposal, as compared with other parties who have huge amounts at their disposal, would be at a disadvantage, because the richer parties would be able, to spend huge amounts even before the date of the notification, and they will not be shown in the election expenses.

Well, that may be so, but how can it be helped? Of course, Dr. Kunzru has no party to back him up; he is fighting the battle of some other party, but if any party is so poor, so inefficient, so unpopular, that it has not got even the necessary funds at its disposal, that it is not able to secure popular backing in the form of finance, who can help it? It is open to every party to secure financial help from the people, from all kinds of people, from the masses. Well, if some party is not popular with the masses and it is not able to secure enough funds to carry on its election campaign, they have only themselves to thank. How can we help them? I, for my part, would agree with the suggestion made by Mr. Rajah—he has gone away—that we should do away with all returns of election expenses. In this respect, I am very much closer to Mr. Rajah, not only physically but even in the matter of his views. I am sure that it is the experience of everyone of

us, including Dr. Kunzru, that huge amounts are spent, which are as a matter of fact not shown in the election returns. It is so, and we must be frank and honest about it. Of course, there may be some exceptions. Dr. Kunzru's election returns, I am prepared to say, may be absolutely correct to the pie, when he fought the elections in 1952, but then, in the majority of cases—I say in the majority of cases, because it is just possible that there may be a few cases here and there where the returns are filed in an absolutely, honest, truthful and correct manner—it is the experience of almost everyone of us that they are not true, they are not correct. Why, then, should there be such a law which should compel us to be untruthful, to say the least? It is much better that we do away with the question of keeping accounts and filing election expenses. At any rate, these accounts, if they have to be kept at all, should be kept only by the contesting candidates and not by all the candidates in an election, because it will serve no useful purpose, except in the event of an election petition. It may be kept by the contesting candidates, and if there is any election petition, and the petition brings a charge of bribery or over-expenses, then the respondent or the respondents, as the case may be, may be called upon to submit their accounts of expenses, and not otherwise.

Then, there is one other suggestion made by my hon. friend, Mr. Mazumdar, that the system of voting must be changed, that the system of voting should be by proportional representation, by the single transferable vote. That is the system which we very often adopt, but not in cases where a very large number of electors are concerned. In the case of elections to Committees of Parliament, or elsewhere also, when the number of voters is not very large, it is possible to have this system of election, but then, where lakhs and lakhs of

voters are concerned, obviously, there is a practical difficulty, and it is almost impossible to adopt that system in the matter of elections to the Assemblies or to the Parliament. Then, we have to form a Government, and any Government must have a substantial majority behind it. If there are too many parties in the House, no party having an absolute majority, obviously democracy will fail. It is, therefore, necessary that we should continue to have the present system of election, and not resort to the system suggested by Mr. Mazumdar for the two reasons that I have given.

There is, however, one thing which I have to suggest with regard to the matter of voting, in the case of Council constituencies, where the votes are obtained by post. This system, I submit, must be immediately done away with. It leads to corruption of a very high order. What actually happens is that, when the voting papers are sent to the voters, they are collected by the candidates, or their agents or friends, and undue influence is exercised on them, pressure is exercised on them. The voting papers are obtained, the signature of the voter is obtained, and the voting mark is put either by the candidate, or by his agents or friends, or even by the voter himself. The pressure may be friendly, or sometimes otherwise, and then they are taken to an accommodating honorary magistrate who signs the voting papers, testifying that the voters have signed the voting papers in his presence. There is no dearth of such obliging honorary magistrates or stipendiary magistrates.

I have a little personal knowledge in this respect. There have been cases within my knowledge where the candidates and their friends have accompanied the postman carrying the voting papers from place to place, till the voting papers are delivered to the

[Shri Jaspat Roy Kapoor.] voters, and immediately have got hold of the voting papers, lest they should be despatched by the voters in favour of some person other than the person doing this. It is within my experience that in schools and colleges the voting papers are obtained from the postmen by the Headmaster, or the head of the institution. Then the voters, who work in the institution, are called in by the Headmaster or the Principal, and the voting papers are signed in their presence, obviously under undue influences—you may call it friendly or otherwise—and are despatched to the returning officer. This system must stop immediately, if we are to have free elections in such electorates, in respect of which such procedure obtains at present.

Having said this much, I have a few suggestions to make which I hope, the hon. Minister in charge of the Bill will take seriously into consideration, and would amend the Bill suitably, by accepting the suggestions. One is that a judge, when he is to be appointed in an election tribunal, if he happens to be a judge serving in a State other than the State where the election tribunal is constituted, whether the tribunal is to deal with a petition relating to Parliamentary election or Assembly election, such a judge must be called upon to serve only in consultation with, and agreement of the State Government concerned. As provided in the Bill, it is only when an election petition relating to a State Assembly is under consideration, that for a judge, if he is to be called from any other State, the consent of the State Government is considered necessary, but not otherwise. It should be so throughout.

I would suggest that when a petitioner wants to withdraw a petition, it should not be open to a tribunal to invite any other substitute petitioner. It is no use encouraging litigation,

and in this connection, I would also submit that if the election tribunal finds that the petitioner is not appearing, then provision must be made that the petition shall be thrown off. There is no such provision either in the original Act, or in this amending Bill. Of course, it should be open to an election tribunal not to throw off a petition by reason of the failure of the petitioner to appear, if the tribunal finds that the defaulting petitioner has taken bribe from the respondent, or has not appeared before the tribunal by reason of his collusiveness with the respondent. Otherwise, the petition should be thrown off.

Then, I am not in agreement with the amendment suggested in this measure that in place of the three-men tribunal, it should be one judge tribunal. If you find difficulty in securing two judges, have only one judge, but let the third advocate member remain there. I was a little bit surprised yesterday, when I heard my hon. friend, the learned advocate Mr. Sinha from Bihar, that an advocate merely, as he said, of 10 years' standing, if he becomes a judge, is hardly a qualified person to act as an efficient member of the tribunal. Even hitherto, we had as the third member, an advocate of only 10 years standing. It may be the experience of my friend, Mr. Sinha, that advocates of 10 years standing continue to be dunces but then, in a majority of cases 10 years' experience for an advocate is very good experience for him, and if he has any worth in him, he does very well in the bar, and is perfectly qualified to sit on any election tribunal. I, therefore, "submit that it should be at least a two-man tribunal, and there need not be any appeal to the High Court, as it has been provided now. I am in complete agreement with my friend Shri R. C. Gupta that, if there is to be any appeal at all, to the High Court, it should be not on point of fact but should be only on point of law. Let us not encourage litigation, otherwise if we have this provision, as suggested in

the Bill, then almost in every case of the several hundreds of election petitions that arose out of the last elections, there would have been an appeal to the High Court. That must be avoided.

Then there appears to be a lacuna. When an appeal is filed in the High Court, what will happen to the seat in the Assembly or Parliament? Will it remain vacant till then? But in some cases, how can it remain vacant? Supposing the decision of the tribunal is to the effect that the petitioner should be declared duly elected in place of the respondent, then if you implement the declaration immediately thereafter, and if the Assembly is sitting, or Parliament is sitting, if the successful petitioner immediately comes over here and takes the oath of allegiance and becomes a regular Member, and subsequently an appeal is filed in the High Court and the High Court sets aside the order of the tribunal, what is to happen? A very delicate and complicated position would arise but whether delicate or complicated or otherwise, the question needs an answer as to what will happen. Will this sitting Member again be called upon to resign, or will an order be served on him not to sit in the House, and then, will the petitioner come back to the House? That is a thing which must be taken seriously into consideration. I would suggest that the order of the election tribunal setting aside an election, particularly if the order also says that the petitioner has been declared duly elected, should be held in abeyance until after the expiry of the period prescribed for filing appeal which, I suppose is 30 or 40 days, unless the petitioner does file an appeal after that period, or obtains a stay order from the High Court. To make this scheme complete, the adoption of such a suggestion appears to be necessary.

Then, again, there is the question of withdrawal of the candidate. It is a welcome provision in the Bill that a candidate can retire upto the period

of 10 days before the date of polling. He can withdraw within a prescribed period. If he does not withdraw, he can later on retire. That is good. I will go a step further and would suggest that it should be permissible for any candidate to retire even two days before the date of polling. There have been cases where a candidate, finding that he has not any support in the constituency, decides only at the last moment. Let that last moment be two days before the polling. We have something to gain thereby, and nothing to lose. Let a penalty be imposed on him, if you so like, for this delayed retirement. Let his security deposit be forfeited. I suppose, in the case of retirement within 10 days before the polling, it will not be forfeited.

SHRI J. S. BISHT (Uttar Pradesh): It will be.

SHRI JASPAT ROY KAPOOR: I suppose it will not be.

SHRI H. D. RAJAH (Madras): What about the symbol and box?

SHRI JASPAT ROY KAPOOR: That is another thing. I will come to it.

MR. CHAIRMAN: You must wind up. You have taken 45 minutes.

SHRI JASPAT ROY KAPOOR: I will conclude within a few minutes. What I was suggesting is, let a penalty in the form of forfeiture of security be imposed on a candidate, if he retires only two days before the election, but let him, for Heaven's sake retire—not only for Heaven's sake, but for the sake of the electorate. Let the electorate have the fullest opportunity to exercise its right of voting in favour of such candidate as it likes. Let it not be duped to putting its papers in the box of a candidate who is not at all a serious candidate.

Then, I have one important suggestion to make and that is of a very fundamental nature, and a matter of policy. Our State is a secular State.

[Shri Jaspat Roy Kapoor.]

We have been working hard, everyone of us, to have a society without caste if we can have it, but surely, a society without any communal bias. It is, therefore, necessary that communalism and casteism, or religious considerations, should not be allowed to enter the political field. We have suffered enough on this count in the past. We must beware of it now. I would, therefore, submit that we should provide in the Bill that every candidate, when he files his nomination paper, shall file along with it a declaration to the effect that he does not belong to any caste or communal organisation which is participating in the election. He must file a declaration to that effect. This condition, of course, need not apply to the scheduled caste candidates, and the scheduled tribes candidates, because we have made an exception in their favour, allowing them to organise themselves on communal basis for a period of ten years, from the commencement of the Constitution. This ban need not apply to such persons or communities. But no other caste or community should assume a political role and carry on election contests on the basis of casteism or communalism or religion. In some measure, this principle has been accepted in the original Act also. It has been provided therein that if an appeal is made to the electorate on the ground of caste or communalism or religion, then it shall be considered a corrupt practice and the election is liable to be set aside. So, in some measure, we have already accepted this principle. But we must extend this principle and we should not permit any candidate to contest the elections, unless and until he declares that he does not belong to any political party participating in the elections, if the party bears a caste or communal name, or if its membership is confined only to persons belonging to a particular class, community or religion. Sir, this is something of a very fundamental nature. Communalism is raising its

head again in this country, gradually, but rapidly. If we read the papers from day to day, we find some communal organisations springing up—the Hindu Mahasabha, the Muslim League, the Jamiat-ul-Ulema—All these communal organisations are again sowing the seeds of communal discord in this country. We have had enough experience of such organisations in the past. Let us beware of them and let not the political atmosphere be fouled by such communal, caste or religious organisations.

Sir, I would not like to give you the trouble of ringing the bell again, and so I resume my seat now for the time being.

MR. CHAIRMAN: We gave about seven hours for this, and we have taken more than four hours. We are prepared to sit during the lunch hour, and have an extension of one-and-a-half hours. I want the Minister to reply at the latest by 3 o'clock.

SHRIMATI YASHODA REDDY (Andhra): Mr. Chairman, in a vast country like ours, with so many languages and with such a low percentage of literacy, the greatest problem that faced us immediately after the attainment of independence was how to conduct the general elections and to conduct them successfully. Of course, the Constitution has already made some provisions—articles 324 to 329—and there is a statutory body, namely, the Election Commission, which deals with election matters. But in my opinion, the most important piece of legislation is the Representation of the People Act, and if I am asked to say what was the success of the last general elections due to, I would have no hesitation in saying that it was entirely due to this most important piece of legislation. Sir, when we introduced adult franchise, not only India, but the whole world, had focussed its attention on us and wanted to see what the outcome of it would be. And to their great surprise and to our great pride, the results have been admirable.

However, when these provisions were put into practice during the last elections, we came across many defects and loopholes, and I am very glad that the Government have realised that, and have brought forward this amending Bill to cover up the loopholes and to remove the defects.

Sir, this important Act has been divided into many parts and I do not want to waste the valuable time of the House in dealing with all the parts, or with all the amendments now proposed. As a practising lawyer, I would like naturally to focus my attention and that of the House also, to that part which deals with the disposal of election disputes and that is Part VI. According to me, Sir, section 117 in this part is a most important section. It bans the civil court's jurisdiction on election matters or in other words, the jurisdiction of the civil court is ousted. A statutory body called the Election Commission has been constituted and all election petitions are to be filed before it and, if the Election Commission thinks fit, it can dispose of the matters *in limine*, if they do not satisfy sections 81, 83 or 117. But if the petitions are not so disposed of, an election tribunal is constituted and the petitions are sent there for trial and disposal.

Coming to the amendments, Sir, I would like to say that the most important amendment is that relating to the abolition of the three-man tribunal and the introduction of the one-man tribunal. In my opinion the delay in disposal that had been caused in most of these petitions had been entirely due to the three-man tribunals. If one of them fell ill or if he did not attend the meeting of the tribunal, then the whole proceedings had to be adjourned. I have seen from my own experience, meetings of the tribunal being postponed just because all the three *men* could not get accommodation in a travellers' bungalow, or because all of them could not get berths in a particular train. I think, if on such trivial grounds, the tribunals have to be adjourned,

the delay will be very great. So, the one-man tribunal will eliminate this difficulty and make for speedy disposal of cases and that is the aim of the amending Bill. Hence, this is a very welcome change. Of course, some of our colleagues have said that this would put an end to the participation by a non-official member. But what does it matter? In the interest of speedy disposal, I think, this is a worthy sacrifice.

The second important change which I welcome is the time-limit that has been now placed. First of all, a time-limit of six months has been fixed for the tribunal to try and dispose of the case and then, there is the time-limit of three months for the High Court for the disposal of the appeal. If three months are allowed for the Election Commission for scrutinising and transferring the cases to the election tribunals the maximum time taken for the disposal should not be more than one year. Many hon. Members said that most probably, this amendment will not have any effect. But I do hope and trust that the election tribunals and the high courts will see to the spirit behind it, and dispose of the election petitions within the time-limit fixed by the Act.

Sir, the third welcome change, in my opinion, is the provision for appeals. Many hon. Members are not in favour of this. But I feel that in an important matter like this, the aggrieved party should have the right of appeal. After all the election tribunal is constituted by one man. However just the decision of that one man may be, the aggrieved party should be given the chance to appeal and I am glad that this chance is now given and the appeal now goes before a bench of two judges. This is very important. In our experience of five years, we have seen that so many writs were filed in the High Courts and the Supreme Court, and the inherent powers of the Supreme Court and the High Courts had to be invoked by the aggrieved parties, just because



[Shrimati Yashoda Reddy.] there was no provision for appeal. Therefore, whatever the other Members have got to say, in my opinion, this provision should be there in the Bill and I am glad it has been put in. This is as far as the welcome changes are concerned.

I would come now to one or two unwanted changes and a few anomalies in this Bill. The first is the deletion of section 89 of the principal Act. This is substituted by a new section. For the information of hon. Members, I might say that the original provision dealt with the attendance of the law officers, namely the Advocate-General and the Attorney-General, before the election tribunal whenever a tribunal was confronted with an intricate question of fact or law. In those circumstances, it could always get the benefit of the advice of these officers. I do not know, under what circumstances this section has been deleted. I would like the hon. Minister to take the House into confidence and tell us the circumstances under which this has been done. Not only have they removed this facility, but they have introduced a new section which gives an arbitrary power to the Election Commission to transfer an election petition from one tribunal to another.

After all, the Election Commission, however high level a statutory body it may be, is not a judicial body. These things must be done by a judicial body like the High Court and not by an executive body. Not only this, Sir. Power is given to the Election Commission to transfer petitions *suo raoto*. After all, it is for the aggrieved party to say whether the petition should be transferred or not and it is not for the Election Commission to decide that. So, Sir, my humble suggestion is that this power of transferring petitions from one tribunal to another should be withdrawn from the Election Commission. When an appeal to the High Court has been provided, then this power of transfer should also vest with the high courts. In my humble opinion the power to

transfer petitions given to the Election Commission is arbitrary and, to say the least, unfair to the parties concerned.

MB. DEPUTY CHAIRMAN in the Chair.

The next point that I would like to touch is the amendment regarding the time when the order of the Election Tribunal comes into force. According to the law, as it stands at present, the order or the verdict of the tribunal comes into force after it has been published in the *Gazette of India*. That takes a few days or weeks. According to the amendment proposed, the verdict is to take effect as soon as the pronouncement is made by the election tribunal. This may be a very good change no doubt, but I say, that it will cause hardship in practice. In this connection, I would like to refer to the proposed Chapter IVA, particularly sub-section (4) of section 116A, which gives power to the high courts to stay an order of the election tribunal. Provision has been made in this proposed subsection for the aggrieved party to move the High Court by way of an appeal and obtain a stay order. There is, I submit, a lacuna here. I would explain myself more fully. Supposing a sitting Member, or a Minister for that matter, has been unseated, when the House is in session, according to the amendment proposed, the moment the verdict is pronounced by the tribunal, it comes into force and the unseated Member can no longer sit in the House. Then, of course, you say, under proposed sub-section (4), he can go to the high court, file an appeal and get a stay order. But then, Sir, what happens to the unseated Member between the time of the pronouncement of the verdict by the election tribunal and the time when an appeal is filed in the high court and a stay order is obtained? It is common knowledge that at least a few days, if not a few weeks would elapse between the time of the pronouncement of the verdict by the election tribunal and the time of filing an appeal in a high court,

and obtaining the stay order. If I am not very wrong, what can the high court do? It can only maintain the status quo *ante*. What is the status of the person when he files an appeal? He is no longer a sitting Member. How can a High Court put him back as a Member? This is an anomaly and, in my opinion, it should be removed by fixing a time-limit for the operation of the order of the tribunal. You have introduced a time limit of thirty days for appeals to be filed, and the same time limit could be fixed for this purpose. If a person does not appeal, well and good; the order will become conclusive after thirty days, but if he prefers an appeal, of course, he would obtain a stay order and continue to sit in the House. I feel that this limit of thirty days, which has been provided for the filing of appeals, should also be provided under the proposed section 107.

I think, I have done Sir, except to say that, but for the few drawbacks which I have mentioned above, this amending Bill, when passed into law, will perfect the machinery of election and I hope and trust that the next general election, coming shortly, will be a greater success than what it was in the year 1952.

MR. DEPUTY CHAIRMAN: There are sixteen speakers and we have got three hours and fifteen minutes. Each hon. Member will take fifteen minutes. Yes, Mr. Kishen Chand.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, this amending Bill has made certain minor improvements here and there but, on the whole, it is a retrograde Bill. It has introduced several items which are going to lead to more corrupt practices than were followed hitherto; it is going to permit the rich people, and persons backed by the rich parties, to become Members of Legislatures and Parliament, and will not give any scope to the intelligent people who are fit to serve the nation in the Legislatures, but are unfortunately poor, or are not backed by rich parties. Even in the case of parties,

this system of granting party tickets has been introduced and it is only people, who can secure party tickets, that are elected and not people who have got merits of their own. In a democracy like ours, it is very essential that there should be fair elections, that the will of the people should be represented, but what is happening? Several speakers who have spoken before me have pointed out that elections are very costly, that there is an electorate of nearly three lakhs for a single-Member constituency of the Lok Sabha, in which it is not possible for an individual Member to afford and spend the money required for approaching even a tenth part of this electorate.

This is possible in the case of parties which have got funds. The hon. Minister has come forward and said, "What can we do? If certain parties are not popular and do not get popular support, they cannot get elected". I humbly submit, Sir, that in the case of the Congress Party, even if it has a membership of four or five lakhs of people and even if four annas are collected from them as membership fee and some other charges for being members of the Party, the total amount may not come to more than a couple of lakhs every year. How do you think the elections can be fought by the Congress Party in that couple of lakhs of rupees? It is after all the big industrialists, the big people, who get the contracts, who give large amounts of money to the Congress funds. It is but natural that the ruling party has got so many advantages. There is so much of patronage; there are so many contracts given, and the party funds are well subscribed. Certain big capitalists are offered membership of Parliament, provided they give substantial amounts to the party funds, and thus a big amount is collected.

The hon. the Law Minister has very cleverly said that if the candidate standing for election does not authorise the expenditure on his behalf, or his election agent does not autho-

[Shri Kishen Chand.] rise any particular expenditure on his behalf, such expenditure cannot be included in his election returns. Naturally, Sir, all expenses incurred by the party will not be included. You know, Sir, that, for long distances, a number of jeeps are required. Also a number of loudspeakers are required. Then posters, the publication of the election manifesto, and all these things are very expensive items, but they will not be included in the expenditure incurred by the candidate. Sir, it is well-known that at every polling station, two persons will be posted. That means that if there are 500 polling stations to a single-member constituency of the Lok Sabha, at least 600 persons will be posted at the polling stations. There are also so many other persons required to go and canvass and bring the voters.

Sir, it is very clearly stated here that if there are private cars, cars of friends, they can carry the voters, but any car which is hired, cannot carry the voters. On account of this, a handicap will come in, and the result will be that if a candidate hires a car for carrying the voters, he will be disqualified.

SHRI P. D. HIMATSINGKA (West Bengal): The voters can pay for themselves.

SHRI KISHEN CHAND: That means, in every case, directly or indirectly, it is the rich man and the rich party which is favoured.

An hon. Member pointed out, that after all Ministers are Ministers, they are always Ministers and, when they go for election campaign, it is natural that they should be protected. Whenever it suits hon. Members, they quote the example of U.K. There, even if the Prime Minister goes to an election meeting, nobody will arrange that meeting. No policeman will be required to guard him from the right and from the left, nor will the policemen be required to walk in front and behind him lest some mad man should attack him.

SHRI P. S. RAJAGOPAL NAIDU (Madras): There is the Scotland yard.

SHRI KISHEN CHAND: I don't mind if you have policemen in plain clothes, and you have after all the C.I.D. organisation, but actually when he goes to the meeting there are no policemen behind him or in front of him. In organising meetings no help is given by the Government or by the bureaucracy but, in our country, the entire thing is helped and managed by the bureaucracy.

As was pointed out, Sir, there are the official cars; the Ministers tour about in official cars. An hon. Member pointed out that all this is met from the All-India Congress Committee's funds. If such huge expenditure is borne by them, naturally these funds must be very very large, and where have these funds come from? Is it from the party people who pay only four annas a year as their membership fee? Can such large amounts be possibly collected by that small fee? It is after all the big amounts donated by the industrialists, the capitalists and the contractors. Do you think, it is in the best interests of our democracy? Do you think that it is good for this country that a group of people may continue from year to year to manage it and make a mess of our country? Look at the results of the Plan? We have had the First Five Year Plan and we are now going to have the Second Five Year Plan. The people at the top are not competent enough, and this is so because we have not been able to tackle the manpower, the intelligent man-power of our country. One Party by making these election expenses so high is depriving the benefit to this country of getting the best men in the Parliament. I submit, Sir, that this Bill is quite useless. Some sort of indirect elections should have been adopted and until and unless we adopt some sort of indirect elections, by having electoral colleges, there is no help. We will again encourage the rich parties and the rich people.

Sir, an hon. Member said, "We are against casteism and communalism

and it should be made a condition" and yet the same hon. Member has for the last fifty years taken the advantage of adding on a communal name, a caste surname and suffixing it to his name. We only pay lip sympathy against communalism but, having it as an integral part of our name, we indicate our caste. We indicate our community and we appeal to the voters on that basis, but for others, we prescribe, "Oh, yes, we should not permit any communal parties or any communal programmes".

Sir, as I said, these were general remarks, but Pandit Kunzru has very clearly shown in his speech how for instance, in the matter of election petition, we have changed the previous rules to the detriment of fair elections. Now the definition of "corrupt practices" has been so changed that it is impossible to prove any corrupt practice. What then is the good of filing any sort of election petition and appointing an election tribunal? It will be absolutely impossible to prove that there has been any corrupt practice. At least in the former Bill, there were some reasonable safeguards, but in the present Bill, there are absolutely no safeguards and it is almost impossible to prove any corrupt practice.

Sir, in the matter of election tribunals, we want expedition, but do you think that one-man election tribunal is going to meet the requirements? After all, that one man may be prejudiced, may be biased, may not be able to understand the situation from all sides and therefore, it is far better to have an election tribunal of three people. That should not matter. I welcome the change in this Bill to the extent that they have prescribed the time limit. It is a very good thing, but you can have a tribunal of three people. If a tribunal of one man can give its decision in six months, why can a tribunal of three people not give the decision in six months? With three people, one could be at least sure that the matter was thoroughly investigated and was

48 R.S.D.—4.

given due attention, but in the case of one-man tribunal the same may not be true.

Then, Sir, in the case of nomination papers, I ask: What is the necessity of even having the nomination paper signed by one person? If the individual who is standing as a candidate certifies that he is prepared to stand as a candidate—after all he is depositing Rs. 500 or Rs. 250 as deposit money—he must be sure of getting several hundreds of votes, and in such a situation what is the advantage of having one man nominating or proposing him? So I would submit, Sir, that the name may be proposed by any person or the candidate may offer himself. There is no need of having, compulsorily, the name of a proposer because—as you see—it is quite possible that there may be some minor mistake and the nomination paper may be rejected on that ground.

Sir, I will come to another thing. I once more repeat that I believe in proportional representation. We should really adopt the method of proportional representation. An hon. Member said that if we have proportional representation, there will be several parties.

*(Time bell rings.)*

Have I two minutes more, Sir?

MR. DEPUTY CHAIRMAN: No, the time is over.

SHRI KISHEN CHAND: As I said, I would submit that proportional representation is very essential and if we have electoral colleges, this method of proportional representation can be adopted. Thank you.

MR. DEPUTY CHAIRMAN: The hon. Law Minister will make a statement.

1 p.m.

#### STATEMENT REGARDING EXODUS OF HINDUS FROM EAST PAKISTAN

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS): Sir, I am very grateful to you for the opportunity you have given me to make a statement, which